

These minutes contain materials which paraphrase and/or summarize statements made during this session. Only text enclosed in quotation marks

report a speaker's exact words. For complete contents of the proceedings, please refer to the tapes.

HOUSE COMMITTEE ON LABOR

March 27, 1991Hearing Room D 8:30 a.m.Tapes 75 - 78

MEMBERS PRESENT:Rep. Gene Derfler, Chair Rep. Kevin Mannix, Vice-Chair Rep. Sam Dominy Rep. Jim Edmunson Rep. Rod Johnson Rep. Bob Repine Rep. John Watt

STAFF PRESENT: Victoria Dozler, Committee Administrator Johanna Klarin, Committee Assistant

MEASURES CONSIDERED: HB 2722 - Public Hearing HB 2723 - Public Hearing HB 2724 - Public Hearing HB 2726 - Public Hearing HB 2727 - Public Hearing

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TAPE 75, SIDE A

003 CHAIR DERFLER: Opens the meeting at 8:30 a.m.

PUBLIC HEARING, HB 2722 (Exhibit A)

Witnesses: Rep. Kevin Mannix, District 32 John Ellis, Department of Justice Mark Davison, Associated Oregon Industries Kate Brown, Women's Rights Coalition

003 CHAIR DERFLER: Opens public hearing on HB 2722.

004 VICTORIA DOZLER: Describes the bill.

014 KEVIN MANNIX, State Representative, District 32: Presents background information regarding this bill as to the 1989 session. Temporary disability benefits are allowed to be garnished for child support.

-The rationale for introducing the bill is to ensure that a person is able to meet his/her obligations in terms of supporting his\her family.

032 CHAIR DERFLER: Refers to suggested changes in the garnishment laws that would increase the amount people could earn without being garnished. Is that going to affect this in any way?

REP. MANNIX: I don't think so. The garnishment amount formula is applied after child support obligations are met.

-Provides an example of an inmate in the penitentiary whose permanent disability benefits cannot be collected for child support by his former wife. This inmate's permanent disability check goes to a trust fund to await his release from the penitentiary.

065 REP. DOMINY: Why the judiciary committee didn't want to deal with this?

REP. MANNIX: They had already put together a package dealing with time loss. They felt that "one bite at the time." The reasons were political.

082 CHAIR DERFLER: Usually the partial disability benefits are not large?

REP. MANNIX: The maximum permanent partial disability award would be \$32,000 paid over time. It might be \$8,000 worth of child support.

091 REP. DOMINY: Is this just child support obligation or would alimony be touched by this bill?

REP. MANNIX: Child support and spousal support when there is a support obligation for a joint child. Refers to lines 10 through 15. This takes the time loss garnishment concept and includes now the permanent partial disability and permanent total disability statutes.

REP. DOMINY: Basically this would be only for child support.

REP. MANNIX: Reiterates his explanation of the joint support obligation.

115 REP. JOHNSON: Refers to the old language on line 10, ORS 656.210 and 212 . Are those two statutes included in the new paragraph on line 16? Do you intend those monies to be available to pay corrections debts?

REP. MANNIX: Right now, under the law, time loss is not payable anymore while the person is incarcerated because of the reformed statute. One should not be getting time loss while incarcerated.

-Rep. Johnson and Rep. Mannix discuss time loss with regard to this issue.

140 REP. JOHNSON: What was the reason that the permanent awards were not included in the new law?

REP. MANNIX: The rationale was that this is money that one can set aside to ease one's way back into the work force.

156 REP. EDMUNSON: One of the key agreements reached during the 1989 session was that the attachment for child support should not exceed one fourth of the monies, this bill increases the sum up to 100%.

168 REP. MANNIX: Your point is correct. There is no reason why we should not add to ORS 656 .206 and 656.214 to say that the 25% limitation would also apply to permanent total disability and permanent partial disability.

REP. EDMUNSON: Discusses the rationale behind the 25% limitation.

194 REP. DOMINY: Refers to lines 16 through 21; the cost of incarceration. How many other funds are garnishable for purposes of incarceration maintenance?

REP. MANNIX: The Department of Corrections is gradually expanding their capability to collect funds from the prison inmates. I feel it is an appropriate direction to move into.

216 REP. DOMINY: What can be currently garnished for incarceration?

REP. MANNIX: I don't know.

REP. DOMINY: I would hate to see this to be the first one.

REP. MANNIX: Their income as inmates is subject to be set aside. I cannot speak about other outside income sources.

REP. DOMINY: Gives an example of an automobile accident award. Can that money be tapped?

REP. MANNIX: I would think so. Discusses the workers' compensation special exemption from garnishment.

REP. DOMINY: We are asking for garnishment of workers' compensation. Do we already have the capability to garnish other settlements that come out of courts or out of awards?

248 JOHN ELLIS, Deputy Administrator, Support Enforcement Division, Department of Justice: For the purpose of reimbursing corrections specifically, I don't know. In child support matters we always have an underlying degree, order, judgment, some kind of determination of what is owed. I do not know if there is an analogous judgment of liquidated debt as we have in child support matters.

-In child support we have special statutes which are called orders to withhold.

-We can use these special orders to withhold child support out of workers' compensation.

REP. DOMINY: Asks for further clarification.

ELLIS: Child support is different than a debt owed to the corrections department since it has been determined by a court to be existent in a certain amount.

-Doesn't know of an analogous procedure of identifying the amount of the debt an incarcerated person might own to the corrections department. Does not see it in the bill.

296 REP. MANNIX: The Department of Corrections has regulations and a formula for collecting money from inmates.

306 MARK DAVISON, Safety and Loss Control Claims Manager, Safeway. Representing Associated Oregon Industries: Testifies in opposition to HB 272 2. Our position is to let the reform, that took place in May take effect. We are concerned about the effectiveness of the recent

reform and the implementation of the current laws. This is my testimony concerning all the bills before the committee today.

337 REP. WATT: This bill was not introduced in connection with SB 1197, but is a problem that needs to be solved. What are your concerns?

DAVISON: I personally have concerns.

-This is a general position that we are taking. We don't support any changes at this point. We are standing firm on the reform that took place.

364 ELLIS: Testifies in support of the bill (Exhibit A).

-Discusses the limitations in the proposed bill, refers to line 13.

-This would not cover private litigants. The clients would have to be referred to the state child support program.

400 REP. MANNIX: Do you recommend that we take away the current phraseology on lines 13 and 14?

ELLIS: You need to do that to open this up to private practitioners. The Department of Justice does not have a position on that nor have I a recommendation to you.

423 CHAIR DERFLER: What would be wrong with referring the client to the Justice Department rather than using an independent attorney?

ELLIS: Nothing wrong with doing that.

TAPE 76, SIDE A

006 REP. MANNIX: We might have to address the "one bite at a time" concept here.

ELLIS: I agree. My testimony (Exhibit A) suggests that you might want to limit the benefits taken out of ORS 656.206 and 214.

-Discusses the fact that permanent disability benefits are often paid out in lump sums. The current legislation is built around the assumption that the benefits are going to be paid out periodically.

REP. MANNIX: Are you suggesting that we take out the phrase "or the amount of the current support to be paid as continuing support whichever is less." If we take out that we still have the 25% cap.

ELLIS: That is not a bad idea.

041 DOZLER: Private attorneys would still be required to obtain the orders before they could do any enforcement?

ELLIS: There is almost always a child support order in existence. Obtaining the order, the underlying divorce degree, would have usually already happened.

DOZLER: Generally if there is an underlying order the arrearage would have to verified whether the private attorney is enforcing it or not.

ELLIS: Very good point. That is correct. If it is not a publicly

administered child support case, there probably will be no record.

071 REP. MANNIX: I don't think we have any problems with the administration of this system right now.

074 KATE BROWN, Lobbyist, Women's Rights Coalition: Testifies in support of this bill. We ask your support for this bill to stop the growing numbers of children living in poverty. The major reason is the failure of the non-custodial parent to pay child and spousal support.

-Encourages the committee to include in the bill a provision that allows the private bar to go ahead and garnish these payments. Provides an example.

PUBLIC HEARING, HB 2723 (Exhibit B)

Witnesses: Kevin Mannix, State Representative, District 32 David A. Hytowitz, Attorney

CHAIR DERFLER: Opens public hearing on HB 2723.

138 VICTORIA DOZLER: Describes the bill.

144 KEVIN MANNIX, State Representative, District 32: Discusses the current process of determining workers' compensation awards and time loss. The permanent partial disability award is paid out in monthly installments. Sometimes when that is being paid out the claim is being reopened.

-Right now we have situations where a person has an injury, their claim is closed, they get an award of permanent partial disability. A little later they have an aggravation, their claim is reopened and they start getting their time loss checks at the same time they are still getting the permanent partial disability awards.

-All that this bill says is that when the claim is reopened and temporary disability benefits are paid, that any permanent disability benefits previously awarded are suspended until the claim is reclosed.

-We are forcing the employer to make double payments while the claim is being reopened.

200 CHAIR DERFLER: Would there be any loss in the partial disability for a long period of time?

REP. MANNIX: The benefits would be reinstated unless the closure order recalculates disability. Provides an example.

230 REP. DOMINY: Would you have any problem with any interest that was accrued during that time by the insurance company being awarded and added to the award?

REP. MANNIX: Yes, because the insurance company or employer has already been paying a lot of money during that time. To start adding an interest award would add complication to the system.

REP. DOMINY: This award gives the person an opportunity to plan for his/her future. Even though the person might still be incapacitated it doesn't mean that the money couldn't start working for her in building a

business. I would like to see that the person can draw whatever interest the insurance company would have gained during that time.

REP. MANNIX: I am open to that suggestion.

270 ROBERT C. A. MOORE, Lobbyist for the Trial Lawyers and Oregon Workers Compensation Attorneys: Introduces David Hytowitz.

284 DAVID A. HYTOWITZ, Attorney: Testifies in opposition to HB 2723 (Exhibit B).

-Suspending the money penalizes the worker. If anything like this would be allowed, the worker should receive interest on their money.

-This is a forced savings plan that one doesn't get interest on. This contains the idea that Oregonians cannot manage their money.

-Keep this bill in the committee and let it die.

PUBLIC HEARING, HB 2724

Witnesses: Kevin Mannix, State Representative, District 32 Larry Young, Workers' Compensation Division Chris Davie, SAIF

CHAIR DERFLER: Opens public hearing on HB 2724.

379 VICTORIA DOZLER: Describes the bill. The Labor-Management Advisory Committee supports this legislation.

394 REP. KEVIN MANNIX, District 32: The genesis of HB 2724 is the fact that we are moving more and more towards a single parent family structure. The current statutory scheme does not recognize that in terms of the amount of benefits available when a parent who is a worker dies.

-This \$150 figure has been in place for years and it is obvious that no child can be supported for that kind of money. I suggest we change the benefit from \$150 to \$400 a month.

430 REP. DOMINY: This is a good concept.

TAPE 75, SIDE B

003 REP. REPINE: Where does the \$400 figure come from?

REP. MANNIX: There is no objective basis for it other than trying to calculate what would be a reasonable figure in terms of an orphaned child. This is a value judgment.

013 CHAIR DERFLER: What does the accidental death benefit amount to? Would that be paid to the orphaned child?

REP. MANNIX: There is a funeral benefit. Beyond that I don't know.

023 LARRY YOUNG, Deputy Administrator, Workers Compensation Division: Refers to lines 14 through 18 as they relate to the computation of the benefits.

036 REP. MANNIX: Refers to the legislative fiscal analysis. The \$200,000 are not really state funds. We are talking about the funds of

employers and insurers.

YOUNG: There might be some impact on the retroactive reserve, but that is not general fund.

043 REP. DOMINY: How long has this \$150 number been there?

YOUNG: I don't know. It has been quite some time.

REP. DOMINY: Is the state general fund impacted some way, even minutely?

YOUNG: It would not have a major impact.

058 CHAIR DERFLER: This would cover self-insurers and SAIF and others?

YOUNG: Yes.

063 CHRIS DAVIE, SAIF: I am here solely for informational purposes. He provides the figures as to what this bill would cost.

-The annual impact would be somewhere in the range of \$60,000 to \$120,000 per year.

-You need to clarify whether the benefit jumps to \$400 if the other surviving spouse dies.

-We need to assess how this affects existing claims.

085 CHAIR DERFLER: We would need to know what the fiscal impact would be on those two issues that you brought up.

088 REP. MANNIX: There is a built in change for the spousal support, the problem we have is that the amount for the child is set in the statute and is not a formula.

DAVIE: Under the current state of the law, 656.202 would prevail saying that it would apply only to new injuries.

REP. MANNIX: Should we turn into a formula based on the average weekly wage?

DAVIE: That is a policy issue.

PUBLIC HEARING, HB 2726

Witnesses: Kevin Mannix, State Representative, District 32 Chris Davie, SAIF Tom Mattis, Workers' Compensation Division Larry Young, Workers' Compensation Division David Aamodt, Judiciary Department Dale Matsel, Department of Insurance and Finance David Hytowitz, Attorney

115 CHAIR DERFLER: Opens public hearing on HB 2726.

116 VICTORIA DOZLER: Describes the bill. The Labor-Management Advisory Committee supports this legislation.

128 REP. KEVIN MANNIX, State Representative, District 32: Noncomplying employers are orphans in the system because they have no advocates. They are the untouchable of the workers compensation system.

-There are some employers who end up being noncomplying for reasons beyond their control.

-Many employers were dropped by their insurance company during the last two years.

-The price of getting into the assigned risk pool is so high that some employers cannot afford it.

-Injured workers who work for noncomplying employers are protected.

-Noncomplying employers have no say of how the claim is being handled.

175 -This bill allows at least a procedure to object to the acceptance of the claim.

-Once the claim is in the process there is no provision for the noncomplying employer to say that the claim is being screwed up. This bill allows the employer to raise issues of unreasonable conduct and request a hearing.

-All the noncomplying employers are not nasty monsters.

214 REP. DOMINY: I am concerned about the proliferation of those who would want to have a chance of a hearing. If we open the door, the non-complying employers will have the ability to use the system with no previous cost. How do we stop the employers who are looking for a way around the system?

REP. MANNIX: The employer will pay the worker's attorney fees if the claim is found to be compensable. He outlines all the other costs involved in the process that the employer could be liable for.

276 CHAIR DERFLER: What would be the difference in your earlier restaurant scenario if this law would pass?

REP. MANNIX: The employer could protest the acceptance of the claim saying that the waitresses did not fall in the restaurant.

-Elaborates further on this scenario.

313 CHAIR DERFLER: If this bill would pass, would you insist that SAIF changed their methods?

REP. MANNIX: Yes.

CHAIR DERFLER: Who would have to absorb the additional costs?

REP. MANNIX: SAIF would have to, but they would have had an opportunity to move out of the unreasonable claim.

354 CHAIR DERFLER: Would this have an additional cost to SAIF? Would this increase their rates?

REP. MANNIX: SAIF would have to absorb the additional costs from their general operative costs if they were found to have been unreasonable.

CHAIR DERFLER: What would happen then if it was found that the action by SAIF was unreasonable?

REP. MANNIX: I would assume that SAIF would have enough notice to stop doing whatever they are doing, if not, then they are doing it on their payroll.

CHAIR DERFLER: Presents a possible example.

REP. MANNIX: The worker does not have to pay for this. I don't believe the Department of Insurance and Finance would have to pay for this either nor the non-complying employer.

-Emphases the notice period. There is a warning.

406 REP. WATT: How big of a problem is this?

REP. MANNIX: I can only evaluate this in terms of my practice. In the last two years I have seen an unusual number of non-complying employer come in with complaints of how a claim was processed.

TAPE 76, SIDE B

006 REP. WATT: Is this an ongoing thing or this a result of the employers who were dropped by the insurer?

REP. MANNIX: I don't have the statistics on this. I feel we need some legislation to channel this. We need to deal with the objection rights that the employer has in processing the claims.

017 CHAIR DERFLER: Would the problem be solved if we allowed other companies to process the claims other than just one company?

REP. MANNIX: Regardless who handles these cases, they don't have the traditional control factor.

030 CHAIR DERFLER: In regard to time loss, who would pay that, SAIF or the Department?

REP. MANNIX: Under this bill SAIF would have to absorb that.

055 CHRIS DAVIE, SAIF: Testifies in opposition to the bill (Exhibit C). This bill would grant greater appeal rights to employers who knowingly violate the law. The majority of noncomplying employers are deliberately violating the law.

-This bill would relieve a noncomplying employer of all claim costs if he prevailed on a claim denial which he initiated.

-He outlines the reasons to question the wisdom of this change.

083 CHAIR DERFLER: Would you give an estimate what percentage of people fall between the cracks, who are somewhat innocent?

DAVIE: He estimates approximately 10% of the cases.

089 REP. REPINE: 10% in proportion to what?

DAVIE: Approximately 800 noncomplying claims per year.

103 CHAIR DERFLER: How do you address the fact that you have no incentive to a process this kind of a claim?

DAVIE: Discusses the processing of noncomplying employer cases. They don't get second-class treatment.

123 REP. REPINE: Are there monetary differences between complying and noncomplying cases?

DAVIE: A lot of the less expensive noncomplying cases are handled between the employer and employee without filing a claim. We tend to get the more expensive cases, so the average cost is higher.

CHAIR DERFLER: If you deny the claim, how would you get reimbursed?

DAVIE: We get reimbursed for all of our incurred claim costs. We bill the Department quarterly.

CHAIR DERFLER: Does the Department collect from the noncomplying employer if the claim was denied?

DAVIE: Yes.

172 REP. REPINE: Discusses the audit process. Who makes up the dollars that were paid out but not deemed appropriate by the auditors?

DAVIE: We have to absorb those costs.

183 REP. MANNIX: At present a complying employer can object to acceptance of a claim?

DAVIE: Yes.

REP. MANNIX: A noncomplying employer may not?

DAVIE: I believe that is not correct.

-Rep. Mannix and Mr. Davie discuss the mechanism involved in acceptance of a claim for noncomplying employers.

229 DAVIE: Refers to the Exhibit C, page 2, HB 2530. Against this background I don't understand why we would even want to consider HB 2726 which would increase the incentive to avoid the law.

241 REP. MANNIX: I am one of the primary supporters of HB 2530, but the problem we are trying to address here is that at some point of the process even a non-complying employer should be allowed to protest a little bit.

259 TOM MATTIS, Manager, Compliance Section of the Workers' Compensation Division: Testifies in opposition of HB 2726 (Exhibit D). If passed as proposed, this bill will adversely affect our ability to collect monies from noncomplying employers.

311 CHAIR DERFLER: Could you explain further how this would affect the collection costs?

MATTIS: Suggests that Dale Matsel and David Aamodt will address this question.

318 REP. MANNIX: I have not heard any objections to allow the noncomplying employer at least object to the acceptance of the claim.

MATTIS: I would like Mr. Aamodt to respond.

REP. MANNIX: Suggests the bill to say that once the claim is closed, the noncomplying employer can delineate unreasonable action, request a hearing on that and get a determination by a referee as to what was unreasonable, and then not be charged. This would not slow you down when it comes to processing. It would give some sort of mechanism to the noncomplying employer to not just be at the whimsy of the Department of Insurance and Finance.

335 MATTIS: I have faith in the audit process that we use now. The audit process provides the safeguards for the noncomplying employer.

REP. MANNIX: The noncomplying employer does not get to request a hearing in your audit process?

MATTIS: It has not happened. If they were requested we would need to take a look at that.

348 DAVID AAMODT, Administrator, Civil Enforcement Division, Department of Justice: The first part of this bill simply codifies what is already in the Oregon administrative rule.

358 CHAIR DERFLER: Why would this bill affect collection from the noncomplying employers?

AAMODT: It would make it much more difficult to process the cases. Explains why.

CHAIR DERFLER: This would give people the opportunity to harass the system.

AAMODT: I would not use that term, but it would give the opportunity to delay collection.

398 REP. MANNIX: The point is that the collection effort doesn't start until after the claim is closed. This bill says that the employer has to object to the unreasonable action before the closing of a claim. Suggests new language to say that the collection process, as to the unchallenged amount, can continue.

AAMODT: How many times can they make an objection?

REP. MANNIX: We can have a trade off. Why don't we say that right after the closing of the claim the noncomplying employer can present you with a bill of particulars of the things that were unreasonable and ask for relief?

AAMODT: That is a policy question. No complying employer has that right.

REP. MANNIX: The complying employer can tell its insurance company to get on the stick or change insurance companies. The noncomplying employer does not get to do that with SAIF.

AAMODT: The noncomplying employer can buy insurance at any time.

REP. MANNIX: They can never recover that old claim.

443 AAMODT: The case law says that there is no duty between the

noncomplying employer and SAIF. All costs that are incurred because the noncomplying employer did not comply with the law can be recovered.

REP. MANNIX: So there is no limit and that is what we are talking about here. Is there some reasonable limit to be imposed?

TAPE 77, SIDE A

005 AAMODT: What about all the costs as the case goes through--are all those put in limbo for two or three years?

REP. MANNIX: If you want to come back with some proposals on how to make sure that someone cannot go rampant with this system but gives them a chance to be heard, I am willing to listen. There should be some balance. These people are at the mercy of SAIF and at the mercy of how DIF handles it.

AAMODT: They do have an opportunity to be heard on the acceptance of the claim.

REP. MANNIX: Yes on that one point. I recognize we should not be nice with people who don't comply with the law, but the question is how nasty should we be.

-I invite a proposal from you and the Department of Insurance and Finance as to what you think would be some proper checks and balances, but would allow the noncomplying employer to say if something is out of line and have a referee decision.

038 CHAIR DERFLER: Is this a major problem?

041 MATTIS: Outlines the profile of noncomplying employers.

060 DALE MATSEL, Fiscal Services Manager, Department of Insurance and Finance: We don't keep figures on how many people we treat unjustly. I personally feel it is a relatively small amount. Most of the employers that we come into contact with have probably either not been aware of the law or are ignoring it intentionally.

084 LARRY YOUNG, Deputy Administrator, Workers' Compensation Division: We would be opposed to do anything that would put additional work load on the hearing division of the workers' compensation board.

REP. MANNIX: I welcome seeing an administrative review as an alternative.

094 DAVID HYTOWITZ, Attorney: Testifies in opposition to HB 2726 (Exhibit E).

-The only part of the bill that I like is that the employer has 60 days to object to the acceptance.

-This bill gives noncomplying employers more rights than complying employers.

-This bill gives rights to protect criminals.

-Discusses the processing of these claims.

172 -Rep. Mannix and Mr. Hytowitz discuss a possible case scenario which

involves penalties to be paid by the employer.

REP. MANNIX: The noncomplying employer has to pay that bill.

HYTOWITZ: No he does not have to because he receives a jury trial.

-Rep. Mannix and Mr. Hytowitz continue discussing the possible outcome of a jury trial of their case scenario and the Department of Insurance Finance's position in it.

PUBLIC HEARING, HB 2727

Witnesses: Kevin Mannix, State Representative, District 32 Larry Young, Workers' Compensation Division David Hytowitz, Attorney Diane, Rosenbaum, OSIUC

254 CHAIR DERFLER: Opens public hearing on HB 2727.

257 DOZLER: Describes the bill. The Labor-Management Advisory Committee opposes this legislation.

266 REP. KEVIN MANNIX, District 32: Testifies in support of the bill.

-We need to at least modify the law to say that if the worker wants to be able to do both, to get workers' compensation benefits and sue the employer, the employer should not be stripped of some common law defenses that the employer normally has.

324 LARRY YOUNG, Deputy Administrator, Workers' Compensation Division: Expresses concern about the language in the bill. There are some technical problems involved that need to be clarified--our ability to recover money, etc.

349 REP. MANNIX: Would your administrative concerns be taken care of if we take out this language that says that a worker can do one or the other but not both, but instead we address the issue of what defenses can be used by the employer?

YOUNG: Yes that would take care of the problem.

354 CHAIR DERFLER: If a civil action was brought and collected, would the workers' compensation board be reimbursed?

YOUNG: Refers to line 7 and explains the third party recovery. In most cases the insurance company recovers their cost of processing the workers' compensation claim.

372 DAVID HYTOWITZ, Attorney: Testifies in opposition to the bill (Exhibit F).

-Presents an example of a worker who had lost half of his hand due to an unsafe machine.

REP. MANNIX: What if we leave in the assumption of risk and knowledge of danger defense and take out the negligence?

HYTOWITZ: You are talking about a noncomplying employer whose commercial liability insurance would not cover the client in any event.

TAPE 78, SIDE A

008 -Unfortunately very often the picture of a worker's right to sue his noncomplying employer is chasing rainbows, it is nonexistent.

011 REP. MANNIX: What I was getting at was to allow the standard defenses. If we allow someone to sue as if workers' compensation did not exist, let them defend as if workers' compensation did not exist.

HYTOWITZ: The problem is that other employees are often too afraid of losing their jobs to come forward and testify. Most times, in these cases, the money is not collected.

-I don't have much sympathy for the noncomplying criminal who is practicing unsafe.

033 DIANE ROSENBAUM, OSIUC: There is a serious policy question presented here whether we want to make this any more attractive for noncomplying employers. I think the clear answer is no.

-It seems to me that this would make it easier for the noncomplying employer to prevail in a law suit. That would not be good for the system.

052 CHAIR DERFLER: I don't think the purpose was to work for the noncomplying employer's benefit but there are circumstances that people cannot control.

-We are not trying to make it easier for people to break the law or take advantage of injured workers.

ROSENBAUM: Those cases are not the vast majority and this law would apply to all non-complying employer cases.

REP. MANNIX: Shouldn't we use civil penalties? Somewhere we need to draw the line. Maybe civil penalties should be addressed; maybe they are not high enough.

ROSENBAUM: The system is not working very well as a non-adversarial, speedy form of relief for the injured worker and perhaps we should be looking at whether all injured workers should have a choice of using the workers' compensation benefits that are available or seeking remedies suing the employer.

088 CHAIR DERFLER: Adjourns the meeting at 11:05 a.m.

Submitted by: Reviewed by:

Johanna Klarin Victoria Dozler Assistant Administrator

EXHIBIT LOG:

- A - Testimony on HB 2722 - John Ellis - 1 page.
- B - Testimony on HB 2723 - David Hytowitz - 2 pages.
- C - Testimony on HB 2726 - Chris Davie - 2 pages.
- D - Testimony on HB 2726 - Tom Mattis - 2 pages.

E - Testimony on HB 2726 - David Hytowitz - 2 pages.
F - Testimony on HB 2727 - David Hytowitz - 2 pages.