

HOUSE COMMITTEE ON LABOR

April 10, 1991                      Hearing Room D 8:30 a.m.                      Tapes 94 - 96  
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 Guadalupe Ramirez, Committee Assistant MEASURES  
CONSIDERED:      PUBLIC HEARING - HB 2906 PUBLIC HEARING - HB 2905 PUBLIC  
HEARING - HB 2432 PUBLIC HEARING/VVORK SESSION - HB 3113 PUBLIC  
HEARING/WORK SESSION - HB 2724 WORK SESSION - HB 2722

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. . TAPE 94, SIDE A

003 CHAIR DERFLER: Calls meeting to order at 8:32 a.m. and opens public hearing on HB 2906.

PUBLIC HEARING - HB 2906 and HB 2905

Witnesses:              Larry Campbell, Speaker of the House, 43rd District. Leroy Churchill, Association of Engineering Employees Barry Freeman, State Employee Sheryl Wilson, PERS Herb Lay, AFSCME Elwood Miller, Citizen

013 LEROY CHURCHILL, AEE: Begins testimony but is interrupted so that Speaker Campbell could testify.

030 LARRY CAMPBELL, SPEAKER OF THE HOUSE, 43rd DISTRICT: > Supports HB 210 6: State of Oregon, largest employment business in Oregon, needs to be run like one. House Committee on Labor April 10, 1991 - Page 2

> 1989 - 90 number of state employees grew by-3%, more than in private sector. > Cutting budgets and temporary layoffs won't deal with underlying problems. > HB 2906 concept borrowed from the private sector: cutting staff in middle management. > Corporation he's from: cut middle level management explained why they eliminated. > The process of cutting is known as the Golden Handshalce. > Because of success they came back later and eliminated more. > Named private businesses that have used this method. > Dupont: 11,000 reduced, annual saving \$320 million. > Actuarial's data show that savings can be achieved, but any action would help. > Savings would transfer from biennium to biennium making state government permanently more cost effective. > If the Golden Handshake is implemented: controlling future growth is needed because if people that left jobs were replaced, employer would pay additional money. > Savings will be substantial if jobs are kept vacant for at least 3 years. > 6000 potential state employees targeted for the Golden Handshalce program. > Governor Roberts is interested in this process. > Legislative body is in the position of providing tools for department heads and management to incorporate this program.

117 REP. DOMINY: How can they be assured that the cuts will be in mid-management and not in other levels?

127 SPEAKER CAMPBELL: Would have to have movement within the department to fill the job that doesn't need to be eliminated and open the one that needs to be eliminated. > Difficult process, explains further.

143 REP. DOMINY: How do we assure that the legislature won't be telling management where they have to make cuts?

151 SPEAKER CAMPBELL: Need to give legislative direction and legislation needs to be designed to be a tool.

172 REP. WATT: Highway Division is a general fund agency and 10% of the people eligible for this program would come from there, is this a concern that needs to be addressed?

176 SPEAKER CAMPBELL: Yes, they are presently trying to determine the legal ramifications of including some state departments and not others. > Just because an agency is not funded by general fund, doesn't mean that they shouldn't be looking at reductions. > All state agencies are being funded by tax dollars. > The offer should be made in areas where there is potential of reducing jobs.

189 REP. JOHNSON: What about allocating "Handshakes" proportionately?

196 SPEAKER CAMPBELL: There will be legal problems in this aspect. > Hearings need to be implemented to address the possible problems. House Committee Of Labor April 10, 1991 - P~ge 3

209 REP. JOHNSON: Would agency to agency transfers be allowed?

217 SPEAKER CAMPBELL: Private industry cleared jobs out where it was possible and filled the vacancies with people from within the company.

225 REP. JOHNSON: Is there any way to guarantee that positions that are vacated won't be filled before the three year period needed to make an impact?

235 SPEAKER CAMPBELL: Funds for vacated jobs are used for other purposes. Process needs to identify the level of employment in a department and freeze it. > When this level is frozen, arrangements need to be made for an emergency process, someone will be able to deal with this freeze. > Specific controls are needed for growth of departments.

249 REP. JOHNSON: Language is not in HB 2906. 251 SPEAKER CAMPBELL: HB 2905 does have this particular language. 253 REP. JOHNSON: HB 2905 has a couple of blanks with regard to the number of people employed by the state. It is currently 1.5% of the state's population of the prior year. > What direction is this intending to go?

257 SPEAKER CAMPBELL: You will need specific number limitations as opposed to number of state population. > Hiring of state government employees can't be expanded until Ballot Measure 5 is addressed.

263 REP. REPINE: From your own experience, was there a lack of transition in any cases and was it perceived not actual? 271 SPEAKER CAMPBELL: If 47 jobs are eliminated from a particular department, have them sign a contract and you'll have time spaced out as necessary. > Program is entirely voluntary. 297 REP. REPINE: The transition aspect of the program might not fit the three year time frame. Is there a need to look at a period of time more than three years? 311 SPEAKER

CAMPBELL: Explained how the process would work by using an example. > Emphasized the need to keep the position closed for 3 years. > Value of salary is gone, in three years. 338 REP. REPINE: How would temporary employment and contracting out apply in this program? 347 SPEAKER CAMPBELL: Temporary employment needs to be addressed. > Accountability of department head and proper direction will produce good results.

355 REP. DOMINY: What will the package look like with reference to

employee benefits?

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> Why is this program only being considered for a short period of time?

380 SPEAKER CAMPBELL: Programs have been continued on an on-going basis, by cutting number of years required to qualify for retirement. > "Window of opportunity" because we are trying to adjust the force at one given time. > Important that package is such that people will be encouraged to give it consideration. > The health care aspect will need to be addressed.

409 REP. JOHNSON: Comment on laying people off.

410 SPEAKER CAMPBELL: Not laying people off, it is a voluntary program.

425 CHAIR DERFLER: Problems at Fairview because of the requirement to maintain a certain number of people. > Measure 5 affects will cause budgets to be reduced and planning needs to be done before cuts are implemented.

TAPE 95, SIDE A

013 SPEAKER CAMPBELL: Continue with hearings. > There is a group working on the details of how this program will be implemented. > This group will be bringing their findings to you in a week or two. > Legislature need not be the ones to dictate the program but the tool to implement the program.

033 REP. REPINE: Any examples of other states implementing this type of program?

036 SPEAKER CAMPBELL: Yes there other states, information is available.

040 LEROY CHURCHILL, ASSOCIATION OF ENGINEERS: Submits and explains testimony (SEE EXHIBIT A). > Per informal poll that is taking place within his agency indicates that approximately less than half that are eligible will take advantage of it.

097 REP. REPINE: Who are people who fall under the general fund who will go over to the highway department?

100 CHURCHILL: The Parks Department and Department of Resources.

111 CHAIR DERFLER: This is a voluntary program. Addressed health care issue concern.

126 BARRY FREEMAN, State Employee. Submits and explains testimony (EXHIBIT B).

134 SHERYL WILSON, Director, Oregon Public Employees Retirement System (EXHIBIT C): > HB 2906 adds years of service credit to retirement benefit calculation. > Retired people went out on "Money match": value of account balance match with equal amount from the employer side to create annuity. . House Committee on Labor

> This has nothing to do with years of service. > Function of age and how many dollars is in pot of money > HB 2906 does nothing for people who will go out on money match. > All benefits are tested against money match. Benefit paid is the one that yields the highest amount. > There is an amendment that will come before this committee for consideration that will address this issue.

167 REP. JOHNSON: Does this program provide retired people, the opportunity to buy baclc into the system? 168 WILSON: Three alternative calculations: Full formula: general service people:  $1.67\% \times (\text{years of service}) \times (\text{final average salary})$ . > " 1 % plus annuity" program:  $(1\% \times (\text{years of service}) \times (\text{final average salary}))$ . > Explains this in more detail. > Has a handout that explains it in more detail. 198 REP. JOHNSON: If HB 2906 is not mod)ified, it won't benefit those who qualify for money match? 202 WILSON: No, the calculation is made on their real age not the art)ificial one that is mentioned in HB 2906. > The younger you are in an annuity, the smaller the incremental sums are. 217 REP. JOHNSON: When was retirement age reduced to 58? 219 WILSON: Not able to answer, will find out. 225 ELWOOD MILLER, Citizen: Parole staff for McClaren and Hillcrest have opportunity to retire after 25 years, HB 2906 excludes people who are police and fireman. 244 CHAIR DERFLER: The committee is aware of that. 254 HERB LAY, Oregon AFSCME, Local 191, Juvenile Parole > Concerned with early retirement problem for police and fireman employees. > Suggests that it be spread out over all agencies in order to spread the savings out. > Concerned with health care cost upon retirement. 267 CHAIR DERFLER: HB 2090 was passed last session, to address the health care issue. > We can't eliminate parole office and state police officers. 306 CHAIR DERFLER: Closed public hearing on HB 2906 and opened HB 2905.

PUBLIC HEARING ON HB 2905 Witness: Leroy Churchill, Association of Engineering Employees

LEROY CHURCHILL: Presents and explains written testimony (EXHIBIT D). House Commiltoe on Labor April 10, 1991 - Pyge 6

352 REP. REPINE: Testimony is a good indication of the need for an overseeing mechanism.

369 CHURCHILL: Cost effectiveness hasn't been checked.

379 REP. REPINE: Temporary worker system has been abused by the system.

365 CHAIR DERFLER: Closed public hearing on HB 2905 and called for a recess.

PUBLIC HEARING ON HB 2432: Witnesses: Lynn-Marie Crider, Worker's Compensation Diane Rosenbaum, Oregon Shte Industrial Union Council Frank Biehl, Association of Western Pulp and Paper Works Robert C.A. Moore, Oregon Workers' Compensation Attorneys Doug Swanson, Oregon Workers' Compensation Attorneys Carl Fredericlcs, Associated Oregon Industries Harvey Risewick, Ombudsman for Injured Workers

390 DOZIER: Submits testimony (EXHIBIT E).

421 LYNN MARIE CRIDER, Workers' Compensation Board (EXHIBIT F)

430 REP. MANNIX: Is the provision needed for the board to appoint 4 more people as temporary members?

442 CRIDER: No, but due to backlog, additional members may be needed for a short time. , 451 REP. MANNIX: What if you had the authority to appoint temporary members to substitute for vacancies on the board rather than the authority to add on?

TAPE 94, SIDE B

015 CRIDER: It would be an improvement over what they have now. > Because of increasing caseload, is not sure if this step would be sufficient for completion of backlog and to move ahead. > Doesn't think they will have any need for four short term pro-tem board members.

018 REP. MANNIX: What about authorizing pro-tem appointments with Emergency Board approval?

020 CRIDER: We will have to pay from existing budget or will need approval the Emergency Board.

023 REP. MANNIX: Are there any other boards that have been given authority to appoint additional board members?

025 CRIDER: Not to her knowledge.

028 MANNIX: Concerned with the additional authority to appoint pro-tems when it is not House Comm; - e oa Labor April 10, 1991 - Psge 7

to fill a vacancy. 036 CRIDER: There are protections against board packing. Appointments have to be made by unanimous consent. 049 REP. MANNIX: If concern is with the final transition to deal with the backlog, why not extend the 9 member board for 3 more months, or something to that effect? 052 CRIDER: Anticipated high workload for the biennium, will require five more. > Unpredictable nature of caseload. 062 REP. DOMINY: Would you have problem with saying that the governor would have the authority to appoint temporary people.

068 CRIDER: No 070 REP. REPINE: Is the \$472,000 (EXHIBIT E:) anticipated in the budget? 072 CRIDER: No, there will be an

additional fiscal impact on HB 2432, a subsequent referral to Ways and Means would need to be requested. 077 REP. REPINE: Does "personal services" of \$426,000 (EX}IIBlT E) represents 2 board members and a

legal specialist? 080 CRIDER: Legal specialist is a staff attorney who assists the board in reviewing cases and preparing orders.

082 REP. REPINE: But does this dollar value reflects those 3 individuals? 083CRIDER: Yes, subcommittee on General Government and Ways and Means asked them to raise the possibility of dealing with workload need by using the 180 day pro-tem. > Not the most effective if you know that the work load will be high requiring 5 members. > Concerned with difficulty of recruiting people to serve a 180 day term. > Workers' Compensation referees can be used for these temporary positions but not for long term basis. 108 CHAIR DERFLER: How long is the training period for a board member? 109 CRIDER: Those familiar with the system may take a month, others, maybe 4 months. 123 REP. MANNIX: Makes following suggestions: > Allows for two additional governor appointed positions for a 2 year period, subject to Senate confirmation. > One on the employer side and the other on the labor side. ~ Board would have authority to fill vacancy with a pro-tem board

member, pending governor appointed position. House Co littee on Labor  
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131 CRIDER: Extension of 9 member board: in theory, has no problem, in practice, some people that are there now are ready to leave.

139 REP. MANNIX: With pro tem authority, referees could be appointed temporarily.

145 CRIDER: Fiscal impact of the bill needs to be addressed to have sufficient staff. > Two year period, good suggestion.

164 CHAIR DERFLER: How many board members do you have now?

165 CRIDER: Eight.

168 Ms. Crider and Chair Derfler discussed why they haven't been able to fill the positions and what is being done ww.

203 REP. DOMINY: What about one person being labor and one management?

207 CRIDER: If they are designated this way, it will be difficult to appoint people. > And, with a five member board with 2 worlcer members and 2 management members and one public member, there will be difficult constructing 3 member panels so that don't look rigged. > Solution would be to expand to a 6 member board.

237 REP. DOMINY: Even with labor/management balance, no one is right down the middle.

253 CRIDER: Designating positions also makes it impossible to use Workers' Compensation referees as temporary board members.

264 REP. MANNIX: Suggests that the temporary positions be chosen from the referee group. > To be appointed by the governor without Senate confirmation.

280 REP. EDMUNSON: Adds comments about why he agrees with Rep. Mannix.

327 REP. WATT: Referring to graph (EXHIBIT F, pg. 5), comments on the graph. > Asks if these only bacldog cases or total numbers dealing with the present cases?

341 CRIDER: Responds that they are backlog and defines for clarification. 352 REP. WATT: Doesn't agree with the market decrease and ability to justify the proposed budget.

360 REP. MANNIX: This is with 9 members.

362 REP. WATT: Is aware of that, but is still concerned.

366 CRIDER: High point was in '88-'89 (EXHIBIT F, pg. 5). ~ Concerned with possible sustained period with the 1990 changes of high case load.

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375 REP. WATT: What are expectations based on? -

378 CRIDER: Eventually will drop, but for short term will be faced with

increase workload.

386 REP. MANNIX: Are any of the backlog cases just being kept open with expectations that the laws will change to their benefit?

413 CRIDER: Unaware of this happening but it has happened before. But if they are current, the cases have to be decided before going to the Supreme Court.

416 REP. MANNIX: Takes a couple of years to get to this appeal level?

425 REP. WATT: How much does the job pay?

430 CRIDER: About \$60,000 per year.

432 REP. EDMUNSON: What is the incidence of appeal by claimant or employer?

438 CRIDER: Traditionally 60% - claimant; 40% - employer. Adds comments about small trend changing that is not very significant.

449 REP. EDMUNSON: Comments on appeals from private practice point of view and the trend he has observed.

TAPE 95, SIDE B

028 REP. EDMUNSON: What about other case loads, other than workers' compensation cases? 030 CRIDER: There are very few 3rd party distribution and crime victim matters.

032 REP. EDMUNSON: Crime victim cases were given to Worker's Compensation Board. > We've been talking to judiciary about the appropriateness of the board's role. > Do you have a crime victim case load that is statistically significant to the work load?

043 CRIDER: No 044 REP. EDMUNSON: If crime victim program were to be expanded, it could impact the board by making it a significant caseload.

047 CRIDER: The board would manage by assigning a staff person from the board. 056 DIANE ROSENBAUM, Oregon State Industrial Union Council, and Oregon AFLCIO: Submits and explains testimony (EXHIBIT G).

104 REP. MANNIX: What about the governor choosing from among the referees?

107 ROSENBAUM: Expressed concern about potential problems. Howe Committee on Labor April 10, 1991- P11ge 10

139 FRANK BIEHL, Association of Western Pulp and Paper Workers. > Agrees with Rosenbaum's testimony. > His understanding is this proposal would set up a three tiered board. > The additional board members should have labor/management balance. > Unsure about referee proposal. > Feel strongly about senate confirmation. 174 REP. MANNIX: Would the labor/management balance, cause problems later?

180 BIEHL: It will exist anyway.

186 ROSENBAUM: Makes further comments about the labor/management balance.

201 REP. EDMUNSON: Raises the question of requiring the board members

to be attorneys.

210 BIEHL: The board would be losing something if limited it to attorneys. 230 ROSENBAUM: Attorney appointments wouldn't necessarily prevent political and controversial decisions.

263 ROBERT C.A. MOORE, Oregon Workers' Compensation Attorneys and the Oregon Trial Lawyers.

273 DOUG SWANSON, President, Oregon Workers Compensation Attorneys. > Interested in seeing potential members of the Worlcers' Compensation Board be Oregon State Bar members.

291 REP. MANNIX: Concerned about bringing up the issue of requiring that board members be attorneys at this point.

300 SWANSON: Feels it is necessary because of the nature of the bill. Since one of the purposes of the bill is move things along quickly. > If you put attorneys into the temporary positions, would limit the amount of time needed to train.

316 REP. MANNIX: Some would argue that attorneys take common sense out of the process. > We've gotten along without this requirement before.

335 SWANSON: The technicality of the law is greater now than in the past, especially now, with SB 1197. > If system doesn't work will be more damaging for the recipient.

384 CARL FREDERICKS, Vice President Director of Legislation, Associated Oregon Industries: > Support HB 2432 > There is a short term backlog that needs to be addressed. > Initial concern was the permanency of the board. > Can support if the two additional board members sunset in the future. > Agrees with Rep. Dominy about 2 temporary should be labor/management.

410 CHAIR DERFLER: Do you have problem using present referees?

411 FREDERICKS: No problem. > Confirmation by senate is not necessary.

427 REP. EDMUNSON: Perhaps we should require senate to review only reappointment.

444 HARVEY RISEWICK, Ombudsman for Injured Workers, State of Oregon. > In favor of increasing the board. > When the board increased to 9 members, was under the impression that the board members were going to be required to have a workers' compensation background. > If the board is expanded on a temporary basis: management/balance preferred. > Should use the referees for the temporary positions.

TAPE 96, SIDE A

027 CHAIR DERFLER: Closed public hearing on HB 2432 and opened public hearing on HB 3113.

PUBLIC HEARING ON HB 3113

'030 DOZLER: Submits and explains Staff Measure Summary (EXHIBIT G).

WORK SESSION ON HB 3113



MOTION: REP. MANNIX moves the dash 3 to HB 3113.

DISCUSSION TO MOTION:

MOTION: REP. MANNIX moves to amend the dash 3 amendments on line 5, change "may agree with an employer" to "may agree in writing with an employer". On line 7, after "overtime", insert "provided that the agreement is in writing".

061 REP. JOHNSON: Agreement is in writing but the hours worked is flexible.

067 CHAIR DERFLER: What about in an emergency situation?

068 REP. MANNIX: Subsection C (EXHIBIT H, lines 19 & 20) has been added to allow for emergency needs. 074 REP. WATT: Why does it have to be in writing? House Co littee on Labor April 10,1991- Pa8e 12

081 REP. DOMINY: For those that aren't included in the realm of HB 3113.

089 REP. WATT: What is the difference between this and other agreements that employers and employees make, why is there a need now? 094 REP. DOMINY: Only flexibility the worlcer has now is working five, eight hour days.

096 REP. WATT: No written agreement is necessary in this situation.

097 REP. DOMINY: Documentation is needed if a flexible schedule is requested.

100 REP. EDMUNSON: Documentation could be used in a wage claim. 108 REP. MANNIX: It is not necessary for the whole employment contract to be in writing, but just the part about the flex time schedule.

117 REP. JOHNSON: Concerned about putting a new burden on employers.

128 REP. WATT: Requiring that it be in writing makes the employment agreement seem like a bargaining or contract agreement.

VOTE: In a roll call vote, the motion carried with Representatives Johnson, Watt, and Chair Derfler voting NAY.

140 REP. MANNIX: Stressed that the only thing that will be in writing is the dash 3 amendments is the flex time agreement.

157 VOTE: Hearing no objection, Chair Derfler so moved.

159 MOTION: Rep. Mannix moved HB 3113, as amended, to the floor with a {"do pass" recommendation}. VOTE: In a roll call vote, the motion carried with all members voting AYE. Rep. Mannix will carry the bill.

PUBLIC HEARING ON HB 2724: Witness: Tom Mattis, Workers' Compensation Division

177 REP. MANNIX: Asked Department of Insurance and Finance to explain \$200,000 fiscal impact statement. 179 TOM MATTIS, Manager, Compliance Section, Workers' Compensation Division: The fiscal impact statement they prepared indicated a \$100,000 impact, approximately. 183 REP. MANNIX: Means state budget not state benefits. 185 MATTIS: Did not file a fiscal impact statement affecting the department. - }louse

187 REP. MANNIX: Just because benefits are increasing, from insurance companies and SAIF, doesn't mean that the budget has to reflect that, correct? . 188 MATTIS: All they estimated was what would be the likely affect in additional benefits and it is a very rough estimate of \$100,000. > There is no effect on the department.

192 REP. MANNIX: There is no fiscal impact on the department of insurance and finance.

194 REP. REPINE: Is this \$100,000 impact on a annual basis or bi-annual?

199 MATTIS: This is on an annual basis.

205 REP. DOMINY: If impact statement said other funds that would probably be a correct statement. > Legislative council could possibly review this and correct so that process doesn't need to be held up. 213 CHAIR DERFLER: After more discussion about the impact statement, opened the work session on HB 2724.

WORK SESSION ON HB 2724:

MOTION: REP. MANNIX moved the HB 2724-1 amendments.

229 REP. MANNIX: These amendments were prepared and ordered to clarify the language of the bill, doesn't change the intent of HB 2724. MOTION: REP. MANNIX moved to change line 9, "deaths of" to "injuries to"

235 REP. MANNIX: SAIF'S representative pointed out that all other similar statutes relate to date of injury and if changed would throw system off. > genefits here should relate to injuries.

VOTE: Hearing no objection, Chair Derfler so moved.

265 MOTION: REP. MANNIX moved that HB 2724, as amended, to the floor with a {"do pass" recommendation} . VOTE: In a roll call vote, the motion carried with all members voting AYE. REP. MANNIX will carry the bill.

WORK SESSION ON HB 2722 MOTION: REP. MANNIX moved the dash 1 amendments

- to HB 2722. 284 REP. MANNIX: Talces out all the reference to corrections, no special provision for corrections. Because of the testimony asking that the formula be simplified, which this does. > Leaves us with the initial intention to allow permanent, total disability and permanent, partial disability benefits to be available for child and spousal support.

VOTE: Hearing no objection, Chair Derfier so moved.

MOTION: REP. MANNIX moved HB 2722, as amended, to the floor with a {"do pass" recommendation}.

VOTE: In a roll call vote, the motion carried, with Rep. Edmunson voting NAY. REP. JOHNSON will carry the bill. 313 CHAIR DERFLER: Adjourns meeting at 11:01 a.m.

Submitted by: Reviewed by:

Guadalupe Ramirez~ Victoria Dozler ,, Committee Clerk: Committee Administrator

EXHIBIT LOG:

A - Testimony on HB 2906 - Leroy Churchill - 2 p. B - Testimony on HB 2906 - Barry Freeman - 2 pp. C - Testimony on HB 2906 - Sheryl Wilson - 4 pp. D - Testimony on HB 2905 - Leroy Churchill - 1 p. E - Fiscal Analysis - Victoria Dozler - 1 p. F - Testimony on HB 2432 - Lynn Marie Crider - 6 pp. G - Testimony on HB 2342 - Diane-Rosenbaum - 1 p. H - Proposed Amendments on HB 3113 - Victoria Dozler - 1 p. I - Staff Measure Summary on HB 3113 - Victoria Dozler - 1 p.