

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

April 12, 1991Hearing Room D 8:30 a.m.Tapes 97 - 100

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: SB 99 - Work Session HB 3548 - Public Hearing HB 2977 - Public Hearing HB 3266 - Public Hearing

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TAPE 97, SIDE A

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

WORK SESSION, SB 99

CHAIR DERFLER: Opens work session on SB 99.

VICTORIA DOZLER: We need to deal with the subsequent referral to Ways and Means Committee for the record.

023 MOTION: REP. DOMINY: Moves to suspend the committee rules to bring SB 99 back into the committee.

The committee has no objections to the above motion.

026 MOTION: REP. DOMINY: Moves that SB 99 be referred to the Committee on Ways and Means.

VOTE: The motion passes 4-0.

EXCUSED: Representatives Edmunson, Johnson and Mannix.

PUBLIC HEARING, HB 3548

Witnesses:Bill Early Ted Hughes, Lobbyist Patience Talgott, Northwest Temporary Services Steve Minnich, Adult and Family Services Nan Poppe,

Mount Hood Community College

CHAIR DERFLER: Opens public hearing on HB 3548.

055 BILL EARLY: Introduces the Welfare to Work Program to the committee. This program is presently in existence in the states of Connecticut and New York (Exhibit A).

085 Video presentation of the "America Works Program" by MacNeil/Lehrer Newshour.

390 TED HUGHES: This is an exciting project. I would like Oregon to give it a try. This is one of the best marriages of the private sector and the government that I have ever witnessed.

TAPE 98, SIDE A

009 CHAIR DERFLER: Would you give us a basic plan of how the program works?

013 EARLY: Describes the program (Exhibit A).

-At the end of the program, 70% of the participants have been offered and have accepted a permanent position. Of those people 90% are still in a permanent employment one year later.

-HB 3548 enables this kind of a program to be replicated in the State of Oregon.

-Up to \$5,000 payments are authorized to the service providers. This payment is made in two steps, the first step after the individual has a permanent job and is off the welfare rolls. The last one third is paid when the employee has continued on the job for an additional two months.

074 REP. WATT: In the video it said one year. Has that changed?

EARLY: I don't recall it being that way in the video.

084 DOZLER: The one year refers to the tax credit that the employer eventually receives.

086 CHAIR DERFLER: Inquires about the tax credits.

EARLY: The federal tax credit is already in existence.

-Emphasizes that this is a performance based program.

104 REP. JOHNSON: Am I correct that the \$5,000 savings comes from the State of Oregon and the welfare savings (\$12,000-\$14,000) come partially from the state and partially from federal funds?

EARLY: I believe that is correct.

109 Rep. Johnson and Mr. Early discuss this point further.

REP. JOHNSON: What prevents the same individuals from going through the process another time?

EARLY: I don't know the answer to that but the people usually want their jobs and keep their jobs and they are not going to quit for the

purposes of America Works.

135 CHAIR DERFLER: What happens to the 30% that don't make it?

137 EARLY: They are in the same category as the 54% that don't make it in the state jobs programs.

145 CHAIR DERFLER: After their permanent job, are these people still provided child care and some welfare benefits in addition to their regular jobs?

EARLY: Yes. The Family Services Act of 1988 authorizes that kind of approach.

148 REP. DOMINY: How compatible is this with Ballot Measure 7? Will this program fit right in with Ballot Measure 7?

EARLY: It is not inconsistent but it is a different program. If Ballot Measure 7 was implemented state-wide then this program would have no feasibility at that point in time.

REP. DOMINY: If this were to pass, you would not want to see Ballot Measure 7 because the business opportunity would disappear?

EARLY: That would not happen during the three-year pilot program, but later that could be the case.

200 -Explains the financial impact on the participating welfare recipient (Exhibit A, page 2).

305 CHAIR DERFLER: Why do you classify the medical insurance as income?

EARLY: Explains the permanent base wage and the medical benefits in the projected permanent job.

337 REP. DOMINY: What is the average income at the end of the year?

EARLY: In the America Works program it was approximately \$14,000 per year.

346 The committee discusses the salary figures, taxes and the duration of the benefits on page 2 of Exhibit A.

400 EARLY: Presents a chart explaining the impact on costs to government (Exhibit A, page 2).

TAPE 97, SIDE B

017 REP. JOHNSON: Does that tax credit come straight off the employer's federal income tax?

EARLY: That is correct.

024 REP. JOHNSON: Everything else you have there is somehow paid through the welfare system?

EARLY: Yes. Explains further the figures on the chart (Exhibit A, page 2).

042 -Presents a chart outlining the advantages over existing Oregon

programs (Exhibit A, page 3).

048 REP. DOMINY: How does this differ from the JOBS program that we have currently in the state?

EARLY: I don't believe they actually provide jobs.

-In this program the services are provided by a private company. Incentives to assure the success of the participant are stronger.

069 REP. JOHNSON: What does it take to get the full tax credit?

EARLY: One year of the participant's employment.

082 REP. JOHNSON: Expresses concern about possible employer abuse. Could we insert a mechanism to prevent employers from abusing this system in the repetitious manner I just described?

EARLY: We don't want that kind of a thing to happen. We need to think about how to prevent that.

095 REP. DOMINY: What is the benefit to the service provider that places the employees?

108 EARLY: During the first months before the participant is placed even in a temporary job, all the expenditures that the service provider makes are not compensated at all. During the four-month probationary period, the service provider is receiving some funds from the permanent employer. That amount is negotiated between the temporary service provider and the permanent employer.

122 REP. DOMINY: The worker would get at least minimum wages. If it was a \$8 an hour job, the difference would go to the service provider?

EARLY: That is approximately correct. The service provider is also receiving some work supplementation funds.

133 CHAIR DERFLER: Could you place a brand new employee and collect \$8 an hour?

EARLY: I don't think so.

REP. DOMINY: Discusses an example of a bank teller; that would be about \$8 an hour.

140 REP. JOHNSON: What are the differences between this bill and the ones introduced in the past in the states that now have this program?

EARLY: I don't know the differences.

153 CHAIR DERFLER: Do you expect to make a profit out of this?

EARLY: Yes, this is a for profit corporation.

CHAIR DERFLER: What would be the average cost of a trainee going through the program and what would you receive?

EARLY: We have not reviewed all this. We have some uncertainties about the economics.

176 PATIENCE TALGOTT, President, Northwest Temporary Services:
Clarifies to Rep. Dominy the tax burden the employers are required to
pay for each employee.

206 CHAIR DERFLER: A lot of people are objecting that you are
benefitting from a downtrodden group of people.

TALGOTT: Presents the statistics involved. I need to see the profit
and loss from the America Works.

236 REP. DOMINY: What does it take for you currently, what is the gap
between what the employee earns and what you get?

TALGOTT: Provides an example of a clerical worker. The tax burden
increases if one places an individual in the electronics industry for
the same wages.

269 REP. JOHNSON: I thought that during the first four months the
employer does not pay any wages?

EARLY: The employer pays a discounted wage to the service provider.

279 TALGOTT: Explains the finances relating to the temporary help
service. The client company has no other legal obligations other than
paying a monthly or weekly bill to the temporary help service.

REP. JOHNSON: Where does it say in the bill that the employer is
supposed to pay the vendor during the four-month period?

EARLY: It does not say that in the bill. There is no law that requires
that but that is the way it works.

309 CHAIR DERFLER: What is the loss if the person quits a month
earlier?

EARLY: That is the business risk you are assuming. If the individual
does not succeed, it is costly.

330 REP. REPINE: Refers to the four month transition period on the
chart (Exhibit A). Questions about the operational costs. Are they on
top of the \$836 figure?

EARLY: Yes that is the amount that goes to the worker.

374 DOZLER: Is the amount that the vendor receives negotiated between
the state and the service provider?

EARLY: I don't know why there were some differences on the video. We
thought that \$5,000 would be appropriate here because of the higher
minimum wage.

364 REP. JOHNSON: Summarizes the discussion and all the costs to be
included in the amount that the vendor charges the employer.

EARLY: The profitability of the program depends on the payment at the
end.

TAPE 98, SIDE B

006 TALGOTT: We need to consider workers' compensation costs in Oregon.

012 REP. JOHNSON: I support this concept, I just want to cover all the aspects that might hinder the smooth passage of this bill.

022 REP. WATT: How many people do you see participating in this?

EARLY: Anybody can get into this business.

REP. WATT: Do you see it as an open market?

EARLY: Yes. Our current JOBS program in Oregon is a good one but it is not enough to give the people on public assistance the total break that they deserve.

058 REP. DOMINY: Next time, if and when we revisit this bill, I would like to see the missing numbers that Rep. Repine referred to.

068 REP. REPINE: Discusses the problem of finding quality child care.

078 CHAIR DERFLER: Please go over these figures with Mr. Minnich for the next time.

086 STEVE MINNICH, Administrator, Adult and Family Services: Pay for performance has been tried in this state. This has been tried universally by welfare systems, this is not a new idea.

-Discusses the statistics involved. -Explains the placement rates of Adult and Family Services. -Discusses weeding out the "job ready" individuals--we would have the same placement statistics. The placement rates for America Works would not be 70% for those hard to serve. -We place these individuals for much less than \$5,000.

150 REP. MANNIX: You sound a little defensive. We should not be so shy about experimentation. With a pilot project we could compare the results.

MINNICH: There is no easy way out of this welfare placement mess.

REP. MANNIX: The frustration is that when the government is dealing with this problem, they concentrate on the process rather than the results. Gives an example from the Child Services Division.

-Suggests a pilot program.

229 MINNICH: Your suggestion is OK if the private sector would do something that we are not doing.

REP. MANNIX: You could reward your case workers for placements.

MINNICH: I would love to talk about incentives for workers in our system. This bill holds forward that the private sector inherently knows better in this case. I have a problem with that concept. He discusses the current partnership programs in the state.

-We are doing all what was presented in the video.

263 REP. DOMINY: Discusses the issue of taking the "cream of the crop" and leaving the hard to place people to the government.

MINNICH: We are focusing on the harder to serve people. Discusses the

Family Support Act.

-This program aims to the more motivated and the least barrier prone individuals.

315 REP. WATT: What is your case worker ratio to your clients?

MINNICH: About one to eighty.

REP. WATT: Do you think that this can be done by the private sector, that this can work? If they take the more motivated people, you don't have to deal with them and you could focus on the harder to serve group.

MINNICH: I would not want to pay \$5000 for that service. In our current provider system we are paying less than \$1,000 to place these people.

350 REP. REPINE: Suggests that the private sector take on the harder to place individuals.

MINNICH: However we strike the bargain, we need to be sure what we are paying for.

376 REP. JOHNSON: Refers to section 3, paragraph 2 of the bill regarding the amount that the vendor will be paid for placing efforts. The market would settle the price for the placement.

-As long as this program has a net positive results on the state resources, what is wrong with that even if only the "the cream of the crop" are participating?

411 MINNICH: We already have a system in place where 24,000 cases are closing each year for various reasons.

TAPE 99, SIDE A

-He discusses the harder to serve clientele. If those are the cases that we are paying a lot of money for, I think we have a deal.

011 REP. JOHNSON: So this happens already naturally. People get off welfare by their own initiative. We should not let some company come in and take advantage of that natural phenomenon and give them some money on top of it.

015 MINNICH: Yes. Gives an example from the State of Maryland.

REP. JOHNSON: Points to a client shown on the video who had been on welfare or ten years. Most likely that person would have been on welfare the next year also. Maybe we should put in some language with regard to how long a person must have been on welfare before being eligible for this program.

MINNICH: We need to make sure that we know what we are paying for. There ought to be some classification of the recipient. The public agencies should be able to get into the bidding process.

059 REP. JOHNSON: Do you have any specific language to add to this bill to make it work?

MINNICH: I would need some time to do that.

060 CHAIR DERFLER: We need to explore where the place for the private sector is in this matter. Don't be quite so defensive.

MINNICH: We know a lot about welfare to work programs and you were presented a fairly simplistic view of a program. The data presented was very sparse. I would like to see those numbers and have a true examination as to where those numbers stand.

090 NAN POPPE, Director, Steps to Success Program, Mount Hood Community College: Testifies in opposition to this bill (Exhibit B).

-HB 3548 is yet another misguided attempt to find a "quick fix."

-The State of Oregon already has a publicly funded employment and training system consisting of community colleges, JTPA, and the Employment Division. This system is cost-effective and efficient.

-The \$5,000 maximum cost per participant allowed in this bill greatly exceeds the cost experienced by public providers.

-She describes the Oregon welfare reform program.

152 REP. JOHNSON: Private sector almost always does a better job in anything that they do.

POPPE: I believe that there is a strong role for the private sector in the welfare reform. We have worked successfully with representatives from the private sector.

167 CHAIR DERFLER: Recesses the meeting at 10:35 a.m.

PUBLIC HEARING, HB 2977

Witnesses: John Gervais, National Electrical Contractors Association Jack Pompei, OR-OSHA

CHAIR DERFLER: Opens public hearing on HB 2977.

179 JOHN GERVAIS, National Electrical Contractors Association: Testifies in favor of HB 2977.

-Discusses the safety programs that NECA employs.

-We want to make sure that this is a joint responsibility. The employee should be subject to a small fine also for the failure to use designated safety equipment.

206 REP. EDMUNSON: Do you agree that the Oregon jurisdiction in this area is delegated by the federal law?

GERVAIS: Yes.

REP. EDMUNSON: Does the federal law allow the state to fine an employee for a safety violation?

GERVAIS: I have some examples of cases where it has been allowed.

REP. EDMUNSON: Would OR-OSHA reinforce this law?

GERVAIS: Yes I believe so.

221 REP. DOMINY: We are levying a fine against an individual. The individual is not responsible for work place safety.

GERVAIS: Provides an example. The employee has a responsibility for the personal things they do, such as wearing a hard hat, etc.

REP. DOMINY: Should the employee be able to sue the employer?

GERVAIS: The employee should complain to OR-OSHA.

294 REP. DOMINY: Presently the state doesn't regulate all of the safety rules down to who wears a hard hat. Are you, as an employer, prepared to have the state act directly one on one with the employees without even going through the employer? You are saying that the state can sue an individual regardless what the management says.

GERVAIS: I don't think I accept that analysis of this concept. We need some clarification to make this clear that it is a joint fine.

REP. DOMINY: What is a large amount for you?

GERVAIS: I defer the judgment of that to this committee. Around \$100 or \$200.

321 REP. MANNIX: Could this be in the employment agreement that the fine be deducted from the pay check.

GERVAIS: We cannot do that.

REP. MANNIX: You are saying that none of this is recognized by the hiring hall.

GERVAIS: Not by the federal regulations of the hiring hall.

366 -Rep. Mannix and Mr. Gervais discuss this issue further--how to deal with this problem without creating a new statute.

403 REP. DOMINY: How many people in this state are hired through a hiring hall? It is very low. This is a hiring hall problem and now we are going to hit everybody in the state with this law.

TAPE 100, SIDE A

008 GERVAIS: We would accept that as a friendly amendment to narrow it down to that scope only.

-Provides an example of an electrician who refused to use a safety belt.

025 REP. MANNIX: Why do we have to impose a fine? Can't we just identify an unsafe worker?

GERVAIS: We feel a small fine makes a person more cognizant.

-The fine creates a better partnership in the safety approach and it doesn't have to be a burdensome thing.

REP. MANNIX: It is better to be proactive. Can't this be achieved through a bonus program?

GERVAIS: I believe that could be possible.

062 JACK POMPEI, Administrator, Oregon OR-OSHA: Refers to Exhibit C, OSHA Instruction STP 2 - 1. 101, which prohibits the application of sanctions against employees under state plans, except those sanctions listed under paragraph F.1. Guidelines.

CHAIR DERFLER: Expresses annoyance that this information has not been communicated to the committee before the bill has gone this far.

POMPEI: Describes the paragraph F.1.

087 REP. EDMUNSON: What about New York? What about the sanctions that Mr. Gervais referred to? Are these the F.1. sanctions?

POMPEI: I don't know the case in New York. This refers to a foreman.

108 REP. MANNIX: I don't think we are going anywhere with the punitive side of this. How about the first part of the bill? Is it a problem to have it there?

POMPEI: The safety and health of a work place is the responsibility of the employer. It is the employees' responsibility to follow the rules and regulations. OR-OSHA preamble already states all that.

REP. MANNIX: So the first part is only a window dressing. If the proponent wants that in, do you have a problem with it? Is it against federal guidelines?

POMPEI: That is already in the OSHA preamble. This is a redundant situation.

144 REP. JOHNSON: Refers to Exhibit C, page 4. Discusses employee compliance with "red-tag" provisions.

187 REP. EDMUNSON: Refers to lines 20 and 21 of the bill. If we would remove all sanctions for citation, wouldn't we have a less effective system and be out of compliance?

POMPEI: I question section 3. This would be very less effective.

205 CHAIR DERFLER: I would like to finish now with this hearing until we get a better clarification whether it is legal. We would like to proceed on a firm ground. Could you find out for us?

POMPEI: Yes.

PUBLIC HEARING, HB 3266

Witnesses: Joe Gilliam, National Federation of Independent Businesses
Jack Pompei, OR-OSHA

CHAIR DERFLER: Opens public hearing on HB 3266.

215 DOZLER: Describes the bill.

233 JOE GILLIAM, National Federation of Independent Businesses: The reason behind this bill is that the relationship between employers and OR-OSHA has deteriorated over the last few years.

253 REP. MANNIX: Suggests a grace period of seven days unless it is a red-tag type of situation. After a consultative visit the employer would have seven days to correct the situation.

GILLIAM: It might be a better way.

REP. MANNIX: Suggests a provision that says "in determining penalties to apply on citations, the director should take into account prior willingness of the employer to seek out consultative services."

GILLIAM: I am open to any suggestions.

297 REP. MANNIX: You are going to run into a lot of resistance with retroactive amnesties that are not very precise. Reiterates his position that the employer's willingness to use consultative services should be taken into consideration. Reiterates his suggestion of a 7-day grace period.

GILLIAM: We need to find a way to encourage small employers in the state to feel comfortable to use consultative services. Those services will provide long-time results as to work place safety.

REP. MANNIX: Could you talk with OR-OSHA to come back with an amended version that does what I suggested?

GILLIAM: Yes.

335 REP. WATT: Refers to the note from the Legislative Fiscal Office (Exhibit D). Have you seen this? Are we in a situation where we are spinning our wheels?

REP. MANNIX: That is why I came up with the alternative suggestion.

367 CHAIR DERFLER: I agree there is a lot of mistrust between the employers and OR-OSHA. I wish we could work that out.

375 JACK POMPEI, Administrator of Oregon OR-OSHA: We already give a grace period to remedy violations. The consultation visits already are going on. The compliance people are not coming in and penalize while they are in a consultative mode. We cannot do that under the federal law. We already do all this proposed by this bill.

REP. MANNIX: Perception is 90% of reality in this world.

TAPE 99, SIDE B

004 POMPEI: The consultative services are very well utilized. We have a backlog.

012 CHAIR DERFLER: Would you respond to Mr. Gilliam's concerns?

POMPEI: We function under administrative rules. We cannot arbitrarily pick on an employer. The credibility of the program would be gone.

027 REP. JOHNSON: We need to encourage employers to seek out advice on work place safety.

POMPEI: In Oregon there is one of the finest consultative programs in the country. There is still that stigma of OSHA enforcement compliance

people versus the consultative.

-Rep. Mannix and Mr. Pompei discusses how to deal with that stigma, and also the present situation of simultaneous enforcement and consultation visits. Mr. Pompei explains that the employer cannot be cited for violations while providing improvements to work place safety as a result of a consultative visit.

077 CHAIR DERFLER: Chair Derfler adjourns the meeting at 11:30 a.m.

Submitted by: Reviewed by:

Johanna Klarin Victoria Dozler Assistant Administrator

EXHIBIT LOG:

- A - Testimony on HB 3548 - Bill Early - 5 pages.
- B - Testimony on HB 3548 - Nan Poppe - 3 pages.
- C - Testimony on HB 2977 - Jack Pompei - 4 pages.
- D - Amendments to HB 3266 - Legislative Fiscal Office - 1 page.