

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 15, 1991Hearing Room D 8:30 a.m.Tapes 101 - 104

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

VISITING MEMBER:Rep. Hedy Rijken

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

MEASURES CONSIDERED: HB 2856 - Public Hearing HB 3435 - Public Hearing HB 2452 - Public Hearing HB 2807 - Public Hearing

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TAPE 101, SIDE A

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

OREGON BENCHMARKS - OVERVIEW (Exhibits A,B,C)

006 DUNCAN WYSE, Director, Oregon Progress Board: Presents the overview (Exhibits A, B, C).

-Presents background information outlining the constitution and function of the Oregon Progress Board.

-Describes the Oregon Benchmarks Project. We presented the report to the Legislature in January.

-No single committee can deal with all the issues involved.

-We are asking you to review the benchmarks related to your policy making area and give us your reactions.

-Discusses Exhibit A, a set of goals relating to specialized training in education. These would set us out on a very different course from where we have been traditionally in Oregon and in this country.

085 REP. WATT: Those are the things that we are supposed to do now in

education. What kind of criteria are you setting for schools to do that better?

WYSE: This is the first time we are setting specified goals in the area of human resource development.

REP. WATT: There are counselors in schools today who are supposed to guide students to vocational training programs. How is the number going to rise to 55%?

WYSE: You are asking what strategies we need to adopt to move from here to there?

-These benchmarks are not strategies in themselves.

-We need to tie business and education more tightly together. This involves a shift in resources.

-This represents something like a European model of training and education.

-Outlines where the adult population will be in terms of education attainment.

-Describes ongoing occupational training and education.

142 CHAIR DERFLER: Who will pick the strategies? Is the Progress Board going to follow up with that?

WYSE: Any policy committee can be involved in the planning process, this is a collaborative process. Agencies are using these benchmarks in their own planning to set strategies. The Progress Board will continue to do recommendations through a series of reports.

167 REP. WATT: Refers to page 15. There are no numbers.

WYSE: We are going to do additional research to gather data.

REP. WATT: What kind of research did you do to come up with this data?

WYSE: Explains the process. We have had quite a lot of feedback as to the realism of these figures. These are ambitious goals.

194 REP. REPINE: Refers to page 32, ranking among the states with regard to workers' compensation. How come you don't envision any improvement for the next ten years?

WYSE: We will meet the target with what you have already done.

239 REP. DOMINY: I am disappointed it doesn't indicate where we relate in workers' compensation benefits with other states?

WYSE: It is not included but we can put it in. That is the kind of feedback we are looking for.

REP. DOMINY: Why does the Portland metropolitan area always stay higher than the rest of the state with regard to the per capita income percentage?

WYSE: That is a fairly common phenomenon nation-wide. It is important

that we see the per capita income rising also in the rural areas.

-These are very ambitious goals as to the per capita income.

282 REP. DOMINY: Do we have benchmarks as to what kind of industry exists?

WYSE: Refers to page 31 in the Oregon Progress Report.

REP. DOMINY: Where are the public employees? I don't see a target for them?

WYSE: Would you like to see that in, I don't know what the target would be. We'll take a look at that.

340 REP. REPINE: Refers to page 15, item No. 35. What constitutes the change from the 1990 1.5% figure to the 2010 3% figure? What is the visionary vehicle?

WYSE: We try to focus on the benchmarks. The results, we leave them to the policy makers to achieve.

REP. REPINE: Refers to item No. 36. There have been studies done addressing this specific issue.

WYSE: We have had targeted studies on populations, but this is supposed to reflect the entire work force.

REP. REPINE: The displaced timber workers should be part of these benchmarks.

TAPE 102, SIDE A

PUBLIC HEARING HB 2856 (Exhibit D)

Witnesses: Quint RaHB erger, Bureau of Labor and Industries Dan Faddis, Metro Electrical Trust Dan Campbell, Central Electrical JATC Gary Goodwin, Carpenter Apprenticeship Program for Oregon

CHAIR DERFLER: Opens public hearing on HB 2856.

017 VICTORIA DOZLER: Describes the bill.

027 QUINT RAHB ERGER, Director, Apprenticeship and Training Division, Bureau of Labor and Industries: Testifies in support of the bill (Exhibit D).

-All employers benefitting from public works projects should be required to contribute to the training of apprentices.

043 CHAIR DERFLER: What would happen if there were no apprentices available?

RAHB ERGER: There is the recruitment and placement process contained in ORS 660 . That is the responsibility of the apprenticeship committee.

CHAIR DERFLER: What would happen to the contractor if there was no apprentices available? Would that hold the project up or would there be a fine?

RAHB ERGER: I doubt that that would hold the project up. Any agency charged with enforcement could take some direction from the committee on what those administrative rules should look like.

064 REP.DOMINY: How do we arrive at the number as to how many people should be in the program?

RAHB ERGER: Refers to HB 2856. In that particular legislation there is an established ratio. Perhaps the committee could suggest that administrative rules be developed along these lines.

-Rep. Dominy and Mr. RaHB erger discuss this issue further.

094 REP. REPINE: What are the apprentice occupations that this is related to?

RAHB ERGER: Currently there are approximately 190 apprentice occupations which have standards registered with the Oregon State Apprenticeship and Training Council, and those standards are administered by individual apprenticeship and training committees. Some occupations would be construction electricians, plumbers, pipe fitters, etc. In the high tech and communications industries there are also emerging apprenticeship programs for which there are standards being developed.

REPINE: What constitutes a public works contract?

RAHB ERGER: Mr. Tiffany would better be able answer that.

REP. REPINE: So it could be a contract of a year or involve custodial work?

RAHB ERGER: That may be correct.

REP. REPINE: How was the threshold of \$50,000 established?

RAHB ERGER: I don't know unless it was to be consistent with other legislation that has already been passed or proposed.

134 REP. DOMINY: What is the percentage of apprenticeship programs among the contracts out there?

RAHB ERGER: I cannot give you anything specific in terms of contractors. The approximate number of employers currently involved in apprenticeship is probably 4000 in the state of Oregon but that covers all occupations.

145 REP. REPINE: Is this going to be a major, major program to the Bureau of Labor and Industries?

RAHB ERGER: There are about 175 apprenticeship committees throughout the State of Oregon covering those 190 occupations. In terms of public works there are a wide number of apprenticeship committees currently existing to which contractors could become attached.

REP. REPINE: I believe there would have to be new apprenticeship committees formed?

RAHB ERGER: That is possible.

172 REP. WATT: Are you able to hire additional staff? How many programs can one person handle?

RAHB ERGER: We need to look at the staffing level. Some of our consultants work with as many as 35 work programs.

203 CHAIR DERFLER: Do we have apprenticeship programs in the outlying areas?

RAHB ERGER: Yes.

CHAIR DERFLER: Refers to electrical and plumbing programs--is there a surplus of apprentices in those professions?

RAHB ERGER: No, currently there is no surplus in those occupations. The entry requirements to those programs are quite demanding, it is a competitive process.

CHAIR DERFLER: Will this program expand the number of people who can get into the programs?

RAHB ERGER: Yes, it has that potential.

232 -Chair Derfler and Mr. RaHB erger discuss out-of-state contractors.

CHAIR DERFLER: We need to look into how much this program will cost? It will require a lot more people.

RAHB ERGER: I don't believe it would mean that many more Full Time Equivalentents.

CHAIR DERFLER: Could you come with an estimate as to how many FTEs it would take?

RAHB ERGER: We can create various case scenarios.

265 DAN FADDIS, Metro Electrical Trust: Testifies in opposition to HB 2856.

-Describes his organization.

-We feel this bill is not needed. We already pay into a training fund.

CHAIR DERFLER Are you saying that the unorganized groups also pay into this training fund?

FADDIS: No, they have an organization of their own and a training fund. They have registered apprenticeship programs.

370 REP. WATT: What is the name of the training fund of the non-organized employers? Is it one fund or several funds depending on the craft?

FADDIS: They are all different funds.

400 CHAIR DERFLER: How are the funds used?

FADDIS: They are used to provide training facilities and services to the apprenticeships and the journeymen for retraining. It is a very established fund.

-Discusses the enforcement of these issues.

TAPE 101, SIDE B

005 FADDIS: The fiscal impact is not determined at this point because we don't know how many people would be brought in.

010 DAN CAMPBELL, Training Director for Central Electrical JATC: He echoes the sentiments of Mr. Faddis. Testifies in opposition to the bill.

-The employers have the choice now to participate in these kinds of programs.

-This is better to be left for the private industry to take care of rather than handled through legislation.

033 CHAIR DERFLER: What about the possible lack of trained work force in Oregon in future?

CAMPBELL: Expansion in technology will reduce the need for expanded work force. We are not anticipating a greatly expanded work force in the future.

047 GARY GOODWIN, Director of Training, Carpenter Apprenticeship Program for Oregon: This would create dissention and fragmentation. Why should a contractor be forced to participate in a program that he has already not chosen to participate in and which, in some cases, have already failed.

[Note: Public hearing temporarily interrupted to allow Rep. Rijken to testify on HB 3435.]

PUBLIC HEARING, HB 3435 (Exhibits E & E.1)

Witnesses: Hedy Rijken, State Representative, District 4 Robert Durham, Attorney

095 CHAIR DERFLER: Opens public hearing on HB 3435.

098 REP. HEDY RIJKEN, District 4: House Bill 3435 is designed to help victims of crime and those who are witnesses to a crime to protect their jobs (Exhibit E and E.1).

126 ROBERT DURHAM, Attorney: Discusses the technical aspects of the bill.

-The -1 amendments are intended to make it clear that there is no intention to have exclusive remedies or an intention to take away existing employee rights. This bill is supplemental to existing statutory protections.

219 REP. RIJKEN: Explains the conceptual amendment: Page 1, line 10, after the word civil we would delete "action" and insert "proceeding"; after the second word "civil" insert "proceeding."

227 REP. JOHNSON: Where are we relative to other states on this issue?

DURHAM: I don't know. I don't have any out-of-state information with

regard to this question.

REP. JOHNSON: You require only good faith for this protection. Why don't you require a conviction, for example in a criminal proceeding?

DURHAM: Provides an example of a drug deal on a job.

271 REP. JOHNSON: This bill goes further than your examples. What if an employee files a law suit against the employer but the case will be thrown out? Shouldn't the employer then have the right to retaliate against the employee? Should we allow employees to run around making these kinds of allocations without the employer ever having any right to put a stop to it?

DURHAM: I don't believe that a person should be retaliated against just because he/she didn't prevail. The situation is different when the employee has by bad faith launched the accusation.

325 REP. JOHNSON: Who is to prove that it was done in good faith?

DURHAM: Presumably the employee would have to demonstrate that they qualify for the protection of this bill.

-Rep. Johnson and Mr. Durham discuss further the issue of good or bad faith and the proper motivation.

355 REP. REPINE: Inquires about letters of recommendation as it relates to this issue.

DURHAM: All the ills cannot be cured with this bill. This bill was not created to cure all the problems that arise in employer-employee relationships.

400 REP. DOMINY: Is there a way to write in the amendment, in section one, that a memo cannot be left in the employee file?

418 REP. MANNIX: A memo in a file during the employment would already be a retaliation. There is already a remedy available of somebody zings you with a bad recommendation after you left the employer. You are into the arena of a tort.

TAPE 102, SIDE B

009 This bills limits the liability of the employer to the time the person is employed. Rep. Dominy's concern would technically be covered within the bill as long as they are still working for the employer.

023 REP. JOHNSON: Could you get us information as to how other states compare to us?

DURHAM: I can look into that and present whatever information I can.

PUBLIC HEARING, HB 2856 (Exhibits F,G) [Continued]

Witnesses: Bill Hayden, Department of Transportation Valerie SalisB ury, League of Oregon Cities Kim Mingo, Associated General Contractors Isabel Hendricks, H & H Electric Laurie Wimmer, Commission for Women

CHAIR DERFLER: Reopens public hearing on HB 2856.

033 BILL HAYDEN, Manager, Equal Employment Opportunity and Affirmative Action Programs, Department of Transportation: We support HB 2856 with the amendment that we have proposed (Exhibit F).

-The intent of the amendment is ensure that contractors, training programs and regular work force provide opportunities for women and minorities in the construction industry.

-We would like to provide equal employment opportunities on the state funded construction contracts. This bill would provide for that.

076 REP. REPINE: Do the existing apprenticeship programs satisfy your needs?

HAYDEN: Yes, if they are BOLI approved.

-We would like to see more women and minorities getting into the construction crafts.

095 VALERIE SALISB URY, League of Oregon Cities: Testifies in opposition to HB 2857.

-This language could be read that every public contractor with a public improvement project must be a registered training agent regardless the \$50,000 threshold.

-Smaller cities often obtain only one bid on a particular, public works construction project. The bidder would have to participate in a new program which will involve additional expense and additional administrative work. The bidder would pass on the cost to the city or often elect not to participate because he doesn't want to be bothered with the program.

-Some of our smaller cities would have difficulty to have there projects bid out for completion.

122 KIM MINGO, Associated General Contractors: Testifies in favor of HB 285 6 (Exhibit G).

-House Bill 2856 will ensure the existence of apprenticeship programs that will develop skilled trades crafts persons, through contributions made by employers.

150 ISABEL HENDRICKS, H & H Electric: We will need qualified people to fill the jobs in the crafts in the year 2000. I support Ms. Mingo's position on the bill.

-I have a problem with subsection 2. It is discriminating.

164 REP. MANNIX: That contains provisions requiring the contractor to contribute funds to a training program. Some contractors are already carrying out a apprenticeship or training programs under that collective bargaining agreement.

HENDRICKS: Some merit shops have similar agreements.

REP. MANNIX: You would like to have merit shops included. You don't mind excluding collective bargaining agreement.

HENDRICKS: It should be equal for both parties.



-Rep. Mannix and Ms. Hendricks discuss the employer contributions to the apprenticeship training funds.

214 CHAIR DERFLER: How do you feel about the earlier testimony relating to shortage of workers in future?

HENDRICKS: I believe there is going to be a shortage, there already is. We need to prepare for it now, especially in the electrical field.

CHAIR DERFLER: Are apprenticeships as limited in the unorganized area as they are in the organized area?

252 HENDRICKS: Explains how one enters an apprenticeship program and the minimum requirements involved.

CHAIR DERFLER: Do you limit the number of entrees? How many finish?

HENDRICKS: We limit them so we don't have too many in the program. I don't have the specifics about the turn-out but the percentage is very high.

279 REP. WATT: How do the merit shop pay rates relate to those of a union shop?

HENDRICKS: Mine are equivalent. Explains the philosophy of a merit shop. The rate is now about \$17 an hour. I am under the federal Davis Bacon Act which is identical to the union contracts.

290 LAURIE WIMMER, Director, Commission for Women: We support this bill. This is one way of ensuring access for women to the more lucrative and technically trained professions.

PUBLIC HEARING, HB 3435 (Exhibit H) [Continued]

Witnesses: Bob Keyser, Oregon Council of Police Associations Dennis O'Donnel, Oregon State Police Russ Spencer, Oregon State Sheriffs Association and Oregon Law Enforcement Legislative Committee

CHAIR DERFLER: Reopens public hearing on HB 3435.

339 BOB KEYSER, Oregon Council of Police Associations: Testifies in support of HB 3435. Employees should be encouraged to participate and cooperate with law enforcement agencies. They should be protected from employer discrimination and retaliation.

358 DENNIS O'DONNEL, Oregon State Police: Testifies in support of HB 3435 (Exhibit H).

370 REP. WATT: Would you give us some samples of some of the problems that are common?

O'DONNEL: Describes some of the problems relating to drugs and thefts, etc.

405 REP. REPINE: Would this bill assist law enforcement in bringing a case to court?

O'DONNEL: Yes.

427 REP. MANNIX: It is incredible that today in Oregon an employer can fire an employee for cooperating with police.

TAPE 103, SIDE A

003 RUSS SPENCER, Oregon State Sheriffs Association and Oregon Law Enforcement Legislative Committee: Testifies in support of HB 3435. He echoes the sentiments of the earlier testimonies.

PUBLIC HEARING, HB 2452 (Exhibits I & J)

Witnesses: Jeffrey Merrick, Attorney Marilyn Coffel, Bureau of Labor and Industries Steve Tegger, Employment Division Kelly Hagen, Bureau of Labor and Industries

019 CHAIR DERFLER: Opens public hearing on HB 2452.

020 JEFFREY MERRICK, Attorney: He testifies in opposition to the original bill but in support of the amendments (Exhibit I).

103 REP. MANNIX: What if there has not been an agreement upon initial employment or subsequent bona fide advancement, and a dispute arises, and the parties want to go into mediation or arbitration?

MERRICK: I think they can do that now under the current law. I see your point. You might want to keep in that language.

115 CHAIR DERFLER: Give me the definition between mediation and arbitration.

MERRICK: Explains the difference.

CHAIR DERFLER: What if one wants to mediate and the other arbitrate?

MERRICK: The agreement has to delineate that. Generally mediation is often a step before arbitration.

141 DOZLER: Explains the difference between mediation and arbitration.

162 -Chair Derfler and Mr. Merrick discuss the proposed payment for the mediation or arbitration process.

172 REP. MANNIX: Suggests modifying the amendment as follows: If the parties entering to the agreement upon an initial employment or subsequent bona fide advancement then the employer shall pay the cost of mediation or arbitration proceedings. If the parties have not previously entered into such an agreement and enter into the agreement when the dispute arises, then the parties shall agree among themselves as to the allocation of costs of mediation or arbitration proceedings.

MERRICK: This sounds very reasonable.

REP. MANNIX: Should we exclude collective bargaining?

MERRICK: I think it is excluded already.

202 -Rep. Mannix and Mr. Merrick discuss how this relates to collective bargaining.

232 REP. EDMUNSON: Do you consider a termination of employment to be a term or condition of employment?

MERRICK: You are right, it should be added in there. Term, conditions or tenure would be a better way.

REP. EDMUNSON: Discusses the Uniform Employment Termination Act. Would you suggest that we look into that act for guidance in the area of termination law?

MERRICK: You would have to revisit every employment right in the book now.

-Rep. Edmunson and Mr. Merrick discuss this issue further.

286 REP. EDMUNSON: What sort of formality would you require to make sure it was not obtained through duress, misrepresentation or inducement?

MERRICK: That is a good point and it should be in writing.

312 MARILYN COFFEL, Executive Assistant to the Commissioner of Labor and Industries: Introduces Kelly Hagen, Legal Policy Advisor for the Bureau of Labor and Industries.

-Testifies in opposition to HB 2452. We have strong concerns about the rights of the employees.

-Definition of an employment dispute lacking in the amendment.

-How does this conform with federal laws?

-The amendment would not prohibit some sort of independent action by our agency, such as a commissioner's complaint under ORS 659.

-The pre-emption issue, in terms of collective bargaining, would not allow them to proceed under the basis of this act.

-We are concerned about the coercive aspect of this bill. We don't see what this gives the employee.

376 REP. MANNIX: Why is the Civil Rights Section of the Oregon State Bar coming forward saying that they don't see enough alternatives for people unless they got a lawyer?

COFFEL: I am not under the impression that this bill has a wide support of the Oregon State Bar.

411 REP. EDMUNSON: Refers to the proposed Uniform Employment Termination Act.

COFFEL: Maybe Mr. Hagen can discuss that.

TAPE 104, SIDE A

005 HAGEN: I am familiar with those drafts. I could not speak in detail for the provisions.

012 STEVE TEGGER, Legislative Liaison, Employment Division: The employment division has no proposed position whether the proposed method

of arbitration is a good idea or should be adopted (Exhibit J).

-We need to consider carefully how this process would interface with the unemployment insurance system. We identified two major problems. He discusses "collateral estoppel."

-Suggests a provision that says that the Employment Division orders are not binding on a subsequent decision made by the arbitrator.

PUBLIC HEARING, HB 2807

Witnesses: Jeanine Meyer Rodriguez, Oregon Public Employees Union Paul Dominy

CHAIR DERFLER: Opens public hearing on HB 2807.

062 DOZLER: Describes the bill.

072 REP. SAM DOMINY, District 44: Testifies in support of HB 2807. We have always agreed to as a state government that the apprenticeship programs work well. The amendments do not put any kind of mandate on the government.

100 CHAIR DERFLER: Why would there be a cost for the apprenticeship program?

REP. DOMINY: I cannot answer that. The Executive Department would have to

answer that.

123 REP. MANNIX: Discusses the cost problem. On a long term this would save money and provide a better trained work force.

139 JEANINE MEYER RODRIGUEZ, Oregon Public Employees Union: Having the policy is the very least that we can do.

-Discusses the Oregon benchmarks. The same policies that are encouraged by the state to the private sector ought to be supported and encouraged by the state for its own work force.

-We need to get the same tools and get the same training that is offered in the private sector.

173 PAUL DOMINY, Carpenter, University of Oregon: The state is lagging far behind in providing apprenticeship programs.

-Discusses the BOLI handbooks concerning apprenticeship programs.

-Discusses the Oregon Progress Board Report.

-Oregon lags behind other European countries in apprenticeship training.

-Discusses inadequate craftsmanship.

250 CHAIR DERFLER: Adjourns the meeting at 11:15 a.m.

Submitted by:      Reviewed by:

Johanna Klarin Victoria Dozler Assistant Administrator

EXHIBIT LOG:

- A - Overview - Oregon Benchmarks - Duncan Wyse - 3 pages.
- B - Overview - Oregon Benchmarks - Duncan Wyse - 3 pages.
- C - Overview - Oregon Benchmarks - Duncan Wyse - 5 pages.
- D - Testimony on HB 2856 - Quint RaHB erger - 2 pages.
- E - Testimony on HB 3435 - Rep. Hedy Rijken - 2 pages.
- E.1 - Amendments on HB 3435 - Rep. Hedy Rijken - 1 page.
- F - Amendments to HB 2856 - Bill Hayden - 1 page.
- G - Testimony on HB 2856 - Kim Mingo - 2 pages.
- H - Testimony on HB 3435 - Dennis O'Donnel - 3 pages.
- I - Testimony on HB 2452 - Jeffrey Merrick - 4 pages.
- J - Testimony on HB 2452 - Steve Tegger - 5 pages.