

HOUSE COMMITTEE ON LABOR

April 17, 1991

Hearing Room D 8:30 a.m.

Tapes 105 - 108

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 Edward C. Klein, Committee Assistant MEASURES CONSIDERED: HB 2379 - Public Hearing HB 2116 - Public Hearing & Work Session HB 2992 - Public Hearing - 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 105, SIDE A

003 CHAIR DERFLER: Opens the meeting at 8:34 a.m.

PUBLIC HEARING ON HOUSE BILL 2379-EXHIBITS A to D Witnesses: Susan Graber, Associate Justice, Oregon Supreme Court and Judicial benefits Committee Bill Linden, State Court Administrator

CHAIR DERFLER: Opens the Public Hearing.

005 VICTORIA DOZLER: Describes the bill (EXHIBIT A) and HB 2379-5 Proposed Amendments to House Bill 2379, dated 4/16/91 (EXHIBIT B).

043 SUSAN GRABER, Associate Justice, Oregon Supreme Court and Judicial benefits Committee: The Committee Administrator's comments were accurate except that we are back to the three year averaging. -The purpose of the two-tier retirement system is to reduce the cost of allowing judges to retire at age 60. . -Judges permitted to retire at age 60 with improved benefits would be giving substantial service back to the state each year for a minimum of five years. -In concept, the bill would allow the growth rate of full-time judges to be slowed considerably. House Comm;ttee on Labor April 17, 1991 - Pye 2

-This is not only beneficial to the judges but also the state. -She discusses the -5 amendments. 091 BILL LINDEN, State Court Administrator: Current law allows a judge to retire early with a reduction of benefits. The original version of HB 2379 deleted that provision. -We suggest that language ought to be reinserted now that we've changed to the two-year plan. DOZIER: On the bottom of page 3, the amendments say the final average salary will be based on five years, not three years? LINDEN: Three is the current basis and he suggests we keep it three. 115 GRABER: Thought that part of the reason for keeping it at three years was so we could keep it similar to other PERS retirees. We'd prefer keeping it three years. 122 REP. JOHNSON: The Staff Summary refers to the possibility of a legal challenge to the requirement that judges be 65 or older to retire. LINDEN: The Oregon Constitution requires judges retire at age 75. -A U.S. Supreme Court ruling threw out a state law that required the retirement of state employees at a certain age. -The U.S. Supreme Court is scheduled to hear a case involving a Missouri judge, but there is no reason to think they will reach a different conclusion as it relates to judges. -We recommend we not set a mandatory retirement date. -We tried to structure a retirement system so judges can be encouraged to retire early. -We have a bill to remove that 75 years of age designation from the constitution.

REP. JOHNSON: The SMS suggests the age discrimination problem is because judges have to be age 65 before retirement. DOZLER: They can retire at reduced benefits.

REP. JOHNSON: It may be illegal to require judges to be 65 while other state employees have to be 58. LINDEN: There is a difference between judges and other PERS employees. -The -5 amendments get to that issue to a degree. Depending on the judge's choice they can retire at age 60, if they have the requisite number of years, or they continue to age 65.
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-There has always been the danger that that age requirement of 65 could be challenged, because of its difference to what other PERS employees are allowed to do.

-Judges receive some benefits that are different than what other PERS employees receive.

168 REP. JOHNSON: If there was a legal challenge to this and it affected the Oregon Supreme Court Judges, would that be a conflict for them to decide that issue?

GRABER: Any state statutes or retirement by a certain age would be made inappropriate if it was preempted by federal constitutional and statutory principles.

-It is unlikely those kinds of issues could come before us.

-Other challenges to the legislation could come before us.

-The Rule of Necessity says that if every judge has a potential interest in a problem in a general way, someone would have to decide it. The Supreme Court judges would participate in that decision.

191 REP. DOMINY: Refers to the original impact statement.

-How would the amendments change this impact?

LINDEN: The revised impact reduces the impact to \$2.9 million.

DOZLER: PERS indicated it costs \$800 per actuarial report. Since this was likely to go to Ways and Means, they didn't spend the extra money to calculate the offset for the pro tempore service.

-She thinks that is the only thing not included in the current fiscal statement.

REP. DOMINY: Do they still need the account technician or would I have to ask PERS?

DOZLER: Ask PERS.

215 REP. REPINE: Will you testify on the -4 amendments?

(Letter from JUSTICE FADELY requesting amendments to HB 2379 is filed as EXHIBIT C. HB 23794, Proposed Amendments to House Bill 2379, dated 4/8/91 is filed as EXHIBIT D.)

GRABER: We are only here to discuss the -1, -2, and -5 amendments.

223 REP. MANNIX: Aren't judges the only elected officials with a mandatory retirement age?

GRABER: Believes that is correct.

REP. MANNIX: We should remind ourselves that judges are elected and ought to be given the consideration of not having a retirement age.

GRABER: Judges view their positions as being careers. House Committee on Labor April 17, 1991- Page 4

REP. MANNIX: Is trying to argue against mandatory retirement.

GRABER: Her comment was trying to support that.

249 REP. EDMUNSON: Should judges be treated like all other PERS employees?

-Should PERS treat all its members equally? -How far should we go in leveling out the system as far as judges are concerned?

GRABER: Historically, judges were in an entirely different system. They merged with PERS several years ago. Some distinctions were retained. They fair better in some ways, worse in others.

-There is not necessarily a virtue in making it all the same.

LINDEN: Judges typically don't start their service as early as other PERS employees. One way of recognizing that is to have a higher accrual rate the first 16 years on the bench.

-Normal PERS retirees get things judges don't get. -Merging the two systems was a step towards some uniformity. There are still some distinctions that need to be recognized.

REP. EDMUNSON: The same can be said for service in the Executive Branch.

-The 4 amendments allow credit for nonjudicial service to fall into judicial service. It sounds like there is no good reason not to create that as a continuum for judges the same as for executives in other branches.

-The 4 amendments make some sense.

GRABER: We do not oppose or support the 4 amendments. We have not taken a position on them.

335 REP. MANNIX: We make some distinctions between police, fire fighters and teachers.

-You are saying we need to recognize the practical realities of people coming into judicial service later on and that they may have some variable retirement needs because of that.

-Appropriate distinctions can be made in a retirement plan.

-It seems we're moving toward a unified retirement scheme for all public employees.

-How dramatic would it be if we took the 4 amendments and inserted them?

-Do you know how many judges had prior service as district attorneys, legislators, etc.?

LINDEN: More than just a couple. House Committee ~ Labor April 17, 1991
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-One issue of the -4 amendments is that if you do it for one group of retirees, you would have to think about doing it for all groups of retirees.

-You'd be making a significant policy shift by crediting service at the multiplier rate of the last position held.

-More than a few would be affected.

381 REP. JOHNSON: The new plan is plan A, subparagraph b. The old plan is plan B, subparagraph a. Is that correct? DOZIER: Drafted it the way it was presented in testimony. REP. JOHNSON: Plan B are the new proposed options? LINDEN: Correct. If this becomes law, we would think of better titles. REP. JOHNSON: Can we break up page 2 of the amendments? -Is the fiscal impact being revised? 413 LINDEN: Received a draft actuarial letter which indicated the resulting fiscal impacts of the -2 amendments was about \$2.7 million as opposed to the unamended \$3.9 million. -He is not certain the draft letter is the final word. There will need to be more work done by PERS. GRABER: There is a great deal of more savings than the \$1.2 million that is shown. -One of the effects of this legislation will be to reduce the need for new judgeships in the future. 450 CHAIR DERFLER: Is there any other group getting 3.5 percent retirement benefits? LINDEN: Does not believe so.

TAPE 106, SIDE A

018 CHAIR DERFLER: Is concerned that more and more people will be asking for larger benefits.

GRABER: Judges generally come into government service relatively later in life and these benefits are partly in recognition of that.

-This increased percentage is in exchange for work. It would be difficult for other groups to establish an existing system for giving something of value back.

-There is an existing system of a pro tempore judge program for receiving these benefits.

036 CHAIR DERFLER: Recommends passing the bill to Ways and Means without recommendation. - House Committee on Labor April 17, 1991- Page 6

REP. MANNIX: He would send the bill with a do pass recommendation.

CHAIR DERFLER: Closes the Public Hearing. WORK SESSION ON HOUSE BILL 2379

CHAIR DERFLER: Opens the Work Session.

052 MOTION: REP. MANNIX: Moves to adopt HB 2379-5, Proposed Amendments to House Bill 2379, dated 4/16/91, with the following

corrections: On page 3, line 29 change the "five" to "three" and on page 4, line 2 change the second "five" to "three". DOZIER: Will consult with Legislative Counsel on those corrections. CHAIR DERFLER: Hearing no objection the motion passes. MOTION: REP. MANNIX: Moves House Bill 2379 as amended to the Committee on Ways and Means with no recommendation. Included will be a notation that the reason there is no recommendation is that there is no Fiscal Impact Statement on the revised version. VOTE: The motion carries unanimously.

PUBLIC HEARING ON HOUSE BILL 2116-EXHIBITS E to

Witnesses: Greg McMurdo, State Board of Education George Kurtz, Vice President, Linn-Benton Community College Patrick Gallagher, SAIF Robert C. A. Moore, Oregon Trial Lawyers Association and Oregon Workers' Compensation Attorneys

CHAIR DERFLER: Opens the Public Hearing.

075 VICTORIA DOZIER: Describes the bill (EXHIBIT E).

-She describes the Department of Education amendments, HB 2116-1, Proposed Amendments to HB 2116, dated 4/1/91 and Hand-Engrossed Bill (EXHIBIT F).

-She describes the Community College amendments, HB 2116-2, Proposed Amendments to House Bill 2116, dated 4/9/91 and Hand-Engrossed Bill (EXHIBIT G).

-She describes the SAIF amendments, HB 2116-3, Proposed Amendments to House Bill 2116, dated 4/16/91 (EXHIBIT H).

117 GREG MCMURDO, State Board of Education: Describes the addition of ORS 656 .212 to page 1, line 23 of the Hand-Engrossed bill

-The intent of subsection 8 in the proposed amendments was to require that school districts that have trainees in school directed vocational education projects that are hazardous would be subject workers. House Committee on Labor April 17, 1991- Page 7

-We would also like to allow school districts the option of covering trainees in other programs.

-He presents an example. 151 REP. DOMINY: Are students who are working in a shop as part of their curriculum covered by workers' comp or is that work experience?

-Where do we draw the line?

MCMURDO: You should direct that question to the representative from the community colleges.

168 GEORGE KURTZ, Vice President, Linn-Benton Community College: Campus-based lab experience would not be covered except with some exceptions. He elaborates.

-Our amendment suggests we elect to cover some of the more hazardous ones for our benefit and the students' benefit.

REP. DOMINY: The definition would be clear if you are paying them.

-What if a student is working on a car in a shop or on a car for a project off-campus?

-Would that be a different definition?

KURTZ: An employer won't take a student unless we cover them with workers' comp insurance.

-A student in our shop would not be covered.

-If we were required to cover all lab experience on campus our costs would be out of sight.

-We think we are best able to judge who should and shouldn't be covered.

-We're not suggesting anything will change.

222 REP. DOMINY: Why do we need the bill?

KURTZ: We were advised by the Attorney General's Office that we don't have the authority to provide workers' comp insurance for any students.

REP. DOMINY: Could you make that letter available to the committee?

KURTZ: Yes.

233 REP. EDMUNSON: We can't pass a law that grants privilege or immunity to a group of citizens that is not offered to all citizens.

-He is concerned we are allowing one community college to limit immunity in one program while another community college may have different immunities for a similar program. House Committee on Labor April 17, 1991- Page 8

-Have you talked to the Department of Justice about potential constitutional problems with this?

KURTZ: No.

251 PATRICK GALLAGHER, SAIF: We are interpreting some other statutes which allow an employer to identify a given category.

-For example, cities and counties have the option of covering inmates whether or not they are incarcerated.

REP. EDMUNSON: Has there ever been a constitutional discussion of that?

GALLAGHER: Not that he's aware of.

REP. MANNIX: There's a statute which allows volunteers to be covered under certain programs.

-Have you considered merging these concepts?

274 MCMURDO: We will do that if there is interest.

REP. MANNIX: Some single provision may cover all of these instances and may avoid the concern over the privileges and immunities.

-He realizes you don't want to be too broad. - DOZLER: In section 5 of

the current bill is the exclusive remedy provision for a trainee.

-The discussion was that that pertains to school districts. In order for the community colleges to be part of the statute they had to contain that within the provisions of their amendment.

-Another possibility is that they could add "or community college" wherever it says school district.

301 REP. EDMUNSON: We now have a general rule that applies equally to all participants in these programs. -As he understands it, it is not an election now. GALLAGHER: Correct. REP. EDMUNSON: It's wise to include community colleges, but allowing them the right to choose might create a patchwork of immunities from one school district to another for students in the same educational programs. REP. MANNIX: Concur. -There is a political problem in moving employees, students or trainees from a covered class to a non n moving employees, students or trainees from a covered class to a non covered class. covered class. House Committee on Labor April 17,1991- Page 9

MCMURDO: Your concerns then are with the community college amendments?

CHAIR DERFLER: How does the process work? -They are covered if they are being paid and they are not covered if they are not being paid?

KURTZ: That's true for campus-based programs.

-For directed field experiences they would be covered.

CHAIR DERFLER: If they were injured how would you figure a time loss payment?

GALLAGHER: They are not eligible for temporary total time loss, but are eligible for permanent partial disability and fatal benefits.

CHAIR DERFLER: How is the rate calculated?

GALLAGHER: It's based on an assumed wage of \$4.25, as of April 1.

375 REP. DOMINY: Was of the understanding that there would be a definite understanding of who and who wasn't being covered.

-Would you have any problems of deciding who was in and who was out?

KURTZ: We can work on that.

-We would probably say none of the campus-based programs would be covered; this would preclude what we wanted to do, which was to include certain on campus programs.

REP. DOMINY: Hopes they would draw those lines.

-He has concerns that one college is given different treatment than another.

431 REP. MANNIX: It seems that the original bill was one concept:

-A number of people are sometimes covered and sometimes are not covered. There is a law that says they are all covered, but they won't get time loss.

-The community colleges are saying there is another group that are not covered and they want to cover them.

-You might have to come back and say that on campus programs where there is no pay involved will not be covered, but once students move off campus they are covered. -If you start working in that direction you may have something that's sellable and also may help emphasize the Department of Education's concept.

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035 KURTZ: Thinks we can come back with some acceptable definitions. -He understands their concerns about not allowing too much flexibility.

CHAIR DERFLER: What difference does it make if a person is working on a lathe in a school or a shop? 041 REP. MANNIX: Conceptually, not much difference. -You might have some programs where some kind of remuneration or job offer is involved. Maybe that's where you draw the line. GALLAGHER: The -3 amendments speak to issue of who is and who is not covered. -In 1983 the Workers' Compensation Department issued advice to the Department of Education that indicated that students placed with the resident school district were not covered. -The intent was that only third party employers would be protected, because those programs couldn't operate unless the off-site employer had some protection. -This is not a stated prohibition in the statute, but is based on an interpretation. We feel that discriminates against students who are placed with a resident school district with non-instructional personnel. For example, a clerical course could place students with offices where the students work with the office staff. -We should clarify the statutes for situations similar to that. CHAIR DERFLER: That's an interesting concept. 079 REP. MANNIX: It sounds like they want to provide the coverage. -He would rather deal with a workers' comp claim rather than a civil lawsuit. GALLAGHER: The school districts want the sole remedy protection. -There are a number of reasons why covering students placed with the school district with noninstructor personnel should be treated the same as if it was another third party or off-site employer. REP. EDMUNSON: Using students might avoid hiring more expensive full-time employees. We wouldn't want to inadvertently allow a shift for economic reasons. -My concern is that election would be regardless of whether it was a community college or local school district and that it be provided on an equal basis. -He refers to the exclusive remedy provision, lines 16 to 21, HB 2116-2 (EXHIBIT G). -There is currently an exclusive remedy section in workers' comp laws and there is also a specific on in workers' comp laws and there is also a specific liability for intentional injuries. House Committee on Labor April 17, 1991 - Page 11

-Is your intent of adding this exclusive remedy provision to track with existing laws or create a new category of immunity?

-He has a problem if it is to create a new category.

124 KURTZ: We copied the section 5 language and had no intent of making any change.

REP. EDMUNSON: Intentional conduct is still subject to civil liability? The negligent conduct now covered under the immunity is now exempted?

KURTZ: Correct.

130 MCMURDO: Subsection 5 in the Department of Education amendments is existing law and it is his understanding that the community colleges want a parallel section in their provision.

REP. EDMUNSON: Wanted to make sure that was on the record, in case some new breed of immunity was argued in the future.

MCMURDO: There is no intent to do that.

REP. EDMUNSON: How would this apply to sports activities for student equipment managers or student assistant coaches?

-We also need to think about apprenticeship and academic work experience.

155 GALLAGHER: The apprentice program is the only case where students are covered for class at lab time. Their on-the-job time is paid time with their regular employer. REP. DOMINY: Does SAIF already have rates established for those student-workers? -Would a community college pay the same rate for a welder in training as would be paid for a welder in a shop? GALLAGHER: No. We use the two or three classifications that the school districts already have. REP. DOMINY: If we didn't have definite lines about who should and who should not be covered, wouldn't it be harder for you to administer a program in a community college? GALLAGHER: Yes. 185 CHAIR DERFLER: Would like you to try to meet with REP. EDMUNSON and REP. MANNIX to try and work out your problems. try and work out your problems. MCMURDO: Would it be helpful if we sought some advice from the Attorney General on privileges and immunities? REP. MANNIX: Show me a rational basis. House Co 1I nittee ~ L`abor April 17,1991- Page 12

REP. EDMUNSON: It's helpful.

MCMURDO: There is a rational basis in the Department of Education's amendments in subsection 8. The only way you could opt in is if it's not a category that's specifically in subsection 7.

-We are requiring coverage for hazardous activities.

-He believes the community college amendments make the entire program optional.

210 REP. MANNIX: You're saying you can take a look at some additional projects and not entire programs?

MCMURDO: Some off-campus or other activities may not be offered if there is not workers' comp coverage.

REP. EDMUNSON: We might consider having the Director of the Department of Insurance and Finance adopt rules when these exemptions or elections occur. That might help apply more uniform standards and safeguards.

-The way it is now written, a written request satisfies the election. It doesn't say the request has to be approved.

REP. MANNIX: Perhaps you can work out a broad proposal with input from the Attorney General.

-There have been problems with some of these election provisions.

-There needs to be some sort of recognition that coverage has been initiated.

CHAIR DERFLER: We'd like to help work it out so we can resolve this.

254 ROBERT C. A. MOORE, Oregon Trial Lawyers Association and Oregon Workers' Compensation Attorneys: Introduces MICHAEL CASEY.

265 J. MICHAEL CASEY, Doblle & Associates: Presents testimony in support of HB 2116 (EXHIBIT I) and Workers' Compensation Board Referee's Opinion and Order (EXHIBIT J). 330 REP. MANNIX: Thanks him for the information. CASEY: The referee did provide a thoughtful and considered examination of the statute and questioned the election. -He presents an example of a volunteer fireman who was not covered for injuries because his name did not appear on a list, while other volunteer firemen did appear. REP. MANNIX: We've had problems with list requirements. CHAIR DERFLER: Closes the Public Hearing.

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Witnesses: Rep. Kelly Clark, District 27 David Nebel, Oregon Legal Services David R. Finch Jim Markee, Oregon Collectors Association Ralph Hammack, Oregon Collectors Association pm Whitty, Legal Counsel, Associated Oregon Industries Mark Hasson, Business Men's Service Company Eric Kleinman, Secretary-Treasurer, Northwest Tree Planters and Farm Workers United

CHAIR DERFLER: Opens the Public Hearing.

361 VICTORIA DOZLER: Describes the bill (EXHIBIT K).

CHAIR DERFLER: Recesses at 9:56 A.M.

-He reconvenes at 10:04 A.M.

406 REP. KELLY CLARK, District 27: Presents background information on how he got involved in the issue.

-He describes the bill.

TAPE 106, SIDE B

023 REP. CLARK: ORS 23.185 says that a certain amount of a debtor's weekly disposable income is exempt from garnishment--seventy-five percent or \$134, whichever is greater. -HB 2992 says it's time to index the minimum wage to the federal minimum wage or state minimum wage, whichever is greater. -The bill also proposes a \$20 exemption for every dependent claimed for federal tax purposes. -He has no problem if the committee limits that language. -We need to make sure the working poor can exist. 084 REP. JOHNSON: The bill says "whichever amount is less". You said whichever is greater? REP. MANNIX: The current statute talks about 25 percent or the amount beyond the minimum wage, whichever amount is less. -The new bill says 75 percent may not be garnished. -We're coming at it from an opposite perspective. 109 REP. DOMINY: Why are we changing from a wage to disposable income?

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-A low wage earner doesn't have much in disposable income. Isn't it possible for a very low income person to get hit harder? REP. CLARK: The bill doesn't propose to change from disposal income to a wage base.

-Current law provides the garnishment may not exceed 25 percent of disposal earnings or 40 times the minimum wage. This bill indexes 40 times the minimum wage to the new minimum wage. REP, DOMINY: Don't the lowest income people qualify for the disposal wage before they qualify for the minimum wage? REP. CLARK: Doesn't know. REP. DOMINY: Maybe we should go to a flat disposable wage formula and forget the minimum wage? REP. JOHNSON: Does the bill provide that garnishment is calculated on state or federal minimum wage? REP. CLARK: The state minimum wage. -You'll hear testimony that there might be constitutional problems if we attempt to incorporate reference to a future minimum wage. REP. JOHNSON: Page 1, line 20 says "whichever amount is less". -This bases the garnishment on the federal minimum wage. REP. CLARK: The maximum garnishment "may not exceed...whichever is less." REP. JOHNSON: We're defining an amount available for garnishment. 167 DAVID NEBEL, Oregon Legal Services: Presents testimony and support materials in support of HB 2992 (EXHIBIT L). 259 REP. MANNIX: Instead of referring to a future federal minimum wage, couldn't we say 40 times the state minimum wage? NEBEL: Believes you can. That's the way the bill reads. 267 REP. REPINE: Couldn't you not reference the present \$4.25 federal minimum wage? NEBEL: Yes. -He continues with page 3 of his testimony, the \$20 exemption for each family member. -We can make it clear that it is for each family member under 18 years of age. 291 REP. REPINE: Would they be real dependents or alleged dependents?

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NEBEL: The intent is to talk about real people

-That had never been a problem in Wisconsin where people claimed more exemptions than they were entitled.

-If a creditor believes that is the case, they could require the debtor to testify under oath.

REP. REPINE: Dragging someone you're trying to collect money from into court to accrue more cost doesn't make much sense.

NEBEL: Court costs are added to the amount of the judgement.

326 REP. DOMINY: Has concerns with this new provision about adding for people.

-The way the bill is worded he doesn't even know if a court would look at the number of exemptions.

-A person could claim the maximum number of exemptions and keep from being assessed anything.

-We need a better definition than \$20 per person.

NEBEL: Federal law prohibits falsely claiming more exemptions than you're required to.

-The intent is to grant a workable exemption based on dependents in the household.

-- -We took this approach to tie it to the federal tax system, because it is easy for the employer to administer.

-Tennessee grants an exemption for each child under 16 years of age. It is not tied to federal taxes and requires the debtor to tell the employer the number of children they have at home.

-This is an acceptable approach.

394 REP. DOMINY: You are talking about \$260 a week exemption for a three person family.

-Where does that fit with the federal poverty level?

NEBEL: For a family of three the federal poverty level is \$216 a week.

-We would welcome an amendment that would limit the exemption to dependent children in the household under 18.

429 REP. MANNIX: The add-on deduction is the most revolutionary part of this bill isn't it?

NEBEL: That's correct.

REP. MANNIX: When you look at all of the things that are already exempt when defining disposal income, haven't we already taken family support obligations into consideration? House Committee on Labor April 17, 1991
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-You're adding exemptions to the list of alternatives.

TAPE 107, SIDE A

013 NEBEL: It constitutes a new approach.

-Usually wage earners wouldn't have the kinds of income that's listed.

REP. MANNIX: We're talking about households and not wage earners. Why not redo the formula in terms of households?

-Who are the defined group subject to the effects of the garnishment and who are the defined group who have taken the legal obligation that leads to the garnishment?

-We're redefining their obligation to pay in terms of the size of their family.

NEBEL: Is not sure.

REP. MANNIX: There could be two wage earners in the family and according

to this formula neither could be garnished.

-You don't look at both sets of wages to determine whether or not they are subject to garnishment.

NEBEL: Correct.

036 REP. JOHNSON: If you had to choose between tacking the exemption to the state minimum wage and the \$20 a month exemption what would you want the most?

NEBEL: Tying the exemption to the state minimum wage.

REP. MANNIX: Thinks we could buy the dependent exemption if you use household income and if you define what is subject to garnishment.

NEBEL: The problem is the amount garnished is calculated by each employer.

-A group of Wisconsin creditors and debtors are proposing that they index with the federal poverty level income guideline.

-They would somehow take household income into account.

-Garnishment is more judicially controlled in Wisconsin. The court looks at all the information about family income.

065 REP. MANNIX: Some people aren't subject to the minimum wage. We're using it as a formula.

-Why not have a specific dollar figure of \$180--a compromise between the state and federal minimum wages--into the law? House Committee on Labor April 17,1991- Page 17

NEBEL: By tying it to the state minimum wage--if the state minimum wage is raised the garnishment would be raised automatically.

REP. MANNIX: If the state minimum wage is incorporated, the garnishment issue would be tied to it every time the state minimum wage was revisited.

088 DAVID R. FINCH: His testimony is based on his experience with Emmanuel Credit Management, Eugene.

-He presents testimony in support of HB 2992 (EXHIB11 M). . -He has no objections to a set amount or looking at the exemption clause.

-Many clients have no money left after garnishment. What they're allowed to keep does not cover the basics.

-There is an urgent need to increase the exemption level to a liveable level.

124 REP. DOMINY: How would you feel about limiting the exemption to \$20 per dependent living in the household who are under 18?

FINCH: He has no problem with that.

-He proposes an amendment (See his testimony).

-The current statute says that a debt consolidation agency can take an assignment of all the wages and are also required to honor the 25 percent guideline.

-Nothing in the statutes defines that.

-He describes some related cases.

-There is nothing in the law to protect the credibility of the program.

-The proposed amendment would state that debt consolidation agencies take precedence over a garnishment provided that the agency honors the 25 percent guideline and the 25 percent goes to all creditors involved.

205 JIM MARKEE, Oregon Collectors Association: Presents a Summary of Effects (EXHIBIT N).

-The effects of the bill are more broad than has been indicated.

-He describes the exemptions available under the current law.

-The \$20 exemption is an interesting concept.

-An employer could know the dependents two ways; ask the debtor or look at W-4, which is not necessarily reflective of how many people are in the family.

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-The \$20 exemption could increase beyond the number of people in the family.

-\$4.75 an hour in exemptions means an individual would be making \$6 an hour.

-We are opposed to the bill.

-The exemption level compares closely to the poverty level.

-He discusses garnishments.

-Wage garnishment is the last resort and only after all other means of collection are exhausted.

328 REP. DOMINY: What percentage of claims end up in garnishment?

332 RALPH HAMMACK, Oregon Collectors Association: Three to five percent.

-This bill opens it up to unlimited abuse.

-We normally never collect from low income people. Their wages are exempt under the current statutes.

-He suggests further amendments: All creditors be treated equally according to dollar amount that is listed by that debtor for repayment.

-Do away with the favoritism shown to certain creditors.

370 REP. DOMINY: What kind of special treatment is given?

HAMMACK: The security holders are given special treatment.

-They can repossess a car.

REP. DOMINY: The car gets preferential treatment?

HAMMACK: Correct.

387 JIM WHITTY, Legal Counsel, Associated Oregon
Industries: Testifies in opposition to HB 2992.

-The bill limits and in many cases removes the business person's ability to recover debts owed under judgement.

-The bill is unworkable and invites manipulation by the debtor.

-It is correct that you cannot claim more exemptions than you are entitled on your tax form, but that has nothing to do with the W-4 form.

-He describes the W-4 form.

-Nothing given to an employer indicates how many dependents an employee has. . House Committee on Labor April 17, 1991 - Page 19

TAPE 108, SIDE A

023 WHITTY: Quotes from IRS Publication 5)5.

-The IRS won't know if you claim 10 or less dependents.

-The current statute is unfairly burdensome on the employer.

-It is important to keep this as simple as possible.

-The \$20 per dependent unnecessarily complicates the process.

-The present law is adequate.

054 REP. REPINE: Have compromises been offered to your association?

MARKEE: MR. NEBEL refused a compromise we offered.

REP. REPINE: Were the amendments offered today part of those compromises?

MARKEE: No.

067 REP. DOMINY: The most controversial element is the \$20 per household member.

-What if we moved amendments that required proof of dependents under 18 and it was figured by total household income--would those amendments be acceptable?

WHITTY: Not with the \$20 exemption.

REP. DOMINY: It wouldn't be the employer's responsibility. The person with the garnishment would have to prove their dependents.

WHITTY: Believes the employer is liable for improper garnishment.

-Currently, the garnished employee is not involved in the process.

-Another level of complexity will add expense. 101 REP. JOHNSON: What if we dropped everything else and only raised the rate to the state minimum wage?

WHITTY: The exemption level ought to be tied to the poverty wage.

-It appears that the state minimum wage would raise it well above the poverty level.

120 MARK HASSON, Business Men's Service Company: Concurs with the previous witnesses.

-A person can change the W-4 at any time. - . House Committee on Labor April 17, 1991- Page 20

139 ERIC KLEINMAN, Secretary-Treasurer, Northwest Tree Planters and Farm Workers United: Our constituency is one of the lowest paid in the state. -Farm workers benefitted as a whole from the increase in the state minimum wage. -Because the work is seasonal they cannot consistently depend on 40 hours of work per week. -Family income would be less, even if there were two wage earners. -On an hourly basis for a family of three, the federal poverty guidelines works out to \$5.36 an hour and \$6.45 an hour for a family of four. -We see no reason why the garnishment exemption doesn't conform to the current state minimum wage. -It is our experiences that creditors are taking a harder line. -A greater reliance is being placed on garnishment. -We're not talking about people running up bills. Many of these people are paying substantial medical bills not covered by health insurance. -A minimum level of income needs to be reserved. These exemptions are designed to protect the least able. 220 FINCH: We would be delighted to pay all creditors equally. -We are legally bound to make car payments. -We'd be happy to have a formula to have the creditors work with us. -Some agencies feel if you can't pay what they want they proceed to get the judgement to garnish. -Allowing us to block the garnishment, but still requiring the 25 percent to got to creditors would offer protection to the majority of creditors while protecting the integrity of the program. CHAIR DERFLER: Closes the Public Hearing. -He adjourns at 10:18 a.m.
Submitted by: Reviewed by:

Edward C. Klein, Victoria Dozler, Committee
Assistant Committee Administrator House Committee on Labor
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EXHIBIT LOG:

A - SMS for HB 2379 - Staff- 1 page B - Amendments to HB 2379 - Staff- 7 pages C - Request for Amendments to HB 2379 - Justice Fadely - 2 pages D - Amendments to HB 2379 - Staff- 1 page E - SMS for HB 2116 - Staff- 1 page F - Amendments to HB 2116 - Greg McMurdo - 3 page G - Amendments to HB 2116 - George Kurtz - 3 pages H - Amendments to HB 2116 - Patrick Gallagher - 1 page I - Testimony on HB 2116 - J. Michael Casey - 2 pages J - Workers' Compensation Board Referee's Opinion and Order - J. Michael Casey - 14 pages K - SMS for HB 2992 - Staff- 1 page L - Testimony on HB 2992 - David Nebel - 8 pages M - Testimony on HB 2992 - David Finch - 1 page N - Summary of Effects - Jim Markee - 1 page -