

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 26, 1991Hearing Room D 8:30 a.m.Tapes 118 - 121

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

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

MEASURES CONSIDERED: HB 3018 - Public Hearing and Work Session HB 2775 - Public Hearing HB 3385 - Public Hearing HB 2432 - Work Session

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 118, SIDE A

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

PUBLIC HEARING, HB 3018

Witnesses:Michael Detty, International Association of Plumbing and Mechanical Officials (IAPMO) Gary Wright, Local 290, Plumbers and Pipe Fitters Don Woodley, Oregon Building Officials Association Jim Rogers, IAPMO

CHAIR DERFLER: Opens public hearing on HB 3018.

VICTORIA DOZLER: Describes the bill.

018 MICHAEL DETTY, IAPMO: Expresses support for the passage of the bill.

033 GARY WRIGHT, Local 290, Plumbers and Pipe Fitters: Echoes the previous testimony. Supports the bill as amended.

048 DON WOODLEY, Oregon Building Officials Association: Originally we were in opposition to this bill. Our concern was the funding source. We support the bill with the amendments.

061 JIM ROGERS, IAPMO: Supports the bill.

WORK SESSION, HB 3018 (Exhibit A)

CHAIR DERFLER: Opens work session on HB 3018.

079 MOTION: REP. DOMINY: Moves to adopt the proposed amendments to HB 3018 (Exhibit A).

DOZLER: Reiterates the amendments.

There being no objections, the amendments are adopted.

MOTION: REP. DOMINY: Moves to refer HB 3018, as amended, to the House floor with a "do pass" recommendation.

VOTE: The motion carries 6-0.

CARRIER: Rep. Watt.

PUBLIC HEARING, HB 2775 (Exhibit B)

Witnesses: Emily Cedarleaf, Multifamily Housing Council David Nebel, Oregon Legal services

CHAIR DERFLER: Opens public hearing on HB 2775.

100 DOZLER: Describes the bill.

134 REP. MANNIX: We are specifying the circumstances when the wages are due and payable immediately. Is there a general standard here when wages are due and payable when all these specific exceptions do not apply?

REP. JOHNSON: Refers to paragraph 3. If section 1 does not apply because the person quits, then section 2 applies. If section 1 does not apply because the employer discharges, for circumstances other than section 1, then section 3 applies.

181 REP. MANNIX: Are these exceptions built in because of the concerns from Oregon Legal Services about seasonal workers?

REP. JOHNSON: Yes. Describes the concerns discussed at the previous hearing. In section 1 immediate payment is reasonable.

REP. MANNIX: If I give a two day notice, they have to have my check ready?

REP. JOHNSON: Yes that is the current law and we are not trying to change that.

217 REP. DOMINY: When an employment contract has been terminated pursuant to a written contract, what can be in that contract? Can it go beyond 48 hours?

REP. JOHNSON: It is reasonable to have the check ready at the date of the termination.

REP. DOMINY: You are saying that every employer in this state can have a written agreement at the time of hiring and get around this law?

REP. JOHNSON: That is not the intention.

241 REP. MANNIX: This doesn't change the law which requires regular pay periods. One cannot get around that law with a written agreement.

REP. JOHNSON: The idea is that if both parties agree that 5 o'clock on Thursday the job is over, then at that time the employer should have a check ready.

272 EMILY CEDARLEAF, Multifamily Housing Council: Testifies in support of the bill. Agrees with section one of the amendments regarding seasonal workers. Expresses confusion about section 2--the check should be issued at the next regular payday.

340 REP. MANNIX: Discusses the concept of "employment at will." Is it reasonable to ask someone to wait two weeks for the next regular paycheck?

CEDARLEAF: Yes because they were aware of the regular pay periods. If they quit, they are disrupting business in a manner that causes chaos. If I fire them I have no problem in issuing the paycheck immediately.

REP. MANNIX: Is there an industry standard as to how much notice is given when a person is fired?

CEDARLEAF: We give from 72 hours up to two weeks notice since our employees usually live on the premises.

406 DAVID NEBEL, Oregon Legal Services: Testifies in opposition to HB 2775 due to its effect on farm workers (Exhibit B), and generally opposes any dilution in the prompt payment provisions that are now in the Oregon law.

TAPE 119, SIDE A

003 REP. JOHNSON: How long are the seasonal farm workers employed approximately?

NEBEL: It varies from crop to crop. The 90 days included in the amendments would include most of the folks that I am talking about.

-A problem remains when they quit without notice. In that situation they would have to wait until the next pay day. Many of these workers don't have a forwarding address which could cause a problem.

021 REP. MANNIX: Are we driven in terms of trying to establish social legislation here by anticipating socially irresponsible behavior by employers and employees?

NEBEL: These people travel a lot and often in groups.

045 Rep. Johnson and Rep. Mannix discuss this issue as it relates to carnival workers.

062 REP. MANNIX: Wouldn't we be better off identifying certain kinds of jobs and industries and specify the standards for those, recognizing the unique nature of certain kinds of work and then having a fairly generous provision for workers generally?

NEBEL: I have not thought of groups other than farm workers. We like the law the way it is now.

-He refers to subsection 4. My comfort level would be much higher if that could be the end of the next business day after the employment termination.

108 REP. REPINE: Are farm workers obliged to have all the usual forms?

NEBEL: Yes.

REP. REPINE: Consequently they should then have some kind of forwarding address?

NEBEL: That is true, but often the check does not ever catch up with the person. The address could be somewhere in Mexico for example. That might be the worker's only secure address.

-Rep. Repine and Mr. Nebel discuss this issue further.

154 MIKE McCALLUM, Oregon Restaurant Association: Testifies in support of the amendments. Refers to the hand engrossed-A version of the bill as it relates to construction workers.

-I thought that the workers in the construction industry were not going to fall into that 90 limit. Suggests an exemption for workers in the construction trade across the board.

-Refers to subsection 2 as it relates to the 48-hour notice.

-Refers to subsection 2. We would prefer 11 days instead of 10 days.

PUBLIC HEARING, HB 3385 (Exhibit, C,D,E,F,G)

Witnesses: Rod Johnson, State Representative, District Michael Tedesco, Oregon School Employees Association Terry Witt, Oregonians for Food and Shelter David Nebel, Oregon Legal Services Priscilla Seaborg, United Way Valerie Brown, United Way Ellen Lowe, Ecumenical Ministries

CHAIR DERFLER: Opens public hearing on HB 3385.

215 DOZLER: Describes the bill.

241 ROD JOHNSON, State Representative, District 45: Testifies in support of the bill. Funding political organizations is not a proper use of state monies or state personnel.

-This bill does not prevent state employees from donating they money to whomever their want to.

-This whole system is operated by the state so it is questionable whether political organizations should be allowed to participate.

-The bill is designed to make distinction between organizations that are truly charitable to include organizations like United Way, Salvation Army, etc. and exclude political organizations whose primary purpose is to participate in political decision making in the state and federal system.

324 -Suggests amending the bill on line 24 by replacing "of any kind" and insert "other than those incidental to their charitable activities of aid and care in persons of need (Exhibit C)."

342 CHAIR DERFLER: How many organizations are currently participating?

REP. JOHNSON: Lists some of the groups. I don't know the number of all of them.

CHAIR DERFLER: What is the cost involved in administering these programs?

REP. JOHNSON: Trying to reduce the cost of this program is not necessarily the intent of this bill. The purpose of this bill is philosophical. Elaborates further.

391 -Rep. Repine and Rep. Johnson discuss United Way's fund raising. Rep. Johnson reports that donations to United Way have gone down since they have to compete with the other organizations for those dollars.

TAPE 118, SIDE B

008 REP. JOHNSON: Allowing the political organizations to participate impacts the private, non-profit organizations' efforts to help people in need.

013 REP. MANNIX: My only objection is the cost that the state incurs to administer this. Instead of restricting participation of the various groups, have you thought of adding an administrative cost for the employee?

REP. JOHNSON: That is better than subsidizing the way we are doing now, but the true charitable organizations would receive less under that scenario.

058 REP. MANNIX: If your objection is the cost we can work that out and eliminate the subsidy. My objection might be to the favoritism of the current system which favors charitable organizations. Maybe I want to donate my money to a political organization but I am willing to pay the freight.

REP. JOHNSON: Charitable organizations take care of many problems that would be left to the government to deal with.

REP. MANNIX: I would as well prefer to give my money to the Catholic Church. I think they do all kinds of wonderful things.

088 REP. EDMUNSON: I hate this bill because it asks us favor one form of speech over another. We are indirectly interfering with the person's right to donate his money. You are proposing to put a screen door which would allow only certain kinds of donations through and filters out others.

-This is a hit on environmental giving. This is a thinly veiled effort to chill the environmental movement in Oregon.

REP. JOHNSON: This is not a free speech issue. There is a legitimate reason to differentiate between charitable and political organizations. Reiterates his earlier position.

REP. EDMUNSON: Feels that environmental organizations are doing things that government should be doing like protecting the wildlife and people on this planet.

126 REP. DOMINY: I believe we are touching the issue of freedom of expression. If this is going to save the state so much money where is the impact statement indicating that?

REP. JOHNSON: That is not the point of the bill. The question is the appropriate use of state money and involvement.

REP. DOMINY: If the issue is that you don't want environmentalists to have a check off, why don't you just have a bill that says that?

REP. JOHNSON: This is the bill.

REP. DOMINY: We are going to cut off a lot of other activity. This would affect many other organizations too, such as the Humane Society. They have political activities.

186 REP. MANNIX: Discusses this issue as it relates to federal regulations. There has been extensive litigation with regard to groups who have been excluded. I get nervous about the government making value judgments. How about going all the way one way or the other?

REP. JOHNSON: That is a policy decision we can make. We can stop the payroll deductions altogether but that was not my intent in this bill.

-Representatives Mannix and Johnson discuss the history of this bill.

215 REP. REPINE: What does it take to qualify, to get on the check off list?

REP. JOHNSON: In general it has been open to anyone who has a 501 C3 status with the federal internal revenue code.

REP. REPINE: Could we establish a percentage that would have to be directed to charitable organizations?

REP. JOHNSON: I was trying to do that with this amendment.

290 -Addresses Rep. Mannix's question concerning possible litigation. Provides an example from the Supreme Court. We are in compliance with the federal Supreme Court.

REP. MANNIX: Suggests a system that any organization who wants to be on the list must contribute \$500 biannually to the state to cover the administrative costs, and that the employee should pay one dollar per paycheck. Elaborates further on his suggestion.

-I would like to see some people to be able to contribute to their church.

REP. JOHNSON: That is better than it is now and we would not be subsidizing it anymore.

348 CHAIR DERFLER: Recesses the meeting at 9:50 a.m.

370 MICHAEL TEDESCO, Oregon School Employees Association: Testifies in opposition to HB 338 5. The line between a charitable and political organization is waverly at best.

-The pay as you go concept suggested by Rep. Mannix could be put in

practice through collective bargaining.

TAPE 119, SIDE B

-This would be subject to litigation for years on end as to what is charitable and what is political.

010 CHAIR DERFLER: What is your comment about Rep. Mannix's suggestion that the organizations pay to get on the list?

TEDESCO: I don't take a position on that issue. I have not yet heard management raise that issue at the bargaining table.

023 TERRY WITT, Oregonians for Food and Shelter: (Exhibit D) Testifies in support of HB 3385.

-We believe some of the problems with the language can be worked out.

-We are concerned about the abuse of the system.

-The Oregon system should be similar to that of the Federal Government.

-The objective of this program is to ease the burden of the state and local government to provide public health and welfare services.

-We don't want to see any truly charitable organization in the state hurt by any changes.

130 REP. EDMUNSON: Would Oregonians for Food and Shelter qualify to use the payroll deduction?

WITT: No we don't.

145 DAVID NEBEL, Oregon Legal Services: Testifies on behalf of Ira Zarov in support of the bill (Exhibit E). Outlines the functions of Oregon Legal Services.

-HB 3385 would make it impossible for United Way, and other charitable campaigns like it, to seek payroll deductions from State employees if the money donated would go to a program that operates in the Courts or other areas of the legal system.

-It would be impossible for Legal Services to alter its practices to comply with this bill.

CHAIR DERFLER: The purpose is not to cut United Way out of this program.

NEBEL: My understanding is that United Way could not donate us those funds.

CHAIR DERFLER: That is not the intent and we would make sure that that would not happen.

196 REP. JOHNSON: I am open to better language.

NEBEL: I don't know how to draft the language to do that. I am willing to help.

223 PRISCILLA SEABORG, Vice President of Public Policy and Legal

Counsel, United Way of the Columbia-Willamette: Testifies against HB 3385 (Exhibit F). Introduces Valerie Richardson-Brown, Director, State Campaign.

-This bill, as written, would cut down any participation by us in the public policy debate.

-She discusses how the bill may affect the United Way tax exempt status.

271 REP. JOHNSON: If you had an appeal to tax exempt status for one of your buildings wouldn't that be incidental to your primary purpose as United Way. Is the United Way in business of filing property tax appeals?

SEABORG: I understood your amendment only to amend the political activity part of the bill. I did not know that it also dealt with the legal and administrative appeals.

-Rep. Johnson and Ms. Seaborg discuss this issue further. Rep. Johnson clarifies the intent of his proposed amendments.

-Ms. Seaborg introduces testimony by Pam Patton, Morrison Center (Exhibit G).

326 REP. REPINE: Refers to his earlier testimony with regard to United Way campaign. Do you have similar problems because of other agencies and groups being more apparent in the metropolitan area?

333 VALERIE BROWN, Director Combined Campaign, United Way Willamette: Explains the campaigning process.

367 REP. JOHNSON: Describes his experience with the United Way. We did not give money to political organizations. If you give money to political organizations it changes the picture I have of United Way.

SEABORG: Most of the organizations we support are not primarily political in nature. They are being forced into the political world because of measure 5.

TAPE 120, SIDE A

010 Rep. Johnson and Ms. Seaborg discuss United Way's policies with regard to funding organizations who participate in political activities.

SEABORG: We fund 98 agencies and the majority of them does very little in terms of political activity.

034 ELLEN LOWE, Associate Director, Ecumenical Ministries: We often find ourselves in partnership with various local, non-profit organizations many of whom are funded either by the United Way or the Black United Fund. We encourage cooperation.

-Discusses the word "incidental." I question how far you can extrapolate the incidental.

WORK SESSION, HB 2432 (Exhibit H)

Witnesses:Lynn Marie Crider, Workers' Compensation Board

CHAIR DERFLER: Opens work session on HB 2432.

110 DOZLER: Describes the bill and the proposed amendments (Exhibit H).

124 REP. EDMUNSON: I also have some amendments which the committee doesn't have yet which would simply allow unanimous appointment of referees from existing staff to serve for terms up to 180 days as provided in the bill on an as needed basis. This is to allow the board to deal with the backlog.

126 LYNN MARIE CRIDER, Chair, Workers' Compensation Board: Our primary concern is to have enough people to decide these cases timely. Both of these proposals would accomplish that objective. Our preference would be for the simplest possible solution and for the one that leaves the 3-member constitution of the board in place as it is now.

158 REP. MANNIX: I am perplexed. Two days ago you agreed to a 5-member board with a sunset clause.

CRIDER: I did not agree to give a full administrative authority to a five-member board.

REP. MANNIX: Why not?

CRIDER: It makes administrative process more cumbersome. Provides examples from other agencies.

194 -She discusses further the two proposals. I am concerned to protect the Governor's authority to appoint people.

-Rep. Edmunson's proposal in concept is preferable.

220 REP. MANNIX: You are not referring to the nine people who have been serving as the expanded board when you say "our preference?"

CRIDER: That is correct. They don't participate in policy making.

218 REP. DOMINY: Why would there be an impact statement with the one and not with the other one?

CRIDER: Explains the impact.

REP. DOMINY: Your earlier testimony was that you could not do without at least two additional members, so at the end, the emergency board would have to appropriate the money instead of the legislature. Is that correct?

CRIDER: No that is not correct. Right now we probably have more folks than we need. We anticipate the case load to go up some. As long as we are at that situation, we will pull referees up and not ask the emergency board for money to pay for that. If the hearing case load requires that we use all the referees that we have, we would go to the emergency board and ask for money. I cannot promise that we can do Representative Edmunson's proposal without asking for more money.

274 REP. MANNIX: If we use the alternative of three permanent board members and we add on four pro temporaries, in effect we are denying labor and management the opportunity to have designated participation because the temporary members, by definition, have always been referees.

CRIDER: That is right.

REP. MANNIX: We have already have two years management by three board members or two with no labor-management participation beyond those. We have had these pseudo board members who were neither labor nor management but they get to decide cases. Now we are proposing to extend that, in part, by two more years.

-How many years have we had a case backload with the board? Would it be better to move the board to five members and sunset it in two years?

CRIDER: We don't know if we need five members after the surge of cases related to SB 1197.

301 CHAIR DERFLER: This is not what you suggested to us a couple of days ago. The labor- management wanted to be recognized in the board selection.

CRIDER: I simply suggested that you need to have a temporary solution. I agree that we are going to need five members for this biennium.

334 REP. EDMUNSON: I am sorry I was not in the meeting with you and my proposal has not been out there. I presented it this morning. Explains his proposal.

376 CRIDER: We know that we are going to need to bring an additional board members right away. We don't know if that is going to cost money.

399 MOTION: REP. MANNIX: Moves to amend HB 2432 in the following fashion: (Exhibit H). -Page 1, line 22, change four to two; -Page 1, line 28, delete sentence starting with "Notwithstanding any law... -Add an emergency clause. -Add a sunset clause: Changes made by this Act sunset on June 30, 1993. Should this Act sunset, the terms of the two additional Board members appointed under this Act shall expire on June 30, 1993. -Add: The Governor shall make appointments to the two new positions created by this Act by August 1, 1991. -Add "en banc" authority from HB 2432-3 amendments (paragraph 1).

TAPE 121, SIDE A

010 MOTION: REP. EDMUNSON: Moves to amend the amendments of Rep. Mannix as follows: -Retaining the "en banc" provision. -Retaining the sunset clause. -Delete section 1 on the printed bill. -Section 2, line 21, delete "composed of" and line on line 22 "five members as provided in ORS 656.712 and also delete on the same line "four" in the phrase "up to four individuals." -Insert on page 1, line 22, after the word appoint "referees." -Line 23, delete the words "who are well qualified by training and experience." -Page 2, line 1, delete the word "if" and "is a referee, that individual."

REP. EDMUNSON: This gives the board the authority to appoint however many, at least two, they need to assist in decisions of cases. Does not give any of the new appointees administrative authority and does not presuppose a fiscal impact.

048 REP. MANNIX: Opposes the amendments. I like the idea of expanding the labor-management participation in the Board.

053 REP. WATT: How would the referees be compensated, their regular wage rate?

REP. MANNIX: They are not compensated at the rate of the Board members.

VOTE: MOTION BY REP. EDMUNSON (TO AMEND REP. MANNIX'S MOTION) The motion fails 6-1.

AYE: Rep. Edmunson

VOTE: MOTION BY REP. MANNIX: The motion carries 6-1.

NAY: Rep. Edmunson.

MOTION: REP. MANNIX: Moves that the committee refer HB 2432, as amended, to the Committee on Ways and Means with a "do pass" recommendation.

090 MOTION: REP. EDMUNSON: Moves to amend the above motion by deleting the "do pass" recommendation.

-Due to the fiscal impact we should not make that recommendation.

The motion receiving no support, Rep. Edmunson WITHDRAWS HIS MOTION.

VOTE: The motion carries 6-1.

NAY: Rep. Edmunson.

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

Submitted by: Reviewed by:

Johanna Klarin Victoria Dozler Assistant Administrator

EXHIBIT LOG:

A	-	Amendments for HB 3018 - Rep. Dominy - 1 page.
B	-	Testimony on HB 2775 - David Nebel - 2 pages.
C	-	Amendments to HB 3385 - Rep. Johnson - 1 page.
D	-	Testimony on HB 3385 - Terry Witt - 7 pages.
E	-	Testimony on HB 3385 - David Nebel - 3 pages.
F	-	Testimony on HB 3385 - Priscilla Seaborg - 2 pages.
G	-	Testimony on HB 3385 - Pam Patton - 1 page.
H	-	Amendments to HB 2432 - Rep. Mannix - 1 page.