

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 29, 1991Hearing Room D 8:30 a.m.Tapes 122 - 125

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

MEMBER EXCUSED: Rep. John Watt

VISITING MEMBER:Rep. Carolyn Oakley Rep. Tom Brian

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

MEASURES CONSIDERED: HB 2252 - Public Hearing HB 2912 - Work Session HB 2966 - Public Hearing HB 2723 - 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 122, SIDE A

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

PUBLIC HEARING, HB 2252 (Exhibit A and B)

Witnesses:Pamela Mattson, Employment Division Frank Richey, Employment Division Virlena Crosley, Employment Division Joe Gilliam, National Federation of Independent Business

010 VICTORIA DOZLER: Describes the bill. She goes over the proposed amendments.

040 PAMELA MATTSON, Administrator, Employment Division: Outlines the funding of the Employment Division (Exhibit A, page 1).

-Discusses page 2 of Exhibit A which illustrates what the various amendments do.

-Discusses page 3 of Exhibit A outlining the payment strategy of the -3 amendments.

-Discusses page 4 of Exhibit A explaining the Job Placement Activities

Package #415.

-Discusses page 5 of Exhibit A describing the comprehensive placement services.

-Discusses page 6 of Exhibit A outlining the planning efforts with local planners. These programs are pending legislative session outcome. Impact on Employment Division staffing will be determined after local planning is completed.

-Discusses page 7 of Exhibit A describing how the plan is going to be implemented state-wide.

-Discusses page 8 of Exhibit A outlining current bills affecting the Unemployment Insurance Trust Fund [hereinafter U.I.].

200 -Describes a chart illustrating the U.I. tax schedules most likely to be in effect for the next five years (page 9, Exhibit A).

253 REP. JOHNSON: Why is there a dramatic shift between 1982-84?

MATTSON: That was a very dramatic year in Oregon's history, we paid \$470 million in unemployment benefits.

REP. JOHNSON: Does this take into account the possibility of the shut down of the wood products industry?

MATTSON: We would need to look at how much more dramatic that would be than the projections we have made.

267 CHAIR DERFLER: Would you go over the rest of the budget items?

MATTSON: Discusses base restoration packages in Exhibit B.

336 CHAIR DERFLER: If this is just maintaining the level you have now, why the 20% increase?

MATTSON: There would be no increase for the base restoration issues.

338 REP. DOMINY: How many current FTE's do you have now, 1100?

CHAIR DERFLER: What kind of expenditures increase are we talking about in order to keep the same number of people?

MATTSON: We calculated a 8.5% inflation factor for the biennium.

375 -She continues outlining the Employment Division's budget proposal, Exhibit B. We are not talking about increases, we are talking about maintaining the status quo.

TAPE 123, SIDE A

011 -She describes decision package #405 in Exhibit B. We are looking for a service presence not a physical presence. She continues describing package #406 serving people in the metropolitan areas who fall between the cracks--mainly young, black males.

056 CHAIR DERFLER: Do you have an estimate of the number of people you are going to serve?

MATTSON: We'll get back to you with that number.

056 CHAIR DERFLER: What kinds of services would you provide?

MATTSON: We try to develop specialized job development for this targeted group. Many times they are not eligible for JTPA and other training programs.

073 REP. JOHNSON: Refers to package No. 201. How does the \$5,578,895 break down for the 64 FTEs? It seems rather large sum?

079 VIRLENA CROSLY, Employment Division: That figure includes some services and supplies.

REP. JOHNSON: Refers to package No. #406. Why would each new position cost about \$100,000 each?

GROSLEY: I will provide the break-down for you.

REP. JOHNSON: Are we crossing out the package 414, JTPA?

MATTSON: That is not a diversion related package. That is a topic for the Work Force Development Council as to where the JTPA should go.

REP. JOHNSON: Refers to SB 1191 which extends the unemployment benefits for the dislocated timber workers. They are looking at \$48 million in extra diversion funds. How would that impact this system?

117 MATTSON: Refers to Exhibit A, page 10. The probabilities of remaining in schedule five would remain the same and being in schedule 4 for 1993 would become less likely.

FRANK RICHEY, Employment Division: That is correct.

MATTSON: If SB 1191 were to become a law, we would change this chart to make schedule four for calendar year 1993 a medium probability, and then it would be a very high probability that we would remain in schedule 5.

RICHEY: The current legislation in the Senate is not a diversion mechanism. It is simply paying it out of the trust fund.

137 REP. JOHNSON: The bottom line is that after you take \$48 million out, the trust fund in Washington has \$48 million less in it.

MATTSON: We believe that the \$48 million cap is a biennium cap with regard to SB 1191. The amendments we have seen don't specify the period. We are assuming this based on what we have heard in discussions.

151 REP. DOMINY: If instead of doing SB 1191, we did the JOBS program, what would that do to this chart?

RICHEY: The \$7.5 million out of a billion dollar trust fund does not change the odds a lot.

REP. DOMINY: So you don't see the JOBS program increasing the employers' contributions at all?

RICHEY: Not for sure at this point.

185 JOE GILLIAM, National Federation of Independent Business: We do

support HB 2252 in the -4 amendment form.

-We would like to see the JOBS program come from the general fund

WORK SESSION, HB 2912

Witnesses:Scott McGraw

222 DOZLER: Describes the bill and the proposed amendments.

234 REP. EDMUNSON: What kinds of actions have been filed by employers against employees?

253 SCOTT McGRAW, Attorney: Explains the rationale behind introducing this bill.

-It is appropriate to allow municipal bodies to put a hold on the distribution of PERS benefits to recover overpayment of wages, over-contribution by the state to the benefit plan and to recover damages that the municipalities have suffered. Provides an example.

303 -Discusses the proposed amendments. They don't do anything. This bill doesn't do anything other than say that we need to send a notice out.

328 REP. EDMUNSON: Discusses the scenario presented by Mr. McGraw.

McGRAW: Someone may have a money judgment but under this bill it doesn't mean that the employer can go to PERS and attach that before they send the notice out.

-These amendments create a notice procedure but do nothing actually to recover the monies.

REP. EDMUNSON: Have you thought about a priority lien approach?

McGRAW: That approach is not effective enough.

-Discusses attachment requiring substantive allocation by whomever is seeking the attachment that 1) they have been seriously damaged, 2) they are almost certainly going to win, 3) if they don't hook into the assets now, the likelihood of their recovery of those assets is going to be substantially reduced if not negated.

TAPE 122, SIDE B

004 REP. MANNIX: Suggests the following language: If a public body is owed a debt by someone who is a member of PERS, public body can give notice of that debt to PERS and pay a processing fee so that PERS can enter into the system that the public body has notified PERS of a debt owed to them. PERS would not distribute any money from that retirement account without giving an advanced notice to that public body, so long as that notice was maintained in every year or every five years. This could include a provision that distribution of the retirement funds are subject to garnishment to collect a debt owed a public body.

McGRAW: That would create its own administrative process in addition to providing for the simple right of attachment.

REP. MANNIX: You would rather have an attachment as a legal process.

035 -We should put in some language to cover PERS in terms of any expenses they might have. I don't like PERS carrying the freight for anybody else.

McGRAW: That would be appropriate. My concern is the ability to quickly find the most likely source of funds for recovery.

REP. MANNIX: Maybe you could work out some language with PERS along these lines.

047 CHAIR DERFLER: The fiscal impact is staggering. We need to work that out.

055 REP. EDMUNSON: I don't want to broaden this to include state tax liens etc. Would you make sure that this is narrowly written addressing only the issue you are talking about?

REP. MANNIX: Concurs with Rep. Edmunson.

PUBLIC HEARING, HB 2966 (Exhibits C, D, F)

Witnesses: Carolyn Oakley, State Representative, District 36
George Barry Tom Brian, State Representative, District 9
Mary Botkin, AFSCME
Pat West, Oregon Fire Fighters Council
Bob Keyser, Council of Police Associations
Jeanine Meyer Rodriguez, Oregon Public Employees Union
Bruce Mulligan, Management Negotiator

CHAIR DERFLER: Opens public hearing on HB 2966.

083 VICTORIA DOZLER: Describes the bill with the proposed amendments.

100 CAROLYN OAKLEY, State Representative, District 36: Introduces George Barry.

108 GEORGE BARRY: Testifies in favor of HB 2966. A tenured list of senior arbitrators would be more prone to recognize a fair settlement.

-Discusses this issue in light of Ballot Measure 5.

-Discusses the proposed amendments. They would have an opposite effect to the bill.

273 TOM BRIAN, State Representative, District 9: The purpose of my testimony is to initiate discussion on final offer arbitration (Exhibits C and D).

-This should be limited to economic issues only.

-The current binding arbitration situation really doesn't act as a catalyst for real negotiations. The final offer arbitration tends to drive the parties together during the discussion process and tends to make shorter deliberations, less expensive negotiations, and retains better relationships between the parties.

TAPE 123, SIDE B

-Our research indicates that this process does not favor one party over the other in terms of packages selected.

014 REP. MANNIX: I want to put together something that is going to force the arbitrator to look at the range of differences between our parties and try to accommodate that.

REP. BRIAN: The parties would end up presenting more reasonable offers.

048 REP. DOMINY: Would you clarify how this applies to benefits concerning health and working conditions? Does the referee have to take one whole proposal as a lump?

REP. BRIAN: Yes on economic issues only, not in language issues.

-Discusses what is an economic issue and what is a language issue only.

068 REP. MANNIX: What would you do if you cannot resolve a non-economic issue?

REP. BRIAN: I don't know what happens to non-settled language issues. I'll find out.

091 REP. REPINE: Follows up Rep. Dominy's testimony. Wouldn't this dilute the whole process if portions of packages could be distracted from each side?

REP. BRIAN: Some states have component final offer arbitration.

REP. REPINE: Not knowing how many decision packages might constitute an agreement, there might be some states that limit the number of packages to be introduced.

132 The committee discusses the number of settlements reached and the percentile of the negotiations going into binding arbitration and how this bill would influence those percentages.

141 REP. EDMUNSON: Would you be as supportive if this bill dealt with goods?

REP. BRIAN: You are talking about a voluntary process. That is not a realistic analogy to where we are in labor issues.

187 MARY BOTKIN, AFSCME: We want to see all the amendments before we talk in depth about this issue.

-Expresses concern about impressions that have been given to the committee with regard to arbitration. Arbitrators are selected by the Employment Relations Board at random, not preselected to show favoritism to one side or the other. Explains the process.

-One goes to arbitration only on issues that have not been settled at the bargaining table.

-Describes how the arbitrators are selected.

237 REP. DOMINY: How large is the group from which the five arbitrators are selected from?

244 PAT WEST, Oregon Fire Fighters Council: It is a large list ranging from 50 to 100.

261 REP. REPINE: What kind of random picking is this?

WEST: They go down the list.

CHAIR DERFLER: Can anybody be an arbitrator?

WEST: One has to be member of an arbitrators association, beyond that I don't know.

MARY BOTKIN: I have never heard of a senior arbitrators' list.

298 REP. REPINE: Refers to an earlier testimony during the session with regard to the binding arbitration with the Oregon State Police. How would this scenario have affected the outcome?

300 BOB KEYSER, Council of Police Associations: I don't know how this would affect the process.

-Rep. Repine, Rep. Dominy and Mr. Keyser discuss this issue further.

-Rep. Dominy and Mr. Keyser discuss the percentage of negotiations that end up in arbitration.

406 REP. DOMINY: I would like to receive some additional information concerning the history of these cases, like what percentage of the package ends up being arbitrated.

425 REP. REPINE: Refers to Rep. Brian's testimony--"Final Offer Arbiter States", a document by William Wilkinson. Would you give us some insight as to how this approach has either adversely or positively affected these organizations?

TAPE 124, SIDE A

005 BOTKIN: Our research department is open to everybody.

010 JEANINE MEYER RODRIGUEZ, Oregon Public Employees Union: This is an interesting concept, something to look into. The process in bargaining is very important. There is no one right answer. Discussing issues is very valuable.

CHAIR DERFLER: The purpose of the bill is to create pressure, to come to a solution without going into binding arbitration.

RODRIGUEZ: That could happen.

-Separating economics is not good, the whole package should be left to a negotiation process.

051 REP. MANNIX: Some things that don't have a price tag on them can be very valuable.

RODRIGUEZ: I am not sticking to anything at this point. I am just raising questions.

065 BOTKIN: Discusses the items that are signed off before going into arbitration. Provides an example.

077 KEYSER: Our association is opposed to the changes. The alternate strike method has worked well.

084 CHAIR DERFLER: The alternate strike method would still work. My understanding is that there would be about 50 arbitrators who would be rotated. Explains this point further.

KEYSER: That is a possibility and it depends on who the five are.

105 WEST: The process has been working fairly well. He discusses the arbitrator awards. There is a misconception of huge awards.

CHAIR DERFLER: The perception is that the arbitrator takes a look at the both sides and aims for the middle ground.

WEST: In most cases being somewhere in the middle is where the people should have been.

-We try to negotiate very hard because arbitration is very lengthy and costly and one never knows what the end result is going to be in arbitration.

156 KEYSER: We are opposed to HB 2966 which does away with the alternate strike method. We are willing to discuss final offer arbitration to learn more about it.

162 BOTKIN: You would end up with one name and not a list of names. I don't think our employers would like that any better than we do. If names and access are limited, how are new arbitrators going to get experience in that area?

CHAIR DERFLER: They could get the experience through some other kind of binding negotiations.

199 BRUCE MULLIGAN, Management Negotiator: I am supportive of the bill with the amendments. Provides a real life scenario relating to his own professional experience. Arbitration is a hearing process, not a negotiation process. An agreement reached by negotiations is preferable by both parties.

288 REP. DOMINY: Did you say that you don't support the concept of arbitration because it doesn't really allow you the flexibility to negotiate?

MULLIGAN: I support the process of negotiations in good faith with a result in voluntary agreement. The concept of arbitration implies that that process has failed.

REP. DOMINY: So you would rather do without arbitration?

MULLIGAN: My preference in terms of negotiations is the same as in the private sector where you negotiate to impasse and both parties are free to take appropriate action.

-The issue for me is how can you reach an agreement.

326 REP. REPINE: When you deal with final offer, in a scenario of 100 things being on the table for consideration and 70 of them are agreed upon and 30 goes to arbitration. Do you go back to look only at the 30 articles or do you consider the entire package?

MULLIGAN: You would put forward a full and complete contract.

REP. REPINE: When it comes to looking at the both proposals brought forth by the two parties, do you take the package as a whole or are you allowed to pick and choose out of those packages?

MULLIGAN: You take the package as a whole.

375 CHAIR DERFLER: When each come up with their particular contract and they have a fifteen day period to negotiate, are you able to change that final offer contract?

MULLIGAN: At any point during the process if both parties agree to a full contract, that terminates any impasse proceeding by definition. The discussions are not necessarily limited.

384 REP. REPINE: How many times you have used the final arbitration approach?

MULLIGAN: Three times since the early 1970's. None of those ended up in a decision by the panel; all of those ended up in an agreement.

CHAIR DERFLER: Sounds like this could solve some problems with less unrest on both sides.

MULLIGAN: This process has worked in Eugene.

CHAIR DERFLER: Could you supply us with the law the way Eugene had it written previously?

MULLIGAN: I have a copy with me (Exhibit F).

TAPE 125, SIDE A

WORK SESSION, HB 2723 (Exhibit E)

CHAIR DERFLER: Opens work session on HB 2723.

026 REP. MANNIX: Describes the bill and the proposed hand-engrossed amendments (#B) (Exhibit E). The Labor-Management Committee opposes this legislation.

081 REP. EDMUNSON: The suspension of these benefits has a distinct financial advantage from the employer's and the insurer's point of view. By having interest accrue that would tend to balance against the insurer simply using this suspension for purely financial purposes.

-Usually the award will be increased or will stay the same. This is a balanced approach and addresses fairly both sides.

100 MOTION: REP. MANNIX: Moves to adopt the "#B" amendments to HB 2723.

-The committee has no objections to the above motion.

MOTION: REP. MANNIX: Moves to refer HB 2723, as amended, to the House floor with a "do pass" recommendation.

VOTE: The motion carries 6-0.

EXCUSED: Representative Watt.

CARRIER: Rep. Edmunson.

125 CHAIR DERFLER: Adjourns the meeting at 11:00 a.m.

Submitted by: Reviewed by:

Johanna Klarin Victoria Dozler Assistant Administrator

EXHIBIT LOG:

- A - Testimony on HB 2252 - Pamela Mattson - 9 pages.
- B - Testimony on HB 2252 - Pamela Mattson - 1 page.
- C - Testimony on HB 2966 - Tom Brian - 2 pages.
- D - Testimony on HB 2966 - Tom Brian - 1 page.
- E - Amendments for HB 2723 - Rep. Mannix - 1 page.
- F - Testimony on HB 2966 - Bruce Mulligan - 4 pages.