

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

May 3, 1991Hearing Room D 8:30 a.m.Tapes 129 - 131

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 3569 - Work Session HB 3017 - Public Hearing HB 3548 - Public Hearing HB 3574 - Public Hearing HB 3435 - Public Hearing HB 3040 - Public Hearing and Work Session HB 2992 - Public Hearing

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TAPE 129, SIDE A

002 CHAIR DERFLER: Opens the hearing at 8:30 a.m.

WORK SESSION, HB 3569

009 VICTORIA DOZLER: Explains why the bill is coming back to the committee. Under the PERS statute the prenuptial agreement would not be honored, but the benefits would go to the surviving spouse.

MOTION: REP. REPINE: Moves to suspend the rules to reconsider HB 3569.

-The committee has no objections to the above motion.

033 MOTION: REP. REPINE: Moves to adopt the proposed -2 amendments to HB 356 9.

-The committee has no objections to the above motion.

MOTION: REP. REPINE: Moves HB 3569, as amended, to the Committee on Ways and Means with a "do pass" recommendation.

VOTE: The motion carries 6-0.

EXCUSED: Rep. Dominy.

PUBLIC HEARING, HB 3017 (Exhibit A.B.C)

Witnesses: Jack Pompei, OR-OSHA Dave Heida, Associated Oregon Loggers

CHAIR DERFLER: Opens public hearing on HB 3017.

DOZLER: Describes the bill.

090 JACK POMPEI, OR-OSHA, Department of Insurance and Finance:
Discusses Exhibits A,B,C. Suggests that HB 3017 be amended by deleting sections 1-5 and a new section 1 be added which is the federal penalty schedule that we have to adopt by law.

-Discusses Exhibit C, Congressional Record, page 12612. We are not involved in accruing penalties for any type of revenue reduction.

135 CHAIR DERFLER: We are passing a law that none of us wants to, but we have to meet federal regulations.

POMPEI: Yes, we have to adopt this by law.

REP. JOHNSON: What happens if we don't?

POMPEI: We will lose our funding, approximately \$8 million. Explains what these funds are used for.

163 CHAIR DERFLER: These penalties can potentially put people out of work.

POMPEI: Yes that is possible. We have to be very discretionary with these penalties. We don't want to put anybody out of business.

183 REP. WATT: What would constitute a willful violation?

POMPEI: It would be after first or second repeat violation.

REP. WATT: What are your average willful violations?

POMPEI: We average between \$5,000 - \$6,000.

REP. WATT: How many of those on an annual basis?

POMPEI: In 1990 we had 55 willful violations.

205 REP. MANNIX: Refers to the letter from Assistant Secretary for Occupational Safety and Health, U.S. Department of Labor (Exhibit A). Suggests taking out the provision in the statute that says "but not less than \$5,000 for willful violation." In lieu of this, you develop an administrative rule.

POMPEI: If it is not written in the House record, I would be willing to do that.

REP. MANNIX: Refers to the referenced letter, page 1, third paragraph, first sentence.

232 -Rep. Mannix and Mr. Pompei discuss the issue of penalties.

REP. MANNIX: Refers to Exhibit A--"The conference Report makes clear that negotiated settlement of willful violations may result in a lower penalty." Our intention is to allow for negotiated settlements for less than that floor.

POMPEI: I have no problem with that. We have to come up with an administrative procedure to negotiate the penalties down. I was under the impression that \$5,000 would be minimum for willful violations, if not, I will research this.

REP. MANNIX: Suggests taking out "the maximum allowable as to the discretion of the Director." It would say that penalties will be assessed at the discretion of the Director....

POMPEI: I have no problem with that.

276 REP. WATT: The Congressional Record (Exhibit C) indicates a mandatory minimum penalty of \$5,000.

POMPEI: I was under that assumption also.

284 REP. JOHNSON: Is there a way to comply with federal regulations and yet amend our law so that we set a maximum \$10,000 for ordinary willful violations and \$70,000 for serious willful violation.

POMPEI: That would be hard to do.

-Rep. Johnson and Mr. Pompei discuss the definitions of willful and serious willful violations, as well as egregious violations.

368 REP. MANNIX: Could you provide us with the copy of the actual federal statute?

POMPEI: Yes.

383 DAVE HEIDA, Associated Oregon Loggers: We are no longer considering revising a number of definitions. All we are looking at are the penalty numbers at this point.

TAPE 130, SIDE A

PUBLIC HEARING, HB 3548 (Exhibits D.E.F)

Witnesses: Bill Early Peter Coe, America Works John Mullin, Clackamas County Social Services

CHAIR DERFLER: Opens public hearing on HB 3548.

010 VICTORIA DOZLER: Describes the bill. Discusses federal regulations, Exhibit D.

030 BILL EARLY, Lobbyist: We are focusing on concerns that 1) this program might focus primarily on the easy-to-serve welfare participants and not the full range, and 2) the appropriateness of the \$5,000 amount.

048 PETER COE, America Works: Commends the legislature for considering this bill.

-Describes briefly how the America Works program works, Exhibit E.

139 -Addresses the committee's earlier expressed concerns that this program focuses its services to the "more employable, easier to serve clientele."

197 REP. EDMUNSON: This is an intriguing idea. Discusses older workers with disabilities. How do you deal with those who have health, or emotional, or other problems?

COE: Discusses the fears that workers have about the ability to re-enter the work force after a layoff.

-Discusses trial work periods with regard to welfare benefits.

257 REP. EDMUNSON: Do you work with employers to modify work sites?

COE: Yes.

-Discusses the lack of self esteem and insecurity about moving into the work force.

307 REP. EDMUNSON: Refers to Exhibit E. To what extent do you work with the former employers to take these individuals back?

COE: A large portion of our business is repeat business.

346 CHAIR DERFLER: Your training program is very short. How are you able to do that? We cannot achieve our goals with much longer training programs.

COE: We don't do anything magic. We have the ability to access the people who want to work into the market place.

CHAIR DERFLER: It is actually a very narrow group of people that you are trying to serve?

COE: I don't agree. The majority of people on welfare represent the people who I am talking about.

409 REP. DOMINY: Our JOBS program does much the same thing what you are talking about, but for much less money. I see this as something that we already have.

-Why should we do this for higher cost?

TAPE 129, SIDE B

010 COE: With all respect, your figures are apples and oranges. Discusses the dollar figures involved. Regardless your excellent education and training program in this state for welfare recipients, you should take a hard look whether or not you are getting people off welfare and into jobs and whether those people remain those jobs, for \$1,500 per person. I suggest it is more like \$7,000.

024 REP. DOMINY: That is not what our reports indicate.

034 EARLY: Refers to the Family and Adult Services Division's report to the committee on Ways and Means and discusses the training and placement cost for each individual. These figures deal with each individual who is trained, not each individual who is hired. These figures average

\$3,638 per person trained. I was told that 46% is the hiring rate, so the average cost for the person hired is \$7,908.

COE: That does not take into any account whether they left the next day they were hired.

063 REP. MANNIX: How do you feel about a two-year sunset on this?

COE: I support that but I want three years.

REP. MANNIX: Discusses his frustrations with vocational assistance in general--too much effort is directed into reporting, processing and analysis, etc.

COE: We spend our money on sales and marketing. The government does not do so. Secondly, we spend our money on the work site with our human resources specialists.

117 REP. REPINE: How would this program fit into Oregon with rather diversified work force and work sites? Would that make this task more difficult? How does this work in rural areas?

COE: This model can work in a rural areas if there is economic development and if there are some companies around. I would start this program in Portland. This works better in a larger city.

140 REP. DOMINY: How would you feel about you having to take one out of three in random selection no matter who those individuals were? The concept of skimming bothers me, because the state ends up having those who are harder to place.

COE: You have to understand that we are operating in a market place. We can only place the people that the companies want to hire.

184 HUGHES: Here is an opportunity to do something innovate and different in light of Ballot Measure 5.

COE: Discusses the success of the America Works program.

244 EARLY: Discusses Ballot Measure 5 with regard to this proposed program. The public has asked our government to look for better ways to do things. This gives the participants more choices to get off welfare.

256 REP. DOMINY: This program is not going to be very effective in the rural areas. Why should we get excited about this program? The metropolitan areas do not have a high unemployment rate.

COE: It can only work if there is economic development in the area. This program cannot produce jobs.

346 JOHN MULLIN, Director, Clackamas County Social Services: Testifies in opposition to HB 354 8 (Exhibit F). Efforts like Ballot Measure 7 and HB 3548 are incomplete at best. They are short sighted and potentially punitive in their implementation.

TAPE 130, SIDE B

005 REP. DOMINY: What percentage of placement do you have in Clackamas County?

MULLIN: I don't have the figures for that.

-Our placement rate exceeds the state average.

REP. DOMINY: What kind of follow up do you do?

MULLIN: We have a close cooperation with a lot of agencies. We do some follow up.

023 REP. WATT: We need a simple approach to get these people back into the work force. We have heard enough about the complexity surrounding the human service system.

MULLIN: We are often burdened by federal and state mandates. We would like to see things simplified. Discusses the Community Action Self Sufficiency program. This program has demonstrated dramatic results with very low costs.

057 CHAIR DERFLER: Why do social service agencies always come with a negative attitude? This program at least deserves to be looked at and considered as if it would work.

MULLIN: We have success with the partnerships that have been forged with the Family Support Act in the State of Oregon.

PUBLIC HEARING, HB 3574

Witnesses:Olivia Clark, City of Salem Bill Blair, City of Salem

CHAIR DERFLER: Opens public hearing on HB 3574.

072 VICTORIA DERFLER: Describes the bill.

102 OLIVIA CLARK, City of Salem: Testifies in support of HB 3574. We came to the committee pointing out that the statute actually contained a redundancy and that is what this bill addresses. Cities are not very likely to go bankrupt. Oregon law does not allow us to deficit spend.

-We have had several discussions with DIF resulting in this new and improved bill. Substantial protections are built into this new bill.

-The city does not automatically receive an exemption.

-The political subdivision must have been three years self-insured and keep its own loss reserve.

-Describes the reserve account. DIF would have the first lien and priority right over that account.

-If the local government decides that they no longer want to keep that reserve they would have to notify DIF sixty days in advance.

142 -We are requesting an emergency clause.

-We would like to change the bill to apply only to cities and counties.

151 CHAIR DERFLER: You have to set up a reserve for injured workers. Are you setting up an additional reserve?

CLARK: No we are not.

-We need some clarifying language around the issue of what is actuarially sound.

163 BILL BLAIR, City of Salem: Discusses proposed amendments with regard to the requirement of an annual actuarial audit. The language of the bill, as currently drafted, suggests that an actuarial audit need to be performed every year. Our proposed amendments, page 2, line 9 would read "that is actuarially sound, and that adequately funded..." The phrase "as determined by an annual audit is intended to modify the "adequately funded" clause not the "actuarially sound" requirement.

192 REP. MANNIX: Proposes more fluent language as to the same issue: "Is actuarially sound and that, as determined by an annual audit under ORS 297.405 to 297.740, is adequately funded to pay all compensation ..."

CLARK: Refers to page 2, lines 22-23. We are willing to go along with striking that issue.

PUBLIC HEARING, HB 3435

Witnesses:Hedy Rijken, State Representative, District 4.

CHAIR DERFLER: Opens public hearing on HB 3435.

252 HEDY RIJKEN, State Representative, District 4: Discusses the proposed -1 amendments and the proposed -2 amendments.

-The -1 amendment does not preclude any other remedies that may be available to an employee.

-Page 1, line 10, after "civil" insert "proceeding."

REP. MANNIX: Change "civil action" to "civil proceeding" and add the word "proceeding" after "civil" so it would read "civil proceeding or criminal trial."

282 REP. RIJKEN: Does not support incorporating the -2 amendments.

307 REP. JOHNSON: Refers to page 2 of the bill, the punitive damages.

RIJKEN: I don't support that. This language favors higher paid employees. Existing common law standards are more than adequate to safeguard employers from an unjustified award.

360 -Rep. Mannix and Ms. Dozler discuss further the -2 amendments.

PUBLIC HEARING, HB 3040 (Exhibit G)

CHAIR DERFLER: Opens public hearing on HB 3040.

400 REP. EDMUNSON: Describes the bill and the proposed amendments (Exhibit G). The main change is to delete any reference to ORS 656.289 (4).

426 CHAIR DERFLER: This bill does not allow them to bargain away their preferred worker rights?

REP. EDMUNSON: That is correct. It is very clear that the preferred

worker program is retained.

WORK SESSION, HB 3040

CHAIR DERFLER: Opens work session on HB 3040.

448 MOTION: REP. EDMUNSON: Moves to adopt the -1 hand engrossed amendments to HB 3040 deleting on line 2 the words "even if" and "not", and inserting before the word and "whether or not." On line deleting after ORS 656.236 "or in any other claim pursuant to ORS 656.239 (4)."

-The committee has no objections to the above motion.

463 MOTION: REP. EDMUNSON: Moves HB 3040, as amended, to the House floor with a "do pass" recommendation.

VOTE: The motion carries 7-0.

CARRIER: Rep. Edmunson.

TAPE 131, SIDE A

PUBLIC HEARING, HB 2992 (Exhibits H and I)

CHAIR DERFLER: Opens public hearing on HB 2992.

040 DOZLER: Describes the bill and the proposed amendments (Exhibits H and I).

051 CHAIR DERFLER: Adjourns the hearing at 10:30 a.m.

Submitted by: Reviewed by:

Johanna Klarin Victoria Dozler Assistant Administrator

EXHIBIT LOG:

A - Testimony on HB 3017 - Jack Pompei - 2 pages.
B - Testimony on HB 3017 - Jack Pompei - 2 pages.
C - Testimony on HB 3017 - Jack Pompei - 5 pages.
D - Testimony on HB 3548 - Committee Staff - 1 page.
E - Testimony on HB 3548 - Peter Coe - 1 page. F - Testimony
on HB 3548 - John Mullin - 2 pages. G - Amendments to HB 3040 -
Committee Staff - 1 page. H - Amendments to HB 2992 - Committee
Staff - 2 pages. I - Amendments to HB 2992 - Committee Staff - 2
pages.