

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 10, 1991Hearing Room D 8:30 a.m.Tapes 134 - 135

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. Ray Baum

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

MEASURES CONSIDERED: HB 2116 - Work Session HB 2775 - Work Session HB 3138 - Work Session

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TAPE 134, SIDE A

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

WORK SESSION, HB 2116

Witnesses:Greg McMurdock, Department of Education Patrick Gallagher, SAIF

CHAIR DERFLER: Opens work session on HB 2116.

005 VICTORIA DOZLER: Describes the bill and the proposed -4 and -5 amendments (Exhibits A,B and C).

037 MOTION: REP. MANNIX: Moves to adopt the language regarding assumed hourly wages in Exhibit B.

-There being no objections, the language is adopted.

040 MOTION: REP. MANNIX: Moves that the committee adopt the proposed -5 amendments to HB 2116.

050 GREG McMURDOCK, Department of Education: Addresses the -5

amendments, page 2. We have created a mandatory coverage provision.

071 PATRICK GALLAGHER, SAIF: This basically codifies our current practice. We have no objection to it.

-There being no objections, the -5 amendments are adopted.

080 DOZLER: Describes the -4 amendments and points out the errors on page 2.

107 MOTION: REP. MANNIX: Moves the -4 amendments with the hand engrossed changes.

-There being no objections, the -4 amendments are adopted.

GALLAGHER: Refers to the proposed -3 amendments, they need to be addressed. They refer to the school districts covering students placed with their own administrative or operational branches.

120 MOTION: REP. MANNIX: Moves to adopt the -3 amendments.

-There being no objections, the amendments are adopted.

131 MOTION: REP. MANNIX: Moves that the committee refer HB 2116, as amended, to the House floor with a "do pass" recommendation.

VOTE: The motion carries 6-0.

CARRIER: Rep. Mannix

WORK SESSION, HB 2775

Witnesses: John McCulley, Oregon Fairs Association Irv Fletcher, Oregon AFL-CIO Greg Streeple, Oregon State Building Construction Trade Council Mike McCallum, Oregon Restaurant Association

CHAIR DERFLER: Opens work session on HB 2775.

146 DOZLER: Describes the bill and the proposed amendments (Exhibit D).

170 REP. JOHNSON: I would like to hear the fair people discuss the first business day situation.

180 JOHN McCULLEY, Oregon Fairs Association: We would prefer second day (refers to section 4 in the -2 amendments).

203 REP. MANNIX: We could make a special exception with regard to state fairs. I don't like opening up this process for everybody else.

REP. JOHNSON: We are talking about people that we have already decided deserve immediate payment. I would feel comfortable carving out that one specific exception for the fairs.

MCCULLEY: You could handle that by referencing the fair statutes.

226 REP. MANNIX: We could say: "Except that payment be made immediately in a case of any fair operated pursuant to ORS 565 if made no later than the second business day."

REP. JOHNSON: If we make this special exception, we might as well give the three days that they need.

CHAIR DERFLER: I don't think we should extend this any further.

-The committee discuss further this issue.

McCULLEY: I am just trying to cover as many situations as possible in those 36 counties.

REP. MANNIX: If we say the first business day, they can find a way.

266 MOTION: REP. MANNIX: Moves to adopt the -2 amendments with the hand engrossed change from second business day to first business day.

-There being no objections, the amendments are adopted.

MOTION: REP. MANNIX: Moves that the committee refer HB 2775, as amended, to the House floor with a "do pass" recommendation.

275 REP. JOHNSON: I would like to hear from the organized labor with regard to this bill.

282 IRV FLETCHER, Oregon AFL-CIO: I still don't see a need for this bill. The people who are going to be hurt the most are the people who can least afford it.

GREG STEEPLE, Oregon State Building Construction Trade Council: We have a problem with the -2 amendments. Discusses the mobility of the construction work force. People need the money to find the next job.

303 REP. MANNIX: Would a 180 days work better?

GREG STEEPLE: That would help but would not cure the problem.

327 REP. EDMUNSON: When a large project is constructed and completed, how much advance notice does an employer have?

STEEPLE: A lot of times there is a completion date and one always hopes to hit that date. Usually the worker has no notice as to when he is going to be terminated, until he is.

342 REP. JOHNSON: Explains why he inserted the ninety days period in the -2 amendments. I am not wedded to that figure. We can delete it if we need to. How would we make this workable for everybody?

IRV FLETCHER: Employers use suspension to get around paying immediately.

REP. JOHNSON: We should not sanction that practice.

422 REP. DOMINY: I have a problem with the language with regard to "employment pursuant to a written contract..." I can see every employer in the state say that when you sign that written contract it says we will pay you three days after you were terminated.

TAPE 135, SIDE A

012 REP. JOHNSON: The existing law already states that anyone who has a written contract is exempted from the normal termination pay

requirement. We can eliminate the "written." This whole thing is just a discussion paper. Your concern that the contract itself has some clauses that get around the law; we can put in here something to avoid that.

030 REP. MANNIX: The scenario that Rep. Dominy just described should not fit the statutory scheme, and in my opinion, it does not, and if this language stays as it is, will not fit it. I see this as being a very tight definition. Explains further.

052 MOTION: REP. MANNIX: Moves to amend the -2 amendments as follows: Line 7, delete "for less and 90 days and" and on line 8 change "is" to "as."

-The committee has no objections to the above motion.

079 -Rep. Johnson and Mr. Fletcher discuss the need for this bill.

REP. JOHNSON: Discusses the difficulties in getting out the pay checks in the required time period.

FLETCHER: Disagrees with Rep. Johnson. The argument can be made the opposite and the system needs to be changed.

-The committee discuss further this issue.

108 REP. DOMINY: I would really like to know if there is a need for this. Has BOLI started to cite employers for violating this law?

COFFEL: Does not have anything to add to her earlier testimony.

117 REP. EDMUNSON: Suggests changing "due immediately" to "next business day" in a fired or mutual quit situation.

FLETCHER: That may be reasonable.

142 -Rep. Edmundson and Mr. Steeple discuss the circumstances of termination.

144 REP. JOHNSON: Suggests taking out paragraph three in page 2.

REP. MANNIX: Are you interested in a work group to work on this bill?

FLETCHER: I would like to talk with the hospitality industry.

160 MIKE McCALLUM: We don't have any problem with the -2 amendments. Addresses the question as to why this bill is necessary--the physical impossibility to comply with the law. Provides examples from Idaho and Washington.

207 CHAIR DERFLER: Discusses the difficulty to get pay checks through when outside payroll people do the work and the expense involved. I don't see anything wrong with the 48 hours.

250 REP. JOHNSON: What happens if, rather than the person quitting, the employer fires him. What happens then? Suggests amending the bill so that if the employer is the one doing the discharging they should have the check ready. Elaborates further.

314 REP. MANNIX: Closes the work session on HB 2775.

WORK SESSION, HB 3138

Witnesses: Ray Baum, State Representative, District 58. Patrick Gallagher, SAIF Ken Keudell, Construction Contractors Board

REP. MANNIX: Opens work session on HB 3138.

319 DOZLER: Describes the bill.

330 RAY BAUM, State Representative, District 58: Conveys his constituents' dissatisfaction for having to provide workers' compensation benefits for their children who work on their own farm.

MOTION: REP. JOHNSON: Moves to adopt the -2 amendments.

-There being no objections, the amendments are adopted.

380 REP. JOHNSON: Refers to line 30 on the bill. Suggests to change the word "improvements" to "structures."

REP. MANNIX: Are there actually situations where there are workers' compensation problems?

REP. JOHNSON: Yes. Provides an example.

TAPE 134, SIDE B

006 REP. MANNIX: If we start talking about construction, we get into a very complex, sensitive area. You might be adding an enormous amount of baggage even with one word.

REP. JOHNSON: I agree.

020 PATRICK GALLAGHER, SAIF: Addresses the administrative problems related to this bill. Expresses concern about partnerships because they are rather fluid in nature and don't need to be registered with a third party. Discusses difficulties in tracking and auditing partnerships.

REP. MANNIX: Could that problem be solved by saying "partners who have written partnership agreement and who are related?"

GALLAGHER: It would still have to be registered with a third party.

REP. MANNIX: Why is there a problem with the administration unless someone tries to file a claim within this partnership?

GALLAGHER: We are not concerned about the partners' employees. We are worried about the partners themselves if a partner is injured and there is no coverage because of an exemption like this, and there is no record of the partnership in any place.

REP. MANNIX: Could your problem be dissolved in terms of administration if we put in the following phrase: Partners who register the partnership agreement with their insurer and who are each related...?

GALLAGHER: That definitely would help.

REP. JOHNSON: This problem is in the existing law pertaining to any partners who are in a business other than the construction industry.

His concern is still out there for other people and this bill does not address that.

GALLAGHER: That is correct.

087 REP. MANNIX: Do you have any particular pleasure as to whether or not you want to try to address partners who are related in this bill?

REP. JOHNSON: Provides some historical background regarding partnerships.

109 REP. MANNIX: Suggest subsection B to read as follows: Partners who are engaged in work performed in direct connection with construction, alteration, repair, improvement, moving or demolition of an improvement on a real property or pertinencies thereto, who are related not more than three times removed by blood adoption or marriage to all other partners and who register their partnership agreement demonstrating this relationship with the Construction Contractors Board. Would that take care of the problem?

121 KEN KEUDELL, Construction Contractors Board: We could administer that much easier than the language that is here now. We could identify who was and who was not a partnership.

121 REP. MANNIX: Reiterates the proposed language for subsection 2. Partners who are engaged in work performed in direct connection with the construction, alteration, repair, improvement, moving or demolition of an improvement on real property or pertinencies thereto, who are each related, not more than three times removed, by blood, adoption, marriage to all other partners, and who have registered the partnership agreement with the Construction Contractors Board.

KEUDELL: You may want to identify also that they have to be registered with the CCB.

REP. MANNIX: We state, as legislative history, that the assumption is that they are registered with the Construction Contractors Board.

136 GALLAGHER: We are concerned about the three times removed. Describes how this relates to a family corporation situation.

-Rep. Mannix, Mr. Gallagher and Mr. Keudell discuss alternative definitions to the "related by blood."

161 REP. DOMINY: I would like to get an opinion from the Legislative Counsel as to how this intermingles with Rep. Dwyer's bill.

REP. MANNIX: Suggests a change to the earlier amendment. "...who have registered the partnership and the partnership agreement with the Construction Contractors Board."

185 MOTION: REP. JOHNSON: Moves the conceptual amendment outlined by Rep. Mannix.

-The committee has no objections to the above motion.

192 GALLAGHER: Addresses the issue of family memberships.

REP. JOHNSON: Discusses his rationale for introducing the proposed language.

228 REP. DOMINY: Is the family definition in Rep. Dwyer's bill acceptable to you?

REP. MANNIX: He does not have a specific definition. He lists the relatives who could qualify.

REP. DOMINY: Does that definition go far enough for you?

REP. JOHNSON: It would be good to be consistent and have the same language in both places.

245 -The committee debates this issue further.

282 REP. MANNIX: Inquires if there are any objections to treat Rep. Johnson's conceptual amendments formally.

-There being no objections, the amendments are adopted.

295 -The committee discuss further the appropriate family definition.

335 REP. JOHNSON: We want to change the word to family and yet retain the concept, for legislative history, that we are not reducing the scope of the three times removed language.

GALLAGHER: My interpretation is that we would not be limited by the three times removed either. I agree that we are placing a generic, more nonspecific definition for one that is very limiting.

REP. JOHNSON: So a family could be broader than three times removed?

GALLAGHER: Yes.

356 KEUDELL: I have no problem with this change.

347 MOTION: REP. JOHNSON: Moves to amend the bill on line 32 as follows: Partners who are each members of the same family, whether related by blood, marriage or adoption.

-The committee has no objections to the above motion.

275 MOTION: REP. JOHNSON: Moves that the committee refer HB 3138, as amended, to the House floor with a "do pass" recommendation.

VOTE: The motion carries 5-0.

EXCUSED: Representatives Edmunson and Watt.

CARRIER: Rep. R. Johnson.

370 REP. MANNIX: Adjourns the meeting at 9:50 a.m.

Submitted by: Reviewed by:

Johanna Klarin Victoria Dozler Assistant

Administrator

EXHIBIT LOG:

A - Amendments to HB 2116 - Committee Staff - 2 pages.
B - Amendments to HB 2116 - Committee Staff - 1 page.
C - Amendments to HB 2116 - Committee Staff - 3 pages.
D - Amendments to HB 2775 - Committee Staff - 2 pages.
E - Amendments to HB 3138 - Committee Staff - 1 page.