

House Committee on Labor May 15, 1991 - Page

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 15, 1991Hearing Room D 8:30 a.m.Tapes 136 - 137

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 2599 - Work Session HB 3017 - Work Session HB 3435 - Work Session HB 2992 - Work Session HB 3333 - Work Session HB 2726 - Work Session HB 2775 - Work Session

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TAPE 136, SIDE A

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

WORK SESSION, HB 2599 (Exhibit A)

CHAIR DERFLER: Opens work session on HB 2599.

009 DOZLER: Describes the -5 amendments to the A-Engrossed version of HB 259 9 (Exhibit A).

MOTION: REP. MANNIX: Moves that the committee adopt the -A5 amendments to HB 2599.

-There being no objections, the amendments are adopted.

MOTION: REP. MANNIX: Moves to refer HB 2599, as amended, to the House floor with a "do pass" recommendation.

VOTE: Motion carries 5-0.

EXCUSED: Representatives Dominy and Edmunson. [They vote AYE on this bill later during the meeting.]

038 CARRIER: Representative Mannix.

WORK SESSION, HB 3017 A (Exhibit B)

Witnesses: Jack Pompei, OR-OSHA

CHAIR DERFLER: Opens work session on HB 3017.

DOZLER: Describes the bill.

055 REP. MANNIX: Explains his preference to delete lines 7-9 in the proposed amendments--the maximum allowable penalties. He explains also his preference to delete line 16--\$5,000 for a willful violation.

060 MOTION: REP. MANNIX: Moves to adopt the -2 amendments to HB 3017 (Exhibit B).

066 JACK POMPEI, Administrator, OR-OSHA: Has no objections to the changes in the -2 amendments.

MOTION: REP. MANNIX: Moves to amend the -2 amendments by re-inserting the language on line 16.

-The committee has no objections to the above motion.

JACK POMPEI: That means that the fine cannot be levied less than \$5,000. We do have administrative rules through which we can reduce that amount through negotiation.

088 MOTION: REP. JOHNSON: Moves to table the bill.

VOTE: The motion fails 5-1.

NAY: Representatives Edmunson, Mannix, Repine, Watt and Derfler.

AYE: Rep. Johnson.

EXCUSED: Rep. Dominy.

106 MOTION: REP. MANNIX: Moves to adopt the -2 amendments as modified.

-There being no objections, the modified -2 amendments are adopted.

MOTION: REP. MANNIX: Moves to refer the HB 3017, as amended, to the House floor with a "do pass" recommendation.

VOTE: The motion carries 5-1.

AYE: Representatives Edmunson, Mannix, Repine, Watt and Derfler.

NAY: Representative Johnson.

EXCUSED: Representative Dominy. [He votes AYE later during the meeting.]

CARRIER: Rep. Repine.

WORK SESSION, HB 3435 (Exhibit C)

CHAIR DERFLER: Opens work session on HB 3235.

DOZLER: Describes the bill.

MOTION: REP. MANNIX: Moves to adopt the -1 amendments.

134 DOZLER: Describes the -1 amendments (Exhibit C).

144 REP. JOHNSON: Objects to the -1 amendments.

VOTE: The motion carries 5-2.

AYE: Rep. Dominy, Edmunson, Mannix, Repine, and Watt.

NAY: Rep. Johnson and Derfler.

163 MOTION: REP. JOHNSON: Moves to adopt the -2 amendments to HB 3435.

VOTE: The motion fails 5-2.

NAY: Rep. Dominy, Edmunson, Mannix, Repine, Watt.

AYE: Rep. Johnson and Derfler.

MOTION: REP. MANNIX: Moves that on line 10, "civil action" be changed to "civil proceeding." On line 10, add "proceeding" between "civil and or" to

read..."in good faith at a civil proceeding or criminal trial."

-The committee has no objections to the above changes.

184 MOTION: REP. MANNIX: Moves HB 3435, as amended, to the House floor with a "do pass" recommendation.

VOTE: The motion carries 6-1.

AYE: Rep. Dominy, Edmunson, Johnson, Mannix, Repine, Watt.

NAY: Rep. Derfler.

CARRIER: Rep. Hedy Rijken.

WORK SESSION, HB 2992 (Exhibits D and E)

CHAIR DERFLER: Opens work session on HB 2992.

190 DOZLER: Describes the proposed amendments (Exhibits D and E).

MOTION: REP. MANNIX: Moves to adopt the -4 amendments.

-There being no objections, the amendments are adopted.

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

REP. MANNIX: This is a compromise to get the bill through the House. If we do not modify the bill, I am afraid that we run into some heavy seas.

-There being no objections, the amendments are adopted.

245 MOTION: REP. MANNIX: Moves HB 2992, as amended, to the House floor with a "do pass" recommendation.

VOTE: The motion carries 6-0.

EXCUSED: Rep. Edmunson.

CARRIER: Rep. Watt.

WORK SESSION, HB 3333 (Exhibit F)

CHAIR DERFLER: Opens work session on HB 3333.

258 DOZLER: Describes the bill and the proposed amendments (Exhibit F).

MOTION: REP. MANNIX: Moves to adopt the -1 amendments.

REP. DOMINY: Opposes the amendments.

VOTE: The motion carries 6-1.

NAY: Rep. Dominy.

MOTION: REP. MANNIX: Moves HB 3333, as amended, to the House floor with a "do pass" recommendation.

REP. MANNIX: This bill is markedly different from the way it was presented originally. It is only because I believe that we are going to be forcefully addressing the family leave issue in another bill that I am willing to go along with this bill being used as a vehicle to make another change in the law which has to do with sick leave for school employees which I think is a beneficial thing for the school employees to be able to collectively bargain regarding their sick leave.

314 REP. EDMUNSON: Discusses a possible conflict of interest. Supports the concept.

336 REP. DOMINY: He is not quite optimistic that the other bill would take care of all of the other concerns for many of the people who have joined on to sponsor this bill. Will vote against the bill.

REP. MANNIX: The provision that is left in the bill is the provision that redefines sick leave as to school employees. If there is a problem with the definition of sick leave as to public employees, that has not been presented to me. This has to do with a very narrow issue relating to public school employees.

VOTE: The motion carries 5-2.

AYE: Representatives Johnson, Mannix, Repine, Watt, and Derfler.

NAY: Representatives Dominy and Edmunson.

REP. DOMINY: Serves notice of a possible minority report.

CARRIER: Rep. Mannix.

WORK SESSION, HB 2726 (Exhibit G)

Witnesses: Larry Young, Department of Insurance and Finance

CHAIR DERFLER: Opens work session on HB 2726.

387 DOZLER: Describes the bill and the proposed amendments (Exhibit G).

TAPE 137, SIDE A

009 REP. MANNIX: Discusses line 13 in the -4 amendments.

014 MOTION: REP. MANNIX: Moves to adopt the -A4 amendments to HB 2726.

REP. MANNIX: This reflects a compromise that has been worked out between the majority and minority reports. The Counsel can check any clerical changes to make sure that we are amending the proper bill.

027 LARRY YOUNG, Deputy Administrator, Workers Compensation Division: We have no problem with that language.

-The question is who pays for the unemployment compensation when the worker prevails? Currently the employer, until such time the claim is either accepted or denied, pays for the unemployment compensation. This implies that none of the claims costs to the noncomplying employer will be paid.

REP. MANNIX: That implication is not meant to be there. The employer is as liable as he is now.

053 REP. MANNIX: Do you prefer, instead of saying "properly accepted" "the claim to be compensable."

MOTION: REP. MANNIX: Moves to amend the -A4 amendments to change "properly

accepted" to "compensable."

-The committee has no objections to the above motion.

MOTION: REP. MANNIX: Moves to adopt the -A4 amendments, as changed.

-There being no objections, the amendments are adopted.

066 MOTION: REP. MANNIX: Moves HB 2726A, as amended, to the House floor with a "do pass" recommendation.

VOTE: The motion carries 6-0.

EXCUSED: Rep. Johnson.

CARRIER: Rep. Edmunson.

075 MOTION: REP. MANNIX: Moves that representatives who were absent during the vote for HB 2599 and HB 3017 be given an opportunity to vote.

REPINE: Opposes the motion. We cannot allow the luxury for letting people go in and out during votes. At this point in time I don't believe that courtesy should be extended.

-The committee discusses this issue further.

VOTE: The motion fails 4-3.

NAY: Representatives Edmunson, Johnson, Repine and Watt.

AYE: Representatives Dominy, Mannix and Derfler.

WORK SESSION, HB 2775 (Exhibits H and I)

Witnesses: Mike McCallum, Oregon Restaurant Association

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

135 REP. JOHNSON: Discusses the proposed hand engrossed -3 amendments (Exhibit I).

183 REP. WATT: Questions the language "reasonably suspects." Is this kind of language normally used in situations like that.

REP. JOHNSON: There needs to be some leeway for situations where a person can say that he has not been convicted so there is no criminal activity.

-Refers to line 1 on page 2 of. Suggests that the wages shall be due and payable no later than the end of the fifth business day.

-Outlines the rest of the suggested changes of the -3 amendments.

268 Rep. Dominy and Rep. Johnson go over the -3 hand engrossed amendments as to the final wording.

385 MOTION: REP. MANNIX: Moves to adopt the -2 amendments with the following modifications: Delete line 7 "for less than 90 days and." Delete from line 8 the word "is" and substitute with the word "as." On page 2, change on line 10 the word "second" into "first." Add the following line on line 11 after the word "termination," "or, where the employer is a county fair held pursuant to ORS 565, if made no later than the second business day after the employment termination."

REP. JOHNSON: Prefers the third business day.

REP. MANNIX: Thinks that three is more than the employer needs.

VOTE: The motion carries 4-3.

AYE: Rep. Mannix, Repine, Watt and Derfler.

NAY: Rep. Dominy, Edmunson, Johnson

TAPE 136, SIDE B

014 MOTION: REP. DOMINY: Moves to amend the modified -2 amendments as follows: On page 2, line 1, change 11 days into 5 days.

REP. DOMINY: I don't believe you need 11 days to make out a pay check for somebody who has quit. That is completely inappropriate.

-The committee discusses the pros and cons of this motion.

037 REP. JOHNSON: Going from 48 hours to 11 days might make the bill complete unacceptable to people who might otherwise find it acceptable.

REP. MANNIX: Invites Mr. McCallum from the Oregon Restaurant Association to comment on this point. How does this 5-day suggestion

fit in the payment scheme that we are talking about?

046 MIKE McCALLUM, Oregon Restaurant Association: We feel the added expense to cut a paycheck on interim basis when an employee decides to quit is not fair. Changing it from two to five doesn't make any difference. Eleven days makes much more sense.

CHAIR DERFLER: How would you address the political aspect?

McCALLUM: We rather have a bill. If you think that the 5 days is a political reality, I advise you to vote your conscience on that.

REP. JOHNSON: Would like to see to get something done instead of this bill disappearing into a black hole.

VOTE: The motion carries 4-3.

AYE: Rep. Dominy, Johnson, Mannix and Derfler.

NAY: Rep. Edmunson, Repine and Watt.

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

104 MOTION: REP. JOHNSON: Moves to amend the bill by deleting paragraph 3 on page 2.

118 REP. MANNIX: Discusses Rep. Johnson's motion to delete subsection 3 on page 2. Opposes the motion.

REP. JOHNSON: This paragraph would expand it in a way that is not fair to the employee in a circumstance where the employer knows ahead of time that he is going to be terminated.

REP. MANNIX: Believes that 48 hours is reasonable.

183 VOTE: The motion carries 4-3.

AYE: Rep. Dominy, Johnson, Repine and Watt.

NAY: Rep. Edmunson, Mannix and Derfler.

194 MOTION: REP. JOHNSON: Moves to amend the -2 amendments on page 1, line 24 to read as follows: If such notice is not given to the employee, or if the employment is terminated due to the employee's unexcused absence from work or because the employer reasonably suspects that the employee is engaging in criminal conduct during the employment, the wages...

VOTE: The motion fails 5-2.

NAY: Rep. Edmunson, Mannix, Repine, Watt and Derfler.

AYE: Rep. Dominy and Johnson.

MOTION: REP. JOHNSON: Moves the previous motion without the section referring to criminal conduct.

-The committee discusses this motion with the result that Rep. Johnson WITHDRAWS THE MOTION.

278 REP. JOHNSON: We need to make clear that people can bargain to have different termination agreements than what we are putting into law here.

REP. MANNIX: That is a matter of contract law. The collective bargaining agreements can be much more generous than the law.

290 REP. DOMINY: There is some boilerplate type language that has been used in other pieces of legislation saying that if there is a bargaining agreement this law would not supersede it.

301 MOTION: REP. MANNIX: Moves to amend the bill to include a section which

says: These provisions may be varied by a collective bargaining agreement.

-The committee has no objections to the above motion.

VOTE: [Rep. Mannix's motion to refer HB 2775 to the House floor.] The motion carries 5-2.

AYE: Rep. Dominy, Johnson, Mannix, Watt and Derfler.

NAY: Rep. Edmunson and Repine.

CARRIER: Rep. Johnson

333 MOTION: REP. REPINE: Moves to suspend the committee rules to allow absent members to vote on bills that were heard previously.

-The committee has no objections to the above motion.

WORK SESSION, HB 2599 [CONTINUED]

-Rep. Dominy and Edmunson vote AYE with regard the motion to refer HB 2599 to the House floor with a "do pass" recommendation.

WORK SESSION, HB 3017 [CONTINUED]

-Rep. Edmunson votes AYE with regard the motion to refer HB 3017 to the House floor with a "do pass" recommendation.

357 CHAIR DERFLER: Adjourns the meeting at 9:55 a.m.

Submitted by: Reviewed by:

Johanna Klarin Victoria Dozler Assistant Administrator

EXHIBIT LOG:

- A - Amendments to HB 2599 - Committee Staff - 1 page.
- B - Amendments to HB 3017 - Committee Staff - 1 page.

C - Amendments to HB 3435 - Committee Staff - 1 page.
D - Amendments to HB 2992 - Committee Staff - 2 pages.
E - Amendments to HB 2992 - Committee Staff - 3 pages.
F - Amendments to HB 3333 - Committee Staff - 1 page.
G - Amendments to HB 2726 - Committee Staff - 2 pages.
H - Amendments to HB 2775 - Committee Staff - 2 pages.
I - Amendments to HB 2775 - Rep. Johnson - 2 pages.