

House Committee on Labor June 5, 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

June 5, 1991Hearing Room D 9:00 a.m.Tapes 161 - 164

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: SB 656 SB 962 SB 829 SB 1191 HB 3584
SB 594 SB 803

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 161, SIDE A

005 CHAIR DERFLER: Opens the meeting. (9:00 a.m.)

PUBLIC HEARING ON SB 656 Witnesses:Don Satchell, Oregon Education Association & Coalition of Public Employees

025 DON SATCHELL, OREGON EDUCATION ASSOCIATION & COALITION OF PUBLIC EMPLOYEES: We are trying to develop a program that provides an adjustment for benefits to individuals based upon the amount of money they receive and the length of time that they have provided service to the State of Oregon.

There will be a variable schedule, one which will be able to be funded through the earnings of PERS and that won't cause the rates to go beyond what they already are.

044 SATCHELL: This will provide provisions for seeking legal positions and opinions so that everyone is protected.

WORK SESSION ON SB 962

066 MOTION: REP. EDMUNSON MOVES THAT THE VOTE BY WHICH SB 962 PASSED BE RECONSIDERED.

VOTE: HEARING NO OBJECTION THE MOTION CARRIES.

070 MOTION: REP. EDMUNSON MOVES TO RESCIND THE REFERRAL TO WAYS AND MEANS.

VOTE: HEARING NO OBJECTION THE MOTION CARRIES.

073 MOTION: REP. JOHNSON TO SEND SB 962 AS AMENDED TO THE FLOOR WITH A DO PASS RECOMMENDATION.

078 VOTE: IN A ROLL CALL VOTE THE MOTION CARRIES UNANIMOUSLY.

WORK SESSION ON SB 829 Witnesses: Gary Wilhelms, Director of Government Relations, US West Communications Steve Walentich, Oregon/Southwest Washington field Safety Manager John Gervais, National Electrical Contractors Association

088 VICTORIA DOZLER, COMMITTEE ADMINISTRATOR: Describes the bill and (-1) amendments, (EXHIBIT A.).

101 GARY WILHELMS, DIRECTOR OF GOVERNMENT RELATIONS, US WEST COMMUNICATIONS: Introduces Steve Walentich.

108 STEVE WALENTICH, OREGON/SOUTHWEST WASHINGTON FIELD SAFETY MANAGER: Submits written testimony including amendments, see (EXHIBIT B).

145 JOHN GERVAIS, NATIONAL ELECTRICAL CONTRACTORS ASSOCIATION: Testifies in support of the bill and the amendments.

We don't want anything that would create a lesser standard, but we want a working situation where we can train everyone uniformly and effectively.

160 MOTION: REP. MANNIX MOVES THE (-1) AMENDMENTS TO SB 829.

161 VOTE: HEARING NO OBJECTION THE MOTION CARRIES.

MOTION: REP. MANNIX MOVES THE SB 829 AS AMENDED TO THE FLOOR WITH A DO PASS RECOMMENDATION.

167 VOTE: IN A ROLL CALL VOTE THE MOTION CARRIES. MEMBERS EXCUSED: REP. WATT

PUBLIC HEARING ON SB 1191 Witnesses: Holly Miles, Oregon Consortium Laurie Swanson, Director, southern Willamette Private Industry Council Steve Tegger, Employment Division Bill Braly, Job Training Partnership Act, (JTPA) Rick Levine, Assistant Commissioner, Office of Community College Services

178 VICTORIA DOZLER, COMMITTEE ADMINISTRATOR: Describes the bill and the proposed (-A3) amendments (EXHIBIT C).

225 HOLLY MILES, EXECUTIVE DIRECTOR, OREGON CONSORTIUM: We would urge you to consider an emergency clause.

REP. EDMUNSON: Would this cover individuals when there has been a reduction in employees as opposed to a total shut down?

249 LAURIE SWANSON, DIRECTOR, SOUTHERN WILLIAMETTE PRIVATE INDUSTRY COUNCIL: As it stands now, the workers do qualify as dislocated workers after they have been laid off for 60 days.

Discusses plant closures in Lane county.

An emergency clause would make a big difference in the lives of many dislocated workers.

319 STEVE TEGGER, EMPLOYMENT DIVISION: Introduces Bill Braly, JTPA and Rick

Levine, Office of Community Colleges.

Describes the collaborative effort of developing the (-3) amendments.

Discusses the extension of the benefits on page 4 of the (-3) amendments.

380 TEGGER: Discusses the Dislocated Worker Training Benefits Fund on page 5 of the (-3) amendments.

The fund would be administered through rule making; we did provide one criteria in statute, that it be conditional upon the individual demonstrating satisfactory progress and attendance in the training program.

425 REP. DOMINY: What is "satisfactory progress"?

TEGGER: We would want to look at the individuals GPA and attendance along with receiving some indication from the provider that they are doing a good job in the program and that the additional investment would be a good one.

442 REP. EDMUNSON: Does this cover folks that are released to return to work and discover that the job isn't waiting for them, through no fault of their own or their employer?

472 BILL BRALY, JTPA: From our perspective those workers would be eligible for the dislocated status.

REP. EDMUNSON: Is there a need to clarify that in statute?

BRALY: I don't think anything additional is necessary.

492 REP. JOHNSON: Does this definition of "dislocated worker" and "structural unemployment" apply to other industries?

TAPE 162, SIDE A

BRALY: We can point to the techtronics layoff in the electronic industry.

045 REP. JOHNSON: Consequently there will there be less funds available for the displaced timber workers?

BRALY: Our position is to concentrate on the structurally unemployed and not just the timber workers.

The timber industry is not the only industry in Oregon that runs the risk of this kind of impact.

080 RICK LEVINE, ASSISTANT COMMISSIONER, OFFICE OF COMMUNITY COLLEGES: Submits handouts (EXHIBITS D).

087 BRALY: Outlines the projected budget for dislocated timber workers.

REP. JOHNSON: Are timber workers more structurally unemployed than, for example, people who are laid off from another job?

BRALY: All timber workers are not structurally unemployed; a few will be considered structurally unemployed.

155 REP. DOMINY: Aren't people who lose their jobs because of Ballot Measure 5 or the free trade pack with Mexico and other situations also considered structural unemployed?

BRALY: Yes; that is our argument for "structural unemployment" as opposed to "timber industry" as we are going to look at those serious impacts on the state over the next few years.

170 LEVINE: Discusses (Exhibit D) projecting the dislocated workers for 1991-1994.

Narrowing the language would disqualify some people in need of this services.

CHAIR DERFLER: I would like to see this bill passed as written; we will work out the differences with the Senate.

250 DOZLER: We are looking at 13,000 to 44,000; please describe the assessment program developed to help serve the 8600 people who won't actually be in physical training.

LEVINE: We developed a two week options and choice program where they are working with JPTA, Community College and employment service people in a classroom environment to deal with their issues, giving them career guidance, finding out what their skill levels are and giving them a comprehensive two week service.

310 TEGGER: If you put a blank in the bill, not specifying the percentage, we will not be able to impact the bill, but the bill will still have an impact as far as the trust fund is concerned.

335 CHAIR DERFLER: Is the emergency clause something that you need to make this program work?

BRALY: From a JTPA provider perspective the emergency clause would make a significant difference.

TEGGER: With the emergency clause, we can start paying the dislocated workers as of July 1, 1991.

If you don't pass the emergency clause, we would be simply waiting until the funds come aboard.

448 REP. DOMINY: If we put the Senate language in, we could include people who ran out of funds, for example, last month?

TAPE 161, SIDE B

039 TEGGER: If the benefit year had expired we could not pick them; that is the way we interpret the Senate language.

REP. MANNIX: The emergency clause is meant to capture people who are expiring currently; the retroactivity clause is not only to help those who are expiring now, but to pull in those who are out there with no assistance.

They need to be within their benefit year, even within their retroactivity time.

WORK SESSION ON SB 1191

064 MOTION: REP. MANNIX MOVES THE (-A3) AMENDMENTS.

VOTE: HEARING NO OBJECTION THE MOTION CARRIES.

080 BRALY: The council and the local operators are very accountable in terms of the kinds of individuals that they enrol in the program.

The dislocated worker program is driven by the need in a given area.

098 REP. DOMINY: Provides an example from Roseburg with regard to the definition of the structural unemployment.

BRALY: The issue of secondary dislocation is a concern to us.

120 MOTION: REP. DOMINY MOVES TO AMEND THE BILL BY INSERTING SECTION 3 OF THE A-ENGROSSED BILL BACK INTO THE BILL.

VOTE: HEARING NO OBJECTION THE MOTION CARRIES.

136 MOTION: REP. DOMINY MOVES TO ADD AN EMERGENCY CLAUSE TO THE BILL.

VOTE: HEARING NO OBJECTION THE MOTION CARRIES.

142 MOTION: REP. MANNIX MOVES THAT THE SUBSEQUENT REFERRAL TO WAYS AND MEANS BE RESCINDED.

VOTE: HEARING NO OBJECTION THE MOTION CARRIES.

149 MOTION: REP. MANNIX MOVES THE BILL, AS AMENDED, TO THE FLOOR WITH A DO PASS RECOMMENDATION.

152 VOTE: IN A ROLL CALL VOTE THE MOTION CARRIES UNANIMOUSLY.

CHAIR DERFLER: Calls a 5 minute break.

Calls the hearing back to order.

PUBLIC HEARING ON HB 3584 Witnesses:Chris Davie, State Accident Insurance Fund, (SAIF) RCA Moore, Oregon Trial Lawyers & Oregon Workers' Compensation Attorneys Chris Moore, Malagon, Moore & Johnson Larry Young, Deputy Administrator, Workers' Compensation Division, Department of Insurance and Finance, (DIF) Mari Miller, Appellate Review Supervisor, Reconsideration Unit, Workers' Compensation Division, Department of Insurance & Finance, (DIF) Jerry Keene

160 VICTORIA DOZLER, COMMITTEE ADMINISTRATOR: Describes the bill.

The (-1) amendments, (EXHIBIT E), were submitted by the Workers' Compensation Department.

180 CHRIS DAVIE, STATE ACCIDENT INSURANCE FUND, SAIF: Testifies in opposition to HB 3584; submits written testimony, (EXHIBIT F).

268 REP. MANNIX: The bottom line is how detailed this reconsideration process is supposed to be and do we need two hearing proceedings.

DAVIE: Most parties would agree that the ideal would be not to have a complete hearing process through reconsideration.

300 DAVIE: Continues with written testimony, see (Exhibit F).

354 REP. DOMINY: Will this result in denying more claims?

DAVIE: This has nothing to do with denying claims; this deals with reconsideration of permanent disability awards.

400 RCA MOORE, OREGON TRIAL LAWYERS & OREGON WORKERS' COMPENSATION ATTORNEYS: Introduces Chris Moore.

408 CHRIS MOORE, MALAGON, MOORE & JOHNSON: Submits written testimony, (EXHIBIT G).

The reconsideration process is in place to correct possible mistakes; that process shouldn't take very long.

TAPE 162, SIDE B

045 MOORE: Continues with written testimony, see (Exhibit G).

055 REP. MANNIX: Would a worst case scenario be that the claimant submitted a new medical report that wasn't considered and that could become evidence in the case without the employer or insurer having the opportunity to reply?

MOORE: You are limited in your ability to gather medical evidence and you are limited to the attending physician at the time of closure except for a medical arbiter panel.

085 REP. MANNIX: An employer or carrier needs to put together a good case for closure in the first place so they won't have to worry if the claimant comes up with additional evidence.

MOORE: That is true; the only thing I want is a quick reconsideration process so that if there has to be further litigation it can be taken care of.

125 LARRY YOUNG, DEPUTY ADMINISTRATOR, WORKERS COMPENSATION DIVISION, DEPARTMENT OF INSURANCE AND FINANCE, (DIF): The department wants a quick process of reconsideration; the bill gives 15 days, yet then allows "additional" time.

Submits written testimony and informative material, (EXHIBIT H); we need more than 15 days to get the needed information.

164 YOUNG: By virtue of what the statute says we assumed that we have 60 days to obtain the information.

Discusses proposed amendments to the HB 3584-1 amendments, see (Exhibit H).

267 REP. MANNIX: These amendments are moving toward a new litigation process; I would rather shrink the appellate division, sending some folks to the evaluation unit.

289 MARI MILLER, APPELLATE REVIEW SUPERVISOR, RECONSIDERATION UNIT, WORKERS COMPENSATION DIVISION, DEPARTMENT OF INSURANCE AND FINANCE, (DIF): There is a basic review of the file; with our current staff we have been able to back up from the initial process when we were getting into a litigation mode.

Since March and April we are only reviewing the file, giving the party an opportunity to respond.

Some of these aren't "quick & dirty" issues; some are very significant.

325 REP. MANNIX: Doesn't that suggest that the original disclosure procedure is completely screwed up?

YOUNG: A reconsideration requires a review whatever the situation is.

353 REP. MANNIX: The real issue is how extensive we want this reconsideration process to be.

MILLER: 80% of the orders we have issued have been issued since April 1; we are no longer going out to the parties gathering information, but are assuming that the parties are responsible for doing that.

The only thing this bill does in the way of adding time is to acknowledge the due-process rights of the opposing party to have an opportunity to see what has been presented.

415 MILLER: The predominant situation on a reconsideration is that the requestor is submitting additional information for us to look at.

If we don't give the opposing party 10 days to look at it, perhaps we would have to have the requestor notify the opposing party at the same time.

With our current staff and our current work load, we can turn over a case in 15 days, but we can't give the opposing party an opportunity to see the information.

437 REP. MANNIX: Do you want any bill at all; would you rather leave the statute as is?

YOUNG: It needs to be clear.

REP. MANNIX: Would 25 days be better?

MILLER: As long as there is still the understanding that when an arbiter request is out there that the additional 60 days is present.

460 REP. MANNIX: An additional 60 days when there is a medical arbiter request?

MILLER: Yes.

475 JERRY KEENE: I am appearing on my own behalf.

I don't think that the department was aware of what they were up

against; this bill is an inevitable result.

The amendments solve the technical concerns I was going to testify to.

TAPE 163, SIDE A

040 KEENE: Without the amendments we would create a much worse situation that we have now as there would be a two tier hearing process.

055 REP. MANNIX: We could take the hand written amendments and add insert 25, allowing 60 days for a medical arbiter.

KEENE: I think that is a workable solution to the problems presented today.

MOORE: I don't think it would take that much time; they've got the records and an analysis.

15 days is reasonable; I agree with Mr. Keene about closed end process.

091 KEENE: If the committee is going to pass this out, someone should state clearly what was intended to happen as we are already having incredible difficulty getting to the courts and the board the intentions of many of the provisions of SB 1197.

This has potential for more confusion than most.

CHAIR DERFLER: We will close the public hearing.

PUBLIC HEARING ON SB 594 Witnesses: Jeanine Meyer Rodriguez, Oregon Public Employees union, (OPEU) Art James, Executive Department CJ Hill Association Coordinator, Area Agencies on Aging Maria Keltner, League of Oregon Cities & Association of Oregon Counties Karen Hafner, Oregon School Boards Association

110 JEANINE MEYER RODRIGUEZ, OREGON PUBLIC EMPLOYEES UNION, (OPEU): SB 594 as amended addresses the current statute that governs transfers of employees from one public jurisdiction to another.

The compromise bill establishes what we think are fair and minimum standards for the treatment of employees involved in these transfers.

160 CHAIR DERFLER: Have you gotten approval from insurance companies with regard the pre-existing conditions?

161 ART JAMES, EXECUTIVE DEPARTMENT: You can generally get a carrier to price a pre-existing condition waiver but it will cost more for those individuals coming in.

We determined the best solution to be for the transferring employer to pick up the difference in the cost between their existing plan and what the waiver costs.

176 JAMES: Outlines the compromise reached between the sponsor of the bill and the Executive Department.

Recommends an emergency clause.

201 CJ HILL, ASSOCIATION COORDINATOR, AREA AGENCIES ON AGING: We supports the compromise and we recommend the passage of this bill.

230 MARIA KELTNER, LEAGUE OF OREGON CITIES & ASSOCIATION OF OREGON COUNTIES: Testifies in opposition to SB 594.

Explains what happens when programs are consolidated on City and County level.

This would damage the receiving employers compensation plan because they try to create internal consistency.

275 REP. DOMINY: The city or county would have to agree to bring these people in and would have the right to refuse?

KELTNER: Unless it is a mandated program transfer.

295 KAREN HAFNER, OREGON SCHOOL BOARDS ASSOCIATION: It was the intention of the group that school employees were not to be included in this bill.

Our legal counsel is concerned that if this isn't spelled out in the bill, at some point it will be decided that school employees are included.

328 REP. MANNIX: Can we put in language indicating that this does not include school districts as public employers or employees?

HAFNER: Our concern is that there is a possibility of mandatory consolidation and unification.

WORK SESSION ON SB 594

386 MOTION: REP. DOMINY MOVES TO EXCLUDE SCHOOLS AND SCHOOL DISTRICTS FROM THE DEFINITION OF PUBLIC EMPLOYER ON LINE 10 PAGE 1 OF THE A-ENGROSSED BILL.

396 VOTE: HEARING NO OBJECTION THE MOTION CARRIES.

397 MOTION: REP. DOMINY MOVES THAT AN EMERGENCY CLAUSE BE ADDED TO THE BILL.

VOTE: HEARING NO OBJECTION THE MOTION CARRIES.

401 MOTION: REP. DOMINY MOVES THE BILL AS AMENDED TO THE FLOOR WITH A DO PASS RECOMMENDATION.

405 VOTE: IN A ROLL CALL VOTE THE MOTION CARRIES. MEMBERS EXCUSED: EDMUNSON, JOHNSON & DERFLER.

PUBLIC HEARING ON SB 803 Witnesses: Senator Jeannette Hamby, District 5
Adriana Cardenas, Governors Commission on Agricultural Labor

VICTORIA DOZLER, COMMITTEE ADMINISTRATOR: Describes the bill.

465 SENATOR JEANNETTE HAMBY, DISTRICT 5: Testifies in support of the bill.

This bill recognizes that an influx of migrant laborers is an emergency and it also indicates that a county shall assess whether or not an emergency exists.

TAPE 164, SIDE A

041 ADRIANA CARDENAS, GOVERNORS COMMISSION ON AGRICULTURAL LABOR: The definition of an emergency includes "a circumstance that causes human suffering" and we are clarifying that it could mean a crisis influx of un-manageable numbers of workers that may come into a county.

It is difficult to gage an emergency caused by an influx of workers so we have added language that would require counties to develop ways to be able to make that assessment.

WORK SESSION ON 803

071 MOTION: REP. REPINE MOVES SB 803 TO THE FLOOR WITH A DO PASS RECOMMENDATION.

074 VOTE: IN A ROLL CALL VOTE THE MOTION CARRIES UNANIMOUSLY. MEMBERS EXCUSED: EDMUNSON & JOHNSON

080 REP. MANNIX: Adjourns the meeting. (11:35 a.m.)

Submitted by, Reviewed by,

Johanna Klarin Victoria Dozler Assistant Administrator

EXHIBIT SUMMARY:

A - SB 829: Proposed amendments submitted by staff, pp 2 B - SB 829: Written testimony submitted by WALENTICH, pp 1 C - SB 1191: (-A3) amendments submitted by staff, pp 7 D - SB 1191: Informative material submitted by LEVINE, pp 6 E - HB 3584: (-1) amendments submitted by staff, pp 1 F - HB 3584: Written testimony submitted by DAVIE, pp 2 G - HB 3584: Written testimony submitted by MOORE, pp 18 H - HB 3584: Written testimony submitted by YOUNG, pp 4