

SENATE COMMITTEE ON HEALTH INSURANCE AND BIOETHICS

May 7, 1991Hearing Room C 3:00 p.m.Tapes 76 - 77

MEMBERS PRESENT:Sen. Bob Shoemaker, Chair Sen. Joyce Cohen,
Vice-Chair Sen. Jeannette Hamby Sen. Lenn Hannon Sen. Frank Roberts

STAFF PRESENT: Barbara Coombs, Committee Administrator Guadalupe
C. Ramirez, Committee Assistant

MEASURES SB 319, SB 174, SB 846 CONSIDERED:

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 76, SIDE A

000 CHAIR SHOEMAKER: Called meeting to order at 3:20. Opened work session on SB 319.

WORK SESSION ON SB 319

011 CHAIR SHOEMAKER: Proposed that SB 319 be passed because the mandates will merge into SB 27, and some will be superseded. Proposed that the existing mandates not be interrupted. > Another option would be to extend the sunset for several years.

020 SENATOR HANNON: These sunsets are currently in place.

022 CHAIR SHOEMAKER: They stand repealed on the sixth anniversary of the effective date of the statute. They became effective on or after 7/13/85. This is the first group to be repealed.

026 COOMBS: A distinction in the mandated services has been made among provider mandates, service mandates, continuation mandates and population mandates. The substitution of the Health Services Commission list for mandates only applies to service mandates and provider mandates. > Children not residing in the policy holders household and continuation with worker's compensation would not be subject to the fold over and substitution at all.

> Should these two continue to be subject to sunset every six years or should they remain indefinitely on the books. > Explains the significance of tourette syndrome on the HSC list and the unlikeliness of it being mandated.

050 CHAIR SHOEMAKER: Suggests that the sunset be extended until 1993.

057 SEN HANNON: Suggests that it sunset in 1993 unless tourette syndrome is adopted in the prioritization list. > This would make the others subject to review in 1993. > The other would require a different process.

Senator Cohen arrived at 3:25.

065 SENATOR ROBERTS: Against sunset provisions. In favor of HB 319

MOTION:SEN ROBERTS moved SB 319 to the floor {with a "do pass" recommendation}.

085 COOMBS: If SB 1076 in the proposed form doesn't pass both houses, then passing this will have the effect of removing one item which happens to be of low rated value from ever being reviewed. The rest would have a higher value. The HSC would be subject to the sunset review.

094 SENATOR ROBERTS: Would the subsequent legislature not be able to repeal that mandate?

095 COOMBS: Of course.

096 CHAIR SHOEMAKER: Value of sunset is to compel proof of the law and if it fails, it expires because of the lack of support.

104 CHAIR SHOEMAKER: Would you be comfortable with leaving this until 1995?

107 SENATOR ROBERTS: Would vote against sunset provisions.

VOTE:In a roll call vote, the motion failed, with Senators Hamby and Roberts voting AYE. Senators Cohen, Hannon and Shoemaker voting NAY.

121 MOTION:CHAIR SHOEMAKER moved an amendment to set the sunset ahead on all three matters until 1995 with appropriate language drafted by Legislative Council.

VOTE:The motion carried with Senator Roberts voting no.

MOTION:CHAIR SHOEMAKER moved SB 319 , as amended, to the floor {with a "do pass" recommendation}.

128 SEN HANNON: Will vote for it to move out of committee, but will probably vote no on the floor. Understands the necessity maintaining the three matters but would have rather that it had been tied into the prioritization list review. > Agreed with Sen. Roberts that things are just being put off indefinitely.

140 CHAIR SHOEMAKER: Unclear about how the prioritization list will supersede mandate.

VOTE:In a roll call vote, the motion carried, with Senator Hannon voting NAY. Senator Shoemaker will carry the bill.

PUBLIC HEARING ON SB 174: Witnesses: Jean Thorne, OMAP William Castor, AFS Steven Kafoury, Buck Medical Services Terry Marsh, Buck Medical Services Suzie Robinson, Buck Medical Services Ed Patterson, Oregon Association of Hospitals Mary Aylea, Health Care Financial

Management Asso.

174 JEAN THORNE, DIRECTOR OF OFFICE OF MEDICAL ASSISTANCE PROGRAM:
Submits and explains testimony about how they would administer the fund
(EXHIBIT A).

210 CHAIR SHOEMAKER: Would this funding qualify for federal matching
money?

210 THORNE: The intent is that anyone covered by SB 27, would be
Medicaid eligible; therefore the MVAf fund would be transferred to
become state share for indigents. > Continues with testimony from
(EXHIBIT A).

227 CHAIR SHOEMAKER: What is the reason for that limitation? If it
qualifies for that federal match, why would you not want to move it over
anyway.

230 THORNE: The only way to qualify for a federal match is by
receiving waivers.

233 SENATOR HANNON: Why is language being eliminated from SB 174, page
1, line 22 -30 and on page 2?

241 THORNE: The funds wouldn't be used for all the specific purposes
named, but rather strictly for indigent medical expenses.

248 SENATOR HANNON: How are these funds being collected by DMV?

251 THORNE: Currently, DMV collects the funds and turns them over to
AFS if they are no longer a part of. > This proposal would require that
funds be turned over to the general fund to be used in the OMAP budget.

261 SENATOR HANNON: [QUOTE] Well it appears to me that the language
that you are repealing is for contested case.[QUOTE]

265 THORNE: The MVAf is primarily used for medical care expenses.

268 WILLIAM CASTOR, ADULT AND FAMILY SERVICES DIVISION: The money from
the fund is paid to the provider and also for the administrative
expenses to operate the fund.

272 SENATOR HANNON: Why is it being repealed?

277 THORNE: Section 3 has been replaced with a new section 3 which says
that the funds would be used strictly for medical services.

285 SENATOR HANNON: The new language suggests that something is being
eliminated.

291 CHAIR SHOEMAKER: Moving the fund from AFS to OMAP would require
that new rules apply.

300 THORNE: Section 3a being removed, would no longer require them to
be strictly DMV claims. > Section 3d allows AFS to take off the top,
administrative staff cost. > OMAP wouldn't use any of the money for
administrative cost.

318 SENATOR HANNON: Does DMV collect the money from, drivers license or
vehicle registration fees?

320 CASTOR: Driver's license.

There was further discussion between Thorne and Senator Hannon about where the money comes from, how it is distributed and how SB 27 would affect the program.

370 CHAIR SHOEMAKER: How much in dollars and proportion of drivers license fees?

374 THORNE: Projected for next biennium, the MVAF is projected to have \$4.3 million, of that \$1.5 million would already come to medicaid to reimburse Medicaid for the state share of the expenses. > Explains further about how the increase of need for the fund has affected the Medicaid program and how the proposed legislation would assure the availability of federal funds.

401 CHAIR SHOEMAKER: How much federal funding would be triggered by the \$1.4 million?

404 THORNE: \$2.5 to \$3 million. Would also cut down on administrative cost.

416 CASTOR: Responding to Chair Shoemaker's question: \$4.00 per license .

TAPE 77, SIDE A

013 STEVEN KAFOURY, BUCK MEDICAL SERVICES

015 TERRY MARSH, BUCK MEDICAL SERVICES: Gave background on the ambulance company. MVAF will provide some means to pay indigent fund bills. > Without this fund, there would be many cases where they wouldn't get paid at all.

029 CHAIR SHOEMAKER: Explained that the MVAF fund would be used for indigent people who require medical services. SB 27 would cover these people.

034 MARSH: Some people who are reimbursed by MVAF, don't qualify for Medicaid.

036 CHAIR SHOEMAKER: That is under the current Medicaid program.

037 MARSH: Concerned about potential problems in the upcoming year. > Large number of transient population who won't qualify for Medicaid. > Sometimes the AFS allowed payment is less than what they charge.

063 CHAIR SHOEMAKER: The amount paid is dependent upon who pays the charge. > Clarified that OMAP, not AFS distributes Medicaid funds. > When Medicaid covers the indigent health care it is \$66.00 and when MVAF covers it, it is \$250, correct?

074 MARSH: Agrees. The reimbursement policies for the MVAF, under SB 174, are being eliminated. Their concern is that they will only be reimbursed when the injured person qualifies for Medicaid. > Plus, they will only be reimbursed under the allowed Medicaid coverage.

083 SENATOR HANNON: Is the intent of this program to assist indigent people involved in car accidents separately from indigent health care

benefits.

090 KAFOURY: That is the purpose of the present program.

091 MARSH: Eligibility determination for MVAFA is an involved process. > Explained their billing process relating to MVAFA.

110 SENATOR HANNON: Hypothetical case: Can you collect from private insurance carrier?

127 MARSH: Pursue responsible party first before going to MVAFA.

143 SENATOR HANNON: Do think that the money intended to go to motor vehicle accident victims might go into the regular indigent fund?

151 SUZIE ROBINSON, OFFICE MANAGER, BUCK MEDICAL SERVICES: Refers to Motor Vehicle Accident Fund Question and Answer book: Read from the first paragraph: Explains why she believes that the money will be used for other purposes.

162 MARSH: Concerned with OMAP taking over all the responsibility for reimbursing claims because they currently have outstanding claims that AFS hasn't paid. > More success collecting payment from MVAFA.

182 THORNE: Responds to Buck's concerns: The system under SB 27 is different from the current system. Many of the people that Buck serves today are not covered. > If the state receives the waivers, it will cover 120,000 additional people. > Anyone under the poverty level, would be defined as indigent, therefore covered. > Continued to respond to other concerns. > People won't be cut under SB 27, care is guaranteed. > OMAP is not suggesting that the MVAFA be transferred under the current system, rather that under the proposed system under SB 27, all poor will be covered, motor vehicle accidents or illnesses. It is the state's responsibility either way.

258 SENATOR COHEN: Discussed SB 1142 which is intended to cover medical expenses for prisoners during the interim of getting booked. Would this be out of order?

273 THORNE: Will look into that.

292 ED PATTERSON, OREGON ASSOCIATION OF HOSPITALS: Although they support SB 174, expressed concern: > MVAFA payment levels are insufficient for reimbursement rates.

342 MARY AYLEA, HEALTH CARE FINANCIAL MANAGEMENT ASSOCIATION OF OREGON: Submits and explains testimony in support of SB 174 (EXHIBIT B). > Based on a survey about what would happen if the MVAFA was eliminated. > Percentage wouldn't be covered under SB 27. > They apply for MVAFA money for those who are not able to do so themselves.

377 CHAIR SHOEMAKER: Can you do the same for people under SB 27? > Because Aylea wasn't sure, suggests that this be explored further.

378 AYLEA: Gives more explanation about the kind of people that SB 27 will not affect.

425 SENATOR HANNON: Requests documentation of how much money is being used and how it is being used.

444 AYLEA: No longer has access to yearly reports since AFS took over distributing the fund.

454 PATTERSON: DOT has been distributing the money since 1985, approximately. > After further probing from Sen. Hannon, gave more explanation about why the funds were transferred to AFS.

TAPE 76, SIDE B

028 SENATOR HANNON: Three areas looking at: Indigent health care, motor vehicle related accidents and the possibility of having incarcerated people be covered. If SB 174 passed, would this be additional money for hospitals to prevent the cost shift that currently exists?

037 AYLEA: For this particular population, yes.

040 PATTERSON: 25% of those covered under MVAF would be covered by SB 27. > But there are 75% that probably won't be covered under SB 27. > They would be willing to sacrifice reimbursement for those patients if they can provide some assistance in the full funding of SB 27. > There will still be the cost shift because some won't be covered under SB 27.

056 SENATOR HANNON: Do you think that there will be enough funds generated through SB 174 for people not covered under SB 27 and who would ordinarily be reimbursed by the MVAF.

066 AYLEA: Not able to answer. Their intention is to show that there is a population of people that won't be covered by SB 27.

073 CHAIR SHOEMAKER: Asked Jean Thorne to respond to statements about certain people not being covered under SB 27.

079 THORNE: The process will be much easier to go through.

085 CHAIR SHOEMAKER: Would you be able to provide as simplistic a process as the current one under the MVAF.

090 THORNE: Would like to think about this. > Out of state people and crime suspects in custody wouldn't be covered and illegal aliens are currently covered under specific stipulations for emergencies.

112 SENATOR ROBERTS: Asked for definition of indigent under MVA.

115 CASTOR: People who cannot pay are considered indigent. > They check for employment and resource information.

125 THORNE: There is no definite definition.

There was further discussion about what could be done to address the problems stemming from not having a definite definition of indigent for this program.

159 CHAIR SHOEMAKER: Closed hearing on SB 174 and opened public hearing on SB 846.

PUBLIC HEARING ON SB 846 Witnesses: Jody Fisher, City of Gresham
Kathy Keathley, City of Gresham Jim Swenson, Department of Insurance and Finance
Peggy Anet, League of Oregon Cities

168 JODY FISHER, CITY OF GRESHAM: Supports SB 846.

187 KATHY KEATHLEY, PERSONNEL ANALYST, CITY OF GRESHAM: Submits and explains testimony (EXHIBIT C) explaining their support for SB 846. > Explains that the city of Gresham will be better able to control their health insurance expenditures if they partially self-insure and if SB 846 is passed.

261 SENATOR HANNON: What is the aggregate stop loss you have looked at?

263 KEATHLEY: Were not able to determine this.

269 SENATOR HANNON: How would your reserve be set aside and paid for?

270 KEATHLEY: The way they do the workers comp and risk management funds because they are self insured. This would be done through a third party.

285 JIM SWENSON, DEPARTMENT OF INSURANCE AND FINANCE: > SB 846 would require newly eligible public bodies to carry stop loss insurance or to establish qualified reserves. > Stop loss insurance is of critical importance. DIF is ready to promulgate rules to implement SB 846. > Promotes individual and aggregate stop loss. Specific stop loss should be set at a level no greater than \$35,000 - \$50,000 per individual. Aggregate stop loss depends on how much additional risk they are willing to assume. Need to evaluate in additional premium context. > This would put a maximum lid on the total money at risk > Self insurance observations regarding self insurance: ERISA has been a primary motivation causing private employers to self-insure. Because state mandated benefits have been exempted by ERISA. This motivation is not present for public bodies. > Self insurance success will depend on whether they will be able to retain a third party administrator to administer the program at lower cost and effectively manage health care cost. > Recommends actuarial advice for public bodies engaging in this type of program.

364 CHAIR SHOEMAKER: If a city is exempt from an ERISA anyway, do they need to be exempt from the insurance code in order to self-insure?

367 SWENSON: Unclear as to the extent that public bodies are exempt from ERISA.

377 CHAIR SHOEMAKER: If we can impose mandates on self insured public bodies, they must be exempt from ERISA to at least that extent or it couldn't be done. > If, for these purposes they are exempt from ERISA, could they be self insured and still be subject to the insurance code?

388 SWENSON: No specific requirement prohibiting a public body from becoming self-insured. > Current insurance code permits a public body with more than 1000 employees to elect to become self insured. There is no definition for public bodies with less than 1000 employees. > Suggested that legislative direction which specifically permitting public bodies with more than 1000 employees to be self insured be implemented. Public policy implies that smaller public bodies at present should not be self insured. > SB 846 would be an appropriate method to permit public bodies to self insure.

421 CHAIR SHOEMAKER: SB 846 proposes that public bodies will not be subject to the insurance code, but they are subject to some control by the director of the insurance division. And even though they are not subject to the code they are not entirely released from any.

427 SWENSON: Correct, but Section 6 (b) does subject them to the mandates.

TAPE 77, SIDE B

006 SENATOR HANNON: What does DIF require the reserve to be for a self insured entity?

010 SWENSON: \$500,000.

018 SENATOR HANNON: What is the amount of reserves that an employer would be required to maintain to qualify under this provision?

019 SWENSON: Unsure about the reserve requirement, but the most important criteria is the adequacy of stop loss insurance.

028 SENATOR HANNON: Referring to Subsection B, line 30 of SB 846: Would those requirements established by administrative rule or the statute require the employer to establish the stop loss or reserves him/herself?

037 SWENSON: It would be appropriate to establish those by rule to provide guidelines and DIF will be available to assist.

068 PEGGY ANET, ADMINISTRATOR, LEAGUE OF OREGON CITIES: Submits and explains

testimony (EXHIBIT D). > In reference to (EXHIBIT D, pg. 1) with reference to the City of Gresham discontinuing its HMO options: clarification from Page 1, line 24, of SB 846 requiring 300 employees should be changed to "at least 300 covered and retired employees". > Continues with testimony from (EXHIBIT D, page 1). > Comments on the \$500,000 annual premium cost equivalency for 1000 individuals, an increase of this premium should be considered because if the assumption is that the combined premium is the equivalency of \$1000 that equates to approximately a \$41.00 per month premium per individual. > If the intent is to have level scenario for combined as well as individual plans, that premium amount should go up to \$2 million or so.

134 SENATOR HANNON: Interprets Anet's testimony as suggesting that the statute has not been updated to meet the inflation increases.

138 ANET: Agrees and continues with testimony.

150 CHAIR SHOEMAKER: The 1000 limit is qualified by individuals and that in turn is qualified by the number of covered employees and retired employees aggregates of at least 1000 individuals or if the public body carries stop loss, 300 individuals. In either case, it refers back to covered and retired employees, correct?

157 ANET: Not the way she understood it.

167 SENATOR ROBERTS: It would either have to be an aggregate of 100 individuals or they have to aggregate 300 individuals if the public body carries stop loss insurance. These are distinct issues, aren't they?

171 ANET: Her understanding is that the current statute requires having 100 0 individuals/employees before you can self insure. The amendment would require 300 individuals/employees if carried stop loss or had reserves, thus this would mean that you have 1000 employees covered or

300 employees covered with the requirement of carrying stop loss and establish a reserve. > There wouldn't be a statutory requirement for the 1000 employees for stop loss or reserving.

185 SENATOR ROBERTS: That is correct, there are two provisions, if you have 100 0 employees, you can self insure. If you only have 300 and you want to self insure, you also have to have stop loss.

191 ANET: Continues with testimony.

243 SENATOR ROBERTS: Do you now cover Gresham and if HB 846 passes, would you lose their account?

247 ANET: Yes, we do cover Gresham but since it makes up very little of our total account we are not concerned about this bill passing and losing the Gresham account.

252 SENATOR ROBERTS: Comments about what the reasoning is for Anet's testimony.

256 ANET: There are two issues in self insuring, one consideration is if it will be financially advantageous if you are dealing with the size. The second is that it is a matter of local control, and the merits for the City of Gresham are on the side of local control rather on the side of cost saving. Reason for raising other issues, needs clarification. > She is unopposed to the bill but is trying to distinguish between the two sets of issues.

274 CHAIR SHOEMAKER: Is the point that if they are not subject to ERISA and they are not subject to the insurance code, that they may not be subject to sufficient requirements to protect them against their will?

279 ANET: The question is about whether the level of review that the insurance division actually does in that regard. Gives example.

WORK SESSION ON SB 846

297 MOTION: SENATOR HANNON moved SB 846 to the floor {with a "do pass" recommendation}.

VOTE: In a roll call vote, the motion carried with all members present voting AYE. Senator Hannon will carry the bill.

305 CHAIR SHOEMAKER: Adjourned the meeting.

Submitted by: Reviewed by:

Guadalupe C. Ramirez Barbara Coombs AssistantAdministrator

EXHIBIT LOG:

- A - Testimony on SB 174 - Jean Thorne, OMAP - 1 p.
- B - Testimony on SB 174 - Mary Alyea, HFMA - 1 p.
- C - Testimony on SB 846 - Cathy Keathley, City of Gresham - 4 pp.
- D - Testimony on SB 846 - Peggy Anet, League of Oregon Cities, 7 pp.