

January 28, 1991                      Hearing Room 50 300:p.m.                      Tapes 5 - 6  
MEMBERS PRESENT: SEN. GRATTAN KERANS, CHAIR SEN. LARRY HILL,  
VICE-CHAIR SEN. BOB KINTIGH SEN. BOB SHOEMAKER MEMBER EXCUSED: SEN.  
PETER BROCKMAN

STAFF PRESENT: ANNETTE TALBOTT, COMMITTEE COUNSEL ROBERTA WHITE,  
COMMITTEE ASSISTANT WITNESSES: DEBBIE JUUL-HARTMAN, BENEFITS ANALYST,  
STATE EMPLOYEE BENEFITS BOARD, EXECUTIVE DEPARTMENT JIM McINTOSH,  
ADMINISTRATOR, STATE EMPLOYEES' BENEFITS BOARD, EXECUTIVE DEPARTMENT  
CHUCK MENDENHALL, CHAIR, BARGAINING UNITS BENEFITS BOARD PETE  
LaMAUREAUX, ACTUARY, SEDGWICK JAMES CONSULTING FIRM MARK W. NELSON,  
PUBLIC AFFAIRS COUNSEL, ASSOCIATION OF OREGON FACULTIES AND THE OREGON  
CHAPTER OF THE NATIONAL ASSOCIATION OF SOCIAL WORKERS AL THOMPSON,  
STANDARD INSURANCE COMPANY 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 5, SIDE A 005 CHAIR KERANS called the meeting to order at 3:08  
p.m. BILLS FOR POSSIBLE INTRODUCTION BY COMMITTEE. PUBLIC HEARING

CHAIR KERANS: Let's begin with the list of the bills for possible  
introduction. The Chair Senate Committee on Labor January 28, 1991 -  
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would like to take them in block without discussion if that's possible.  
My motion indicates - neither favor of nor opposition to nor interest  
in any of the bills to be printed. They will be introduced at the  
request of particular groups or individuals as the Counsel will note by  
LC number. The Chair moves them so nobody would have to be associated  
with the motion.

MOTION: CHAIR KERANS moved the committee approve the proposed bills in  
block. I ask Counsel to indicate by LC number who brings which. ANNETTE  
TALBOTT, COMMITTEE COUNSEL: (EXHIBIT A) All the bills except LC 255 1,  
relating to safety requirements are at the request of the Oregon  
Workers' Compensation Association and the Oregon Trial Lawyers  
Association. LC 2551 is at the request of an individual by the name of  
Chuck Gilman.

VOTE: Hearing no objections, the motion carried. TAPE 5, SIDE A

SB 56 - HEALTH BENEFIT PLANS FOR INJURED WORKERS ON WORKERS'  
COMPENSATION. PUBLIC HEARING

029 DEBBIE JUUL-HARTMAN, BENEFITS ANALYST, STATE EMPLOYEE BENEFITS  
BOARD, EXECUTIVE DEPARTMENT (EXHIBIT A.) - Details Exhibit A. CHAIR  
KERANS: Did we have to do this by statute in order to come to this  
effect? Did you analyze to see if you could do this by rule or some  
other way. 075 HARTMAN: We did go to the Attorney General's office  
and they suggested that we change statute.

TAPE 5, SIDE A

SB 56 - WORK SESSION 105 MOTION: SENATOR HILL moves SB 56 to the floor  
with a "do pass" recommendation.

VOTE: Hearing no objections, the motion carries.

TAPE 5, SIDE A

SB 54 - CREATES INTEREST BEARING ACCOUNT FOR STATE EMPLOYEE BENEFITS  
BOARDS, PUBLIC HEARING

122 JIM McINTOSH, ADMINISTRATOR, STATE EMPLOYEES' BENEFITS BOARD  
(EXHIBIT B) - Details Exhibit B.

SENATOR HILL: I submitted the rough draft of this bill to Legislative Counsel, and got an opinion back January 24, and I would like to read it into the record (EXHIBIT C). Senate Committee on Labor January 28, 1991Page 3

SENATOR KINTIGH: Is this completely self-insuring? We would not be buying insurance from an insurance group?

McINTOSH: The bill does not really address whether or not a specific carrier would continue to exist, like SelectCare. It's possible that self-insurance could be applied on a broad scale for the entire program. My best guess is that SEBB has, in the past, had a philosophy of trying to set up a program that would provide for choices between systems. And you really can't do that with self-insuring, so that the best I can tell you is that I would presume that following along with that philosophy that the first step at least would more likely self-insure with the indemnity plan.

SENATOR KINTIGH: It seems to me that it would not work to insure a small group. It wouldn't pay would it? The risk would not be spread broadly enough.

McINTOSH: You are correct, part of the ability to self-insure comes from having a large amount of premium dollars to cover risk. I would point out that with the indemnity program alone in the case of SEBB, that's approximately 100 million, and that doesn't contemplate any change with respect to the health maintenance organization.

246 SENATOR SHOEMAKER: Under a self-insurance program you would feel limited to an indemnity program as opposed to an HMO program as an alternative? Or did I hear something incorrectly?

McINTOSH: I would not feel limited to just the indemnity program. I was suggesting that in terms of the SEBB the likelihood of what would happen with self-insurance on January 1, 1993, at least would probably be the indemnity plan. But it may also include some health maintenance types of approaches.

SENATOR SHOEMAKER: I would encourage you to look closely at that because we as a state are moving towards managed care, which often is prepaid and not always HMO but often HMO way of providing benefits conceived to be less costly than an indemnity program. So I would hope you wouldn't feel constrained legally or otherwise to only an indemnity program.

McINTOSH: That is the direction SEBB is moving as well.

CHUCK MENDENHAL, CHAIR, BARGAINING UNIT BENEFITS BOARD: We insure approximately 16,000 state employees, which is the balance of the state population. Just to clarify again, so that I don't think there will be

any miscommunication, the bill really is not the vehicle that creates the self-insurance situation for state employees. The bill does however, put the necessary fiscal issues in place to accomplish that once a policy decision would be made in some future time for self-insurance or direct contracting. So this basically is an administrative procedure setting up some fiscal networks allowing us to do that.

276 CHAIR KERANS: Tell me how it would work in practical terms. We pass Senate Bill 54 with the caveat included in the amendments to further delineate the responsibilities and the risk, and you're out there operating in the self-insured mode, is it safe to assume that you will then go out and contract with the same people you're dealing with now for claims administration and other portions of the work? Or are we not going to see them at all because you are going to take on some vast new empire and huge numbers of employees and ask us to raise the limitation on the -

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number of state employees so we can get this new set of claims adjusters and all the rest of the people connected with it onto our payroll? How's it going to work?

McINTOSH: There shouldn't be any major changes.

CHAIR KERANS: It will be the same.

McINTOSH: It would not drive changes in terms of state contributions by itself to self-insure. If anything, if we decide to move with self-insuring, it in fact would lower the amount of state contribution which would be necessary, not increase it, and also lower premium costs for those employees who have out of pocket costs for premiums, so it would be of some benefit to both groups. Currently, when we bid our program to insurance carriers, we have a much more limited market than we would have if we were self-insured. We believe that we may be able to drive better prices for the administration, claims administration and other types of administrative work that has to be done, which would lower premiums. We also assume the risk ourselves. We believe that this should engender some savings. 325 CHAIR KERANS: For purposes of the record, let's define stop-loss or excess insurance.

McINTOSH: Stop-loss insurance would be insurance that we would purchase on an aggregate basis which would simply provide some umbrella coverage for us so that anything unanticipated happen, that the costs of covering some abnormal level of claims would not come out of the account but would be insured.

McINTOSH: There is also the potential for interest earnings on the float of dollars - cash flow types of savings. Essentially, what happens is we pay premiums out to an insurance carrier, there is a lag between when those premium dollars are used to pay claims. We would suggest if we do move into a self-insuring type of program, that in fact that lag of dollars can be used by the state to generate interest to offset benefit costs.

364 MENDENHALL: This allows us to break down a portion of the premium into components that we can probably control a little bit better. When a premium goes to an insurance company, part of it is obviously for claims costs. That portion really doesn't change with self-insurance. The

portion that does change is the part of the premium that goes to address reserves and administrative costs, and the portion that you pay for risk assumption. Those areas we believe can potentially be more efficiently handled under a self-insured arrangement. But what we have to prove is that we can be more efficient than perhaps an insurance carrier or a number of insurance carriers. We would be able to pick and choose among risk, claims payment and some other part of the administrative parts of the formula among the more efficient delivery systems in the state.

TAPE 6, SIDE A.

CHAIR KERANS: Asks witness if he was involved with the study, and if so, to identify himself for the record.

029 PETE LAMAUREUX, ACTUARY, SEDGWICK JAMES CONSULTING FIRM Senate Committee on Labor January 28, 1991Page S

CHAIR KERANS: Did you make an analysis of what sort of risk benefit this arrangement would mean to the state as far as the potential of any excess.

LAMAUREUX: The potential risk to the state is pretty slim because for years and years they have been doing virtually the same thing as being self-insured. Under a self-insured group right now, what you're doing is paying premiums in this year and primarily those have been enough to cover the claims plus the reserve. It would do the same type of underwriting. Any excess monies have been returned to the state after reserves and claims are paid and administrative expenses.

CHAIR KERANS: But that's been a windfall wipeout arrangement with the carriers, hasn't

LaMAUREUX: That's right.

CHAIR KERANS: Requests explanation of the amendments.

050 TALBOTT: The first two sections that they're amending are not currently in the bill, so that's why they're set out. And Section 5 needs to be amended because it only relates as it's currently written to health benefits, and they're now changing the definition of health benefit plan to benefit plan, and broadening what's covered by that term. In addition, Section 12 needs to be amended to make the same sorts of changes that Section 5 makes regarding BUBB, and that doesn't show up there.

CHAIR KERANS: Do the amendments meet with your approval.

McINTOSH: I was the author, so there is not much I can say.

MENDENHALL: I find the language redundant. There is a constitutional prohibition against doing this, all we're doing is putting it in statute.

CHAIR KERANS: Are we hurting anything by being redundant?

MENDENHALL: I am a little anxious about the specificity of the funds and the relationship of those funds to the expenditure limits.

082 SENATOR HILL: Are they inside or outside the current expenditure limitation?

MENDENHALL: The funds that we have are currently outside the expenditure limitation.

SENATOR HILL: Funds appropriated to SEBB and BUBB are now outside?

CHAIR KERANS: But that may not be true here.

MENDENHALL: I just asked to clarify.

CHAIR KERANS: We're going to do that. Counsel is making a note and we will find out.

SENATOR SHOEMAKER: Does the Attorney General's office have a position on this kind

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of thing, because it has come up frequently, and it might be worth checking to see whether or not as a matter of policy they advised for or against providing in the statute what the constitution already requires.

TALBOTT: This has been run by Kathleen Beaufait, not the AG, is that correct?

McINTOSH: This has been run by the AG's office on an informal basis, and the person who reviewed it concurred.

CHAIR KERANS: We will get the whole thing put together in proper form and style so that we can see the entire bill.

122 SENATOR HILL: Does the language in these bills allow both SEBB and BUBB to jointly purchase the self-insurance program to pool the administration of the funds in any way? Or are they envisioned as separate self-insurance programs.

McINTOSH: I envision it as being separate programs, at least that is what the bill as written contemplates. MENDENHALL: I don't see anything to prohibit that from happening. One other thought for counsel, Elizabeth Stockdale from the Attorney General's Office has written an opinion on self-insurance that specifically relates to BUBB and SEBB, and you might want to reference that.

155 MARK W. NELSON, PUBLIC AFFAIRS COUNSEL, REPRESENTING THE ASSOCIATION OF OREGON FACULTIES AND THE OREGON CHAPTER OF THE NATIONAL ASSOCIATION OF SOCIAL WORKERS: -SB 54 in both Sections 5 and 12 make it clear that the SEBB and BUBB will be authorized to become a self-insurer. When you put that in very simple terms, basically the state would then determine the amount of money that they would have available to purchase health insurance, write a benefit plan that from underwriting points of view meet that dollar amount. And it does provide some opportunity for the entity involved to develop some cost saving kinds of measures. Our concern is the fact that self-insured policies in the State of Oregon do not have to comply with the state mandates. -State mandates include alcohol and drug, mental health, maternity benefits, psychologists, psychiatrists, etc. I have been told that that

was not the intent of the Executive Department. -We urge the committee to include language which mandates that the self-insured policies include the mandates. -We feel that by passage of the bill as it currently stands, it would give the State of Oregon the authority to reduce all benefit packages by the mandates and more if they chose. -We would assume that the unions involved in these collective bargaining units would try to negotiate those benefits back in to their health insurance. CHAIR KERANS: The interest of the Chair is to have a complete LC draft of the bill with the amendments brought by SEBB and the further changes recommended by Counsel, but not including the one just suggested by Mr. Nelson. I would hope he would bring it in form and style so that we could take it up at that time, and that would then come back for a brief comment period and then a work session. Senate Committee on Labor January 28, 1991 - Page 7

SENATOR SHOEMAKER: Does ERISA apply to a public employer?

NELSON: I believe that the State of Oregon can self-insure at the same time impose the condition upon themselves and have to cover the mandates.

SENATOR SHOEMAKER: That wouldn't relate to a benefit plan so as to run afoul of the ERISA preemptions?

NELSON: I believe that current self-insurers can apply all the mandates to their benefits, they are not required to do so because they come under ERISA, and following that same philosophy, I believe the state, if they are self-insured, can require that their self-insured policies cover state mandated benefits, but they would not be required to do so under ERISA.

235 SENATOR SHOEMAKER: Is the legislature in the same position as the employer in that case? Are we the employer so we can then impose the mandates on the State Executive Department in terms of the particular employer?

McINTOSH: I believe the answer is clearly yes. I think the legislature has the authority to tell the Executive Department what is going to be.

SENATOR SHOEMAKER: And not be pre-empted by ERISA.

AL THOMPSON, STANDARD INSURANCE COMPANY: One thought I have is about savings on selfinsurance when there is a lag on claims. There is no such thing as a free lunch, those claims eventually catch up on the other end. -The second thing is in sub 4 of section 1, in changing the definition of health benefit plan to benefit plan, this also would authorize the state to self-insure in the fields of life insurance, accidental death and disability income. So it's more than just health insurance you're granting authority on here.

CHAIR KERANS: We will carry this bill over until next week at the earliest.

TAPE 6, SIDE 1

SB 57 - EXEMPTS REEMPLOYMENT ASSISTANCE FUNDS FROM EXPENDITURE LIMITATION. WORK SESSION.

373 MOTION: SENATOR SHOEMAKER moved SB 57 to the Ways and Means Committee with a "do pass" recommendation. VOTE: Hearing no objections,

motion carries. 412 CHAIR KERANS adjourned the meeting at 4:08 p.m.

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Submitted by:      Reviewed by: Roberta White      Annette Talbott  
Assistant              Committee Counsel

EXHIBIT LOG: A - Introduction of Committee Bills - Staff- 1 page B -  
Testimony on SB 56 - Debbie Juul-Hartman - 1 page C - Testimony on HB 54  
- Jim McIntosh - 1 page D - Legislative Counsel Opinion - Kathleen  
Beaufait, Chief Deputy Counsel, 1 page E - Staff Measure Summaries -  
Staff - 2 pages

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