

SENATE COMMITTEE ON LABOR

March 27, 1991
p.m.

Hearing Room SO 03:00

Tapes 44 - 46 MEMBERS PRESENT:

SEN. GRATTAN

KERANS, CHAIR SEN. LARRY HILL, VICE-CHAIR SEN. PETER BROCKMAN SEN. BOB
KINTIGH SEN. BOB SHOEMAKER STAFF PRESENT: ANNETTE TALBOTT, COMMIIIEE
COUNSEL ROBERTA WHIL E, COMMILITEE ASSISTANT MEASURES CONSIDERED:SB
39 - FAMILY MEDICAL LEAVE - PUBLIC HEARING

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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 44, SIDE A

WITNESSES: MARY WENDY ROBERTS, COMMISSIONER, BUREAU OF LABOR AND
INDUSTRIES MARI ANNE GEST, OREGON SCHOOL EMPLOYEES ASSOCIATION JEANINE
MEYER RODRIGUEZ, OREGON PUBLIC EMPLOYEES UNION DON SATCHELL, OREGON
EDUCATION ASSOCIATION AMY KLARE, AFL-CIO BOB CASTAGNA, OREGON CATHOLIC
CONFERENCE KARL FREDERICK, ASSOCIATION OF OREGON INDUSTRIES LISA
TRUSSELL, NORPAC FOODS AND OREGON FOOD PROCESSORS JOE GILLIAM, NATIONAL
FEDERATION OF INDEPENDENT BUSINESSES KATE BROWN, WOMEN'S RIGHTS
COALITION LAURIE WIMMER, COMMITTEE FOR WOMEN FRANK BRAWN ER, OREGON
BANKERS ASSOCIATION ROBIN SCHMIDT, OREGON COMMISSION FOR CHILD CARE JIM
DAVIS, UNITED SENIORS, OREGON STATE COUNCIL OF SENIOR CITIZENS MARIA
KELTNER, ASSOCIATION OF OREGON COUNTIES/LEAGUE OF OREGON CITIES KAREN
HAFNER, OREGON SCHOOL BOARDS ASSOCIATION PAM EDENS, ALZHEIMER'S
ASSOCIATION MARYBOTKIN, AMERICAN FEDERATION OF STATE, COUNTY AND
MUNICIPAL EMPLOYEES MARILYN COFFEL, DIRECTOR, INTERGOVE:IINMhTAL
RELATIONS, BUREAU OF LABOR AND INDUSTRIES 001 CHAIR KERANS called the
meeting to order at 3:14 p.m. SB 39 - FAMILY MEDICAL LEAVE - PUBLIC
HEARING

004 MARY WENDY ROBERTS, COMMISSIONER, BUREAU OF LABOR AND INDUSTRIES
(EXHIBIT A): > Details Exhibit A. > Testifies in support of SB 39. 085
ANNEITE TALBOTT, COMMITTEE COUNSEL: > Introduces amendment to SB 39
(Exhibit B). 106 SENATOR SHOEMAKER: It doesn't seem to require any
showing of need that the family situation requires or that this would be
substantially improved by this particular employee taking the family
medical leave. Was that intentional? MARILYN COFFEL, DIRECTOR,
INTERGOVERINlfENTAL RELATIONS, BUREAU OF LABOR AND INDUSTRIES: Are you
asking for a doctor's certification?

SENATOR SHOEMAKER: The measure doesn't seem to require the family member
be needed at home. It seems to me the possibility of abuse occurs when
the other spouse is at home - that would leave it open that both spouses
be at home.

ROBERTS: On page 2, line 4, "the employer is not required to grant an
employee a family medical leave of absence during the period of time in
which another family member is also taking family medical leave of
absence, pursuant to this section". SENATOR SHOEMAKER: I saw that, but
what if the other family member is not employed?

131 COFFEL: This brings up some of the same problems we discussed in
connection with parental leave, and having researched this, several
states indicated to me that doctors' certifications were not an
effective system, and they were finding as a practical matter that
people whose family members had serious health conditions were basically

getting materials in terms of documentation to their employers to substantiate the condition. I suppose we can address the issue of someone already at home on the record if you would feel more comfortable with that.

ROBERTS: The bill does not prohibit asking questions or denying the request. The employer can ask for verification of some sort if it is necessary. It just says that they may not deny the employee the right to take the leave if that is the situation.

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CHAIR KERANS: What did we do with parental leave as far as request - that's not oral or written is it? COFFEL: > By rule we felt that a written request was necessary in parental leave. > One of the reasons I put oral in the bill is because of emergency situations. 200 CHAIR KERANS: We also might give a time period for which the written documentation could be submitted after the commencement of a medical leave.

215 MARI ANNE GEST, OREGON SCHOOL EMPLOYEES ASSOCIATION (EXHIBIT C) > Details Exhibit C. > Testifies in favor of SB 39. 260 DON SATCHELL, OEA > Testifies in favor of SB 39 > Currently illegal for teachers to negotiate for this provision during contract negotiations. 288 AMY KLARE, AFL-CIO (EXHIBIT D) > Details Exhibit D. > Testifies in favor of SB 39.

411 BOB CASTAGNA, OREGON CATHOLIC CONFERENCE (EXHIBIT E) > Details Exhibit E. > Testifies in favor of SB 39.

TAPE 45, SIDE A 001 CASTAGNA, CONTINUED > Continues to Detail Exhibit E. 040 KARL FREDERICK, ASSOCIATION OF OREGON INDUSTRIES (EXHIBIT F) > Details Exhibit F. > Testifies in opposition to SB 39. 079 LISA TRUSSELL, HUMAN RESOURCE MANAGER, NORPAC FOODS, INC., AND OREGON FOOD PROCESSORS COUNCIL > Testifies in opposition to SB 39.

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110 SENATOR HILL: I'm trying to understand where the additional burden is of this bill. Whether or not this law is in effect, in an emergency situation, the employee will take leave, so where is your savings if the law is not in effect?

134 TRUSSELL: The costs and the burdens are that you have to train somebody, you have to either pay overtime or you have to reassign the

world to somebody. CHAIR KERANS: The child is sick and the employee you have hired is not present, what is your point? TRUSSELL: My point is that there are costs involved. The extra burden is on the other workers. 147 CHAIR KERANS: But you just said that if there was a case where somebody had to be home, your employee would be absent from work. What's the difference between the two? If your employee is home with a sick dependent under your current policy, there is a burden to you is there not? TRUSSELL: Our company would make arrangements for specific conditions, but we have a sick leave policy that applies to certain conditions, and we've also offered personal leaves for other things, but they've been done in connection with our operation on a specific set of circumstances. It hasn't been blanket, because it depends on our operational needs at the time. CHAIR KERANS: Have you ever turned anybody down who came to you with a critical medical leave issue? TRUSSELL: I'm not aware that we've turned them down. We've let them have the time off, but it's been when it has fit in with our operations needs, also. That is taken into consideration before we grant any leaves.

176 CHAIR KERANS: So I'm trying to figure out where you get a cost that is associated with a policy that says a certain segment of employees is covered by this. SENATOR HILL: I think that's been handled earlier. We agree with your concerns, but we would like to have employees protected under circumstances which constitute a crisis. 214 CHAIR KERANS: Would written verification of medical need help your objections? FREDERICK: It makes it a more moderate proposal, but we would have to consider exactly what you're talking about, and then also look at the threshold level, which we consider very critical. 240 JIM DAVIS, UNITED SENIORS OF OREGON, AND THE OREGON STATE COUNCIL OF SENIOR CITIZENS > Testifies in favor of SB 39.

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300 JEANINE MEYER RODRIGUEZ, OREGON PUBLIC EMPLOYEES UNION (EXHIBIT)

> Details Exhibit G. > Testifies in favor of SB 39. 399 ROBIN L. SCHMIDT, OREGON COMMISSIONER FOR CHILD CARE (EXHIBIT H) > Details Exhibit H. > Testifies in support of SB 39. . TAPE 44, SIDE B 001 SCHMIDT, CONTINUED > Continues to detail Exhibit H. 028 MIKE McCALLUM, OREGON RESTAURANT ASSOCIATION > Testifies in opposition to SB 39. > Does not believe there is a need for this legislation because employers already meet this need. 075 JOE GILLIAM, NATIONAL FEDERATION OF INDEPENDENT BUSINESS > Testifies in opposition to SB 39. 167 SENATOR HILL: If the person is going to be gone regardless of whether the law is enacted or not, in most cases all benefits don't extend to people who are new or on temporary status, so the full impact of those costs, except for assessments required by law, probably wouldn't apply to a temporary worker on somebody on probationary status. You would have the other costs anyway. Overall, your costs are less if the person comes back rather than be terminated by the employer. 312 GILLIAM: My point is that all employers should have the flexibility to offer what they can in terms of leave and benefits of which they are capable. I believe that employers do that already. CHAIR KERANS: I think it is legitimate to say that there can be a documented

need for replacing someone who is off for an extended family medical leave. The bottom line is that if an employee is going to be terminated, you will have the same costs whether or not this bill becomes law.

364 GILLIAM: There is always a cost to termination, that's true. My point is the flexibility which should be available to the employer. 384

SENATOR HILL: Just as you argue for flexibility for the employer, I would argue that there is a need for the same flexibility, guaranteed income to support the family, on the family side of the equation. People, especially low-income folks, are not going to take 12 weeks of without pay with no unemployment insurance. They just can't afford it - they are not going to take more time off than they have to. There is no guarantee at this time that there is a balance at all for the employee, it is all at the discretion of the employer. > You have yet to prove that the costs you are citing will not occur anyway. TAPE 45, SIDE B
lllclse minutes contain tmaterials which paraphrase and/of rutnrnarize statetnents made during tthis ressession. Only text enclosed in quotation math report a speaker's exact words. For complete contcnts of the ptoceedings, please refer to the tepee. 020 KATE BROWN, WOMEN RIGHTS COALITION (EXHIBIT I) Details Exhibit I. > Testifies in favor of SB 39.

037 MARY BOTKIN, AFSCME, COUNCIL 75 > Testifies in favor of SB 39. 167 LAURIE WIMMER, DIRECTOR, COMMISSION FOR WOMEN (EXHIBIT J) Detail Exhibit J. > Testifies in favor of SB 39. SENATOR SHOEMAKER: Could we have input from collective bargaining agreements to help draft language to help protect against abuse? CHAIR KERANS: We will ask Counsel to request such language from those contracts which address this issue. TALBOTT: It was my understanding that the medical verification was to be that there is a serious health condition, not necessarily whether or not there was a need for that person to stay there.

SENATOR SHOEMAKER: My thought was broader than that - that there is a serious health condition and that the employee's presence is needed because of it. And that need could be emotional as well as physical. 236

FRANK BRAUNER, OREGON BANKERS ASSOCIATION (EXHIBIT S K AND L) > Details Exhibit K. > Testifies in support of SB 39 with amendment (Exhibit L). > Concerned with the disappearance of sick leave in the work place. TAPE 46, SIDE A

001 BRAUNER, CONTINUED > Continues to detail Exhibit K. 183 CHAIR KERANS: Is your organization sponsoring a bill in the house to repeal parental leave? BRAUNER: The Bankers Association is not interested in repealing parental leave. It is interested in preserving sick leave, and the amendments on the house side for parental leave and pregnancy leave, the wording is the same as what we have presented in this amendment to this bill. 220 MARIA KELTNER, AOC/LOC: > Tesffies about SB 39. > Cities and counties are opposed, generally to additional mandates for government. > These organizations have not taken a position on this bill. > Local governments believe that these issues can be dealt with more effectively through , collective bargaining than at law.

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295 PAM EDENS, ALZHEIMER'S ASSOCIATION (EXHIBIT M) > Details Exhibit M. ~ Testifies about SB 39. 352 SENATOR SHOEMAKER: Residential care facility excludes a nursing home. Check to make sure that the language of the bill encompasses all facilities in question.

373 The meeting was adjourned at 5:30 p.m. Submitted by: Reviewed
by:

Roberta White Annette Talbott Assistant Committee Counsel

EXHIBIT LOG: A - Testimony on SB 39 - Mary Wendy Roberts - 26 pages B - Amendments to SB 39 - Staff- 1 pages C - Testimony on SB 39 - Mari Anne Gest - 3 pages D - Testimony on SB 39 - Amy Klare - 2 pages E - Testimony on SB 39 - Bob Castagna - 2 pages F - Testimony on SB 39 - Karl Frederick - 1 page G - Testimony on SB 39 - Jeanine Meyer Rodriguez - 1 page H - Testimony on SB 39 - Robin Schmidt - 1 page I - Testimony on SB 39 - Kate Brown - 1 page 11 - Testimony on SB 39 - Laurie Wimmer - 1 page K - Testimony on SB 39 - Frank Brawner - 8 pages L - Amendments on SB 39 - Oregon Bankers Association - 3 pages M - Testimony on SB 39 - Pam Edens - 1 page N - Preliminary Staff Measure Summary of SB 39 - Staff - 1 page O - Fiscal Analysis of SB 39 - Legislative Fiscal - 1 page P - Letter submitted on SB 39 subsequent to the hearing - Karen Hafner - 1 page Q - Support Material on SB 39 - Jeanine Meyer Rodriguez - 5 pages

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