

SENATE COMMITTEE ON LABOR

March 29, 1991 Hearing Room 50 03:00 p.m. Tapes 48 - 49
MEMBERS PRESENT: SEN. GRATTAN KERANS, CHAIR SEN. LARRY HILL,
VICE-CHAIR SEN. PETER BROCKMAN SEN. BOB KINTIGH SEN. BOB SHOEMAKER

STAFF PRESENT: ANNETTE TALBOTT, COMMITTEE COUNSEL ROBERTA WHITE,
COMMITTEE ASSISTANT MEASURES CONSIDERED: SB 962 - INJURED WORKERS'
MEMORIAL - PUBLIC HEARING OVERVIEW - OR-OSHA - INFORMATIONAL HEARING

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 48, SIDE A

001 CHAIR KERANS called the meeting to order at 3:09 p.m. WITNESSES:
IRV FLETCHER, AFL-CIO JACK POMPEI, DIRECTOR, OR-OSHA SB 962 - WORKERS'
MEMORIAL - PUBLIC HEARING

010 IRV FLETCHER, AFL-CIO (EXHIBIT A) > Details Exhibit A. >
Testifies in favor of SB 962 with amendment. > Requests that the bill go
to the Governor before April 28, Workers' Memorial Day. 032 SENATOR
KINTIGH: What do you envision as the type of memorial? 044 FLETCHER:
I don't have anything particular in mind. Whatever the majority of the
committee, plus the Director of the Department of Insurance and Finance,
agree upon will be fine with me. A living memorial would be very
satisfactory to me. 045 CHAIR KERANS: Can you tell us about the SAIF
Education and Training Advisory Committee and who that is? FLETCHER: The
Director of Insurance and Finance appoints the membership, and it
consists Senate Committee on Labor March 29, 1991- P - e 2

of three management members and three labor. > Currently they also
advise on the expenditure of the grant money.

CHAIR KERANS: How much is in the penalty fund that goes to grants? JACK
POMPEI, ADMINISTRATOR, OR-OSHA, DEPARTMENT OF INSURANCE AND FINANCE >
Approximately \$400,000 of penalty money per biennium is allotted to our
grant program.

CHAIR BRANS: How much has been allocated and how much of that has been
spoken for. . POMPEI: Approximately \$330,000 has been given out since
our last session. 069 CHAIR KERANS: So some small amount taken from
this would not have an undo impact on the grant program or otherwise
prevent some program from being funded.

ANNETTE TALBOTT, COMMITTEE COUNSEL: It doesn't come out of the grant
program, it funds itself from civil penalties, and that's a broader pot
of money.

POMPEI: We take in about \$2.5 - \$3 million dollars a year in civil
penalties. It goes into the General Workers' Comp Assessment Reserve
Fund.

097 FLETCHER: I think you need a clarification on an earlier question
about whether or not this is an annual affair or is it going to be a
one-time shot.

SENATOR KINTIGH: I was thinking in terms of a scholarship fund which could be added to, and keep the principle there and use the interest each year for a scholarship.

142 CHAIR KERANS: How much do you want to put on that line, Mr. Fletcher? SENATOR BROCKMAN: So, you are going to be using money that would otherwise be used to pay injured worker claims?

POMPEI: We have an assessment fund at Department of Insurance and Finance which is currently at 4.5%. Self-insured employers pay into this and all insurance carriers pay into this to run the administration of worker compensation and the Oregon OSHA Division. It has nothing to do with funds paid in workers' compensation. The money accrued from the OSHA penalties also goes into this. That is what keeps the assessment at the 4.5%.

FLETCHER: The committee would recommend \$25,000.

183 CHAIR KERANS: So the committee will then determine what type of memorial will be designated. FLETCHER: That's right.

TAPE 47, SIDE A - These minutes contain materials which paraphrase and/or summarize abtternente made dq thi. aeesiorl. Only text enclosed in quotation marks report n spealcer's exnct words. For complete contents of the proceeding., please refer to the tapea. Senate Committee on Labor March 29, 1991 - Page 3

SB 962 - WORKER'S MEMORIAL - WORK SESSION:

198 MOTION: SENATOR KERANS moves that the "-1" amendments to SB 962 be adopted. This would include inserting \$25,000 in the blank on line 8.

205 VOTE: Hearing no objection, the motion carries. 206 MOIION: CHAIR KERANS moves SB 962 as amended to the floor with a "do pass" recommendation, and request the subsequent referral to the Judiciary Committee be rescinded. 222 VOTE: Hearing no objection, the motion carries.

OVERVIEW - JACK POMPEI ADMINISTRATOR - OREGON-OCCUPATIONAL SAFETY AND HEALTH ADMINISTRATION - DEPARTMENT OF INSURANCE AND FINANCE

240 JACK POMPEI, ADMINISTRATOR, OR-OSHA, DEPARTMENT OF INSURANCE AND FINANCE (EXHIBIT B) > Details Exhibit B. 281 SENATOR KINTIGH: Do you maintain your own laboratory?

POMPEI: We have a very good lab in Portland. > We will lose that lab, and now we are trying to find another space. I see some down time, and I would much prefer to have our lab up and running than farming out our work to other states. SENATOR KINTIGH: I was thinking you would use the health department lab, state police, or someone else or both. Why do you have your own?

POMPEI: We have our own lab because most hygiene sampling has to do with very stringent legal system of involvement with OSHA citations. We have to follow a legal system of an informal, formal appeals court/supreme court. Therefore, our laboratory involvement has to do with constant evaluation and utilization of equipment. The health department and agriculture department do not have labs that do this kind of work. Most large states have their own industrial hygiene laboratories.

357 SENATOR HILL: We have a health department lab, we have OHSU, plus

Croat, we have DEQ labs in the Portland area, and I would like to see why we can't make a consolidated lab work for each of those agencies, or at least see if we can locate OR-OSHA's lab up on pill hill adjacent to Croat or as part of Croat. Why can't we do that? POMPEI: The problem is that we are under a lot of legal parameters, and I don't want to get in a fight with OHSU in getting an analysis out in time to meet a deadline on a case.

383 CHAIR KERANS: Are you telling us that your lab will not be located in the new building?

POMPEI: Yes it will. I have federally designated Sands for this lab, and I cannot work in . . . 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. Senate Committee on Labor March 29, 1991- Page 4

concert with any other lab. SENATOR HILL: Are the funds conditioned upon having a separate physical facility that does nothing else but occupational health and safety lab work?

POMPEI: That's all that we do.

SENATOR HILL: Is that what the federal funds are conditioned upon?

POMPEI: That is correct. . . CHAIR KERANS: Maybe we should ask the fiscal analyst for the workers' comp/OROSHA budgets to examine the possibility of co-locating some of these things to allow them to have access to all of the equipment of others and the use of staff expertise and equipment allowed by laws governing the fund.

TAPE 49, SIDE A

002 POMPEI: I have had a very straight letter from the federal government telling me that I could not allow other agencies access to our equipment. I do not want to run the risk of ruining a good relationship with the federal government. 020 CHAIR KERANS: Discusses the hiring process of investigators for OR-OSHA. Requests that once they are hired they appear before the committee to give an overview of their philosophy, their duties, and what we can expect to find in the coming years as a result of their activity. He would like to have that done before the session is over.

049 TALBOTT: Do you have a plan of attack in terms of how these investigative teams will proceed? Will they interact with the local district attorneys, the attorneys general, etc.? POMPEI: When our compliance people are involved in a major investigation due to a serious injury or fatality, and it is involves more than a basic injury or fatality due to a violation of an OSHA code, our criminal investigators will be called in with the compliance staff, and then there is interagency involvement with the attorney general and the local district attorney to look at the possible criminality if we feel that is what is necessary. It all borders on our compliance staff and their involvement with the injury/fatality. TALBOTT: Do you have the interagency agreement drawn up, or will that be the first order of business for the new staff as soon as they are hired?

120 POMPEI: > OR-OSHA already has an attorney general on staff on retainer to represent us. We have our criminal people who have

investigated the case go with our compliance people to the attorney general to discuss our plan to go to the district attorney to possibly open a case on criminality. > Oregon is one of the few states that is doing agricultural safety and health. It is the highest illness and injury rate in the country, and for some reason people have not pursued this. - 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. Senate Committee on Labor March 29, 1991- Page 5

158 CHAIR KERANS: What are you doing in the area of pesticides? Are you working with the Department of Agriculture on that? POMPEI: We do work with the Department of Agriculture, and we are entering into an agreement with them to do the enforcement of pesticides, fungicides, etc. We work very well with the Health Department and Parks Department. > We are involved with the workers and their potential exposure to these substances. We are not involved in the other, more technical problems connected with them.

222 The meeting was adjourned at 3:57 p.m.

Submitted by: Reviewed by:

Roberta White Annette Talbott Assistant Committee Counsel

EXHIBIT LOG:

A - Testimony on SB 962 - Irv Fletcher - 1 pages B - Statistical Information - Jack Pompei - 1 page C - Amendments to SB 962 - Staff- 1 page D - Preliminary Staff Measure Summary on SB 962 - Staff - 1 page E - Fiscal Analysis on SB 962 - Legislative Fiscal Office 1 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.