

SENATE COMMITTEE ON LABOR

June 5, 1991 Hearing Room 50 3:00 p.m. Tapes 132 - 133
MEMBERS PRESENT: SEN. GRATTAN KERANS, CHAIR SEN. LARRY HILL,
VICE-CHAIR SEN. PETER BROCKMAN SEN. BOB KINTIGH SEN. BOB SHOEMAKER
VISITING MEMBERS: REPRESENTATIVE SAM DOMINY SENATOR WAYNE FAWBUSH
REPRESENTATIVE GAIL SHIBLEY REPRESENTATIVE HEIDI RUKIN STAFF
PRESENT: ANNETTE TALBOTT, COMMITTEE COUNSEL ROBERTA WHITE, COMMITTEE
ASSISTANT MEASURES CONSIDERED: SB 1048 - RECONSIDERATION OF SB 1048
HB 2825-- PROHIBITS BARE-HANDED OR RUBBER-GLOVED WORK ON LIVE-LINE
ELECTRICAL WIRES OVER CERTAIN VOLTAGE - WORK SESSION HB 2151 - TRANSFERS
RESPONSIBILITY FOR DEFERRED COMPENSATION PROGRAM FROM ACCOUNTING
DIVISION OF EXECUTIVE DEPARTMENT TO PUBLIC EMPLOYEES' RETIREMENT SYSTEM
- PUBLIC HEARING HB 3333 - REVISES DEFINITION OF "SICK LEAVE" FOR SCHOOL
EMPLOYEES TO ALLOW USE FOR REASONS ALLOWED BY COLLECTIVE BARGAINING -
PUBLIC HEARING HB 3435 - PROHIBITS RETALIATING AGAINST EMPLOYEE WHO IN
GOOD FAITH REPORTED CRIMINAL ACTIVITY BY ANY PERSON, CAUSED
COMPLAINANT'S INFORMATION OR COMPLAINT TO BE FILED AGAINST ANY PERSON,
COOPERATED WITH LAW ENFORCEMENT AGENCY CONDUCTING CRIMINAL INVESTIGATION
- PUBLIC HEARING HB 3237 - EXCLUDES FROM DEFINITION OF FARM LABOR
CONTRACTOR PERSONS WHO OPERATE FARM-WORKER CAMPS, WHO RECRUIT WORKERS
ONLY FOR PERSON'S OWN OPERATIONS AND WHO RECEIVE NO REMUNERATION FROM
ANOTHER EMPLOYER OF WORKER - PUBLIC HEARING

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statements made during this session. Only text enclosed in quotation
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proceedings, please refer to the tapes. Senate Committee on Labor June
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TAPE 132, SIDE A

001 CHAIR KERANS: Calls the meeting to order. (3:12 p.m.)

PUBLIC HEARING ON HB 3435 - PROHIBITS RETALIATING AGAINST EMPLOYEE WHO
IN GOOD FAITH REPORTED CRIMINAL ACTIVITY BY ANY PERSON. CAUSED
COMPLAINANT'S INFORMATION OR COMPLAINT TO BE FILED AGAINST ANY PERSON
COOPERATED WITH LAW ENFORCEMENT AGENCY CONDUCTING CRIMINAL INVESTIGATION
Witness: Representative Heidi Rijkin, House District 4 013
REPRESENTATIVE HEIDI RIJKIN, HOUSE DISTRICT 4: Testifies in support of
HB 3435.

· HB 3435 is designed to help victims of crimes, and those who are
witnesses to crime protect their jobs.

· HB 3435 will increase the chance for law enforcement officials to
gather strong information from witnesses, assuring that those witnesses
jobs won't be threatened by their cooperation.

022 RIJKIN: The bill does three things:

1. Creates unlawful employment practice for an employer if an
employee is discharged, demoted, suspended or discriminated against in
any way because of the employees report of a criminal activity or
cooperating with law enforcement agencies in any way, provided it was
done in good faith.
2. Provides for civil and criminal penalties as are currently allowed
in statute for other unfair employment practices.

3. Doesn't preclude any other common law remedy available to employees if it is being sought by that employee. WORK SESSION ON HB 3435 - PROHIBITS RETALIATING AGAINST EMPLOYEE WHO IN GOOD FAITH REPORTED CRIMINAL ACTIVITY BY ANY PERSON. CAUSED COMPLAINANT'S INFORMATION OR COMPLAINT TO BE FILED AGAINST ANY PERSON. COOPERATED WITH LAW ENFORCEMENT AGENCY CONDUCTING CRIMINAL INVESTIGATION

050 MOTION: SENATOR HILL MOVES HB 3435 AS ENGROSSED TO THE FLOOR WITH A "DO PASS" RECOMMENDATION.

055 VOTE: HEARING NO OBJECTION, THE MOTION CARRIES.

PUBLIC HEARING ON HB 3333 - REVISES DEFINITION OF "SICK LEAVE" FOR SCHOOL EMPLOYEES TO ALLOW USE FOR REASONS ALLOWED BY COLLECTIVE BARGAINING Witnesses: Representative Gail Shilbey, House District 12
Kate Brown, Women's Rights Coalition

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Laurie Wimmer, Executive Director, Oregon Commission for Women Arelen Collins, Chair, AFL-CIO Needs of the Working Family Committee Amy Klare, AFL-CIO Don Satchell, Oregon Education Association, (OEA) Linda Wisher, Oregon Council of Communication Workers of America and Member, AFL-CIO Working Families Committee Paul Crowley, Oregon Public Employees Union, (OPEU) 063 REPRESENTATIVE GAIL SHIBLEY, HOUSE DISTRICT: Testifies in support of HB 3333-A. · HB 3333 addresses the definition of sick leave for school employees only, so that the types of leave under that category may be collectively bargained. · I understand line 9, after "for" needs to include "by law or" and I have no problem with that. · The issue of families being able to care for ill dependents and business being "pro-family" is an important issue and one that this legislative body ought to discuss and codify into law. 124 KATE BROWN, WOMEN'S RIGHTS COALITION: Testifies in support of HB 3333 and submits written testimony, (EXHIBIT A). · We would suggest amending the bill to apply to all public employees; the major opposition was that of mandating or requiring private business to provide leave and this would take care of that issue. 146 LAURIE WIMMER, EXECUTIVE DIRECTOR, OREGON COMMISSION FOR WOMEN: Testifies in support of HB 3333, submits written testimony, (EXHIBIT B) 154 ARELEN COLLINS, CHAIR, AFL-CIO NEEDS OF THE WORKING FAMILY COMMITTEE: Testifies in support of HB 3333. · It is those not covered by bargaining units that I am very concerned about. · I would ask that the original bill be reinstated; if not, I would ask for your support in the next session. 181 AMY KLARE, AFL-CIO: Testifies in support of HB 3333, submits written testimony, (EXHIBIT C). 195 DON SATCHELL, OREGON EDUCATION ASSOCIATION, (OEA): Testifies in support of HB 3333 with a suggested amendment on line nine. · After the word "for", insert "by law or". 243 LINDA WISHER, OREGON COUNCIL OF COMMUNICATION WORKERS OF AMERICAN AND MEMBER OF AFL-CIO WORKING FAMILIES COMMITTEE: Testifies in support of HB 3333, submits written testimony, (EXHIBIT E).

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266 PAUL CROWLEY, OREGON PUBLIC EMPLOYEES UNION, (OPEU): Testifies in

support of HB 3333.

· I would hope that we could go back to the original form of the bill.
WORK SESSION ON HB 3333 - REVISES DEFINITION OF "SICK LEAVE" FOR SCHOOL
EMPLOYEES TO ALLOW USE FOR REASONS ALLOWED BY COLLECTIVE BARGAINING

296 MOTION: CHAIR KERANS MOVES THE CONSENSUS AMENDMENT FOR ADOPTION.
300 VOTE: HEARING NO OBJECTION, THE MOTION CARRIES. 303 MOTION:
CHAIR KERANS MOVES THE BILL AS AMENDED TO THE FLOOR WITH A "DO PASS"
RECOMMENDATION. 305 VOTE: HEARING NO OBJECTION, THE MOTION CARRIES.

RECONSIDERATION OF SB 1048

310 MOTION: CHAIR KERANS MOVES THE RECONSIDERATION OF SB 1048.
311 VOTE: HEARING NO OBJECTION, THE MOTION CARRIES. 312 MOTION:
CHAIR KERANS MOVES THE BILL TO THE FLOOR WITH A "DO PASS"
RECOMMENDATION. 333 VOTE: HEARING NO OBJECTION, THE MOTION CARRIES.
PUBLIC HEARING ON HB 2151 - TRANSFERS RESPONSIBILITY FOR DEFERRED
COMPENSATION PROGRAM FROM ACCOUNTING DIVISION OF EXECUTIVE DEPARTMENT TO
PUBLIC EMPLOYEES' RETIREMENT SYSTEM Witness: Michael Ryan, Executive
Assistant, Treasurer's Office

344 MICHAEL RYAN, EXECUTIVE ASSISTANT, TREASURER'S OFFICE: Testifies in
support of HB 2151, submits written testimony, (EXHIBIT E).

· Details (Exhibit E), describing history behind the bill.

403 RYAN: As of January 29, 1992 the insurance change will take
place; those deposits that the state has in savings institutions will
move, per participant, \$100,000, to an aggregate figure. · HB 2151 is
the work product of a large number of individuals both inside and
outside of state government. 433RYAN: This bill would clearly set up
a management structure for the State of Oregon that defines the
responsibilities for the investment portion of the deferred compensation
program with the Oregon Investment Council. , - Senate Committee on
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· It sets up a management structure for the Public Retirement System and
the PERS board to exercise it's responsibilities as it does in a similar
fashion for the PERS system. · It would allow cities, counties and other
special districts in Oregon that offer deferred compensation programs to
employees, to participate in the potential of the Oregon Investment
Council developing an investment option that would be offered along with
other options available to employees.

· I am not aware of opposition to the bill.

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WORK SESSION ON HB 2151 - TRANSFERS RESPONSIBILITY FOR DEFERRED
COMPENSATION PROGRAM FROM ACCOUNTING DIVISION OF EXECUTIVE DEPARTMENT TO
PUBLIC EMPLOYEES' RETIREMENT SYSTEM

050 MOTION: CHAIR KERANS MOVES THE BILL TO THE FLOOR WITH A "DO PASS"
RECOMMENDATION AND TO RESCIND THE SUBSEQUENT REFERRAL TO WAYS AND MEANS.

054 VOTE: HEARING NO OBJECTIONS, THE MOTION CARRIES. WORK SESSION ON HB
2825 - PROHIBITS BARE-HANDED OR RUBBER-GLOVED WORK ON LIVE LINE
ELECTRICAL WIRES OVER CERTAIN VOLTAGE Witnesses: Greg Teeple,
International Brotherhood of Electical Workers, (IBEW) Pat O'Sullivan,

Oregon Occupational Safety and Health Administration, OR OSHA

076 GREG TEEPLE, INTERNATIONAL BROTHERHOOD OF ELECTRICAL WORKERS, LOCAL 48, (IBEW): The bill codifies what is already in administrative rules at OR-OSHA. Above 5000 volts, you will either "hot stick" the cable or use high voltage tested rubber gloves, not bare hands.

099 PAT O'SULLIVAN, OREGON OCCUPATIONAL SAFETY AND HEALTH ADMINISTRATION, OR-OSHA: There is no inclination to rescind the administrative rule, this simply puts it in statute. SENATOR SHOEMAKER: Do we need this if there is a rule? O'SULLIVAN: We support the bill.

115 MOTION: SENATOR HILL MOVES THE BILL TO THE FLOOR WITH A "DO PASS" RECOMMENDATION. 117 VOTE: HEARING NO OBJECTION, THE MOTION CARRIES.

PUBLIC HEARING ON HB 3237 - EXCLUDES FROM DEFINITION OF FARM LABOR
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CONTRACTOR PERSONS WHO OPERATE FARM-WORKER CAMPS, WHO RECRUIT WORKERS ONLY FOR PERSON'S OWN OPERATIONS AND WHO RECEIVE NO REMUNERATION FROM ANOTHER EMPLOYER OF WORKER Witnesses: Senator Wayne Fawbush, Senate District 28 Michael Dale, Oregon Legal Services, (OLS) Paul Tiffany, Administrator, Wage and Hour Commission, Bureau of Labor and Industries, (BOLI) John McCulley, Tree Fruit Growers Mr. Nelson, Hood River Growers & Shippers Association SENATOR WAYNE FAWBUSH, SENATE DISTRICT 28: Testifies in support of HB 3237.

· This bill clarifies that you can be a farmer and have a farm labor camp, and as long as people are hired primarily to work at your place, they can work other places also without you being a labor contractor.

· Housing is so short in Hood River, if a farmer is willing to let a worker stay in the camp for a short time after the harvest season while working at an odd job, I don't see why we shouldn't let them.

· If the farmer doesn't receive any enumeration, why add additional restraints?

MICHAEL DALE, OREGON LEGAL SERVICE: Submits written testimony, (EXHIBIT F).

· We don't object with a farmer letting someone stay on, if they want to provide that housing; that has nothing to do with the farm labor contractor registration act.

260 DALE: If you have a farm labor camp and you provide workers for another, that makes you a farm labor contractor.

· Explains suggested amendments, see (Exhibit F).

425 CHAIR KERANS: There is something missing on line 5; it should say "if in the event" or "if farm workers".

SENATOR SHOEMAKER: I want to make sure we don't catch a farmer if he hires workers for himself.

DALE: There is a separate exemption in statute for farmers.

TAPE 132, SIDE B

060 PAUL TIFFANY, ADMINISTRATOR, WAGE AND HOUR COMMISSION, BUREAU OF LABOR AND INDUSTRIES: This amendment does codify what our current

position is. · Using the term "farmer" does restrict this; from BOLI's point of view, the A-engrossed version is fine.

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103 JOHN McCULLEY, TREE FRUIT GROWERS: Testifies in support of HB 3237; submits written testimony, (EXHIBIT G). · Details (Exhibit G). 138 McCULLEY: We used "person" to make sure that there are ways that groups of farmers may on a cooperative basis, provide housing and that may not be an individual farmer.

· If it does appear in the bill, we want "farmer" to include "family farm corporations.. 151 McCULLEY: Our bottom line in bringing the bill to you was to make sure that we removed any barriers to providing housing while at the same time, protecting the workers who are residing in that housing.

CHAIR KERANS: If I own land where a farm labor camp is and I'm a contractor, but not an operator or farmer, and I don't want to register or become involved, but want the workers to come work for you on your farm, but I receive enumeration, would BOLI have the ability to crack down? McCULLEY: Yes they do; I think that is enumeration as identified in this bill. 203 ANNETTE TALBOTT, COMMITTEE ADMINISTRATOR: "Any person who operates a farm worker camp, regulated under ORS 658.750, who recruits workers only for the persons own operations, and has farm workers living in the camp who are employed by another on no more than an incidental basis and the person receives no enumeration by virtue of such incidental employment". 223MR. NELSON, HOOD RIVER GROWERS SHIPPERS ASSOCIATION: I'm in favor of the amendment; it is our understanding that all scenarios are covered and we are attempting to establish the exemption and we feel that the safety net catches everything else. 242 DALE: This solves all the problems except the question of farmer vs. person; there are two problems with this. · With that language a person who has workers and lets them work other places yet says they are still their employees would be exempted from all aspects of the farm labor contract law. 389 SENATOR HILL: We are aiming at the person who has their own operations on land they own or control. 485 TIFFANY: For purposes of the farm labor statute, a "farmer" looks at "the production or harvesting of farm products". SENATOR HILL: Including Christmas trees?

TAPE 133, SIDE B

TIFFANY: Christmas trees aren't considered to be agriculture for purposes of the wage and - Senate Committee on Labor June 5, 1991 - Page 8

hour law, but they are considered to be covered this purpose.

077 CHAIR KERANS: If you were to find me, an operator, and I'm on another orchard with a crew that lives at my place, working the crew there for four weeks, then moving to another orchard, and I have contacts for all this, but am not registered as a farm labor contractor, am I exempt because this is full time employment rather than incidental?

TIFFANY: We would assess a civil penalty up to and including an amount sufficient to cover the crime.

DALE: If we strike "person" and use "farmer" we will solve these problems.

McCULLEY: I have no problem with "farmer" if we can agree that it would include associations of farmers as we think that is an important way to allow or create more housing opportunities for people.

175 TALBOTT: I understood the original intent of the bill was to codify an existing BOLI practice which was to allow a farmer who operates a farm camp, and loans the workers out when there isn't work for them, an exemption.

McCULLEY: It wasn't our intent to codify what BOLI was doing; we were trying to allow those arrangements.

WORK SESSION ON HB 3237 - EXCLUDES FROM DEFINITION OF FARM LABOR CONTRACTOR PERSONS WHO OPERATE FARM-WORKER CAMPS. WHO RECRUIT WORKERS ONLY FOR PERSON'S OWN OPERATIONS AND WHO RECEIVE NO REMUNERATION FROM ANOTHER EMPLOYER OF WORKER

MOTION: CHAIR KERANS MOVES THE LANGUAGE "ANY FARMER WHO OPERATES A FARM WORKER CAMP, REGULATED IN ORS 658.750, WHO RECRUITS WORKERS ONLY FOR THE FARMERS OWN OPERATIONS AND HAS FARM WORKERS LIVING IN THE CAMP WHO ARE EMPLOYED BY ANOTHER ON NO MORE THAN AN INCIDENTAL BASIS AND THE FARMER RECEIVES NO ENUMERATION BY VIRTUE OF SUCH INCIDENTAL EMPLOYMENT".

SENATOR HILL: I would suggest hires rather than recruit.

TALBOTT: Recruit, solicit or hires.

VOTE: HEARING NO OBJECTION THE MOTION CARRIES.

211 MOTION: SENATOR HILL MOVES THE BILL AS AMENDED TO THE FLOOR WITH A "DO PASS" RECOMMENDATION. 214 VOTE: HEARING NO OBJECTION, THE MOTION CARRIES. MEMBERS EXCUSED: SENATOR BROCKMAN

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CHAIR KERANS: The meeting is adjourned. (4:50 p.m.)

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

EXHIBIT SUMMARY:

A - HB 3333: Informative material submitted by Brown, pp 2 B - HB 3333: Written testimony submitted by Wimmer, pp 3 C - HB 3333: Written testimony submitted by Klare, pp 3 D - HB 3333: Written testimony submitted by Wisher, pp 1 E - HB 2151: Informative material submitted by Meeker, pp 25 F - HB 3237: Written testimony submitted by Dale, pp 2 G - HB 3237: Written testimony submitted by McCulley, pp 1 H - HB 3435:

Written testimony submitted by O'Donnell, pp 3 I - HB 2151: Written testimony submitted by Bradford, pp S J - HB 3435: SMS submitted by staff, pp 1 K - HB 3333: SMS submitted by staff, pp 1 L - HB 2151: Summary of provisions of bill submitted by staff, pp 1

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