

SENATE COMMITTEE ON LABOR

June 7, 1991 Hearing Room 50 3:00 p.m. Tapes 134- 135 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:HB 2238 - REQUIRES THAT  
PERSON SEEKING RETIREMENT CREDIT IN PUBLIC EMPLOYEES' RETIREMENT SYSTEM  
FOR YEARS SERVED WITH ARMED FORCES BE EMPLOYED BOTH BEFORE AND AFTER  
ENTERING SERVICE BY EMPLOYER PARTICIPATING IN SYSTEM IN POSITION  
NORMALLY REQUIRING 60 HOURS HB 2084 - ESTABLISHES STATE UNEMPLOYMENT  
COMPENSATION BENEFIT RESERVE FUND TO PAY UNEMPLOYMENT COMPENSATION  
BENEFITS AND ADMINISTRATIVE EXPENSES IF UNEMPLOYMENT COMPENSATION TRUST  
FUND BALANCE LAPSES HB 2992 - MODIFIES PROVISION ON MAXIMUM WAGE SUBJECT  
TO GARNISHMENT HB 2081 - REVISES PROCEDURES TO [ILK CLAIM NOTICE AGAINST  
PUBLIC WORK CONTRACTOR'S BOND HB 3017 - INCREASES CIVIL PENALTIES FOR  
VIOLATION OF STATE OCCUPATIONAL SAFETY OR HEALTH RULES HB 2775 -  
REQUIRES WAGES EARNED AND UNPAID AT TIME OF TERMINATION OF EMPLOYMENT TO  
BE APPLIED PURSUANT TO SPECIFIED PROCEDURE HB 3113 - ALLOWS EMPLOYEES  
AND EMPLOYERS TO AGREE TO FLEXIBLE DAILY HOURS OF WORK UP TO 12 HOURS  
DAILY BUT NOT TO EXCEED 40 HOURS WEEKLY

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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 134, SIDE A

001 CHAIR KERANS: Calls the meeting to order. (3:08 p.m.)

PUBLIC HEARING ON HB 3113 - ALLOWS EMPLOYEES AND EMPLOYERS TO AGREE AND  
EMPLOYERS TO AGREE TO FLEXIBLE DAILY HOURS OF WORK UP TO 12 HOURS DAILY  
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BUT NOT TO EXCEED 40 HOURS WEEKLY Witnesses: Commissioner Mary Wendy  
Roberts, Bureau of Labor & Industries, (BOLI) Amy Klare, Oregon AFL-CIO  
Mari Anne Gest, Oregon School Employees Association Jeanine Meyer  
Rodriguez, Oregon Public Employees Union, (OPEU)

015 COMMISSIONER MARY WENDY ROBERTS, BUREAU OF LABOR AND INDUSTRIES,  
(BOLI): Testifies in support of the insertion of SB 39 into HB 3113. ·  
We believe that the family medical leave provisions passed by the Senate  
should have a chance to reach the floor of the House and we would  
support the amendments that enable that to occur. 025 AMY KLARE,  
OREGON AFL-CIO: Testifies in support of the amendment to HB 311 3,  
(Exhibit A). · This is a narrow bill, it is a minimum standard and we  
urge your support. 030 MARI ANNE GEST, OREGON SCHOOL EMPLOYEES  
ASSOCIATION, (OSEA): Testifies in support of amending HB 3113. · We  
believe that SB 39 is important enough that it deserves a vote on it's  
merits so we urge your support. 035 JEANINE MEYER RODRIGUEZ, OREGON  
PUBLIC EMPLOYEES UNION, (OPEU): Testifies in support of amending HB 3113  
with SB 39. · SB 39 is such a basic leave bill that I can't understand  
why there was trouble anyway; I would like to see a vote on this bill. ·  
I think that this will establish some basic leave for some catastrophic  
circumstances that need to be covered. CHAIR KERANS: We will hold HB  
3113 over until Senator Shoemaker can join us and HB 2084 has been set  
over to Monday, June 10, 1991.

WORK SESSION HB 2238 - REQUIRES THAT PERSON SEEKING RETIREMENT CREDIT IN PUBLIC EMPLOYEES' RETIREMENT SYSTEM FOR YEARS SERVED WITH ARMED FORCES BE EMPLOYED BOTH BEFORE AND AFTER ENTERING SERVICE BY EMPLOYER PARTICIPATING IN SYSTEM IN POSITION NORMALLY REQUIRING 60 HOURS

Witnesses: Bob Andrews, Public Employees Retirement System, (PERS)  
055 ANNETTE TALBOTT, COMMITTEE COUNSEL: Explains the A-2 & 9999-97 amendments, (EXHIBIT A & B) to HB 2238. 080 MOTION: CHAIR KERANS MOVES THE (A-2) AMENDMENTS TO THE BILL.

085 BOB ANDREWS, PUBLIC EMPLOYEES RETIREMENT SYSTEM, (PERS): The amendments are to clean up language for the administration of schools. Senate Committee on Labor June 7, 1991- Page 3

VOTE: HEARING NO OBJECTION, THE MOTION CARRIES. Members excused: SENATORS BROCKMAN & SHOEMAKER

098 MOTION: CHAIR KERANS MOVES THE (-97) AMENDMENTS TO HB 2238.  
104 VOTE: HEARING NO OBJECTION THE MOTION CARRIES.

TALBOTT: Mr. Andrews requests the committee rescind the subsequent referral to Ways and Means if the committee feels comfortable as there will be no fiscal impact when done.

ANDREWS: As far as PERS is concerned, there is no impact with HB 2238.

124 MOTION: CHAIR KERANS MOVES HB 2238 AS AMENDED TO THE FLOOR WITH A "DO PASS" RECOMMENDATION AND REQUESTS THAT THE SUBSEQUENT REFERRAL TO THE WAYS AND MEANS COMMITTEE BE RESCINDED. 126 VOTE: HEARING NO OBJECTION, THE MOTION CARRIES. Members excused: SENATORS BROCKMAN & SHOEMAKER

WORK SESSION HB 2081 - REVISES PROCEDURE TO FILE CLAIM NOTICE AGAINST PUBLIC WORKS CONTRACTOR'S BOND 135 ANNETTE TALBOTT, COMMITTEE COUNSEL: There are amendments from the Associated General contractors, (EXHIBIT C), along with a memo from the proponents of the bill in regards to their position, (MISSING).

160 JACK KALINOSKI, EXECUTIVE DIRECTOR, ASSOCIATED GENERAL CONTRACTORS: Testifies in support of the amendments (Exhibit C) to HB 2081. This bill says that if SAIF, the Employment Division or the Department of Revenue has a claim against subcontractor for unpaid taxes or insurance premiums, that they must give notice of claim to the CCB, the surety that wrote the registration bond and the surety that wrote the performance and payment bond for the prime contractor. The notice is simply a letter saying that there is intent to make a claim on the bond. 173 KALINOSKI: This also says that the agencies are to try to recover from the debtors contractors registration bond and if they can't, then they prosecute on the performance of payment bond. CHAIR KERANS: We will be using the registration bond, which is a consumer protection bond, as a debt collection for state agencies whereas before we went against the performance bond, against which a consumer couldn't go. KALINOSKI: The registration bond is a consumer protection bond for homeowners; it isn't intended to be a consumer protection bond for owners of commercial property. 215 DONNA HUNTER, OREGON EMPLOYMENT DIVISION: We have some grave concerns, - These minutes contain material which paraphrase and/or summarize statements made during this session. Only text enclosed in quotation marks report a speaker's exact words. For complete order" of the proceedings, please refer to the tape. Senate Committee on Labor June 7, 1991- Page 4

some of which you have expressed already and those five concerns are listed before you, (EXHIBIT I). 247 CHAIR KERANS: KALINOSKI rebuts that the registration bond for commercial contractor is for consumer protection.

HUNTER: They have first access to it; if there are monies left then non users and non owners can get access to it at a limited amount of \$2,000 per non owner. 275 MOTION: SENATOR HILL MOVES HB 2081 TO THE FLOOR WITH A "DO PASS" RECOMMENDATION. 280 VOTE: IN A ROLL CALL VOTE, THE MOTION CARRIES. Members voting No: SENATOR BROCKMAN & KINTIGH VOTE NAY. WORK SESSION ON HB 3113

289 MOTION: CHAIR KERANS MOVES THE ADOPTION OF THE AMENDMENTS TO HB 3113, DELETING LINES 4 - 21. 315VOTE: THE MOTION CARRIES; SENATORS BROCKMAN AND KINIIGH OBJECT. 319MOTION: CHAIR KERANS MOVES THE BILL AS AMENDED TO 1 HI~; FLOOR WITH A "DO PASS" RECOMMENDATION. 321 VOTE: IN A ROLL CALL VOTE, THE MOTION CARRIES. SENATORS VOTING NO: BROCKMAN & KINTIGH PUBLIC HEARING ON HB 3017 - INCREASES CIVIL PENALTIES FOR VIOLATION OF STATE OCCUPATIONAL SAFETY OR HEALTH RULES Witnesses: Pat O'Sullivan, OR-OSHA 370 PAT O'SULLIVAN, OR-OSHA: Submits informative material, (EXHIBIT D).

· Testifies in support of HB 3017.

· Details (Exhibit D).

430 SEN. SHOEMAKER: What if the state doesn't give statutory penalty authority and therefore not considered as effective as the federal program, what will happen?

O'SULLIVAN: We would negotiate with them; they would want to know why.

· They could pull the program; we are 50% federally funded currently.

WORK SESSION ON HB 3017 - INCREASES CIVIL PENALTIES FOR VIOLATION OF STATE OCCUPATIONAL SAFETY OR HEALTH RULES . . These minutes contain rmaterials which paraphrase ant/or aummanze statornonts made during this session. Only text enclosed in quotation marks report a speaker's exact words. For complete contents of the proceed IgS, please refer to the tapos. Senate Committee on Labor June 7, 1991- Page S

457 MOTION: SENATOR BROCKMAN MOVES THE HB 3017 TO THE FLOOR WITH A "DO PASS" RECOMMENDATION.

461 VOTE: HEARING NO OBJECTION, THE MOTION CARRIES. PUBLIC HEARING ON HB 2992 - MODIFIES PROVISION ON MAXdfUM WAGE SUBJECT TO GARNISEIMENT Witnesses: David Nebel, Oregon Legal Services (OLS) Jim Markee, Oregon Collectors Association Jim Whitty, AOI Retailers Jinx Kline, Proffessional Credit Service David Finch, Constituant

483 DAVID NEBEL, OREGON LEGAL SERVICES: Submib written testimony, (EXHIBIT E).

TAPE 135, SIDE A

035 NEBEL: This bill increases the amount of wages exempt from garnishments by creditors and also lengthens the duration of garnishment from 60 to 90 days.

· Employers are charged with the responsibility of figuring out what the exemption is as the form simply says 40 times the federal minimum wage.

· I would also point out that since the exemption has been increased, the cost of living has increased some 47 %, so it seems that some increase in the amount of the exemption is in order.

065 NEBEL: The House Bill increases the exemption in three steps; this may in effect, constitute a decrease in wages people actually keep if the bill were enacted in this way. CHAIR KERANS: (-A6) amendments are from OLS and (-A7) are my own, (EXHIBIT J). NEBEL: The (-A6) amendments increase the amount of the garnishment exemption, but don't provide for future increases.

· The (-A7) keep the three steps and also provide that in 1994 the exemption would go to 40 times the state minimum wage and there after 40 times the state minimum wage as it may be increased by the legislature.

090 NEBEL: I would combine the amendments so that the exemption goes to \$170 now and increases in 1994.

130 SENATOR HILL: There is a lot of child support that goes unpaid and frequently garnishments are made for support enforcement; this is a chronic problem.

NEBEL: This would not affect child support collections; those are called wage assignments.

· Representative Clark would be supportive to the combination of the amendments.

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NEBEL: This would not affect child support collections; those are called wage assignments.

· Representative Clark would be supportive to the combination of the amendments.

157 SENATOR SHOEMAKER: Is disposable earnings what is left after all tax deductions and all child support garnishments? NEBEL: No; it is defined as any amounts required to be withheld by law. · First taxes come out, then child support comes out and then the exemption status would be applied to determine if there was any other income subject to garnishment. 225 JIM MARKEE, OREGON COLLECTORS ASSOCIATION: Testifies in opposition to the amendments to HB 2992. · The federal government does have an exemption level set at 30 times the federal minimum wage; a state may choose to use that level or adopt anything higher. · We believe that A-engrossed HB 2992 is a reasonable approach to raising the exemption over a period of time. 272 MARKEE: Child support obligations are subject to 100% garnishment; actually they don't have to leave the person anything, but as a matter of course, they do only garnish 25%. · Those are sometimes wage assignments and sometimes garnishments. 300 MARKEE: After taxes you are left with disposable earnings and child support and garnishments come out of that unless you are left with only the statutory exemption. ~ There are many other

obligations people owe to the State of Oregon that are subject to this exemption such as delinquent loans and taxes and every time you raise the exemption levels, less money will come back to the state in those debts. SEN. HILL: We don't want to create a disincentive to work by taking too much; on the other hand, we aren't able to recover at the rate we should. MARKEE: We think we have attempted to create a balance with this bill. · I do oppose the (-A6) amendments; tying the level to 40% of the minimum wage is gross earnings and that creates a situation where you are protecting someone earning more than minimum wage. · Also, when two people work, both get the exemption so the amount doubles in those cases; we have a lot of money exempt in two wage earner families. 480 JIM WHITTY, AOI RETAILERS: We generally don't favor any increase in any exemption as it increases the likelihood that debts won't be paid.

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TAPE 134, SIDE B 043 WHITTY: There would be problems with an automatic increase as any time there is a formula in statute there are problems.

· The employer is the innocent party in the situation, but they are liable if they "mess up" the garnishment; it is difficult to have a mistake result from a set amount in statute.

· AOI generally oppose automatic increases.

062 JINX KLINE, PROFESSIONAL CREDIT SERVICE: Testifies in opposition to the amendments to HB 2992; I am in favor of the bill as is.

080 SENATOR HILL: On the idea of indexing, if we could have guarantees that the minimum wage would be adjusted at decent intervals the linkage could be successful and useful, but if it stays where it is now, I'm not sure that we should link it to the minimum wage. 104 DAVID FINCH, CONSTITUENT: Testifies in opposition to HB 2992; refers to amendments to HB 2992 submitted 4/17/91, labeled (Exhibit M). · The phase in option is acceptable, but I recommend we start at \$170, going to \$180 in two years, avoiding the linkage to minimum wage. · Garnishments could be a contributing factor to homelessness; we feel that there is a right for creditors to collect from those clients who don't attempt to pay, but we think that there needs to be a sufficient amount left for the debtor to continue to maintain the basic household needs. 170 SENATOR SHOEMAKER: In bankruptcy you can also file for a wage earner plan that gives you some protection. FINCH: That is an alternative. SEN. SHOEMAKER: If the exemption isn't adequate to live, the person can go to court for a wage earner plan which would give them more. FINCH: That does work to some degree; in some cases people can't afford attorney fees. 225 FINCH: Our amendment says that in the event that we have a wage assignment where a garnishment comes in, the wage assignment takes precedence over the garnishment. 298 MARKEE: Expresses opposition to the amendment proposed by Finch.

· Nothing in the law for non-profits or profits that says they must include all creditors in a payment plan.

WORK SESSION ON HB 2992 - MODIFIES PROVISION ON MAXIMUM WAGE SUBJECT TO GARNISHMENT

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353 MOTION: SENATOR KINTIGH MOVES HB 2992 A-ENGROSSED TO THE FLOOR WITH A "DO PASS" RECOMMENDATION.

355 VOTE: HEARING NO OBJECTION, THE MOTION CARRIES. PUBLIC HEARING ON HB 2775 - REQUIRES WAGES EARNED AND UNPAID AT TIME OF TERMINATION OF EMPLOYMENT TO BE PAID PURSUANT TO SPECIFIED PROCEDURE Witnesses: Mike McCallum, Oregon Restaurant Association John McCulley, Oregon Fairs Association Joe Gilliam, National Federation of Independent Business, (NEIB) 383 MIKE McCALLUM, OREGON RESTAURANT ASSOCIATION: Testifies in support of HB 2775 and submits written testimony, (EXHIBIT F).

· This would come close to laws in Washington and Idaho; in Washington employees are given their check on the next regular pay day and in Idaho they receive it on the next regular pay day or within ten days.

· We are proposing that when an employee is fired, they get their check immediately unless it is a weekend or holiday in which case the employer has until the end of the first business day.

· If an employee chooses to leave, there would be five business days for the employer to produce the check.

· We have made provisions for contractual arrangements and we have exempted construction and farm workers and have made provisions for fair employers.

450 MCCALLUM: We think these changes will make it possible for employers to comply with the law. 470 JOHN McCULLEY, OREGON FAIRS ASSOCIATION: I have distributed a statement of support, (EXHIBIT G).

· Almost all fairs end on weekend nights; for those smaller fairs, where the county runs the payroll, it takes at least two business days.

TAPE 135, SIDE B 045 JOE GILLIAM, NATIONAL FEDERATION OF INDEPENDENT BUSINESS, (NFIB): Testifies in support of HB 2775; it is important to note that employees get their checks as soon as possible if they are terminated, but if they quit, it gives the employer some time to accommodate the situation.

070 SEN. HILL: What about a termination that doesn't fall under (A), (B) or (C)?

GILLIAM: The intent was that "immediately" means immediately Monday through Friday.

SEN. HILL: We will rewrite sub (1).

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161 TALBOLT: What is your intent concerning "business days"?

McCALLUM: The intent is as defined in other wage law, which says "Monday through Friday except with holidays".

211 CHAIR KERANS: The meeting is adjourned. (4:43 p.m.)

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

EXHIBIT SUMMARY:

A - HB 2238: Amendments submitted by PERS, pp 2 B - HB 2238: Amendments submitted by staff, pp 3 C - HB 2081: Amendments submitted by staff, pp 2 D - HB 3017: Written testimony submitted by O'Sullivan, pp 5 E - HB 2992: Written testimony submitted by Nebel, pp 4 F - HB 2775: Written testimony submitted by Gilliam, pp 3 G - HB 2775: Written testimony submitted by McCulley, pp 2 H - HB 2081: Written testimony submitted by Davie, pp 1 I - HB 2081: Written testimony submitted by Hunter, pp 1 J - HB 2992: Amendments submitted by staff, P1 I 4

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