



**Advisory Council Meeting Minutes
September 21, 2006**

Members:

Diane Boly
Boly/Welch Inc.
Management

Tom Chamberlain
Oregon AFL-CIO
Labor

Al Dorgan
United Steelworks of America
Labor

Faith Dubin
Serena Software
Public

Gwyn Harvey, Chair
Oregon Workforce Investment Board
Public

Sonja Henning
Tonkon Torp LLC
Public

Kathy Nishimoto
Duckwall-Pooley Fruit Co.
Management

Linda Rasmussen
Communications Workers of America
Labor

Tamara Russell
Miller Nash LLP
Management

Patrick Smith
Lane, Coos, Curry, Douglas Building Trades
Labor

Lisa Trussell
Associated Oregon Industries
Management

Vacant
Management

Present

Faith Dubin (via telephone), Sonja Henning (via Telephone), Tamara Russell, Patrick Smith, and Lisa Trussell

Absent

Diane Boly, Tom Chamberlain, Al Dorgan, Gwyn Harvey, Kathy Nishimoto, and Linda Rasmussen

Employment Department Staff

Tom Byerley, Pat Carrothers, Pat Delaval, Rob Edwards, Donna Gould, Rebecca Nance, Lynn Nelson, Graham Slater, and Laurie Warner

Old Business

Minutes

Minutes from June 15, 2006, were approved as submitted.

Place

Employment Department Central Office
875 Union Street NE, Rm 305
Salem, OR 97311

The meeting began at 10:00 am.

COUNCIL BUSINESS

Lisa Trussell, Acting Chair—Welcomed all to the meeting and called for introductions of those present.

FEDERAL BUDGET PICTURE/OED BUDGET AND ATTRITION UPDATE

Pat Carrothers, Fiscal Analyst, distributed two documents regarding OED's estimated FY2007 budget and a current Budget Reduction Tracking Log.

Pat explained that information received from the National Association of State Workforce Agencies (NASWA) was used to estimate where OED's budget will go in 2007. Referring to the first handout, Pat explained that the top portion of the page displays the national picture. The items with arrows are those programs which OED manages. The bottom portion indicates the dollar amounts that Oregon actually received from the federal government for the above-referenced programs and where OED thinks it might be going with the budget as it is. Currently, the House and Senate are back in session for a few weeks before they recess for the elections. They don't anticipate doing anything on a conference on this bill; instead, they are looking at an omnibus bill of all of the appropriation bills that haven't been addressed at this point in time. The House and Senate are returning on November 13 and will perhaps look at these items then. They plan to adjourn prior to Thanksgiving, so it's very likely no action will take place on these bills until January when a new Congress is in effect. OED expects to be operating on a Continuing Resolution beginning October 1, 2006 until January or February, 2007, but this handout provides a visual of where OED is right now.

OED has lost over \$1 million in funding from the federal government for employment services, and is expecting to another reduction of approximately \$700,000 next year. UI is receiving more money, but the additional allocations are likely including UI Fraud and ID Theft Prevention in addition to base UI State Operations.

Pat's second handout provided a high level accounting of OED's budget reductions achieved through attrition to date. It is believed that OED can accomplish its position reduction goals solely through attrition, and the agency is already more than on target (65% with six months to go). As positions become vacant, the money saved is carried forward to next biennium's budget.

Approximately three of the smaller B&ES offices have been consolidated with larger OED offices or with partner agencies. The Lincoln City office, probably the highest profiled of the consolidations, was moved in with the local City Hall. The City of Lincoln City is providing free space in a more accessible location, and OED has agreed to try this for the next two years. It worked very well to respond to what the community felt they needed.

Lisa inserted that it would be helpful to clearly demonstrate to the business community what OED has accomplished with the UI Centers, reducing OED workforce by 100 positions. Now with this biennium's goal of reducing by another 82 positions, the Advisory Council would like

OED to be recognized for the steps and efficiencies already taken, and to ensure that employers understand that the programs that are being paid for are the ones needing to be cut.

OED LEGISLATIVE UPDATE

Rebecca Nance, Legislative Coordinator, distributed a handout containing overall descriptions of OED's current Legislative Concepts. The Concepts are largely housekeeping, with the most complicated being the Confidentiality Re-write, LC551. This particular concept will more clearly reflect how the OED does business, and make the Statute easier to follow for staff and the public.

In addition to the Legislative Concepts, another item impacting OED is the budget—Rebecca explained that it's difficult to run a State agency when there is no clear picture of what the budget will be. **Laurie Warner, OED Director**, is in the process of writing a letter to Senators Ron Wyden and Gordon Smith asking that they sign a "Dear Colleague Letter" circulated by Senator Spector of Pennsylvania and Senator Tom Harkin of Iowa which ultimately asks that Labor, Health and Human Services and Education appropriation be funded, and states that operating under a Continuing Resolution is not a good way to do business. Rebecca asked that Advisory Council members notify her if they would like her to assemble information to send in a letter to Senators Wyden and Smith, or to even draft a letter for the Chair's signature.

WIA funding currently would be cut approximately \$5 million if not kept at the current level of funding; B&ES would be reduced by about \$1.2 million; and LMI One Stop would be cut about \$451,000—and while that may not sound like a lot of money in the scheme of things, we would lose some of the valuable services provided by our Workforce and Economic Research shop. Laurie has been proactive in working to keep this funding; it was on the chopping block only a couple of months ago.

Other potential Legislative Concepts were discussed briefly, and it was asked that each keep the other informed of any new developments.

INDEPENDENT CONTRACTOR RULE UPDATE

Pat Delaval, Special Projects Manager, and **Rob Edwards, Acting Tax Manager**, provided information about a proposed rule being written in response to ORS 670.600 and ORS 670.605 requiring the five agencies involved to work together in applying the Independent Contractor Rule alike.

It has been difficult to meet the needs of the various agency missions. A brochure intended for outreach was developed by the Independent Contractor Steering Committee and has been reviewed by several people. The Steering Committee is also developing a web site, including an e-mail address to which the public can write.

The construction industry has large representation on the task force that represented the bill. **Patrick Smith, Building Trades Council and Board Member**, referenced the criteria surrounding tools and explained that it is not uncommon for any craftsman to have \$5-10,000

worth of tools. He felt, other than that piece, the rule seemed to be very well written. All agreed that the rule is a positive step and was a long time in coming.

HEALTH CARE WORKFORCE NEEDS ASSESSMENT

Graham Slater, Administrator of Workforce and Economic Research, provided information about Oregon's Health Care Workforce Needs Assessment. During the last legislative session, there was a big push from the health care industry for a needs assessment to be developed, resulting in Senate Bill 882. As a starting point, Workforce and Economic Research was asked to identify occupational demand and supply estimates. Previously, there was no such information about the health care industry. This industry continues to grow regularly in Oregon, and this report is only a starting point.

Graham explained that nurses would like their respective industry to be more specific with regard to various nursing specialties, but occupational information is not available at that level of detail.

It has taken approximately 6-8 months to complete the requirements of Senate Bill 882. The assessment may potentially be repeated every 4-6 years, but OED will know more about that at a later time.

No other industry has asked for this type of analysis. Graham explained that measuring the gap between demand and supply is truly impossible for most occupations.

The Oregon Health Care 2006 pamphlet is available online at: <http://www.qualityinfo.org/olmisj/PubReader?itemid=00005128>, or Advisory Council members may ask Graham for a printed copy, of which he has a limited supply available.

DRUG AND ALCOHOL UPDATE

Tom Byerley, Assistant Director of UI Programs, provided a handout displaying a side-by-side comparison of the prior Drug and Alcohol Adjudication Policy and the newly revised policy. Tom reviewed with the Council some of the more significant changes to the policy. While the number of overturned decisions isn't large, they do stand out—and it's difficult and extremely frustrating for employers and claimants alike.

Tom began visiting various organizations—employers, their representatives, and claimants—personally to learn what OED can do to ensure that language exists that is consistently applied throughout the process. Many comments were incorporated, and the rule was amended in June 2006. The revised rules are not perfect, by they are a marked improvement.

OED continually hears comments that it should not allow anyone to be on UI who cannot pass a drug screening, and that OED should ensure that job referrals are drug free—whether on UI benefits or not. The problem with this is that OED is a federal program. Federal law requires that UI be paid to individuals with respect to their unemployment, not what they do outside of work. It is solely based on fact or cause of why a claimant is not working. OED would be in conflict with the Social Security Act with such legislation. Federal law states that UI is a free

program, and OED cannot have applicants pay for a drug screening test to prove that they are drug free. In addition, anytime we are out of conformity with the federal law, OED could lose its 5.4 percent FUTA credit, which translates into roughly \$500 million per year in additional unemployment taxes to Oregon's employers.

Laurie Warner and Tom Byerley will meet with Mike McLaran, Executive Director, Salem Area Chamber of Commerce next month in a continuing effort to avoid surprises when introducing Drug and Alcohol legislation and to better understand some of the comments made in their last newsletter about the Employment Department.

Tom explained that 1,508 drug and alcohol cases were disqualified at the adjudication level out of roughly 270,000 total adjudications in 2005. Of those, 37 were reversed by the Office of Administrative Hearings (OAH). He went on to explain that sometimes it's because new facts are found, other times because the employer doesn't show up - or doesn't send the person to the hearing with the most direct knowledge of the drug or alcohol use. OED will work to find a way to better educate employers about the importance of following their own policies on Drugs and Alcohol.

The Advisory Council would like to receive periodic updates on the Drug and Alcohol Adjudication Policy.

CLOSING BUSINESS

Rebecca will send an e-mail to the membership indicating the date and time of the next Advisory Council meeting.

Suggested meeting topics include:

- Budget Update
- Drug and Alcohol Adjudication Policy Update
- Independent Contractor Hearing Update
- Jobs PLUS Proposal

Members are asked to forward any other suggested agenda items to Rebecca at: Rebecca.Nance@state.or.us or at 503-947-1732.

Meeting adjourned at 11:52 a.m.