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OT pay after 8 hours will have to wait

By DON McINTOSH
Associate Editor

SALEM — With Democrats in control of the Oregon Legislature for the first time since 1989, Labor Commissioner Dan Gardner thought it might be time to return to the glory days.

Before 1985, Oregon workers had an eight-hour workday. Or at least, employers had to pay overtime — time-and-a-half — when hourly employees worked beyond eight hours in a day. That's the law today in California, too.

But in 1985, the Oregon Legislature (then also led by Democrats) changed the eight-hour day to the 40-hour week for private sector workers, and Gov. Neil Goldschmidt, a Democ-

rat, signed the bill. In 1995, a Republican House and Senate made that change for public sector workers as well, and Gov. John Kitzhaber, a Democrat, signed it.

The campaign for the eight-hour day was a hallmark of the U.S. labor movement in the 19th and 20th centuries. But in truth, the federal Fair Labor Standards Act of 1938, which defined maximum hours, was always complicated, with exceptions for different industries and types of workers. And states had flexibility to go beyond the federal requirements.

"Unfortunately, over time we've headed back toward the older struggles," Gardner says.

Gardner says some employers are abusing the 40-hour week by scheduling long shifts on short notice — without paying overtime, because the hours might not exceed 40 in a week. To end this abuse, and give workers more time with their families, Gardner got Rep. Brad Witt (D-Clatskanie) to introduce House Bill 2673, and 18 other House members signed on as co-sponsors. HB 2673 would return Oregon to the eight-hour day, with exceptions for workplaces that have regularly scheduled alternative workweeks, like four 10-hour shifts.

House Business and Labor Committee chair Mike Schaufler (D-Happy Valley) gave the bill a hearing on April 13.

"I was surprised by how much opposition we got," Gardner said. "I expected opposition from the business lobby, but we had a few business Democrats who didn't like it either."

First to testify was Witt, the bill's sponsor: "This represents a return to protections enjoyed by Oregon's workers prior to 1985," Witt told committee members, "and is in keeping with two centuries of progress."

But Maria Keltner, representing the Association of Oregon Counties, summed up the dominant employer

view, which was shared by Associated Oregon Industries and the National Federation of Independent Business:

"From our perspective," Keltner testified, "it looks like a choice between flexible choices for modern lifestyles or a concept from the past that looks at lifestyles and work arrangements from the past."

In other words, the eight-hour day is so 1930s. Get with the times.

A representative of ADEC, a dental equipment manufacturer, praised his company's schedule: four nine-hour days, followed by a four-hour Friday. Employees love it, he said.

Gardner, for his part, has no doubt they do. And, he says, his bill wouldn't ban such schedules, they'd just have to be regular, not made up week to week. Employers with irregular schedules would just have to do what they do in California when they force workers to stay past eight hours — pay them time-and-a-half.

But Gardner's bill needed the support of the committee chair to get a vote and move on to the next level. Schaufler said he had reservations about it, even though he was a signed-on co-sponsor of the bill.

Schaufler declined to schedule a vote on the bill; under the rules the Legislature set for itself this year. That meant the bill was declared dead at the end of the day April 30.

Gardner, lobbying for the bill prior to the hearing, said he felt a sentiment among lawmakers that they're already going a long way for organized labor this session; no more could be expected.

So Gardner, joined by Portland Democrat Diane Rosenbaum, speaker pro tem of the House, introduced the eight-hour-day bill as an initiative petition. Gardner said they plan to shop it around after the legislative session ends to see if there's support from organized labor to get it on the ballot for voters to decide in 2008.

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