

The Welfare to Work Partnership
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Facsimile Cover Page

To: Diana Fortuna

Date: June 13, 1997

Organization: _____

Fax: _____

From: Lyn Hogen

Phone: _____

Number of Pages Including Cover

14

Note:

Diana -
Attached is information from
Theresa Lewis and Elaine Ryan
that should explain the issue.

I also left a message for
Bruce re: the urgency of this.

Lyn

* Senate Labor Cmt.
Should be Targeted
to keep the language wt.

45 6-7431 (fax)

June 12, 1997

To: Lyn Hogan, Welfare to Work Partnership

Fr: Elaine Ryan, APWA

Re: Workers Comp and Comparable Worth language

As we discussed, attached are the provisions in the House Ways and Means bill related to Workers Compensation and the Education and the Workforce bill related to Comparable Worth for your information. We will continue to work to remove the language in the House Budget Committee version and keep it out of the Senate. You will note that the Workers Comp provisions apply to all work activities under the TANF program. If you need to discuss this further, please feel free to call me at 682-0100 ext. 235. Thanks.

Summary of Issues

- * Don Harkin's committee ~~creates~~ applies provisions to public sector jobs only
- * Goodling's Cmt. applies to public + private sector jobs
- Grievance procedure for complaints for wel recipients
- Individuals on welfare must be paid equally
- must cover all wel recp. with workers comp
- Can't displace or reduce in hours
- Cannot impair or be inconsistent in the terms with the collective bargaining agreement
- Can't employ when someone else is laid off in a comparable case job

Hearing in 60 days
appended to Sec. of Labor

CENTER FOR SELF-SUFFICIENCY

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Representative Bill Archer, Cha
Representative Clay Shaw, Cha
U.S. Capitol
Washington DC 20515

June 12, 1997

Gentlemen:

Please let me introduce myself. I am the former director of the federal AFDC and JOBS programs in the Bush Administration's Department of Health and Human Services after which I took a welfare position in the administration of Wisconsin's Governor Tommy Thompson. In 1994 the governor appointed me to direct the planning effort leading to the overhaul of Wisconsin's AFDC program. Several weeks ago I left the administration to found a center which advises other states on welfare reform issues.

In my various roles I have followed closely the results of federal legislative actions on welfare programs delivered at the state and local level. I can say without hesitation that your efforts resulting in PRWORA will, if allowed to proceed, work as intended. The legislation combined *ambitious, appropriate and measurable targets* for moving recipients to work, along with wide latitude on *how to get it done*. In my visits to local welfare offices around the country I can already see the local administrators working on plans to meet these work targets; there is no "hysteria" in the field over these ambitious goals, mostly just concentration on meeting the objectives.

The proposed June 10th modifications to the legislation are disastrous.

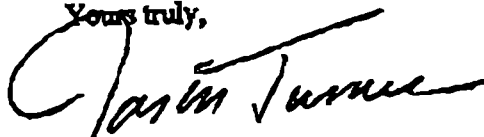
To retreat now from the work targets is a terrible decision. Allow them to work! There will always be pressure to weaken any federal work requirements, but speaking as a welfare practitioner these requirements were not unreasonable.

In separate provisions, the complicated labor-inspired restrictions and prohibitions on the kinds of work that participants are permitted to engage in, combined with the frightening

prospect of ending up in a federal grievance process, will in practice result in the elimination of thousands of potential work opportunities in Wisconsin. Employers, particularly the small United Way agencies where many work experience participants will learn work habits and skills, will not take on the risks and costs imposed by these requirements.

I have attached detailed comments for review by your staff. Please reconsider your support for these provisions. Welfare reform is working. Those of us fighting the local welfare advocates and carrying out conservative work-based programs at the street level need your support!

Yours truly,



Jason Turner
Executive Director
Center for Self-Sufficiency
Milwaukee, Wisconsin

COMMENTS ON THE**AMENDMENT TO THE COMMITTEE PRINT OFFERED BY MR. CARDIN,
JUNE 10TH 1997**

p.1 line 3 through p.2 line 7:

These provisions, particularly the reference to "partial" displacement, are very unclear and cannot easily be adhered to. Where a work experience participant performs any useful tasks within an organization, it is impossible to defend against the charge by a regular employee that such tasks have not caused some reduction or change in his or her usual work assignments or activity.

The provision goes on to say that no activity by a work experience participant "inconsistent with the terms of a collective bargaining agreement" shall be undertaken without written concurrence... The benign interpretation of this language is that welfare recipients cannot be used as replacement workers (and no state would use them this way, of course). However the language is very troublesome if interpreted differently. Since collective labor agreements usually define the work responsibilities of the covered membership, this could be taken to mean that work experience candidates cannot perform the kinds of "extra" duties outside of regular work performed by union workers themselves.

But these are precisely some of the duties we have had in mind. For instance, in Milwaukee we are exploring the possibility of having work experience participants work alongside sanitation workers. The sanitation workers themselves only pick up trash in approved containers from the curb. But work experience participants could clean alleys and bring trash to the curb. It would appear that the provision in question could be interpreted to prohibit such "extra" activity because it is not currently performed by regular employees.

The two paragraphs taken together would appear to prohibit any reduction in the amount of work being done by regular employees, while at the same time restricting work experience candidates from performing any other kind of work except that regularly performed by existing employees. ✓

If my understanding is correct, these provisions were originally drafted with the expectation that they would apply to those obtaining regular employment through programs administered by the Labor Department. But for work experience participants, these tests are extremely hard to meet. Moreover these provisions, as applied to welfare

participants are so ambiguous that in practice, Congress would be ceding to the judiciary this jurisdictional authority.

Finally, since much of the anticipated work experience activity is will be performed within municipal and state agencies, most of which are covered by collective bargaining agreements, these provisions would almost certainly apply to the large majority of work experience participants.

p.2 line 23 through p. 3 line 3

One could interpret this provision to mean that any task would be prohibited from being performed by a work experience candidate, if such work might be performed as part of a certain job, the acquisition of which would represent a promotion for any regular employee of the organization.

p.3 lines 11 through 16

This provision, as drafted, appears to require that all participants be covered under the same workers' compensation contract as regular employees at the site. In other words, should a United Way agency take on a work experience participant to do some clerical work, it would be required to cover the participant under its own workers' compensation policy. These policies are expensive, and there are sometimes special restrictions which prohibit non-regular or part-time employees from being covered. Even where such coverage is possible for non-regular employees, it is often an expensive add-on rider. Non-government employers will not accept participants if their insurance rates will go up. The solution is to take this language out. Many local and state governments self-insure for workers' compensation, and if permitted to do so would rather just cover all work experience participants themselves. It appears that this provision would prohibit that.

p. 4 lines 7 through p. 6 line 6

One of the most maddening procedures in welfare programs is the incessant need to attend to grievances. In Wisconsin we handle hundreds monthly and each case is labor intensive and time consuming. For instance, where benefits are reduced for non-compliance with work requirements, the simple filing of a grievance stops action until resolution is made under a quasi-judicial process. Legal Services usually represents the participant (although the Congress' prohibition against certain class actions under PRWORA seems to have reduced some of Legal Services' more egregious activities in Wisconsin). At least two case workers are required to be present at the hearing - one JOBS and one economic support worker. If the state does not have all its actions documented, the system automatically defaults to affirming the participant's version of events, even where case workers' verbal testimony is to the contrary.

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States do not need a federally defined grievance procedure, with appeal rights to Washington as provided for in this provision. The mere threat of such action under such a process will usually be enough to cause the local agency to withdraw from a challenge. Moreover employers of work experience participants will be reluctant to expose themselves to the risks of taking on a participant if they can be charged with wrongdoing through an elaborate federal process. As an example, we had a housing developer take on several work experience participants who were being trained to remodel apartment units, with the expectation of regular employment afterward. After only 30 days one of the participants charged racial discrimination. Rather than fight, the housing developer settled for \$10,000 and let go all the other participants to avoid further risk.

The effect of a strict requirement could mean that regular employees who oppose work experience in principle will be able prevent its execution in practice.

Section 9004, *passim*.

The premise of PRWORA was that states would get flexibility in determining how to get their welfare population into work, if they agreed to meet a specific carefully defined participation target. Why would Congress wish to retreat from the target before it has even been implemented?

In my extensive travels to other states as part of my responsibilities, I interview local welfare directors about their plans under the new law. At the local level, welfare administrators take the existing requirements seriously and for the most part are assembling their plans and actions to meet these targets. At the local administrator level there is little or no hysteria about the participation requirements, although they are recognized as serious ones. This is not to say that the self-styled welfare advocates are happy -- they would like to see any requirements dissolved.

But the Congress should give a chance for the participation requirements to do their job. I can assure you that they will be effective if allowed to work. In Milwaukee, using what we refer to as a "full engagement" model, that is, making every attempt to enroll and activate every possible adult, we have succeeded in reducing the caseload by *twenty four percent in the past twelve months alone*.

Although in Washington and at the American Public Welfare Association there is much talk about how to avoid having to meet these targets, in practice and at the local level the targets work as intended -- they focus the activities of welfare administrators. Don't weaken them. Stand up and be counted!

Section 9005

This is a good provision! Congratulations, and don't lose it in conference!

In Wisconsin the pro-rata reduction provision is mostly responsible for increasing our quarterly AFDC exit rate (that is, the proportion of the caseload that closes every three months), from 16.9% the year before the provision was implemented to 22.2% the year after, or a 32% increase in the closing rate.

Most states are not implementing this provision of PRWORA, and the Clinton HHS is not, as of now, enforcing it. Section 9005 will capture their attention.

**AMENDMENT IN THE NATURE OF A
SUBSTITUTE TO THE COMMITTEE PRINT
OFFERED BY MR. ARCHER AND MR. SHAW**

Strike title IX and insert the following:

- 1 **TITLE IX—COMMITTEE ON WAYS**
- 2 **AND MEANS—NONMEDICARE**
- 3 **SEC. 9000. TABLE OF CONTENTS.**
- 4 The table of contents of this title is as follows:

Sec. 9000. Table of contents.

Subtitle A—TANF Block Grant

- Sec. 9001. Welfare-to-work grants.
Sec. 9002. Limitation on amount of Federal funds transferable to title XX programs.
Sec. 9003. Clarification of limitation on number of persons who may be treated as engaged in work by reason of participation in educational activities.
Sec. 9004. Required hours of work; health and safety.
Sec. 9005. Penalty for failure of State to reduce assistance for recipients refusing without good cause to work.

Subtitle B—Supplemental Security Income

- Sec. 9101. Requirement to perform childhood disability redeterminations in missed cases.
Sec. 9102. Repeal of maintenance of effort requirements applicable to optional State programs for supplementation of SSI benefits.
Sec. 9103. Fee for Federal administration of State supplementary payments.

Subtitle C—Child Support Enforcement

- Sec. 9201. Clarification of authority to permit certain redisclosures of wage and claim information.

Subtitle D—Restricting Welfare and Public Benefits for Aliens

- Sec. 9301. Extension of eligibility period for refugees and certain other qualified aliens from 5 to 7 years for SSI and medicaid.
Sec. 9302. SSI eligibility for aliens receiving SSI on August 22, 1996.
Sec. 9303. SSI eligibility for permanent resident aliens who are members of an Indian tribe.
Sec. 9304. Verification of eligibility for State and local public benefits.
Sec. 9305. Derivative eligibility for benefits.
Sec. 9306. Effective date.

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H.L.C.

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1 “(D) at the option of the State, in the case
2 of child care assistance, the dollar value of such
3 assistance; and

4 “(E) at the option of the State, in the case
5 of housing benefits, the dollar value of such
6 benefits.

7 “(4) VALUATION OF MEDICAID BENEFITS.—An-
8 nually, the Secretary shall publish a table that speci-
9 fies the dollar value of the insurance coverage pro-
10 vided under title XIX to a family of each size, which
11 may take account of geographical variations or other
12 factors identified by the Secretary.

13 “(5) TREATMENT OF RECIPIENTS ASSIGNED TO
14 CERTAIN POSITIONS WITH A PUBLIC AGENCY OR
15 NONPROFIT ORGANIZATION.—A recipient of assist-
16 ance under a State program funded under this part
17 who is engaged in work experience or community
18 service with a public agency or nonprofit organiza-
19 tion shall not be considered an employee of the pub-
20 lic agency or the nonprofit organization.

21 “(k) HEALTH AND SAFETY.—Health and safety
22 standards established under Federal and State law other-
23 wise applicable to working conditions of employees shall
24 be equally applicable to working conditions of participants
25 engaged in a work activity. To the extent that a State

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1 and the dollar value equivalent of any
2 benefits provided to the recipient dur-
3 ing the month under the food stamp
4 program under the Food Stamp Act
5 of 1977; divided by

6 "(II) the minimum wage rate in
7 effect during the month under section
8 6 of the Fair Labor Standards Act of
9 1938.

10 "(3) BENEFITS.—As used in paragraph (2)(A),
11 the term 'value of the benefits' means—

12 "(A) in the case of assistance under the
13 State program funded under this part, the dol-
14 lar value of such assistance;

15 "(B) in the case of food stamp benefits
16 under the food stamp program under the Food
17 Stamp Act of 1977, the dollar value equivalent
18 of such benefits;

19 "(C) at the option of the State, in the case
20 of medical assistance benefits provided under
21 the State plan approved under title XIX, the
22 dollar value of such benefits, as determined in
23 accordance with paragraph (4);

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[COMMITTEE PRINT]

JUNE 10, 1997

[PROPOSED RECONCILLATION PROVISION]

1 TITLE V—COMMITTEE ON EDU. 2 CATION AND THE 3 WORKFORCE

4 Subtitle A—TANF Block Grant

5 SEC. 6001. WELFARE-TO-WORK GRANTS.

6 (a) GRANTS TO STATES.—Section 403(a) of the So-
7 cial Security Act (42 U.S.C. 603(a)) is amended by adding
8 at the end the following:

9 “(5) WELFARE-TO-WORK GRANTS.—

10 “(A) FORMULA GRANTS.—

11 “(i) ENTITLEMENT.—A State shall be
12 entitled to receive from the Secretary a
13 grant for each fiscal year specified in sub-
14 paragraph (H) of this paragraph for which
15 the State is a welfare-to-work State, in an
16 amount that does not exceed the lesser
17 of—

18 “(I) 2 times the total of the ex-
19 penditures by the State (excluding
20 qualified State expenditures (as de-
21 fined in section 409(a)(7)(B)(i)) and

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1 work for the month by reason of participation
2 in vocational educational training, or deemed to
3 be engaged in work for the month by reason of
4 subparagraph (C) of this paragraph."

5 (b) RETROACTIVITY.—The amendment made by sub-
6 section (a) of this section shall take effect as if included
7 in the enactment of section 103(a) of the Personal Re-
8 sponsibility and Work Opportunity Reconciliation Act of
9 1996.

10 SEC. 5004. COMPENSATION: MAXIMUM REQUIRED HOURS
11 OF WORK ACTIVITIES.

12 (a) IN GENERAL.—Section 407 of the Social Security
13 Act (42 U.S.C. 607) is amended by adding at the end the
14 following:

15 "(j) COMPENSATION.—A State to which a grant is
16 made under section 403 may not require a recipient of
17 assistance under the State program funded under this
18 part to participate in a work activity described in para-
19 graph (1), (2), or (3) of subsection (d) unless the recipient
20 is compensated at the same rates, including periodic in-
21 creases, as trainees or employees who are similarly situ-
22 ated in similar occupations by the same employer and who
23 have similar training, experience and skills, and such rates
24 shall be in accordance with applicable law.

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1 “(k) LIMITATION ON NUMBER OF HOURS PER
2 MONTH THAT A RECIPIENT OF ASSISTANCE MAY BE RE-
3 QUIRED TO PARTICIPATE IN ON-THE-JOB TRAINING, AND
4 WITH A PUBLIC AGENCY OR NONPROFIT ORGANIZA-
5 TION.—

6 “(1) IN GENERAL.—A State to which a grant
7 is made under section 403 may not require a recipi-
8 ent of assistance under the State program funded
9 under this part to be assigned to on-the-job training,
10 and to a work experience or community service posi-
11 tion with a public agency or nonprofit organization
12 during a month for more than the allowable number
13 of hours determined for the month under paragraph
14 (2).

15 “(2) ALLOWABLE NUMBER OF HOURS.—

16 “(A) IN GENERAL.—Subject to subpara-
17 graph (B), the allowable number of hours deter-
18 mined for a month under this paragraph is—

19 “(i) the value of the includible bene-
20 fits provided by the State to the recipient
21 during the month, divided by

22 “(ii) the minimum wage rate in effect
23 during the month under section 6 of the
24 Fair Labor Standards Act of 1938.

June 10, 1997