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RES. 479-2883  
BUS. 476-6801



COMMITTEES  
CHAIRMAN: HIGHWAYS  
VICE CHAIRMAN: TAXATION  
MEMBER: LABOR AND MANAGEMENT

STATE OF OREGON  
HOUSE OF REPRESENTATIVES  
SALEM

May 12, 1967

This is to acknowledge the petition of the following members to meet with you in the Speaker's Office at 11:30 to discuss House Bill 1601:

Representative Robert Smith  
Representative William Holmstrom  
Representative Paul A. Hänneman  
Representative Sidney Leiken  
Representative Wayne Turner  
Representative Rod McKenzie  
Representative Edward W. Elder  
Representative Jack Anunsen

On the recommendation of Majority Leader Robert Smith, we announced to the public that the next meeting of the committee on this subject would be at the call of the Chairman, and I publicly stated we would not meet again until next week.

I have made recommendations to the Speaker that he have three attorneys; namely, one from the House, Mr. Ed Branchfield from the Governor's Office, and Mr. George Rohde from the Highway Commission, all of whom are familiar with this legislation, meet over the weekend and reconcile the differences, if possible.

For this reason, I think we should have a cooling off period and meet this coming week.

PROPOSED AMENDMENTS TO ENGROSSED HOUSE BILL 1601

On page 2 of the printed engrossed bill, line 1, delete "public rights in lands" and insert "property in western Oregon; and declaring an emergency."

On page 2, delete lines 3 through 18.

Insert:

"Section 1. As used in this Act:

"(1) 'Public easement' means a right or privilege in lands abutting on or adjacent to those lands described in ORS 274.070, acquired by the public by prescription, dedication, grant or otherwise for the use and enjoyment of the shore and waters of the Pacific Ocean.

(2) 'Commission' means the State Highway Commission.

"Section 2. Ownership of public easements hereby is declared vested exclusively in the State of Oregon. Such easements are state recreation areas.

"Section 3. The commission is authorized to administer, police, protect and preserve public easements declared state recreation areas by section 2 of this Act and for those purposes, if necessary, to undertake appropriate court proceedings.

"Section 4. In order to promote the public health, safety and welfare, to protect the state recreation areas recognized and declared by section 2 of this Act and by ORS 274.070, to protect the safety of the public using such areas, and to preserve values adjacent to and adjoining such areas, the natural beauty of the seashore and the public recreational benefit derived therefrom, no person shall, except as provided by section 5 of this Act, erect or maintain any structure or other kind of

improvement on any property that is within the area along the Pacific Ocean located:

- (a) Between the extreme low tide and the sea cliffs;
- (b) In the absence of sea cliffs, between the extreme low tide and the elevation of \_\_\_\_\_ feet above the high tide level.

High tide level is defined as the average of the annual highest tides, predicted by the U. S. Coast and Geodetic Survey, averaged over the years 1955 through 1964. In determining the recreation area, natural contour lines, excluding bays and estuaries, shall be followed. The position of the landward boundary line shall be interpolated to follow natural contour lines whenever interrupted by manmade structures.

"Section 5. (1) Any person who wishes a permit to erect or maintain an improvement on property subject to section 4 of this Act shall apply in writing to the commission, stating the reason for the improvement and the kind of improvement to be undertaken. The commission shall, after a hearing in accordance with ORS 183.310 to 183.510 if requested by the applicant or any other interested person, grant the permit if the improvement would not be adverse to the public interest in preserving the recreational and scenic resources. The Commission shall grant a permit to maintain any improvement existing on January 1, 1967.

"(2) The Commission shall act on a request as soon as reasonably possible after the request is mailed or delivered to the Commission.

"(3) If any person is aggrieved by the action of the Commission under this section, he may appeal the decision of the Commission to the circuit court of the county in which the property is situated. Such appeal shall be tried (as an action at law) (as a suit in equity).

"Section 6. The owner or person in control of any property subject to a public easement shall not be liable for any injury to another person or damage to property of another resulting from a condition of the property within the easement unless the injury or damage results from a condition that the <sup>owner or person in control</sup> created and that he knew or, in the exercise of reasonable care, should have known was likely to cause injury to persons or damage to property.

"Section 7. Nothing in this Act shall create a presumption as to the existence or non-existence of any public easement in any lands used and enjoyed by the public or subject to this Act.

"Section 8. The Commission may acquire property, or interests in property, suitable for use in connection with state recreation areas along the shores of the Pacific Coast. Such property or interests may be acquired by gift or purchase or by exercise of the power of eminent domain as provided by ORS 366.360 to 366.393.

"Section 9. For purposes of assessment and ad valorem taxation, whenever real property is held subject to a public easement, the true cash value of the property shall be subject to deduction for the restricted use imposed on the servient property by the easement.

"Section 10. Section 9 of this Act first is operative on January 1, 1968.

"Section 11. Sections 1 to 8 of this Act being necessary for the immediate preservation of the public peace, health and safety, an emergency is declared to exist, and sections 1 to 8 of this Act shall take effect upon passage." .