

HOUSE COMMITTEE ON ENVIRONMENT

May 05, 2005 Hearing Room D

1:00 P.M. Tapes 49 - 50

MEMBERS PRESENT: Rep. Gordon Anderson, Chair

Rep. Bob Jenson, Vice-Chair

Rep. Mary Nolan, Vice-Chair

Rep. Phil Barnhart

Rep. John Lim

Rep. Diane Rosenbaum

MEMBER EXCUSED: Rep. Bill Garrard

STAFF PRESENT: John Houser, Committee Administrator

Mike Reiley, Committee Assistant

MEASURES/ISSUES HEARD:

HB 2948 – Work Session

HR 5 – Work Session

These minutes are in compliance with Senate and House Rules. Only text enclosed in quotation marks reports a speaker's exact words. For complete contents, please refer to the tapes.

TAPE/#	Speaker	Comments
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TAPE 49, A

003 Chair Anderson Calls the meeting to order at 1:11 p.m. Opens a work session on HB 2948.

HB 2948 – WORK SESSION

015 John Houser Committee Administrator. Introduces HB 2948 and -1 amendments **(EXHIBIT A)**.

040 Jim Evans Resident, Multnomah County. Explains the intent of the bill and the -1 amendments.

047 Rep. Barnhart Asks about the language changes in the bill.

058 Chair Anderson Clarifies the language changes.

060 Rep. Barnhart Asks which circuit court has jurisdiction under current law.

064 Evans Explains that there is no jurisdiction under current statute.

068 Rep. Nolan Clarifies that under current law, some EQC orders are reviewed by county circuit courts and others are reviewed by the court of appeals.

070 Chair Anderson Clarifies the circuit court jurisdiction.

072 Evans Explains the cases and the jurisdiction of the courts.

077 Rep. Barnhart Asks if the bill has a subsequent referral to the Judiciary Committee.

079 Houser Answers no.

081 Rep. Barnhart States the he will vote no on the bill.

086 Jesse Lott American Veteran's Conference. Testifies in support of HB 2948. Explains the appellate court process.

105 Chair Anderson

		Asks if a person would have due process by going to the appeals court.
108	Lott	Answers that an individual should have the right to appeal to the circuit court.
123	Larry Knudsen	Assistant Attorney General, Environmental Quality Commission, Oregon Department of Justice. Refers to his previously submitted written testimony (EXHIBIT B) and explains the appeals process.
163	Knudsen	Explains that the current process does not violate the 14th amendment.
178	Rep. Jenson	Notes that petitioners are represented by an attorney or by someone from the Department of Environmental Quality (DEQ) that is familiar with the case.
196	Rep. Barnhart	Argues that the bill should be before the Judiciary Committee rather than the Environment Committee.
215	Chair Anderson	Notes that the Judiciary Committee has a high workload and that it will probably go before the Senate Judiciary Committee. Asks for an explanation of evidence allowed in different jurisdictions.
224	Knudsen	Explains the difference between the circuit court and the court of appeals.
240	Rep. Barnhart	Asks if the standards for decisions are different in circuit court and court of appeals.
247	Knudsen	Explains that the evidentiary rules are more flexible in administrative hearings.
257	Chair Anderson	Asks if any other states that have a review process similar to HB 2948.
260	Knudsen	Answers that he is unsure.
266	Chair Anderson	Asks for an explanation of costs in courts.

269	Knudsen	Answers that he does not know if the costs are different.
282	Rep. Jenson	Asks if the state could appeal a circuit court decision.
290	Knudsen	Answers yes.
292	Rep. Jenson	Clarifies that the cost could be increased with an appeal.
294	Knudsen	Concurs.
298	Rep. Jenson	Asks if the court of appeals hears evidence, or addresses the merit of the appeal.
300	Knudsen	Explains how the courts hear evidence.
312	Rep. Jenson	Asks about the appellate court.
315	Knudsen	Answers that it would make a decision based on the record of the circuit court or the administrative hearing.
322	David Lebrun	Environmental Law Specialist, DEQ. Testifies in opposition to HB 2948. Notes that DEQ's primary concerns are the -1 amendments.
349	Chair Anderson	Recesses the work session on HB 2948. Opens a work session on HR 5.

HR 5 – WORK SESSION

354	Chair Anderson	Discusses the life of former Oregon state representative Cecil Johnson and reads HR 5.
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TAPE 50, A

012	Rep. Rosenbaum	MOTION: Moves HR 5 be sent to the floor with a BE ADOPTED recommendation.
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VOTE: 6-0-1

AYE: In a roll call vote, all members present vote Aye.

EXCUSED: 1 - Garrard

Chair Anderson The motion CARRIES.

REP. ANDERSON will lead discussion on the floor.

023 Chair Anderson Closes the work session on HR 5. Recesses the meeting at 1:41 p.m. Reconvenes the meeting at 2:12 p.m. Reopens the work session on HB 2948.

HB 2948 – WORK SESSION

Rep. Jenson MOTION: Moves HB 2948 to the floor WITHOUT RECOMMENDATION as to passage and BE REFERRED to the committee on Budget.

VOTE: 6-0-1

AYE: In a roll call vote, all members present vote Aye.

EXCUSED: 1 - Garrard

Chair Anderson The motion CARRIES.

038 Chair Anderson Closes the work session on HB 2948. Adjourns the meeting at 2:19 p.m.

EXHIBIT SUMMARY

- A. HB 2948, -1 amendments, staff, 1 p
- B. HB 2948, prepared testimony, Larry Knudsen, 3 pp