

HOUSE COMMITTEE ON WATER

March 07, 2005 Hearing Room 357

1:00 P.M. Tapes 39 - 40

Corrected 10/17/05

MEMBERS PRESENT: Rep. Bob Jenson, Chair

Rep. Jackie Dingfelder, Vice-Chair

Rep. Jerry Krummel, Vice-Chair

Rep. Phil Barnhart

Rep. Alan Brown

Rep. Carolyn Tomei

MEMBER EXCUSED: Rep. Billy Dalto

STAFF PRESENT: Sandy Thiele-Cirka, Committee Administrator

Elizabeth Howe, Committee Assistant

MEASURES HEARD: HB 2130 – Public Hearing

Introduction of Committee Bills – Work Session

HB 2265 – Public Hearing

HB 2170 – Work Session

HB 2178 – Work Session

HB 2186 – 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

TAPE 39, A

002 Chair Jenson Calls the meeting to order at 1:08 p.m. Opens as a subcommittee. Opens a public hearing on HB 2130.

HB 2130 – PUBLIC HEARING

006 Ann Hanus Director, Department of State Lands (DSL). Submits written testimony (**EXHIBIT A**) and testifies in support of HB 2130.

049 Chair Jenson Opens as the full committee. Continues public hearing.

052 Hanus Continues discussing the fees and funds affected by HB 2130.

069 John Lilly Assistant Director, DSL. Submits written testimony (**EXHIBIT B**) and testifies in support of HB 2130.

128 Lilly Continues discussion of jurisdictional determination fees and wetland determination reports.

134 Chair Jenson Asks if the committee members have copies of the proposed amendments.

136 Lilly Answers affirmatively (**EXHIBIT C**).

137 Rep. Tomei Asks why the fee does not cover all the process costs.

143 Hanus States that DSL is working with funds that are available.

148 Rep. Tomei Expresses her perplexity that the fee does not cover the cost of performing the tests.

152 Chair Jenson States that the committee will readily address her concerns.

154	Lilly	Continues discussion of removal-fill permits.
211	Rep. Tomei	Inquires about the cost of the two permits in the examples and if the cost is for both permits.
214	Lilly	Explains the cost of processing permits and states that each permit process is different.
249	Rep. Barnhart	Asks if DSL has discussed establishing fees that are not absolute dollar amounts.
267	Hanus	Explains possibilities for setting fees.
275	Lilly	Points out that HB 2130 includes a percentage adjustment in 2007.
282	Rep. Krummel	Asks why rates are not tied to the Consumer Price Index (CPI).
297	Chair Jenson	Agrees that sometimes three percent would be inadequate.
302	Hanus	Explains that linking to the CPI index is an option. Notes that three percent is an average.
307	Rep. Krummel	Expresses belief that following the CPI would be more adequate. Inquires about the intended placement of funds created by the fees.
339	Hanus	Explains that fees are intended to cover a portion of the administrative costs, and explains how fees benefit the Common School Fund.
357	Rep. Krummel	Questions if this program will enhance DSL's ability to reach performance measures.
367	Hanus	Discusses performance measures and explains how the department can improve wetland delineations.

TAPE 40, A

004	Hanus	Continues discussion of wetland delineations.
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013	Rep. Dingfelder	Inquires if current statute precludes a local government from establishing stricter wetland ordinances.
028	Lilly	Offers to provide information.
030	Hanus	Defines person and public body.
033	Rep. Dingfelder	Questions each discreet project.
044	Lilly	States that discreet project is not defined in statute. Explains the rule within DSL regarding discreet projects.
052	Rep. Dingfelder	Asks for clarification about applying for multiple projects, and how the fees compare to other states' fees.
056	Lilly	Explains that it is best when an applicant discloses all plans at once.
078	Janet Morlan	Wetland Program Manager, DSL. Describes advanced review of delineation.
104	Hanus	Explains the link from waterways to the Common School Fund.
113	Rep. Barnhart	Questions why the Common School Fund should subsidize programs. Expresses belief that fees should cover the cost of the process.
125	Chair Jenson	Inquires about Section 2, subsection 3 (a), line 22 regarding typo: "may" or "will."
129	Lilly	Reports that there is no typo.
136	Chair Jenson	Expresses desire for an amendment that will change "may" to "will."
158	Sandy Thiele-Cirka	Administrator. Notes written testimony submitted by Timothy Acker (EXHIBIT D) .
160	Timothy Acker	Linn County. Testifies in support of HB 2130.
219	Acker	Expresses desire to increase resources for DSL for wetland delineation and offers suggestions.

245 Rep. Barnhart Questions suggestion that DSL not be notified about local wetlands.

251 Acker Clarifies his suggestion.

262 Rep. Barnhart States that DSL would not be involved in the process at all if they were not notified by the local jurisdiction to act.

274 Acker Continues offering suggestions for local wetland inventories.

312 Chris Bayham Environmental Coordinator, County Road Program, Association of Oregon Counties. Submits written testimony (**EXHIBIT E**) and testifies in support of HB 2130.

334 Rep. Tomei Questions whether it would be fair to pay full price for studies.

338 Acker Answers affirmatively.

345 Dale Buck Tillamook County. Submits written testimony (**EXHIBIT F**) and testifies in opposition to HB 2130.

402 Glen Stonebrink Oregon Cattlemen's Association. Submits written testimony (**EXHIBIT G**) and testifies in opposition to HB 2130.

TAPE 39, B

023 Laurie Wimmer Oregon Education Association. Testifies in support of HB 2130. Whelan Describes history of fees that cover cost of permit processing.

040 Chuck Bennett Confederation of Oregon School Administrators. Testifies in support of HB 2130, and suggests raising the fee to cover a greater percentage.

070 John Marshall Oregon School Boards Association. Testifies in support of HB 2130 and suggests an amendment to decrease the amount of money being used from the Common School Fund.

090 Phil Scoles Terra Science, Inc., Portland. Testifies in support of HB 2130. Suggests amendments.

- 124 Rep. Tomei Asks if he would be more supportive of an expedited process if there were extra people hired to service expedited reports.
- 127 Scoles States his belief that resources are already available to ensure that reports are reviewed efficiently. Continues proposing amendments.
- 163 Scoles Responds to Rep. Dingfelder's question related to precluding local governments from adopting more strict regulations.
- 197 Mel Stewart Constituent. Testifies in opposition of HB 2130. Emphasizes that the Common School Fund should never fund government programs. Offers suggestions for amendments.
- 247 Stewart Concludes testimony.
- 257 Chair Jenson Discusses amendments. Closes public hearing on HB 2130. Opens a work session to introduce committee bills.

INTRODUCTION OF COMMITTEE BILLS – WORK SESSION

- 266 Sandy Thiele-Cirka Committee Administrator. Explains LC 3213 **(EXHIBIT H)**.
- 288 **Rep. Krummel** **MOTION: Moves LC 3213 BE INTRODUCED as a committee bill.**
- 292 Chair Jenson Reminds committee members that supporting the introduction of committee bills does not require them to vote for the bill.
- VOTE: 6-0-1**
- EXCUSED: 1 - Dalto**
- 300 **Chair Jenson** **Hearing no objection, declares the motion CARRIED.**
- 302 Chair Jenson Closes work session on committee bills. Opens public hearing on HB 2265.

HB 2265 – PUBLIC HEARING

- 311 John Lilly

Assistant Director, Department of State Lands. Testifies in support of HB 2265. Provides background of HB 2265.

- 336 Chair Jenson States that there will be an amendment to the bill.
- 342 Rep. Barnhart Clarifies what the amendment will remove from HB 2265.
- 355 Jeff Boatwright Citizen. Testifies in opposition to HB 2265.

TAPE 40, B

- 010 Greg Addington Oregon Farm Bureau. Submits written testimony (**EXHIBIT I**) and testifies in opposition to HB 2265.
- 020 Chair Jenson Closes public hearing on HB 2265. Opens work session on HB 2170.

HB 2170 – WORK SESSION

- 025 Sandy Thiele-Cirka Committee Administrator. Explains the background and testimony on HB 2170. Notes SMS, and fiscal statement for -1 amendments. Describes -1 amendments (**EXHIBIT J**).
- 066 Rep. Dingfelder **MOTION: Moves to ADOPT HB 2170-1 amendments dated 2/28/05.**
- VOTE: 6-0-1**
- EXCUSED: 1 – Dalto**
- 068 Chair Jenson **Hearing no objection, declares the motion CARRIED.**
- 069 Rep. Dingfelder **MOTION: Moves HB 2170 to the floor with a DO PASS AS AMENDED recommendation and the SUBSEQUENT REFERRAL to the committee on Ways and Means BE RESCINDED.**
- VOTE: 6-0-1**
- AYE: In a roll call vote, all members present vote Aye.**
- EXCUSED: 1 - Dalto**

- 082 Chair Jenson The motion CARRIES.
- 084 Rep. Brown MOTION: Moves HB 2170 be placed on the CONSENT CALENDAR.
- VOTE: 6-0-1
- EXCUSED: 1 - Dalto
- 088 Chair Jenson Hearing no objection, declares the motion CARRIED.
- 092 Chair Jenson Closes work session on HB 2170. Opens a work session on HB 2178.

HB 2178 – WORK SESSION

- 093 Sandy Thiele-Cirka Administrator. Summarizes HB 2178.
- 105 Adam Sussman Water Resources Department. Explains the -1 amendments (EXHIBIT K) to HB 2178.
- 131 Sussman Suggests conceptual amendment to change “owners” to “operator” in the current -1 amendments (EXHIBIT K, page 2, line 11).
- 137 Thiele-Cirka States that Legislative Counsel will accept the conceptual amendment.
- 151 Rep. Krummel Asks why “owners” is currently plural and “operator” will not be.
- 156 Sussman Agrees that “operators” might be more consistent.
- 158 Rep. Krummel Asks for clarification regarding the intent of HB 2178.
- 166 Sussman Responds that there is another body of law addressing Rep. Krummel’s question.
- 170 Chair Jenson Offers clarification for the bill. Asks Legislative Counsel if singular or plural term is more acceptable.
- 183 Brendan McCarthy

Deputy Legislative Counsel, Legislative Counsel. Expresses preference for singular term.

- 224 Rep. Krummel Asks for clarification.
- 225 Chair Jenson Comments on the change.
- 231 McCarthy Explains why operator is emphasized over the owner, but not necessarily in both references.
- 244 Sussman Provides history to explain why the emphasis in second reference is on the operator rather than the owner.
- 259 Rep. Tomei **MOTION: Moves to ADOPT HB 2178-1 amendments dated 3/7/05 and that the amendment be CONCEPTUALLY AMENDED on page 2, line 11, by changing "owners" to "operator."**
- VOTE: 6-0-1**
- EXCUSED: 1 - Dalto**
- 265 Chair Jenson **Hearing no objection, declares the motion CARRIED.**
- 267 Rep. Tomei **MOTION: Moves HB 2178 to the floor with a DO PASS AS CONCEPTUALLY AMENDED recommendation.**
- VOTE: 6-0-1**
- AYE: In a roll call vote, all members present vote Aye.**
- EXCUSED: 1 - Dalto**
- 265 Chair Jenson **The motion CARRIES.**
- REP. DINGFELDER will lead discussion on the floor.**
- 283 Chair Jenson Closes work session on HB 2178. Opens work session on HB 2186.

HB 2186 – WORK SESSION

284	Sandy Thiele-Cirka	Administrator. Explains background and testimony on HB 2186. Notes fiscal impact statement.
306	Rep. Krummel	Questions 2005-07 fiscal impact regarding reversal of budget deficit.
317	Adam Sussman	Water Resources Department. Asks for clarification.
322	Rep. Krummel	Clarifies concerns that the impact statement expenditures and revenues change from 2005-07 biennium to the 2007-09 biennium.
335	Sussman	Explains how the authors may have gotten the statistics.
352	Chair Jenson	Reiterates how they got the statistics.
358	Rep. Barnhart	Notes the subsequent referral to Ways and Means.
361	Sussman	Explains why there is a correction in revenue and not in expenditures.
367	Rep. Krummel	Asks if revenue will actually be closer to expenditures after correction.
375	Sussman	Responds affirmatively.
376	Rep. Krummel	Questions whether HB 2186 will help the department reach its goals and benchmarks.
385	Sussman	Responds affirmatively.
392	Rep. Tomei	MOTION: Moves HB 2186 to the floor with a DO PASS recommendation and BE REFERRED to the committee on Ways and Means by prior reference.
		VOTE: 6-0-1
		AYE: In a roll call vote, all members present vote Aye.
		EXCUSED: 1 – Dalto
407	Chair Jenson	The motion CARRIES.

EXHIBIT SUMMARY

- A. **HB 2130, written testimony, Ann Hanus, 4 pp**
- B. **HB 2130, written testimony, John Lilly, 2 pp**
- C. **HB 2130, -1 amendments, staff, 1 p**
- D. **HB 2130, written testimony, Timothy Acker, 5 pp**
- E. **HB 2130, written testimony, Chris Bayham, 1 p**
- F. **HB 2130, written testimony, Dale Buck, 1 p**
- G. **HB 2130, written testimony, Glen Stonebrink, 1 p**
- H. **Introductions, LC 3213, staff, 3 pp**
 - I. **HB 2265, written testimony, Greg Addington, 1 p**
 - J. **HB 2170, -1 amendments, staff, 1 p**
 - K. **HB 2178, -1 amendments, staff, 3 pp**