

HOUSE COMMITTEE ON WATER

April 04, 2005 Hearing Room 357

1:00 P.M. Tapes 62 - 63

MEMBERS PRESENT: Rep. Bob Jenson, Chair

Rep. Jackie Dingfelder, Vice-Chair

Rep. Jerry Krummel, Vice-Chair

Rep. Phil Barnhart

Rep. Alan Brown

Rep. Billy Dalto

Rep. Carolyn Tomei

STAFF PRESENT: Sandy Thiele-Cirka, Committee Administrator

Elizabeth Howe, Committee Assistant

MEASURES/ISSUES HEARD:

HB 3038 – Work Session

HB 3153 – Public Hearing

HB 3155 – Public Hearing

HB 3156 – Public Hearing

HB 3204 – Public Hearing

HB 3255 – Public Hearing

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 62, A

002	Chair Jenson	Calls the meeting to order at 1:07 p.m. Opens a work session on HB 3038.
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HB 3038 – WORK SESSION

010	Adam Sussman	Water Resources Department (WRD). Submits written testimony (EXHIBIT A) .
018	Chair Jenson	Comments on the issues Mr. Sussman will address today.
030	Sussman	States that the WRD supports HB 3038 with –1 amendments (EXHIBIT B) . Addresses Section 5 of the bill and permitting.
062	Chair Jenson	Seeks clarification for how many permits are issued.
068	Sussman	States that WaterWatch had an incomplete list with 250. Assumes around 300 permits.
092	Chair Jenson	Questions issues of good management.
100	Sussman	States that HB 3038 allows WRD to address whether there is good cause for an extension, and to revisit negotiations from four years ago.
180	Sussman	Describes the requirements of the program.
185	Rep. Dingfelder	Questions how many water conservation management plans have been adopted by the WRD.
190	Sussman	Explains that there are different kinds of plans, and describes the plans he is addressing. States only three plans have been adopted.

205	Rep. Dingfelder	Questions requirements for extensions. Inquires how conservation plans are enacted.
212	Sussman	Describes history of extensions, and enacting conservation plans.
278	Chair Jenson	Stands at ease at 1:28 p.m. Reconvenes at 1:34 p.m. Asks Mr. Sussman to review the -2 amendments.
288	Sussman	Describes the -2 amendments.
373	Rep. Dingfelder	Questions if WRD is opposed to allowing Section 5 in the bill.

TAPE 63, A

003	Sussman	Explains language WRD supports. Describes the change he would make to the -2 amendments, but admits that there would still be areas WRD would not support.
061	Sussman	Continues describing details of permit extensions affected by -2 amendments.
085	Rep. Tomei	Inquires about a copy of rules and seeks examples of rules.
089	Sussman	Relates that the committee has not been given a copy of the rules, and describes what the permit extension, water management, and conservation plan rules are. Offers an example of a rule.
132	Rep. Brown	Questions enforcement of rules.
136	Sussman	Explains that rules provide an opportunity to enforce.
156	Rep. Tomei	Asks how one would show good cause.
167	Sussman	Addresses municipal water rights. Submits ORS statute regarding transfer of municipal water rights (EXHIBIT C).
220	Rep. Tomei	Inquires about transfer of interstate water rights.
240	Chair Jenson	Asks for explanation of -3 amendments (EXHIBIT D).

248	Karen Russell	WaterWatch. Describes the -3 amendments.
369	Chair Jenson	Questions whether WaterWatch was involved in work group.
374	Russell	Confirms that WaterWatch was involved. Relates that WaterWatch was not able to agree on a vision with the work group.
393	Chair Jenson	Comments on the 100 years of precedent already established so exceptions could be made.
405	Russell	States that amendments are attempting to meet the needs of a municipality and consider other users in a watershed.

TAPE 62, B

003	Rep. Dalto	MOTION: Moves to ADOPT HB 3038-1 amendments dated 3/24/05.
005	Rep. Dingfelder	Expresses concerns about -1 amendments.
033	Rep. Barnhart	MOTION: Moves to ADOPT HB 3038-3 amendments dated 4/4/05.
048	Rep. Krummel	States point of order. Believes that -3 amendments cannot be moved until after -1 amendments are resolved.
056	Chair Jenson	Stands at ease at 2:10 p.m. Reconvenes at 2:18 p.m. Clarifies that the motion is in order.
056	Rep. Barnhart	Continues testifying in support of the -3 amendments.
073	Chair Jenson	States his displeasure with the ten year policy as it conflicts with the land use policies. Expresses concern with Section 5 of the -3 amendments.

VOTE: 3-4-0

AYE: 3 - Barnhart, Dingfelder, Tomei

NAY: 4 - Brown, Dalto, Krummel, Jenson

093	Chair Jenson	The motion FAILS.
094	Rep. Krummel	Testifies in support of the -1 amendments. Agrees that the 20 year extension should remain consistent with current land use policies.
127	Rep. Brown	Expresses support for 20 year time period.
138	Chair Jenson	States that if WRD does not follow rules the legislature will address it.
143	Rep. Dalto	Testifies in support of the -1 amendments.
151	Rep. Dingfelder	Expresses support for adequate timelines for cities, and the need to address concerns for resources within municipalities.
171	Rep. Tomei	States that municipalities need assurance that they can plan for the future. Reiterates that the water of Oregon belongs to the citizens.
187	Rep. Barnhart	States support of planning for growth. Relates that he will vote no.
212	Chair Jenson	Expresses concern for those involved in work groups who do not remain involved until a compromise is established.

VOTE: 4-3-0

AYE: 4 - Brown, Dalto, Krummel, Jenson

NAY: 3 - Barnhart, Dingfelder, Tomei

280	Chair Jenson	The motion CARRIES.
281	Rep. Dalto	MOTION: Moves HB 3038 to the floor with a DO PASS AS AMENDED recommendation.

VOTE: 4-3-0

AYE: 4 - Brown, Dalto, Krummel, Jenson

NAY: 3 - Barnhart, Dingfelder, Tomei

290 Chair Jenson The motion CARRIES.

298 Chair Jenson Closes work session on HB 3038. Opens a public hearing on HBs 3153, 3155, 3156, 3204, 3255.

HBs 3153, 3155, 3156, 3204, 3255 – PUBLIC HEARING

302 Rep. Dalto Questions whether intention was to move HB 2907 today.

304 Chair Jenson Responds negatively.

330 Emilie Wolf Water for Life (WFL). Testifies in support of HBs 3153, 3155, 3156, 3204, 3255.

TAPE 63, B

005 Richard Kosesan WFL. Submits case law on water right ownership (**EXHIBIT E**). Testifies in support of HBs 3153, 3155, 3156, 3204, 3255.

090 Kosesan Encourages committee to look at information provided regarding who owns a water right.

122 Anita Winkler Executive Director, Oregon Water Resources Congress (OWRC). Testifies in opposition to HBs 3153, 3155, 3156, 3204, 3255.

169 Rep. Tomei Questions how districts were originally formed and who grants districts power.

170 Winkler Describes how districts were formed. States that statute grants districts power.

178 Chair Jenson Comments that some districts are hundreds of years old, and may have been formed with handshakes.

183 Winkler Clarifies that handshakes may have formed private districts, which were voted on later.

189 Rep. Barnhart Inquires about the kind of election that took place to form districts.

190	Winkler	Offers to provide information at a later time.
198	Phil Fine	OWRC. Testifies in opposition to HBs 3153, 3155, 3156, 3204, 3255.
240	Scott Ashcom	Oregon Agricultural Alliance (OAA). Testifies as neutral on HB 3156 and HB 3204. Discusses water right ownership.
298	Katie Fast	Oregon Farm Bureau (OFB). Testifies in support of HBs 3153, 3155, 3156, 3204, 3255. States that OFB believes the water right is pertinent to the land, so the water is owned by the property owner.
304	Kay Teisl	Oregon Cattlemen's Association. Testifies in support of HBs 3153, 3155, 3156, 3204, 3255. Concurs with OFB.
307	Chair Jenson	Closes public hearing on HBs 3153, 3155, 3156, 3204, 3255. Adjourns the meeting at 3:02 p.m.

EXHIBIT SUMMARY

- A. **HB 3038, written testimony, Adam Sussman, 2 pp**
- B. **HB 3038, -1 amendments, staff, 9 pp**
- C. **HB 3038, ORS statute, Adam Sussman, 1 p**
- D. **HB 3038, -3 amendments, Karen Russell, 11 pp**
- E. **Water Right Ownership, case law, Richard Koesan, 61 pp**