

HOUSE COMMITTEE ON WATER

May 25, 2005 Hearing Room 357

1:00 P.M. Tapes 94 - 95

Corrected 10/18/05

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

MEMBER EXCUSED: Rep. Carolyn Tomei

STAFF PRESENT: Sandy Thiele-Cirka, Committee Administrator

Elizabeth Howe, Committee Assistant

MEASURES/ISSUES HEARD:

SB 579 A – Work Session

SB 848 A – Work Session

SB 940 A – Work Session

SB 594 – Work Session

SB 696 – 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 94, A

003	Chair Jenson	Calls the meeting to order at 1:05 p.m. Opens a work session on SB 579 A.
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SB 579 A – WORK SESSION

011	Rep. Dalto	MOTION: Moves SB 579A to the floor with a DO PASS recommendation.
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VOTE: 5-0-2

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

EXCUSED: 2 - Brown, Tomei

019	Chair Jenson	The motion CARRIES. REP. BARNHART will lead discussion on the floor.
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026	Chair Jenson	Closes work session on SB 579 A. Opens work session on SB 848 A.
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SB 848 A – WORK SESSION

028	Sandy Thiele-Cirka	Administrator. Describes the –A3 amendments (EXHIBIT A).
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035	Rep. Dalto	MOTION: Moves to ADOPT SB 848-A3 amendments dated 5/25/05.
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042	Rep. Krummel	States that the amendments resolve his concerns.
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050	Chair Jenson	Addresses concerns that SB 848 A affects the entire state, rather than only Washington and Clackamas counties.
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VOTE: 6-0-1

EXCUSED: 1 - Tomei

063 Chair Jenson Hearing no objection, declares the motion CARRIED.

065 Rep. Krummel MOTION: Moves SB 848 to the floor with a DO PASS AS AMENDED recommendation.

VOTE: 6-0-1

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

EXCUSED: 1 - Tomei

072 Chair Jenson The motion CARRIES.

076 Rep. Krummel Suggests consent calendar motion.

079 Rep. Dingfelder MOTION: Moves SB 848 be placed on the CONSENT CALENDAR.

VOTE: 6-0-1

EXCUSED: 1 - Tomei

080 Chair Jenson Hearing no objection, declares the motion CARRIED.

084 Chair Jenson Closes work session on SB 848 A. Opens a work session on SB 579 A.

SB 579 A – WORK SESSION

089 Rep. Dalto MOTION: Requests unanimous consent that the rules be SUSPENDED to allow REP. BROWN to BE RECORDED as voting AYE on the motion to move SB 579 A to the floor with a DO PASS recommendation.

VOTE: 6-0-1

EXCUSED: 1 - Tomei

095	Chair Jenson	Hearing no objection, declares the motion CARRIED .
101	Chair Jenson	Closes work session on SB 579 A. Opens a work session on SB 940 A.

SB 940 A – WORK SESSION

106	Sandy Thiele-Cirka	Administrator. Describes the –A2 amendments (EXHIBIT B).
115	Rep. Barnhart	MOTION: Moves to ADOPT SB 940A-A2 amendments dated 5/24/05.
117	Rep. Barnhart	Relates that this statute will reform to the general statute of redemption, and includes the modernized language.
129	Chair Jenson	Comments on the good work by Rep. Barnhart.
		VOTE: 6-0-1
		EXCUSED: 1 - Tomei
138	Chair Jenson	The motion CARRIES.
140	Rep. Barnhart	MOTION: Moves SB 940A to the floor with a DO PASS AS AMENDED recommendation.
		VOTE: 6-0-1
		AYE: In a roll call vote, all members present vote Aye.
		EXCUSED: 1 - Tomei
149	Chair Jenson	The motion CARRIES.
152	Rep. Barnhart	MOTION: Moves SB 940A be placed on the CONSENT CALENDAR.
		VOTE: 6-0-1
		EXCUSED: 1 - Tomei

154	Chair Jenson	Hearing no objection, declares the motion CARRIED .
156	Chair Jenson	Closes work session on SB 940 A. Opens a work session on SB 594.

SB 594 – WORK SESSION

160	Sandy Thiele-Cirka	Administrator. Provides background on SB 594.
171	Chair Jenson	Reviews testimony on reciprocity and bag limits.
182	Russ Stauff	Legislative Liaison, Oregon Department of Fish and Wildlife (ODFW). Explains why Oregon and Washington have different bag limits.
210	Chair Jenson	Inquires if ODFW will monitor whether Washington anglers are taking more salmon than Oregon anglers.
219	Kurt Meltcher	ODFW. Describes creel census monitoring.
247	Chair Jenson	Expresses satisfaction with ODFW’s work to allow Oregon anglers the same access to salmon as Washington anglers.
259	Rep. Dingfelder	MOTION: Moves SB 594 to the floor with a DO PASS recommendation. VOTE: 6-0-1 AYE: In a roll call vote, all members present vote Aye. EXCUSED: 1 - Tomei
272	Chair Jenson	The motion CARRIES.
273	Rep. Krummel	MOTION: Moves SB 594 be placed on the CONSENT CALENDAR. VOTE: 6-0-1 EXCUSED: 1 - Tomei

277 Chair Jenson **Hearing no objection, declares the motion CARRIED.**

278 Chair Jenson Closes work session on SB 594. Opens a work session on SB 696.

SB 696 – WORK SESSION

283 Sandy Thiele-Cirka Administrator. Provides background on SB 696.

294 Chair Jenson Comments on conflicts that appears to exist. Calls a recess.
Reconvenes. Closes work session on SB 696. Opens work session on SB 594.

SB 594 – WORK SESSION

310 Rep. Krummel **MOTION: Requests unanimous consent that the rules be
SUSPENDED to allow REP. DALTO to BE RECORDED as
voting AYE on the motion to move SB 594 to the floor with a DO
PASS recommendation.**

VOTE: 6-0-1

EXCUSED: 1 - Tomei

315 Chair Jenson **Hearing no objection, declares the motion CARRIED.**

319 Chair Jenson Closes work session on SB 594. Opens a work session on SB 696.

SB 696 – WORK SESSION

325 Shaun Jillions Legislative Aide, Rep. Jenson. Describes the proposed amendments
(**EXHIBIT C**). Relates that Legislative Counsel approves language.

TAPE 95, A

002 Rep. Dalto Questions whether amendment has been distributed to stakeholders.

005 Chair Jenson Responds affirmatively. Announces intention to hold bill until
Wednesday, June 1, 2005 in order to consider amendments.

020	Rep. Krummel	Comments on language.
024	Chair Jenson	Expresses agreement with Legislative Counsel. States that the bill may already accomplish the issues in the proposed amendments, but the amendments will add explicit language.
038	Doug Myers	WaterWatch. States that WaterWatch is reviewing water law in hopes that their concerns may be resolved.
058	Richard Kosesan	Water for Life. Expresses concerns that the proposed amendments do not address all the issues.
148	Rep. Krummel	Inquires whether language is explicit enough to make clear that the water is pertinent to the land.
176	Kosesan	Responds that the language does not get to the issue without expressed language relating to the pertinence of the water right to the landowner.
202	Rep. Krummel	Questions if WaterWatch's desire is to see explicit language to ensure that the water right remain pertinent to the land and that the land owner be the only one with the ability to control the right.
210	Kosesan	Responds affirmatively. Illustrates potential situations.
225	Rep. Krummel	Cites ORS which lays out the issue regarding ownership and the pertinence of the water right to the land. Suggests that explicit language would not supersede that statute.
240	Chair Jenson	Questions whether that is relevant to SB 696 with amendments.
242	Kosesan	Responds affirmatively and explains.
248	Rep. Krummel	Inquires if intention is to supersede current language.
258	Kosesan	Argues that proposed language may allow the department to separate the water right from the control of the landowner.
272	Rep. Krummel	Comments on the potential view of the courts relating to pertinence.

302	Kristina McNitt	Oregon Water Resources Congress (OWRC).
306	Anita Winkler	Executive Director, OWRC. Believes that OWRC will support the amendment. Relates an account regarding exclusion from a district.
374	McNitt	Describes the process for water district patrons.

TAPE 94, B

005	McNitt	Continues testimony on the intention of SB 696.
017	Rep. Krummel	Addresses issue of water district having interest in the land owner's water right.
044	Winkler	Describes actions of landowner to change water right before a petition to exclude.
063	Rep. Krummel	Inquires whether it would be beneficial for the water right owner to maintain the water right after they have notified the water district that they want to cancel it.
085	Winkler	States that currently the district has no control over the water pertinent to the water right that has been cancelled by the owner. Explains risks of exclusion.
108	Rep. Krummel	Inquires about line 22 of the bill, regarding costs of exclusion.
132	Winkler	Describes costs associated with exclusion.
172	Brendan McCarthy	Deputy Legislative Counsel. Comments on water rights.
205	Rep. Krummel	Questions whether a court would hold proposed language over current statute to allow the district a right to the water right.
255	McCarthy	Addresses the issue that control of the water right is separate from granting the petition to exclude.
335	Rep. Krummel	Inquires whether SB 696 is necessary.

361	McCarthy	States that he cannot answer whether the bill is necessary. States that the current statute reads that the exclusion petition shall be granted, and SB 696 would allow the district to deny the petition.
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TAPE 95, B

010	McCarthy	Suggests that there may be times when the petition should be denied.
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013	Chair Jenson	Comments on special districts.
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016	McCarthy	States that special districts are hard to compare to water districts. Maintains that a fact of denial would be helpful.
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032	Adam Sussman	Legislative Coordinator, Water Resources Department (WRD). States that WRD is not a stakeholder in SB 696. Agrees that severing pertinence of a water right and granting petition for exclusion are viewed as separate issues. States that there is a requirement in statute that the water right owner must be a willing participant when the district initiates the transfer.
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057	Chair Jenson	Inquires about WRD's status in a case relating to water rights. Questions when WRD first received the request.
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068	Sussman	Believes there is no relationship of that case to SB 696. Relates that he is unsure of the status and is unsure of the details of the case.
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100	Rep. Krummel	Questions whether WRD would issue the approval after the 90-day waiting period.
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109	Sussman	Responds affirmatively.
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112	Chair Jenson	Closes work session on SB 696. Announces that SB 696 will be held until Wednesday, June 1, 2005. Adjourns the meeting to 2:40 p.m.
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EXHIBIT SUMMARY

- A. SB 848A, -A3 amendments, staff, 2 pp
- B. SB 940A, -A2 amendments, staff, 1 p

C. SB 696, proposed amendments, staff, 2 pp