

SENATE COMMITTEE ON ENVIRONMENT & LAND USE

February 14, 2005
3:00 P.M.

Hearing Room B
Tapes 23 - 24

Corrected 10/18/05

MEMBERS PRESENT: Sen. Charlie Ringo, Chair
Sen. Jason Atkinson, Vice-Chair
Sen. Roger Beyer
Sen. Ginny Burdick
Sen. Frank Shields

STAFF PRESENT: Matt Shields, Committee Administrator
Katie Lowry, Committee Assistant

MEASURES/ISSUES HEARD:

SB 346 – Public Hearing
Introduction of Committee Measures – Work Session
SB 351 – Public Hearing
SB 352 – 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.

<u>TAPE/#</u>	<u>Speaker</u>	<u>Comments</u>
TAPE 23, A		
005	Vice-Chair Atkinson	Calls meeting to order at 3:05 p.m. and opens a public hearing on SB 346.
<u>SB 346 – PUBLIC HEARING</u>		
012	Matt Shields	Committee Administrator. Explains SB 346. States that there is a set of -1 amendments (EXHIBIT A). Explains amendments.
020	Chair Ringo	Recesses public hearing on SB 346 and opens a work session on introduction of committee measures.
<u>INTRODUCTION OF COMMITTEE MEASURES – WORK SESSION</u>		
025	Matt Shields	Committee Administrator. Introduces Legislative Counsel (LC) drafts. Reads LC numbers and relating to clauses. Lists bills: LC's: 1299 (EXHIBIT B), 1300 (EXHIBIT C), 1407 (EXHIBIT D), 1442 (EXHIBIT E), 2174 (EXHIBIT F), 2327 (EXHIBIT G), 2390 (EXHIBIT H), 2391 (EXHIBIT I), 2392 (EXHIBIT J), 2395 (EXHIBIT K), 2452 (EXHIBIT L), 2512 (EXHIBIT M), 2595 (EXHIBIT N), 2625 (EXHIBIT O), 2639 (EXHIBIT P), 2694 (EXHIBIT Q), 2701 (EXHIBIT R), 2738 (EXHIBIT S), 2741 (EXHIBIT T), 2760 (EXHIBIT U), 2793 (EXHIBIT V), 2794 (EXHIBIT W), 2795 (EXHIBIT X), and 2796 (EXHIBIT Y).
044	Chair Ringo	MOTION: Moves LC's: 1299, 1300, 1407, 1442, 2174, 2327, 2390, 2391, 2392, 2395, 2452, 2512, 2595, 2625, 2639, 2694, 2701, 2738, 2741, 2760, 2793, 2794, 2795, 2796 BE INTRODUCED as committee bills.
045	Sen. Atkinson	States that he does not support LC 2327, but will not object to

the measures being introduced as committee bills.

VOTE: 4-0-1

EXCUSED: 1 - Burdick

Chair Ringo

Hearing no objection, declares the motion CARRIED.

NOTE:

LC 1299 printed as SB 743

LC 1300 printed as SB 742

LC 1407 printed as SB 741

LC 1442 printed as SB 740

LC 2174 printed as SB 739

LC 2327 printed as SB 738

LC 2390 printed as SB 737

LC 2391 printed as SB 736

LC 2392 printed as SB 735

LC 2395 printed as SB 734

LC 2452 printed as SB 733

LC 2512 printed as SB 732

LC 2595 printed as SB 731

LC 2625 printed as SB 730

LC 2639 printed as SB 729

LC 2694 printed as SB 728

LC 2701 printed as SB 727

LC 2738 printed as SB 726

LC 2741 printed as SB 725

LC 2760 printed as SB 724

LC 2793 printed as SB 723

LC 2794 printed as SB 722

LC 2795 printed as SB 721

LC 2796 printed as SB 720

047 Chair Ringo Closes work session on introduction of committee measures and returns to public hearing on SB 346.

SB 346 – PUBLIC HEARING

050 Sen. Beyer Discusses SB 346 and -1 amendments (**EXHIBIT A**). Asks witnesses to focus the testimony of SB 346 on the -1 amendments.

055 Chair Ringo Asks if the -1 amendments were made available to interested parties before the hearing.

056 Sen. Beyer Believes they were.

059 Joe Rohleder Government Affairs Representative, Oregon Aquaculture Association (OAA). Submits written testimony in support of SB 346 (**EXHIBIT Z**). Introduces Clint Bentz.

060 Clint Bentz President, OAA. Submits written testimony in support of SB 346 (**EXHIBIT AA**). Gives background information on why some counties identify aquaculture as agriculture and why some do not. Discusses purpose of SB 346.

085 Anne Rystrom Clear Creek Rainbow Ranch. Submits and highlights written testimony in support of SB 346 (**EXHIBIT BB**).

100 Bentz Explains SB 346 briefly.

105 Chair Ringo Asks how many employees she has.

106 Rystrom Explains. Gives background information on facility. Discusses aquaculture industry.

120 Chair Ringo Asks if the facility's operation is currently on hold.

121 Rystrom States that it is at one facility. Explains. Discusses second facility.

135	Chair Ringo	Asks who the fish are sold to.
136	Rystrom	Explains.
145	Sen. Burdick	Asks why the whole section of SB 346 had to be re-written.
150	Bentz	Explains.
159	Sen. Burdick	Wonders why a conditional use is a problem.
160	Rystrom	Explains.
170	Sen. Burdick	Asks what kind of conflicts the facilities pose to surrounding farms or orchards.
174	Rystrom	Explains that there is no water drainage.
180	Sen. Burdick	Wonders about conflicts if a farmer uses a pesticide that might get into a fish tank.
183	Rystrom	Gives an example.
185	Bentz	Explains precautions that need to be taken. Explains that they are the same precautions one would take when farming next to a stream.
195	Sen. Burdick	Asks if the fish are raised to maturity for the market or if they are sent somewhere else to reach maturity.
200	Bentz	Describes what generally is done. Explains that it depends on what the customers want.
210	Chair Ringo	Asks about specific language of -1 amendments.
220	Sen. Beyer	Explains specific language.
260	Jim Johnson	Land Use and Water Quality Specialist, Oregon Department of Agriculture (ODA). Explains that ODA had specific concerns with SB 346 but those have been addressed in the -1 amendments. States that the ODA has no issues with SB 346 if the -1 amendments are adopted.
270	Roy Elicker	Deputy Director of Fish and Wildlife Programs, Oregon Department of Fish and Wildlife (ODFW). Supports aquaculture industry in Oregon, however is unsure about SB 346. Explains potential concerns.
300	Chair Ringo	Addresses purpose of SB 346.
302	Elicker	Explains that the ODFW does not have any problems with the aquaculture industry wanting more flexibility in operations.
304	Chair Ringo	Asks witness to get back to the committee in a week. Explains that he wants to move SB 346 soon.
305	Elicker	Agrees.
310	Sen. Shields	Wants it to get done quickly.
315	Elicker	States that if he can arrange this meeting tomorrow, he will.
320	Bob Horning	Horning's Hide Out. Expresses support for SB 346. Explains reasons for support.
340	Chair Ringo	Asks about permits.
342	Horning	Explains.
343	Chair Ringo	Asks witness to tell about his operation.
345	Horning	Explains operation. Says that he supports SB 346 because it would help hatcheries out a lot. Explains that cleaning up the language in statutes would be helpful to a lot of people.
370	Art Schlack	Association of Oregon Counties (AOC). Explains that he just received these amendments. States that he sent out a request to the counties to see if there is any problem with the changes. Discusses conditional use permit. States that a permit would still need to be obtained from ODFW before operation began.
405	Chair Ringo	Asks if he believes a permit from the ODFW would not be necessary if the conditional use permit was changed to an outright permit.

410 Schlack Replies no. Explains concern with outright permitted use.
 412 Chair Ringo Asks if witness can get position of the AOC on SB 346 with proposed amendments to the committee within one week.
 413 Schlack Replies yes.
 415 Don Shellenberg Oregon Farm Bureau (OFB). Discusses purpose of conditional use permit. Discusses aquaculture. Explains that the OFB does not have a problem with the -1 amendments.
 450 Sen. Shields Asks if aquaculture presents an opportunity for diversification for a farmer.

TAPE 24, A

015 Shellenberg Explains that diversification decisions are routinely made in agriculture. States that a conditional use permit is necessary to do this, but believes that it should not be necessary.

025 Sen. Shields Points out that it seems like this would benefit farmers.

The following prepared testimony is submitted for the record without public testimony:

Ken Dunder Submits written testimony in support of SB 346 (**EXHIBIT CC**).

027 Chair Ringo States that committee will look at SB 346 based on information received later. Closes public hearing on SB 346 and opens public hearing on SB 351.

SB 351 – PUBLIC HEARING

030 Joe Rohleder Government Affairs Representative, Oregon Aquaculture Association (OAA). Submits written testimony in support of SB 351 (**EXHIBIT Z**). Submits and refers to fact sheets on sturgeon (**EXHIBIT DD**). Explains SB 351.

070 Chair Ringo Asks about pounds of fish referred to.

075 Rohleder Clarifies number of pounds of fish and what those fish are used for. Continues explaining SB 351.

120 Sen. Atkinson Asks about tonnage in Idaho and California and asks if there is a marketable caviar industry.

123 Rohleder Discusses production of eggs. Discusses caviar industry in Idaho and California.

140 Sen. Atkinson Asks if it is marketable in international waters.

145 Rohleder Explains.

155 Sen. Atkinson Explains that a sturgeon would outlast everyone in the room. Asks what size is transportable.

163 Rohleder Responds up to about six or seven feet. Mentions Newport Aquarium.

175 Chair Ringo Asks witness to explain the need for transportation.

180 Clint Bentz Manager, Blue Den Ranch and President, OAA. Introduces himself. Submits written testimony in support of SB 351 (**EXHIBIT AA**). Discusses transportation permits.

185 Chair Ringo Asks why the fish are being transported.

186 Bentz Explains difference between transport and release. Gives examples.

200 Bentz Discusses sections of SB 351. Discusses advisory committee.

230 Chair Ringo Refers to advisory committee. States that it comes with a fiscal impact. Asks if section three of SB 351 should be removed if the money is not there for the advisory committee.

235 Bentz Believes the fiscal impact is not real because a staff person would not be necessary.

260 Roy Elicker Deputy Director of Fish and Wildlife Programs, Oregon Department of Fish and Wildlife (ODFW). Submits and reads written testimony (**EXHIBIT EE**).

315	Chair Ringo	Asks if the issue of transportation is different if they are not transporting the fish to the wild. Asks what the state's interest is in regulating transport from one private pond to another private pond.
320	Elicker	States that he was told that the goal was to be able to get a reoccurring permit to transport fish to farmer's markets. States that under the current rules, the ODFW is able to issue those permits.
330	Chair Ringo	Remarks that that was not one of the reasons the OAA said they wanted these permits. Points out that the OAA is nodding yes.
335	Elicker	Explains further details. Remarks that the ODFW is unsure why the statutes need to be changed if the permits necessary are already available.
350	Vice-Chair Atkinson	Remarks on steelhead brought to the Capital building four years ago. Asks if the ODFW got a permit to transport those fish.
355	Elicker	Offers to return information to the committee.
360	John Thorpe	Fish Propagation Program Manager, ODFW. Introduces himself. Addresses question. States that the ODFW does not issue themselves permits for the transport of fish. Explains.
375	Vice-Chair Atkinson	Urges the ODFW to bring the fish back to the Capitol. States that it seems inconsistent to ask the public to do something the government is not willing to do.
385	Elicker	Continues reading testimony (EXHIBIT EE). Discusses advisory committee.
395	Sen. Beyer	Asks why the ODFW is opposed to putting the advisory committee in statute if the ODFW plans on working with the OAA anyway.
400	Elicker	Explains hesitancy to have a permanent advisory committees. Gives examples of advisory committees.
415	Sen. Beyer	Asks if a sunset clause would alleviate the ODFW's concerns.
418	Elicker	Replies yes.
420	Sen. Beyer	Asks about fiscal impact.
TAPE 23, B		
020	Elicker	Discusses fiscal impact.
030	Sen. Beyer	Thanks witness for clarification because the fiscal impact statement does not accurately reflect the fiscal impact.
035	Elicker	Offers to file an amended fiscal impact statement to accurately reflect reason for fiscal impact.
037	Sen. Beyer	Asks about taking brood stock out of the Columbia River.
040	Elicker	Discusses taking brood stock out of the Columbia River.
045	Sen. Beyer	Verifies that right now a permit is needed to get the fish eggs and then the eggs can only be used for education and research.
047	Elicker	Confirms this.
048	Sen. Beyer	Remarks that SB 351 does not mandate the commission to do anything. Verifies that the fiscal impact for the sturgeon is at the discretion of the ODFW.
054	Elicker	Explains staff time that would be necessary.
065	Sen. Beyer	Clarifies that a person who wants to grow sturgeon, even if not taken from the wild, would need to get a permit from the ODFW.
070	Elicker	Confirms this.
071	Sen. Burdick	Asks if genetic quality of the sturgeons is a factor in this issue.
075	Elicker	Defers to Thorpe.
078	Thorpe	Asks Sen. Burdick to repeat the question.
080	Sen. Burdick	Asks if the genetic quality of the stock is an issue.

083	Thorpe	Confirms that is one of the biggest concerns in raising sturgeon. Explains why.
099	Sen. Burdick	Asks how that factor can be controlled.
100	Thorpe	Gives recommendation.
103	Sen. Shields	Asks how these issues were addressed in Idaho and California.
105	Thorpe	Discusses how these issues were addressed in Idaho.
118	Sen. Shields	Asks what the difference is between genetic overpopulation in the wild and at a farm.
125	Thorpe	Explains difference.
140	Corey Pelfrey	Pelfrey Sturgeon Hatchery. Introduces himself. Submits and reads written testimony in opposition to SB 351 (EXHIBIT FF) .
240	Pelfrey	Continues reading testimony (EXHIBIT FF) .
340	Chair Ringo	Asks where his operation is located.
350	Pelfrey	Gives location.
351	Chair Ringo	Asks how many employees the witness has.
352	Pelfrey	Explains.
355	Chair Ringo	Verifies that this is a for profit operation.
356	Pelfrey	Confirms this.
358	Chair Ringo	Asks if his concern about SB 351 is that the competition would hurt his business.
360	Pelfrey	Replies no. Explains concerns.
380	Chair Ringo	Refers to California's regulations and remarks that California has more regulations than SB 351 would put into place.
385	Pelfrey	Confirms this.
386	Chair Ringo	Asks if it is done right in California. Asks if it would make the witness more comfortable if more regulations were proposed.
390	Pelfrey	States that he cannot testify as to whether or not it is done right in California.
392	Chair Ringo	Asks if the witness knows of any problems that California has.
394	Pelfrey	Replies yes.
395	Chair Ringo	Asks what the problems are.
396	Pelfrey	Explains problems.
400	Sen. Beyer	Refers to testimony (EXHIBIT FF) . Points out that under current statute, witness is the only permit holder and none of the criteria referred to in testimony is required by law.
415	Pelfrey	States that ODFW does require these criteria.
420	Sen. Beyer	Talks about difference between rule and law.
425	Pelfrey	Remarks that he wouldn't object if criteria were met. Explains.
TAPE 24, B		
004	Sen. Beyer	States, that clarifies that concern. Addresses another concern raised in testimony regarding advisory committee.
015	Pelfrey	Discusses advisory committee. Asks if something could be included in this law that would require at least one permit holder in the state of Oregon be a criteria for the advisory committee.
020	Sen. Beyer	Explains reason for not including this in the draft.
025	Lyle Negus	Desert Springs Trout Farm. Introduces himself. Gives background information.
040	Chair Ringo	Verifies that he supports the bill.
043	Negus	Confirms this.
050	Chair Ringo	States for the record that Thomas McDonald supports SB 351.
058	Bob Horning	Horning's Hide Out. Explains purpose of SB 351. Expresses support for SB 351. Discusses issue of special interest.
080	Anne Rystrom	Clear Creek Rainbow Ranch. Introduces herself. Testifies in support of SB 351. Submits written testimony (EXHIBIT BB) .

120 Chair Ringo Invites Roy Elicker and John Thorpe, ODFW, to answer questions. Refers to testimony (**EXHIBIT EE**) and concerns that have been raised by witnesses. Believes that these concerns can be addressed. Wants to accommodate the concerns raised by witnesses who have testified.

130 Elicker Clarifies that the ODFW is not saying no. States that there are some concerns.

150 Chair Ringo States that he doesn't want to spend more time on this right now, but wants to try and develop a commercial aquaculture business in Oregon.

155 Elicker Says that he will come by and meet with Chair Ringo on SB 351.

157 Sen. Shields Hopes that Chair Ringo and Mr. Elicker can work out these issues. Asks how it could benefit Oregon economically if Oregon was in the same place as California.

165 Elicker Agrees that it is a substantial industry. Refers to California's industry. Offers to return information to the committee.

180 Sen. Shields Asks if California has learned something and if Oregon can learn from it.

183 Chair Ringo Wants to pass a bill out this session.

185 Elicker Offers to work with the committee.

190 Sen. Beyer Offers to facilitate discussion. Speaks specifically about transport issue. Discusses clarity of the statutes.

205 Elicker Offers to work with Sen. Beyer.

The following prepared testimony is submitted for the record without public testimony.

Ken Dunder Submits written testimony in support of SB 351 (**EXHIBIT CC**).

210 Chair Ringo Closes public hearing on SB 351 and opens work session on introduction of committee measures.

INTRODUCTION OF COMMITTEE MEASURES – WORK SESSION

215 Matt Shields Committee Administrator. Introduces Legislative Counsel (LC) draft 2144. Reads summary (**EXHIBIT GG**).

220 Chair Ringo MOTION: Moves LC 2144 BE INTRODUCED as a committee bill.

VOTE: 4-0-1

EXCUSED: 1 - Burdick

Chair Ringo Hearing no objection, declares the motion CARRIED.

NOTE:

LC 2144 printed as SB 863

225 Chair Ringo Closes work session on introduction of committee measures and opens public hearing on SB 352.

SB 352 – PUBLIC HEARING

235 Joe Rohleder Government Affairs Representative, Oregon Aquaculture Association (OAA). Explains program. Submits written testimony in support of SB 352 (**EXHIBIT Z**). Submits and refers to informational packet including spreadsheets and letters (**EXHIBIT HH**).

255 Clint Bentz President, OAA. Submits written testimony in support of SB 352 (**EXHIBIT AA**). Explains reasons for SB 352.

285 Roy Elicker Deputy Director of Fish and Wildlife Programs, Oregon Department of Fish and Wildlife (ODFW). Submits written testimony in opposition to SB 352 (**EXHIBIT II**). Explains opposition to SB 352.

308 Chair Ringo Refers to (**EXHIBIT HH, Page 1**) and asks if these numbers are correct.

310	Elicker	Offers to stop by and discuss mentioned testimony with Chair Ringo. Discusses hatcheries and vendors in the state of Oregon.
335	Sen. Beyer	Discusses purpose of SB 352.
365	Chair Ringo	States that more analysis will be done.
370	Anne Rystrom	Clear Creek Rainbow Ranch. Submits written testimony in support of SB 352 (EXHIBIT BB). States that she met with the ODFW and discusses the meeting.
The following prepared testimony is submitted for the record without public testimony.		
	Ken Dunder	Submits written testimony in support of SB 352 (EXHIBIT CC).
380	Chair Ringo	Closes public hearing on SB 352 and adjourns meeting at 4:56 p.m.

EXHIBIT SUMMARY

- A. SB 346, -1 Amendments, Staff, 37 pp
- B. Introductions, LC 1299, Staff, 3 pp
- C. Introductions, LC 1300, Staff, 2 pp
- D. Introductions, LC 1407, Staff, 7 pp
- E. Introductions, LC 1442, Staff, 12 pp
- F. Introductions, LC 2174, Staff, 3 pp
- G. Introductions, LC 2327, Staff, 3 pp
- H. Introductions, LC 2390, Staff, 3 pp
- I. Introductions, LC 2391, Staff, 11 pp
- J. Introductions, LC 2392, Staff, 13 pp
- K. Introductions, LC 2395, Staff, 5 pp
- L. Introductions, LC 2452, Staff, 6 pp
- M. Introductions, LC 2512, Staff, 2 pp
- N. Introductions, LC 2595, Staff, 2 pp
- O. Introductions, LC 2625, Staff, 3 pp
- P. Introductions, LC 2639, Staff, 2 pp
- Q. Introductions, LC 2694, Staff, 2 pp
- R. Introductions, LC 2701, Staff, 1 p
- S. Introductions, LC 2738, Staff, 1 p
- T. Introductions, LC 2741, Staff, 2 pp
- U. Introductions, LC 2760, Staff, 1 p
- V. Introductions, LC 2793, Staff, 2 pp
- W. Introductions, LC 2794, Staff, 2 pp
- X. Introductions, LC 2795, Staff, 2 pp
- Y. Introductions, LC 2796, Staff, 2 pp
- Z. SB 346, SB 351, and SB 352, written testimony, Joe Rohleder, 2 pp
- AA. SB 346, SB 351, and SB 352, written testimony, Clint Bentz, 2 pp
- BB. SB 346, SB 351, and SB 352, written testimony, Anne Rystrom, 12 pp
- CC. SB 346, SB 351, and SB 352, written testimony, Ken Dunder, 2 pp
- DD. SB 351, fact sheets, Joe Rohleder, 11 pp
- EE. SB 351, written testimony, Roy Elicker, 2 pp
- FF. SB 351, written testimony, Corey Pelfrey, 5 pp
- GG. Introductions, LC 2144, Staff, 34 pp
- HH. SB 352, informational packet, Joe Rohleder, 6 pp

II. SB 352, written testimony, Roy Elicker, 2 pp