

SENATE COMMITTEE ON RULES

May 16, 2005
3:00 P.M.

Hearing Room B
Tapes 71 - 73

MEMBERS PRESENT: **Sen. Kate Brown, Chair**
 Sen. Ted Ferrioli, Vice-Chair
 Sen. Jason Atkinson
 Sen. Charlie Ringo
 Sen. Frank Shields

STAFF PRESENT: **Tiffany Harris, Committee Administrator**
 Dawn Tusso, Committee Assistant

MEASURE/ISSUES HEARD:
 SB 1028 – 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
TAPE 71, A		
005	Chair Brown	Calls meeting to order at 3:06 p.m. Opens as a subcommittee. Makes opening announcements regarding SB 1028. Opens a public hearing on SB 1028.
<u>SB 1028 – PUBLIC HEARING</u>		
018	Tiffany Harris	Committee Administrator. Gives overview of SB 1028. Submits SB 1028 -1 amendments for the record (EXHIBIT A).
024	Chair Brown	Observes that the subcommittee is now meeting as a full committee.
025	Brendan McCarthy	Legislative Counsel. Discusses SB 1028 and the -1 amendments. Talks about sections 1, 2, and 3 of SB 1028 -1 amendments.
075	McCarthy	Discusses section 4 and 5 of SB 1028 -1 amendments.
121	McCarthy	Discusses section 6 of SB 1028 -1 amendments.
142	McCarthy	Discusses section 7 and 8 of SB 1028 -1 amendments.
153	McCarthy	Discusses section 9 of SB 1028 -1 amendments.
170	McCarthy	Mentions that the State Marine Board will be offering education materials on the issue.
176	McCarthy	Discusses section 10 of SB 1028 -1 amendments.
179	McCarthy	Discusses section 12 of SB 1028 -1 amendments.
185	McCarthy	Gives overview of all other sections of SB 1028.
196	McCarthy	Discusses re-organization of the SB 1028 -1 amendments. Discusses definition changes in SB 1028 -1 amendments.
238	McCarthy	Discusses subsection 6 of SB 1028 -1 amendments.
246	McCarthy	Discusses language change in section 5 of SB 1028 -1 amendments.
263	McCarthy	Points out that the permit was referred to as a recreation use permit but is now referred to as a transferable non-motorized boat permit.
277	Vice-Chair Ferrioli	Asks about the current status of floatage law in Oregon.
284	McCarthy	Responds.
285	Vice-Chair Ferrioli	Asks if the current definition of floatage is whatever people want it to be.
292	McCarthy	Explains that there is a body of common law.
299	Vice-Chair Ferrioli	Asks if there is any state agency in charge of reducing conflict between land owners and recreationists.
306	McCarthy	Replies no.
311	Vice-Chair Ferrioli	Asks how the -1 amendments address the Attorney General's most recent opinion regarding floatage and recreation access to waterways in Oregon.
318	McCarthy	Responds to question. Believes the SB 1028 -1 amendments dovetail with the Attorney General's opinion.
340	Vice-Chair Ferrioli	Offers opinion that the -1 amendments codify floatage, reduce conflict, and

		incorporate the Attorney General's most current opinion on the issue.
344	Sen. Ringo	Asks how SB 1028 -1 amendments would reduce public access to a river that has been found to be navigable.
354	McCarthy	Asks Sen. Ringo for clarification regarding his question.
359	Sen. Ringo	Wonders if McCarthy is making a distinction pertaining to the John Day river.
361	McCarthy	Responds that the John Day river is one that has undergone a navigability study but that there has not been a determination of navigability by the State Land Board.
366	Sen. Ringo	Wants to know to what extent SB 1028 would impact public access.
372	McCarthy	Points out section 4, subsection 5 in the SB 1028 -1 amendments.
387	Sen. Ringo	Asks if the uses mentioned might be allowed currently for a river found to be navigable.
390	McCarthy	Replies yes.
394	Sen. Ringo	Asks about the definition of floatable. Asks for clarification regarding page 2, line 7 of SB 1028.
408	McCarthy	Explains.
417	Sen. Ringo	Asks how it is consistent with the language in the bill.
418	McCarthy	Responds to question.
TAPE 72, A		
001	McCarthy	Continues response to Sen. Ringo's question.
010	Vice-Chair Ferrioli	Thanks McCarthy for his testimony.
020	Vice-Chair Ferrioli	Asks Randall Edwards to testify on SB 1028.
023	Randall Edwards	State Treasurer of Oregon. Testifies in support of SB 1028 and the -1 amendments. Submits written testimony (EXHIBIT B).
087	Vice-Chair Ferrioli	Asks Edwards to discuss conversations he has had with the State Land Board.
091	Edwards	Explains.
113	Vice-Chair Ferrioli	Asks Lore Bensel question regarding implied rights.
120	Lore Bensel	Department of Justice. Discusses findings.
220	Bensel	Continues response.
270	Vice-Chair Ferrioli	Asks for clarification on the issue of water dependent usage and incidental usage.
276	Bensel	Discusses water dependent usage and incidental usage.
303	Bensel	Responds to earlier question regarding the meaning of, "at any time".
330	Vice-Chair Ferrioli	Mentions scenario and asks if people would be camping above or below the high water mark.
337	Bensel	Explains that the comment is based on below the ordinary high water mark.
340	Vice-Chair Ferrioli	Asks upon whom is the Attorney General's opinion binding.
348	Bensel	Explains.
360	Vice-Chair Ferrioli	Explains purpose for question.
373	Vice-Chair Ferrioli	Asks why there is not a river by river solution.
379	Edwards	Offers personal opinion regarding the question.
TAPE 71, B		
001	Edwards	Continues response to Sen. Ferrioli's question.
030	Vice-Chair Ferrioli	Commends Mr. Edwards for his work on the issue.
037	Edwards	Responds to comments.
046	Sen. Ringo	Says that Sen. Atkinson is frequently driven away at gun point when he is on rivers. Asks what is likely to happen on the navigability decision on the John Day river if SB 1028 does not pass.
050	Edwards	Responds that he is unsure.
059	Sen. Ringo	Asks if he believes that the State Land Board has an obligation to reach a navigability finding based on the recommendations presented to it.
061	Edwards	Responds.
074	Vice-Chair Ferrioli	Asks Mr. Edwards why he thinks compromise has been so difficult to arrive at on this issue.
076	Edwards	Explains.
100	Vice-Chair Ferrioli	Reports that each witness will be given three minutes to testify on the issue.
116	Gary Benson	NW Steelheaders. Testifies in opposition to SB 1028. Submits written testimony (EXHIBIT C).

156	Art Israelson	NW Steelheaders. Testifies in opposition to SB 1028. Submits informational packet including a letter from Linn County Board of Commissioners (EXHIBIT D).
200	Duane Doran	Coalition for Oregon River Rights. Testifies in opposition to SB 1028. Submits written testimony (EXHIBIT E).
251	Leslie Pittman	Operation Rivers Northwest Oregon. Testifies in opposition to SB 1028. Submits written testimony (EXHIBIT F).
323	Mimi Stout	Board member, Alsea Valley Alliance. Testifies in opposition to SB 1028. Submits written testimony (EXHIBIT G).
403	Walt Bammann	Northwest Rafters Association. Testifies in opposition to SB 1028.
TAPE 72, B		
001	Bammann	Continues testimony in opposition to SB 1028.
040	Lawrence Edwards	Resident, Silverton, Oregon. Testifies in opposition to SB 1028.
116	Mike Myrick	NW Steelheaders. Testifies in opposition to SB 1028.
150	Ted McNeely	Coos County landowner. Testifies in opposition to SB 1028.
241	Sandra Johnson	Riverfront property owner. Testifies in opposition to SB 1028. Submits written testimony (EXHIBIT H).
323	Bryan Redd	Resident, Multnomah County. Testifies in opposition to SB 1028.
TAPE 73, A		
002	Vice-Chair Ferrioli	Asks Mr. Redd to summarize his remarks and submit his written testimony for the record.
003	Redd	Makes closing remarks on SB 1028. Submits written testimony (EXHIBIT I).
014	Sen. Ringo	Asks if SB 1028 would be subject to constitutional challenge if it restricts rights beyond what citizens would otherwise have under the Emissions Act.
023	Redd	Responds.
040	Les Helgesen	Citizen. Testifies in opposition to SB 1028.
083	Dale Johnson	Citizen. Testifies in opposition to SB 1028.
090	Vice-Chair Ferrioli	Asks for the source of Mr. Johnson's opposition.
091	Johnson	Explains.
098	M. Chapin Milbank	Resident, Salem, Oregon. Testifies in opposition to SB 1028. Submits written testimony (EXHIBIT J).
143	Katie Fast	Oregon Farm Bureau. Testifies in opposition to SB 1028.
180	Jennie Bricker	Stoel Rives LLP. Testifies in opposition to SB 1028. Submits written testimony (EXHIBIT K).
250	Vice-Chair Ferrioli	Asks for summary of testimony.
253	Bricker	Offers summary of testimony.
279	James Pittman	Resident, Tillamook, Oregon. Testifies in opposition to SB 1028. Submits written testimony (EXHIBIT L).
316	Heather McNeal	Resident, West Linn, Oregon. Testifies in opposition to SB 1028.
373	Mark Wieprecht	Resident, Marion County. Testifies in opposition to SB 1028.
The following prepared testimony is submitted for the record without public testimony:		
	Ardath Stout	Citizen. Submits written testimony on SB 1028 for the record (EXHIBIT M).
	Dick and Carol Blum	Citizens. Submits written testimony on SB 1028 for the record (EXHIBIT N).
	Fred VanNatta	Citizen. Submits written testimony on SB 1028 for the record (EXHIBIT O).
	George Laszlo	Citizen. Submits written testimony on SB 1028 for the record (EXHIBIT P).
	Bryon Madsen	Citizen. Submits written testimony on SB 1028 for the record (EXHIBIT Q).
	Shane and Mishelle Sumption	Citizens. Submits informational packet on SB 1028 for the record (EXHIBIT R).
	John Garren	Citizen. Submits written testimony on SB 1028 for the record (EXHIBIT S).
	Gus Meyer	Citizen. Submits email correspondence on SB 1028 for the record (EXHIBIT T).
417	Vice-Chair Ferrioli	Closes public hearing. Makes closing remarks. Adjourns meeting at 5:28

EXHIBIT SUMMARY

- A. SB 1028, -1 amendments, staff, 20 pp
- B. SB 1028, written testimony, Randall Edwards, 1 p
- C. SB 1028, written testimony, Gary Benson, 2 pp
- D. SB 1028, informational packet, Art Israelson, 16 pp
- E. SB 1028, written testimony, Duane Doran, 2 pp
- F. SB 1028, written testimony, Leslie Pittman, 5 pp
- G. SB 1028, written testimony, Mimi Stout, 1 p
- H. SB 1028, written testimony, Dale and Sandra Johnson, 5 pp
- I. SB 1028, written testimony, Bryan Redd, 7 pp
- J. SB 1028, written testimony, M. Chapin Milbank, 5 pp
- K. SB 1028, written testimony, Jennie Bricker, 2 pp
- L. SB 1028, written testimony, James Pittman, 1 p
- M. SB 1028, written testimony, Ardath Stout, 2 pp
- N. SB 1028, written testimony, Dick and Carol Blum, 1 p
- O. SB 1028, written testimony, Fred VanNatta, 1 p
- P. SB 1028, written testimony, George Laszlo, 1 p
- Q. SB 1028, written testimony, Bryon Madsen, 1 p
- R. SB 1028, informational packet, Shane and Mishelle Sumption, 20 pp
- S. SB 1028, written testimony, John Garren, 4 pp
- T. SB 1028, email correspondence, Gus Meyer, 4 pp