

## SENATE COMMITTEE ON RULES

August 13, 2003  
2:30 pm

Hearing Room B  
Tapes 116 - 117

**MEMBERS PRESENT:**     **Sen. Kate Brown, Co-chair, Presiding**  
                                  **Sen. Roger Beyer, Co-chair**  
                                  **Sen. Jason Atkinson, Vice-chair**  
**Sen. Tony Corcoran**  
                                  **Sen. Bill Fisher**

**MEMBER EXCUSED:**     **Sen. Ginny Burdick, Vice-chair**

**STAFF PRESENT:**       **Jim Stembridge, Committee Administrator**  
                                  **Jeana Harrington, Committee Assistant**

**MEASURES HEARD:**       **HB 3654 – Public Hearing and Work Session**  
                                  **SB 928 – Public Hearing**

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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.

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<u>TAPE/#</u>	<u>Speaker</u>	<u>Comments</u>
<b>TAPE 116, A</b>		
003	Co-chair Brown	Calls meeting to order at 2:36 PM. Opens public hearing on HB 3654.
<b><u>HB 3654 – PUBLIC HEARING</u></b>		
010	Marjorie Taylor	Committee Administrator. Summarizes HB 3654, which enacts provisions of federal law relating to health insurance coverage for mastectomy-related services.
020	Sen. Vicki Walker	Senate District 7. Testifies in support of HB 3654. Provides and explains the statutory text of the Women's Health and Cancer Rights Act ( <b>EXHIBIT A</b> ). Explains the bill. Notes no opposition to the bill and recalls passage in the House.
040	Sen. Fisher	Remarks.
046	Co-chair Brown	Closes public hearing and opens work session on HB 3654.
<b><u>HB 3654 – WORK SESSION</u></b>		
047	Sen. Beyer	<b>MOTION: Moves HB 3654 to the floor with a DO PASS recommendation.</b>
048		<b>VOTE: 4-0-2</b>
		<b>EXCUSED: 2 - Atkinson, Burdick</b>
	Co-chair Brown	<b>Hearing no objection, declares the motion CARRIED.</b>
		<b>SEN. WALKER will lead discussion on the floor.</b>
052	Co-chair Brown	Closes work session on HB 3654. Opens public hearing on SB 928.
<b><u>SB 928 – PUBLIC HEARING</u></b>		
054	Judith Callens	Committee Administrator. Summarizes SB 928, which establishes process for development of recreation management plan for recreational use of waterway. Notes the -1 amendments ( <b>EXHIBIT B</b> ) from the bill, information on liability limitations ( <b>EXHIBIT C</b> ) and on the current law restored by the -1 amendment ( <b>EXHIBIT D</b> ) and letters submitted on the issue

		<b>(EXHIBIT E)</b> . Speaks on the letter from Mr. Carrier <b>(EXHIBIT E, page one)</b> . Differentiates the -1 amendments from the bill. Lists the requirements of the -1 amendments and the bill.
121	Sen. Ted Ferrioli	Senate District 30. Testifies in support of SB 928. Explains the -1 amendments are a replacement to the bill. Advises the bill is not about navigability, but about the development of a recreation management plan. Stresses the bill is a product of a workgroup of land owners and recreation users. Speaks on section two regarding hunting. Informs of the advisory committee created by the bill. Highlights a fund the bill will create to pay for costs associated with the bill, but adds that the Oregon Department of Fish and Wildlife will use its own funding. Believes opposition will always exist. Notes two-to-one support from a mail survey of those living on the John Day River <b>(EXHIBIT F)</b> , and adds he will return with the conclusion of the survey.
242	Inga Deckert	Oregon State Treasury. Provides background on the workgroup. Explains the Treasurer's interest in the issue. Notes the -1 amendments are a compromise created by the workgroup. Speaks on the determination of the navigability on the John Day River. Explains the navigability study will automatically commence at the end of session if the Governor does not sign the bill.
325	Jesse Cornett	Land Board Assistant, Office of the Secretary of State. Testifies in support of SB 928.
335	Jim Myron	National Resources Policy Analyst, Office of the Governor. Testifies in support of SB 928. Provides list of principles laid out by the Governor at the June 2003 State Land Board meeting <b>(EXHIBIT G)</b> .
353	Gary Benson	Northwest Steelheaders. Testifies in support of SB 928. Notes he has been a member of the workgroup for the past year. Explains the issue is of clarity. Voices sympathy for land owners. Speaks on alternatives. States the bill as amended only serves the John Day River, and does not solve all problems. Thinks the workgroup could create a statewide solution to navigability.
<b>TAPE 117, A</b>		
010	Jean Underhill-Wilkeson	Oregon Farm Bureau (OFB). Testifies in support to SB 928. Accounts for the situation of disagreement regarding land ownership. Provides opinions of the consensus of the workgroup. Speaks on the "ten feet proposal." Speaks on the Governor's approach on the measure. States she feels efforts were undermined by the Governor's Office. Explains the majority of the landowners' support for the bill.
065	Phil Donovan	Association of Northwest Steelheaders. Testifies in support of SB 928. States they wish to avoid a navigability study. Addresses the opposing viewpoints to the bill. States the goal is for access to public rivers.
097	Sen. Atkinson	Refers to correspondence by William Butler. Asks if Mr. Butler is a steelheader.
100	Benson	Responds no.
102	Sen. Atkinson	Continues. Informs of arguments of Mr. Butler. Clarifies the steelheaders' stance on the issue.
105	Donovan	Responds that under the fed admissions act it was up to the state to determine which. States there is nothing to prevent Oregon from pursuing other river navigability studies. Voices hope the

		taskforce will find a statewide solution.
139	Sen. Atkinson	Inquires if the public trust doctrine is part of the federal standard described.
142	Donovan	Believes so.
143	Sen. Atkinson	Asks if the steelheaders as an association are opposed to compensation of landowners, requests a policy statement.
145	Benson	Informs the steelheaders supported a bill that would suspend taxation to the center of the river, although it did not address the issue of back taxes. Comments further on the high water mark.
163	Sen. Atkinson	Requests the parties outline the Montana Law.
175	Donovan	Answers that in the mid-eighties Montana considered a similar issue of navigability. Explains how Montana chose to classify waterways.
203	Harlan Levy	Oregon Association of Realtors (OAR); member of workgroup. States OAR would support SB 928 as introduced, but not with the -1 amendments due to the ten foot mark. Provides examples of due process rights the owners would have. Informs of navigability regulations.
243	Al Elkins	Oregon Hunters Association; member of workgroup. Supports SB 928 as introduced, without the -1 amendments due to hunting provisions. Voices concern for hunting along the John Day River. Adds OHA consents to the provision.
277	Glen Stonebrink	Oregon Cattlemen. Testifies in opposition to SB 928. Explains they have not received a consensus of the landowners on the bill. Informs of town hall meetings held. Lists concerns with the -1 amendments to SB 928. Provides opinion on the amendments.
353	Elkins	Informs of the decisions of the workgroup and the concessions made to those at town hall and to the community.
380	Callens	Refers to page three, section five, line 32 of the original bill. Assures land owners property damage are eligible for compensation and the monies would be applied to the Oregon Department of Recreation.
<b>TAPE 116, B</b>		
002	Stonebrink	Adds that throughout discussions on compensation, there was no use fee discussed.
018	Lawrence Edwards	Marion County. Testifies in opposition to SB 928 ( <b>EXHIBIT H</b> ). Cites examples of court decisions on navigability. Asks where the attorneys were when the legislation was created. Urges further consideration of the measure. Provides opinion on the measure. Provides history on navigable waters in Oregon. Continues listing court decisions regarding navigable waters. Questions the merit of removing the John Day River from the study. Understands SB 928 is the fourth attempt of Sen. Ted Ferrioli to prevent use of the John Day River. Provides statistics of use of the John Day River. Urges the navigability study continue.
165	Art Israelson	River Access Director, Northwest Steelheaders. Testifies in support of SB 928. Accounts for past decisions on navigability. Questions provision regarding back taxes. Explains the Governor was the Attorney General at the time of a past court decision on navigability.
214	Scott Ashcom	Oregon Agricultural Alliance. Testifies in support of SB 928 with the -1 amendments. Notes he was present in the 1981 and 1983 legislative sessions when the issue was discussed by the

259	Brad Harper	land board. Expresses the workgroup created a compromise. Executive Director, Water for Life. Testifies in opposition to SB 928 <b>(EXHIBIT I)</b> . Explains concerns with the bill including dedicated funding. Believes the -1 amendments are a further departure from the compromise. Speaks on the issue of “takings.”
306 308	Co-chair Brown Harper	Asks if Water for Life supports the public trust doctrine. Believes in the navigability designation that already exists under state law. Asserts that the existing law is superior to the measure being considered.
323	Michael Dundy	D.R. Johnson Companies. Testifies in opposition to SB 928 <b>(EXHIBIT J)</b> due to access limitations and hunting due to the uncertainty of a high water line. Informs of the land owned by the company. Believes the law is about navigability. Aggress with Sen. Ferrioli’s comments that the disagreement will continue. Thinks property owners are at a loss in the issue and agrees that the state is not effectively dealing with the cost issue. Details disagreement with testimony from the Governor and the steelheaders. Believes the issue is a federal one.
430	Co-chair Brown	Closes public hearing on SB 928. Adjourns meeting at 3:59 PM.

**EXHIBIT SUMMARY**

- A – HB 3654, statutory text, Sen. Vicki Walker, 3 pp.**
- B – SB 928, -1 amendments, Staff, 8 pp.**
- C – SB 928, liability limitations, Staff, 3 pp.**
- D – SB 928, statutory text, Staff, 1 p**
- E – SB 928, letters, Staff, 12 pp.**
- F – SB 928, survey, Sen. Ted Ferrioli, 10 pp.**
- G – SB 928, Governor’s policy, Jim Myron, 1 p**
- H – SB 928, written testimony, Lawrence Edwards, 5 pp.**
- I – SB 928, letter, Brad Harper, 2 pp.**
- J – SB 928, letter, Michael Dundy, 1 p**