

HOUSE COMMITTEE ON AGRICULTURE & FORESTRY

May 17, 2001
3:30 PM

Hearing Room 50
Tapes 103 - 106

MEMBERS PRESENT: **Rep. Jeff Kropf, Chair**
 Rep. Al King, Vice-Chair
 Rep. Donna Nelson, Vice-Chair
 Rep. Robert Ackerman
 Rep. Dan Doyle
 Rep. Elaine Hopson
 Rep. Wayne Krieger
 Rep. Mary Nolan
 Rep. Tootie Smith

STAFF PRESENT: **Ray Kelly, Committee Administrator**
 Michael Reiley, Committee Assistant

MEASURE/ISSUES HEARD: **Informational Hearing**
 Noxious Weeds
 SB 943A – Public Hearing and 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.

| <u>TAPE/#</u> | <u>Speaker</u> | <u>Comments</u> |
|-------------------------------------|----------------|--|
| TAPE 103, A | | |
| 003 | Chair Kropf | Calls meeting to order at 3:44 p.m. Opens informational hearing on Noxious Weeds. |
| <u>INFORMATIONAL HEARING</u> | | |
| 020 | Dan Hilburn | Administrator, Plant Division, Oregon Department of Agriculture (ODA). Submits and summarizes prepared information regarding noxious weeds (EXHIBIT A). |
| 088 | Chair Kropf | Asks if there are examples of how other states are handling noxious weeds. |
| 091 | Hilburn | Answers that Oregon is in contact with other states, but does not have the severe weed problem that other states do. |
| 096 | Tim Butler | Noxious Weed Control Program Supervisor, ODA. Explains how other states fund their weed programs. Continues summary of (EXHIBIT A). |
| 186 | Chair Kropf | Asks if there is a mechanism to allow money to go to states with the President's Executive Order. |
| 189 | Butler | Answers that there is. Explains how the funding mechanism works. |
| 198 | Chair Kropf | Asks if the money is only in federal budgets for federal lands or if state and local governments can access it. |
| 202 | Butler | Answers that it is primarily for federal lands. |
| 204 | Chair Kropf | Asks if the Harmful Native Weed Control Act of 2000 is only accessible only if the state has a noxious weed plan |
| 209 | Butler | Answers that the state must have a noxious weed program in place to receive federal funding. |

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| 214 | Chair Kropf | Asks if the Oregon Noxious Weed Strategic Plan submitted by ODA is sufficient to receive federal funding. |
| 219 | Butler | Answers yes. Continues summary. |
| 255 | Chair Kropf | Asks if the cinnabar moth controls tansy ragwort. |
| 258 | Butler | Answers yes and notes that there is also a flea beetle that works as well. |
| 268 | Chair Kropf | Asks if there have been problems with the flea beetle attacking other plants. |
| 270 | Butler | Answers no. Explains that there is much testing done to achieve specificity. Continues summary. |
| 347 | Rep. King | Asks about the effect of the money set forth with the passage of Measure 66 and wonders what the current budget is. |
| 355 | Butler | Explains the funding situation. Continues summary. |
| TAPE 104, A | | |
| 009 | Chair Kropf | Asks what is the most significant weed problem facing Oregon. |
| 011 | Butler | Answers that scotch broom has a major economic and environmental impact. |
| 018 | Chair Kropf | Asks how to control scotch broom. |
| 019 | Butler | Answers that it can be spot treated with herbicides, as well as biological controls and seed feeders and continuing research to control it. |
| 033 | Chair Kropf | Asks who does most of the work on research on control. |
| 035 | Butler | Answers that most of it is done through Oregon State University. |
| 042 | Chair Kropf | Asks if there has been any cooperation from other state agencies. |
| 044 | Butler | Answers that they have received help from agencies such as Oregon Department of Transportation. |
| 054 | Chair Kropf | Asks how many funding sources have been identified. |
| 059 | Hilburn | Answers that it is important to tie funding to the activities that cause the problems such as imported plant material, imported seeds, trade and travel. |
| 086 | Chair Kropf | Asks about other states imposing fees. |
| 089 | Butler | Cites example of Montana imposing motor vehicle registration fees. |
| 098 | Chair Kropf | Asks how much federal money is available for a solution to a problem. |
| 102 | Hilburn | Answers that it is difficult to determine and too early to tell. |
| 116 | Hilary Abraham | Director, Government Relations, Nature Conservancy of Oregon. Submits and reads prepared testimony (EXHIBIT B). |
| 158 | Chair Kropf | Asks if the plan has to be approved. |
| 161 | Hilburn | Explains that HB 2118 from 1999 legislative session directed ODA to present the plan to the next legislative session. |
| 166 | Chair Kropf | Asks if the plan has to be adopted to obtain funding. |
| 169 | Hilburn | Answers that if the committee endorsed the plan, it would help. |
| 171 | Chair Kropf | States importance of handling noxious weed program. Directs ODA to facilitate a work group to address the noxious weed issue. |
| 221 | Glen Stonebrink | Oregon Cattlemen's Association. Explains his involvement with HB 2118. Explains differences between counties' handling of noxious weeds. |
| 314 | Pete Test | Associate Director, Oregon Farm Bureau. States that noxious weeds could be the most important issue facing agriculture in the next century. Explains importance of noxious weed issue. |
| 431 | Chair Kropf | Asks what the biggest issue facing OFB is in terms of invasive weed species. |

TAPE 103, B

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| 001 | Test | Answers that there is concern about cheatgrass, medusa head rye, and yellow star thistle. |
| 020 | King | Asks if taxes could be raised to fight weeds. |
| 023 | Test | Answers that often there is not a tax base in the communities where it is needed, but it may be necessary to save tax money later. |
| 044 | Stonebrink | Discusses potential for taxation. |
| 083 | Chair Kropf | Closes informational hearing on noxious weeds. Recesses meeting at 4:44 p.m. Reconvenes meeting at 5:03 p.m. Opens public hearing on SB 943A. |

SB 943A – PUBLIC HEARING

| | | |
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| 090 | Ray Kelly | Explains SB 943A and –A18 amendments (EXHIBIT C). |
| 115 | Phil Olson | Farmer, Yamhill County. Explains effects of –A18 amendments. |
| 153 | Rep. Nelson | Asks who is satisfied with the –A18 amendments. |
| 165 | Chair Kropf | Explains that he wants to adopt the –A18 amendments and will probably go to conference committee with the Senate. |
| 211 | Rep. Ackerman | Asks for clarification of Mr. Olson’s objections. |
| 214 | Olson | Explains his objections. |
| 220 | Rep. Ackerman | Asks if Mr. Olson’s complaint is that a commission could assess a producer for 2 or 3 years back. |
| 223 | Olson | Answers that it does not include the year for which a producer is being taxed. |
| 228 | Rep. Ackerman | Asks if Mr. Olson would like to impose a 1.5% cap. |
| 232 | Olson | Answers that commissions can choose how they assess. |
| 241 | Rep. Nelson | Asks for explanation of the difference between the –A17 (EXHIBIT D) and the –A18 amendments. |
| 244 | Chair Kropf | Explains the difference between the amendments. |
| 248 | Rep. Nelson | Asks if the difference is in statute. |
| 249 | Chair Kropf | Answers no. Explains Mr. Olson’s lawsuit. |
| 255 | Rep. Nelson | Asks if it is the way the statute is written. |
| 266 | Susan Hiller | Commodity Commission Program Manager, ODA. Explains ORS 376.525. |
| 288 | Rep. Nelson | Asks to which commodities the statute applies. |
| 289 | Hiller | Answers that there are 25 commodity commissions under ORS 576. |
| 291 | Rep. Nelson | Asks if it applies to every commodity. |
| 292 | Hiller | Answers yes. Explains litigation relating to Mr. Olson’s lawsuit. Notes that the Oregon Blueberry Commission requested that the State of Oregon file an appeal. |
| 306 | Rep. Nelson | Asks when it was filed. |
| 310 | Hiller | Answers that it was within the allotted 60-day time period. |
| 319 | Rep. Nelson | Asks if there is a limit in statute to the assessment rate. |
| 324 | Hiller | Answers and explains the difference between the assessment cap and the assessment rate. |
| 333 | Rep. Nelson | Asks for Mr. Olson’s opinion. |
| 347 | Rep. Ackerman | Asks if the time period for assessment could be one year or could be 3 years. |
| 353 | Hiller | Answers that Rep. Ackerman is correct. |
| 356 | Rep. Ackerman | Asks if under the –A17 amendments the assessment period would be limited to one year at a time. |
| 359 | Hiller | Answers that it would be a one-year period. |
| 361 | Rep. Ackerman | Asks if it is Mr. Olson’s position. |
| 362 | Hiller | Answers yes. |

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| 364 | Chair Kropf | Explains that the –A18 amendments contain an appeals process to allow a producer to appeal to ODA. |
| 387 | Rep. Ackerman | Questions if producer could not only appeal the assessment, but also the time period for the assessment. Argues that the –A17 amendments limit the time period to one year and has an assessment cap with a swift and inexpensive appeals process to determine if the assessment calculation is correct. |
| 411 | Rep. Doyle | Questions where Rep. Ackerman’s contradiction comes from. |
| 429 | Rep. Nelson | Expresses concern about the direction of the committee action. |
| TAPE 104, B | | |
| 026 | Chair Kropf | Asks what would happen if the committee does not pass out a bill. |
| 034 | Hiller | Answers that ODA will continue with the appeal process and try to convey their position to the court and everything will continue as it currently is. |
| 044 | Olson | Points out that ODA filed for a stay. |
| 060 | John Schoon | Former State Representative, Rickreall. Submits and reads prepared testimony (EXHIBIT E). |
| 094 | Chair Kropf | Asks if Mr. Schoon understands the intent of the –A18 amendments. |
| 098 | Schoon | Explains his opinion of the –A18 amendments. |
| 109 | Chair Kropf | Asks if Mr. Schoon agrees that there is an appeals process in the –A18 amendment. |
| 116 | Schoon | Answers that the key is the length of the assessment period. |
| 127 | Rep. Nelson | Asks why Mr. Schoon has an interest in the issue. |
| 129 | Schoon | Answers that he was approached and convinced by Mr. Olson that the issue needed to be addressed. |
| 172 | Gretchen Olson | Amity. Expresses concern that certain groups can be levied one way and others can be levied another way. Speaks in favor of –A17 amendments over –A18 amendments. |
| 186 | Chair Kropf | Explains that if the –A17 amendments are adopted, they will go into SB 943A. |
| 196 | Doug Krahrmer | President, Marion County Farm Bureau. Explains how commissions operate and their successes. Speaks against –A17. States that he would prefer the –A18 amendments although he is not pleased with them either. |
| 243 | Chair Kropf | Asks why Mr. Krahrmer is not pleased with the –A18 amendments. |
| 244 | Krahrmer | Answers that the necessary terms are not defined. |
| 264 | Kelly | Explains that the amendments both add language rather than take it out. |
| 274 | Krahrmer | Insists that if a commodity producer disputes how the assessment is levied, he must appeal it on the same rules under which the other commodity producers are paying their assessment. |
| 284 | Chair Kropf | Explains that Greg Chaimov, Legislative Counsel agrees that the intent of the –A18 amendments is consistent with the intent of the commodity commissions. |
| 296 | Krahrmer | Reasserts that it is the growers on the commission that are setting the 1, 2, or 3-year averages. |
| 307 | Dave Nelson | Administrator, Oregon Fine Fescue Commission and Oregon Tall Fescue Commission. States that the commissions support the –A18 amendments. Explains that while the commissions are not fully satisfied with the bill, they do support it. |
| 336 | Rep. Doyle | Asks Mr. Nelson to speak to Mr. Olson’s concern about not |

339 Nelson including the current year as part of the assessment period.
Explains that subscribing to an averaging system means dealing with a time period that includes years past.

361 Rep. Nelson Asks why there should not be a cap.
393 Nelson Explains that he believes the cap is clear and it is not possible to “get to what Mr. Olson wants to get to.” Argues that each commission should act in the best interest of their commodity rather than a uniform standard.

424 Larry Campbell Oregon Berry Growers Coalititon. Expresses concern that Mr. Olson’s lawsuit has “put a cloud over all the commodity commissions.” Argues that the commissions should have the ability to make determinations on their own.

TAPE 105, A

017 Rep. Nelson Notes that other producers have similar concerns as Mr. Olson.
048 Chair Kropf Explains that it has been tried to craft a mechanism for a producer to “make their case” and have the assessment corrected. Concedes that the legislation is not perfect, but it is the best that currently exists.

067 Sally Miller Owner, Mt. Jefferson Farms. Speaks in favor of the –A18 amendments.

094 Chair Kropf Closes public hearing on SB 943A. Opens work session on SB 943A.

SB 943A – WORK SESSION

096 Rep. Ackerman MOTION: Moves to ADOPT SB 943A-A17 amendments dated 5/17/01.

098 Rep. Ackerman Speaks in favor of –A17 amendments.
116 Chair Kropf Questions if there would be inherent conflict with –A17 amendments and SB 943A and how it would be possible to reconcile it.

129 Rep. Ackerman Asks what needs to be reconciled.
130 Chair Kropf Asks what a grower would do if he felt he was incorrectly assessed and had to abide by potentially conflicting assessment periods.

137 Rep. Ackerman Argues that there would be fewer problems under –A17 since it sets up one assessment year rather than an average.

149 Chair Kropf Asks if he were a farmer who had a bad year and appeals to the commodity commission and ODA, what would they be able to do.

160 Rep. Ackerman Argues that under the –A17, it would all be a one year assessment period.

172 Rep. Doyle Speaks to the problems with –A17 amendments.
196 Rep. Nelson Commends Rep. Ackerman.
212 Rep. Krieger Speaks against –A17 and –A18 amendments. Asserts that there needs to be more discussion on the issue.

VOTE: 2-5
AYE: 2 – Ackerman, Nelson
NAY: 5 – Doyle, Hopson, King, Krieger, Kropf
EXCUSED: 2 – Nolan, Smith T

256 Chair Kropf The motion FAILS.
258 Rep. Nelson MOTION: Moves to POSTPONE INDEFINITELY consideration of SB 943A.

275 Rep. Nelson Speaks against SB 943A.
303 Rep. Doyle Speaks in favor of SB 943A.
312 Rep. Nelson Argues that there is still time to work out the problems with SB

943A.

323 Chair Kropf Explains that postponing indefinitely will kill the bill.
333 Rep. Nelson Argues for additional work to fix SB 943A.
VOTE: 2-5
AYE: 2 - Ackerman, Nelson
NAY: 5 - Doyle, Hopson, King, Krieger, Kropf
EXCUSED: 2 - Nolan, Smith T

349 Chair Kropf
351 Rep. Doyle **The motion FAILS.**
MOTION: Moves to ADOPT SB 943A-A18 amendments dated 5/17/01.

355 Rep. King Speaks in favor of SB 943A and –A18 amendments. Notes that more work needs to be done to deal with the issue.

400 Rep. Nelson Asks who is pleased with the SB 943A. States that she does not feel there is satisfaction from anyone on SB 943A.
VOTE: 5-2
AYE: 5 - Doyle, Hopson, King, Krieger, Kropf
NAY: 2 - Ackerman, Nelson
EXCUSED: 2 - Nolan, Smith T

426 Chair Kropf
428 Rep. Doyle **The motion CARRIES.**
MOTION: Moves SB 943A to the floor with a DO PASS AS AMENDED recommendation.

436 Rep. Ackerman Speaks against SB 943A and –A18 amendments.
455 Rep. Hopson Concurs with Rep. Ackerman but notes that often in similar situations, all sides are unhappy with the outcome. States that she will support SB 943A as a courtesy.

473 Rep. Nelson Speaks against SB 943A and –A18 amendments.
TAPE 106, A
038 Chair Kropf States that SB 943A is an improvement over the current situation. Explains that Oregon Administrative Rules are reviewable by the legislature, and if there are problems, he will fix them.

055 Rep. Nelson Expresses hope that he will, since Rep. Shetterly was unable to fix it in the previous legislative session.

057 Rep. Ackerman Expresses disappointment that the simple appeals process that was in earlier amendments did not make it into SB 943A.

072 Chair Kropf Explains how the legislature may address Oregon Administrative Rules if there is a problem.

101 Rep. Ackerman States view that it is an additionally bureaucratic step that is unnecessary and the issue should be dealt with before it gets to that point.

110 Rep. King Notes that there were not considerations made for grading of produce which may have been part of Mr. Olson’s concerns.
VOTE: 5-2
AYE: 5 - Doyle, Hopson, King, Krieger, Kropf
NAY: 2 - Ackerman, Nelson
EXCUSED: 2 - Nolan, Smith T

123 Chair Kropf **The motion CARRIES.**
REP. KROPF will lead discussion on the floor.

130 Chair Kropf Closes work session on SB 943A. Adjourns meeting at 7:40 p.m.

Submitted By,

Reviewed By,

Michael Reiley,
Committee Assistant

Ray Kelly,
Committee Administrator

EXHIBIT SUMMARY

A – Noxious Weeds informational hearing, written information, Dan Hilburn, 207 pp.

B – Noxious Weeds informational hearing, written testimony, Hilary Abraham, 2 pp.

C – SB 943A, -A18 amendment, staff, 2 pp.

D – SB 943A, -A17 amendment, staff 3 pp.

E – SB 943A, written testimony, John Schoon, 1 p.