

SENATE COMMITTEE ON AGRICULTURE & NATURAL RESOURCES

April 29, 1999 Hearing Room 50

4:30 p.m. Tapes 112 - 113

MEMBERS PRESENT: Sen. Gary George, Chair

Sen. Thomas Wilde, Vice-Chair

Sen. Tony Corcoran

Sen. Joan Dukes

Sen. Ted Ferrioli

Sen. Bill Fisher

Sen. Marilyn Shannon

STAFF PRESENT: Brad Harper, Administrator

Patrick Brennan, Administrative Support

MEASURE/ISSUES HEARD: SB 12 Public Hearing

SB 1152 Work Session

SB 964 Work Session

SJM 13 Work Session

SB 1151 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
TAPE 112, A		
002	Chair George	Calls the meeting to order at 4:52 p.m. Opens a public hearing on SB 12.
<u>SB 12 PUBLIC HEARING</u>		

007	Brad Harper	Committee Administrator. Indicates that the ñ5 amendments (EXHIBIT A), which are the product of the work group assigned to the bill, have been received, but that there are errors that must be edited by Legislative Counsel before the committee can take action. Suggests that members of the work group brief the committee on their efforts. Mentions that additional testimony was received by the committee for consideration (EXHIBITS B, C).
014	Chair George	Thanks the members of the work group for their efforts.
020	Dave Hunnicutt	Representative, Oregonians in Action. States that he is chair of the SB 12 work group. Asserts that the efforts of the work group resulted in "a pretty good product," significantly different than the original bill.
035	Charlie Stone	Assistant State Forester, Oregon Department of Forestry (OFD). States that the original bill was designed to deal with virtually all landslides, while the amended bill will deal only with the dangers related to rapidly moving landslides. Explains that the bill grants regulatory authority to local governments with regards to siting of developments and with the Board of Forestry with regards to the potential effects of forestry operations on landslides. Notes that the other parties mentioned in the original bill have been relegated to roles of assistance.
080	Stone	Indicates that the bill establishes a comprehensive legislative policy for rapidly moving landslides that will control other efforts in that area. Says that local governments will not be allowed to prohibit siting of homes, but will rather outline mitigation standards for siting. States that property owners building in high risk areas will be forced to sign a statement that they will not take legal action against an adjacent landowner in the event of a rapidly moving landslide. Indicates that the Forestry Board's role will deal exclusively with rapidly moving landslides related to forestry operations. Mentions that the burden of one landholder that signs the waiver will not affect other landholders that build in the area at a later time. Says that counties will maintain records about areas where geo-technical reports have been performed. Mentions that a phrase was added to the ñ5 amendments, at the request of the chair, dealing with transfer of development rights.
130	Stone	Indicates that ODF is concerned about additional housing developments in forest areas. Says that there is a need to insure that only development rights that are already transferable would be allowed transfer, rather than creating a new right. Expresses the desire to protect the practices that have been developed over time.
160	Sen. Dukes	Asks if the transferable development rights are eligible to be sold.
163	Stone	Indicates that they are.
166	Hunnicutt	States that the person living within a debris flow path could take their right to develop the property and put it onto another piece of property in the same zone, or sell that right to another party.
180	Sen. Dukes	Wonders if a landowner could sell the property and development right to another party.

186	Hunnicut	Replies that there would be a restriction put upon the property that development could never occur on that property.
190	Sen. Dukes	Says that if the property were large enough so that only a portion of the parcel was in a landslide area, there would be an opportunity for a third party to purchase another portion of the parcel and develop it.
193	Hunnicut	Indicates that the restriction would apply to the entire parcel. Says that the work group has discussed amendments that would allow mitigation measures for portions of the property that do not fall into the restriction zone.
207	Sen. Dukes	Asks if restrictions other than the landslide restriction would still apply, such as if a landowner wished to transfer their building privileges to another piece of forest land.
215	Hunnicut	Replies that the transfer could be made to another piece of property that would otherwise not qualify. Indicates that a city lot would still be subject to city standards.
227	Chair George	Clarifies that the two parcels need not be in the same zone.
234	Sen. Dukes	Clarifies that the second parcel need not be a parcel that would normally allow the owner to build upon it.
238	Chair George	Suggests that the stipulation is reasonable, since the landowner would then be in possession of a piece of land whose value would be significantly reduced by the prohibition against development.
243	Sen. Dukes	Inquires whether the second piece of property would need to be in the same city or county.
244	Hunnicut	Replies that the second property would need to be in the same zone, but not necessarily in the same city or county.
247	Sen. Dukes	Wonders how long a landowner could retain the transferable right.
250	Hunnicut	Replies that there are no provisions for a time limit.
257	Sen. Dukes	Suggests that a landowner could use their transferable right to build a vacation home in Clatsop county 10 years later, or sell the rights to do so to a third party.
263	Hunnicut	Indicates that the landowner would have two lots, upon which they could build, with one restricted by the landslide provisions. Explains that the prohibition against building imposed by the local governments would trigger the ability to transfer the rights at some point in the future.

276	Chair George	Clarifies that the amended bill allows construction of a "single family dwelling."
283	Stone	<p>Outlines the portions of the ñ5 amendments which need to be corrected:</p> <ul style="list-style-type: none"> • Page 3, line 28, the phrase "need not regulate" should read "shall not regulate" • Page 7, lines 7-8, the phrase "due to a rapidly moving landslide" should read "under this subsection" • Page 9, line 12, the phrase "ORS 527.710 (1)" should read "ORS 527.710 (11)" • Page 13, lines 9-10, the phrase "personal injury or death" should read "serious bodily injury or death" • Page 13, line 12, the word "safety" should be deleted, although this change may not be necessary
350	Chair George	Comments on the efforts of the work group and the effort to make sure that SB 12 was fair to all parties.
365	Peter Green	Natural Resources Forestry Policy Advisor. Indicates that SB 12 will accomplish many important things. States that there is a need to develop maps to allow education regarding the risk of landslides. Mentions that ODF has begun the effort to look for potential landslide areas on timberlands. Discusses the responsibilities granted to local governments by the bill. Expresses concern that the ability of local governments to prohibit building on certain areas has been removed by the ñ5 amendments. Asserts that local governments and state agencies must retain the ability to take action based upon available information. Expresses support for the transfer of development rights. Echoes many of the issues brought up by Sen. Dukes.
TAPE 113, A		
037	Chair George	Wonders if there are any provisions for additional representatives of the Department of Geology and Mineral Industries (DOGAMI) to consider the coastal issues.
043	Green	Replies that there was no additional money allocated to DOGAMI for SB 12 considerations.
054	Dennis Olmstead	Representative, DOGAMI. States that funding related to SB 12 is not in the department's budget.
060	Sen. Dukes	Indicates that the estimated fiscal impact of the bill upon DOGAMI is \$200,000.
063	Olmstead	Clarifies that the exact estimate is \$247,000 for one biennium, to pay for 2 FTE positions.
070	Chair George	Closes the public hearing on SB 12 and opens a work session on SB 1152.

SB 1152 WORK SESSION

074	Brad Harper	Committee Administrator. Gives a brief description of the bill. Indicates that the ñ3 amendments (EXHIBIT D) have been submitted but do not meet all of the requirements of the interested parties. Indicates that further changes may be made in the House.
088	John Holleman	Executive Director, Oregon Independent Miners (OIM). Testifies in support of the ñ3 amendments to SB 1152. States that negotiations have resulted in the ñ3 amendments, but that there are still changes that need to be made. Indicates that Subsection 2 and Section 3 require changes.
102	Sen. Dukes	Requests the changes to the language that would remain in Section 3.
108	Holleman	Clarifies the change.
110	Sen. Dukes	Suggests that the committee conceptually amend the ñ3 amendments according to Mr. Holleman's specifications.
117	Sen. Corcoran	Concurs with Sen. Dukes.
121	Sen. Dukes	Expresses support for the suggested changes, mentioning that she does not support the ñ3 amendments in their current form.
123	Harper	Explains that the suggested changes to the ñ3 amendments would remove lines 7-9 of section 2 on Page 2.
127	Sen. Fisher	Wonders what is wrong with the section being removed.
133	Sen. Dukes	Replies that mining operations have the potential to be detrimental to fish and that the language may be misinterpreted so as to prohibit the enabling of existing protections.
135	Sen. Corcoran	MOTION: Moves to ADOPT SB 1152-3 amendments dated 4/29/99 and that the measure be FURTHER AMENDED on page 2, line 7, by deleting lines 7-9 and on page 2, line 10, by deleting text beginning with "Notwithstanding" and ending with "rules," on line 14, and capitalizing the first letter of "any" on line 14.
145	Holleman	Clarifies the changes for the purpose of the motion.
147	Harper	Reads the amendments to the ñ3 amendments into the record.

	Chair George	Hearing no objection, declares the motion CARRIED.
155	Sen. Corcoran	MOTION: Moves SB 1152 to the floor with a DO PASS AS AMENDED recommendation.
165		VOTE: 6-0-1 AYE: In a roll call vote, all members present vote Aye. EXCUSED: 1 - Shannon
	Chair George	The motion CARRIES. SEN. FERRIOLI will lead discussion on the floor.
175	Chair George	Closes the work session on SB 1152 and opens a work session on SB 964.
<u>SB 964 WORK SESSION</u>		
180	Brad Harper	Committee Administrator. Gives a brief description of the bill. Indicates that the ñ2 amendments (EXHIBIT E) have been submitted for consideration by the committee, following negotiations by the interested parties. Says that the amendments would provide Metro with the necessary authority to deal with the substance in an appropriate manner.
194	Ray Phelps	Representative, Metro. Testifies in support of the ñ2 amendments to SB 964 (EXHIBIT F). Indicates that the Department of Environmental Quality (DEQ) and other parties concur that the amendments provide the most reasonable way of protecting employees of Metro.
208	Sen. Wilde	MOTION: Moves to ADOPT SB 964-2 amendments dated 4/29/99.
	Chair George	Hearing no objection, declares the motion CARRIED.
214	Sen. Dukes	Asks if the amendment will consider calcium hypochlorite to be hazardous waste.
216	Sen. Wilde	Replies that it will not be.
219	Sen. Dukes	Suggests that other authorities may have to deal with the substance.

227	Sen. Wilde	Says that Metro was the entity requesting the bill.
232	Sen. Dukes	Expresses concern with changing the classification of calcium hypochlorite to non-hazardous waste status. Indicates that other groups may object.
237	Sen. Wilde	Explains that the disposal process will be altered without granting the substance official hazardous waste status.
240	Phelps	Concurs with Sen. Wilde's assessment.
248	Sen. Wilde	MOTION: Moves SB 964 to the floor with a DO PASS AS AMENDED recommendation.
251		VOTE: 4-0-3 AYE: In a roll call vote, all members present vote Aye. EXCUSED: 3 - Corcoran, Ferrioli, Shannon
	Chair George	The motion CARRIES. SEN. WILDE will lead discussion on the floor.
257	Chair George	Closes the work session on SB 964 and reopens the work session on SB 1152.
<u>SB 1152 WORK SESSION</u>		
260	Harper	Acknowledges that the ñ1 amendments (EXHIBIT G) were previously adopted by the committee and that the ñ2 amendments functionally replace them.
272	Chair George	Closes the work session on SB 1152 and opens a work session on SJM 13.
<u>SJM 13 WORK SESSION</u>		
280	Brad Harper	Committee Administrator. Gives a brief description of the bill. Indicates that the ñ1 amendments (EXHIBIT H) have been submitted for consideration by the committee. Explains that the ñ1 amendments were requested by the Farm Bureau and would ask the Federal government to use funds to purchase grain from local growers to feed geese.
304	Pete Test	Associate Director of Government Affairs, Oregon Farm Bureau (OFB).

		Testifies in support of the ñ1 amendments to SJM 13. Says that the plan to purchase feed may entice the Federal government to participate.
322	Sen. Dukes	Says that it there are refuges but not the feed to seed them. Asserts that it is difficult to convince the Oregon Department of Fish and Wildlife (ODFW) to use the entire refuge as it is and that having funds to seed them would aid in the effort.
326	Test	Replies that seeding of refuges could be accommodated, should the Federal government choose to grant the funds.
331	Chair George	Suggests that stipulations could be put into the amendment to allow for seeding of refuges and sanctuaries.
340	Sen. Dukes	Suggests that the \$14 million reference be removed and replaced by language describing the proposal.
364	Sen. Fisher	Asks why Washington should be included in the proposal.
354	Test	Replies that Washington is part of the original program.
366	Sen. Fisher	Wonders if Washington would be opposed.
373		The committee discusses conceptual amendments to the ñ1 amendments to SJM 13.
TAPE 112, B		
018	Sen. Dukes	MOTION: Moves to AMEND SJM 13-1 amendments dated 4/29/99 on page 1, by deleting line 3, and on line 4, replacing the "(b)" with "(c)", and on line 4 deleting "Fourteen million dollars to", and on line 4 replacing "fund" with "Funds for", and that the bill be AMENDED on page 1, line 19, inserting ";" before "after".
	Chair George	Hearing no objection, declares the motion CARRIED.
030	Sen. Dukes	MOTION: Moves to ADOPT AS AMENDED SJM 13-1 amendments dated 4/29/99.
	Chair George	Hearing no objection, declares the motion CARRIED.
044	Sen. DUKES:	MOTION: Moves SJM 13 be sent to the floor with a BE

		ADOPTED AS AMENDED recommendation.
046		VOTE: 4-0-3 AYE: In a roll call vote, all members present vote Aye. EXCUSED: 3 - Corcoran, Ferrioli, Shannon
	Chair George	The motion CARRIES. SEN. YIH will lead discussion on the floor.
049	Chair George	Closes the work session on SJM 13 and opens a work session on SB 1151.
<u>SB 1151 WORK SESSION</u>		
050	Brad Harper	Committee Administrator. Gives a brief description of the bill. Indicates that the bill amendments (EXHIBIT I) have been submitted for consideration by the committee.
070	David Morman	Policy Manager, Forest Practices Section, Department of Forestry (OFD). Expresses support for the efforts to renew rangeland through juniper management. Indicates that the study mentioned in the bill will take place with or without legislation. Expresses concern regarding Section 2 and says that although the concept is good it is premature as a prerequisite to the study. Indicates that landowners already receive a 25,000 board foot exemption under the harvest tax law.
100	Ralph Opp	Representative, Ad Hoc Steering Committee for the Commercialization of Juniper. States that there are concerns about the disincentives against juniper management, especially for private landowners. Asserts that the process must be sped up regarding a possible tax exemption.
125	Chair George	Asks Mr. Opp if he supports section 2.
127	Opp	Explains that he would prefer that section 2 be left in the amendments, although he would support passage of the bill should it be removed.
144	Sen. Wilde	MOTION: Moves to ADOPT SB 1151-1 amendments dated 4/29/99.
	Chair George	Hearing no objection, declares the motion CARRIED.

150	Sen. Wilde	MOTION: Moves SB 1151 to the floor with a DO PASS AS AMENDED recommendation.
		VOTE: 4-0-3 AYE: In a roll call vote, all members present vote Aye. EXCUSED: 3 - Corcoran, Dukes, Ferrioli
	Chair George	The motion CARRIES. SEN. FERRIOLI will lead discussion on the floor.
163	Chair George	Closes the work session on SB 1151 and adjourns the meeting at 6:00 p.m.

Submitted By, Reviewed By,

Patrick Brennan, Brad Harper,

Administrative Support Administrator

EXHIBIT SUMMARY

A ñ SB 12, -5 amendments, staff, 17 pp.

B ñ SB 12, testimony, John Foster, 1 p.

C ñ SB 12, testimony, Dale Riddle, 2 pp.

D ñ SB 1152, -3 amendments, staff, 4 pp.

E ñ SB 964, -2 amendments, staff, 2 pp.

F ñ SB 964, testimony, Ray Phelps, 1 p.

G ñ SB 1152, -1 amendments, staff, 2 pp.

H ñ SJM 13, -1 amendments, staff, 1 p.

I ñ SB 1151, -1 amendments, staff, 3 pp.