

**SENATE COMMITTEE ON WATER AND LAND USE**

**March 2, 1999 Hearing Room B**

**1:00 p.m. Tapes 29 - 30**

**MEMBERS PRESENT: Sen. Veral Tarno, Chair**

**Sen. Tony Corcoran, Vice-Chair**

**Sen. Gary George**

**Sen. Thomas Wilde**

**MEMBER EXCUSED: Sen. Marylin Shannon**

**STAFF PRESENT: Raymond J. Kelly, Administrator**

**Diana Bronson, Administrative Support**

**MEASURE/ISSUES HEARD: Introduction of LC 2489, 3397, 3638 and 3881**

**SB 300 Public Hearing and Work Session SB 301 Public Hearing and Work Session SB 444 Public Hearing and Work Session SB 88 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 29, A		
005	Chair Tarno	Convenes meeting at 1:08 p.m. and introduces committee bills.
<b><u>INTRODUCTION OF COMMITTEE BILLS</u></b>		
007	Chair Tarno	<b>MOTION: Moves LC 2489 BE INTRODUCED as a committee bill.</b>

		<b>VOTE: 3-0</b> <b>EXCUSED: 2 - Corcoran, Shannon</b>
	Chair Tarno	<b>Hearing no objection, declares the motion CARRIED.</b> <b>LC 2489 becomes SB 1061.</b>
009	Chair Tarno	<b>MOTION: Moves LC 3397 BE INTRODUCED as a committee bill.</b>
		<b>VOTE: 3-0</b> <b>EXCUSED: 2 - Corcoran, Shannon</b>
	Chair Tarno	<b>Hearing no objection, declares the motion CARRIED.</b> <b>LC 3397 becomes SB 1062.</b>
011	Chair Tarno	<b>MOTION: Moves LC 3638 BE INTRODUCED as a committee bill.</b>
		<b>VOTE: 3-0</b> <b>EXCUSED: 2 - Corcoran, Shannon</b>
	Chair Tarno	<b>Hearing no objection, declares the motion CARRIED.</b> <b>LC 3638 becomes SB 1063.</b>
013	Chair Tarno	<b>MOTION: Moves LC 3881 BE INTRODUCED as a committee bill.</b>
		<b>VOTE: 3-0</b> <b>EXCUSED: 2 - Corcoran, Shannon</b>
	Chair Tarno	<b>Hearing no objection, declares the motion CARRIED.</b> <b>LC 3881 becomes SB 1064.</b>

**SB 300 PUBLIC HEARING**

014	Ray Kelly	Committee Administrator. Summarizes SB 300.
027	Martha Pagel	Water Resources Department. Presents <b>(EXHIBIT A)</b> . Testifies that SB 300 was introduced at the request of the department. States that when water rights are issued in permit form, the law requires that construction actually begin within the first year but, in reality, the general process for development of a project can be more complicated and the time period is now five years.
073	Reed Benson	Water Watch. Presents <b>(EXHIBIT B)</b> . Testifies in opposition to SB 300. States SB 300 may have some serious unintended consequences relating to eliminating the one-year construction requirement.
107	Sen. Wilde	Asks for clarification of text in his testimony.
116	Benson	Replies that if one has not begun construction in the one year timeframe, they can get an extension of time under the law. States that SB 300 starts the timeframe at five years so an extension, with good cause, goes too far beyond a desirable timeframe.
136	Sen. Wilde	Asks for Pagel to return to answer concerns regarding the circumstances that allow an extension beyond five years and to explain the rigid time-lines.
146	Pagel	The process for the five year examination is called "permit extension process" and, for good cause shown, the permit can be extended for more than the five year period. States there will be a two year transition period with the new policies in place and, during that transition, policies toward granting extensions will be tightened.
169	Sen. George	Questions reasonable diligence.
174	Pagel	Explains that "diligence" is the key factor that has been used historically to see what the reasons are that have prevented the work from progressing.

**SB 300 WORK SESSION**

185	Sen. George	<b>MOTION: Moves SB 300 to the floor with a DO PASS recommendation.</b>
		<b>VOTE: 3-0</b>  <b>AYE: In a roll call vote, all members present vote Aye.</b>  <b>EXCUSED: 2 - Shannon, Corcoran</b>

	Chair Tarno	<p><b>The motion CARRIES.</b></p> <p><b>SEN. WILDE will lead discussion on the floor.</b></p>
<b><u>SB 301 PUBLIC HEARING</u></b>		
198	Kelly	Summarizes SB 301.
219	Martha Pagel	Water Resources Department. Presents <b>(EXHIBIT C)</b> . States that SB 301 deals with reasonable flexibility to the water right holder to make reasonable use of the water right as long as it does not jeopardize other water right holders and the public interests.
261	D. Bridges	Oregon Water Association. States he represents several timber companies and testifies in support of SB 301.
290	Ed Hendricks	Certified Water Right Examiner and employed by Willamette Industries. States that Willamette Industries is an industrial user of the state's water. Presents <b>(EXHIBIT D)</b> . Reads testimony in support of SB 301.
353	Reed Benson	Water Watch. Gives testimony in opposition of SB 301. States the concerns with SB 301 is in dealing with the process and safeguards that are required to make the changes in SB 301.
384	Chair Tarno	States he sees no major water use changes.
407	Benson	States it is the potential for future change.
<b><u>SB 301 WORK SESSION</u></b>		
443	Sen. Corcoran	<b>MOTION: Moves SB 301 to the floor with a DO PASS recommendation.</b>
		<p><b>VOTE: 4-0</b></p> <p><b>AYE: In a roll call vote, all members present vote Aye.</b></p> <p><b>EXCUSED: 1 ñ Shannon</b></p>
	Chair Tarno	<b>The motion CARRIES.</b>

		SEN. GEORGE will lead discussion on the floor.
<b><u>SB 444 PUBLIC HEARING</u></b>		
463	Kelly	Committee Administrator. States there are two amendments to SB 444. States that the ñ1 and ñ2 amendments are to be considered. Staff submits <b>(EXHIBIT E)</b> and <b>(EXHIBIT F)</b> .
<b>TAPE 30, A</b>		
026	Burton Weast	Western Advocates. Testifies in opposition to SB 444. States his concerns are that SB 444 does not punish someone who does not admit to having a conflict of interest. Asks that subsection 17 be deleted from SB 444.
067	Sen. Corcoran	Asks for benefit to a person not disclosing conflict.
079	Weast	States that any individual with voting power could delay the process by disclosing a conflict after a vote and then the process would be appealed.
100	Sen. Corcoran	Asks if changing "shall" to "may" in subsection 17 could help.
103	Weast	Replies it would not help, as the issue is that it still goes to Land Use Board of Appeals (LUBA) and that delays everything from nine months and beyond.
112	Chair Tarno	Asks Sen. Wilde to address SB 444-1 and ñ2 amendments.
113	Sen. Wilde	Gives description of changes he attempted to address in drafting the ñ1 and ñ2 amendments.
160	Sen. Wilde	Continues description of ñ2 amendments. State the failure of elected or appointed officials doing the right thing should be a matter of the local areas. States it is up to the local officials and citizens to remove those public officials who are not truthful.
203	Sen. Corcoran	Asks if the language were changed to read disclosure on the "prevailing side" but did not change the outcome of the decision, would Weast then be in support of SB 444.
210	Weast	States he has philosophical problems, but if their nondisclosure did not affect the outcome of a decision, then it may be appropriate language.
226	Sen. Wilde	States he wants to force their hand in disclosing.

236	Weast	Explains that if there were important issues at hand, not being sure who may have a conflict, this type of situation may set up a need for a private investigator.
265	Chair Tarno	Asks if the bill can come back in a few days.
275	Sen. Wilde	Discussions between Weast, Sen. George, Sen. Corcoran and Chair Tarno regarding wording of SB 444 and the issue of conflicts.
<b><u>SB 444 WORK SESSION</u></b>		
346	Sen. Corcoran	<b>MOTION: Moves to ADOPT SB 444-1 amendments dated 2/25/99. (EXHIBIT E).</b>
		<b>VOTE: 4-0</b>  <b>AYE: In a roll call vote, all members present vote Aye.</b>  <b>EXCUSED: 1 ñ Shannon</b>
	Chair Tarno	<b>The motion CARRIES.</b>
347	Sen. Wilde	<b>MOTION: Moves to ADOPT SB 444-2 amendments dated 3/2/99. (EXHIBIT F).</b>
		<b>VOTE: 4-0</b>  <b>AYE: In a roll call vote, all members present vote Aye.</b>  <b>EXCUSED: 1 ñ Shannon</b>
	Chair Tarno	<b>The motion CARRIES.</b>
357	Sen. Wilde	<b>MOTION: Moves SB 444to the floor with a DO PASS AS AMENDED recommendation.</b>
		<b>VOTE: 4-0</b>  <b>AYE: In a roll call vote, all members present vote Aye.</b>  <b>EXCUSED: 1 ñ Shannon</b>

	<b>Chair Tarno</b>	<p><b>The motion CARRIES.</b></p> <p><b>SEN. WILDE will lead discussion on the floor.</b></p>
<b><u>SB 88 PUBLIC HEARING</u></b>		
372	Dave Hunnicutt	Oregonians In Action (OIA). Asks committee to hold off hearing SB 88 as HB 2484 is being worked on with the Department of Land Conservation Development (DLCD) and the Department of Transportation (ODOT). States he is sure an agreement has been reached between DLCD and ODOT and that HB 2484 is going to the Senate Water and Land Use committee soon with no opposition and a good amount of support.
		Testimony from Terence Thatcher, Deputy City Attorney, City of Portland on SB 300 ( <b>EXHIBIT G</b> ) is submitted into the record.
396	Chair Tarno	States the committee will not hear SB 88 and will wait as requested for HB 2484. Adjourns at 2:08 p.m.

Submitted By, Reviewed By,

Diana Bronson, Raymond J. Kelly,  
Administrative Support Administrator

#### **EXHIBIT SUMMARY**

**A ñ SB 300, Written testimony, Martha Pagel, 2 pp**

**B ñ SB 300, Written testimony, Reed Benson. 2 pp**

**C ñ SB 301, Written testimony, Martha Pagel, 3 pp**

**D ñ SB 301, Written testimony, J. Edward Henricks, 1 p**

**E ñ SB 444, -1 Amendments, staff, 1 p**

**F ñ SB 444, -2 Amendments, staff, 1 p**

**G ñ SB 300, Written testimony, City of Portland, 14 pp**