

SENATE COMMITTEE ON WATER AND LAND USE

May 11, 1999 Hearing Room B

1:00 p.m. Tapes 79 - 80

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: HB 2649 Public Hearing and Work Session

HB 2650A Public Hearing and Work Session

HB 2651 Public Hearing and Work Session

HB 2652A Public Hearing and Work Session

HB 2484 Public Hearing and Work Session

HB 3278 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.

TAPE/#	Speaker	Comments
TAPE 79, A		
003	Chair Tarno	Opens meeting at 1:16 p.m. and opens public hearing on HB 2649.
<u>HB 2649 PUBLIC HEARING</u>		

013	Jan Lee	Oregon Water Resources Commission (OWRC). Presents (EXHIBIT A) . Testifies that HB 2649 corrects a technical problem in a 1989 statute, passed as HB 3111. Submits the proposed ñ1 amendments (EXHIBIT B) .
038	Tom Byler	OWRC. Testifies in support of HB 2649. States that HB 2649 will allow the department to update the records to reflect current usage and placement of water.
057	Chair Tarno	Asks what the Secretary of the Interior has to do with the water issues in Oregon.
060	Byler	Replies that this is the Bureau of Reclamation and these districts have contracts to use water from the reservoirs controlled by the bureau.
064	Chair Tarno	Closes public hearing on HB 2649 and opens work session on HB 2649.
<u>HB 2649 WORK SESSION</u>		
067	Sen. Corcoran	MOTION: Moves to ADOPT HB 2649-1 amendments dated 5/11/99.
		VOTE: 3-0 EXCUSED: 2 - George, Shannon
	Chair	Hearing no objection, declares the motion CARRIED.
070	Sen. Corcoran	MOTION: Moves HB 2649 to the floor with a DO PASS AS AMENDED recommendation.
		VOTE: 3-0 AYE: In a roll call vote, all members present vote Aye. EXCUSED: 2 - George, Shannon
	Chair Tarno	The motion CARRIES. SEN. CORCORAN will lead discussion on the floor.
078	Chair Tarno	Closes work session on HB 2649 and opens public hearing on HB 2650.

HB 2650A PUBLIC HEARING

079	Jan Lee	OWRC. Presents (EXHIBIT C). Testifies that HB 2650A provides for the creation of subdistricts within irrigation districts. States there was no opposition to HB 2650A.
092	Chair Tarno	Closes public hearing and opens work session on HB 2650A.

HB 2650A WORK SESSION

098	Sen. Corcoran	MOTION: Moves HB 2650A to the floor with a DO PASS recommendation.
		VOTE: 3-0 AYE: In a roll call vote, all members present vote Aye. EXCUSED: 2 - George, Shannon
	Chair Tarno	The motion CARRIES. SEN. WILDE will lead discussion on the floor.
103	Chair Tarno	Closes work session on HB 2650A and opens public hearing on HB 2651.

HB 2651 PUBLIC HEARING

109	Jan Lee	OWRC. Presents (EXHIBIT D). Testifies that HB 2651 changes current law by allowing a "554" corporation to deliver another's water for whatever beneficial use may be authorized for that water, so long as this action does not impair the district's ability to serve its regular patrons. States there was no opposition to HB 2651.
126	Chair Tarno	Closes public hearing and opens work session on HB 2651.

HB 2651 WORK SESSION

127	Sen. Corcoran	MOTION: Moves HB 2651 to the floor with a DO PASS recommendation.
		VOTE: 3-0

		<p>AYE: In a roll call vote, all members present vote Aye.</p> <p>EXCUSED: 2 - George, Shannon</p>
	Chair Tarno	<p>The motion CARRIES.</p> <p>SEN. GEORGE will lead discussion on the floor.</p>
137	Chair Tarno	Closes work session and opens public hearing on HB 2652A.
<u>HB 2652A PUBLIC HEARING</u>		
140	Jan Lee	OWRC. Presents (EXHIBIT E). Testifies in support of HB 2652A and states HB 2652A provides needed clarity to a confusing and overlapping area of law. States that under the federal Clean Water Act, agricultural return flows and agricultural stormwater are exempt from the requirements to obtain a National Pollutant Discharge Elimination System (NPDES) Permit. Submits the ñ4 amendments (EXHIBIT F).
192	Chair Tarno	Questions the ñ4 amendments.
193	Ray Kelly	Committee Administrator. States the committee needs a clean copy of the ñ4 amendments.
195	Chair Tarno	Conversations between Sen. Corcoran, Kelly, and the chair regarding the ñ4 amendments. Asks Kelly to obtain a clean copy from Legislative Counsel.
208	Lee	Provides clean copy of the ñ4 amendments. Continues testimony in support of HB 2652A.
224	Sen. Corcoran	States he will give a courtesy vote, but has concerns. Asks if Oregon is sending a signal to the federal government that says Oregon is loosening its position on the Oregon Plan and the regulations adopted.
243	Lauri Aunan	Department of Environmental Quality (DEQ). For the record, the DEQ does not support HB 2652A, but the DEQ did work on the language in the A-Engrossed bill and, at this point, the DEQ is satisfied with HB 2652A.
261	Willie Tiffany	League of Oregon Cities (LOC). States that the LOC was initially opposed to HB 2652A, not based on its substance, but on the possible impact of delegated authority as holders of NPDES permits. States the LOC is satisfied with HB 2652A.

272	Sen. Corcoran	Refers to a letter dated October 27, 1997, from Governor Kitzhaber, and asks Aunan about the status of the litigation mentioned.
287	Aunan	States that she is not clear on the litigation issues.
300	Chair Tarno	Closes public hearing and opens work session on HB 2652A.
<u>HB 2652A WORK SESSION</u>		
308	Sen. Corcoran	MOTION: Moves to ADOPT HB 2652A-4 amendments dated 5/11/99.
		VOTE: 3-0 EXCUSED: 2 ñ George, Shannon
	Chair Tarno	Hearing no objection, declares the motion CARRIED.
308	Sen. Corcoran	MOTION: Moves HB 2652A to the floor with a DO PASS AS AMENDED recommendation.
		VOTE: 3-0 AYE: In a roll call vote, all members present vote Aye. EXCUSED: 2 ñ George, Shannon
	Chair Tarno	The motion CARRIES. SEN. TARNO will lead discussion on the floor.
319	Chair Tarno	Closes work session on HB 2652A and opens public hearing on HB 2484.
<u>HB 2484 PUBLIC HEARING</u>		
336	Rep. Susan Morgan	House District 46. Testifies in support of HB 2484 and states that HB 2484 will insert a step in the process before a local land use planning action is appealed to LUBA by either DLCD or ODOT. States that HB 2484 is a consumer protection bill.

427	Chair Tarno	Requests a copy of her testimony.
430	Jon Chandler	Director of Governmental Affairs, Oregon Building Industry Association. Presents (EXHIBIT G) . Testifies in support of HB 2484.
TAPE 80, A		
025	Chandler	Continues testimony in support of HB 2484. States this is a good bill and an essential step to make the land use system work better.
027	Sen. Corcoran	Asks for a specific case that prompted the drafting of HB 2484.
037	Chandler	States DLCD has a set of factors and this will put those factors into rule form. States instances wherein DLCD or ODOT might have been involved in legal action. Continues testimony in support of HB 2484.
093	Sen. Corcoran	Asks what the minority report accomplished.
095	Morgan	Replies that the minority report was not brought up on the floor in the House.
109	Chair Tarno	Recesses HB 2484 and opens public hearing on HB 3278.
<u>HB 3278 PUBLIC HEARING</u>		
115	Rep. Roger Beyer	House District 28. Introduces Cheryl Ayers and Neita McGhee. States that HB 2484 directly effects her.
122	Cheryl Ayers	Presents (EXHIBIT H) . Testifies in support of HB 3278 and asks the committee's help in changing the law to include recreational vehicles for use in temporary hardship cases.
138	Chair Tarno	States that the committee totally understands the Ayers' situation and, since there are no amendments to HB 3278, closes public hearing on HB 3278 and opens work session.
<u>HB 3278 WORK SESSION</u>		
143	Sen. Corcoran	MOTION: Moves HB 3278 to the floor with a DO PASS recommendation.
		VOTE: 4-0 AYE: In a roll call vote, all members present vote Aye.

		EXCUSED: 1 ñ Shannon
	Chair Tarno	The motion CARRIES. SEN. GEORGE will lead discussion on the floor.
148	Sen. Corcoran	States he has a question of DLCD. Asks what happens to the dwelling that was placed on the land at the end of a hardship.
159	Ron Eber	DLCD. States he does not have the full language, at the present time, but his memory is that the dwelling can be there for the term of the hardship and then the dwelling needs to be removed. States the DLCD has not had a problem with allowing a recreational vehicle on property for hardship cases.
180	Chair Tarno	Closes work session on HB 3278 and reconvenes public hearing on HB 2484.
<u>HB 2484 PUBLIC HEARING</u>		
192	Craig Greenleaf	Oregon Department of Transportation (ODOT). Presents (EXHIBIT I) . States that HB 2484 adds another step to the process currently used by ODOT to appeal local land use decisions.
216	Sen. Corcoran	Asks if ODOT is neutral on HB 2484.
218	Greenleaf	Replies that ODOT is neutral.
219	Sen. Corcoran	States he is always interested in the outcome of appeals. Asks for the rulings on the appeals, either for or against the agency.
222	Greenleaf	States he believes that ODOT won most of the cases, but he has not been with the agency throughout those cases.
237	Jerry Schmidt	Oregon Association of Realtors (OAR). States that the OAR strongly supports HB 2484. States he also serves on the Clackamas County Advisory Committee and was one of the 12 cases that Sen. Corcoran referred to in the LUBA/ODOT suits. Describes how the suit came about.
279	Sen. Corcoran	Asks if there are timelines with regard to the appeal.
283	Schmidt	Replies that there are, and states there may be fewer lawsuits with HB 2484.

321	Sen. George	States this bill may give the correct push to make a decision on appeal cases. `
341	Schmidt	States he could not agree more.
350	Art Schlack	Association of Oregon Counties (AOC). Presents (EXHIBIT J). Testifies in support of HB 2484. States it is a reasonable and responsible step forward.
380	Eber	DLCD. Supports HB 2484.
396	Randy Tucker	1000 Friends of Oregon. Presents (EXHIBIT K). Testifies in opposition to HB 2484. States that Charles Swindells could not make it today. States this is a bill attempting to solve a problem that does not exist. States that of all the cases heard by LUBA between January and November, 1998, DLCD and ODOT were only parties in 10 appeals that were pursued to completion.
TAPE 79, B		
047	Chair Tarno	States mediation is being used more now and HB 2484 just adds another step. States he likes the idea as a concept.
061	Tucker	States that, as a general rule, 1000 Friends is skeptical when there is not a problem and yet another bill comes along to change statute. States that HB 2484 may cause unintended consequences with agency appeals and people being left out of the decisions.
071	Sen. Corcoran	Asks if 1000 Friends describes HB 2484 as "just another layer of Republican bureaucracy."
073	Tucker	States he will not rise to the bait, but 1000 Friends feels that agency appeals are being portrayed as being a problem in the land use arena and yet the goal of agency appeals is to enforce state law.
081	Chair Tarno	States that, in his opinion, the state will have two years to watch the impact on the agencies and is sure that if DLCD and ODOT are impacted, he will hear about it. Closes public hearing on HB 2484 and opens work session.
<u>HB 2484 WORK SESSION</u>		
085	Sen. Corcoran	MOTION: Moves HB 2484A to the floor with a DO PASS recommendation.
		VOTE: 4-0 AYE: In a roll call vote, all members present vote Aye.

		EXCUSED: 1 ñ Shannon
	Chair Tarno	The motion CARRIES. SEN. TARNO will lead discussion on the floor.
092	Chair Tarno	Closes work session on HB 2484 and adjourns meeting at 2:18 p.m.

Submitted By, Reviewed By,

Diana Bronson, Raymond J. Kelly,
Administrative Support Administrator

EXHIBIT SUMMARY

- A ñ HB 2649, written testimony, Jan Lee, 4 pp.**
- B ñ HB 2649, proposed amendments, LC Staff, 1 p.**
- C ñ HB 2650, written testimony, Jan Lee, 2 pp.**
- D ñ HB 2651, written testimony, Jan Lee, 1 p.**
- E ñ HB 2652, written testimony, Jan Lee, 12 pp.**
- F ñ HB 2652-A4, amendments, LC staff, 1 p.**
- G ñ HB 2484, written testimony, Jon Chandler, 1 p.**
- H ñ HB 3278, written testimony, Cheryl Ayers, 2 pp.**
- I ñ HB 2484A, written testimony, Craig Greenleaf, 1 p.**
- J ñ HB 2484A, written testimony, Arthur Schlack, 1 p.**
- K ñ HB 2484A, written testimony, Randy Tucker, 2 pp.**