

HOUSE COMMITTEE ON AGRICULTURE AND NATURAL RESOURCES

May 8, 1997 Hearing Room D

08:00 AM Tapes 78 - 79

MEMBERS PRESENT:

Rep. Charles Starr, Chair

Rep. Terry Thompson, Vice-Chair

Rep. Dennis Luke

Rep. Ken Messerle

Rep. Kurt Schrader

Rep. Judith Uherbelau

Rep. Larry Wells

MEMBER EXCUSED:

STAFF PRESENT:

Judith Gruber, Administrator

Linda Kowal, Administrative Support

MEASURE/ISSUES HEARD:

HB 3177 Public Hearing and Work Session

HB 3558 Public Hearing and Work Session

SB 652 Public Hearing and Work Session

SB 796 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 78, A		
015	Chair Starr	

		Calls the meeting to order at 8:34 am and opens the public hearing on HB 3177.
<u>HB 3177</u>		
<u>PUBLIC</u>		
<u>HEARING</u>		
020	Rep. Denny Jones	District 60. States his support for this bill and gives the history that brought this bill forward. Last year there was a situation in Malheur County where a grain warehouse took the people there for \$272,000 and there was only a \$55,000 bond. Explains this bill will make it mandatory for the Oregon Department of Agriculture (ODA) to inspect the warehouses, verify the owners' funds, and increase the bonds.
076	Mike Dewey	Oregon Wheat Growers. States the Oregon Wheat Growers league introduced HB 3177 and requested the mandatory inspection language. The ODA told them they didn't have the money for this in their budget.
100	Rep. Luke	Asks if they're working with the -2 amendments.
103	Judith Gruber	Affirmative. (EXHIBIT A) States the -1 amendments were redrafted to delete lines 10 - 15 and lines 21 - 24.
118	Rep. Luke	Asks if there's an agreement on the -2 amendments.
120	Dewey	Responds there's an amendment that the Walla Walla Grain Growers are seeking on intergovernmental agreements. States they would like to see the mandatory language. The -2 amendments do not have that language in them.
133	Rep. Jones	Comments "if the mandatory language is not in this bill when it passes this house, then I will do my best to take the money out of the budget to fund the Department of Agriculture."
137	Rep. Schrader	Comments the mandatory language is okay with him. States the -2 amendments wipe out all of Section 2.
151	Judith Gruber	Policy Analyst. States the language is the deletion from the original bill.
158	Rep. Luke	One of the big things they want in the original bill is the bond. Asks is that out of the -2 amendments?
161	Dewey	Affirmative, the bond is increased.
164	Rep. Luke	Clarifies there's a higher fine in the -2 amendments than in current law.
165	Dewey	Affirmative.
167	Rep. Luke	Asks what's in the -1 amendments that is not in the -2 amendments. What's in the original bill that's gone?
172	Dewey	Responds the only difference now in terms of the original legislation is whether the department shall inspect licensed Oregon warehouses annually. The -2 amendments retain present the law and that is discretionary. The original bill had the mandatory language Rep. Jones addressed.

177	Rep. Wells	Asks if there's a figure on how many warehouses are involved.
179	Dewey	Answers about 25.
182	Rep. Wells	Comments about whether the ODA has the expertise to inspect the books and determine the financial solvency of the warehouse.
193	Dewey	Responds that prior to 1993, the ODA did annually inspect. States they are committed to finding a solution during the interim.
217	Rep. Uherbelau	States if she remembers correctly, the concern was that it would cost more to do the inspections than what the fees generate. If additional monies are not put into the ODA budget to cover the cost for annual inspections, then you'd have to rob Peter to pay Paul.
232	Dewey	Responds they believe there will be enough money to do adequate inspections. The department said to them that if the money is available they will do the inspections.
237	Rep. Uherbelau	Asks are they saying there's enough money this biennium?
236	Rep. Jones	States the money is there at this time, however, they gave him a figure of \$44,000. He's not sure if this figure includes the \$12,000 they get from fees.
249	Rep. Schrader	Comments if the intention of Ways and Means is to include this in the budget maybe the language should be put back in.
257	Rep. Luke	States money is proposed to do it this biennium but there's nothing to guarantee the money will be there next time. Suggests amendments that would make the mandatory part renewable every two years if the money is available.
272	Chair Starr	States his sense is to move the bill today with a recommendation to the Senate to change the language to mandatory if the funding is available.
280	Rep. Jones	States you can only budget for two years because you can't bind the next legislature. To have this sunset in two years is not acceptable to him. If you mandate the ODA, they will have to do it and if the money is not available they'll have to deal with it.
297	Rep. Luke	States the increase of the bond, the financial statement, and the idea of random inspections will not go away. If the proponents are stating this is a two year fix, then something needs to be done.
312	Chair Starr	States he thinks they should move the bill today and work with Rep. Jones and Mike Dewey. Closes the public hearing and opens the work session on HB 3177.
	Faxed testimony from Walla Walla Grain Growers	

	submitted as (EXHIBIT B) Faxed testimony from Pendleton Flour Mills submitted as (EXHIBIT C)	
<u>HB 3177</u> <u>WORK</u> <u>SESSION</u>		
325	Rep. Luke	MOTION: Moves to ADOPT HB 3177-2 amendments dated 05/07/97.
	Chair Starr	Hearing no objection, declares the motion CARRIED.
328	Rep. Luke	MOTION: Moves HB 3177 to the floor with a DO PASS AS AMENDED recommendation.
		VOTE: 7-0 AYE: In a roll call vote, all members present vote Aye.
	Chair Starr	The motion CARRIES. REP. LUKE will lead discussion on the floor.
345	Chair Starr	Closes the work session on HB 3177 and opens the public hearing on HB 3558.
<u>HB 3558</u> <u>PUBLIC</u> <u>HEARING</u>		
360	Toby Holt	States he is testifying on behalf of Rep. Harper, District 53. States they will be addressing only the -5 amendments. Submits and reads from (EXHIBIT D).
405	Holt	Continues with written testimony.
TAPE 79, A		
061	Holt	Continues and refers to (EXHIBIT E).
076	Rep. Luke	States there was testimony that one company didn't have boats but worked on one of the canals. Asks if these amendments will still allow this company to harvest.
083	Holt	Responds that company is Cell Tech. The language in the bill that relates to canals was provided by Cell Tech and they approve of the -5 amendments.
087	Rep. Luke	Responds it says they have to have a vessel.

090	Holt	Responds this point has come up in the last 24 hours. A vessel doesn't fit in with what they're talking about. Suggests this be addressed in the Senate if it needs to be changed.
099	Rep. Uherbelau	Inquires why they decided on the -5 amendments instead of the -6 amendments, the difference being the State Marine Board.
102	Holt	Responds the issue is to bring everyone on board with this plan. They have not been willing to sign off on the -6 amendments.
106	Rep. Luke	States he's okay with the -5 amendments and suggests it be conceptually amended. Refers to line 19, page two, and suggests replacing the word "vessel" with "company."
112	Rep. Schrader	Inquires why the channels that were referenced in the -1 amendments are not present in the - 5 amendments. Refers to Section 1, subsection 2.
119	Holt	Confirms he's talking about the canals. Refers him to page 2 lines 19 through 21.
122	Rep. Schrader	Refers to the first page and states the reference to the fishery specifically excludes those canals, therefore, the canals are excluded from the intent of the legislation. The reference on page two is not relevant to the intent of bill.
125	Rep. Luke	Comments that in most cases, the canals are privately owned because they're used for irrigation and the state doesn't have jurisdiction over them.
131	Holt	Responds as they understand, the intention is to take Cell Tech and their canals out of the Klamath Lake Plankton Fisheries definition.
135	Rep. Uherbelau	Comments that it doesn't create a problem because Section 1 is a definition section and Section 3 talks about the owner of vessel and a canal that carries to and from.
144	Rep. Schrader	States they testified this is where they do their fishing. If we're trying to get to all parties then this bill, despite it's good intent, doesn't get to the canal people at all.
145	Chair Starr	States it identifies them on page two, Section 3, Subsection b as part of the fishery.
148	Rep. Thompson	Comments they have come a long way.
158	Fred Brown	President, Klamath Algae Harvesters Association. States support of the -5 amendments. Reads from (EXHIBIT F). Adds that last evening there were discussions, witnessed by Holt, regarding the mechanism to use for this self regulation process. They are committed to hammer out a comprehensive agreement that establishes good harvesting practices, manufacturing practices, and the limited entry issue.
206	Rep. Thompson	Asks why they don't want to include the part regarding the Marine Board that's in the -6 amendments.
211	Brown	

		Responds the Association has not taken a position on this. They would like to work on it over the next two years.
220	Rep. Thompson	Comments the Marine Board is there to regulate the types of vessels on the water, running lights, and life jackets for example.
232	Brown	Responds Holt has told them they are still early in the process.
237	Rep. Uherbelau	Refers to (EXHIBIT E). Asks if they've read the letter and the amendments and whether they have any comments.
247	Brown	States they received these late yesterday afternoon. Comments this has been an evolving process as can be seen by the number of amendments brought forward today. They will address this on the Senate side.
255	Rep. Uherbelau	Comments it mentions that this be brought to attention of the Senate.
265	Ray Streinz	Legal Counsel for Klamath Basin Aquatic Products Development Council, Inc. Submits and reads from (EXHIBIT G) .
306	Streinz	Continues, states the Council is currently working on safety issues. Their concern is that a body will come in and regulate them before they have a chance to regulate themselves. For the record, there have been discussions with the Association and they have agreed to discuss the concept of grandfathering rights. The Council is willing to hear their views.
337	Rep. Schrader	<p>States his sense is that the bill will move today and there are key questions that he would like to ask that haven't been asked yet. By passing this moratorium, he's not sure there is an incentive for them to work together. Other concerns are:</p> <ul style="list-style-type: none"> * no data has been presented on the endangered species * no evidence about over-harvesting or harvesting methods * over-regulating for the benefit of a few business * enforcement <p>States these things need to be addressed over the next two years and if it comes back that this is indeed a monopoly, he will be a no vote.</p>
370	Rep. Luke	Comments they will need the interim to work on this. They need the fisheries, the counties, the commissioners, and the state representatives from that area to take a look at this. The question of who has control, who has authority over algae, needs to be discovered before they can set up a fishery.
406	Rep. Thompson	

		Comments he's had a lot of experience with this issue. This bill allows time to make conclusions and that's what it should be seen as.
423	Rep. Harper	Comments those questions stated by Rep. Schrader are the questions that need to be answered. The option was no bill or this bill.
TAPE 78, B		
016	Rep. Thompson	Asks if the Marine Board has ever been out to review the safety standards of the fleet and are the lives of people working out there jeopardized by not bringing basic safety standards in with this proposal?
021	Paul Donheffner	Director, State Marine Board. States he has not personally inspected the fleet, however, they have been in communication with the Klamath County Sheriff's Office who has a concern about unlighted barges at night and the potential for collisions with recreational craft. Presently, these are commercial boats and the Sheriff's Office and the State Police are powerless to enforce minimum safety regulations. States whether there's limited entry or not, this needs to be done.
042	Rep. Thompson	Agrees, it's a matter of whether it's a mandate or volunteer.
049	Rep. Luke	Asks is this the only lake in the state that has commercial activity on it?
049	Donheffner	Answers it's the only lake in the state with this magnitude of commercial traffic.
055	Rep. Luke	Asks are there any other lakes in the state that could have commercial activity?
060	Donheffner	Responds most of the other commercial activity is occurring on waters that are subject to Coast Guard jurisdiction.
066	Kay Brown	ODF&W. States support for the study defined in this bill but is unclear about their role. Refers to lines 14 and 15 on page two about any other provision of the commercial fishing laws which implies this may be where they fall and violations of this law would be a misdemeanor. States they are also unclear as to what is meant by commercial quantities.
084	Rep. Wells	Asks how this is going to be enforced.
088	Rep. Thompson	Implies it will be regulated by the industry.
099	Mike Reynolds	Member of the Council, Chair of Legislative Issues. States the Council unanimously supports the -5 amendments. They hope to demonstrate that they are capable of regulating themselves, including the issues regarding the Marine Board and fisheries.
142	Rep. Uherbelau	Confirms there's commercial and recreational activity in this area.

145	Reynolds	Affirmative. There is limited recreation in the area, generally it's fishing. The primary harvest area is quite far from the extreme south end of Klamath Lake. Most of the recreational use is down at the outlet to the river.
162	Rep. Uherbelau	She understands the industry's wish to regulate themselves, however, testimony has stated this industry falls through the cracks of having minimal safety regulations. The fact that they share, to whatever extent, an area with people who are not in the industry is an endangerment to these third parties.
175	Reynolds	Responds they fully intend to meet those minimum requirements.
191	Rep. Thompson	Comments these people have an opportunity to regulate themselves and set up their own standards and it won't cost the state any money. States they're not regulated now, they haven't had any problems, and asks what difference it would make if the opportunity is given and in two years hear from the Marine Board and the Sheriff. Comments this is not a large group of people.
215	Chair Starr	States this is a good start.
218	Rep. Messerle	Comments there have been discussions on regulations, fish, and wildlife, but they haven't heard from the ODA. It seems to him that this is more of a crop rather than a fisheries issue and feels this is something they need to discuss in the interim.
227	Reynolds	States he's aware of this and it has been briefly discussed.
237	Chair Starr	Closes the public hearing and opens the work session on HB 3558.
<u>HB 3558</u> <u>WORK</u> <u>SESSION</u>		
239	Rep. Luke	MOTION: Moves to ADOPT HB 3558-5 amendments dated 05/07/97.
	Chair Starr	Hearing no objection, declares the motion CARRIED.
243	Rep. Luke	MOTION: Moves HB 3558 to the floor with a DO PASS AS AMENDED recommendation.
245	Rep. Roger Beyer	VOTE: 6-1 AYE: 6 - Thompson, Luke, Messerle, Schrader, Wells, Starr NAY: 1 - Uherbelau
	Chair Starr	The motion CARRIES. REP. HARPER will lead discussion on the floor.
275	Chair Starr	Closes the work session on HB 3558 and opens the public hearing on SB 652.

<u>SB 652</u> <u>PUBLIC</u> <u>HEARING</u>		
303	Rep. Roger Beyer	District 28. Declares a conflict of interest because a good share of his living is made growing christmas trees. States this bill extends the sunset on phytosanitary certificates issued by the Department of Agriculture.
310	Rep. Uherbelau	Asks if these certificates have something to do with christmas trees?
314	Rep. Beyer	Affirmative. The christmas tree industry, in 1985, because of the gypsy moth infestation in the Eugene area, came to the legislature and asked to be a licensed industry. Their product was quarantined and they were not allowed to ship out-of-state unless their trees were free of gypsy moth egg mass. In 1993, the Department told them that the fees they were paying were not covering the costs of the service they were getting. The phytosanitary certificate needs to be issued to any shipment of trees going over seas, or to another country, and in some cases to certain regions of this country. The 1995 legislature put a \$10 fee on these certificates to cover the costs on a user fee basis for a two year period.
363	Chair Starr	States in their meeting materials under issues discussed, it says a per acre license fee for the production of christmas trees is \$147,000. Comments that someone made a mistake.
373	Rep. Beyer	Clarifies he believes this is a mistake. The \$147,000 is the per acre assessment raised statewide for the department.
377	Rep. Wells	Clarifies there are two different charges: the per acre charge and the extra charge to make up the extra amount of money.
381	Rep. Beyer	Affirmative. Everyone who grows christmas trees must buy a license to do so. There is a minimum fee of \$60 and then a per acre charge above that. In addition to that, anyone who requires a phytosanitary certificate pays \$10 per certificate.
395	Rep. Wells	Clarifies this is covering the cost of this program.
399	Rep. Beyer	Affirmative. The department has done a study which showed this is the fairest way to maintain so everyone pays their fair share.
409	Rep. Luke	Asks how much people who raise grain, corn, or any other crop pay per acre to the Department of Agriculture?
419	Lorna Young	Oregon Department of Agriculture. States they do not license all industries. Nursery growers, dairymen, and christmas tree growers are licensed. The industry's use of the program provides two things: * an inspection program that helps them take a look at pest and disease issues they may be facing

		* certification in the market place
TAPE 79, B		
014	Rep. Beyer	Adds that because other states and countries require these phytosanitary certificates, they have two options of where to get them. They can get them from ODA and be licensed or use a federal USDA inspector to do that. The problem with that is they're not available in a timely manner and the USDA charges either \$75 or \$90 per certificate.
025	Chair Starr	Closes the public hearing and opens a work session on SB 652.
<u>SB 652</u> <u>WORK</u> <u>SESSION</u>		
026	Rep. Thompson	MOTION: Moves SB 652-A to the floor with a DO PASS recommendation.
030		VOTE: 7-0 AYE: In a roll call vote, all members present vote Aye.
	Chair Starr	The motion CARRIES. REP. BEYER will lead discussion on the floor.
036	Chair Starr	Closes the work session on SB 652 and opens the public hearing on SB 796.
<u>SB 796</u> <u>PUBLIC</u> <u>HEARING</u>		
041	Jim Carnes	Executive Director, Perennial Ryegrass Bargaining Association. (EXHIBIT H).
		Faxed letter from J. L. Carnes submitted as (EXHIBIT I).
113	Rep. Wells	Asks for Carnes to state what the bill does.
117	Carnes	Refers to page 6, ORS 646.515 (1), last sentence in (EXHIBIT H).
127	Rep. Wells	Asks why these industries were eliminated and what will change with the way you run your operation.
130	Carnes	Answers the Capper Volstead Act allows any agricultural group to form a bargaining association. This wording questions whether seed or seed product farmers can form a bargaining association. This eliminates any question.
140	Rep. Wells	Asks why this was put there in the first place.
141	Carnes	Answers he doesn't know.
145	Gerald Watson	Attorney, Churchill, Leonard, Brown, Lodine & Hendrie, LLP, representing the Perennial Ryegrass Bargaining Association .

		(EXHIBIT J) States he doesn't know the precise answer to the question but he does know it's been there for a very long time. They want to provide the seed product industry with the same treatment as other agriculture producers.
167	Rep. Messerle	States after what happened to the crabbing industry in the past year, he's concerned about the definition of cooperative bargaining. Asks would it include groups such as the Oregon Cattlemen's Association and Oregon Beef Council, or do you have to be specifically set up to negotiate market prices to be included in this group.
174	Watson	Answers he believes you have to be organized as a bargaining association and not as a general interest group or organization.
180	Carnes	States there is a bargaining association for the Oregon Filbert Growers, the Marionberry Growers, and the Potato Bargaining Association in Malheur County. You have to be a tiller of the soil, companies are excluded. This gives farmers representing a particular agricultural product the opportunity to get together and form a cooperative which could work as a bargaining association as the principal or a negotiator.
210	Rep. Messerle	Asks what activities are illegal.
222	Carnes	Responds some years ago, as a company, he was visited by the Justice Department regarding antitrust for talking with other people that were the first buyer. If cattle buyers who buy livestock from the farmer get together and say they're only going to pay this farmer x dollars today, this would be in violation of antitrust. The cattleman who's only profession is to produce livestock and he and others like him get together to form a bargaining association to represent them in negotiations for a price for a given market, they would be allowed to do so. That's the purpose of this bill.
245	Watson	Comments it appears to him that if they are not functioning through a bargaining association and are doing things that would otherwise be prohibited by state or federal antitrust law, they could be in violation. Whether they would be able to organize would depend, under this statute, on whether they qualify as a producer under the definition of producer.
258	Rep. Uherbelau	Asks don't most rules, guidelines, and case law regarding antitrust come out of the federal level and not the state level?
262	Watson	Affirmative. On a total volume, they're more likely to be federal cases that would be called for.
272	Chair Starr	Asks if they support the bill.
273	Watson	Affirmative, with the -1 amendments (EXHIBIT K).
275	Chair Starr	Closes the public hearing and opens a work session on SB 796.
<u>SB 796</u>		
<u>WORK</u>		
<u>SESSION</u>		

276	Rep. Luke	MOTION: Moves to ADOPT SB 796-1 amendments dated 05/07/97.
	Chair Starr	Hearing no objection, declares the motion CARRIED.
278	Rep. Luke	MOTION: Moves SB 796 to the floor with a DO PASS AS AMENDED recommendation.
282		VOTE: 7-0 AYE: In a roll call vote, all members present vote Aye.
	Chair Starr	The motion CARRIES. REP. WELLS will lead discussion on the floor.
292	Chair Starr	Closes the work session on SB 796 and adjourns meeting.
		(EXHIBIT L) Faxed testimony.

Submitted By, Reviewed By,

Linda M. Kowal, Judith Gruber,

Administrative Support Administrator

EXHIBIT SUMMARY

A - HB 3177, proposed amendment, staff, 7 pp.

B - HB 3177, faxed testimony, Bruce G. Bond, 1 p.

C - HB 3177, faxed testimony, David T. Richelderfer, 2 pp.

D - HB 3558, written testimony, Toby Holt, 6 pp.

E - HB 3558, faxed statement, Steven Alan Lewis, 3 pp.

F - HB 3558, written testimony, Fred Brown, 1 p.

G - HB 3558, written testimony, Ray Streinz, 1 p.

H - SB 796, written testimony, Jim Carnes, 6 pp.

I - SB 796, faxed letter, J. L. Carnes, 2 pp.

J - SB 796, written testimony, Gerald Watson, 2 pp.

K - SB 796, proposed amendments, staff, 1 p.

L - HB 3687, HB 3688 and HB 3698, faxed testimony, Porter Lombard, 3 pp.