

HOUSE COMMITTEE ON WATER POLICY

May 6, 1997 Hearing Room D

3:00 P.M. Tape 76 - 77

MEMBERS PRESENT: Rep. Ken Messerle, Chair

Rep. Tim Josi, Vice-Chair

Rep. Jo Ann Bowman

Rep. Steve Harper

Rep. Jeff Kruse

Rep. Jim Welsh

MEMBER EXCUSED: Rep. Tony Corcoran

VISITING MEMBER: Rep. Bob Jenson

STAFF PRESENT: Pat Zwick, Policy Analyst

Rebecca M. Scott, Administrative Support

MEASURE/ISSUES HEARD: HB 3522 Work Session

HB 2582 Public Hearing and Work Session

HB 3634 Public Hearing

HB 2627 Public Hearing

SB 697 A Public Hearing and Work Session

SB 869 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 76, A		
002	Chair Messerle	Calls meeting to order at 3:12
<u>HB 3522</u>		

<u>WORK SESSION</u>		
004	Chair Messerle	Opens work session on HB 3522.
006	Pat Zwick	Policy Analyst, discusses the -2 amendments.
012	Rep. Kruse	MOTION: Moves to ADOPT HB 3522-2 amendments dated 04/24/97.
	Chair	Hearing no objection, declares the motion CARRIED.
016	Rep. Kruse	MOTION: Moves HB 3522 to the floor with a DO PASS AS AMENDED recommendation.
		VOTE: 4-0
		EXCUSED: 3 - Bowman, Corcoran, Welsh
	Chair	The motion CARRIES. REP. MESSERLE will lead discussion on the floor.
025	Chair Messerle	Closes work session on HB 3522.
<u>HB 2582 PUBLIC HEARING</u>		
026	Chair Messerle	Opens public hearing on HB 2582.
030	Zwick	Summarizes HB 2582 and the -1 amendments. (EXHIBIT A)
040	Jeff Kruse	State Representative, District 45, testifies in support of HB 2582 and the -1 amendments.
053	Martha Pagel	Director, Water Resources Department (WRD), testifies in opposition to HB 2582 and the -1 amendments. Refers to testimony given on April 22, 1997.
078	Chair Messerle	Asks if SB 674 set the protest fee in 1995.
079	Pagel	Correct.
080	Chair Messerle	Asks if that exempts state agencies from paying a fee when applying for a water right.
082	Pagel	SB 674 did not create that exemption. When the instream water rights law was established in 1987, it included a specific provision that state agencies would not pay an application fee. Part of the reason for that was because the applications could only be filed by one of three state agencies. When instream applications are received by WRD the cost of processing is supported by the General Fund.
092	Chair	Asks if that would also apply to local governments and other

	Messerle	jurisdictions.
097	Pagel	The only exemption to application fees is under the instream water right statutes. Other public bodies pay application fees when attempting to obtain a water right for other beneficial uses. The instream water right is a different type of water right. It is held by WRD on behalf of the people of Oregon for public uses of the water. Any other water rights are issued for specific identified beneficial uses.
108	Rep. Harper	Asks if the fairness issue could be addressed by charging all applicants a fee.
115	Pagel	The current system addresses the fairness issue by providing General Fund positions in WRD to evaluate the applications. That money could be routed to WRD through a different process. But that could seem to be an exchange of dollars which doesn't seem to need to take place. Prior to SB 674, there were blanket objections. The \$200 protest fee was instituted to address this problem.
138	Rep. Kruse	Comments on Rep. Harper's suggestion.
153	Pagel	The process does include opportunities for comment prior to the protest in order to generate and incorporate public comment. If there is no cost to file the protest, there is a high risk of receiving so many protests that it would be administratively impossible to deal with.
182	Reed Benson	Staff Attorney, Water Watch, testifies in opposition to HB 2582. Believes that this legislation is contrary to the Oregon Salmon Plan.
232	Benson	Continues testimony.
252	Jill Zarnowitz	Assistant Director, Oregon Department of Fish and Wildlife (ODFW), testifies in opposition to HB 2582, supporting the position of Water Resources Department.
263	Jim Myron	Representing Oregon Trout, testifies in opposition to HB 2582 supporting the position of Water Resources Department.
283	Pete Test	Representing Oregon Farm Bureau, testifies in support of HB 2582. It is not equitable that a private citizen must pay to contest decisions of a government agency. Discusses instream water rights, and the reservation of water rights for agricultural and storage uses. Willing to look at other options, budget money to ODFW so that they may pick and choose water rights with care.
041	Chair Messerle	Closes public hearing.
		<u>HB 2582</u> <u>WORK</u> <u>SESSION</u>
343	Chair Messerle	Opens work session on HB 2582.
346	Rep. Kruse	MOTION: Moves to ADOPT HB 2582-1 amendments dated 04/28/97.

	Chair	Hearing no objection, declares the motion CARRIED .
351	Rep. Kruse	MOTION: Moves HB 2582 to the floor with a DO PASS AS AMENDED recommendation.
		VOTE: 4-2 AYE: 4 - Harper, Kruse, Welsh, Messerle NAY: 2 - Bowman, Josi EXCUSED: 1 - Corcoran
	Chair	The motion CARRIES. REP. KRUSE will lead discussion on the floor.
364	Chair Messerle	Closes work session on HB 2582.
<u>HB 3634</u> <u>PUBLIC</u> <u>HEARING</u>		
367	Chair Messerle	Opens public hearing on HB 3634.
369	Zwick	Summarizes HB 3634, and submits - 2 (EXHIBIT B) and -3 amendments (EXHIBIT C).
<u>TAPE 77, A</u>		
004	Mark Simmons	State Representative, District 58, testifies in support of HB 3634.
012	Richard Koesan	Water for Life. Testifies in support of HB 3634. Discusses the -3 amendments.
055	Todd Heidgerken	Water for Life. Testifies in support of HB 3634.
066	Chair Messerle	Asks if Water for Life is in agreement with WRD that the 10 foot requirement be deleted from HB 3634.
068	Koesan	The vast majority of ponds are very small in nature. Less than two percent of ponds are over 9.2 acre feet in capacity.
082	Rep. Simmons	This would save people a large amount of money. The Water Resources Department would still have the right to approve or disapprove the maps submitted.
095	Martha Pagel	Director, Water Resources Department. Current law refers to a survey which includes a map. The most important aspect is the survey. The survey gives an accurate measurement of the pond. Open to removing survey and map requirements for very small ponds. There needs to be more work done on the ponds that are between 9.2 acre feet and 5 acre feet.

133	Chair Messerle	Asks how the department would verify the 5 acre feet ponds.
136	Tom Paul	Water Resources Department. One idea is a statement from the applicant as to the exact size of the pond which would be notarized.
141	Pagel	It easier to make an accurate approximation on a small pond. Discusses examples of pond sizes.
155	Chair Messerle	Asks if that is measured at the maximum storage capacity.
156	Paul	Yes.
158	Rep. Harper	Asks if current bill with amendments still require a survey, regardless of size.
160	Pagel	It is not intended to require the survey, but it might.
164	Chair Messerle	Comments that there will be another public hearing held on this measure.
170	Chair Messerle	Closes public hearing on HB 3634.
<u>HB 2627</u> <u>PUBLIC</u> <u>HEARING</u>		
171	Chair Messerle	Opens public hearing on HB 2627.
176	Pat Zwick	Summarizes HB 2627 and submits the -1 amendments. (EXHIBIT D)
195	Jeff Kruse	State Representative, District 45, testifies in support of HB 2627 and the -1 amendments.
213	Rep. Josi	Asks if the information will not be ready until 10 years after the adoption of HB 2627.
216	Rep. Kruse	Most streams have already had studies and most of the data is available. This allows a wider time period which would encompass seasonal changes.
225	Rep. Josi	Comments. Asks if it is mandating a study be conducted for a 10-year period of time.
232	Rep. Kruse	It will be based on a 10-year study.
233	Rep. Josi	Comments that it is ambiguous as written.
242	Martha Pagel	Director, Water Resources Department, testifies in opposition to HB 2627 and the -1 amendments. Refers to testimony given at last public hearing on HB 2627. (SEE EXHIBIT E OF COMMITTEE MINUTES DATED 03/06/97)
277	Reed Benson	Staff Attorney, Water Watch, testifies in opposition to HB 2627 and the -1 amendments. Discusses ways in which this legislation is contrary to the Oregon Salmon Plan.
327	Benson	Continues testimony.

362'	Joni Low	Representing the League of Oregon Cities, submits and reviews testimony in opposition to HB 2627. (EXHIBIT E)
393	Rep. Kruse	Asks if the impoundments are already under the control of the Army Corps. of Engineers.
397	Low	Yes, but HB 2627 refers to lakes which are used for recreational activity.
TAPE 76, B		
005	Rep. Kruse	Comments that this bill does not supersede federal authority.
009	Low	Understands that state law does not supersede federal law, but it is her interpretation of the legislation.
012	Rep. Kruse	This would impact all lakes and impoundments not controlled by the Army Corps. of Engineers.
015	Jill Zarnowitz	Assistant Director, Oregon Department of Fish and Wildlife, submits and reviews testimony in opposition to HB 2627. (EXHIBIT F)
057	Chair Messerle	Asks if stream temperature is included in the data base.
059	Zarnowitz	No, it assumes that streams have the water quality needed to support fish.
064	Rep. Bowman	Asks for discussion on seasonal water level fluctuations.
069	Rep. Kruse	In most rivers in the State of Oregon, there are vast differences in the flow.
077	Rep. Bowman	Asks if this will be based on a 10-year study, would that assume that any stream that has not had a study within that time frame would be closed to issuance of instream water rights.
081	Rep. Kruse	Yes, but that would impact very few streams.
084	Rep. Bowman	Asks how it would impact streams currently listed under 303(d).
086	Rep. Kruse	Does not reference 303(d), because it addresses flow issues and not water quality issues.
091	Rep. Bowman	Asks if there would be a different course of action if the stream was water quality impaired.
093	Chair Messerle	Comments that this discussion would be better for work session.
099	Jim Myron	Representing Oregon Trout, testifies in opposition to HB 2627.
115	Robert Hall	Representing Portland General Electric (PGE), testifies in opposition to HB 2627. Discusses the definition of "lake" and possible problems that could arise with PGE holdings. Suggests possible amendments.
138	Chair Messerle	Discusses the need to do more work on this legislation.
145	Chair Messerle	Closes public hearing on HB 2627.

<u>SB 697A</u> <u>PUBLIC</u> <u>HEARING</u>		
146	Chair Messerle	Opens public hearing on SB 697 A
148	Pat Zwick	Policy Analyst, summarizes SB 697A.
157	Richard Koesan	Water for Life, testifies in support of SB 697A.
185	Chair	Submits written testimony received from Jill Zarnowitz of the Oregon Department of Fish and Wildlife. (EXHIBIT G)
188	Martha Pagel	Director, Water Resources Department, submits and reviews testimony in regard to SB 697A. (EXHIBIT H)
223	Reed Benson	Staff Attorney, Water Watch, testifies in opposition to SB 697A.
256	Jim Myron	Representing Oregon Trout, testifies in support of SB 697A.
272	Joni Low	Representing League of Oregon Cities, testifies in support of SB 697 A.
280	Chair Messerle	Closes public hearing on SB 697A.
<u>SB 697A</u> <u>WORK</u> <u>SESSION</u>		
288	Chair Messerle	Opens work session on SB 697A.
301	Rep. Kruse	MOTION: Moves SB 697A to the floor with a DO PASS recommendation.
		VOTE: 5-0
		EXCUSED: 2 - Corcoran, Welsh
	Chair	Hearing no objection, declares the motion CARRIED. REP. HARPER will lead discussion on the floor.
316	Chair Messerle	Closes work session on SB 697A.
<u>SB 869</u> <u>PUBLIC</u> <u>HEARING</u>		
319	Chair Messerle	Opens public hearing on SB 869.
320	Pat Zwick	Policy Analyst, summarizes SB 869.
	Richard	Water for life submits and reviews testimony in support of SB 869.

342	Kosesan	(EXHIBIT I)
372	Martha Pagel	Director, Water Resources Department, submits and reviews testimony in support of SB 869. (EXHIBIT J)
385	Chair Messerle	Asks if this legislation pertains to alternative sources of water during droughts.
TAPE 77, B		
002	Pagel	This legislation will protect landowners from forfeiture of water right if the usage varies.
014	Reed Benson	Staff Attorney, Water Watch, testifies in opposition to SB 869.
034	Chair Messerle	Closes public hearing on SB 869.
<u>SB 869</u> <u>WORK</u> <u>SESSION</u>		
035	Chair Messerle	Opens work session on SB 869.
036	Rep. Bowman	MOTION: Moves SB 869 to the floor with a DO PASS recommendation.
		VOTE: 6-0 EXCUSED: 1 - Corcoran
	Chair	Hearing no objection, declares the motion CARRIED. REP. BOWMAN will lead discussion on the floor.
045	Chair Messerle	Closes work session on SB 869
046	Chair Messerle	Adjourns meeting at 4:24 p.m.

Submitted By, Reviewed By,

Rebecca M. Scott, Pat Zwick,

Administrative Support Policy Analyst

EXHIBIT SUMMARY

A - HB 2582, -1 Amendments dated 04/28/97, Staff, 1 p.

B - HB 3634, -2 Amendments dated 05/05/97, Staff, 2 pp.

C - HB 3634, -3 Amendments dated 05/06/97, Staff, 2 pp.

D - HB 2627, -1 Amendments dated 04/29/97, Staff, 1 p.

E - HB 2627, Written Testimony, Joni Low, 1 p.

F - HB 2627, Written Testimony, Jill Zarnowitz, 2 pp.

G - SB 697A, Written Testimony, Jill Zarnowitz, 1 p.

H - SB 697A, Written Testimony, Martha Pagel, 2 pp.

I - SB 869, Written Testimony, Richard Koesan, 4 pp.

J - SB 869, Written Testimony, Martha Pagel, 5 pp.