

HOUSE COMMITTEE ON WATER POLICY

March 11, 1997 Hearing Room D

3:00 P.M. Tapes 47 - 48

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. Nickel, Administrative Support

MEASURE/ISSUES HEARD: HB 2178 - Public Hearing

HB 2094 - Public Hearing

HB 2135 - 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 47, A		
001	Vice-Chair Josi	Calls meeting to order at 3:12 p.m.
<u>HB 2178 - PUBLIC HEARING</u>		
003	Vice-Chair Josi	Opens public hearing on HB 2178.

005	Pat Zwick	Policy Analyst, summarizes HB 2178.
014	Carolyn Young	Assistant to Director, Department of Environmental Quality, submits and reviews testimony in support of HB 2178. (EXHIBIT B)
027	Vice-Chair Josi	Asks for an example of an existing de minimis use.
028	Young	Things with very minimal impact such as the flushing of fire hydrants or pools with some chlorine.
032	Vice-Chair Josi	Asks if there is a fee involved for renewing a permit.
034	Young	Yes.
035	Young	Continues testimony.
045	Vice-Chair Josi	Asks about discharge of swimming pools that does not go to lagoon or to spray irrigation.
047	Young	That is the concern. There have been discharges like this and the question is whether or not those discharges should be regulated.
057	Young	Continues testimony.
071	Rep. Kruse	Asks if de minimis discharges are currently under the permit structure.
072	Young	No.
073	Rep. Kruse	Asks if they are just happening.
075	Young	Yes.
076	Young	Continues testimony.
097	Rep. Kruse	Asks about inspection procedures for renewals.
100	Young	Inspections would not be affected by this bill. Currently, inspections are based on compliance history and on the types of pollutants discharged. Schedule is annual or biannual, but if the facility has a history of non-compliance, there would be more frequent inspections.
109	Rep. Bowman	Asks about fiscal impact of the five year renewal.
111	Young	Potentially there could be fiscal impact if permits were not renewed on five year basis. Intent would be to work with advisory committee to look at fees and revenue coming to department, and work with stakeholders to find something to make this bill revenue-neutral. For example, there could be a fee for a review, rather than a full permitting process.
122	Rep. Bowman	Asks if the renewal process takes longer than the permitting process.

125	Young	Not in most cases, except in cases of noncompliance.
137	Rep. Kruse	Asks for the cost of permit.
139	Young	There is a schedule of costs available.
144	Rep. Kruse	Asks about the fee structure.
149	Young	The idea came out of an advisory committee of stake holders. The intent is that if bill passed, department would return to stakeholders to discuss impact.
156	Rep. Jenson	Asks if anything compels the Environmental Quality Commission (EQC) to establish performance based criteria for de minimis discharges.
160	Young	This bill directs EQC to establish performance based criteria.
165	Rep. Jenson	Asks if there any requirement that the criteria be followed by the parties responsible for the discharge.
170	Young	This would be established by rule. There would be penalties established also. Would expect that if management practices were not followed and there was some harm to the environment, that department would have some enforcement capability.
180	John Ledger	Representing Associated Oregon Industries, testifies in support of HB 2178. The main concern is the renewal period for permits. The renewal period needs to be more flexible depending on the compliance history of the facility.
204	Joni Low	Representing the League of Oregon Cities, submits and reviews testimony in support of HB 2178. (EXHIBIT C)
240	Hasina Cassim	Representing Special Districts Association and Oregon Fire Chiefs Association, testifies in support of HB 2178. Currently, fire departments would have to get permits for flushing hydrants. Willing to work with EQC in developing administrative rules that would exempt fire departments from being required to have permits for flushing hydrants.
255	Chair Messerle	Closes public hearing on HB 2178.
HB 2094 - PUBLIC HEARING		
256	Chair Messerle	Opens public hearing on HB 2094.
257	Zwick	Summarizes HB 2094.
279	Martha Pagel	Director, Water Resources Department (WRD), submits and reviews testimony in support of HB 2094. (EXHIBIT D)
319	Pagel	Continues testimony.
330	Chair	Asks for discussion on bonding levels.

	Messerle	
	Dave Jarrett	Water Resources Department. Currently, there is a \$4000 bonding level for well constructors. The constructor will purchase the bond which will cover the well for three years after construction. Will also cover any other work that the well constructor does. The landowner bond is currently \$2000, and only covers one hole that the landowner constructs under the permit.
357	Rep. Josi	Asks how a landowner gets the equipment for drilling their own well.
361	Jarrett	There are individuals who rent drilling rigs and there are individuals who own their drilling rigs. This also covers wells that weren't drilled using traditional machines, such as a backhoe or excavator.
372	Chair Messerle	Asks how much an increase would cost landowner.
379	Jarrett	For the professional well drillers there would be very little increase in the fee. For the landowner, it is indicated that it would be a nominal cost.
392	Rep. Harper	Asks for clarification on the 300% increase.
397	Pagel	The numbers are based on information from the bonding companies.
TAPE 48, A		
007	Rep. Kruse	Asks if the department differentiates between drilled wells and dug wells.
008	Jarrett	They would both be covered under the landowners permit and bond.
013	Rep. Kruse	Asks what they get for the \$250 permit fee.
014	Jarrett	The \$250 fee covers all of the paperwork for preparing landowner's permit, and would also cover the site visits for inspection.
021	Rep. Kruse	Comments.
027	Rep. Josi	Asks about potential consumer protection for landowners.
052	Pagel	Conceptually, the bill is meant to cover potential problems.
060	Jarrett	If a licensed constructor does bad work, then WRD would have them correct the problem. If the constructor was no longer available, then the department would try to attach the bond to repair the well.
067	Rep. Josi	Asks if the existing bond level would be sufficient to cover any difficulties.
073	Jarrett	It would not.
077	Jerry Schmidt	Representing Oregon Ground Water Association, testifies in support of HB 2094. Discusses some possible changes.
113	Schmidt	There are some minor changes that could be made. Will come back to work with the committee with an amendment. There are questions regarding individual bonding levels.
135	Rep. Josi	Asks if he feels the increases are reasonable.
136	Schmidt	They are reasonable, but Ways and Means had some concerns regarding the

		levels.
145	Rep. Josi	Asks for discussion on the start card.
146	Schmidt	Professional constructors must buy a start card, which pays for inspection of the well construction. Personal property owners are not required to purchase a start card.
159	Rep. Kruse	Asks for average cost of well construction.
161	Schmidt	It depends on many factors. As a rule of thumb, domestic wells can be dug for \$4,000 - \$6,000 and irrigation wells can cost as much as \$10,000 - \$20,000.
170	Rep. Harper	Asks about the complexity of the rules.
174	Schmidt	The system should be made to be as simple as possible. The difficulty is that when drilling wells, there are complex factors, such as geology, involved. It is difficult to standardize rules when taking complex geological factors into account.
212	Chair Messerle	Closes public hearing on HB 2135.
<u>HB 2135 - PUBLIC HEARING</u>		
217	Chair Messerle	Opens public hearing on HB 2135.
220	Zwick	Summarizes HB 2135.
230	Pagel	Submits and reviews testimony in support of HB 2135. (EXHIBIT E)
280	Pagel	Continues testimony.
328	Rep. Josi	Comments regarding the backlog issue in the 1995 Session. This bill continues that commitment.
359	Pagel	Continues testimony.
409	Pagel	Continues testimony.
<u>TAPE 47, B</u>		
006	Rep. Kruse	Asks if the reduction in the backlog was accomplished by additional staff.
010	Pagel	There was a one-time provision for limited duration staff.
012	Dwight French	Manager, Water Rights Section, Water Resources Department. There were 17 position in the Water Rights Section and 8 different positions were borrowed from other sections.
020	Pagel	Received Lottery funding in this current budget for this purpose. The position authority ended with the deadline date of October 31.
026	Rep.	Asks if in October, the department lost 20 positions.

	Kruse	
027	Pagel	Correct.
028	Chair Messerle	Comments regarding the backlog.
031	Rep. Jenson	Comments on the effect of the backlog in his district. Asks if the current proposal will be able to deal with the water transfer issue.
042	Pagel	Currently, there are 650 transfer applications pending. Fee increases would help the department keep up with the backlog.
063	Rep. Jenson	Asks the waiting time for approval.
068	Dick Bailey	Administrator, Water Rights and Adjudication Division. Some of the requests are several years old. The backlog is partly because of the lack of staff and partly because of the complexity.
077	Rep. Harper	Asks if processing is an area that could be contracted out.
083	Pagel	The department has not looked at contracting this out because of the nature of the work. Requires highly technical information that comes from Water Resources Department. There is also the issue of responsibility and accountability.
097	Rep. Harper	Asks for the average application fee in 1983. Also asks what it would be now.
105	Chair Messerle	Comments on the number of fees that are being increased this session. The rate of increase is high and there are concerns regarding compliance. Asks for discussion.
116	Pagel	There are policy trade-offs in the fee structure. For the most part, the fee structure is built around a 75% cost recovery. A policy accommodation was to build the transfer application fee at a 50% recovery cost. Discusses the fees for ponds. The recommended budget was based on fee increases. A water right is a one-time right for the use of a public resource.
147	Rep. Bowman	Asks if there was a policy decision made in 1983, that the state would be subsidizing water rights, and if so, why was that decision made.
152	French	The 1983 increase was to recover approximately 50% of the processing costs. It wasn't full recovery in 1983, and it never has been. Now want to raise recovery to 75%.
165	Rep. Kruse	Comments on water rights and what purpose the permits serve.
186	Rep. Jenson	Comments that there may be language needed to build in considerations for regular fee increases.
196	Richard Koesan	Water for Life, testifies in opposition to HB 2135. There are concerns with the storage of water and the proposed fees. For a large impoundment, the current fee is \$300, under the proposal, the fee would be increased to \$900. The proposed minimum fee for a small reservoir (9.2 acre feet) is \$310. Currently, that fee is from \$10 - \$100. If it is the intent of the State of

		Oregon to enhance storage and storage opportunities, the proposed fees conflict with that policy.
235	Chair Messerle	Closes public hearing on HB 2135.
240	Chair Messerle	Adjourns meeting at 4:27 p.m.

Submitted By, Reviewed By,

Rebecca M. Nickel, Pat Zwick,

Administrative Support Policy Analyst

EXHIBIT SUMMARY

A - There is no exhibit.

B - HB 2178, Written Testimony, Carolyn Young, 3 pp.

C - HB 2178, Written Testimony, Joni Low, 2 pp.

D - HB 2094, Written Testimony, Martha Pagel, 4 pp.

E - HB 2135, Written Testimony, Martha Pagel, 7 pp.