

SENATE COMMITTEE ON WATER AND LAND USE

April 3, 1997 Hearing Room C

8:30 AM Tapes 52 - 53

**MEMBERS PRESENT:**

Sen. Veral Tarno, Chair

Sen. Bob Kintigh, Vice-Chair

Sen. Ginny Burdick

Sen. Ted Ferrioli

Sen. Bill Fisher

Sen. David Nelson

Sen. Thomas Wilde

**STAFF PRESENT:**

Mark Volmert, Administrator

Nancy Masee, Administrative Support

**MEASURE/ISSUES HEARD:**

SB 392 Work Session

SB 464 Work Session

SB 891 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.**

<b>Tape/#</b>	<b>Speaker</b>	<b>Comments</b>
<b>TAPE 52, A</b>		
004	Chair Tarno	Opens meeting at 8:30 AM. Says SB 392 is going to be referred to another committee.
<b><u>SB 392</u> <u>Work</u> <u>Session</u></b>		

010	Mark Volmert	Summarizes SB 392 which deals with technical and streamlining of small property and should be referred to Senate Committee on Business, Law and Government, saying sponsors concur.
014	Sen. Kintigh	<b>MOTION: Moves SB 392 to the floor WITHOUT RECOMMENDATION as to passage and BE REFERRED to the committee on Business, Law, and Government.</b>
015	Chair Tarno	<b>Hearing no objection, declares the motion CARRIED.</b>
016	Chair Tarno	Opens work session on SB 464

**SB 464**  
**WORK**  
**SESSION**

020	Volmert	Committee Administrator, gives background on SB 464, and says it is identical to SB 54 of 1995 session vetoed by the governor.
028	Chair Tarno	Says SB 464 is sponsored by Oregon Association of Realtors (OAR)
030	Jerry Schmidt	Representing OAR, says SB 464 provides a public process to enable citizens to participate in rulemaking. SB 464 removes exempt users from defacto withdrawals.
046	Schmidt	Says he will talk with governor's office this session
050	Chair Tarno	Asks for questions
		Water Resources Director, strongly opposes one aspect of the bill and supports two of the three issues in bill
062	Martha Pagel	* wants the authority to remain with the department * SB 464 would remove rights of water rights holders * creates a preference for ground water users
088	Chair Tarno	Asks if water availability is the issue
090	Pagel	Views the department's duty to inform people of the availability of water on property
100	Pagel	The law gives an opportunity to work with the public. It may become more significant in the future.
112	Chair Tarno	Comments on domestic use needed, asks for questions from the committee.
114	Schmidt	Comments that the public needs chance to present facts
114	Sen. Fisher	Says public should have more say
119	Sen. Wilde	Asks how the state determines amount of water in an aquifer

122           Pagel           Explains process of determining water availability and geology of areas. Hydro-geologists analyze the data in making a determination.

197           Sen. Wilde       Asks about water availability in aquifers.

200           Pagel           Explains aquifers.

211           Sen. Kintigh     Asks how the landowners know what to do.  
SB 464 relates to the basin planning program which

227           Pagel           \* adopts by rule a basin program classifying basin water for new uses, not existing uses  
  
\* one or more public hearings are held

234           Pagel           The department would not have rulemaking authority over exempt ground water uses under SB 464. Basin plans apply prospectively and do not affect existing rights. This bill would remove exempt water uses.

267           Chair Tarno     Asks for questions of the committee

270           Sen. Fisher     **MOTION: Moves SB 464 to the floor with a DO PASS recommendation.**  
Chair           **Hearing no objection, declares the motion CARRIED.**  
**In a roll call vote, all members present vote Aye**

275           Chair Tarno     **VOTE: 7-0**  
**The motion CARRIES.**  
  
**SEN. TARNO will lead discussion on the floor.**

280           Chair Tarno     Closes work session on SB 464; opens public hearing on SB 891

**SB 891**  
**PUBLIC**  
**HEARING**

285           Volmert         Gives background on SB 891  
  
Curry County, gives background on water bottling business in Curry County

                  Neils Martin     \* Asked county to affirm bottling spring water on his farm-forest zoned land  
  
\* County said the use was allowed outright; invested in the business; one neighbor objected  
  
\* County eventually reversed its decision and Martin was in noncompliance  
  
\* Planning commission then unanimously found bottling operation to be a

farm use

\* Neighbor appealed to LUBA who said there was no precedence and overturned the county; so again Martin is in noncompliance

363 Martin There is no defined place for water bottling in the state law. He feels it should be allowed as an outright use, but IS supporting SB 891.

400 Chair Tarno Comments on the numerous regulations the citizen had to meet

**TAPE 53, A**

006 Dave Hunnicutt Oregonians in Action (OIA), comments on statutes' outright permitted uses and conditional uses of farm land. SB 891 is in sub-section 2. Urges passage of this bill **(EXHIBIT A)**  
Division of Land Conservation and Development (DLCD). The Division is neutral on the bill. It is appropriate to place in Sub 2 category, rather than Sub 1.

053 Bob Rindy \* size and extent of the business  
  
\* water should come from that tract of land

If the committee would amend the bill to say that the water must come from the tract of land where it is situated, the department would support the bill.

067 Sen. Burdick Asks if there are other natural resources which state they have to be on the site. For example, are mining operations limited to a specific site.

075 Ron Eber DLCD, responds that wineries have to have grapes on site, but they can also go beyond that. Not sure about other uses.  
Concerns are that

\* water could easily be transported from other areas

082 Rindy \* water should be obtained from the tract where the operation is situated  
  
\* scale of operation

091 Chair Tarno Comments the implication is in ORS 215.213 and 215.283

102 Eber Responds he doesn't believe the implication is clearly there

107 Sen. Kintigh Questions economics of moving water onto a site

113 Rindy Concern is scale of operation

127 Sen. Kintigh Asks how that would be a concern; gives example of nursery employing large number of workers

134 Sen. Wilde Asks about piping of water

153 Rindy Says the department is seeking limitations to an operation that would become very large

155	Chair Tarno	Comments that scope is subject to county review
175	Sen. Ferrioli	Sees this use analogous to a dairy or winery. As long as it is subject to county approval, it is quite remote that the impact would be great. Sees no need for amendment
191	Blair Batson	Attorney, 1000 Friends of Oregon, supports location dependent uses. Concern is adding more uses to farm use. There is a law available to counties to make exceptions called the Reasons Exception, and urges active stance to educate local government in addressing this kind of issue at their level to know how to deal with this.
215	Chair Tarno	Agrees that education on local level is needed on these issues
223	Sen. Ferrioli	Comments that these LUBA decisions should not be coming to the legislature. They should be solved at county and LUBA
239	Batson	Comments that more education is needed on local level
245	Sen. Fisher	Comments that LCDC should be reaching the local levels on education of these kinds of issues because so many laws make it impossible for individuals to receive help.
248	Chair Tarno	Closes public hearing SB 891; opens work session on SB 891

**SB 891**  
**WORK**  
**SESSION**

250	Sen. Wilde	<b>MOTION: Moves SB 891 to the floor with a DO PASS recommendation.</b> <b>VOTE: 6-1</b>
250	Chair Tarno	<b>AYE: 6 - Ferrioli, Fisher, Kintigh, Nelson, Wilde, Tarno</b> <b>NAY: 1 - Burdick</b> <b>The motion CARRIES.</b>
251	Chair Tarno	<b>Chair Tarno</b> <b>SEN. WILDE will lead discussion on the floor.</b> <b>MOTION: Requests unanimous consent that the rules be SUSPENDED to allow SEN. BURDICK to BE RECORDED as voting NAY on SB 464 passed at the 4/1/97 meeting.</b>
252	Chair Tarno	<b>Hearing no objection, declares the motion CARRIED</b>
255	Chair Tarno	Adjourns meeting at 9:25 AM in order for members to be present at floor session.

Submitted By, Reviewed By,

Nancy Masee, Mark Volmert,

Administrative Support Administrator

**EXHIBIT SUMMARY**

**A - SB 891, written testimony, Dave Hunnicutt, 2 pp**

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