

SENATE COMMITTEE ON WATER AND LAND USE

May 20, 1997 Hearing Room C

8:00 AM Tapes 98 - 99

**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 145 Public Hearing

SB 1154 Public Hearing and Work Session

HB 2478 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.**

<b>Tape/#</b>	<b>Speaker</b>	<b>Comments</b>
<b>TAPE 98, A</b>		
003	Chair Tarno	Opens meeting at 8:15 AM , and opens public hearing on HB 2478.
<b><u>HB 2478</u></b> <b><u>PUBLIC</u></b> <b><u>HEARING</u></b>		

015	Burton West	Oregon Association of Plumbing, Heating, and Cooling Contractors. Supports HB 2478. Requires those persons who check valves on backflow systems to be registered with the Construction Contractors Board. This would require a \$2,500 bond and liability insurance.
020	Sen. Kintigh	Asks who is doing this now.
022	Jon Egge	MP Plumbing, Clackamas, explains situations where individuals not registered with the Builders Board have gone into vaults in violation of OSHA rules, and have tested inaccurately. There is no protection to the public.
053	Sen. Fisher	Asks why these persons testing are not as qualified as the government people.
066	Egge	Says public agency employees and public sector are not competing. They are protecting the public water system.
076	Sen. Fisher	Says the government agencies are not competing with private sector and carry tort insurance.
081	Egge	Local governments are not required to register with the Contractors Board. Under HB 2478 individuals who are in private business would be required to have liability insurance and a \$2500 bond.
101	Egge	With a private water system, all employees would be covered under them. It is the company that registers with the Construction Contractors Board, not the individual.
120	Egge	Says he does not believe that Umpqua Water System would be affected. Private water companies already carry liability insurance.
135	Sen. Nelson	Asks if there are exemptions under Chapter 701.
140	Egge	The law already requires a certain amount of training for these persons to check the valves. HB 2478 requires that a person who has that certification and does that work, also registers as a contractor with the Construction Contractors Board as provided in ORS 701. Public employees and public agencies are exempt.
154	Gary Wright	Local 290, Plumbers and Pipefitters. Supports HB 2478.
169	Steve West	Eugene, Oregon Cross Connection Inspectors Group of the American Waterworks Association, a group of water purveyors in the state. Says the independent testers meet the regulations already. Their goal is to protect public health through proper inspection of backflow systems. <b>(EXHIBIT A)</b>
257	Sen. Fisher	Asks if the independent group is insured.
260	West	Says by jurisdiction they are required.
271	Chair Tarno	Asks if anyone else wants to testify. Closes public hearing on HB 2478. Opens public hearing on SB 1154.
<b>SB 1154</b>		

**PUBLIC HEARING**

291	Tom Byler	Water Resources Department, comments on conserved water issues of this bill. Department is working on amendments which would include retroactive rights and adding sunset date for those who have been using conserved water programs. The -1 amendment is recommended. The department wishes people to work with the department.  <b>(EXHIBIT B,C)</b>
-----	-----------	---

**TAPE 99,A**

004	Sen. Kintigh	Asks what retroactive means. Asks if that means they get credit for five years back.
009	Byler	Says yes, without the amendment they could not use the conserved water program.
013	Sen. Kintigh	Asks about the priority date. Asks if the holder wants to use the water they conserved from farm A to farm B.
020	Byler	Says yes, a portion of the conserved water could be used by the person on new land.
024	Sen. Kintigh	Says that is except for the 25 percent that has to be returned.
030	Byler	Says that is correct.
020	Sen. Fisher	Says because these things have been done five years before, the department would not know that they were conserving.
035	Byler	Says the -2 amendments do not have the sunset date. Says the difference between the -1 and -2's is that the -1 has two issues, retroactive, priority date; -2 has only the retroactive issue.
059	Sen. Fisher	Asks why the person who conserves the water has to give the 25 percent back to the state, why can't he sell it.
065	Byler	Says that the conserved water program allows the water right holder to make use of the water; without it, it would be subject to any appropriator. There is no guarantee that the portion to the state will be used for instream purposes.
086	Sen. Nelson	Asks which is the greater incentive.
088	Byler	Says the -1 would provide more incentive. The priority date option would benefit some users.
103	Sen. Kintigh	Asks if the conserved water could be lost through nonuse.
107	Byler	Says yes, the same as any other water right.
		Attorney, Tumalo Irrigation District, Deschutes. Explains that during the drought years, the Tumalo District was impacted, especially the junior rights holders. The water district loses 65 percent of their diverted water through transmission. During the drought they developed a conservation

119	Carl W. Hopp	project to pipe the district. This way they can supply a full duty of water to all water users and have water for instream flows. The federal government authorizes their project 50 percent of cost. The federal government asks for a return of 20 cfs in Tumalo Creek and 30 cfs in the Deschutes River. If saved water can be given the same priority date as the existing right, an exchange could then take place with the junior right holders. This would allow for the instream flows and still guarantee all users of the district full duty of water. Supports SB 1154. <b>(EXHIBIT D)</b>
151	Sen. Kintigh	Asks about lining in the ditches.
153	Hopp	Says there is minimal lining, the cost is nearly as much as piping. Piping is much safer than lining to the public, and a pressure system would be included. Says the -1 amendment is needed for the priority date.
177	Sen. Fisher	Asks about evaporation.
179	Hopp	Majority of the loss is through the volcanic soil. Approximately 10 percent goes to evaporation.
205	Hopp	Says that there are some additional lands to water, but federal money is more available within the present district.
228	Jan Lee	Water Resources Congress, supports SB 1154; federal funding is available in several districts like Tumalo where the federal government requires return to streams; piping and lining ditches is very expensive. Districts without storage probably could not use the benefits of this bill. <b>(EXHIBIT E)</b>
301	Lee	Says the -1 amendments should go forward with the choice of the option for the two year sunset period. Says that if injury does not occur, they could have the option of continuing.
306	Sen. Fisher	Asks why Section 8 is a long range guarantee.
310	Lee	Says section 8 limits it to two year trial.
330	Chair Tarno	Asks if the two years would be long enough to finish their project.
338	Hopp	Says yes.
343	Sen. Nelson	Does that means that either -1 or -2 is acceptable.
355	Sen. Fisher	Asks about a compromise on a four year sunset.
344	Lee	Says that would be workable.
357	Reed Benson	WaterWatch, supports the -1 amendments to SB 1154. This bill is supported by Water Resources, Water Congress and WaterWatch also.
382	Benson	Says the -1 amendments open more options to users.
<b>TAPE 98,B</b>		
007	Benson	Explains junior water rights users' need. Says Tumalo needs funding partners such as the federal government, private businesses, foundations, and other water users. Funding water conservation and water user efficiency is supported by SB 1154.

025	Todd Heidgerken	Water for Life, supports SB 1154; supports the -1 amendments except for the sunset date.
045	Heidgerken	Says that a two year sunset would be all right.
056	Chair Tarno	Asks if there is anything further. Comments the -1 amendments seem acceptable to all parties deleting the section 8.
060	Chair Tarno	Closes public hearing on SB 1154; opens work session on SB 1154.
<b><u>SB 1154</u></b> <b><u>WORK</u></b> <b><u>SESSION</u></b>		
062	Sen. Fisher	Discusses the amendments.
	<b>Sen. Nelson</b>	<b>MOTION: Moves to ADOPT SB 1154-1 amendments dated 5/19/97.</b>
	<b>Chair Tarno</b>	<b>Hearing no objection, declares the motion CARRIED.</b>
100	<b>Sen. Nelson</b>	<b>MOTION: Moves SB 1154 to the floor with a DO PASS AS AMENDED recommendation.</b>
		<b>VOTE: 5-0</b> <b>EXCUSED: 2 - Burdick, Ferrioli</b>
	<b>Chair Tarno</b>	<b>The motion CARRIES.</b> <b>SEN. NELSON will lead the discussion on the floor.</b>
	Chair Tarno	Closes work session on SB 1154; opens public hearing on SB 145.
<b><u>SB 145</u></b> <b><u>PUBLIC</u></b> <b><u>HEARING</u></b>		
135	Mark Volmert	Committee Administrator, gives background on SB 145.
140	Langdon Marsh	Department of Environmental Quality (DEQ), explains underground storage tanks issues. <b>(EXHIBIT F)</b>
142	Mary Wald	DEQ, explains this bill will require owners to pump out residual. Real estate, homeowners may have more financial costs.
234	Mike Kortenoff	DEQ, describes the situations for the past eight years with underground storage tanks.
297	Sen. Fisher	Asks about sunset date.
317	Wald	Says there are instances where equipment has failed. Minimal monitoring for leaks would be required.
322	Sen. Fisher	Says he does not believe oversight of this could be accomplished.

330	Wald	Says that not all the stations could be inspected, but it would be somewhat checked.
357	Jason Powell	President, Oregon Petroleum Marketers Association; supports SB 145 except for section 4 which increases the tank fee and lacks a sunset date.
385	Chair Tarno	Adjourns meeting at 9:37 AM.

Submitted By, Reviewed By,

Nancy Masee, Mark Volmert,

Administrative Support Administrator

**EXHIBIT SUMMARY**

**A - HB 2478, written testimony, Stephen West, 5 pp**

**B - SB 1154, -1 amendments, staff, 4 pp**

**C - SB 1154, written testimony, Martha Pagel, 3 pp**

**D - SB 1154, written testimony, Carl W. Hopp, 5 pp**

**E - SB 1154, written testimony, Jan Lee, 2 pp**

**F - SB 145, written testiomony, Langdon Marsh, 9 pp**

---

SENATE COMMITTEE ON WATER AND LAND USE

May 20, 1997 Hearing Room E

5:00 PM Tapes 100 - 101

**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:**

**HB 2605 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 100, A</b>		
004	Chair Tarno	Opens meeting at 5:10 PM, and opens public hearing on HB 2605.
<b><u>HB 2605 PUBLIC HEARING</u></b>		
018	Mark Volmert	Committee Administrator, gives background on HB 2605.
038	Rep. Tim	District 2, gives background on HB 2605, including the efforts of the work group which amends airport planning statutes enacted during the 1995 session (SB 1113). It modifies the types of airports subject to Land

	Josi	Conservation and Development Commission (LCDC) rules and local government's plans. <b>(EXHIBIT A)</b>
088	Rep. Josi	Continues explanation of HB 2605. Section 4 deals with airport categories and their uses. Section 3 deals with private and public use airports. There will be an amendment suggested for this section. Section 6 deals with water impoundments. This is to protect from bird hazards.
164	Sen. Kintigh	Asks about the 40,000 foot length in the approach corridor.
176	Rep. Josi	Says that is needed for safety from bird strikes. Ponds, including those created by the aggregate industry, attract birds.
179	Dale Blanton	Department of Land Conservation and Development (DLCD), says the 40,000 feet applies only to airports with instrument approach systems.
189	Chair Tarno	Asks about the -5 amendments.
198	Rod Johnson	Former state senator, explains the -5 amendments. Refers to letters supporting the -5 amendments. <b>(EXHIBITS B, F)</b>
250	Johnson	Says HB 2605 removes a number of airports from SB 1113.
271	Johnson	Describes the airport systems in the state.
308	Chair Tarno	Asks about the amendments.
312	Johnson	Says the House version and the -5 amendments are similar in concept. Population and economic demand cause airport growth. HB 2605 makes airport growth possible.
411	Johnson	Describes uses at airports. Refers to chart on -5 amendments.
<b>TAPE 101,A</b>		
028	Johnson	Continues presentation on HB 2605, explaining the tests to expand uses and growth.
041	Sen. Burdick	Asks if the airports with eight or more planes is the dividing line.
044	Johnson	Explains that HB 2605 is stronger and clearer. Says the aggregate language in HB 2605 is the same as the House bill except for one paragraph which Oregon Concrete and Aggregate Producers Association (OCAPA) agreed to.
056	Chair Tarno	Asks to clarify the amendments, page 8 of the -5 amendments, lines 21 through 26, regarding reasonable growth and how it is defined.
067	Johnson	Says that the last hearing in the House was three weeks ago, and the hand engrossed -5 amendments have been available for a week. Says there is still room for compromise on HB 2605, and an opportunity for agreement.
095	Chair Tarno	Says that time is limited.
104	Dale Blanton	DLCD, policy analyst. Says the commission heard three concerns with the way SB 1113 was written. The list of airports that are required to go through the full planning process, the list of uses, and the authority to



		restrict the user, and water impoundments. <b>(EXHIBIT C)</b>
137	Chair Tarno	Asks if the airports will be shut down.
137	Blanton	Says that -5 amendments are not supported by DLCD. Which airports warrant the full planning process on the A-engrossed version is deemed more fair than the -5 amendments.
175	Chair Tarno	Asks about the -5 amendments, page 8, subsection 3, line 21.
178	Blanton	That is the requirements for notice to the FAA. Says DLCD does not see a problem with this.
184	Sen. Josi	Asks Mr. Blanton to go through the -5 amendments.
191	Blanton	Says page 2 makes the changes to the airports. Says the A-Engrossed version is preferred; takes local government out of the planning system and gives individual airports more power. Page 3, lines 25 through 31, this section authorizes the continuation of previously established uses. Page 4, lines 2 through 21, authorizes local government to adopt requirements for the establishment of new airports, and the initiation of new uses at existing airports. Page 4, lines 22 through 27, authorizes the recovery of attorney fees. Page 9, lines 25 through 31, prevents local government from adopting interim regulations regarding airports or airport use.
277	Sen. Fisher	Asks if the -5 amendments are a problem.
274	Rep. Josi	Says there are problems with the -5 amendments.
278	Sen. Fisher	Says there are three places that are minor.
281	Blanton	Says there were six causes for concern with the -5 amendments.
293	Sen. Fisher	Asks where the airport users were when discussions were being held in the House.
304	Rep. Josi	Says the work group could not reach consensus on these issues.
330	Sen. Fisher	Says there was not much effort to include people who know about airports.
352	Rep. Josi	Says that the Port of Portland and others with aviation interests were included. The aviation industry was active in putting in information.
375	Sen. Fisher	Says the May 20 letter from VanHoomison supports the -5 amendments.
393	Sen. Nelson	Asks about smaller airports.
403	Blanton	Says the "right to fly" section covers all small airports reflected in planning and zoning documents.
<b>TAPE 100, B</b>		
027	Sen. Nelson	Asks about the -5 amendments.
032	Blanton	Says there are a number of issues: aggregate, parachuting on farmland. Says types of uses were of concern.
044	Sen. Fisher	Asks that the -5 amendments be accepted.
		Comments about Springfield Municipal Airport. The community closed

064	Sen. Ferrioli	the airport. The general public who do not fly do not understand the value of aviation airports.
087	Blanton	Says that there are airports closed by municipalities as an economic liability. Neither HB 2605 nor the -5 amendments will prevent closure. SB 1113 had nothing to prevent private owner or municipality from closing an airport.
108	Art Schlack	Association of Oregon Counties (AOC), supports HB 2605A. Says that requesters of the bill have participated for two years. HB 2605 repeals previous airport planning which was not workable, and ensures private airports will continue to operate under local review. <b>(EXHIBIT D)</b>
158	Richard Angstrom	Oregon Concrete and Aggregate Producers Association (OCAPA), supports HB 2605A; says the overall concept is important and that there is a need to move this bill.
172	Don Schellenberg	Oregon Farm Bureau; supports HB 2605A, and says it is a good compromise bill. Says there are concerns with the -5 amendments as Mr. Blanton stated. <b>(EXHIBIT E)</b>
196	Dave Barenberg	League of Oregon Cities, supports HB 2605A; consider this bill as a good compromise bill.
225	Jon Chandler	Oregon Builders Association, supports HB 2605A. They will review the -5 amendments.
235	Fred VanNatta	Oregon Association of Realtors, supports HB 2605A. They will review the -5 amendments.
254	Sen. Fisher	Asks about recognition of aeronautics industry.
313	Art Schlack	Says the -7 amendment on page 2, lines 36 through 39, refers to the written enforcement complaint concerning the use that was filed with local government prior to 1987. Says this clarification is needed. Also, the -7 adds an emergency clause.
352	Jim Markee	Sky Dive Oregon, says concern is with HB 2605. Introduces Joe Weber. Says page 2, lines 33 through 39 of A-engrossed bill and the -6 amendments were an attempt to correct this.
<b>TAPE 101, B</b>		
008	Markee	Says the -5 amendments are acceptable.
022	Phillip Groshong	Civil Air Patrol, supports the -5 amendments. Says that local control of airports is a mistake; requirements by the county are at the edge of good operating policy.
034	Mike Marthaller	Says that the City of Albany does not have a way of determining costs and revenues associated with the Albany Airport.
048	Brian Miller	Flight Instructor, Air Force Reserve Pilot; supports the -5 amendments.
070	Evan Boone	Oregon Pilots Association, says he has concerns with the A-Engrossed bill. He addresses the economic concerns of airports. Says the -5 amendments get closer to the economic impact.
103	Sen. Fisher	Says you can teach a pilot, but he could not get solo time because of

		costs.
109	Boone	Asks about the uses that allow survival of the airports and the local government's concern. Says the compromise on the aggregate issue is questionable.
156	Rian Bourgeois	Oregon State Experimental Aircraft Association, opposes HB 2605A; says the bill will economically devastate small airports.
207	Jack Lenhardt	Airport owner of 41 years located three miles east of Hubbard; says since zoning, he cannot build anything. He was on Rep. Josi's work group. Says there are problems with HB 2605A. Says counties have had great control on these airports. Supports -5 amendments.
218	Chair Tarno	Closes public hearing on HB 2605, and opens work session on HB 2605.
<b>HB 2605 WORK SESSION</b>		
220	Sen. Fisher	Discusses confusion between "aircraft maintenance" (page 3, line 18) and "aircraft service and sales" (page 3, line 29). Says HB 2605 needs additional work.
225	Sen. Nelson	Says the language in the -5 amendments needs clarification, and expresses concerns with the current language.
229	Chair Tarno	Asks committee if there is anymore discussion on the amendments.
230	<b>Sen. Fisher</b>	<b>MOTION: Moves to ADOPT HB 2605-5 amendments dated 5/16/97.</b>
		<b>VOTE: 5-2</b>  <b>AYE: 5 - Ferrioli, Fisher, Kintigh, Nelson, Tarno</b>  <b>NAY: 2 - Burdick, Wilde</b>
226	<b>Chair Tarno</b>	<b>The motion CARRIES.</b>
250	<b>Sen. Fisher</b>	<b>MOTION: Moves HB 2605 to the floor with a DO PASS AS AMENDED recommendation.</b>
		<b>VOTE: 5-2</b>  <b>AYE: 5 - Ferrioli, Fisher, Kintigh, Nelson, Tarno</b>  <b>NAY: 2 - Burdick, Wilde</b>
254	<b>Chair Tarno</b>	<b>The motion CARRIES.</b>
		<b>SEN. FISHER will lead discussion on the floor.</b>
347	Chair Tarno	Closes work session on HB 2605, and adjourns meeting at 7:00 PM.

Submitted By, Reviewed By,

Nancy Masee, Mark Volmert,

Administrative Support Administrator

**EXHIBIT SUMMARY**

**A - HB 2605, written testimony, Rep. Tim Josi, 2 pp**

**B - HB 2605, written testimony, Rod Johnson, 6 pp**

**C - HB 2605, written testimony, Richard Benner, 1 p**

**D - HB 2605, written testimony, Art Schlack, 3 pp**

**E - HB 2605, written testimony, Don Schellenberg, 2 pp**

**F - HB 2605, -5 amendments, staff, 10 pp**

---