

HOUSE COMMITTEE ON  
WATER POLICY

Hearing Room  
Tapes - 42

MEMBERS PRESENT:

Rep. Chuck Norris, Chair  
Rep. Tim Josi, Vice-Chair  
Rep. Avel Gordly  
Rep. Veral Tarno  
Rep. Jim Welsh

STAFF PRESENT:

Pat Zwick, Committee Administrator  
Gail E. Boesch, Committee Assistant

MEASURES HEARD:

HB 2544 - Work Session  
HB 2184 - Public Hearing  
HB 2431 - Work Session  
HB 2754 - Public Hearing  
HB 2755 - Public Hearing  
HB 2375 - Work Session

These minutes contain materials which paraphrase and/or summarize statements made during this session. Only text enclosed in quotation marks

report a speaker's exact words. For complete contents of the proceedings, please refer to the tapes.

TAPE , A

006 CHAIR NORRIS: Calls the meeting to order at 2:00 PM.

By implied motion, the rules are suspended to reconsider the vote by which HB 2544 passed.

MOTION: REP. JOSI: Moves that the vote on HB 2544 be RECONSIDERED.

VOTE: In a roll call vote, all members are present and vote AYE.

030 CHAIR NORRIS: Opens the Work Session on HB 2544

MOTION: REP. JOSI: Moves to amend HB 2544 at page 5, line 10, to insert "one and one quarter percent".

VOTE: Hearing no objections, the amendments are ADOPTED.

MOTION: REP. JOSI: Moves that HB 2544, AS AMENDED, be sent to the Floor with a DO PASS recommendation.

VOTE: In a roll call vote, all members are present and vote AYE.

REP. JOSI will lead the discussion on the Floor.

057 CHAIR NORRIS: Closes the Work Session on HB 2544.

Opens the Public Hearing on HB 2184  
Witnesses: Beth Patrino, Water Resources Department  
Ron Yochim, Grant, Douglas & Harney County  
Mack Kearns, Oregon Wheat Growers League  
Doug Myers, WaterWatch  
Jan Boettcher, Oregon Water Resources Congress

087 BETH PATRINO, WATER RESOURCES DEPARTMENT: Submits hand engrossed HB 2184, Exhibit A. Notes major changes incorporated into bill.

160 -Page 5, continues pointing out changes to HB 2184 by amendment.

185 - Page 7, the provisions that deal with limited licenses; have made a number of changes here. Elaborates.

217 REP. JOSI: Questions changing language regarding department changed to commission.

220 PATRINO: Already happens, this change just makes it consistent in statute.

273 PATRINO: Continues, toward the bottom of page 8, two definitions. Limited license for fixed duration or short term use.  
- Short term is still issue.

319 - page 9, section 9, livestock watering exemption. Removed the cap; alternative return flow system to overcome freezing conditions.

340 - page 10,. livestock watering exemptions in scenic waterways

350 PATRINO: The balance of the amendments are the deletion of the Water Supply Fund and the task force.

357 REP. GORDLY: Questions whether fiscal impact statement includes amendments.

360 STAFF: Submits Exhibit B, Fiscal Impact Statement on HB 2184-1, draft amendment.

TAPE 40, A

008 RON YOCHIM, GRANT, DOUGLAS & HARNEY COUNTY: Re. pg 7, lines 8 & 9.Exhibit A, proposes removal of "or for irrigation" from language making it ineligible for limited license. Provides examples to prove his point.

057 - Page 9, lines 20 & 21 - delete line 21, (c).

075 REP TARNO: Clarifies that Mr. Yochim is talking about cross-fencing.

086 REP. JOSI: Intent was to allow long-term usage.

103 YOCHIM: Promote good range management.  
  
General discussion follows regarding cows, feeding, and water.

145 MACK KEARNS, OREGON WHEAT GROWERS LEAGUE: Submits Exhibit C, and reads from it, supporting HB 2184 in regard to livestock watering and temporary transfers.

210 DOUG MYERS, WATERWATCH: Requests an opportunity to return next meeting after preparing testimony.

225 JAN BOETTCHER, OREGON WATER RESOURCES CONGRESS: Supports amended version of HB 2184.

238 CHAIR NORRIS: Closes Public Hearing on HB 2184  
Opens Work Session on HB 2431

265 STAFF: Submits proposed amendments from Oregon Water Resources Congress, Exhibit D.

285 JAN BOETTCHER, OREGON WATER RESOURCES CONGRESS: Explains changes incurred by amendments in Exhibit D, which includes a hand engrossed HB 2431.

316 - Similar to SB 506 and SB 516, injury test. Comfortable with what is submitted.

326 REP. TARNO: Requests clarification of numbering in hand-engrossed

version.

350 CHAIR NORRIS: Questions pg. 1, section 2 - language, land outside formal boundaries that we intend to bring in.

382 MARTHA PAGEL, WATER RESOURCES DEPARTMENT: Supports the amendments.

394 MACK KEARNS, OREGON WHEAT GROWERS (CWRE): Supports passage of HB 2431 as amended.

TAPE 39, B

MOTION: REP. JOSI: Moves the ORWC AMENDMENTS to HB 2431 BE ADOPTED.

VOTE: Hearing no objections, the amendments are ADOPTED.

MOTION: REP. JOSI: Moves that HB 2431, AS AMENDED, be sent to the Floor with a DO PASS recommendation.

VOTE: All members are present and vote AYE.

CHAIR NORRIS: The motion CARRIES.

REP. WELSH will lead the discussion on the Floor.

055 CHAIR NORRIS: Closes the Work Session on HB 2431  
Opens the Work Session on HB 2375

060 MARTHA PAGEL, WRD: Discusses the bill, looking for copy of AG's advice.

083 CHAIR NORRIS: Closes the Work Session on HB 2375  
Opens the Public Hearing on HB 2754 and HB 2755 Concurrently  
Witnesses: Bob Meinen, Oregon Parks & Recreation Department  
David Moon, Water For Life  
Martha Pagel, Water Resources Department  
Rep. Lynn Lundquist  
Jim Myron, Oregon Trout  
Doug Myers, WaterWatch  
Glenn Spain, Pacific Coast Federation of Fishermen's Association  
Gayle Killam, Oregon Environmental Council  
Jill Zarnowitz, Oregon Department of Fish & Wildlife

111 BOB MEINEN, DIRECTOR, OREGON PARKS AND RECREATION DEPARTMENT: Testifies regarding HB 2754, does not take a position; submits Exhibit E. Expresses concerns about certain portions of bill.

160 - Rivers do help support the economy of Oregon.

174 - Minimum seasonal quality of water and water level available -- concerns. Discusses optimum flows.

190 REP. TARNO: Clarifies that he is discussing rafting.

195 MEINEN: Yes, jet boats too, sensitive to minimum stream flows.

207 REP. TARNO: Expresses concerns; questions how to come to agreement between recreational users and ODFW on what is enough water.

220 MEINEN: Biological minimums are probably considerably lower than recreational users would like to see; boatability, access capabilities.

268 DAVID MOON, WATER FOR LIFE: Regarding HB 2754, calls the bill a clarification measure.

310 - Discusses amendments.

330 - Regarding HB 2755, calls bill a "housekeeping bill" - discusses repeal of ORS 537.146.

348 REP. JOSI: Questions how bill would reduce the backlog (at Water

Resources Department).

364 MOON: Would do away with a lot of conflict.

TAPE 40, B

010 REP. TARNO: One of the reasons for this bill, perennial flow information is too dated to be accurate.

020 MOON: Original data is gone, can't find out what the reasons were for setting flow rates originally.

027 REP. JOSI: To Ms. Pagel, questions what happens to application when the water isn't there.

095 REP. LYNN LUNDQUIST: Testifies, discusses problems of instream water rights.

- Make sure methodology is acceptable.

- If we don't have the right baseline data,

- minimum seasonal stream flow required - discusses out of stream uses.

Thinks instream and out of stream should have the same basic parameters.

140 - The only constant thing about nature is that it changes.

148 - If the system's not right, than the numbers won't follow.

165 REP. JOSI: If we could get the system to work efficiently, it would ferret out all these problems and flaws in applications. The problem is getting from A to B; too many flaws in system to get to point B.

185 CHAIR NORRIS: Regarding minimum seasonal quantity, should we look at this in seasonal sections.

202 Recesses meeting for ten minutes.

222 CHAIR NORRIS: Reconvenes the meeting at 3:55 PM.

255 JIM MYRON, OREGON TROUT: Submits Exhibit F, opposing HB 2754.

290 CHAIR NORRIS: Questions if ODFW will file many or any more instream water rights.

295 MYRON: The big rush to apply is over and gone.

- Summarizes Exhibit F, outlining problems with HB 2754 as he sees them.

338 FOR PACIFIC RIVERS COUNCIL: Also opposes HB 2754.

349 MYRON: Submits and reads Exhibit G, opposing HB 2755.

386 REP. JOSI: Question what will happen if an agency overapplies.

TAPE 41, A

005 MYRON: Don't see instream water rights being issued for levels beyond what is in the stream.

016 REP JOSI: Questions if there is anyone in WRD to dispute information used to gain water rights (discussing ODFW instream water rights.)

025 REP. TARNO: Regarding sec. 2, HB 2754, refers to exhibit F, questions how else would you set the water level of a lake.

035 MYRON: Uses Klamath Lake as example. Levels should be set as most beneficial to fish.

General discussion of minimum water levels and lakes and fishies.

060 REP. JOSI: Credibility problem. Process creates distrust.

080 DOUG MYERS, WATERWATCH: Submits Exhibit H, opposing HB 2754.

111 MYERS: Regarding HB 2755, alternative dispute process - would like to see it play itself out.

129 MARTHA PAGEL, WATER RESOURCES DEPARTMENT: Submits Exhibit I, opposing HB 2754; submits Exhibit J, regarding HB 2755, finding its need unclear and recommending continuing the existing process.  
Instream water rights are absolutely essential.

185 - Get away from the notion that you have to fight for every last drop; accept the fact that we're about out already (of water).  
- Debate reasonable levels through existing process. Look for alternative sources of supply.

209 - Discusses out of stream water rights.

247 REP. TARNO: Does WRD have the ability to establish minimum flows; under the law we're to set the amounts necessary to meet the public use.

261 PAGEL: Agrees, it is a tough process; our rules require agencies submitting an application to have the means in place to establish those flows.

Discussion of review of permits.

316 GLENN SPAIN, PACIFIC COAST FEDERATION OF FISHERMEN'S ASSOCIATION: Testifies in opposition to HB 2754 and HB 2755.

368 - Regarding HB 2754, standardizes methodology; they support that.  
- Sec 3, minimize instream rights, should be optimized.

TAPE 42, A

005 SPAIN: Re. HB 2755, ultimately eliminates the instream water right process; don't think that's the direction we want to go.

026 - Calls for care in addressing problem. "Let's not be so global".

040 GAYLE KILLAM, OREGON ENVIRONMENTAL COUNCIL: Testifies in opposition to HB 2754, submits Exhibit K and reads from it.

078 KILLAM: Submits Exhibit L regarding HB 2754. generally opposing the bill.

104 JILL ZARNOWITZ, ODFW: Submits exhibit M, expressing concerns regarding HB 2755.

132 - To HB 2754, Exhibit N, again has several concerns.

149 - Lists methods used to establish instream flow.

180 - Crooked River minimal instream flow study.

231 ZARNOWITZ: Flow requirement for recreational purposes is higher; agrees that fish minimums don't work for jet boats.

266 - Notes error in section 4.

300 - General discussion continues regarding minimal stream flow.

340 CHAIR NORRIS:  
Closes the Public Hearing on HB 2754 and HB 2755  
ADJOURNS the meeting at 5:00 PM.  
Submitted by, Reviewed by,

Gail E. Boesch Pat Zwick  
Committee Assistant Committee Administrator

EXHIBIT SUMMARY:

A - Hand Engrossed HB 2184 -- Beth Patrino, Water Resources Department -- 6  
pages  
B - HB 2184, Fiscal Analysis -- Staff -- 1 page  
C - Testimony on HB 2184 -- Mack Kearns, Oregon Wheat Growers League -- 1  
page  
D - Testimony on HB 2431 -- Jan Boettcher, Oregon Water Resources Congress  
-- 4 pages  
E - Testimony on HB 2754 -- Bob Meinen, Oregon Parks and Recreation  
Department --2 pages  
F - Testimony on HB 2754 -- Jim Myron, Oregon Trout -- 1 page  
G - Testimony on HB 2755 -- Jim Myron, Oregon Trout -- 1 page  
H - Testimony on HB 2754 -- Doug Myers, WaterWatch -- 2 pages  
I - Testimony on HB 2754 - Martha Pagel, Water Resources Department -- 1  
page  
J - Testimony on HB 2755 -- Martha Pagel, Water Resources Department -- 1  
page  
K - Testimony on HB 2754 -- Gayle Killam, Oregon Environmental Council -- 2  
pages  
L - Testimony on HB 2755 -- Gayle Killam, Oregon Environmental Council -- 2  
pages  
M - Statement on HB 2755 -- Jill Zarnowitz, Oregon Department of Fish and  
Wildlife -- 1 page  
N - Statement on HB 2754 -- Jill Zarnowitz, Oregon Department of Fish and  
Wildlife -- 2 pages