

HOUSE COMMITTEE ON
WATER POLICY

Hearing Room
Tapes - 92

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:

SB 510 A - Work Session

SB 674 A - 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

003 CHAIR NORRIS: Calls the meeting to order at 2:07 PM.
Notes that this is the last meeting of this committee for this session.

010 MOTION: REP. TARNO: Moves to RECONSIDER the vote by which SB 510 A
was sent to the Floor with a DO PASS recommendation.

VOTE: In a roll call vote, all members present vote AYE; REP. JOSI is
EXCUSED.

CHAIR NORRIS: The motion CARRIES.

Opens the Work Session on SB 510A

030 MOTION: REP. JOSI: Moves to ADOPT SB 510A-7 amendments dated
05/11/95.

CHAIR NORRIS: Hearing no objections, the amendments are ADOPTED.

035 MOTION: REP. JOSI: Moves SB 510A, 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.

CHAIR NORRIS: The motion CARRIES.

REP. GORDLY will lead the discussion on the Floor.

43 Closes the work session on SB 510A

050 CHAIR NORRIS: Provides comments on SB 674 A.

075 Opens the Work Session on SB 674A.

080 PAT ZWICK, COMMITTEE ADMINISTRATOR: Reports on work group which met to work on amendments to SB 674A. Submits Exhibit B and Exhibit C, amendments to the bill.

116 MARTHA PAGEL, WATER RESOURCES DEPARTMENT: Submits Exhibit D, Consensus Amendments to SB 674-A. (SB 674-A41 amended version).

165 KIP LOMBARD, OWRC: Submits Exhibit E, and notes changes to bill by -A41 amendments, Exhibit B/C.

210 CHAIR NORRIS: Notes that the committee will informally approve/object to the amendments on a page by page basis, and will vote the amendment as a whole later.

230 LOMBARD: In a form should be on a form. (Page 3, section 5)

289 - Section 9, relates to payment of fees. Payment must accompany application, and application must be complete.

300 CHAIR NORRIS: Questions Ms. Pagel for clarification of relationship of application to priority date.

308 PAGEL: Discusses necessity of complete application to keep process smooth; priority date is now set by receipt of complete application.

336 LOMBARD: Notes that the Dept. has to act on the application within 15 days, which also encourages prompt processing.

350 - Encompasses the basin plans.

360 PAGEL: Specific compromise, discusses.

375 LOMBARD: "Water users" changed to "other water rights".

390 JEANETTE HOLMAN, LEGISLATIVE COUNSEL; "or in the finding of the Department"; correction.

410 PAGEL: Discusses correction; "presumptions".

TAPE 90, A

013 LOMBARD: Page 8, discusses. Regulated should be required; relates to \$10 fee.

035 - Notes changes in numbering of original bill.

046 PAGEL; Referring to Exhibit E, page 7, line 34, left side of page - we are removing "significantly".

090 LOMBARD: Continues, section 13; "initiate contested case hearing" is replaced with hold a contested case hearing.
- Lines 16,17, right side.

115 - Page 10, Exhibit E.

120 - Limitations on contested case hearings.

185 REP. TARNO: Notes that time went from 45 days to 60.

PAGEL: Clarifies the reasons and need for the time changes.

230 CHAIR NORRIS: Questions which ORS chapter is for surface water.

233 HOLMAN: They're all in Chapter 537.

240 LOMBARD: Continues his discussion of the -A41 amendments to SB 674A.,
Exhibit E.

275 CHAIR NORRIS: Clarifies that page 16 is a continuation of (1).

367 LOMBARD: Continues to explain the -A41 amendment

TAPE 89, B

005 Error, line 16, right, page 18;

030 All encompassing.

039 REP. GORDLY: Question about the Director.

044 PAGEL: Responds.

112 HOLMAN: Notes an error; need to make a substitution, "would ensure the
preservation of the public welfare, safety and health".

145 - Will ensure vs. would ensure discussed.

250 LOMBARD: Continues reviewing Exhibit E point by point, commenting and
inserting corrections and changes as needed.

275 HOLMAN: Discusses and clarifies sections 32a and 32b.

299 PAGEL: Calls attention to the existing provisions of section 32, calls
attention to written testimony, Exhibit D.

345 REP. TARNO: Questions what happens when (the minimum flows occur).

398 REP. GORDLY: Requests clarification of Ms. Pagel's testimony regarding
cooperation of state agencies.

410 PAGEL: Clarifies, basic understanding and agreement was reached during
hearings on Senate side.

TAPE 90 B

019 ROY ELICKER, OREGON DEPARTMENT OF FISH & WILDLIFE: Further responds to
REP. GORDLY's question - we are in agreement with Ms. Pagel's
interpretation of section 32.(the "Old" 32).

044 LOMBARD: Discusses the balance of the amendments (-A41)
- Section 36, Director is changed to department, page 29, Exhibit E.

075 HOLMAN: Discusses repeals written into amendment by LC.

131 REP. TARNO: Requests clarification on amendments, regarding whether all
versions are included.

139 LOMBARD: We have discussed only the -A41 amendments.

145 REP. WELSH: Comments that he has a problem with sections 18 and 19,
regarding the processing of instream and out of stream water rights.

158 PAGEL: Clarifies the language involved, notes problems with section 20.

Discussion follows regarding language required to remain in SB 674A to avoid Governor Kitzhaber's veto.

180 LOMBARD: You may be talking about section 20 (which has to remain or the Gov. will veto).

194 PAGEL: Clarifies what the amendment will do regarding the bill, that the instream water rights are not affected by the amendments.

Discussion of conflict amendments. Holman clarifies and makes suggestions about how to frame the motions.

228 MOTION: REP. JOSI: Moves the -A41 amendments to SB 674 A, as conceptually amended, and allowing for possible conflicts amendments, BE ADOPTED.

CHAIR NORRIS: Hearing no objections, the amendments are ADOPTED.

242 CHAIR NORRIS: Calls a 10 minute recess.

245 Reconvenes the meeting at 4:01 PM.

255 KAREN RUSSELL, WATERWATCH: Submits Exhibit F, noting further amendments offered to SB 674A. Strongly urges reducing the protest fees.

301 - Mandamus provision; problems with language requiring issuance of a permit by court order, even if water was not available for public use. Elaborates.

338 - Concerned about instream flow language, recommends -46 amendments, Exhibit C, in place of WaterWatch's -28 amendments, Exhibit F.

367 - Urges adoption of -32 and -37 amendments, Exhibit F.

TAPE 91, A

005 RUSSELL: Continues discussing Exhibit F, and offering other adjustments to SB 674A.

025 REP. JOSI: Comments that a delicate balance has been reached, and does not feel that passage of the amendments presented would help.

038 REP. TARNO: Concurs.

044 REP. JOSI: (To Director Pagel) Could you live with the -41 amendments?

048 PAGEL: We have one major concern with the -41; could live with the definition of instream flows.

062 CHAIR NORRIS: Asks for clarification of location of language regarding a new definition of instream flow.

070 PAGEL: Section 32, came to accept the language when discussed on the Senate side. Elaborates.

098 REP. WELSH: That's not how I understand it, and I'm worried about senior water rights.

105 REP. TARNO: Questions Martha for clarification.

Discussion of instream water rights, beneficial uses, and senior water rights ensues.

142 PAGEL: Submits Exhibit C, and discusses the amendments it contains, -A42 through -A46.

157 - A42 refers to the writ of mandamus.
-A43 technical change that did have consensus in work group, but was not ready in LC form.

MOTION: REP. JOSI: Moves that the -A43 amendments to SB 674A, BE ADOPTED.

CHAIR NORRIS: Hearing no objections, the amendments are ADOPTED.

165 PAGEL: Discusses -A44, regarding scheduling of contested cases. (Exhibit C)
-A45, same concept, narrower version
-A46, significant amendments, deals with instream water rights. Critical issues in support of the bill.

238 REP. WELSH: Questions why this is so important.

243 PAGEL: We have resisted any substantive changes to the instream water rights policy issues.

267 MOTION: REP JOSI: Moves the -A46 amendments to SB 674A, BE ADOPTED.

VOTE: In a roll call vote, REP. GORDLY, JOSI AND NORRIS vote AYE; REPS. TARNO and WELSH vote NO.

CHAIR NORRIS: Having received the required majority, the amendments are ADOPTED.

304 RICK BASTACH, WATER RESOURCE DEPARTMENT: Submits Exhibit G, and discusses a new amendment to SB 674A

351 - Reads the amendment as drafted by Jeannette Holman, Legislative Counsel.

MOTION: REP. TARNO: Moves conceptual amendments to SB 674A per Water Resource Department, Exhibit G, BE ADOPTED.

CHAIR NORRIS: Hearing no objections, the amendments are ADOPTED.

400 TODD HEIDGERKEN, WATER FOR LIFE: Clarifies intent regarding language discussed earlier.

TAPE 92, A

005 HEIDGERKEN: Discusses the Oregon Method, and instream flows.

039 JERRY SCHMIDT, OREGON ASSOCIATION OF REALTORS: Still diligently working on the issue of hydraulic connection. Notes that his association is a substantial objector to the manner of issuance of instream water rights.

065 PETE TEST, OREGON FARM BUREAU FEDERATION: Supports SB 674A as amended; expresses similar concerns about instream water rights.

086 JAN BOETTCHER, OREGON WATER RESOURCES CONGRESS: Agrees that there needs to be some resolutions on the instream water rights process. Submits Exhibit H, and the amendments passed today.

100 ELIZABETH FLORIO, OREGON WHEAT GROWERS: Supports SB 674A as amended; would also like to see instream water rights and hydraulic connection further discussed in interim.

113 MARTHA PAGEL, WATER RESOURCES DEPARTMENT: Provides comments regarding

the governor's attitude on instream water rights, willing to do whatever is necessary in the interim.

131 MOTION: REP. TARNO: Moves SB 674A, AS AMENDED, to the Floor with a DO PASS recommendation:

141 REP. GORDLY: Will vote no, explains why.

155 REP. WELSH: Will vote no due to instream water right issue.

VOTE: In a roll call vote, REPS. JOSI, TARNO AND NORRIS vote AYE; REPS. GORDLY AND WELSH vote NO.

CHAIR NORRIS: Having received the required majority, SB 674A, as amended, CARRIES.

REP. NORRIS will lead the discussion on the Floor.

167 Closes the Work Session on SB 674A.

184 ADJOURNS the meeting at 4:55 PM.

Submitted by, Reviewed by,

Gail E. Boesch Pat Zwick
Committee Assistant Committee Administrator

EXHIBIT SUMMARY:

A - SB 510 A, Proposed Amendments, -A7 -- Staff -- 5 pages
B - SB 674 A, Proposed Amendments, -A41 -- Staff/Work Group -- 54 pages
C - SB 674 A, Proposed Amendments, -A42 -- Marth Pagel, Director, Water Resources Department -- 5 pages
D - Supplemental Testimony on SB 674 A -- Martha Pagel, Water Resources Department -- 3 pages
E - SB 674 A, Hand-Engrossed with -41 amendments -- Kip Lombard, Oregon Water Resources Congress -- 29 pages
F - Testimony on SB 674 A -- Karen Russell, WaterWatch -- 7 pages
G - SB 674 A, Water Resources Department amendments -- Rick Bastach, Water Resources Department -- 1 page
H - Testimony on SB 674 A -- Jan Boettcher, Oregon Water Resource Congress -- 1 page