

SENATE COMMITTEE ON
AGRICULTURE, NATURAL RESOURCE AND THE
ENVIRONMENT

April 24, 1995Hearing Room 343
1:00 P.M.Tapes 87, 88

MEMBERS PRESENT:

Sen. Bob Kintigh, Chair
Sen. Brenda Brecke
Sen. Bill Dwyer
Sen. Tom Hartung
Sen. Rod Johnson, Vice-Chair
Sen. Marylin Shannon

MEMBER EXCUSED:

STAFF PRESENT:

Bruce McIntosh, Committee Administrator
Catrina Victor, Committee Assistant

MEASURES HEARD: SB 1039-Work Session
SB 1128-Work Session
HB 2562-Public Hearing and Work Session
HB 2612-Public Hearing and Work Session

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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 87, A

004 CHAIR KINTIGH: Meeting called to order- 1:40 P.M.

Opens WORK SESSION ON SB 1039.

Staff Measure Summary and SB 1039-3 amendments are submitted for the record (EXHIBIT A).

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BRUCE McINTOSH, COMMITTEE ADMINISTRATOR: Reviews provisions of SB 1039-3 amendment.

025 SEN. DWYER: Asks if amendment still allows for treble damages for injury to personal property.

028 McINTOSH: That was deleted at the committee's request.

035 Committee discussion of "may" versus "shall" in section 1 (2) and (3).

050 MOTION: CHAIR KINTIGH MOVES TO AMEND SB 1039 WITH SB
1039-3 AMENDMENTS.
VOTE: WITHOUT OBJECTION, CHAIR KINTIGH DECLARES
AMENDMENT ADOPTED.
MOTION: CHAIR KINTIGH [, MOVES SB 1039, AS AMENDED, TO
THE FLOOR WITH A DO PASS RECOMMENDATION.
VOTE: ON A ROLL CALL VOTE, MOTION CARRIES BY
UNANIMOUS VOTE. SEN. JOHNSON IS EXCUSED.
057 CHAIR KINTIGH: Asks Senator Brecke to carry the bill.
Opens PUBLIC HEARING ON HB 2562

Witnesses:

Jerry Running Fox, Tribal Council, Coquille Indian Tribe

Staff Measure Summary (EXHIBIT B) is submitted for the record.

075 JERRY RUNNING FOX: Testifies in support of HB 2562.
100 CHAIR KINTIGH: Closes PUBLIC HEARING ON HB 2562.

Opens WORK SESSION ON HB 2562.

MOTION: SEN. DWYER MOVES HB 2562 TO THE FLOOR WITH A DO PASS RECOMMENDATION.

VOTE: ON A ROLL CALL VOTE, MOTION PASSES BY UNANIMOUS VOTE. SEN. JOHNSON IS EXCUSED.

106 CHAIR KINTIGH: Asks Sen. Brecke to carry HB 2562.

Opens PUBLIC HEARING ON HB 2612

Witnesses:

Terry Witt, Oregonians for Food and Shelter
Lorna Youngs, Oregon Department of Agriculture
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Jim Crawford, Portland Fire Bureau
Ray Johnson, Salem Fire
Department

Staff Measure Summary (EXHIBIT E) is submitted for the record.

126 TERRY VYITT: Testifies in support of HB 2612-A from written testimony (EXHIBIT F).
Submits and reviews proposed amendments to HB 2612-A (EXHIBIT C).
160 Lists groups in support of the bill.
171 SEN. DWYER: Asks why the bill is needed.
172 VVITT: There have been some circumstances in Oregon where local ordinances are being passed which ban pesticide sales and use. This is being done without consistency across the state, and with potential harm to certain industries.
Gives example.
200 Drawn analogy to pharmaceuticals.
208 SEN. DWYER: Believes pharmaceuticals are a poor comparison because only certain pharmaceuticals can be bought over the counter.
There are serious aquifer contamination problems in his district and he would not want to preempt local government from dealing with the problem.
220 VVITT: The regulation does not prohibit the state from dealing with those circumstances. State Department of Agriculture currently has the authority to limit, restrict, or ban use of pesticides on a substate level if there is a reason.
Reads portion of pesticide statutes.
Local governments can petition the Department of Agriculture or work with the department.
245 LORNA YOUNGS: Testifies in support of HB 2612, reading written testimony (EXHIBIT D).
289 JIM CRAVVFORD: Testifies in opposition to HB 2612, expressing his concerns.
Feels some of his concerns may have been addressed with the proposed amendment.
Will meet with proponents of the bill to address concerns.
316 RAY JOHNSON: Testifies in support of local control of pesticides in the arena of storage. Uniform fire code does that. Wants to work with proponents to see

if

proposed amendment addresses concerns.

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334 CHAIR KINTIGH: Asks interested parties to work with committee administrator to get proposed amendment in proper form.

Closes PUBLIC HEARING ON HB 2612

Opens WORK SESSION ON SB 1128 Witnesses: Chris Crean, Legislative Counsel
Bradd Swank, Judicial Department Lindsey Ball, Fish and Wildlife Division,
Oregon State Police

Staff Measure Summary and SB 1128-1 amendments (EXHIBIT H) are submitted
for the record.

341 McINTOSH: Judicial and legal issues of SB 1128 will be reviewed by Bradd
Swank

from Judicial Department and Chris Crean from Legislative Counsel.
Reviews previous committee decisions on the bill.

370 CHRIS CREAN: Reviews statutory requirements for establishing a schedule
of

minimum bail for offenses and infractions.
Reviews provisions of proposed amendments.

Tape 88. A

CREAN: Continues his testimony.

022 SEN. DWYER: Asks for logic on why we want to change the expectations of
what the bail is supposed to reflect.

023 CREAN: The overwhelming percentage of the time, bails listed in section
4 are the fines amounts charged. Did not want to dispense with judge's
discretion to charge egregious violations a much larger amount.

039 SEN. DWYER: The danger is we made a decision in committee to have the
bail include the unitary and county assessment. If we allow the judge's
discretion to go forward, we are playing games.

043 BRADD SWANK: Bail is what an off cer writes on the front of the ticket.
It means that if you send that in to the court, that will be your fine
unless the court sends you a notice that you have to appear, which the
court has the authority to do. But they can't charge you a higher fine or
impose something if you have sent in the bail on the ticket unless they
send you a notice. Courts rarely do that.

052 SEN. DWYER: Asks about his contention that if they have that authority
already, and we say we want this bail to include the unitary assessment and
the county assessment, the courts benefit from the assessment and that is
what runs the courts.

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057 SWANK: None of the money collected, either from fines, unitary
assessment, or county assessment go to the court. All of those moneys are
passed directly through to the General Fund of the overseeing authority.

066 SEN. DVVYER: The money goes through the state to the courts. Believes
that if the court has an option that unitary assessments are in addition to
the fines, and we make it a policy to allow the courts to continue that
option, we will have a number of people receiving notes from the court
saying the fine has been increased and will include the unitary and county
assessments.

074 SWANK: States it was his understanding that one of the purposes of the bill was to limit the authority of the courts to do that in bails relating to fish and wildlife.

Some of our concerns are that the bill as drafted, and the amendments, do not make it clear that that is what the legislature is attempting to do.

Judicial Department has no opposition to the legislature taking on that responsibility for setting bail in the statutes. Here to propose amendments to make that intention clear.
Gives background of bill.

Submits and reviews testimony outlining technical concerns about the bill as drafted and proposed amendments (EXHIBIT G).

170 McINTOSH: Reviews his contacts with Legislative Counsel and the Senate President's office regarding "offenses" language.

Issue is not specific to wildlife violations and needs to be addressed. Senate President's office is concerned that this may not be the bill to address that issue.

190 LINDSEY BALL: Summarizes work and recommendations of his committee regarding scheduled bail.

225 SEN. DWYER: Asks about witness' comments concerning ineptness,
inexperience,
230 and lack of legal training of justices of the peace and municipal judges,
BALL: Did not mean ineptness and inexperience. Speaks of his experience
with
courts. Feels lack of legal training prior to taking their jobs is a fact.
Point is this bill will have to be implemented by people who do not have
legal training.
257 SEN. DWYER: Asks if committee will be working on something to address
those
265 concerns and if Ball's concerns are all addressed in the -1 amendments.
BALL: All concerns are not addressed.

266 CREAN: Explains why SB 1128 is written the way it is.
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282 SWANK: Reviews reason for his appearance and Legislative Counsel's objection to the substance of the amendment on a policy basis.

305 CREAN: Reviews his involvement in the drafting of the bill.

325 SEN. DWYER: Wants to see other proposed amendments so policy decisions
can be
made.
330 SWANK: Reviews his proposed amendments, part of (EXHIBIT G).
368 CREAN: Explains why a portion of Swank's proposed amendment was not
included.
390 SEN. DWYER: Comments on amendment and expresses his concern.
398 SWANK: Explains how ball currently works.
429 SEN. DWYER: Suggests language.
450 CREAN: Has no problem with Sen. Dwyer's suggestion.
460 SWANK: Has no problem since legislators are making the policy decisions.
470 CREAN: Clarifies his understanding of committee request for SB 1128-2
amendments.
relating clause
of the bill.
Feels that eliminating "offenses" from ORS 1.520 would go beyond the

040 SWANK: Believes Crean would have difficulty finding any case law to support his contention.

043 SEN. DWYER: Wants to amend to say "wildlife offenses".

045 CHAIR KINTIGH: Asks if committee can establish a schedule for minimum bail for wildlife offenses, violations and infractions.

048 SWANK: Believes that would do the opposite to what Captain Ball wants because it would require the Supreme Court to create bail amounts for wildlife misdemeanors. The only thing that this actually conflicts with is SB 1135. Suggests language.

055 Committee discusses Swank's suggestions.

066 Swank and Crean discuss proposal.

087 BALL: Comments on importance of SB 1128.

092 CHAIR KINTIGH: Reviews proposed charges.
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115 Closes WORK SESSION ON SB 1128

Adjourns meeting.

Northwest Coalition for Alternatives to Pesticides Testimony on HB 2612 (EXHIBIT 1), and Oregon State Police Wildlife Enforcement Decoy Report (EXHIBIT ~ are submitted for the record.

Transcribed by,
Pat Zwic

EXHIBIT LOG

A-SB 1039-Staff Measure Summary and SB 1039-3 Amendment-Staff-3 pages

B-HB 2562-Staff Measure Summary-Staff-1 page

C-HB 2612-Proposed Amendment-T. Witt-1 page

D-HB 2612-Testimony-L. Youngs-1 page

E-HB 2612-Staff Measure Summary-Staff-1 page

F-HB 2612-Testimony-T. Witt-8 pages

G-SB 1128-Testimony-B. Swank-6 pages

H-SB 1128-Staff Measure Summary and SB 1128-1 Amendment-Staff-2 pages

I-HB 2612-Testimony-Northwest Coalition for Alternatives to Pesticides-4 pages

J-SB 1128-Exhibit-L. Ball-19 pages