

SENATE COMMITTEE ON
SENATE COMMITTEE ON WATER AND LAND USE

Hearing Room
Tapes - 153

MEMBERS PRESENT:

Sen. Rod Johnson, Chair
Sen. Bob Kintigh, Vice-Chair
Sen. Ron Cease
Sen. Bill Dwyer
Sen. Marylin Shannon

STAFF PRESENT:

Karen Quigley, Committee Counsel
Sarah A. Myers, Committee Assistant

MEASURES HEARD:

	HB 2709A	Reconsideration and Work Session
	HB 2376A	Reconsideration and Work Session
HB 3239A	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 , SIDE A

003 CHAIR JOHNSON: Convenes the meeting at 2:15 PM.

Opens the Work Session on HB 2709A

007 CHAIR JOHNSON: Explains situation.

011 MOTION: SEN. JOHNSON: Moves to RECONSIDER the vote by which HB 2709A be sent to the floor with a DO PASS AS AMENDED recommendation.

VOTE: Hearing no objection the motion CARRIES.

007 CHAIR JOHNSON: I have changed my mind to reinsert section 5 to this bill.

017 MOTION: SEN. JOHNSON: Moves to AMEND HB 2709A by restoring "Section 5".

VOTE: Hearing no objection the motion CARRIES.

022 MOTION: SEN. DWYER: Moves HB 2709A be sent to the floor with a DO PASS AS AMENDED recommendation.

VOTE: 5-0
AYE:

In a roll call vote, all members present vote Aye.

CHAIR: The motion CARRIES.

Sen. Johnson will lead discussion on the floor.

030 SEN. DWYER: I previously voted no to the bill because of the deletion of Section 5 and now with it restored into the bill I have voted AYE.

Closes the Work Session on HB 2709A

Opens the Work Session on HB 3239A

Witnesses:

THOMAS BALMER, Deputy Attorney General
REPRESENTATIVE DENNY JONES, House District 60

037 CHAIR JOHNSON: This is the Rep. Denny Jones grazing bill. We have invited testimony today which will precede the work session on this bill.

041 THOMAS A. BALMER, DEPUTY ATTORNEY GENERAL: Testifies on behalf of HB 3239A, providing a legal perspective [EXHIBIT A].

-Responds to Sen. Dwyer regarding the provision which discusses the "greatest benefit clause".

-Section 5, subsection 2

-Article VIII, Section 5 of the Constitution: The Board is in charge of the disposition and management of lands under its jurisdiction.

"Admission Act" trust lands; The AG has been asked to interpret what that trust obligation means, especially in regards to the Board's relationship with the Legislative Assembly.

-Unconstitutionality of the bill.

-Responds to Sen. Dwyer as to whether the Land Board can delegate the management responsibility to someone else.

-Responds to Chair Johnson as to whether he has seen the -A3 amendments to HB 3239 [EXHIBIT B].

155 CHAIR JOHNSON: What would you do that would be within the constitutional limits?

164 BALMER: Discusses the concept of "unduly burden or unduly interfere with the 'Admission Act'" lands. The constitution sets up the elected officials to deal with the problem, however the language limits authority of the legislative body.

200 CHAIR JOHNSON: Summarizes previous testimony for the benefit of Rep. Denny Jones in respect to the opposition to his bill.

206 REPRESENTATIVE DENNY JONES, HOUSE DISTRICT 60: Testifies in support of HB 3239A and comments on the testimony from Mr. Balmer.

231 REP. JONES: The only thing we are trying to do is stabilize this. We don't want to change the policy issue which was adopted in 1993; the 20/20.

-This bill would stabilize the grazing part which we are talking about and this new formula could be any number of dollars which would be intended to be based on the price of cattle.

265 SEN. CEASE: As I understand it, the fees aren't the question but who establishes the fee.

273 REP. JONES: The fee proposal had been run by Governor Kitzhaber and the staff and deemed to be acceptable.

300 CHAIR JOHNSON: I think that we may have to make this bill, somehow, a little more advisory as opposed to mandatory or directive based.

307 REP. JONES: What part of it?

319 CHAIR JOHNSON: The clause that the directs the Division to 20/20 term leases, for one thing.

I don't have a problem with the 20/20.

336 SEN. DWYER: The way in which I interpret the -A3 amendments is to change the word "shall" on line 10 in the amendments to "may" and do the same in regard to the grazing fees; I think we will address the concerns of the AG's office.

373 SEN. DWYER: Restates the changes for Rep. Denny Jones in regard to

complying with the Constitution.

388 REP. JONES: I wouldn't have any problem with that and that would give the board a chance to reject the fees.

404 CHAIR JOHNSON: On the -A3; line 4, the word "shall" change to "may", line 6, the word "adopt" change to "propose", line 10, the word "utilize" be changed to "considered".

410 BALMER: I think "shall be considered" would be more consistent.

413 CHAIR JOHNSON: We want to direct them to consider it, I suppose we could give them process hints. It leaves the final authority up to them.

417 SEN. KINTIGH: If you change "adopt" in line 6, I think it also needs to be changed in line 3.

420 CHAIR JOHNSON: Line 4, change the word "shall" to "may".

434 SEN. DWYER: Line 3 after the word "and" change to "propose".

440 CHAIR JOHNSON: That gets us back to the 20/20 language in section 1. Line 21, where it says "the Division shall..."; discusses what might be inserted here.

TAPE 153, SIDE B

015 BALMER: I would prefer something that would resemble the -A3 amendment language.

035 CHAIR JOHNSON: Counsel will have the changes drafted in approximately 15 minutes.

038 SEN. CEASE: Requests unanimous consent from the committee to vote on HB 2709.

Recesses the Work Session on HB 3239A

043 MOTION: SEN. JOHNSON: Requests unanimous consent that the rules be SUSPENDED to allow SEN. CEASE to BE RECORDED as voting AYE on the motion by

which SEN. DWYER moved HB 2709A to be sent to the floor with a DO PASS AS AMENDED recommendation.

VOTE: Hearing no objection the motion CARRIES.

Opens the Work Session on HB 2376A

Witnesses:

DEAN RICHARDS, Boise Cascade
TODD HEIDGERKEN, Water for Life
MARTHA PAGEL, Department of Water Resources

056 MOTION: SEN. JOHNSON: Moves to RECONSIDER the vote by which HB 2709A was moved to the Floor with a DO PASS recommendation.

VOTE: Hearing no objection the motion CARRIES.

057 CHAIR JOHNSON: At the last meeting we were advised that the -A4 and the

-A5 amendments were compatible and could be adopted, and after the hearing Legislative Counsel informed me that this was not acceptable. You have in front of you the -A8 amendments. I would like to amend the -A8; delete lines 14-17, on page 2.

-Explains the three main sections of the bill to the committee.

-Explains the -A8 amendments to the committee [EXHIBIT C].

-Insertion of the -A4 amendments to be inserted to section 4 which will make a slight change to the way in which public can appeal.

107 MARTHA PAGEL, DEPARTMENT OF WATER RESOURCES: We have a correction on the -A8 amendments. I wanted to clarify your intent with respect to the language from the -A4 regarding the legally obtained information.; to add it in now or not at all.

112 CHAIR JOHNSON: As I understand it was not to be added because it was inconsistent.

113 PAGEL: I believe that the inconsistency arose because of the language remaining of any person, but if your intent is to say that whether the Department of Fish and Wildlife or any one else is raising objection, it has to be detailed and legally obtained information. I think that we can make those changes.

122 CHAIR JOHNSON: Line 10 of the -A8 amendments, "by the state Department of Fish and Wildlife," so that the -A4 language about the "legally obtained information" could be inserted.

126 PAGEL: I would insert it on line 7 of the -A8. And at the beginning of that line, say "detailed, legally obtained information demonstrating that a", insert "specific", "reservoir" On line 8, after the word "submitted", insert "in writing".

-Repeat changes for lines 19 and 20.

-The same language is not needed in section 4, relating to future reservoir's.

146 CHAIR JOHNSON: The "legally obtained information" phrase does not need to be in section 4.

-Line 28, of page 3, where it says "any person...", we are just letting them do that without allowing some kind of requirement?

163 PAGEL: The review is limited to the statutes currently.

166 CHAIR JOHNSON: Put the requirement back on line 28, so that when a person requests that you do that, they have some basis with "detailed legally obtained information in writing".

174 PAGEL: The Department is OK with this.

206 CHAIR JOHNSON: That seems to be enough to tie it together; or maybe do what you said and take out the words "upon submission" and insert "submit", and then change the word "request" to "requesting".

240 MOTION: SEN. JOHNSON: Moves to AMEND HB 2376-A8 by inserting "detailed, legally obtained" on page 1, line 7 of the bill, and by inserting between the word 'a' and the word 'reservoir' the word "specific", and by inserting "in writing " after "submitted" on page 1, line 8 of the amendments.

VOTE: Hearing no objection the motion CARRIES.

MOTION: SEN. JOHNSON: Moves to AMEND HB 2376A by inserting "detailed, legally obtained" before the word "information" on line 19 of the bill, and by inserting "specific" between the word 'a' and the word 'reservoir' on line 19 of the bill, and by inserting "in writing" after "submitted" on line 20 of the bill.

VOTE: Hearing no objection the motion CARRIES.

255 MOTION: SEN. JOHNSON: Moves to AMEND HB 2376-A8 by deleting "lines 14 through 17" on line 19 of the amendments.

VOTE: Hearing no objection the motion CARRIES.

260 MOTION: SEN. JOHNSON: Moves to ADOPT HB 2376A-8 amendments AS
AMENDED dated 5/22/95.

VOTE: Hearing no objection the motion CARRIES.

262 MOTION: SEN. JOHNSON: Moves to AMEND HB 2376A by inserting "submit
detailed, legally obtained information in writing" after the word "may" on
page 3, line 28 of the bill, and by changing the word 'request' to
'requesting'.

VOTE: Hearing no objection the motion CARRIES.

281 PAGEL: The concern which was expressed was for any one who had an
existing reservoir but had not submitted an application under the previous
law, that they then by this wording would not be able to participate in
this. This was not the intention.

295 CHAIR JOHNSON: Discusses the -A9 amendments [EXHIBIT D].

300 TODD HEIDGERKEN, WATER FOR LIFE: Explains the -A9 amendments.
-This amendment had no objections to it from the various concerned groups.

326 DEAN RICHARDS, BOISE CASCADE, Oregon Forest Industry Council: This
language was suggested by the Department and it will correct that problem
as Todd said. Explains the need for this set of amendments.
-The blank on line 15; would be filled in with the date for the date which
the act will be repealed, June 30, 1999.

380 PAGEL: Explains with the chair's request as to how the permits are
written regarding water rights; make the water use a little more flexible
as long as there is no damage or injury.

417 MOTION: SEN. JOHNSON: Moves to AMEND HB 2376-A9 by inserting the
date "June 30, 1999" on page 1, line 15 of the amendment.

VOTE: Hearing no objection the motion CARRIES.

424 MOTION: SEN. JOHNSON: Moves to ADOPT HB 2376A-9 amendments dated
5/22/95 AS AMENDED.

VOTE: Hearing no objection the motion CARRIES.

TAPE 152, SIDE B

004 MOTION: SEN. SHANNON: Moves HB 2376A be sent to the floor with a DO
PASS AS AMENDED recommendation.

VOTE: 4-0
AYE: In a roll call vote, all members present vote Aye.
EXCUSED: 1 - Cease

CHAIR: The motion CARRIES.

SEN. JOHNSON will lead the discussion on the Floor.

Closes the Work Session on HB 2376A

Reopens the Work Session on HB 3239A

017 CHAIR JOHNSON: The -A04 amendments [EXHIBIT E].
-The new section 3; explains the changes made by LC to the Committee.

-Discusses changes on Page 1 of the -A04 amendments to make them constitutional.

058 MOTION: SEN. KINTIGH: Moves to ADOPT HB 3239A-04 Work Copy amendments dated 5/22/95.

VOTE: Hearing no objection the motion CARRIES.

062 MOTION: SEN. KINTIGH: Moves HB 3239A be sent to the floor with a DO PASS AS AMENDED recommendation.

VOTE: 3-1
AYE: 3 - Johnson, Kintigh, Shannon
NAY: 1 - Dwyer
EXCUSED: 1 - Cease

CHAIR: The motion CARRIES.

Sen. Timms will lead discussion on the floor.

069 SEN. DWYER: Explains his no vote.

Closes the Work Session on HB 3239A

081 CHAIR JOHNSON: Adjourns the meeting at 3:15 PM.

Submitted by, Reviewed by,

Sarah A. Myers Karen Quigley
Committee Assistant Committee Counsel

EXHIBIT SUMMARY:

- A - Testimony submitted on HB 3239A by Thomas A. Balmer -- 2 pages.
- B - Proposed dash 3 amendments to HB 3239A by Staff -- 2 pages.
- C - Proposed dash 8 amendments to HB 2376A by Staff -- 2 pages.
- D - Proposed dash 9 amendments to HB 2376A by Staff -- 1 page.
- E - Proposed dash 04 amendments to HB 3239A by Staff -- 2 pages.