

SENATE COMMITTEE ON
WATER & LAND USE

January 24, 1995 Hearing Room B
1:00 PM Tapes 14 - 15
MEMBERS PRESENT:
 Sen. Rod Johnson, Chair
 Sen. Neil Bryant
 Sen. Ron Cease ~
 Sen. Bill Dwyer |
 Sen. Bob Kintigh
STAFF PRESENT:
 Karen Quigley, Committee Counsel
 Kimberly Shadley, Committee Assistant
MEASURES HEARD:
 SB 305 - WRK
 SB 55 - PPW
 SB 147 - PPW
 SB 149 - PPW
 SB 198 - PPW
 SB 244 -PPW

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TAPE 14, SIDE A

010 CHAIR JOHNSON: Describes changes to Committee Rules, (EXHIBIT A).

MOTION: VICE-CHAIR KINTIGH MOVES ADOPTION OF PERMANENT COMMITTEE RULES, AS AMENDED.

VOTE: IN A ROLL CALL VOTE THE MOTION CARRIES UNANIMOUSLY. ALL MEMBERS PRESENT.

WORK SESSION ON SB 305

Witness: Carl D. Sampson, Confederated Tribes of Umatilla

CHAIR JOHNSON: Describes situation; allows for public testimony

065 CARL D. SAMPSON, CONFEDERATED TRIBES OF UMATILLA: Testifies in support of

SB 305; describes personal situation

CHAIR JOHNSON Describe the cultural resources involved

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SAMPSON: We have had difficulties with major land owners within our reservation; describes.

CHAIR JOHNSON: This bill wouldn't protect burial sites; are there sources for compensation in these situations?

SAMPSON: I would like to have our counsel speak with you.

140 SEN. CEASE: If there is an effort to protect cultural resources, is that viewed as protection of

the

site for the Indians or is it viewed in a larger public sense?

SEN. BRYANT: It might be helpful if you could have your counsel send Karen, our staff

Counsel

a copy of the federal protection you spoke of?

SAMPSON: Yes; the person with the expertise on this is Jeff Vanpelt, he is our Cultural

Resource

Manager.

PUBLIC HEARING ON SB 55 Witnesses: Jerry Schmidt, Oregon Association of

Realtors
Martha Pagel, Director, Water Resources Department

188 CHAIR JOHNSON: Describes amendments, (-1), (EXHIBIT B).

JERRY SCHMIDT, OREGON ASSOCIATION OF REALTORS: HB 2771 (1993); SB 5\$ is verbatim that bill.
... Changing "commission" to "state" is acceptable.

230 MARTHA PAGEL, DIRECTOR, WATER RESOURCES DEPARTMENT: Conceptually we don't have any objection to this bill, but we do have some concerns regarding limiting this to
"contracts" as opposed to "agreements" and would like to have that flexibility.

260 SEN. CEASE: The word contract has a more legal meaning?

SCHMIDT: I think the intent is to use the same language available to all holders; we are trying to use a level playing field; in the neighborhood of "contracts", it is common knowledge that there is a prescribed form.

SEN. CEASE: Is a contract a more expensive undertaking than an agreement?

PAGEL: As long as we are talking about a contract in the terms of an agreement, we don't have a problem.

377 PAGEL: I have no objection, our concern is not to say that we are using a specific contract form.

SEN. DWYER: We can define "contract" to give them the ability to be flexible.

465 SEN. BRYANT: A contract is an offer and an acceptance supported by valid consideration for legal purposes.
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TAPE 15, SIDE A

03 3 SCHMIDT: We have trouble with the bill if that is the broader definition, I don't want to produce

something that will make the situation worse.

070 PAGEL: (In response to Chair Johnson) Describes how the program operates and when the

federal government will release stored water under contract.

... We are attempting to say that if the state wants stored water they need to buy it and all we want is

to be able to have a contract and negotiate the price.

SCHMIDT: There are some things in federal law that dictate pricing; I need to go back to the I

group T represent. 1

114 SEN. BRYANT: You've given additional definition by sub paragraphs (a) & (b).

SCHMIDT: That was my understanding; the problem is with the definition; can another type of entity circumvent law by using another form of agreement.

CHAIR JOHNSON: Do you anticipate something other than the kind of contract where you would enter into an agreement where the state of Oregon would agree to pay a certain amount of money for a release of a certain amount of water?

... PAGEL: There is discussion to possibly seek re-authorization of federal

projects that would

effect
the rates or amount we are charged.

WORK SESSION ON SB 55

170 MOTION: SEN. DWYER MOVES ADOPTION OF THE (-1) AMENDMENTS
TO SB 55.
VOTE: IN A ROLL CALL VOTE THE MOTION CARRIES UNANIMOUSLY.
184 MOTION: SEN. DWYER MOVES THAT SB 55, AS AMENDED, BE SENT TO
THE FLOOR WITH A DO PASS RECOMMENDATION.
VOTE: IN A ROLL CALL VOTE THE MOTION CARRIES UNANIMOUSLY.
CARRIER: SEN. CEASE

PUBLIC HEARING ON SB 147 Witnesses: Gary Gustafson, Director, Division of
State Lands

211 GARY GUSTAFSON, DIRECTOR, DIVISION OF STATE LANDS: Describes current law;
submits written testimony in support of SB 147, (EXHIBIT C).
... This bill allows us to purchase any lands as well as to invest in other
suitable investments.
CHAIR JOHNSON: Do you have a list of "other suitable investments"?
GUSTAFSON: No, we would utilize the existing policy of the State Land Board
and work
with

the Treasurers office for making those investments.
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VICE-CHAIR KINTIGH: Why should you be investing; we have the Treasury for
that?

GUSTAFSON: We have an agreement with the Oregon Treasurer to handle the
investments on behalf of the Land Board that are involved in the Oregon
Common School Fund and that is what occurs now.

VICE-CHAIR KINTIGH: So your division wouldn't be going out and buying a
piece of investment property in your name?

GUSTAFSON: If we were using the proceeds of land sales to purchase land,
then the division would do that and we would take any proposal for
purchasing land before the State Land Board.

282 SEN. DWYER: I don't like this; through your own testimony you aren't
suited to do this so
why
should we give you the authority?
... You'll have to get more specific and tell me what you are going to do
before I'll vote on
this.
CHAIR JOHNSON: The Division of State Lands has decided that it isn't a good
investment to
buy land in Oregon; it seems appropriate for the State of Oregon to have
its investments in
the
same pot as everyone else.

PUBLIC HEARING ON SB 149 Witnesses: Gary Gustafson, Director, Division of
State Lands Gary Van Horn, Assistant Director, Finance And Administration,
Division Of State Lands

329 GARY GUSTAFSON, DIRECTOR, DIVISION OF STATE LANDS: Describes SB 149;
submits written testimony in support of SB 149, (EXHIBIT E).
SEN. DWYER: This is another case where we are changing state law to conform
to your rules'?
GUSTAFSON: We have no rule, this is current practice.
VICE-CHAIR KINTIGH: How long has this been going on?

407 GARY VAN HORN, ASSISTANT DIRECTOR, FINANCE AND ADMINISTRATION,
DIVISION OF STATE LANDS: Twenty years.
... The Division started a comprehensive review of the practices and
procedures in place in the
fall of
1990; I requested that the Attorney General look at the way the Common
School Fund
distributign

was being calculated.
435 SEN. DWYER: Where is the money going currently?

VAN HORN: It is being distributed; it is approximately 2.1 million dollars
per biennium.

WORK SESSION ON SB 149

462 MOTION: SEN. DWYER MOVES ADOPTION OF SB 149 WITH A DO PASS
RECOMMENDATION.

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470 VOTE: IN A ROLL CALL VOTE THE MOTION CARRIES. MEMBER
EXCUSED: SEN. CEASE CARRIER: SEN. DWYER

PUBLIC HEARING ON SB 198 Witnesses: Martha Pagel, Director, Water Resources
Department
Jerry Schmidt, Oregon Ground Water
Association

495 MARTHA PAGEL, DIRECTOR, WATER RESOURCES DEPARTMENT: Testifies in
support of SB 198; submits written testimony, (EXHIBIT G).

TAPE 14, SIDE B

035 PAGEL Continues.

SEN. DWYER: In terms of injury, what is this going to do?

PAGEL: The bill doesn't talk about injury; you may want us to look into
that; describes current process.

SEN. DWYER: This doesn't talk about limits on injury; it seems like blanket
permission.

099 PAGEL: If there is no change in the current process, with the legal
advice we've received, we
will
get into the business of issuing water rights for these types of activities
when historically we
haven't.
... There could be an impact on water rights.
SEN. DWYER: The more we can clarify this the happier I would be.
156 JERRY SCHMIDT, OREGON GROUND WATER ASSOCIATION: The hydro-geologists
have comments on this bill; one thought was if this process belonged in the
limited license
form.

... We have some language and I hope we get a chance to work something out.

WORK SESSION ON SB 149

SEN. CEASE: Votes Aye on SB 149

PUBLIC HEARING ON SB 244 Witnesses: Kelly Ross, Oregon Association of
Realtors
Phillip Johnson, Oregon Shores Conservation
Coalition

200 KELLY ROSS, OREGON ASSOCIATION OF REALTORS: Testifies in support of SB
244,
submits and reads written testimony, (EXHIBIT I).

... Refers to attachments 1 & 2, see Exhibit I.
3 1 3 SEN. CEASE: (C) makes reference to the identified property and
economic interest and in (B)
it,
speaks to what the economic and property interests will be; would that
include adjacent
properties'?
ROSS: Our intent would be those properties actually affected.

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... We may want to make the intent of the term "property" and "economic
interests" more clear; we are interested in a general look at residential,
commercial, industrial properties and then uses.

SEN. CEASE: This language could be narrow or broad, what is your intent?

ROSS: It is going to be up to the department to implement this; we are
using broad language.

SEN. BRYANT: Some of the concerns may be addressed in SB 305.

419 PHILLIP JOHNSON, OREGON SHORES CONSERVATION COALITION: Describes I
organization.
... Testifies in opposition to SB 244.

TAPE 15, SIDE B

035 JOHNSON: Continues testifying in opposition to SB 244.
... The formalized land use planning process is the worst possible, except
for all the alternatives at

the moment; we want the greatest possible public dialog over it.
190 LARRY GEORGE, EXECUTIVE DIRECTOR, OREGONIANS IN ACTION: Testifies in
support of SB 244.

225 JON CHANDLER, STAFF ATTORNEY, HOME BUILDERS ASSOCIATION: Testifies in
support of SB 244.

... We believe that economic reality and economic interest need to be at the
table when land use
decisions are being made.

263 DICK BENNER, DIRECTOR, DEPARTMENT OF LAND CONSERVATION AND
DEVELOPMENT, (DLCD): Testifies in support of SB 244.

... My concerns are about how we implement this; the level of the analysis,
detail, for example.

3 1 BENNER: A lot of this is what the intent of the legislature is with
regard to the level of detail. 1

... The purpose of rule making was to allow a much faster and less burdensome
process.

... I'm assuming that the intent is for balance.

490 CHAIR JOHNSON: We need to make sure that the bill is clear; we will
reschedule this bill for a
hearing again.

... We are adjourned. (3: 10 P.M.)

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Submitted by Reviewed by, 1

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Kimberly Shadley Karen
Committee Assistant Committee Counsel
EXHIBIT SUMMARY: ~

A - Permanent Committee Rules submitted by staff, PD 3 1
B - SB 55: (~1) amendments and Preliminary Staff Measure Summary, PP 2
C - SB 147: Written testimony in support submitted by Gustafson, PP 2
D - SB 147: Preliminary Staff Measure Summary. SMS, submitted by staff,
PP
E - SB 149: Written testimony in support submitted by Gustafson, PP 6
F - SB 149: Preliminary Staff Measure Summary, SMS, submitted by staff' PP
G - SB 198: Written testimony in support submitted by PaEel. PP 2
H - SB 198: Preliminary Staff Measure Summary' SMS, submitted by staff.
PP
I - SB 244: Written testimony in support submitted by Ross. PP 13
J - SB 244: Written testimony submitted for the record by Turnbull(JL~, PP
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K - SB 244: Preliminary Staff Measure Summary. SMS, submitted by staff, PP
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j
L - SB 305: Written testimony in support submitted for the record, PP 5
M - Written testimony submitted for the record by Schmidt, PP 2 :~, ~06

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