

HOUSE COMMITTEE ON NATURAL RESOURCES SUBCOMMITTEE ON AGRICULTURE AND FORESTRY

May 7, 1993 Hearing Room D 1:00 p.m. Tapes 82 - 83

MEMBERS PRESENT: Rep. Liz VanLeeuwen, Chair Rep. Ray Baum Rep. Marilyn Dell Rep. Sam Dominy Rep. Bill Fisher Rep. Tim Josi Rep. Dennis Luke Rep. Bill Markham Rep. Chuck Norris

STAFF PRESENT: Catherine Fitch, Committee Administrator Sue Nichol, Committee Clerk Chuck Wilson, Legislative Counsel

MEASURES CONSIDERED:

HB 2927-A - Work Session HB 2538 - Work Session

WITNESSES: Ray Wilkeson, Oregon Forest Industries Council Randy Fisher, Director, Oregon Department of Fish and Wildlife

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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. [--- Unable To Translate Graphic ---]

TAPE 82, SIDE A

005 CHAIR VanLEEuwEN: Calls the meeting to order at 1:12.

WORK SESSION ON HB 2927

016 CATHERINE FITCH: HB 2927 modifies the procedure for listing of threatened or endangered wildlife species by the State Fish and Wildlife Commission. Amendments have been proposed to HB 2927 A-Engrossed which

would suspend the listing of a species until a program for protection and conservation could be established. These amendments would delete "sound" from the language used to describe verifiable scientific information (Exhibit A).

055 In response to Rep. VanLeeuwen's question, on page 2, line 35, the word "plan" should be replaced with "program."

067 CHAIR VanLEEuwEN: Which accomplishes what was intended? 066 FITCH: "Program" is more accurate.

074 MOTION: REP. DOMINY: Moves on page 2, line 35, change the word "plan" to program; and on page 4, line 20, change the word "the" to

"an" assessment to make the record clear.

084 CHAIR VanLEEuwEN: Repeats motion. Hearing no objection, the amendments are adopted.

This bill went to the floor and then we pulled it back at the request of one of our committee members who said, if we just change a few of these things I can support the bill. We have done that and have gotten agreement from the people who introduced the bill.

105 MOTION: REP. DOMINY: Moves the hand engrossed by staff HB 292 7-A3 (LC 2015) dated 5/6/93, as amended, to the full committee with a DO

PASS recommendation.

110 CHAIR VanLEEuwEN: Repeats motion.

115 REP. DOMINY: The bill, as it left this subcommittee the first time, left some questionable areas. I think the work we did on the bill will

make it something that will be palatable to the other side. I think the key to the bill is that we will now have an open public hearing on the Endangered Species Act. The other issues we dealt with are going to leave a hammer there for Fish and Wildlife to resolve the issue within 24 months. Both sides want a hammer on that so the plan will put in place. I'm a strong supporter of the bill.

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

138 CHAIR VanLEEuwEN: The motion CARRIES.

REP. DOMINY AND CHAIR VanLEEuwEN will carry the bill.

142 CHAIR VanLEEuwEN: Closes work session on HB 2927.

WORK SESSION ON HB 2538

147 FITCH: Gives summary of the bill included in (Exhibit B). The bill addressed Oregon Department of Fish and Wildlife organization and

policies. The proposed amendments (Exhibit C) address the following issues:

1. Definitions of "compatible", "optimum population" and "primary uses".
 2. Wildlife policy.
 3. OFW Commission and authority.
 4. ODFW Director Duties and powers.
 5. OFW Commission reports.
 6. OFW Commission rule making authority.
 7. OFW Commission discretionary powers.
 8. Budget hearing.
 9. OFW Commission consultation.
- 278

REP. NORRIS: It looks like on page three that we are creating the State Department of Fish and Wildlife. Has it been operating without authorization up to this point?

289 REP. BAUM: The State Department of Fish and Wildlife has been composed of three entities. The Commission, the Department and the Director have all been considered as one entity in the statutes. This is an attempt

to break them out in more of a line authority approach with the Commission in charge, the Director having to implement the rules and the laws of the State as directed by the Commission. What it sets out is similar to what we do with other state department commissions. This is trying to make the Commission more in control. There will be varying comments about whether that actually got accomplished or not.

316 The group has to understand that this bill, in the -8 form, has come to you after several hours of working together with the Department, Rep.

Dominy, the Chair, myself, Rep. Sowa, the Oregon Hunters Association, the Cattlemen, the Farm Bureau, and the Steelheaders. It's not a perfect vehicle, but we've done a lot of work to get back to the original focus of the issues and we've restored most of the language of the original policy. We tried to focus the parties on where we could get some good compromise and try to move this thing on. The Commission has not taken a formal position on this. I think they will meet in the next week or so. This was basically a consensus of all the parties that were in the working group, except the Department, who has to follow the direction of the Commission. I think it's time for us to move forward and to provide some clear directions to the Department about how to manage wildlife populations with consideration of landowners' and hunters' interests in this. We think it's a way to avoid any further controversy on this issue.

338 RAY WILKESON, Oregon Forest Industries Council: There has been a lot of work put into this bill. The major difference in these amendments would be to define some of the terms used relating to these issues instead of doing a complete overhaul of the Fish and Wildlife Department. We

support this version of the bill.

382 CHAIR VanLEEuwEN: Does it bother you that the clause on economic consideration is being removed?

390 WILKESON: It would have been preferable to spell out those sorts of things as additional goals and objectives for the Department. Rather

than make wholesale changes, we decided to make changes to definitions in order that those things might happen.

TAPE 83, SIDE A

002 CHAIR VanLEEUEWEN: Isn't there to be some funding to mitigate economic losses from a surcharge?

010 REP. BAUM: Rep. Sowa's bill (HB 3649) does propose a surcharge involved which would fund a program to help solve this problem.

019 REP. DOMINY: Does the Attorney General's opinion make you feel we should hold off on this? (Exhibit D)

036 WILKESON: If the Attorney General is correct in equating "wildlife laws" and "wildlife resources of the state", the committee may want to

reconsider these points.

056 FITCH: The reference regarding wildlife laws is modified by the word "Commission" referring to the wildlife laws under their jurisdiction.

"Wildlife resources of the state" may be construed to have a broader scope.

063 WILKESON: That may be a point that needs to have some additional analysis.

066 REP. BAUM: The only change would be changing "resources" to "laws?"

067 WILKESON: That would be what I would suggest.

077 CHAIR VanLEEUEWEN: On sub c on lines 22 and 23, it still refers to enforcing the laws of the state concerning wildlife resources. It's not getting outside of the laws, as I see it.

080 REP. BAUM: We could change "resources" to "laws" in an amendment.

102 I think a better way to word line 22, page 4 of the amendments, is to take out "the" and "resources of the state" on line 23. The issue that

needs to be addressed is that they want the Director's authority limited to the laws that are given to the direct jurisdiction of the Department of Fish and Wildlife. That would have to be the intent of that

language, to limit it to what they've been given statutorily to go forth and do. We don't want them necessarily administering any other policies involving wildlife or any other agencies in state government. The

Department's jurisdiction should be limited to wildlife laws that the Department administers.

126 RANDY FISHER, Director, Oregon Department of Fish and Wildlife: The question I have is what effect that may have on other programs like

screening or something that is not directly related to a program that the Commission or we may administer.

126 REP. BAUM: I don't know if anyone has an objection to that sort of activity. If we just add after "concerning" on line 22 the words

"administer and enforce the laws of the state concerning wildlife," that says, much more succinctly, what is set up in lines 12 and 13 already.

I think that clarifies your role.

140 FISHER: My concern is there may be an existing law that we are trying to administer that this will say is out of our authority.

154 REP. DOMINY: Asks Mr. Fisher what he thinks about the bill.

157 FISHER: Questions whether this bill makes our job clearer. Expectations of bill need to be made clear to the Department and the

Commission.

193 REP. DOMINY: When the bill was originally brought forward, you were adamantly opposed to it. Is there anything in the bill that you are

adamantly opposed to today?

200 FISHER: The requirements of the bill must be made clear. For example, how much do you take into account when you're dealing with a species,

the primary uses of the land, etc.

229 CHAIR VanLEEUEWEN: Some of the resource people are disappointed that we haven't accomplished more specifics in this bill than we have. I think

we have come a step or two ahead with the definitions.

230 REP. BAUM: We had the problem of what "compatible" meant with the present law. We made an attempt to define it and the definition is more than we had before. It means capable of existing in harmony so as to

minimize conflict. My interpretation of that is that private landowners are always going to have a bit of a burden when it comes to public game animals. When it becomes serious enough that it starts producing

serious conflicts, then the Department and the Commission have to address those things in the programs they develop.

274 CHAIR VanLEEuwEN: One of the things I hope this does is set up compatibility with the resource owners and the sportsmen.

286 FISHER: I agree with you.

301 REP. DELL: There appears to be some potential legal confusion if we don't sort out what we mean by the balance between primary uses and

wildlife protection. It also seems like you have to keep that balance going, but you have no control over what happens concerning land or water use on federal lands. It doesn't seem clear how that will be done.

326 FISHER: The gray area is where I don't know what the primary use of federal land is. I don't know how some of the designations would work

out.

344 A state must show that they have responsible wildlife programs in order to maintain federal funding.

357 CHAIR VanLEEuwEN: Don't we have one of the most active fish and wildlife departments as it relates to protection of fish and wildlife?

363 FISHER: Yes, we probably have a better department than most west coast states.

393 WILKESON: The first of the five goals of the -8 amendments basically applies to species who are not in trouble. This is the language on page 3, lines 4, 5 and 6.

TAPE 82, SIDE B

019 REP. DELL: It seems like the majority of people who testified wanted a better balance between primary uses and managing wildlife. Are we

really making a step towards clarity for everyone?

034 FISHER: Some would argue that the Commission already has the capability to solve the problems that were testified to from the public.

050 REP. DELL: Would you typify this bill as any substantive change to your mission?

055 FISHER: The question is, has the balance between these goals been changed? I think it has to some degree.

069 REP. NORRIS: Questions whether the Attorney General's opinion is concerned about county zoning. Is there any state zoning?

094 FISHER: I assume that what they are interested in here is how, for instance, the federal forest land is designated. I don't know what

federal land is designated.

101 REP. DOMINY: We were trying to include any regulations that have been made, including county zoning.

109 REP. NORRIS: When we use the word "zone", does it implicitly confer authority to the 36 counties?

111 REP. BAUM: The state law under SB 100 established zoning under state law. The intent of the working group was to say the state law would

include the zoning that results from the statewide goals. In the Attorney's opinion stating this could result in a loss of federal funding, "could" is conservative attorney's language. The feds will probably be happier with this.

135 REP. NORRIS: I still think it will come up.

138 REP. DELL: I think Rep. Norris makes an excellent point. We did not zone land in 1973. Counties zone land. I don't see you lose anything,

other than confusion, by eliminating the word "zone" from the bill. By using this language, you imply counties have something to say about this.

153 CHAIR VanLEEUEWEN: However, it does say "or otherwise designated by federal or state law." I think state law designates that counties can

zone land.

155 MOTION: REP. DOMINY: Moves that on line 14, we delete "zoned or otherwise" from the bill.

168 REP. NORRIS: I think the zoning has a great deal of relevance in what is a compatible use. I think the zoning may be important but I think it needs to be understood who does zone because the zoning is done by

counties. You have classifications where it is compatible to have elk and you have classifications where it is not compatible to have elk.

174 REP. DOMINY: What I think I have done by deleting "zoned or otherwise" is that I now have said "primary use means those uses for which land or water is designated by federal or state law." State law is where all

the zoning laws are at.

189 REP. DOMINY: Restates amendment. The amendment is on page 2, under subsection 13 on line 14, delete the words "zoned or otherwise", delete the word "by", and in the place of the word "by", put the words

"according to."

196 CHAIR VanLEEuwEN: Restates motion. 198 REP. DELL: That answers my concern. I just wanted to clarify whether you want county zone change to have an affect on what the Department is able to do.

200 REP. BAUM: We could just include the word "local" so it would include federal, state or local law. That way zoning is clearly in there.

223 CHUCK WILSON, Legislative Counsel: Rep. Baum's amendment made sense to me as solving the problem that Rep. Norris is concerned about.

225 REP. DOMINY: Withdraws motion.

239 MOTION: REP. BAUM: Moves that "local" be included on page 2, line 14, so it reads "...designated by federal, state, or local laws."

264 VOTE: CHAIR VanLEEuwEN: Hearing no objections, the amendments are adopted.

265 MOTION: REP. DOMINY: Moves that on page 4, line 22, after the word "the", "wildlife" is inserted. And after the word "state", put a period and delete the rest of that sentence.

272 CHAIR VanLEEuwEN: Restates motion.

274 A friendly amendment is suggested to put a semi-colon there instead of a period.

274 VOTE: CHAIR VanLEEuwEN: Hearing no objection, the motion passes.

295 MOTION: REP. DOMINY: Moves HB 2538-8, LC 1226, dated 5/6/93, as amended, to the full committee with a DO PASS recommendation.

305 CHAIR VanLEEuwEN: Restates motion.

319 REP. NORRIS: On page 8, lines 27 through 29, would that involve a public hearing?

320 FISHER: We would go through a process that would involve a public hearing.

322 REP. NORRIS: So this adoption of optimum population levels for deer and elk would be via public hearing?

325 FISHER: We will go through a double process. We will have local meetings and we will adopt them in a public hearing.

331 REP. DOMINY: There was a lot of work into this bill. I would hope that we could go through with this.

340 VOTE: On a roll call vote, all members present vote AYE.
REP. FISHER is EXCUSED.

355 CHAIR VanLEEuwEN: The motion CARRIES. 356 REP. BAUM will
carry the bill.

362 CHAIR VanLEEuwEN: Closes work session on HB 2538.

Meeting adjourned at 2:30.

Also submitted for the record: - Testimony in opposition to HB 2927
from John Stahmer (Exhibit E). - Testimony in opposition to HB
2538A from Oregon Fisheries Congress (Exhibit F). - Testimony in
opposition to HB 2538 from Phil McCorkle (Exhibit G). - Testimony in
favor of HB 2538 from Remy Boots, Bandon Fishermen's Association
(Exhibit H). - Testimony in favor of HB 2538 from Mike Sims, Tillamook
County Creamery Association (Exhibit I).

Submitted by:

Reviewed by:

Sue Nichol
Administrator

Catherine Fitch Clerk

EXHIBIT LOG:

A - HB 2927 - Hand engrossed amendments, HB 2927-A3 (LC 2015)
dated 5/6/93 - Staff - 7 pages B - HB 2538 - Summary of HB
2538-8 amendments - Staff - 2 pages C - HB 2538 - HB 2538-8, LC
1226 amendments dated 5/6/93-1 - Staff - 9 pages D - HB 2538
- Attorney General's opinion - Staff - 3 pages E - HB 2927 -
Testimony - John Stahmer - 2 pages F - HB 2538A - Testimony -
Oregon Fisheries Congress - 1 page G - HB 2538 - Testimony -
Phil McCorkle - 1 page H - HB 2538 - Testimony - Remy Boots - 1
page I - HB 2538 - Testimony - Mike Sims - 1 page