

HOUSE COMMITTEE ON NATURAL RESOURCES ENVIRONMENT AND ENERGY SUBCOMMITTEE

April 14, 1993 Hearing Room D 1:30 p.m. Tapes 67 - 68

MEMBERS PRESENT: Rep. Marilyn Dell, Vice-Chair Rep. Sam Dominy Rep.
Carl Hosticka Rep. Dennis Luke Rep. Bill Markham Rep. Ray Baum

MEMBER EXCUSED: Rep. Bill Fisher Rep. Tim Josi Rep. Bob Repine, Chair

STAFF PRESENT: Kathryn Van Natta, Committee Administrator Karen
McCormac, Committee Clerk

MEASURES CONSIDERED: Public Hearing - HB 2070

Work Session - HB 2835

WITNESSES: FRED HANSEN, Department of Environmental Quality
HARVEY ROGERS, Bond Counsel for Department of

Environmental Quality MARTIN LORING, Manager of the Wastewater
Finance

Section, Department of Environmental Quality CATHRYN COLLIS, Oregon
Association of Clean Water

Agencies JONI T. LOW, League of Oregon Cities DON MINER, Oregon
Manufactured Housing Association PHILLIP FELL, League of Oregon Cities

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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
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TAPE 67, SIDE A

005 VICE-CHAIR DELL: Calls meeting to order at 1:11 p.m.

OPENS PUBLIC HEARING ON HB 2070

029 KATHRYN VAN NATTA, Committee Administrator: Introduces
meeting materials, including a preliminary staff measure summary
(EXHIBIT A), a revenue impact analysis (EXHIBIT B), which shows the bill
has no impact on state or local revenues, and a copy of ORS Chapter
468. The Water

Pollution Control Administration Fund is the new fund proposed by HB
2070. Because the bill appropriates money, it will require a referral

by prior reference to the House Committee on Appropriations. A fiscal impact statement is not available at this time.

057 FRED HANSEN, Department of Environmental Quality: Presents written testimony in support of HB 2070 (EXHIBIT C).

188 REP. MARKHAM: What if small communities cannot offer a bond?

190 HANSEN: The previous grant program funded 55% of a project, leaving a local community to come up with the remaining 45%. The State Revolving

Loan Fund loans up to 100% for eligible project costs.

211 REP. MARKHAM: Is their repayment schedule tied to sewer fees? Do you make a contractual arrangement with them?

214 HANSEN: Yes. We enter into actual loan agreements as a bond bank, or enter into a loan agreement that pledges sewer revenues to secure the

loan.

230 REP. DELL: Given the debt limitations of municipalities, how many could do this by not creating a bond which is strictly applied to the revenue?

234 HARVEY ROGERS, Bond Counsel for the Department of Environmental Quality: Most municipalities can impose sewer charges sufficient to pay the bond issued to fund their share of the costs. Sewer fees have not been

radically impacted by Measure 5 (1990). Disruption occurs because of the magnitude of the increase in costs rather than a legal inability.

260 REP. DELL: From DEQ's perspective, are you more concerned whether this would be the equivalent of revenue bonds, or whether it may mean a

broader debt for the municipality?

268 HANSEN: We are not seeking a requirement of general obligation which municipalities must pledge in order to obtain a loan. We have

confidence in relying upon the pledge of the sewer revenues.

274 REP. MARKHAM: Does the sewer revenue income take Measure 5 (1990) into consideration?

278 ROGERS: Measure 5 (1990) requires that taxes on property are subject to the ten dollar per thousand general governmental limitation. There are

a number of sewer utilities which impose sewer charges and immediately lien property. Fundamentally, sewer charges should be exempt from

Measure 5 (1990), and bonds issued to fund sewer projects should be okay.

301 REP. MARKHAM: Could a city or local government issue bonds outside Measure 5 (1990)?

303 ROGERS: Yes. A city could issue general obligation bonds with voter approval, and levy taxes to pay those bonds outside of Measure 5 (1990). 308 HANSEN: We're proposing that we would sell state general obligation bonds, which would be secured by local government repayments, with some level of risk. If we assumed no risk, we would require local

governments to make a general obligation pledge, which is an undue burden. We think repayment from sewer revenues is sufficient to achieve a level of security for the state and also fund these projects. We are trying to reach a balance.

331 REP. MARKHAM: Will that tend to put an extra point on the bond market?

333 HANSEN: The bond market will look at the state's general obligation.

332 REP. MARKHAM: Can city councils approve a revenue stream from sewer assessments?

342 ROGERS: For the revenue only, a city council can commit to charge revenues sufficient to repay the bonds, and can enter into a loan

agreement or sell a bond to DEQ without voter approval. They cannot commit property tax revenue.

361 HANSEN: Continues testimony.

TAPE 68, SIDE A

142 REP. DELL: What is the starting point on Attachment J?

144 HANSEN: The starting point is 1989, which is the first year we made loans. We were not able to do any leveraging during the first four

years.

167 Concludes testimony.

172 REP. DELL: To gain some perspective, that twenty-five million dollars would pay only half of the cost of McMinnville's new sewer treatment

plant.

179 REP. DOMINY: Thanks the DEQ for the Sewage Treatment Pipe Grant Program available to the City of Lowell. Because the city did not

have the

funding for the project, this program saved Dexter Lake.

193 REP. DELL: Could you explain the change in the bill of Page 6, Section 8 regarding the deletion of "priority list" and the substitution of

"procedures"?

201 HANSEN: In the grant program, it was clear that many municipalities wanted to acquire grants, making the process competitive. Within the

loan program, the competition was less, and our advisory committee determined that first-come, first-serve processing was most appropriate.

214 MARTIN LORING, Manager of the Wastewater Finance Section, DEQ: In the old grant program, there were actually two priority lists. The staff

spent a lot of time analyzing and monitoring daily reports from sewage treatment plants, and putting together an omnibus list of problems.

From applications received, the staff developed a project priority list. The State Revolving Fund Program is completely demand-driven. We don't

have an overall priority list, but we do have a project priority list.

We selected a more precise word for the bill which reflects what actually occurs.

233 REP. DELL: Could you elaborate on Section 2, Lines 7 through 9, which describes the appropriation of money for the cost of administering the

Water Pollution Control Revolving Fund?

239 HANSEN: All projects must meet a series of requirements, including federal grant requirements. State law requires that these plans be

reviewed to insure they are the most cost-effective. Our staff is working with those communities to insure these requirements are met.

The administrative costs are associated with the costs the department has in administering that program, including the preparation of the issuance of state bonds.

263 LORING: There are about nineteen full time equivalent (FTE) positions in several sections of the Water Quality Division that actively work in the State Revolving Fund Program, the Construction Grants Program, and

the Assessment Deferral Loan Program. The direct staffing costs, overhead, and other normal costs are budgeted and borne by administrative dollars from the construction grant funds and from the loan fund administrative account.

275 REP. DELL: Who pays for it now?

277 HANSEN: Technically, the federal government allows up to four (4) percent of the capitalization grant to be used to pay for these costs.

What is at issue is that those grants end in fiscal year 1994. No matter how long the fund operates, that four (4) percent applies against those capitalization grants for the life of that fund. Due to Ballot Measure 5 (1990), we did not think it was reasonable to not propose an alternative way to fund these costs.

299 REP. LUKE: How long until General Fund dollars are used up?

301 HANSEN: We are currently using a portion of the federal grant to pay for this, and that money will soon run out. This bill allows us to

charge, instead of turning to the General Fund.

307 LORING: Current projections show that we will run out of the four (4) percent allowance in late 1995 or early 1996.

320 REP. LUKE: Will this program be up and running by the time you run out of the federal money?

324 HANSEN: Yes. There is sufficient demand, especially if combined with the leveraging concept. We're able to invest that money and subsidize

the loan rate that local governments are able to achieve. If we can

borrow at 6%, we estimate we could allow local government to borrow from us at 4.5% interest rate and still have enough dollars to pay the bonds off.

349 REP. LUKE: The Department of Veterans Affairs tried that, which created a lot of problems.

351 HANSEN: Whatever we lose on individual loans, we can make up in volume.

352 REP. DELL: This is not the same situation, because it is difficult to repossess sewer pipe. 360 HANSEN: What we're doing is investing \$25,000,000 under the arbitrage requirements, and using a portion of the interest earnings to offset

interest rates on borrowed money to pay interest rates on bonds. The

DVA situation had short-term, but not long-term cash flow.

377 REP. LUKE: How long will the loans to the cities and counties be?

379 HANSEN: Up to a maximum of twenty years. We allow some for five (5) years at zero (0) percent interest.

394 VICE-CHAIR DELL: How much of the full cost of any project would loans be made?

396 LORING: The rules allow up to one hundred percent of the cost, but prevent us from loaning more than fifteen percent of all the money we

have available to lend in any one year to any one borrower. The City of Ontario needed \$10,000,000 for their project, and borrowed the maximum amount in four (4) successive years, thus eventually acquiring the full amount they needed.

402 VICE-CHAIR DELL: Is there anything in the allocation process that would give you the flexibility to loan money to a community so they can buy

insurance to obtain a better bond rating?

410 LORING: Yes, we have that flexibility. We can purchase insurance and use the money to provide guarantees. To date, there has been no demand

for that.

TAPE 67, SIDE B

020 REP. MARKHAM: What is your bond capacity?

022 HANSEN: We're the only department authorized to utilize the Pollution Control Bond Funds, which are one billion dollars against the 1.5% true

cash value.

029 REP. MARKHAM: So with the authority of the legislature, you can borrow money? You don't need a vote of the people?

030 HANSEN: No. The state bond authority, like all state bonding programs, has already been approved up to 1.5% of the true cash value.

032 REP. MARKHAM: Maybe you remember the Farmer's Water Resources Bond, which is another billion dollar program, and is rarely used. Can you

tap that fund?

035 HANSEN: No. At this level, we are only proposing to put the amount of money in which is necessary in order to not lose the five (5) dollars in federal dollars for every one (1) state dollar.

048 REP. HOSTICKA: Are these the bonds the ones which allow us to

levy a property tax that is outside Measure 5 (1990) to pay off those bonds?

053 HANSEN: Yes. The ultimate backup is the levying of the statewide property tax, but there is an obligation against any unused balances

within the General Fund prior to that.

060 REP. DELL: Requests clarification of Page 7, Line 7 regarding taking monies from different funds, wrapping them into one loan and blending

the rate.

069 HANSEN: We're attempting to take dollars from different categories and blend them so the borrower does not know whether dollars are from

interest earnings or from other categories. This is done so that we don't have to have part of the loan at one interest rate, and another part at another interest rate.

080 LORING: This provision was recommended by the advisory committee, because there is a limit in the amount of money lent to any one

jurisdiction in any one year.

089 REP. DELL: Who takes the lead in helping municipalities through this process?

093 HANSEN: We do.

103 REP. DELL: What kind of return are you seeing on your invested funds?

106 LORING: I have not seen a recent statement. The excess cash balances that have moved through the State Revolving Fund as of our last

financial statement had earned about \$596,000 in interest. The rate is 3% or 4%. A DEQ bond issue was priced yesterday at around 5.19%.

122 HANSEN: We could check with the State Treasurer to find out today's going rate.

125 REP. DELL: I suspect we're going to ask you to return to answer questions about this complex bill.

130 HANSEN: Summarizes testimony. This bill has trade-offs. The leveraging allows us to put more money out to communities sooner, and by borrowing that money, we are taking some of the repayment interest and

paying off those bonds. This makes sense, because you can get the

benefits of water pollution control, and the ability to be able to meet those demands now. If repayment dollars were not spent for interest on bonds, leaving more money in perpetuity, you have more money in the first twenty-five (25) years by leveraging, but after that, there would be more money if direct loans had been made. It makes sense to gain pollution control and beat the construction index on inflation rates.

178 REP. LUKE: If this fund was used as guarantee fund instead of a loan fund, would it go further?

186 HANSEN: You could do it. Some smaller communities are not rated, and would have to go through the rating process. The ability for us to lend the state's credit, the 5.19% interest rate in today's market, means we can provide that benefit. If we merely backed a local bond, we could

back it at less than 50% to give the bond market a substantial amount of security, but the transaction costs would be high, particularly for small projects.

213 REP. DELL: Could we pool the small communities, giving them access to the bond market and then do a guarantee?

218 HANSEN: When you have authority to sell state general obligation bonds, there is an advantage in utilizing that authority, passing the money on to those communities.

253 CATHRYN COLLIS, Oregon Association of Clean Water Agencies (ACWA): Presents written testimony (EXHIBIT D) in support of HB 2070.

289 REP. DELL: What is ACWA?

294 COLLIS: It is an association composed of agencies which provide wastewater and stormwater management services to communities.

295 REP. LUKE: What type of communities?

297 COLLIS: It's a mix. Portland and Roseburg are active members in our association.

303 REP. MARKHAM: Are you a registered lobbyist?

305 COLLIS: Yes.

311 JONI T. LOW, League of Oregon Cities: Presents written testimony (EXHIBIT E) in support of HB 2070.

338 REP. MARKHAM: Is there more demand today for money for drinking water or is there more demand for cleaning up wastewater?

339 LOW: The need is about the same.

351 REP. DELL: CLOSING PUBLIC HEARING ON HB 2070

Recesses at 2:29 p.m. to retrieve committee members for the work session on HB 2835.

Reconvenes at 2:31 p.m.

OPENS WORK SESSION ON HB 2835

361 VAN NATTA: House Bill 2835 is about manufactured home siting standards. A public hearing was held on March 31, and a public hearing and work

session was held on April 7. The -1 amendments were adopted on April 7. There is no revenue impact. A prior fiscal impact has been revised to no fiscal impact.

373 REP. MARKHAM: Is there no fiscal impact on the cities?

377 VAN NATTA: Our fiscal statement says there is no impact on state or local governments. However, there was contrary testimony from cities

during the public hearing phase.

385 REP. LUKE: There is no impact on cities which have already complied with the comprehensive plan.

390 MOTION: REP. DOMINY moves HB 2835 to the FULL COMMITTEE ON NATURAL RESOURCES with a DO PASS AS AMENDED RECOMMENDATION, AS AMENDED BY THE HB 2835-1 AMENDMENTS, LC 1312, dated 3-22-93.

393 VICE-CHAIR DELL: Restates motion and calls for discussion.

395 REP. HOSTICKA: When did we adopt those amendments?

400 VAN NATTA: The amendments were adopted with a no objection vote on April 7.

417 REP. HOSTICKA: Why do we allow private parties to do what cities cannot do, which is to restrict the siting of houses simply based on where the housing is manufactured?

429 REP. LUKE: Cities seldom enter into restrictions in covenants and subdivisions.

436 VICE-CHAIR DELL: House Bill 2835 would not allow cities to keep manufactured homes out, other than to set the restrictions outlined in

this bill.

TAPE 68, SIDE B

034 DON MINER, Oregon Manufactured Housing Association: Deed restrictions are placed by property owners. If there are four lots in a development, those property owners can agree to put restrictions on those properties. In my subdivision, the neighbors have all agreed that hedges cannot

exceed six feet.

050 REP. LUKE: Could a subdivision prevent manufactured homes from

being sited there?

052 MINER: I believe that could occur, although they would need precise language. A recent Court of Appeals case (Palmer v. Johnson) determined that a deed restriction prohibiting "mobile homes" was not sufficiently defined.

061 REP. DELL: Could a subdivision decide that it will have no "Class A manufactured homes as defined in ORS..."

063 MINER: I believe they could.

065 REP. DOMINY: Could they do that without this amendment?

066 MINER: I believe they could with or without this amendment.

067 REP. BAUM: The amendment needs to be added due to existing covenants, or it would be unconstitutional.

074 MINER: The homebuilders have requested the amendment. We do not object to it. 077 VICE-CHAIR DELL: Would most new subdivisions try to work around the legislation by incorporating such a covenant?

079 MINER: That could occur. However, there is a new manufactured development near Rep. Dominy's district which excludes site-built homes.

092 VICE-CHAIR DELL: Is there a difference in applications for covenants for subdivisions and those for one single lot conveyance?

101 MINER: Assume someone puts a deed restriction on a parcel and then sells it. With few exceptions, the person who acquires the parcel can

remove the deed restriction.

124 PHILLIP FELL, The League of Oregon Cities: Even communities which complied with the 1989 legislation will be forced to go through the

public hearing process, and change their comprehensive plan policies and zoning ordinances, which costs money. If a city is large enough to have an in-house attorney and planning staff, these costs are less noticeable.

142 REP. DOMINY: Are you saying that those cities will not have to open up their comprehensive plan for any other reason during that time?

145 FELL: That depends on local circumstances.

151 REP. DOMINY: If this passes, how long would they have to change their plans?

264 FELL: I believe we must have proposed ordinance and zoning changes to the Land Conservation and Development Department by December 31, 1993,

and adopted by July 1994.

157 REP. LUKE: Does this include all cities or just those which didn't do the job right the first time?

160 FELL: This includes all cities which currently do not allow manufactured housing on single-family lots.

167 REP. DOMINY: I see that Section 4 of HB 2835 states that cities and counties must meet the requirements by January 1, 1994, but no later

than May 1, 1994.

193 REP. LUKE: A previous witness from the City of Roseburg stated that manufactured homes were only allowed within an urban growth boundary if they were on a duplex lot. Who would buy a more expensive duplex lot

for a single-family manufactured home?

196 REP. DELL: McMinnville had several hearings on this controversial issue. The community felt that the resulting ordinance was an honest

attempt to make way for manufactured housing, and is now in the process of reviewing one hundred lot subdivisions for manufactured homes. This

bill will cost every city some money just to hold these hearings, so I

don't know how the fiscal statement could show no impact.

251 REP. MARKHAM: Calls for the question. 259 VOTE: REPS. BAUM, DELL, DOMINY, LUKE, MARKHAM, vote AYE. REPS. HOSTICKA, JOSI and REPINE are EXCUSED.

263 VICE-CHAIR DELL: The motion CARRIES. REP. DOMINY will lead discussion on the floor.

Additions to the record: HB 2835 Hand-Engrossed with HB 2835-1 Amendments (LC 1312) dated

3-22-93 (EXHIBIT F) HB 2835 Preliminary Staff Measure Summary (EXHIBIT G) HB 2835 Fiscal Impact Assessment and Revenue Impact Analysis (EXHIBIT H)

CLOSES WORK SESSION ON HB 2835

Adjourns meeting at 3:21 p.m.

Submitted by:

Reviewed by:

Karen McCormac
Administrator

Kathryn Van Natta Assistant

EXHIBIT LOG:

A - HB 2070 Preliminary Staff Measure Summary - Staff - 2 pages B
- HB 2070 Revenue Impact Analysis - Staff - 1 page C - HB 2070

Testimony - Fred Hansen - 25 pages D - HB 2070 Testimony - Cathryn
Collis - 1 page E - HB 2070 Testimony - Joni T. Low - 1 page F -
HB 2835 Hand-Engrossed with HB 2835-1 Amendments (LC 1312), dated
3-22-93 - Staff - 3 pages G - HB 2835 Preliminary Staff Measure
Summary - Staff - 1 page H - HB 2835 Fiscal Impact Assessment and
Revenue Impact Analysis - Staff - 2 pages