

HOUSE COMMITTEE ON NATURAL RESOURCES

April 15, 1993 Hearing Room D 4:00 p.m. Tape 27

MEMBERS PRESENT: Rep. Ray Baum, Chair Rep. Carl Hosticka, Vice-Chair
Rep. Marilyn Dell Rep. Sam Dominy Rep. Tim Josi Rep. Dennis Luke Rep.
Bill Markham Rep. Chuck Norris Rep. Bob Repine Rep. Liz VanLeeuwen

MEMBERS EXCUSED: Rep. Bill Fisher Rep. Bob Repine

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

MEASURES CONSIDERED: Work Session - HB 2197 - HB 2928 - HB 2155

WITNESS: BILL WARREN, Public Utility Commission

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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 27, SIDE A

005 CHAIR BAUM: Calls meeting to order at 4:05 p.m.

OPENS WORK SESSION ON HB 2197

MOTION: REP. MARKHAM moves HB 2197 to the floor with a DO PASS AS

AMENDED RECOMMENDATION as amended by the HB 2197-1 AMENDMENTS, LC

815, dated 3-5-93. 016 CHAIR BAUM: Restates motion and calls for discussion.

023 REP. NORRIS: Does "public utility" include investor-owned utilities?

030 BILL WARREN, Public Utility Commission (PUC): It only includes utilities regulated by the PUC, which are investor-owned. This would

not include cooperatives or PUDs (public utility districts).

037 REP. NORRIS: Does this apply to de-commissioning costs?

039 WARREN: Are you referring to a situation which occurred with the shutdown of the Trojan Nuclear Power Plant? No.

040 REP. LUKE: This applies only to preconstruction costs.

043 VOTE: REPS. DELL, DOMINY, HOSTICKA, JOSI, LUKE, MARKHAM, NORRIS, VanLEEUEWEN and CHAIR BAUM vote AYE. REPS. FISHER and REPINE are

EXCUSED.

050 CHAIR BAUM: The motion CARRIES. REP. HOSTICKA will lead discussion on the floor.

Additions to the record: HB 2197 Hand-Engrossed with HB 2197-1 Amendments, LC 815, dated

3-5-93 (EXHIBIT A) HB 2197 Preliminary Staff Measure Summary (EXHIBIT B) HB 2197-1 Revenue Impact Analysis and Fiscal Impact Assessment

(EXHIBIT C)

057 CLOSES WORK SESSION ON HB 2197

OPENS WORK SESSION ON HB 2928

060 House Bill 2928 will go to the House Committee on Appropriations. It requires the Department of Fish and Wildlife, the Department of

Environmental Quality and the Parks and Recreation Department to pay application fees for industry and water rights certificates to the Water Resources Department.

065 REP. HOSTICKA: Is this a way of placing non-General Fund money into the General Fund?

067 CHAIR BAUM: Perhaps.

075 CATHERINE FITCH, Committee Administrator: Current Oregon law provides that the Departments of Fish and Wildlife, Environmental Quality and

Parks and Recreation do not have to pay a fee when they apply for an in-stream water right. House Bill 2928 would establish that those agencies to pay fees for those applications. The projected fiscal impact is about \$1.5 million for the 1993-95 biennium. The House Subcommittee on Water chose to take no positive or negative action on the measure, and to refer it without recommendation to the House Committee on Appropriations.

087 REP. LUKE: Was the projected fiscal impact from the affected agencies?

090 FITCH: The estimates included in the fiscal impact statement

were prepared by the individual agencies. Given the minimum flow levels and

the Diack flows that are mandated, the agencies need to apply for those rights to meet the flow levels so they can anticipate how many applications they will have.

096 CHAIR BAUM: These are also reviewed by our own Legislative Fiscal Office to insure they are accurate.

100 REP. LUKE: Was there any testimony in the subcommittee regarding agency abuse in overfiling?

102 REP. NORRIS: We did not explore that at any great length. It's a left pocket - right pocket revenue flow, with no net outflow from the state.

111 REP. HOSTICKA: If this bill passed, could the House Committee on Appropriations prevent affected departments from being able to apply by not appropriating the money necessary to pay the application fees?

118 REP. NORRIS: I suppose that could be the case if an agency must pay the fee to file an application, and their funding was not approved.

125 REP. DOMINY: Is there a need for this legislation?

133 REP. NORRIS: Even though it might be a net wash for the state, it could have a significant impact on the Parks and Recreation Department budget. There is significant public sentiment that the state should pay the

application fees already paid by the public. This bill only affects future applicants.

140 REP. DOMINY: It's really a policy decision, which should be made by our committee, not the House Committee on Appropriations. If we refer this

bill without recommendation, I'm wondering why we're bothering to send it on to the House Committee on Appropriations.

161 REP. HOSTICKA: Aren't these agencies under a statutory mandate to apply for these water rights?

177 CHAIR BAUM: The statutes never addressed the issue of whether applicants for in-stream water rights had to pay any fees. It's not

because they have not been complying with the law, but the law has not required them to pay the fee.

183 REP. JOSI: The bottom line is that applying for an in-stream water right requires these agencies to stand in line like everyone else.

There is also a provision in the law that allows municipalities to take care of an in-stream water right to fill their needs.

192 REP. VanLEEUWEN: I think the bill sponsor wanted to address equity in the future rights and uses of water.

199 REP. NORRIS: Who introduced the bill?

201 FITCH: The House Committee on Natural Resources.

203 REP. DOMINY: I will not vote to sent this to the House Committee on Appropriations without recommendation. If we believe it's a good policy position, I would vote for the bill.

206 CHAIR BAUM: I recommend that when a motion is made, it should be made with a do pass recommendation.

222 REP. HOSTICKA: This committee should be on record in telling the House Committee on Appropriations that the money should be provided to the

agencies for the application fees. If we send down a policy statement

that these fees should be paid, but leave it to the discretion of the

Appropriations Committee as to whether that money is appropriated, we're essentially delegating the policy decision. As our staff as indicated,

these agencies are sometimes required by court order to make provisions to guarantee flows within scenic waterways. Not only should we

recommend they pass the bill, we should recommend that they appropriate the money.

236 CHAIR BAUM: I think that's implied, but the House Committee on Appropriations will need to compare it with other competing interests.

241 REP. JOSI: What did the Diack decision do regarding the need for in-stream water rights, and how does that affect this bill?

246 CHAIR BAUM: In the Diack decision, the Oregon Supreme Court ruled there are certain minimum flows, especially in rivers above a scenic

designation, are required to be met before additional water rights are

allowed in the streams above. The Water Resources Department

established those minimum stream flows, and has placed a hold on many of those applications.

261 REP. NORRIS: There's an impression that state agencies have requested stream flow amounts which are far greater than any which ever existed in nature. Let's move HB 2928 to the floor with a do pass recommendation,

and take its chances on the floor.

284 REP. DELL: The bill does not authorize the appropriation of

money. If we move it with a do pass recommendation, the Parks and Recreation

budget could be cut by \$1 million, which they may attempt to offset by increasing other fees. Or money could be appropriated, which would come from the General Fund to the Department of Water Resources. Since this could go either way, we need to be satisfied with this bill before referring it further.

323 CHAIR BAUM: When those budgets come before the Appropriations Committee, they'll have the opportunity to review this. We only have to make the policy decision.

340 REP. JOSI: The existing practice impacts the Water Resources budget. All this would do is do is shift costs to the agencies which negatively impact the Water Resources budget.

350 REP. NORRIS: One of the reasons behind the backlog for in-stream water rights applications is limited personnel.

MOTION: REP. NORRIS moves HB 2928 to the floor with a DO PASS RECOMMENDATION, and a REFERRAL to the HOUSE COMMITTEE ON APPROPRIATIONS be added, as recommended by the SUBCOMMITTEE ON WATER.

360 CHAIR BAUM: Restates motion and calls for discussion.

368 VOTE: REPS. DELL, DOMINY, JOSI, LUKE, MARKHAM, NORRIS, VanLEEUEWEN and CHAIR BAUM vote AYE. REP. HOSTICKA votes NO. REPS. FISHER and

REPINE are EXCUSED.

381 CHAIR BAUM: The motion CARRIES. No carrier will be needed for this bill.

395 REP. HOSTICKA: I'll plan to extend my rent in Salem through September, because before the budgets can be drafted for these four agencies, this bill will need to be signed by the Governor.

Additions to the record: HB 2928 Preliminary Staff Measure Summary (EXHIBIT D) HB 2928 Fiscal Analysis (EXHIBIT E) HB 2928 Revenue Impact Analysis (EXHIBIT F)

405 CHAIR BAUM: CLOSES WORK SESSION ON HB 2928

OPENS WORK SESSION ON HB 2155

408 MOTION: REP. NORRIS moves HB 2155 to be RE-REFERRED to the SUBCOMMITTEE ON WATER.

411 CHAIR BAUM: Restates motion and calls for discussion. Hearing no objection, the motion CARRIES.

419 CLOSES WORK SESSION ON HB 2155

Adjourns meeting at 4:32 p.m.

Submitted by:

Reviewed by:

Karen McCormac
Administrator

Kathryn Van Natta Assistant

EXHIBIT LOG:

A - HB 2197 Hand Engrossed with HB 2197-1 Amendments, LC 815,
dated 3-5-93 - Staff - 2 pages B - HB 2197 Preliminary Staff
Measure Summary - Staff - 1 page C - HB 2197 Revenue Impact Analysis
and Fiscal Impact Assessment - Staff - 1 page D - HB 2928
Preliminary Staff Measure Summary - Staff - 1 page E - HB 2928
Fiscal Analysis - Staff - 2 pages F - HB 2928 Revenue Impact
Analysis - Staff - 1 page