

HOUSE COMMITTEE ON NATURAL RESOURCES

July 6, 1993 Hearing Room 343 1:30 p.m. Tapes 89 - 91

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

MEMBER EXCUSED: Rep. Nancy Peterson

STAFF PRESENT: Kathryn Van Natta, Committee Administrator
Catherine Fitch, Committee Administrator Sue Nichol, Committee Clerk

MEASURES CONSIDERED: SB 86 - Work Session HB 2128 - Work
Session SB 122 - Public Hearing and Work Session SB 535 - Public Hearing

WITNESSES: Rep. Lisa Naito, District 15 Burton Weast,
Special Districts Association of Oregon Rep. Ted Calouri, District 17
Ken Battaile, City of Salem, City Planner Phillip Fell, League of Oregon
Cities Brent Curtis, Association of Oregon County Planning

Directors, Association of Oregon Counties Rep. Lee Beyer, District 42
Tom O'Connor, Springfield Utility Board

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

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 ---]

Kelly Ross, Oregon Association of Realtors John Chandler, Common Ground
Urban Land Council of

Oregon, Homebuilders Association of Metropolitan

Portland Debbie Lee, Sen. Springer's Office Richard Koesan, Water For
Life Larry Troisi, Oregon Farm Bureau Jim Myron, Oregon Trout Larry Hill,
Oregon Guides and Packers, Northwest

Sportsfishing Association

TAPE 89, SIDE A

005 CHAIR BAUM: Calls the meeting to order at 1:37.

WORK SESSION ON SB 86

014 MOTION: REP. JOSI: Moves to suspend the rules.

016 VOTE: CHAIR BAUM: Hearing no objections, the MOTION is
ADOPTED.

018 MOTION: REP. JOSI: Moves to reconsider the vote by which SB 86 was passed for the purposes of removing the subsequent referral to

Appropriations and sending it directly to the floor.

019 VOTE: CHAIR BAUM: Hearing no objections, the MOTION is ADOPTED.

020 MOTION: REP. JOSI: Moves to remove the subsequent referral to Appropriations.

021 REP. NORRIS: I had word that there were amendments that were to be considered.

021 KATHRYN VAN NATTA: The issue is taken care of. Those amendments were adopted. This is only to change the referral.

022 VOTE: CHAIR BAUM: Hearing no objections, the AMENDMENTS are ADOPTED.

025 MOTION: REP. JOSI: Moves SB 86, as amended, to the floor with a DO PASS recommendation.

027 CHAIR BAUM: Restates motion.

030 VOTE: On a roll call vote, all members present vote AYE. REPS. DOMINY, PETERSON and VanLEEuwEN are EXCUSED.

038 CHAIR BAUM: The motion CARRIES.

040 CHAIR BAUM will carry the bill.

045 Closes work session on SB 86.

WORK SESSION ON HB 2128

050 VAN NATTA: Hand Engrossed -5 amendments and HB 3123 are submitted for the record (Exhibit A). HB 2128 deals with card lock inspection. The

State Fire Marshall no longer needs this bill. It has been suggested that HB 3123 be amended into HB 2128.

060 CHAIR BAUM: The -5 amendments allow an exception for the hospital in Rep. Naito's district and for purposes of a hardship. Consumer use of

card locks would have to meet two criteria: counties much be under 10,000 in population and there must not be a service station within seven miles.

085 REP. HOSTICKA: Was there testimony that people can't drive another 3 miles?

097 REP. LUKE: Driving three miles in snow may present a problem.

102 REP. HOSTICKA: I believe this would put more gas stations out of business so I'll oppose the -5 amendments.

108 REP. NORRIS: Is the 10,000 population locked in?

110 CHAIR BAUM: No. This simply allows what was going on in those small counties before the 1991 legislation.

116 REP. NORRIS: I'd support it more if my county was included in this.

120 CHAIR BAUM: This is as narrow as you can get while still providing some solutions to those small rural areas.

124 MOTION: REP. NORRIS: Moves -5 amendments to HB 2128.

134 CHAIR BAUM: Restates motion.

136 REP. FISHER: It's tough to live in some of these areas, but they should have more power to govern themselves.

157 REP. NORRIS: This is probably as close as we can come to a solution.

168 REP. DELL: Why is the hospital provision in the amendments?

176 REP. LISA NAITO, District 15: This provision is for a hospital in my district. In the 1970's a card lock station was put in. They spent a

large amount of money to upgrade that station as requested by DEQ. Days after that investment was made, law was enacted that would restrict use of that station.

196 REP. DELL: They upgraded the station at the request of DEQ?

199 REP. NAITO: It was a requirement by DEQ.

200 REP. DOMINY: How many business cards have been handed out at this hospital? I think the number was 500 to 600. Who gets these cards from

the hospital?

218 REP. NAITO: Only hospital employees get the cards.

222 REP. DOMINY: Who would actually be eligible?

225 REP. NAITO: I don't know the specifics.

230 VOTE: On a roll call vote, REPS. DELL, FISHER, HOSTICKA, JOSI, LUKE, MARKHAM, NORRIS, REPINE, VanLEEUEWEN and CHAIR BAUM vote AYE. REP.

DOMINY votes NAY. REP. PETERSON is EXCUSED.

248 CHAIR BAUM: The AMENDMENTS are ADOPTED.

248 REP. JOSI: I introduced HB 3123 to allow individuals who own

their own vehicle used for the business to use card locks for their vehicle.

281 REP. DOMINY: How big of a scope are we talking about? If someone had a contract with the county, could they fill up their tank?

295 REP. JOSI: Anyone in business for themselves could have a card lock.

306 REP. HOSTICKA: Would you only fill up your tank for business use?

314 CHAIR BAUM: Legal intent is only for business purposes.

321 REP. HOSTICKA: I think this is an unenforceable law.

325 REP. LUKE: How would the fire marshall enforce this?

332 REP. JOSI: I think this makes it easier to enforce. The customer would have to show that this vehicle was only used for their business.

353 CHAIR BAUM: Business expenses are always relative.

361 MOTION: REP. JOSI: Moves to adopt HB 3123 as an amendment to HB 2128.

368 VOTE: On a roll call vote, REPS. FISHER, HOSTICKA, JOSI, MARKHAM, NORRIS, REPINE, VanLEEUEWEN and CHAIR BAUM vote AYE. REPS. DELL,

DOMINY, and LUKE vote NAY. REP. PETERSON is EXCUSED.

378 CHAIR BAUM: The AMENDMENTS are ADOPTED.

380 MOTION: REP. NORRIS: Moves HB 2128, as amended, to the floor with a DO PASS recommendation. 383 CHAIR BAUM: Restates motion.

385 VOTE: On a roll call vote, REPS. FISHER, JOSI, MARKHAM, NORRIS, REPINE, VanLEEUEWEN and CHAIR BAUM vote AYE. REPS. DELL, DOMINY,

HOSTICKA and LUKE vote NAY. REP. PETERSON is EXCUSED.

401 CHAIR BAUM: The motion CARRIES.

TAPE 90, SIDE A

005 CHAIR BAUM: Closes work session on HB 2128.

PUBLIC HEARING ON SB 122

040 VAN NATTA: Staff Measure Summary, -6 and -7 amendments, Senate Vote Sheet, Fiscal and Revenue Impact Statements are submitted for the record (Exhibit B). The bill deals with land use planning and coordinated

planning for urban growth. SB 122 gives certain local governments the ability to enter into cooperative agreements and urban service

agreements with special districts.

088 REP. MARKHAM: The staff Measure Summary says "you shall" enter these agreements. Does the bill require these cooperative agreements to take

place?

102 BURTON WEAST, Special Districts Association of Oregon: Speaks in support of SB 122. 121 Recommendations from a 1989 mandated study found that problems resulted from conflicts between service providers.

148 Explains the first half of the bill.

180 These agreements are not mandates because it is already in the current statute; it just isn't spelled out what these agreements are.

200 REP. TED CALOURI, District 17: Reviews -7 amendments (Exhibit C).

261 REP. DOMINY: Does that mean that the people of the city would be able to vote on annexation?

266 REP. CALOURI: Only the people of the area being annexed would vote.

293 REP. MARKHAM: Is this the same situation we dealt with on the floor regarding Beaverton and the City of Portland?

300 REP. CALOURI: This bill is important because only the people being annexed would vote.

310 Page 3 of the bill with the -A7 amendments discusses the situation where different cities are vying for the same area.

387 REP. HOSTICKA: You have three points in your amendments?

390 REP. CALOURI: Yes, the first point has to do with who votes, the second has to do with the urban service agreements, the third has to do with a double majority vote.

TAPE 89, SIDE B

012 REP. DOMINY: How do you feel about the -7 amendments?

022 WEAST: We are totally opposed to the vote on the double majority amendments. We are opposed to them for a number of reasons. We would

support Section 3. We support the annexation provisions of the original bill. Special districts are not affected by that provision.

062 It's very rare that cities, counties and special districts agree on a planning bill of this magnitude.

072 REP. HOSTICKA: Sections 13 and from there on apply only to annexations that have gone through the rest of the process?

077 WEAST: Correct.

081 KEN BATTAILE, City of Salem, City Planner: This proposal provides a planning schedule for annexation.

108 REP. DOMINY: What is the required vote?

112 BATTAILE: It is a combined vote of the city residents and the residents of the area being annexed.

132 REP. LUKE: Can you address the -7 amendments?

136 PHILLIP FELL, League of Oregon Cities: We are adamantly opposed to the points on the -7 amendments except for point 3, which we can

support.

158 CHAIR BAUM: If we adopted the -7 amendments, would you oppose the bill?

166 FELL: Correct. All of our members would oppose the bill without the annexation provisions.

172 REP. NORRIS: You believe that the electors within the city should have a vote?

176 FELL: Yes.

179 REP. NORRIS: Do you know which amendments the City of Pendleton was opposed to?

180 FELL: Those are the -7 amendments.

190 REP. DOMINY: Has the League taken a position on taking two votes?

199 FELL: The League is supportive of a single vote. 206 REP. HOSTICKA: How are the costs of doing these plans allocated?

208 WEAST: The costs would be part of the periodic review process that cities and counties have to do now. Right now most jurisdictions are

already doing these agreements. We don't see this bill as a cost mandate to local government because they're already doing this.

235 REP. HOSTICKA: How many agreements would a city like Eugene or Springfield be involved in?

241 WEAST: Explains the process of carrying out these agreements.

252 REP. HOSTICKA: How would the people in unincorporated areas pay for these costs?

257 WEAST: The agreement costs would be borne by the special districts.

276 BRENT CURTIS, Association of Oregon County Planning Directors, Association of Oregon Counties: Both organizations support

SB 122 - A

Engrossed.

346 REP. HOSTICKA: If we adopted the -A7 amendments, and agreements are reached to annex but the people vote out the annexation, what happens to the agreement?

358 WEAST: If the voters turned down the annexation plan, we have other options for annexation.

378 CHAIR BAUM: So one of the ways to annex is to get a vote from the people being annexed?

379 WEAST: Correct.

380 REP. NORRIS: If current law permits a double majority annexation, what's your objection to point 4 on Rep. Calouri's amendment?

390 WEAST: Special districts objection to the amendments in -7 is that an election procedure may have to be gone through.

TAPE 90, SIDE B

015 REP. NORRIS: Your objection is not the double majority, per se, but the conditions that have placed on it under -7 amendments?

017 WEAST: Correct.

020 REP. DELL: Nothing in this bill affects anything in rural reserve areas, correct?

022 WEAST: Correct.

035 REP. LEE BEYER, District 42: Explains and gives support to -6 amendments.

051 REP. REPINE: Has this been a contentious issue?

053 REP. BEYER: It has been a contentious issue. I don't know for sure that this will solve it.

065 REP. REPINE: What does LOC stand for?

069 TOM O'CONNOR, Springfield Utility Board: The amendments are at the request of the Springfield Utility Board. The intent of the language is to go both ways.

088 REP. BEYER: I think that it's fair that whoever provides the service ought to be able to use the money that the customer provided for

providing those services to put them in.

110 O'CONNOR: In response to a question from Rep. Luke, the idea of this is that the consumer would only be paying the one time for the service.

115 REP. HOSTICKA: What happens is that people apply for their

permit, pay the systems development charge, construct the project, and then they

annex after that because the annexing bodies want to annex a fully developed project. This says that the two entities should discuss with each other who gets the money from the systems development charge.

131 REP. LUKE: Does the county charge a systems development charge?

134 O'CONNOR: I'm not familiar with that. Some counties may.

136 REP. BEYER: In our area, counties don't because they're not providing any of the eligible services.

146 REP. LUKE: System development fees are supposed to be used for new facilities. Do special districts need permission from the counties

before they can impose a systems development charge?

150 O'CONNOR: No.

170 KELLY ROSS, Oregon Association of Realtors: Proposes the -A8 amendments. Also distributes a background memo on urban reserves and a

packet of correspondence from various jurisdictions delineating their problems with urban reserve (Exhibit D).

197 REP. NORRIS: I was getting all kinds of mail from your industry saying to fight urban reserves. What is happening in that area?

200 ROSS: We assumed in the 1991 session that if the legislature did not approve the concept of urban reserves that it would go away. That was

not the case. LCDC picked up on it.

213 JOHN CHANDLER, Common Ground Urban Land Council of Oregon, Homebuilders Association of Metropolitan Portland: Supports SB 122 as worked out by

the working group. We would support the -6 and -8 amendments. We would oppose the double majority issue of the -7 amendments. Doesn't oppose the other points in the -7 amendments.

234 CHAIR BAUM: Closes public hearing on SB 122.

WORK SESSION ON SB 122

235 MOTION: REP. REPINE: Moves the -8 amendments dated 7/6/93 to SB 122.

236 CHAIR BAUM: Restates motion.

241 VOTE: On a roll call vote, REPS. DELL, DOMINY, FISHER, LUKE, MARKHAM, NORRIS, REPINE, VanLEEUEWEN and CHAIR BAUM vote AYE. REP.

HOSTICKA votes NAY. REPS. JOSI and PETERSON are EXCUSED.

256 CHAIR BAUM: The AMENDMENTS are ADOPTED.

258 MOTION: REP. HOSTICKA: Moves the -6 amendments to SB 122.

260 VOTE: CHAIR BAUM: Hearing no objections, the AMENDMENTS are ADOPTED.

261 MOTION: REP. HOSTICKA: Moves SB 122, as amended, to the floor with a DO PASS recommendation.

263 CHAIR BAUM: Restates motion.

272 MOTION: REP. VanLEEUEWEN: Moves lines 1-9 of the -A7 amendments.

274 CHAIR BAUM: Restates motion.

293 REP. HOSTICKA: Objects to the amendment because the point needs to be reinforced that the residents of a city have a stake in the annexation

of property outside of them.

320 VOTE: On a roll call vote, REPS. VanLEEUEWEN, MARKHAM, FISHER, and CHAIR BAUM vote AYE. REPS. REPINE, NORRIS, LUKE, HOSTICKA, DOMINY

and DELL vote NAY. REPS. JOSI and PETERSON are EXCUSED.

347 CHAIR BAUM: The motion FAILS.

358 MOTION: REP. REPINE: Moves to adopt lines 4-7 of the -A7 amendments to SB 122.

360 CHAIR BAUM: Restates motion.

362 VOTE: CHAIR BAUM: Hearing no objections, the AMENDMENTS are ADOPTED.

368 CHAIR BAUM: We'll vote on the original motion to move SB 122, as amended, to the floor with a DO PASS recommendation.

400 VOTE: On a roll call vote, all members present vote AYE. REPS. JOSI and PETERSON are EXCUSED.

402 CHAIR BAUM: The motion CARRIES.

REP. HOSTICKA will carry the bill.

410 Closes work session on SB 122.

TAPE 91, SIDE A

WORK SESSION ON SB 535

010 FITCH: Staff Measure Summary, Senate Amendments, Senate Vote Sheet, Hand Engrossed -B5 and -B6 Amendments, Fiscal and Revenue Impact

Statements are submitted for the record (Exhibit E). SB 535 authorizes the State Fish and Wildlife Commission to impose a civil penalty on a person or entity who intentionally interferes with, tampers with, damages, destroys, or removes a fish screening or by-pass device.

044 REP. NORRIS: HB 3295 didn't specifically address the penalty issue?

046 FITCH: Correct. Lines 9 through 12 on the last page of SB 535 have been included in HB 3295.

060 DEBBIE LEE, Sen. Springer's Office: The -5 amendments were adopted in HB 3295 and the rest of the bill hasn't been. We would like to adopt

the -6 amendments which define "intentional."

119 REP. NORRIS: The Conference Committee on HB 3295 adopted the language that is in SB 535 on line 7 of SB 535.

134 CHAIR BAUM: How does one determine if it's intentional or not?

150 REP. VanLEEUWEN: I would propose that additional language be added to line 6 of section 2.

158 FITCH: Only those fish are affected that the department determines are necessary. That gives them discretion to decide which fish are

important enough to screen out.

160 REP. NORRIS: I do not think it's necessary to put the -5 amendments into SB 535.

183 CHAIR BAUM: What was the \$2500?

187 FITCH: It was a maximum penalty. One could only be assessed up to a maximum of \$500 for up to five days.

189 CHAIR BAUM: Do you know why they picked \$2500?

190 LEE: I don't know that the \$2500 has any specific relationship.

200 REP. REPINE: The concern about the penalty is legitimate because it is a big amount. Screening is important, however, to prevent species from

being listed.

214 CHAIR BAUM: Right now it's only a Class A misdemeanor and you have to get the attention of the District Attorney.

224 REP. VanLEEUWEN: I don't see much difference in "intentionally" as in the -6 amendments and the language in the -5 amendments.

238 REP. NORRIS: I want to know how people feel about having a civil versus a criminal charge for this action.

257 REP. FISHER: Why subject them to both penalties?

271 RICHARD KOSESAN, Water for Life: We have civil and criminal sanctions currently. We don't support or object to the bill.

293 LARRY TROSI, Oregon Farm Bureau: It would be difficult to prove that someone intentionally tampers with a fish screen.

215 JIM MYRON, Oregon Trout: Supports the bill as it gives flexibility in determining whether there is a civil or criminal charge.

327 REP. MARKHAM: Is there a need to step up the penalty?

328 MYRON: The bill requires that it be proved that it was an intentional act.

341 LARRY HILL, Oregon Guides and Packers, Northwest Sportsfishing Association: Both my organizations support the bill. There have been

several instances of intentionally tampering with the screens. This bill gives the state police an additional tool to insure that people don't deliberately sabotage a screen.

367 REP. LUKE: Do they have to prove that it was intentional for the criminal penalty also?

371 HILL: I think that intention has to be a part of that.

386 REP. VanLEEUWEN: Is this in addition to another penalty?

393 HILL: It's similar to other cases where there are both civil and criminal penalties available depending on the decision of the District

Attorney.

TAPE 92, SIDE A

014 CHAIR BAUM: They could be subject to both civil and criminal penalties.

018 MYRON: The way I understand it, the bill would have this penalty in addition to other penalties.

025 REP. VanLEEUWEN: You think they'll prosecute from both levels?

027 MYRON: No, I don't think they will. 030 REP. LUKE: Is there a federal statute that covers this also?

033 REP. NORRIS: I don't know, unless it affects an endangered species.

037 REP. HOSTICKA: The current law requires proof that you've actually killed fish before they can take action. How many ways does the state

subsidize fish screening operations?

042 HILL: The major way is through the Fish Screening Task Force where there is a co-payment provision. I believe there are tax credits for

those who participate in the program.

045 REP. HOSTICKA: Didn't we put in a bunch of lottery dollars into this?

046 HILL: There was some money going to watershed restoration, a good part of that will go to fish screens.

049 REP. HOSTICKA: If we don't pass this bill, is it possible that someone can get this money and help from the state, build a fish screen, and

then go out and remove it and we couldn't do anything to them.

052 HILL: It's theoretically possible.

057 REP. HOSTICKA: The crime in existing law is killing fish, not removing the screen.

060 HILL: Correct.

066 FITCH: Existing law says that no person shall remove or tamper with a fish screening device.

072 REP. DOMINY: What if we included "in lieu of" instead of "in addition to" on line 4 of the bill?

084 HILL: I would suggest it says "in lieu of other criminal penalties."

094 REP. DOMINY: Isn't this the same concept of the uniform citation authority we gave to the State Forester?

100 CHAIR BAUM: That replaced the criminal penalty with civil liability.

103 KOESAN: ORS 496.705 deals with the civil sanctions for taking wildlife within the State of Oregon. ORS 496.992 deals with civil sanctions.

Penalties were provided under Chapter 498 for people who were involved with the installation of a screening device and then removed it, tampered with it or interfered with it.

138 REP. VanLEEUEWEN: We need to check if there is duplication and overlap.

150 REP. LUKE: What's the appeal process if someone is issued a fine?

158 CHAIR BAUM: It's covered in ORS 183.480.

165 REP. VanLEEuwEN: If we move it out, I would like to take Rep. Dominy's proposed amendment.

174 REP. DELL: We would need to have better language than "in lieu of."

182 REP. DOMINY: I could check with Legislative Counsel about better language.

190 MYRON: It might be good to see what the intent of the Department of Fish and Wildlife was.

202 REP. VanLEEuwEN: I think there was some language on criminal tampering.

211 CHAIR BAUM: Closes public hearing on SB 535.

Also submitted for the record, memo from Jill Zarnowitz with information concerning SB 535 (Exhibit F).

Meeting adjourned at 4:10.

Submitted by:

Reviewed by:

Sue Nichol
Administrator

Kathryn Van Natta Clerk

EXHIBIT LOG:

A - HB 2128 - HB 2128-5 Hand Engrossed Amendments - Staff - 6 pages
B - SB 122-A - Staff Measure Summary, -A6 and -A7 Amendments, Senate Vote Sheet, Fiscal and Revenue Impact Statements - Staff - 8 pages total
C - SB 122 - Testimony - Rep. Calouri - 1 page
D - SB 122 - Testimony and Amendments - Kelly Ross - 15 pages
E - SB 535-B - Staff Measure Summary, Senate Amendments, Hand Engrossed Amendments with -B5 and -B6 Amendments, Senate Vote

Sheet, Fiscal and Revenue Impact Statements - Staff - 8 pages
F - SB 535 - Information - Jill Zarnowitz - 5 pages