

HOUSE COMMITTEE ON NATURAL RESOURCES SUBCOMMITTEE ON WATER

April 6, 1993 Hearing Room D 1:00 p.m. Tapes 61 - 64

MEMBERS PRESENT: Rep. Chuck Norris, Chair Rep. Ray Baum Rep.
Tim Josi Rep. Bill Markham Rep. Bob Repine Rep. Liz VanLeeuwen

MEMBERS EXCUSED: Rep. Carl Hosticka Rep. Nancy Peterson

VISITING MEMBER: Rep. Dave McTeague, District 25

STAFF PRESENT: Catherine Fitch, Committee Administrator Sue
Nichol, Committee Clerk

MEASURES CONSIDERED: HB 2331 - Public Hearing HB 2928 -
Public Hearing and Work Session

WITNESSES: Rep. Tim Josi, District 2 Michael Skeels, PhD,
Oregon Health Division Deborah Cannon, Oregon Health Division Rod
Ingram, Oregon Department of Fish and Wildlife Kay Brown, Oregon
Department of Fish and Wildlife Janice Laviolette, Jetty Fishery Shirley
Laviolette, Jetty Fishery Jerry Dove, County Commission from Tillamook
County Paul Hanneman, Oregon Shellfish Industry Joe Rohleder, Oregon
Fish Forever Steven Brutscher, Oregon Department of Parks and
Recreation Stephanie Burchfield, Department of Fish and Wildlife
Bev Hayes, Department of Water Resources Doug Meyers, Water Watch Scott
Ashcom, Oregon Association of Nurserymen, Oregon Farm Bureau
Association Olivia Clark, Department of Environmental Quality Neil
Mullane, Department of Environmental Quality Jim Myron, Oregon Trout
Larry Hill, Northwest Sportfishing Industry Association, Oregon
Guides and Packers [--- 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 ---]

TAPE 61, SIDE A

005 CHAIR NORRIS: Calls the meeting to order at 1:10.

PUBLIC HEARING ON HB 2331

013 CATHERINE FITCH: Summarizes HB 2331 which establishes a
shellfish taking license requirement for recreationists, increases
certification

fees for commercial shellfish operations, creates a commercial harvester
certificate, and sets out the split of license revenue between the

Department of Health and the Department of Fish and Wildlife (Exhibit

A). Submits fiscal impact statement (Exhibit B).

048 REP. TIM JOSI, District 2: HB 2331 was introduced to make up
for funding needs for the shellfish monitoring program. The bill needs

to

have some improvements. Does not support the bill, but will probably vote for it.

071 MICHAEL SKEELS, PhD, Oregon Health Division: Testifies in favor of HB 2331. Summarizes testimony in Exhibit C.

153 DEBORAH CANNON, Oregon Health Division, Shellfish Program Specialist: Explains the components of the Shellfish Sanitation Program (Exhibit C).

194 CHAIR NORRIS: Are you able to catch the cases of red tide and domoic acid toxins before there's any threat?

200 SKEELS: Yes.

203 CHAIR NORRIS: Would this be a very serious health problem if it wasn't caught?

207 SKEELS: Yes, it's almost a certainty that people would get sick from the red tide and domoic acid toxins and hepatitis A.

219 CANNON: We set our standards lower than that which would make people sick.

229 CHAIR NORRIS: Does it occur all along the coast?

233 CANNON: The algae can occur all up and down the coast. Sometimes it will be confined to a cove. We normally see it first on the beaches.

250 REP. JOSI: A few months ago the toxin levels were very high, do you remember that?

257 CANNON: They were at the highest we've seen them on the coast and in the mussels on the south jetty of the Columbia River.

265 REP. JOSI: How much sample could it take to kill a person eating that?

267 CANNON: Someone could have paralysis with just eating 3 or 4 mussels at that level. 273 REP. JOSI: Have people died?

277 CANNON: Yes, several deaths have occurred in California and Alaska.

279 REP. JOSI: Could you supply a breakdown on your budget next time we hear this bill?

289 SKEELS: Yes. Some activities deal with industry, some with recreation uses, some are in the middle, so it's hard to break down specifically.

298 CHAIR NORRIS: If this is a public health measure, we should consider the commercial and recreational components to help sponsor the program.

300 SKEELS: If we run a good public health program, we will be

supporting industry. This is a public health program.

358 ROD INGRAM, Oregon Department of Fish and Wildlife: Reads testimony in support of the bill (Exhibit D). Submits amendments which would exempt

people under 14, set aside \$552,000 in the next biennium to get to the

Health Department, and channel excess revenues to the Department of Fish and Wildlife for shellfish programs. (Exhibit E).

TAPE 62, SIDE A

020 CHAIR NORRIS: Define commercial facility.

027 CANNON: Commercial facility is envisioned as an oyster farm with a growing license, a facility license as a distributor, and a

shocker/packer license for the processing. The cap for these three licenses would be \$500.

033 CHAIR NORRIS: Are you referring to all on-shore facilities?

034 CANNON: Yes.

044 REP. VanLEEuwEN: Why were "oysters" taken out of line 27?

047 CANNON: There are no wild oysters out there. The oyster farmer pays the fee to be a grower and so he's fulfilling the harvester requirement.

075 REP. MARKHAM: How much money would be generated?

080 INGRAM: \$552,000 is needed for the Department of Health to fund the program.

081 REP. MARKHAM: Do you think you'll take in that much money?

083 INGRAM: We expect to get \$1 million from the sports side. The increase from commercial fees should generate \$50,000 or less.

087 REP. MARKHAM: So if you don't get a clam license, the Department of Health's program is down the tube?

089 INGRAM: That would be my understanding.

091 REP. JOSI: Could you address the \$102,000 in administrative costs?

096 INGRAM: The cost would be the administration of issuing the licenses through our license agents and then doing the audit reports. It could

run up to 10% of the revenue.

100 REP. JOSI: So you really need about \$654,000?

101 INGRAM: That's correct.

104 REP. JOSI: Could you work out some adjusted fees to account for that?

108 INGRAM: Yes.

110 REP. JOSI: Would you consider amendments for a one-day fee of about \$1 apiece?

131 INGRAM: We will look into that.

133 REP. REPINE: What is the economic impact of the shellfish industry?

146 KAY BROWN, Oregon Department of Fish and Wildlife: We can research this.

156 CANNON: It's a hard figure to come up with because of all the variables.

166 CHAIR NORRIS: Are there harvest limits on recreational shellfish?

170 BROWN: Yes, there are limits on virtually all shellfish.

173 We requested the excess funds to go into the wildlife fund because of the uncertainty of our funding.

201 CHAIR NORRIS: What are the salmon seasons?

205 BROWN: They will be short.

209 CHAIR NORRIS: How will this impact your funding?

213 BROWN: This will have a big impact on our funding.

244 JANICE LAVIOLETTE, Jetty Fishery: Testifies against HB 2331. Read testimony in Exhibit F.

TAPE 61, SIDE B

025 SHIRLEY LAVIOLETTE, Jetty Fishery: Testifies against HB 2331. Reads testimony in Exhibit G.

076 REP. JOSI: Would you rather not have a shellfish testing program?

080 SHIRLEY LAVIOLETTE: No, I think it's necessary. I would rather have them be more efficient.

101 REP. JOSI: What happens if the funding is not available from the general fund?

111 SHIRLEY LAVIOLETTE: Add another dollar or two to the boat licenses.

120 REP. JOSI: That wasn't an option open to us.

132 SHIRLEY LAVIOLETTE: This seems like a lot to pay for one day of crabbing.

136 REP. JOSI: What if it was only \$1 for a day?

144 SHIRLEY LAVIOLETTE: We don't sell licenses so we'd have to send everyone down to Rockaway.

145 REP. JOSI: What if we could work something out so you could sell licenses?

146 SHIRLEY LAVIOLETTE: Then we'd have to hire another person.

175 If crabbing is not affected in the same way as the shellfish, they should not be included in this fee program.

179 REP. MARKHAM: How many crabbers are there compared to the clammers?

188 SHIRLEY LAVIOLETTE: We see more crabbers, but we don't see the clammers because they don't need much equipment.

195 REP. MARKHAM: I'd like to see a breakdown from Oregon Department of Fish and Wildlife between clammers and crabbers.

200 JERRY DOVE, County Commission from Tillamook County: Testifies in favor of HB 2331 to support the industry.

251 Sportsmen in Oregon are willing to pay for that resource.

283 A fee will help to reduce waste of crabs and clams.

290 We must continue shellfish monitoring program or we'll have people sick and dying.

309 The individuals who use the resource should be the ones who pay.

315 REP. REPINE: What about taxing rental fees for nets and pots?

331 DOVE: I think it would pass.

370 PAUL HANNEMAN, Oregon Shellfish Industry: The industry recognizes that this is one option to fund the shellfish sanitation program. They have

no position on the recreational shellfish license because of the number of options available.

The industry would not survive without a water monitoring program because we wouldn't meet federal standards.

TAPE 62, SIDE B

054 REP. VanLEEUEWEN: What happens when the monitoring shows a toxic level?

057 CANNON: We close that area for industry and we issue recreational advisories. We continue monitoring. We make sure product is not sold.

071 SKEELS: We have increased the speed in which we collect and

test samples.

072 REP. VanLEEUEWEN: Is nothing done to find the source?

075 SKEELS: If it is a pollution source, we look for the source. We know what the source of the naturally occurring toxins are.

083 CANNON: We look for possible pollution sources on an ongoing basis.

101 REP. MARKHAM: How many are in your crew that monitors this?

103 CANNON: Two people in the program. One in the field, one in the program administration, who works in the field too. We have one

microbiologist, for a total of three. We contract with the county health departments to collect the shellfish samples and we do all the coordination with DEQ and Fish and Wildlife.

114 REP. MARKHAM: What if the program was transferred to the Department of Agriculture?

118 SKEELS: It would be cost ineffective to transfer that program.

125 REP. MARKHAM: How often do you sample the razor clams at Seaside?

129 CANNON: About every 10 days.

133 JOE ROHLEDER, Oregon Fish Forever: Please consider including shellfish in one-day, non-resident fishing license.

158 CHAIR NORRIS: Closes public hearing on HB 2331.

PUBLIC HEARING ON HB 2928

178 CATHERINE FITCH: Gives background on HB 2928 which requires the State Departments of Fish and Wildlife, Environmental Quality and Parks and

Recreation to pay fees for application for in-stream water right certificates (Exhibit H). Submits fiscal impact statement (Exhibit I).

205 STEVEN BRUTSCHER, Oregon Department of Parks and Recreation: Has concerns about HB 2928 because of its fiscal impacts and its affects on public instream recreation uses and benefits. Reads testimony in

(Exhibit J).

299 CHAIR NORRIS: What would it cost your department? You mentioned three different figures.

311 BRUTSCHER: The \$2 million figure applies to just those streams currently designated as state scenic waterways. There are only 18 of

those. If we look at additional streams that do not have current designation as state scenic waterways, the cost would be multiplied.

231 CHAIR NORRIS: How many miles of streams are you talking about in the 18 streams?

322 BRUTSCHER: The 18 scenic waterways account for about 1200 miles of streams. The 40,000 streams in Oregon comprise about 112,000 miles of

stream network.

328 CHAIR NORRIS: Don't those 40,000 streams include a lot of dry ditches?

329 BRUTSCHER: I would expect that there were a lot of intermittent streams included in that tally.

333 CHAIR NORRIS: Would you apply for one application for an entire stream or might there be several applications at separate points?

334 BRUTSCHER: We could see multiple applications on a given stream. I've talked to Water Resources Department about making a single application

for a given stream, identifying all the reaches on that stream, and then pay the fee based on the largest amount of water that we would be trying to protect. That reduced the dollar figure we'd pay for the scenic

waterways to a smaller amount in the neighborhood of \$1.7 million.

357 REP. MARKHAM: How many pending applications do you have with Water Resources?

363 BRUTSCHER: I don't think I can give you a definite answer. We applied with Fish and Wildlife Department on approximately 35 to 40 streams in

the initial stages of the instream water right law. I don't know how many of those have not received certificates. Those that have not received certificates are still pending.

376 REP. MARKHAM: Do you envision doing something like 10,000 applications?

380 BRUTSCHER: The real dollar amounts come in with the amounts of water we're trying to protect.

400 ROD INGRAM, Department of Fish and Wildlife: Testifies against HB 292 8. Reads Exhibit K.

TAPE 63, SIDE A

027 REP. VanLEEUWEN: How many applications do you have?

030 STEPHANIE BURCHFIELD, Department of Fish and Wildlife: We've submitted approximately 900 instream water right applications. Those are for

about 900 different reaches, some are on the same stream. On those, I think maybe ten or less have been actually certified. 041 REP.

VanLEEUWEN: In how many cases did you apply for an instream water rights that were greater than the flow?

048 BURCHFIELD: I don't have that estimate.

060 REP. JOSI: What procedures do you go through before you apply for an instream water rights?

067 BURCHFIELD: We have adopted rules that tell us how will we go about applying for instream water rights.

078 CHAIR NORRIS: Have instream water rights done any good, in terms of stream flows?

082 BURCHFIELD: I think they have done good in that they have drawn attention to the needs for instream flows. We haven't been able to use

them very much because they have not yet been certified.

100 REP. BAUM: If this bill is moved, the appropriate place for it to go is Appropriations A.

105 REP. MARKHAM: If the Fish and Wildlife Department has 900 applications in, how many has the Parks Department applied for?

113 BRUTSCHER: We have 35 to 40 applications together with the Department of Fish and Wildlife. We have one for the Parks Department.

115 REP. MARKHAM: Your 35 to 40 applications will cost a lot more than the 900 applications the Fish and Wildlife Department. Is that right, Rod?

117 INGRAM: It depends on how the bill is looked at. If it will take into account the applications now on file, it's about \$3.5 million. If it

only refers to new applications, it's about \$40,000 to \$50,000.

125 BEV HAYES, Department of Water Resources: We haven't taken a position on this bill. Explains instream water right application process.

152 REP. REPINE: It sounds like 600 of the 900 pending applications are from the Department of Fish and Wildlife? 154 HAYES: They're all, most often, from Fish and Wildlife. State Parks did co-sponsor some 30 applications.

159 REP. REPINE: How do you compensate for the free water rights funding?

168 HAYES: That funding comes from the General Fund.

172 REP. REPINE: How much does this cost?

175 HAYES: A rough estimate would be between \$120,000 to \$150,000 over a 2-1/2 year period.

180 REP. REPINE: Is there a better way to estimate the cost to the agency so we can eliminate \$1 million projections?

182 HAYES: The cost to us would be different than the cost to the Department of Fish and Wildlife. If the fee is based on the volume of

water, it would be a lot of money. It would be more reasonable to charge them a flat \$200 fee.

199 DOUG MEYERS, Water Watch: Testifies in opposition of HB 2928.

223 SCOTT ASHCOM, Oregon Association of Nurserymen, Oregon Farm Bureau Association: Testifies in favor of HB 2928. The cost to the Water

Resources Department of processing instream water rights will be approximately \$1,000 each for the early rights. Later, the cost per application will drop to about \$200 each. There is precedent for state agencies being required to pay the fair cost of processing applications for permits.

296 REP. MARKHAM: Why does the Parks Department need that water? Do you understand it?

300 ASHCOM: I can only speculate. The purpose of these rights may be to stop the conversion of non-irrigated land to irrigated land upstream.

320 REP. JOSI: What is the purpose of the additional water?

324 BRUTSCHER: We're trying to provide for public benefit. Instream water rights can provide for us a management target for the departments as we explore greater water use efficiencies, storage, conservation, and

riparian area management. Hopefully, we will eventually supplement flows in the streams and the idea is, that we will have identified flows that would be beneficial to have for instream types of uses.

359 REP. JOSI: Does this tie into the scenic waterway act?

375 BRUTSCHER: Yes, there is a connection with these programs.

399 REP. JOSI: So you've applied for instream rights outside of the scenic river program?

406 BRUTSCHER: I believe that is the case.

TAPE 64, SIDE A

010 REP. JOSI: What was the thinking behind applying in conjunction with the Department of Fish and Wildlife for instream rights?

016 BRUTSCHER: I think that was a means to coordinate our efforts.

021 REP. JOSI: How many applications does Parks and Recreation have?

025 BRUTSCHER: We filed jointly on about 35 to 40, and by ourselves on one.

026 REP. McTEAGUE: Tell us about the one you filed for.

029 BRUTSCHER: We applied for one on the Sandy River because the Sandy River was the heart of the Diack Decision.

047 REP. JOSI: How can this cost you \$2 million?

059 BRUTSCHER: That amount is based on the cost of filing for the flow levels that have been applied for.

065 REP. JOSI: Are you talking about future applications?

066 BRUTSCHER: Yes, there would be applications on all the scenic waterways in the state.

072 CHAIR NORRIS: I think the amounts of water for the three departments are not cumulative, but are all contained in the higher cfs number, is

that correct?

076 HAYES: I think so.

080 OLIVIA CLARK, Department of Environmental Quality: Introduces Neil Mullane.

085 NEIL MULLANE, Department of Environmental Quality: Explains why DEQ would apply for a water right. Has concerns with the bill. Summarizes

testimony in Exhibit L.

118 CLARK: We have not submitted an application yet, but we are preparing to.

125 REP. MARKHAM: Are the fees in the law?

130 CHAIR NORRIS: The fees are in the law currently for out of stream uses. There is no instream filing fee. This is what we're discussing today,

should there be one?

134 JIM MYRON, Oregon Trout: Does not support this bill. Summarizes testimony in (Exhibit M).

153 LARRY HILL, Northwest Sportfishing Industry Association, Oregon

Guides and Packers: The Northwest Sportfishing Industry Association opposes HB 2928. Reads testimony in (Exhibit N).

The Oregon Guides and Packers also oppose the bill. Summarizes testimony in (Exhibit O).

219 CHAIR NORRIS: Closes public hearing on HB 2928.

WORK SESSION ON HB 2928

220 MOTION: REP. REPINE: Moves HB 2928 to the full committee with no recommendation with subsequent referral to appropriations committee.

223 CHAIR NORRIS: Repeats motion.

230 VOTE: On a roll call vote, all members present vote AYE. REPS. HOSTICKA and PETERSON are EXCUSED. REP. BAUM is absent but later

votes AYE.

248 CHAIR NORRIS: The motion CARRIES.

250 CHAIR NORRIS: Closes work session on HB 2928.

260 CHAIR NORRIS: Reopens work session on HB 2928.

262 VOTE: REP. BAUM votes AYE.

263 CHAIR NORRIS: Closes work session on HB 2928.

271 Meeting adjourned at 3:50.

Submitted by:

Reviewed by:

Sue Nichol

Catherine Fitch Clerk Administrator

EXHIBIT LOG:

A - HB 2331 - Preliminary Staff Measure Summary - Catherine Fitch
- 2 pages B - HB 2331 - Fiscal Statement - Catherine Fitch - 2
pages C - HB 2331 - Testimony - Michael Skeels - 4 pages D
- HB 2331 - Amendments - Rod Ingram - 3 pages E - HB 2331 -
Testimony - Rod Ingram - 3 pages F - HB 2331 - Testimony -
Janice Laviolette - 2 pages G - HB 2331 - Testimony - Shirley
Laviolette - 1 page H - HB 2928 - Preliminary Staff Measure Summary
- Catherine Fitch - 2 pages I - HB 2928 - Fiscal Impact
Statement - Catherine Fitch - 2 pages J - HB 2928 - Testimony -
Steven Brutscher - 2 pages K - HB 2928 - Testimony - Rod
Ingram - 2 pages L - HB 2928 - Testimony - Neil Mullane - 2
pages M - HB 2928 - Testimony - Jim Myron - 1 page N -
HB 2928 - Testimony - Larry Hill - 1 page O - HB 2928 - Testimony
- Larry Hill - 1 page