

SENATE COMMITTEE ON AGRICULTURE AND NATURAL RESOURCES

DATE: February 10, 1993 TAPES: 26 - 29 PLACE: Hearing Room C TIME:  
8:00 AM

MEMBERS PRESENT: Senator Ron Cease, Chair Senator Jim Bunn,  
Vice-Chair Senator Joyce Cohen Senator Bob Kintigh Senator Bob Shoemaker  
Senator Gordon Smith Senator Dick Springer STAFF PRESENT: Peter  
Green, Administrator Chris Warner, Research Associate Kus Soumie, Clerk

MEASURES HEARD: SB 113 WRK SB 115 WRK SB 160 WRK SB  
179 PPW SB 186 PPW SB 153 PPW LC INTRODUCTION: LC 2195 LC  
3028 LC 3172

THESE MINUTES CONTAIN MATERIALS WHICH PARAPHRASE AND/OR SUMMARIZE  
STATEMENTS MADE DURING THIS SESSION. ONLY TEXT ENCLOSED IN QUOTATION  
MARKS REPORTS A SPEAKER'S EXACT WORDS. FOR COMPLETE CONTENTS OF THE  
PROCEEDINGS, PLEASE REFER TO THE TAPES.

TAPE 26 SIDE A 005 CHAIR CEASE CALLS MEETING TO ORDER 8:00 AM  
INTRODUCTION OF COMMITTEE BILLS (EXHIBIT A Submitted by Committee Staff)  
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LC 3172 LC 2195 LC 3028

MOTION: Chair Cease asks committee members for objections to  
introduction of bills VOTE: Hearing no objection LC 3172, LC 2195, LC  
3028 INTRODUCED

PUBLIC HEARING ON SB 113

WITNESSES: Laurna Young

036 LAURNA YOUNG, ODOA (Oregon Department of Agriculture), offers  
testimony on background and hand engrossed amendments to SB 113 and  
presents overview of EXHIBIT A.

- cap agreement with industry - recovery cost for collecting fees  
(031.00 to collect \$105.00 [average license fee]) - fee is hoped to be  
sufficiently high to deter individuals' license expiration

063 SEN BUNN: Suggests statutory requirement that says, 'the license  
fees greater than \$100.00 and no more than 30 percent', which give them  
the option but does not say that statutorily they will charge \$1500.00  
fee. 068 CHAIR CEASE: That is reasonable, and we will get that in the  
amendment forum.

072 SEN SHOEMAKER: If we put discretion of 'no more than 30 percent',  
do we also need to do a specific authority of the Department (ODOA) to  
set that penalty? I don't think there is anything in the bill that give  
them that authority.

075 CHAIR CEASE: That is a good point, we will make sure that is the  
case.

PUBLIC HEARING ON SB 115 . These minutes contain materials which  
paraphrase and/or wmmarize 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. Senate  
Agriculture and Natunl Resources February 10, 1993 Page 3

WITNESSES: Phil Ward Steve Sanders

080 PHIL WARD, Assistant Director, ODOA (Oregon Department of Agriculture), offers testimony in clarification of SB 115 and overview of EXHIBIT B (including information requested by committee members at previous meeting).

- estimate 7,000 contracts per biennium to which the \$500.00 hearings might apply if strictly enforced

100 STEVE SANDERS, Oregon Department of Justice, offers testimony on SB 115 , and presents overview of EXHIBIT B.

- discussion and questions from members on contract (as opposed to agreements) detailing information in EXHIBIT B

223 SEN SPRINGER: Are these contracts subject to this law?

237 WARD: Yes. There are many public hearings that we go through.

247 SANDERS: Presents overview of proposed amendments to SB 115 given in EXHIBIT B

259 SEN SHOEMAKER: For the record, are there any past contracts or agreements having any contention at the moment?

263 SANDERS: To my knowledge there are none.

PUBLIC HEARING 179

WITNESSES: Ann Hannis Bill Bradley Dave Stere

280 ANN HANNIS, Assistant State Forester, ODF (Oregon Department of Forestry), offers testimony on SB 179, and presents overview of EXHIBIT C.

298 DAVE STERE, ODF, offers testimony on the bills background, intent and - ~nese minutes contain materials which paraphrase and/or summarize statements made during this session. Only text enclosed in quotation mar~ report a speaker's exact words. For complete contents of the proceedings, please refer to the tapes. Senate Agoculture and Natural Resources Febn~ary 10, 1993 Page 4

suggested amendments to SB 179 and presents overview of EXHIBIT C.

- ORS 164.813 used historically to prevent and deal with theft from forest lands - SB 179 proposes to add 'the bark boughs and needles of Pacific Yew' to existing listing - in three years nearly 3 million pounds of Yew Bark harvested, large portion lawfully - portions harvested by theft need enforcement effort - changes in law supported by BLM and Marion County Sheriff's Office - overview of production processors and process of 'Taxol' (a drug derived from the bark of the Pacific Yew tree) - harvest expected to shift from Federal to private forest lands - new law needed to curb illegal harvesting of Pacific Yew

TAPE 27 SIDE A

005 SEN KINTIGH: On line 19 page 2, the inclusion of the word 'post'

would include all species of Yew?

007 STERE: Yes.

009 WILLIAM BRADLEY, BLM, Forestry Branch Chief, offers testimony on SB 179 . - reads prepared statement (EXHIBIT D) - significant theft of Pacific Yew Bark on BLM land - strict accountability procedures developed in 1992 - need for the ability to stop and inspect vehicles transporting minor forest products is critical tool - BLM supports SB 179 and recommends passage with emergency clause

WORK SESSION ON SB 179 049 CHAIR CEASE: Reads emergency clause and asks for committee's acceptance MOTION: Sen Cease moves that the 'emergency clause' be accepted into SB 179 \_ 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. Senate Agricullurc and Natural Resources February 10, 1993 Page 5 VOTE: Hearing no objection, MOTION CARRIES

054 SEN BUNN: The addition of boughs for different species is confusing and the 'boughs' added in line 20 should not be included because it is already covered.

MOTION: Chair Cease moves the deletion of 'boughs' on line 20 VOTE: Hearing no objection the MOTION CARRIES

059 SEN SPRINGER: Suggests this bill be referred to Judiciary Committee and mentions that the relating clause is inappropriate.

MOTION: Sen Springer moves the amendment of the relating clause in SB 179 - members discuss necessity of amending relating clause

078 SEN COHEN: Now we are talking about the specifics of the Pacific Yew, needles and bark. Is that enough?

MOTION: Sen Kintigh moves SB 179 with deletion of 'boughs' end relating clause to JUDICIARY COMMITTEE DO PASS

VOTE: In a roll call vote the MOTION PASSES 7 - 0 (all members present)  
ACTION: SB 197 (as amended) TO JUDICIARY DO PASS PUBLIC HEARING ON SB 186

WITNESSES: Joel Ario Kim Mingo Greg Miller Joe Speight Gary Lynch

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Mike Miller

134 SEN SPRINGER: This bill came from the interim committee, and there are those here who would like to testify on the bill and propose some possible amendments. (relates to LC 3129) OSPIRG and Rep Beverly Stein have been working on this bill. I support their efforts to amend the bill in ways that will make the concept better.

159 SEN COHEN: I think this is an important part that I would urge us

to support. It doesn't put all the civil penalties in areas of operations etc. If the county does manage to bring a case in their local court, then here is an opportunity to make some consequences if the county goes ahead. We don't have jail beds for those who violate in this way, we may want to consider this as a way to go about sanctioning guilty parties. 176 SEN SMITH: Do we have on the books laws relating to what constitutes a crime against natural resources" 180 SEN SPRINGER: Crime relating to public lands or natural resources of the state could include something as offensive as benign as offensive littering, to theft to tampering or destruction of public property. I suggest we also look at adding civil violations since so many of our regulatory agencies have found that rather than prosecuting folks for crimes, it is more appropriate to allow violators due process rights for civil violations without the threat of a criminal sanction.

190 CHAIR CEASE: I think we will have to look at some of these issues.

197 SEN SHOEMAKER: I am wondering if this bill is too narrow in another respect. Does this relate only to public contracts that relate to public lands and natural resources? Disqualifying some kinds of Public contracts and narrow band for disqualifying certain crimes might be taken as explicitly oking all other kinds of crimes. We would not be able to disqualify.

213 SEN BUNN: (Question to Springer) Is the intent to change future behavior? Is this dealing with future convictions or past convictions? Is this to prevent future abuses? As I read it, if you were guilty of trespassing on state property, that could mean for the remainder of your life as a contractor, you could be disqualified.

239 SEN SPRINGER: This is primarily a deterrent.

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369 KIM MINGO, AGC (Associated General Contractors), offers testimony on SB 186 .

- AGC is not opposed to the bill - violators should not be allowed to profit from their crimes - language regarding types of crimes needs specificity - suggests language for amendments - AGC has not seen and thus will not comment on proposed amendments

394 GREG MILLER, Director, State Timber Purchasers Division, Oregon Forest Industries Council, offers testimony on SB 186, and presents overview of EXHIBIT F.

- state forest and timber service workers support and encourage stiff criminal and civil penalties for people and companies that violate Oregon Resource laws - Oregon Forest Practices Act already has stringent requirements for operators - language in bill is vague and ambiguous - many terms need definition

TAPE 26 SIDE B

005 MILLER: Continues testimony and overview of EXHIBIT F

049 SEN COHEN: We will take concerns about forest practices into consideration.

056 SEN SPRINGER: How may members of OFIC have been convicted of a crime relating to the public lands or natural resources in Oregon, the United States, or any other state, tribe, country including, and not limited to, a guilty plea or unvacated forfeiture of bail' I would like to have that information.

061 MILLER: No, I do not have that information but I will get it for you.

068 JOE SPEIGHT, ODOT (Oregon Department of Transportation), offers testimony on SB 186, and presents overview of EXHIBIT G.

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080 CHAIR CEASE: Currently, you would have no discretion to disqualify someone who had a previous conviction would you? I understand the bill says 'may'.

087 SPEIGHT: No. The law does not provide for that.

089 GARY LYNCH, DOGAMI (Department of Geology and Mining Industries), offers testimony in support of SB 186.

- discretionary language important - inadequate penalties and field inspection provided incentive for some operators to ignore statutes and rules - SB 186, 63 & 64 will produce a fair integrated approach to reduce or eliminate occurrences targeted in SB 186

098 SEN BUNN: Don't you have the ability to tighten you contracts in cases of abuse you can control it?

101 LYNCH: We do not issue the contract, only a permit for an operator having a contract for a source.

108 MIKE MILLER, Executive Vice President, Associated Oregon Loggers, offers -testimony on SB 186, and requests clarification on the violations enumerated in SB 186.

- AOL does not condone statute violation to cut costs - cutting corners creates unfair competition for other logging businesses - all contractors will eventually commit some type of violation - overview of contentions with SB 186 related to ORS 279 suggests amendments

190 CHAIR CEASE: Sen Springer would like to meet with interested parties call committee to get the time and place for the meeting.

PUBLIC HEARING ON SB 153

WITNESSES: Christine Ervine Mike Grainey Joan Smith Ron Euchus

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Fred Keast Robert Hall Liz Frenkel Margot Beutler Sara Baker-Siford  
Sandra Flicker Tom O'Connor

223 CHRISTINE ERVINE, Director, Oregon Department of Energy, offers testimony on SB 153, and presents overview of EXHIBIT H. - overview of SB 153 provisions and strategies - no additional layers of bureaucracy or staff added SB 153 is response to changing needs - 95 percent of this bill serves to change the words "director" and "department" with the words "commission" - purpose is to include other agencies and interests that might not otherwise participate - collaboration is key to dealing with energy issues

337 MIKE GRAINEY, DOE, offers testimony on SB 153, and presents overview of EXHIBIT H.

338 ERVINE: - continues testimony on SB 153 and overview of EXHIBIT H

TAPE 27 SIDE B

005 ERVINE: - continues testimony on SB 153 and overview of EXHIBIT H. - names department heads sitting on interagency group (Urban Livability Team)

020 SEN COHEN: If we are coordinating energy policy so well, why is this bill needed? How do you plan to separate independent activities of a department having oversight ability and staff that has planning ability, from the citing people. Where is your system of checks and balances?

027 ERVINE: We have made some good starts. We are learning as we go. Future development of checks and balances dependent on this initiative and the initiative and the personalities of people involved. At this time there is a group of people having Senate Agriculture and Natural Resources February 10, 1993 Page 10

commonalities and that may not last. We are looking to address and institutional structure to safeguard future operations.

045 CHAIR CEASE: There is interest in the House in abolishing DEQ. I do not agree with that. At this stage in Oregon, DEQ's activities are more important than ever. What is your relationship with PUC and others? 054 ERVINE: I am aware of the activities of the Futures Committee regarding abolishing DEQ. There is not yet a specific plan.

- energy involved in all that we do and make - many states dismantled agencies when Federal money dried up - monitoring efforts must not be fragmented - biennial plan - multi-agency plan - energy policies neglected due to emphasis on electric utilities - transportation consumes 40 percent of energy budget 235 ERVINE: - SB 153 is a way to strengthen and unify state energy policy to meet new and changing demands

- 247 JOAN SMITH, DOE, Public Utility Commission Member, offers testimony on

SB 153 and gives overview of the commissions position on SB 153. (No written testimony) - PUC supports SB 153 and the creation of a state energy commission - other states' commissions/regulatory bodies studied along with energy issues - establishing of statewide energy policy - consolidation existing functions - provides mechanism for setting of regulatory function overall state energy policy

296 RON EACHUS, DOE, Chair of Public Utility Commission, offers testimony on SB 153, and presents overview of interim activities and Oregon's energy situation.

- consolidation necessary - discussion of energy commission concept - DEQ action is non-threatening to PUC - energy should not be thought of as electricity and gas or what PUC does - energy is father reaching the PUC's regulatory control

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388 SEN SHOEMAKER: Looking at the bill, it seems that all authority DOE has at present is transferred to commission. I don't know what all that authority is. I assume that it is more than citing. I want to know the extent of that and not have to glean it by reading through the statute. Is there overlap between what the commission would do under this bill and what the PUC now does?

TAPE 28 SIDE A

005 EACHUS: - continues testimony on SB 153

- We do not see any overlap - situation was approached with trepidation - did not want to set up a situation similar to that in California Commissioner Smith met with people in California to observe - the commission and PUC constantly battling over authority - we are as ax-officio members on the commission and have the ability to keep the commission and the department apprised of the directions we are going and why we are doing it and of potential authority conflicts.....

- 015 SEN SHOEMAKER: What you said was, ODOE does now appear before the PUC and advocate positions regarding issues before you. When DOE sits on the commission that is establishing rules and directions for DOE it seems to me it seems to me you are getting crosswise.

024 EACHUS: Our purpose of ax-officio is not one of directing policy. But to apprise them of established policies and issues before the commission.

042 SEN SHOEMAKER: As an ax-officio member you are free to engage in discussion, persuasion and everything but the vote.

- discussion continues between Sen Shoemaker and Ron Eachus

070 CHAIR CEASE: Asks for remarks from ERVINE and EACHUS on current

jurisdiction and responsibilities of ODOE and the PUC and their relationship.

074 ERVINE: Mission of the PUC and ODOA given. - PUC function is economic regulation - PUC mission is to assure efficient reliable safe provision of power These minutes contain materials which paraphrase and/or summarize statements made during this session. Only text enclosed in quotation marks repon A speaker's exact words. For complete contents of the proceedings, please refer to the tapes. Senate Agriculture and Natural Resources February 10, 1993 Page 12

- ODOE's position is one of advocacy research planning technical assistance program delivery (through loans tax credits etc.) - all fuels covered (wood-electricity) - covers all portions of the state regulated and public utilities

093 EACHUS: - PUC and ODOE combine efforts to avoid duplication of activities and expertise

105 CHAIR CEASE: We are at the stage where we can not afford to ignore energy policy issues in Oregon.

124 SMITH: This is a heavily regulated industry, where is supply and demand, market place and free enterprise competition?

133 ERVINE: In the past these industries have been monopolies

- things have changed greatly at the Federal level - cogenerators may need to sell extra power - at the state level our duty is to protect the customers - we may consider rate making for "monopolies" of energy PUC encourages all parties to come to the table and discuss - SB 153 support statement

167 EACHUS: Presents overview of relationship of ODOE and PUC and the scopes of each in their respective function.

183 SEN SMITH: Whatever you do to foster the break up of monopoly and encourage free enterprise in the market place is good.

190 CHAIR CEASE: Energy will be a major focus in this committee.

201 SEN SHOEMAKER: I am not opposed to the bill. My questions are simply for probing to get at the issues.

230 JIM ANDERSON, PACIFICORP, offers testimony on SB 153 and overview of the work groups and history of proposed legislation.

- presents concern with the bill (as opposed to the LC draft) - we would like to help and work with the committee and ODOE and PUC - goal is comprehensive state energy plan

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260 FRED KEAST, Manager Regulatory Evaluation for Pacificorp, offers testimony on SB 153, and presents overview of EXHIBIT J. - Pacificorp



opposed to SB 153 - potential to create redundant functions exists in SB 153 305 SEN SPRINGER: Can you tell me how the company arrives at positions on this type of legislation? 326 KEAST: - describes review process for the regulatory division - Committee members and Keast discuss concerns

TAPE 29 SIDE A

005 KEAST: - continues testimony and answers questions from committee members

010 JIM ANDERSON, Pacificorp, gives testimony on SB 153. 052 ROBERT HALL, PGE (Portland General Electric), offers testimony on SB 153 , and gives overview of POE's support and portions opposed. There exists a potential for conflict of interest. - suggests amendments to SB 153 on page 22 and 23

086 CHAIR CEASE: Please put these comments in writing 090 LIZ FRENKEL, Sierra Club, offers testimony on SB 153, and presents overview of EXHIBIT K. 145 FRENKEL: - continues testimony on SB 153

- Sierra Club presents recommendations for language and structure of the bill water resources should be specifically mentioned as one of the agencies -do not want to see one agency ruling over another 185 MARGOT BEUTLER, Solar Energy Association of Oregon, offers testimony in support of SB 153, and presents overview of EXHIBIT L.

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261 LLOYD MARBET, Don't Waste Oregon, offers testimony on SB 153, and presents overview of EXHIBIT M.

- still many questions unanswered - what is the reason for this legislation - what will the provisions in this bill look like - nothing indicates money will be saved - why do away with the present system of checks and balances? - SB 153 similar to what was created by the Nuclear Thermal Citing Council - frustration in observing the Citing Council - state agencies become creatures of their staff - no benefit seen in this legislation - subversive motives- ODOE director's authority questioned  
TAPE 28 SIDE B 005 MARBET: - continues overview of EXHIBIT M

SARA BAKER-SIFORD & SANDRA FLICKER, ORECA (Oregon Rural Electric Cooperative Association) EXHIBIT N Submitted for the record.

020 TOM O'CONNOR, Oregon Municipal Electric Utilities, offers testimony on SB 153, and presents overview of EXHIBIT O.

058 CHAIR CEASE ADJOURNS MEETING AT 10:55 AM

EXHIBIT LOG:

A - Members Information Packet- Staff - 73 pages B - Testimony on SB 115  
- Phil Ward - 20 pages C - Testimony on SB 179 - Stere - 2 pages D -

Testimony on SB 179 - Bradly - 2 pages E - Testimony on SB 186 - Ario - 2 pages F - Testimony on SB 186 - Miller- 4 pages G - Testimony on SB 186 - Speight - 1 pages

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Submitted by:  
Green Assistant

Reviewed by: Kus Soumie  
Administrator

Peter

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