

SENATE COMMITTEE ON AGRICULTURE AND NATURAL RESOURCES

DATE: April 23, 1993 TAPES: 131 and 135 PLACE: Hearing Room CTIME: 8:00 AM

MEMBERS PRESENT: Senator Ron Cease, Chair Senator Jim Bunn, Vice-Chair Senator Joyce Cohen Senator Shirley Gold Senator Bob Kintigh Senator Bob Shoemaker Senator Gordon Smith STAFF PRESENT: Peter Green, Administrator Chris Warner, Research Associate Pamella Andersen, Clerk

MEASURES HEARD: SB 63 SB 1 95 SJM7 SB 1010

EXECUTIVE APPOINTMENTS: Gary Fowles - Natural Heritage Advisory Commission EXECUTIVE REAPPOINTMENTS: Henry Lorenzen - Environmental Quality Commission

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TAPE 131, SIDE A

005 CHAIR CEASE: Calls the meeting to order at 8:30 a.m. - Opens the public hearing on SB 632.

PUBLIC HEARING ON SB 632 WITNESSES: Senator Joan Dukes, District 1 Sue Cameron, Tillamook County Paul Hanneman, Shellfish Industry Tom Johnson, Oregon Health Division Senate Agriculturo and Natural Resources April 23, 1993 Page 2

Rod Ingram, Department of Fish and Wildlife Larry Kraft, Oregon State Police Gail Stater, Lincoln County

010 SENATOR DUKES: Offers testimony in support of SB 632 as the proponent of the bill. - Requests more time to work on the bill. - Cost figures related to the bill are maximum figures.

CHAIR CEASE: There is the question of whether the legislature wants to fund this through the general fund or through fees. - A second issue is where the program should be located. - No one has complained about how the program is being operated.

050 TOM JOHNSON: The Health Division has no comment on the decision to move the program to the Department of Agriculture.

SEN. DUKES: I understand an equipment inventory has been done. - Further information will be available by Wednesday.

062 PAUL HANNEMAN: Offers testimony on SB 632. - The shellfish industry favors, by a large margin, the transfer to the Department of Agriculture. - They would consider fee increases of as much as 100 percent to fund the program.

CHAIR CEASE: Are the proposed fees higher than 100 percent?

HANNEMAN: Some of the fees mentioned would amount to 100 to 200 percent.

090 SUE CAMERON: (introduces EXHIBIT C) Offers testimony on SB 632. - Notes Tillamook County's concerns regarding the bill. - Explains details of contracted health department programs. - Discusses shellfish and the difficulty in harvesting mussels. - Displays a map of Tillamook Bay, explaining what is involved in monitoring the bay. - We do emergency public notification for spills, etc. - We also perform sanitary surveys.

CHAIR CEASE: Do the local health departments currently have a working relationship with the Department of Agriculture?

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CAMERON: No, that would have to be developed. - Community relations is a big issue in Tillamook County. - Various community interests need to be talking together about the bay. - We are concerned we do not have a past history of contractual relations.

155 GAIL STATER: (introduces EXHIBIT D) Offers testimony on SB 632. - Lincoln County is interested in keeping the program alive. - We would like to see the program remain with the Health Division. - In Lincoln County, the program has changed in the last few years. - Shellfish poisoning has closed the coastlines, on occasion, the last few years. - The community expects us to provide communicable disease response. - We have had a Yaquina Bay Task Force working with local industry and the Health Division to develop a plan to maximize harvest and protection. - The Health Division has tried to minimize the effect of closures on the industry. - Noted editorial opinion in his local paper.

226 ROD INGRAM: (introduces EXHIBIT E) Offers testimony on SB 632. - Reviews his written testimony. - Notes the cost of implementation. - The Department of Fish and Wildlife is concerned with their ability to get licenses out by July 1, 1993.

265 LARRY KRAFT: (introduces EXHIBIT F) Offers testimony on SB 632 relative to the estimated costs of enforcing the provisions of the bill. - Our agency spends approximately \$40,000 helping the Health Division enforce the shellfish program. - This cost would increase substantially to cover enforcement of licensing provisions.

264 SEN BUNN: Joins the meeting.

KRAFT: The cost increase is not impacted by where the program is housed. - The increase could bring the biennial cost to \$250,000. - Notes how they would seek to save costs. - Funds have never been allocated for our program.

310 CHAIR CEASE: Closes the public hearing on SB 632. - Opens the work session on SJM7.

WORK SESSION ON SJM7

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322 PAUL HANNEMAN: (introduces EXHIBITS G and H) Offers testimony in support of SJM7. - References Exhibit H. 368 - References Exhibit G written by the Pacific States Marine Fisheries Commission, which he considers the leading west coast source on the impact of marine mammals on fishing.

370 SEN. SHOEMAKER: Joins the meeting.

HANNEMAN: Recommends a simple amendment on how the Department of Fish and Wildlife could transfer authorization back to the states: make SJM7 effective June 30, 1995, on line 25.

405 MOTION: SEN. KINTIGH: Moves to amend SJM7 by adding at the end of line 25, "by July 1, 1995."

HANNEMAN: Other states had language identical to this in their memorials. - I would call those states and report this amendment to them if it is approved here.

433 SEN. COHEN: With respect to funding, I was trying to determine if this should be referred to Ways and Means. - I'm going to be a "no" vote on this bill. - I have grown attached to a colony of sea lions and have watched some of them die by becoming entangled in fishing nets.

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VOTE: CHAIR CEASE: Hearing no objection the amendment is ADOPTED. SEN. SMITH is excused.

042 CHAIR CEASE: Closes the work session on SJM7. - Opens the work session on SB 1008.

WORK SESSION ON SB 1008

070 CHAIR CEASE: Closes the work session on SB 1008. - Opens the public hearing on SB 1010.

PUBLIC HEARING ON SB 1010

WITNESSES: Lynn Lundquist, Oregon Cattlemen's Association Phil Ward, Department of Agriculture

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087 LYNN LUNDQUIST: Offers testimony on SB 1010. - Explains his understanding of the intent of the bill. - The cattlemen believe the parameters of the bill do not go beyond the federal Clean Water Act of 1972. - Cattlemen believe the less regulations, the greater the voluntary approach, the better. - Our position would be the Department of Agriculture overall has more ability to communicate with agriculture than would the Department of Environmental Quality. 115 - In section 5,

the meat of the bill, I would like to have inserted decisions made are done so on the best available scientific information.

136 PHIL WARD: In reference to Mr. Lundquist's proposal on section 5, we believe we could accommodate something of that nature.

151 LUNDQUIST: Section 6 speaks to having the right to go on the lands. - There ought to be some notification before someone could come on your land. - In section 8, relative to civil penalties, those who impose penalties should not be remunerated by those penalties. - In section 9, a person living in the water quality assessment plan area could be assessed a fee of \$200 per year for a number of years even though they may not be part of the problem. - Could that be reduced or eliminated?

191 WARD: We will be presenting an amendment relative to this fee.

LUNDQUIST: We feel the Department of Agriculture would be the better of the two agencies to oversee this program.

SEN. COHEN: Closes the work session on SB 1010. - Opens consideration of executive reappointments.

EXECUTIVE REAPPOINTMENTS

213 HENRY LORENZEN: I have put much thought into accepting reappointment. - My four years have been rewarding. - It is not very attractive to leave something half finished. - Notes specific issues the commission is presently deliberating without a clear resolution.

234 SEN. SMITH: Speaks with approval of Mr. Lorenzen's reconfirmation. - Notes specific qualities he appreciates and respects.

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SEN. SHOEMAKER: Seconds Senator Smith's comments.

261 CHAIR CEASE: What do you see as a resolution to the Portland ?? situation?

LORENZEN: That is a difficult situation. - We worked hard a year and a half ago to enter into a stipulated order, but matters have come to light that have caused that to be reexamined. - Those in eastern Oregon tend to be cynical about environmental issues. - When things become expensive, political pressures mount and zeal for compliance wanes. - I am reluctant to ease those standards.

CHAIR CEASE: The longer we wait, the more difficult and expensive it will be.

301 MOTION: CHAIR CEASE: Moves to recommend to the Senate that it confirm the reappointment of Henry Lorenzen to the Environmental Quality Commission. VOTE: In a roll call vote, all members present vote AYE.

CHAIR CEASE: The motion CARRIES. Senator Smith will carry the reappointment.

CHAIR CEASE: Opens consideration of executive appointments. - Transfers the gavel to Senator Bunn.

EXECUTIVE APPOINTMENTS

348 GARY FOWLES: Notes who he is replacing and who is supporting his participation on the commission. - Explains his interest in serving on the commission - Notes his technical skills gained from college course work and professional experience.

MOTION: CHAIR BUNN: Moves to recommend to the Senate that it confirm the appointment of Gary Fowles to the Natural Heritage Advisory Commission.
VOTE: In a roll call vote, all members present vote AYE. SEN. CEASE is EXCUSED.

CHAIR BUNN: The motion CARRIES. Senator Gold will carry the appointment. - Opens the work session on SB 195.

WORK SESSION ON SB 195

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416 QUINCY SUGARMAN: (introduces EXHIBIT I) Reviews OSPIRG's proposed - amendments to SB 195. - References Exhibit I, the hand-engrossed amendments. - Provides a section-by-section analysis.

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SUGARMAN: Lists what has been eliminated. - No new fees are being initiated. - Lists what programs will be funded. 045 - Lists what is being retained. - Notes the determination of the SWMG task force.

CHAIR CEASE: Rejoins the meeting.

069 SUGARMAN: Continues section-by-section review. - There has been a suggestion to change page 5, line 14, from the amended "30 years" to "3 years." 105 - Recommends fee increases for applicators be used to fund pesticide use reporting.

SEN. COHEN: Asks about the pesticide applicator fee increase.

120 SUGARMAN: Reviews costs in other states for private applicator fees. - It would be up to Ways and Means to determine how to allocate these costs.

CHAIR CEASE: I would like the committee to review these changes so the bill can be addressed next week.

129 SEN. SMITH: I am concerned with the worker protection element. - The related federal law is going into operation and I am anxious to see if that works before I write additional laws.

142 SUGARMAN: Our concern is if a person denied access to information has opportunity to gain that information in a timely manner. - Can we assume absolute compliance, as we have had problems getting information in the past?

CHAIR CEASE: I have asked Senator Smith to meet with the parties and determine how this could be addressed without reference to SB 195. - One major issue is the question of fear, which is a cultural problem. . . .

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- Closes the work session on SB 195. Reopens the work session on SJM7.

WORK SESSION ON SJM7 (continued)

MOTION: SEN. KINTIGH: Moves SJM7 AS AMENDED be sent to the Floor with a DO PASS recommendation. VOTE: CHAIR CEASE: In a roll call vote, SENATORS BUNN, KINTIGH, SMITH and CHAIR CEASE vote AYE.

CHAIR CEASE: The motion CARRIES. Senator Kintigh will carry the bill. - Closes the work session on SJM7. - Reopens the public hearing on SB 1010.

PUBLIC HEARING ON SB 1010 (continued)

188 PHIL WARD: (introduces EXHIBIT J) Offers testimony on SB 1010. - Reviews Exhibit J, the hand-engrossed bill, and why the amendments were made. SEN. BUNN: Poses a hypothetical question regarding a land owner with a lessee who is creating a problem. - Who is held responsible, the land owner or the lessee? 218 WARD: Section 4 defines the term "land owner" to include the position of a lessee. - Our intent is to address the individual responsible for the problem. - Continues review of the hand-engrossed bill. 286 SEN. COHEN: I do not want the civil penalties to go into the Department of Agriculture's appropriated fund. - Proposes to delete lines 7 through 9 and add on line 6 "to be deposited in the State General Fund."

WARD: Our interest is not to become a bounty hunting organization. - Collecting civil penalties is costly.

SEN. COHEN: That is why it should go into the general fund. - It can leave a very bad taste in people's mouths.

322 WARD: That is true, and we are certainly interested in coming to an agreement.

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SEN. BUNN: Offers hypothetical situation with respect to the \$200 maximum on the fee. - Asks whether all the various types of farms will

be impacted by the \$200 maximum formula.

WARD: Yes, they would. - It is difficult to anticipate what the fee structure would be. - We want something that will allow us to differentiate between large and small operations.

SEN. BUNN: Would the assessment be made per farmer, property, location or operation? WARD: It would be assessed per operation.

364 SEN. BUNN: Isn't that putting an unfair burden on the smaller operations? WARD: It could if the entire weight of the program rested on fees. - Notes the Governor's mandated budget includes funding for the implementation of this legislation. - We anticipate that commitment would allow us to maintain reasonable fees.

CHAIR CEASE: You can't run an effective program just on this \$200 fee?

WARD: No, the general fund commitment is critical to the successful implementation of this bill.

393 SEN. BUNN: Does this bill expand current regulations or shift them from DEQ to the Department of Agriculture?

WARD: It is my opinion that under constraints of the federal Clean Water Act, the standards that have been set by the commission can be enforced and met either by this legislation or federal and state law already in place. SEN. BUNN: If we had the funding, DEQ could enforce already existing law, except for the per operation fee?

WARD: That is correct. - Continues review of the hand-engrossed bill at section 12.

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CHAIR CEASE: The notification issue and the issue of best scientific information are suggestions that need to be included in the amendments.

045 SEN. GOLD: Indicates support of Senator Cohen's earlier remarks on civil penalties.

050 CHAIR CEASE: Closes the hearing on SB 1010. - Adjourns the meeting at 9:50 am.

Submitted by: Reviewed by: Pamella Andersen Peter Green
Clerk Administrator

EXHIBIT LOG:

A Information Packet- Committee Staff B Testimony on SB 632 - Sue

Cameron - 2 pages C Testimony on SB 632 - Gail Stater - 3 pages
D Testimony on SB 632 - Rob Ingram - 8 pages E Testimony on SB 632
- Laurence Kraft - 4 pages F Testimony on Reauthorization of the
Marine Mammal Protection Act - Paul Hanneman- 6 pages G Open Letter
to the California Congressional Delegation - Paul Hanneman - 3 pages
H Hand-Engrossed SB 195 - Quincy Sugarman - 16 pages
I Hand-Engrossed SB 1010 - Staff - 4 pages ~

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