

SENATE COMMITTEE ON AGRICULTURE AND NATURAL RESOURCES

DATE: July 23, 1993
TAPES: 256 - 257 PLACE: Hearing Room
C
TIME: 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: HB 2126 HB 2792 HB 2214 HB
3661

[--- 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 256, SIDE A

005 CHAIR CEASE: Calls the meeting to order at 8:18 a.m. -Opens the
public hearing on HB 2126.

PUBLIC HEARING ON HB 2126 - EXHIBIT A & B

WITNESSES: Rod Ingram, Department of Fish and Wildlife Major Roy
Hyder, Department of State Police Ken Evans, Oregon Hunters
Assn., NW Steelheaders Assn.

013 ROD INGRAM, Department of Fish and Wildlife: Presents
testimony in support of HB 2126 (EXHIBIT A).

048 SEN. SHOEMAKER: \$9.50 seems a little steep for someone who fishes
once or twice a year.

INGRAM: You could buy a daily license for \$3.50. -A salmon, steelhead
tag is included with a daily license.

059 MAJOR ROY HYDER, Department of State Police: Presents
testimony in support of HB 2126 (EXHIBIT B).

080 KEN EVANS, Oregon Hunters Assn., NW Steelheaders Assn.:
Testifies in support of HB 2126. -Eight game enforcement officers would
help. -50% of game is taken illegally. -He discusses restoration
enhancement.

CHAIR CEASE: Closes the public hearing on HB 2126. -Opens the work session on HB 2126.

WORK SESSION ON HB 2126

085 MOTION: CHAIR CEASE: Moves HB 2126 to the floor with a do pass recommendation.

SEN. SHOEMAKER: Does the committee wish to consider HB 2126-3 (EXHIBIT C)?

CHAIR CEASE: That's being worked out administratively.

096 VOTE: AYE: Sen. Shoemaker, Sen. Smith, Sen. Cohen, Sen. Kintigh, Chair Cease.

NO: Sen. Bunn.

The motion carries 5 to 1.

CARRIER: Sen. Kintigh.

CHAIR CEASE: Closes the work session on HB 2126. -Opens the public hearing on HB 2792.

PUBLIC HEARING ON HB 2792 - EXHIBIT D

WITNESS: John Chandler, Common Ground and Homebuilders Assoc. 110
CHRIS WARNER: Describes HB 2792-A3 Amendments (EXHIBIT D).

120 CHAIR CEASE: The big issue was section 3.

SEN. SHOEMAKER: What does the bill do without section 3?

WARNER: Changes some of the surveying practices. -It is very limited and only deals with partition plats.

134 JOHN CHANDLER, Common Ground and Homebuilders Assoc.: It's housekeeping and will eliminate some of the jawsticks they will have to burn. -He elaborates.

CHAIR CEASE: The bottom of page 3 is an important piece.

CHANDLER: Yes, that has been an issue of some confusion.

150 SEN. SHOEMAKER: Is there any change to the doctrine of merger?

CHANDLER: Doesn't believe so.

CHAIR CEASE: Closes the public hearing on HB 2792. -Opens the work session on HB 2792.

WORK SESSION ON HB 2792

163 MOTION: Sen. Cohen: Moves to adopt HB 2792-A3 Amendments.

VOTE: CHAIR CEASE: Hearing no objection the motion is adopted.

MOTION: Sen. Cohen: Moves HB 2792 as amended to the floor with

a do pass recommendation.

VOTE: The motion carries unanimously 6 to 0.

CARRIER: Sen. Bunn.

CHAIR CEASE: Closes the work session on HB 2792. -Opens the public hearing on HB 2214.

PUBLIC HEARING ON HB 2214 - EXHIBITS E through G

WITNESSES: John Charles, Environmental Council Fred Hansen, DEQ Jim Whitty, District 47 Jim Craven, American Electronics Association

189 JOHN CHARLES, Environmental Council: Presents testimony in support of HB 2214 (EXHIBIT E). -He presents Strategy to Maintain Compliance (EXHIBIT F).

395 SEN. COHEN: How many people will read this bill who will get the message?

CHARLES: It's not who will read it, it's what the news report will say. -He continues discussing suggested amendments, page 7 of testimony.

TAPE 257, SIDE A

020 SEN. SHOEMAKER: Refers to HB 2214-All Proposed Amendments (EXHIBIT G). -There are no deletions.

CHAIR CEASE: There is a hand-engrossed bill in the testimony.

029 WARNER: -All is from DEQ.

CHAIR CEASE: Fred, this is a drastically different bill than started in the House. -The previous witness says the bill won't do anything. -These proposed amendments are different than he expected. -Will any major changes damage it in the House? -He also wants to ask about proposed amendments that would delete Yamhill and other counties.

060 FRED HANSEN, DEQ: Discusses the requirements of the Clean Air Act. -The emissions have gone down with more efficient vehicles, but will go back up when we have more vehicles on the road. -The House chose not to put the emissions fee in the bill. -We have to have the same level of reductions from other sources if we are going to have the emissions fee. -The House put in other alternatives. -What is in the bill is not less effective than an emissions fee, it is different. -He discusses contingency plans; reformulated fuels.

107 SEN. BUNN: Expanded boundaries provide a small reduction. -Is all of that 1/2 of 1% attributed to Columbia and Yamhill counties?

HANSEN: Yes.

SEN. BUNN: There's no intent to grab an urbanized contiguous community within the tri-county area outside the metro boundary. -The intent is only to go out to Columbia and Yamhill counties?

HANSEN: The 1.1 and .5 numbers were intended to reflect the increased boundary in total. -He elaborates.

SEN. BUNN: Columbia-Yamhill would be less than the .5%?

134 HANSEN: It has to be because some urbanized areas will be picked outside of the current metro boundary.

SEN. BUNN: Would it be anticipated there would be DEQ tests within Columbia and Yamhill counties to deal with those vehicles that would need those inspections?

HANSEN: The idea is to locate test centers where people are located so we can have convenient service for them.

SEN. BUNN: Is that factored in your budget?

HANSEN: Responds.

150 SEN. BUNN: Would you be allowed to begin the inspection program without the new centers?

HANSEN: Our intent is not to have extended testing until the 1995 biennium. -The 1995 Legislature would address those issues. -Between now and that period we need to indicate where those boundaries are, the numbers we'll be able to get and prove them to the EPA.

161 SEN. BUNN: He can't tell his constituents they may or may not be within the boundary, but that he supported the bill anyway.

HANSEN: 38% of the workers in the Carlton and Newberg areas work within the tri-county area. -The concept here is that the ones directly contributing to the air pollution are the ones that need to help reduce the air pollution.

SEN. BUNN: You see Carlton as an urbanized area? HANSEN: Responds.

190 SEN. BUNN: Your testimony last summer indicated pollution level from vehicles decreases after they've been running for a few minutes.

HANSEN: Explains how the catalytic converter works.

SEN. BUNN: How much are we actually accomplishing if these people warm their cars up before they reach the Portland air-shed. -Is it worth the cost to expand it two Columbia and Yamhill counties?

216 HANSEN: Notes the number of vehicles that can't pass the emissions test. -He describes the major sources of pollution. -The issue is the vehicle putting out substantial amounts of pollution while running.

237 SEN. SHOEMAKER: What happens if the plan is not approved?

HANSEN: Responds.

SEN. SHOEMAKER: When must the maintenance plan be put into place? -Are we subject to those now until it's in place?

280 HANSEN: The latter is correct.

SEN. SHOEMAKER: If this isn't approved, we would be in the same spot we are in today?

HANSEN: Yes. -The questionable issue is the speed with which the EPA is to act. -As long as there is a reasonable basis on which this can be approved and there is a contingency plan that automatically goes into place--reformulated fuels--it seems there is a strong likelihood that EPA will approve such a plan.

301 SEN. SHOEMAKER: The may require the contingency plan as a condition of approval?

HANSEN: No. They need to approve a base plan that is expected to achieve standards. -There is a secondary requirement for a contingency plan that may go into place if the base plan doesn't achieve the standards. -They have to be assured the base plan is achievable.

318 JIM WHITTY, District 47: Testifies in support.

344 HANSEN: The industry located within Yamhill and Columbia counties must have offsets to do any form of expansion now. -When the automobile is the cause of the problem, shouldn't they, rather than industry, bear that burden?

374 SEN. COHEN: In regards to Yamhill County and Smurfit and the cogeneration plant--will you require offsets for the CO2? -Will it be under the non-attainment piece?

HANSEN: They would, but not for CO2. That would not impact the Portland metro area. -They are required to have offsets for NOX and VOX emissions.

SEN. COHEN: What about the best available technology?

HANSEN: No, they will not be required because they're outside of the non-attainment area. -They're required to have the offset ratios.

408 WHITTY: An ordinary business located in an attainment area would be required to have the lowest requirement. -Smurfit is impacted negatively by being close to the non-attainment area.

SEN. BUNN: Which ever direction you go doesn't necessarily have an impact on adoption of the strategy by the Federal Government?

432 HANSEN: Responds.

TAPE 256, SIDE B

020 SEN. BUNN: For submitting a maintenance plan and getting approval there isn't an advantage of one or the other? -Is there anything in getting the plan adopted that argues for one over the other?

HANSEN: Responds.

030 SEN. BUNN: You've got inspection facilities in the area, so if you are expanding beyond HillSB oro, wouldn't that argue for extending the boundaries within the tri-county area?

HANSEN: We haven't looked at it enough to determine it. -We will also be relying upon service units, associated with dealerships who will be authorized to operate the program. -When the program is in place, not all state employees will be conducting tests at specific state owned

facilities. -We'll rely on private providers for service. There will be a whole mix of things.

SEN. BUNN: Where does the authority of the inspection program in Jackson County come from?

CHAIR CEASE: That bill that was passed in 1985.

055 SEN. BUNN: Refers to page 4, line 17. -What does that give you in terms of authority? -Can you adjust boundaries?

HANSEN: Responds.

SEN. BUNN: Could you do this without the bill?

HANSEN: Yes; we have existing authority.

066 SEN. SMITH: This is politically dynamite for both parties. -DEQ has the authority to do this anyway.

SEN. BUNN: Thinks the recommendations that came out of the House are political. -If we don't need the language, lets take it out and leave the responsibility with DEQ.

CHAIR CEASE: Give me a sense of the decision to move this from the three counties to the arrangement that's in the bill.

087 HANSEN: Responds.

JIM CRAVEN, American Electronics Association: We are at the mercy of the planners and strategists. -We need to move forward in the process. -Whatever the department needs to get moving is appropriate. -This is based upon population estimates and will be an ongoing process. -We need to recognize this is a flexible process.

126 CHAIR CEASE: You're saying we need a bill? CRAVEN: Yes. -He elaborates. -We will stay at the table after the session.

CHAIR CEASE: When this began in Portland, it was not an easy issue. -It is a very political issue.

153 SEN. COHEN: If we delete specific boundaries, don't we have to make some adjustment to give you authority to expand the boundaries? -Do we need to confirm this for purposes of the EPA plan? -Do we need language that refers to boundaries?

HANSEN: No. He refers to page 5, line 17, subsection (b).

175 CHAIR CEASE: Thinks we need some amendments that take care of the issue as we proceed.

HANSEN: The amendments would be to take out the amendments proposed for section 5. -1974 vehicles need to stay in. -LC could take care of it.

193 SEN. SMITH: Could you comment on John Charles' suggestions?

HANSEN: On page 2, lines 18 - 22?

SEN. SMITH: And the preamble.

203 SEN. BUNN: We also have the language in section 3. -If we changed that to, "those areas within" and specified section 5 (2) (a) and (b) would accomplish the same thing.

CHAIR CEASE: Has no problem for a conceptual approach.

217 HANSEN: To answer Sen. Smith--what areas are their existing authorities and by deleting that it doesn't make any difference versus what are the substantive achievements that will be acquired by that? -We believe the latter is what is at issue. -The trip reduction and parking ratio programs in section 2 and the lawn and garden issues are critical and important strategies that will achieve reductions and will be the basis we can submit our maintenance plan. -The one-year review time is the softest area for us. -We've asked EPA to review this requirement. 242 SEN. SHOEMAKER: Refers to section 5 (2). -Those boundaries are broader than the metro area.

HANSEN: My understanding is there are two places the boundary would be addressed: Subsection (a) and any additional boundaries designated by EQC. -We see that as additive and not replacing.

CHAIR CEASE: We'll have an amendment drafted. -You have a -11 amendment.

HANSEN: That address a number of the issues Mr. Charles raised.

SEN. COHEN: Needs further information on getting an amendment drafted. -She'll support the boundaries as long as we leave the authority within the EQC.

279 SEN. SMITH: Is skeptical of the parking program and the additional bureaucracy that'll create.

SEN. CEASE: Is loath to see the whole thing fall apart.

SEN. SMITH: Agrees. -We need to figure out how to give authority to DEQ to do what we have to do to comply with federal law.

CHAIR CEASE: Agrees. -When we give them authority then we perceive them to run amok because they implement it.

302 SEN. KINTIGH: How do you get reliable figures on lawn and garden equipment?

HANSEN: Responds.

336 SEN. SHOEMAKER: Would it work to delete the specific reference to metro and say, "any vehicle, unless the vehicle is registered within boundaries designated by the EQC".

357 HANSEN: That always has made sense, but he needs to check with LC.

SEN. COHEN: Does not want to muck up any authority.

373 CHAIR CEASE: You are talking about adding to what's in the statute. SEN. SHOEMAKER: He regrets the negative implication that the boundary is to be constricted to the metro area.

CHAIR CEASE: They have the authority to adjust those boundaries.

HANSEN: We will work with LC and come back with some amendments.

CHAIR CEASE: We're talking about additional language.

SEN. SHOEMAKER: Wants to make it clear they have clear authority to adjust the boundaries.

400 SEN. BUNN: It is clear metro is the base. -This bill makes it clear the expansion goes into two particular counties. -That's not a value judgement the legislature needs to make.

CHAIR CEASE: Absolutely. -Lets get an amendment drawn based on that.

TAPE 257, SIDE B

016 REP. WHITTY: FOR THE RECORD: In regards to the trip reduction strategy, we were supporting the 5% for the smaller employer and 10% for the larger employer and we oppose doubling that. -As we develop the strategy by rule we will be seeking ways to eliminate the second stage of the employer trip reduction. -Strategies okayed by the EPA occur regularly. -He will be looking for those as a substitution of employer trip reduction and for the parking ratio as well.

CHAIR CEASE: Closes the public hearing on HB 2214. -Opens work session on HB 2214.

WORK SESSION ON HB 2214

036 MOTION: SEN. COHEN: Moves to delete the reference to Yamhill and Columbia counties with the understanding the commission will deal with boundaries within their authority on page 5.

SEN. SHOEMAKER: Is it your suggestion to delete, "the contiguous urbanized areas of Clackamas, Columbia, Multnomah, Washington and Yamhill counties"?

SEN. COHEN: That was my thought. SEN. SHOEMAKER: If you just delete Columbia and Yamhill you make the problem worse.

050 SEN. COHEN: We could delete the whole piece and they could do what they want to.

SEN. BUNN: Conceptually that could be done in three places. -If we say, "the area described in section 5 (2) (a) and (b)".

055 SEN. COHEN: Would offer Sen. Bunn's comments conceptually.

060 SEN. CEASE: Hearing no objection the motion is adopted.

MOTION: CHAIR CEASE: Moves to adopt HB 2214-11 Proposed Amendments.

067 HANSEN: Describes the amendment.

072 CHAIR CEASE: Hearing no objection the motion is adopted.

CHAIR CEASE: Closes the work session on HB 2214. -Opens the work session on HB 3661.

WORK SESSION ON HB 3661 - EXHIBIT H

087 CHAIR CEASE: Wants to see if we can deal with the Von Lubkin case. -He thinks we understand the retroactivity issue. -Our choice is to approve it, not approve or a possible modification in reference to periodic review.

107 RICHARD BENNER: Describes -A61 amendments, which don't address retroactivity. It leaves that question for you to resolve. -The amendment says that when a comprehensive plan or land use regulation is amended through periodic review or through the post acknowledgement plan amendment process, it becomes effective after it's adopted, depending upon city charters or ordinances that say when an ordinance becomes effective. -This would reverse Von Lubkin and say the new plan provision can be applied to individual land use decisions made under it. -If there is a time gap between the application of the new regulation and the acknowledgement of the new regulation, the jurisdiction would have to apply the statewide planning goals until acknowledgement.

124 CHAIR CEASE: Last night we approved the general reversal of Von Lubkin. -It comes down to retroactivity and the issue of Hood River. -What's this handwritten amendment (EXHIBIT H)?

BENNER: This is language we developed to get at jurisdictions who, in the process of periodic review, have made plan amendments or have adopted new land use regulations. -They've been prevented in adopting new land use regulations by Von Lubkin. -This language reverses Von Lubkin for those jurisdictions that have made plan amendments as part of periodic review.

140 CHAIR CEASE: This issue will arise on the other side if we get a bill through.

MOTION: CHAIR CEASE: Moves to adopt the proposed handwritten amendment.

SEN. SHOEMAKER: Under this amendment, would we be approving anything done pursuant to periodic review amendments which have resulted in changes on the land?

BENNER: Does not believe so.

155 SEN. SHOEMAKER: If we have, then we have denied the citizenry the possible benefits of a stay. -The Conkling amendment bothers me, because there is no possibility of a stay. -If you don't get a stay and go ahead and build according to the amendment you have in place, if you have to go back and look at the effects of the change on the environment, you're able to look at the facts because of the change. -He wants to be sure that under your proposed amendments we're not finessing that and allowing something that has been built to be approved without the possibility of a stay and without the possibility of taking a look of the effect of that on the environment.

175 BENNER: As an example, Clackamas County, in periodic review, is revising it's plan in order to protect aggregate sites and make changes to the plan for those sites. -An appeal was filed under that

plan provision. Clackamas County was prevented from applying the new land use regulations to a potential aggregate site. -If you take this action, Clackamas County would not be prevented from applying the new regulations to the aggregate site. -No development would be started, it changes the plan designation for that site, and the regulations which apply to it.

SEN. SHOEMAKER: Then they would apply the standards of--

BENNER: Under this, the county would apply its unacknowledged plan provisions. -When the county looks at the conditional use permit, it would have to make goal findings, because the plan provision hasn't been acknowledged. -The person who opposes the aggregate operation can appeal the conditional use permit by the county and allege a goal violation.

208 CHAIR CEASE: If we approve this, and based what we approved last night, we'll have taken of the problem. -The Von Lubkin case is still going through the process it's going through.

SEN. SHOEMAKER: There have been no changes on the land that your amendment would retroactively approve without the benefit of any stay.

BENNER: Believes that is the case. -If a land use regulation that applies to the aggregate site is appealed, under the LUBA statute, as long as your in the appeal of that overall regulation, you can seek a stay from LUBA to direct the county--if you can meet the test.

CHAIR CEASE: The Von Lubkin case would continue.

BENNER: This would leave that case alone.

CHAIR CEASE: This amendment would not do anything more to the Von Lubkin issue.

238 VOTE: AYE: Sen. Cohen, Sen. Kintigh, Sen. Shoemaker, Sen. Gold, Chair Cease.

NO: Sen. Smith, Sen. Bunn.

The motion carries 5 to 2.

CHAIR CEASE: Closes the work session on HB 3661. -Adjourns the meeting at 10:00 a.m.

Transcribed by:

Edward C. Klein Assistant

EXHIBIT LOG:

A Testimony on HB 2126 - Rod Ingram - 4 pages B Testimony on HB 2126 - Roy Hyder - 2 pages C Amendments to HB 2126 - Staff - 2 pages D Amendments to HB 2792 - Staff - 1 page E Testimony on HB 2214 - John Charles - 9 pages F Strategy to Maintain Compliance - John

Charles - 1 page G Amendments to HB 2214 - Staff - 1 page H
Hand-Written amendments to HB 3661 - Richard Benner - 1 page I Oregon
State Police Fish and Wildlife Information Packet - Roy Hyder - 19
pages