

SENATE COMMITTEE ON WATER POLICY

March 11, 1993 Hearing Room 137 3:00 p.m. Tapes 17 - 18

MEMBERS PRESENT: Sen. Bill Dwyer, Chair Sen. Bob Kintigh,
Vice-Chair Sen. Wes Cooley

Sen. Frank Roberts Sen. Tricia Smith

MEMBERS EXCUSED: None

STAFF PRESENT: Lisa Zavala, Administrator Pamella Andersen,
Committee Clerk

MEASURES CONSIDERED: LC Draft 3602 SB 92-1 SB 92-2 SB 451

[--- 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 17, SIDE A

004 CHAIR DWYER: Calls the meeting to order at 3:09 p.m. - Introduction of committee bills, indicating neither support nor opposition. - LC 3602 is the only draft.

MOTION: CHAIR DWYER: Moves the committee introduce LC 3602.

014 VOTE: CHAIR DWYER: Hearing no objection the motion CARRIES. SENATORS COOLEY and SMITH are EXCUSED.

PUBLIC HEARING ON SB 92-2 - EXHIBIT A

WITNESSES: Kip Lombard, Oregon Water Resources Congress Doug Myers, WaterWatch Barry Norris, Department of Water Resources

ADMIN. ZAVALA: A work group reviewed this bill. 028 - Lists participants in the work group. - A drafter in the Legislative Counsel office pointed out that one

section of the hand-engrossed 92-1 needed clarification. - Changes as proposed and submitted by Kip Lombard were then drafted as 92-2. - Both are the same except for section 6, subsections 6, 7 and 8. - The intent is very much the same except in subsection 8 of section 6. - We need to make some amendments to that section. - WaterWatch submitted some language which was countered by the Water

Resources Congress. - Agreement has since been reached.

055 SEN. COOLEY: Joins the meeting.

KIP LOMBARD: (introduces EXHIBIT A) Reviews two minor amendments to which agreement has also been made. - On page 2 of hand-engrossed 92-2,

lines 42 and 43, delete the words

"after a permit is approved." - Explains result of the change. - The next change is on page 3, line 7. Strike the word "forfeited"

and include the phrase "subject to forfeiture." - Explains staff's purpose for the next change. 121 - On page 7, we have incorporated by reference the procedures contained on page 5, line 21, for original applications. - Reads notice requirements. After 20 days, action may be taken. - Lists persons who may comment on proposed changes to option

agreements. - All interested parties have agreed to these further changes.

156 CHAIR DWYER: Closes the public hearing. - Opens the work session.

WORK SESSION ON SB 92-2

MOTION: SEN. COOLEY: Moves to ADOPT the SB 92-2 amendments and that SB 92-2 be further amended according to the attachment dated 3-11-93 from the Oregon Water Resources Congress.

VOTE: CHAIR DWYER: Hearing no objection, the amendments are ADOPTED.

SEN. SMITH is EXCUSED.

171 CHAIR DWYER: We will not move the bill to the floor until we see the amended language in the bill.

DOUG MYERS: Consideration needs to be made of the additional amendments recommended by Mr. Lombard.

MOTION: SEN. COOLEY: Moves to ADOPT the following amendment to SB 92-2: on page 2, line 42, delete the words "after a permit is approved." and place a period following "Department."

VOTE: CHAIR DWYER: Hearing no objection, the amendments are ADOPTED.

SEN. SMITH is EXCUSED.

MOTION: SEN. COOLEY: Moves to ADOPT the following amendment to SB 92-2: on page 3, line 7, strike the word "forfeited" and include the phrase "subject to forfeiture." VOTE: CHAIR DWYER: Hearing no objection, the amendments are ADOPTED.

SEN. SMITH is EXCUSED.

190 BARRY NORRIS: Reads into the record the intended meaning of "public health and safety."

ADMIN. ZAVALA: (To Mr. Norris) Did the department make a final

determination on the subject of fees?

NORRIS: We are satisfied as it is now.

CHAIR DWYER: Closes the work session on SB 92. - Opens the public hearing on SB 451.

PUBLIC HEARING ON SB 451 - EXHIBITS B and C

WITNESSES: Scott Ashcom, Oregon Association of Nurserymen Bev Hayes, Department of Water Resources Tom Kline, Department of Water Resources Charles Gehley, Department of Veteran's Affairs

215 SCOTT ASHCOM: (introduces EXHIBITS B and C) Offers testimony on SB 451. - Reviews the need for the bill. - Reviews the concept of imminent domain. - Responsibility of the State to its citizens with respect to providing an adequate supply of water. - Reviews certain writers' comments on this subject. 272 - Notes recent impact on Portland and its citizens from water curtailment. - Basin plans are not plans in reality, but administrative rules which

regulate which uses of water may be made in given areas of a river

basin. 300 - Lists results of the combination of inadequate supply and increasing demands. - By not addressing the issue of planning adequate supplies of water,

the State has not met its public trust responsibility to provide an

adequate supply of water for its citizens. - SB 451 would establish a process for planning to eliminate the

degradation of the quality of life for Oregonians. 314 - Reviews the bill provision summary. - The process specifically reaches out to involve federal resource

management agencies. - Critical water availability areas would be identified by the

Commission and storage solutions directed to these areas. - Watershed enhancement projects may be recommended to alleviate supply shortages. - The Commission will identify a priority list for projects to

eliminate supply deficiencies and make recommendations for funding. - The Commission may not adopt this plan by rule but must submit a

report to the 1995 Legislature. - The bill sunsets in June 30, 1995.

CHAIR DWYER: Why did we add non-profit corporations or organizations?

"Organizations" is too broad.

ASHCOM: It was intended that be broad. I hope interested groups would have opportunity to apply for water development loan funds.

369 CHAIR DWYER: Has the fiscal impact been reviewed?

ASHCOM: Yes, I have reviewed the fiscal impact prepared by the

department. - It is a realistic estimate of a bare bones planning process. - It is the Nurserymen's intent to support funding for that when the

time comes.

386 SEN. ROBERTS: Where will they get the 1/2 million dollars?

SEN. SMITH: Joins the meeting.

ASHCOM: I don't think anyone can anticipate the origination of funding for any of the bills proposed this biennium. - We do not intend to eliminate any existing programs. - We believe existing personnel could be employed to develop the plans.

410 SEN. ROBERTS: The mandated budget is already cutting down personnel in the department. - It is facetious to add workload without increasing funding.

ASHCOM: HB 2154 would increase fees to water right applicants. - We have no way of predicting what the Ways and Means Committee will

do. - We would support any add-back funds that might be available during

the last days of the session. - Addresses the definition of "upstream storage." - These areas are almost exclusively in the possession of the federal

government. - A device needs to be created whereby the State of Oregon can

interface with the federal government agencies to solve the water shortage problem.

TAPE 18, SIDE A

ASHCOM: Defines "off-stream storage."

CHAIR DWYER: Are you talking about diversions capturing water on high water months?

ASHCOM: That is correct.

019 CHAIR DWYER: The objectives are well served. The question is money. - In terms of priorities before Ways and Means, who knows what will

take place?

ASHCOM: I urge you to pass this bill to Ways and Means. - Since the question is funding, lets talk with them and see if the

funding can be found. - We are talking about an emergency in this State. - We would like to eliminate the emergency rather than react to it.

CHAIR DWYER: Have you seen the LC draft of the fee bill?

ASHCOM: Yes, it appears to be a brilliant measure.

SEN. SMITH: Is there any emphasis on water in the federal government environmental agenda that would cause them to assist states with these types of plans?

ASHCOM: The federal government is involved in water issues; however, with passage of the McKernan Amendment in 1954, Congress specifically stated it would delegate all water responsibility to the states. - The real issue is how to get the federal government to voluntarily cooperate with the State to bring this about. 050 - There is interest, but that revolves around large irrigation districts and large, expensive reclamation projects. - References the map he brought, noting the Willamette Basin projects. - We are more concerned with smaller impoundments and projects. 075 - References the printout he brought that lists the sites already identified in the basins.

CHAIR DWYER: Problems have also been identified. Do you have that printout?

ASHCOM: I don't. That is the purpose of the planning process, to eliminate problem sites.

CHAIR DWYER: You mentioned various projects. They were deficient. They were designed for flood control not to provide water in the summer. - They didn't put any fish ladders on those impoundments which caused a lot of problems.

ASHCOM: I agree. That is why this plan limits this study to up-stream and off-stream impoundments and watershed enhancement techniques.

SEN. SMITH: Why is conservation not mentioned as part of the management plan?

ASHCOM: There are already conservation statutes in effect. - In the 1985 session, the Legislature passed a conservation statute. - It hasn't worked yet because the water users haven't been made aware

of it yet. - Another bill may be coming from the House side that addresses

conservation.

SEN. SMITH: I don't think conservation is being addressed adequately. - I would rather conserve first, and reduce the water we waste. - A plan for conservation statewide should be at the top of the list.

ASHCOM: There was a conservation advisory committee within the

Department of Water Resources for several years. I was a member part of that time. 137 - That committee got off into other areas of water management. - That committee has since been reconstituted, with the new department

manager announcing new appointments. - I hope they make progress toward making conservation a reality. - It is an administrative matter if the existing provisions haven't

worked.

SEN. SMITH: You don't necessarily think the language of the legislation should include conservation language? 154 ASHCOM: We would not oppose addition of such language if that is desirable.

161 BEV HAYES: Offers testimony on SB 451. - Many activities outlined in this bill are already within the

authority of the Water Resources Commission, although additional

funding would be required to implement some of those. - The role of water developer is not one we have played in the past. - The department currently develops basin plans and programs, adopts

statewide policies and has a modest conservation program. - SB 451 provides a centralized approach to addressing water supply

problems which we believe is inconsistent with the local problem

solving model offered in HB 2215. - In the Strategic Water Management Group approach, local councils and

governments have the primary role in planning and preparing action

plans. - The bill requires the commission to develop a comprehensive statewide water management plan; however, the definition of critical water

availability area would encompass most of the state. - The requirements and procedures would be similar to those the

department has used in development of its eight statewide polices,

which required one person a year per policy. 198 - It would take at least five people working full time to develop the plan. - We would be required to do all this within two years, which is,

perhaps, an impossible task.

SEN. SMITH: Did you hear my questions on conservation?

HAYES: Some such language would be acceptable.

SEN. SMITH: Why does SWMG think local governments will develop adequate plans?

224 TOM KLINE: The general emphasis is on locally developed plans that are locally supported and implemented with the expectation that the State

would participate but not direct.

SEN. SMITH: If one local area develops a plan in conflict with a bordering local area, what would happen?

HAYES: Watershed councils would be developed in an area to implement the program rather than having oversight by political entities such as local jurisdictions. - They would deal with a unit of water. - They would develop action plans that apply to more issues, including fish and wildlife habitats, forestry and riparian areas.

248 SEN. SMITH: These councils would then have to interact with all the other impacted governmental agencies?

HAYES: The State would access the watersheds and identify high priority watersheds. We would approach local governments to form a council. - It is a voluntary program on the part of local persons. - We don't anticipate having councils all over the state at once. - Lists two present council areas.

271 SEN. SMITH: I have not noticed a great deal of voluntary effort by local governments on water issues. I don't know if that is the best

approach. - Water will be the environmental issue of this century.

CHAIR DWYER: Do you think this bill tells people what to do?

HAYES: It is a centralized approach. It has the Commission going out, gathering information and developing a statewide plan.

SEN. SMITH: If the house bill passed, how much time would you allow to see if it works? I don't have a lot of confidence in a voluntary approach.

314 KLINE: We haven't discussed that point. - It would be the intent to closely monitor the progress. - If things were going awry, action could be taken at that point.

CHAIR DWYER: Does that bill go to Ways and Means?

HAYES: Yes.

CHAIR DWYER: Are there any budget notes discussing when we "fish or cut bait?" When does the State get the feeling that what has been put in place is working or not?

HAYES: I would like to take that back to our working group. We are looking at it in a "pilot project" sort of way.

348 CHARLES GEHLEY: Offers testimony on SB 451. - Notes his agency has over 7000 farm loans, over 3500 of which have

water rights. - Explains how they will be impacted by this bill.

CHAIR DWYER: We will add amendments to include conservation and your

department. - Closes the hearing. 363 - Adjourns the meeting at 4:03 p.m.

Submitted by,

Reviewed by,

Pamella Andersen

Lisa Zavala Clerk
Administrator

EXHIBIT LOG:

A Proposed amendments to SB 92, Kip Lombard, one page B
Testimony on SB 451, Scott Ashcom, 2 pages C City Looks to Avoid
Water Torture, Scott Ashcom, 4 pages D Hand-Engrossed SB 92-2,
Committee Staff, 8 pages