

SENATE COMMITTEE ON WATER POLICY

April 20, 1993 Hearing Room 137 3:00 p.m. Tapes 36 - 37

MEMBERS PRESENT: Sen. Bob Kintigh, Vice-Chair Sen. Wes Cooley
Sen. Tricia Smith

MEMBERS EXCUSED: Sen. Bill Dwyer, Chair

Sen. Frank Roberts

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

MEASURES CONSIDERED: SB 805

[--- 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 36, SIDE A

004 CHAIR KINTIGH: Calls the meeting to order at 3:27 p.m. - Opens the public hearing on SB 805.

PUBLIC HEARING ON SB 805 - EXHIBITS A and B

WITNESSES: Kip Lombard, Oregon Water Resources Congress

ADMIN. ZAVALA: Notes corrections to be made in the staff measure summary. - On line 4 of the "backgrounds" section, "persons" should read "board

of directors."

SEN. SMITH: Isn't HB 2550 the implementation of Measure 5?

ADMIN. ZAVALA: Yes.

016 KIP LOMBARD: (introduces EXHIBIT A) Offers testimony in favor of SB 805. - Notes the history of Oregon's original irrigation act. - States the requirement of publication of notice when including or

excluding land from a district. - In 1991, certain changes were made by HB 2550 on the exclusion

process.

048 CHAIR KINTIGH: You can determine you don't want any more water, even if you are in the middle of the district?

SEN. COOLEY: Land that is adjudicated water can be excluded from districts at any time?

LOMBARD: Under the old law, the district has the opportunity to say yes, or no. - The district board of directors could also say they were going to

hold someone in the district.

062 SEN. COOLEY: Does that go along with the fee problem in providing revenue for district maintenance?

LOMBARD: It obviously creates problems for the district if you have too many people trying to exclude. - Very few people want to exclude unless they are going to change the

character of their land. - I am not aware of any districts in the last 10 years that have ever

denied an exclusion. 088 - The relationship to Measure 5 is we took away the board's ability to vote for exclusion. - The real thrust of the bill is to do away with the requirement for

publication of notice of exclusions. - Notes the three statutes that are being repealed and why. - Reviews section 1 and what it accomplishes.

130 SEN. SMITH: Is that consistent with the Water Wonderland court case? My understanding is that you can't charge the property owner.

LOMBARD: We are operating more like a utility; we are providing a service for which we are charging. - The ability to pay to exclude from a district hasn't been tested in

the Oregon Supreme Court. - Discusses "554" corporations. - Irrigation districts are probably considered government units by the

court.

175 SEN. SMITH: Is the purpose of the bill to put the case before the court?

LOMBARD: No. - Section 1 is the only place where we are dealing with any of the

changes made in 1991. - Relates what has happened since 1991.

207 SEN. COOLEY: On page 2, section 5, is that in contradiction to other definitions of "east" and "west" of the border? - Hood River has been included in differing sides in various bills.

222 LOMBARD: I was involved in 3 sessions of reapportionment. - Notes the decisions made in 1991. - Notes some of the conditions the board can add. - Reviews the obligations of the lien which remain to bond holders or

the federal government when property is excluded. 280 - Title reports don't offer specific lien information.

SEN. COOLEY: Real estate representatives should get involved in this

because out-of-state buyers don't understand they can never receive clear title.

LOMBARD: Some of those contracts are for 40 years. - Lending agencies don't pay attention to those liens. - We calculate the amount of the contract owed by that property and put that money up front in a trust account. 349 SEN. SMITH: Would this language allow a board to deny an application?

LOMBARD: No. - Lists the conditions of exclusion. - The district may require persons to provide measures to protect their facilities. - Gives example of protected facilities.

447 SEN. SMITH: Are there cities that have irrigation districts within the city limits?

LOMBARD: Yes. - Gives example in Medford.

TAPE 37, SIDE A

LOMBARD: This will help us to report our water use annually. - It will also help us charge appropriately for the volume of water

delivered. - We do not deliver water to subdivisions within cities very often.

034 SEN. SMITH: This is not water used for human consumption?

LOMBARD: No it is not.

SEN. COOLEY: Reports action by Washington State in 1976 that resulted in subdivisions of 5 or 10 acre lots in the middle of agricultural lands.

050 LOMBARD: All we are saying is if this provision applies, we want the ability to condition the continued delivery of water.

CHAIR KINTIGH: You can't turn them down?

LOMBARD: I don't believe so. - This will also assist our ditch riders in monitoring use.

SEN. SMITH: On subsection 3, if somebody wants to be excluded, and the property owns the water right, what happens to the water right?

081 LOMBARD: Even though the city annexes them, they don't have to relinquish their water right if it can still be delivered. - Some lands in Ashland have water rights even though they are no

longer farms. - If the lot is smaller, the amount of water they are entitled to is

smaller. - The water right is for irrigation, no matter what you are irrigating.

124 CHAIR KINTIGH: As a matter of policy do you encourage exclusion in situations like this?

LOMBARD: Districts I know of encourage exclusion. - Notes the Grants Pass district and what property types they serve.

CHAIR KINTIGH: There is an advantage in that the city does not have to treat water for watering gardens.

LOMBARD: That relates to the question of the Grants Pass district and whether it should continue as an irrigation district or become an adjunct to a municipal system.

151 SEN. SMITH: The purpose of an irrigation district is to make sure we have viable farmland. - If the farmland no longer exists, neither should the irrigation

district.

LOMBARD: We don't have the control to choose the uses of lands in our districts.

SEN. SMITH: I don't foresee this being much of a problem in some parts of the state. - If the land changes to a city or suburban living area, I don't see

the need for a water right or irrigation district.

183 LOMBARD: If the urban services are available, certain services will phase out. - You are really talking about transferring one kind of right for

another. - Notes planning decisions about whether one particular area will get

its principle water supply in whole or in part from a municipal system.

SEN. SMITH: It seems to me that would remove some of the stress on the districts. - If I were a farmer and couldn't get enough water because the guy down the road was dumping it on his front lawn, I would get testy.

218 LOMBARD: Most of the districts other than Grants Pass are predominantly rural. - The land use planning process has allowed people to carve 40 acres

into 5 or 10 acre parcels, however they are still entitled to their

water right. - We are simply trying to reduce the costs for people to get out of

districts and tighten up on monitoring and measuring.

244 CHAIR KINTIGH: WaterWatch says you are trying to make it harder to get out of the districts.

LOMBARD: We are trying to make it easier. - Publication costs are high and we are eliminating those. - The administrative and recording costs are very small. - Under current law, it is much more cumbersome to get out. - Suggests there may be a misunderstanding.

268 CHAIR KINTIGH: (introduces EXHIBIT B) Requests WaterWatch's testimony be submitted into the record.

ADMIN. ZAVALA: References paragraph 3 of Exhibit B.

LOMBARD: They don't understand the exclusion process as it is now.

298 CHAIR KINTIGH: Closes the public hearing on SB 805. - Adjourns the meeting at 4:29 p.m.

Submitted by,

Reviewed by,

Pamella Andersen

Lisa Zavala Clerk
Administrator

EXHIBIT LOG:

A Testimony on SB 805 - Kip Lombard - 4 pages B Testimony on SB
805 - Doug Myers - 1 page