

SENATE COMMITTEE ON WATER POLICY

April 29, 1993 Hearing Room 137 3:00 p.m. Tape 42 MEMBERS PRESENT: Sen. Bill Dwyer, Chair Sen. Wes Cooley

Sen. Frank Roberts Sen. Tricia Smith

MEMBERS EXCUSED: Sen. Bob Kintigh, Vice-Chair

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

TAPE 42, SIDE A

004 CHAIR DWYER: Calls the meeting to order at 3:12 p.m. - Opens the public hearing on SB 805.

PUBLIC HEARING ON SB 805

WITNESSES: Jan Boettcher, Oregon Water Resources Congress Reed Marbut, Department of Water Resources

013 JAN BOETTCHER: Offers testimony on SB 805.

ADMIN. ZAVALA: The first hearing on the bill was held April 20. - Written testimony in opposition to the bill was received from WaterWatch.

CHAIR DWYER: Requests Jan Boettcher review the bill. - Why would we want to impose a charge for land that has not been irrigated?

027 BOETTCHER: The main purpose of the bill noted in section 3(2), is to change the notice procedure for excluding lands. - The bill eliminates hearings. - In response to changes made during the 1991 session, it was necessary to change the words "assessment" and "taxation" to relate

SEN. COOLEY: I thought adjudicated water was attached to the land, creating certain obligations. - Can you transfer that adjudication off?

BOETTCHER: There are two separate situations here: a federal contract resulting from liens placed on land when a federal dam was built and the obligation to beneficially use your water right under state law. - district to pay your future pro-rated share. - Because of Ballot Measure 5, a person doesn't have to keep a service they don't want.

SEN. COOLEY: That would allow a landholder who can't get clear title the ability to do so.

BOETTCHER: Adjudication is a state process and is different from the federal government contract. - The federal contract is for delivering system facilities. - State adjudication deals with the appurtenance a

081 SEN. COOLEY: Does SB 805 affect them both?

BOETTCHER: Yes, because districts are no longer taxing entities, they are more of a cooperative.

CHAIR DWYER: Page 3, line 5, addresses subdividing property. - What happens to water rights when the land is subdivided?

BOETTCHER: The local planning agency would send a petition out to the district for approval. - Gives example of division of a 5 acre parcel. - The district would have to determine what kind of delivery measurement system would be required.

107 SEN. SMITH: That would take place even if the land were no longer in the district? - What happens to the water right of land that

BOETTCHER: The top of page 3, section 4(2) notes exclusions from that language.

SEN. SMITH: Reads the section and discusses exclusion. - In any case where a property owner wants the property excluded from the water district, if the property leaves, what happens to the water right?

BOETTCHER: The water has to be placed somewhere before the land can leave the district. - The district holds the water right in its name as the trustee, but the water right shows the attachment or appurtenance to the property by legal description. - It takes both parties to sign off on a transfer

143 SEN. SMITH: The water right would go with the property that is being excluded and leave the district?

BOETTCHER: No, the water right transfer would occur before the land was excluded. - Water has to be transferred to another piece of land in-stream use or other purposes.

SEN. SMITH: Who decides where the water right goes?

BOETTCHER: The landowner would notify the district they no longer wanted the water right. - Lists various ways the water right could be released.

SEN. SMITH: Does the district have first claim on the water right?

172 BOETTCHER: The district doesn't own any land, but it may have a list of land owners wanting additional water rights.

SEN. SMITH: Can the department say "no" to the transfer if it knows the stream needs the water for fish?

186 REED MARBUT: The process of transfer often has three parties: the federal government, the district and the individual holding the devices. - That is a separate issue from the main thrust of this bill.

228 SEN. SMITH: Can the department require that the water right revert to an in-stream right?

MARBUT: When an individual wishes to be excluded, they can apply for a transfer. - Our department would review such an application with an injury test. - The Department of Fish and Wildlife can testify about the transfer but not take the water away from someone.

280 CHAIR DWYER: If I create 5 exempt lots, do I have to buy water from the district?

BOETTCHER: You don't have to participate if you have another source of water.

SEN. COOLEY: You are limited on the amount of water you can take from your well.

BOETTCHER: You do have to have another source of water even within the district as your source of potable water.

292 CHAIR DWYER: Closes the public hearing on SB 805. - Opens the work session on SB 805.

WORK SESSION ON SB 805

MOTION: CHAIR DWYER: Moves SB 805 be sent to the Floor with a DO PASS recommendation.

VOTE: In a roll call vote, SENATORS COOLEY, ROBERTS and DWYER vote AYE. SEN. T. SMITH votes NO. SEN. KINTIGH is EXCUSED.

CHAIR DWYER: The motion CARRIES. Senator Cooley will lead discussion on the floor. - Closes the work session on SB 805. 306 - Adjourns the meeting at 3:35 p.m.

Submitted by,

Reviewed by,

Pamella Andersen

Lisa Zavala Clerk

Administrator

EXHIBIT LOG:

No exhibits were submitted.