

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.

SENATE COMMITTEE ON
WATER POLICY

May 14, 1991 Hearing Room 137
3:15 p.m. Tapes 61 - 62

MEMBERS PRESENT: Sen. Larry Hill, Chair
Sen. Wayne Fawbush (Arrived 3:30 p.m.)
Sen. Bob Kintigh
Sen. Eugene Timms (Arrived 3:30 p.m.)
Sen. Dick Springer, Vice-Chair

STAFF PRESENT: Lisa Zavala, Committee Administrator
Bernadette Williams, Committee Assistant

MEASURES

CONSIDERED: SB 906 - Establishes Columbia River Bicentennial Commission, WRK

SB 1095 - Establishes Water Quality Fund to be used for removal of solid waste from surface waters, WRK

SB 1080 - Allows domestic water supply districts to exercise powers of sanitary districts and cities in order to protect watersheds, WRK

SB 1147 - Safe Drinking Water Act, WRK

SB 1154 - Directs Strategic Water Management Group to develop comprehensive plan for managing water resources of state, WRK

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TAPE 61, SIDE A

005 CHAIR HILL: Calls meeting to order at 3:25.

(Tape 61, Side A)
SB 906 - WORK SESSION

006 HILL: Opens work session on SB 906.

009 MOTION: SEN. SPRINGER moved that SB 906 be returned to the President's desk pursuant to SR8.50, and that a letter be attached recommending that the subsequent referral to Ways and Means be rescinded.

VOTE: There being no objection, the motion carried. Senators Fawbush and Timms were excused.

MOTION: SEN. SPRINGER moved SB 906 to the floor with a "do pass" recommendation.

VOTE: There being no objection, the motion carried. Senators Fawbush and Timms were excused.

(Tape 61, Side A)
SB 1095 - WORK SESSION

016 HILL: Opens work session on SB 1095.

023 MOTION: SEN. SPRINGER moved SB 1095 to the Ways and Means Committee with a "do pass" recommendation.

VOTE: There being no objection, the motion carried. Senators Fawbush and Timms were excused.

(Tape 61, Side A)
SB 1080 - WORK SESSION
Witnesses: Lisa Zavala, Senate Water Policy Administrator
Tom O'Connor, League of Oregon Cities
Joe Barkofski, Legislative Counsel

033 HILL: Opens work session on SB 1080. Refers to SB 1080-1 amendments and SB 1080-1 hand engrossed measure submitted by staff. (EXHIBIT A and B)

There was a question on the exception in Section 2, Subsection 2 (See Exhibit B). After talking with Legislative Counsel, we found that there didn't need to be an exception.

043 LISA ZAVALA, SENATE WATER POLICY ADMINISTRATOR:
Section 2, Subsection 2 doesn't apply to a district; ORS 448.305 only applies to cities.

051 SPRINGER: How do the cities feel about this? If SB 1080 allows water supply districts to act like a sanitary district or a city in order to protect water quality or watersheds, could the domestic water supply district limit a building permit (i.e. septic tank, drain field, etc.), which could adversely affect the watershed. Is that the intent?

081 HILL: Refers to and summarizes ORS 408.305 (1) and (2). That would be Bull Run.

We want to give this agency the authority to restrict fishing, hunting, camping, hiking, picnicking, trapping, etc. in their watershed or to condition such activities; Subsection 1 does that.

102 KINTIGH: Reads from Peter Thurston's testimony, "the intent of this legislation is to provide the entity responsible for drinking water with the necessary authority to carry out these additional planning, design, construction operation and management functions inside the subject watershed area to protect the water source."

113 HILL: Subsection 2, if left intact, suspends the cities ability to regulate these activities in the watershed. The district would be acting as a city under the statute. We want the district to have the ability to regulate.

125 TOM O'CONNOR, LEAGUE OF OREGON CITIES:
My understanding of ORS 448.305 is that it is the Bull Run provision. Therefore, taking that out would allow this kind of a district to engage in the regulatory activities.

132 HILL: Subsection 2 makes Subsection 1 only applicable to the City of Portland and the Bull Run watershed. We need to suspend Subsection 2 if we want the authority embodied in Subsection 1 to be applicable to the Clear Lake watershed.

Recesses the discussion until Joe Barkofski from Legislative Counsel arrives.

(Tape 61, Side A)
SB 1147 - WORK SESSION
Witnesses: Yvonne Addington, Oregon Economic Development Department (EDD)
Doug Parrow, Water Resources Department (WRD)
Roelin Smith, Economic Development Department
Tom O'Connor, League of Oregon Cities
Bill Young, Water Resources Department
Dave Leland, Health Division

165 HILL: Opens works session on SB 1147.

Refers to fiscal analysis statement for SB 1147 submitted by staff.
(EXHIBIT C)

190 YVONNE ADDINGTON, OREGON ECONOMIC DEVELOPMENT DEPARTMENT
(EDD):
Submits and summarizes written testimony on SB 1147. (EXHIBIT D)

283 HILL: Could we accomplish the 4 percent cap by amending the bill with this language (See question 3 of Exhibit D)?

284 ADDINGTON: Yes.

288 HILL: Is the \$750,000, by virtue of being in the Special Public Works

Fund, already under the
4 percent limit?

290 ADDINGTON: Yes. Continues summary of Exhibit D.

311 SPRINGER: In Hermiston, state lottery funds helped facilitate a water supply for a food processing facility. Was EDD involved in conservation and reuse of the gray water/wash water for irrigation uses? And is that an example of what EDD would look for and encourage, especially in critical water areas?

323 ADDINGTON: The Norpak project was a sewer project where cooling and processing waters were taken to lagoons and used for spray irrigation. We look for that in every project.

342 DOUG PARROW, WATER RESOURCES DEPARTMENT (WRD):
Submits and summarizes written testimony on SB 1147. (EXHIBIT E)

383 SPRINGER: How many counties has the Governor asked for a disaster declaration for drought now? That would add an impetus to the timeline here if asking for federal assistance, because we have exhausted local resources to meet water needs in the drought. Isn't there some way to do it faster than two years from now? How do we assign this a higher priority if we are facing a drought?

396 PARROW: There are two aspects to deal with:

- 1) The timeline for the communities to develop the plans.
- 2) The ability to describe to the communities what our expectations are in terms of developing those plans. We are currently working on what those procedures ought to be.

We could explore increasing the priority, but in light of the budgetary situation I don't think we can proceed much faster.

425 SPRINGER: If we are facing a drought declaration, we ought to get the resources we need as soon as possible; it must be a priority somewhere.

437 PARROW: We do currently have guidelines for water curtailment plans and can move faster on that front.

445 HILL: WRD already has statutory authority to require preparation of conservation plans and installation of water meters.

447 PARROW: Under WRD's general authority to manage water we have the authority to proceed in that direction.

451 SPRINGER: You suggest legislation be drafted to allow the state to respond to a serious health threat prior to submittal of a conservation plan. Would this be an emergency response opportunity?

458 PARROW: Yes. We don't want those communities to be in a position of putting together a shoddy conservation plan; it ought to be a thoughtful analysis of the alternatives.

472 SPRINGER: Does the last paragraph of Exhibit E say that statutory authority would be helpful to require preparation for conservation plans and installation of water meters? I think we ought to do that.

487 TIMMS: Are we basically talking about city plans?

488 PARROW: Yes, that is correct.

TAPE 62, SIDE A

020 TIMMS: In establishing a system for a city to qualify under the Safe Drinking Water Act, what would be a conservation project?

031 PARROW: We contemplate for the community to review its activities relating to leak detection and to make sure they have a good schedule for insuring any leaks are plugged. Also any activities relating to public information encouraging people to conserve.

Meters are the single most effective way to bring municipal water use under control.

043 HILL: You say that current WRD rules require municipal water systems to be metered in order to take advantage of the Water Development Loan Fund. Would that continue to be a condition of the usage of those funds for this purpose? You do not loan money unless the municipal water system is metered?

056 ROELIN SMITH, ECONOMIC DEVELOPMENT DEPARTMENT: That is correct. We have been instructing all the applicants that meters are a requirement.

060 HILL: We need to restate that in statute.

061 ADDINGTON: In the Special Public Works it would say, "If the proposed infrastructure project is for a safe drinking water structure, the applicant shall provide a plan to the Water Resources Department establishing the applicant's plan for the installation of water meters." That same amendment would then go into the Water Resources statute, plus the Safe Drinking Water Act.

070 HILL: This seems to imply that there must be a plan for the

installation of water meters, but it is not a condition of the loan. How is the current rule phrased? Exactly what does the current rule or loan require in terms of metering?

073 SMITH: At this point in time it is not in rule. We plan on including that criteria in the next round of rule making.

086 HILL: EDD is planning to adopt rules to require water meters and conservation plans.

086 SMITH: That is correct.

093 TIMMS: How much money will this cost?

097 ADDINGTON: The estimate is that the \$750,000 will cover two full time employees (one in Health Division and one in EDD). The remaining \$550,00 would be used to buy the issuance cost for about 20 million dollars in bonds.

107 TIMMS: Do you have the bond authority?

107 SMITH: It is in the Executive Department's budget bill for limitation.

111 TIMMS: When will we be able to do that?

112 ADDINGTON: It took about four months to get the last administrative rules in place for the Special Public Works Fund.

117 HILL: Who would adopt the rules on the Safe Drinking Water Fund? EDD?

118 ADDINGTON: Yes. EDD would lead the development and adoption, but in coordination with Health Division, WRD and LCDC in the establishment of the rules.

123 HILL: If EDD adopts rules for the Water Development Loan Fund, there could be an omission when EDD approves the project. We want to make sure that EDD's conservation metering rules are consistent with what WRD is doing.

128 SMITH: We have been working closely with WRD in the rule making process.

132 HILL: We might include language that states that the three agencies shall collaborate in the rulemaking process to insure consistency in administration of the program.

138 ADDINGTON: In the schedule (See EXHIBIT D), it does anticipate that EDD will develop the OARs and coordinate with the other two agencies. WRD will amend their OARs for this statute and coordinate with us.

145 HILL: Maybe it would serve our purpose to say that you shall adopt rules that, as condition of the loan, require metering and require planning for conservation.

147 ADDINGTON: Require metering rather than a plan for metering?

148 HILL: That is what Roelin Smith was talking about in terms of WRD rules.

152 SPRINGER : What was the face value of the bonds? Twenty million dollars?

155 ADDINGTON: That is how much we could pay the issuance cost for. That would be two bond issues and about \$250,000 each for bond attorney's fees, financial counsel, underwriters, discounts and the official statement.

171 HILL: Recesses SB 1147 hearing and reconvenes SB 1080 hearing.

175 JOE BARKOFSKI, LEGISLATIVE COUNSEL:
When we drafted SB 1080 we didn't know precisely what the domestic water supply districts were seeking in the way of new powers. The bill, as drafted, gives them the powers of sanitary districts and those powers relate to sanitary facilities and works. It also gives them the powers of cities in ORS 448.305, which is a broad grant of authority to certain cities to control activities in their watershed areas. That grant of power to cities is limited by ORS 448 .305 (2), which says it only applies to cities that have an agreement with the federal government (Bull Run watershed). As drafted, this doesn't apply to the domestic water supply districts; they are given the full scope of the authority granted by ORS 448.305.

195 HILL: We achieve that with the deletion of Subsection 2?

196 BARKOFSKI: We achieve that by keeping Subsection 2 in saying that the limitation doesn't apply. If you take Subsection 2 out, you've eliminated any grant of authority to the water districts because they would have to have an agreement with the federal government. There is not any express authority providing for these kinds of agreements between federal agencies and water supply districts. You would have a grant of power that is meaningless.

The alternatives would be to remove any reference to ORS 448.305 at all and give them the power under sanitary districts. If there is some activities in their watershed that they want to restrict, an amendment to the bill adding a section to chapter 264, which is the domestic water supply district chapter, and specify just what activities and to what extent they can be regulated by the district.

219 HILL: SB 1080 is constructed to allow only one district to qualify because it must cross the thresholds in the bill.

232 BARKOFSKI: That is correct. Those are conditions on the exercise of the power.

233 HILL: We will go back to the original SB 1080.

244 MOTION: SEN. SPRINGER moved SB 1080, as drafted, to the floor with a "do pass" recommendation.

VOTE: Hearing no objection, the motion carried.

246 HILL: Senator Brenneman will carry the bill.

Reconvenes the work session on SB 1147. Asks for any objections of the members of the idea of directing agencies to work together on conservation and water metering? No objection.

266 TOM O'CONNOR, LEAGUE OF OREGON CITIES:
The League has not opposed requirements for water metering or conservation plans because they are in existing rules.

1) We need to recognize that the more requirements placed for additional expenditures of funds for either plans for meters or meters themselves for the small communities can be a barrier from the use of these funds.

2) To require that small communities do a conservation plan as a condition of this loan is an unnecessary expenditure of funds at a time when WRD has rules in place to do that program. In terms of conservation, for looking ahead and drought situations, the statutes and rules are in place for curtailment plans and programs.

303 KINTIGH: Would it help if we had a floor or ceiling on the number of hookups and below that number would not be required?

313 O'CONNOR: An option would be to phase in the meters over a period of time depending on the size of the project or financial situation of the community.

330 HILL: Are you suggesting flexibility depending upon the city's or municipality's ability to pay and size for the meters?

331 O'CONNOR: Yes.

331 HILL: Metering will save these cities money. We need to help pay for meters if it a hardship, but if we are investing state subsidized funds for loans then it is a good opportunity to ask the cities to upgrade their systems.

345 TIMMS: Before qualifying for a loan, you have to have metering in the program?

349 O'CONNOR: That is my understanding.

350 TIMMS: Under the Clean Drinking Water Act, are we putting ourselves in the situation where we don't have the funding for basic water systems for small cities?

362 O'CONNOR: There could conceivably be some situations with small communities and that could be a problem.

371 TIMMS: The cities that aren't metered are priced out of the process by requiring metering in the overall program, which lessens the amount of monies and bonds available to take care of the problem statewide. Did we create that by putting that in there?

377 BILL YOUNG, WATER RESOURCES DEPARTMENT:
You run that risk and that is the reason why we would encourage putting in something that would require a plan for that metering. We would want plans from everybody we dealt with. We encourage flexibility towards metering.

404 TIMMS: Would it still allow WRD bonding for that project?

404 YOUNG: That is what I would recommend.

408 HILL: Concerned that the plan could go on for years on paper.

412 YOUNG: The policy question is whether or not to get that added certainty of an immediate installation of meters.

419 HILL: It makes sense to require a plan rather than require implementation of full metering. Concerned with monitoring and seeing that cities don't shirk it indefinitely.

443 KINTIGH: In many of the small communities, the amount saved isn't going to be a large amount of water. The primary purpose of the project is to get pure healthy water to the people. But I don't see how it can be done financially for some of the smaller communities.

TAPE 61, SIDE B

016 YOUNG: I don't know how you encourage or prompt a community to exercise water conservation if they have no idea how much water they are using. I am concerned about the potential that a community come before us to fix a well and WRD tells them to do that they must be prepared to undertake the installation of meters.

031 HILL: We need some middle ground to move us towards metering.

047 DAVID LELAND, HEALTH DIVISION, DRINKING WATER SECTION:
Health Division would also be concerned that the whole metering question

might stand in the way of safe drinking water projects. But we are supportive of the idea of conservation and metering in the grand scheme of things.

060 HILL: Can you say on the record that Health Division will have no fiscal impact?

062 LELAND: We won't see a significant fiscal impact from this demonstration level project. We already charge a fee for plan review once the projects come in. Between the position that we will be working out of our office that EDD funds and our existing plan review, that should take care of things.

071 HILL: You can do the primary outreach, develop project proposals aimed at the demonstration program, and can coordinate agreements with DLCD without any additional money? Without additional FTE in your budget?

075 LELAND: Yes, but keep in mind that the position will be working out of our office.

075 HILL: But it will be EDD funded through interagency funding.

Asks Bill Young if the fiscal impact is all EDD impact?

085 YOUNG: That is correct.

085 HILL: Can you do what you need to do without any additional changes to your budget? No FTE?

085 YOUNG: Yes.

088 HILL: The \$202,000 of personal services is for the one FTE that would be loaned to Health?

090 ADDINGTON: Yes and the one in our Department.

091 HILL: Two FTE. Summarizes fiscal analysis statement (See Exhibit B).

Everyone is in agreement with the fiscal aspect of SB 1147. Suggests putting in the narrative of the bill that there have been reports from both WRD and Health Division that there will be no expected fiscal impact.

We are looking for vehicles to try to provide opportunities for the House to consider SB 203.

It would not be a good idea to amend the Cross Connection issue with SB 114 7; we will look for another vehicle to attach it to.

Closes work session on SB 1147.

(Tape 61, Side B)

SB 1154 - PUBLIC HEARING

Witnesses: Bill Young, Water Resources Department
Jerry Schmidt, Association of Realtors
Audrey Simmons, WaterWatch

152 Opens public hearing on 1154. Summarizes intent of SB 1154.

165 YOUNG: Submits and summarizes written testimony on SB 1154. (EXHIBIT F)

204 JERRY SCHMIDT, ASSOCIATION OF REALTORS:

We support the bill. It needs some type of provision for public input.
Line 18 of SB 1154 refers

to the SWMG formulating a plan; language could be inserted that a task
force shall be formed
to gather some public interest. This way special interest groups and the
public could get involved
in the process.

We share WRD's concern of prejudging the outcome. Delete "single agency"
from line 22 of
the bill. A single agency may not be the answer to the consolidation
issue; it may be two or
three agencies.

We have talked with Martha Pagel of the Governor's office and she has
indicated that the
Governor is considering some type of consolidation or review of this
process.

239 TIMMS: There is currently a check and balance system by having the
different departments
responsible for different areas. This bill would take the responsibility
of WRD away by having
SWMG institute plans on water management.

250 YOUNG: The SWMG has 12 - 13 agencies involved, each with some role in
water. I don't
think we are anticipating putting them together in one agency. There may
be, on the other hand,
four or five that could be looked at to see if there activities could be
blended into one agency.

We need the breadth of the SWMG and the process that gives enough
flexibility to bring in users
and other people involved to develop a consensus on water. We need that
interagency effort to
make those judgements.

275 TIMMS: I thought SWMG was there to coordinate all those departments
that are involved in
water; a communication link. We are now moving to giving them more power
over the other
departments.

300 YOUNG: SWMG is a coordinating body. You can't find specific
authorities there to override
judgements of the other agencies. They are there in an effort to sort out
a common solution
between the agencies.

318 TIMMS: This would be a step towards giving SWMG statutory authority; I am against that.

329 AUDREY SIMMONS, WATERWATCH:

We support SB 1154. We believe in bringing water quality and water quantity together. We are inclined to see SWMG as a coordinating body. We are concerned with resting this authority in a body made up of only state agencies. Suggests a Commission be formed of representatives of state government and the public.

376 HILL: Closes public hearing on 1154. Adjourns meeting at 4:50 p.m..

Submitted by: Reviewed by:

Bernadette Williams Lisa Zavala
Assistant Administrator

EXHIBIT LOG:

A - Amendments to SB 1080 - Staff - 1 page
B - Hand Engrossed Amendments to SB 1080 - Staff - 1 page
C - Fiscal Analysis Statement for SB 1147 - Staff - 2 pages
D-Testimony on SB 1147 - Yvonne Addington, EDD - 5 pages
E-Testimony on SB 1147 - Doug Parrow, WRD - 1 page
F-Testimony on SB 1154 - Bill Young, WRD - 1 page