

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.

HOUSE COMMITTEE ON AGRICULTURE, FORESTRY & NATURAL RESOURCES

May 21, 1991 Hearing Room F 8:15 A.M. State Capitol Tapes
112 -114

MEMBERS PRESENT: REP. WALT SCHROEDER, Chair REP. LIZ VANLEEUWEN,
Vice-Chair REP. SAM DOMINY REP. BILL DWYER REP. TIM JOSI REP. JOHN MEEK
REP. CHUCK NORRIS

STAFF PRESENT: BETH PATRINO, Administrator EDWARD C. KLEIN,
Assistant

MEASURES CONSIDERED: SB 752 A - PUBLIC HEARING & WORK SESSION HM1 -
RECONSIDERATION & WORK SESSION SB 81 A - PUBLIC HEARING & WORK SESSION
SB 97 A - PUBLIC HEARING & WORK SESSION SB 143 - PUBLIC HEARING &
WORK SESSION SB 235 A - PUBLIC HEARING & WORK SESSION

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TAPE 112, SIDE A

003 CHAIR SCHROEDER: Calls the meeting to order at 8:19 A.M.

PUBLIC HEARING -- A-ENGROSSED SENATE BILL 752 -- EXHIBITS A & B

Witnesses: Sen. Eugene Timms, District 30 Rod Ingram, Chief, Wildlife
Division, Department of Fish and Wildlife

009 SEN. EUGENE TIMMS, District 30: Testifies in support of SB 752 A.

-Oregon residents should have preference for Oregon hunting tags for
limited entry.

-He is not opposed to SB 752-4, Proposed Amendments to A-Engrossed
Senate Bill 752, dated 5/14/91 (EXHIBIT A).

-It makes sense to limit antelope tags to three percent for out-of-state
hunters.

032 REP. MEEK: What's the current percentage of out-of-state hunters?

SEN. TIMMS: It depends on the limited hunt area.

-Lake County gets a lot of out-of-state hunters and could be as high as

four percent. The state as a whole is about five percent.

-We have so much public land we have to allow out-of-state hunters.

045 REP. VANLEEUEWEN: What do the bordering states allow us to do?

SEN. TIMMS: There are a lot of variables in other states.

REP. MEEK: Are all the tags being filled? Are enough local residents applying for them?

SEN. TIMMS: This is the first season we've had total limited entry east of the mountains.

-Eastern Oregon is a coveted area to hunt, about all the tags are used.

081 ROD INGRAM, Chief, Wildlife Division, Department of Fish and Wildlife: Submits testimony in support of SB 752 A (EXHIBIT B).

-We have no problem with the amendments.

089 REP. DWYER: Are these fees in the amendments the same as the ones that are in the fee bill?

INGRAM: They are the existing fees.

CHAIR SCHROEDER: Another bill has the fee changes.

REP. DWYER: Will be glad to supply the committee with the fees for the other western states.

CHAIR SCHROEDER: Are they higher or lower?

REP. DWYER: They're generally higher.

INGRAM: Even with the increases Oregon would remain in the middle for fees.

-Nevada has some of the highest fees and have reduced their hunters about 50 percent.

108 REP. DOMINY: Where do we fit with our non-resident fees?

INGRAM: We are a little above the middle. The fee bill puts us near the top.

-We are not a large non-resident state.

121 REP. DWYER: The non-resident fees may be higher, but those hunters don't pay a sales tax, so it evens itself out.

CHAIR SCHROEDER: Temporarily closes the Public Hearing.

RECONSIDERATION AND WORK SESSION -- A-ENGROSSED HOUSE MEMORIAL 1 -- EXHIBIT C

By implied consent A-Engrossed House Memorial 1 was reconsidered.

CHAIR SCHROEDER: Opens the Work Session.

130 REP. JOSI: Presents HM1-A2, Proposed Amendments to A-Engrossed House Memorial 1, dated 5/20/91 (EXHIBIT C).

-These amendments take care of some of the environmentalists' concerns and the concerns of the farmers in the Nestucca valley.

141 MOTION: REP. DOMINY: Moves HM1-A2, Proposed Amendments to A-Engrossed

House Memorial 1, dated 5/20/91.

144 REP. NORRIS: What were the objections to "cattle and sheep?"

REP. JOSI: The implication was that we were asking that there be no wildlife refuges in Oregon.

-There was also the implication that willing sellers could only sell their land to a dairy farmer.

CHAIR SCHROEDER: He's willing to back off of his amendment for including cattle and sheep.

REP. DWYER: Calls for the question.

162 VOTE: The motion passes unanimously.

167 MOTION: REP. DWYER: Moves A-Engrossed House Memorial 1 as amended to the Floor of the House with a do pass recommendation.

VOTE: The motion carries unanimously.

CARRIER: REP. JOSI.

PUBLIC HEARING ON A-ENGROSSED SENATE BILL 81 -- EXHIBITS D to F

Witnesses: Jon Mangis, Director, Oregon Department of Veterans' Affairs
Janet Neuman, Director, Division of State Lands

CHAIR SCHROEDER: Opens the Public Hearing.

177 BETH PATRINO: Describes the bill (EXHIBIT D).

185 JON MANGIS, Director, Oregon Department of Veterans' Affairs: Presents testimony in support of SB 81 A (EXHIBIT E).

248 REP. DWYER: Do you want to be able to sell these properties fee simple?

MANGIS: Yes.

REP. DWYER: What gives us the authority to make the law retroactive?

MANGIS: In order to clear these accounts the Attorney General and Division of State Lands have provided the authority.

-He can't quote the citation.

REP. DWYER: Doesn't the constitution prohibit that?

MANGIS: Does not believe so.

259 REP. DWYER: How would you define ex post facto?

MANGIS: Can't.

REP. DWYER: JANET?

262 JANET NEUMAN, Director, Division of State Lands: You can't make laws that take away contract rights. This would be giving additional rights to purchasers that they thought they had.

-The Attorney General looked at that question when the proposed bill was drafted.

CHAIR SCHROEDER: This is not a problem with most property sales. They go fee simple unless mineral rights are reserved?

-You're caught in this because it's land managed by your department?

274 MANGIS: As a rule the mineral rights are maintained and they're managed by the Division of State Lands.

-The profits from any sale of those rights goes to the Common School Fund.

-In this case it is the Oregon War Veterans Fund. As a rule we have retained these rights when property is foreclosed and we sell the property.

-He explains the reasons for the bill (See page 1 and 2 of his testimony).

299 REP. DWYER: How can you assume you own something when the deed is explicit as to what rights are reserved?

MANGIS: On those 61 properties the clause reserving the mineral rights was deleted.

REP. DWYER: There was a mistake in the deed?

MANGIS: One hundred and forty-five mistakes.

REP. DWYER: You want the legislature to correct your mistakes?

MANGIS: We have been approaching the State Land Board as each individual case came up or when the contract was due to pay off.

-The State Land Board directed us to go to the Legislature to get the issue resolved.

REP. DWYER: Have any of the reservations held by Veterans' Affairs shown any value?

NEUMAN: We found \$3.40 worth of oil and gas royalties.

340 REP. NORRIS: The purpose is to authorize the state to relinquish mineral rights?

MANGIS: On these 61 properties.

REP. NORRIS: Would that set ongoing policy in the future that when property was sold the mineral rights would go with the property?

MANGIS: It directs the Department of Veterans' Affairs to work with the Division of State Lands to adopt rules.

-There may be instances where the department wants to maintain the mineral rights and would allow us to retain them.

REP. NORRIS: We would not be establishing a blanket policy, but would work on a case-by-case basis?

MANGIS: We would be working with the Division of State Lands where there are potential mineral rights.

REP. NORRIS: If this bill passes and you sell a foreclosed property you could retain the mineral rights?

MANGIS: As a rule the mineral rights move with the property.

-If we determine there is potential value to the state, we may retain the mineral rights. We would advertise that there would be a reservation of mineral rights.

CHAIR SCHROEDER: You have to say it, otherwise it's free and clear.

MANGIS: Most of properties have been residential properties or properties of five to 10 acres.

-We wouldn't sell property with the reservation of mineral rights until we talk to the Division of State Lands.

438 REP. NORRIS: The private individual pays a substantial sum and takes the responsibility to pay the taxes on the land.

MANGIS: If we believe a property had natural gas resources and the decision was made to retain those rights, the purchaser would be aware they would not have the mineral rights.

-There would be a conscious effort to make the buyer aware.

TAPE 113, SIDE A

017 REP. NORRIS: Why should the state put itself in the oil or mineral business?

MANGIS: The Department of Veterans' Affairs isn't in the oil, gas or gold business.

-The state retained those rights in the past because the profits go to the Common School Funds

-We haven't had any value assigned to the land at this time.

034 REP. MEEK: What's the difference between the War Veterans Fund and the Common School Fund?

NEUMAN: Refers to testimony in support of SB 81 (EXHIBIT F).

-The Senate committee wanted to make sure that we retain properties with

a potential of mineral rights.

-If the state decided to hold the mineral rights it doesn't mean the state would develop them, it means the state would be receiving a portion of the royalties like any other property owner.

118 REP. NORRIS: If the state retained the property rights the developer would be dealing with the Department of Veterans' Affairs who held the mineral rights. What about access on to the surface?

NEUMAN: A problem in selling these properties is that under common law the mineral estate can force some acceptance by the surface owner of some mineral activity.

-Normally access is negotiated with the surface owner.

-The developer is not usually the property owner.

REP. NORRIS: It seems we're muddying the water by saying we may hold the rights to certain property.

142 NEUMAN: We would review all the properties. Only a small proportion would get further review. We wouldn't retain rights on the vast majority.

MANGIS: About 60 percent of our loans are in the Portland metropolitan area. Another 20 percent are in the Salem, Eugene, Grants Pass areas. The remaining 20 percent are scattered throughout the state.

169 NEUMAN: Presents amendments, page 4 of her testimony (EXHIBIT F).

CHAIR SCHROEDER: Closes the Public Hearing.

WORK SESSION -- A-ENGROSSED SENATE BILL 81

CHAIR SCHROEDER: Opens the Work Session.

181 MOTION: REP. DWYER: Moves in A-Engrossed Senate Bill 81, on line 19, after "mineral" insert "and geothermal resources" and on line 20, after "mineral" insert "geothermal".

REP. DWYER: Why did the Senate take this language out?

NEUMAN: We forgot to put it in.

CHAIR SCHROEDER: Hearing no objection the motion passes.

REP. NORRIS: What are the general provisions of the ORS cited in line 5?

NEUMAN: Explains.

224 MOTION: REP. DWYER: Moves A-Engrossed Senate Bill 81 as amended to the Floor of the House with a do pass recommendation.

NEUMAN: The Senate committee told us to make this change.

232 VOTE: The motion carries 5 to 0.

EXCUSED: REP. DOMINY, REP. MEEK.

CARRIER: REP. JOSI.

PUBLIC HEARING -- A-ENGROSSED SENATE BILL 752

Witnesses:Rep. Larry Sowa, District 26 Rod Ingram, Chief, Wildlife Division, Oregon Department of Fish and Wildlife

CHAIR SCHROEDER: Reopens the Public Hearing.

246 REP. LARRY SOWA, District 26: Describes SB 752-4, Proposed Amendments to A-Engrossed Senate Bill 752 , dated 5/14/91 (EXHIBIT A).

300 CHAIR SCHROEDER: The section numbers don't seem to fit.

307 BETH PATRINO: It's a gut and stuff.

REP. SOWA: The amendment does the same thing, we had to add a new section.

319 REP. NORRIS: MR. INGRAM, you testified on HB 2785 that reprogramming the computer would be a massive undertaking.

INGRAM: This amendment fits into our current computer program, a minor adjustment.

CHAIR SCHROEDER: Closes the Public Hearing

WORK SESSION -- A-ENGROSSED SENATE BILL 752

CHAIR SCHROEDER: Opens the Work Session.

348 MOTION: REP. DWYER: Moves to adopt SB 752-4, Proposed Amendments to A- Engrossed Senate Bill 752, dated 5/14/91.

REP. VANLEEuwEN: Refers to page 2, line 2, HB 454-4. Do we always auction for mountain sheep tags?

REP. SOWA: It's an auction or raffle.

REP. DWYER: The raffle depends on luck.

SOWA: We're in the experimental stage on that issue.

-We will continue to experiment to discover the most equitable way to come up with those tags.

385 REP. DWYER: Even with a raffle, the landowner is paid a fee for access to their property.

REP. VANLEEuwEN: You aren't tied to an auction?

REP. SOWA: They don't have to authorize the tag, they can auction, they can raffle or use some other method.

400 INGRAM: Through our controlled hunt process we issued 60 sheep tags.

406 CHAIR SCHROEDER: Hearing no objection the motion passes.

MOTION: REP. DWYER: Moves A-Engrossed Senate Bill 752 as amended to the Floor of the House with a do pass recommendation.

VOTE: The motion carries 6 to 0.

EXCUSED: REP. MEEK.

CARRIER: REP. SOWA.

TAPE 112, SIDE B

PUBLIC HEARING -- A-ENGROSSED SENATE BILL 97 -- EXHIBIT G

Witnesses: Richard Angstrom, Managing Director, Oregon Concrete and Aggregate Producers Association John Beaulieu, Deputy State Geologist, Department of Geology and Mineral Industries Greg Wolf, Assistant Director, Department of Land Conservation and Development Russ Nebon, Association of Oregon Counties

CHAIR SCHROEDER: Opens the Public Hearing.

018 RICHARD ANGSTROM, Managing Director, Oregon Concrete and Aggregate Producers Association: Testifies in support of SB 97 A.

-The bill spells out the manner of coordination between the Department of Geology and Mineral Industries and the cities and counties.

036 JOHN BEAULIEU, Deputy State Geologist, Department of Geology and Mineral Industries: This bill has no relationship to HB 2244.

-He presents testimony in support of SB 97 A (EXHIBIT G).

078 REP. VANLEEUEWEN: One of private industries' problems has been with state agencies taking time to come to a decision.

-Is a longer time better in this case?

BEAULIEU: It is.

REP. VANLEEUEWEN: Even from the standpoint of the person who needs the permit?

BEAULIEU: Explains the current system, which can take 120 or 150 days.

-It's a system where the county and state can't communicate.

-We don't want to change the county deadlines, but we want to deal with the county before we make our decision.

-This makes our process in step with the county process. The time line probably would not change.

103 ANGSTROM: Elaborates on the process.

116 REP. VANLEEUEWEN: Where in the bill is the last point you referred to?

ANGSTROM: Page 2, line 30.

-In present law counties are solely responsible for issuing mining

permits.

-DOGAMI, has exclusive authority for regulating reclamation.

-The counties, at times, will identify conditions related to reclamation. In those cases DOGAMI must include those conditions in their MLR plan.

-From then on reclamation is done under the department program.

138 REP. NORRIS: Does this bill provide for the processing of a specific permit and also on modifying the comprehensive plan to make mining possible?

-Or does it strictly facilitate the issuance of a permit?

BEAULIEU: A mining operation raises environmental-reclamation issues on one hand and land use issues on the other hand.

-The state regulates reclamation.

-The land use issue is handled by the county.

-This bill allows the county and state to work together, rather than having them try to separate these issues.

169 REP. NORRIS: Does the bill make it simpler or more complicated?

BEAULIEU: Neither; it makes it better.

ANGSTROM: It will make it simpler in some cases.

195 REP. VANLEEUEWEN: How does reclamation in this bill relate to HB 2244?

BETH PATRINO: It's totally different.

201 REP. DWYER: Is anybody opposed?

ANGSTROM: Not that he's aware of.

204 GREG WOLF, Assistant Director, Department of Land Conservation and Development Commission: Testifies in support of SB 97 A.

-It will make things better.

220 RUSS NEBON, Association of Oregon Counties: Testifies in support of SB 97 A.

CHAIR SCHROEDER: Closes the Public Hearing.

WORK SESSION -- A-ENGROSSED SENATE BILL 97

CHAIR SCHROEDER: Opens the Work Session.

231 MOTION: REP. VANLEEUEWEN: Moves A-Engrossed Senate Bill 97 to the Floor of the House with a do pass recommendation.

VOTE: The motion carries 5 to 2.

EXCUSED: REP. DOMINY, REP. MEEK.

CARRIER: REP. SCHROEDER.

PUBLIC HEARING -- SENATE BILL 143

Witnesses: Dan Brosnan, Oregon State Police

CHAIR SCHROEDER: Opens the Public Hearing.

257 DAN BROSNAN, Oregon State Police: Testifies in support of the bill.
It is a housekeeping measure.

266 REP. VANLEEUEWEN: You couldn't make arrests or searches on Sunday?

BROSNAN: The statute language is out of date.

-We can make Sunday searches under criminal case law.

-We are removing the reference to searches out of ORS 770.

283 REP. DWYER: Wildlife laws have a special place in statute. The Fourth Amendment doesn't protect you in terms of search and seizure as it relates to wildlife.

CHAIR SCHROEDER: Closes the Public Hearing.

WORK SESSION -- SENATE BILL 143

CHAIR SCHROEDER: Opens the Work Session.

295 MOTION: REP. VANLEEUEWEN: Moves Senate Bill 143 to the Floor of the House with a do pass recommendation.

VOTE: The motion carries 5 to 0.

EXCUSED: REP. DOMINY, REP. MEEK.

CARRIER: REP. DWYER.

PUBLIC HEARING -- A-ENGROSSED SENATE BILL 235 -- EXHIBIT H

Witness: Janet Neuman, Director, Division of State Lands

CHAIR SCHROEDER: Opens the Public Hearing.

317 JANET NEUMAN, Director, Division of State Lands: Presents testimony in support of SB 235 A (EXHIBIT H).

369 REP. NORRIS: This bill is in line with what we've previously done.

REP. DWYER: What's the rule we use in terms of the best value on the land?

NEUMAN: We're supposed to manage in the best interests of the state while conserving the resource for the long-term.

REP. DWYER: There's specific terminology about getting the best return.

NEUMAN: Can't remember the specific terminology.

-We have three different constitutional mandates.

-On our strict trust lands, we are to maximize the financial return.

-On submerged and submersible lands and other lands within the Land Board's jurisdiction, we are to manage them in the best interests of the people of the state.

-This involves a little more balancing so we can help out the sand and gravel industry with a less stringent requirement.

421 REP. VANLEEUEWEN: What does "no contract shall be entered into....", on lines 9 through 12 mean?

-Can't someone have a lease for an option?

NEUMAN: Does not know where that came from.

-This has not been pointed out as a problem by the industry.

-We can do options on other real property.

444 REP. NORRIS: The option could tie it up until the person who wanted to lease it makes it up their mind.

-You can't grant an option to lease or sell.

NEUMAN: It may have been to keep someone from tying it up.

REP. VANLEEUEWEN: She had reservations about the bill, but is more comfortable with the testimony. She trusts the division will be reasonable.

NEUMAN: We will.

-We brought this forward to make things easier for lessees.

CHAIR SCHROEDER: Closes the Public Hearing.

TAPE 113, SIDE B

WORK SESSION -- A-ENGROSSED SENATE BILL 235

CHAIR SCHROEDER: Opens the Work Session.

026 MOTION: REP. DWYER: Moves A-Engrossed Senate Bill 235 to the Floor of the House with a do pass recommendation.

VOTE: The motion carries 5 to 0.

EXCUSED: REP. DOMINY, REP. MEEK.

CARRIER: REP. DWYER.

CHAIR SCHROEDER: Adjourns at 9:46 A.M.

Submitted by: Reviewed by:

Edward C. Klein, Beth Patrino, Committee Assistant
Administrator

Committee

EXHIBIT LOG:

A - Amendments to SB 752 A - Rep. Sowa - 3 pages
B - Testimony on SB 752 A - Rod Ingram - 1 page
C - Amendments to HM1 A - Rep. Josi - 1 page D-SMS/Fiscal/Revenue
impacts for SB 81 A - Staff - 3 pages E-Testimony on SB 81 A - Jon
Mangis - 2 pages F-Testimony on SB 81 A - Janet Neuman - 4 pages
G-Testimony on SB 97 A - John Beaulieu - 2 pages H-Testimony on SB 235 A
- Janet Neuman - 2 pages