

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

June 6, 1991 Hearing Room F 8:15 A.M. State Capitol Tapes
126 - 127

MEMBERS PRESENT: REP. WALT SCHROEDER, Chair REP. LIZ VANLEEUEWEN,
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 1125 A - PUBLIC HEARING and WORK SESSION

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TAPE 126, SIDE A

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

-He discusses having a meeting tomorrow morning.

PUBLIC HEARING ON SENATE BILL 1125 A-ENGROSSED -- EXHIBITS A to G

Witnesses: Paul Ketcham, Senior Planner, 1000 Friends of Oregon Bill Moshofsky, Legal Counsel, Oregonians in Action Mark Liverman, Conservation Director, Portland Audubon Society Liz Frenkel, Sierra Club Neil Mullane, Manager, Standards and Assessments Section, Department of Environmental Quality Jeff Curtis, Oregon Department of Fish and Wildlife Jill Zarnowitz, Oregon Department of Fish and Wildlife

041 CHAIR SCHROEDER: Opens the Public Hearing.

049 REP. MEEK: Who are the amendments from?

CHAIR SCHROEDER: SB 1125-A15, Proposed Amendments to A-Engrossed Senate Bill 1125, dated 6/5/91 (EXHIBIT A) are from OFIC.

-SB 1125-16, Proposed Amendments to A-Engrossed Senate Bill 1125, dated 6/6/91 (EXHIBIT B) are from the Department of Forestry.

-The Draft, dated 6-5-91 (EXHIBIT C) from SB 692 is from REP. DOMINY.

058 PAUL KETCHAM, Senior Planner, 1000 Friends of Oregon: Presents

testimony in support of SB 1125 A (EXHIBIT D).

094 REP. DOMINY: Is this bill with the OFIC amendments better than what we currently have?

KETCHAM: No. Many of their amendments place standards in the statute, which we feel is bad policy.

-Standards are more appropriately decided by the Board of Forestry.

REP. DOMINY: Are you saying the board is more responsible than the legislature?

KETCHAM: No. It's more appropriate for the Legislature to give policy direction to the board and for the board to determine the specifics on how the forest should be managed.

-OFIC would like the minimum number of snags set in statute.

-The printed bill requests a study for the appropriate size of clearcuts and then sets that size in rules.

-OFIC wants the 120 acre limit set in statute.

-There is very little in the record that indicates why 120 acres is an appropriate size limitation.

123 CHAIR SCHROEDER: Asks the committee to stand at ease.

141 KETCHAM: Discusses the scenic provision.

-He discusses cumulative effects.

-This committee adopted a cumulative effects provision in HB 2244.

-He asks the committee to retain section 12, cumulative effects.

165 REP. NORRIS: What do the OFIC amendments do for the state's economy?

-He explains how the printed bill aids the economy.

-State oversight is provided for the harvesting of immature timber.

185 CHAIR SCHROEDER: Why is immature timber being cut?

KETCHAM: Because it is economically desirable in the short-run.

CHAIR SCHROEDER: It's because of the spotted owl.

-They're being forced to cut because the market is so high and they can't get old growth.

-It's the law of unintended consequences.

202 BILL MOSHOFSKY, Legal Counsel, Oregonians in Action: Presents testimony in opposition to SB 1125 A (EXHIBIT E).

330 REP. NORRIS: Do you see this as a taking issue on the potential restrictions of clearcuts? MOSHOFSKY: It's justifiable if clearcuts are

regulated to protect air and water and protect erosion. That's not the real reason they're being regulated.

REP. NORRIS: Is that where you see the taking issue?

MOSHOFISKY: The taking issue is on the scenic easements.

-Small landowners may not be able to adjust to the scenic easements or clearcut restrictions.

REP. NORRIS: What's the specific part of the bill?

350 MOSHOFISKY: ORS 271.715 describes what they are asking the private owner to do in regards to easements.

-We think leaving snags and trees is a taking.

-It is not fair to impose these restrictions on landowners without payment.

385 REP. NORRIS: Are there any tax benefits that accrue to the ownership of timber?

MOSHOFISKY: There are.

-The tax policy has nothing to do with wildlife and scenic benefits.

405 REP. DOMINY: If we don't pass legislation we could have a ballot measure that could tie up forestland.

MOSHOFISKY: That's a defeatist attitude.

-It's time for those that care about the forest industry to rally to its defense.

-In the long run the public is served by sensible management.

-We need education that forests are renewable.

434 REP. DOMINY: If we aren't responsible in figuring out how to manage our forests, the people will take the issue away from us.

MOSHOFISKY: The State of California rejected some of these measures.

-We should be honest and decide what is right and best regardless of the emotions.

-The forest industry has not done as good a job as they should have to explain good forest management.

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029 MARK LIVERMAN, Conservation Director, Portland Audubon Society: Presents testimony in support of SB 1125 A (EXHIBIT F).

067 CHAIR SCHROEDER: You talked about the protection of headwaters.

-Both versions of the bill provide protection of Class 1, 2 and 3 streams.

LIVERMAN: Was referring to proposals that would require a larger no cut buffer.

CHAIR SCHROEDER: Do you support compensating landowners for leaving trees in riparian areas?

LIVERMAN: Disagrees that is a taking.

-It depends on the circumstances of the individual landowners whether or not it is an unreasonable burden to leave those trees.

082 LIZ FRENKEL, Sierra Club: Presents testimony and proposed amendment (EXHIBIT G).

104 REP. NORRIS: Refers to page 21, lines 22 to 25, "Establishment and limitation....", SB 1125-A15 (EXHIBIT A).

-Is this where your concern is?

FRENKEL: Correct.

REP. NORRIS: Refers to page 22, lines 22 to 27. It seems this clearly leaves those standards up to the Environmental Quality Commission.

FRENKEL: The problem is what is a water quality standard and what is an implementation of a water quality standard?

-Should the establishment of that standard be in the hands of the EQC or Board of Forestry?

-She believes this language was acceptable to both parties.

REP. NORRIS: Can still find no problem with the OFIC language.

FRENKEL: You ought to find out why OFIC wants the establishment separate from this agreement.

147 NEIL MULLANE, Manager, Standards and Assessments Section, Department of Environmental Quality: Testifies on section 24.

-He discusses Best Management Practices (BMP).

-"Establishment and" changes the philosophy and intent of section 24.

CHAIR SCHROEDER: Where is that?

MULLANE: Page 25, line 22 (EXHIBIT A).

-We recommend deleting "establishment and".

180 REP. NORRIS: What does the word "establishment" do to line 22, page 25?

MULLANE: This is totally opposite of what we intended this section to read.

200 JEFF CURTIS, Oregon Department of Fish and Wildlife: We support SB 1125 A.

-He discusses the importance of "or restoration" in the A-Engrossed

bill, page 10, line 19.

-Without this language the depressed condition of ocean stocks may continue for some time.

231 CHAIR SCHROEDER: Compare that to the OFIC amendments.

CURTIS: They leave out "restoration."

REP. VANLEEUEWEN: Where?

REP. DWYER: That's on page 11, lines 19 and 24 of the Hand-Engrossed Bill (EXHIBIT B, 6/4/91).

255 REP. VANLEEUEWEN: Where does the landowner fit in when you have to move elk herds?

CURTIS: We're trying to allow the board to provide rules so habitat can restore itself.

REP. VANLEEUEWEN: Does the bill allow or mandate?

CURTIS: The bill would allow restoration.

-We look at this being under the discretion of the Board of Forestry.

281 REP. JOSI: If a resource is maintained it doesn't imply you've maintained it at a damaged level.

-Can you give me an example?

CURTIS: We're concerned with habitat that has been degraded over time.

-The way "overall maintenance" should be interpreted is that as long as there was no additional damage it would be within the meaning of the act.

-In areas where habitat has been damaged we'd like to see additional protection that would allow the habitat to restore itself.

-The current language allows degraded habitat to remain the way it is without being further depressed.

312 REP. JOSI: Does the current Forest Practices Act and the proposed provisions by OFIC degrade streams?

CURTIS: In some instances it would allow further degradation.

331 JILL ZARNOWITZ, Oregon Department of Fish and Wildlife: The combination of minimum standards in the original Forest Practices Act and overall maintenance would allow conditions to be maintained at a much lower level.

-The A-Engrossed bill would allow restoration of habitat.

REP. JOSI: Will we see a degradation of streams with the new provisions that seem to protect soils and streams.

369 CURTIS: Part of that depends on which riparian standards are adopted.

-He discusses cumulative effects.

-We support the Board of Forestry being able to set the size of the clearcuts and being able to set the standards on stream classifications so we can adjust them for different regions of the state.

411 REP. JOSI: Do the new stream classifications do much?

CURTIS: The three-tiered stream classification is a good idea. It depends on how much protection is provided.

REP. JOSI: We're looking at number of provisions that do a lot for stream protection.

-We need to protect streams.

-It seems the bill goes a long way towards stream protection.

CURTIS: The A-Engrossed bill or OFIC amendments?

REP. JOSI: OFIC amendments.

CURTIS: That's a judgement that's appropriate for this committee to make.

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015 REP. DWYER: A lot of factors besides shade determines the temperature of a stream.

CURTIS: Agrees, but the point is if a lot of shade is taken away it can have a significant effect.

REP. DWYER: Restoration as it applies to streams is appropriate. As it applies to the land base and streams it creates a problem.

050 ZARNOWITZ: We feel it also applies to the land base.

-She explains.

REP. DWYER: That's handled in another section of these amendments.

CURTIS: These things are connected. In the A-Engrossed bill the board sets the standards. It is not mandated by law.

072 CHAIR SCHROEDER: If we clear cut an area of old growth where elk and deer live would we have to restore the old growth immediately?

CURTIS: Does not think so.

CHAIR SCHROEDER: If "restoration" is left in it appears it would have to be restored immediately.

ZARNOWITZ: That's an option, not a mandate.

CHAIR SCHROEDER: The way it is written that could be required.

-He closes the Public Hearing.

Testimony on Senate Bill 1125 submitted by NEIL ARMANTROUT is filed as EXHIBIT H.

WORK SESSION -- SENATE BILL 1125 A-ENGROSSED

Witnesses: Ray Wilkeson, Oregon Forest Industries Council John Davis, Chairman, Select Committee on Forest Practices, Oregon Forest Industry Council Charlie Stone, Department of Forestry

CHAIR SCHROEDER: Opens the Work Session.

089 MOTION: REP. MEEK: Moves SB 1125-A15, Proposed Amendments to A-Engrossed Senate Bill 1125, dated 6/5/91.

093 REP. VANLEEuwEN: On page 8, line 29, we should change "shall" to "may".

REP. DOMINY: Could we ask OFIC for their intent?

112 RAY WILKESON, Oregon Forest Industries Council: That was an error in drafting. It should be changed to "may".

MOTION: REP. VANLEEuwEN: Moves on page 8, line 18, delete "shall" and insert "may".

REP. MEEK: That's fine.

REP. VANLEEuwEN: Does that appear any place else?

124 BETH PATRINO: This is a new section and would not affect anything else in the bill.

WILKESON: Refers to page 25, line 22, SB 1125-A15.

-He discusses the insertion of "establishment and".

-We suggest you delete those two words.

157 MOTION: REP. DWYER: Moves on page 25, line 22, delete "establishment and".

CHAIR SCHROEDER: Hearing no objection the motion passes.

167 REP. VANLEEuwEN: Did you find any other omissions or additions?

JOHN DAVIS, Chairman, Select Committee on Forest Practices, Oregon Forest Industry Council: No.

176 REP. NORRIS: Does this bill do any violence to the economy of the forest industry and can you live with it?

DAVIS: Our industry can live with this.

-This is a step forward in the development of forest practices.

-It will have some negative impact on the forest industry.

-We think the gains are worth it.

-We think we've have plugged the loopholes on water quality.

-We do not agree that restoration is a necessary adjunct to what we've done.

209 VOTE: The motion to adopt SB 1125-A15 as amended passes unanimously.

213 REP. DOMINY: Describes Draft, dated 6-5-91 (EXHIBIT C).

REP. DWYER: Supports the amendment.

REP. VANLEEUEWEN: Wants to know what it does.

239 CHARLIE STONE, Department of Forestry: Explains the need for the amendment.

266 REP. DWYER: This is important for a number of reasons.

-Unregulated logging is occurring in urban areas.

-This lays down guidelines on what can and cannot be done.

-The industry has no objections.

283 REP. MEEK: What type of land are we talking about?

300 STONE: This would apply the Forest Practices Act within urban growth boundaries.

-There are lands inside the urban growth boundary that are zoned commercial forestlands.

-He discusses the 100,000 population requirement.

325 REP. MEEK: The Forest Practices Act would apply to any city that had designated forestland?

-This would not apply to land zoned R-10?

STONE: The Forest Practices Act uses a designation of forestland that is regardless of taxation or zoning.

-This would apply to a city or county that have not applied their own regulations where trees are harvested for commercial purposes.

347 REP. MEEK: Will not support the amendment.

STONE: The city or county could adopt different regulations for harvest activities and the Forest Practices Act would not apply.

REP. DWYER: This is an attempt to get at people who make the forest industry look bad.

-This only applies to cities or counties that have no forestry rules.

REP. MEEK: No one from the cities is testifying.

-This should stand alone and not be added to SB 1125.

REP. DWYER: Did any cities testify on this?

STONE: The City of Portland testified in favor of this.

-He lists other cities and counties that support this.

REP. DWYER: Did anybody object?

STONE: No.

392 REP. NORRIS: Presents a scenario of a developer cutting trees for a residential development.

-How would this handcuff the development?

STONE: They would have to apply the Forest Practices Act.

REP. NORRIS: Subject to how many appeals?

STONE: Only if they were within 100 feet of a Class 1 stream or within 300 feet of a sensitive site.

REP. MEEK: What good is it?

STONE: There cannot be unregulated forestry operations within an urban growth boundary.

REP. MEEK: They are going to build houses.

STONE: We would like the cities and counties to make regulations that make sense for the urbanized area.

435 REP. VANLEEUEWEN: Would like OFIC's opinion.

CHAIR SCHROEDER: Then we'd have to have everyone come up.

451 STONE: He discusses some word changes which are included in the written amendments.

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034 VOTE: The motion passes 6 to 1.

NAY: REP. MEEK.

037 CHAIR SCHROEDER: What are the differences between the A15 and A16 amendments?

STONE: There are some word changes.

REP. MEEK: Sections 13 and 14 are different.

REP. DWYER: We can expect errors when we have to rush this process.

054 CHAIR SCHROEDER: Asks CHARLIE STONE to come back at 8:00 A.M. tomorrow.

-He closes the Work Session.

-He adjourns at 9:48 A.M.

Submitted by:

Edward C. Klein, Committee Assistant

EXHIBIT LOG:

A - Amendments to SB 1125 - Ray Wilkeson - 28 pages
B - Amendments to SB 1125 - Fred Robinson - 3 pages.
C - Amendments to SB 1125 - Rep. Dominy - 2 pages D-Testimony on
SB 1125 - Paul Ketcham - 5 pages E-Testimony on SB 1125 - Bill Moshofsky
- 1 page F-Testimony on SB 1125 - Marc Liverman - 1 page G-Testimony on
SB 1125 - Liz Frenkel - 1 page H-Testimony on SB 1125 - Neil Armantrout
- 2 pages