

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 ENVIRONMENT AND ENERGY

February 04, 1991Hearing Room E 1:00 p.m.Tapes 28 - 29

MEMBERS PRESENT:Rep. Parkinson, Chair Rep. Whitty, Vice-Chair Rep. Burton Rep. Courtney Rep. Naito Rep. Norris Rep. Repine Rep. Van Leeuwen Rep. Watt

MEMBER EXCUSED: All members present

VISITING MEMBER:No visiting members

STAFF PRESENT: Kathryn VanNatta, Committee Administrator Andy Sloop, Committee Assistant

MEASURES CONSIDERED: HB 2121 (PUB) HJR 1 (PUB) HB 2078 (PUB)

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TAPE 28, SIDE A

006 CHAIR PARKINSON: Calls the meeting to order at 1:03 p.m. and opens combined public hearing on HB 2121 and HJR 1. Notes that Rep. Courtney is not present and excused.

(Tape 28, Side A) HB 2121 and HJR 1 - PUBLIC HEARINGS Witnesses:David Talbot, State Parks Department Monty Turner, State Parks Department

20DAVID TALBOT, STATE PARKS DEPARTMENT: We are not prepared to get into the details of either of these measures because we have been advised that if we are going to go for general obligation bonding authority, we might as well go for revenue bonding authority also. We're in the process of working with the State Treasurer's Office to get that language together, and we hope to be able to get into more details when we meet with you again. Gives overview of what the Department is and does, and why the Department is approaching the Environment and Energy Committee for bonding authority instead of the Revenue Committee.

>The Parks Department protects states' natural and park resources.

>Local governments generally don't get involved with parks and natural resource issues. However, the federal government is a major player in these areas.

>Parks Department protects and manages historic sites.

>State serves county residents who use state parks resources throughout state.

108 REP. VAN LEEUWEN: Linn County doesn't get as much state parks money as it should, given the amount of recreation land it contains.

116 TALBOT: I don't deny that there are people from outside of that county who use those county resources, but that is kind of the division of labor that has traditionally taken place across the state. That's an oversimplification and there is room for discussion about this.

>We have a system made up of a lot of little parks of relatively modest acreage, and it has been designed and paid for primarily by road users through gas tax money.

(Rep. Courtney arrives 1:12)

>Oregon park system has very high attendance and low cost per visitor.

>The Parks Department manages 50 campgrounds, with more than 5,700 camp sites.

>Revenues from campground fees pay for day-to-day operations of camping facilities, but not capitol investment.

>The Parks Department manages 6,400 picnic sites.

>Oregon has one of the most used park systems in the country.

>The Parks Department receives input from numerous sources, including a seven-member citizen commission and advisory committees. The Department is operated from its Salem headquarters and through five regional offices.

>The parks system includes scenic waterways, the Willamette River Greenway, recreation trails, ocean shores, and historic sites.

>The Parks Department performs some land-use functions in scenic areas.

167 REP. NORRIS: What's your role with respect to management of federal waterways?

173 TALBOT: We advise and influence federal agencies on behalf of Oregon. Our staff is limited in this regard, but we do the best we can. Management of federal and state scenic areas has become quite complex since Sen. Hatfield established the federal scenic river overlay. Continues overview.

>The Parks Department is not in the business of buying and preserving scenic lands. The Department would like to do this, but it's not feasible now.

208 REP. VAN LEEUWEN: The Parks Department owns several pieces of land along the Willamette and hasn't developed them. Instead of thinking

about buying land from Farmer Jones, maybe you should be doing something with what you've got first.

220 TALBOT: I appreciate your comments. The demand for developed parks is not the same now as we anticipate it will be in 2021. We would like to bank some land now and utilize those parcels that we can justify developing now. We don't want to develop facilities simply because we have them and then have to waste the money taking care of them. Continues overview.

>Department manages recreational trails program.

>In the 1960s, the Department set out to establish beach access every three miles. We haven't done a lot of that lately, and there is still a lot to be done in this area.

247 REP. REPINE: Are you telling me that the 225 parks you administer today are so soundly used that they should be maintained, or are there marginal lands that could be dumped?

260 TALBOT: We do have a list of surplus properties that, in our judgement, after careful review, do not have high value for park purposes. We try to use these properties for exchange purposes.

265 REP. REPINE: I'd be interested in seeing a list of properties you've used in negotiations.

270 REP. WHITTY: Some parks may not have high use, but they were gifts and you certainly wouldn't want to give those up, especially if they are low maintenance.

280 TALBOT: I should have noted that the first thing we do before negotiating any property transactions is look at the legal constraints. More than half of the parks in the system are for scenery and are undeveloped. Continues overview.

>The existing tax freeze on historic structures is controversial in light of Measure 5?

300 REP. NORRIS: Do you feel the historic preservation tax advantage is widely abused?

310 TALBOT: There are people who feel the eligibility requirements for this designation are a little on the frivolous side. Properties don't have to be of national historic significance. They can be of local significance.

322 REP. BURTON: Clearly, age alone should not be the primary criteria used to determine if a structure should be preserved, because history is everything that happened until one second ago. The significance of something may be determined down the road. I would like to see criteria for historic designations. Whether there is an abuse of this tax credit is an issue.

346 TALBOT: It's exciting if you look around the state at places like Albany where people have decided it's good business to save some of these places. Outlines funding sources.

>In 1975, most parks money came from highway funds. That has plummeted to near zero, and has been replaced by assorted user fees, plus some

federal money and state general fund monies. Most of our user fees are about average for West Coast public recreation areas.

375 REP. WHITTY: The value of fees depends on what you get.

387 TALBOT: We have had a longstanding fee policy whereby we consciously hold fees down to recover costs, to not exclude anybody from parks and to be mindful of the private sector. The new Parks Commission is leaning toward charging as much as the market will bear. When we set out to replace declining highway dollars, the general fund accounted for about 30 percent of our funding. That is now down to about 17 percent.

TAPE 29, SIDE A

15REP. WHITTY: I'd like to know what RV fees are.

20MONTY TURNER, STATE PARKS: There's a \$36 flat fee, plus \$3 per foot for every foot over 10 feet. Motor homes average about \$100 and campers average about \$47 every three years.

27TALBOT: Our parks are truly choked, particularly in the summer. Park use has gone up faster than department staffing. RV registration and camping fees account for about 50 percent of our funding.

43REP. REPINE: Do you allow mobile homes in state parks? Why do you get money for mobile homes?

57TALBOT: Mobile homes can't fit in state parks. I don't know why we get money for these vehicles, I just accept it gladly and don't ask questions.

66REP. NORRIS: Is there any way to establish a day-use fee?

69TALBOT: Yes. We are exploring that and are trying a pilot. We haven't figured out a way yet to extract money from the day-time scenic lover. This could have a heavy affect on tourism, so we're going real slowly with it.

84REP. WHITTY: Do you have a limit on how long RVs can stay at a campground, or can they just squat?

90TALBOT: We limit RV stays to 10 days in any 14-day period. This is not a serious problem, though. People perceive it to be fair.

97REP. BURTON: Let me get back to your budget. Do you have any deferred maintenance right now, and how much is that? Moreover, where would proposed funding for general obligation bonds come from if it doesn't come from fees? And do we know what parks development and rehabilitation costs and schedule could be?

122 TALBOT: We have a 20-year management plan. We also have a more detailed proposal for the first phase of this program, if it is funded. There's some debate about what constitutes deferred maintenance compared to rehabilitation. The system is in good shape, but rehabilitation is ongoing. Our rehabilitation budget for the 1991-93 biennium is half of what it is for the 1989- 91 biennium. This is not enough to keep our physical facilities up to standards.

134 REP. BURTON: So, when you use the term maintenance here, you're talking about basic maintenance?

138 TALBOT: The maintenance budget includes rehabilitation.

142 REP. COURTNEY: Can you give me some idea of what percent of your campers use tents versus RVs?

145 TALBOT: Tents account for about 40 percent of our campers and this is increasing.

150 REP. COURTNEY: How much does vandalism costs the department?

155 TALBOT: This has never been a problem. We know how to design parks and our campers respect our property.

163 REP. REPINE: It seems like the rest areas along interstate and state highways have become mini parks. Have you tried to tap that as a funding resource, because, in effect, RVs are using those temporary areas for overnight stays?

172 TALBOT: The federal government, which put up 92 cents on the dollar to build those facilities, feel that the public has and is paying fairly for those facilities. There's an 18-hour limit at rest areas.

183 REP. VAN LEEUWEN: I hear people fussing about the complexity of the camping registration and reservation system. You've indicated you are aware of this. How can this system be simplified?

195 TALBOT: We tried to simplify the system and no-shows rose to 15 percent. Our current system has reduced the number of no-shows to near zip. I would welcome suggestions to simplify the system while preserving its efficiency.

205 REP. VAN LEEUWEN: People still complain about the number of out-of-staters. Can you address that?

211 TALBOT: About 45 percent of our campers are from out of state, and Californians account for about 17 percent of the total. For many years, there was a non-resident surcharge of \$2 a night to help support the system. That was much "unloved by everybody." That was eliminated in 1987 and camping fees were increased for everybody to balance the budget.

220 REP. VAN LEEUWEN: I would support a surcharge for out of staters.

225 REP. BURTON: You must have explored the idea of allowing people to use credit cards to secure campground reservations. Why don't you just have people put credit cards against their telephone reservation, and let them know that if they fail to show, they're going to be charged at the minimum rate.

235 TALBOT: I like that idea. I'm informed by field staff that if we allowed telephone reservations, we'd have to have someone answering the telephone consistently.

240 REP. BURTON: Why don't you talk to the Department of Corrections about having inmates accept reservations? They're trying to find those people jobs.

242 TALBOT: I like that option, but it drives cost up. We'll explore it and get back to you. A reservation fee now is \$4 and I don't know

how much it would cost to accept credit card reservations over the phone. I need to mention the economic benefits of a successful parks system. Two-thirds of all visitors to this state visit state parks. We're talking about \$200 to \$300 million of basic -- not roll over -- bucks annually. The 2010 plan calls for a \$203 million program to: take care of existing resources, increase assets, preserve heritage, increase education programs in state parks, tell others about Oregon, increase returns, invest in legacy. The revenue sources for these programs would come from a funding package before this Legislature. This package includes three bills for bonding, a soda pop tax, and a real estate transfer tax. The bonding bill (HJR 1) is before this committee. HJR 1 asks for general obligation bonds and it would require a vote of the people.

273 REP. WATT: What do you expect to hear at public meetings on 2010 this week?

278 TALBOT: About half of the people we've talked to seem to love it and half hate it.

287 REP. NORRIS: The information you have presented says you want to develop five new major parks. Can you explain that? Is that site-specific, or is that just a broad concept right now?

300 TALBOT: It's more of a broad concept, but I'll give you an idea of one of the projects I've been interested in: Government Island. At the tow of the Glen Jackson Bridge, and on up stream, there's a 1,400 acre island owned by the Port of Portland. We are considering establishing a ferry system so that bikers and hikers could get to that island and have a chance to get away to a primitive beautiful place. That's one idea.

343 REP. PARKINSON: What is your intention with these bills?

345 TALBOT: I would prefer to defer until we have more information about the bonding and are prepared to bring amendments to the revenue sections of the bill.

353 REP. PARKINSON: Could you give us some idea of what you have in mind?

359 TALBOT: Washington and California do "enormous" bond issues for parks on a routine basis. This has been a non-traditional means for funding state parks in Oregon because we have had the gas tax in the past. This is presented to you now as a fairly traditional approach for capital improvements. Whether it's right today, with Measure 5, we're not sure. We're not sure what the meaning and constraints associated with measure 5 are yet. If you approve this bill, you would just be providing another alternative so that when you, the Legislature, decide you want to approve funding for parks, you'll have this mechanism.

365 REP. PARKINSON: We do have somebody from the State Treasurer's Office signed up to speak today. Would it be more appropriate for him to speak when you are ready to present your bill?

370 TALBOT: I'm perfectly comfortable with him addressing the committee today, if the committee is so inclined.

391 REP. PARKINSON: I'm not comfortable hearing a presentation from the Treasury Department until after we've heard about the bills, so I'd like to wait on that.

TAPE 29, SIDE B

001 REP. NORRIS: Why did we get your bills?

10TALBOT: I don't know.

20REP. PARKINSON: We'll check this out with the House leadership. It may have something to do with committee work loads.

24REP. VAN LEEUWEN: Mr. Talbot said he's all over the place. Shouldn't those bonding bills be put together? Could we ask committee staff to make sure we are aware of what those other bills are doing?

33REP. PARKINSON: I'm not uncomfortable with the bills, but I'll check with the Speaker's office. Closes hearings on HB 2121 and HJR 1 at 2 p.m. and calls for break. REP. PARKINSON: Reconvenes at 2:16. Opens hearing on HB 2078.

(Tape 29, Side B) HB 2078 - PUBLIC HEARING Witnesses: Art Keil, State Health Division Ray Paris, State Health Division

61ART KEIL, STATE HEALTH DIVISION: Explains the measure (EXHIBIT F)

73REP. WATT: Before we get to far into this, could you explain to me the nature of violations the penalties this bill would apply to?

76KEIL: The Division licenses more than 300 companies statewide that use radioactive materials to make sure that these materials are used in a safe fashion. If one of our on-site inspectors discovers that a company is not operating safely, then we ask that they take steps to comply with our regulations. We offer technical assistance to help companies do this. If, after doing this a number of times, we discover a party that is refusing to comply with safety standards, our only option right now is to revoke their license. If we try this with a very large company, then we run into some major legal obstacles and constraints.

86REP. WATT: Could you be more specific about some of the unsafe uses to which this might apply? I tried to wade through the ORS on this, and I was a little confused about if I were a user, how I would identify practices in my business that might not comply with regulations.

91RAY PARIS, HEALTH DIVISION: An example might be if a user has some radioactive material and loses control of that material such that people receive excess exposure, then we could levy civil penalties.

102 REP. NORRIS: Are we talking about hospitals, X-Ray labs, a nuclear plant, etc.? Are these the kinds of operations that would be licensed?

106 KEIL: Timber companies use radioactive materials, as do some foundries. Continues section-by-section review. (EXHIBIT A) Division rules would place radioactive materials consistent with federal criteria. Both the Nuclear Regulatory Commission and the National Governors Association have recommended that all states adopt the civil penalty provision. Again, we see civil penalties merely as a stop gap, short of having to revoke an operator's license.

125 REP. VAN LEEUWEN: Am I understanding this correctly, that this is one instance in which an agency is trying to be a little more civil?

130 KEIL: If I understand your question correctly, I think the answer is yes. We're hoping that rather than taking a corporation's license, that this would be a stop-gap measure for companies that may not be as responsive as they should be. This gives an alternative to jerking a license.

138 REP. PARKINSON: Does the Health Division use any general fund monies?

140 KEIL: Yes.

146 REP. WATT: Section 2 (2) (e) would be hard for bureaucracy to live up to. In Section 2 (3), I wonder if you would be willing to change some language to give people 20 days notice from the date of receipt, rather than from the date of mailing of the notice, to submit a written application for a hearing?

150 KEIL: We intend to send those notices by certified mail, so that shouldn't be any problem.

155 REP. WATT: Are these fines being introduced to compensate for cuts because of Measure 5?

158 KEIL: The provision we are asking for would allow us to recover legal fees that likely would be incurred in the kinds of instances that would require these kinds of penalties.

167 REP. NORRIS: Who has the authority to cancel a license if the violation is gross enough?

175 KEIL: The administrator of the Health Division.

183 REP. NORRIS: On lines 28 through 30 of the bill, a statement is made about funds that suggests that not everything paid in would be used for administration of this program. Who decides what portion of the expenses actually would be paid for with revenues from these penalties?

194 PARIS: I believe the intent of this is to recover the attorney generals' legal fees only.

199 REP. PARKINSON: The Fire Marshal, I believe, is required to set fees for hazardous materials. For my part, I'm not going to be very supportive of fees unless I know what they are going to be. Do you have a suggested fee schedule yet?

210 PARIS: The maximum would be \$100,000. The intent is to establish this fee schedule through the public hearing process. Right now I don't have a dollar amount for each violation.

217 REP. NORRIS: I think there's a substantial difference between a fee and a penalty. A fee is for doing anything at all, and a penalty is for doing something wrong. I think your maximum penalty is pretty stiff.

225 REP. PARKINSON: Could we have something from you outlining the history behind this request?

231 PARIS: We cite 40 to 50 violations a month and to date we have been able to gain compliance, so to say we have not been able to get compliance because of lack of civil penalties is not the case. There are a few cases where we have had to revoke licenses because we didn't

have sufficient penalties.

255 REP. PARKINSON: If this bill passed and you were given new regulatory authority, would it be kind of like OSHA, where you could go into a facility, note violations and then mail a notice of non-compliance with penalties?

260 PARIS: It is not our intent to do that, but to answer your question, it would be possible for us to do that under the current language in the bill. When we conduct inspections, we issue warnings and provide opportunities to comply. If there isn't compliance, then there would be a penalty.

273 REP. PARKINSON: If we go into work session on this bill, we would need a fiscal impact. How can this be done without a fee schedule?

276 PARIS: We would have to come up with a schedule on which to make estimates for these impact statements.

298 REP. REPINE: What difference would it make to have fines for habitual offenders?

327 KEIL: It's an issue of a set of standards to apply to licensees. We're hoping to have an additional tool to keep negligent corporations from continuing to discharge radioactive materials into the environment even after license revocation.

350 REP. REPINE: I would say the \$100,000 may not give you a very big hammer with big corporations willing to seek a court order to keep operating.

375 KEIL: I can only go back to our history and say: In that rare instance where revoking a license won't take care of a problem, we want to have one more provision.

390 REP. PARKINSON: Do you have authority for civil penalties in other parts of your program?

397 KEIL: I believe we have civil penalties in hospital licensing, but I'd have to check that.

TAPE 29, SIDE B

003 REP. BURTON: I'm trying to figure out how much of a hammer you have here and how much you need. If this is a matter of immediacy and public health and safety, why don't you just shut down the major offenders? Why should you feel embarrassed to shut somebody down?

31KEIL: We hope not to speak specifics, because most of these issues have been resolved. We have made great efforts to get corporations that use radioactive materials to come into compliance.

44REP. BURTON: That is my concern here -- that you might inadvertently use this by assessing the small guy to cover administrative costs. There seems to be a lot of budget balancing out there, so that's just a concern.

55KEIL: Our intent would be to levy across the board. This really came up to deal with the big offenders.

60REP. PARKINSON: Have you ever pursued this before?

62KEIL: Yes. We've investigated this since 1980 but not to the Legislature.

75REP. REPINE: Are licenses based upon the size of an operation?

77PARIS: Yes. It's based on the amount of radioactive material a licensee uses.

83REP. REPINE: And how much do those license fees generate annually?

87PARIS: About \$175,000.

88REP. COURTNEY: Do you anticipate this program would be self supporting?

91PARIS: It is not intended to be a revenue generating program. It is just intended to offset our attorney general if a case gets to that point.

120 REP. PARKINSON: If we have another session on this, we would need a fiscal impact statement and some kind of a penalty schedule.

124 REP. BURTON: Is this request anticipated in the Governor's budget?

130 KEIL: We're not anticipating getting any fees out of this, and this has not been included in our budget.

136 REP. WATT: For clarification, how many radioactive licensees do you have in the state?

145 PARIS: There are two separate categories. There are 300 radioactive materials handlers and 6,000 X-Ray machine registrants.

155 REP. WATT: And how are violations handled currently?

160 PARIS: Violators are issued warnings and given 20 days to respond on how they are going to correct their violations.

165 REP. PARKINSON: Does the penalty on this include X-Ray machines?

170 PARIS: The intent is yes.

171 REP. NORRIS: I assume there are cases where people who are dealing with radioactive materials should be licensed and aren't. Would these penalties apply to these kinds of cases?

173 PARIS: I don't believe that is a significant problem.

176 REP. NORRIS: Does the DEQ get into this issue at all, or do you have sole jurisdiction?

179 KEIL: We license all radioactive users in the state except for the Trojan nuclear plant, which is licensed by the Department of Energy.

181 REP. PARKINSON: Closes public hearing on HB 2078. Opens work session to introduce LC 209 1.

(Tape 29, Side B) WORK SESSION - INTRODUCTION OF COMMITTEE BILLS

190 MOTION:REP. WHITTY move introduction of LC 2091 as a committee bill.

200 REP. VAN LEEUWEN: Right now, the first inspection of reforestation planting doesn't happen for three years. This speeds up the system so that what happens now in a five year time frame would happen in a three year time frame. In other words, it gets us replanted sooner. Now, this fits Western Oregon. I don't know if Eastern Oregon is going to complain or not.

211 REP. BURTON: Does this include all forest lands?

214 REP. VAN LEEUWEN: All forest lands that we have control over.

220 REP. COURTNEY: Not to put anybody on the spot, but we're going to introduce this bill as a committee but we don't intend for it to be heard here?

225 CHAIR PARKINSON: This is not unusual.

226 VOTE:Hearing no objection, CHAIR PARKINSON so moves.

230 CHAIR PARKINSON: Adjourns meeting at 2:57 p.m.

Submitted by: Reviewed by:

Andy Sloop Kathryn VanNatta Committee Assistant Committee
Administrator

EXHIBIT LOG:

A - HB 2121 - Committee Staff - 2 pages B - HJR 1 -
Committee Staff - 2 pages C -Fiscal Impact Analysis of HB 2121 -
Legislative Revenue Staff - 1 page D -Testimony on HB 2121 - Darren
Bond - 1 page E -HB 2078 - Committee Staff - 2 pages F -Testimony
on HB 2078 - Art Keil, State Health Division - 2 pages