

Senate Committee on Water Policy
April 11, 1991 - Page

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

April 11, 1991Hearing Room 137
3:15 p.m. Tapes 40 - 42

MEMBERS PRESENT:Sen. Larry Hill, Chair
Sen. Dick Springer, Vice-Chair (Arrived 3:55 p.m.)
Sen. Wayne Fawbush (Arrived 3:55 p.m.)
Sen. Bob Kintigh
Sen. Eugene Timms

VISITING MEMBER:Rep. Dave McTeague

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

MEASURES

CONSIDERED:SB 240 - Requires applicant for hydroelectric permit to pay costs incurred by Water Resources Department, WRK

SB 972 - Changes use of portion of proceeds on pesticide and fertilizer inspection fees, WRK

SB 1147 - Allows use of Water Development Fund and Special Public Works Fund for Safe Drinking Water Act, PUB

SB 1163 - Declares existence of emergency for purpose of restoring Oregon's fishery resources, PUB

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TAPE 40, SIDE A

003 CHAIR HILL: Calls the meeting to order at 3:25 p.m..

(Tape 40, Side A)
SB 240 - WORK SESSION
Witnesses: Jeannette Holman, Legislative Counsel

003 HILL: Opens work session on SB 240.

009 MOTION: SEN. TIMMS moved to reconsider the vote by which SB 240 was sent to the floor.

VOTE: With no objection, the motion carried. Senators Fawbush and Springer were excused.

013 JEANNETTE HOLMAN, LEGISLATIVE COUNSEL:
During the 4/4/91 hearing on SB 240-7 amendments, the committee changed the penalty charged for not paying the fee from 1 percent per month to the greater of 1 percent per month or the prime rate.

The problem is: 1) The prime rate is established by individual commercial banks and it can vary from bank to bank. 2) Delegating authority to establish that rate to a commercial bank.

Legislative Counsel recommended using language taken from ORS 082.010, which is a limitation on the interest rate for certain kinds of transactions. Submits and summarizes SB 240-8 amendments (EXHIBIT A). This picks up a figure that the Federal Reserve Board establishes, which doesn't fluctuate much.

052 KINTIGH: It does not change frequently?

053 HOLMAN: That is my understanding.

053 KINTIGH: That is a concern because you shouldn't have to recalculate the balance every time the rate changes.

058 HILL: I like a reasonable floating rate because a fixed rate in statute could end up below the market rate and be a benefit to someone to not pay the fee. We want a reasonable penalty so that people will be encouraged to pay the fee.

Is it similar to language we have in other statutes?

070 HOLMAN: Yes. It is almost identical, but rather than referring to a hydroelectric project, they refer to a mortgage or a home.

074 MOTION: SEN. TIMMS moved to adopt the dash eight LC amendments dated 4/10/91 to SB 240 (EXHIBIT A).

VOTE: Hearing no objection, the motion carried. Senators Fawbush and Springer were excused.

080 MOTION: SEN. KINTIGH moved SB 240 to the Ways and Means Committee with a "do pass" recommendation.

VOTE: In a roll call vote, the motion carried with all members present

voting AYE. Senators
Fawbush and Springer were excused.

(Tape 40, Side A)
SB 972 - WORK SESSION

086 HILL: Opens work session on SB 972. SB 972 should have been sent to Senate Agriculture and Natural Resources because it has to do with pesticides.

095 MOTION: SEN. TIMMS moved that SB 972 be returned to the President's desk pursuant to 8.50, with a letter attached recommending passage, and requesting subsequent referral to Agriculture and Natural Resources.

VOTE: Hearing no objection, the motion carried. Senators Fawbush and Springer were excused.

(Tape 40, Side A)
SB 1147 - PUBLIC HEARING

Witnesses: Martha Pagel, Senate Policy Advisor to the Governor
David Leland, Oregon Health Division
Burton Weast, Representing Gene Seibel, Task Force Chairman
Steve Peterson, Economic Development Department
Brendan Doyle, Task Force on Clean Drinking Water

099 HILL: Opens public hearing on SB 1147.

120 MARTHA PAGEL, SENATE POLICY ADVISOR TO THE GOVERNOR ON NATURAL RESOURCES:
Submits and summarizes written testimony in support of SB 1147. (EXHIBIT B)

153 DAVID LELAND, OREGON HEALTH DIVISION:
Submits and summarizes written testimony in support of SB 1147. (EXHIBIT C)

183 KINTIGH: What are the sources of lead, other than pipes in old systems?

187 LELAND: Pipes are the source.

187 KINTIGH: That is the delivery system itself, not in the water as we get it in the field.

189 HILL: Is that from the solder in the pipes; lead solder?

190 LELAND: It has a number of sources, but solder is one. Also brass plumbing fixtures.

Continues summary of Exhibit C.

Gives examples of some clients for this program: Seaside, Falls City, Heceta Water District, Manzanita, Nehalem, Tillamook, Reedsport, Idanha, etc. need filter systems.

The City of Bend needs extensive work on their disinfection system. These systems are in blocks and the preliminary plans are prepared and ready to make the improvements.

296 HILL: These are all systems that meet the minimum Federal requirements that will come into effect in the next ten years?

298 LELAND: They are designed so that they will meet the Federal requirements. These are systems that currently do not meet the new requirements.

301 HILL: These are investments that bring us up to the Federal standard, but not pushing beyond that standard.

303 LELAND: That is correct. This is the minimum that needs to be done.

Continues summary of Exhibit C.

336 BURTON WEAST, REPRESENTING GENE SEIBEL, TASK FORCE CHAIRMAN:
Submits and summarizes written testimony supporting SB 1147. (EXHIBIT D)

TAPE 41, SIDE A

009 STEVE PETERSON, ECONOMIC DEVELOPMENT DEPARTMENT:
Submits and summarizes written testimony supporting SB 1147. (EXHIBIT E)

046 HILL: Does the \$750,000 EDD has allotted to start the project come out of the remainder of this biennium's Special Public Works Funds?

048 PETERSON: The interest and pay backs from Special Public Works loans go into a special fund for a bond program. The \$750,000 would be coming out of that fund.

054 HILL: Referring to the figure of \$8.2 million (See Exhibit E), is that the figure for this biennium? Also refers to the \$40-80 million dollar figure (See Exhibit E). How much money does this bill provide?

060 PETERSON: The \$750,000 will be used to leverage \$20 million in General Obligation (G.O.) bonding capacity, using the WRD bonding capacity. We are providing packaging assistance to communities to put these bond issues together and use the money to write down the issuance costs.

065 HILL: \$750,000 worth of cash gets us \$20 million in bond proceeds. They are G.O. bonds, not revenue bonds. How are they paid back? Will there be an appropriation measure in the next session?

068 PETERSON: They would be paid back by the communities borrowing the money from the state. The \$8.2 million were the initial requests anticipating having to make some grants to communities.

077 KINTIGH: Regarding the community of Idanha, nobody will sell them bonds; they won't be able to comply without grants.

086 HILL: SB 1147 doesn't have funding for grants in it currently, but you're asking for moneys for grant opportunities?

090 LELAND: Not at this time. We want to try and get the program structured so that in the future we can locate additional sources of funds with the framework to offer grants.

095 KINTIGH: Is there any support from the Federal government with the Clean Water Act?

098 LELAND: Not that we've seen yet. It is compliance with the regulations and standards that equals access to reasonable financing; we would welcome their assistance.

104 WEAST: Recently, there was a field hearing at which we urged federal funding, but I am not sure how successful we will be.

110 PAGEL: The Task Force recommended the \$8.2 million to put into place a start-up program that would offer the grants and would be more effective in the long run.

122 HILL: The \$750,000 wouldn't be a pilot project? You are talking about going through the whole thing with the 20 million dollars? How does the pilot fit in?

126 LELAND: That is the pilot program in that it doesn't meet the needs nor addresses all the areas of assistance that the Task Force has recommended.

140 HILL: Would there be a prioritization of the communities?

141 LELAND: The agencies will have to come up in rule with some criteria.

153 WEAST: The Task Force didn't come up with a list of criteria for priority funding. But we did discuss and make recommendations not to take into account other issues, such as growth; only safe drinking water.

160 HILL: Would the whole loan program be operated by WRD or EDD?

163 PETERSON: EDD would be doing the packaging, but WRD would issue the bonds.

165 HILL: When a community makes application and EDD makes determinations, it would be appropriate that it not take growth into account nor displace other funds, but only what is necessary to meet the federal standards. Do you think it would be good a idea to look at other issues such as wastage? Is the community metered? The community, to receive a loan, should use the water in an efficient way.

175 WEAST: We also discussed this and it was unanimous that we support communities where there was a significant local effort.

187 SPRINGER: We need some statutory criteria to make clear that the rules shall consider local efforts towards water management.

203 WEAST: All the agencies are willing to work with the Committee on some language. We ask that the language doesn't eliminate districts or cities that, through no fault of their own, don't have good systems. We want to make sure it goes to people who need it the most.

220 KINTIGH: A very small part of the volume of water for a given city is actually used for human consumption (e.g. street washings, waterings, industrial uses, etc.). Have you looked at dual systems or even discussed this issue?

231 LELAND: That issue is discussed more and more in the water industry. You can see dual water systems in areas of Central Oregon where there are separate irrigation and drinking water. The only area with positive economics would be those where water isn't available.

But, we will always be in a position to treat that water centrally.

259 HILL: There was testimony in an earlier hearing about "inverted block rates", where a city will set up a rate structure that encourages people to consume large quantities of water during the summer. If the water is becoming more expensive, we shouldn't invest in treatment capacity simply for those needs. How would you address the inverted block rate pricing structure?

271 LELAND: WRD has a couple of initiatives underway that address that issue.

276 KINTIGH: But it was just stated that 80 percent of the cost is in pipes.

279 HILL: Many of the systems will already amortize the cost of their underground systems; we will be building the treatment plants. How much would a city the size of McMinnville have to invest in such a project?

294 BRENDAN DOYLE, TASK FORCE ON CLEAN DRINKING WATER:
Submits written testimony in support of SB 1147. (EXHIBIT F) Summarizes examples from "Safety on Tap" of communities that are looking for funding from both federal and state sources.
(See Exhibit F) Summarizes Needs Survey in Appendix D. (See Exhibit F)

In the case of the City of Joseph, Farmers Home Loan Association has given the city a combination of a grant and a loan (\$1.3 million in grant, \$1.8 million in loan). That will build a filtration plant and substantially upgrade the entire system.

344 WEAST: Last session a bill passed that allowed County Service Districts that provide sanitary services to also provide water. This session, Special Districts introduced a house bill which would allow water and sanitary authorities to have the same board of directors.

We are moving now to try to get the law to allow us, as these opportunities come along, to move in the direction of joint systems.

368 KINTIGH: Are there legal restrictions on the use of grey water?

371 WEAST: There has to be certain levels of treatment for the use of the water. The problem when you get into house-to-house uses is that it gets prohibitive. If we think that it is economically feasible in cases for irrigation and golf courses and other large uses, there are things we can do that are feasible.

386 TIMMS: Have we had cooperation from the Treasurer in regards to the bond program?

406 PETERSON: We are working with the Treasurer and he is very supportive of the bond program.

We are trying to work towards a central place and becoming service oriented to the communities.

424 TIMMS: What is EDD's history of success in the bonding program?

430 PETERSON: It varies. In the bond bank we've issued our first bond. We've had experience issuing industrial revenue bonds. We have experience in doing direct loans through our Special Public Works funding. We have the capacity and are developing the capacity to do the bond packaging under the bond bank right now.

443 TIMMS: How closely do you work with the Treasury Department? The Water Development Loan Program was handled very poorly.

452 PETERSON: We are not taking over that portfolio. We are only doing the intake and the packaging, but it is WRD that does the approval.

468 TIMMS: I'm concerned with the coordination that we have with bonding in state government; we lack that coordination.

483 HILL: We will flag this issue and have a full exploration of WRD's bonding capacity. I would like to know what the capacity of the program is and how much of it we are using.

TAPE 40, SIDE B

036 SPRINGER: Another issue of concern is merger and/or consolidation of the multiplicity of

districts and jurisdictions that are providing water. We now have an incentive to encourage people to work together cooperatively. Would appreciate further comments in this area.

048 HILL: Closes work session on SB 1147.

(Tape 40, Side B)
SB 1163 - PUBLIC HEARING
Witnesses: Tom Simmons, WaterWatch
Bob Hunter, WaterWatch

048 HILL: Opens public hearing on SB 1163.

079 TOM SIMMONS, WATERWATCH:
Submits and summarizes written testimony in support of SB 1163. (EXHIBIT G) Presents slide show and gives brief history of streamflow restoration.

TAPE 41, SIDE B

003 SIMMONS: Continues summary of Exhibit G.

126 BOB HUNTER, WATERWATCH:
Submits and summarizes written testimony in support of SB 1163. (EXHIBIT H and I) Submits and summarizes newspaper article relating to fish habitat. (Exhibit J)

We are at a point where we have to take some action if we are to avoid the uncertainties that might result from endangered species listings and public trust litigation.

171 HILL: Are endangered species filings avoidable? Are you offering the possibility that they are avoidable?

174 HUNTER: There is a chance that these are avoidable if steps are taken quickly to try and preserve the runs. It may not be avoidable in the Illinois River, but through a program of restoration we could bring the fishery back.

Continues summary of Exhibit H.

225 TIMMS: Are there any diversions on the Illinois River?

233 HUNTER: Yes, many of them. There is a problem with both surface and groundwater diversions.

236 TIMMS: How many?

236 HUNTER: I don't have a figure for that.

237 TIMMS: I would like to know where the slide on the Malheur River was; there needs to be more documentation on slides in Oregon.

A drought condition isn't a fair representation of a span which we should be looking at. We have to find some happy medium when looking at this issue and cooperation with

other agencies and individuals.

285 HUNTER: Even in stopping appropriations, it wouldn't preclude winter flow storage permits.

Continues summary of Exhibit I.

388 KINTIGH: Suggests that waste could be reverted by allowing a water right holder not to irrigate for a period of time in an economic downturn without danger of losing his water right.

401 HUNTER: One would only lose their water right if they didn't use it for a period of five consecutive years. There are also exceptions if you are under a federal program where you are not growing and getting funds.

But you have addressed the issue of incentive for people to voluntarily conserve water, because if they don't use it their rights are cut back. SB 1163 addresses this issue. (See Sections 25 - 28 of SB 1163)

Continues summary of Exhibit I.

464 KINTIGH: Very few water right holders use their full amount of water allotted to them; it is usually sporadic. Theoretically a stream can be over-appropriated on paper but still have plenty of water left. Have you taken that into account?

476 HUNTER: Yes, SB 1163 takes that into account. Maybe with better management of that timing and scheduling we could get a more continuous flow with fewer fluctuations. We also provide a provision that allows the Commission to reject applications in the event of over-appropriations and allowed the applicant to prove water availability.

492 HILL: Most diversions don't have headgates, therefore they can't be shut off when not in use and the water flows. Although it may be used sporadically, the water is still diverted from the stream and for a distance that water doesn't benefit the stream environment. A problem is that there are many diversions that are not screened and have no way to control the amount of water flowing into the diversion; Water Resources Commission has refused to move on those.

TAPE 42, SIDE A

038 TIMMS: Much of that water returns to the stream or it goes down to the groundwater and then comes into the stream at a lower level. We need the screening, but it must be economically feasible.

053 KINTIGH: Most of the diversions in the Willamette and Umpqua Valley is

by pump.

055 HILL: There are still many open diversions depending upon the area. The point is that the water is not in the stream for at least a period of time and there is no evidence of how much comes back.

Currently, the Commission has the ability to require a headgate on every diversion that they determine needs it; but they haven't acted on it.

064 HUNTER: That would be a good thing. If we are going to get more into management, eventually we will have to look at having headgates and meters to know what is happening to our resources.

Continues summary of Exhibit I.

093 HILL: There is currently a basin planning effort that WRD is working on. Would this be an extension of that basin planning effort or is this something new?

096 HUNTER: Yes, this is new but it can also be an extension of that effort. Currently, the problem with the basin planning is that data is collected and broad policies are set, but only in terms of identifying water problems, uses and needs. It then becomes a document that sits on a shelf. There isn't anything in it that develops a plan for implementation of a streamflow restoration program.

108 TIMMS: When you bring in an outside group and change the process, you will polarize the situation. We need some cooperation and we are getting it from the local basin areas.

123 HUNTER: The intent of Sections 6, 7, and 8 in SB 1163 is to do more of what you suggested. These basin committees come from the local communities and make sure they have a say.

131 TIMMS: Try and interface at the local level and the local basin planning groups to make sure you're side is being heard.

138 HUNTER: The problem with the Jackson County planning group is that there is no sort of authority; a voluntary effort. The idea is to give some structure and source of funds and staff support from the Department to these local groups.

Continues summary of SB 1163.

187 HILL: In Section 11, you also require fish screens.

188 HUNTER: Actually we prohibit diversions by a certain time if you don't have fish screens.

Continues summary of Section 9a of SB 1163.

208 HILL: If your figures on waste are correct (See pages 17 & 18 of Exhibit G), we are using 230 percent more water than we actually need to irrigate the land. The law currently says use without waste is the way it has to be. People who are using water wastefully are currently breaking the law. It is the law and that should encourage people to not waste water.

Adjourns meeting at 5:35 p.m..

Submitted by: Reviewed by:

Bernadette Williams Lisa Zavala
Assistant Administrator

EXHIBIT LOG:

A - Amendments to SB 240 - Jeannette Holman, Legislative Counsel - 1 page
B - Testimony on SB 1147 - Martha Pagel, Senate Policy Advisor to the
Governor - 2 pages
C - Testimony on SB 1147 - David Leland, Oregon Health Division - 5 pages
D-Testimony on SB 1147 - Burton Weast, Representing Gene Seibel, Task Force
Chair - 3 pages
E-Testimony on SB 1147 - Steve Peterson, Economic Development Department -
1 page
F-Testimony on SB 1147 - Brendan Doyle, Task Force on Clean Drinking Water
- 46 pages
G-Testimony on SB 1163 - Tom Simmons, WaterWatch - 23 pages
H-Testimony on SB 1163 - Bob Hunter, WaterWatch - 5 pages
I-Testimony on SB 1163 - Bob Hunter, Waterwatch - 3 pages
J-Newspaper Article Relating to SB 1163 - Bob Hunter, WaterWatch - 2 pages