

HOUSE COMMITTEE ON LAND USE

February 16, 2005 Hearing Room 50

1:30 P.M. Tapes 20 - 23

Corrected 10/14/05

MEMBERS PRESENT: Rep. Bill Garrard, Chair

Rep. Gordon Anderson, Vice-Chair

Rep. Mitch Greenlick, Vice-Chair

Rep. Robert Ackerman

Rep. Mary Nolan

Rep. Patti Smith

Rep. Mac Sumner

MEMBER VISITING: Rep. Brad Avakian

STAFF PRESENT: Sam Litke, Committee Administrator

Lindsay Luckey, Committee Assistant

MEASURES/ISSUES HEARD & WITNESSES:

HB 2458 – Public Hearing

HB 2484 – Public Hearing

Introduction of committee measures – Work Session

These minutes are in compliance with Senate and House Rules. Only text enclosed in quotation marks reports a speaker's exact words. For complete contents, please refer to the tapes.

TAPE/#	Speaker	Comments
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TAPE 20, A

002	Chair Garrard	Calls the meeting to order at 1:37 p.m. and opens a public hearing on HB 2458.
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HB 2458 – PUBLIC HEARING

011	Sam Litke	Committee Administrator. Describes HB 2458.
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020	Rep. Bob Jensen	HD 58. Testifies in support of HB 2458. Describes origin of bill stemming from problem expanding development in Hermiston and defers to Harlan Levy for further details.
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067	Harlan Levy	Staff Attorney, Oregon Association of Realtors. Discusses the impact of HB 2458 on rural communities in Oregon. Submits written testimony in support of HB 2458 (EXHIBIT A).
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122	Levy	Outlines the necessity of HB 2458 (Page 2, EXHIBIT A). Comments on the problems associated with periodic review and imposing maximum building sizes.
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140	Levy	Refers to support of HB 2458 from the Boards of County Commissioners from Klamath County, Umatilla County, and Josephine County and a newspaper article (Page 4-7, EXHIBIT A).
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150	Levy	Refers to HB 2614 (2003) which addressed this issue but only partially and temporarily. Reiterates case for HB 2458. Discusses the provision which increases the population threshold.
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198	Rep. Greenlick	Asks if that is found in Section 1 (2)(a).
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202	Levy	Confirms that the change in population is found on Page 1, lines 19-21.
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204	Rep. Greenlick	Asks if it is intended to apply only to cities larger than 25,000.
210	Levy	Responds negatively. Clarifies the origin of this provision.
222	Rep. Greenlick	Seeks clarification as it seems that Section 1(2)(a) and (b) are contradictory.
234	Levy	Explains that counties cannot approve a building size within 3 miles within the urban growth boundary (UGB) of a city of 25,000 or more but can permit it anywhere outside the UGB of a city less than 25,000.
242	Rep. Nolan	Asks if there is an outer limit to the second part of the area.
258	Levy	Responds that there is no outer limit but notes that the bill does not apply to the Willamette Valley.
271	Rep. Nolan	Contends that territory within 3 miles of the UGB of a city of 25,000 could also be anywhere outside the UGB of another city.
280	Levy	Responds that the provisions are supposed to be exclusive and agrees to clarification language if necessary.
292	Levy	Reiterates points in support of HB 2458 which are summarized on (Page 3, EXHIBIT A) and urges the passage of HB 2458.
353	Rep. Nolan	Asks if an inventory of land that stands to benefit from HB 2458 has been done.
360	Levy	Responds that it has not. Elaborates that his statistics come from information from Department of Land Conservation and Development (DLCD) in reference to HB 2614 (2003).
373	Rep. Nolan	Comments that it may be beneficial to produce a map highlighting targeted areas.
383	Levy	Agrees that it would be beneficial and defers to counties.
400	Tamra Mabbott	Planning Director, Umatilla County and President, Association of Oregon County Planning Directors. Refers to Nolan's question about

inventory. Has asked all the counties for that information and is in the process of compiling it. Believes that passage of HB 2458 will not undermine the state land use program. Describes issues related to Goal 14.

TAPE 21, A

002	Mabbott	Speaks in support of HB 2458 on behalf of Umatilla County and expresses openness to amendments for clarifying language.
013	Mabbott	Asserts that HB 2458 will help to preserve integrity of the land use program and property rights while helping with the periodic review process and facilitating economic development.
061	Mabbott	Offers to provide information and references subcommittee work, which she believes support of HB 2458 would complement.
083	Rep. Anderson	Asks for her comment on the limitation of HB 2458 that says they cannot extend sewer or infrastructure to the properties.
087	Mabbott	Responds that Goal 11 on public utilities provides necessary growth limitations within city limits.
100	Art Schlack	Association of Oregon Counties. Speaks in favor on HB 2458 with one possible amendment. Discusses HB 2162 which removes the sunset clause established in HB 2614 (2003). Supports addition of commercial uses with recognition of criteria established in HB 2614.
159	Linda Ludwig	League of Oregon Cities. Speaks in support of HB 2458 with amendments. References a work group with Department of Land Conservation and Development and suggests adding a sunset for the commercial provision.
174	Chair Garrard	Expresses disinterest in a sunset provision as it hampers businesses planning.
179	Ludwig	Submits written testimony (EXHIBIT B) .
196	Randy Tucker	Legislative Affairs, Metro. Reports his participation with the DLCD workgroup.

204	Chair Garrard	Asks why Metro is on the work group for a bill that targets eastern Oregon.
205	Tucker	Speculates that DLCD is discussing issues beyond eastern Oregon while HB 2458 deals specifically with eastern Oregon.
218	Tucker	States that Metro is neutral on the bill and references HB 2458 Page 1, lines 22-23 which specify that the bill does not apply to the Willamette Valley.
235	Chair Garrard	Reports information provided that the population of Hermiston is over 14,000 explaining their concern for the population limit of 15,000.
246	Rep. Greenlick	Asks what population measure is being used.
250	Ludwig	Speculates that it is the Portland State University population census.
260	Stephen Kafoury	Oregon Chapter of the American Planning Association (OAPA). Comments on involvement with previous bill and complications in moving the bill. States the benefit of considering actual impacts the bill would have before making a decision.
360	Kafoury	Speaks to the positive effects of the urbanization goal.
379	Rep. Avakian	Comments on the possibility of containing development to main thoroughfares in rural areas rather than expansion laterally. Points to differences between urbanization in eastern and western Oregon.
393	Kafoury	Gives an example from Bend and Redmond to illustrate lack of planning.

TAPE 20, B

003	Chair Garrard	Comments that it is growth.
004	Kafoury	Responds that growth can be “sprawl” or planned growth.
007	Chair Garrard	Points to those who receive jobs from “sprawl”.
009	Kafoury	Contends that jobs are moved not added.

016	Rep. Avakian	Returns to earlier point and speaks to the expanding along thoroughfares rather than into prime lands in specific areas.
027	Kafoury	Comments on the State's role in planning.
034	Chair Garrard	Expresses his belief that local government should have more authority.
040	Bob Rindy	Department of Land Conservation and Development (DLCD). Describes the work group and their actions. Submits written testimony on behalf of Lane Shetterly in opposition to HB 2458 (EXHIBIT C) . Submits that a consensus can be reached to address the issues in the work group.
083	Chair Garrard	Reads from (Page 1, EXHIBIT C) "the enactment of HB 2458 would complicate LCDC's effort to address these already complex issues." Comments that steps need to be taken now to help the people of Oregon.
097	Rindy	Clarifies their intent and assures that they are dealing with the issue. Refers to the earlier question about the appointment of Metro to the work group. States that policy issues dealing with retail and industrial uses outside cities effect the whole state.
113	Elon Hasson	1000 Friends of Oregon. Submits written testimony on behalf of Mary Kyle McCurdy (EXHIBIT D) . States that 1000 Friends of Oregon opposes HB 2458. Would like to allow the work group to finish and outlines concerns.
145	Chair Garrard	Asks if OAPA has a position on the bill.
151	Kafoury	Responds that they are opposed at this time and would like to see the results of the LCDC group.
160	Chair Garrard	Asks Rindy how many times the work group has met.
163	Rindy	Responds that the first meeting was about a month ago.
170	Chair Garrard	Asks if they have a time estimate for the work group to finish.

174	Rindy	Responds that there isn't a deadline.
183	Chair Garrard	Comments on inefficiency of the agency in the past.
187	Rindy	Responds that this is the last issue among a list raised by the Curry County case.
195	Rep. P. Smith	Wonders why the work group has not started to meet until recently.
199	Rindy	Responds that LCDC had four or five major policy efforts under way. Lists other issues that consumed time.
214	Chair Garrard	References previous "track record".
228	Rindy	Comments on the significant number of issues solved.
244	Rep. Anderson	Comments on Hasson's remark about increased travel due to work siting. Believes HB 2458 gives flexibility to put people to work.
274	Hasson	Agrees with Rep. Anderson but believes the HB 2458 doesn't do exactly what was claimed.
290	Rep. Avakian	Remarks that local communities are the most qualified to make decisions about the location of work sites.
298	Rep. Sumner	Refers to Levy's testimony and comments on the small percentage of private land effected.
311	Rindy	Responds that they are unsure of how far reaching the effects will be and that is something the work group wants to determine.
322	Chair Garrard	Requests the formation of a work group and for the bill to be heard again on March 2, 2005. Closes the public hearing on HB 2458 and opens a public hearing on HB 2484.

HB 2484 – PUBLIC HEARING

350	Sam Litke	Committee Administrator. Explains HB 2484.
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380	Bob Clay	Supervising Planner, City of Portland. Submits written testimony and map (EXHIBIT E). Refers to map which shows unincorporated areas around Portland (EXHIBIT E, Page 3). Outlines cooperation agreements with neighboring jurisdictions.
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TAPE 21, B

030	Clay	Asserts that they don't want to see existing tools taken from the city and begins outlining areas of concern including (EXHIBIT E, Page 2): <ul style="list-style-type: none">• Assuring orderly development and service delivery• Cost and timing issues• Ability for city to meet future city and regional planning and service delivery requirements
059	Rep. Greenlick	Wonders if the mayor agrees with the notion of democracy.
061	Clay	Responds affirmatively.
062	Rep. Greenlick	Cites the cooperation agreements and asks if the people effected have had a vote or representation in the outcome.
065	Clay	Responds affirmatively and elaborates on the public opportunity for involvement through the comprehensive planning process.
075	Rep. Greenlick	Notes constituents in HD 33 and asks if it is the position of Portland that people in unincorporated areas should not be able to have a vote on what city they live in.
096	Clay	Responds that he can't speak for the mayor but was asked to testify against HB 2484 as written and adds that in practice they go through annexations as a matter of property owner consent.
104	Rep. Greenlick	Asks if it is the position of Portland that they might accept a bill that would allow a continuation of current policy but eliminate things not in the current policy.
108	Clay	Responds that the city does not want to preclude options under state law with respect to annexation.
113	Jerry J. Ritter	

Oregon Communities for a Voice in Annexations. Submits and reads written testimony **(EXHIBIT F)**. In response to Rep. Greenlick's earlier concerns, comments on the lack of citizen involvement in "195 plans".

135	Ritter	Explains the unclear language of ORS 205 and gives examples of unfair usage.
180	Ritter	Urges support of HB 2484 without amendments.
192	Isador. W. Morgavi	Tigard, OR. Reads from written testimony (EXHIBIT G) and speaks in support of preserving the double majority vote.
250	Rep. Greenlick	Asks if he is opposed to people taken into a governance form without vote.
255	Morgavi	Responds affirmatively.
300	Rep. Jerry Krummel	HD 26. Comments on the Bull Mountain-Tigard annexation issue. Speaks in favor of the double majority vote.
374	Mitch Rohse	Interim Urban Planning Administrator, City of Salem. Relays that the City of Salem is concerned about HB 2484 and the companion bills HB 3211, SB 380 and SB 491 that all deal with this issue.

TAPE 22, A

005	Rohse	<p>Lists the four main reasons they're concerned:</p> <ul style="list-style-type: none">• prohibits the city from having orderly annexation of land that has been designated for urban use and required under state statute• defeats statewide planning program and local planning provisions designed to provide efficient facilities and public services• problems servicing areas outside the UGB without the tax revenue to support it• democratic efforts of citizens involved in planning will be thwarted.
040	Rep. Ackerman	Asks about the county's role in annexation cases and how that affects the City of Salem's planning.

045	Rohse	Asks for clarification of the question.
050	Rep. Ackerman	Restates wondering why planning would be more difficult if planning agencies are still involved at the local level.
055	Rohse	Agrees that the city enters into interagency agreements and gives an example.
066	Rep. Ackerman	Contends that many unincorporated areas are fully urbanized by counties or other public entities and that the argument for annexation based on provision of services becomes moot.
078	Rep. Greenlick	Asks for comment on the balance of efficiency and democracy.
090	Rohse	Comments on history of advocacy for citizen involvement but also notes the values of planning.
118	Rep. Nolan	Clarifies that the city has coordinated planning efforts with the county and asks what the counties' participation has been.
124	Rohse	Responds that he doesn't know.
130	Rep. Nolan	Confirms that the county commission, elected by people who live in the county, has participated in work with the city through official channels.
135	Rohse	Responds affirmatively.
140	Rep. Nolan	Continues that representatives of people in unincorporated areas have had representation in this process.
141	Rohse	Responds affirmatively.
143	Rep. Nolan	Refers to earlier comment that some counties are providing services to unincorporated areas within the UGB but outside of a city. Asks if this is funded through the counties' general fund.
153	Rohse	Confirms.
156	Rep. Nolan	

		Asks if the property owners within city limits pay into that general fund.
158	Rohse	Responds that the city pays into the county fund but not the reverse.
160	Rep. Nolan	Asks if the county provides any planning services or zoning services for properties within the city limits
161	Rohse	Responds negatively.
162	Rep. Nolan	Concludes that some property owners within the city are paying property taxes to the county which are used to provide services in unincorporated areas.
167	Rohse	Provides an example of urban areas outside the Salem city limits that receive city services without paying taxes for them.
178	Rep. Avakian	Asks if the City of Salem wanted to annex an unincorporated area within the county, if the county has the authority to veto that decision.
183	Rohse	Responds he's not sure but doesn't believe there are any mechanisms for that.
185	Rep. Avakian	States that the effort is collaborative but counties do not have the authority to stop the city. Asserts that county commissioners would have no greater authority than individual homeowners.
192	Rohse	Agrees and notes wording of agreements that state counties "should" support annexation.
198	Rep. Anderson	Comments on the areas of contention at city limits rather than "islands" and asks for comment on the issue of efficiency.
215	Rohse	Responds that there are varying degrees of efficiency in special districts.
232	Rep. Anderson	Asserts that cities contribute to the problem by continually annexing small portions.
235	Rohse	

Responds that it is in part a problem with annexation laws which are in disconnect with planning laws.

- 244 Ken Henschel Citizen Participation Organization 4B. Submits resolution urging support and preservation of “double majority” voting requirements **(EXHIBIT H)**.
- 288 Eugene Schoenheit Oak Grove, OR. Speaks in support of double majority vote.
- 341 Lisa Hamilton-Treich Friends of Bull Mountain. Submits written testimony on behalf of Richard Franzke **(EXHIBIT I)**. Speaks in opposition of single majority voting annexation methods. Discusses efforts by Bull Mountain to plan annexation made more difficult by ill will created by previous annexations attempts. Urges support of HB 2484.

TAPE 23, A

- 025 Charles B. Ormsby Birdshill Community Planning Organization. Describes principles he believes important to the process of annexation summarized on Powerpoint presentation **(EXHIBIT J, Page 2)** including requiring a double majority vote.
- 064 Ormsby Summarizes **(EXHIBIT J, Page 3-6)** describing the details of the Birdshill issue.
- 120 Rep. Greenlick Reads written testimony on behalf of the Rob Gordon, Washington County Sheriff in support of HB 2484 **(EXHIBIT K)**.
- 135 Randy Tucker Legislative Affairs Manager, Metro. Expresses interest in broad look at issues relating to annexation.
- 186 Rep. Greenlick Comments that his constituents are worried about holding off the process and wonders about having the large discussions now.
- 200 Tucker Defers to Linda Ludwig but also comments it may not be enough time to deal with all the elements of this issue.
- 224 Linda Ludwig League of Oregon Cities. Submits chart of Oregon’s annexation methods **(EXHIBIT L)** and expresses concern about fewer forms of annexation. Reiterates that land use planning system and annexation are not compatible and doesn’t believe statewide fixes are necessarily the answer.

264	Ludwig	Gives history of SB 122 (1993).
324	Ludwig	Comments on the public processes held but concedes there have been glitches. Gives examples of some annexation attempts.
349	Rep. Greenlick	Asks Ludwig to comment on larger problems of annexation in regards to Beaverton.
365	Ludwig	Responds that she's giving an overview of the state and that Beaverton is not using ORS 195 annexation methods as she was discussing.
396	Ludwig	Gives the League's recommendation to take a comprehensive look at annexation and expresses openness to dealing with specific issues in the short term.
410	Rep. Greenlick	Asks if the League would support a moratorium on any annexations while discussing the larger issue.

TAPE 22, B

021	Ludwig	Expresses hesitation toward a moratorium on all annexations but openness towards a solution.
027	Rep. Greenlick	Asserts interest in comprehensive solution but doesn't want to delay.
043	Ludwig	Will take the request back to the League.
045	Chair Garrard	Ask what period of time she would require.
046	Ludwig	Responds one week.

The following prepared testimony is submitted for the record without public testimony:

James Seaberry	River Road/Santa Clara Property Owner's Association. Submits written testimony in support of HB 2484 (EXHIBIT M) .
Pat Whiting	Tigard. Submits written testimony in support of HB 2484 (EXHIBIT N) .

	Mark Ulrich	Lake Oswego. Submits written testimony in support of HB 2484 (EXHIBIT O) .
055	Chair Garrard	Closes the public hearing on HB 2484 and opens a work session for the purpose of introduction of committee measures.

INTRODUCTION OF COMMITTEE MEASURES – WORK SESSION

060	Sam Litke	Briefly describes LC drafts 1836 (EXHIBIT P) , 1838 (EXHIBIT Q) , 1839 (EXHIBIT R) , 1840 (EXHIBIT S) , 1842 (EXHIBIT T) and 1843 (EXHIBIT U) .
083	Rep Nolan	Asks if these will be introduced at the request of Oregonians in Action.
085	Chair Garrard	Confirms.
088	Rep. Sumner	MOTION: Moves LC's: 1836, 1838, 1839, 1840, 1842, 1843 BE INTRODUCED as committee bills.
090	Rep. Greenlick	Notes that support of introduction of committee measures does not represent individual positions in opposition or support of the measures.

VOTE: 6-0-1

AYE: In a roll call vote, all members present vote Aye.

EXCUSED: 1 - Rep. Ackerman

098	Chair Garrard	The motion CARRIES.
100	Chair Garrard	Closes the work session on introduction on committee measures and adjourns the meeting at 4:27 p.m.

EXHIBIT SUMMARY

- A. HB 2458, written testimony, Harlan Levy, 7 pp
- B. HB 2458, written testimony, Linda Ludwig, 3 pp
- C. HB 2458, written testimony of Lane Shetterly, Bob Rindy, 2 pp
- D. HB 2458, written testimony of Mary Kyle McCurdy, Elon Hasson, 1 p
- E. HB 2484, written testimony and map, Bob Clay, 3 pp
- F. HB 2484, written testimony, Jerry Ritter, 2 pp
- G. HB 2484, written testimony, Isador W. Morgavi, 1 p
- H. HB 2484, resolution, Ken Henschel, 2 pp
 - I. HB 2484, written testimony of Richard Franzke, Lisa Hamilton-Treich, 5 pp
 - J. HB 2484, Powerpoint presentation, Charles Ormsby, 16 pp
- K. HB 2484, written testimony of Rob Gordon, Rep. Mitch Greenlick, 1 p
- L. HB 2484, Oregon annexation methods chart, Linda Ludwig, 1 p
- M. HB 2484, written testimony, James Seaberry, 1 p
- N. HB 2484, written testimony, Pat Whiting, 2 pp
- O. HB 2484, written testimony, Mark Ulrich, 2 pp
- P. Introductions, LC 1836, staff, 2 pp
- Q. Introductions, LC 1838, staff, 4 pp
- R. Introductions, LC 1839, staff, 34 pp
- S. Introductions, LC 1840, staff, 3 pp
- T. Introductions, LC 1842, staff, 4 pp
- U. Introductions, LC 1843, staff, 45 pp