

**HOUSE COMMITTEE ON LAND USE**

**May 06, 2005 Hearing Room 50**

**1:30 P.M. Tapes 85 - 86**

**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**

**STAFF PRESENT:           Sam Litke, Committee Administrator**

**Lindsay Luckey, Committee Assistant**

**MEASURES/ISSUES HEARD:**

**HB 3351 – Work Session**

**HB 3284 – Work Session**

**HB 3286 – Work Session**

**HB 2100 – Work Session**

**HB 3285 – Public Hearing and Work Session**

**HB 2162 – Reconsideration and Work Session**

**HB 3084 – 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**

**TAPE 85, A**

Chair Garrard                      Calls the meeting at 1:40 p.m., makes announcements and opens a work session on HB 3351.

**HB 3351 – WORK SESSION**

Chair Garrard                      Asks if Jossy is satisfied with HB 3351 as written.

008              Bob Jossy                      Washington County. Confirms that he is.

Chair Garrard                      Reports a letter was submitted from Lane Shetterly, Director of the Department of Land Conservation and Development (DLCD) which outlines their opposition to the bill (**EXHIBIT A**). Asks if Bob Rindy has any prepared comments.

023              Bob Rindy                      DLCD. Notes his comments given in the previous hearing.

Chair Garrard                      Closes the work session on HB 3351 and opens a work session on HB 3284.

**HB 3284 – WORK SESSION**

030              Chair Garrard                      Reports there are -2 amendments to HB 3284 (**EXHIBIT B**) but they will not be taken at this time. Closes the work session on HB 3284 and opens a work session on HB 3286.

**HB 3286 – WORK SESSION**

053              Joe Willis                      Submits and speaks in support of -1 amendments (**EXHIBIT E**). References written testimony of Jim Benedict (**EXHIBIT D**) which asks that the committee delay action on HB 3286 and responds to

questions raised in the testimony. Reports on parties who have asked him to wait and others who urge forward movement. Asks the committee to pass HB 3286.

- 082 Bob Danko Department of Environmental Quality (DEQ). Submits written testimony suggesting delayed action and a memo from the Department of Justice outlining concerns with HB 3286-1 (**EXHIBIT C**).
- Chair Garrard Reports the committee will wait until next session to act and asks Willis and Danko to work on the bill in the interim. Closes the work session on HB 3286 and opens a work session on HB 2100.

### **HB 2100 – WORK SESSION**

- 115 Chair Garrard Announces that the committee will hear another bill that is only slightly different to HB 2100 at a later date.
- Chair Garrard Closes the work session on HB 2100 and opens a public hearing on HB 3285.

### **HB 3285 – PUBLIC HEARING**

- 150 Sam Litke Committee Administrator. Introduces the provisions of HB 3285 and reports that -1 amendments (**EXHIBIT F**) were received that would replace the bill.
- 167 Katy Coba Director, Oregon Department of Agriculture. Discusses the intent of HB 3285 and the -1 amendments which would provide certain exemptions from Ballot Measure 37 (2004) (BM37).
- 200 Rep. Jeff Kropf HD 17. Stresses the importance of clarifying how BM37 interacts with agricultural issues and speaks in support of HB 3285 with the -1 amendments.
- 230 Coba Outlines the origin of their concerns of possible BM37 claims relating to the growing of canola in control districts, and quarantines to deal with insect pests and diseases.
- 254 Richard Whitman Department of Justice. Notes his presence to answer questions of the committee.

	Chair Garrard	Asks for Whitman's position on the bill.
	Whitman	Responds that the -1 amendments would clarify the application of BM37 to these programs of the Department of Agriculture.
	Chair Garrard	Verifies that his opinion is that the bill would clarify.
	Whitman	Confirms this.
	Coba	Adds that there are provisions effecting the Department of Forestry programs as well.
300	Don Schellenberg	Oregon Farm Bureau. Submits and summarizes written testimony in support of HB 3285-1( <b>EXHIBIT G</b> ).
364	Dave Nelson	Executive Secretary, Oregon Seed Council. Speaks in support of HB 3285-1 in order to protect seed farming and exploration of biofuels.
	Chair Garrard	Closes the public hearing on HB 3285 and opens a work session on HB 3285.

**HB 3285 – WORK SESSION**

Chair Garrard

400	Rep. Anderson	Reports his support of biofuels and his intention to vote yes.
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**TAPE 85, B**

007	Rep. P. Smith	Notes her interest in the right to farm issues and comments on the agricultural industry.
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<b>405</b>	<b>Rep. Anderson</b>	<b>MOTION: Moves to ADOPT HB 3285-1 amendments dated 5/5/05.</b>
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**VOTE: 6-0-1**

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

**EXCUSED: 1 - Greenlick**

Chair Garrard The motion CARRIES.

408 Rep. Anderson **MOTION: Moves HB 3285A to the floor with a DO PASS AS AMENDED recommendation.**

**VOTE: 7-0-0**

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

Chair Garrard The motion CARRIES.

**REP. KROPF will lead discussion on the floor.**

Rep. Sumner Commends Coba for her information.

#### **TAPE 86, A**

005 Chair Garrard Closes the work session on HB 3285 and opens a work session for possible reconsideration of HB 2162.

#### **HB 2162 – RECONSIDERATION AND WORK SESSION**

Rep. P. Smith Moves to reconsider HB 2162.

Sam Litke Committee Administrator. Reports the committee must first suspend the rules which requires 5 aye votes.

015 Rep. Garrard **MOTION: Moves to SUSPEND the rules for the purpose of allowing the motion to be reconsidered.**

Rep. Greenlick Asks staff to review previous action on HB 2162.

Litke Reviews the previous action.

030 Rep. Greenlick Asks the Chair if they are reconsidering HB 2162 with the -1 amendment.

Chair Garrard

Reports if they vote to reconsider HB 2162 they will hear testimony on -4 amendments (**EXHIBIT H**) which would change the bill from its original intent.

**VOTE: 7-0-0**

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

050 Rep. Nolan Explains her aye vote is with the understanding that the purpose for the reconsideration is to amend the bill and replace the current content of the bill.

**Chair Garrard The motion CARRIES.**

097 Randy Tucker Legislative Affairs Manager, Metro. Submits and summarizes an explanation of -4 amendments (**EXHIBIT I**). Lists parties involved in discussions about the -4 amendments and reports that the language is not final. Reviews provisions of amendments.

153 Tucker Continues explanation of content and urges adoption of the -4 amendments.

181 Rep. Sumner Verifies that this bill only applies to the metropolitan service district.

Chair Garrard Responds affirmatively and notes Tucker's agreement.

185 **Rep. P. Smith MOTION: Moves to ADOPT HB 2162-4 amendments dated 5/6/05.**

**VOTE: 7-0-0**

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

**Chair Garrard The motion CARRIES.**

Chair Garrard Asks if 10 days is enough time to reach agreement on the bill.

207 Tucker Responds that notify interested parties and try to reach consensus.

Chair Garrard Closes the work session on HB 2162.

**HB 3084 – WORK SESSION**

- 215 Rep. Brad Avakian HD 34. Announces his sponsorship of the -5 amendments (**EXHIBIT L**) which deal specifically with island annexations by roadway. Discusses the City of Beaverton’s island annexations, noting their actions have been legal, and points them out on the map of Beaverton attached to amendments (**Page 4, EXHIBIT L**). Describes the process of “island annexation” by annexing pieces of property without electors, just roads. Reports that the -5 amendments prohibit this type of annexation.
- 300 Rep. Greenlick Notes his support of the -5 amendments but preference of the -4 amendments, which he is sponsoring (**EXHIBIT K**). Relays urgency in situation and recommends the -4 amendments which would delete ORS 222.750 leaving room to restore it at a later date if necessary. Suggests working on the issue in the interim to allow island annexation for its intended use. Reports there are still 13 other forms of annexation available under ORS 222 and ORS 195.
- 375 Chair Garrard Verifies that the committee must choose between the -4 and -5 amendments.
- Rep. Greenlick Responds affirmatively.
- Rep. Avakian Comments of differences between -4 and -5 amendments.
- Chair Garrard Notes the committee has SB 887 in its possession also dealing with annexation.
- Rep. Greenlick Announces he is preparing amendments to SB 887 which will delete ORS 222.750.
- Chair Garrard Notes intention to adopt amendments but hold the bill until after they’ve held a hearing on SB 887.
- 388 Rep. Greenlick **MOTION: Moves to ADOPT HB 3084-4 amendments dated 5/6/05.****
- Chair Garrard Notes Doug Riggs would like to speak on the proposed amendments.
- Doug Riggs Central Oregon Cities Organization. Discusses reasons why he supports the -5 amendments over the -4 amendments.

054 Rep. Greenlick Asks how he balances the concerns of people within islands and maintaining the efficiency of cities.

**TAPE 84, B**

008 Riggs Notes differences between Washington County and central Oregon including special districts. Refers to cases when it is difficult to get voters of unincorporated areas to agree to be annexed. Acknowledges cases that go too far and should be addressed and speaks in support of the -5 amendments.

024 Linda Ludwig League of Oregon Cities. Reports she has just seen the -4 amendments and notes discussions with Rep. Avakian about the -5 amendments and their agreement to get information to determine if there will be unintended consequences.

Rep. Anderson Asks if it is still possible to annex a small portion of land out of proximity connected to the city by a road.

Ludwig Notes he is referring to “cherry stem annexation” and reports that it is not statutory. States she is uncertain if this language would prohibit those types of annexation and would like to obtain more data before legislation is adopted.

50 Rep. Greenlick Points out that neither he or Rep. Avakian think that it is inappropriate to use “cherry stem annexation” to annex streets.

75 Rep. Nolan Verifies that the “cherry” in the “cherry stem annexation” only comes into a city by the will of the property owners and voters and that nothing in law allows the taking of a “cherry” without participation.

Ludwig Responds that she cannot answer the question in all circumstances.

Rep. Avakian Relays to Rep. Nolan that is his understanding as well and notes one possible way the “cherry” could be taken without the will of property owners.

Rep. Nolan Verifies that that type would be not allowed under the -5 amendment.

Rep. Avakian Confirms this.



	Rep. Greenlick	Believes the -5 amendments would allow that because there is no road inside it.
	Rep. Nolan	Clarifies that the cherry could only be taken by the initiation and participation of the property owners under -5 amendments.
120	Rep. Greenlick	Describes example in his district of a cherry stem annexation attempting to surround all of Bethany.
	Rep. Nolan	Verifies that the -5 amendments would preclude the use of roads to do that.
	Rep. Anderson	Describes a situation when property owners in the “cherry” signed service agreements and were annexed, legally, but without consent.
	Rep. Greenlick	<b>Withdraws intention to move the -4 amendments and to move the -5 amendments.</b>
160	Ludwig	Points out the discussion underscores the complexity of annexation issues and how important it is to do research and get data to really address the problems. Recommends an annexation work group and asks for time to review -5 amendments.
	Rep. Avakian	Agrees they are complex issues and explains that is why they have tried to address one specific type of annexation. Supports Rep. Greenlick’s efforts on the motion.
	Rep. Nolan	Verifies the Chair’s intention to adopt the -5 amendments but wait on moving the bill.
	Chair Garrard	Confirms this and discusses their future hearing on SB 887.
180	<b>Rep. Greenlick</b>	<b>MOTION: Moves to ADOPT HB 3084-5 amendments dated 5/6/05.</b>
		<b>VOTE: 6-0-1</b>
		<b>AYE: In a roll call vote, all members present vote Aye.</b>
		<b>EXCUSED: 1 - Rep. P. Smith</b>

**Chair Garrard      The motion CARRIES.**

200      Chair Garrard      Closes the work session on HB 3084 and adjourns the meeting at 2:55 p.m.

**EXHIBIT SUMMARY**

- A. **HB 3351, written testimony, Lane Shetterly, 2 pp**
- B. **HB 3284, -2 amendments, staff, 2 pp**
- C. **HB 3286, written testimony and memorandum, Bob Danko, 9 pp**
- D. **HB 3286, written testimony, Jim Benedict, 3 pp**
- E. **HB 3286, -1 amendments, Joe Willis, 4 pp**
- F. **HB 3285, -1 amendments, Rep. Kropf, 5 pp**
- G. **HB 3285, written testimony, Don Schellenberg, 1 p**
- H. **HB 2162, -4 amendments, Randy Tucker, 4 pp**
  - I. **HB 2162, summary of -4 amendments, Randy Tucker, 1 p**
- J. **HB 3084, -1 amendments, staff, 3 pp**
- K. **HB 3084, -4 amendments, Rep. Greenlick, 7 pp**
- L. **HB 3084, -5 amendments, Rep. Avakian, 4 pp**