

HOUSE COMMITTEE ON LAND USE

June 15, 2005 Hearing Room 50

1:30 P.M. Tapes 136 - 137

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 3120 – 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 136, A

002	Chair Garrard	Calls the meeting to order at 1:24 p.m. and opens a work session on HB 3120.
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HB 3120 – WORK SESSION

- 006 Chair Garrard Invites testimony from Ray Wilkeson and Kristina McNitt.
- 009 Ray Wilkeson Oregon Forest Industries Council. Notes the absence of discussion around Measure 37 (M37) on the effect on forest land. Refers to the *Forest Practices Act* that regulates their activities. Provides an estimate of the timber value that has to be “left behind” to annually comply with the Act. References the June 8, 2005, document of proposed amendments (**EXHIBIT A**). Cites reasons they are unable to support HB 3120.
- 041 Chair Garrard Asks about the portion of HB 3120 they are concerned about.
- 049 Wilkeson Suggests meeting to discuss the issues. Raises the M37 issues around the Columbia River Gorge area and announces they could not support this portion.
- 062 Chair Garrard Requests he submit a list of areas in the -3 amendments needing clarification.
- 072 Kristina McNitt Oregon Small Woodlands Association. Concurs with Mr. Wilkeson’s comments and advises they have the same concerns with HB 3120.
- 076 Rep. Anderson Inquires if clustering homes in areas that might fit into small wood lots and around the edges of the larger tracts is workable.
- 084 Wilkeson Responds with an actual situation.
- 096 McNitt Reports that their organization has similar concerns. Refers to proposed legislation in previous sessions suggesting caretaker dwellings in an effort to keep the forest land base. Comments that 40 acres is a functioning forest land base. Describes how this would work.
- 123 Rep. Ackerman Asks what sections of the replacement -3 amendments are of concern.
- 126 Wilkeson Reports two concerns on Page 6 of **EXHIBIT A** on the expanded definition of the federal exemption and Section 4(1)(b) on regulation enacted prior to the effective date of HB 3120.

154	Chair Garrard	Reports that some language in Section 18 may be removed.
160	Wilkeson	Believes that would address a problem within that section.
162	Rep. Ackerman	Asks for an example of forest land restrictions and how relief would be claimed under M37.
167	Wilkeson	Discusses riparian buffer strips along fish-bearing streams.
173	Rep. Ackerman	Asks if this is their biggest concern.
180	Wilkeson	Responds affirmatively and reports that of the M37 claims filed, none have been from a member of the Oregon Forest Industries Council.
185	Chair Garrard	Invites Director Shetterly to comment on the proposed changes.
187	Lane Shetterly	Director, Department of Land Conservation and Development (DLCD). Is willing to answer questions on specific provisions but advises final support will depend on the end product.
203	Rep. Greenlick	Asks Mr. Wilkeson if their organization would be comfortable letting M37 stand as written.
205	Wilkeson	Answers, fairly comfortable leaving it and relying on court decisions.
220	Shetterly	Comments that the federal exemption language has been restored.
226	Chair Garrard	Advises that the -11 amendments should be ready soon. Asks the committee if they wish to continue working on the -3 amendments.
233	Rep. Anderson	Asks how close the -11 amendments are to the -10 amendments.
235	Sam Litke	Committee Administrator. Reports that the -10 amendments (EXHIBIT B) work off the -3 amendments. Reviews the most current document proposed.
265	Chair Garrard	Asks for an update on SB 1037.

276	Litke	Describes the proposed amendments to SB 1037 which has had a public hearing but no work session.
310	Rep. P. Smith	Suggests waiting for the -11 amendments before continuing.
315	Glenn Klein	Attorney, Eugene, Oregon. Reports that he has marked the sections changed in the most current version (EXHIBIT C).
330	Rep. P. Smith	Prefers to wait.
335	Rep. Nolan	Prefers to wait.
347	Klein	Advises he is unable to be at the next day's meeting.
352	Rep. Anderson	Requests Mr. Klein's report.
360	Harrison Conley	Deputy Legislative Counsel (LC). Reports that EXHIBIT C is very similar to the final LC draft. Advises working from that document in considering the policy implications.
382	Chair Garrard	Asks for a final draft by the June 17 meeting.
402	Conley	Suggests that the changes are small and can be easily pointed out.

TAPE 137, A

004	Rep. Nolan	Expresses concern about the process not providing appropriate balancing of the "puts and takes."
013	Rep. Greenlick	Comments that they are about to "deconstruct" the consensus package. Inquires about the process of crafting a balanced response to M37.
029	Shetterly	Discusses the work group process. Describes their objective of trying to craft successful legislation to make it through both chambers.
061	Rep. Greenlick	Comments on the package that has now fallen apart. Suggests focusing on ways to simply implement the words of M37 only.

094	Chair Garrard	Reports the committee's intent is to only clarify M37. Discusses the "give and take" required to clarify.
104	Rep. Greenlick	Observes there is nothing in the M37 amendments on transferability.
108	Chair Garrard	Comments that transferability is an important issue.
115	Rep. Greenlick	Recollects that there was testimony about transferability components being included in return for inclusion of Sections 17 and 18 to provide a balance in terms of expanding existing words. Continues that appears to be more than a clarification.
135	Rep. Ackerman	Sees clarification as also supplying obvious omissions, such as transferability. Advises it is their mission is to supply the omissions and clarity to make M37 work. Has no problem looking at terms not in M37 if they are necessary for clarity or to determine workability.
142	Rep. Nolan	Offers legislators are charged with improving, clarifying, and implementing what the voters intend. Discusses compensation and costs to administer. Advises the sponsor explained that a transfer of ownership resets the clock on regulation. Does not believe transferability is a clarification.
200	Rep. Greenlick	Points out the need to focus on the ballot measure and explanatory statement, and that there is nothing on transferability.
208	Rep. Anderson	States that most claims are for use not for compensation.
226	Chair Garrard	Asks if M37 gave people the right to deal with their own property, is not the right to sell implied.
231	Rep. Greenlick	Offers it is not in the text or in the principal proponent's main argument.
237	Rep. Anderson	Points out that the second part of the compensation package contains the right not to apply.
239	Rep. Greenlick	Agrees that the right not to apply is on specific statutes for interpretation for that owner. Does not allow owner to do anything they want with their property.

247	Rep. Anderson	Comments that until 1973 property could be transferred.
251	Rep. Greenlick	Provides some history of transactions.
261	Rep. Anderson	Responds that one could sell the property and that following purchasers could sell it, and that is transferability.
264	Rep. Greenlick	Comments on the benefits afforded by M37 as a new notion.
266	Rep. Anderson	Presents a scenario of right to sell based on different points in time.
290	Rep. Ackerman	Responds that the -10 amendments set up another type of ordinance that does not constitute a land use regulation.
300	Rep. Greenlick	Comments that if Sections 17 and 18 are removed, the -10 amendments should be withdrawn.
315	Rep. Ackerman	Raises the issue around transferability but does not believe that is into perpetuity as the voters did not repeal all land use regulation when they adopted M37. Believes the committee has the authority to set the parameters around transferability.
325	Chair Garrard	Points out that Section 13 authorizes transferability but places “caps” on the period of time.
335	Rep. Ackerman	Comments that the property can be transferred but not into perpetuity.
340	Rep. Greenlick	Refers to comments from witnesses and the committee that language can be added to clarify. Believes to have a better M37 requires both expanding and contracting the words in some places, if it makes sense from a public policy perspective.
374	Chair Garrard	Appreciates the discussion.
415	Rep. Nolan	Believes it is healthy to raise these issues. Expresses need to acknowledge that anything beyond clarifying processes and judicial review is a change to M37.

010	Chair Garrard	Observes a possible difference in semantics between “clarify” and “change.” Comments this committee needs to figure out how to make M37 work better. Notes agreement on the claims process and judicial review which will help the cities and counties.
041	Rep. Greenlick	Points out the importance of making M37 work.
051	Chair Garrard	Asks that politics be put aside to do what is right for the people of Oregon. Continues that transferability may be decided in the courts. Reiterates that it is this committee’s responsibility to produce a good product.
082	Chair Garrard	States that the amendments have not arrived.
087	Rep. Greenlick	Asks if there is any controversy on the claims and review processes.
089	Chair Garrard	Does not believe so.
092	Conley	Offers that the amendments drafted are to the printed HB 3120.
110	Rep. P. Smith	States her responsibility to her constituents and expresses appreciation for all the hard work done to date.
125	Chair Garrard	Closes the work session on HB 3120 and adjourns the meeting at 2:30 p.m.

EXHIBIT SUMMARY

- A. **HB 3120, proposed amendments to the -3 amendments, staff, 25 pp**
- B. **HB 3120, -10 amendments, Rep. Greenlick, 32 pp**
- C. **HB 3120, preliminary draft of the -11 amendments, Glenn Klein, 15 pp**