

## SENATE COMMITTEE ON ENVIRONMENT & LAND USE

January 31, 2005  
3:00 P.M.

Hearing Room B  
Tapes 11 - 12

Revised 03/04/2005

**MEMBERS PRESENT:** Sen. Charlie Ringo, Chair  
Sen. Jason Atkinson, Vice-Chair  
Sen. Roger Beyer  
Sen. Ginny Burdick  
Sen. Frank Shields

**STAFF PRESENT:** Matt Shields, Committee Administrator  
Katie Lowry, Committee Assistant

**MEASURES/ISSUES HEARD:**

SB 348 – Work Session  
SB 64 – Public Hearing  
SB 185 – Work Session  
SB 66 – Public Hearing and Work Session  
SB 68 – Public Hearing  
SB 69 – Public Hearing

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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.

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TAPE/#	Speaker	Comments
<b>TAPE 11, A</b>		
005	Chair Ringo	Calls meeting to order at 3:06 p.m. Opens work session on SB 348.
<b><u>SB 348 – WORK SESSION</u></b>		
010	Stephen Kafoury	Legislative Liaison, Oregon Chapter of the American Planning Association. Introduces himself. States opposition to SB 348. Believes that the system is set up so all citizens have the same rights.
035	Ronald Eber	Farm and Forest Lands Specialist, Department of Land Conservation and Development (DLCD).
040	Chair Ringo	Asks if waivers are transferable.
045	Eber	Explains that according to the Attorney General (AG), waivers granted under Measure 37 are not transferable. States that this is what DLCD has been instructed to say when citizens call with questions.
050	Chair Ringo	Asks if this is what citizens have been told when they have contacted the Department of Justice.
051	Eber	Confirms that it is.
052	Chair Ringo	Asks how this might impact the specific parcel in Western Multnomah County.
055	Eber	Explains the compensation/waiving process for Measure 37. Explains reasoning why waivers are not considered transferable.
070	Chair Ringo	Discusses specific case involving property belonging to Dorothy English regarding waiving process.
078	Bob Rindy	Legislative Coordinator, DLCD. Clarifies that DLCD does not have a position on SB 348 and there is no written opinion from

		the Department of Justice or formal AG opinion. Explains that they are reporting on what they have heard.
080	Chair Ringo	Clarifies that this is the analysis that is conveyed to people who contact DLCD.
081	Rindy	Confirms that it is. Discusses the difference between subdividing and selling the individual lots and selling lots with houses already built on them.
090	Sen. Beyer	Identifies an email that addresses issue in Multnomah County.
095	Chair Ringo	Asks Dave Hunnicutt to come forward.
100	Chair Ringo	Asks Sen. Beyer to relay email to Hunnicutt.
101	Sen. Beyer	Addresses question from previous meeting (01/26/2005). Email conveys that there are perhaps 6 to 1600 lots that could be affected by SB 348.
110	Dave Hunnicutt	Oregonians In Action. Discusses that SB 348 applies to a very narrow set of circumstances. Believes that there are not very many lots affected.
120	Chair Ringo	Understands that it is very narrowly tailored. Asks if witness is willing to help with amendments if necessary.
125	Hunnicutt	Confirms willingness to help with amendments as necessary.
130	Chair Ringo	Believes that it is not good policy to make legislation for a special set of circumstances, however explains that flexibility is necessary. Conveys desire to take the opportunity to do the right thing. Believes that Measure 37 is very fatally flawed.
145	Sen. Shields	Asks if intention is to vote SB 348 out of committee.
150	Chair Ringo	Confirms intention.
151	Sen. Shields	States that there are a lot of questions. Explains desire to demonstrate that the committee is listening to Oregonians. Believes Measure 37 has a lot of significant flaws. Believes that this bill does not set good precedent and stresses that he won't be voting for numerous bills of this nature.
175	Sen. Atkinson	Believes the flaw is in the bureaucracy and red tape, somewhere between the city, county and DLCD. States support for bill.
200	Sen. Atkinson	<b>MOTION: Moves SB 348 to the floor with a DO PASS recommendation.</b>
210	Sen. Shields	Comments that there must be a way to do this without completely destroying land use. Conveys that he understands the frustration of Oregonians.
220		<b>VOTE: 4-0-1</b> <b>AYE: In a roll call vote, all members present vote Aye.</b> <b>EXCUSED: 1 - Burdick</b> <b>The motion CARRIES.</b> <b>SEN. RINGO will lead discussion on the floor.</b>
225	Chair Ringo	Closes work session on SB 348 and opens public hearing on SB 64.
<b><u>SB 64 – PUBLIC HEARING</u></b>		
245	Tim Wood	Director, Oregon Parks and Recreation Department (OPRD). Submits and reads written testimony ( <b>EXHIBIT A</b> ).
275	Sen. Atkinson	Asks what happens if someone tilling their land finds an archaeological artifact. Asks if there is any protection.
285	James Hamrick	Assistant Director of Parks, OPRD. Says it is not illegal to pick up something that is found.
300	Sen. Atkinson	Asks what kind of protections this person has.
310	Hamrick	Says that it depends on what is found; for instance, if it is an archaeological site then the farmer needs to stop.

320	Sen. Beyer	States that he cannot find anywhere in current statutes where it applies to private land but witness is stating that it does.
330	Hamrick	Responds that it is in ORS 358.920(1)(a). Reads statute.
335	Sen. Beyer	Asks for statutory reference to be repeated.
336	Hamrick	Responds that it is in ORS 358.920(1)(a).
350	Chair Ringo	Repeats reading of statute. Asks why ORS 358.945 only mentions public land.
365	Hamrick	States that it is a technical correction.
370	Sen. Shields	States assumption that farmer would not have to stop farming at all. Comments that witness is illustrating an extreme case.
380	Hamrick	Explains that OPRD leases out land for farming. Gives example. Confirms that a farmer would not have to stop unless they ran into objects that are considered to be sacred objects or things that are covered under the Native American Grave Protection Repatriation Act.
405	Louis Pitt, Jr.	Director of Government Affairs and Planning, Confederated Tribes of Warm Springs. Introduces himself. Submits and highlights written testimony in support of SB 64 ( <b>EXHIBIT B</b> ). States that this will clarify the previous legislation.
475	Chair Ringo	Believes this is a good bill and that the committee should move forward but isn't sure that the committee is ready to do that yet. Asks for feedback.
<b>TAPE 12, A</b>		
035	Sen. Beyer	Requests to wait on SB 64.
045	Chair Ringo	Suggests witness work with Sen. Beyer.
050	Sen. Shields	Expresses that he does not share Sen. Beyer's concern. Hopes Chair Ringo will bring back SB 64.
060	Edward Johnston	Lincoln County Political Action Committee. Introduces himself. Submits and reads written testimony ( <b>EXHIBIT C</b> ) in opposition to SB 64.
115	Chair Ringo	Closes public hearing on SB 64 and opens work session on SB 185.
<b><u>SB 185 – WORK SESSION</u></b>		
117		
118	Sen. Ringo	<b>MOTION: Moves to ADOPT SB 185-1 amendments (EXHIBIT J) dated 01/26/05.</b>
		<b>VOTE: 3-0-2</b>
		<b>EXCUSED: 2 - Atkinson, Burdick</b>
	Chair Ringo	<b>Hearing no objection, declares the motion CARRIED.</b>
120	Sen. Ringo	<b>MOTION: Moves SB 185 to the floor with a DO PASS AS AMENDED recommendation.</b>
	Chair Ringo	<b>Hearing no objection, declares the motion CARRIED.</b>
		<b>SEN. BEYER will lead discussion on the floor.</b>
130	Chair Ringo	Closes work session on SB 185 and opens public hearing on SB 66.
<b><u>SB 66 – PUBLIC HEARING</u></b>		
135	Tim Wood	Director, Oregon Parks and Recreation Department (OPRD). Submits written testimony ( <b>EXHIBIT D</b> ) in support of SB 66.
160	Sen. Beyer	Asks witness if any of the federally recognized tribes have applied and been turned down.
165	Wood	Responds no.
170	Sen. Beyer	Asks if witness is aware of any programs or any applications pending that tribes may wish to apply for.

171	Wood	Verifies that there are no known specific projects. Specifies where moneys come from and what federally recognized tribes are eligible for.
175	Sen. Beyer	Asks about public access.
185	Wood	Explains that there would be public access.
190	Chair Ringo	Clarifies that if there was a project done on tribe lands then the public would be allowed to use the benefit of those funds.
191	Wood	Confirms that this is correct.
192	Sen. Burdick	Asks if tribal lands are normally open to the public, or if this would cause them to be open.
195	Wood	Explains that the restrictions that would be placed on the use of these funds would require that they be made available to the general public.
200	Edward Johnston	Lincoln County Political Action Committee. Speaks in opposition to the bill and asks committee to use the funds for other purposes.
220	Louis Pitt, Jr.	Director of Government Affairs and Planning, Confederated Tribes of Warm Springs. Speaks about tourism on tribal lands and opening up lands to public. Speaks about difficulties of this process and explains that the passage of this bill would make the process easier.
260	Chair Ringo	Closes public hearing on SB 66 opens work session on SB 66.
<b><u>SB 66 – WORK SESSION</u></b>		
265	Sen. Ringo	<b>MOTION: Moves SB 66 to the floor with a DO PASS recommendation.</b>
266		<b>VOTE: 5-0-0</b>
	Chair Ringo	<b>Hearing no objection, declares the motion CARRIED.</b>
		<b>SEN. SHIELDS will lead discussion on the floor.</b>
280	Chair Ringo	Closes work session on SB 66 and opens public hearing on SB 68.
<b><u>SB 68 – PUBLIC HEARING</u></b>		
285	Tim Wood	Director, Oregon Parks and Recreation Department. Introduces himself. Submits and reads written testimony ( <b>EXHIBIT E</b> ) in support of SB 68.
340	Sen. Atkinson	Asks if the witness means access when they refer to persons with disabilities.
348	Wood	Confirms this.
350	Sen. Beyer	Asks if state recreation areas are defined anywhere.
355	Wood	Explains that they are defined in statute and gives definition.
360	Sen. Beyer	Clarifies location of definition.
365	Wood	Confirms location.
370	Sen. Beyer	Asks how disabled is going to be defined.
378	Wood	Explains that it would be defined by the same rules as the Department of Motor Vehicles.
385	Sen. Beyer	Asks if these people would have to get a disabled parking permit for an ATV.
390	Wood	Confirms this and explains process.
395	Sen. Beyer	Asks about deletions in Section Four of SB 68.
415	Wood	Clarifies intent.
<b>TAPE 11, B</b>		
010	Sen. Burdick	Asks if current law allows ATVs without restriction.
015	Wood	Clarifies that ATVs are not allowed currently on the ocean shore because only street legal vehicles are allowed and ATVs are not street legal.

020	Sen. Burdick	Asks about license requirements.
023	Wood	Verifies that operator's license is required.
025	Sen. Burdick	Asks if that is somewhere in the law.
026	Wood	Confirms this.
028	Sen. Burdick	States concern that ATVs are much different than cars.
030	Chair Ringo	Asks witness to work with Sen. Burdick to address concerns.
035	Edward Johnston	Lincoln County Political Action Committee. States opposition to bill. Discusses regulations, potential problems and personal rights.
055	Chair Ringo	Closes public hearing on SB 68 and opens public hearing on SB 69. States that SB 125 is now carried over to Wednesday's Agenda.

#### **SB 69 – PUBLIC HEARING**

065	Tim wood	Director, Oregon Parks and Recreation Department (OPRD). Submits and reads written testimony <b>(EXHIBIT F)</b> in support of SB 69. Clarifies OPRD is not seeking an increase in fees, but all change in fees must go through the legislature.
140	Pat Harris	All Terrain Vehicle (ATV) Account Allocation Committee. Submits and reads written testimony in opposition to SB 69 <b>(EXHIBIT G)</b> .
205	Tyrrell Hart	ATV Account Allocation Committee. Submits and reads written testimony in opposition to SB 69 <b>(EXHIBIT H)</b> .
250	Scott Ryland	ATV Account Allocation Committee. States opposition to SB 69. States that this is not just a housekeeping bill, and does not think that it could be modified to suit the general public.
280	Chair Ringo	Asks how much money the fund contains.
282	Harris	Responds 2.62 million this biennium but is unsure how much money is taken out for administration before it comes to them.
290	Sen. Atkinson	Asks how program works in relation to John's Peak.
291	Hart	Explains this program.
300	Sen. Atkinson	Asks about signs.
305	Hart	Confirms educational signs.
315	Sen. Atkinson	Talks about John's Peak project and management in Southern Oregon.
335	Chair Ringo	Invites Sen. Bates and states that they have received written testimony in opposition from Tim Custer <b>(EXHIBIT I)</b> .
345	Sen. Bates	District 3. Makes opening remarks. Introduces constituent. Suggests that groups with opposing opinions sit down and work it out. Suggests that bill be tabled and worked through in the interim and be brought back if necessary.
385	Sen. Shields	States that there is still time in the session and asks if it is possible to get these opposing groups together in the next month.
395	Sen. Bates	States that these groups are very far apart. Does not think that it could happen during the session.
415	Arnold Ryland	Program Father. Makes statements in opposition to SB 69. Urges committee not to take out the paragraph (section two) in ORS 395.60 where it makes checks and balances necessary. States that SB 69 eliminates control.

#### **TAPE 12, B**

065	Julie Barrell	ATV Account Allocation Committee. States opposition to SB 69.
067	Joe Barrell	Oregon Motorcycle Riders Association. States opposition to SB 69.
075	Wood	Gives response to testimony in opposition to SB 69. Reiterates purpose of SB 69. Relates that the commission feels increasingly

		concerned that account allocation funds are being used appropriately.
095	Chair Ringo	Asks if there is a specific example where funds are being used inappropriately.
100	Wood	Responds there is not.
103	Sen. Shields	Addresses misuse of money. Asks if there are other programs in state government where this amount of money is handled by a citizen's group.
112	Wood	Replies that he does not know of any.
115	Sen. Shields	States that it is a lot of money. Inquires if all the safeguards are in place.
125	Edward Johnston	Lincoln County Political Action Committee. States opposition to SB 69. Addresses specific points of opposition. Talks about the economical impact this bill would have. Believes citizens groups are doing a good job.
156	Chair Ringo	Closes public hearing on SB 69 and moves SB 125 to Wednesday's Agenda. Adjourns meeting at 4:42 p.m.

### **EXHIBIT SUMMARY**

- A. SB 64, written testimony, Tim Wood, 1 p**
- B. SB 64, written testimony, Louis Pitt, Jr., 1 p**
- C. SB 64, written testimony, Edward Johnston, 1 p**
- D. SB 66, written testimony, Tim Wood, 1 p**
- E. SB 68, written testimony, Tim Wood, 1 p**
- F. SB 69, written testimony, Tim Wood, 2 pp**
- G. SB 69, written testimony, Pat Harris, 2 pp**
- H. SB 69, written testimony, Tyrrell Hart, 2 pp**
- I. SB 69, written testimony, Tim Custer, 2 pp**
- J. SB 185, -1 amendments, Staff, 1 p**