

SENATE COMMITTEE ON ENVIRONMENT & LAND USE

February 07, 2005
3:00 P.M.

Hearing Room B
Tapes 15 - 16

MEMBERS PRESENT: Sen. Jason Atkinson, Vice-Chair
Sen. Roger Beyer
Sen. Frank Shields

MEMBER EXCUSED: Sen. Charlie Ringo
Sen. Ginny Burdick

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

MEASURES/ISSUES HEARD:
SB 431 – Public Hearing
Introduction of Committee Measures – Work Session
SB 432 – Public Hearing

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 15, A		
005	Vice-Chair Atkinson	Calls meeting to order at 3:01 p.m. as a sub-committee. Opens public hearing on SB 431.
<u>SB 431 – PUBLIC HEARING</u>		
010	Randy Tucker	Metro. Discusses introduction of SB 431.
015	Dick Benner	Metro. Discusses periodic review process. Discusses purpose of SB 431 and explains it. Discusses specific language and effect of SB 431. Addresses criticism given in opposition to proposal using an example.
110	Vice-Chair Atkinson	Asks about interim work group on periodic review. Asks when this group can make a recommendation.
115	Benner	States that there is one more meeting and that a report is being drafted.
116	Vice-Chair Atkinson	Asks question regarding report.
117	Benner	Answers question regarding report.
118	Vice-Chair Atkinson	Expresses concerns in making appeal process easier for local government while not making it easier for real people.
135	Benner	Believes that making it easier for local government does make it easier for real people and gives illustration.
The following prepared testimony is submitted for the record without public testimony:		
	Ed Sullivan	Submits written testimony on SB 431 (EXHIBIT L).
150	Vice-Chair Atkinson	Closes public hearing on SB 431. Acknowledges a quorum is now present and opens work session on introduction of Legislative Counsel (LC) drafts.
<u>INTRODUCTION OF COMMITTEE MEASURES – WORK SESSION</u>		
160	Matt Shields	Committee Administrator. Reads Legislative Counsel (LC) draft numbers and relating to clauses. Lists bills: 1524 (became SB 529), 1655 (became SB 530), 1931

(became SB 531), 2005 (became SB 532), 2194 (became SB 533), 2195 (became SB534), 2196 (became SB 535), 2197 (became SB 536), 2200 (became SB 537) **(EXHIBITS A, B, C, D, E, F, G, H, I).**

175 Sen. Beyer Asks if Administrator has a list of who requested all of the LC drafts.

180 Shields Explains.

185 Sen. Beyer Asks about LC 1655.

190 Shields Offers to return information to the committee.

192 Sen. Beyer Discusses LC 1655.

195 Sen. Beyer **MOTION: Moves LC's: 1524, 1655, 1931, 2005, 2194, 2195, 2196, 2197, 2200 BE INTRODUCED as committee bills.**

VOTE: 3-0-2

EXCUSED: 2 - Burdick, Ringo

Hearing no objection, declares the motion CARRIED.

200 Vice-Chair Atkinson Vice-Chair Atkinson Closes work session on introduction of LC drafts and opens public hearing on SB 432.

SB 432 – PUBLIC HEARING

205 Matt Shields Committee Administrator. Explains SB 432.

215 Ross Day Oregonians In Action. Submits written testimony **(EXHIBIT J)**. Gives introduction of SB 432. Explains functions of Land Use Board of Appeals. Explains effect of SB 432.

300 Day Explains purpose of creating LUBA. Gives examples of those who would be in opposition to SB 432. Explains who would benefit from the passage of SB 432.

385 Jim Just Executive Director, Goal One Coalition. Submits written testimony **(EXHIBIT K)**. Explains Goal One Coalition. Believes SB 432 will limit citizen participation.

435 Vice-Chair Atkinson Asks if there are citizens in Washington state that are rejected from due process as it relates to land use planning there.

440 Just Responds that he doesn't know the process in Washington state.

441 Vice-Chair Atkinson Asks about Idaho state.

442 Just Responds that he doesn't know the process in Idaho state.

445 Vice-Chair Atkinson Believes that there are people that can appeal for the sake of appealing.

450 Just Believes people appeal because they have some specific concerns. Doesn't believe that people would waste time and money.

465 Vice-Chair Atkinson Believes that it happens all the time.

TAPE 16, A

035 Stephen Kafoury Oregon Chapter of the American Planning Association. Introduces Ed Sullivan.

040 Ed Sullivan Citizen. Introduces himself. Submits and reads written testimony **(EXHIBIT L)** and submits memo to the Advisory Committee on Regulatory Permitting **(EXHIBIT M)**.

080 Sullivan Explains an article published in Willamette Law Review **(EXHIBIT N)**.

110 Vice-Chair Atkinson Points out that SB 432 proposes to save 175 days and states specific areas where time is saved. Asks if this could be done quicker.

115 Sullivan Doesn't believe that it could. Discusses how many cases LUBA

120	Vice-Chair Atkinson	gets each year. Explains how LUBA works as a filtering system.
123	Sullivan	Asks how much it costs to make an appeal initially.
125	Vice-Chair Atkinson	Explains costs.
130	Sullivan	Asks about appealing for the sake of appealing.
131	Vice-Chair Atkinson	States that Oregon is one of the more liberal states. Notes that the standard citation is “adversely affected or aggrieved.”
132	Sullivan	Asks if that is what the witness means by liberal.
140	Mary Kyle McCurdy	Replies, yes.
195	Mike Holstun	Staff Attorney, 1000 Friends of Oregon. Submits and reads written testimony in opposition to SB 432 (EXHIBIT O) .
210	Vice-Chair Atkinson	Board member, LUBA. Submits written testimony (EXHIBIT P) .
215	Holstun	Asks why he is signed up as neutral.
230	Holstun	States intent and explains he is not taking a position on SB 432.
245	Holstun	Highlights written testimony (EXHIBIT P) .
260	Holstun	Explains what SB 432 does. Returns to highlighting testimony (EXHIBIT P, Page 2) .
295	Holstun	Refers to and explains Appendix B (EXHIBIT P) .
340	Holstun	Continues highlighting testimony (EXHIBIT P) .
345	Vice-Chair Atkinson	Refers to Appendix D (EXHIBIT P) .
350	Holstun	Asks if that in any way tracks with the economy.
370	Holstun	Believes it tracks pretty well with the economy. Explains that the number of appeals go up during economic booms and go down during recessions.
400	Sen. Beyer	Discusses Measure 37 (EXHIBIT P, Page 4) .
405	Holstun	Asks what happens if LUBA does not render a decision in the 77 day timeline.
425	Sen. Beyer	Gives explanation of options and process.
430	Holstun	Questions if LUBA asks both parties to waive the statutory requirement of time when they see a potentially complicated case.
435	Vice-Chair Atkinson	Explains that generally an additional seven days is requested if necessary.
450	Holstun	Wonders about the trend of appeals. Asks if Oregon is too liberal, and if there are too many appeals determined as frivolous.
		Explains that Sullivan is better equipped to compare between states. Explains the current standing requirement.
TAPE 15, B		
030	Liz Frenkel	League of Women Voters of Oregon. Supports land use planning system. Addresses Goal One and the ability to appeal. Sees ability to go to LUBA as critical. Wants to protect the right of the individual as well as groups with public interest to appeal.
080	Tom Gallagher	Urban Developers Coalition. Discusses timelines. Explains that big projects are the ones that get held up in the appeals process. Discusses work group on the appeals process and explains that the work group recommends changing LUBA from a land use court to a magistrate court.
150	Gallagher	Discusses two types of appeals.
The following prepared testimony is submitted for the record without public testimony:		
	Peter Frothingham	Submits written testimony in opposition to SB 432 (EXHIBIT Q) .
	Kingsley Click	Submits written testimony on SB 432 (EXHIBIT R) .

EXHIBIT SUMMARY

- A. Introductions, LC 1524, Staff, 3 pp**
- B. Introductions, LC 1655, Staff, 4 pp**
- C. Introductions, LC 1931, Staff, 2 pp**
- D. Introductions, LC 2005, Staff, 2 pp**
- E. Introductions, LC 2194, Staff, 1 p**
- F. Introductions, LC 2195, Staff, 1 p**
- G. Introductions, LC 2196, Staff, 2 pp**
- H. Introductions, LC 2197, Staff, 2 pp**
- I. Introductions, LC 2200, Staff, 1 p**
- J. SB 432, written testimony, Ross Day, 6 pp**
- K. SB 432, written testimony, Jim Just, 1 p**
- L. SB 431 & SB 432, written testimony, Ed Sullivan, 2 pp**
- M. SB 432, memo to the Advisory Committee on Regulatory Permitting, Ed Sullivan, 5 pp**
- N. SB 432, article on LUBA, Ed Sullivan, 73 pp**
- O. SB 432, written testimony, Mary Kyle McCurdy, 2 pp**
- P. SB 432, written testimony, Michael Holstun, 9 pp**
- Q. SB 432, written testimony, Peter Frothingham, 1 p**
- R. SB 432, written testimony, Kingsley Click, 2 pp**