

SENATE COMMITTEE ON ENVIRONMENT & LAND USE

May 26, 2005
8:00 A.M.

Hearing Room 343
Tapes 100 - 102

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

MEMBER EXCUSED: Sen. Ginny Burdick

MEMBER VISITING: President Peter Courtney

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

MEASURES/ISSUES HEARD:

HB 2458 A – Public Hearing
HB 2926 – Public Hearing and Work Session
HB 2927 A – Public Hearing and Work Session
SB 532 – Work Session
HJM 5 A – Work Session
HB 2881 – Public Hearing and Work Session
HB 2722 – Work Session and Public Hearing
HB 3313 A – 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 100, A		
005	Chair Ringo	Calls meeting to order at 8:12 a.m. Makes opening remarks. Opens public hearing on HB 2458 A.
<u>HB 2458 A – PUBLIC HEARING</u>		
010	Sen. David Nelson	Senate District 29. Testifies in support of HB 2458 A. Submits written testimony (EXHIBIT A).
022	Chair Ringo	Recesses public hearing on HB 2458 A and opens public hearing on HB 2926 and HB 2927 A.
<u>HB 2926 AND HB 2927 A – PUBLIC HEARING</u>		
034	Chair Ringo	Recesses public hearing on HB 2926 and HB 2927 A and opens work session on SB 532.
<u>SB 532 – WORK SESSION</u>		
040	Martin Taylor	Oregon Nurses Association. Submits and explains the -6 amendments to SB 532 (EXHIBIT B).
056	Chair Ringo	Verifies that this bill will have a subsequent referral to the Senate Special Committee on Budget.
057	Taylor	Confirms this.
058	Sen. Shields	Asks who was involved in drafting these amendments.
059	Taylor	Responds.
072	Chair Ringo	MOTION: Moves to ADOPT SB 532-6 amendments dated 05/25/05.

074		VOTE: 5-0-2
	Chair Ringo	EXCUSED: 2 - Beyer, Burdick
		Hearing no objection, declares the motion CARRIED.
075	Chair Ringo	MOTION: Moves SB 532 to the floor with a DO PASS AS AMENDED recommendation.
076		VOTE: 3-1-2
		AYE: 3 – President Courtney, Shields, Ringo
		NAY: 1 - Atkinson
	Chair Ringo	EXCUSED: 2 - Beyer, Burdick
		The motion CARRIES.
		SEN. RINGO will lead discussion on the floor.
078	Chair Ringo	Recesses committee.
079	Chair Ringo	Calls meeting back to order and re-opens public hearing on HB 2926.
<u>HB 2926 – PUBLIC HEARING</u>		
081	John McDonald	Executive Director, Oregon Association of Conservation Districts. Explains HB 2926. Submits written testimony in support of HB 2926 (EXHIBIT C).
096	Larry Ojua	Oregon Department of Agriculture. States support for HB 2926. Concurs with previous witness.
099	Paul Reed	Director, East Lane Soil and Water Conservation District. Believes HB 2926 is important in order to remove an anachronism from the existing statute.
105	Chair Ringo	Closes public hearing on HB 2926 and opens work session on HB 2926.
<u>HB 2926 – WORK SESSION</u>		
107	Sen. Atkinson	MOTION: Moves HB 2926 to the floor with a DO PASS recommendation.
110		VOTE: 4-0-1
	Chair Ringo	EXCUSED: 1 - Burdick
		Hearing no objection, declares the motion CARRIED.
		SEN. RINGO will lead discussion on the floor.
112	Chair Ringo	Closes work session on HB 2926 and re-opens public hearing on HB 2927 A.
<u>HB 2927 A – PUBLIC HEARING</u>		
113	John McDonald	Executive Director, Oregon Association of Conservation Districts. Explains HB 2927 A. Submits written testimony in support of HB 2927 A (EXHIBIT D).
127	Chair Ringo	Asks what the stream of interest is that will be used to repay the bonds.
128	McDonald	Asks for clarification.
129	Chair Ringo	Clarifies the stream of revenue that will be used to repay the bonds.
130	McDonald	Replies it would be an issuing of a tax. Explains provision.
135	Sen. Shields	Relates experience of serving on the Board of Directors for a community college. Wonders if a small election would present a problem.
146	McDonald	Responds.
151	Larry Ojua	Oregon Department of Agriculture. Explains HB 2927 A was partly at the request of one conservation district in Yamhill County.
158	Chair Ringo	Closes public hearing on HB 2927 A and opens work session on HB 2927 A.

HB 2927 A – WORK SESSION

163 Sen. Atkinson

167

Chair Ringo

168 Chair Ringo

HJM 5 A – WORK SESSION

170 Chair Ringo

178 Sen. Atkinson

182

Chair Ringo

183 Chair Ringo

HB 2881 – PUBLIC HEARING

Matt Shields

184 Chair Ringo

185 Sen. Beyer

199 Chair Ringo

200 Sen. Beyer

212 Chair Ringo

214 Sen. Beyer
Chair Ringo

HB 2881 – WORK SESSION

216 Sen. Beyer

222 Sen. Shields

223 Chair Ringo

235 Sen. Shields

239 Chair Ringo

242 Sen. Beyer

245 Sen. Shields

247

Chair Ringo

MOTION: Moves HB 2927 A to the floor with a DO PASS recommendation.

VOTE: 4-0-1

EXCUSED: 1 - Burdick

Hearing no objection, declares the motion CARRIED.

SEN. RINGO will lead discussion on the floor.

Closes work session on HB 2927 A and opens work session on HJM 5 A.

Discusses HJM 5 A.

MOTION: Moves HJM 5 A be sent to the floor with a BE ADOPTED recommendation.

VOTE: 4-0-1

EXCUSED: 1 - Burdick

Hearing no objection, declares the motion CARRIED.

SEN. ATKINSON will lead discussion on the floor.

Closes work session on HJM 5 A and opens public hearing on HB 2881.

Committee Administrator. Submits the -2 amendments to HB 2881 for the record **(EXHIBIT E)**.

Asks Sen. Beyer if he has had a chance to decide.

Replies yes. Explains the Oregon Department of Fish and Wildlife (ODFW) currently has the authority to de-list this species of goose, but they can't get there scientifically. Discusses concerns with the -2 amendments. Explains the Governor's office wants the bill as originally drafted with one additional amendment that would add an emergency clause.

States the committee does not have that amendment here.

Replies the amendment is on its way. Explains he had the amendment drafted yesterday afternoon. Discusses timeline.

Submits the -3 amendments to HB 2881 **(EXHIBIT F)**.

Verifies that the -3 amendments that were just received add the emergency clause.

Confirms that the -3 amendments only add an emergency clause.

Closes the public hearing and opens the work session on HB 2881.

MOTION: Moves to ADOPT HB 2881-3 amendments dated 05/25/05.

Asks about the differences between the -2 and the -3 amendments.

Explains the -2 amendments and the -3 amendments.

States he will not oppose the -3 amendments. States concerns.

Comments that the legislature statutorily imposed the listing.

Remarks that science says this species should be de-listed, but cannot be because of Oregon's de-listing laws.

Remarks he wanted some discussion on the record.

VOTE: 4-0-1

EXCUSED: 1 - Burdick

Hearing no objection, declares the motion CARRIED.

249	Sen. Beyer	MOTION: Moves HB 2881 to the floor with a DO PASS AS AMENDED recommendation.
252		VOTE: 4-0-1
	Chair Ringo	EXCUSED: 1 - Burdick
		Hearing no objection, declares the motion CARRIED.
		SEN. ATKINSON will lead discussion on the floor.
264	Chair Ringo	Closes work session on HB 2881 and opens work session on HB 2722.
<u>HB 2722 – WORK SESSION</u>		
	Matt Shields	Committee Administrator. Submits the -1 amendments (EXHIBIT G) and the -2 amendments (EXHIBIT H) to HB 2722 for the record.
265	Rep. Mitch Greenlick	House District 33. Explains HB 2722 with the -1 amendments.
329	Chair Ringo	Verifies that the -1 amendments refer to whether a county court makes a decision regarding whether it may adversely affect a neighboring city.
332	Rep. Greenlick	Replies yes.
333	Chair Ringo	Asks if that is also true for a county commission.
335	Rep. Greenlick	Believes it to also be true for a county commission. Discusses language on page 3 of the amendments.
342	Sen. Shields	Asks how long ago the three-mile limit was set.
345	Rep. Greenlick	Believes ORS 221.031 is several years old.
349	Sen. Shields	Makes comment.
357	Chair Ringo	Discusses previous testimony of Linda Ludwig on this subject.
365	Chair Ringo	Closes work session on HB 2722 and opens public hearing on HB 2722.
<u>HB 2722 – PUBLIC HEARING</u>		
367	Sen. Beyer	Remarks that he doesn't have any information on HB 2722 in his bill file. Asks for background information.
370	Chair Ringo	Makes comments.
380	Linda Ludwig	League of Oregon Cities. Gives background information on HB 2722. Submits Incorporation Guide (EXHIBIT I) . Discusses the -2 amendments. Asks committee to consider the -2 amendments.
TAPE 101, A		
001	Ludwig	Continues discussion of HB 2722 with the -2 amendments.
024	Rep. Greenlick	Comments on concerns with a one-mile limit.
035	Ludwig	Explains there have been several incorporations since this law came into effect. Provides examples. Explains there have been no cities even under the three-mile veto that have put forward a resolution to object to the incorporation of a city.
045	Ken Henschel	Chairman, Citizen Participation Organization (CPO) 4B, Washington County. Testifies in support of HB 2722. Submits resolution from the CPO (EXHIBIT J) . Responds to Ms. Ludwig's remarks. Believes the one-mile limit will only exacerbate the problem. Explains.
069	Chair Ringo	Discusses community planning. Gives example of Washington County. Wonders if it serves community planning to have cities blending together.
081	Henschel	Responds.
096	Julie Russell	Resident, Washington County. Believes the power to veto is an abuse of power. Provides example. States they met with the people of the city of Damascus and explains how much work it was for them to form their own city.
114	Isador W. Morgavi	Resident, Washington County. Relates anecdote. Discusses the

		unincorporated area of Bull Mountain. Mentions HB 2484 (2005) and SB 380 (2005). Explains support for HB 2722. Verifies the mentioned bills are annexation bills.
132	Chair Ringo	Replies yes.
133	Morgavi	Citizen. Concurs with previous witnesses.
135	Philip Docker	Announces HB 2722 will not be moved today. Closes public hearing on HB 2722 and states that the work session for HB 2722 will be heard at the next scheduled meeting.
139	Chair Ringo	Opens public hearing on HB 3313 A.
150	Chair Ringo	
<u>HB 3313 A – PUBLIC HEARING</u>		
163	Kathleen Worman	Resident, Saint Helens. Discusses HB 3313 A. Explains template test. Explains that Multnomah County requires the template to be square, whereas state law permits a long rectangle. Relates personal story. Points out the law is silent on the issue of a dwelling being on the template boundary line. States that Multnomah County has not expressed any opposition to HB 3313 A.
190	Chair Ringo	Clarifies the issue is that the boundary line divides the dwelling.
191	Worman	Replies yes and explains that, because the law is silent on the issue, Multnomah County has concluded that the dwelling is not within the template. Explains HB 3313 A passed out of the House Land Use Committee and the House floor unanimously. Reiterates that Multnomah County has not expressed any opposition to HB 3313 A.
197	Chair Ringo	Asks about language on page 2 of HB 3313 A. Asks about the significance of changing “or” to “and”.
202	Worman	Comments that Chris Crean is not present today.
203	Chair Ringo	Wants to have the question answered before the committee passes the bill.
205	Worman	Asks for clarification of the question.
206	Chair Ringo	States that on page 2, line 2 of the bill, the word “or” is being changed to “and”.
208	Worman	Asks Chair Ringo to read the sentence.
209	Sen. Beyer	Clarifies that is line 12.
210	Chair Ringo	Believes it to be line 2.
211	Sen. Beyer	Explains Chair Ringo is looking at the amendment.
212	Chair Ringo	Replies okay.
213	Worman	Asks if the language has been clarified.
215	Chair Ringo	Replies he wants the explanation from Legislative Counsel (LC). Asks if there is anyone else who will testify on HB 3313 A.
220	Dave Hunnicutt	Oregonians In Action. Addresses the language on page 2, line 12 of HB 3313 A. Believes the amendment is consistent with current knowledge of land use law.
235	Chair Ringo	Makes comments regarding changes made by LC to address an inconsistency in the bill that isn’t the intent of the bill, but they are an attempt to clean up statute.
236	Sen. Shields	Remarks it seems as though that is what LC is doing because the only way it makes sense is to have “and” rather than “or”.
237	Chair Ringo	Agrees.
240	Chair Ringo	Closes public hearing on HB 3313 A. Makes comments regarding agenda. Opens public hearing on HB 2458 A.
<u>HB 2458 A – PUBLIC HEARING</u>		
	Matt Shields	Committee Administrator. Submits the –A3 amendments for the record (EXHIBIT K).

265	Harlan Levy	Oregon Association of Realtors (OAR). Gives background information on HB 2458 A. Explains the –A3 amendments.
340	Levy	Submits and summarizes written testimony in support of HB 2458 A (EXHIBIT L) .
TAPE 100, B		
001	Levy	Continues summarizing written testimony. Discusses reasons why HB 2458 A does not provide advantages for the development of a Wal-Mart.
045	Chair Ringo	Wonders why the witness believes a Wal-Mart couldn't operate on a septic system and a private well.
048	Levy	States that maybe they could. Continues discussion of reasons why HB 2458 A does not provide advantages for the development of a Wal-Mart.
054	Levy	Makes closing remarks.
061	Chair Ringo	Asks witness to explain why the original statute was limited to industrial lands and why it had a sunset.
063	Levy	States those were negotiated compromises that were reached in the 2003 session.
066	Chair Ringo	Verifies that there was no policy reason.
067	Levy	Replies no. Discusses commercial and industrial lands.
071	Chair Ringo	Asks if witness believes there should be different planning criteria for industrial and commercial lands.
073	Levy	Believes that is provided for in HB 2458 A. Explains in detail.
078	Chair Ringo	Asks what the policy reasons are for having different criteria for commercial and industrial uses.
079	Levy	Explains there may be different impacts. Discusses local control.
087	Chair Ringo	Refers to editorial in the Bend Bulletin in regards to HB 2458 A.
095	Levy	States the editorial was written before HB 2458 A was amended. Explains there was a response to the editorial. Remarks the OAR addressed the concerns that the cities brought to their attention.
100	Chair Ringo	Asks what amendments were made in the House in response to the mentioned editorial.
101	Levy	Replies they added the five-mile ring provision around cities.
102	Chair Ringo	Verifies the five-mile ring provision was not in the original bill.
103	Levy	Confirms this.
109	Michael Robinson	Perkins Coie, LLP. Testifies in support of HB 2458 A.
139	Chair Ringo	Asks what witness thinks about SB 1037.
140	Robinson	Discusses Measure 37.
151	Chair Ringo	Asks what witness believes is the biggest danger of HB 2458 A.
154	Robinson	Responds.
166	Chair Ringo	Asks if some of the safeguards have been lost with Measure 37.
167	Robinson	Replies no and explains. Discusses Measure 37.
185	Dennis Doherty	Umatilla County Commissioner. States support for HB 2458 A. Requests to allow the other witnesses to speak first. Asks to speak at the end if there is time. Submits written testimony in support of HB 2458 A (EXHIBIT M) .
194	David Hadley	Resident, Hermiston. Attorney At Law. Explains he served on the Umatilla County Planning Commission from 1982-1992. Submits written testimony in support of HB 2458 A (EXHIBIT N) . Discusses visual aid.
228	Chair Ringo	Asks where I-84 is.
229	Hadley	Points to I-84.
232	Hadley	Continues discussion of visual aid.
329	Chair Ringo	Asks witness to point out the city limits.

330	Hadley	Points out city limits.
331	Chair Ringo	Verifies that the urban growth boundary (UGB) is the darker line.
332	Hadley	Replies yes. Continues discussion of visual aid.
343	Chair Ringo	Believes that all of the things described by the witness are industrial and not commercial uses.
347	Hadley	Responds. Refers to map attached to submitted testimony.
368	Steve Watkins	Citizen, Umatilla County. Testifies in support of HB 2458 A. Submits written testimony (EXHIBIT O) .
<u>TAPE 101, B</u>		
001	Watkins	Continues testimony in support of HB 2458 A.
033	Chair Ringo	Asks for clarification of where Hermiston and Umatilla are on the map.
034	Hadley	Points out Umatilla and Hermiston on the map.
040	Watkins	Continues testimony in support of HB 2458 A.
065	Bob Rindy	Department of Land Conservation and Development (DLCD). Testifies in opposition to HB 2458 A. Submits written testimony (EXHIBIT P) .
103	Chair Ringo	Asks if witness has been involved in any discussions of what HB 2458 A might look like with amendments to address some of the mentioned concerns. Wonders if there is a way to help the people in Umatilla County that wouldn't offend the witness as much.
110	Rindy	Discusses exceptions process.
118	John Van Landingham	Chair, Land Conservation and Development Commission. States that he did not originally intend to testify on HB 2458 A. Discusses the work group mentioned by Harlan Levy.
150	John Hummel	Bend City Councilor. Submits and reads written testimony in opposition to HB 2458 A (EXHIBIT Q) . Discusses pending Wal-Mart application in Bend.
200	Sen. Beyer	Comments that witness said the commission is working too fast and has been asked to slow down. Points out that there has been testimony from members of the commission that say they don't see anything happening. Asks witness to comment on the discrepancy.
205	Van Landingham	Points out these issues involve more than one interest group. Discusses interest groups involved in these issues. Comments on the last commission meeting.
216	Sen. Beyer	Asks witness to talk about the work group on this particular issue, not the UGB work group.
217	Van Landingham	Remarks the commission directed the staff to lead first with the UGB and periodic review work groups. States the work group on this particular issue was not directed to start until January, and has had three meetings since January. Discusses progress.
227	Chair Ringo	States that he would like to stop this discussion to allow those who came from a distance to testify.
235	Paul Tuttle	Realtor, Josephine County. Introduces himself.
240	Chair Ringo	Asks how this has impacted Josephine County.
242	Tuttle	Responds. Testifies in support of HB 2458 A.
268	Joann Hansen	Realtor, Coos County. States that all three commissioners have signed on in support of HB 2458 A. Testifies in support of HB 2458 A.
286	Chair Ringo	Asks if the mentioned people want to use the land for industrial or commercial purposes.
288	Hansen	Replies there are very limited industrial purpose properties.

291	Chair Ringo	Explains those are the port properties.
294	Hansen	Verifies that the people who would potentially come to use the port properties would be using them for industrial purposes. Replies yes. Adds there are also commercial properties available. States they are not the same properties, they are two different properties.
298	Chair Ringo	Asks about the kinds of commercial uses.
299	Hansen	Responds. Discusses the need for jobs.
314	Art Kegler	Citizen, Morrow County. Planning Commission, Morrow County. Chair, Legislative Committee for OAR. President Elect, OAR. Provides an example of a commercial situation.
370	Chair Ringo	Believes that situation could be fixed in legislation.
372	Kegler	Believes that would work. Comments that he was sharing the Chair of the Port of Morrow's objections to supersiting. Discusses impact of addition of jobs in Morrow County.
388	Chair Ringo	Comments that he remembers the mentioned conversation. States he would have supported supersiting. Acknowledges that the land use system is a one-size fits all situation and it is difficult to make exceptions. Believes these are the types of situations that the state of Oregon should attempt to facilitate. States that Sen. Beyer needs to leave and that he also needs to leave.
TAPE 102, A		
001	Kegler	Makes closing remarks.
015	Chair Ringo	States that all of the bills that were not able to be heard will be rolled over until the next meeting on Tuesday, 05/31/2005 at 8:00 a.m.
020	Jim Welsh	Central Oregon Coast Board of Realtors. Discusses issues relevant to the Oregon coast. Submits written testimony in support of HB 2458 A (EXHIBIT R).
The following material is submitted for the record without public testimony:		
	Elon Hasson	1000 Friends of Oregon. Submits written testimony in opposition to HB 2458 A (EXHIBIT S).
	Stephen Kafoury	Oregon Chapter, American Planning Association. Submits written testimony in opposition to HB 2458 A (EXHIBIT T).
062	Vice-Chair Atkinson	Makes comments. Closes public hearing on HB 2458 A and adjourns meeting at 10:08 a.m.

EXHIBIT SUMMARY

- A. HB 2458 A, written testimony, Sen. David Nelson, 1 p**
- B. SB 532, -6 amendments, Martin Taylor, 4 pp**
- C. HB 2926, written testimony, John McDonald, 1 p**
- D. HB 2927 A, written testimony, John McDonald, 1 p**
- E. HB 2881, -2 amendments, staff, 1 p**
- F. HB 2881, -3 amendments, Sen. Roger Beyer, 1 p**
- G. HB 2722, -1 amendments, staff, 1 p**
- H. HB 2722, -2 amendments, staff, 1 p**
- I. HB 2722, incorporation guide, Linda Ludwig, 45 pp**
- J. HB 2722, resolution, Ken Henschel, 2 pp**
- K. HB 2458 A, -A3 amendments, staff, 1 p**
- L. HB 2458 A, written testimony, Harlan Levy, 16 pp**

- M. HB 2458 A, written testimony, Dennis Doherty, 6 pp**
- N. HB 2458 A, written testimony, David Hadley, 3 pp**
- O. HB 2458 A, written testimony, Steve Watkins, 3 pp**
- P. HB 2458 A, written testimony, Bob Rindy, 3 pp**
- Q. HB 2458 A, written testimony, John Hummel, 1 p**
- R. HB 2458 A, written testimony, Jim Welsh, 2 pp**
- S. HB 2458 A, written testimony, Elon Hasson, 2 pp**
- T. HB 2458 A, written testimony, Stephen Kafoury, 1 p**