

SENATE COMMITTEE ON ENVIRONMENT & LAND USE

May 31, 2005
8:00 A.M.

Hearing Room 343
Tapes 103 - 104

Corrected 10/18/05

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:

HB 3081A – Public Hearing and Work Session
HB 3349 – Public Hearing
HB 3461 – Public Hearing and Work Session
SB 527 – Work Session
SB 699 – Work Session
HB 3310A – Public Hearing
HB 2875 – Public Hearing
HB 3313A – Work Session
SB 1032 – Work Session
HB 2755A – Work Session
HB 2258 – Public Hearing and Work Session
HB 2577A – Reconsideration and 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 103, A		
005	Chair Ringo	Calls meeting to order at 8:02 a.m. Makes opening announcements regarding today's agenda. Opens public hearing on HB 3081A.
<u>HB 3081A – PUBLIC HEARING</u>		
017	Rep. Patti Smith	House District 52. Explains HB 3081A.
029	Sen. Rick Metsger	Senate District 26. Testifies in support of HB 3081A.
037	Tom Newberry	Resident, Gresham. Explains HB 3081A. Relates personal experience. Submits written testimony in support of HB 3081A (EXHIBIT A) .
060	Chair Ringo	Makes comments on testimony.
062	Leslie Newberry	Resident, Gresham. States this has been an ongoing process for the last two years.
068	Chair Ringo	Introduces Chris Crean. Asks if Mr. Crean would like to add anything.
069	Chris Crean	Committee Counsel. Believes the Newberrys gave a succinct history and definition of the problem. Believes this legislation will solve the Newberry's problem in the immediate future,

		however there is a bigger problem that needs attention during the interim.
074	Art Schlack	Association of Oregon Counties. Testifies in support of HB 3081A.
092	Chair Ringo	Closes public hearing on HB 3081A and opens work session on HB 3081A.
<u>HB 3081A – WORK SESSION</u>		
095	Sen. Shields	MOTION: Moves HB 3081A to the floor with a DO PASS recommendation.
097		VOTE: 3-0-2
	Chair Ringo	EXCUSED: 2 - Atkinson, Burdick
		Hearing no objection, declares the motion CARRIED.
		SEN. METSGER will lead discussion on the floor.
099	Chair Ringo	Closes work session on HB 3081A and opens public hearing on HB 3349.
<u>HB 3349 – PUBLIC HEARING</u>		
	Matt Shields	Committee Administrator. Submits the -6 amendments (EXHIBIT B) and the -7 amendments (EXHIBIT C) to HB 3349.
101	Sen. Ben Westlund	Senate District 27. Testifies in support of HB 3349 with amendments.
126	Chair Ringo	Verifies that Sen. Westlund is referring to the -6 amendments.
128	Sen. Westlund	Defers to Don Schellenberg.
129	Don Schellenberg	Oregon Farm Bureau. States there are -6 amendments and -7 amendments. Remarks Sen. Westlund was referring to the -6 amendments. Explains the difference between the -6 and the -7 amendments. States support for the -7 amendments.
138	Sen. Beyer	Wonders if witness wants the amendments that replace the original bill to be adopted.
141	Schellenberg	Replies yes and explains.
148	Sen. Westlund	Expresses support for the -7 amendments.
150	Sen. Beyer	Wonders why Mr. Schellenberg wants to gut and stuff his own bill.
154	Schellenberg	Explains support for the -7 amendments.
164	Sen. Beyer	Verifies that it was acceptable in the House.
166	Schellenberg	Responds.
178	Chair Ringo	Mentions additional amendments.
179	Matt Minahan	Lobbyist, Oregon Pyrotechnics Association (OPA). Submits and explains the -1 amendments (EXHIBIT D).
200	Chair Ringo	Asks who will be in opposition to this amendment.
202	Minahan	Believes there is some opposition in the House.
208	Chair Ringo	Asks if that is to protect one establishment.
210	Minahan	Discusses SB 667 (2003).
218	Chair Ringo	States that the bill will not be moved today.
221	Chair Ringo	Closes public hearing on HB 3349 and opens public hearing on HB 3461.
<u>HB 3461 – PUBLIC HEARING</u>		
230	Dave Nelson	Executive Secretary, Oregon Seed Council. Testifies in support of HB 3461. Submits written testimony (EXHIBIT E).
271	Brent Searle	Special Assistant to the Director, Oregon Department of Agriculture. Offers to answer questions. Submits written testimony (EXHIBIT F).
283	Mike Hayes	Vice-President, Oregon Seed Council. Seed Grower, Lebanon and Albany. Testifies in support of HB 3461.

289	Eric Bowers	Annual Rye Grass Grower, Harrisburg. Past President of the Oregon Seed Council. Concurs with previous witnesses. Believes HB 3461 will help stabilize the market.
309	Chair Ringo	Closes public hearing and opens work session on HB 3461.
<u>HB 3461 – WORK SESSION</u>		
315	Sen. Beyer	MOTION: Moves HB 3461 to the floor with a DO PASS recommendation.
318		VOTE: 3-0-2
	Chair Ringo	EXCUSED: 2 - Atkinson, Burdick
		Hearing no objection, declares the motion CARRIED.
		SEN. BEYER will lead discussion on the floor.
323	Chair Ringo	Closes work session on HB 3461 and opens work session on SB 527.
<u>SB 527 – WORK SESSION</u>		
	Matt Shields	Committee Administrator. Submits the -6 amendments to SB 527 (EXHIBIT G) .
338	Sen. Doug Whitsett	Senate District 28. Discusses SB 527 with the -6 amendments.
375	Chair Ringo	Refers to page 4 of SB 527 regarding arbitration. Asks about standards the arbitrator would apply.
382	Sen. Bill Morisette	Senate District 6. Discusses standards for arbitration. Discusses cost and timeline of recent Klamath County court case heard at the Supreme Court.
408	Chair Ringo	Wonders if the arbitrator would say the energy facility could move forward if it meets the state wide planning goals. Wonders what findings the arbitrator would make to help the arbitrator decide whether or not the siting should go forward.
TAPE 104, A		
005	Sen. Morisette	Replies the findings would be presented by both sides. Explains the side that has local jurisdiction would site land use restrictions, including seismic, water rights, farmland and other statutory restrictions in land use. Explains the siting council would then present their case that they have the right, under the statute, to ignore these restrictions. States the arbitrator would then make a decision based on the presentation of both sides.
015	Chair Ringo	Asks what legal standard the decision would be based on.
017	Sen. Morisette	Replies based on land use standards of the state of Oregon as opposed to the authority of the siting council to overlook the land use standards.
025	Lisa Arkin	Resident, Eugene. Suggests that the answer to Chair Ringo's question can be found on page three of the -6 amendments. Explains in detail.
036	Sen. Shields	Asks if witnesses have talked to the other members of the committee who are not present.
039	Sen. Morisette	Replies yes.
040	Sen. Shields	Asks if the other members have favorable opinions of the bill.
041	Sen. Morisette	Replies yes.
043	Sen. Beyer	Asks what social and energy consequences are.
044	Sen. Morisette	Asks for clarification.
045	Sen. Beyer	Asks what is meant by social and energy consequences.
050	Sen. Morisette	Explains social consequences.
072	Sen. Whitsett	Discusses recent Supreme Court hearing. Discusses social and energy consequences.
105	Chair Ringo	Asks if the Department of Energy has changed their position on this bill since the previous hearing.

106	Sen. Whitsett	Explains that to his knowledge they have not.
107	Sen. Beyer	Responds to Sen. Whitsett's explanation. Believes that social consequences are subjective.
125	Sen. Whitsett	Replies that is why the bill has created a mandatory arbitration process.
136	Chair Ringo	Reiterates question regarding the standards for arbitration. Believes the standards need to be specified. States that SB 527 will be held over until Thursday, 06/02/05. Closes work session on SB 527.
145	Sen. Morisette	Emphasizes cost and timeline of recent Supreme Court case.
154	Chair Ringo	Reiterates question regarding standards for arbitration.
158	Sen. Beyer	Points out that Sen. Whitsett said the Supreme Court would still be available after arbitration.
161	Sen. Whitsett	Replies yes.
162	Sen. Beyer	States that cost and time would still be an issue if they do not agree with the arbitration.
164	Sen. Whitsett	Responds.
180	Chair Ringo	Makes comments. States that SB 527 will be held over until Thursday, 06/02/05.
183	Chair Ringo	Closes work session on SB 527 and opens work session on SB 699.

SB 699 – WORK SESSION

	Matt Shields	Committee Administrator. Submits the -1 amendments to SB 699 (EXHIBIT H) .
195	Ralph Saperstein	Boise Cascade. Asks for clarification on the question.
201	Chair Ringo	Explains the committee had a hearing on SB 699 previously. Verifies that witness wants the committee to adopt the -1 amendments.
202	Saperstein	Explains the original bill was broader and the -1 amendments only apply to Jackson County.
203	Chair Ringo	Asks witness to repeat answer.
204	Saperstein	Reiterates the -1 amendments apply only to Jackson County.
205	Chair Ringo	Verifies the -1 amendments narrow the scope of the bill.
206	Saperstein	Confirms this. States support for the -1 amendments.
207	Sen. Beyer	MOTION: Moves to ADOPT SB 699-1 amendments dated 03/28/05.
208		VOTE: 3-0-2
	Chair Ringo	EXCUSED: 2 - Atkinson, Burdick
		Hearing no objection, declares the motion CARRIED.
211	Sen. Beyer	MOTION: Moves SB 699 to the floor with a DO PASS AS AMENDED recommendation.
215		VOTE: 3-0-2
	Chair Ringo	EXCUSED: 2 - Atkinson, Burdick
		Hearing no objection, declares the motion CARRIED.
		SEN. RINGO will lead discussion on the floor.
218	Chair Ringo	Closes work session on SB 699 and opens public hearing on HB 3310A.

HB 3310A – PUBLIC HEARING

	Matt Shields	Committee Administrator. Submits the –A4 amendments (EXHIBIT I) and the –A5 amendments (EXHIBIT J) to HB 3310A.
232	Rob Hallyburton	Department of Land Conservation and Development. Provides an overview of HB 3310A.

278	Linda Ludwig	League of Oregon Cities. Submits report titled "Report to the 2005 Legislature on the Effectiveness and Efficiency of the Process for Periodic Review of Local Comprehensive Land Use Plans" (EXHIBIT K).
283	Chair Ringo	Verifies that witness wants to adopt the –A5 amendments.
284	Ludwig	Explains the –A5 amendments.
289	Ludwig	Provides background information on periodic review reform. Discusses SB 920 (2003).
314	Ludwig	Discusses submitted report (EXHIBIT K).
326	Chair Ringo	Asks what page of the report the witness is referring to.
327	Ludwig	States she is referring to the Executive Summary portion of the report.
335	Ludwig	Continues discussion of submitted report.
387	John Chandler	Oregon Home Builders Association. Discusses the interim committee on Periodic Review. Explains HB 3310A. Explains the minority report included in the submitted report. States support for the –A5 amendments. States opposition to the –A4 amendments.
 TAPE 103, B		
018	Hallyburton	Discusses section 10 of HB 3310A. Mentions this is a replication of language in SB 431 (2005).
025	Art Schlack	Association of Oregon Counties (AOC). States the AOC was a part of the interim committee on periodic review. States support for HB 3310A with the –A5 amendments.
028	Sen. Beyer	Mentions minority report included in the submitted report (EXHIBIT K). Asks which three members disagreed with the committee recommendation.
034	Ludwig	Explains the disagreement.
038	Sen. Beyer	Understands the disagreement. Wonders which three members of the committee issued the minority report.
039	Ludwig	Believes it was issued by Ed Sullivan, Sid Freeman, and Becky Steckler.
047	Sen. Burdick	Asks for the names again.
049	Ludwig	Replies. Explains it was Mr. Sullivan who wrote the minority report.
052	Chair Ringo	Discusses the –A4 amendments. States that HB 3310A will be carried over to Thursday, 06/02/05.
059	Chair Ringo	Closes public hearing on HB 3310A and opens public hearing on HB 2875.
 <u>HB 2875 – PUBLIC HEARING</u>		
067	Kristina McNitt	Oregon Water Resources Congress. Submits and reads written testimony in support of HB 2875 (EXHIBIT L).
104	Jerry Bryan	Farmers Irrigation District, Hood River. Relates personal experience.
127	Sen. Shields	Asks how far witness moved the point of diversion to resolve the emergency.
128	Bryan	Responds.
132	Sen. Shields	Asks if witness had to build extra canal. Asks how it was done.
135	Bryan	Responds.
155	Doug Myers	WaterWatch. Submits and reads written testimony regarding HB 2875 (EXHIBIT M).
173	Chair Ringo	Asks if the proponents of the bill are going to say that it is not practical to create more hurdles because of the emergency nature of the situation.

176	Myers	Believes that to be true.
177	Chair Ringo	Asks why that wouldn't be a good argument.
178	Myers	Discusses the importance of fish passage, bypass and screens. Believes the Oregon Department of Fish and Wildlife (ODFW) should be in charge of making that decision.
186	Sen. Shields	Asks what the consequence would have been in Hood River had this law been in effect.
188	Myers	Explains.
191	Adam Sussman	Water Resources Department. Testifies in support of HB 2875 as drafted. Explains that ODFW is comfortable with the bill as drafted. Submits written testimony (EXHIBIT N) .
218	Chair Ringo	Asks if there is anyone from the ODFW here who would like to testify.
223	Russ Sock	Legislative Liaison, ODFW. States support for HB 2875 as drafted. Believes Mr. Sussman's testimony characterized their relationship in requiring both screening and passage.
229	Sen. Shields	Asks what the amendments proposed by Mr. Myers would do. Asks if there are any concerns regarding them.
230	Sussman	Discusses concerns with proposed amendments.
244	Chair Ringo	Closes public hearing on HB 2875 and opens work session on HB 3313A.

HB 3313A – WORK SESSION

255	Kathleen Worman	Resident, Saint Helens. Provides an overview of HB 3313A.
264	Chair Ringo	Verifies there is no known opposition.
265	Worman	States that Multnomah County has not expressed any opposition.
268	Chris Crean	Committee Counsel. Makes comment.
270	Worman	States HB 3313A passed the House Land Use Committee and the House floor unanimously.
275	Sen. Atkinson	MOTION: Moves HB 3313A to the floor with a DO PASS recommendation.
276		VOTE: 5-0-0
	Chair Ringo	Hearing no objection, declares the motion CARRIED.
		SEN. RINGO will lead discussion on the floor.
283	Sen. Beyer	Points out that Chair Ringo was concerned about the change in language which changed "or" to "and". Asks for clarification.
284	Chair Ringo	States he decided it was a technical issue.
285	Crean	Believes it to be a distinction without a difference. Explains land use regulations have to be consistent with the comprehensive plan. Explains if something is inconsistent with one it would necessarily be inconsistent with the other, and consequently the conjunction should be "and" instead of "or".
292	Chair Ringo	Closes work session on HB 3313A and opens work session on SB 1032.

SB 1032 – WORK SESSION

	Matt Shields	Submits the -1 amendments to SB 1032 (EXHIBIT O) .
300	Gary Conkling	Beaverton School District. Provides an overview of SB 1032. Explains the -1 amendments.
337	Randy Tucker	Legislative Affairs Director, Metro. Discusses the -1 amendments.
354	Chair Ringo	Wonders if SB 1032 will facilitate Metro addressing the problem of high growth school districts not finding land for schools.
360	Tucker	Believes it will.
361	Chair Ringo	Comments it is not as heavy-handed as the original version.

362	Tucker	Agrees. Explains SB 1032 with the -1 amendments is much more acceptable to Metro. Discusses work done on SB 1032 and the -1 amendments.
372	Sen. Burdick	Believes it is currently a conditional approval to get a school built outside the urban growth boundary (UGB) under existing law. Asks how this process would differ.
378	Tucker	Explains a school built outside the UGB is required to serve the rural community outside the UGB. Explains a school built to serve the urban community needs to be inside the UGB or the UGB has to be expanded. Explains SB 1032 would facilitate the process of expanding the UGB for a school district that has that need.
388	Sen. Burdick	States she wasn't aware that the school conditional use outside the UGB was limited to rural populations.
392	Tucker	States that is his understanding. Explains he does not know of any cases of schools serving urban populations located outside the UGB. Discusses previous expansion of the UGB done by Metro.
TAPE 104, B		
007	Sen. Burdick	MOTION: Moves to ADOPT SB 1032-1 amendments dated 05/24/05.
009		VOTE: 4-0-1
		EXCUSED: 1 - Beyer
	Chair Ringo	Hearing no objection, declares the motion CARRIED.
010	Sen. Burdick	MOTION: Moves SB 1032 to the floor with a DO PASS AS AMENDED recommendation.
015		VOTE: 3-2-0
		AYE: 3 - Burdick, Shields, Ringo
		NAY: 2 - Atkinson, Beyer
	Chair Ringo	The motion CARRIES.
		SEN. RINGO will lead discussion on the floor.
026	Chair Ringo	Closes work session on SB 1032 and opens work session on HB 2755A.
<u>HB 2755A – WORK SESSION</u>		
027	Matt Shields	Committee Administrator. Provides an overview of HB 2755A. Submits and explains the –A4 amendments (EXHIBIT P). Submits and explains the –A5 amendments which are amendments to resolve conflicts with HB 2356 (EXHIBIT Q).
044	Chair Ringo	Asks if the –A5 amendments also include the –A4 amendments.
045	Shields	Replies no. Believes the committee will need to adopt both sets of amendments.
047	Tom Gallagher	Professional Land Surveyors of Oregon. States the committee needs to adopt the –A4 and the –A5 amendments.
054	Sen. Atkinson	MOTION: Moves to ADOPT HB 2755-A4 amendments dated 05/23/05.
056		VOTE: 5-0-0
	Chair Ringo	Hearing no objection, declares the motion CARRIED.
058	Sen. Atkinson	MOTION: Moves to ADOPT HB 2755-A5 amendments dated 05/25/05.
059		VOTE: 5-0-0
	Chair Ringo	Hearing no objection, declares the motion CARRIED.
060	Sen. Atkinson	MOTION: Moves HB 2755A to the floor with a DO PASS AS AMENDED recommendation.

061	Chair Ringo	VOTE: 5-0-0 Hearing no objection, declares the motion CARRIED. SEN. ATKINSON will lead discussion on the floor.
064	Chair Ringo	Closes work session on HB 2755A and opens public hearing on HB 2258.
<u>HB 2258 – PUBLIC HEARING</u>		
065	Matt Shields	Committee Administrator. Provides an overview of HB 2258.
080	Chair Ringo	Asks if committee would like to hear from Legislative Counsel on HB 2258.
084	Chair Ringo	Closes public hearing on HB 2258 and opens work session on HB 2258.
<u>HB 2258 – WORK SESSION</u>		
090	Sen. Atkinson	MOTION: Moves HB 2258 to the floor with a DO PASS recommendation.
092	Chair Ringo	VOTE: 5-0-0 Hearing no objection, declares the motion CARRIED. SEN. BEYER will lead discussion on the floor.
092	Chair Ringo	Closes work session on HB 2258 and opens work session on HB 2577A for possible reconsideration.
<u>HB 2577A – RECONSIDERATION AND WORK SESSION</u>		
094	Matt Shields	Committee Administrator. Submits and explains the –A2 amendments to HB 2577A (EXHIBIT R).
104	Chair Ringo	Verifies the amendment was suggested by Rep. Kropf.
105	Shields	Confirms this.
106	Chair Ringo	MOTION: Moves to SUSPEND the rules for the purpose of RECONSIDERING the vote on by which HB 2577A was moved to the floor with a DO PASS recommendation.
107	Chair Ringo	VOTE: 4-0-1 EXCUSED: 1 - Shields Hearing no objection, declares the motion CARRIED.
112	Sen. Ringo	MOTION: Moves to ADOPT HB 2577-A2 amendments dated 05/06/05.
113	Chair Ringo	VOTE: 4-0-1 EXCUSED: 1 - Shields Hearing no objection, declares the motion CARRIED.
115	Sen. Ringo	MOTION: Moves HB 2577A to the floor with a DO PASS AS AMENDED recommendation.
120	Chair Ringo	VOTE: 4-0-1 EXCUSED: 1 - Shields Hearing no objection, declares the motion CARRIED. SEN. RINGO will lead discussion on the floor.
121	Chair Ringo	Asks staff to list the bills that will be carried over to the agenda on Thursday, 06/02/05.
124	Shields	Lists SB 1061, HB 2729A, SB 527, HB 2722, HB 2875, HB 3310A, and HB 3349.
130	Chair Ringo	Closes work session on HB 2577A and adjourns meeting at 9:35 a.m.

EXHIBIT SUMMARY

A. HB 3081A, written testimony, Tom Newberry, 7 pp

- B. HB 3349, -6 amendments, staff, 10 pp**
- C. HB 3349, -7 amendments, staff, 11 pp**
- D. HB 3349, -1 amendments, Matt Minahan, 35 pp**
- E. HB 3461, written testimony, Dave Nelson, 2 pp**
- F. HB 3461, written testimony, Brent Searle, 2 pp**
- G. SB 527, -6 amendments, staff, 13 pp**
- H. SB 699, -1 amendments, staff, 3 pp**
- I. HB 3310A, -A4 amendments, staff, 2 pp**
- J. HB 3310A, -A5 amendments, staff, 1 p**
- K. HB 3310A, report, Linda Ludwig, 67 pp**
- L. HB 2875, written testimony, Kristina McNitt, 1 p**
- M. HB 2875, written testimony, Doug Myers, 3 pp**
- N. HB 2875, written testimony, Adam Sussman, 1 p**
- O. SB 1032, -1 amendments, staff, 2 pp**
- P. HB 2755A, -A4 amendments, staff, 1 p**
- Q. HB 2755A, -A5 amendments, staff, 6 pp**
- R. HB 2577A, -A2 amendments, staff, 1 p**