

SENATE COMMITTEE ON ENVIRONMENT & LAND USE

June 02, 2005
8:00 A.M.

Hearing Room 343
Tapes 105 - 106

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
Chris Crean, Committee Counsel
Katie Lowry, Committee Assistant

MEASURES/ISSUES HEARD:

HB 2875 – Work Session
SB 527 – Work Session
HB 2484 – Public Hearing and Work Session
HB 2458A – Work Session
HB 2722 – Work Session
HB 3310A – Work Session
HB 3038A – Work Session
HB 3349 – Work Session
SB 344 – Work Session
SB 734 – Work Session
SB 785 – Work Session
SB 786 – Work Session
HB 2537 – Work Session
HB 2581 – Work Session
HB 2582 – Work Session
HB 2668 – Work Session
HB 2705A – Work Session
HB 2729A – Work Session
HB 3117 – 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 105, A		
005	Chair Ringo	Calls meeting to order at 8:04 a.m. and opens work session on HB 2875.
<u>HB 2875 – WORK SESSION</u>		
015	Matt Shields	Committee Administrator. Provides an overview of HB 2875.
020	Chair Ringo	States that WaterWatch is opposed to HB 2875. Believes their opposition to be valid, but only minor. Points out there are no amendments.
025	Sen. Atkinson	MOTION: Moves HB 2875 to the floor with a DO PASS recommendation.

027

Chair Ringo

VOTE: 3-0-2

EXCUSED: 2 - Burdick, Shields

Hearing no objection, declares the motion CARRIED.

SEN. BEYER will lead discussion on the floor.

031

Chair Ringo

Closes work session on HB 2875 and opens work session on SB 527.

SB 527 – WORK SESSION

036

Matt Shields

Committee Administrator. Provides an overview of SB 527.

041

Chair Ringo

Asks committee staff to briefly describe the -6 amendments.

045

Shields

Submits and explains the -6 amendments (**EXHIBIT A**).

049

Chair Ringo

Discusses the arbitration section of SB 527 with the -6 amendments. States he received a memo from the Department of Justice that there may be some ambiguities. Wants to attempt to fix the ambiguities in the House.

058

Sen. Beyer

Points out concerns with SB 527 with the -6 amendments.

061

Chair Ringo

Asks if that is in the arbitration section.

062

Sen. Beyer

Replies yes. Explains it also has to do with what the arbitration would be deciding on in regards to environmental, economical and social consequences. States he will support the motion.

066

Sen. Atkinson

MOTION: Moves to ADOPT SB 527-6 amendments dated 04/28/05.

067

VOTE: 4-0-1

EXCUSED: 1 - Burdick

Hearing no objection, declares the motion CARRIED.

071

Sen. Atkinson

Comments that he hopes SB 527 doesn't change in the House. Explains.

073

Sen. Atkinson

MOTION: Moves SB 527 to the floor with a DO PASS AS AMENDED recommendation.

074

Sen. Atkinson

MOTION: Moves SB 527 to the floor with a DO PASS AS AMENDED recommendation and the SUBSEQUENT REFERRAL to the committee on Ways and Means BE RESCINDED.

075

VOTE: 4-0-1

EXCUSED: 1 - Burdick

Hearing no objection, declares the motion CARRIED.

SEN. MORISSETTE will lead discussion on the floor.

Chair Ringo

The following material is submitted for the record without public testimony:

Mike Grainey

Director, Oregon Department of Energy. Submits a memorandum from the Department of Justice regarding the arbitration section of the -6 amendments (**EXHIBIT B**).

085

Chair Ringo

Closes work session on SB 527 and opens work session on HB 2484.

HB 2484 – WORK SESSION

090

Matt Shields

Committee Administrator. Provides an overview of HB 2484.

095

Chair Ringo

Submits the -12 amendments to HB 2484 (**EXHIBIT C**).

Recesses work session on HB 2484 and opens public hearing on HB 2484.

HB 2484 – PUBLIC HEARING

107

Sen. Beyer

Verifies that Mr. Shields was referring to the -12 amendments.

108

Matt Shields

Committee Administrator. Replies yes.

110

Jerry Ritter

Oregon Communities for a Voice in Annexations. Submits and discusses written testimony in support of HB 2484 (**EXHIBIT D**).

175	Ted Hughes	J.C. Reeves Corporation. Testifies in support of HB 2484.
		Explains the -12 amendments.
223	Nick Slinde	General Counsel, J.C. Reeves Corporation. Introduces himself.
226	Sen. Shields	Asks how the J.C. Reeves Corporation ended up with a piece of property that is inside the city and outside the urban growth boundary (UGB). Asks how this happened to their company and if they recognized the consequences of it.
230	Slinde	Provides a history of this property.
236	Sen. Shields	States that is a bizarre situation. Makes comments.
240	Chair Ringo	Verifies the -12 amendments appeared at 4:45 p.m. on 06/01/05.
242	Hughes	Asks for clarification.
243	Chair Ringo	Wonders if witness received these amendments late in the day yesterday.
244	Hughes	Replies yes, at 4:45 p.m.
245	Chair Ringo	Verifies that the -12 amendments gut and stuff the original bill.
246	Hughes	Replies yes.
247	Chair Ringo	Makes comments.
248	Sen. Shields	Asks if there is any other bill that witness could use. Wonders if witness received some false information when he was told that this bill was not needed.
251	Hughes	Responds.
255	Chair Ringo	States that there is someone in the audience shaking their head no. States SB 887 (2005) is not law yet.
257	Hughes	Replies yes. Understands SB 887 (2005) came out of the House committee yesterday.
263	Ken Henschel	Citizen, Bull Mountain. Submits and reads written testimony in support of HB 2484 (EXHIBIT E) .
330	Henschel	Concludes reading written testimony.
339	Linda Ludwig	League of Oregon Cities. Testifies in opposition to HB 2484.
371	Chair Ringo	Asks if witness finds HB 2484 less objectionable than SB 887 (2005).
373	Ludwig	Replies no. Believes SB 887 (2005) is less objectionable.
380	Ludwig	Remarks she had not seen the -12 amendments until 10 minutes ago.
386	Rep. Jerry Krummel	House District 26. Testifies in support of HB 2484. Asks committee to pass HB 2484 to the floor as drafted. Discusses the -12 amendments.
TAPE 106, A		
022	Chair Ringo	Remarks the committee will not gut and stuff HB 2484.
025	Sen. Beyer	Mentions that SB 887 (2005) was moved out of committee yesterday. Points out that both bills amend the same section of statute. Wonders if HB 2484 will eventually need a conflict amendment if it is passed out of committee without an amendment.
030	Shields	States that Legislative Counsel (LC) did not believe that HB 2484 needed a conflict amendment.
032	Chair Ringo	States there is a possibility that SB 887 (2005) will go to a conference committee.
036	Rep. Krummel	Mentions that he checked with LC regarding this issue. States that LC confirmed there are no conflicts between the two bills. Explains in detail.
045	Sen. Beyer	Wonders about two bills that amend the same section of law in different manners with no conflict amendments.
049	Chris Crean	Committee Counsel. Explains that generally the conflict

051	Sen. Beyer	amendments are appended to the trailing bill.
		Wonders if the bill that gets signed last is the bill that is made
		into law if neither bill is amended with a conflict amendment.
053	Crean	Defers to LC. States LC may have the authority, editorially, to
		combine those bills in the codification process.
058	Sen. Beyer	Discusses concerns regarding sunsets.
060	Chair Ringo	Recesses public hearing on HB 2484 and opens a work session on
		HB 2458A.

HB 2458A – WORK SESSION

	Matt Shields	Committee Administrator. Submits the –A4 amendments (EXHIBIT F) and the –A5 amendments to HB 2458A (EXHIBIT G).
075	Harlan Levy	Oregon Association of Realtors. Testifies in support of HB
		2458A with the –A4 amendments.
103	Chair Ringo	Asks if the –A4 amendments remove the applicability of
		commercial from the bill.
104	Levy	Replies yes.
105	Chair Ringo	Verifies that the –A4 amendments focus the bill on industrial,
		increase the size of the city to 20,000, and remove the sunset.
109	Levy	Confirms this. Explains that it also adds a provision about
		amending a state wide planning goal.
111	Art Schlack	Association of Oregon Counties. Testifies in support of HB
		2458A with the –A4 amendments.
130	Chair Ringo	Asks Lane Shetterly to talk about the –A5 amendments.
134	Chair Ringo	States that the –A5 amendments extend the sunset rather than
		remove it. Verifies that is the only difference between the –A4
		and the –A5 amendments.
135	Levy	Replies correct.
136	Lane Shetterly	Director, Department of Land Conservation and Development.
		Testifies in support of HB 2458A with the –A5 amendments.
160	Sen. Shields	Asks Mr. Schlack if he supports the –A5 amendments. Wonders
		why witness is not comfortable with the –A5 amendments.
164	Schlack	States preference for removing the sunset. Explains they would
		accept an extension of the sunset, but it is not their preference.
		Discusses work group mentioned by Director Shetterly.
185	Shetterly	Comments on geographic scope. Discusses work group. Makes
		comments regarding Measure 37.
210	Elon Hasson	Legislative Director, 1000 Friends of Oregon. Testifies in
		neutrality to HB 2458A with the –A5 amendments. Discusses
		work group mentioned by Director Shetterly.
228	Stephen Kafoury	Oregon Chapter of the American Planning Association (APA).
		Explains they just received the –A5 amendments.
235	Chair Ringo	Believes that the committee will adopt the –A5 amendments.
		Asks witness to comment on the effect of the –A5 amendments.
237	Kafoury	Believes there is not a need for HB 2458A.
243	Brian Campbell	Former Planning Manager for the Port of Portland. Oregon
		Chapter of the APA. Discusses concerns with HB 2458A.
		Explains the –A5 amendments are better than the –A4
		amendments.
257	Sen. Shields	MOTION: Moves to ADOPT HB 2458-A5 amendments
		dated 06/01/05.
263	Sen. Beyer	States opposition to the –A5 amendments. States support for the –
		A4 amendments. Explains.
275	Sen. Shields	Mentions Director Shetterly's comments. Asks for clarification.

281	Chair Ringo	Provides clarification.
293	Sen. Atkinson	Explains skepticism for work groups and task forces. States opposition to the –A5 amendments.
304	Chair Ringo	Appreciates Sen. Atkinson’s comments. Explains reason for adopting the –A5 amendments.
310		VOTE: 3-2-0 AYE: 3 - Burdick, Shields, Ringo NAY: 2 - Atkinson, Beyer The motion CARRIES.
	Chair Ringo	
315	Sen. Shields	MOTION: Moves HB 2458A to the floor with a DO PASS AS AMENDED recommendation.
318		VOTE: 3-2-0 AYE: 3 - Burdick, Shields, Ringo NAY: 2 - Atkinson, Beyer The motion CARRIES. SEN. RINGO will lead discussion on the floor.
	Chair Ringo	
322	Chair Ringo	Closes work session on HB 2458A and opens work session on HB 2722.
<u>HB 2722 – WORK SESSION</u>		
330	Matt Shields	Committee Administrator. Provides an overview of HB 2722. Submits and explains the -1 amendments (EXHIBIT H) and the -2 amendments to HB 2722 (EXHIBIT I).
350	Chair Ringo	States there have been several discussions on this bill. Asks Linda Ludwig for clarification regarding amendments.
359	Linda Ludwig	League of Oregon Cities. Prefers the -2 amendments. Requests that the -1 amendments be adopted if the committee will not adopt the -2 amendments.
364	Chair Ringo	Explains the -1 amendments change “and” back to “or” as the statute currently is.
368	Sen. Shields	Verifies the sponsors support the -1 amendments.
370	Chair Ringo	Confirms this.
371	Sen. Beyer	MOTION: Moves to ADOPT HB 2722-1 amendments dated 04/21/05.
378	Sen. Burdick	Explains she will be opposing the bill, but will not oppose the -1 amendments.
379		VOTE: 4-0-1 EXCUSED: 1 - Atkinson Hearing no objection, declares the motion CARRIED.
	Chair Ringo	
380	Sen. Beyer	MOTION: Moves HB 2722 to the floor with a DO PASS AS AMENDED recommendation.
385	Sen. Burdick	Explains opposition to HB 2722. Mentions SB 82 (2005).
396	Chair Ringo	Responds.
398		VOTE: 3-1-1 AYE: 3 - Beyer, Shields, Ringo NAY: 1 - Burdick EXCUSED: 1 - Atkinson The motion CARRIES. SEN. RINGO will lead discussion on the floor.
	Chair Ringo	
408	Chair Ringo	Asks about Sen. Beyer’s question regarding HB 2484.
409	Chris Crean	Committee Counsel. States that he checked with Legislative Counsel (LC). Explains that when the amendments do not conflict substantively, LC has the authority to merge the

TAPE 105, B

008 Chair Ringo

HB 2484 – WORK SESSION

013 Sen. Atkinson

015 Sen. Beyer

019 Chair Ringo

023 Sen. Shields

026

Chair Ringo

031 Chair Ringo

HB 3310A – WORK SESSION

Matt Shields

035 Chair Ringo

044 Rep. Mitch
Greenlick

078 Paul Parker

103 Chair Ringo

107 Parker

121 Parker

133 Jim Johnson

156 Sen. Atkinson

157 Rep. Greenlick

163 Sen. Atkinson

164 Rep. Greenlick

165 Sen. Atkinson

166 Rep. Greenlick

167 Parker

169 Sen. Atkinson

172 Rep. Greenlick

amendments editorially. Explains a conflict amendment would only be necessary if the amendments conflicted in a more substantive way.

Closes work session on HB 2722 and re-opens work session on HB 2484.

MOTION: Moves HB 2484 to the floor with a DO PASS recommendation.

Comments on the -12 amendments.

States the committee will be moving some bills to the Rules Committee. Explains SB 887 (2005) may go to conference committee and there may be room to take care of the concerns of the J.C. Reeves Corporation.

Agrees with Sen. Beyer. Encourages proponents of the -12 amendments to look at existing bills, or ask the Rules Committee to draft a bill to address this situation.

VOTE: 4-1-0

AYE: 4 - Atkinson, Beyer, Shields, Ringo

NAY: 1 - Burdick

The motion CARRIES.

SEN. RINGO will lead discussion on the floor.

Closes work session on HB 2484 and opens work session HB 3310A.

Committee Administrator. Submits the –A4 amendments **(EXHIBIT J)** and the –A5 amendments to HB 3310A **(EXHIBIT K)**.

Makes opening remarks.

House District 33. Provides background information on the city of Beaverton. Discusses the –A4 amendments. States support for HB 3310A with the –A4 amendments.

Save Cedar Mill. Testifies in support of HB 3310A with the –A4 amendments.

Asks witness to point out the area on the map of the Beaverton city limits.

Discusses visual aid.

Continues testimony in support of HB 3310A with the –A4 amendments.

Resident, Cedar Hills. Testifies in support of HB 3310A with the –A4 amendments.

Asks what is currently on the mentioned property.

Responds.

Asks if it is zoned exclusive farm use (EFU).

Replies no.

Asks what it is zoned as.

Believes it is a proper zone for the commercial development.

States it is zoned transit oriented retail.

States that in rural Oregon, these kinds of developments get tied up in the Land Conservation and Development Commission (LCDC) and people hire lawyers to waste time. Wonders why that can't be done in this situation. Wonders why legislation needs to be passed.

Explains purpose of HB 3310A. Explains it isn't clear which

179	Sen. Atkinson	jurisdiction is going to make this decision. Remarks that Rep. Greenlick just made his point. Comments the rest of Oregon doesn't know which jurisdiction things are. Relates story of a constituent. Makes remarks on passing legislation for the Willamette Valley. States his constituents face this same problem daily, except they have to hire lawyers instead of pass legislation.
197	Rep. Greenlick	Discusses attempts to fix these problems. Agrees with Sen. Burdick's remarks regarding SB 82 (2005). Mentions Measure 37. Believes the land use planning system needs to be reviewed. States he has tried to help the situation in southern Oregon.
214	Sen. Atkinson	Thanks Rep. Greenlick for his efforts. States they both have to represent their districts. Discusses concerns with establishing a task force.
220	Rep. Greenlick	Makes comment.
221	Chair Ringo	States that rural Oregon is not the only place where people are frustrated with the land use system. Makes comments on fixing issues with the land use system in all parts of the state.
228	Sen. Atkinson	Discusses differences in timeline between rural Oregon and metro Oregon.
236	Chair Ringo	Remarks that John Chandler with the Oregon Home Builders Association doesn't believe things happen quickly in the metro area.
244	Julie Brandis	Associated Oregon Industries. Discusses opposition to the –A4 amendments.
269	Chair Ringo	Comments the mentioned property was annexed into the City of Beaverton and then it was immediately announced that the development would take place with very little ability for the citizens to participate.
274	Lane Shetterly	Director, Department of Land Conservation and Development. Testifies in support of HB 3310A as originally drafted. Discusses concerns with the amendments.
299	Linda Ludwig	League of Oregon Cities. Concurs with Director Shetterly's concerns with the –A4 amendments. Asks committee to adopt the –A5 amendments.
309	Chair Ringo	Recesses work session on HB 3310A and opens work session on HB 3038A.

HB 3038A – WORK SESSION

	Matt Shields	Committee Administrator. Submits the –A7 amendments for the record (EXHIBIT L) .
319	Willie Tiffany	League of Oregon Cities. Provides an overview of HB 3038A. Discusses the –A7 amendments.
354	Adam Sussman	Water Resources Department (WRD). Discusses the –A7 amendments.

TAPE 106, B

020	Doug Myers	WaterWatch. Explains support for HB 3038A with the –A7 amendments. Submits written testimony (EXHIBIT M) .
033	Sen. Beyer	Mentions that Mr. Sussman said that any new permit issued to a municipality would be a 20-year permit.
035	Sussman	Replies correct. Explains in detail.
039	Sen. Beyer	Verifies that it doesn't change a new permit issued for an irrigation district or a new permit issued for a private party. Verifies those permits are still at five years.
041	Sussman	Replies correct. Remarks on discussion at previous hearing.

055 Sen. Burdick **MOTION: Moves to ADOPT HB 3038-A7 amendments dated 06/02/05.**

056 **VOTE: 5-0-0**

Chair Ringo **Hearing no objection, declares the motion CARRIED.**

057 Chair Ringo **MOTION: Moves HB 3038A to the floor with a DO PASS AS AMENDED recommendation.**

058 Sen. Beyer Explains opposition to HB 3038A. Expresses appreciation for the –A7 amendments.

067 Chair Ringo Expresses astonishment that Sen. Beyer would oppose something he acknowledges as a good idea because he believes it doesn't solve enough people's problems.

068 Sen. Beyer States he would have supported the bill if it had solved the problem for everyone.

069 Chair Ringo Relates he would have been happy to see those amendments. Points out they were not offered.

070 **VOTE: 4-1-0**

AYE: 4 - Atkinson, Burdick, Shields, Ringo

NAY: 1 - Beyer

Chair Ringo **The motion CARRIES.**

SEN. RINGO will lead discussion on the floor.

The following material is submitted for the record without public testimony:

Todd Heidgerken Special Districts Association of Oregon, Tualatin Valley Water District. Submits written testimony in support of HB 3038A (EXHIBIT N).

079 Chair Ringo Closes work session on HB 3038A and re-opens work session on HB 3310A.

HB 3310A – WORK SESSION

082 Sen. Shields **MOTION: Moves to ADOPT HB 3310-A5 amendments dated 06/01/05.**

083 **VOTE: 5-0-0**

Chair Ringo **Hearing no objection, declares the motion CARRIED.**

085 Sen. Shields **MOTION: Moves to ADOPT HB 3310-A4 amendments dated 06/01/05.**

086 Sen. Burdick Explains she will support the –A4 amendments. Comments about the original bill. States she hopes the original bill will make it through the process even if the Wal-Mart provision does not.

092 Sen. Beyer States he will not support the –A4 amendments.

093 **VOTE: 3-2-0**

AYE: 3 - Burdick, Shields, Ringo

NAY: 2 - Atkinson, Beyer

Chair Ringo **The motion CARRIES.**

096 Sen. Shields **MOTION: Moves HB 3310A to the floor with a DO PASS AS AMENDED recommendation.**

109 **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.

106 Chair Ringo Closes work session on HB 3310A and opens work session on HB 3349.

HB 3349 – WORK SESSION

111 Chair Ringo Explains the –8 amendments.

114 Chair Ringo Explains the –9 amendments. Hopes to move the –8 amendments

		to HB 3349.
120	Sen. Shields	Asks about the -7 amendments.
127	Chair Ringo	Responds. Discusses Measure 37.
140	Sen. Shields	Asks for clarification on the -7 amendments.
141	Chair Ringo	Explains the -7 amendments.
150	Sen. Burdick	Concurs with Chair Ringo.
151	Sen. Shields	Explains the -7 amendments might help the rural area.
152	Chair Ringo	Believes the committee has done many things to help rural Oregon this session.
171	Sen. Shields	States this issue catches him by surprise.
173	Chair Ringo	Says that the committee does not have to move the bill today.
175	Sen. Shields	Comments that the bill can be moved to the Rules Committee and worked on there.
178	Chair Ringo	Closes work session on HB 3349 and opens work session on SB 344, SB 734, SB 785, SB 786, HB 2537, HB 2581, HB 2582, HB 2668, HB 2705A, HB 2729A, HB 3117, and HB 3349.
<u>SB 344, SB 734, SB 785, SB 786, HB 2537, HB 2581, HB 2582, HB 2668, HB 2705A, HB 2729A, HB 3117, and HB 3349 – WORK SESSION</u>		
	Matt Shields	Committee Administrator. Submits SB 344-1 amendments (EXHIBIT O), SB 344-2 amendments (EXHIBIT P), HB 2729-A2 amendments (EXHIBIT Q), HB 3349-7 amendments (EXHIBIT R), HB 3349-8 amendments (EXHIBIT S), and HB 3349-9 amendments (EXHIBIT T) for the record.
190	Sen. Ringo	MOTION: Moves SB 344, SB 734, SB 785, SB 786, HB 2537, HB 2581, HB 2582, HB 2668, HB 2705A, HB 2729A, HB 3117, and HB 3349 to the floor WITHOUT RECOMMENDATION as to passage and BE REFERRED to the committee on Rules.
		VOTE: 5-0-0
206	Chair Ringo	Hearing no objection, declares the motion CARRIED.
The following material is submitted for the record without public testimony:		
	Jim Cathcart	Department of Forestry. Submits written testimony in support of SB 785 (EXHIBIT U).
198	Chair Ringo	Closes work session on SB 344, SB 734, SB 785, SB 786, HB 2537, HB 2581, HB 2582, HB 2668, HB 2705, HB 2729, HB 3117, and HB 3349 and adjourns meeting at 9:42 a.m.

EXHIBIT SUMMARY

- A. SB 527, -6 amendments, staff, 13 pp
- B. SB 527, memorandum from the Department of Justice, Mike Grainey, 2 pp
- C. HB 2484, -12 amendments, staff, 2 pp
- D. HB 2484, written testimony, Jerry Ritter, 2 pp
- E. HB 2484, written testimony, Ken Henschel, 4 pp
- F. HB 2458A, -A4 amendments, staff, 2 pp
- G. HB 2458A, -A5 amendments, staff, 2 pp
- H. HB 2722, -1 amendments, staff, 1 p
- I. HB 2722, -2 amendments, staff, 1 p
- J. HB 3310A, -A4 amendments, staff, 2 pp
- K. HB 3310A, -A5 amendments, staff, 1 p
- L. HB 3038A, -A7 amendments, staff, 10 pp

- M. HB 3038A, written testimony, Doug Myers, 4 pp**
- N. HB 3038A, written testimony, Todd Heidgerken, 4 pp**
- O. SB 344, -1 amendments, staff, 1 p**
- P. SB 344, -2 amendments, staff, 1 p**
- Q. HB 2729, -A2 amendments, staff, 11 pp**
- R. HB 3349, -7 amendments, staff, 11 pp**
- S. HB 3349, -8 amendments, staff, 10 pp**
- T. HB 3349, -9 amendments, staff, 35 pp**
- U. SB 785, written testimony, Jim Cathcart, 2 pp**