

HOUSE COMMITTEE ON
ENVIRONMENT AND LAND USE

March 04, 2003 Hearing Room E
8:30 AM Tapes 29 - 30

MEMBERS PRESENT: Rep. Bill Garrard, Chair
 Rep. Dennis Richardson, Vice-Chair
 Rep. Cliff Zauner, Vice-Chair
 Rep. Robert Ackerman
 Rep. Dan Doyle
 Rep. Mitch Greenlick
 Rep. Diane Rosenbaum

STAFF PRESENT: Ray Kelly, Committee Administrator
 David Peffley, Committee Assistant

MEASURES HEARD: HB 2614 – Public Hearing
 HB 2431 – 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.

<u>TAPE/#</u>	<u>Speaker</u>	<u>Comments</u>
<u>TAPE 29, A</u>		
003	Chair Garrard	Calls the meeting to order at 8:36 AM and opens a public hearing on HB 2614.
<u>HB 2614 – PUBLIC HEARING</u>		
006	Ray Kelly	Summarizes HB 2614.
016	Randy Tucker	Legislative Affairs Director, 1000 Friends of Oregon. Testifies in support of HB 2614. Submits (EXHIBIT A) and speaks to the importance of this modest change to the ORS.
055	Don Schellenberg	Oregon Farm Bureau (OFB). Submits (EXHIBIT B) and testifies in support of HB 2614, as it gives local governments the option to preserve high-value farmland and to not spend more money in services.
142	Harlan Levy	Oregon Realtors Association (ORA). Speaks in opposition to HB 2614 since it removes the twenty-year requirement. States ORA's belief that this bill would exacerbate the trend of the decreasing rate of home ownership.
175	Rep. Greenlick	Asks Levy how this legislation would continue to raise the price of housing.
188	Levy	Responds that market prices would dictate a rise and states ORA's assertion that regulation and SDC constraints would exacerbate the price of housing which is already too high.
205	Rep. Greenlick	Asks how giving local control would raise the price of housing.
211	Levy	Responds as to effect of removing the twenty-year supply constraints.

235 Art Schlack Association of Working Counties. Notes the part which counties play in the process of selecting urban growth boundaries. Asserts that local control would make the process more flexible. Recommends passage of HB 2614.

281 Jon Chandler Oregon Building Industry Association. Gives a historical background of the intent and implementation of twenty-year supply component. Submits that the twenty-year time frame is sufficient and should not be changed, thus he opposes HB 2614.

403 Rep. Richardson Asks Chandler who should make the determination and whether the local communities are better equipped to make these decisions.

TAPE 30, A

002 Chandler Continues testimony and speaks to the theory of local control vis-à-vis the political realities. States that it is not a cut and dry issue, but requires a look in order to strike a balance.

030 Rep. Greenlick States concern over the length of a twenty-year requirement. Asks Chandler where the twenty-year figure came from and the effects.

043 Chandler Notes that it was a PFA pronouncement, and a compromise solution, but that there's nothing magical about twenty years, per se.

080 Rep. Greenlick Asks about the immediate consequences about a twenty-year requirement.

097 Chandler Submits that a fifteen-year and a twenty-year do exactly the same thing and don't address immediate consequences. Asserts that there are too many variables when you let localities set their own numbers. States that he isn't married to twenty years, but sees the need to have some solid number.

131 Burton Weast Legislative Director, Special District Association of Oregon. Speaks to the history and the intent of the twenty-year requirement. Disagrees with Chandler's assertion that it was a random compromise. States concern for standardization, assuming the removal of the twenty-year requirement.

183 Rep. Richardson Asks Weast about his concern regarding local control.

186 Weast Restates the effects of removing the twenty-year requirement, and that it's removal would politicize and de-standardize the process.

218 Chair Garrard Announces an amendment forthcoming on HB 2614. Closes the public hearing on HB 2416 and opens a public hearing on HB 2431.

HB 2431 – PUBLIC HEARING

233 Bob Frenkel Submits (**EXHIBIT C**) and testifies in opposition to HB 2431 as it will undercut Oregon's comprehensive wetlands program which has garnered many benefits to Oregonians over the past fourteen years.

393 Rep. Greenlick Asks Frenkel to talk about the value of small wetlands as opposed to the large swamps.

411 Frenkel States that isolated wetlands have flood control and water purification functions.

TAPE 29, B

014 Phil Scoles Submits (**EXHIBIT D**) and affirms his support for this legislation if a few changes are addressed. These changes are contained in the text of (**EXHIBIT D**).

075 Chair Garrard Asks about wetland functional attributes and the determination

080	Scoles	of the value of credits in the proposed amendment. Explains that functional attributes are not defined and the intention is to define the term as it relates to wetlands.
100	Rep. Greenlick	Asks about quantifiable measures.
108	Scoles	States that some things are not quantifiable and somewhat vague. Suggests letting scientists work out the problems on a case-by-case basis.
120	Chair Garrard	Addresses his concern with scientists due to the Klamath Basin problem.
128	Scoles	States that he understands the Chair's concern and is open to some sort of compromise.
140	Richard Novitzki	Novitzki and Associates. Speaks to a balance between development and preservation. States that a bill is needed to simplify and standardize the process. Asserts that HB 2431 starts along that line. Addresses the importance of mitigation banks in striking a proper balance. Recommends amendments to the bill.
270	Dave Jampolsky	Supports the goal of HB 2431 in streamlining the process and also states the importance of preservation. Speaks to the benefits of mitigation banks for the environment and for development. Also recommends amendments to the bill.
355	Chair Garrard	Asks how the fee is derived for mitigation banks.
360	Jampolsky	Addresses the fee structure and that the fees are compensated by the sale to developers.
413	Chair Garrard	Asks how much take-home profit the mitigation banker makes.
425	Jampolsky	States that it can vary. Guesses that 40-60% depending on the bank and a myriad of factors.
440	Chair Garrard	Asks if someone was seeking a mitigation bank, would they search for the best rate?
445	Jampolsky	States that one would search for the best bank, depending on a variety of factors.
TAPE 30, B		
003	Chair Garrard	Asks if mitigation banks are regulated and by who.
007	Jampolsky	States that they are intensely regulated and reviewed.
019	Mel Stewart	Helped to draft part of this legislation. States that he does have a lawsuit with the Division of State Lands and has pending legislation. States that Section 2 of the bill addresses the concerns of the mitigation bankers.
039	Rep. Ackerman	Asks Stewart about the phrase <i>assessed value</i> in Section 2.
041	Stewart	Responds that he addressed that in a proposed amendment.
043	Chair Garrard	States that they don't have any amendments submitted.
044	Stewart	States that he was confused about the amendment process and didn't properly submit them.
050	Chair Garrard	Recommends that the witness return when the committee reopens a public hearing on the bill.
060	Ray Kelly	States that one amendment has been submitted to Legislative Counsel and should be available on Thursday.
069	Rep. Ackerman	States that the amendment is integral to this legislation.
072	Chair	Reaffirms that one amendment has been submitted and passed on to Legislative Counsel.
089	Rep. Ackerman	Asks Stewart about his role in drafting the bill and if he consulted with legal counsel.
094	Stewart	Responds that he consulted Supreme Court decisions which relate to the issue.

097	Rep. Ackerman	Asks if legal counsel helped to create unclear sections in the bill.
101	Stewart	Reasserts that he did have help and references Dolan v. Tigard.
105	Rep. Greenlick	Asks Stewart what is the main problem which HB 2431 is the solution to.
110	Stewart	States that it is meant to address a lengthy permit process.
114	Green	Asks who the “we” is.
118	Stewart	Responds to the “we” who worked on the legislation. Continues with difficulties within the permit process.
134	Rep. Greenlick	Clarifies that the intent of the bill is to speed up this process. States concern that HB 2431 attempts to do too much.
142	Stewart	States his reasoning for the complexity and what they attempted to address with this legislation.
160	Chair Garrard	Asks Stewart to get the amendments to the committee as soon as possible.
165	Paul Adamus	Submits (EXHIBIT E) and states agreement in the area of attempting to increase mitigation banking. States areas of concern in HB 2431. Emphasizes that one standard alone can not address all the areas and the functions of wetlands.
241	Chair Garrard	Asks if economic impact is part of the wetland process.
244	Adamus	Affirms that it is for the Corp of Engineers, although states that he can not speak to the Division of State Lands.
288	Nass	Legal Counsel, Appellate Courts. Submits (EXHIBIT F) in support of his testimony. Speaks especially to Sections 10 and 11 relating to judicial review and appeals.
328	Rep. Ackerman	Asks for confirmation that the burden of proof is consistent with the fact-finding function.
335	Nass	Affirms that it is.
338	Rep. Ackerman	Notes that the fact-finding function in this bill would be a hearings before the hearings offer, itself.
342	Nass	Agrees.
344	Rep. Ackerman	Asks if it’s true that the burden of proof would not apply here.
346	Nass	Agrees.
358	Chair Garrard	States his intention to continue public hearing on Thursday. Adjourns the meeting at 10:30.

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EXHIBIT SUMMARY

- A – HB 2614, written testimony, Randy Tucker, 1 p.**
- B – HB 2614, written testimony, Don Schellenberg, 2 pp.**
- C – HB 2431, written testimony, Robert Frankel, 3 pp.**
- D – HB 2431, written information, Phil Scoles, 6 pp.**
- E – HB 2431, written testimony, Paul Adamus, 3 pp.**
- F – HB 2431, written testimony, Jim Nass, 6 pp.**