

# HOUSE COMMITTEE ON RULES AND PUBLIC AFFAIRS

May 08, 2003 Hearing Room E  
1:00 PM Tapes 56 - 57

**MEMBERS PRESENT:**        **Rep. Dan Doyle, Chair**  
                                  **Rep. Linda Flores, Vice-Chair**  
                                  **Rep. Laurie Monnes Anderson, Vice Chair**  
                                  **Rep. Vic Backlund**  
                                  **Rep. Phil Barnhart**  
                                  **Rep. Betsy L. Close**  
                                  **Rep. Joanne Verger**

**STAFF PRESENT:**        **Cara Filsinger, Administrator**  
                                  **Annetta Mullins, Committee Assistant**

**MEASURE/ISSUES HEARD:** **HB 3631 – Public Hearing and Work Session**  
                                  **SB 137 A – Public Hearing and Work Session**  
                                  **SB 457 A – Public hearing and Work Session**  
                                  **HB 2144 – Work Session**

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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.

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<b>TAPE/#</b>	<b>Speaker</b>	<b>Comments</b>
<b>Tape 56, A</b> 004	Chair Doyle	Calls meeting to order at 1:06 p.m., announces order agenda items will be considered, and opens a public hearing on HB 3631.
<b><u>HB 3631 – PUBLIC HEARING</u></b>		
015	Rep. Bill Garrard	District 56. Testifies in support of HB 3631. Explains that the purpose of the bill is to right a wrong. Explains that the House Environment and Land Use Committee tried but failed with the Forest Park bill to restore the rights of a landowner.
033	Dave Hunnicutt	Oregonians in Action. Asks that Mrs. English be allowed to testify first.
	Dorothy English	Resident of Forest Park. Explains events of improving 40 acres of land purchased in 1953. Describes geographic layout of property and their intent to be able to give homesteads to their grandchildren, the intrusion of Land Conservation and Development Commission (LCDC), and her payment of annual taxes when due.
072	Hunnicutt	Testifies in support of HB 3631. First three sections deal with Forest Park and the area around Forest Park and create a Goal 5 designation for Forest Park and the surrounding area. Goal 5 is LCDC's natural resources goal. LCDC requires cities and counties to map areas and declare those areas as significant resource sites for open spaces, scenic views, wildlife habitat, or aggregate. This bill does not do that; it indicates the area is a significant resource site. Section 2(3) is permissive; it says the cities and counties and the regional government can determine the boundaries of this area, prepared summaries, adopt ordinance requirements to protect the area.

114	Hunnicut	States that most if not all of the property around Forest Park has Goal 5 overlay zones. The first three sections of the bill do what is being done in the area now.
119	Hunnicut	States Section 4 of the bill rights a wrong spoken to by Rep. Garrard.
130	Hunnicut	Comments on arguments against changing Oregon land use system.
146	Hunnicut	States they have tried to draft a bill that deals with Mrs. English's property and would be willing to expand the bill to cover other problems.
162	Hunnicut	States there are two reasons they are before the legislature instead of Multnomah County. Mrs. English is in forest zone and he does not believe they could get an exception to get it out of Goal 4. It is a rural residential area and does not believe Multnomah County can do anything to help Mrs. English. The second reason is the 1993 statute limits parcel sizes in forest zones to 80 acres. State statute, Multnomah County ordinance, and LCDC prohibit her from dividing her property. The HB 3631-1 amendments <b>(EXHIBIT A)</b> further narrows who would be entitled to relief.
217	Rep. Barnhart	Asks if there is a physical connection between the land in question and Forest Park.
221	English Hunnicut	Explains her land is near, but not against Forest Park. Section 2 of HB 3631 also applies to wildlife corridors. Comments there are elk and deer on Ms. English's property.
237	Rep. Garrard English	Comments that Ms. English is 91 years old. States they have always been in the wildlife corridor.
262	Randy Tucker	1000 Friends of Oregon. Testifies in opposition to HB 3631. States they do not have a position on Sections 1-3 relating to Forest Park, but do oppose Section 4 for two reasons. It undermines Oregon's land use program. Believes the legislature should set broad policy instead of reaching down to individual properties. The concerns about Section 4; is that they believe it is clear the language was drafted with one landowner in mind. Comments on divisions and sell offs of parts of the original land purchase by English.
313	Susan Muir	Interim Planning Director, Multnomah County Land Use and Transportation Section, representing the Multnomah County Commission. Testifies in opposition to Section 4 of HB 3631 <b>(EXHIBIT B)</b> .
347	Rep. Verger	Asks Muir to verify that if a person bought property in 1955 and it was in any category, that category would never change nor would there ever be an exception taken to the category.
354	Muir Rep. Verger	States there are processes to allow exceptions if certain criteria are met. Asks if the property owner has tried to get an exception to Goal 4.
377	Muir Rep. Verger	Responds she does not believe so. Asks if the Multnomah County has offered to assist this property owner in trying to get an exception to Goal 4.
399	Muir Doug Riggs	Comments on review of the area and decision to not change the zoning of the property at that time; they did mailed notice to all the property owners to get them into the process. Representing Metro. Comments they had requested an

amendment on page 2, Section 3 to revised lines 21-23. It was never submitted for drafting and therefore they cannot support the bill as written. They believe the precedent that would be set in lines 21 and 22 would be terrible. Metro has consistently opposed bills that would force local governments to bring land into the urban growth boundary (UGB). States that Rep. Greenlick and OIA have agreed to the amendment. States there is a commitment to fix the bill in the Senate and he looks forward to working with the sponsors of the bill.

**TAPE 57, A**

003 Hunnicutt

Comments they would not oppose Metro's amendment and will support it on the Senate side. Comments on area being rural residential with mostly 20-acre parcels and no commercial forest activities in the area. States Mrs. English has been involved all along in the process but she would not qualify for an exception to Goal 4 because it was zoned the day the Multnomah County Comprehensive Plan was adopted. Under Goal 4, it will always be zoned Goal 4.

029 Rep. Verger  
Hunnicut

Asks if there are any exceptions to Goal 4. Comments on working with Deschutes County and amendment of their comprehensive plan that was then acknowledgment by LCDC. Multnomah County has not amended it comprehensive plan.

048 Chair Doyle

Closes the public hearing on HB 3631 and asks committee to stand at ease at 1:37 p.m.

053 Chair Doyle

Reconvenes the meeting at 1:39 p.m. and opens a public hearing on SB 457 A.

**SB 457 A – PUBLIC ;HEARING**

052 Sen. Richard Devlin

District 19. Testifies in support of SB 457 A. Reviews the provisions of the bill and explains that all municipal corporations are required to be audited and reviewed at least once each calendar or fiscal year. Municipal corporations are exempt from the audits if they meet the requirements in ORS 297.435; they are only subject to providing a financial statement to the Secretary of State. Explains that Rivergrove, Oregon, population 320, meets these requirements and submits yearly financial statements to the Secretary of State. The statute provides that municipal corporations can be subject to a municipal audit if a petition is signed by 10 residents who are subject to the taxes, fees, assessments or other charges levied by the municipality. The costs of the audit are incurred by the municipality.

Sen. Devlin

Explains that for the past three years a Washington developer has battled Rivergrove over land use ordinances, claiming the city has no authority to require development permits for such things as construction of a one-fourth mile sewer line, an 800 foot long rock and steel wall, excavation of hundreds of yards of fill in a flood plain, installation of a power pole to serve a non-permitted mobile home, removal of 30-year old fences, and encroachment on a neighbor's land with fences that re 15 feet high. The developer told the city three years ago that he had a one-quarter million dollar legal budget which he intended to use to bankrupt the city. The general fund for the city of Rivergrove last year was less than \$30,000.

091	Sen. Devlin	Comments on lawsuits by the developer against the city and the inability of the city to collect the attorney fees from the developer.
103	Sen. Devlin	Stats that the bill will not impact the audit that is under way, but they decided to modify the law to provide relief for the city of Rivergrove. States that the Secretary of State's office is neutral on the bill and the League of Oregon Cities is strongly in favor. Increasing the number of signatures will not prohibit the citizens from seeking an annual audit if they wish to do so. It will make the annual audit process a requirement for a city that is this small truly reflective of the original intent.
125	Sen. Devlin	Explains they chose the numbers in the bill because they looked at the municipal corporations, particularly cities, and it seemed like a natural cutoff point and easier to administer as opposed to giving a percentage of residents.
139	Richard Barrett	Mayor of Rivergrove. Comments on the city prevailing over the defendant in many court cases and before LUBA. The defendant has appealed a decision to the Appellate Court. Comments that the developer will not win but it will cost the city a lot of money. The defendant has also put the city on notice that he is going to hit the city for an 11 count tort suit for violation of federal civil rights. The city budget is \$28,000 and they have no money for continued audits. Believes the audits should be reasonable. They do not believe the individual can convince 30 people to audit their city.
189	Michelle Deister	League of Oregon Cities. Testifies in support of SB 457 A
	Rep. Verger	<b>(EXHIBIT C).</b> Asks if there is a nuisance law or if someone can actually put a city through that kind of expense.
208	Chair Doyle	Responds he is not aware of any mechanism a city would have to avoid such actions. Comments that Rivergrove keeps getting their attorney fees awarded but the person doesn't payoff.
213	Chair Doyle	Closes the public hearing and opens work session on SB 457
<b><u>SB 457 A – WORK SESSION</u></b>		
214	Rep. Flores	<b>MOTION: Moves SB 457 A to the floor with a DO PASS recommendation.</b>
225		<b>VOTE: 6-0-1 (SEE TAPE 57A AT 195)</b> <b>AYE: In a roll call vote, all members present vote Aye.</b> <b>EXCUSED: 1 - Rep. Close</b> <b>The motion CARRIES.</b> <b>REP. MILLER will lead discussion on the floor.</b>
	Chair Doyle	
230	Chair Doyle	Closes the work session on SB 457 A and opens a public hearing on SB 137 A.
<b><u>SB 137 A – PUBLIC HEARING</u></b>		
215	Fred Neal	Campaign Finance Manager, Oregon Elections Division, Secretary of State's office and Voters' Pamphlet Supervisor. Explains the provisions of SB 137 A. It allows photographs of candidates to be up to four years old, and Section 2 clarifies the requirement relating to the names and titles of the officers, organizations, and public officials on statements of endorsement. Submits copies of Statement of Endorsement form adopted for the 2002 General Election <b>(EXHIBIT D)</b> . The bill also applies

		the state Statements of Endorsements requirement to county voters' pamphlet.
282	Neal	Reviews the form ( <b>EXHIBIT D</b> ). States they will edit the candidate's statement or the measure argument to match the instructions in the box.
303	Chair Doyle Neal	Asks Neal to give example of what the problem has been. Comments on situation during a previous election.
339	Chair Doyle  Neal	Asks if this would clarify the situation where an individual is endorsing a candidate or measure as an individual, not as an official. Responds affirmatively. States that an alternative to this bill for the Senate Rules Committee was to go back to the pre-2001 legislation and not have a proscription on the candidate changing names and titles on statements of endorsements. The Senate committee chose to adopt this clarification.
375	Rep. Flores	Asks if the endorsement would be invalidated if the signature is not as shown in the statement. Gives example of her signing her middle initial when the statement did not include her middle initial.
400	Neal Rep. Barnhart	Responds they would print her name without her middle initial. Comments on difficulty in filling out the previous version of the form during his primary campaign.
416	Chair Doyle	Closes the public hearing and opens a work session on SB 137 A.
<b><u>SB 137 A – WORK SESSION</u></b>		
423	Rep. Flores	<b>MOTION: Moves SB 137 A to the floor with a DO PASS recommendation.</b>
424		<b>VOTE: 6-0-1 (SEE TAPE 57 A AT 191)</b> <b>AYE: In a roll call vote, all members present vote Aye.</b> <b>EXCUSED: 1 - Rep. Verger</b> <b>The motion CARRIES.</b>
	Chair Doyle	
432	Rep. Doyle	<b>MOTION: Moves SB 137 A be placed on the CONSENT CALENDAR.</b>
432		<b>VOTE: 6-0-</b> <b>EXCUSED: 1 - Rep. Verger</b> <b>Hearing no objection, declares the motion CARRIED.</b>
	Chair Doyle	
434	Chair Doyle	Closes the work session on SB 137 A and opens a work session on HB 3631
<b><u>HB 3631 – WORK SESSION</u></b>		
436	Dave Hunnicutt	Oregonians in Action (OIA). Explains the HB 3631-1 amendments ( <b>EXHIBIT A</b> ), noting criteria to qualify under the provisions of the bill.
<b>TAPE 56, B</b>		
021	Chair Doyle  Hunnicutt	Asks if there is protection to the extent that the original parcel was larger than 20 or 25 acres. Responds they are referring to the currently owned lot or parcel, not the one that was purchased in 1953.
037	Rep. Verger Hunnicutt	Asks how they were able to divide and sell off the first 20 acres. Explains that the state statute that created an 80-acre minimum parcel size was enacted in 1993 and the property was done prior to that.

047	Rep. Barnhart	Ask for an explanation of the language in Section 4 on lines 35-38 on page 2 of the bill. .
	Hunnicut	Explains it is to frame the ability of a person to qualify. The HB 3631 amendments would change “The” to “A”. They would be able to divide or partition only one parcel.
084	Rep. Barnhart	Comments he does not understand line 35 on page 2 of the bill.
	Hunnicut	Comments he thinks (a) in line 35 is superfluous.
	Rep. Barnhart	Clarifies that (a) applies to the existing arrangement and (c) is what you end up with after the operation of this bill.
097	Hunnicut	States that Rep. Barnhart is correct.
<b>101</b>	<b>Rep. Flores</b>	<b>MOTION: Moves to ADOPT HB 3631-1 amendments dated 5/8/03.</b>
103	Rep. Monnes	Comments that she believes in regional planning and does not like to override the local planning process and will be a no vote.
111	Anderson	Comments that regional planning is very broad and sometimes things get out of whack and mistakes can be made, and sometimes there is no place for the landowner to go except the legislature.
123	Rep. Backlund	<b>VOTE: 7-0-0</b>
	<b>Chair Doyle</b>	<b>Hearing no objection, declares the motion CARRIED.</b>
127	<b>Rep. Flores</b>	<b>MOTION: Moves HB 3631 to the floor with a DO PASS AS AMENDED recommendation.</b>
133		<b>VOTE: 5-2-0</b>
		<b>AYE: 5 - Backlund, Close, Flores, Verger, Doyle</b>
		<b>NAY: 2 - Barnhart, Monnes Anderson</b>
	<b>Chair Doyle</b>	<b>The motion CARRIES.</b>
		<b>REP. GARRARD will lead discussion on the floor.</b>
135	<b>Rep. Barnhart</b>	<b>Serves notice of a possible Minority Report.</b>
144	Chair Doyle	Closes the work session on HB 3631 and opens a work session on HB 2144

**HB 2144 – WORK SESSION**

	Chair Doyle	Reviews previous committee hearing on the bill and notes that an amendment has been proposed ( <b>EXHIBIT E</b> ).
143	Fred Neal	Comments that the HB 2144-4 amendments adding the co-chairs of Ways and Means may have raised an issue of constitutionality. Legislators' service may be a function that is not judicial. The Secretary of State has no objection.
	Chair Doyle	Comments that legislators participate on explanatory statement committees
	Neal	Explains that legislators serve on the committee if there is a referral or a referendum. If a legislator happens to be the chief sponsor of a measure, the Secretary of State would appoint that person if appropriate. Adds that explanatory statement committees have chosen a legislator rather than a retired judge as the fifth member of an explanatory statement committee.
207	Rep. Barnhart	Asks what the bill does.
	Chair Doyle	Advises members the Staff Measure Summary is in their bill files.
	Fred Neal	Explains the purpose of the bill.
246	Chair Doyle	Reminds committee of the testimony that used the ballot measure

		for genetically engineered foods as an example.
259	Rep. Close Neal	Asks if the HB 2144-4 amendments cover all the concerns. Responds affirmatively. Adds that the HB 2144-4 amendments are the same as the HB 2144-3 amendments with the additional amendment to add the co-chairs of Ways and Means to the committee.
290	Rep. Close  Neal	Asks what it means to say the committee will be considering the effects of companion or contingent legislation on the ballot, and the secondary effect of the measure passing or failing. Explains that the legislature may have passed enabling legislation. Gives example that the ballot measure itself would not authorize the issuance of bonds. States that is also an example of a secondary effect.
337	Rep. Close Neal	Asks if there is a word limit. Explains why there is a limitation of 500 words.
371	Rep. Flores Neal	Asks how impartiality is determined. Responds that it is in the eye of the beholder, but it is also grounds for a person to appeal an explanatory statement to the Supreme Court saying it is not impartial, or understandable. Adds that fiscal impact statements cannot be appealed based on whether they are impartial or not, but only if they are accurate. Fiscal impact statements are only estimates and it would probably be asking too much of the Supreme Court to second guess a panel of public officials on the accuracy or the impartiality. The only appeal of a fiscal impact estimate for a ballot measure is on a procedural flaw—that the committee did not meet in open or the Secretary of State did not take testimony on the draft estimate, or a quorum was not present.
433	Rep. Monnes Anderson	Notes that on page 4 of the amendments in line 28, the required vote is not a majority of the committee.
478	Chair Doyle	Asks Legislative Counsel staff to assist the committee.
485	Rep. Monnes Anderson Neal	Asks what the timing is to have an initiative filed. Notes language on page 5, (5). States that the schedules are appropriate for a primary or general election and they work, although they are tight. Comments on process for special elections on referrals.
<b>TAPE 57, A</b>		
059	Ted Reutlinger	Advises members that he failed to change the reference in (4) from three members of the committee. Suggest the committee amend the line 29 on page 4: delete “at least three” and insert “a majority”.
074	Chair Doyle	Advises members that the bill should have a referral to Ways and Means because of the potential impact. Asks Reutlinger if he recommends the committee adopt a conceptual amendment.
080	Reutlinger	Comments he is not sure of the rules on conceptual amendments, but this is an easy one, or this committee could wait and have the next committee adopt the amendment.
100	Cara Filsinger	Administrator. Advises Chair Doyle on parliamentary procedures to conceptually amend the bill.
104	<b>Rep. Doyle</b>	<b>MOTION: Moves to SUSPEND the rules for the purpose of to conceptually amending the HB 2144-4 amendments.</b>

**VOTE: 7-0-0**  
**Chair Doyle** **Hearing no objection, declares the motion CARRIED.**

108 Reutlinger Advises the committee that the appropriate amendment would be on page 4 of the HB 2144-4 amendments, line 29, delete “at least three” and insert “a majority”.

124 **Rep. Flores** **MOTION: Moves to amend the HB 2144-4 amendments dated 5/5/03 on page 4, line 29, delete “at least three” and insert “a majority”**

128 **VOTE: 7-0-0**  
**Chair Doyle** **Hearing no objection, declares the motion CARRIED.**

120 **Rep. Flores** **MOTION: Moves to ADOPT HB 2144-4 amendments dated 5/5/03, AS AMENDED.**

138 Rep. Monnes Anderson Asks why the local government member is being added..

146 Neal Explains that there were feelings of former financial impact committees that they did not always have expertise in local government finance issues and the fiscal impact committee must estimate the impact on local governments.

163 **VOTE: 7-0-0**  
**Chair Doyle** **Hearing no objection, declares the motion CARRIED.**

164 **Rep. Flores** **MOTION: Moves HB 2144 to the floor with a DO PASS AS AMENDED recommendation and BE REFERRED to the committee on Ways and Means by prior reference.**

170 Rep. Close Explains why she will vote no on this bill.

180 **VOTE: 6-1-0**  
**AYE: 6 - Backlund, Barnhart, Flores, Monnes Anderson, Verger, Doyle**  
**NAY: 1 - Close**  
**The motion CARRIES.**

184 **Chair Doyle**

186 Chair Doyle Closes the work session on HB 2144.  
186 Rep. Verger Asks to be allowed to vote on passage of SB 137 A.

**SB 137 A – WORK SESSION**

191 **Rep. Doyle** **MOTION: Requests unanimous consent that the rules be SUSPENDED to allow REP. VERGER to BE RECORDED as voting AYE on the motion to send SB 137 A to the floor with a DO PASS recommendation.**

192 **VOTE: 7-0-0**  
**Chair Doyle** **Hearing no objection, declares the motion CARRIED.**

**SB 457 A – WORK SESSION**

195 **Rep. Doyle** **MOTION: Requests unanimous consent that the rules be SUSPENDED to allow REP. CLOSE to BE RECORDED as voting AYE on motion to send SB 457 A to the floor with a DO PASS recommendation**

196 **VOTE: 7-0-0**



Chair Doyle

Hearing no objection, declares the motion CARRIED.

197

Chair Doyle

Adjourns meeting at 3:46 p.m.

**EXHIBIT SUMMARY**

**A – HB 3631, HB 3631-1 amendment, Dave Hunnicutt, 1 p**

**B – HB 3631, prepared statement, Susan Muir, 2 pp**

**C – SB 457, prepared statement, Michelle Deister, 1 p**

**D – SB 137, form, Fred Neal, 1 p**

**E – HB 2144, HB 2144-4 amendments, 7 pp, staff**