

## SENATE COMMITTEE ON WATER AND LAND USE

April 21, 2003  
3:00 p.m.

Hearing Room D  
Tapes 51 - 52

**MEMBERS PRESENT:**     **Sen. Ted Ferrioli, Chair**  
                                  **Sen. Charlie Ringo, Vice-Chair**  
                                  **Sen. Jason Atkinson**  
                                  **Sen. Rick Metsger**

**STAFF PRESENT:**       **Judith Callens, Committee Administrator**  
                                  **Megan Jensen, Committee Assistant**

**MEASURE/ISSUES HEARD:**     **SB 257 Public Hearing**  
                                  **HB 2456A Public Hearing and Work Session**  
                                  **HB 2475 Public Hearing and Work Session**  
                                  **HB 2674 Public Hearing and 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 51, A</b>		
005	Chair Ferrioli	Calls meeting to order at 3:15 p.m. and opens public hearing on SB 257.
<b><u>SB 257 – PUBLIC HEARING</u></b>		
012	Sen. Kurt Schrader	District 20 State Senator. Provides testimony in support of SB 257 ( <b>EXHIBIT A</b> ). States SB 257 will allow the expedited land division process to continue in the metropolitan service district but would restore public participation and the hearing process in the rest of the state.
048	Chair Ferrioli	Asks what problems different counties are experiencing.
052	Sen. Schrader	Believes that citizen participation in discussions on land use needs improvement and elaborates. Discusses the -2 amendments dated 4/18/03 ( <b>EXHIBIT B</b> ).
082	Chair Ferrioli	Asks if the definition of “practical effect” will be litigated.
083	Sen. Schrader	Affirms.
093	Sen. Ringo	Asks if “practical effect” has legal meaning.
094	Sen. Schrader	Affirms.
097	Chair Ferrioli	Discusses potential extensions of practicality and requests the legal definition of “practical effect.” Believes the -2 amendments have merit. Asks how he arrived at the number of ten lots.
116	Sen. Schrader	Explains there appeared to be administrative benefits for smaller land use subdivisions.
123	Chair Ferrioli	Suggests that a system that reinserts the public process into the expedited land use process renders the expedited land use process moot.
125	Sen. Schrader	Reiterates it allows the expedited land use process to go forward for ten or fewer subdivision lots.
134	Chair Ferrioli	Inquires if those people who go through with ten or fewer lots would be protected from appeal.
135	Sen. Schrader	Affirms.
136	Chair Ferrioli	Summarizes issues surround SB 257. Requests Sen. Schrader submit a list of communities that expressed interest in SB 257.

Closes public hearing on SB 257 and opens public hearing on HB 2456A.

**HB 2456A – PUBLIC HEARING**

172	Rep. Bob Jenson	District 58 State Representative. Provides testimony in support of HB 2456A. Provides background on HB 2456A.
231	Chair Ferrioli	Asks about a percentage allocation.
240	Rep. Jenson	Responds that the Water Resources Department will address the issue.
245	Chair Ferrioli	Comments that HB 2456A provides a non-monetary incentive for people to conserve water knowing they could apply for some of that conserved water.
250	Rep. Jenson	Adds that people will be able to preserve the priority date on the water right that they are conserving.
257	Adam Sussman	Water Resources Department (WRD). Provides testimony in support of HB 2456A ( <b>EXHIBIT C</b> ): <ul style="list-style-type: none"><li>• Makes permanent the ability of an applicant to choose the priority date of the conserved water rights</li><li>• Makes permanent the provisions allowing consideration of projects implemented up to five years prior to the application for an allocation of conserved water</li><li>• Substitutes “water use subject to transfer” for “certificate” and “decree” in the description of the types of rights that can be involved</li><li>• Substitutes “conservation application” for “conservation proposal” to clarify that WRD is reviewing applications to allocate and use conserved water, not approving or denying specific conservation projects which are under the control of the applicant</li></ul>
346	Chair Ferrioli	Asks what percentage of conserved water can be applied for.
347	Sussman	Explains the percentage of water than can be applied for.
359	Chair Ferrioli	Comments on applications of conserved water. Asks about the removal of juniper trees, which use an estimate of 50 gallons of water per tree per day, and inquires how to determine what becomes of the water.
386	Sussman	Explains the multi-step process of allocating conserved water.
407	Chair Ferrioli	Asks about injury to junior water right holders with water waste.
<b>TAPE 52, A</b>		
002	Sussman	Explains that WRD works to ensure there is no injury to junior water users.
014	Doug Myers	WaterWatch. States support for HB 2456A.
063	Sussman	Talks about differences between the terms “may” and “shall.”
068	Chair Ferrioli	Comments on the legal definition of “may” and “shall.” Closes public hearing and opens work session on HB 2456A.

**HB 2456A – WORK SESSION**

<b>085</b>	<b>Sen. Atkinson</b>	<b>MOTION: Moves HB 2456A to the floor with a DO PASS recommendation.</b>
<b>088</b>	<b>Chair Ferrioli</b>	<b>VOTE: 3-0</b> <b>EXCUSED: 1 - Sen. Ringo</b> <b>Hearing no objection, declares the motion CARRIED.</b> <b>SEN. ATKINSON will lead discussion on the floor.</b> Closes work session on HB 2456A and opens public hearing on HB 2475.

**HB 2475 – PUBLIC HEARING**

097	Charles Stern	Oregon Association of County Clerks. Provides testimony in support of HB 2475 ( <b>EXHIBIT D</b> ). Explains that HB 2475 clarifies the process for the verification of a nomination petition or a vote at an assembly during the formation process of an irrigation district.
115	Sen. Atkinson	Asks what problem HB 2475 is attempting to address.
140	Stern	Explains the background of HB 2475.
144	Chair Ferrioli	Asks if the elections are conducted by an elections official.
147	Stern	Explains that the secretary conducts the elections.
149	Chair Ferrioli	Asks if the secretary is certified by any person or organization.
152	Stern	Responds that the responsibility for conducting elections in irrigation districts rests in the hands of the irrigation district.
160	Rep. Donna Nelson	District 24 State Representative. Provides testimony in support of HB 2475 and explains the changes HB 2475 would make to the voting process for irrigation districts.
194	Sen. Metsger	Asks why there seem to be problems with recall procedures in irrigation districts.
201	Rep. Nelson	Explains that she does not have that problem with irrigation districts.
205	Chair Ferrioli	Talks about a bill regarding recall procedures in the Rules Committee. Closes public hearing and opens work session on HB 2475.

**HB 2475 – WORK SESSION**

<b>220</b>	<b>Sen. Atkinson</b>	<b>MOTION: Moves HB 2475 to the floor with a DO PASS recommendation.</b>
<b>223</b>		<b>VOTE: 3-0</b>
	<b>Chair Ferrioli</b>	<b>EXCUSED: 1 - Sen. Ringo</b>
		<b>Hearing no objection, declares the motion CARRIED.</b>
		<b>SEN. FERRIOLI will lead discussion on the floor.</b>
		Closes work session on HB 2475 and opens public hearing on HB 2674.

**HB 2674 – PUBLIC HEARING**

260	Judith Callens	Committee Administrator. Provides overview of HB 2674.
273	Linda Swearingen	Department of Land Conservation and Development (DLCD). Provides testimony in support of HB 2674 ( <b>EXHIBIT E</b> ). States the population standard should be increased to 50,000 so that ranches within 10 miles of major towns such as Bend continue to be excluded but ranches within 10 miles of smaller cities such as Pendleton or Prineville are eligible for guest ranches.
342	Ronald Eber	DLCD. Provides testimony in support of HB 2674 ( <b>EXHIBIT F</b> ). States HB 2674 will allow guest ranches closer to all the cities in eastern Oregon except Bend.
370	Chair Ferrioli	Closes public hearing and opens work session on HB 2674.

**HB 2674 – WORK SESSION**

<b>375</b>	<b>Sen. Metsger</b>	<b>MOTION: Moves HB 2674 to the floor with a DO PASS recommendation.</b>
<b>378</b>		<b>VOTE: 3-0</b>
	<b>Chair Ferrioli</b>	<b>EXCUSED: 1 - Sen. Ringo</b>
		<b>Hearing no objection, declares the motion CARRIED.</b>
		<b>SEN. METSGER will lead discussion on the floor.</b>
		Closes work session on HB 2674 and adjourns meeting at 4:10 p.m.

## **EXHIBIT SUMMARY**

- A – SB 257, written testimony, Sen. Kurt Schrader, 1 p.
- B – SB 257, SB 257-2 amendments dated 4/18/03, staff, 7 pp.
- C – HB 2456A, written testimony, Adam Sussman, 5 pp.
- D – HB 2475, written testimony, Charles Stern, 1 p.
- E – HB 2674, written testimony, Linda Swearingen, 3 pp.
- F – HB 2674, written testimony, Ronald Eber, 1 p.