

HOUSE COMMITTEE ON WATER AND ENVIRONMENT

February 16, 2001
8:30 AM

Hearing Room E
Tapes 26 -27

MEMBERS PRESENT: **Rep. Betsy Close, Chair**
 Rep. Laurie Monnes Anderson, Vice-Chair
 Rep. Susan Morgan, Vice-Chair
 Rep. Mark Hass
 Rep. Bob Jenson
 Rep. Jeff Kruse
 Rep. Jan Lee

MEMBER EXCUSED: **Rep. Deborah Kafoury**
 Rep. Al King

STAFF PRESENT: **Megan Palau, Administrator**
 Shannon Relaford, Committee Assistant

MEASURE/ISSUES HEARD: HB 2732 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.

TAPE/#	Speaker	Comments
TAPE 26, A		
002	Chair Close	Convenes meeting at 8:41 a.m., opens public hearing on HB 2732.
HB 2732 PUBLIC HEARING		
003	Megan Palau	Committee Administrator. Presents explanation of the bill.
006	Dave Hunnicutt	Oregonians in Action, presents history of bill and overview. States support of the bill.
072	Chair Close	Questions if there is nothing in statute requiring a public hearing before entering into a contract.
074	Hunnicutt	Replies a public hearing is required for counties, but not for cities. States the issue is what is a public hearing.
092	Rep. Jenson	Questions if retroactivity is written into the bill.
095	Hunnicutt	Replies no.
100	Rep. Jenson	Asks if retroactivity would be possible.
102	Hunnicutt	Replies no.
105	Rep. Jenson	Questions if the bill can be amended to allow for retroactivity.
106	Hunnicutt	Responds yes, it could be rewritten.
111	Chair Close	Questions if you can dissolve a contract.
113	Hunnicutt	Responds they are not asking to address the Crook County problem or specific problems. Continues with explanation.
140	Rep. Kruse	Questions what is debatable in the bill, states it is straight

		forward in the language. Continues that even if it were retroactive it would not set aside any agreement.
159	Hunnicut	States he is unsure if the law would allow that to happen or not. States it is not clear under the current law.
175	Rep. Kruse	Attempts to clarify a landowner's position in a mediated settlement.
189	Hunnicut	Responds no and reiterates the purpose of the bill is to address the issue of public hearings being held after a settlement agreement has been reached.
228	Rep. Kruse	Follows by asking if they've already been through the LUBA process and have reached an agreement and public hearings are held, will this really change the circumstances.
238	Hunnicut	Replies he does not know.
250	Rep. Lee	States she likes the wording of the bill, and wants to know if there was at any time a hearing before the settlement in the Crook County issue.
260	Hunnicut	Responds hearings were held, but changes were made to the settlement agreement that were not heard at public hearings.
270	Rep. Lee	Follows with there should have been one more hearing before the document was signed.
273	Hunnicut	Concurs.
285	Rep. Hass	Requests an example of the effect of the Crook County case on all parties.
288	Hunnicut	Gives explanation and history of the Crook County case, how lands were rezoned, comprehensive plans were amended and other issues that were never heard at public hearings.
355	Rep. Jenson	Questions if the bill is not adopted, will the Crook County case become a precedent for the rest of the state.
366	Hunnicut	Replies maybe.
383	Rep. Jenson	Realizes it is difficult to answer but if they don't prevail in the Crook County case does it make it a legal precedence.
390	Hunnicut	Responds yes if we don't prevail, it will be authorized, and at least a LUBA opinion and possibly a Court of Appeals opinion.
400	Mike Collmeyer	1000 Friends of Oregon, presents testimony in opposition to the bill. (EXHIBIT A)

TAPE 27 SIDE A

029	Chair Close	Questions how this bill could discourage mediation in a situation such as the Crook County dispute.
033	Collmeyer	Responds a matter cannot be mediated unless all parties to the appeal agree to mediation.
055	Chair Close	Continues by stating some of the land wasn't included in the hearings but was affected by the LUBA decision, so those people didn't even know they were going to be included in the decision.
060	Collmeyer	States his belief that the mediated settlement applies to the land that was part of the original decision. States it's a matter of interpretation.
070	Rep. Kruse	Summarizes by asking if he has no problem with decisions being made that affect people's land that they are not a participant in.
072	Collmeyer	Responds he does have a problem with that.
078	Rep. Kruse	Quotes his testimony as saying it is unwieldy if too many folks involved.
091	Collmeyer	States existing law could be revised to insure adequate protections for affected property owners and HB 2732 would discourage mediation in many cases.

099	Rep. Kruse	Stresses the bills says that settlement only pertains to those who are part of the agreement and it isn't compelling anyone to invite the world in, just the people that are a party to the agreement.
108	Collmeyer	Concurs and continues by summarizing when a legislative land use decision is involved the applicability of that decision will be very broad, and anybody that will be affected will receive notice of public hearings. When a decision is made it can be appealed by any party that has participated in the hearings. Restates his belief that this bill will discourage mediation of any legislative land use decision.
138	Rep. Kruse	Comments that one of the problems of going to mediation and agreements is it could end up being something different than what the land owners assumed it was going to be, and they may be excluded from the process because of false assumptions at the beginning of the process.
159	Collmeyer	Concurs, there should be an opportunity to re-present to the public the results of mediation, but this bill does not do that.
180	Rep. Jenson	Questions who has standing in an appeal of a decision is it only people who have participated and are a part of the geographic boundary.
191	Collmeyer	Responds that the mediation provision is one that allows mediation in lieu of a LUBA appeal, the parties that have standing to participate in the appeal is the first threshold.
216	Dale Blanton	State of Oregon, Public Policy Dispute Resolution Coordinator for Natural Resource Agencies. States the bill is aimed at a legitimate issue in the context of mediation of LUBA cases. Addresses practical problems with language in the bill and suggests considering a small work group.
372	Chair Close	Comments on citizens wanting to be involved in mediation processes and be allowed to give input on issues.
391	Blanton	Responds by urging solutions may not be the same for different issues.
401	Chair Close	Wonders why his name appears in the testimony of 1000 Friends of Oregon.
408	Blanton	Replies he is not a member of 1000 Friends or their groups. Not sure why his name was included.
432	Chair Close	States the suggestion for work group is a good idea and then bring the bill back. Closes the public hearing on HB 2732. Adjourns the meeting at 9:38 a.m.

Submitted By,

Reviewed By,

Shannon Relaford,
Committee Assistant

Megan Palau,
Administrator

EXHIBIT SUMMARY

A – HB 2732, written testimony, Michael K. Collmeyer, 1 p.