

HOUSE COMMITTEE ON WATER AND ENVIRONMENT

April 04, 2001
8:30 a.m.

Hearing Room E
Tapes 67 - 68

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

MEMBER EXCUSED: **Rep. Deborah Kafoury**
 Rep. Jan Lee

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

MEASURE/ISSUES HEARD: **HB 3813 Public Hearing**
 HB 3039 Public Hearing and Work Session
 HB 2019 Public Hearing
 HB 3215 Work Session
 HB 3550 Work Session
 HB 2016 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 67, A		
003	Chair Close	Convenes meeting at 8:06 a.m., opens public hearing on HB 3813.
<u>HB 3813 PUBLIC HEARING</u>		
005	Megan Palau	Committee Administrator presents overview of HB 3813 which defines prior converted cropland.
012	Chair Close	Closes public hearing on HB 3813 and opens public hearing on HB 3039 which specifies that governing body of county or person whose interest in real property in county may be affected by unlawful structure or land use is not required, by provision allowing certain remedies, to avail itself of remedies allowed.
<u>HB 3039 PUBLIC HEARING</u>		
017	Roger Nyquist	Chair, Linn County Board of Commissioners presents testimony in support of the bill.
030	Brad Anderson	Assistant County Counsel for Linn County presents testimony in support of HB 3039. (EXHIBIT A)
093	Chair Close	Asks if parties could still bring a lawsuit under this bill.

095	Anderson	Concurs and continues with testimony.
125	Chair Close	Asks if it was the Court of Appeals that had the may means shall case and ask what year it was.
130	Anderson	Replies yes in 1973, named Parks vs. Toma County.
134	Rep. Monnes	Requests clarification of enforcement issue.
	Anderson	
141	Anderson	Explains what the bill does stress that the county does not have to avail itself to the remedies provided in statute.
150	Rep. Monnes	Follows by asking if the trivial complaints they receive could be looked at and using their own judgement they could pursue it or not pursue it.
	Anderson	
160	Anderson	Concurs.
161	Senator Mae Yih	District 19, presents testimony in support of the bill. (EXHIBIT B)
170	Paul Snider	Association of Oregon Counties presents testimony in support of the bill.
190	Chair Close	Inquires if they've had this situation in any other counties.
193	Snider	Replies not to his knowledge.
203	Chair Close	Asks if it is not fixed would it set precedence for other counties.
207	Snider	Replies yes it could.
210	Chair Close	Closes public hearing on HB 3039 and opens a work session on HB 3039.

HB 3039 WORK SESSION

215	Rep. Morgan	MOTION: Moves HB 3039 to the floor with a DO PASS recommendation.
220	Rep. Monnes	States she would like to hear from the Department of Land Conservation and Development before she votes.
	Anderson	
225	Bob Rindy	Presents testimony neutral to the bill.
255	Rep. Morgan	Reiterates her comfort with moving the bill.
275	Rep. Monnes	States she feels there needs to be something in statute that would prevent frivolous complaints but has concerns that this has broader ramifications.
	Anderson	
283	Rep. Hass	Asks how long until DLCD gets their legal advice, if its just a day or two suggest waiting to vote.
290	Chair Close	States it will be more than a day or two and asks if the advice is going to be an Attorney General's Opinion.
295	Rindy	Replies it will not be an opinion but will be a letter of advice and they should have it by Friday.
300	Rep. Jenson	States he would not be comfortable with just the Department's (DLCD) legal opinion it would require an Attorney General's opinion, urges moving the bill forward.
320	Rep. Kruse	Suggests there may be a constitutional issue because they only have five members.
330	Rep. Hass	States he wants to wait until Friday to vote.
		VOTE: 3-3
		AYE: 3 - Jenson, Morgan, Close
		NAY: 3 - Hass, Kruse, Monnes Anderson
		EXCUSED: 3 - Kafoury, King, Lee
		The motion FAILS.
	Chair Close	
370	Chair Close	Opens public hearing on HB 2019.

HB 2019 PUBLIC HEARING

374	Jane Myers	Presents testimony in opposition to the bill. (EXHIBIT C)
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028	Rep. Morgan	Asks if she lives within the city limits of Salem.
030	Myers	Replies yes.
031	Rep. Morgan	Expresses her curiosity about the problem she's been having with the neighbors regarding the hours and noise and asks for advice on what the regulations are in this area.
039	Myers	Explains she has moved out of the house where she had the problems.
040	Rep. Morgan	Asks if the problems were with the same one person or with other persons.
45	Myers	Continues by describing the issues with various neighbors and the city's eventual response.
048	Morgan	Asks if it was a home business doing the spray painting.
050	Myers	Replies her neighbor told her he was doing it for an employer.
054	Rep. Morgan	Questions if the bill says that local governments can't implement ordinances that prohibit people from storing cars on their property as long as they are out of the public view, or in a garage or screened in someway. States her confusion on how this bill will impact either way the issues she presents..
063	Myers	Explains definition of ordinary public view.
071	Rep. Morgan	Disputes the interpretation of the bill, believes that cars would need to be screened and that would include the adjoining property owners.
074	Myers	Respectfully disagrees and reiterates what the bill says.
079	Morgan	Suggests amending the bill to add adjoining property owners.
080	Myers	Replies it would not solve the problem because of the noise and fumes.
090	Rep. Kruse	Questions if she has seen the -1 amendments.
091	Myers	Replies she has not.
092	Rep. Kruse	Continues that they basically replace the bill and call for a study.
095	Harvey Mathews	Speaker's Office, urges the -1 amendments be adopted.
120	Dick LaRue	President, Oregon Automobile Council, presents testimony in support of the bill.
168	Rep. Monnes Anderson	Speaks about the car event in her district and a committee seems like a good idea, asks how many cars were on his site.
181	LaRue	Replies 20-25.
182	Rep. Monnes Anderson	Follows by asking how many acres.
183	LaRue	Replies five acres.
184	Jack Kenny	Oregon Automobile Council, presents testimony in support of the bill and explains the advisory board concept.
255	Rep. Morgan	Asks about the -1 amendments and if the issues of noise and fumes could that be addressed in the amendments.
260	Harvey Mathews	States he doesn't see a problem with that, if it would fall into minimization of impacts.
279	Rep. Morgan	Suggests that it could be dealt with just by putting it into the records of the committee.
280	LaRue	States that is what the advisory committee will do.
282	Rep. Jenson	Wonders if the Department of Environmental Quality monitors paint issues.
301	LaRue	Concurs. Explains the rules for painting vehicles.
308	Rep. Jenson	Asks if the rules apply to hobbyist as well as commercial businesses.
318	Ed Hughes	Oregon Council of Vehicle Association, presents testimony in support of the bill.

371	Chair Close	Asks if the Department of Transportation would have to over see this.
383	Hughes	Replies it would be a volunteer committee and not pay the people, accept to pay the advisor from Transportation.
399	Rep. Monnes Anderson	Expresses her concern for the local control issue.
421	Bill Penhollow	Association of Oregon Counties agrees with concept, addresses issues of advisory body and amendments.
064	Les Poole	Auto restorer presents testimony in support of the bill. Suggests business regulations for home applications, addresses the application of paint, bodywork and repair. There needs to be an understanding on what can be done at home. Suggests that registration of the vehicles makes sense.
100	Chair Close	Asks him to address the advisory committee issue.
102	Poole	Concurs that it makes a lot of sense. Continues with testimony.
124	Chair Close	Closes public hearing on HB 2019 and opens work session on HB 3215.

HB 3215 WORK SESSION

190	Megan Palau Rep. Morgan	Presents summary of the bill. MOTION: Moves HB 3215 WITHOUT RECOMMENDATION as to passage and BE REFERRED to the committee on School Funding and Tax Fairness/Revenue. VOTE: 7-0 AYE: 7 - Hass, Jenson, King, Kruse, Monnes Anderson, Morgan, Close EXCUSED: 2 - Kafoury, Lee The motion CARRIES.
	Chair Close	
200	Chair Close	Closes work session on HB 3215 and opens a work session on HB 3550.

HB 3550 Work Session

201	Rep. Morgan	MOTION: Moves HB 3550 WITHOUT RECOMMENDATION as to passage and BE REFERRED to the committee on Transportation. VOTE: 7-0 AYE: 7 - Hass, Jenson, King, Kruse, Monnes Anderson, Morgan, Close EXCUSED: 2 - Kafoury, Lee The motion CARRIES.
	Chair Close	
215	Chair Close	Closes work session on HB 3550 and opens public hearing on HB 2016.

HB 2016 PUBLIC HEARING

216	Megan Palau	Presents overview of the bill which modifies requirements for siting dwelling on land zoned for forest use.
216	Harvey Mathews	Speaker's Office, presents testimony in support of the bill.
235	Chair Close	Asks for explanation of lot of record situation.
239	Mathews	Replies he doesn't know but believes the property was bought before the zoning issues evolved.
247	Chair Close	Continues by asking if he qualifies for the lot of record.
248	Mathews	Replies he would need further data to answer.
250	Chair Close	Explains she means in terms of the date he bought the property.
251	Mathews	Concurs.
252	Charles Swindells	Staff Attorney, 1000 Friends of Oregon presents testimony in opposition to bill. (EXHIBIT E)

379	Kevin Birch	Oregon Department of Forestry Planning Coordinator, presents testimony in opposition to the bill. (EXHIBIT F)
446	Chair Close	Asks what is the difference between a cabin and residential house.
448	Birch	Replies he doesn't see a difference if you're talking about fire protection.
465	Chair Close	Asks if they are required to fight fires or fight them as you are able.
470	Birch	Replies they fight wildfires and if there is a residential structure in the way they change tactics to provide protection.
481	Chair Close	Asks how insurance is obtained for residents on forest service lands.
482	Birch	Replies he doesn't know, and continues with testimony.
060	Chair Close	Asks if the dwelling is already a lot of record dwelling, all that is being removed is the maintenance of the road, why is it not reasonable.
064	Birch	Explains he doesn't know the existing problems in this situation.
087	Rep. Morgan	Comments that if these are lots of record and parcels has there been an attempt to quantify how many parcels, is it an issue of takings of property rights and giving away accesses on federal roads. Suggests writing an easement. States this could become an issue of protection of property rights that predate the land use system.
117	Chair Close	Asks for the information on how many lots of record there are in this situation.
118	Birch	Replies they do not have that information.
120	Chair Close	Wonders how you can oppose this if you don't know how many there are.
122	Birch	Continues with explanation of the problems.
139	Rep. Monnes Anderson	Asks if there is an exemption process.
144	Birch	Replies these decision were made on a case by case bases. Refers to subjective standards used before the 1993 statutes were adopted.
163	Rep. Monnes Anderson	Repeats her question.
165	Birch	Replies no there is not, there are clear an objective standards.
166	Anderson	Follows by asking if there is no possibility of an exemption.
167	Birch	Concurs.
168	Chair Close	Directs staff to find out how many of these dwellings (forest use zoned and lots of record dwellings) there are.
176	Bob Rindy	Oregon Department of Land Conservation and Development presents testimony in opposition to the bill. (EXHIBIT G)
223	Chair Close	Closes public hearing on HB 2016 and adjourns meeting at 9:35 a.m.

Submitted By,

Reviewed By,

Shannon Relaford,
Administrative Support

Megan Palau,
Administrator

EXHIBIT SUMMARY

- A – HB 3039, written testimony, Brad Anderson, 2 pp.**
- B – HB 3039, written testimony Senator Mae Yih, 1 p.**
- C – HB 2019, written testimony, Jane Myers, 1 p.**
- D – HB 2019 amendments, staff, 2 pp.**
- E – HB 2016, written testimony, Charles Swindells, 2 pp.**
- F – HB 2016, written testimony, Kevin Birch, 3 pp.**
- G – HB 2016, written testimony, Bob Rindy, 1 p.**