

**HOUSE COMMITTEE ON GENERAL GOVERNMENT**

**February 25, 1999 Hearing Room D**

**1:15 p.m. Tapes 29 - 31**

**MEMBERS PRESENT: Rep. Carl Wilson, Chair**

**Rep. Jason Atkinson, Vice-Chair**

**Rep. Chris Beck, Vice-Chair**

**Rep. Jo Ann Bowman**

**Rep. Ryan Deckert**

**Rep. Bruce Starr**

**Rep. Ron Sunseri**

**Rep. Terry Thompson**

**MEMBERS EXCUSED: Rep. Steve Harper**

**STAFF PRESENT: Cara Filsinger, Administrator**

**Faye D. Trupka, Administrative Support**

**MEASURE/ISSUES HEARD: HB 2657 Public Hearing**

**HB 2658 Public Hearing**

**HB 2689 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.

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TAPE/#	Speaker	Comments
<b>TAPE 29, A</b>		
005	Chair Wilson	Opens meeting at 1:15 p.m. and opens public hearing on HB 2657.
<b><u>HB 2657 PUBLIC HEARING</u></b>		
008	Cara Filsinger	Administrator. Explains HB 2657.
015	Jon Chandler	Director of Governmental Affairs, Oregon Building Industry Association (OBIA). Supports HB 2657 ( <b>EXHIBIT A</b> ). Explains current law regarding taxes on construction as a source of revenue. States HB 2657 does not prohibit the imposition of construction excise taxes, but provides that proceeds must be spent on infrastructure for which a System Development Charge (SDC) could be imposed.
071	Rep. Beck	Asks for clarification of excise tax.
077	Chandler	Explains that excise tax is not defined in statute. States it refers to specific niche taxes.
099	Rep. Beck	States Metro has the opportunity to impose an excise tax. Asks if an excise tax were imposed would the revenue generated be treated like an SDC.
114	Chandler	Responds that no litigation on SDCs has been filed.
131	Rep. Beck	Asks for uses of SDCs.
136	Chandler	Replies they can be used for water, sewer, parks and transportation.
138	Rep. Bowman	Asks when the City of Canby passed the construction excise tax.
141	Chandler	Replies five years ago.
143	Rep. Bowman	Asks if Chandler participated in any community meetings when the excise tax was being developed.
144	Chandler	States he was unaware of the existence of the tax until several weeks after it had been enacted.
147	Rep. Bowman	Asks if Chandler was following the city council's calendar to track issues.

149	Chandler	Responds no.
150	Rep. Bowman	Refers to committee hearing process earlier in the week which would undo a city ordinance. Asks if local communities should be determining their own needs.
155	Chandler	Responds that HB 2657 does not take the City of Canby out of the process. States that local jurisdictions can and should be determining their needs.
170	Rep. Bowman	Asks for answer to question.
172	Chandler	Responds yes.
176	Rep. Bowman	Asks if the City of Canby is responsible for the items that he mentioned.
178	Chandler	Asks for clarification.
180	Rep. Bowman	Questions if transportation, schools and other infrastructure issues are the responsibility of the City of Canby.
181	Chandler	Responds that in part they are. States that schools are not the responsibility of the city. Explains the SDC.
204	Rep. Bowman	Asks if anyone thinks they are paying too little tax.
212	Chandler	Responds no.
214	Chair Wilson	Asks who will pay the bill for the tax.
220	Chandler	Replies the home purchaser.
223	Chair Wilson	Asks what methodology the City of Canby uses to assess their excise tax.
225	Chandler	States it is based on square footage.
226	Chair Wilson	Asks if it has impact on price of new and starter homes.
228	Chandler	Responds yes. Explains the increase in the price of new homes, leads to increase in price of existing homes.
239	Rep. Thompson	Asks if Chandler would explain the situation in Lincoln City.

244	Chandler	Responds that a proposal was made prior to the last legislative session to impose a fee of \$2,500 per house to pay for improvements to Highway 101.
254	Rep. Thompson	Comments that SDCs can have a negative impact on a local community when imposed by state government.
266	Rep. Beck	Asks if people pay the asking price based on market conditions. Questions if the people are unable to pay the SDCs, if they will go elsewhere to purchase a house.
276	Chandler	Responds yes.
282	Rep. Beck	States the buyer will pay what the market will bear.
286	Chandler	States that if the price increases, the purchaser may be eliminated from market. Comments that as new home prices increase, so do prices for existing dwellings.
323	Rep. Beck	States there is not a direct cause and effect between a given fee and the price of a home.
328	Chandler	Replies there is a relationship, which is reflected in the price of housing
349	Rep. Sunseri	States the cost of permits is included in the price of houses in Gresham.
365	Rep. Bowman	Asks if that is a problem elsewhere.
368	Rep. Sunseri	Responds the problem is that the builders are forced to pay more for the same product.
374	Chair Wilson	Asks if young buyers are financing the fees, within their loan, over a twenty year period.
377	Chandler	Responds yes. Replies that a bill has been introduced that would address that.
<b>TAPE 30, A</b>		
005	Diana Madarieta	Oregon Remodelers Association. Gives history of association. Supports HB 2657 <b>(EXHIBIT B)</b> . States a construction excise tax could affect construction that is not necessarily impacting the community.
027	Rep. Bowman	Asks what the construction excise tax has to do with remodeling.
035	Madarieta	Replies that it taxes construction on real property improvements or other land

		developments. States SDC charges apply to remodelers when expanding a home, but not if the home is being remodeled.
045	Rep. Bowman	Asks if that could be correct.
055	Madarieta	Replies that Oregon Remodelers Association is not sure.
060	Chair Wilson	Asks if an excise tax is charged for a bathroom remodel in the City of Canby.
062	Madarieta	Replies that she has no information regarding the City of Canby.
064	Chair Wilson	Closes public hearing on HB 2657 and opens public hearing on HB 2658.
<b><u>HB 2658 PUBLIC HEARING</u></b>		
065	Chandler	Supports HB 2658 ( <b>EXHIBIT C</b> ). Explains that HB 2658 would prohibit the practice of mandating a new residential development to include a certain amount of housing units in a specific price range. States that inclusionary zoning would increase the price of other housing units. States OBIA believes inclusionary zoning is unconstitutional.
091	Chair Wilson	Asks for example.
101	Chandler	Gives example of subdivision application and approval process.
105	Chair Wilson	Asks if the builder would be allowed to make a profit on the units.
114	Chandler	Replies that it would depend on the market price. Gives example of Maryland development process.
127	Chair Wilson	Asks if developer tries to recover his loss in other units.
130	Chandler	Responds yes.
131	Rep. Bowman	States that her district has no affordable housing. Asks what legislation Chandler has that will address the statewide affordable housing crisis.
140	Chandler	Describes bills being introduced which would add Housing and Community Services to the review process of Land Conservation and Development Commission. Describes bills being introduced to streamline the environmental system. States the housing industry is not the solution to the affordable housing crisis.

163	Rep. Bowman	Disagrees with Chandler's assessment of why housing is unaffordable. States lack of loans, new building developments and people who do not want to invest in the infrastructure in their communities impacts the housing market in Rep. Bowman's district.
173	Rep. Beck	Asks if OBIA would support a real estate transfer tax.
184	Chandler	Replies in his experience with OBIA that about six different positions have been taken on that topic.
189	Rep. Beck	Comments that a more broad based tax might help solve the problem.
223	Rep. Starr	Asks about the Housing Trust Fund and asks if Chandler has suggestions about where to look for the \$145,000,000 to supplement that fund.
240	Chandler	Responds no. Expresses concern about the topic of affordable housing which is not a priority.
267	Wendie Kellington	Vice-President/Secretary, Home Builders Association of Metropolitan Portland. Supports HB 2658. States the concept of inclusionary zoning has constitutional problems and also creates more social problems than it solves.
339	Chair Wilson	Asks about her organization's attitude about the Housing Trust Fund. Questions if Kellington echoes Chandler's commitment to increasing the budget.
345	Kellington	Responds yes.
348	Rep. Bowman	States that it was an overstatement to say the housing industry is expected to solve the affordable housing issue. Asks if there is something in the current law which suggests the housing industry needs to solve the affordable housing issue.
359	Kellington	Describes jurisdictions that have the authority for inclusionary zoning which states that 2-3 homes in a sub-division must be set aside and sold at a price that is below market.
374	Rep. Bowman	Suggests Kellington is talking about possibilities. Asks if Kellington has any current examples which makes this legislation necessary.
380	Kellington	Cites the City of Ashland, which has set aside portions of land adjacent to the city for affordable housing, and Metro, which has inclusionary zoning plans.
406	Rep. Bowman	Asks for a copy of the City of Ashland's ordinance.
<b>TAPE 29, B</b>		

004	Rep. Beck	Describes hypothetical situation of elected officials offering approval for a parcel of land to be developed for twenty homes but requires five of them must be low income. Asks if that is unconstitutional.
021	Kellington	Replies yes. States she does not understand what the legitimate governmental purpose would be to focus on that particular development as a source of solving the affordable housing issue.
043	Rep. Beck	Asks if Kellington would support an incremental income tax that would support affordable housing.
067	Rep. Sunseri	States the government will never solve the affordable housing problem.
076	Kellington	States that local government has increased the cost of permits and fines which makes housing unaffordable.
085	Chair Wilson	Notes written testimony in opposition of HB 2658 from 1,000 Friends <b>(EXHIBIT D)</b> .
093	Ernie Platt	Director of Development, Westhills Development and Arbor Custom Homes. Supports HB 2658. Explains Maryland's program which has an incentive to provide affordable housing by increasing density. Gives an example of a situation where a developer is offered the density program and builds 100 homes. States that 20 of them must be sold at a certain price, which might be below the actual cost of construction. Remarks that the developer must then increase the cost of the other 80 homes or suffer a possible loss.
128	Rep. Beck	Asks would HB 2658 preclude an incentive program.
135	Platt	Defers that to the authors of HB 2658.
145	Larry Medinger	OBIA member. Supports HB 2658. Gives history of the City of Ashland's ordinance regarding affordable housing.
195	Medinger	States the city offers density bonuses. Explains the density program and the affordability criteria.
234	Chair Wilson	Asks his opinion about getting the legislature involved in local government's ordinances.
244	Medinger	Replies that pressure is being applied by those concerned with growth in Oregon who think that inclusionary zoning is a good idea.
257	Rep. Bowman	Asks if Medinger has been involved in building senior housing.

263	Medinger	Responds he has been building senior housing for three years.
268	Rep. Bowman	Asks the type of housing he has been building.
270	Medinger	Replies that is he currently building a senior community.
273	Rep. Bowman	Asks about the economic base in Ashland.
278	Medinger	Responds that the Ashland Shakespearean Festival and Southern Oregon University largely contribute to the economic base.
<b>TAPE 30, B</b>		
025	Medinger	Explains instigation of land trust where the city would hold liens in each house, but would allow people to buy from below the lien amount.
045	Rep. Bowman	Asks if he helped develop the Ashland ordinance and if it is working well.
055	Medinger	Replies that it is working because it is based on whether or not a contractor chooses to use the incentive program.
069	Rep. Bowman	Asks if he supports HB 2658.
073	Medinger	Replies yes.
079	Rep. Bowman	Asks if the people in her community should have the opportunity to discuss the issues with local government and builders.
085	Medinger	Replies yes. States that he disagrees with the concept of forcing builders to pay for affordable housing.
095	Rep. Bowman	States home owners and businesses are paying different taxes.
103	Rep. Starr	Asks if the program in Ashland would work in a high density area.
106	Medinger	Replies no. States Portland is too high density.
125	Rep. Deckert	Expresses concern over passing legislation which harms affordable housing.
146	Medinger	States that taxing the whole housing industry would be more equitable.

180	Rep. Deckert	States that he will vote on a package that takes a holistic look at affordable housing.
191	Ray Phelps	Metro. States Metro has no position on HB 2658. Points to <b>(EXHIBIT E)</b> , Ordinance # 98-769, which deals with affordable housing. States the purpose for attending the hearing is to provide information to the committee with respect to Metro's policy and to offer Metro as a resource to the committee.
220	Dan Cooper	General Counsel, Metro. Gives Metro's history of Ordinance # 98-769. Recounts Metro's passage of ordinance which was followed by Clackamas County and the cities of Gresham and Hillsboro challenging the validity of the ordinance.
275	Cooper	States that mediation followed and <b>EXHIBIT E</b> was the result of those meetings. Indicates the incentive approach is Metro's high priority choice.
300	Cooper	Comments that an amendment would be appropriate to HB 2658. States he does not believe some of the mandatory inclusionary zoning proposals are constitutionally valid.
333	Chair Wilson	Asks about incentives versus mandatory programs in the Metro area.
344	Cooper	Replies the property owner/developer has a choice with the incentive program.
366	Chair Wilson	Asks for Metro's philosophy on state government's involvement.
370	Cooper	Replies that they prefer to do it themselves. States that legislature has done a good job over the years in balancing interests and intervening when necessary.
385	Rep. Beck	Asks if Metro has the ability to impose a regional or Metro area real estate transfer tax.
392	Cooper	Replies that he is unsure. Explains the adoption and referral to the voters of a construction excise tax.
398	Rep. Beck	Asks if Metro has an excise tax authority.
402	Cooper	Replies yes. Explains a limitation in the charter of the amount of excise tax that can be collected.
<b>TAPE 31, A</b>		
002	Rep. Beck	Asks if the state prohibits Metro from asking regional voters for a real estate transfer tax for housing.

004	Cooper	Replies yes.
006	Rep. Beck	Asks if the legislature should provide Metro the opportunity to levy or go to the voters for a real estate transfer tax.
009	Cooper	Responds that taxation is a touchy subject with his constituents.
013	Rep. Bowman	Asks what constitutes affordable housing.
022	Cooper	Refers to <b>EXHIBIT E</b> and explains affordable housing; senior housing, owner occupied homes, starter homes, moderate income housing, low income housing and special needs housing.
040	Chair Wilson	Closes public hearing on HB 2658 and opens public hearing on HB 2689.
<b><u>HB 2689 PUBLIC HEARING</u></b>		
046	Filsinger	Explains testimony from bill requester, Mike Courtney ( <b>EXHIBIT F</b> ).
050	Rep. Bob Montgomery	Representative, House District 56. Comments on the lack of qualified candidates for the offices of surveyor and assessor in small rural counties. Explains HB 2689 will allow smaller communities the option of electing a qualified candidate who does not reside within the county in which that person is elected.
073	Rep. Bowman	Asks which counties would be impacted.
076	Rep. Montgomery	Replies Wasco, Tillamook, Union and Malheur Counties.
081	Rep. Bowman	Asks how a community might feel having an elected person who does not reside in the county, who has been elected to represent that county.
083	Rep. Montgomery	Explains that District Attorney and surveyors can live anywhere in the State of Oregon.
086	Rep. Bowman	Asks about changing the qualifications for appraisers.
091	Rep. Montgomery	States that he does not believe that is implied within HB 2689.
092	Rep. Bowman	Refers to copy of citation.
093	Filsinger	Explains citation.

109	Chair Wilson	Closes public hearing on HB 2689 and adjourns meeting at 3:03 p.m.
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Submitted By, Reviewed By,

Faye D. Trupka, Cara Filsinger,

Administrative Support Administrator

#### **EXHIBIT SUMMARY**

**A ñ HB 2657, written testimony, Jon Chandler, 1 p.**

**B ñ HB 2657, written testimony, Diana Madarieta, 12 pp.**

**C ñ HB 2658, written testimony, Jon Chandler, 1 p.**

**D ñ HB 2658, written testimony, Randy Tucker, 2 pp.**

**E ñ HB 2658, written testimony, Ray Phelps, 8 pp.**

**F ñ HB 2689, written testimony, Michael Courtney, 1 p.**