

## **HOUSE COMMITTEE ON GENERAL GOVERNMENT**

**February 09, 1999 Hearing Room D**

**01:15 p.m. Tapes 14 - 15**

**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**

**MEMBERS EXCUSED: Rep. Terry Thompson**

**Rep. Steve Harper**

**STAFF PRESENT: Cara Filsinger, Administrator**

**Faye D. Trupka, Administrative Support**

**MEASURE/ISSUES HEARD: SB 433 Work Session**

**HB 2459 Public Hearing**

**HB 2484 Public Hearing**

**HB 2512 Public Hearing and Work Session**

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 14, A</b>		
005	Chair Wilson	Opens meeting at 1:17 p.m. and opens work session on SB 433.
<b><u>SB 433 WORK SESSION</u></b>		
<b>006</b>	<b>Rep. Deckert</b>	<b>MOTION: Moves SB 433 to the floor with a DO PASS recommendation.</b>
		<b>VOTE: 6-0</b> <b>EXCUSED: 3 - Atkinson, Harper, Thompson</b>
	<b>Chair Wilson</b>	<b>Hearing no objection, declares the motion CARRIED.</b>  <b>REP. STARR will lead discussion on the floor.</b>
018	Chair Wilson	Opens public hearing on HB 2459.
<b><u>HB 2459 PUBLIC HEARING</u></b>		
029	Cara Filsinger	Administrator. Explains HB 2459.
040	Rep. Jeff Kruse	Representative, House District 45. Provides background on HB 2459. States burden of proof has been placed inappropriately on the county. States support of HB 2484.
072	Rep. Beck	Asks if there is a specific constituent incident which has raised this issue.
077	Rep. Kruse	Responds no.
081	Rep. Sunseri	Asks for clarification of local government's role.
087	Rep. Kruse	Supports HB 2484 concept of conflicts resolution.
093	Chair Wilson	Asks for cost of appeals process.

100	Rep. Kruse	Answers that he has no specific figures. Responds that HB 2459 may streamline the process.
108	Don Schellenberg	Associate Director of Governmental Affairs, Oregon Farm Bureau Federation (OFBF). Supports concept of HB 2459 ( <b>EXHIBIT A</b> ).
180	Phillip Fell	League of Oregon Cities (LOC). Opposes HB 2459. Expresses concern with wording of HB 2459 and the financial aspect.
220	Randy Tucker	Policy Advocate, 1,000 Friends of Oregon. Opposes HB 2459 ( <b>EXHIBIT B</b> ).
256	Art Schlack	Association of Oregon Counties. Supports HB 2459 with modifications. States it may be a Measure 30 mandate.
308	Chair Wilson	Closes public hearing on HB 2459 and opens public hearing on HB 2484.
<b><u>HB 2484 PUBLIC HEARING</u></b>		
317	Rep. Susan Morgan	Representative, House District 46. Describes HB 2459. Supports HB 2459 ( <b>EXHIBIT C</b> ).
366	Rep. Deckert	Asks how many cases would be assisted.
374	Rep. Morgan	Replies with example of recent case.
396	Rep. Deckert	Asks if the proposal was regarding Exclusive Farm Use (EFU) land.
401	Rep. Morgan	Gives information about time constraints in writing plans.
414	Dave Hunnicutt	Oregonians in Action. Supports HB 2484 ( <b>EXHIBIT D</b> ). Explains that HB 2484 gives landowners and local government the ability to explain their side of an appeal while Department of Land Conservation and Development (DLCD) and the Oregon Department of Transportation (ODOT) authority to appeal would remain intact.
<b>TAPE 15, A</b>		
050	Jon Chandler	Director, Oregon Building Industry Association. Supports HB 2484. States commissions should make sure agencies are following broad policy goals.
133	Rep. Bowman	Asks does this bill help staff and the commission be more in sync with the decision process.

140	Chandler	Responds that the interaction between staff and the commission will be improved.
166	Rep. Bowman	Asks about the length of time the process will take.
180	Hunnicut	Replies there is no specific time frame.
201	Rep. Bowman	Asks about notification. States the local government needs time to set up a meeting with the applicant to explain why that decision was made.
204	Hunnicut	States there is no specific time provision requiring that notification be given to the local government.
210	Rep. Bowman	Asks if local government has any role in the appeal process under current law.
213	Hunnicut	Replies yes.
220	Rep. Beck	Asks the length of the appeal period.
224	Hunnicut	Replies that the appeal period is 21 days from the date of the final decision.
226	Rep. Beck	Asks if that would be the same period under current law where anybody could appeal including the Director of DLCD.
228	Hunnicut	Responds that it applies to anyone who appeared at the hearing.
230	Rep. Beck	Asks if the state needs to appear.
231	Hunnicut	Replies that the state needs to appear.
234	Rep. Beck	Asks if after the 21 day period, does the state under current law no longer have the ability to appeal the decision.
236	Hunnicut	Answers yes.
238	Rep. Beck	Asks for further clarification of time frame for appeal.
253	Hunnicut	Cites line 1, page 2 of HB 2484.
261	Rep. Beck	States that a land owner could wait 3-4 months for the next Land Conservation and Development Commission (LCDC) meeting before they know for sure

		whether the state will be part of the appeal process.
271	Hunnicut	Replies that the appeal process will continue along the regular scheduled course. States LCDC meets every 4-6 weeks.
281	Rep. Beck	Asks if the commissions have expressed any concern or need for additional regulation.
289	Chandler	Responds that one LCDC commissioner has expressed concern.
291	Hunnicut	States that a procedure for hearing was not put in the bill.
319	Rep. Beck	Comments this is a micro-management issue. States that the bill creates another bureaucratic layer to an already complicated process.
350	Chandler	Replies that any state agency is operating on behalf of the State of Oregon. Explains this is an attempt to make sure the commissions are aware of issues of statewide concern.
<b>TAPE 14, B</b>		
003	Hunnicut	Comments that volunteer LCDC commissioners are the policy makers not the staff.
016	Rep. Beck	Asks if the department appeals a decision and did not formally consult with the commission, is it conceivable that the commission is more susceptible to political pressure.
054	Chandler	States that discussion currently occurs.
075	Rep. Bowman	Asks how many local land use decisions are made per year.
080	Hunnicut	Replies about 7,000 requests to amend comprehensive plans.
088	Rep. Bowman	Asks if there are about 25 cases per year appealed by DLCD.
095	Hunnicut	Responds there have been 25 in the last two years.
096	Rep. Bowman	Comments that this is a very small amount per year.
098	Hunnicut	Replies that 25 is a small percentage of land use decisions.

111	Rep. Bowman	Asks if the issue is between the land owner and the state.
119	Hunnicut	Replies that HB 2484 would apply whether the department wishes to appeal an appeal or denial made by the local government.
130	Schellenberg	States that HB 2484 does not require the local government to take responsibility for its decision to approve the application. Remarks that HB 2484 would make a mini Land Use Board of Appeals out of the LCDC. Emphasizes that HB 2459 is the correct way to address the issue. Opposes HB 2484 <b>(EXHIBIT E)</b> .
170	Chair Wilson	Asks if there is currently any disconnect between LCDC and LUBA.
174	Schellenberg	Replies no.
179	Rep. Deckert	Asks if lobbying commission members might become a particular problem.
187	Schellenberg	Responds yes.
189	Craig Greenleaf	Deputy Director, Transportation Development, Oregon Department of Transportation (ODOT). States that HB 2484 makes it more difficult for ODOT to protect the investments of the state. Opposes HB 2484 as drafted <b>(EXHIBIT F)</b> .
222	Rep. Bowman	Asks if HB 2484 will increase appeals.
224	Greenleaf	Replies they are infrequent in their choice to appeal.
237	Rep. Beck	Asks when a director appeals a decision if there discussion with members of the commission or the chair.
249	Greenleaf	Replies there is notification to the chair when ODOT decides to appeal.
252	Rep. Beck	Clarifies it is ODOT's policy to consult and brief the chair and commission on land use appeals.
254	Greenleaf	Responds yes.
270	Bob Rindy	Representative, DLCD. Supports HB 2484 with amendments <b>(EXHIBIT G)</b> .
342	Rep. Beck	Asks if it is the director's policy to brief the commission when an appeal is being presented.

350	Rindy	Responds affirmatively.
351	Rep. Beck	Asks if the commission has the opportunity to counsel or give feedback to the director at that time and whether or not appeal is prudent.
359	Rindy	Responds yes.
361	Rep. Beck	Asks if after listening to the commission the staff has taken advice as to whether to proceed with the appeal.
370	Rindy	Responds yes.
374	Rep. Beck	States that perhaps because of the nature of the appeal, the commission may raise some points which may enhance the state's focus on the position in the intent of the appeal.
377	Rindy	Responds yes.
379	Rep. Bowman	Asks if a formal vote was taken every six weeks, would that make the process more cumbersome.
390	Rindy	Responds yes.
393	Rep. Starr	Asks how many appeals LCDC has pursued in the last two years.
399	Rindy	Replies there are 25 in last biennium.
<b>TAPE 15, B</b>		
004	Rep. Starr	Asks for the break down in appeals.
009	Rindy	Replies that he does not have that number, but will provide it for the committee.
024	Tucker	States that HB 2484 seems overly concerned with procedural barriers and not concerned with the merits of parties' legal positions or enforcement of unlawful decisions. Opposes HB 2484 ( <b>EXHIBIT H</b> ).
073	Schlack	Indicates that HB 2484 will help to focus the energy among state agencies on policy development and implementation. Suggests hearing at commission not be evidentiary. Supports HB 2484 ( <b>EXHIBIT I</b> ).

111	Rep. Deckert	Asks if there will be problems lobbying the commission over decisions.
122	Schlack	Responds that problems exist today. Discusses difficulty in appeals process. Comments that the LCDC director may not have all evidence necessary in an appeal process to make a proper decision.
146	Rep. Beck	Asks about the DLCD's proposal to have the commission adopt the rules and criteria by which the department could make a decision.
153	Schlack	Responds he has not seen it.
155	Rep. Beck	Asks if that would conceptually work.
158	Schlack	Replies that it is another option.
160	Richard Angstrom	Oregon Concrete and Aggregate Producers Association. Supports concept of HB 2484. Gives examples of land use decisions regarding aggregate industry.
262	Filsinger	Submitted written testimony received 2-9-99 from Susan Dellas, resident of Rogue River ( <b>EXHIBIT J</b> ).
270	Rep. Beck	Requests information about appeals which have been filed in the last five years prior to the next meeting.
272	Chair Wilson	Closes public hearing on HB 2484 and opens public hearing on HB 2512.
<b><u>HB 2512 PUBLIC HEARING</u></b>		
280	Filsinger	Explains HB 2512.
290	Rep. Gary Hansen	Representative, House District 17. Gives description of HB 2512. Supports HB 2512 ( <b>EXHIBIT K</b> ).
339	Ken Keudell	Administrator, Construction Contractors Board and Landscape Contractors Board. Supports HB 2512.
351	Chair Wilson	Comments that he has talked with landscapers and contractors and they have been in agreement with HB 2512.
357	Chair Wilson	Closes public hearing on HB 2512 and opens work session on HB 2512.



<b><u>HB 2512 WORK SESSION</u></b>		
<b>375</b>	<b>Rep. Bowman</b>	<b>MOTION: Moves HB 2512 to the floor with a DO PASS recommendation.</b>
		<b>VOTE: 6-0</b> <b>EXCUSED: 3 - Deckert, Harper, Thompson</b>
		<b>Chair Wilson</b> <b>Hearing no objection, declares the motion CARRIED.</b> <b>REP. HANSEN will lead discussion on the floor.</b>
<b>384</b>	<b>Chair Wilson</b>	Closes work session on HB 2512 and adjourns at 3:05 p.m.

Submitted By, Reviewed By,

Faye D. Trupka, Cara Filsinger,

Administrative Support Administrator

### **EXHIBIT SUMMARY**

**A ñ HB 2459, written testimony, Don Schellenberg, 2 pp.**

**B ñ HB 2459, written testimony, Randy Tucker, 2 pp.**

**C ñ HB 2484, written testimony, Rep. Susan Morgan, 1 p.**

**D ñ HB 2484, written testimony, Dave Hunnicutt, 2 pp.**

**E ñ HB 2484, written testimony, Don Schellenberg, 1 p.**

**F ñ HB 2484, written testimony, Craig Greenleaf, 1 p.**

**G ñ HB 2484, written testimony, Bob Rindy, 3 pp.**

**H ñ HB 2484, written testimony, Randy Tucker, 2 pp.**

**I ñ HB 2484, written testimony, Art Schlack, 1 p.**

**J ñ HB 2484, written testimony, Susan Delles, 1 p.**

**K ñ HB 2512, written testimony, Rep. Gary Hansen, 1 p.**