

HOUSE COMMITTEE ON WATER AND ENVIRONMENT

April 19, 1999 Hearing Room D

1:00 P.M. Tapes 116 - 120

MEMBERS PRESENT: Rep. Jim Welsh, Chair

Rep. Jackie Taylor, Vice-Chair

Rep. Jason Atkinson

Rep. Richard Devlin

Rep. Juley Gianella

Rep. Deborah Kafoury

Rep. Jeff Kruse

Rep. Jeff Merkley

Rep. Susan Morgan

STAFF PRESENT: Kristina McNitt, Administrator

Danielle Hamilton, Administrative Support

MEASURES HEARD: HB 3282 Public Hearing

HB 3278 Public Hearing and Work Session

HB 2719 Public Hearing

HB 2625 Public Hearing

HB 2865 Public Hearing

HB 2768 Public Hearing

HB 3489 Public Hearing

HB 3488 Public Hearing

HB 3404 Public Hearing

HB 2885 Public Hearing

TAPE/#	Speaker	Comments
TAPE 116, A		
004	Chair Welsh	Calls meeting to order at 1:15 p.m. and opens a public hearing on HB 3282.
<u>HB 3282 PUBLIC HEARING</u>		
006	Rep. Roger Beyer	House District 28. Testifies in support of HB 3282.
020	Speaker Lynn Snodgrass	House District 10. Testifies in support of HB 3282. Discusses the HB 3282-1 amendments (EXHIBIT A). Gives an example of the complications her church has experienced with trying to buy land to build a new church.
070	Speaker Snodgrass	Continues to review the problems her church has experienced trying to build a new church. Asks the committee to consider the HB 3282-1 amendments.
110	Rep. Merkley	Clarifies the basic issue is whether the soil type is marginal versus soil with a higher rating.
117	Speaker Snodgrass	Responds affirmatively. States the Metro 2040 Plan did not consider quality of soils in her legislative district.
140	Rep. Jerry Krummel	House District 27. Testifies in support of HB 3282. Gives examples of churches in his district that have been affected by the current land use laws. Discusses current farm use zone rules.
175	Chair Welsh	Asks Rep. Krummel if the HB 3282-1 amendments take care of his concerns.
178	Rep. Krummel	Answers yes.
182	Rep. Taylor	Asks if limiting the size of the parcel should be discussed.
190	Rep. Krummel	Answers that a universal restriction is not the best way to limit the parcels.
217	Chair Welsh	Recesses the public hearing on HB 3282 and opens a public hearing on HB 3278.
<u>HB 3278 PUBLIC HEARING</u>		
225	Rep. Roger Beyer	House District 28. Reviews provisions of the bill.

241	Cheryl Ayres	Testifies in support of HB 3278. Discusses her experience with trying to put a motor home on her mother's property.
265	Anita McGee	Expresses her frustration with not being able to locate a motor home on her property.
315	Rep. Beyer	References letters he received in support of the bill (EXHIBIT B). Explains the bill would allow recreational vehicles (RVs) as temporary residences.
320	Rep. Taylor	Clarifies a mobile home or a motor home older than 1975 would have been permitted.
330	Ayres	States the unit would have to be older than 1976.
339	Rep. Taylor	Clarifies that Ayres was denied the ability to hook up to utilities.
342	Ayres	Replies that denial was based on proposed habitation in an RV, as opposed to a manufactured dwelling.
346	Rep. Morgan	Comments on land use issues in her district. States she thinks the bill is a great improvement.
365	Rep. Merkley	Asks if the fifth-wheel would be connected to the utilities in the same manner as a mobile home.
369	Ayres	Answers affirmatively.
392	Dave Hunnicutt	Oregonians in Action. Testifies in support of HB 3278. Explains the bill is an extension of a bill from the 1997 Session.
415	Rep. Devlin	Asks where "hardship" is defined in the statutes.
419	Hunnicutt	Answers he does not know.
437	Chair Welsh	Asks if the Department of Land Conservation and Development (LCDC) opposes the bill.
438	Rob Eber	DLCD. States the department does not oppose the bill.
TAPE 117, A		
005	Chair Welsh	Closes the public hearing on HB 3278 and opens a work session on HB 3278.

HB 3278 WORK SESSION

008	Rep. Kruse	MOTION: Moves HB 3278 to the floor with a DO PASS recommendation.
010	Rep. Merkley	Requests clarification regarding the requirement that a mobile home be older than 1976.
019	Eber	Explains there currently is no reference to "mobile home" in the statute. Discusses the difference between "mobile home" and "manufactured dwelling."
029	Rep. Merkley	States he thinks the bill is an improvement.
040		VOTE: 8-0 AYE: In a roll call vote, all members present vote Aye. EXCUSED: 1 - Kafoury
	Chair Welsh	The motion CARRIES. REP. MORGAN will lead discussion on the floor.
044	Chair Welsh	Closes the work session on HB 3278 and reopens the public hearing on HB 3282.

HB 3282 PUBLIC HEARING

049	Frank Wood	Good Shepherd Community Church. Testifies in support of HB 3282. Discusses the siting process.
120	Wood	Discusses the positive impact of the church on the community.
178	Rep. Taylor	Comments on what the church wants to build on the land. Expresses concern about the size of the cemetery.
189	Wood	States it is not in the church's master plan to have a cemetery.
198	Rep. Taylor	Asks if it is okay to remove cemeteries from the bill.
203	Wood	Comments on having a church as a neighbor.
220	Jeff Corcoran	Consultant. Addresses the differences in the land use structures related to church

		siting today. Gives examples of the struggles involved in trying to buy land.
260	Corcoran	Questions where the church can build. Discusses the positive impact of churches on communities. Discusses churches' land use needs.
280	Corcoran	Discusses where churches can and cannot build.
367	Rep. Taylor	Asks Corcoran if he can speak to provision in the amendment dealing with the location of the church with respect to urban development.
383	Corcoran	Answers he is not able to speak to the intent of the HB 3282-1 amendments.
417	Chair Welsh	Asks if many cemeteries are being established in conjunction with church property.
420	Corcoran	States he is not aware of any.
TAPE 116, B		
003	Dave Hunnicutt	Oregonians in Action. Testifies in support of HB 3282-1 amendments. Comments on provisions of SB 100 (1973).
055	Rep. Gianella	Asks if it is necessary to have cemeteries included in the bill.
058	Hunnicutt	States he does not think the provision is needed.
068	Jon Chandler	Director, Governmental Affairs, Oregon Building Industry Association (OBIA). Testifies in support of the HB 3282-1 amendments. Comments on the general principles of the land use system. Comments that a church would have a minimal impact on the surrounding land uses.
092	Rep. Devlin	Asks why HB 3282 has broad language to enable siting on any soil classification.
101	Hunnicutt	Reviews the definition of "high-value farmland." States he does not believe the building of churches will lead to the destruction of valuable farmland or damage to Oregon's agriculture economy.
125	Rep. Taylor	Asks how we can be sure if there is no limit on size.
135	Hunnicutt	Answers Good Shepherd would be about the largest. States he cannot answer Rep. Taylor's question. Comments on land use in exclusive farm use (EFU) areas from 1973 to 1994.

170	Rep. Gianella	Asks Chair Welsh if the Governor will sign the bill if there is a limit on the acreage.
171	Chair Welsh	States he does not know.
172	Eber	Department of Land Conservation and Development (DLCD). Testifies in opposition to HB 3282. Expresses concerns with the direction in which HB 3282 appears to be heading. Explains the basis for the commission's rule. Addresses other areas in which a church could be built.
249	Rep. Taylor	Asks about the availability of non-high-value farmland in Clackamas County.
254	Eber	States a specific site under consideration was high-value farmland, and there are areas in the county that are not high-value farmland.
263	Rep. Kruse	Asks for the percentage of non-high-value farmland in the Willamette Valley.
266	Eber	Answers he does not know.
267	Rep. Kruse	States it could be assumed there is a larger percentage of high-value farmland in the Willamette Valley.
268	Eber	Responds affirmatively.
269	Rep. Kruse	Comments on the effects of an urban growth boundary (UGB) on the ability to build a church.
275	Eber	States there would be effects from increasing land prices within a UGB.
285	Rep. Kruse	Comments on the effects of an expanding UGB on farmland in the Portland area.
292	Eber	States five churches were approved in the 1996-1997 reporting period in EFU zones in the state.
299	Chair Welsh	Asks if there are problems with geographical restrictions going eastward towards the mountains.
304	Eber	States there are problems in the east county area.
307	Chair Welsh	Asks if churches and schools need flatter land.
311	Eber	Answers that he does not know if it is a requirement or a desire.

323	Chair Welsh	States larger churches that are looking for land may start schools, and as such, are providing a service to the community. Asks how the department will help if a church cannot locate either within a UGB or outside a UGB.
333	Eber	Answers that options are to expand the UGB or the exceptions process.
348	Chair Welsh	Asks how many churches are in farm use areas.
350	Eber	States he does not have a percentage of churches to acreage.
341	Chair Welsh	States it is not like a residential area.
355	Eber	Comments on requesting an exception for various uses.
360	Rep. Devlin	Referring to Clackamas County and going further south, comments on Metrois attempt to bring exception lands into their urban reserve. Asks how many acres of exception lands outside the UGB are under appeal.
370	Eber	Answers there were 70,000 to 80,000 acres of approved exception lands when Clackamas County's plan was first acknowledged.
375	Rep. Devlin	Asks if a church would be allowed as an out-right use in those exception lands.
378	Eber	Answers that most of the rural residential zones would allow a church.
389	Rep. Devlin	Asks if the concern is that the uses will not be compatible with farm uses.
406	Eber	Answers affirmatively.
408	Rep. Kruse	Asks what problem DLCD was trying to solve when the agency drafted the 1994 rules.
412	Eber	Explains the primary purpose was to protect high-value farmland.
433	Rep. Kruse	Asks if he has evidence to show that churches were having a significant impact on farm activities.
435	Eber	Explains there has been a transition in church facilities.
TAPE 117, B		

009	Rep. Kruse	Comments on his personal experiences with the church located next to his farm.
018	Rep. Taylor	Discusses her experiences living in Idaho. Expresses concern about the need for land use planning.
029	Eber	States farmers in the area were concerned about the impacts during the time the church proposal was before Clackamas County.
038	Chair Welsh	Asks what the options are for the church.
040	Eber	Answers that there is an exceptions process. States the church is in an existing rural unincorporated area that could be expanded. States he believes there is land for churches within portions of the Portland Metro area.
047	Chair Welsh	Asks if the department would compensate the church if the costs within the Metro area were considerably higher.
051	Eber	States the department does not have the budget to help people buy property.
055	Rep. Morgan	Expresses concerns with the proposed solutions. Refers to earlier testimony about the church's inability to buy land.
084	Rep. Gianella	Suggests some amendments to the bill.
089	Chair Welsh	States the committee will consider Rep. Gianella's proposal.
094	Blair Batson	Staff Attorney, 1000 Friends of Oregon. Testifies in opposition to HB 3282. Discusses the exceptions process.
175	Rep. Taylor	Closes the public hearing on HB 3282 and opens a public hearing on HB 2719
<u>HB 2719 PUBLIC HEARING</u>		
197	Gary Conkling	Beaverton and Hillsboro School Districts. Submits and presents testimony in support of HB 2719 (EXHIBIT C).
233	Jim Johnson	Oregon Department of Agriculture (ODA). Submits and presents testimony on HB 2719 (EXHIBIT D).
290	Rep. Max Williams	House District 9. Testifies in support of HB 2719. Discusses the construction of a new school in the Beaverton School District.

350	Don Schellenberg	Oregon Farm Bureau. Testifies in opposition to HB 2719. Expresses concerns with the cumulative effects of building in exclusive farm use zones.
425	Chair Welsh	Comments that urban growth boundaries will expand and the areas will be filled with subdivisions.
TAPE 118, A		
003	Schellenberg	Comments on flexibility in the land use planning process.
015	Chair Welsh	Comments that the state is trying to protect something that will eventually happen.
022	Rep. Merkley	Comments on a choosing to build within an urban growth boundary or within an exclusive farm use zone. Asks about a cost differential that can develop when choosing to develop in a EFU.
029	Schellenberg	Answers the cost depends on the size of the urban population next to the farm zone. States the differential will be greater when the urban population is larger.
040	Rep. Merkley	Asks if the exceptions process is a workable option for churches and schools.
049	Schellenberg	Answers the process is workable and is available to schools and individuals.
054	Rep. Merkley	Asks about the costs to pursue an exception.
055	Schellenberg	States he does not know.
060	Rep. Devlin	Comments on Rep. Merkley's question about the exceptions process. Comments on the correlation between an urban growth boundary and land value. Comments on the Stafford Basin.
085	Bob Rindy	Department of Land Conservation and Development. Testifies in opposition to HB 2719 (EXHIBIT E). Addresses concerns about siting schools in farm zones. Comments on the differential between land within a UGB and within an EFU zone.
154	Chair Welsh	Asks how to address the issue of costs for school to find a location within a UGB.
158	Rindy	Reviews provisions of HB 2709 (1995 Session).
175	Chair Welsh	Asks if Rindy has information that quantifies whether churches and schools have

		destroyed farmland.
181	Rindy	Answers no.
196	Chair Welsh	Comments on effects of population growth.
201	Rindy	States that the goal is to make sure that land in and around cities is used most efficiently.
217	Rep. Taylor	States that she believes it is the responsibility of cities to provide for schools within their boundaries.
231	Art Schlack	Association of Oregon Counties (AOC). Testifies neutral to HB 2719. Reviews provisions of ORS Chapter 215 as it relates to uses in agricultural land.
264	Phil Fell	League of Oregon Cities. Clarifies discussions revolving around changes made in 1993. Encourages the committee to consider unintended consequences if HB 2719 is passed.
303	Chair Welsh	Closes the public hearing on HB 2719. Opens a public hearing on HB 2865.
<u>HB 2865 PUBLIC HEARING</u>		
312	Chair Welsh	Comments on provisions of the bill. Closes the public hearing on HB 2865. Opens a public hearing on HB 2625.
<u>HB 2625 PUBLIC HEARING</u>		
324	Karla Chambers	Farmer. Testifies in support of the bill. Discusses economic viability of farms and farmers.
424	Rep. Taylor	Asks if the 10,000 square foot restriction applies to all farms, regardless of size.
428	Chambers	Answers affirmatively.
438	Rep. Kruse	Asks if the requirement that 25 percent of product be grown onsite is an impediment.
TAPE 119, A		
007	Chambers	States she would welcome an increase in the square footage. States she does not think the 25 percent is very restrictive.

012	Rep. Kruse	Comments on effects of specialization.
033	Dave Hunnicutt	Oregonians in Action. Testifies in support of HB 2625.
063	Chair Welsh	Asks what would happen if the square footage was increased to 60,000.
064	Hunnicutt	Answers there was no size limitation in 1997.
074	Ron Eber	Department of Land Conservation and Development. Testifies in opposition to HB 2625 (EXHIBIT F). Reviews provisions in current statute.
153	Rep. Devlin	Asks if the limit in the law is per building, or for all processing facilities.
163	Eber	Responds that it is per building.
173	Rep. Kruse	Asks for clarification that if he was processing four different crops, he could have 40,000 square feet of processing buildings, in total.
182	Eber	Responds that this is correct.
190	Rep. Kruse	Explains his concern about the 10,000 square-foot limit. Asks for clarification that if he has the same product, but two different processes, he could have 20,000 square feet of processing buildings.
202	Eber	Responds that this would be looked at as the same process.
205	Rep. Kruse	Clarifies that it would be two distinct processes, but the same ingredient.
207	Eber	Comments that it would depend upon how the farmer set up the processing operation.
226	Rep. Kruse	Expresses concern about economies of scale.
253	Rep. Merkley	States the situation Rep. Kruse is describing would probably fall under commercial activities in conjunction with farm use for which there is no size limitation.
273	Eber	States that he is not aware of any controversy over commercial activities in conjunction with farm use.
289	Chair Welsh	Asks what the revenue impacts are.

290	Eber	Responds that any new facilities that would be built under HB 2625 and any existing facilities would be subject to farm use assessment. Notes that equipment in the facilities is provided a personal property tax exemption.
315	Chambers	Notes that there are 22 federal, state, and local entities that regulate their local business. Comments on the complexity of the issue.
354	Rep. Taylor	Asks if grass seed processing and potato warehousing are not allowed beyond 10,000 square feet.
360	Chambers	Responds that this is correct.
350	Rep. Taylor	Clarifies that her question was whether there are any facilities larger than 10,000 square feet.
372	Chambers	Answers it is 10,000 square feet of processing space.
380	Rep. Taylor	Asks what kind of processing Ms. Chambers was talking about.
386	Chambers	Responds that she is talking about frozen vegetable processing and potato processing, for example.
403	Rep. Taylor	Comments on turning high-value farmland into a processing facility.
418	Chambers	Clarifies that she is not talking about processing facilities like Norpac.
TAPE 118, B		
004	Rep. Merkley	Asks why the traditional path does not suit the needs of farms like Ms. Chambersí.
012	Chambers	Responds that this process was not designed to suit the needs of small farms. Comments on the Governorís Food Processors Council.
022	Rep. Merkley	Asks why the main path that has existed over time does not meet the needs of farms like Ms. Chambersí.
026	Chambers	States that she does not know what activities Rep. Merkley is referring to.
028	Rep. Merkley	Clarifies he is referring to the commercial activities in conjunction with farm use clause.

035	Chambers	Comments that 10,000 square feet does not represent the reality of operations. Comments the legislation is needed to encourage the development of value-added facilities to benefit small farm operations.
055	Eber	Clarifies that the tax impacts may be appropriate. Discusses processing operations.
085	Chair Welsh	States that there is no revenue impact.
088	Rep. Devlin	Questions the 10,000 square feet. Suggests a group could come up with a mutually agreeable amount.
098	Chair Welsh	Asks Chambers to respond about going through the conditional use process to have a larger facility.
103	Chambers	Answers that the impact is greater than land use. States that various entities have differing ideas of what an agricultural structure is. Clarifies the bill will make processes easier.
145	Chair Welsh	Comments he would like to have an easier process.
150	Rep. Taylor	Asks Chambers if she thinks the Board of Agriculture's opposition to nonfarm-permitted uses would extend to this bill.
155	Chambers	Answers no.
165	Chair Welsh	Requests a group to work on a square footage amount. Closes the public hearing on HB 2625 and reopens the public hearing on HB 2865.
<u>HB 2865 PUBLIC HEARING</u>		
186	Dan Dority	Lake Oswego, Oregon. Testifies in opposition to the bill (EXHIBIT G). Discusses issues revolving around liability.
280	Dority	Discusses wellhead protection.
305	Chair Welsh	Comments on his understanding of Dority's testimony.
310	Dority	States that HB 2865 redefines "necessary."
325	Chair Welsh	States the city would not need to look elsewhere if the bill passes.

330	Rep. Merkley	States that "necessary" could be anything that improves or enhances quantity, quality, or cost.
339	Dority	Expresses agreement with Rep. Merkley. States control is taken away from counties. Comments that "agricultural land" is not mentioned in Newberg's comprehensive plan.
350	Chair Welsh	Closes the public hearing on HB 2865 and opens a public hearing on HB 2768.
<u>HB 2768 PUBLIC HEARING</u>		
365	Richard Larrowe	President, Oregon Council of Vehicle Associations. Testifies in support of HB 2768.
388	Gary Devine	Salem, Oregon. Testifies in support of HB 2768. Expresses frustration with laws varying from county to county.
420	Chair Welsh	Comments on his experience in Lane County.
TAPE 119, B		
008	Devine	Gives examples of various laws relating to visibility of motor vehicles.
023	Rep. Taylor	Asks if current statute restricts the number of vehicles.
028	Devine	Answers no.
031	Larrowe	States HB 2768 is similar to legislation introduced in the 1997 Session. Comments on the effects of new home construction in some areas.
053	Chair Welsh	Closes the public hearing on HB 2768 and opens a public hearing on HB 3489.
<u>HB 3489 PUBLIC HEARING</u>		
069	Rep. Lynn Lundquist	House District 59. Discusses the purpose of HB 3489. Discusses the Dorvinen case.
105	Chair Welsh	Opens public hearing on HB 3488.
<u>HB 3488 PUBLIC HEARING</u>		

132	Sen. Neil Bryant	Senate District 27. Testifies in support of HB 3489 (EXHIBIT H) and (EXHIBIT I). Discusses the Dorvinen case.
179	Chair Welsh	States that he knows of a particular situation in Douglas and Lane Counties waiting to be resolved.
182	Sen. Bryant	Comments that LCDC is given an advantage by the court decision.
192	Rep. Taylor	Asks if the bill will encourage more subdivisions.
196	Sen. Bryant	Answers the bill will allow for nonfarm dwellings in farm zone areas, but not on farmland.
214	Rep. Lundquist	Comments that Crook County was the first to have its comprehensive plan in place.
228	Rep. Taylor	Comments she understands that if land is exclusive farm use, the taxes are based on that use. Comments on what happens when someone wants to divide the land parcel into smaller parcels.
237	Sen. Bryant	States the person would have to pay up to ten years in back taxes to divide the larger parcel if the parcel was in farm deferral.
253	Rep. Lundquist	Comments on procedures when applying for a nonfarm parcel.
262	Sen. Bryant	States his firm has been involved in the Dornivan case.
266	Kafoury	Asks for clarification of HB 3661 (1993 Session).
270	Bryant	Answers that the Court of Appeals did not look at the legislative history. Comments on the effects of the Smith case in 1993 and the work on HB 3661. States he wants to reverse the Dorvinen decision and to do so, HB 3489 and HB 3488 need amendments.
303	Kafoury	Asks for further clarification of HB 3661.
315	Lundquist	Notes it was an overall, comprehensive review of land use issues.
335	Chair Welsh	Indicates the amendments will be shared with interested parties. Closes the public hearing on HB 3488 and HB 3489. Opens a public hearing on HB 3404.
<u>HB 3404 PUBLIC HEARING</u>		

355	Rep. Devlin	Testifies in support of HB 3404. Discusses his experience with the development of the Regional Urban Growth Goals and Objectives in the Metro area.
375	Gary Conkling	Beaverton and Hillsboro School Districts. Testifies in support of HB 3404 (EXHIBIT J) . Comments on school siting and land use planning. States Beaverton School District has used up its last three sites.
TAPE 120, A		
015	Chair Welsh	Asks if people are providing any options or recommendations.
017	Conkling	States there will be others who will make the same requests. Comments on Beaverton's and Hillsboro's urban growth proposals.
039	Rep. Devlin	States that the issue is statewide. Comments on the importance of planning for schools when reserves are brought into an urban growth boundary. Comments on his experience with the Tualatin City Council.
057	Chair Welsh	Closes the public hearing on HB 3404 and opens a public hearing on HB 2885.
<u>HB 2885 PUBLIC HEARING</u>		
061	Chair Welsh	Closes public hearing on HB 2885. States he his preparing minutes for the bill. Adjourns for the day at 5:00.
		Testimony from Don Schellenberg in opposition to HB 2865 is submitted for the record (EXHIBIT K) . Testimony from Richard Benner in opposition to HB 2865 is submitted for the record (EXHIBIT L) . Testimony from Richard Benner on HB 3404 is submitted for the record (EXHIBIT M) . Testimony from Paula Krane in opposition to HB 2719 is submitted for the record (EXHIBIT N) .

Submitted By, Reviewed By,

Danielle Hamilton, Kristina McNitt,
Administrative Support Administrator

Transcribed By,

Valerie Luhr

Administrative Support

EXHIBIT SUMMARY

A ñ HB 3282-1 amendments, staff, 18 pp.

B ñ HB 3278, written testimony, staff, 13 pp.

C ñ HB 2719, written testimony, Gary Conkling, 1 p.

D ñ HB 2719, written testimony, Jim Johnson, 3 pp.

E ñ HB 2719, written testimony, Bob Rindy, 1 p.

F ñ HB 2625, written testimony, Rob Eber, 4 pp.

G ñ HB 2865, written testimony, Dan Dority, 3 pp.

H ñ HB 3488 and HB 3489, written information, Sen. Neil Bryant, 6 pp.

I ñ HB 3488 and HB 3489, written information, Sen. Neil Bryant, 38 pp.

J ñ HB 3404, written testimony, Gary Conkling, 1 p.

K ñ HB 2865, written testimony, Don Schellenberg, 1 p.

L ñ HB 2865, written testimony, Richard Benner, 2 pp.

M ñ HB 3404, written testimony, Richard Benner, 1 p.

N ñ HB 2719, written testimony, Paula Krane, 1 p.