

## **HOUSE COMMITTEE ON WATER AND ENVIRONMENT**

**May 12, 1999 Hearing Room D**

**1:00 P.M. Tapes 159 - 162**

**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 2979 Work Session**

**SB 524 Public Hearing and Work Session**

**HB 3346 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.

TAPE/#	Speaker	Comments
TAPE 159, A		
004	Chair Welsh	Calls meeting to order and opens a work session on HB 2979.
<u>HB 2979 WORK SESSION</u>		

005		Staff distributes proposed HB 2979-1 and HB 2979-4 amendments ( <b>EXHIBITS A and B</b> ).
021	Jay McCaulley	Testifies in support of HB 2979 ( <b>EXHIBIT C</b> ). Discusses the HB 2979-4 amendments.
048	Chair Welsh	Asks for clarification on which amendments are being discussed.
052	McCaulley	Requests changes in the HB 2979-4 amendments, page 1, line 23, after "competitive" insert "open market lease, license, registration, and sales; and" and on page 3, section 3, line 6, delete "increase."
071	Chair Welsh	Asks if "increase" is deleted what should replace it.
075	McCaulley	Replies it should read something like "in an effort to find all eligible structures for lease, license, registration, and sales." Comments on page 4, Section 3, end of line 7, add "and equally distributed among all rate categories."
099	Rep. Morgan	Asks for clarification.
101	McCaulley	States desired language.
111	Chair Welsh	Asks if there are any other desired amendments.
115	McCaulley	Answers yes. Continues to request language changes in Section 4, line 15 and on page 5.
149	Mel Pittmon	Testifies in support of HB 2979 and amendments ( <b>EXHIBIT D</b> ).
164	Chair Welsh	Closes work session on HB 2979 and opens public hearing on SB 524.
<b><u>SB 524 PUBLIC HEARING</u></b>		
170		Staff provides copies of SB 524-1 amendments ( <b>EXHIBIT E</b> )
176	Rep. Terry Thompson	Representative District 4. Testifies in support of SB 524. Requests that SB 524 be moved forward and go to conference committee.
189	Sen. Gary George	Senate District 2. Testifies in support of SB 524. Describes process in development of SB 524.
195	Rob Bovett	Lincoln County Legal Counsel. Testifies in support of SB 524. ( <b>EXHIBIT F</b> ).

		Provides additional information to committee. Requests the SB 524-1 amendments be adopted. Discusses copy of Lincoln County Commission decision regarding the Ocean Shores development.
270	Rep. Taylor	Asks what the intent is with the measure.
285	Bovett	Responds to question.
280	Chair Welsh	Asks if they are ready to move SB 524 with the ñl amendments.
283	Bovett	Answers yes.
286	Rep. Taylor	States that she is not ready to move the bill. Comments the bill takes the decision out of the land use arena. Asks about letter provided in <b>(EXHIBIT F)</b> .
294	Bovett	Explains his purpose for including the letter.
308	Rep. Taylor	Comments on testimony from previous hearings.
319	Bovett	Discusses his purpose for requesting the committee to vote out SB 524.
375	Bovett	Comments on public road rights of way.
377	Bob Rindy	Department of Land Conservation Development (DLCD). Expresses concerns with the bill. Comments if the bill is narrowed to one specific area, DLCD would be neutral on the bill. States that DLCD could address some of the issues in the original bill. States DLCD would prefer to use mediation to resolve case.
430	Sen. George	Overviews history of developing the legislation. Comments if mediation would work, it would have already occurred.
<b>TAPE 160, A</b>		
017	Chair Welsh	Asks what the legal presumptions in mediation are.
020	Bovett	Expresses his concerns with mediation.
030	Rep. Gianella	Asks when the homes were built.
032	Sen. George	Replies in the 1950s.

034	Bovett	Responds the houses were built from the mid-1950s through today.
036	Rep. Gianella	Asks if persons have been requested to remove their homes.
040	Bovett	Answers there have been various scenarios. Explains other possible situations that homeowners are concerned about.
048	Rep. Gianella	Asks if Bovett thinks the SB 524-1 amendments will solve the problem in Yachats.
054	Bovett	Answers it will resolve the legal issue of application of land use Goal 17.
061	Rep. Taylor	Asks Rindy if SB 524 weakens Goal 17.
067	Rindy	Answers it would not if the SB 524ñ1 amendments were adopted.
075	Rep. Merkley	Asks how many properties have been inventoried and how many showed the underlying property on the title reports.
080	Bovett	Answers he cannot answer specifically. States another witness may be available to answer that question.
092	Sen. George	Responds to Rep. Taylorís question about Goal 17.
113	Rep. Taylor	States that she did not hear any intent of removing houses. States access is the issue.
131	Sen. George	Comments that the area involved is a range from old trail to a city street.
153	Rep. Morgan	States that DLCD would have a process that would lead to resolution.
164	Bovett	States Lincoln Countyís motivation is to resolve the problem.
173	Rindy	Comments that DLCD would like to find a resolution.
185	Rep. Morgan	Says she is not sure that mediation will occur between the parties.
201	Rep. Merkley	Asks the width of the right of way.
207	Bovett	Replies 60 feet.

209	Rep. Merkley	Asks if there has been a proposal to consider a different right of way.
220	Bovett	Answers yes. Comments on reason the alternatives have not gone forward. Discusses <b>(EXHIBIT F)</b> .
254	Rep. Merkley	Asks what a "taking" means.
257	Bovett	Explains "taking" means a condemnation action. Notes that the city owns some of the lots.
267	Eric Watkins	Attorney, Oregon Shores. Testifies in opposition to SB 524. <b>(EXHIBIT G)</b> . Clarifies problem with the right-of-way and Oregon Shores.
335	Watkins	States that it has not been the intention of Oregon Shores to remove homes. Comments that mediation may work.
395	Watkins	Says compromise is different from mediation. Comments on 1997 letter from Oregon Shores.
<b>TAPE 159, B</b>		
020	Chair Welsh	Asks if there is any new information for the committee.
030	Watkins	Expresses concerns with the SB 524 amendments. Comments it will still affect Goal 17. States if the SB 524-1 amendments were adopted there would be no incentives to mediate. Comments on <b>(EXHIBIT G)</b> .
070	Rep. Merkley	Asks if any properties have changed hands in past years.
071	Watkins	Responds yes.
072	Rep. Merkley	Asks if the new owners understand the title issues.
080	Watkins	Responds that is correct.
081	Rep. Merkley	Asks if that has effected property values.
085	Watkins	Answers he does not know.
094	Mike Collmeyer	1000 Friends of Oregon. <b>(EXHIBIT H)</b> . Addresses the issue of the 1997 letter. Discusses the vacation of a road without public hearing.

145	Collmeyer	Reads from written testimony. Expresses concerns with the effects of SB 524 on mediation.
195	Arthur Roberts	Mayor of Yachats. <b>(EXHIBIT I)</b> . Comments on the social impact of Goal 17.
274	Roberts	Gives personal testimony about neighbors.
300	Roberts	Speaks against mediation.
316	Chair Welsh	Asks what position the land owners have going into mediation.
320	Roberts	Answers that there has been confusion about just where the correct road exists. States that town is in favor of the bill. Discusses "remnant loops" and states that the records regarding these loops were lost.
390	Rep. Gianella	Asks about the health of the people in Yachats.
400	Roberts	States that this issue is very damaging.
420	Rep. Merkley	Asks about current court action.
<b>TAPE 160, B</b>		
005	Roberts	States it is under consideration at Land Use Board of Appeals.
007	Rep. Merkley	Asks if it can be appealed.
009	Roberts	Replies it can be appealed to the Supreme Court.
010	Chair Welsh	Closes public hearing on SB 524 and opens work session on SB 524.
<b><u>SB 524 WORK SESSION</u></b>		
<b>015</b>	<b>Rep. Morgan</b>	<b>MOTION: Moves to ADOPT SB 524-1 amendments dated 5/12/99.</b>
020	Rep. Kruse	States that he will support SB 524ñ1 amendments.
025	Rep. Gianella	Questions support of bill without the amendments.

032	Rep Morgan	Comments that the SB 524-1 amendments will allow the bill to move forward.
038	Rep. Taylor	Opposes the amendments.
<b>040</b>	<b>Chair Welsh</b>	<b>VOTE: 6-3</b> <b>AYE: 6 ñ Atkinson, Gianella, Kruse, Merkley, Morgan, Welsh</b> <b>NAY: 3 ñ Devlin, Kafoury, Taylor</b>
	<b>Chair Welsh</b>	<b>The motion CARRIES.</b>
<b>050</b>	<b>Rep. Morgan</b>	<b>MOTION: Moves SB 524 to the floor with a DO PASS AS AMENDED recommendation.</b>
060	Rep. Merkley	Comments that the court's decision is due soon. Comments the issue should go forward without legislative action.
073	Rep. Atkinson	Supports the bill but reserves the right to change his mind.
082	Rep. Taylor	Comments that the committee sympathizes with the property owners. States opposition to the bill.
094	Chair Welsh	Points out that the committee can pass legislation to help end this situation. States that outsiders are the problem in Yachats. Supports the bill.
116	Rep. Gianella	Comments the bill will help home owners.
122	Rep. Kruse	States the problem may be with the division between county and state agencies.
137	Rep. Kafoury	Disagrees with Rep. Kruse.
<b>154</b>		<b>VOTE: 5-4</b> <b>AYE: 5 - Atkinson, Gianella, Kruse, Morgan, Welsh</b> <b>NAY: 4 ñ Devlin, Kafoury, Merkley, Taylor</b>
	<b>Chair Welsh</b>	<b>The motion CARRIES.</b>

		<b>REP. GIANELLA will lead discussion on the floor.</b>
158	Rep. Taylor	Serves notice of a possible minority report.
159	Rep. Devlin	Serves notice of a possible minority report.
160	Chair Welsh	Closes work session on SB 524 and opens work session on HB 2979.
<b><u>HB 2979 WORK SESSION</u></b>		
178	Paul Cleary	Director, Division of State Lands (DSL). Comments on amendments. States on June 8, proposed rates will be presented to the State Land Board. Outlines proposal to review new rates.
220	Chair Welsh	Ruminates on the likelihood of the committee being open in a few months.
240	Rep. Taylor	Asks about difference in rates for log rafts.
253	Cleary	Replies the log raft rates have been one half of the marina moorage rate. States that the rural areas could have a lower rate.
268	Rep. Taylor	Comments that log rafts represent a small portion of lessees.
370	Cleary	Responds that the most recent revision in rates will decrease cost for those lessees.
306	Bill Montgomery	Testifies in support of HB 2979. Reads written testimony <b>(EXHIBIT J)</b> .
399	Rep. Taylor	Asks if Montgomery has attended DSL hearings.
405	Montgomery	Replies he has attended most of them.
414	Rep. Taylor	Says she attended some meetings.
<b>TAPE 161, A</b>		
008	Montgomery	Comments on hearings conducted by DSL.
023	Rep. Merkley	Asks if he is aware of any other state having a flat rate.



030	Montgomery	Answers the State of Washington has been examining the issue.
039	Rep. Merkley	Asks if there are other states that have a flat rate.
042	Montgomery	Replies to question.
043	Rep. Merkley	Asks why the state should rent a property in a prime location at the same price as a property in a less desirable location.
048	Montgomery	Responds he does not think it should. Comments that flat fees should apply to the same kinds of property.
059	Rep. Merkley	States that the rates should be independent of market value of property.
062	Montgomery	Comments the rates should be comparable to nearby properties.
065	Rep. Merkley	Asks if the bill detaches the fee from the market value.
070	Montgomery	Responds the market value is included.
075	Rep. Taylor	Asks for additional testimony.
080	Bill Babeckos	Points out differences between different kinds of waters.
092	Rep. Merkley	Asks about using an appraisal system.
095	Babeckos	Provides examples.
104	Rep. Merkley	Comments on the purpose of the committee.
111	Babeckos	Responds that different areas need different formulas.
131	Jan Hamer	Says he submitted a letter to the committee in April. States he has attended the DSL public hearings. Comments on administration of flat rates.
155	Rep. Taylor	Asks Hamer if he has calculated the effect of the bill on his property.
159	Hamer	Answer no.
162	Rep. Taylor	Asks if the choice model would increase his rates.

164	Hamer	Replies if he picked one rate it would reduce his costs. Comments on the flat rate.
171	Rep. Taylor	Expresses her concerns with the flat rate.
183	Hamer	States that the many owners have agreed to a rate increase.
187	Rep. Taylor	Clarifies her concern is with log rafts.
192	Hamer	Comments that the owners of log rafts have not participated.
200	Chair Welsh	Closes work session on HB 2979 and opens work session on HB 3346.
<b><u>HB 3346 WORK SESSION</u></b>		
201		Staff distributes copies of HB 3346-1 amendments ( <b>EXHIBIT K</b> ).
209	Dennis Becklund	Explains the HB 3346 ñ1 amendments.
260	Becklund	Responds to concerns previously raised by the Water Resource Department (WRD). Comments a broad group developed the proposed amendments.
<b>280</b>	<b>Rep. Kruse</b>	<b>MOTION: Moves to ADOPT HB 3346-1 amendments dated 5/10/99.</b>
282	Rep. Merkley	Asks for comments on the HB 3346ñ1 amendments from WRD.
294	Tom Byler	WRD. Responds the HB 3346ñ1 amendments do not address the issue of illegal or legally authorized structures. Comments that the amendment does not address hydroelectric facilities.
317	Rep. Kruse	States that the legality of the impediment does not change the sediment behind it.
324	Byler	Agrees with Rep. Kruseís point. States there should be some distinction.
329	Rep. Taylor	Asks if WRD studies conditions prior to addressing these areas.
336	Byler	Provides examples of the Siletz Dam and Savage Rapids Dam.
356	Rep. Merkley	Asks if the intent is to have a new sediment study conducted every four years.

364	Becklund	Explains the four-year time period is intended to ensure the study is conducted in proximity to making the decision.
390	Rep. Merkley	Asks Becklund to respond to content of Martha Pagelis letter.
397	Becklund	Responds to question.
<b>TAPE 162, A</b>		
005	Rep. Merkley	Clarifies Becklund does not expect to be reimbursed.
008	Becklund	States he does not.
015	Rep. Merkley	Asks for further clarification if Becklund will request reimbursement.
018	Becklund	Says if state or federal government requests to use his study he will ask for compensation. States he has not asked for compensation.
021	Rep. Taylor	Refers to prior testimony regarding Valsetz Dam. Asks for his response.
028	Becklund	States that he has a set of documents that demonstrate no study was conducted in advance.
<b>044</b>		<b>VOTE: 5-4</b>  <b>AYE: 5</b> ñ Atkinson, Gianella, Kruse, Morgan, Welsh  <b>NAY: 4</b> ñ Devlin, Kafoury, Merkley, Taylor
	<b>Chair Welsh</b>	<b>The motion CARRIES.</b>
<b>052</b>	<b>Rep. Kruse</b>	<b>MOTION: Moves HB 3346 to the floor with a DO PASS AS AMENDED recommendation.</b>
056	Rep. Taylor	Asks about fiscal impact.
059	Kristina McNitt	Committee Administrator. Explains fiscal impact.
<b>063</b>		<b>VOTE: 5-4</b>  <b>AYE: 5</b> ñ Atkinson, Gianella, Kruse, Morgan, Welsh

		<b>NAY: 4 ñ Devlin, Kafoury, Merkley, Taylor</b>
	<b>Chair Welsh</b>	<b>The motion CARRIES.</b>  <b>REP. ATKINSON will lead discussion on the floor.</b>
070	Chair Welsh	Closes work session on HB 3346 and adjourns meeting.

Submitted By, Reviewed By,

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Transcribed By,

Cara Filsinger  
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#### **EXHIBIT SUMMARY**

**A - HB 2979, proposed ñ1 amendments, staff, 1 p**

**B - HB 2979, proposed ñ4 amendments, staff, 9 pp**

**C ñ HB 2979, written testimony, Jay McCaulley, 1 p**

**D ñ HB 2979, written testimony, Mel Pittmon, 4 pp**

**E ñ SB 524, proposed ñ1 amendments, staff, 1 p**

**F ñ SB 524, written testimony, Rob Bovett, 59 pp**

**G ñ SB 524, written testimony, Eric Watkins, 5 pp**

**H ñ SB 524, written testimony, Michael Collmeyer, 13 pp**

**I ñ SB 524, written testimony, Arthur Roberts, 4 pp**

**J ñ HB 2979, written testimony, William Montgomery, 2 pp**

**K ñ HB 3346, proposed ñ1 amendments, staff, 1 p**