

HOUSE COMMITTEE ON WATER AND ENVIRONMENT

May 17, 1999 Hearing Room D

1:00 P.M. Tapes 167 ñ 170

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

MEASURE/ISSUES HEARD: HB 3606 Work Session

HB 3489 Work Session

HB 2979 Public Hearing

HB 2865 Work Session

SB 615-A Public Hearing

SB 863 Public Hearing and Work Session

SB 964-A Public Hearing

SB 1184 Public Hearing and Work Session

SB 838-A 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 167, A

004	Chair Welsh	Calls meeting to order at 1:30 p.m. Opens a work session on HB 3606.
<u>HB 3606 WORK SESSION</u>		
008	Rep. Kruse	MOTION: Moves to SUSPEND the rules for the purpose of reconsidering the vote on HB 3606.
012		VOTE: 7-0-2 AYE: In a roll call vote, all members present vote Aye. EXCUSED: 2 - Kafoury, Taylor
	Chair Welsh	The motion CARRIES.
018	Rep. Kruse	MOTION: Moves to RECONSIDER the vote by which HB 3606 was sent to the floor with a DO PASS recommendation.
020	Chair Welsh	Indicates that the bill has been determined to have a revenue impact (EXHIBIT A). Says the bill should be sent to the Committee on Revenue for further examination.
025		VOTE: 8-0-1 AYE: In a roll call vote, all members present vote Aye. EXCUSED: 1 - Taylor
	Chair Welsh	The motion CARRIES.
048	Rep. Kruse	MOTION: Moves HB 3606 to the floor with a DO PASS recommendation and BE REFERRED to the Committee on Revenue.
051		VOTE: 8-0 AYE: In a roll call vote, all members present vote Aye. EXCUSED: 1 - Taylor

	Chair Welsh	The motion CARRIES.
063	Chair Welsh	Closes the work session on HB 3606 and opens a work session on HB 3489.
<u>HB 3489 WORK SESSION</u>		
085	Rep. Lynn Lundquist	House District 59. Testifies in support of HB 3489. Indicates that the ñ5 amendments (EXHIBIT B), -6 amendments (EXHIBIT C), and ñ7 amendments (EXHIBIT D) have been submitted for consideration by the committee. Provides maps to illustrate the differences between the three sets of amendments (EXHIBITS E, F, and G). Describes the way in which Eastern and Western Oregon are treated differently by the bill. Explains the restrictions the bill places on subdivisions of parcels that are below the minimum size of 80 acres.
137	Rep. Morgan	Testifies in support of HB 3489. Explains that the bill deals primarily with property located in Eastern and Southern Oregon. Mentions that the ñ7 amendments were developed by a work group appointed to study the bill. Says that Dorvinen affects only parcels at or below the minimum lot size of 80 acres in Western Oregon or 160 acres in Eastern Oregon.
170	Rep. Lundquist	Mentions that the ñ6 amendments limit subdivisions to no less than 30 acres, while the ñ7 amendments allow a 20 acre minimum.
192	Chair Welsh	Notes that additional criteria were added to the ñ7 amendments.
199	Rep. Morgan	Explains the criteria for subdivided parcels: <ul style="list-style-type: none"> • The parcel cannot be irrigated • Parcels in Eastern Oregon must be 20 acres or larger • Parcels in Western Oregon that are outside of the Willamette Valley must be no larger than is necessary to accommodate a dwelling • The parcel must be composed of Class V soil or higher and unfit for commercial farm use Mentions that a conceptual amendment is necessary to reduce the soil quality requirement to Class IV. Explains that there is a great deal of land unsuitable for either agricultural or forestry purposes that is currently restricted by agricultural land use requirements.
270	Rep. Lundquist	Comments on previous policies regarding the subdivision of non-agriculture lands. Explains that the ñ7 amendments allow for subdivision of lands while addressing concerns about excessive division.
292	Rep. Kruse	Requests an explanation of 20 cubic feet of trees, as described by the ñ6 amendments.

298	Rep. Morgan	Replies that the provision was removed in the ñ7 amendments, as many areas in Douglas County would be counted unfairly. Says that a parcel of land containing 20 cubic feet of trees is not "commercially viable."
306	Rep. Lundquist	Mentions that Eastern Oregon contains a great deal of non-commercial juniper.
312	Rep. Kruse	Submits that the ñ6 amendments refer to land capable of producing 20 cubic feet of trees, making the requirement "an unnecessary hurdle."
321	Rep. Morgan	Clarifies that the requirement refers to farmland, rather than forestland.
329	Chair Welsh	Closes the work session on HB 3489 and opens a public hearing on HB 2979.
<u>HB 2979 PUBLIC HEARING</u>		
358	Chair Welsh	Indicates that the ñ5 amendments (EXHIBIT H) have been submitted for consideration by the committee.
359	Paul Hanneman	Representative, West Coast Seafood Processors Association. Testifies in support of HB 2979 and the ñ5 amendments.
367	Jay McCally	Citizen, Portland. Testifies in support of HB 2979.
392	Chair Welsh	Comments that the issue is a difficult one. Asserts that the committee should not make a decision regarding fees prior to receiving a report from the Division of State Lands (DSL). Suggests that additional language could be added once the bill passes to the Senate. Acknowledges concerns regarding lease fees.
TAPE 168, A		
014	Hanneman	Expresses doubt regarding future proposals to the land board, adding that preliminary reports released thus far are insubstantial.
037	McCally	Indicates that amendments may be proposed at the June meeting.
045	Hanneman	Expresses hope that DSL will solidify its proposals, so as to allow an appropriate response to be developed. States that inequities have been overlooked for over 40 years due, in part, to political considerations.
078	McCally	Expresses appreciation that the committee has been willing to consider the issue, as DSL has been unwilling to take action.
090	Rep. Taylor	Comments that many of the lessees who have problems reside in her district and

		that DSL has proposed changes that would benefit those individuals.
103	Chair Welsh	Closes the public hearing on HB 2979 and opens a work session on HB 2865.
<u>HB 2865 WORK SESSION</u>		
127	Chair Welsh	Indicates that amendments will be forthcoming. Closes the work session on HB 2865 and opens a public hearing on SB 615-A.
<u>SB 615-A PUBLIC HEARING</u>		
139	Kristina McNitt	Committee Administrator. Gives a brief description of the bill.
149	Jon Chandler	Director of Governmental Affairs, Oregon Building Industry Association (OBIA). Testifies in support of SB 615-A. States that the bill allows cities with a population of less than 10,000 to request an exemption from the transportation planning rule (TPR). Mentions that cities under 2,500 people are currently exempted. Suggests that cities under 10,000 people might still be required to comply with TPR, if they are located close to an urban area. Says that compliance is often costly.
191	Rep. Kruse	Asks why 10,000 was chosen as an upper limit.
198	Chandler	Replies that it was the highest number that was believed to be agreeable to all parties, adding that OBIA would prefer that all cities were exempt.
200	Rep. Kruse	Inquires as to why population was chosen as the criteria. Mentions that some cities near urban areas require greater connectivity than do those in isolated areas.
210	Chandler	Replies that population is usually used as a cutoff mechanism. Adds that population also correlates with some cities that have had problems with the TPR requirement in the past.
222	Rep. Taylor	Asserts that the bill will provide an additional issue for cities to fight over. Mentions bike paths as an issue that has been particularly contentious. Opines that annexations could be affected by the bill.
242	Chandler	Explains that an exemption would merely be allowed, rather than required. Suggests that the bill would allow the Land Conservation Development Commission (LCDC) to allocate time currently spent on insuring compliance with other tasks.
252	Rep. Taylor	Clarifies that contention will result both within and between communities.

262	Rep. Devlin	Wonders why a city would want to be exempted, given that transportation plans allow cities such as Sherwood to avoid future traffic problems.
281	Chandler	Reiterates that cities near metropolitan areas, such as Sherwood, would be less likely to receive exemptions than would cities in rural areas, such as Burns. Asserts that such remote locations have less traffic and less need to address issues, such as bike paths.
298	Rep. Devlin	Wonders if Mr. Chandler would extend an exemption to Cornelius.
300	Chandler	Reiterates that it is unlikely that LCDC would exempt any cities within the Portland Metropolitan area.
305	Rep. Morgan	Concurs that there are several towns where an exemption makes sense, such as Myrtle Creek, which has a static population of 3,600. Asserts that such towns could find better uses for funds than a transportation plan. Wonders if there was discussion in the Senate regarding criteria for exemptions.
310	Chandler	Recalls that the primary criterion was proximity to urban areas. States that it would be more appropriate for formulation of such criteria to be done by administrative rule, rather than within the bill itself. Asserts that a single statewide standard does not adequately reflect the differences between cities such as Myrtle Creek and Cornelius.
344	Rep. Taylor	Requests additional information on problems with the TPR in coastal areas.
347	Chandler	Replies that Florence has had problems with the requirement.
349	Rep. Taylor	Mentions that many small towns on the coast receive a great deal of tourist traffic and must plan accordingly. Recalls the gridlock that was experienced in Astoria in 1998 as a result of the visit by the USS Missouri. Expresses concern that exempting small coastal cities would be a "disservice to the coastal area." Suggests that it would be more appropriate to offer assistance with the TPR to such communities rather than exempting them.
380	Chandler	Points out that Florence would be unlikely to receive an exemption. Says that the difficulty associated with receiving the kind of funding suggested by Rep. Taylor is a primary reason why SB 615-A is necessary. Discusses problems associated with unfunded mandates.
TAPE 167, B		
013	Rep. Taylor	Asks if the bill was voted unanimously out of the Senate.
017	McNitt	Replies that the bill passed out of the Senate with a 20-7 vote.

019	Rep. Taylor	Expresses opposition to the bill.
026	Bob Rindy	Representative, Department of Land Conservation and Development (DLCD). Testifies neutral to SB 615-A. Indicates that the bill allows LCDC to set the criteria for exemption. Mentions that 13 cities under 2,500 people have received full or partial exemptions since 1981, representing only a fraction of that eligible. Asserts that most cities will not seek an exemption, as they would no longer be eligible to receive grant funding from the federal government for transportation planning. Says that local transportation planning is the best opportunity for local governments to have input in transportation development.
056	Rep. Morgan	Requests a description of the types of towns that have received exemptions in the past.
061	Rindy	Mentions that a list of the jurisdictions was submitted to the Senate Committee on Water and Land Use.
062	Rep. Morgan	Wonders whether the communities were located throughout the state or limited to a particular area.
065	Rindy	Answers that the communities receiving exemptions are small communities located throughout the state. Explains that LCDC has the authorization to consider any factors it chooses, so long as it meets any requirements sent down by the legislature.
076	Rep. Morgan	Requests a current set of rules exist for exempting smaller cities.
078	Rindy	Replies that he will provide the information at a later date.
083	Lynn Peterson	Transportation Advocate, 1000 Friends of Oregon. Testifies in opposition to SB 615-A (EXHIBIT I). Says the bill would allow 197 cities to be exempted from TPR. Indicates that many of the eligible cities are undergoing significant population growth. Concurs with Rep. Taylor's assessment of the need for many coastal communities to have a transportation plan. Suggests a transportation plan is necessary to provide the infrastructure to attract business investment.
133	Chris Hagerbaumer	Air and Transportation Program Director, Oregon Environmental Council (OEC). Testifies in opposition to SB 615-A. States that transportation is a statewide issue and "should not be planned in a vacuum."
154	Rep. Kruse	Mentions that SB 615-A does not prohibit cities from transportation planning, but merely exempts them from state planning rules. Disagrees with the assertion that bike paths are instrumental to economic development.
163	Peterson	Replies that bike paths have been shown to increase property values. Says that part of the TPR is identifying whether bikes have access to downtown areas.

178	Rep. Kruse	Comments that Ms. Peterson presumes small towns are incapable of planning for themselves, without state involvement.
184	Peterson	Clarifies that there are various jurisdictions over particular roads. Suggests that transportation plans allow coordination between layers of government.
194	Rep. Kruse	Asks Ms. Peterson if she is implying that cities cannot coordinate efforts with the county or state unless they adhere to state requirements.
201	Peterson	Replies negatively. Says the process is not documented adequately, if cities are exempted from state requirements.
207	Chair Welsh	Closes the public hearing on SB 615-A and opens a public hearing on SB 863-A.
<u>SB 863-A PUBLIC HEARING</u>		
224	Kristina McNitt	Committee Administrator. Gives a brief description of the bill.
227	Dave Hunnicutt	Representative, Oregonians in Action (OIA). Testifies in support of SB 863-A. Says the bill requires local governments to take prompt action on applications when they come back from the Land Use Board of Appeals (LUBA). Says that cities can currently allow applications to languish once LUBA determines that they are acceptable.
275	Hunnicutt	Indicates that a conceptual amendment is necessary to address problems in Section 3 and Section 6 (subsection 1). Says that the lawsuit is initiated by filing a writ of mandamus and that the bill requires a trial to be scheduled no more than 15 days after the writ is filed. Explains that the requirement does not allow local governments sufficient time to develop a response.
325	Hunnicutt	Indicates that the conceptual amendment would include the following: <ul style="list-style-type: none"> On page 2, lines 1 and 33, delete "the petition" and insert "a responsive pleading pursuant to ORS 34.170"
345	Rep. Merkley	Inquires whether the 90-day requirement in Section 2 begins when the applicant requests that the process proceed. Inquires whether the 15-day requirement discussed in the conceptual amendment would be affected.
348	Hunnicutt	Replies that the 90-day requirement would not affect other time provisions in the bill.
384	Chandler	Director of Oregon Governmental Affairs, OBIA. Testifies in support of SB 863-A. Explains that the bill closes a loophole by requiring action to be taken on a remand in a similar manner as the original action.

409	Chair Welsh	Closes the public hearing on SB 863-A and opens a work session on SB 863-A.
<u>SB 863-A WORK SESSION</u>		
426	Rep. Kruse	MOTION: Moves to AMEND SB 863-A on page 2, in line 1, deleting "the petition" and inserting "a responsive pleading pursuant to ORS 34.170" and on page 2, line 33, deleting "the petition" and inserting "a responsive pleading pursuant to ORS 34.170".
TAPE 168, B		
012	Rep. Merkley	Requests clarification regarding "responsive pleading."
019	Hunnicutt	Explains that the term refers to the defendant's response to the filing of a writ of mandamus by the plaintiff.
028		VOTE: 9-0
	Chair Welsh	Hearing no objection, declares the motion CARRIED.
037	Rep. Kruse	MOTION: Moves SB 863-A to the floor with a DO PASS AS AMENDED recommendation.
041		VOTE: 9-0 AYE: In a roll call vote, all members present vote Aye.
	Chair Welsh	The motion CARRIES. REP. DEVLIN will lead discussion on the floor.
044	Chair Welsh	Closes the work session on SB 863-A and opens a work session on HB 2865.
<u>HB 2865 WORK SESSION</u>		
050	Burton Weast	Representative, Special Districts Association (SDA). Testifies in support of HB 2865. States that land use statute lists utility facilities necessary for public service as allowable in exclusive farm use (EFU) zones. Says that different

		interpretations of "necessary" have created confusion, including a recent LUBA decision that allows utilities in EFU zones only if there is no feasible alternative.
100	Weast	Indicates that a work group was appointed at the behest of the Governor to study the issue, resulting in the ñ4 amendments (EXHIBIT J). Provides a list of entities that were represented in the work group.
126	Weast	Provides an overview of the provisions of the ñ4 amendments: <ul style="list-style-type: none"> • Defines "necessary" as requiring demonstration of technical engineering feasibility, locational dependence, lack of urban or non-resource land or existing right-of-ways, and public health and safety concerns • States that cost may not be the primary factor in determining whether to locate utilities in EFU zones • States that land cost shall not be considered when reviewing alternative locations
175	Weast	Continues to provide an overview of the provisions of the ñ4 amendments: <ul style="list-style-type: none"> • Defers to LCDC the authority to determine whether facilities are comparable • Requires restoring land to its former condition after installing utility lines • Requires the imposition of clear and objective conditions on application to mitigate impact on the land • Adds fire facilities, irrigation canals, and utility service lines as uses not subject to the "necessity" requirement
230	Weast	Says the amendments recognize the need for utilities to exist in rural areas. Asserts that the amendments guarantee landowners the opportunity to have their concerns addressed. Reiterates that the amendments do not apply to any use other than utility installation. Explains that the Senate will need to address some small errors within the bill.
285	Rep. Taylor	Inquires whether the tall towers visible near farm buildings are cellular telephone relays.
294	Weast	Answers affirmatively. Indicates that such towers would probably be considered locationally dependent.
310	Rep. Merkley	Asks why wetland provisions were included in the bill and what impact it might have for wetland policy in Oregon.
326	Don Schellenberg	Representative, Oregon Farm Bureau (OFB). Explains that the wetland issue does not deal with the quality of the land but rather with the impact on surrounding farmers. Says that a mitigation bank may be established unless a negative impact is indicated.
354	Rep. Merkley	Wonders if it would still be possible to create wetland on high value farmland, provided that the rules are adhered to.

365	Schellenberg	Replies affirmatively.
372	Tom Gallagher	Mentions that there will be clarification made once the bill moves to the Senate.
393	Penny Cox	Farmer, Dallas, Oregon. Testifies in opposition to HB 2865. Asserts that there is no forum for dealing with problems associated with municipalities. Says that the City of Dallas has created problems related to wastewater because of a loophole associated with the word "facility." States that "facility" must be defined more clearly in order to prevent utilities from being placed on EFU land unnecessarily.
TAPE 169, A		
050	Cox	Asserts that municipalities are not required to follow the same rules as private landowners. States that the bill should contain sufficient language to allow landowners to protect their land by participating in the process.
070	Rep. Taylor	Asks whether Ms. Cox is concerned about the wastewater treatment associated with the poplar plantations in EFU zones.
077	Cox	Clarifies that the wastewater was considered fertilizer for the poplar plantation, thereby justifying planting poplars on prime farmland.
090	Rep. Taylor	Requests clarification as to who planted the poplar trees.
091	Cox	Replies that the City of Dallas has taken control of the situation, at the behest of a local circuit board manufacturer. States that the Department of Environmental Quality (DEQ), the Environmental Protection Agency (EPA), the city, and the county are all involved, making the process very difficult to understand for the private landowner. Explains how poplars filter heavy metals from wastewater. Asserts that such an arrangement would never have been allowed had it been defined as a utility facility.
118	Rep. Taylor	Expresses doubt that a poplar plantation could be defined as a utility facility, even when used in such a manner. Says that the involvement of DEQ and the EPA suggests that environmental concerns were addressed. Mentions that her district contains 11,000 acres of cottonwood trees.
134	Cox	Says the poplar plantation is a "publicly owned treatment works," using trees and prime farmland rather than iron and steel. Argues that dissemination of information would allow public participation, rather than using the plantation as "a blind."
164	Rep. Merkley	Suggests that the poplar plantation acts as a bio-filter, which is slightly different from a utility facility.
174	Cox	Comments that siting facilities on farmland creates problems. Says the EPA has regulated the plantation as if it were a treatment plant. Reiterates that her primary

		concern is making the process accessible to the public.
205	Rep. Merkley	Suggests that the bill may actually assist Ms. Cox, in that it provides a better definition of "necessary."
212	Cox	Acknowledges the bill's advantages in that regard. Expresses a desire to provide a more sufficient definition of facility. Says there should be a recognition that farmers must have an opportunity to have input in the process.
258	Chair Welsh	Suggests that Ms. Cox continue to work with the sponsors of the bill in order to have her concerns addressed once the bill moves to the Senate.
264	Rep. Gianella	Mentions that there are allergies associated with grass seed as well, as poplar trees. Wonders if poplar allergies are more severe.
279	Cox	Indicates that she referred to allergies associated with poplar trees merely to illustrate how they can adversely affect agricultural crops. Asserts that alfalfa does not have a negative effect on grass seed.
281	Rep. Gianella	Asks how poplar trees can have an adverse effect on grass seed.
291	Cox	Replies that copious amounts of cotton that are given off from the trees land in fields where grass seed is planted.
297	Rep. Taylor	Mentions that most poplars lose their cotton too early to cause such problems.
305	Cox	Replies that the City of Dallas is experimenting with many different types of poplar trees. Reiterates that the poplar plantation was used merely to illustrate the larger issue of circumventing requirements.
321	Rep. Kruse	MOTION: Moves to ADOPT HB 2865-4 amendments dated 5/17/99.
329		VOTE: 6-0-3 EXCUSED: 3 - Atkinson, Devlin, Merkley
	Chair Welsh	Hearing no objection, declares the motion CARRIED.
331	Rep. Kruse	MOTION: Moves HB 2865 to the floor with a DO PASS AS AMENDED recommendation.

333	Rep. Kafoury	Expresses hope that Ms. Coxí concerns will be addressed in the Senate.
338	Chair Welsh	Concurs with Rep. Kafoury.
365		VOTE: 7-0-2 AYE: In a roll call vote, all members present vote Aye. EXCUSED: 2 - Atkinson, Devlin
	Chair Welsh	The motion CARRIES. REP. LEWIS will lead discussion on the floor.
		Rep. Merkley's vote can be found on TAPE 170, A @ 390. The vote tally has been edited accordingly.
371	Chair Welsh	Closes the work session on HB 2865 and opens a public hearing on SB 964-A.
<u>SB 964-A PUBLIC HEARING</u>		
384	Ray Phelps	Representative, Metro. Testifies in support of SB 964-A (EXHIBIT K). States that Metro has experienced problems for several years related to the improper disposal of pool chlorine. Explains that when pool crystals interact with small amounts of water they release a poisonous cloud, adding that such incidents have occurred during waste disposal at a rate of approximately one per month. Mentions that DEQ has previously expressed concern regarding possible illegal dumping.
TAPE 170, A		
010	Chair Welsh	Suggests that the bill may not be necessary, as instructions on packages of pool chlorine are sufficient for safe disposal.
014	Phelps	Replies that Metro has determined that the bill provides the best way to educate the public regarding safe disposal of a potentially hazardous substance.
025	Rep. Gianella	Requests a description of the type of chlorine being discussed.
031	Phelps	Explains the process by which chlorine is embedded in garbage loads and the risk involved. Recounts an occasion where a driver was nearly killed by a poisonous cloud created in such an instance.

044	Rep. Gianella	Wonders what types of safety precautions might be taken.
050	Phelps	Replies that Metro would develop that program once the bill is passed. Supposes that consumer information events may be instituted.
056	Rep. Gianella	Asks whether pool chlorine is currently considered a hazardous substance.
057	Phelps	Replies that Metro originally treated it as a hazardous waste, but that handling it as hazardous waste outside of the Portland Metropolitan area presents problems.
067	Rep. Kruse	Expresses confusion as to how the bill educates the public as to the dangers of pool chlorine.
072	Phelps	Replies that the bill allows Metro to create an education program by administrative rule.
080	Chair Welsh	Points out that Metro should be able to institute an education program without legislation.
090	Phelps	Responds that Metro encountered difficulty in regulating the disposal of pool chlorine. Indicates that all parties agree that the bill is the solution to the problem.
094	Chair Welsh	Indicates that he has received training regarding the safe handling of hazardous substances and acknowledges the dangers of handling pool chlorine improperly. Suggests that responsible people would attend training for safe handling.
104	Phelps	Reiterates that the bill was the solution developed by the interested parties.
107	Rep. Morgan	Wonders why pool chlorine would not be covered by statute that allows the City of Portland to regulate the disposal of paint and other hazardous chemicals.
112	Phelps	Replies that the proposal within the bill contains the necessary language to institute the program.
115	Rep. Morgan	Expresses doubt that the bill provides the necessary language for educating the public regarding the safe handling and disposal of chlorine.
117	Phelps	Clarifies that education would be part of the outreach program. Says it is important to inform people not to casually dispose of chlorine.
132	Rep. Kruse	Assumes that Metro will adopt rules and disseminate them to pool owners and operators.

139	Chair Welsh	Closes the public hearing on SB 964-A and opens a public hearing on SB 1184.
<u>SB 1184 PUBLIC HEARING</u>		
151	Jon Chandler	Director of Governmental Affairs, OBIA. Testifies in support of SB 1184 (EXHIBIT L) . Explains that the bill closes a loophole within the definition of "moratorium" with regard to land development. Says that municipalities can currently avoid addressing problems by refusing to declare a moratorium.
198	Chair Welsh	Comments that he was involved in the issuance of a moratorium in his district for lack of a sufficient water supply.
211	Dave Hunnicutt	Representative, OIA. Testifies in support to SB 1184. Provides examples of occasions where cities used a moratorium as a threat, without actually implementing one.
237	Rep. Gianella	Requests clarification as to the effect the bill will have on moratoriums.
241	Chandler	Clarifies that the bill prevents municipalities from acting as though a moratorium is in place without explicitly declaring one. Says that by not declaring a moratorium, municipalities avoid addressing the problem, resulting in a suspension of building permit issuance.
270	Rep. Merkley	Asks if there have been problems with implied moratoriums in a specific area.
278	Chandler	Answers that several jurisdictions have used them, offering Clackamas County as a recent example. Says that the county has threatened a moratorium, which has allowed it to take actions that it should not be allowed to take. Mentions that the moratorium was originally designed to be an "escape valve" for insufficient planning.
301	Rep. Merkley	Wonders whether cities and counties have indicated that they will accept the bill in its current form.
308	Chandler	Replies that no testimony was provided by cities and counties but that their representatives have indicated that they will accept the bill.
325	Hunnicutt	Comments that situations are resolved more easily when a moratorium is issued rather than implied, and those specific applications are not caught in the middle.
328	Rep. Merkley	Inquires whether moratoriums can be site specific.
330	Chandler	Replies affirmatively.

347	Rep. Merkley	Recalls an example where a street needed to be installed before permits could be issued.
358	Chandler	Says that jurisdictions rarely enact moratoriums and that they are usually legitimate responses to a facilities crisis.
372	Chair Welsh	Closes the public hearing on SB 1184 and opens a work session on SB 1184.
TAPE 169, B		
<u>SB 1184 WORK SESSION</u>		
373	Rep. Kruse	MOTION: Moves SB 1184 to the floor with a DO PASS recommendation.
378		VOTE: 6-0-3 AYE: In a roll call vote, all members present vote Aye. EXCUSED: 3 - Devlin, Kafoury, Taylor
	Chair Welsh	The motion CARRIES. REP. MERKLEY will lead discussion on the floor.
382	Chair Welsh	Closes the work session on HB 1184 and reopens the work session on HB 2865.
<u>HB 2865 WORK SESSION</u>		
420	Chair Welsh	MOTION: Requests unanimous consent that the rules be SUSPENDED to allow REP. MERKLEY to BE RECORDED as voting AYE on the MOTION to move HB 2865 to the floor with a DO PASS AS AMENDED recommendation.
	Chair Welsh	Hearing no objection, declares the motion CARRIED.
		The vote motion located on TAPE 169, A @ 165 has been edited to reflect Rep. Merkley's vote.

431	Chair Welsh	Closes the work session on HB 2865 and opens a public hearing on SB 838-A.
<u>SB 838-A PUBLIC HEARING</u>		
030	Ray Phelps	Representative, Metro. Testifies in support of SB 838-A (EXHIBIT M). States that the bill is necessary to allow Metro to purchase land for dedication as open space for preservation for future generations. Says the bill will allow lot adjustments to allow landowners to retain their dwellings while selling land to Metro. Asserts that the bill will make such property cheaper to purchase.
081	Jim Lockwood	Representative, Oregon Parks and Recreation Department. Testifies in support of SB 838-A. Indicates that a conceptual amendment is necessary to retain an existing program. Describes the conceptual amendment: <ul style="list-style-type: none"> On page 2, line 22, after "is not eligible for siting a dwelling" insert "except as allowed under ORS 195.120".
105	Rep. Kruse	Asks if 1000 Friends of Oregon supports the bill.
113	Lockwood	Replies that 1000 Friends has not expressed opposition to the bill.
116	Rep. Morgan	Recalls that there was opposition to a bill that would have allowed a school to be sited under similar circumstances.
121	Chair Welsh	Comments that he has concerns regarding the apparent double standard between dwellings and schools.
136	Phelps	Asserts that the bill deals with a different situation, in that Metro is purchasing a piece of land with an existing dwelling. Says the bill would not support efforts to site facilities on open space land.
139	Chair Welsh	Opines that the government should not buy private land for such a purpose.
144	Rep. Morgan	Inquires as to the intent for the use of the land.
146	Phelps	Replies that such lands are currently not in use and are "standing idle." Says that the house remains in private hands and on the tax rolls, while the open land is obtained for potential recreational purposes. Recalls that 62 percent of residents within Metro approved the practice on the ballot.
161	Rep. Morgan	Asks how the land is zoned.
162	Phelps	Replies that the land is zoned exclusively for farm use.

167	Rep. Kruse	Asks if the property in question is outside the urban growth boundary.
169	Phelps	Replies that all such property is inside the urban growth boundary.
172	Rep. Kruse	Wonders if there is insurance that the land will not be developed.
176	Phelps	Replies that the ballot measure that created the program requires that it remain undeveloped in perpetuity for the conservation of the natural resource benefit.
179	Rep. Kruse	Suggests that it is reasonable to assume that such land will be developed into parks or softball fields.
182	Phelps	Concurs that such development might take place. Indicates that approximately 4,000 acres have already been purchased, including any homes that may have resided on them, which were subsequently removed at cost to the state.
195	Chair Welsh	Recalls a similar situation that involved allowing the continued use of high value forestland while removing a dwelling on the same parcel.
199	Rep. Kruse	Indicates that land within the urban growth boundary rarely retains its exclusive farm use status.
209	Phelps	Replies that the land purchased under the program will not have its status changed.
216	Rep. Kruse	Inquires whether a park is an acceptable use of EFU lands.
217	Phelps	Replies that Washington County does not have a process for conversion of EFU land to parks.
223	Rep. Morgan	Asks where the bill stipulates that lands purchased for preservation must be within the urban growth boundary.
228	Phelps	Replies that the bill has no such requirement. Suggests that additional hearings be held in the future, at which time more information could be provided.
240	Blair Batson	Representative, 1000 Friends of Oregon. Testifies in opposition to SB 838-A. Declares that the bill would allow non-farm use in EFU zones. Asserts that the bill would affect lands outside the urban growth boundary.
260	Chair Welsh	Closes the public hearing on SB 838 and adjourns the meeting at 4:30 p.m.

Submitted By, Reviewed By,

Patrick Brennan, Jennifer Peck,

Administrative Support Administrator

EXHIBIT SUMMARY

A ñ HB 3606, revenue analysis, staff, 4 pp.

B ñ HB 3489, -5 amendments, staff, 3 pp.

C ñ HB 3489, -6 amendments, staff, 8 pp.

D ñ HB 3489, -7 amendments, staff, 7 pp.

E ñ HB 3489, -5 amendments map, Rep. Lynn Lundquist, 3 pp.

F ñ HB 3489, -6 amendments map, Rep. Lynn Lundquist, 5 pp.

G ñ HB 3489, -7 amendments map, Pre. Lynn Lundquist, 3 pp.

H ñ HB 2979, -5 amendments, staff, 7 pp.

I ñ SB 615-A, testimony, Lynn Peterson, 2 pp.

J ñ HB 2865, -4 amendments, staff, 21 pp.

K ñ SB 964-A, testimony, Ray Phelps, 1 p.

L ñ SB 1184, testimony, Jon Chandler, 1 p.

M ñ SB 838-A, testimony, Ray Phelps, 1 p.