

SENATE COMMITTEE ON RULES AND ELECTIONS

June 8, 1999 Hearing Room B

8:00 a.m. Tapes 80 ñ 81

MEMBERS PRESENT: Sen. Charles Starr, Chair

Sen. Randy Miller, Vice-Chair

Sen. Lee Beyer

Sen. Peter Courtney

Sen. Neil Bryant

MEMBER EXCUSED:

STAFF PRESENT: Ray Kelly, Administrator

Gary Roulier, Administrative Support

MEASURE/ISSUES HEARD: HB 3280A Work Session

HB 3054A Work Session

HB 3201A Public Hearing and Work Session

HB 2885A Public Hearing

HB 3282A 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.

TAPE/#	Speaker	Comments
TAPE 80, A		
002	Chair Starr	Opens the meeting at 8:08 a.m. and opens a work session on HB 3280A.

HB 3280A WORK SESSION

010	Sen. Bryant	MOTION: Moves HB 3280A to the floor with a DO PASS recommendation.
		VOTE: 3-0 AYE: In a roll call vote, all members present vote Aye. EXCUSED: 2 - Beyer, Miller
	Chair Starr	The motion CARRIES. SEN. STARR will lead discussion on the floor.
015	Chair Starr	Closes the work session and opens a public hearing on HB 3201A.

HB 3201A PUBLIC HEARING

026	Paul Cosgrove	Dry Creek Landfill. Presents (EXHIBIT A) and testifies in support of HB 3201A. Explains the provisions of HB 3201A which allow local citizens advisory committees for solid waste issues to fulfill the duties of a regional disposal site advisory committee.
058	Chair Starr	Asks if the Department of Environmental (DEQ) supports HB 3201A.
062	Ray Kelly	Administrator. Responds that DEQ staff indicated support for HB 3201A.
064	Chair Starr	Closes the public hearing and opens a work session on HB 3201A.

HB 3201A WORK SESSION

066	Sen. Miller	MOTION: Moves HB 3201A to the floor with a DO PASS recommendation.
		VOTE: 4-0 AYE: In a roll call vote, all members present vote Aye. EXCUSED: 1 - Beyer

	Chair Starr	The motion CARRIES . SEN. MILLER will lead discussion on the floor.
071	Chair Starr	Closes the work session and opens a work session on HB 3054A.
<u>HB 3054A WORK SESSION</u>		
076	Sen. Bryant	Comments that Section 1 of HB 3054A is unnecessary and should be deleted.
101	Sen. Bryant	MOTION: Moves to AMEND HB 3054A on page 1 by deleting lines 4 through 14.
102	Sen. Miller	Asks if Sen. Bryant's opinion is based on current law or court decisions.
104	Sen. Bryant	Answers that it is based on court cases. Notes that current common law dealing with trespassers and attractive nuisances is sufficient.
114	Sen. Miller	Asks why Sen. Miller objects to including Section 1 in the statutes if the section merely restates current court decisions.
116	Sen. Bryant	Responds that Section 1 goes beyond restating court opinion to provide that a landowner has no duty even when they have created what is defined in common law as an "attractive nuisance."
123	Sen. Courtney	Asks for clarification on Section 3 which deals with illegal posting of land.
129	Chair Starr	Responds that testimony indicated that illegal posting was an ongoing problem. Discusses the proposed fine with Sen. Courtney.
149	Sen. Courtney	Indicates his support for Sen. Bryant's motion.
155	Sen. Miller	Declares his opposition to the deletion of Sections 1 and 2 of the bill.
172	Sen. Courtney	Asks for clarification on the proposed §4 amendments.
183	Kelly	Presents (EXHIBIT B) and discusses the purpose of the §4 amendments.
218	Chair Starr	Restates Sen. Bryant's motion, and asks that the committee vote on the motion.
248	Sen. Bryant	Reiterates that case law and statutory law adequately deal with trespassers and attractive nuisances.

269	Sen. Beyer	Indicates his support for the conceptual amendment offered by Sen. Bryant.
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279 Sen. Miller Comments that land owners with "attractive nuisances" take extraordinary measures to protect their property. Adds that trespassers should bear the liability rather than landowners.

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VOTE: 3-2
AYE: 3 - Beyer, Bryant, Courtney
NAY: 2 - Miller, Starr

Chair Starr The motion CARRIES.

306 Sen. Beyer **MOTION: Moves to ADOPT HB 3054A-4 amendments dated 5/28/99 (EXHIBIT B).**

VOTE: 5-0
AYE: In a roll call vote, all members present vote Aye.

Chair Starr The motion CARRIES.

316 Sen. Beyer **MOTION: Moves HB 3054A to the floor with a DO PASS AS AMENDED recommendation.**

VOTE: 4-1
AYE: 4 - Beyer, Bryant, Courtney, Starr
NAY: 1 - Miller

Chair Starr The motion CARRIES.
SEN. BEYER will lead discussion on the floor.

330 Chair Starr Closes the work session and opens a public hearing on HB 2885A.

HB 2885A PUBLIC HEARING

- 336 Rep. Roger Beyer House District 28. Testifies in support of HB 2885A.
- 350 Weldon Nusbaum Citizen, Marion County. Testifies in support of HB 2885A. Reviews the history of property purchased by his family in 1983 and local land use policies regarding minimum parcel size
- 393 Nusbaum Summarizes attempts to make his property profitable and construct a second dwelling for his family. Outlines that Oregon law allows the construction of a dwelling on land zoned for Exclusive Land Use (EFU) but does not allow it on land designated forestland.

TAPE 81, A

- 009 Sen. Miller Comments that the Governor would consider HB 2885A an attack on land use planning.
- 013 Nusbaum Responds that there is unfair discrimination between activities in land zoned for EFU and land zoned for timber. Stresses that this is an equity issue and not an attack on land use laws.
- 027 Sen. Miller Remarks that many urban citizens do not understand the issues faced by owners of farm and timber property.
- 032 Nusbaum Reiterates the difficulty of operating the timber property in a profitable manner.
- 036 Chair Starr Closes the public hearing and opens a public hearing on HB 3282A.

HB 3282A PUBLIC HEARING

- 045 Rep. Beyer Testifies in support of HB 3282A.
- 051 Rep. Lynn Snodgrass Speaker of the House, House District 10. Testifies in support of HB 3282A. Explains that the purpose of HB 3282A is to allow church and an associated cemetery to be sited as a permitted use in exclusive farm use zone under certain conditions. Presents (**EXHIBIT C**) and outlines growth projections in east Multnomah County.
- 080 Rep. Snodgrass Reviews recent attempts to site a church on Highway 26 and recent decisions by the City of Gresham to prohibit the siting of churches on land zoned for industrial use.

121	Rep. Snodgrass	Concludes that there is simply no place for churches to expand under current land use laws.
137	Sen. Miller	Remarks on his support for HB 3054A and notes that Oregon land use laws are restrictive.
142	Rep. Snodgrass	Summarizes her conversations with the Governor regarding HB 3054A.
180	Ron Eber	Rural Land Specialist, Department of Land Conservation and Development (DLCD). Presents (EXHIBIT D) and testifies in opposition to HB 3054A. Notes that the bill will allow large churches serving primarily urban members to local outside urban growth boundaries.
223	Eber	Comments that community-based activities should be sited in the communities they serve. Concludes that the bill would allow large urban development outside the urban growth boundaries on some of Oregon's best farmland.
236	Sen. Miller	Asks if positions on legislation by the DLCD are developed by the department or the Commission.
241	Eber	Answers that the DLCD develops a position on legislation and keeps the Commission apprised. Adds that these positions are also discussed with the Governor's office.
246	Sen. Miller	Asks who within the department would develop the legislative position.
249	Eber	Responds that the director, Bob Rindy and he would be involved.
251	Sen. Miller	Asks if the commission was consulted on the testimony offered by the witness and whether they are aware of the DLCD position.
253	Eber	Answers that the commission was not consulted on this specific testimony.
255	Sen. Bryant	Asks if the DLCD would be opposed if the bill did not allow development of high value farmland.
260	Eber	Answers that the department position would be identical since the DLCD maintains that urban uses should be within urban growth boundaries or within the unincorporated rural communities. Outlines the exceptions process.
275	Sen. Bryant	Asks if the exception process was pursued in the case of this particular church.

278 Eber Responds that the exception process was not pursued. Reviews Oregon Supreme Court decisions upholding DLCDC administrative rules.

296 Sen. Beyer Asks what the existing DLCDC rules are regarding siting of churches in rural areas.

298 Eber Answers that large scale uses within an EFU are restricted within three miles of an urban growth boundary or on high value farmland.

311 Sen. Beyer Asks for a definition of "large scale."

312 Eber Responds that the term is not defined in statute. Adds that those uses within three miles of an urban growth boundary generally serve the urban population.

329 Randy Tucker Policy Advocate, 1000 Friends of Oregon. Presents (**EXHIBIT E**) and testifies in opposition to HB 3054A.

351 Tucker Outlines that urban facilities should be located in urban communities. Adds that prime farmland in close proximity to urban areas need increased protection from urbanization and state land use laws already allow exceptions.

395 Sen. Courtney Asks for clarification and the similarities between HB 3282A and legislation passed to site a church in Silverton.

421 Tucker Reiterates that churches are allowed on non-high-value farmland.

433 Eber Responds that he would have to research the specific legislation. Notes that churches have been allowed on farmlands since 1963.

TAPE 80, B

004 Liz Frenkel League of Women Voters. Presents (**EXHIBIT F**) and testifies in opposition to HB 3282A. Explains that testimony in the House described a church that would hardly qualify as a rural church as it requires 15 acres of property and serves 6,000 people.

029 Sen. Courtney Asks about a bill allowing siting of a church on farmland in Dallas.

033 Tucker Responds that HB 2389 dealt with non-high-value farmland and the church was already an "allowed" use.

045 Sen. Courtney Notes that statutes already allow churches outside the urban growth boundary in the EFU on non-high-value farmland.

055 Eber Clarifies that the situation in Dalles dealt with a small, rural church outside three miles from the urban growth boundary. Adds that the principal issue was with the partitioning of the parcel.

079	Frank Wood	General Contractor, Good Shepherd Church. Testifies in support of HB 3282A. Emphasizes that Oregon land use laws make it difficult to site churches. Notes that the cost of adequate sites within urban areas is prohibitive.
123	Sen. Courtney	Asks if legislation declaring that churches could be sited within industrial zones would be a solution to these siting difficulties.
132	Wood	Responds that industrial areas are not good locations for churches. Adds that the process for extending the urban growth boundary is long and difficult. Reviews circumstances preventing many churches in Clackamas County from expanding.
183	Sen. Beyer	Asks if the Good Shepherd Church looked at "exception" or "marginal" lands as a possible site.
190	Wood	Summarizes efforts to locate a suitable site. Reiterates that land use policies within Oregon are restrictive.
241	Wood	Comments on the services that churches provide to the community.
254	Sen. Bryant	Asks if the exception process was pursued.
256	Wood	Answers that he was told that the exception process would not apply in this instance.
264	Sen. Bryant	Asks if there were any available "marginal lands" within Clackamas County that would be suitable for the church site.
271	Wood	Responds that no sites were available.
290	Sen. Beyer	Comments on the prohibitive expense of urban property.
300	J.L. Wilson	Legislative Director for the Speaker of the House. Outlines the services provided by the Good Shepherd Church to the community. Stresses that the legislation is narrowly written.
346	Sen. Bryant	Points out that the bill allows siting of a church within two miles of an urban growth boundary. Asks for clarification of the differences in allowable parcel size.
362	Wilson	Responds that he is unable to clarify the differences in allowable parcel size.
371	Sen. Courtney	Asks why the legislation does not allow siting of churches contiguous to the urban growth boundary.
382	Wilson	Reiterates that the Good Shepherd Church is caught between the urban growth boundaries of the cities of Sandy and Gresham.

420 Sen. Beyer Asks if the present statute allows church siting in any area zoned for EFU on marginal lands, and if the DLCD has adopted administrative rules that are further restrictive.

430 Eber Responds that is correct and reiterates that rules were adopted that limited use on high-value farmland. Notes that the authority to adopt these rules was upheld by the Oregon Supreme Court.

TAPE 81, B

012 Sen. Beyer Restates that the legislature has enacted statutes that allow churches to be sited anywhere outside of three miles of the urban growth boundary. Stresses that the administrative rules have further restricted those uses.

017 Eber Agrees that is correct.

021 Charles Swindells Staff Attorney, 1,000 Friends of Oregon. Clarifies that the exceptions process could have been applied in the case of the Good Shepherd Church.

036 Sen. Beyer Asks if the church could have been sited through the exceptions process.

039 Swindells Responds that it could have been sited and reviews the exceptions process. Notes that the majority of exceptions are approved.

065 Chair Starr Closes the public hearing and opens a work session on HB 3282A.

HB 3282A WORK SESSION

076 Sen. Miller **MOTION: Moves HB 3282A to the floor with a DO PASS recommendation.**

VOTE: 3-0

AYE: In a roll call vote, all members present vote Aye.

EXCUSED: 2 - Beyer, Courtney

Chair Starr The motion CARRIES.

SEN. STARR will lead discussion on the floor.

084 Chair Starr Closes the work session and reopens a public hearing on HB 2885A.

HB 2885A PUBLIC HEARING

109 Ann Hanus Assistant State Forester, Oregon Department of Forestry. Presents (**EXHIBIT G**) and testifies in opposition to HB 2885A. Notes that the bill no longer meets the original intent.

131 Sen. Bryant Asks about the compromise in 1995 regarding SB 683.

134 Hanus Explains the provisions of the 1995 legislation (page 1 of the exhibit).

147 Chair Starr Asks for clarification that the amended bill no longer meets the original intent.

152 Hanus Responds that the bill in its present form would not allow a second dwelling on the property.

162 Bob Rindy DLCD. Presents (**EXHIBIT H**) and testifies in opposition to HB 2885A. Reviews the compromises reached in 1995 regarding SB 683 and notes that HB 2885 would overturn those provisions.

197 Chair Staff Closes the public hearing and adjourns the meeting at 8:46 a.m.

Submitted By, Reviewed By,

Gary Roulier, Ray Kelly,

Administrative Support Administrator

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EXHIBIT SUMMARY

A ñ HB 3201A, written testimony, Paul Cosgrove, 1 p

B ñ HB 3054A, amendments, staff, 1 p

C ñ HB 3282A, map, Rep. Lynn Snodgrass, oversized

D ñ HB 3282A, written testimony, Ron Eber, 3 pp

E ñ HB 3282A, written testimony, Randy Tucker, 1 p

F ñ HB 3282A, written testimony, Liz Frenkel, 1 p

G ñ HB 2885A, written testimony, Ann Hanus, 2 pp

H ñ HB 2885A, written testimony, Bob Rindy, 1 p

I ñ HB 2885, written testimony submitted at meeting, Charles Swindells, 2 pp