

**SENATE COMMITTEE ON WATER AND LAND USE**

**April 13, 1999 Hearing Room B**

**1:00 p.m. Tapes 58 - 59**

**MEMBERS PRESENT: Sen. Veral Tarno, Chair**

**Sen. Tony Corcoran, Vice-Chair**

**Sen. Gary George**

**Sen. Marylin Shannon**

**Sen. Thomas Wilde**

**MEMBER EXCUSED:**

**STAFF PRESENT: Raymond J. Kelly, Administrator**

**Diana Bronson, Administrative Support**

**MEASURE/ISSUES HEARD: SB 628 Work Session**

**SB 467 Work Session**

**SB 1102 Public Hearing and Work Session**

**SB 863 Public Hearing and Work Session**

**SB 615 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
<b>TAPE 58, A</b>		
004	Chair Tarno	Convenes hearing at 1:14 p.m. and opens work session on SB 628. Calls Art Schlack.

**SB 628 WORK SESSION**

010	Art Schlack	Association of Oregon Counties (AOC). Gives testimony regarding SB 628. Asks for support of the -2 amendments. <b>(EXHIBIT A)</b> .
030	Sen. Corcoran	<b>MOTION: Moves to ADOPT SB 628 -2 amendments dated 04/01/99.</b>
		<b>VOTE: 3-0</b> <b>EXCUSED: 2 - George, Shannon</b>
	Chair Tarno	<b>Hearing no objection, declares the motion CARRIED.</b>
032	Sen. Corcoran	<b>MOTION: Moves SB 628 to the floor with a DO PASS AS AMENDED recommendation.</b>
		<b>VOTE: 3-0</b> <b>AYE: In a roll call vote, all members present vote Aye.</b> <b>EXCUSED: 2 - George, Shannon</b>
	Chair Tarno	<b>The motion CARRIES.</b>  <b>SEN. TARNO will lead discussion on the floor.</b>
038	Chair Tarno	Closes work session on SB 628 and opens work session on SB 467.

**SB 467 WORK SESSION**

039	Ray Kelly	Committee Administrator. Summarizes SB 467. States Hunnicutt drafted the ñ2 amendments to SB 467. <b>(EXHIBIT B)</b> .
051	Dave Hunnicutt	Oregonians In Action (OIA). States the ñ2 amendments are the results of negotiations with the Department of Land Conservation and Development (DLCD). States the issue is to whom is entitled to written notice by mail, when a local government makes a decision without holding a hearing.
087	Ron Eber	DLCD. Describes problems that the ñ2 amendments will correct in SB 467.

111	Chair Tarno	Asks if distances are specified in the ñ2 amendments.
112	Hunnicutt	Replies they are.
119	Eber	States the DLCD wanted to be assured they would have definite finality at the end of the 21-day appeal period.
141	Chair Tarno	Asks if anyone is opposed to SB 467. Asks Schlack if he can contribute testimony to the work session.
152	Schlack	States he, too, wants to find some finality. Continues to have one concern at this point and is willing to work it out in the House. States 750 feet is too great a distance and does not see justification for the extended distance from 500 feet.
176	Sen. Corcoran	<b>MOTION: Moves to ADOPT SB 467-2 amendments dated 04/12/99.</b>
		<b>VOTE: 5-0</b>
	Chair Tarno	<b>Hearing no objection, declares the motion CARRIED.</b>
178	Sen. Corcoran	<b>MOTION: Moves SB 467 to the floor with a DO PASS AS AMENDED recommendation.</b>
		<b>VOTE: 5-0</b> <b>AYE: In a roll call vote, all members present vote Aye.</b>
	Chair Tarno	<b>The motion CARRIES.</b>  <b>SEN. CORCORAN will lead discussion on the floor.</b>
186	Chair Tarno	Closes work session on SB 467 and opens public hearing on SB 1102.
<b><u>SB 1102 PUBLIC HEARING</u></b>		
190	Kelly	Summarizes SB 1102.

202	Jim Lockwood	Government Relations Manager, Oregon Parks and Recreation Department. Testifies in support of SB 1102 and states there is a plan for the development of Chrissie Field.
221	Chair Tarno	States he has been in communication with the Parks Department and this is an area on the Oregon ñ California borders in which a dual project can be created for tourism. Opens work session on SB 1102.
<b><u>SB 1102 WORK SESSION</u></b>		
<b>250</b>	<b>Sen. Corcoran</b>	<b>MOTION: Moves SB 1102 to the floor with a DO PASS recommendation.</b>
		<b>VOTE: 5-0</b> <b>AYE: In a roll call vote, all members present vote Aye.</b>
<b>Chair Tarno</b>		<b>The motion CARRIES.</b>  <b>SEN. TARNO will lead discussion on the floor.</b>
<b><u>SB 863 PUBLIC HEARING</u></b>		
264	Kelly	Summarizes SB 863.
280	Hunnicut	Presents <b>(EXHIBIT C)</b> . Testifies in support of SB 863. States SB 863 sets a reasonable time limit for local governments to decide a case when a decision comes back on remand.
352	Jon Chandler	Oregon Building Industry Association. Testifies in support of SB 863. States SB 863 closes a loophole and sets a reasonable time period for local government to act.
366	Sen. Corcoran	Asks if this is a prominent problem.
370	Hunnicut	States he cannot give specific figures on how many cases come back on remand.
398	Sen. Corcoran	Asks if the cases are usually substantive or procedural.
404	Hunnicut	Replies he cannot give the breakdown, percentage-wise, in figures.

429	Chandler	Interjects that most local governments act in good faith when the cases come back, but as it stands now, the local government has the ability to sandbag cases they do not want to hear.
445	Chair Tarno	Asks if this will remove the discriminatory aspect of the law as it currently stands.
448	Chandler	Replies that it gives a timeline for the local governments to act.
<b>TAPE 59, A</b>		
011	Bob Rindy	DLCD. Presents <b>(EXHIBIT D)</b> . Testifies that the department agrees that a procedure is needed to assure timely action in response to remands.
054	Charles Swindells	1000 Friends of Oregon. Endorses the testimony of Rindy regarding the problem of timely action on the part of local governments. States the government needs the proper motivation and incentive to deal with decisions when they come back on remand.
097	Sen. Wilde	Comments on Section 4, as it deals with LUBA remanding a decision to a city and not to a circuit court, and asks if this is not referring to the very issues that Chandler and Hunnicutt brought forward.
105	Swindells	LUBA can only remand back to the city, it can never send a decision straight to circuit court, except for some very extraordinary cases that have nothing to do with SB 863.
108	Sen. Wilde	States he does not understand why Swindells is discussing the circuit court when, in fact, all of Section 4 is dealing with the city's handling of the issues in a timely manner.
117	Swindells	Replies that the remedy under SB 863, is that the mandamus jurisdiction of the circuit court will be invoked if the city does not respond to the remand.
123	Sen. Wilde	States it seems like this would stimulate the city to take action so that the circuit court would not take over and, more or less, make the city be very interested in dealing with cases in a timely manner.
129	Swindells	Replies that it is one route which could be used to motivate the city, but feels it is an inferior choice of motivation.
152	Sen. Wilde	States he has seen how local governments can be very selective in those they help and those they hurt.
154	Chair Tarno	Asks Hunnicutt to respond to issues raised by Sen. Wilde.

156	Hunnicutt	OIA. Responds to Sen. Wilde's concerns.
192	Chair Tarno	Asks OIA and DLCD to work together in working through these concerns. Closes public hearing on SB 863 and states the committee is in work session on SB 863.
<b><u>SB 863 WORK SESSION</u></b>		
199	Sen. George	<b>MOTION: Moves SB 863 to the floor with a DO PASS recommendation.</b>
		<b>VOTE: 3-0</b> <b>AYE: In a roll call vote, all members present vote Aye.</b> <b>EXCUSED: 2 ñ Corcoran, Shannon</b>
Chair Tarno		<b>The motion CARRIES.</b>  <b>SEN. WILDE will lead discussion on the floor.</b>
211	Chair Tarno	Closes work session on SB 863 and opens work session on SB 615.
<b><u>SB 615 WORK SESSION</u></b>		
216	Chair Tarno	States he is impressed with the work that has been done on SB 615 and the ñ2 amendments. Calls Rindy and Chandler and asks them to explain SB 615. Submits ( <b>EXHIBIT E</b> ).
221	Rindy	DLCD. States they are proposing to amend SB 615 so that cities, up to 10,000 in population, or those areas of counties inside a UGB that contain a population less than 10,000, can obtain a waiver from transportation planning.
239	Chandler	Oregon Building Industry Association. Testifies in favor of the amendments made to SB 615.
254	Sen. George	<b>MOTION: Moves to ADOPT SB 615-2 amendments dated 04/06/99.</b>
		<b>VOTE: 3-0</b> <b>EXCUSED: 2 ñ Corcoran, Shannon</b>

	<b>Chair Tarno</b>	<b>Hearing no objection, declares the motion CARRIED.</b>
<b>258</b>	<b>Sen. George</b>	<b>MOTION: Moves SB 615 to the floor with a DO PASS AS AMENDED recommendation.</b>
		<b>VOTE: 3-0</b> <b>AYE: In a roll call vote, all members present vote Aye.</b> <b>EXCUSED: 2 - Corcoran, Shannon</b>
	<b>Chair Tarno</b>	<b>The motion CARRIES.</b>  <b>SEN. TARNO will lead discussion on the floor.</b>
<b>264</b>	<b>Chair Tarno</b>	<b>Closes work session on SB 615 and closes meeting at 2:04 p.m.</b>

Submitted By, Reviewed By,

Diana Bronson, Raymond J. Kelly,  
Administrative Support Administrator

**EXHIBIT SUMMARY**

- A ñ SB 628, proposed amendments, staff, 4 pp.**
- B ñ SB 467, proposed amendments, staff, 11 pp.**
- C ñ SB 863, written testimony, Dave Hunnicutt, 2 pp.**
- D ñ SB 863, written testimony, Bob Rindy, 1 p.**
- E ñ SB 615, proposed amendments, staff, 1 p**