

HOUSE COMMITTEE ON ENVIRONMENT AND ENERGY

February 17, 1997 Hearing Room E

1:00 P.M. Tapes 20 - 21

**MEMBERS PRESENT:**

Rep. Leslie Lewis, Chair

Rep. Frank Shields, Vice-Chair

Rep. Michael Fahey

Rep. Mike Lehman

Rep. Dennis Luke

Rep. Mark Simmons

Rep. Jim Welsh

**STAFF PRESENT:**

Pat Zwick, Policy Analyst

Marjorie Taylor, Administrative Support

**MEASURE/ISSUES HEARD:**

HB 2389 Work Session

HB 2458 Work Session

HB 2515 Public Hearing

HB 2501 Public Hearing

LC 2499-1, LC 2733, LC 3502, LC 3653 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 20, A		
006	Chair Lewis	Calls the meeting to order at 1:17 p.m.

<b>HB 2389 WORK SESSION</b>		
010	Chair Lewis	Opens the work session on HB 2389
011	Pat Zwick	Policy Analyst, summarizes HB 2389.
<b>020</b>	<b>Rep. Luke</b>	<b>MOTION: Moves HB 2389 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>EXCUSED: 2 - Lehman, Welsh</b>  <b>(Rep. Welsh votes Aye later in the meeting.)</b>
<b>029</b>	<b>Chair Lewis</b>	<b>The motion CARRIES.</b>  <b>REP. EIGHMEY will lead discussion on the floor.</b>
031	Chair Lewis	Closes the work session on HB 2389.
<b>HB 2458 WORK SESSION</b>		
033	Chair Lewis	Opens the work session on HB 2458.
042	Ann Hanus	Assistant State Forester, Department of Forestry. Does not have an amendment to the bill, but has answers to questions that might help to clarify the intent of the bill.
049	Rep. Luke	Asks how the bill will affect fire breaks on small lots.
051	Hanus	A landowner must do the best job they can on their property to follow the rules without having to alter a neighbor's property.
053	Rep. Luke	Asks if a land owner can reduce fuel-free requirements by siting a dwelling on a tax lot smaller than that of their total ownership.
056	Hanus	Fuel-free requirements apply to ownership of contiguous property.
057	Rep. Luke	Asks if the bill will allow land owners to reduce the size of fuel-free zones by siting their dwelling next to a property line.
059	Hanus	If the property is large enough to accommodate the fuel-free zones, they will be required. Landowners need to provide fire breaks before siting a dwelling.
063	Chair Lewis	Asks if there will be an amendment to the bill.
064	Hanus	There will not be an amendment to HB 2458.
066	Rep. Simmons	Asks what a Class 2 stream is.

071	Kevin Birch	Department of Forestry. States that a Class 2 stream is one that is not used by fish or as a domestic water source.
083	Rep. Simmons	Asks if a Class 2 stream can be used to suppress fire.
090	Birch	Indicates that use of the stream can't affect landowners down stream.
100	Chair Lewis	Asks if there are other questions about HB 2458.
104	Rep. Luke	<b>MOTION: Moves HB 2458 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>EXCUSED: 2 - Lehman, Welsh</b>  <b>(Rep. Welsh votes Aye later in the meeting.)</b>
112	Chair Lewis	<b>The motion CARRIES.</b>  <b>REP. LUKE will lead discussion on the floor.</b>
114	Chair Lewis	Asks for the Department of Forestry questions and answers to be on the record ( <b>EXHIBIT A</b> ).
115	Chair Lewis	Closes the work session on HB 2458.
<b><u>HB 2515</u></b> <b><u>PUBLIC</u></b> <b><u>HEARING</u></b>		
117	Chair Lewis	Opens the public hearing on HB 2515.
129	Pat Zwick	Policy analyst, summarizes HB 2515.
143	Jay McCaulley	Portland resident. Indicates that counties and cities should have to give notice of their planned zoning actions to people who would be affected by them. Relates a story of a client who could not build on property due to unknown zone changes. After three years, the client is still working on the problem - with notification, there wouldn't have been one.
188	Rep. Fahey	Asks McCaulley to tell a story related to the Federal Emergency Management Agency.
191	McCaulley	The same client was denied benefits from the February, 1996 floods since his land was zoned forest and he was not allowed use in the zone.
196	Chair Lewis	Expresses appreciation for the testimony indicating that this type of problem occurs frequently.
202	Dave	Representative of Oregonians in Action. Expresses support for HB

	Hunnicutt	2515 and provides a history and description of the bill ( <b>EXHIBIT B</b> ).
250	Hunnicutt	Landowners are frustrated when they check with agencies about proposed use of their property and then without notification, the zone changes and they can't build what was proposed. HB 2515 requires notification of landowners when land will be rezoned.
274	Hunnicutt	Notification of zone changes will be sent with property tax statements, therefore mailing costs will be lower. Counties can choose to send notification at other times, but it must be done through first class mail. The point is that the landowner must have notification.
298	Hunnicutt	Cities and counties must be reimbursed for notification costs if the zone changes are a result of legislative change in Oregon Statutes or a change caused by the Department of Land Conservation and Development.
315	Hunnicutt	Explains that there are potential language problems in the bill, but has created possible amendments which do not change the bill's intentions.
338	Rep. Shields	Asks how much the notification process will cost.
345	Hunnicutt	Indicates that it is impossible to know until the plan is in action.
368	Rep. Lehman	Asks if the notification address is the tax statement address.
372	Hunnicutt	Answers affirmatively.
373	Rep. Lehman	Asks if language is needed in the bill to indicate that the tax statement address will be assumed to be the correct address.
375	Hunnicutt	The issue of notification address has intentionally been avoided. The issue can be addressed later if the bill passes now.
<b>TAPE 21, A</b>		
013	Rep. Lehman	Indicates that there are still concerns related to the notification address.
018	Hunnicutt	Suggests that an amendment might solve the issue.
022	Rep. Fahey	Indicates the intent of the bill was to help the average citizen get notification of proposed zone changes on their land.
030	Rep. Lehman	If a lending institution gets notification on property that they hold the mortgage on, they'll throw it away and the landowner won't know of any proposed zone changes.
034	Rep. Fahey	Suggests that an amendment is in order to solve the notification address issue.
035	Chair Lewis	States that the issue is a valid concern
042	Chuck Sides	Salem resident and land developer. Expresses support for HB 2515. Relates a story about the purchase of property zoned for one use, being told that plans were fine, and not being notified of zone changes therefore ruining the chances for speedy development ( <b>EXHIBIT C</b> ).

114	Sides	States that if the city had been truthful and notified them of zoning changes there wouldn't be a problem now, but the current situation tears apart the credibility of government.
146	Rep. Luke	Asks if the city lowered the density of the zone that was to be built.
148	Sides	Answers affirmatively.
150	Rep. Luke	Asks if the density change was mitigated anywhere.
152	Sides.	Mitigation of the density change did not occur.
166	Chair Lewis	Asks if other lands were rezoned other than his.
167	Sides	Indicates that only his land was rezoned.
171	Art Schlack	Land Use Specialist, Association of Oregon Counties (AOC). - Indicates that AOC supports the concept of notice in the land use process. States that there are technical difficulties with getting notices to landowners and that the legislature has not appropriated funds for notification when they have instigated zoned changes.
217	Schlack	AOC is opposed to the bill as drafted. States that more information is needed about the cost of sending notices in tax statements since it might be expensive. Indicates that this bill would transfer notification responsibility to local governments and questions the funding available for those local governments to do so. Requests time to provide the committee with detailed fiscal impact information.
269	Rep. Luke	Asks why a local government would change the zoning of a property without being asked to do so.
275	Schlack	Indicates that through the legislative process in the 1970s and 1980s that happened often so that land use would follow the comprehensive plan.
282	Rep. Luke	Asks why local government are creating zone changes now.
290	Schlack	States that there are two factors which would be causes for zone changes. First are changes in state statutes or administrative rules. Changes are also made based on the periodic review process.
327	Rep. Luke	Suggests a once a year notification process which doesn't have to be included in the property tax statements.
343	Schlack	Agrees that is a good suggestion. AOC would like the opportunity to provide more fiscal impact information at a later date.
348	Rep. Luke	Asks for AOC to have ideas about notice requirements.
351	Schlack	Indicates that options will be provided.
360	Rep. Fahey	Asks about the financial impact of rezoning for the average citizen.
386	Bob Rindy	Department of Land Conservation and Development (DLCD). The Land Conservation and Development Commission (LCDC) is in favor of citizens receiving notice of zone changes. Indicates the problem that local governments have is with the cost of notification. Indicates that DLCD can't support or oppose HB 2515 until funding of notification

		has been decided.
<b>TAPE 20, B</b>		
015	Rindy	Indicates that costs include postage and researching which properties are impacted, and finding the land owners, and administrative costs. Expresses concern for the possibility of a local government wanting to make amendments after a specific time period. Indicates that cost savings might be found in providing local governments timeline flexibility in the notification process.
032	Rep. Luke	Clarifies that there isn't a problem with notification once a year, but with the timing at which it will occur.
034	Rindy	Answers affirmatively.
043	Rindy	Discusses more concerns about funding for notification. Asks if the state could provide a fund for notification if the costs will be high. This fund could be allocated out to local governments.
085	Rep. Shields	Asks what would happen if the bill passed without funding.
090	Rindy	Local governments might have to pick and choose which zone changes will have notification.
106	Rep. Luke	Asks if it is easier for DLCD for local governments to have flexibility with planning changes. Indicates that a fixed date for planning changes is better for everybody. It might bring more control into the land use system.
125	Rindy	Indicates that a fixed date will be considered.
135	Rep. Simmons	Expresses understanding for the issue of notification costs, but states that it is probably cheaper to notify a landowner of zone changes rather than litigate.
148	Rindy	Indicates again that DLCD is in favor of finding a way to pay for the cost of notification.
156	Rep. Simmons	Suggests that to cut costs, there should be fewer zone changes.
159	Rindy	Indicates that most zoning changes took place during the 1970's and 1980's and current ones are taking place due to legislation.
166	Chair Lewis	Disagrees with Mr. Rindy's statement.
168	Rep. Fahey	Asks how many zone changes are occurring.
173	Rindy	Indicates that number of zone changes is difficult to determine since they are based on legislation.
183	Rep. Fahey	States that his mission is to protect the public and their land.
197	Chair Lewis	Relates the recent history of periodic review in Yamhill County. DLCD rezoned the county without legislation and many landowners were affected by the action.

218	Rep. Luke	Relates incidents of DLCD instigating land use planning changes in Deschutes County. Asks if Mr. Rindy is testifying for DLCD.
229	Rindy	States that he is representing DLCD. Indicates a preference to not discuss past agency actions. HB 2515 is a good idea.
248	Rep. Lehman	Expresses confusion over state and local control over zone changes.
254	Rep. Luke	Suggests that when protecting citizens' private property, the legislature should have the authority to inform local government what to do.
264	Fred VanNatta	Representative of the Oregon Association of Realtors. Indicates that HB 2515 has the ability to resolve a long standing issue of zone change notification. States that limiting zone changes to one time per year probably won't hinder the land use planning system.
314	VanNatta	Finds it interesting that if a landowner wants to make changes to their property, they must notify the government, but the government doesn't have notify landowners of zone changes. Encourages having one date of notification so that citizens can plan for it.
364	VanNatta	Indicates that mailing a notification shouldn't be a large problem and that this issue needs to be a high priority. States that he knows of hundreds of more citizens who have had bad experiences with zone changes if the committee would like their testimony.
383	Rep. Luke	Asks if a list of properties with possible zone changes can be sent out with the property tax statement instead of sending notification to specific landowners.
<b>TAPE 21, B</b>		
008	VanNatta	Indicates that a problem could arise with different addresses.
021	Rep. Luke	Acknowledges that plan could be difficult.
028	Jon Chandler	Director of Government Affairs, Oregon Building Industry Association. Expresses strong support for HB 2515 and hopes that it is a high priority. Indicates that the bill does not presuppose the outcome of the rezoning. It lets citizens know what is happening with their property.
051	Rep. Luke	Asks how many land zone changes are happening.
056	VanNatta	Does not have that information available.
068	Rep. Luke	Asks if the notification costs would be cut if the notice was a list of property numbers sent to all property owners.
073	Art Schlack	That is a possibility, but it depends on the specificity of the notice.
083	Rep. Luke	Agrees with Mr. Schlack and asks how many zone changes occur.
089	Schlack	Approximately one or two per jurisdiction in 36 counties and 240 cities.
100	Chair Lewis	Asks Rep. Fahey to work with interested parties on HB 2515.

104	Chair Lewis	Closes the public hearing on HB 2515.
<b><u>HB 2501 PUBLIC HEARING</u></b>		
112	Chair Lewis	Opens the public hearing on HB 2501.
110	Jon Chandler	Director of Government Affairs, Oregon Building Industry Association. Provides a summary of HB 2501 and gives a historical background of laws and practices associated with HB 2501 ( <b>EXHIBIT D</b> ).
173	Chandler	Indicates that site and design changes are being used to lower density of building projects, and to ensure that building of higher density housing doesn't occur. Expresses support for HB 2501 and suggests one amendment.
190	Rep. Luke	Asks if density of subdivisions is being lowered by the regulations.
193	Chandler	Density is being lowered.
194	Rep. Luke	Asks if it is being mitigated anywhere in the urban growth boundary.
195	Chandler	Answers negatively and suggests another amendment.
197	Kristin Thomas	Representative of Randall Realty. Suggests that HB 2501 corrects some problems that exist in land use code standards and criteria. Indicates that the terms reasonable and feasible are rarely used when discussing developing costs. Indicates that unclear code standards and criteria are used to limit growth. Provides examples of code standards and criteria. Encourages balance and fairness in land use practices ( <b>EXHIBIT E</b> ).
252	Barry Raber	Representative of Randall Realty. Provides examples of subjective design review criteria which resulted in stalling or termination of projects. Includes a diary of time spent on a project that died. Indicates that the company is willing to work with criteria if they know what they are. Currently there is no clear and objective code at the beginning of a project, but subjective review at the end ( <b>EXHIBIT F</b> ).
335	Chair Lewis	States that more work needs to be done on HB 2501. Closes the public hearing on HB 2501.
<b><u>LC 2499-1, LC 2733, LC 3502, LC 3653 WORK SESSION</u></b>		
339	Chair Lewis	Opens the work session on LC 2499-1, LC 2733, LC 3502, and LC 3653.
345	<b>Rep. Simmons</b>	<b>MOTION: Moves LC 2499-1 dated 2/10/97, LC 2733 dated 2/17/97, LC 3502 dated 2/17/97, and LC 3653 dated 2/17/97 BE INTRODUCED as committee bills.</b>
	<b>Chair</b>	



353	Lewis	Hearing no objection, declares the motion CARRIED.
		(LC 2499-1 is printed as HB 3284. LC 2733 is printed as HB 3283. LC 3502 is printed as HB 3282. LC 3653 is printed as HB 3281.)
375	Rep. Luke	<b>MOTION: Requests unanimous consent that the rules be SUSPENDED to allow REP. WELSH to vote on HB 2389 and HB 2458.</b>
379	Chair Lewis	Hearing no objection, declares the motion CARRIED.
410		<b>VOTE: Rep. Welsh votes AYE on HB 2389.</b> <b>VOTE: Rep. Welsh votes AYE on HB 2458.</b>
421	Chair Lewis	Adjourns the meeting at 3:05 p.m.

Submitted By, Reviewed By,

Marjorie Taylor, Pat Zwick,

Administrative Support Policy Analyst

**EXHIBIT SUMMARY**

**A - HB 2458, Questions to Establish the Intent of HB 2458, Ann Hanus, 1 p.**

**B - HB 2515, Written Testimony, Dave Hunnicutt, 5 pp.**

**C - HB 2515, Written Testimony, Chuck Sides, 6 pp.**

**D - HB 2501, Written Testimony, Jon Chandler, 1 p.**

**E - HB 2501, Written Testimony, Kristin Thomas, 2 pp.**

**F - HB 2501, Written Testimony, Barry Raber, 17 pp.**