

HOUSE COMMITTEE ON ENVIRONMENT AND ENERGY

February 21, 1997 Hearing Room E

1:00 P.M. Tapes 24 - 26

**MEMBERS PRESENT:**

Rep. Leslie Lewis, Chair

Rep. Frank Shields, Vice-Chair

Rep. Michael Fahey

Rep. Mike Lehman

Rep. Dennis Luke

Rep. Mark Simmons

**MEMBER EXCUSED: Rep. Jim Welsh**

**STAFF PRESENT:**

Pat Zwick, Policy Analyst

Marjorie Taylor, Administrative Support

**MEASURE/ISSUES HEARD:**

HB 2565 Public Hearing and Work Session

HB 2501 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.**

<b>Tape/#</b>	<b>Speaker</b>	<b>Comments</b>
<b>TAPE 24, A</b>		
004	Chair Lewis	Calls the meeting to order at 1:18 p.m.
<b><u>HB 2565</u></b> <b><u>PUBLIC</u></b> <b><u>HEARING</u></b>		
006	Chair Lewis	Opens the public hearing on HB 2565.
008	Pat Zwick	Policy Analyst, reviews provisions of HB 2565.
013	Sen. Gary	State Senator, Newberg, Oregon. Expresses support for HB 2565.

	George	Indicates that HB 2565 provides a needed change in the law.
036	Rep. Luke	Asks if provisions already exist that authorize hired workers to live on a farm.
040	Sen. George	Currently, a relative would have to live in the dwelling.
046	Rep. Simmons	Verifies that HB 2565 allows a person other than a relative to occupy a second dwelling on a farm.
049	Sen. George	Responds affirmatively.
052	Chair Lewis	Verifies that no other dwellings can be built on the farm and that the bill focuses on who will live in the dwelling.
055	Sen. George	States that Yamhill County has a very limited supply of housing for farm workers.
069	Dave Hunnicutt	Representative of Oregonians in Action.
074	Lester Lukas	Resident of Yamhill County. Relates his personal history and farming career. In 1993, he bought 30 acres in an exclusive farm use zone of Yamhill County and built a new house with the intention of demolishing the old house on the property. Due to illness, the house was not destroyed and he rented it to a person that would help with chores around the farm. He received a notice of violation and applied for farm deferral but was denied since he needed a relative to live in the house. <b>(EXHIBIT A).</b>
126	Rep. Luke	Asks if Mr. Lukas believes HB 2565 will allow additional houses to be built on farms or mainly different use of existing structures.
128	Lukas	Does not know the answer to the question.
133	Rep. Luke	Asks Mr. Lukas if he believes that more houses will be built in exclusive farm use zones because of HB 2565.
134	Lukas	It depends on how the bill is stated.
139	Rep. Fahey	Indicates that a second home could be built on the property if it was a manufactured home.
141	Lukas	The permanent house would have to be removed.
144	Rep. Fahey	Indicates that in Multnomah County, mobile homes and stick built homes are viewed as the same.
157	Hunnicutt	States that HB 2565 removes requirement number two related to a farm manager's dwelling. The three current requirements are: 1) the dwelling be located on the same lot as the farm operator's dwelling 2) the farm manager's dwelling must be occupied by a relative 3) the farm manager's assistance is necessary for the continuation of day to day activities. There is a possibility that more farm houses will be built in exclusive farm use zones, but only for farm managers who keep farmland in production <b>(EXHIBIT B).</b>
225	Hunnicutt	Indicates that there might be opposition to the bill since there is some vague language included about the requirement of a farm manager to operate a farm. Suggests addressing the language associated with the management of the farm. Encourages passage of HB 2565.

242	Rep. Fahey	Asks who monitors the farm managers.
243	Hunnicutt	Currently, the counties investigate problems related to residents on farms
253	Rep. Lehman	Asks how provisions will be enforced.
259	Hunnicutt	Counties must investigate and continue with enforcement proceedings.
269	Rep. Lehman	Asks if the proposed law might be used to harass neighboring farm owners in the event of other conflicts.
275	Hunnicutt	States that conflict usually occurs between farmers and non-farmers and this bill probably won't affect that.
300	Rep. Luke	Asks if there are laws requiring farm owners to operate at a loss.
304	Hunnicutt	Not currently.
306	Chair Lewis	Asks how long Mr. Lukas has farmed in Oregon.
308	Lukas	Since childhood.
316	Rep. Simmons	Verifies that Mr. Lukas has a home on his land, but if there was a mobile home, the situation would have been fine.
322	Lukas	A relative would need to live in the house.
337	Rep. Simmons	Indicates that this case has had a narrow interpretation of the law.
340	Rep. Luke	Asks if there are any laws preventing a farm operator from renting a room to a farm manager.
345	Hunnicutt	Doesn't know the answer.
351	Rep. Luke	Wonders, if there is such a law, what the difference is between renting a room and a whole house.
360	Clif Kenagy	Farm owner and resident of Albany, Oregon. States that HB 2565 is not needed. Existing houses need to be more accessible to farmers. Indicates that many farm workers are migrants and HB 2565 won't be serving them <b>(EXHIBIT C)</b> .
<b>TAPE 25, A</b>		
011	Kenagy	States that in close proximity to his farm 11 of 19 houses are owned by non-farmers. Expresses opposition to HB 2565.
025	Rep. Simmons	Asks what recommendation he would give to Mr. Lukas.
028	Kenagy	Indicates that there is a dwelling provision for hardship situations that Mr. Lukas should take advantage of.
031	Rep. Luke	Asks what the difference between a relative living and farming the land or a non-relative living and farming the land.
037	Kenagy	Expresses opposition to the concept.
045	Chair Lewis	Explains Mr. Lukas' story.
052	Kenagy	For a hardship situation, it is reasonable to keep the house and then remove it when the hardship is over.

056	Chair Lewis	Indicates that Mr. Lukas can't keep his house without changing the law
066	Kenagy	Asks if there can be a repeated one year grace period for as long as necessary and declare the house temporary.
070	Rep. Simmons	Asks if there are provisions for a conditional use for a limited time.
073	Chair Lewis	Yes, if it is a temporary manufactured dwelling.
077	Rep. Luke	Indicates that the law specifically states manufactured since they are easier to move.
078	Rep. Simmons	Verifies that there is no conditional use permit for this situation.
079	Chair Lewis	Indicates that statutes must be changed first.
081	Rep. Fahey	Asks what would happen if a hired hand needed to tend to livestock and the only housing was 20 miles away.
086	Kenagy	Knows of a dairy with four houses on it for assistants.
090	Chair Lewis	Asks if the assistants are relatives.
093	Kenagy	No.
094	Rep. Lehman	Asks if there is a definition of "farm manager".
100	Kenagy	Indicates that if there is a definition, it is abused.
107	Rep. Lehman	Asks if the agriculture industry is interested in more or less government supervision and regulation.
109	Kenagy	It depends on the regulations
111	Rep. Lehman	Asks if the agriculture community would like to have their houses checked for who is living in them.
113	Kenagy	States that committed farmers wouldn't be upset.
116	Chair Lewis	Indicates that the statute on temporary dwellings not only refers to manufactured dwelling but also to relative.
136	Bob Rindy	Representative, Department of Land Conservation and Development. States that HB 2565 is intended to solve a very particular problem. Offers a solution to the problem - extend the time to demolish the original dwelling. Indicates that the problem with HB 2565 is that it would allow any possible farm manager to build a second dwelling on the property. Indicates that there are easier ways to solve this problem ( <b>EXHIBIT D</b> ).
186	Ron Eber	Representative, Department of Land Conservation and Development. This is a very unique problem. Suggests that the old dwelling be rendered uninhabitable and demolish it after the hardship is over.
205	Chair Lewis	Indicates that the two solutions are to change the statute or amend the section having to do with manufactured dwellings.
211	Eber	Suggests the change to be manufactured dwelling or use of an existing structure for the term of the hardship.
217	Rep. Shields	Asks if medical certification of hardship could sway the county.

229	Eber	Counties already require medical certification in order to have a temporary dwelling.
242	Rindy	Indicates that amending the statute to allow a temporary dwelling would be easier to do than document hardship.
251	Rep. Luke	Verifies that if one dwelling was converted to farm use it would not have to be removed.
260	Eber	Reviews language in the statute and agrees.
268	Rep. Luke	Asks if the county can make it a condition of replacement.
270	Eber	In this case the county must make it a condition.
272	Rep. Luke	Asks if the county can make it a condition of replacement that the dwelling must be removed.
274	Eber	Expresses uncertainty.
279	Rep. Luke	Expresses confusion how the county can require removal of the home.
289	Chair Lewis	Agrees with Rep. Luke.
292	Rep. Luke	In the past people have placed mobile homes on properties and then removed them to build a stick home. In those instances the state has said once the mobile home is removed no other homes can be built.
303	Eber	Indicates that he is not aware of any county that does not allow the option to make a dwelling non-residential or demolish it.
311	Chair Lewis	States that there is currently a time limit on how long a permanent and temporary dwelling many exist on the same land.
328	Rep. Simmons	Asks if a reasonable test might be developed for situations like this instead of having to follow the letter of the law.
346	Rindy	States that the legislature and the Land Conservation and Development Commission are able to check each others actions and it might be too hard to create a test.
375	Sandra Bishop	Representative, League of Women Voters of Oregon. Expresses opposition to HB 2565 as drafted ( <b>EXHIBIT E</b> ).
<b>TAPE 24, B</b>		
003	Bishop	Indicates that current law restricts housing to that of the owner and relatives and the language of HB 2565 is not concise.
021	Rep. Luke	Asks if the League of Women Voters is a statewide organization and if they have a policy manual that is published.
027	Bishop	It is a statewide organization and political positions are based on 1-2 years of study. A League manual is distributed to members but they are also available to the public.
036	Rep. Luke	Asks what the process is for deciding individual positions on individual bills and who makes the decisions.
039	Bishop	A portfolio chair prepares testimony on a particular bill and if there is time it goes for review before the action committee. The action committee is comprised of 10-15 leaders from around the state who have a roundtable discussion about the bill.

059	Rep. Luke	Asks how large the organization is statewide.
061	Bishop	Approximately 1000 members statewide.
066	Rep. Fahey	Asks for suggestions on how to solve Mr. Lukas' situation.
069	Bishop	Suggests finding a solution at the local level.
077	Rep. Shields	Asks for an opinion on the extension of the demolition timeline.
080	Bishop	As a representative of the League of Women Voters, she can't provide an answer based on personal opinion.
088	Blair Batson	Representative, 1000 Friends of Oregon. Expresses opposition to HB 2565 as written and indicates that it is a broad response for a narrow problem. The bill is not needed to provide housing for farmers and their help. HB 2565 allows for the opportunity of expansion for non-farm dwellings.
139	Chair Lewis	Asks for a comment on Oregon Revised Statute 215.283 (1), (f) and if this would follow the \$80,000 requirement.
143	Batson	Yes, if the land is high value.
147	Chair Lewis	Asks for an opinion about DLCD's possible solutions, particularly the favored extension of time for demolition.
153	Batson	Agrees that the time extension is the best option.
167	Rep. Luke	Asks if it would be wiser to convert the old dwelling to non-habitable in the event that there is a hardship later on.
178	Batson	If there is a concern about hardship, that would be a better way to go.
183	Rep. Luke	States that it doesn't make sense to bring in a mobile home if there is already a structure existing on the property.
193	Don Schellenberg	Representative, Oregon Farm Bureau. Expresses opposition to HB 2565. Agrees with DLCD's solutions to the problem ( <b>EXHIBIT F</b> ).
226	Rep. Fahey	Asks if the farm operator has to be the farm owner.
228	Schellenberg	The farm operator and owner do not have to be the same person. There have been no court cases to distinguish this.
248	Chair Lewis	Enters faxed testimony into the record ( <b>EXHIBIT G</b> ).
252	Chair Lewis	Closes the public hearing on HB 2565.
<b>HB 2565 WORK SESSION</b>		
253	Chair Lewis	Opens the work session on HB 2565.
257	Rep. Luke	Expresses the desire to get an amendment into law that will allow counties more flexibility in solving problems like this.
270	Chair Lewis	Asks for reactions to suggestions and solutions provided by the speakers
		Indicates that there have been four proposals to fix the problem. States that in any case a farm manager is necessary to operate a farm. Explains that problems with the definition of "farm operator" need to be dealt with

272	Hunnicutt	in different legislation. In regards to a replacement dwelling, there is an implication that a person will be moving from one building to another, but what happens if they don't want to move. HB 2565 is trying to keep the farmland in production, so what difference does it make if the manager is a relative or not.
348	Rep. Luke	Asks when the farm manager language was added.
352	Chair Lewis	Asks Bob Rindy, in the audience, about the language.
356	Rep. Luke	Verifies that it was added in the late 1970's
368	Chair Lewis	Closes the work session on HB 2565.
<b>HB 2501 PUBLIC HEARING</b>		
371	Chair Lewis	Opens the public hearing on HB 2501.
<b>TAPE 25, B</b>		
009	Bob Rindy	Department of Land Conservation and Development. Indicates that the requirement for clear and objective standards in property development has been in place for over 15 years. States that the periodic review process is a slow process. Believes that HB 2501 will accelerate the process. Standards of development inside the urban growth boundaries are needed to ensure the best use of limited lands. Expresses support for HB 2501, but would like to work on several of the provisions ( <b>EXHIBIT H</b> ).
072	Art Schlack	Land Use Specialist, Association of Oregon Counties (AOC). Provides a written statement ( <b>EXHIBIT I</b> ).
081	Brent Curtis	Planning Manager, Washington County. Expresses opposition to HB 2501. Washington County already has clear and objective standards for land development. Indicates that Washington County is focusing on mixed-use development which needs flexibility in development standards. Requests time to make improvements to the bill or suggests relying on the periodic review process to solve issues.
124	Hanly Jenkins	Planning Director, Union County. Expresses concerns over language in the bill that is specifically applied to counties. Primarily with the words clear and objective, and also with the requirement to choose standards which don't change the density of a zone.
171	Rep. Luke	Asks if the counties have control of lands inside the urban growth boundary and outside the city limits.
172	Jenkins	Answers affirmatively.
173	Rep. Luke	Verifies that county ordinances are already clear and objective.
177	Curtis	There is no definition for clear and objective but the ordinances are. At times flexibility deviates from clear and objective.
197	Rep. Luke	Asks if Washington County requires developers to lower densities of developments.
199	Curtis	No.

200	Rep. Luke	Asks if has ever been done.
201	Curtis	Not since the State's policy of needed housing to be identified.
212	Schlack	Indicates that with passage of HB 2501, counties will have to amend current standards. States that one set of clear and objective standards can't be applied to all sites. Indicates that the fiscal impact of the bill is unknown. Asks for the opportunity to work on the bill with the proponents or encourages the committee to not pass the bill.
257	Rep. Luke	Asks if it is the position of AOC that land use planning is an unfunded mandate to local governments.
261	Schlack	Responds affirmatively.
266	Rep. Luke	Verifies that AOC's position is that any change made by the legislature to land use planning, causing local governments added work, is considered an unfunded mandate and illegal under Measure 30.
270	Schlack	Responds affirmatively.
300	Phillip Fell	Representative, League of Oregon Cities. Expresses concern about the bill covering commercial and industrial properties. The fiscal impact of HB 2501 is also of concern. Cities have not responded to an inquiry about fiscal impact. Indicates that there has been a growth of anti-growth sentiment.
341	Bob Clay	Chief Planner, City of Portland Planning Bureau. Agrees with the spirit of the bill, but it would eliminate the city of Portland's design review process which establishes design guidelines <b>(EXHIBIT J)</b> .
354	Rep. Luke	Asks if a design review is for a whole development, individual buildings, housing design, or layout of streets.
361	Clay	A design review is applied to a particular building.
369	Rep. Luke	Asks if the process is applied to commercial and residential buildings.
370	Clay	The process is for commercial and residential.
372	Rep. Luke	Verifies that the city of Portland controls many aspects of a building such as color, siding, and architectural style.
377	Clay	Answers affirmatively.
382	Rep. Luke	Asks if the city oversees similar specific building requirements in common residential areas.
389	Clay	No.
<b>TAPE 26, A</b>		
002	Clay	Indicates that the legal framework in the design review process distinguishes between design review guidelines, objective design review standards, and zoning development standards. Points out concerns with the HB 2501. Cautions against adopting legislation that works against the role of design review processes. Relates the design review process of the city of Portland. Indicates that Portland is increasing mixed-use zones which need flexibility in review.
078	Rep. Luke	Expresses amazement for the increase in mixed-use zones.



086	Blair Batson	Representative, 1000 Friends of Oregon. Expresses support for HB 2501 with a minor amendment ( <b>EXHIBIT K</b> ).
112	Chair Lewis	Suggests the formation of a work group for HB 2501.
118	Rep. Luke	Asks if the sponsors must merely acknowledge the concerns of opponents or satisfy their concerns.
121	Chair Lewis	The sponsor must acknowledge the concerns.
123	Jon Chandler	Director of Government Affairs, Oregon Building Industry Association. States that a work group will be formed.
138	Chair Lewis	Closes the public hearing on HB 2501.
140	Chair Lewis	Adjourns the meeting at 3:15 p.m.

Submitted By, Reviewed By,

Marjorie Taylor, Pat Zwick,

Administrative Support Policy Analyst

**EXHIBIT SUMMARY**

**A - HB 2565, Newspaper Article, Lester Lukas, 2 pp.**

**B - HB 2565, Written Testimony, Dave Hunnicutt, 1 p.**

**C - HB 2565, Written Testimony, Clif Kenagy, 2 pp.**

**D - HB 2565, Written Testimony, Bob Rindy, 2 pp.**

**E - HB 2565, Written Testimony, Sandra Bishop, 1 p.**

**F - HB 2565, Written Testimony, Don Schellenberg, 1 p.**

**G - HB 2565, Faxed Testimony, Committee Staff, 14 pp.**

**H - HB 2501, Written Testimony, Bob Rindy, 2 pp.**

**I - HB 2501, Written Testimony, Art Schlack, 1 p.**

**J - HB 2501, Written Testimony, Bob Clay, 3 pp.**

**K - HB 2501, Written Testimony, Blair Batson, 1 p.**