

HOUSE COMMITTEE ON ENVIRONMENT AND ENERGY

February 28, 1997 Hearing Room E

1:00 P.M. Tape 28

**MEMBERS PRESENT:**

Rep. Leslie Lewis, Chair

Rep. Frank Shields, Vice-Chair

Rep. Michael Fahey

Rep. Dennis Luke

Rep. Mark Simmons

Rep. Jim Welsh

**MEMBER EXCUSED: Rep. Mike Lehman**

**STAFF PRESENT:**

Pat Zwick, Policy Analyst

Marjorie Taylor, Administrative Support

**MEASURE/ISSUES HEARD:**

**HB 2021 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.**

<b>Tape/#</b>	<b>Speaker</b>	<b>Comments</b>
<b>TAPE 28, A</b>		
004	Chair Lewis	Calls the meeting to order at 1:07 p.m. and opens the work session on HB 2021.
<b><u>HB 2021 WORK SESSION</u></b>		
006	Rep. Sowa	State Representative, indicates that he has worked with the counties to draft better wording of HB 2021. Summarizes the provisions of HB 2021-1 amendment ( <b>EXHIBIT A</b> ).
023	Rep. Simmons	Asks how the 10% increase will be quantified.

024	Rep. Sowa	States that the counties will have to answer the question.
030	Chair Lewis	Asks if Rep Sowa is satisfied by changes in the bill made by the counties
031	Rep. Sowa	Expresses satisfaction since the counties are satisfied.
042	Art Schlack	Land Use Specialist, Association of Oregon Counties. Expresses support for HB 2021 and for -1 amendments.
055	Chair Lewis	Asks how a county can enforce a 10% increase fairly.
059	Schlack	The size of a building related to non-conforming use is documented, but it will be harder to document increasing activity of a business.
069	Rep. Simmons	Asks how the 10% increase was decided upon.
070	Schlack	Indicates that 10% is normally considered to be an administrative variance.
078	Rep. Simmons	Verifies that counties could currently approve a 10% variance without the legislation.
080	Schlack	Currently the 10% variance is not applicable to a non-conforming use.
089	Rep. Simmons	Asks for an example of non-conforming land use.
095	Schlack	Explains that when a commercial zone goes residential but a few businesses remain.
109	Rep. Luke	Asks if a shooting club could increase by 10% without hassle.
113	Schlack	Answers affirmatively.
114	Rep. Luke	Asks if legislation passed during the 1995 session having to do with non-shooting would have an effect.
115	Schlack	Will have to get back to the committee with an answer.
120	Rep. Luke	Verifies that almost any non-conforming use could expand without any concern of the impact for the neighbors.
124	Schlack	Answers affirmatively, if the local jurisdiction does not apply other mitigation measures.
128	Rep. Fahey	Verifies that kennels and bee keepers can increase by 10%.
130	Schlack	Answers affirmatively.
132	Rep. Fahey	Asks what 10% is related to: gross sales, buildings, property...
134	Schlack	Indicates that a structure can increase by 10%.
142	Rep. Fahey	Questions the bill's indication of not increasing the floor space only.
146	Rep. Sowa	States that Legislative Counsel has said the 10% applies to floor use and

		"unrelated" applies to commercial activity.
154	Chair Lewis	Verifies that the bill and amendments are related to floor use and commercial activity.
156	Rep. Simmons	Asks how often a business can expand by 10%.
159	Schlack	The business can expand 10% from what was established as the non-conforming use.
165	Rep. Luke	Asks if the 10% increase from established non-conforming use is stated in HB 2021 and amendments.
167	Rep. Sowa	States that language does indicate the one time 10% increase.
172	Rep. Fahey	Asks if a building can add a second story.
175	Schlack	Adding a second story would trigger a further review of building and land use.
181	Chair Lewis	Asks if the Department of Land Conservation and Development (DLCD) was consulted about HB 2021.
184	Rep. Sowa	Answers affirmatively.
187	Chair Lewis	Verifies that DLCD supports HB 2021.
190	Rep. Sowa	Answers affirmatively.
198	Rep. Simmons	Asks what would happen if 10% was adjusted to 20%.
202	Schlack	The counties are comfortable with a 10% increase.
209	Rep. Luke	Asks for a detailed explanation of the process proposed by HB 2021.
219	Schlack	Verifies that a permit would be needed for some increases, but no additional conditions can be applied because of non-conforming use.
223	Rep. Luke	Asks if a public hearing or debate would occur related to increase of non-conforming use.
225	Schlack	Not as long as the use remains within the 10% increase.
229	Rep. Luke	Verifies, no matter what use is proposed.
236	Rep. Luke	Asks if HB 2021 is a county bill or if it affects cities.
238	Schlack	It is a county bill.
244	Chair Lewis	Senses committee unease with the bill.
252	Rep. Luke	States that the problem is that in most cases an increase in non-conforming use is ok, but in some cases it isn't
264	Rep. Simmons	Asks if distinctions can be drawn between residential and rural residential and other classifications.

274	Chair Lewis	Indicates that Mr. Schlack would know.
280	Rep. Shields	Indicates that the bill is worth working on.
284	Chair Lewis	Asks Rep. Sowa if they can work on the bill.
287	Rep. Luke	States that the public needs to have input with non-conforming use.
296	Rep. Welsh	Agrees with Rep. Luke's concern and indicates that maybe language should be added limiting total size. Maybe time will improve the bill.
318	Chair Lewis	Agrees that a motion wouldn't be bad even though there are still questions and there is time to work on the bill.
323	<b>Rep. Fahey</b>	<b>MOTION: Moves to ADOPT HB 2021-1 amendments dated 2/25/97.</b>
	<b>Chair Lewis</b>	<b>Hearing no objection, declares the motion CARRIED.</b>
334	<b>Rep. Fahey</b>	<b>MOTION: Moves HB 2021 to the floor with a DO PASS AS AMENDED recommendation.</b>
		<b>VOTE: 5-1</b>  <b>AYE: 5 - Fahey, Shields, Simmons, Welsh, Lewis</b>  <b>NAY: 1 - Luke</b>  <b>EXCUSED: 1 - Lehman</b>
346	<b>Chair Lewis</b>	<b>The motion CARRIES.</b>  <b>REP. SOWA will lead discussion on the floor.</b>
353	Chair Lewis	Closes the work session on HB 2021 and adjourns the meeting at 1:32 p.m.

Submitted By, Reviewed By,

Marjorie Taylor, Pat Zwick,

Administrative Support Policy Analyst

**EXHIBIT SUMMARY**

**A - HB 2021, -1 Amendments, Committee Staff, 1 p.**