

HOUSE COMMITTEE ON ENVIRONMENT AND ENERGY

April 11, 1997 Hearing Room E

1:00 P.M. Tapes 56 - 58

MEMBERS PRESENT:

Rep. Leslie Lewis, Chair

Rep. Michael Fahey

Rep. Mike Lehman

Rep. Dennis Luke

Rep. Mark Simmons

Rep. Jim Welsh

MEMBER EXCUSED: Rep. Frank Shields, Vice-Chair

STAFF PRESENT:

Pat Zwick, Policy Analyst

Marjorie Taylor, Administrative Support

MEASURE/ISSUES HEARD:

HB 3063 Public Hearing

HB 2014 Public Hearing

HJR 23 Work Session

HB 3304 Public Hearing and Work Session

HB 2515 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 56, A		
003	Chair Lewis	Calls the meeting to order at 1:10 p.m. and opens a public hearing on HB 3063.

**HB 3063
PUBLIC
HEARING**

005	Pat Zwick	Policy Analyst, summarizes provisions of the bill.
013	Rep. Shetterly	State Representative, District 34. Explains background related to the bill. States that the Monroe School District owns an abandoned school and adjoining property that they can't dispose of due to land use regulations. Explains that he has been in conversation with the Department of Land Conservation and Development to narrow the scope of the measure to land use for residential purposes.
050	Jack Crippen	Superintendent, Monroe School District. States that the Irish Bend School on Old River Rd. has not been used as a school for quite some time and it is far enough away that it won't be. Explains that options have been explored to get rid of the property or find other uses for it.
076	Rep. Shetterly	States that the abandoned school is currently taking money from the district and they want that to stop, but can only do so if they can get rid of it.
085	Crippen	Explains that the building does have historical significance.
091	Rep. Luke	Asks why there is a property size limitation in the bill.
095	Rep. Shetterly	States that the size in the bill corresponds to the specific piece of property in the Monroe School District. Indicates that the broader the bill is, the less comfortable agencies are.
107	Rep. Luke	Expresses concern about schools in farm zones and practices related to them that might be harmful to children. Suggests that additional language be related to the amount of land used by the school.
133	Bob Rindy	Representative, Department of Land Conservation and Development (DLCD). Verifies that discussions have been held with Rep. Shetterly. Expresses concerns that the bill as written will allow for any use on the land (EXHIBIT A) .
148	Rep. Luke	Asks if language related to the land that was actually used by the school would help. Understands how the law could be abused. States that the proposed legislation should be flexible enough for alternative uses that benefit the surrounding area.
161	Rindy	Appreciates the suggestion.
164	Rep. Luke	Hopes that the counties will have flexibility with their land.
170	Rindy	Explains that some situations could be solved by adding the property to an adjacent community.
176	Rep. Luke	Verifies that the major issue is related to the zoning of the land. Most abandoned schools would be a non-conforming use.
187	Rindy	Explains that DLCD wants to see the local community authorize the use.
197	Blair Batson	Representative, 1000 Friends of Oregon. Expresses opposition to the HB 3063 as written. Understands that amendments will be written.
204	Rep. Luke	Asks what the main objection is from 1000 Friends of Oregon.

205	Batson	The bill as written allows for any type of land use.
207	Rep. Welsh	Asks if there would be opposition if the use was germane to the use of the land.
210	Batson	There would be no problem if the use was germane to farming, but the current language does not do that.
218	Rep. Luke	States that laws have been passed to unify school districts, so similar cases will be brought forward in the future.
220	Chair Lewis	Suggests that a work group continue with the bill.
231	Chair Lewis	Closes the public hearing on HB 3063 and opens a public hearing on HB 2014.
HB 2014 PUBLIC HEARING		
246	Pat Zwick	Policy Analyst, summarizes provisions of HB 2014.
252	John Hellen	Representative, Office of Speaker Lundquist. Stresses the importance of how the bill can impact rural communities in the state. Citizens in the rural communities need to find ways to subsidize their incomes, and having a hospitality lodge is a convenient way. Explains the reason for limiting the size of hospitality operations.
291	Barbara Ashley Phillips	Owner and operator, Clear Creek Gardens and Game in Halfway, OR. States that the economy of the area is very depressed and provides unemployment information. Explains that there are no young farmers left, and there is no way for families to stay together by farming. Expresses the desire for an opportunity to create economic diversity that is compatible with agriculture. States that agriculture is the only industry that can't use its resources as they desire (EXHIBIT B) .
352	Phillips	Explains how she got involved with the hospitality lodge industry. The planning commission and health division won't agree on licensing of the operation and therefore are causing problems. Indicates that the goal of the work group related to the bill is to promote economic diversity and opportunity in rural areas while preserving agriculture. Describes the issues investigated by the work group. First, should the program be a pilot program in remote eastern Oregon, taking in consideration concerns from the Land Conservation and Development Commission.
TAPE 57, A		
013	Phillips	Second, is the concern if there should be different operational conditions for differently populated areas. Third, the size of the land parcel and the actual buildings needs to be determined, as well as where the enhancements can be located on the parcel. A fourth issue is related to food service and who can be served and when they can be served. Explains that many people in eastern Oregon are very interested in the proposed legislation and Oregonians in Action has been a big help to them. States that all parties involved agree that the hospitality facilities should not be located on high-value farmland. Reiterates that the citizens of remote eastern Oregon need to have these opportunities for economic

		development related to agriculture.
078	Rep. Luke	Asks if there is enough room to farm on 80 acres after all of the enhancement buildings for a hospitality lodge are built.
083	Phillips	Explains how the land on her farm is used. States that a provision of the bill requires that the hospitality lodge not be separately salable from the land that it is on.
098	Rep. Luke	Understands how large 80 acres is, but is still concerned about what would be farmable after enhancement buildings are built.
102	Phillips	States that a 12,000 square foot building is not very large.
108	Rep. Lehman	Asks about guests living the ranch life.
110	Phillips	Explains programs offered by her ranch.
120	Rep. Fahey	Asks where a hospitality lodge would be located on the land.
121	Phillips	The hospitality building must be on the same parcel as that of the home of the owner or operator.
123	Rep. Fahey	Asks what would stop adjoining land owners from building next to each other over a property line.
127	Phillips	Speaks about how much it would cost to build a large compound and indicates that most people would not want to do that.
135	Rep. Fahey	Agrees that she wouldn't want to build a large atrocity, but corporate America would want to.
140	Phillips	Explains that the hospitality lodge would be a conditional use and that the idea of permitted use has already been discouraged. The hospitality operation must be a part of a legitimate agricultural operation.
148	Rep. Fahey	Doesn't disagree with Ms. Phillips, but the question needed to be asked.
154	Phillips	Provides the committee with pamphlets from various operations.
168	William Boyd	Owner, Boyd's Willow Creek Ranch. States that he doesn't want to run an illegal operation, but it is hard to justify advertising his ranch when he doesn't know if it will remain in operation. Explains that if the agricultural aspect of his ranch is lost then so goes the appeal of ranch recreation. His operation can't be a resort destination since it is so isolated from large populations. Boyd's Ranch offers people normal ranch activities that are non-consumptive of the agricultural assets (EXHIBIT C).
213	Boyd	States that ranch recreation will help to boost tourism, and therefore, the economy of the state. Describes news articles about his ranch. States that he is not asking for financial help with his operation, but wants the opportunity to use his property for more economic opportunities.
249	Rep. Simmons	Asks what amendments should be added to the bill.
253	Boyd	Agrees that those that have been suggested including limits on structure size and parcel size to be used are good. Indicates that the hospitality operation is not meant to support a ranch. States that hospitality operators

		want flexibility, but don't want a McDonald's next door.
279	Rep. Simmons	Asks if there will be a conflict with hospitality uses and agricultural uses of the land.
282	Boyd	Agrees that there would be dangers in inviting people to participate in activities that they don't understand, but many can be avoided.
300	Rep. Welsh	Expresses support for the proposed legislation and relates a personal experience at a hospitality lodge.
342	Dave Hunnicutt	Representative, Oregonians in Action. In support of HB 2014.
353	Dick Bloomfeldt	Owner of a central Oregon ranch. Describes ownership of a ranch and his agricultural operation. The Department of Agriculture has tried to encourage people to find alternative sources of income, including operating hospitality operations. Explains that his ranch is an historic ranch and a great place for a hospitality operation. The county planning commission indicated that a hospitality operation was not allowed on their property (EXHIBIT D) .
TAPE 56, B		
003	D. Bloomfeldt	Explains that hospitality operations are successful in other states and hopes that they would be in Oregon also.
010	Shirley Bloomfeldt	States that activities of a hospitality operation would be less disruptive than the activities that are currently permitted on exclusive farm use lands. Explains that a "dude ranch" does not stop functioning as a ranch when it is also a hospitality destination. Believes that her ranch near Sisters could be developed at a later date if it does not remain as a ranch. Ranching is a people and earth friendly business.
045	Rep. Luke	Asks where the ranch is located.
046	D. Bloomfeldt	Near Cloverdale.
058	Chair Lewis	Expresses appreciation for their ranching efforts.
077	Don Schellenberg	Representative, Oregon Farm Bureau. Supports the evolvement of legislation that defines guest ranch activities. Hopes that the hospitality operations would supplement ranch activities and not bring about conflicts in the ranching community. Explains that the middle ground is somewhere between a bed and breakfast and a destination resort. Expresses concerns with the lot size provision of the bill. Supports the conditional use provision and geographical limitations (EXHIBIT E) .
129	Rep. Fahey	Asks for clarification on the definition of high value farmland.
137	Schellenberg	Explains that the definition of high value farmland is not related to the quality of the soil, but the value of the crops grown on them.
144	Rep. Fahey	The definition is interesting, but houses are high value crops also.
147	Schellenberg	In 1993, HB 3661 defined high value farmland. Explains the characteristics of the valley soil and what crops can grow in the soil.
168	Rep. Fahey	Appreciates the clarification.

172	Chair Lewis	Asks why farming should be the primary income source on a hospitality ranch when the owners can't make money with farming.
184	Schellenberg	Indicates that farming income is based on gross income.
198	Rep. Luke	Asks if the income test would be every three to five years.
200	Rep. Fahey	Asks if there could be averaging of incomes.
203	Schellenberg	Income averaging is illegal under federal law, but the test every several years would be good.
217	Blair Batson	Representative, 1000 Friends of Oregon. Expresses opposition to the bill as written. States that there is no requirement in the bill that links the hospitality business to a farming operation. Agrees that a pilot project is a good idea (EXHIBIT F) .
248	Phil Ward	Representative, Oregon Department of Agriculture. States that the number one agricultural industry in Oregon is the nursery industry. Indicates that the department is very supportive of finding new economic opportunities related to agriculture. Expresses concern for not wanting to create conflicts in a productive agriculture industry. Agrees that the hospitality operations should be accessories to existing operations.
314	Bob Rindy	Representative, Department of Land Conservation and Development. Indicates that the work group has been struggling with the concepts of hospitality operations, but progress has been made and will continue (EXHIBIT G) .
335	Chair Lewis	Encourages the work group to continue.
344	Rep. Luke	Asks the work group to share their conclusions with 1000 Friends of Oregon.
356	William Boyd	Cautions the committee to not use income as a basis for determining whether they are an agricultural or resort business.
404	Rep. Luke	States that the bill is a good one.
411	Chair Lewis	Closes the public hearing on HB 2014 and opens a work session on HJR 23. Additional written and faxed testimony were entered into the record (EXHIBIT H) .
TAPE 57, B		
<u>HJR 23</u> <u>WORK</u> <u>SESSION</u>		
008	Rep. Luke	MOTION: Moves to ADOPT HJR 23-1 amendments dated 4/9/97 (EXHIBIT I).
014	Chair Lewis	Hearing no objections, declares the motion CARRIED.
017	Rep. LUKE:	MOTION: Moves HJR 23 be sent to the floor with a BE ADOPTED AS AMENDED recommendation.
		VOTE: 5-0 AYE: In a roll call vote, all members present vote Aye.

		EXCUSED: 1 - Shields
025	Chair Lewis	The motion CARRIES. REP. COURTNEY will lead discussion on the floor. (Rep. Lehman votes AYE later in the meeting.)
029	Chair Lewis	Closes the work session on HJR 23 and opens a public hearing on HB 3304.
<u>HB 3304</u> <u>PUBLIC</u> <u>HEARING</u>		
031	Chair Lewis	Explains that testimony from HB 2565 and HB 2584 will be referenced in HB 3304.
041	Rep. Schrader	State Representative, District 23. Expresses support for HB 3304. Explains that the bill was introduced because counties were having problems with interpretations of the law. -4 amendments add language to increase the scope of the bill.
068	Blair Batson	Representative, 1000 Friends of Oregon. States the -4 amendments take care of concerns held by her organization. They clarify that temporary hardship dwelling can't be replaced under replacement dwelling provisions, that the land can't be divided, and that inspections will occur as to the continuation of the hardship (EXHIBIT J) .
088	Rep. Luke	Asks if there is any opposition to the bill and amendments.
090	Chair Lewis	Closes the public hearing on HB 3304 and opens a work session on HB 3304.
<u>HB 3304</u> <u>WORK</u> <u>SESSION</u>		
103	Rep. Luke	MOTION: Moves to ADOPT HB 3304-4 amendments dated 4/11/97 and that the measure be FURTHER AMENDED on page 18, line 18, by inserting "A temporary hardship dwelling established under this section shall not qualify for a replacement dwelling under the provision of subsection 1 of this section." after the period (EXHIBIT K).
106	Chair Lewis	Hearing no objections, declares the motion CARRIED.
108	Rep. Luke	MOTION: Moves to ADOPT HB 3304-4 amendments, as amended, dated 4/11/97.
110	Chair Lewis	Hearing no objections, declares the motion CARRIED.
112	Rep. Luke	MOTION: Moves HB 3304 to the floor with a DO PASS AS AMENDED recommendation.
		VOTE: 6-0 AYE: In a roll call vote, all members present vote Aye.

		EXCUSED: 1 - Shields
120	Chair Lewis	The motion CARRIES . REP. SCHRADER will lead discussion on the floor.
124	Rep. Simmons	MOTION: Requests unanimous consent that the rules be SUSPENDED to allow REP. LEHMAN to BE RECORDED as voting AYE on HJR 23.
126	Chair Lewis	Hearing no objections, declares the motion CARRIED.
128	Rep. Lehman	Votes AYE on HJR 23.
130	Chair Lewis	States that there are a few problems with HB 2501. Therefore, the work session will not occur.
134	Chair Lewis	Opens a work session on HB 2515.
<u>HB 2515</u> <u>WORK</u> <u>SESSION</u>		
137	Dave Hunnicutt	Representative, Oregonians in Action. Indicates that the work group suggests that -5 amendments solve many concerns. Describes what changes are created by the -5 amendments. A requirement is included that mandates the Department of Land Conservation and Development (DLCD) to notify citizens of zone changes caused by amendments to statute or administrative rules. The amendment clarifies when the state or local government must pay for notifications (EXHIBIT L).
189	Hunnicutt	Explains that the issue of cost of preparing the notice was resolved by drafting the notice into the bill. Suggests that local governments or DLCD add a tagline explaining what the notice is for. States that the notices can be sent out by bulk mail or a variety of other methods. Indicates that language was added to cut down on duplicate notices.
253	Rep. Luke	Asks if a requirement for fiscal impacts can be added to the amendment.
267	Hunnicutt	That might be possible.
270	Rep. Luke	Explains that an impact statement would let the agencies know how their mandates are affecting citizens.
280	Bob Rindy	Representative, Department of Land Conservation and Development. Explains that DLCD is already required to provide impact statements.
284	Rep. Luke	Asks to see a fiscal impact statement. Asks if the mandate is in statute or administrative rules.
288	Rindy	Administrative rules.
289	Hunnicutt	Indicates that there is also a provision in statute.
293	Rep. Lehman	Expresses concern about not having fiscal impact for the -5 amendments.
303	Hunnicutt	Indicates how the -5 amendments could change a fiscal impact.
327	Rep. Lehman	Asks if the bill has a subsequent referral to ways and means.

332	Pat Zwick	States that the bill does not currently have a subsequent referral.
335	Rep. Lehman	Asks if the bill can be referred to Ways and Means on the House side.
337	Rep. Luke	Indicates that Ways and Means wants to see the bill pass one side before they work on it.
342	Pat Zwick	Policy Analyst, asks if Mr. Hunnicutt has reviewed the amendment for possible errors.
346	Hunnicutt	Indicates page 3, line 16 should be subsection 6 not section 5.
359	Chair Lewis	Asks if another section should be changed also.
364	Hunnicutt	Agrees that subsection 6 should be changed to subsection 5 in another location.
370	Rep. Lehman	Asks who is in support of the bill.
377	Hunnicutt	States that there is unanimous consent that notice is necessary. The concerns are now related to fiscal issues.
392	Chair Lewis	States that the work group agreed to disagree on the method of payment.
TAPE 58, A		
007	Chair Lewis	Explains what other proposed amendments do and states that the work group is satisfied with the -5 amendments.
014	Rep. Lehman	Asks who is in support of the bill.
016	Rep. Luke	States that property owners support the bill.
017	Rep. Lehman	Verifies that cities and counties are not in support of the bill because of the fiscal impacts.
020	Chair Lewis	Answers affirmatively.
025	Rep. Simmons	Asks if it would be difficult to find out what the financial impact of the land use decisions is.
028	Chair Lewis	Suggests that it would be in the multi-million dollar range.
036	Rep. Simmons	Indicates that in comparison, the money lost from land used decisions would be much more than the financial impact of the bill.
037	Rep. Lehman	Agrees with Rep. Simmon's suggestion and states that if land use decisions are made by the state or agencies, they should be able to pay for them .
043	Rep. Luke	Explains that all around, the land owner pays for zone changes whether they are made by the state or agencies.
062	Rep. Fahey	MOTION: Moves to ADOPT HB 2515-5 amendments dated 4/10/97 and that the measure be FURTHER AMENDED on page 3, line 16, by deleting "6" and inserting "5".
068	Chair Lewis	Hearing no objections, declares the motion CARRIED.
		MOTION: Moves to ADOPT HB 2515-5 amendments dated 4/10/97

073	Rep. Luke	and that the measure be FURTHER AMENDED on page 5, line 23, by deleting "county" and inserting "city".
077	Chair Lewis	Hearing no objections, declares the motion CARRIED .
080	Rep. Fahey	MOTION: Moves to ADOPT HB 2515-5 amendments as conceptually amended, dated 4/10/97.
083	Chair Lewis	Hearing no objections, declares the motion CARRIED .
086	Rep. Fahey	MOTION: Moves HB 2515 to the floor with a DO PASS AS AMENDED recommendation.
089	Rep. Lehman	States that he will vote against the bill right now, but might vote for it later. States that the cost of the bill is not known, which is unique.
095	Rep. Luke	Agrees with Rep. Lehman, but suggests that the bill will go to Ways and Means at a later date.
097	Chair Lewis	Indicates that the fiscal reflects the changes that are expected.
103	Rep. Fahey	States that in fairness to land owners, they don't know what will happen to their property, and they don't know what the financial impact will be.
		VOTE: 5-1 AYE: 5 - Fahey, Luke, Simmons, Welsh, Lewis NAY: 1 - Lehman EXCUSED: 1 - Shields
112	Chair Lewis	The motion CARRIES. REP. FAHEY will lead discussion on the floor.
115	Chair Lewis	Closes the work session on HB 2515 and adjourns the meeting at 3:09 p.m.

Submitted By, Reviewed By,

Marjorie Taylor, Pat Zwick,

Administrative Support Policy Analyst

EXHIBIT SUMMARY

A - HB 3063, Written testimony, Bob Rindy, 1 p.

B - HB 2014, Written materials and pamphlets, Barbara Phillips, 17 pp.

C - HB 2014, Written testimony and pamphlet, William Boyd, 9 pp.

D - HB 2014, Written testimony, Dick Bloomfeldt, 1 p.

E - HB 2014, Written testimony, Don Schellenberg, 1 p.

F - HB 2014, Written testimony, Blair Batson, 1 p.

G - HB 2014, Written testimony, Bob Rindy, 2 pp.

H - HB 2014, Written testimony, Committee Staff, 6 pp.

I - HJR 23, -1 amendments, Committee Staff, 1 p.

J - HB 3304, Written testimony, Blair Batson, 1 p.

K - HB 3304, -4 amendments, Committee Staff, 18 pp.

L - HB 2515, -5 amendments, Committee Staff, 7 pp.