

HOUSE COMMITTEE ON ENVIRONMENT AND ENERGY

April 16, 1997 Hearing Room E

1:00 P.M. Tapes 61 - 62

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 2006 Public Hearing

HB 2930 Public Hearing

HB 3459 Public Hearing

HB 2501 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 61, A		
003	Chair Lewis	Calls the meeting to order at 1:20 p.m. and opens public hearing on HB 2006.
<u>HB 2006</u> <u>PUBLIC</u>		

HEARING		
007	Pat Zwick	Policy Analyst, summarizes provisions of the bill.
026	Art Schlack	Land Use Specialist, Association of Oregon Counties. Explains that the 120 day statute for land use decisions was established in 1983. Since then there have been a number of changes to procedural requirements, but not to the 120 day time limit. States that at times it is impossible to complete procedural requirements in the 120 days allowed. Suggests that there be different timeframes for different actions. Expresses the desire to work during the interim on time limits. States that a second issue in HB 2006 deals with the awarding of attorney fees and explains that criteria need to be established and followed.
085	Jim Mann	Senior Planner, Lane County. Expresses support for the bill from the board of county commissioners. Explains that Lane County has a 3 tier process for land use applications. Indicates that there have been changes to the land use process since 1983 that make it difficult to meet the 120 day timeline. Supports the extension of the 120 day timeline (EXHIBIT A).
142	Brent Curtis	Planning Manager, Washington County. Explains that the Washington County board of commissioners asked the planning staff to look locally to determine if their actions could be completed in 150 days. States that the majority of actions can be handled in 120 days, but if they are appealed it becomes impossible to meet the current 120 day rule. Supports the concept of adjusting the timeline to 150 days.
197	Art Schlack	Explains how the -1 amendments would affect HB 2006.
220	Christine Cook	Representative, 1000 Friends of Oregon. Expresses support for HB 2006 as drafted. States that lengthening the 120 day rule is a desirable step, but states that there needs to be a long term solution to the problem. Expresses strong support for establishing a standard of appeals for attorney fees. Indicates that there is a similar standard at the Land Use Board of Appeals (EXHIBIT B).
276	Rep. Luke	Asks if she has seen the amendments.
277	Cook	Explains that the bill as amended is better than no bill at all. States that the bill should be applied to city governments also.
291	Chair Lewis	Agrees that adding cities to the bill is a great idea.
303	Dave Hunnicutt	Representative, Oregonians in Action. States that the 120 rule is fundamental to land use actions so that applicants can get a decision within a reasonable amount of time. Agrees that in certain circumstances, it is hard to meet the 120 day rule. Explains that Oregonians in Action is not opposed to adding 30 days to the time limit. In regard to attorney fees, he understands the need for guidelines. Supports HB 2006 with amendments.
386	Jon Chandler	Director of Governmental Affairs, Oregon Building Industry Association. Indicates that there aren't many problems with the 120 day rule. States that HB 2006 is an incomplete work. Explains that it might not be necessary to expand the timeline to 150 days.

TAPE 62, A		
009	Chandler	Indicates that suggestions have been made to local governments that the land use actions be changed so that they would be completed in 120 days. Understands concern with attorney fees, but thinks that the problem isn't as bad as it is portrayed to be. Verifies that a mention was made about the bill applying to counties only.
031	Rep. Luke	Asks if the cities were left out on purpose.
033	Chandler	No. Discussion occurred with cities and counties but they were left out of the bill and amendment because of the relating clause.
035	Rep. Simmons	Asks if another bill has a better relating clause.
038	Chair Lewis	Doesn't know of one off hand.
039	Rep. Luke	Explains that with permission from the Speaker of the House, a relating clause can be changed.
044	Rep. Welsh	Explains that things wouldn't change if language was related to counties or cities.
046	Chandler	Agrees that the language would be parallel.
049	Phillip Fell	Representative, League of Oregon Cities. States that original discussions of the bill included local governments. Apparently the language was lost, but it needs to be added. Supports the bill as amended.
065	Chair Lewis	Agrees that counties and cities need to continue to work on the bill.
069	Chair Lewis	Closes the public hearing on HB 2006 and opens a public hearing on HB 2930.
<u>HB 2930</u> <u>PUBLIC</u> <u>HEARING</u>		
087	Pat Zwick	Policy Analyst, summarizes provisions of the bill
105	Jim Mann	Senior Planner, Lane County. Explains that the Lane County Board of Commissioners would support the legislation with significant changes. States that as proposed, the legislation has two main problems first being a lack of discussion of discretionary uses. Indicates that clear and objective standards need to be defined; for instance, the definition of school can be widely interpreted. Secondly, the proposed legislation doesn't address land use regulations that are to be applied to farm and forest zones (EXHIBIT C).
156	Mann	Explains that some discretionary criteria have been included in zoning codes by some counties. In order to simplify land use processes, clear and objective standards need to be developed. States that the bill as drafted does not address the discretionary standards sufficiently and therefore should not be adopted.
	Don	Representative, Oregon Farm Bureau. Expresses opposition to HB 2930. Explains that Goal 3 of the state land use planning process is to identify farm lands and protect them from other uses. Indicates that ORS 215.213

172	Schellenberg	(1) and ORS 215.283 (2) describe non-farm uses allowed in an exclusive farm use zone. Explains that non-farm uses in statute can't be denied, but that probably wasn't the intent of the original language. Urges the committee to not pass HB 2930 which would allow non-farm uses on farm lands (EXHIBIT D) .
200	Blair Batson	Representative, 1000 Friends of Oregon. Expresses opposition to HB 2930. Explains that the Land Use Board of Appeals provides a clear method of solving land use appeals. The proposed legislation would not be an improvement on the current system (EXHIBIT E) .
242	Chair Lewis	Agrees that the current land use appeal system is not convenient to land owners.
250	Batson	States that the current appeal system is better than what was in place previously. Indicates that the Land Use Board of Appeals (LUBA) is faster and easier for land owners and those who are appealing.
254	Chair Lewis	Knows of a case that went on for three years under LUBA.
258	Batson	States that the question is if the process would be faster under circuit court review.
262	Ron Eber	Rural Land Specialist, Department of Land Conservation and Development. Expresses department concerns with HB 2930 regarding its protection of farm and forest land. Explains what land uses would be excluded from review. States that the bill will direct land use review to the circuit courts which are unfamiliar with land use processes (EXHIBIT F) .
308	Dave Hunnicutt	Representative, Oregonians in Action. States that HB 2930 would be great if amendments were added. Explains what non-farm uses are listed in statute and allowed on farmland. States that the definition of several non-farm uses, such as school or church, have not been formally defined. Indicates that the Department of Land Conservation and Development has tried to create rules that define uses, but in some counties, those rules are invalid. States that the legislature needs to define the phrases, and if they don't, the Department of Land Conservation and Development will.
385	Mike Farthing	Land Use Attorney from Eugene. Explains that land use is defined by the legislature, not DLCD, and would be a very important addition to the bill. Expresses strong support for HB 2930 if it includes objective standards.
TAPE 61, B		
005	Chair Lewis	Closes the public hearing on HB 2930 and opens a public hearing on HB 3459.
<u>HB 3459</u> <u>PUBLIC</u> <u>HEARING</u>		
011	Pat Zwick	Policy Analyst, summarizes provisions of the bill.
027	Barbara Kanz	Representative, Oregon Title Insurance Company. States that there is conceptual agreement on HB 3459 but there needs to be refinement of some procedures. Indicates that amendments will be introduced later. The

		work group will continue to discuss language with interested parties.
044	Rep. Lehman	Indicates that in previous testimony it was noted that the concept of the bill is already occurring. Asks if the bill is really needed.
050	Kanz	Agrees that situations related to the bill are occurring now, but they are against the law. States that there is disagreement between jurisdictions on binding agreements.
060	Rep. Lehman	Asks who the law will protect if it is enacted.
061	Kanz	Explains that the protection occurs because earnest money agreements can't be entered into until the plat has been recorded. The property buyer would be the one protected.
074	Rep. Luke	Asks why an emergency clause was included.
075	Kanz	Does not know why.
086	Art Schlack	Land Use Specialist, Association of Oregon Counties. Explains that there were problems with the earlier bill, but the work group has resolved many issues. Expresses support for HB 3459 as amended. Strongly opposes removing provisions that allow sale before plat approvals.
115	Chair Lewis	Asks if there are possible amendments that he wouldn't support.
118	Schlack	States that he made his previous statement for that reason.
122	Fred VanNatta	Representative, Oregon Association of Realtors. Indicates that the amendments are still in progress. One issue that might not be resolved is that of preliminary sale of land before it is platted.
139	Rep. Lehman	Verifies that preconditional sale of property is illegal, but developers and lenders are doing it anyway. Asks why the problem should be corrected if it is working just fine.
147	VanNatta	Indicates that the legal advice is that it can't and shouldn't be done.
160	Rep. Lehman	Asks if the class of buyers changes when residential properties are added to the bill.
164	VanNatta	Buyers will be less sophisticated with the addition of residential properties. It proposes to give the buyers assurance that they will be getting the property that they want. Explains that the majority of the residential buyers will be developers.
182	Rep. Lehman	Asks if buyers can get out of an agreement if they want out.
190	VanNatta	The buyer can always get out under the present system.
194	Chair Lewis	Asks what the amendments might propose.
200	VanNatta	Explains that two sets of amendments will be issued. The first will relate to the technical aspects of escrow, whereas that second will relate to the presale of property before it is platted.
216	Chair Lewis	Closes the public hearing on HB 3459 and opens a work session on HB 2501.
HB 2501		

WORK SESSION		
253	Chair Lewis	States that a work group has been studying HB 2501 and that -2 amendments have been introduced. Explains that the initial purpose of the bill was to provide clear and objective standards for approval in the land use process.
291	Jon Chandler	Director of Governmental Affairs, Oregon Building Industry Association. Introduces the -2 amendments.
297	Chair Lewis	Explains that Bob Rindy from the Department of Land Conservation and Development and Art Schlack from the Association of Oregon Counties approve of the amendments.
302	Chandler	Explains what the amendments propose. A local government can still regulate approval standards, but they must be clear and objective.
324	Rep. Luke	Asks if language in the amendment states that a development can't be forced to lower density if neighbors disapprove.
329	Chandler	Answers affirmatively.
331	Rep. Luke	Asks if density can be lowered due to increased road traffic.
333	Chandler	That is beyond the scope of HB 2501.
340	Chair Lewis	Indicates that there is general agreement that the amendments are fine.
345	Rep. Fahey	Acknowledges that language of the original bill was corrected by the amendment.
352	Chandler	Explains that the waiver in question was removed entirely.
355	Rep. Luke	MOTION: Moves to ADOPT HB 2501-2 amendments dated 4/16/97.
357	Chair Lewis	Hearing no objections, declares the motion CARRIED.
360	Rep. Luke	MOTION: Moves HB 2501 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 - Lehman
371	Chair Lewis	The motion CARRIES. REP. SHIELDS will lead discussion on the floor.
383	Chair Lewis	Closes the work session on HB 2501 and adjourns the meeting at 2:41 p.m.

Submitted By, Reviewed By,

Marjorie Taylor, Pat Zwick,

Administrative Support Policy Analyst

EXHIBIT SUMMARY

A - HB 2006, Written materials, Jim Mann, 3 pp.

B - HB 2006, Written testimony, Christine Cook, 4 pp.

C - HB 2930, Written testimony, Jim Mann, 2 pp.

D - HB 2930, Written testimony, Don Schellenberg, 1 p.

E - HB 2930, Written testimony, Blair Batson, 1 p.

F - HB 2930, Written testimony, Ron Eber, 1 p.