

HOUSE COMMITTEE ON ENVIRONMENT AND ENERGY

April 25, 1997 Hearing Room E

1:00 P.M. Tapes 71 - 72

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 3084 Public Hearing

LC 4323 Work Session

HB 2018 Public Hearing

HB 2361 Public Hearing

HB 2362 Public Hearing

HB 2753 Public Hearing

HB 2754 Public Hearing

HB 2755 Public Hearing

HB 2780 Public Hearing

HB 2841 Public Hearing

HB 2924 Public Hearing

HB 2925 Public Hearing

HB 2927 Public Hearing

HB 2928 Public Hearing

HB 2929 Public Hearing

HB 3028 Public Hearing

HB 3077 Public Hearing

HB 3074 Public Hearing

HB 3117 Public Hearing

HB 3119 Public Hearing

HB 3175 Public Hearing

HB 3192 Public Hearing

HB 3403 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.

Tape/#	Speaker	Comments
TAPE 71, A		
003	Chair Lewis	Calls the meeting to order at 1:10 p.m. and opens a public hearing on HB 3084.
<u>HB 3084</u> <u>PUBLIC</u> <u>HEARING</u>		
024	Pat Zwick	Policy Analyst, summarizes provisions of the bill. Indicates that -3 and -4 amendments replace the bill.
036	Rep. Starr	State Representative, District 3. Presents signed petitions from farmers who would be impacted by the legislation. Explains the reason for introduction of the bill. Indicates that utilities have condemnation authority that would allow them to site conduits through prime farm land. Mediation was used to try to resolve the problem. -3 amendments are supported by opponents of the bill and -4 amendments are supported by the farmers and Farm Bureau (EXHIBIT A) .

093	Rep. Luke	Asks which amendment Rep. Starr supports.
094	Rep. Starr	Expresses support for the -4 amendments.
095	Rep. Luke	Asks if he would disapprove of -3 amendments.
096	Rep. Starr	Indicates that the -3 amendments don't resolve all of the issues.
103	David VanAsh	Operator of VanAsh Family Farm, Washington County. Introduces the organization, Citizens for Responsible Government Siting. Indicates that the proposed legislation is primarily a property rights issue. Explains that due to the rapid growth in Washington County, there have been instances of utilities crossing through prime farm lands. Explains that once a utility is sited on farmland the value goes down as it becomes a utility corridor, not a farm zone. States that the fertile topsoil is hard to reclaim. Provides an example of siting of a utility through an exclusive farm use zone.
190	Dick VanDerzanden	Farmer, Washington County. States that many people don't understand the issues because they don't understand farming. Explains the physical structure of farmland. States that topsoil and drainage tiles need to be replaced when they are removed. Indicates that the farmers were told to discuss problems with the general contractors, not the utilities. (EXHIBIT B)
231	VanAsh	Indicates that much work has gone into the creation of the bill.
240	Rep. Luke	States that general contractors are the agents between the home owner and the utility.
252	D. VanDerzanden	Explains that the utility workers tried to patch his drain tiles with aluminum foil which wasn't sufficient. The utility told Mr. VanDerzanden to take any problems to the contractor.
267	Rep. Luke	Asks if the farmers discussed problems with the Public Utility Commission (PUC).
268	D. VanDerzanden	No.
269	Rep. Luke	Asks if he thinks the PUC would know who would have been liable for the damages.
270	D. VanDerzanden	States that the whole process had a bullying affect on the farmers.
273	Rep. Luke	States that the PUC would have known who was liable.
276	D. VanDerzanden	Indicates that the farmers were misdirected in the process.
278	Rep. Luke	Explains that they should have gone to the PUC to find out what was next in the process.
280	D. VanDerzanden	States that common citizens don't know where to turn but they are learning very fast.
		Farmer, Washington County. States that in recent years he has had five experiences with the utilities. Explains that the protection of the soil is crucial to their industry. Describes a packet that contains

289	Bob VanDerzanden	documents related to experiences with the utilities. Indicates that the proposed legislation would require a third party to make the decision whether or not a utility needs to be sited across farm land, reduce the damaging effects on exclusive farm use lands, and state that the utility is responsible for property damage. States that the farmers and utilities did go through a mediation process, but it did not satisfy both sides. (EXHIBIT C)
362	VanAsh	Shows a map of the utility line across farm lands. Indicates that the utilities crossed through the exclusive farm use zone because of lower costs.
393	D. VanDerzanden.	States that the utilities did not do a cost estimate of the value of the farmers' crops.
401	VanAsh	The project was proposed in October of 1995 and had to be completed by September of 1997, but the farmers have stalled the project.
408	Rep. Luke	Asks if the bill only deals with marginal lands.
TAPE 72, A		
007	Chair Lewis	It isn't supposed to.
009	Rep. Luke	Asks for clarification on a section of the bill.
014	D. VanDerzanden	Explains that the farmers are not trying to stop the building of the utility lines but make them aware that other routes are available.
022	Rep. Luke	States that the city of Bend had to approve a major power line to be sited through the urban growth boundary. Asks if counties have similar jurisdictions.
026	Chair Lewis	Explains that utility facilities are permitted uses, therefore the county does not have much opportunity to condition the use.
034	B. VanDerzanden	Explains that the bill leaves the utilities as permitted uses to please the utilities.
043	Kathy Vineyard	Farm owner, Lane County. Explains similar experiences of protecting their property from the city of Springfield and utilities. Indicates that many people are interested in their property for many reasons and because of the zoning it is very cheap.
068	Mickey Killingsworth	President, Jefferson County Farm Bureau. Expresses support for the proposed legislation with the -4 amendments. The main problem is the growth in the state which requires that utilities site on exclusive farm use lands. It is common sense to site facilities in areas that will be the least disruptive to the farming industry. Her concern isn't with the utilities right now, but with what could happen in the future (EXHIBIT D) .
129	Blair Batson	Representative, 1000 Friends of Oregon. Expresses support for the proposed legislation and the -3 and -4 amendments. Agrees that utilities should be sited in exclusive farm use zones when they are locationally dependent and no other site can be used. Explains that

		the -4 amendments offer more support to the farmers (EXHIBIT E) .
166	Chair Lewis	Asks if the utilities should be a sub 2 use in statute rather than a sub 1 use.
171	Batson	Agrees that it should be sub 2.
198	Lorna Stickle	Representative, City of Portland Water Bureau. States that in over 100 years of supplying water, Portland has not used condemnation to site pipes. Explains that due to the distance to the water source, Portland must site across farmland. Verifies that the bill will have statewide effects. In some cases, pipes and utility lines must pass through rural lands (EXHIBIT F) .
253	Stickle	Comments on the -4 amendments. Explains that language makes sense now, but there will probably be debate of their meaning in the future. Describes the costs of siting utility facilities anywhere. Indicates that utility rate payers take care of the costs associated with siting.
298	Stickle	States that proposed language relating to cost is also a problem. Encourages the committee to recognize that cost is a factor of whether a facility can be sited on exclusive farm use lands or not. Explains that utilities prefer to site facilities in road rights-of-way.
353	Rep. Luke	Agrees that it is practical to site utilities in road rights-of-way but many times, other utilities are there.
358	Stickle	In rural lands, it is more practical to use road rights-of-way and agrees that other utilities will use them also.
373	Tom Berry	Representative, Northwest Natural Gas. Indicates that last session NW Natural Gas proposed legislation to allow utilities to site facilities across farmland if they restored the soil. Many problems discussed in testimony are a result of water companies. Agrees that the gas companies are still responsible and that there have been damages. Indicates that the -3 amendments are pretty good but the staff attorney has more suggestions. The only request is to be able to stay in the right-of-way.
TAPE 71, B		
015	Rep. Luke	Verifies that when utilities hire contractors, the utility is still liable for damages.
020	Berry	Affirms that the utility is always liable. Explains that there have been very few times when the utilities have condemned lands to have a right-of-way.
033	Bob Hall	Representative, Portland General Electric. Understands the concerns of the farmers, but a utility must respond to the needs of the community. Everyone needs power, water, and gas and so far the structure has worked well. Expresses support for the -3 amendments. Indicates that there may have been some land condemnation in the late 1950's, but the process is rarely used. Indicates that utilities are very conscious of their public perception.

086	Rep. Luke	Asks who regulates the water companies.
087	Hall	Indicates that there are a few small, private water companies in Oregon, but most water districts are governmental agencies.
090	Rep. Luke	Verifies that there is no control of the governmental agencies.
091	Hall	Does not know.
093	Steve Able	Attorney representing NW Natural Gas. Indicates that pieces of language from the -4 amendments make sense. Explains that the tests proposed to be used to determine the necessity of a utility siting look like strict alternatives tests. Indicates that language associated with the restoration of the land makes a lot of sense.
120	Rep. Shields	Farmers have indicated that the utilities don't understand and appreciate tiling of the land.
128	Berry	Indicates that there is always a certain amount of damage that can't be restored.
140	Rep. Shields	Verifies that the smaller the pipe, the shallower it will be, therefore less damage.
144	Berry	Indicates that damage is in proportion to the size of the pipe.
146	Rep. Fahey	Asks if a farmer can build a structure over a utility line.
148	Berry	No structure can be built over a gas line.
164	Rep. Shields	Asks how sensitive the water companies are to tiling issues.
170	Lorna Stickle	States that the Portland Water Bureau always wants to have good relationships and solve problems. Indicates that problems with contractors should not happen.
193	Rep. Shields	Asks if the Bull Run Water District has similar tiling problems as Washington County.
200	Stickle	Indicates that some tiling is needed, but not as much.
205	Rep. Shields	Asks how the Water Bureau handles topsoil issues.
209	Stickle	If topsoil is an issue, it needs to be included in the costs of building the line.
227	Rep. Luke	Verifies that utilities do not cross private property without signing the appropriate legal documents.
233	Stickle	Answers affirmatively.
234	Burton Weast	Representative, Special Districts Association of Oregon. Expresses support for language in the -3 amendment that requires restoration of the land. States that cost needs to be considered.
268	Chair Lewis	Indicates that one issue that has been bothersome is the threat of condemnation.
275	Weast	Indicates that there are several versions of the story. The primary issue is related to the offering of services to the public. Indicates that condemnation is used in very rare cases. It is the last alternative due to cost and court actions.

310	Don Schellenberg	Representative, Oregon Farm Bureau. Expresses support for the proposed legislation and indicates that pieces of the -3 and -4 amendments are good. However, the -4 amendments are more complete. Encourages the adoption of the -4 amendments and subsection 3 of the -3 amendments.
391	Rep. Luke	Asks if there should be public hearings for sitings in a right of way.
407	Schellenberg	Indicates that a public hearing is granted if it is asked for.
TAPE 72, B		
006	Chair Lewis	Indicates that more testimony will be taken at a later time.
008	Rep. Luke	Relates a personal experience with utility sitings.
031	Chair Lewis	Closes the public hearing on HB 3084 and opens a work session on a committee bill. Faxed testimony was presented to the committee (EXHIBIT G) .
<u>LC 4323 WORK SESSION</u>		
035	Rep. Luke	MOTION: Moves LC 4323 dated 4/23/97 BE INTRODUCED as a committee bill.
042	Chair Lewis	Hearing no objection, declares the motion CARRIED. (LC 4323 is printed as HB 3724.)
052	Chair Lewis	Closes the work session on the committee bill and opens a short public hearing on 21 house bills.
<u>SHORT PUBLIC HEARING FOR 21 HOUSE BILLS</u>		
054	Chair Lewis	Simultaneously opens public hearings on HB 2018, HB 2361, HB 2362, HB 2753, HB 2754, HB 2755, HB 2780, HB 2841, HB 2924, HB 2925, HB 2927, HB 2928, HB 2929, HB 3028, HB 3077, HB 3074, HB 3117, HB 3119, HB 3175, HB 3192, and HB 3403.
068	Chair Lewis	Simultaneously closes public hearings on HB 2018, HB 2361, HB 2362, HB 2753, HB 2754, HB 2755, HB 2780, HB 2841, HB 2924, HB 2925, HB 2927, HB 2928, HB 2929, HB 3028, HB 3077, HB 3074, HB 3117, HB 3119, HB 3175, HB 3192, and HB 3403.
070	Chair Lewis	Adjourns the meeting at 2:40 p.m.

Submitted By, Reviewed By,

Marjorie Taylor, Pat Zwick,

Administrative Support Policy Analyst

EXHIBIT SUMMARY

A - HB 3084, Signed petitions, Rep. Starr, 8 pp.

B - HB 3084, Presented testimony, Dick VanDerzanden, 2 pp.

C - HB 3084, Written materials, Bob VanDerzanden, 31 pp.

D - HB 3084, Written testimony, Mickey Killingsworth, 1 p.

E - HB 3084, Written testimony, Blair Batson, 2 pp.

F - HB 3084, Written testimony, Lorna Stickle, 2 pp.

G - HB 3084, Faxed testimony, Committee Staff, 1 p.