

HOUSE COMMITTEE ON ENVIRONMENT AND ENERGY

May 2, 1997 Hearing Room E

1:00 P.M. Tapes 77 - 78

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:

SB 395 Public Hearing and Work Session

HB 2927 Public Hearing

HB 2515 Work Session

HB 2466 Work Session

HB 2645 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 77, A		
003	Chair Lewis	Calls the meeting to order at 1:12 p.m. and opens a public hearing on SB 395

**SB 395
PUBLIC
HEARING**

010	Sen. Fisher	State Senator, District 23. Explains the origin of SB 395. Indicates that the operation of model airplanes requires open space. The bill excludes plane operators from hardsurfacing areas or covering land with aggregate. Explains size limitations of dwellings and buildings . Indicates that a flying club recently tried to get a conditional use permit for their activity, but were denied since there were concerns about the activity bothering livestock or related farming activities. Explains that the air clubs operate at the will of the farmer.
082	Rep. Fahey	Describes similar situations in Delta Park in Portland.
087	Sen. Fisher	Agrees that the bill is valuable for the family sport.
102	Rep. Whelan	State Representative, District 32. Indicates that much work has gone into the bill and expresses appreciation. The bill solves the current problem very well.
124	Doug Port	Salem resident. Summarizes the circumstances that lead to the bill.
135	Port	Describes the application process for conditional use permits that were denied.
188	Van Moore	Salem resident. Explains that hobbyists are very sensitive to environmental issues. States that during testimony on the Senate side there were false allegations of complaints from surrounding farmers.
231	Blair Batson	Representative, 1000 Friends of Oregon. Indicates that 1000 Friends of Oregon believes that the air clubs should have conditional use permits, not outright use. The major concern is potential conflicts with surrounding farmers (EXHIBIT A).
260	Don Schellenberg	Representative, Oregon Farm Bureau. Expresses opposition to the bill. The major problem is allowing the use and construction of buildings associated with model airplanes as a permitted use in exclusive farm use zones. The Farm Bureau encourages amending the bill to define the flying of model airplanes as a conditional use (EXHIBIT B).
326	Rep. Fahey	Asks what is defined under exclusive farm use.
329	Schellenberg	Raising, marketing, and processing of farm products.
336	Rep. Fahey	Asks about farm stores on Sauvie's Island.
341	Schellenberg	Explains the criteria for farmstands.
345	Rep. Fahey	Describes what farm goods are available on Sauvie's Island, thinking that it looks like a retail operation.
350	Schellenberg	Agrees that some operations are elaborate.
351	Rep. Fahey	Asks if that is exclusive farm use and wonders what the difference is.
354	Schellenberg	Indicates that farmstands are a permitted use.

355	Rep. Fahey	Asks why it is a permitted use.
357	Schellenberg	With a permitted use, the county has authority to have siting standards.
360	Rep. Luke	Indicates that the Farm Bureau requested legislation that would allow markets to be permitted use.
365	Rep. Fahey	Verifies that if a farmer wants to blacktop, they would be allowed to. Wonders why there is such a double standard.
373	Schellenberg	States that the exclusive farm use zone is for farm use. The concern is that the permitted and conditional uses not affect farms.
390	Rep. Fahey	Asks why the air clubs have had so much trouble since they've been run off of farms and no options were provided to them.
400	Schellenberg	States that the Farm Bureau is not saying no to the legislation, but they want the opportunity to determine if the flying will have a negative impact on the farmers.
404	Rep. Luke	Asks if there is other opposition to the bill.
408	Chair Lewis	Indicates that Art Schlack might have concerns.
TAPE 78, A		
005	Rep. Luke	Senses no other opposition to the bill.
011	Art Schlack	Land Use Specialist, Association of Oregon Counties. Explains that the Marion County Planning Department has interest in amending the bill so that model airplanes would move from a (1) to a (2) use.
024	Rep. Simmons	Asks what mitigation would occur because of model airplanes.
028	Schlack	Does not know what mitigation occurs with model airplanes.
034	Bob Rindy	Representative, Department of Land Conservation and Development. Expresses neutrality to the bill but indicates that there are other ways to accomplish the goal (EXHIBIT C).
052	Rep. Lehman	Verifies that the suggestion is to change the statute such that leased facilities are allowed.
056	Rindy	Marion County can't approve the bill unless the statute is changed.
060	Rep. Luke	Indicates that the air clubs would still have to fill out applications.
067	Chair Lewis	Closes the public hearing on SB 395 and opens a work session.
<u>SB 395</u> <u>WORK</u> <u>SESSION</u>		
068	Rep. Luke	MOTION: Moves SB 395 to the floor with a DO PASS recommendation.
		VOTE: 7-0
		AYE: In a roll call vote, all members present vote Aye.

075	Chair Lewis	The motion CARRIES. REP. FAHEY will lead discussion on the floor.
077	Chair Lewis	Closes the work session on SB 395 and opens a public hearing on HB 2927.
<u>HB 2927</u> <u>PUBLIC</u> <u>HEARING</u>		
088	Pat Zwick	Policy Analyst, summarizes provisions of the bill.
105	Blair Batson	Representative, 1000 Friends of Oregon. Expresses opposition to HB 2927. Explains that siting standards vary across the state. Indicates that counties and local governments find that criteria related to lot of record and forest template dwellings are too broad (EXHIBIT D) .
139	Rep. Luke	Asks if this bill allows people to build on a lot if they were able to build when the lot was purchased.
141	Chair Lewis	Explains the purpose of the bill is to allow lot of record and forest templates throughout the state.
148	Bob Rindy	Representative, Department of Land Conservation and Development. Expresses concern for HB 2927. The understanding was that the acknowledgment of lot of record and forest templates would be optional for exclusive farm use zones. Urges status quo (EXHIBIT E) .
172	Rep. Luke	Asks if the Jefferson County commissioners decided that Jefferson County doesn't have high-value farmland.
174	Rindy	Understands that may be the case, but there are some lands that are considered very valuable or special.
210	Art Schlack	Land Use Specialist, Association of Oregon Counties. Urges the committee to maintain existing language in reference to forest templates and lots of record. The issues should remain one of local control (EXHIBIT F) .
227	Rep. Luke	Asks if a county has a public hearings process when they choose not to acknowledge permissive language.
234	Schlack	There is no requirement to hold a hearing.
244	Rep. Luke	Indicates that he needs to see examples of situations before he can support the proposed legislation.
255	Rep. Lehman	Asks if counties can shift policy at any time.
260	Schlack	Indicates that counties have the opportunity to amend language at any time.
268	Rep. Lehman	Asks if language can change after an election, when county commissioners are out of touch with their community.
271	Schlack	Answers affirmatively.
273	Rep. Welsh	Asks where the concern and protection is for private property owners.

278	Schlack	Indicates that property owners have the opportunity to attend the Board of County Commissioners meetings to make requests.
286	Dave Hunnicutt	Representative, Oregonians in Action. Provides an example of a situation that would be aided by the bill. Indicates that Multnomah County has many land use issue problems. Multnomah County does not have a lot of record provision.
331	Hunnicutt	The legal question is related to ORS 215.705 that is confusing. Believes that the counties are required to adopt lot of record criteria into ordinances, but are free to deny dwellings if the applicant has violated provisions.
372	Rep. Luke	Asks if the people in the example already have a dwelling.
373	Hunnicutt	Verifies that they do, but they have two parcels to build on.
404	Rep. Welsh	Asks if there will be catastrophic results or, if it will greatly alter land use planning if the bill is passed.
414	Hunnicutt	Indicates that almost every county has the provision in their zoning ordinances, but Multnomah and Marion Counties don't.
TAPE 77, B		
005	Schlack	In response to Rep. Welsh's question, no.
008	Chair Lewis	Closes the public hearing on HB 2927 and opens a work session on HB 2515.
<u>HB 2515</u> <u>WORK</u> <u>SESSION</u>		
014	Pat Zwick	Policy Analyst, summarizes previous activity with the bill. Indicates that -8 amendments will be considered and a fiscal statement was issued for the bill.
037	Chair Lewis	Comments on the potential fiscal impact of the bill. Asks the Department of Land Conservation and Development if they already notify cities and counties when the legislature changes land use laws.
043	Bob Rindy	Representative, Department of Land Conservation and Development (DLCD). Answers affirmatively.
046	Chair Lewis	Asks if mailings are sent out for administrative rule changes.
048	Rindy	By law, that must happen also.
049	Chair Lewis	Asks why an additional full time equivalent has been requested if notifications already occur.
051	Rindy	Indicates that DLCD is expecting to receive billings from cities and counties for mailings and the bills will have to be legitimized.
067	Dave Hunnicutt	Representative, Oregonians in Action. States that Oregonians in Action hired a polling agency to find out if citizens would support or oppose a ballot measure that would require notification of land owners when the government makes changes to land use laws. Overall, 89% of those people polled would support such a measure. Indicates that many people already thought that land owners were notified of changes.

089	Rep. Luke	States that the most local control possible is that of a person of their own land.
090	Hunnicuttt	Agrees.
094	Rep. Fahey	MOTION: Moves to ADOPT HB 2515-8 amendments dated 4/30/97.
101	Chair Lewis	Hearing no objection, declares the motion CARRIED.
102	Rep. Lehman	MOTION: Moves to refer HB 2515 to the committee on Ways and Means with a DO PASS recommendation.
106	Rep. Luke	Asks if the bill presently has a referral.
107	Chair Lewis	Explains that members of the committee on Ways and Means have requested that the bill pass one chamber before it is referred.
110	Rep. Shields	Asks why that is the case.
111	Rep. Luke	Indicates that Ways and Means doesn't want to spend time on the bill if it isn't going to be good public policy.
113	Rep. Lehman	States that his vote on the bill will be based on the availability of funding in Ways and Means. States that unfunded mandates are a form of irresponsible government.
123	Rep. Luke	Explains that there is money in the budget for the bill. Expresses discomfort with agencies that can estimate potential financial impact without having to justify their numbers.
134	Zwick	Indicates that the committee can request a referral to Ways and Means.
138	Chair Lewis	Verifies that Rep. Lehman's motion was to request that a referral be added to the bill.
141	Zwick	Verifies that the motion was correct and indicates that the final decision, if the motion passes, will come from the Speaker's office.
		VOTE: 2-5 AYE: 2 - Lehman, Shields NAY: 5 - Fahey, Luke, Simmons, Welsh, Lewis
151	Chair Lewis	The motion FAILS.
153	Rep. Luke	MOTION: Moves HB 2515 to the floor with a DO PASS AS AMENDED recommendation.
156	Rep. Luke	States that the bill carrier need to mention on the floor that the bill must go to Ways and Means on Senate side.
160	Rep. Fahey	Indicates that if the money can't be found for the bill that it should go to the voters.
163	Rep. Luke	States that there is money for the Land Conservation and Development Commission to pay for this now.
164	Rep. Lehman	Explains that statements like that are exactly what the public finds wrong about state government.

171	Rep. Luke	Explains that the budget process allows for prioritization of projects.
179	Rep. Simmons	States that land owners need to be notified about zone changes to their property.
184	Chair Lewis	States that DLCD knows of the concerns with the fiscal statement. Agrees that this is an important public policy.
214	Rep. Shields	Indicates that he has struggled with the bill. Asks if there has been a survey of people that are already being notified by subscription in Washington County.
236	Rep. Fahey	Indicates that many options of notification were investigated.
254	Rep. Luke	Asks if there will be financial impact if no rules are changed.
257	Chair Lewis	Indicates that the issue was discussed and there will be no financial impact if rules aren't changed.
268	Rep. Fahey	Indicates that private citizens must notify the government when they want to make changes to their property and therefore there should be equality between government and citizen notification.
268	Rep. Simmons	Indicates that a subscription is just another tax.
272	Rep. Shields	Explains that owning property is an investment and therefore a small subscription fee is worth the protection.
277	Rep. Luke	Asks Rep. Shields if he would like to be notified in writing, of zone changes to his personal property in Klamath County.
281	Rep. Shields	States that he owns the property for fun and if he was interested in knowing what was going on, he would pay the subscription fee.
289	Rep. Fahey	States that a notification will have to be sent to people to tell them to subscribe for notification.
		VOTE: 5-2 AYE: 5 - Fahey, Luke, Simmons, Welsh, Lewis NAY: 2 - Lehman, Shields
300	Chair Lewis	The motion CARRIES. FAHEY will lead discussion on the floor.
304	Chair Lewis	Closes the work session on HB 2515.
306	Rep. Lehman	Serves notice of a possible minority report on HB 2515.
311	Chair Lewis	Opens a work session on HB 2466.
<u>HB 2466</u> <u>WORK</u> <u>SESSION</u>		
319	Pat Zwick	Policy Analyst, indicates that the bill now has a -2 amendment and a fiscal statement.

347	Chair Lewis	Explains the difference between -1 and -2 amendments. Asks the Department of Land Conservation and Development if the -2 amendments are satisfactory.
385	Rep. Luke	MOTION: Moves to ADOPT HB 2466-2 amendments dated 4/30/97.
389	Chair Lewis	Hearing no objections, declares the motion CARRIED.
393	Rep. Luke	MOTION: Moves HB 2466 to the floor with a DO PASS AS AMENDED recommendation.
400	Rep. Luke	Explains that he is a little uncomfortable carrying a land use bill for Deschutes County.
TAPE 78, B		
009	Rep. Luke	Asks why a land owner should be penalized if they have built a house on their property, but allow other land owners to divide property and build on multiple lots if no houses are there currently.
013	Rep. Fahey	Verifies that currently if there is no building on a 40 acre plot, it can be divided and two houses can be built on it.
014	Rep. Luke	Explains that other criteria must be met.
035	Ron Eber	Representative, Department of Land Conservation and Development. Indicates that he is willing to answer questions from the committee.
037	Rep. Luke	Asks for an explanation of a lawsuit in Deschutes County.
041	Eber	Indicates that the Land Use Board of Appeals had a different interpretation of the application of particular land use laws.
049	Rep. Luke	Verifies that a person wanting to divide and build two homes on a lot must still meet all criteria that apply in an exclusive farm use zone.
051	Eber	Responds affirmatively.
052	Chair Lewis	Asks if the Department of Land Conservation and Development approves of the amendments.
053	Eber	Responds affirmatively.
056	Rep. Fahey	Indicates someone with bare land doesn't have the same tax advantages as someone with a house on their property.
058	Rep. Luke	Indicates that property with a home on it is taxed at a different rate than farmland.
060	Rep. Fahey	Indicates that taxes will be higher for the one house.
061	Rep. Luke	Explains that the properties are taxed at different rates.
064	Rep. Lehman	Asks if opponents to the bill agree to the amendments.
068	Blair Batson	Representative, 1000 Friends of Oregon. Indicates that it is difficult to analyze what changes will happen because of the proposed legislation. Explains where benefits and limitations will occur. Thinks that it could be a slight improvement from the original language.
084	Rep. Shields	Asks if 1000 Friends of Oregon still opposes the bill.

086	Batson	Indicates that they don't support or oppose the bill.
093	Rep. Luke	Indicates that 1000 Friends of Oregon is a necessary group and that they have sometimes agreed to disagree.
101	Rep. Lehman	Asks if the Farm Bureau is in opposition.
103	Don Schellenberg	Representative, Oregon Farm Bureau. Indicates that the -2 amendments are appropriate.
108	Chair Lewis	Asks for an explanation of the difference between -1 and -2 amendments.
112	Eber	Provides an explanation of the difference. The effective dates have been changed.
		VOTE: 7-0
		AYE: In a roll call vote, all members present vote Aye.
144	Chair Lewis	The motion CARRIES. REP. LUKE will lead discussion on the floor.
147	Chair Lewis	Closes the work session on HB 2466.
162	Chair Lewis	Opens a public hearing on HB 2645.
<u>HB 2645</u> <u>PUBLIC</u> <u>HEARING</u>		
166	Blair Batson	Representative, 1000 Friends of Oregon. Expresses opposition to the bill. Indicates that the main concern is how broad the bill is.
200	Don Schellenberg	Representative, Oregon Farm Bureau. Expresses opposition to the bill. Indicates that the opposition would decrease if time limits were in place (EXHIBIT G) .
245	Rep. Welsh	Asks what the primary objection is to the bill. Asks if it will be obstructive to farmland. Indicates that foresters in his district would agree with the bill.
270	Schellenberg	Indicates that the proposed amendments are not related to forest issues. Expresses concern with the establishment of non-farm dwellings.
300	Bob Rindy	Representative, Department of Land Conservation and Development. Provides written testimony to the committee (EXHIBIT H) .
307	Chair Lewis	Closes the public hearing on HB 2645 and adjourns the meeting at 3:00 p.m.

Submitted By, Reviewed By,

Marjorie Taylor, Pat Zwick,

Administrative Support Policy Analyst

EXHIBIT SUMMARY

A - SB 395, Written testimony, Blair Batson, 1 p.

B - SB 395, Written testimony, Don Schellenberg, 2 pp.

C - SB 395, Written testimony, Bob Rindy, 1 p.

D - HB 2927, Written testimony, Blair Batson, 2 pp.

E - HB 2927, Written testimony, Bob Rindy, 1 p.

F - HB 2927, Written testimony, Art Schlack, 1 p.

G - HB 2645, Written testimony, Don Schellenberg, 3 pp.

H - HB 2645, Written testimony, Bob Rindy, 8 pp.