

HOUSE COMMITTEE ON ENVIRONMENT AND ENERGY

May 7, 1997 Hearing Room E

1:00 Tapes 79 - 81

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:

Judith Gruber, Policy Analyst

Pat Zwick, Policy Analyst

Marjorie Taylor, Administrative Support

MEASURE/ISSUES HEARD:

HB 2645 Work Session

HB 3456 Work Session

HB 3282 Public Hearing

HB 3266 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 79, A		
003	Chair Lewis	Calls the meeting to order at 1:21 p.m. and opens the work session on HB 2645.

HB 2645 WORK SESSION		
015	Bob Rindy	Representative, Department of Land Conservation and Development (DLCD). Indicates that the proposed legislation could possibly result in the creation of many non-farm dwellings in exclusive farm use zones. Explains technical problems with the bill.
037	Rep. Luke	Verifies that DLCD is under the impression that many thousands of homes will be built if the proposed legislation becomes law.
039	Rindy	States that DLCD does not have an analysis to show that, but it is a concern.
040	Rep. Luke	Explains that if land owners had built dwellings when they purchased property, there would be many more homes.
045	Rindy	Answers affirmatively.
046	Rep. Luke	Explains that the use of property has been taken away from land owners.
047	Rindy	States that SB 100 was passed during a previous legislative session to protect the farmland. Indicates that the creation of new dwellings in farm and forest zones needed to be slowed.
053	Chair Lewis	Asks if Mr. Rindy is aware of a clause in SB 100 that was related to compensating land owners for property zone changes.
059	Rindy	Indicates that he is not familiar with that.
060	Chair Lewis	States that the government did not intend for land owners to lose their property rights without compensation.
064	Phil Ward	Representative, Oregon Department of Agriculture. Expresses concern for potential impact of the proposed legislation on agriculture. States that the agriculture industry is dependent on a consistent land base and the ability to work the land without conflict (EXHIBIT A) .
077	Ann Hanus	Representative, Oregon Department of Forestry. Expresses concerns for the creation of dwellings on forest lands. Explains that additional dwellings will have an impact on the ability to fight fires and prevent land slides (EXHIBIT B) .
092	Rep. Shields	Asks what the population of Oregon was in 1973.
096	Hanus	Guesses it was about 1.2 million.
098	Rep. Shields	Indicates that if the land use planning model was created in 1973, then less than a third of the current population was in Oregon to be affected by it.
103	Rindy	Agrees, but explains that the bill affects the present population and land owners.
116	Rep. Lehman	Asks if it will be difficult to determine what land use laws were in place at the time an owner purchased their property.
115	Rindy	States that the issue is a major concern and hopes that local governments kept the information. Explains that under the proposed legislation, local governments will have to relearn everything about land use laws at the

		time a property was purchased.
128	Rep. Shields	Asks if there is a way to break down time periods when rezoning or new laws were created.
136	Rindy	Indicates that each local government will have to make up their own time frames based on their zoning changes.
146	Rep. Luke	Suggests that the assessor's record of the property would be able to provide needed information if an application to build was not filed.
152	Rindy	Agrees that there would be valuable information. Explains that the local governments would have to find out more information on state land use laws.
157	Rep. Luke	Asks if DLCD would prefer that the property owner do the research on their property.
159	Rindy	Indicates that local governments will probably do that.
166	Rep. Lehman	Asks how the proposed legislation will change if other provisions related to the land use have changed.
174	Rindy	Does not know how land use will be affected by that and those questions are being raised and will be raised if the legislation is passed.
180	Rep. Lehman	Asks how many more attorneys would be employed by the legislation.
185	Rindy	Agrees that if the legislation passes, attorneys would have a harder time with land use laws than they do now.
190	Rep. Luke	Indicates that in Deschutes County, land owners that can afford a good attorney gain the ability to build on their land. Other land owners that don't have the time or money are denied property rights.
201	Chair Lewis	Verifies that DLCD thinks that since the proposed legislation might be difficult to administer, land owners who have been denied property rights should not regain them.
207	Rindy	Disagrees with the summary.
209	Rep. Shields	Asks what would happen if the county doesn't have the records needed to determine the land use laws.
221	Rindy	Doesn't know what would happen. Local governments will have to make decisions when situations arise, but probably many decisions will be made in the court system.
226	Chair Lewis	Wonders why the counties have not testified in opposition if they have such a large problem with the bill.
241	Don Schellenberg	Representative, Oregon Farm Bureau. Indicates that he is willing to respond to questions. .
249	Chair Lewis	Asks if the Farm Bureau is in agreement with -2 amendments.
257	Schellenberg	Expresses support for the -2 amendments. Indicates that the intent of the amendment was that the dwellings be farm dwellings, not non-farm dwellings.

267	Chair Lewis	Explains how the amendments do what the Farm Bureau requested.
270	Schellenberg	Explains that the amendments require that the land be used for farming and that the dwellings are not required to be occupied by the person doing the farming. Expresses concern for aggregation of lots.
293	Rep. Luke	Verifies that the discussion is about tax lots.
294	Schellenberg	Indicates that it isn't tax lots, but legal ownerships. Suggests that there be one dwelling per tract.
307	Rep. Luke	Explains his understanding of tax lots.
313	Chair Lewis	Explains how the amendments address the tax lot issues.
326	Schellenberg	Expresses some concern for the -2 amendments.
343	Chair Lewis	Indicates that the -2 amendments were an attempt to satisfy the Farm Bureau.
361	Rep. Shields	Verifies that the Farm Bureau thinks that the amendments are still too broad.
365	Chair Lewis	Indicates that there is concern about the connection between farm use and the farmer.
371	Rep. Luke	Suggests a possible amendment.
375	Chair Lewis	Doesn't believe that will solve the problem.
383	Rep. Luke	Explains how Deschutes County tries to relate farm use to the farmer.
397	Jon Chandler	Director, Governmental Affairs, Oregon Building Industry Association. Expresses support for HB 2645 and the -2 amendments. Explains that with the proposed legislation, there is a possibility that there will be a focus on land use planning inside the urban growth boundary.
TAPE 80, A		
009	Rep. Lehman	Asks how great a conflict there will be when old land use laws will need to be recreated and applied to current cases.
016	Chandler	Agrees that there will be complications with cases. Explains that the burden of proof will be on the land use applicant.
039	Larry Campbell	Representative, Victory Group. Agrees that the issue is very emotional. Wishes that state agencies would try to resolve the issues instead of oppose the proposed legislation. Explains that the state agencies are not interested in the fairness issue or the American Dream of having a piece of property and building on it. Doesn't understand what the problems are in trying to identify what the land use laws were when a property was purchased. Explains a poll that was taken of Oregon residents that shows how the majority of residents don't believe that building should be banned on property that was purchased for a dwelling. States that it is truly a fairness issue (EXHIBIT C).
124	Rep. Shields	Asks for an estimate of potential building sites the proposed legislation would create.
135	Campbell	Doesn't think that the counties would be able to provide that information.

147	Rep. Shields	Indicates that it would be easier to make a decision if an approximate number of affected properties was known.
152	Campbell	Indicates that a sunset provision was suggested, but it is not appropriate. States that the real issue is fairness in being able to use a property for the reason that it was bought.
163	Rep. Shields	Indicates that it would still be better to know an approximate number of properties that might be affected.
169	Rep. Luke	States that if a dwelling couldn't be built at the time of purchase, it can't be built under the proposed legislation.
171	Rep. Shields	Agrees.
173	Rep. Luke	Explains that in Deschutes county, people are not encouraged to buy property for a dwelling unless they plan to build right away.
188	Chair Lewis	Asks Mr. Campbell if he opposes the -2 amendments.
190	Campbell	States that what's fair is fair. If someone could build a dwelling when they bought the property, they should be able to now, also.
206	Chair Lewis	Asks if Mr. Campbell approves of the -1 amendments.
207	Campbell	Responds affirmatively.
213	Rep. Luke	Verifies the differences between the -1 and -2 amendments.
219	Chair Lewis	Explains that the amendments were created in response to the Farm Bureau, but they are not in support.
234	Rep. Luke	MOTION: Moves to ADOPT HB 2645-1 amendments dated 4/3/97 (EXHIBIT D).
237	Chair Lewis	Hearing no objections, declares the motion CARRIED.
240	Rep. Luke	MOTION: Moves HB 2645 to the floor with a DO PASS AS AMENDED recommendation.
243	Rep. Shields	Expresses discomfort, since there is no indication of the impact.
249	Rep. Luke	Explains how people have spent their life savings and much time and emotion for a land use dream. Indicates that he does have some problems with the bill, but the main issue is one of fairness.
270	Chair Lewis	Explains why the bill is so important. Agrees that if the property owner is wealthy, they will usually be able to build on their land, but many others who have invested their life savings can't do that. States that this is a fundamental fairness issue.
324	Rep. Fahey	Wants more information about how many properties would be impacted by the bill.
334	Rep. Shields	Explains why he purchased forest land in 1977, and indicates that he is merely a steward of the land. Expresses concern for the potential impact on properties.
379	Rep. Luke	Explains contradictions with the Department of Land Conservation and Development and their statements of how many properties will be affected by legislation.

391	Rep. Lehman	Agrees that the land use "goal posts" have been moved back, but if the proposed legislation is adopted, all of the people that sold property thinking that they would not be able to build, are at a disadvantage
417	Chair Lewis	Explains that many of the people involved with this issue are not wealthy and they have hung onto the property with the hope of change.
TAPE 79, B		
005	Chair Lewis	Explains that the owners paid buildable prices and are still paying for the property while the value has plummeted due to zone and land use law changes.
012	Rep. Lehman	Indicates that more people affected by changes in land use have sold their properties than those that have held onto the properties.
025	Chair Lewis	Explains that she would have never denied building rights to property owners.
		VOTE: 4-3 AYE: 4 - Luke, Simmons, Welsh, Lewis NAY: 3 - Fahey, Lehman, Shields
037	Chair Lewis	The motion CARRIES. REP. LEWIS will lead discussion on the floor.
040	Chair Lewis	Closes the work session on HB 2645.
042	Rep. Lehman	Serves notice of a possible minority report.
044	Chair Lewis	Opens a work session on HB 3456.
<u>HB 3456</u> <u>WORK</u> <u>SESSION</u>		
049	Chair Lewis	Explains that the -4 amendments are available if the -5 amendments aren't sufficient.
052	Rep. Luke	Expresses concern for distributors in different areas that handle their cans differently than other operations
084	Chair Lewis	Asks if the -5 amendments replace the -2 amendments by using weight or volume of cans.
086	Rep. Luke	Answers affirmatively.
093	Paul Slyman	Representative, Department of Environmental Quality (DEQ). Indicates that -3 amendments are still needed to take care of store brand cans not covered by other amendments.
101	Rep. Luke	Verifies that the home brands must be recycled and redeemed by the home store.
102	Slyman	Answers affirmatively.
104	Rep. Luke	Asks if a home store could ship all cans to a central counting location that

		would calculate and report for the home store.
107	Slyman	Answers affirmatively.
108	Rep. Luke	Reaffirms that a central counting location can report a can count for all locations feeding into it.
115	Slyman	Explains the three sections of the -5 amendments.
130	Rep. Luke	Provides a materials report from a recycling agency in Deschutes County, and asks if there is a can count on it.
135	Slyman	Explains that the report is broken into types of material by weight.
138	Rep. Luke	Verifies that is a materials report to the DEQ.
140	Slyman	Indicates that they are reporting what they collect in weight, but the number of containers represented by the weight can be determined.
145	Rep. Luke	Asks what percent accuracy the DEQ wants.
146	Slyman	Explains that the DEQ wants to be as accurate as possible.
150	Rep. Luke	Asks what percent accuracy is acceptable.
157	Slyman	Is not sure.
162	Rep. Luke	Thinks that 90% accuracy would be a high goal.
165	Slyman	Agrees, but suggests that accuracy can increase. Explains that the weight of material collected can be translated into the number of containers collected.
173	Rep. Luke	Indicates that recyclers deal with non-deposit cans. Wonders if they will be included in the can count.
182	Slyman	Explains that there is no intention of separating non-bottle bill cans.
187	Rep. Luke	Asks if any of the distributors are already reporting to DEQ.
189	Slyman	Many distributors provide materials recovery surveys.
191	Rep. Luke	Verifies that distributors are already reporting to DEQ.
193	Slyman	Answers affirmatively.
194	Rep. Luke	Asks why reporting is needed in the bill if it is already being done.
195	Slyman	Indicates that distributors are reporting what they collect but DEQ has no idea what is being sold.
201	Rep. Luke	Asks why DEQ needs to know what is being sold.
203	Slyman	States that DEQ has been asked during four legislative sessions what that number is.
206	Rep. Luke	Asks if the number of cans sold has an impact on the recycling goals of the state.
210	Slyman	Explains that it is used to determine what the recycling rate is.
223	Rep. Luke	Asks what difference it makes to know how many cans are sold.
233	Slyman	Indicates that it is only a reporting requirement which would help to determine other information.
241	Rep. Luke	States that there is no way to determine what cans are coming in from out

		of state.
247	Slyman	Agrees that limited information would be found with a short study, but important information can be determined with a longer study.
257	Chair Lewis	Asks if Rep. Luke is interested in the -5 amendments.
259	Rep. Luke	Expresses interest in what the Chair wants to do.
264	Chair Lewis	Asks what the committee is interested in.
280	Rep. Simmons	Asks for someone to explain the effect of -5 amendments on section 18 of the bill.
288	Rep. Luke	Asks what the opinion of the distributors is.
292	Slyman	Indicates that the -5 amendments allow distributors to consolidate reporting.
297	Rep. Simmons	Verifies that it allows, but doesn't require, the reporting.
300	Rep. Luke	Verifies that DEQ has to allow distributors to report.
303	Rep. Simmons	Indicates that the distributor is not required to report, but the data must be accepted when it is available.
305	Slyman	Explains the intent of the bill is to allow aggregate reporting. Describes other actions of the amendments.
330	Rob Douglas	Oregon Soft Drink Association. Expresses opposition to the reporting requirement.
359	Rep. Luke	Asks if the distributors have to hold "the nickel" in a special account, or if it can be declared as income.
366	Douglas	The nickel is declared as income and is taxable.
369	Rep. Luke	Verifies that a distributor could get income one year and have to pay it out the following year.
376	Douglas	Indicates that the fund is not large.
392	Rep. Luke	States that the fund is not something that draws interest.
403	Chair Lewis	Asks for input from the committee.
TAPE 80, B		
001	Rep. Fahey	Indicates that the reporting is more bookwork. Explains that people are only interested in the nickel.
006	Rep. Simmons	Can't be supportive of reporting requirements, but would approve if there was some flexibility.
008	Rep. Welsh	Indicates that he can't support a count requirement.
010	Rep. Shields	Explains that he approves of the -5 amendments.
020	Rep. Luke	Doesn't understand why statistical samples can't be taken instead of all distributors being required to report.
035	Rep. Fahey	Verifies the -4 amendments are the same as -5 without section 18.
037	Rep. Shields	MOTION: Moves that the HB 3456-1 amendments dated 4/29/97 be FURTHER AMENDED by inserting the HB 3456-5 amendments

		dated 5/7/97.
049	Chair Lewis	Hearing no objections, declares the motion CARRIED.
050	Rep. Luke	MOTION: Moves that the HB 3456-1 amendments dated 4/29/97 be FURTHER AMENDED by inserting the HB 3456-3 amendments dated 4/30/97.
053	Chair Lewis	Hearing no objections, declares the motion CARRIED.
058	Rep. Luke	MOTION: Moves to ADOPT HB 3456-4 amendments dated 5/7/97 (EXHIBIT E).
067	Rep. Lehman	Asks who supports section 18.
072	Chair Lewis	Explains that the work group supports the reporting requirement.
079	Rep. Luke	Asks why an accurate count is needed.
085	Chris Taylor	Representative, Oregon State Public Interest Research Group. Indicates that an accurate count would provide information about return rates under the bottle bill.
098	Rep. Luke	Asks why a sampling of data can't be taken for the bottle bill instead of requiring data from all distributors. Asks what type of accuracy is needed.
109	Taylor	Indicates that a 5% margin of error would be realistic.
117	Rep. Luke	Discusses statistics provided by DEQ.
124	Taylor	Doesn't know why the recycling rate is such an important issue, but the question has been asked many times by many people.
132	Rep. Luke	Indicates that the data collection would be an unfunded mandate.
135	Rep. Shields	Asks for an explanation of the -5 amendments.
138	Taylor	Indicates that the -5 amendments will allow distributors to report information in the way that they collect it.
150	Rep. Luke	Withdraws the motion to adopt the HB 3456-4 amendments dated 5/7/97.
156	Rep. Fahey	MOTION: Moves to ADOPT HB 3456-4 amendments dated 5/7/97.
		VOTE: 3-4 AYE: 3 - Fahey, Simmons, Welsh NAY: 4 - Lehman, Luke, Shields, Lewis
167	Chair Lewis	The motion FAILS.
169	Rep. Shields	MOTION: Moves to ADOPT HB 3456-1 amendments dated 4/29/97, that were amended by the inclusion of HB 3456-5 amendments dated 5/7/97 and HB 3456-3 amendments dated 4/30/97.
		VOTE: 4-3

		<p>AYE: 4 - Lehman, Luke, Shields, Lewis</p> <p>NAY: 3 - Fahey, Simmons, Welsh</p>
187	Chair Lewis	The motion CARRIES.
189	Rep. Shields	MOTION: Moves HB 3456 to the floor with a DO PASS AS AMENDED recommendation.
194	Rep. Welsh	Verifies that the bill now contains the -1, -3, and -5 amendments.
208	Rep. Luke	Indicates that he wants to see a sunset on the bill.
220	Rep. Simmons	States that he would feel better about supporting amendments that allow permissive agreements between distributors and DEQ concerning reporting bottle counts.
		<p>VOTE: 4-3</p> <p>AYE: 4 - Lehman, Luke, Shields, Lewis</p> <p>NAY: 3 - Fahey, Simmons, Welsh</p>
235	Chair Lewis	<p>The motion CARRIES.</p> <p>REP. LEWIS, REP. LUKE, AND REP. LEHMAN will lead discussion on the floor.</p>
237	Chair Lewis	Closes the work session on HB 3456. Faxed testimony was presented to the committee. (EXHIBIT F)
251	Chair Lewis	Opens a public hearing on HB 3282.
<u>HB 3282</u> <u>PUBLIC</u> <u>HEARING</u>		
264	Dave Barrows	Representative, Chemical Waste Management. Explains a chemical hazardous waste disposal fee. Indicates that the Idaho Legislature altered the hazardous waste disposal fees for their state, and suggests that Oregon needs to alter their fee structure to remain competitive. Describes how the fee structure should be changed.
319	Barrows	Indicates that the disposal of hazardous waste is declining for several reasons. Explains that the hazardous disposal area at Arlington needs to remain competitive to stay alive.
362	Rep. Fahey	Asks if the same charge was applied to Oregon and Washington waste.
364	Barrows	Indicates that the Washington waste was not charged less than Oregon waste.
372	Bob Danko	Representative, Department of Environmental Quality, Waste Management and Clean Up Division. Expresses support for the bill.
404	Rep. Fahey	Asks why sandblasted material from shipyards would be shipped to Washington.
	Norm	

414	Weeding	Doesn't know of the waste stream.
TAPE 81, A		
003	Rep. Fahey	Indicates that the waste is sandblast sand.
006	Weeding	Indicates that there are no hazardous waste disposal sites in Washington for that material.
008	Rep. Fahey	Asks if Arlington can treat the sand.
009	Weeding	Indicates that it is done there.
012	Chair Lewis	Verifies that Mr. Danko supports the -2 amendments.
014	Barrows	Indicates that the -1 amendments are no longer valid.
018	Chair Lewis	Closes the public hearing on HB 3282 and opens a public hearing on HB 3266.
HB 3266 PUBLIC HEARING		
025	Mike Graine	Representative, Office of Energy. Expresses support for the -1 amendments and explains what they do. (EXHIBIT G)
059	Chair Lewis	Asks if the parties that requested the bill agree with the -1 amendments
062	Graine	Answers affirmatively.
065	Chair Lewis	Closes the work session on HB 3266.
072	Chair Lewis	Adjourns the meeting at 3:20 p.m.

Submitted By, Reviewed By,

Marjorie Taylor, Pat Zwick,

Administrative Support Policy Analyst

EXHIBIT SUMMARY

A - HB 2645, Written testimony, Phil Ward, 1 p.

B - HB 2645, Written testimony, Ann Hanus, 2 pp.

C - HB 2645, Written materials, Larry Campbell, 6 pp.

D - HB 2645, -1 amendments, Committee Staff, 1 p.

E - HB 3456, -1, -3, and -5 amendments, Committee Staff, 44 pp.

F - HB 3456, Faxed testimony, Committee Staff, 2 pp.

G - HB 3266, Written testimony, Mike Graine, 2 pp.