

HOUSE COMMITTEE ON ENVIRONMENT AND ENERGY

May 9, 1997 Hearing Room E

1:00 P.M. Tapes 82 - 83

**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 3405 Public Hearing

HB 2755 Public Hearing

HB 2460 Work Session

HB 3063 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.**

<b>Tape/#</b>	<b>Speaker</b>	<b>Comments</b>
<b>TAPE 82, A</b>		
003	Vice-Chair Shields	Calls the meeting to order at 1:07 p.m. and opens a public hearing on HB 3405.
<b><u>HB 3405</u></b> <b><u>PUBLIC</u></b>		

<b><u>HEARING</u></b>		
007	Rep. Oakley	State Representative, District 36. Expresses support for HB 3405. Explains provisions of the bill in relation to kennels.
030	Mary Lou Ludlow	Resident of Albany. Explains the noise pollution of kennels. Kennels want to make sure that they aren't disturbing others, but they don't want to close their operations.
055	Rep. Luke	Asks about a provision allowing the shooting of guns.
058	Ludlow	Answers affirmatively.
059	Rep. Luke	Explains that people will see the provision as negative.
064	Ludlow	Describes that the shooting is done with blank shots to train puppies to be familiar with the sound.
072	Rep. Luke	Indicates that the bill doesn't specify that they have to be blank shots.
074	Ludlow	Suggests that the bill be modified.
076	Rep. Luke	Describes where the bill needs to be modified.
082	Vice Chair Shields	Asks if most kennels once had natural noise barriers - primarily space between them and the next neighbor.
088	Ludlow	Responds affirmatively.
101	Vice Chair Shields	Wonders about kennels that might have sold buffering property to make a profit.
112	Ludlow	Indicates that it has worked in some areas, but she still has two acres.
115	Rep. Fahey	Asks if the kennel is ok under the original zoning of the property.
116	Ludlow	Responds affirmatively.
120	Rep. Luke	Asks if he can create an amendment to the bill.
122	Ludlow	Responds affirmatively.
134	Vice Chair Shields	Closes the public hearing on HB 3405 and opens a public hearing on HB 2755.
<b><u>HB 2755 PUBLIC HEARING</u></b>		
140	Pat Zwick	Policy Analyst, summarizes provisions of HB 2755.
147	Ann Hanus	Assistant Director, Department of Forestry. Expresses concerns with the proposed legislation. Describes criteria for building a dwelling on forest land. States that U.S. Forest Service and Bureau of Land Management roads were created for timber production and maintenance, recreation, and fire service.
181	Rep. Fahey	Asks if roads have been closed during the fire seasons.
183	Hanus	Describes concerns in terms of fire dangers
187	Rep. Fahey	Expresses concern for people with homes in forest lands.
192	Rep. Luke	Describes Forest Service roads that are open at all times, and some are paved.

212	Dave Hunnicutt	Representative, Oregonians in Action. Describes a land use case affected by the proposed legislation. In reference to the fire danger, there are other bills that deal with that problem. Indicates that the U.S. Forest Service maintains almost 3,000 miles of paved road in Oregon and the Bureau of Land Management maintains around 3,900 miles of paved road in western Oregon and 200 miles of paved road in eastern Oregon.
259	Rep. Luke	Asks if there would there be a problem with adding "paved" to the bill language.
262	Hanus	That would help the bill, but the concern is with how many new homes would be created because of the bill.
266	Rep. Luke	States that if a land owner has the right to build on the property and the only problem is a road that is in place, then there is no problem.
273	Hanus	Expresses the need to know how many dwellings are in similar circumstances.
279	Rep. Luke	States that land use laws provide people the opportunity to build on their property. If people meet all conditions to build a home and there is a paved, maintained road within 1,500 feet, then they should be able to build.
301	Rep. Lehman	States that in his district there are many miles of paved roads, but understands that the Bureau of Land Management would not be excited to have dwellings built near the roads.
323	Hanus	Agrees that a difficulty has been in trying to define roads that the public would have access to.
332	Hunnicuttt	Explains that the U.S. Forest Service (USFS) and the Bureau of Land Management (BLM) classify their roads similarly, based on the use and condition of the roads. Suggests that amendments be created to require a paved, arterial road.
371	Rep. Luke	Agrees that will solve the current problem, but wonders if flexibility can be added for other situations.
375	Hunnicuttt	Indicates that he will find options.
405	Jon Chandler	Director Governmental Affairs, Oregon Building Industry Association. Expresses support for HB 2755. Agrees that refinement of the bill will make it better.
<b>TAPE 83, A</b>		
008	Rep. Luke	Asks if it is his fault that the problems are occurring.
010	Chandler	No.
015	Chuck Newport	Building contractor, Central Oregon. Describes building experiences in forest lands. Explains an attempt to build on forest land near the Metolious River and how conditions for building were met. <b>(EXHIBIT A)</b>
055	Newport	States that all roads in Camp Sherman area are owned by the U.S. Forest Service. Explains that it was not the intent of previous legislation to deny access to properties such as the one near the Metolious River. Describes

		language that needs to be deleted from the Oregon Revised Statutes.
102	Rebecca Wood Watkin	Property owner. States that the plans have been drawn for the small cabin, but now concerns have been raised about the road access. Explains the respect her family has for the land and surrounding areas <b>(EXHIBIT B)</b>
134	Rep. Luke	States that the headwaters of the Metolious River are on her property.
139	Vice Chair Shields	Verifies that they were granted rights for a septic system by one agency, but weren't notified that another agency would deny access.
142	Watkin	Verifies that the planning department didn't check.
145	Rep. Luke	Explains that Deschutes County has one stop shopping for building needs, but that is not the case in Jefferson County.
153	Bob Rindy	Representative, Department of Land Conservation and Development. (DLCD) Expresses concerns for the bill and explains that the USFS and BLM roads were not built to serve housing communities. Indicates that there will be more pressure to maintain the roads for non-forest uses. <b>(EXHIBIT C)</b>
174	Rep. Lehman	Asks if proposed amendments would alleviate concerns.
178	Rindy	Some, but not all concerns. The major concern is with firefighting and maintenance of the road. Indicates that dwellings will create conflicts with forest practices.
212	Vice Chair Shields	Explains that what was suggested is that the requirement of pavement and other criteria might eliminate roads that could be considered.
218	Rindy	Doesn't know for sure.
222	Rep. Luke	Asks if a public road is one that is maintained by the public to drive on year round.
225	Rindy	Responds affirmatively, but the USFS and BLM roads were specifically excluded from use.
234	Rep. Welsh	Wants to see data to substantiate serious impacts.
241	Rindy	Explains that, as written, the bill would apply to all BLM and USFS roads. Indicates that if the bill was amended, the impact would change.
248	Rep. Shields	Asks how the situation could be resolved without legislation.
256	Rindy	Explains that the director of DLCD has said there could be adjustments to the statute that would resolve the problem.
274	Rep. Welsh	Asks if the county would still restrict building on the lots.
280	Rindy	Explains that most counties allow building on lot of record parcels almost immediately, if other criteria are met.
289	Rep. Welsh	Wants to know how many properties might be affected.
304	Rep. Shields	Asks Mr. Hunnicutt what happened in the work group.
		Explains that there was no work group. Indicates that there was no

308	Hunnicutt	discussion since all parties couldn't agree.
331	Charles Swindells	Representative, 1000 Friends of Oregon. Describes actions of the work group. Agrees that there was little discussion. <b>(EXHIBIT D)</b>
373	Rep. Shields	Verifies that with proposed amendments from Rep. Luke, his presented testimony is not applicable.
375	Swindells	Indicates that restriction is good when it is appropriate. Suggests that the changes in the amendment be applied to all forest dwellings.
<b>TAPE 82, B</b>		
004	Rep. Luke	Describes a particular forest dwelling in Deschutes County that was about half an hour off a main road.
024	John Styduhar	Realty Specialist, Bureau of Land Management (BLM).
030	Larry Cronenwett	Engineer, U.S. Forest Service (USFS).
032	Rep. Luke	Asks if the BLM and USFS use the same classification system for roads.
034	Styduhar	Explains that the classification system discussed is related to maintenance of the roads.
038	Rep. Luke	Asks if testimony related to property near the Metolious River was fair.
041	Cronenwett	States that the USFS can not take a position on the issue.
048	Rep. Luke	Explains that the Little Black Butte School is up the road in question.
051	Rep. Luke	The community plows the road to a certain point and then local government takes over. Asks if there are many roads that are maintained year round.
061	Cronenwett	Indicates that roads are not maintained year-round.
066	Rep. Luke	Asks if year-round roads exist through inter-governmental agreements.
069	Cronenwett	Doesn't know how many roads there may be.
070	Styduhar	Indicates that the BLM has few agreements with local governments to maintain roads.
072	Rep. Luke	Asks if BLM roads are outside forested areas.
073	Styduhar	States that BLM roads were built for forest management purposes and the removal of timber. Explains the distinction between BLM and USFS road authority. BLM roads are not public roads.
082	Rep. Luke	Asks if the Metolious road can be closed at any time.
083	Styduhar	Indicates that is a USFS road and it is under different jurisdiction.
084	Cronenwett	The USFS views their roads similarly. They are there for the management and maintenance of the forests.
091	Styduhar	Indicates that with changes to the proposed language, some BLM roads would not fall under definitions of the bill.
094	Rep. Lehman	Explains that the USFS and BLM testimony has pointed out a potentially serious problem with the proposed legislation. Describes how the bill should be further amended.

104	Styduhar	States that the solution is not simple.
111	Rep. Luke	Asks if the BLM and USFS close their roads periodically to prevent possession rights.
115	Cronenwett	No.
116	Styduhar	Explains that a major issue is the legal ownership of the roads and emphasizes that acquisition and ownership is complicated.
127	Rep. Luke	Asks if more options should be given to the counties to allow the BLM and USFS to keep their roads open.
145	Rep. Shields	Asks if the Department of Forestry could give their thoughts on the testimony.
155	Hanus	Suggests that a work group be formed to develop criteria for the roads.
173	Rep. Luke	Offers to work with the group.
195	Chair Lewis	Closes the public hearing on HB 2755 and opens a work session on HB 2460.
<b><u>HB 2460</u></b> <b><u>WORK</u></b> <b><u>SESSION</u></b>		
205	Pat Zwick	Policy Analyst, summarizes previous concerns with the bill.
227	Fred VanNatta	Representative, Oregon Association of Realtors. States that the amendments were drafted by Mr. Hunnicutt.
230	Dave Hunnicutt	Representative, Oregonians in Action. Explains Rep. Shetterly's concerns with the bill. Describes new amendments to the bill and how they solve concerns.
285	Rep. Luke	Indicates that this is an excellent bill.
290	Hunnicutt	Explains that there are times when an attorney won't find out until the middle of a lawsuit that it is frivolous.
319	Rep. Luke	Asks if Rep. Shetterly approves of the amendments.
322	Rep. Shetterly	State Representative, District 34, answers affirmatively.
326	Rep. Luke	<b>MOTION: Moves to ADOPT HB 2460-1 amendments dated 5/9/97 (EXHIBIT E)</b>
329	Chair Lewis	Hearing no objections, declares the motion CARRIED.
332	Rep. Luke	<b>MOTION: Moves HB 2460 to the floor with a DO PASS AS AMENDED recommendation.</b>
335	Rep. Lehman	Explains that he will vote no because it is a minor matter.
		<b>VOTE: 6-1</b>  <b>AYE: 6 - Fahey, Luke, Shields, Simmons, Welsh, Lewis</b>  <b>NAY: 1 - Lehman</b>

345	Chair Lewis	<b>The motion CARRIES.</b> <b>REP. WELSH will lead discussion on the floor.</b>
349	Chair Lewis	Closes the work session on HB 2460 and opens a work session on HB 3063.
<b><u>HB 3063</u></b> <b><u>WORK</u></b> <b><u>SESSION</u></b>		
360	Rep. Shetterly	State Representative, District 34. Explains the effects of -3 amendments on the bill. Indicates that vacated school properties would be able to be sold for non-farm uses, but they would be subject to approval. The amendments also permit the conversion of a school into a single family dwelling.
403	Rep. Lehman	Asks if the Farm Bureau supports the bill and amendments.
407	Rep. Shetterly	Answers affirmatively.
411	Chair Lewis	Verifies that all parties agree to the amendments.
<b>TAPE 83, B</b>		
005	Rep. Lehman	<b>MOTION: Moves to ADOPT HB 3063-3 amendments dated 5/9/97 (EXHIBIT F)</b>
006	Chair Lewis	<b>Hearing no objections, declares the motion CARRIED.</b>
007	Rep. Lehman	<b>MOTION: Moves HB 3063 to the floor with a DO PASS AS AMENDED recommendation.</b>
009	Rep. Luke	Asks if the bill is limited to converting schools to single family dwellings.
014	Rep. Shetterly	Explains that uses are not prohibited, but they are subject to approval.
018	Ron Eber	Representative, Department of Land Conservation and Development. Explains that all uses currently available can be applied.
		<b>VOTE: 7-0</b> <b>AYE: In a roll call vote, all members present vote Aye.</b>
030	Chair Lewis	<b>The motion CARRIES.</b> <b>REP. SHETTERLY will lead discussion on the floor.</b>
033	Chair Lewis	Closes the work session on HB 3063 and makes announcements pertaining to the committee.
073	Chair Lewis	Adjourns the meeting at 2:37 p.m.

Submitted By, Reviewed By,

Marjorie Taylor, Pat Zwick,

Administrative Support Policy Analyst

**EXHIBIT SUMMARY**

**A - HB 2755, Written materials, Chuck Newport, 14 pp.**

**B - HB 2755, Written testimony, Rebecca Watkin, 2 pp.**

**C - HB 2755, Written testimony, Bob Rindy, 1 p.**

**D - HB 2755, Written testimony, Charles Swindells, 3 pp.**

**E - HB 2460, -1 amendments, Committee Staff, 2 pp.**

**F - HB 3063, -3 amendments, Committee Staff, 1 p.**