

HOUSE COMMITTEE ON ENVIRONMENT AND ENERGY

May 16, 1997 Hearing Room E

1:00 P.M. Tapes 90 - 92

MEMBERS PRESENT:

Rep. Leslie Lewis, Chair

Rep. Frank Shields, Vice-Chair

Rep. Mike Lehman

Rep. Dennis Luke

Rep. Mark Simmons

Rep. Jim Welsh

MEMBER EXCUSED: Rep. Michael Fahey

STAFF PRESENT: Pat Zwick, Policy Analyst

Marjorie Taylor, Administrative Support

MEASURE/ISSUES HEARD:

SB 196 Public Hearing

HB 2642 Work Session

SB 196 Public Hearing

HB 2774 Work Session

SB 920 Public Hearing and Work Session

SB 360 Public Hearing

SB 868 Work Session

SB 891 Work Session

SB 379 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 90, A		
003	Chair Lewis	Calls the meeting to order at 1:05 p.m. and opens a public hearing on SB 196.
SB 196 PUBLIC HEARING		
015	Bob Rindy	Representative, Department of Land Conservation and Development. (DLCD) Explains periodic review work programs that map the course of the periodic review process. Indicates that DLCD is not allowed to change work programs . The bill will allow authorization of a change to a work program if it is requested by a local government. Explains that the -2 amendments will do as DLCD had originally intended. (EXHIBIT A)
052	Rep. Luke	Asks why the amendment is needed.
055	Rindy	Explains that the -2 amendments require the Director to be requested by local governments to make changes to work programs.
069	Rep. Luke	Explains that the Senate probably knew what they were doing when they passed the bill.
070	Chair Lewis	Indicates that Sen. Ferrioli sent a letter about the original bill and how it was amended on the Senate side.
077	Rep. Luke	Asks if the Senate chair approved the -A2 amendments.
080	Chair Lewis	Indicates the Sen. Ferrioli would not approve of the amendments.
082	Rindy	States that the chair was Sen. Tarno.
085	Rep. Luke	Asks why Sen. Ferrioli was involved with the bill.
087	Rindy	Explains that Sen. Ferrioli asked for the amendments to the bill, but they were not understood by everybody when they were created.
098	Rep. Luke	Asked if he had mentioned to the committee what the amendments actually do.
100	Rindy	No, but they were discussed with Sen. Burdick.
103	Rep. Luke	States that the vote on the Senate floor was 25 ayes to zero nays.
107	Rindy	Explains how DLCD tried to send the bill back to the Senate committee to be re-amended.
122	Keith Bartholomew	Representative, 1000 Friends of Oregon. Explains that SB 196 was a "housekeeping" measure, but with amendments from the Senate, the purpose is very different. It changes the way periodic review is conducted. (EXHIBIT B)
153	Rep. Luke	Clarifies language in the bill.
155	Bartholomew	Explains how current law requires that modifications to land use plans be approved by the Land Conservation and Development Commission. Explains how the proposed legislation would change that. Provides suggested amendments which would return the bill to its original form

		and intent.
180	Rep. Luke	Asks if Mr. Bartholomew is suggesting that the Senate didn't know what they were doing when they voted on the bill.
182	Bartholomew	Doesn't know what their intent and knowledge of the bill was.
186	Sen. Ted Ferrioli	State Senator, District 28. Explains that he was the author of the Senate amendments and drafted them for a specific reason. Opposes new amendments to the bill. States that the Senate knew what they were voting on when they did so.
228	Rep. Luke	Asks if the amendment was hastily added and if it had a hearing.
232	Sen. Ferrioli	Explains that the amendment was an inspiration. Indicates that the agency wanted to create authority to overturn a work plan in any local community.
238	Rep. Luke	Asks if the work plan would have to be finished before it was overturned
239	Sen. Ferrioli	Indicates that the plan could be in any stage to be overturned.
245	Rep. Lehman	Asks if the original bill without amendments is a good bill and an improvement on the land use process.
246	Sen. Ferrioli	No. States that the A-Engrossed version of the bill is excellent.
271	Chair Lewis	Recesses the public hearing on SB 196 and opens a work session on HB 2642.
<u>HB 2642 WORK SESSION</u>		
291	Dick Angstrom	Representative, Oregon Concrete and Aggregate Producers Association. Expresses support for the -2 amendments.
304	Rep. Luke	Verifies that -1 amendments are no longer needed and that there is support for the -2 and -3 amendments.
306	Rep. Lehman	MOTION: Moves to ADOPT HB 2642-2 amendments dated 3/31/97. (EXHIBIT C)
310	Chair Lewis	Hearing no objections, declares the motion CARRIED.
314	Rep. Simmons	MOTION: Moves to ADOPT HB 2642-3 amendments dated 5/2/97. (EXHIBIT D)
315	Chair Lewis	Hearing no objections, declares the motion CARRIED.
326	Rep. Lehman	MOTION: Moves HB 2642 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 - Fahey
348	Chair Lewis	The motion CARRIES.

		REP. LEHMAN will lead discussion on the floor.
350	Chair Lewis	Closes the work session on HB 2642 and reopens the public hearing on SB 196.
<u>SB 196 PUBLIC HEARING</u>		
356	Jon Chandler	Director, Governmental Affairs, Oregon Building Industry Association. Expresses support for the -2 amendments. Indicates that periodic review is the only time that the public has the ability to interact with local governments on land use issues.
<u>TAPE 91, A</u>		
004	Chandler	Indicates that the -2 amendments would allow the private sector to have access to local government.
011	Rep. Lehman	Asks if the original bill, without amendments, improved the system for everyone.
015	Chandler	Explains that the original bill was a good one.
021	Rep. Lehman	Asks if the changes produced by amendments would cause conflict with approval from the Governor.
023	Chandler	Answers affirmatively.
027	Rep. Lehman	Expresses concern with ending up with no approval from the Governor if the bill gets messy.
030	Rep. Luke	Expresses concern for allowing the Land Conservation and Development Commission (LCDC) to be able to interrupt land use plans at any point.
043	Chandler	Understands the concern. Suggests that work continue on the bill.
055	Rep. Luke	Explains that the original bill gave more power to the Director of LCDC. The A-Engrossed bill indicates that work requests must come from local governments.
067	Chandler	Understands the concern of local governments, but suggests that the Director should have more control than LCDC.
072	Rep. Luke	Asks why LCDC should be able to interfere with a local government land use plan without being asked to do so.
075	Chandler	Explains that the tool for change shouldn't be taken away.
088	Rep. Luke	Describes when local governments can interfere with a work program.
094	Chandler	Provides an example of multi-jurisdictional problems with land use plans.
111	Chair Lewis	Asks if the bill is necessary.
115	Chandler	Answers affirmatively. Explains that periodic review is important, but the degree in question is when and how a local government can take a stand against LCDC.
143	Burton Weast	Representative, Special Districts Association. Provides examples for the necessity for the bill. Explains that the -2 amendments provide

		protection for local governments.
174	Phillip Fell	Representative, League of Oregon Cities. States that the bill is necessary. Expresses preference for the A-engrossed version of the bill rather than the -A2 amendments.
208	Rep. Luke	Asks when local control is more important than a state agency interfering with a local planning process.
214	Weast	Describes a relationship between local governments and LCDC of working on periodic review together to update plans.
227	Rep. Luke	Does not understand how the bill would stop a local government from working with LCDC or the Director.
233	Weast	Explains that the issue is the length of periodic review.
245	Rep. Luke	Does not have a problem with special districts or local governments stepping in to study work plans, but there is a problem with LCDC or the Director doing so without being requested to.
249	Weast	Does not know of a case where LCDC has gotten involved with a work program over objections from a local government.
258	Rep. Luke	Suggests that more amendments be created.
263	Weast	Agrees to work on language. Suggests that not just any group be able to request intervention of the Director and LCDC.
272	Rep. Luke	Asks if Mr. Weast is suggesting that it is ok for Special Districts to ask, but no other groups.
276	Weast	No, but the request can't be made by an individual for the sake of holding up the process.
293	Roy Burns	Representative, Intergovernmental Relations Coordinator, Lane County Public Works Department. Expresses support for the A-Engrossed bill.
303	Art Schlack	Land Use Specialist, Association of Oregon Counties. Expresses support for the A-Engrossed bill.
308	Chair Lewis	Closes the public hearing on SB 196 and opens a work session on HB 2774.
<u>HB 2774</u> <u>WORK</u> <u>SESSION</u>		
328	Jon Chandler	Director, Governmental Affairs, Oregon Building Industry Association. Explains that the -2 and -3 amendments do not work together. Proposes moving the -3 amendments. Indicates that there are some concerns with the bill and amendments and that work can be done on them.
397	Katherine Bowmont	Senior Deputy City Attorney, City of Portland. Does not agree on the need for the bill. Agrees that if the bill moves forward, it does need some clarification.
<u>TAPE 90, B</u>		
005	Chair Lewis	Explains that time is running out and suggests that changes can be made on the Senate side.

008	Bowmont	Appreciates discussion of the bill.
010	Rep. Simmons	MOTION: Moves to ADOPT HB 2774-3 amendments dated 5/6/97. (EXHIBIT E)
013	Chair Lewis	Hearing no objections, declares the motion CARRIED.
014	Rep. Simmons	MOTION: Moves HB 2774 to the floor with a DO PASS AS AMENDED recommendation.
		VOTE: 4-0 AYE: In a roll call vote, all members present vote Aye. EXCUSED: 3 - Fahey, Lehman, Luke (Rep. Lehman and Rep. Luke vote "Aye" later in the meeting.)
024	Chair Lewis	The motion CARRIES. REP. SIMMONS will lead discussion on the floor.
029	Chair Lewis	Closes the work session on HB 2774 and opens a public hearing on SB 920.
<u>SB 920</u> <u>PUBLIC</u> <u>HEARING</u>		
039	Richard Benner	Director, Department of Land Conservation and Development. Explains that SB 920 makes minor changes to the regional problem solving legislation. Describes pilot projects related to regional problem solving. (EXHIBIT F)
081	Benner	Describes changes to the regional problem solving program that are related to the proposed legislation.
104	Rep. Luke	Describes how the Regional Problem Solving group in Deschutes County has more-or-less told the local government what to do rather than ask them.
111	Benner	Explains that the identification and processing of problems is locally generated.
117	Rep. Luke	Agrees that everything is happening locally, but projects are being started by the county and being forced onto the cities.
126	Benner	Indicates that many of the Regional Problem Solving programs have had good "give and take" interactions.
139	Charles Swindells	Representative, 1000 Friends of Oregon. Expresses support for the regional collaborative process, but because the regional collaborative process allows exemptions for certain land uses, 1000 Friends can not support the bill.
166	Rep. Luke	Asks if the Regional Problem Solving program can be used to site the Smith Rock resort.
174	Art Schlack	Land Use Specialist, Association of Oregon Counties. Expresses support

		for SB 920. Explains that regional problem solving is very positive.
202	Rep. Luke	Indicates that it is difficult for some government officials to realize that local citizens have views that might have some merit.
210	Phillip Fell	Representative, League of Oregon Cities. Expresses support for the bill. supports the bill. Indicates that the ability to "tweak" administrative rules helps to solve regional problems.
237	Chair Lewis	Closes the public hearing on SB 920 and opens a work session on SB 920.
<u>SB 920 WORK SESSION</u>		
253	Rep. Luke	MOTION: Moves SB 920 to the floor with a DO PASS recommendation.
		VOTE: 5-0 AYE: In a roll call vote, all members present vote Aye. EXCUSED: 2 - Fahey, Shields
271	Chair Lewis	The motion CARRIES. REP. REPINE will lead discussion on the floor.
285	Rep. Simmons	MOTION: Requests unanimous consent that the rules be SUSPENDED to allow REP. LEHMAN and REP. LUKE to BE RECORDED as voting AYE on HB 2774.
290	Chair Lewis	Hearing no objection, declares the motion CARRIED.
298	Chair Lewis	Closes the work session on SB 920 and opens a public hearing on SB 360
<u>SB 360 PUBLIC HEARING</u>		
329	Fred Robinson	Representative, Oregon Department of Forestry. Explains that the bill focuses on the urban forest interface. Speaks of fire protection districts. Describes classifications of the areas. (EXHIBIT G)
<u>TAPE 91, B</u>		
002	Robinson	Explains that the urban forest interface will become it's own cost center once it is identified.
013	Rep. Simmons	Asks if this will be an unfunded mandate on the counties.
015	Robinson	No. Indicates that counties have supported the bill. Explains that counties would be reimbursed for costs.
032	Rep. Welsh	Asks if problems raised on the Senate side have been addressed.
039	Robinson	Indicates that several issues were raised by Sen. Fisher and some of those were addressed, but more will be resolved during the interim.

062	Clark Seely	Representative, Oregon Department of Forestry. Indicates that the issues raised dealt with proportional cost and workloads.
078	Dee Bridges	Representative, Boise Cascade. Describes written materials that describe fires of over 1000 acres in Jackson County. Explains that suppression of fire is complicated by homes in a forest interface. Indicates that there is support for the bill from all parties in the work group. (EXHIBIT H)
140	Rep. Luke	Asks how houses in an interface increase the number of acres burned, and the total cost of the fires.
146	Bridges	It's not necessarily the houses, but the people living in them that cause the acreage burned to increase.
161	Nancy Orr	Representative, State Fire Marshal's Office. Expresses support for SB 360. States that the bill is a positive step in fighting forest fires. (EXHIBIT I)
173	Rep. Luke	Asks how the bill could have prevented the Skeleton fire.
175	Orr	That fire was started by lightning therefore, it could not have been prevented. Explains that loss would have been reduced if the homes did not have combustible roofs, and if there was defensible space around the homes.
190	Chair Lewis	Closes the public hearing on SB 360 and opens a work session on SB 868.
<u>SB 868</u> <u>WORK</u> <u>SESSION</u>		
195	Dave Hunnicutt	Representative, Oregonians in Action. Expresses support for the -A5 amendments.
209	Chair Lewis	Asks for an explanation of the -A5 amendments.
214	Ron Eber	Representative, Department of Land Conservation and Development. Explains the provisions of the -A5 amendments.
223	Rep. Luke	Asks how to get a deed restriction.
226	Eber	Explains that a property owner can remove the restriction without the concurrence of the county.
234	Chair Lewis	Asks if the -A5 amendments replace the -A4 amendments.
237	Hunnicutt	Answers affirmatively.
238	Rep. Lehman	MOTION: Moves to ADOPT SB 868-A5 amendments dated 5/16/97. (EXHIBIT J)
245	Chair Lewis	Hearing no objections, declares the motion CARRIED.
246	Rep. Lehman	MOTION: Moves SB 868 to the floor with a DO PASS AS AMENDED recommendation.
249	Rep. Luke	States that the Land Conservation and Development Commission, Oregonians in Action, and the Association of Oregon Counties support the bill.
		VOTE: 4-0

		<p>AYE: In a roll call vote, all members present vote Aye.</p> <p>EXCUSED: 3 - Fahey, Shields, Welsh</p>
259	Chair Lewis	<p>The motion CARRIES.</p> <p>REP. LEHMAN will lead discussion on the floor.</p>
260	Chair Lewis	Closes the work session on SB 868 and opens a work session on SB 891.
<u>SB 891</u>		
<u>WORK</u>		
<u>SESSION</u>		
273	Ron Eber	Representative, Department of Land Conservation and Development. Explains the -2 amendments.
296	Rep. Luke	Asks if water could be transported from somewhere in the state to another location if the bottler owned both properties.
305	Eber	That would be possible if someone wanted to do that.
311	Dave Hunnicutt	Representative, Oregonians in Action. Reminds the committee that this is a conditional use.
320	Rep. Luke	Indicates that there is nothing in the bill that requires the water to come from a location nearby.
325	Hunnicutt	There are no objections to regulations, and the counties are free to do the regulating.
333	Rep. Lehman	Expresses concern for vagueness of the bill.
341	Chair Lewis	Explains that water can be bottled from a property other than where the facility is located, if the bottler owns the water rights. Indicates that someone can bottle water from another property that they own, even if it is not contiguous to the property with the bottling facility.
353	Rep. Luke	States that the water must come from Oregon.
360	Eber	Restates that if water is being hauled, the bottler must own both properties.
372	Rep. Luke	Expresses concern for the logic of buying water.
380	Rep. Lehman	Asks if the bottling of water can happen in a exclusive farm use zone, even if no water is being bottled from that property.
392	Chair Lewis	Explains that the bottler must own water rights from the neighbors, or own the property where the water is coming from.
396	Rep. Lehman	Asks if a facility can be built, even though no water is being removed from that property.
405	Hunnicutt	Indicates that current statutes allow for the processing of subsurface resources including water.
419	Rep. Lehman	Assumes that the intent is to have water extracted and processed from the same property.
TAPE 92, A		

006	Eber	Agrees that the intent is to extract and bottle water on the same site.
018	Rep. Lehman	Suggests that there might be a simple fix for the problem.
023	Rep. Luke	Interprets the bill to mean that an extraction facility must first be sited before water can be bottled.
031	Chair Lewis	Suggests that a work group be formed.
033	Rep. Luke	Indicates that there is a problem, but he is willing to move it.
034	Hunnicutt	Explains that counties can address the problems as they arise.
036	Rep. Luke	Asks what is wrong with the original bill.
037	Hunnicutt	Nothing.
038	Rep. Luke	Asks if it is a conditional use.
039	Eber	Yes.
041	Rep. Luke	Asks what problems there are with the original bill.
042	Eber	Explains that the original bill did not limit bottling from the parcel where the facility was sited.
046	Rep. Luke	Explained that the county must make the decision to allow it.
047	Eber	Expresses understanding.
045	Rep. Luke	MOTION: Moves SB 891 to the floor with a DO PASS recommendation.
		VOTE: 4-1 AYE: 4 - Luke, Simmons, Welsh, Lewis NAY: 1 - Lehman EXCUSED: 2 - Fahey, Shields
061	Chair Lewis	The motion CARRIES. REP. LUKE will lead discussion on the floor.
064	Chair Lewis	Closes the work session on SB 891 and opens a public hearing on SB 379.
<u>SB 379</u> <u>PUBLIC</u> <u>HEARING</u>		
072	Dave Babbit	Representative, Oregon Small Woodlands Association. Explains that the bill addresses inequities that will allow small woodlands owners live on their properties.
082	Chair Lewis	Closes the public hearing on SB 379 and adjourns the meeting at 3:14 p.m.

Submitted By, Reviewed By,

Marjorie Taylor, Pat Zwick,

Administrative Support Policy Analyst

EXHIBIT SUMMARY

A - SB 196, Written testimony, Bob Rindy, 1 p.

B - SB 196, Written testimony, Keith Bartholomew, 2 pp.

C - HB 2642, -2 amendments, Committee Staff, 1 p.

D - HB 2642, -3 amendments, Committee Staff, 1 p.

E - HB 2774, -3 amendments, Committee Staff, 9 pp.

F - SB 920, Written testimony, Richard Benner, 1 p.

G - SB 360, Written testimony, Fred Robinson, 8 pp.

H - SB 360, Written testimony, Dee Bridges, 6 pp.

I - SB 360, Written testimony, Nancy Orr, 1 p.

J - SB 868, -A5 amendments, Committee Staff, 1 p.