

HOUSE COMMITTEE ON ENVIRONMENT AND ENERGY

May 19, 1997 Hearing Room E

1:00 P.M. Tapes 93 - 96

MEMBERS PRESENT: Rep. Leslie Lewis, Chair

Rep. Michael Fahey

Rep. Mike Lehman

Rep. Dennis Luke

Rep. Mark Simmons

Rep. Jim Welsh

MEMBER EXCUSED: Rep. Frank Shields, Vice-Chair

STAFF PRESENT: Pat Zwick, Policy Analyst

Marjorie Taylor, Administrative Support

MEASURE/ISSUES HEARD: HB 2753 Public Hearing

HB 2398 Work Session

HB 2753 Public Hearing

HB 2780 Public Hearing

HB 3459 Public Hearing

HB 2245 Work Session

HB 2755 Work Session

HB 2927 Work Session

HB 2493 Public Hearing and 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.

Tape/#	Speaker	Comments
TAPE 93, A		
		Calls the meeting to order at 1:13 p.m. and opens a public hearing on HB

003	Chair Lewis	2753.
HB 2753 PUBLIC HEARING		
008	Pat Zwick	Policy Analyst, summarizes provisions of the bill.
019	Paul Doyle	Resident, McMinnville. Describes the purchase of property in McMinnville to be used for commercial purposes. Relates a story of condemnation of the property and acquisition through eminent domain. Explains that the city now leases the property to Mr. Doyle. (EXHIBIT A)
077	Rep. Luke	Verifies that the city owns the property.
079	Doyle	Answers affirmatively and restates that he is leasing it.
080	Rep. Luke	Verifies that the city does not have to pay property tax on the property.
079	Doyle	Answers affirmatively.
084	Doyle	Indicates that he investigated why the city wanted to have the property even though he was told it was for parking. The lot was once occupied by a Chevron station which cleaned all soil contamination. Recently, more contamination was found and it appears to be from off the site. Suggests that the city used eminent domain to prevent having to clean other city owned property that had contamination. Suggests that there should be guideline for the use of eminent domain.
130	Dale Riddle	Attorney representing Marist High School, Eugene. Presents written testimony including proposed amendments to HB 2753. Explains the proposed condemnation of a portion of Marist High School property for the continuation of a city maintained bike path. Provides extensive background information about the case. States that the Oregon Department of Transportation has not made a decision about the bike path, but the federal funds are available. Explains the proposed amendments. Reads a letter from a local private investigator about the safety of a bike path near school property. (EXHIBIT B)
241	Rep. Luke	Suggests that testimony focus on the issue at hand.
243	Riddle	States that the bike path where the discussed crimes took place is related to the bike path the City of Eugene wants to build.
249	Rep. Luke	Explains that bills passed by the legislature must apply to the entire state, not just a bike path in Eugene.
256	Rep. Lehman	Asks how large the Marist site is.
257	Riddle	35 acres.
258	Rep. Lehman	Asks how much frontage they have on the river.
259	Riddle	Approximately 2000 feet.
261	Rep. Lehman	Asks if the Marist site pays any property taxes.
262	Riddle	No.
		Principal, Marist High School. States that the goal of Marist High School

264	Father Lopez	is to serve the community and provide an education for the students. For this to occur, the campus must be safe and secure.
298	Rep. Luke	Asks how the amendment affects the original bill.
302	Riddle	The amendment would only be an additional item and wouldn't affect any other part of the bill.
308	Rep. Welsh	Asks what amendment number it would be.
311	Chair Lewis	The -1 amendments are from Mr. Doyle and the proposed amendments are in for drafting and not available.
317	Rep. Luke	Asks if bike paths from either side would dead end at the Marist property if the path can't be built.
320	Father Lopez	Indicates that the bike path across the river is enough path to serve the community.
325	Jack Wharfield	Executive Director, Marist High School Foundation. Explains that it is possible to travel past the school on the other side of the river and using on street trails.
337	Rep. Luke	Asks if there is a bridge nearby to travel across the river.
339	Wharfield	Indicates that there are two bridges to connect the path.
348	Rep. Luke	Asks if they are pedestrian bridges.
351	Wharfield	Answers affirmatively.
354	Rep. Welsh	Asks how many miles of bike paths are in Eugene.
359	Riddle	Doesn't know for sure, but it is a significant number.
373	Rep. Welsh	Agrees that there are many miles of paths.
378	Father Lopez	Indicates that the number of women in sports programs at Marist has increased, which poses a safety concern.
389	Rep. Lehman	Asks if the City of Eugene and Lane County have addressed these issues.
393	Riddle	Explains that few of the issues have been addressed by Eugene. Indicates that there has been very little public participation in the bike path issue.
404	John Murphy	President, Marist Foundation. Indicates that the success of the school is based on the closed campus and that the proposed bike path would be a detriment.
TAPE 94, A		
007	Murphy	Explains that temptations are great for the students, and the closed campus improves the quality of education and student accountability.
016	Rep. Simmons	Asks if alternative routes have been discussed.
019	Wharfield	Indicates that attempts have been made to express concerns to the city, and alternative routing has been proposed.
035	Rep. Simmons	Asks if any of the city councilors were up for re-election.
		Yes. Explains that the bike path issue has not been presented to the

037	Wharfield	current city council.
042	Riddle	Indicates that there have been some discussions with the mayor. Explains that it is politically correct to place the bike path through Marist.
049	Rep. Simmons	Asks what would stop people from entering campus if the path was completed.
051	Wharfield	The perimeter would be secured. Describes the financial obligations of having a path through campus. Indicates that the city has not addressed the possibility of financial hardships on the school. Indicates that the city has removed maintenance funds for the trails.
100	Rep. Luke	Explains that this is a local problem.
106	Rep. Welsh	Wonders if Eugene, a city that prides itself on public testimony and input, is the same city involved with the bike path.
108	Wharfield	States that this is the first time that Marist concerns have been addressed
110	Rep. Welsh	States that the legislature has taken on similar problems in the past and can do so now.
112	Rep. Luke	Doesn't mean to minimize the issue, but many complaints need to be solved on the local level.
116	Riddle	Explains that the amendments were drafted in a way as to not limit their application.
122	Chair Lewis	Recesses the public hearing on HB 2753 and opens a work session on HB 2398. The committee was presented with faxed and e-mailed testimony. (EXHIBIT C)
<u>HB 2398</u> <u>WORK</u> <u>SESSION</u>		
129	Rep. Adams	State Representative, District 27. Explains the -1 amendments to the bill. Indicates that the city of West Linn does not like the bill, but the amendments appease other organizations.
162	Rep. Luke	Asks if Rep. Adams intended to include "shall" on line 3.
168	Rep. Adams	Explains that "shall" changes the current process.
176	Rep. Luke	Asks if there is a minimum size requirement to the property.
182	Rep. Adams	Doesn't know for sure, but educational properties have their own size requirements.
186	Rep. Luke	Indicates that the original bill classified the use of educational properties as a permitted use, but the amendments make them an out-right use.
190	Rep. Adams	Thinks that out-right and permitted use are similar.
194	Rep. Luke	States that there is a difference.
196	Chair Lewis	Explains that permitted uses can't be conditioned or denied.
204	Rep. Luke	Expresses concern for the use of "shall."
207	Chair Lewis	Indicates that it might not be different than a permitted use.
215	Jon Chandler	Director, Governmental Affairs, Oregon Building Industry Association.

		Explains problems with using permitted use language.
247	Chair Lewis	Explains to legislative counsel that there are concerns about the meaning of (1).
254	Chair Crean	Legislative Counsel. Indicates that permitted use is not defined anywhere. The use of "shall" requires the county to approve the application, but they can place some conditions on it. Explains that (1) uses are now permitted, but again, that is not defined.
279	Chair Lewis	Looks at the issue like other issues. Explains that a school district purchased property with the intent to use it for a school, but there are local impediments.
290	Rep. Luke	Explains that schools should be in residential areas and supports the original bill. Expresses concern with the use of "shall"
301	Crean	Explains that (2) tries to balance between "shall" and "may".
309	Rep. Luke	Verifies that the application must be approved, but characteristics must be discussed between the school district and local government.
315	Crean	Answers affirmatively.
316	Chair Lewis	Explains that would be a site design review process.
324	Rep. Luke	Asks what happens if the developer and local government don't agree.
326	Chair Lewis	The application will fail.
329	Rep. Adams	Explains the reason for the bill. The discussion centers on industrial and residential use. Expresses preference for permitted use.
356	Rep. Luke	MOTION: Moves to ADOPT HB 2398-1 amendments dated 3/25/97. (EXHIBIT D)
360	Chair Lewis	Hearing no objections, declares the motion CARRIED.
361	Rep. Luke	MOTION: Moves HB 2398 to the floor with a DO PASS AS AMENDED recommendation.
		VOTE: 5-0 AYE: In a roll call vote, all members present vote Aye. EXCUSED: 2 - Shields, Simmons
369	Chair Lewis	The motion CARRIES. REP. ADAMS will lead discussion on the floor.
372	Chair Lewis	Closes the work session on HB 2398 and reopens the public hearing on HB 2753.
<u>HB 2753</u> <u>PUBLIC</u> <u>HEARING</u>		
390	Tom O'Connor	Representative, Eugene Water and Electric Board (EWEB). Expresses opposition to HB 2753, suggesting that it would limit the ability of utilities to site electric and water facilities. Explains that utilities have the

		right to condemn land and provide compensation for siting of facilities. (EXHIBIT E)
TAPE 93, B		
004	O'Connor	Indicates that EWEB facilities are currently outside the urban growth boundary, but they are in the process of siting a new substation.
014	Rep. Luke	Asks if EWEB or the Emerald Public Utility District got their properties by condemnation.
016	O'Connor	The Emerald Public Utility District did.
017	Rep. Welsh	Explains that the bill has been narrowed by amendments.
023	Chair Lewis	Indicates that the -1 amendments do not allow a city to condemn property through eminent domain if the property is not publicly owned, and there is no significant need for it. Asks if this is still a problem.
030	O'Connor	In a few ways.
049	Bob Willis	Representative, City of Portland. Indicates that the bill would inhibit the ability to serve citizens efficiently and economically.
090	Chair Lewis	Asks for suggestions to solve Mr. Doyle's situation.
095	Willis	Indicates that the situation can't be solved from a legislative standpoint, but discussion with the local governments and the court process might be helpful.
113	Doyle	Comments on suggestions from Mr. Willis. Explains that he spoke with a lawyer about eminent domain and was told that the case wouldn't work. The major issue is not compensation, but fairness.
138	Chair Lewis	Closes the public hearing on HB 2753 and opens a public hearing on HB 2780.
HB 2780 PUBLIC HEARING		
149	George Read	Community Development Director, Deschutes County. Discusses non-conforming uses. Explains that a non-conforming use can be altered if it is necessary to continue the use. (EXHIBIT F)
201	Read	Proposes the limiting of the expansion of non-conforming uses. Describes proposed changes to the draft language.
259	Read	Expresses the desire to ensure that HB 2780 and HB 2021 can work with or without each other.
296	Rep. Luke	Asks who is against the bill.
302	Read	Indicates that the bill will allow counties and citizens to work as they have in the past.
308	Chair Lewis	Asks if Mr. Read worked with the Association of Oregon Counties.
313	Read	Their suggestions have been incorporated into the proposed language.
322	Rep. Luke	Asks if Mr. Read spoke with other parties also.
323	Read	Yes, and there were no negative comments.

330	Keith Bartholomew	Representative, 1000 Friends of Oregon. Indicates concern with the drafting of the bill. Expresses support for the intent of the bill.
359	Chair Lewis	Closes the public hearing on HB 2780 and opens a public hearing on HB 3459.
HB 3459 PUBLIC HEARING		
360	Bob Hall	Representative, Portland General Electric. Describes the -2 amendments. Describes a particular situation on Skyline Drive in Portland that the bill proposes to fix. As density inside the urban growth boundary increases, similar problems will occur. (EXHIBIT G)
TAPE 94, B		
002	Hall	Draws a schematic and describes the problems with the division of a parcel on Skyline Dr. and the siting of utility lines.
041	Rep. Lehman	Asks if the proposed amendments are removing the conditional sales agreements.
044	Hall	Explains that the original bill was removed entirely and the -2 amendments replace it.
058	Rep. Fahey	Asks if the emergency clause will be left in the bill.
060	Hall	No.
062	Rep. Luke	Asks if utilities will have to be sited on a map before a plat is drawn.
076	Hall	Explains that a new plat will have to show where existing utility lines are, but it will also show how the structure will continue to be served by the utility.
080	Rep. Luke	Asks why the utility would be on a property without an easement.
081	Hall	Agrees that is part of the problem and that long ago, easements weren't taken. Explains that if a property owner decides to subdivide their property they are also making the choice to move the utilities.
103	Rep. Luke	Asks if the person receiving service will have to pay for the line being moved.
105	Hall	The person who sells the property must pay for the line.
110	Rep. Luke	Verifies that the house being served doesn't have to pay.
111	Hall	Doesn't know of a situation where the owner wouldn't be receiving the service.
115	Rep. Fahey	Asks how a person will be notified of the cost to get power and water.
119	Hall	Explains that the tariffs are created by the Public Utility Commission.
127	Rep. Luke	Indicates that estimates can be made and when the property is purchased, a final cost can be calculated.
131	Rep. Fahey	Asks if the buyer will be aware of the cost before the purchase.
136	Hall	Doesn't know if that is in the law now.

140	Chair Lewis	Verifies that the language is still being refined.
144	Jon Chandler	Director, Governmental Affairs, Oregon Building Industry Association. Expresses support for fixing the problem, but expresses concern for the language in the bill.
182	Chair Lewis	Closes the public hearing on HB 3459 and opens a work session on HB 2245.
<u>HB 2245</u> <u>WORK</u> <u>SESSION</u>		
201	Dorothy Coffield	Real Estate and Land Use Section, Oregon State Bar. Indicates that the -1 amendments assist with the "housekeeping."
221	Chair Lewis	States that the -2 amendments will not be considered.
230	Coffield	Explains the -1 amendments.
239	Chair Lewis	Indicates that Mr. Chandler had concerns with the bill.
242	Chandler	Director, Governmental Affairs, Oregon Building Industry Association. Expresses support for the bill.
244	Rep. Luke	MOTION: Moves to ADOPT HB 2245-1 amendments dated 2/7/97. (EXHIBIT H)
247	Rep. Fahey	Asks if 1000 Friends of Oregon approves of the bill.
249	Chair Lewis	Understands that they approve.
254	Chair Lewis	Hearing no objections, declares the motion CARRIED.
255	Rep. Luke	MOTION: Moves HB 2245 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 - Shields
266	Chair Lewis	The motion CARRIES. REP. FAHEY will lead discussion on the floor.
269	Chair Lewis	Closes the work session on HB 2245 and opens a work session on HB 2755.
<u>HB 2755</u> <u>WORK</u> <u>SESSION</u>		
277	Rep. Luke	Indicates that all sides of the work group agree to the proposed amendments.
281	Dave Hunnicutt	Representative, Oregonians in Action. Expresses support for the -2 amendments. Explains that the Department of Forestry will want to conceptually amend the amendments.
310	Rep. Luke	Asks if Mr. Hunnicutt supports the amendments.

314	Hunnicutt	Answers affirmatively.
345	Rep. Luke	MOTION: Moves to FURTHER AMEND HB 2755-2 amendments dated 5/19/97 on page 1, line 3, by inserting "with a minimum paved width of 18 feet" after "paved" and on page 1, line 4, by inserting "defined" after "one" and on page 1, line 10, by inserting "with a minimum paved width of 18 feet" after "paved" and on page 1, line 11, by inserting "defined" after "one." (EXHIBIT I)
358	Rep. Simmons	Asks why 18 feet is the standard.
360	Hunnicutt	Explains that 18 feet is defined by the U.S. Forest Service.
369	Rep. Luke	Indicates that 18 feet is a little narrow.
377	Rep. Simmons	Asks about the meaning of "defined"
380	Hunnicutt	Defined includes markings on the road.
385	Chair Lewis	Hearing no objections, declares the motion CARRIED.
387	Rep. Luke	MOTION: Moves to ADOPT HB 2755-2 conceptually amended amendments dated 5/19/97.
396	Chair Lewis	Hearing no objections, declares the motion CARRIED.
401	Rep. Luke	MOTION: Moves HB 2755 to the floor with a DO PASS AS AMENDED recommendation.
405	Rep. Lehman	Asks Mr. Hunnicutt if everyone supports the bill and amendments.
408	Hunnicutt	Explains that the work session was successful.
TAPE 95, A		
005	Rep. Fahey	Asks if timber owners are supportive of the bill.
007	Chair Lewis	Explains that they did not testify during the public hearing.
		VOTE: 6-0 AYE: In a roll call vote, all members present vote Aye. EXCUSED: 1 - Shields
017	Chair Lewis	The motion CARRIES. REP. WELSH will lead discussion on the floor.
020	Chair Lewis	Closes the work session on HB 2755. Opens a work session on HB 2493.
HB 2493 WORK SESSION		
025	Jon Chandler	Director, Governmental Affairs, Oregon Building Industry Association. Expresses support for the -2 amendments.
048	Chair Lewis	Recesses the public hearing on HB 2493 and opens a work session on HB 2927.

<u>HB 2927</u>		
<u>WORK</u>		
<u>SESSION</u>		
058	Dave Hunnicutt	Representative, Oregonians in Action. Explains the -1 amendments for HB 2927.
068	Rep. Luke	Asks if the amendments limit the bill to counties with populations of over 500,000 people.
070	Hunnicutt	Answers affirmatively.
071	Rep. Luke	Asks how many counties have over 500,000 people.
072	Hunnicutt	One.
073	Rep. Luke	MOTION: Moves to ADOPT HB 2927-1 amendments dated 5/9/97. (EXHIBIT J)
075	Chair Lewis	Hearing no objections, declares the motion CARRIED.
080	Rep. Luke	MOTION: Moves HB 2927 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, Shields
084	Chair Lewis	The motion CARRIES. REP. LUKE will lead discussion on the floor.
086	Chair Lewis	Closes the work session on HB 2927 and re-opens the public hearing on HB 2493.
<u>HB 2493</u>		
<u>PUBLIC</u>		
<u>HEARING</u>		
105	Jon Chandler	Director, Governmental Affairs, Oregon Building Industry Association. Explains the -2 amendments. Sections 2, 3, and 4 instruct Metro to complete an inventory to complete the analysis of the urban growth boundary. Describes the function of each section.
172	Rep. Luke	Asks if the progress reports will be public record.
175	Chandler	Yes. Continues to explain individual sections. Section 5 deals with local governments. Section 7 and 9 deal with specific problems relating to local zoning codes.
254	Patricia McCaig	Metro Councilor, District 7. Indicates that the process of expanding the urban growth boundary is confusing. Metro is trying to come up with a timeline for the project. Indicates that discussions are occurring about what performance measurements should be.
317	Chandler	Indicates that the amendments were shared with other members of the Metro council. The council has not taken a position on the bill.
		Explains that a work session has been scheduled at the Metro council to

359	McCaig	discuss the issue.
371	Rep. Luke	Asks if Metro would be comfortable if the bill started moving forward.
377	McCaig	Explains that Metro may be uncomfortable with the bill, but go ahead.
382	Rep. Fahey	Asks what the available lands are.
390	Chandler	Available land refers to an inventory Metro created of available lands.
395	Rep. Fahey	Asks what would stop Metro from condemning a backyard for housing.
400	Chandler	Explains that Metro wouldn't do that.
TAPE 96, A		
003	Chandler	The available land language is a technical term that refers to buildable land.
007	Rep. Fahey	Suggests that people will have different interpretations of the language.
010	Chandler	The language refers to the inventory only.
015	Chair Lewis	Verifies that Metro is working on performance measures.
018	Chandler	Explains that there is a strong push in Metro to not move the urban growth boundary. To do that, the density must increase.
034	Rep. Fahey	Explains how a bond was passed to create open spaces in the Metro area, but people don't have access to them since there was no money to develop them.
038	Chandler	Hopes that the performance measures will solve that type of problem.
040	McCaig	Explains that the Open Spaces campaign has purchased over 2,000 acres in the last two years and access points are being created.
045	Rep. Fahey	Expresses support for the program, but not enough money was allocated to make the program more successful.
047	McCaig	Explains that she will take the amendments to Metro, but restates that they have not taken a position on the bill and amendments.
057	Chair Lewis	Asks if Metro has set aside only 18,000 acres for urban reserve.
059	McCaig	Explains the urban reserve parcels.
063	Chair Lewis	Asks if the urban growth boundary will grow by 5,000-8,000 acres if Metro approves the density.
070	McCaig	States that the actual numbers are yet to be determined.
079	Rep. Fahey	Asks if Metro has a ratio of commercial to residential property.
082	Chandler	Indicates that there is a requirement in law that planning be based on residential units.
091	Rep. Fahey	Indicates that land use planning in Clark County, Washington will also affect the urban growth boundary in the Portland area.
103	Chair Lewis	Closes the public hearing on HB 2493 and opens a work session on HB 2493.
HB 2493 WORK SESSION		

113	Rep. Luke	Suggests several options for the work session. Pass the bill out now, or wait for approval from Metro.
117	Rep. Fahey	Wants more input from Metro.
119	Rep. Luke	Explains that they might not make a decision.
121	Chandler	Indicates that some Metro council members have seen the amendments.
135	Rep. Luke	Asks if the bill would help local jurisdictions to cooperate with Metro.
139	Chandler	Answers affirmatively.
140	Rep. Luke	MOTION: Moves to ADOPT HB 2493-2 amendments dated 5/19/97. (EXHIBIT K)
143	Chair Lewis	Hearing no objections, declares the motion CARRIED.
144	Rep. Luke	States that Mr. Chandler will work with Metro on their time frames.
147	Rep. Luke	MOTION: Moves HB 2493 to the floor with a DO PASS AS AMENDED recommendation.
		VOTE: 5-1 AYE: 5 - Lehman, Luke, Simmons, Welsh, Lewis NAY: 1 - Fahey EXCUSED: 1 - Shields
156	Chair Lewis	The motion CARRIES. REP. LEHMAN will lead discussion on the floor.
158	Rep. Fahey	Explains that he might vote aye later, but wants to discuss the issue with the Metro council.
162	Rep. Luke	Asks that Metro send a letter stating their position.
168	Chair Lewis	Closes the work session on HB 2493.
187	Chair Lewis	Adjourns the meeting at 3:54 p.m.

Submitted By, Reviewed By,

Marjorie Taylor, Pat Zwick,

Administrative Support Policy Analyst

EXHIBIT SUMMARY

A - HB 2753, Written testimony, Paul Doyle, 2 pp.

B - HB 2753, Written materials, Dale Riddle, 19 pp.

C - HB 2753, Faxed and e-mailed testimony, Committee Staff, 20 pp.

D - HB 2398, -1 amendments, Committee Staff, 1 p.

E - HB 2753, Written testimony, Tom O'Connor, 2 pp.

F - HB 2780, Written materials, George Read, 4 pp.

G - HB 3459, Written testimony, Bob Hall, 2 pp.

H - HB 2245, -1 amendments, Committee Staff, 1 p.

I - HB 2755, -2 amendments, Committee Staff, 1 p.

J - HB 2927, -1 amendments, Committee Staff, 1 p.

K - HB 2493, -2 amendments, Committee Staff, 8 pp.