

**HOUSE COMMITTEE ON JUDICIARY**

**March 14, 1997 Hearing Room 357**

**7:30 A.M. Tape 14**

**MEMBERS PRESENT:**

**Rep. John Minnis, Chair**

**Rep. Floyd Prozanski, Vice-Chair**

**Rep. Roger Beyer**

**Rep. Jo Ann Bowman**

**Rep. Peter Courtney**

**Rep. George Eighmey**

**Rep. Lane Shetterly**

**Rep. Charles Starr**

**Rep. Ron Sunseri**

**Rep. Judy Uherbelau**

**Rep. Larry Wells**

**MEMBER EXCUSED:**

**STAFF PRESENT:**

**William E. Taylor, Counsel**

**Lauri A. Smith, Administrative Support**

**MEASURE/ISSUES HEARD:**

**HB 2236 - Work Session**

**HB 2044 - Work Session**

**HB 2241 - Work Session**

**HB 2310 - 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
<b>Tape 14, A</b>		
003	Chair Sunseri	Calls meeting to order 7:30 A.M.
<b><u>HB 2236 - WORK SESSION</u></b>		
005	Chair Sunseri	Opens a work session on HB 2236.
006	William E. Taylor	Counsel Reads a Preliminary Staff Measure Summary on HB 2236.
011	Rep. Courtney	<b>MOTION: Moves HB 2236 to the floor with a DO PASS recommendation.</b>
015		<b>VOTE: 11-0</b> <b>AYE: In a roll call vote, all members present vote Aye.</b>
	Chair Minnis	<b>The motion CARRIES.</b> <b>REP. BOWMAN will lead discussion on the floor.</b>
023	Chair Minnis	Closes the work session on HB 2236.
<b><u>OPENS WORK SESSION ON HB 2044</u></b>		
024	Chair Minnis	Opens a work session on HB 2044.
025	William E. Taylor	Counsel Reads a Preliminary Staff Measure Summary on HB 2044. <b>(EXHIBIT A)</b>
030	Rep. Courtney	<b>MOTION: Moves HB 2044 to the floor with a DO PASS AS AMENDED recommendation.</b>
037		<b>VOTE: 11-0</b> <b>AYE: In a roll call vote, all members present vote Aye.</b>
	Chair Minnis	<b>The motion CARRIES.</b> <b>REP. STARR will lead discussion on the floor.</b>
044	Chair	Closes the work session on HB 2044.

	Minnis	
<b><u>HB 2236 - REOPENED WORK SESSION</u></b>		
046	Chair Minnis	Reopens the work session on HB 2236 to consider recording votes.
050	Rep. Beyer	<b>MOTION: Requests unanimous consent that the rules be SUSPENDED to allow REP. SHETTERLY AND REP. UHERBELAU to BE RECORDED as voting AYE on the MOTION: Moves HB 2236 to the floor with a DO PASS recommendation.</b>
051		<b>VOTE: 9-0</b>
	Chair Minnis	<b>Hearing no objection, declares the motion CARRIED.</b>
052		<b>REP. SHETTERLY AND REP. UHERBELAU recorded AYE votes on the MOTION: Moves HB 2236 to the floor with a DO PASS recommendation.</b>
053	Chair Minnis	Closes the work session on HB 2236.
<b><u>HB 2241 - WORK SESSION</u></b>		
054	Chair Minnis	Opens a work session on HB 2241.
055	William E. Taylor	Counsel Reads a Preliminary Staff Measure Summary on HB 2241.
062	Rep. Starr	<b>MOTION: Moves HB 2241 to the floor with a DO PASS AS AMENDED recommendation.</b>
064	Rep. Beyer	The Preliminary Staff Measure Summary does not reflect how we voted out of the Subcommittee.
065	Taylor	Correct.
066	Rep. Beyer	I believe I voted no.
067	Rep. Sunseri	Can we ask the nature of Rep. Beyer's no vote?
068	Rep. Beyer	I am still not convinced HB 2241 doesn't open up the process for more legal challenges by people who have no interest in land use decisions.
073	Rep. Prozanski	It was the Committee's belief that HB 2241 was actually narrowing the legal challenges. Specifically as to who would have standing and what had to be done to challenge a land use decision. For instance, participation would be required in the land use hearings.

085	Rep. Eighmey	If it is reassuring, I almost voted no because the Measure is too narrow.
088	Rep. Wells	I would like to note we have a person here from A Thousand Friends. If they thought it was cutting off any opportunity to appeal or narrow our current land use rights, they would be opposing this Measure, however, they are in support of HB 2241.
095	Rep. Eighmey	The representative in the room, however, is not from the A Thousand Friends, but from the State Bar Association.
097	Rep. Uherbelau	Nobody was in opposition to HB 2241.
101	Rep. Sunseri	I will vote yes to send HB 2241 to the Floor, however, I would like to reserve the right to vote no on the floor after I have a chance to do a little more investigation.
103	Chair Minnis	OK. Every member of the Committee has that right along as you give the courtesy to the Chair of your proposed action.
111		<p><b>VOTE: 10-1</b></p> <p><b>AYE: 10 - Rep. Bowman, Rep. Courtney, Rep. Eighmey, Rep. Shetterly, Rep. Starr, Rep. Sunseri, Rep. Uherbelau, Rep. Wells, Vice Chair Prozanski, Chair Minnis</b></p> <p><b>NAY: 1 - Rep. Beyer</b></p>
	Chair Minnis	<p><b>The motion Carries.</b></p> <p><b>REP. STARR will lead discussion on the floor.</b></p>
113	Chair Minnis	Closes the work session on HB 2241.
<b><u>HB 2310 - WORK SESSION</u></b>		
114	Chair Minnis	Opens a work session on HB 2310.
115	Scott Lumsden	<p>Counsel</p> <p>Reads a Preliminary Staff Measure Summary on HB 2310.</p> <p>NOTE: It was requested by the Department of Justice to send HB 2310 back to the Subcommittee on Criminal Law to consider adopting the -2 Amendments. <b>(EXHIBIT B)</b> This amendment does not change the concept of the Measure but makes it more clear.</p>
135	Chair Minnis	The perceived problem of the Measure is what?

137	Lumsden	"It is the definition of the word "person" which in the original Measure references a group that is unincorporated and, also, the term is defined in statutes as an unincorporated association."
142	Chair Minnis	Is the perception to the word "persons" overly broad?
144	Lumsden	"The intent is to express those groups that the Department of Justice feels are possibly prosecutable under the statute. The word group is potentially overly broad and is simply not defined in the Code so there is no way of telling what the entity is and, also, the intent was not to prosecute governmental entities which is what the -1 Amendments would possibly allow for."
153	Brenda Rocklin	<p>Department of Justice</p> <ul style="list-style-type: none"> <li>&gt;the term "person" did not include the term - individual</li> <li>&gt;proposed amendments that defines "person" to include the statutory definition in the Criminal Code 161.015</li> <li>&gt;if we pick up the definition of from ORS 161.015 which includes the definition of "person" as an individual, it may also pick up the other statutory definitions</li> <li>&gt;there may be some over lap in the definition of "person" in ORS 161.015 and definition of "person" in HB 2310."</li> </ul> <p>Department of Justice is not overly concerned on this point.</p> <p>However, Legislative Counsel thinks it would be clearer to not define "person" in HB 2310. Then, by operation of law, ORS 161.015 would be the only definition of "person".</p>
180	Lumsden	I need to make one change the Code reference ORS 161.015 the reference should be to ORS 174.100(4).
191	Rocklin	I am uncertain why we would rely upon the definition in ORS 161.015, that being where this Measure would be inserted.
196	Rep. Starr	<b>MOTION: Moves HB 2310 back to the Subcommittee on Criminal Law for reconsideration.</b>
200		<b>VOTE: 11-0</b>
	Chair Minnis	<b>Hearing no objection, declares the motion CARRIED.</b>
215	Chair Minnis	<p>Closes the work session on HB 2310.</p> <p>Adjourned meeting at 7:47 A.M.</p>

Submitted by, Reviewed by,

Lauri A. Smith, Sarah Watson,

Administrative Support Office Manager

**EXHIBIT SUMMARY**

**A - HB 2044-2 Amendments, LC # 1491 dated 3/6/97, Staff, 4 pages.**

**B - HB 2310-2 Amendments, LC # 1618 dated 3/13/97, Staff, 1 page.**