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SENATE COMMITTEE ON AGRICULTURE AND NATURAL RESOURCES

May 30, 1997 Hearing Room C

8:00 A.M. Tapes 114 - 115

MEMBERS PRESENT:

Sen. Bob Kintigh, Chair

Sen. Bill Fisher, Vice-Chair

Sen. Bill Dwyer

Sen. Ted Ferrioli

Sen. Gary George

Sen. Veral Tarno

Sen. Thomas Wilde

MEMBER EXCUSED:

STAFF PRESENT:

Glen Stonebrink, Administrator

Linda Spaulding, Administrative Support

MEASURE/ISSUES HEARD:

SB 1211 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 114, A		
002	Chair Kintigh	Calls the meeting to order at 8:09 AM and opens public hearing SB 1211.
<u>SB 1211 - PUBLIC HEARING</u>		
010	Glen Stonebrink	Committee administrator submits SB 1211 -1, -2, -3, -4, -5 and -6 amendments (EXHIBIT A).
013	Dave Babits	Introduces himself as representing Oregon Small Woodlands Association (OSWA) and submits (EXHIBIT B). States support for bill concept and outlines specific concerns about bill language.
029	Sen. Dwyer	Asks that task force be conscious of policy impact on livelihood of landowners and suggests developing methods of mitigating negative impact.
049	Sen. Ferrioli	Asks size of risk analysis under consideration.
055	Babits	Answers intent of bill is to scientifically determine risk of landslides. Replies OSWA members are concerned with losses incurred because of timber lock-up.
062	Sen. Ferrioli	Asks if he believes road closures during periods of rain are necessary.
065	Babits	Replies no; states Department of Transportation is aware of potential risk areas.
070	Sen. Fisher	Asks if he has seen amendments.
072	Babits	Replies he has seen proposed -1 and -2 amendments. Believes OSWA will support those. Stresses his desire to see stronger sunset language.
085	Ray Wilkeson	Introduces himself as representing the Oregon Forest Industries Council and submits (EXHIBIT C). States position on bill.
162	Sen. Dwyer	Asks how much risk people should be allowed to assume. Refers to proposed -5 amendments.
174	Wilkeson	Says he has not seen proposed -5 amendments.
181	Chair Kintigh	Clarifies that proposed -3 amendments is alternate to -5 amendments.

183	Wilkeson	Says he prefers proposed -3 amendments.
185	Sen. Dwyer	Expresses concern for landowners.
198	Wilkeson	States land-use planning goals developed 25 years ago addresses building in inappropriate sites with geologic hazards.
217	Peter Green	<p>Introduces himself as the Governor's Forestry Advisor.</p> <p>Expresses three concerns:</p> <ul style="list-style-type: none"> * Department of Geology and Minerals Industries be on task force panel * whether or not local governments approve mandatory building permits * mandatory road closures <p>Suggests changing language if committee considers passing -5 amendments to conform to -3 amendments. Supports efforts of committee and Board of Forestry.</p>
250	Dave Hunicutt	Introduces himself as representing Oregonians In Action. Addresses -3 and -5 amendments. Supports -5 inclusion of statute that defines high-risk site.
269	Chair Kintigh	Asks for clarification of specific language changes.
270	Hunicutt	Provides suggestions for language changes.
277	Sen. Fisher	Comments on liability issues.
279	Hunicutt	Comments that liability can be waived if actions are voluntary.
290	Sen. Fisher	Creates scenarios of possible circumstances surrounding landslide and potential liabilities involving visitors to the site.
298	Hunicutt	Agrees it is a concern.
317	Sen. Fisher	Asks if rights are waived regarding hired help or public service employees.
327	Hunicutt	Answers no because of non-relationship with landowner.
331	Sen. Fisher	Asks confirmation that all individuals are not protected when landowner signs waiver.
335	Hunicutt	Answers affirmatively.
337	Sen. Dwyer	Suggests landowner posting notification of potential hazard.
365	Sen. Fisher	Recalls actual experience of bystander becoming involved in fatal landslide.
380	Hunicutt	Comments on ambiguous nature of language in section 6; says "significant risk" is undefined in both the bill and in statute.
411	Sen. Fisher	Asks if proposed -3 amendments reduce ambiguity.
418	Hunicutt	Answers yes; agrees with Sen. Dwyer that risk should be assumed by landowner.

435	Chair Kintigh	Asks if waivers under discussion could become deed restrictions.
439	Hunicutt	Suggests amending language in proposed -5 amendments if deed restrictions are desired.
TAPE 115, A		
013	Sen. Fisher	Recommends adding immunity to landowner for observing forest practices.
030	Hunicutt	Agrees; landowner should be free to make conscious decision.
064	Sen. Dwyer	Comments that state has limited liability currently.
080	Sen. Dwyer	Suggests assumed risk should be part of deed with regard to subsequent owners.
093	Sen. Tarno	Asks if assumed risk might be addressed as part of real estate disclosure.
098	Sen. Dwyer	Comments rules can be adopted.
103	Chair Kintigh	States amendments do not cover assumed risk; considers conceptual amendments.
116	Doug Tindall	Introduces himself as representing the Department of Transportation (ODOT) and submits (EXHIBIT D) . States proposed -4 amendments address ODOT's concerns. States support for SB 1211 with inclusion of proposed -4 amendments.
125	Chair Kintigh	Asks if road closures would be employed during severe storms.
129	Tindall	Discusses possibility of road closures due to storms.
133	Chair Kintigh	Closes public hearing on SB 1211 and opens work session.
<u>SB 1211</u> <u>WORK</u> <u>SESSION</u>		
136	Sen. Dwyer	MOTION: Moves to ADOPT SB 1211-4 amendments dated 05/29/97.
	Chair Kintigh	Hearing no objection, declares the motion CARRIED.
144	John Beaulieu	Introduces himself as representing the Oregon Department of Geology and discusses -6 amendments. States support for amendments.
165	Sen. Tarno	MOTION: Moves to ADOPT SB 1211-6 amendments dated 05/30/97 and that the measure be FURTHER AMENDED on page 1, line 3, by inserting "or designee" after "board".
	Chair Kintigh	Hearing no objection, declares the motion CARRIED.
180	Ray Wilkeson	Discusses -2 amendments.
190	Sen. Dwyer	MOTION: Moves to ADOPT SB 1211-2 amendments dated 05/28/97.

	Chair Kintigh	Hearing no objection, declares the motion CARRIED.
200	Glen Stonebrink	Committee administrator explains difficulties drafting deed restrictions due to time constraints.
250	Charlie Stone	Introduces himself as representing the Oregon Department of Forestry (ODF) and explains problem associated with using high-risk site language in -5 amendments.
265	Melinda Bruce	Introduces as legal counsel for ODF. Explains bill language.
300	Stone	Comments on high risk sites.
310	Stone	Discusses -5 amendments.
325	Stone	States that ODF is currently mapping high risk sites throughout state.
335	Sen. George	States concern about fiscal impact.
343	Stone	Discusses fiscal impact statement and "Goal 7."
380	Sen. George	Discusses costs associated with home building.
400	Bruce	Discusses language of "Goal 7."
400	Sen. Wilde	Discusses specific language in -3 amendments.
450	Stone	Discusses definition of "high risk site" and "high risk area" in Forest Practices Act.
TAPE 114, B		
030	Bruce	Discusses definition of "high risk site."
033	Sen. Dwyer	States support for -5 amendments.
068	Sen. Dwyer	MOTION: Moves to ADOPT SB 1211-3 amendments dated 05/29/97.
	Chair Kintigh	Hearing no objection, declares the motion CARRIED.
070	Sen. Dwyer	MOTION: Moves to ADOPT SB 1211-5 amendments dated 05/30/97 and that the measure be FURTHER AMENDED on page 1, line 7, by inserting "and include this waiver as a deed restriction for the property prior to the issuance of a building permit" after "damage".
090	Jerry Schmidt	Introduces himself as representing the Oregon Association of Realtors and discusses the complex issues regarding deed restrictions; cautions committee regarding liability issues.
105	Sen. Fisher	Expresses frustration over liability issues.
125	Sen. Dwyer	Affirms Sen. Fisher's statements.
130	Sen. Tarno	Comments on liability issues.
148	Sen. Fisher	Agrees with Sen. Tarno's statements.
155	Sen. Ferrioli	Discusses deed restriction issues.

211	Sen. George	Discusses section 6 of bill.
	Barbara Kahns	Introduces herself as representing Oregon Title Inc. and agrees with Sen. Ferrioli's statements regarding deed restriction liabilities.
		VOTE: 1-6 AYE: 1 - Fisher NAY: 6 - Ferrioli, Fisher, Dwyer, Kintigh, Tarno, Wilde EXCUSED: 1 - George
	Chair Kintigh	The motion FAILS.
335	Sen. Dwyer	MOTION: Moves to ADOPT SB 1211-5 amendments dated 05/30/97.
		VOTE: 6-1 AYE: 6 - Dwyer, Ferrioli, George, Tarno, Wilde, Kintigh NAY: 1 - Fisher
	Chair Kintigh	The motion CARRIES.
355	Sen. Dwyer	MOTION: Moves to ADOPT SB 1211-1 amendments dated 05/27/97 and that the measure be FURTHER AMENDED on page 1, line 3, by inserting "01-01-2000" after "on".
		VOTE: 6-1 AYE: 6 - Dwyer, Fisher, George, Tarno, Wilde, Kintigh NAY: 1 - Ferrioli
	Chair Kintigh	The motion CARRIES.
390	Sen. Fisher	MOTION: Moves to AMEND SB 1211 on page 1, line 22 after "Oregon" insert ", the forest landowner or any corporation, partnership or individual involved in the process of harvesting or reforesting forest lands."
405	Sen. Dwyer	Objects to motion and provides reasons for doing so.
435	Sen. Fisher	Provides support for motion.
455	Sen. Tarno	States concerns about motion.
473		VOTE: 1-6 AYE: 1 - Fisher NAY: 6 - Dwyer, Ferrioli, George, Kintigh, Tarno, Wilde

	Chair Kintigh	The motion FAILS.
TAPE 115, B		
035	Sen. Dwyer	Moves to AMEND SB 1211 by deleting lines 20-23 on page 1.
038	Sen. Fisher	States objection to motion and provides reasons for doing so.
043	Wilkeson	States opposition to motion and provides reasons for doing so.
048	Green	States concerns about motion.
063	Stone	States opinion on motion.
		VOTE: 2-4 AYE: 2 - Dwyer, George NAY: 5 - Ferrioli, Fisher, Kintigh, Tarno, Wilde,
075	Sen. Wilde	Moves to AMEND SB 1211 on page 1, line 13 by deleting "two lane" after "paved".
	Chair Kintigh	Hearing no objection, declares the motion CARRIED.
095	Sen. Dwyer	MOTION: Moves SB 1211 to the floor with a DO PASS AS AMENDED recommendation.
105	Sen. Ferrioli	States concerns about bill.
125	Sen. George	Affirms Sen. Ferrioli's statements.
134	Sen. Dwyer	States position on bill.
153	Sen. Fisher	States position on bill.
155	Chair Kintigh	States position on bill.
		VOTE: 6-1 AYE: 6 - Dwyer, Ferrioli, Fisher, Kintigh, Tarno, Wilde NAY: 1 - George
	Chair Kintigh	The motion CARRIES. SEN. WILDE and SEN. KINTIGH will lead discussion on the floor
180	Chair Kintigh	Closes work session on SB 1211 and adjourns meeting at 9:45 AM.

Submitted By, Reviewed By,

Paul Zolezzi, Glen Stonebrink,

Administrative Support Administrator

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EXHIBIT SUMMARY

A - SB 1211 proposed amendments, staff, 6 pp.

B - SB 1211 written testimony, Dave Babits, 2 pp.

C - SB 1211 written testimony, Ray Wilkeson, 4 pp.

D - SB 1211 written testimony, Doug Tindall, 1 p.
