

SENATE COMMITTEE ON WATER AND LAND USE

May 13, 1997 Hearing Room C

8:00 AM Tapes 88 - 89

MEMBERS PRESENT:

Sen. Veral Tarno, Chair

Sen. Bob Kintigh, Vice-Chair

Sen. Ginny Burdick

Sen. Ted Ferrioli

Sen. Bill Fisher

Sen. David Nelson

Sen. Thomas Wilde

STAFF PRESENT:

Mark Volmert, Administrator

Nancy Masee, Administrative Support

MEASURE/ISSUES HEARD:

SB 902 Work Session

SB 1020 Work Session

SB 1169 Work Session

HB 3304 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 88, A		
003	Chair Tarno	Opens meeting at 8:15 AM, and opens work session on SB 1020.
<u>SB 1020</u> <u>WORK</u> <u>SESSION</u>		

010	Phil Ward	Department of Agriculture (DOA), gives background on SB 1020. Says he submitted amendment language to Senator Ferrioli; Department commits to a process to notifying land owners of inspections. DOA will support amendments of this nature.
023	Sen. Fisher	Comments on what happens to a lessee.
031	Ward	Responds that owners, lessees, and managers would be notified.
039	Fisher	Affirms that an owner, a lessee, and a manager all would be notified.
044	Nelson	Says SB 1010 requirements by the federal government of the Clean Water Act are part of the basis for this bill.
049	Chair Tarno	Asks if SB 1010 rules are in place.
057	Ward	Says the rules are in place, but are updated when a basin plan is adopted.
060	Chair Tarno	Says that SB 1020 is not an unreasonable request.
066	Sen. Ferrioli	Responds that the inspections are allowable when actual water management plan is in place. The scope of SB 1020 has been narrowed greatly. Says the work group would like to study the amendments which were submitted last night.
095	Chair Tarno	Closes work session on SB 1020 for further developments. Opens work session on SB 1169.
<u>SB 1169</u> <u>WORK</u> <u>SESSION</u>		
117	Mark Volmert	Committee Administrator, gives background on SB 1169.
123	Dave Hunnicutt	Oregonians in Action (OIA), supports SB 1169; explains the -1 amendments; discusses non high value farmland definitions as compared to Land Conservation and Development Commission (LCDC) rule making. (EXHIBITS A,B)
154	Sen. Kintigh	Asks about the -1 amendments.
190	Hunnicutt	Says there is a drafting error in the -1 amendments.
216	Blair Batson	1000 Friends of Oregon, gives his organization's view of SB 1169 (EXHIBIT C)
247	Batson	Subsection B of SB 1169 is not workable. Farm dwelling criteria should not be changed. This encourages residential development, and the threat is to commercial farming. Opposes SB 1169 in its current form.
280	Sen. Fisher	Asks what the significance of farming for profit is.
295	Batson	Responds that legislative policy was made to provide dwellings for farmers who were engaged in that occupation for profit; those who want to live in the country have places for them.
343	Batson	Says the income production has to be addressed. If the land base is occupied by those who are not farming for profit, the farming industry

		will be lost.
381	Hunnicutt	Says the -1 amendments were not correctly drafted, OIA will take care of that on the House side. Says the census can be used. LCDC defines commercial farms as those making \$10,000 or more.
TAPE 89, A		
044	Sen. Kintigh	Asks about the average income of farms.
049	Hunnicutt	Those farms that make \$10,000 or more a year are not included in the statistics; 800 farms gross over a million dollars a year. Therefore, the average is higher.
149	Don Schellenberg	Oregon Farm Bureau; says the size of parcel is the significant factor; what the adjacent parcels do is significant.
159	Schellenberg	Farm use assessment is received regardless of size of parcel, but by the use of the parcel.
178	Sen. Fisher	Asks if there is a law that says two acres are the minimum for farm use.
180	Schellenberg	Says if you are inside an EFU zone you qualify for farm use assessment; if you are outside you must meet an income test.
202	Chair Tarno	Asks Mr. Schellenberg about the -1 amendments.
206	Schellenberg	Says they oppose SB 1169 because it allows any sized parcel to qualify for a farm dwelling if it can match the related parcels. The \$80,000 income test makes no distinction between high value and other than high value land. Farm Bureau offers conceptual amendments that say the same three options are applied to high value farmland that are now available to other farmland. SB 1169 comes the closest of the bills to deal with the \$80,000 income test. Farm Bureau does not agree with this comparability test, but they agree with the LCDC test.
256	Sen. Kintigh	Says the Lane County Farm Bureau is not in agreement with the Oregon Farm Bureau policy.
263	Schellenberg	Says three counties have dissented from policy.
293	Sen. Fisher	Comments on the \$80,000 income test as being too high.
299	Schellenberg	The \$40,000 test for other than high value farmland is fair; the \$80,000 income test is fair for high value farmland. The 160 acre test and the comparability test that the Department of Land Conservation and Development (DLCD) has used is fair.
365	Chair Tarno	Closes work session on SB 1169; opens work session on SB 902.
<u>SB 902</u> <u>WORK</u> <u>SESSION</u>		
380	Hunnicutt	Says there are amendments being drafted, and will be dealt with on the House side.
450	Chair Tarno	Closes work session on SB 902.

		Opens public hearing on HB 3304.
<u>HB 3304 PUBLIC HEARING</u>		
001	Blair Batson	Says 1000 Friends is neutral on HB 3304; discusses temporary dwellings and restrictions. (EXHIBIT D)
032	Hunnicutt	OIA, supports HB 3304.
<u>TAPE 88, B</u>		
040	Rep. Leslie Lewis	District 29, gives background on HB 3304. Supports HB 3304 which allows old dwellings in place for hardship dwelling, the old dwelling can be removed later. (EXHIBIT E)
078	Ron Eber	DLCD supports HB 3304. Medical hardship situations are addressed.
083	Sen. Kintigh	Asks about bill.
099	Sen. Fisher	Asks about requirement to reapply on a regular basis.
106	Rep. Lewis	Says most counties already have a procedure for that, but it is not in state statute. This is meant to be used for a hardship situation.
113	Sen. Fisher	Asks if DEQ makes an inspection every two years; DEQ should determine if still a hardship.
122	Rep. Lewis	Says she was not aware of DEQ's inspection policy.
133	Chair	Closes public hearing on HB 3304, and opens work session on HB 3304.
<u>HB 3304 WORK SESSION</u>		
140	Sen. Kintigh	MOTION: Moves HB 3304-A to the floor with a DO PASS recommendation.
142	Chair Tarno	Asks for any discussion, hearing none, asks for objections.
145	Chair Tarno	Hearing no objection, declares the motion CARRIED. SEN. KINTIGH will lead discussion on the floor.
147	Chair Tarno	Closes work session on HB 3304. Opens work session on SB 902.
<u>SB 902 WORK SESSION</u>		
148	Larry George	OIA, SB 902 amendments discussed.
173	George	Discusses amendments as not adequate to meet all parties agreement at present.
177	Angstrum	Oregon Concrete Aggregate Association (OCAPA); comments on the SB 902 amendments. This organization wishes to continue working on this bill.

188	Angstrum	Says that some work is needed on the amendments. LCDC has amendments; the organization has some language to add.
200	George	Comments on the amendments; still needs some work. Has discussed amendments with Legislative Counsel.
219	Angstrum	Says that the aggregate industry does not accept the least restrictive criteria. OCAPA agrees with concept of the bill, however, needs more work on the amendments, which can be done on the House side.
261	Chair Tarno	Asks about the -1 amendments, and how close to being acceptable they come.
265	Angstrum	Says SB 902 without amendments would be preferable because it needs more work on it.
281	Hunnicutt	Says that is agreeable.
	Sen. Kintigh	MOTION: Moves SB 902 to the floor with a DO PASS recommendation.
		VOTE: 6-0 EXCUSED: 1 - Burdick
	Chair Tarno	Hearing no objection, declares the motion CARRIED. Sen. TARNO will lead discussion on the floor.
302	Chair Tarno	Adjourns meeting at 9:35 AM.

Submitted By, Reviewed By,

Nancy Masee, Mark Volmert,

Administrative Support Administrator

EXHIBIT SUMMARY

A - SB 1169, written testimony, Dave Hunnicutt, 3 pp

B - SB 1169, -1 amendment, staff, 1 p

C - SB 1169, written testimony, Blair Batson, 2 pp

D - HB 3304, written testimony, Blair Batson, 1 p

E - HB 3304, written testimony, Leslie Lewis, 1 p

SENATE COMMITTEE ON WATER AND LAND USE

May 13, 1997 Hearing Room A

5:00 PM Tapes 90 - 92

MEMBERS PRESENT:

Sen. Veral Tarno, Chair

Sen. Bob Kintigh, Vice-Chair

Sen. Ginny Burdick

Sen. Ted Ferrioli

Sen. Bill Fisher

Sen. David Nelson

Sen. Thomas Wilde

STAFF PRESENT:

Mark Volmert, Administrator

Nancy Masee, Administrative Support

MEASURE/ISSUES HEARD:

SB 470 Public Hearing and Work Session

SB 475 Public Hearing and Work Session

SB 619 Public Hearing

SB 1204 Public Hearing

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Tape/#	Speaker	Comments
TAPE 90,A		
004	Chair Tarno	Opens meeting at 5:15 PM, and opens public hearing on SB 1204.
<u>SB 1204</u> <u>PUBLIC</u> <u>HEARING</u>		

010	Peter Mostow	Attorney for City of Springfield, explains City of Springfield's problem of water rights. The city is not asking to use more water or change any use, but wants to move diversion point upstream.
081	Joel Leahy	Attorney for City of Springfield, acknowledges concerns regarding potential eminent domain; City has responsibility for the mill race from Georgia Pacific. In 1987 when the mill race was received, enforcement was taken by the state. First choice is to work at present location. Springfield wants the option to look at other choices. Division of State Lands does not like the current location. (EXHIBIT A)
143	Chair Tarno	Says the concern is a person's property.
161	Leahy	Says there could be an impact on private property. Springfield wants the authority to respond to the directive from the state.
176	Sen. Wilde	Asks if there is a gravel problem now at the mill race.
182	Leahy	Responds this is a recurring problem.
189	Sen. Wilde	Asks if moving upstream would solve the problem.
196	Sen. Fisher	Asks if the new site will require dredging.
200	Leahy	Says it has not been selected yet. The method involved is not known at the present time.
210	Kathy Vinyard	Property owner, discusses impact to their property of diverting the mill race by the city. (EXHIBIT B)
294	Roger Vinyard	Says that moving the point of diversion would only be a temporary fix. Depending on gravity flow, would cause the diversion to be moved upstream again.
319	Vinyard	Says the cost of moving the diversion would be great, and further diversion would be required.
345	Doug DuPriest	Attorney for the Vinyards, says that the intrusion of the diversion would go through the property from one side to the other. There is an existing channel but the city does not have rights to use it. (EXHIBIT C)
363	DuPriest	Says that these are pre-1909 unadjudicated water rights. No one knows what the volume of flow or permitted uses are.
TAPE 91,A		
010	DuPriest	Continues discussion on the pre-1909 rights. Determinations of rights need to be made through adjudication process. Says the legislation is premature.
040	Martha Pagel	Water Resources Department, says the department understands and appreciates the "limbo" of pre-1909 unadjudicated water rights. The department's concern is that the legislature will enact a special provision for any one unadjudicated claimant. The department wants generic provisions to cover others in that situation as well.
052	Pete Test	Oregon Farm Bureau opposes SB 1204. Not all solutions have been pursued. This can be settled outside the legislature.
		Water Watch, says there could be a process worked out with this

062	Geoff Curtis	problem outside of legislative action.
069	Pagel	Says the city does not have access to the existing transfer laws because they are an unadjudicated claim. The department would prefer a generic approach that would deal with all persons in this situation.
077	Chair Tarno	Asks the City of Springfield to work with Water Resources Department. Says this is a major concern. Closes public hearing on SB 1204, opens public hearing on SB 470 and SB 475.
<u>SB 470 AND SB 475 PUBLIC HEARING</u>		
102	Christine Cook	1000 Friends of Oregon, supports SB 470 and SB 475 which address land use procedures. (EXHIBITS D,E)
151	Dave Hunnicutt	Oregonians in Action (OIA), supports SB 470 and SB 475.
200	Cook	Gives an example of a situation in which SB 470 and SB 475 would address the height limitation on a structure in a zoned area.
229	Sen. Wilde	Explains SB 470 <ul style="list-style-type: none"> * prior written notice within 100 feet of structure * 14 day period for written comments prior to decision * notice of appeal rights * applicable criteria None of the above are required at the present time.
256	Sen. Wilde	Says in discretionary decisions SB 475 provides that the public will be heard.
276	Sen. Fisher	Asks if the bills go both ways.
287	Cook	Says that it can occur in both ways.
297	Sen. Fisher	Asks whether municipalities or private industry have been favored in these decisions.
323	Sen. Wilde	Says the majority of decisions are in favor of municipalities.
347	Chair Tarno	Asks if there is anyone else who wishes to testify. Closes public hearing on SB 470 and SB 475, and opens work session on SB 470 and SB 475.
<u>SB 470 AND SB 475 WORK SESSION</u>		
350	Sen. Nelson	MOTION: Moves SB 470 to the floor with a DO PASS recommendation.

		VOTE: 7-0
357	Chair Tarno	Declares the motion CARRIED. SEN. WILDE will lead discussion on the floor.
365	Sen. NELSON:	MOTION: Moves SB 475 be sent to the floor with a DO PASS recommendation.
		VOTE: 7-0
370	Chair Tarno	Declares the motion CARRIED. SEN. WILDE will lead discussion on the floor.
383	Chair Tarno	Closes work session on SB 470 and SB 475; opens public hearing on SB 619.
<u>SB 619</u>		
<u>PUBLIC HEARING</u>		
<u>TAPE 90, B</u>		
020	Mark Volmert	Committee Administrator, gives background on SB 619.
042	Porter Lombard	Jackson County Citizens League, supports SB 619. Uses map to show different classes of soils. (EXHIBIT F)
058	Lombard	Explains map of Jackson County, and says regional planning promotes saving farmland.
069	Lombard	Explains his experience as a consultant to vineyard and wine industry.
072	Carol Doty	Talent, Oregon, supports SB 619. Says expansion will destroy agricultural land in Jackson County. Central Point is expanding into farmland. (EXHIBIT G)
109	Sen. Kintigh	Asks if future developable areas could be expanded into.
115	Lombard	Responds that they could be.
124	Mary Kyle McCurdy	1000 Friends of Oregon, supports SB 619. Says cities need to do a better job of expanding within their boundaries before spreading out more. Shows map of land development patterns in Willamette Valley. Urges to pass SB 619. (EXHIBIT H)
154	Sen. Burdick	Asks if there are any cities that would be prevented from growth under this bill.
159	McCurdy	Says most cities could grow within; some would have to be creative in their growth alternatives.
184	Bob Lindsey	Operates a farm of class one and class two soils north of Salem; supports SB 619 in first part; city of Keizer has problem of taking up class one and class two soils.
227	Sen. Burdick	Asks if up to 20 years is acceptable in his thinking.
236	Lindsey	Says that is workable.
	Gary	

240	Conkling	Genstar, opposes SB 619. (EXHIBIT I)
310	Sen. Kintigh	Says urban reserve land is the first priority.
319	Greg Leo	The Halton Company, opposes SB 619.
321	Wendie Kellington	Attorney, Lane, Powell, et al, The Halton Company, opposes SB 619; says SB 619 has problems. Their concern is with the Stafford area. It is surrounded by exception areas and urban areas. The urban reserve rule authorizes land to be brought into the urban reserve as a first priority if it is considered exception land. The Clackamas County Farm Bureau is concerned with protecting prime farmland such as the Canby area. (EXHIBIT J)
TAPE 91,B		
021	Leo	Says Stafford is surrounded by urban area and exception areas. Explains Metro's process to assess this area as to land use. The Canby area is entirely different and mainly prime farmland.
080	Sen. Burdick	Says the Clackamas County Farm Bureau said it well. Says that class one and class two soils are protected.
093	Kellington	Says soil three or four classes dominate the Stafford area.
123	Leo	Says the Halton Company works with Metro. The process is to bring in the right land for development. Urges SB 619 to be reworked.
140	Kellington	Says Canby land is within urban growth boundary.
168	Steve Deol	Portland, supports SB 619. Favors both sections. Says at present rate of development, importing foods will become necessary.
241	Don Schellenberg	Oregon Farm Bureau, supports SB 619. It provides protection for best farmland.
246	Bob Rindy	Department of Land Conservation and Development (DLCD), opposes SB 619. Says we should retain current law. Where good farmland is surrounded by poor land, the local jurisdiction should decide development. Secondly, there are a number of jurisdictions that would like to halt growth. Removal of 20 year provisions would cause surrounding cities to pick up growth. (EXHIBIT K)
290	Sen. Kintigh	Asks if every city should be allowed to grow.
293	Bob Rindy	Says the department believes every city should accept their fair share of growth.
304	Sen. Wilde	Asks about how the department would interpret certain parts of SB 619.
335	Bob Rindy	Says the terms need to be worked on in SB 619. The department does not want this bill moved. The current system is workable.
347	Sen. Burdick	Asks about the small islands of land of class one and class two soils.
358	Bob Rindy	Says that administrative rules could deal with those.
375	Burton Weast	Special Districts Association, opposes SB 619. Says the 20 year plan is needed. Five or 10 year planning will increase services and costs. Building facilities in small increments will be much more expensive.

TAPE 92, A		
007	Weast	Continues on certain areas not to receive growth.
025	Chair Tarno	For the record, Fred VanNatta representing the Oregon Building Industry and Oregon Association of Realtors, wishes to state that these organizations oppose SB 619. Mr. VanNatta had to leave for another meeting and could not wait any longer to testify.
025	Sen. Burdick	Asks that two letters be included in the record * Sen. Cliff Trow in support of SB 619 (EXHIBIT L) * Rep. Liz Vanleeuwen in support of SB 619 (EXHIBIT M)
027	Chair Tarno	Adjourns meeting at 7:07 PM.

Submitted By, Reviewed By,

Nancy Masee, Mark Volmert,

Administrative Support Administrator

EXHIBIT SUMMARY

A - SB 1204, written testimony, Michael Kelly, 7 pp

B - SB 1204, written testimony, Kathy Vinyard, 2 pp

C - SB 1204, written testimony, Douglas DuPriest, 3 pp

D - SB 470, written testimony, Christine Cook, 2 pp

E - SB 475, written testimony, Christine Cook, 1 p

F - SB 619, written testimony, Porter Lombard, 1 p

G - SB 619, written testimony, Carol Doty, 1 p

H - SB 619, written testimony, Mary McCurdy, 2 pp

I - SB 619, written testimony, Gary Conkling, 2 pp

J - SB 619, written testimony, Wendie Kellington, 5 pp

K - SB 619, written testimony, Richard Benner, 1 p

L - SB 619, letter from Sen. Cliff Trow, 1 p

M - SB 619, letter from Rep. Liz Vanleeuwen, 1 p