

SENATE COMMITTEE ON  
WATER & LAND USE

May 25, 1995      Hearing Room C  
2:00 P.M.          Tapes 154 - 157

MEMBERS PRESENT:

Sen. Rod Johnson, Chair  
Sen. Bob Kintigh, Vice-Chair  
Sen. Ron Cease  
Sen. Bill Dwyer  
Sen. Marilyn Shannon

STAFF PRESENT:

Karen Quigley, Committee Counsel  
Gina Rumbaugh, Committee Assistant

MEASURES HEARD:

HB 2697 Reconsideration and Work Session HB 2963 Reconsideration and Work  
Session HB 2889 Reconsideration and Work Session HB 3225 Reconsideration  
and Work Session HB 2754 Reconsideration and Work Session HB 3091 Work  
Session

HB 3065 Public Hearing and Work Session

HB 2136 Public Hearing and Work Session  
HB 2214 Public Hearing and Work Session  
HB 3348 Work Session

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statements made during this session. Only text enclosed in quotation marks  
reports a speaker's exact words. For complete contents of the proceedings,  
please refer to the tapes.

TAPE 154, SIDE  
A

004 CHAIR JOHNSON: Calls the hearing to order (2:06 P.M.)

RECONSIDERATION AND WORK SESSION ON HB 2697

015      MOTION: CHAIR JOHNSON moves to reconsider the vote by which HB 2697  
was sent to the floor with a do pass recommendation

VOTE: Hearing no objections. the motion CARRIES.

CHAIR JOHNSON: Explains that the committee made an amendment to this bill

regarding

attorneys fees and it has been deemed my Legislative Counsel to have been

a mistake to do

so because the primary attorneys fees are dealt with in the Administrative

Procedures Act.

SENATE WATER & LAND USE

May 25, 1995 - 1, page 2 MOTION: CHAIR JOHNSON moves to remove amendments  
added to HB 2697

VOTE: Hearing no objections, the motion CARRIES.

MOTION: CHAIR JOHNSON moves HB 2697-A to the floor with a DO PASS  
RECOMMENDATION

VOTE: In a roll call vote, SENS. DWYER, JOHNSON, AND SHANNON VOTE AYE;  
SENS. CEASE AND KINTIGH EXCUSED; THE MOTION CARRIES.

SEN. KINTIGH will lead discussion on the Floor.

WORK SESSION ON HB 2963 B-Eng.

045      CHAIR JOHNSON: This bill was sent back to the committee from the Floor,  
in essence by  
mistake.

SEN. JOAN DUKES, SENATE DISTRICT 1: Confirms she and others on the Floor  
did not

notice that Section 13 is indeed included in the bill

MOTION: CHAIR JOHNSON moves to send HB 2963-B back to the floor with a DO PASS RECOMMENDATION.

VOTE: In a roll call vote, SENS. DWYER, JOHNSON, AND SHANNON

VOTE AYE. SENS. CEASE AND KINTIGH ARE EXCUSED

CHAIR JOHNSON: Declares the motion PASSED.

SEN. KINTIGH will lead discussion on the Floor

WORK SESSION ON HB 2889

115 CHAIR JOHNSON: Advises the committee the HB 2889-9 amendments (EXHIBIT A) are conflict amendments and that he has been informed by counsel that even this LC amendment is

is somewhat flawed in that we need to recognize that there's a huge bill, SB 674, that has some application to the subject matter of this bill and Legislative Counsel has asked us to adopt these

these amendments in concept because they have a slight adjustment that still needs to be made to

reflect the conflicts correctly.

MOTION: CHAIR JOHNSON moves to adopt HB 2889-9 amendments in

concept with direction to legislative counsel to make whatever amendments

are

necessary to make sure that the conflicts between this bill and SB 674 are corrected.

VOTE: In a roll call vote, SENS. JOHNSON, KINTIGH, AND SHANNON

VOTE AYE; SENS. CEASE AND DWYER VOTE NO; THE MOTION

CARRIES ...

. . . .  
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SENA'RE WATER & LAND USE

May 25, 1995 - Page 3

CHAIR JOHNSON will lead discussion on the Floor.

WORK SESSION ON 3225 A-ENG.

150 CHAIR JOHNSON: Opens a work session for the purpose of adopting conflict amendments.

175 -Has been informed by Committee Counsel that there some amendments made by the committee last Thursday are not necessarily reflected in these amendments correctly, but that the amendments on lines 8-11 on page 3 of the -AS amendments regarding conflicts are correct.

185 JEANNETTE HOLMAN, LEGISLATIVE COUNSEL: Explains Legislative Counsel is in the process of drafting new conflict amendments, that the committee amended the bill after Legislative Counsel received the report. Therefore, the last set of amendments are not reflected in the HB 3225-AS (EXHIBIT I ). The language in bold face on page 2 will be removed, and the language adopted by the committee about "incidental and related to" will be made in the new conflict amendments. Section 3 will be eliminated completely because subsequent amendments have eliminated that conflict

209 CHAIR JOHNSON: Briefly reviews amendments that had been made to the

bill; reviews

changes that are yet to be made in the new draft of conflict amendments.  
HOLMAN: Confirms that basically what Chair Johnson just stated is what the

new conflict

amendments will do.

225 MOTION: CHAIR JOHNSON moves to amend the HB 3225-A5 amendments  
by removing the bolded language in lines 23 and 24 on page 2.

VOTE: Hearing no objections, the motion CARRIES.

MOTION: CHAIR JOHNSON moves to adopt the amendments to section (7) on  
page 3, in line 5, after "for" insert "incidental" and in the same line

after "uses"

delete "that are incidental" and insert related"

238 VOTE: Hearing no objections, the motion CARRIES.

MOTION: CHAIR JOHNSON moves to instruct Legislative Counsel to amend the  
conflict amendments that are in -AS amendments to have them up to date and  
current when this bill gets to the floor.

243 VOTE: Hearing no objection, the motion CARRIES.

MOTION: SEN. SHANNON moves HB 3225-A, as amended, be sent to the floor with  
a DO PASS RECOMMENDATION.

VOTE: All members are present and vote aye.

245 CHAIR JOHNSON: Declares the motion PASSED.

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SENATE WA'I'ER & LAND USE

May 25, 1995 - I'age 4 SEN. KINTIGH will lead discussion on the Floor.

CHAIR JOHNSON: Closes work session on HB 3225 A-Eng. and opens the work  
session on HB 2754.

NVORK SESSION ON HB 2754 A. Eng.

260 MOTION: CHAIR JOHNSON moves to reconsider the vote by which HB 2754  
A-Eng. was sent to the Floor.

VOTE: Hearing no objection, the motion CARRIES.

263 CHAIR JOHNSON: Calls members attention to the HB 2754-A4 amendments  
(EXHIBIT C)

and advises the language needs to be updated.

MOTION: CHAIR JOHNSON moves to instruct Legislative Counsel to update  
lines 9 through 12 with conflict language.

285 SUE MANNA, LEGISLATIVE COUNSEL: Explains that lines 8 through 24 ot page  
1 ot

left is lines I  
the HB 2754-A4 amendments and page 2 should be deleted. All you will have

through 7 on the first page, which is correct.

295 MOTION: CHAIR JOHNSON moves to delete lines 8 through the end of page I  
and all of page 2 of the HB 2, ~4-A4 amendments.

VOTE: Hearing no objections, the motion CARRIES.

309 MOTION: CHAIR JOHNSON moves that the HB 2754-A4 amendments, as  
amended, BE ADOPTED.

VOTE: Hearing no objections, the motion CARRIES.

314 MOTION: SEN. KINTIGH moves HB 2754 A-Eng., as amended, be sent to the  
Floor with a DO PASS recommendation.

between HB 2754  
CHAIR JOHNSON: In response to Sen. Cease, addresses the relationship

A-Eng. and SB 674.

360 VOTE: In a roll call vote, SENS. JOHNSON, KINTIGH, AND SHANNON  
vote aye. SENS. CEASE AND DWYER VOTE NO.

CHAIR JOHNSON: Declares the motion PASSED

CHAIR JOHNSON will lead discussion on the Floor.

382 CHAIR JOHNSON: Closes the work session on HB 2754 A-Eng. and opens the work session on HB 3091.

NVORK SESSION ON HB 3091 ...

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SENATE WATER & LAND USE  
May 25, 1995 - Page 5

403 ELIZABETH FLORID, OREGON WATER COALITION: Presents the HB 3091-3 amendments (EXHIBIT D).  
-Majority of amendments are conflict amendments with SB 674.  
--Explains/reviews substance of the amendments. Offers another definition of substantial interference because the Water Resource Department expressed concerns in last work session;;  
gives reason.  
SEN. DWYER: Expresses concerned about the word "direct" because the question is who the burden should be on. I think that the presumption within a certain area is that there is a connection and "existing" because the ground moves/shifts all the time.

TAPE 155, SIDE A

030 SEN. CEASE: Explains the intent is clear, and that is to make the Department prove that there is a direct connection as demonstrated by generally accepted and verifiable hydrological scientific methods, which in many cases may not be. Believes there's a burden of proof put here that can be very difficult to prove in many cases. Gives notice that he will vote no.

CHAIR JOHNSON: Comments there will be times when you won't readily know the connections. The question is whether the Department should be able to say no without any evidence, or whether they should be required to have some. Understands this bill starts to direct us toward having decisions based on facts instead of having hypothetical decisions.

FLORID: Briefly explains what they want to happen with this bill.

055 SEN. DWYER: Comments he would like to delete the word "direct".

FLORID: Offers recommendation that the word distinct might be better.

SEN. DWYER: Questions how the word "distinct" is different from "direct".

CHAIR JOHNSON: Suggests the word identifiable".

SEN. DWYER: Comments "identifiable" would be acceptable.

JERRY SCHMIDT, OREGON GROUNDWATER ASSOCIATION: Explains that as hydrogeologists use the word "direct" it establishes a criteria; in other words, it's something other than indirect.

090 SEN. DWYER: It is saying it is a reduction of surface water. I say what difference does it make how you describe it if what we do reduces the flow of these surface waters. I'm speaking specifically of flows in scenic waterways, in or above, which is the whole essence of this bill. We're talking about a measurable reduction--what do we care if it's direct or indirect. If there's a measurable reduction, then the presumption is there is an interference.

SCHMIDT: What is the quantifiable term here? The use of these adjectives was trying to get at some type of line.

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SENATE WATER & LAND USE

May 25, 1995 - Page 6

FLORID: We wanted distinct or direct in there because if you just say a hydraulic connection, we're afraid this is going to mean a no impact.

CHAIR JOHNSON: Summarizes what he believes Ms. Florio wants in the bill. Decides to take out the words existing and direct and rely on the word measurable.

155 MOTION CHAIR JOHNSON moves to amend the HB 3091-3 amendments on page 1, in line 8, delete "an existing direct" and insert "a".  
VOTE: Hearing no objections, the motion CARRIES.  
CHAIR JOHNSON: Advises the committee that the HB 3091-1 amendments previously adopted need to be remove from the bill.  
MOTION: SEN. KINTIGH moves that lines 6 through 14 of the HB 3091-1 amendments (previously adopted) BE DELETED.  
170 VOTE: Hearing no objections, the motion carries  
172 MOTION: SEN. KINTIGH moves that the HB 3091-3 amendments, as amended, BE ADOPTED.  
VOTE: Hearing no objections, the motion CARRIES.  
178 MOTION: SEN. KINTIGH moves that HB 3091, as amended, be sent to the Floor with a DO PASS RECOM\LENDATION.  
VOTE: In a roll call vote, SENS. DWYER, KINTIGH AND JOHNSON VOTE AYE. SEN. CEASE VOTES NO. SEN. SHANNON IS EXCUSED.  
188 CHAIR JOHNSON: Notes for the record that Sen. Dwyer gave a courtesy vote, and that he may choose to vote no on the Floor.

PUBLIC HEARING ON HB 3065

Witnesses: Jon Chandler, Home Builders Association of Metropolitan Portland  
Kelly Ross, Oregon Association of Realtors Mary Kyle McCurdy, 1000 Friends of Oregon Art Schlack, Land Use Specialist, Association of Oregon Counties  
Phillip Felt' League of Oregon Cities Ed Sullivan, Attorney, Portland OR

200 JON CHANDLER, HOME BUILDERS ASSOC. OF METROPOLITAN PORTLAND: Supports HB 3065. Submits and summarizes testimony (EXHIBIT E) which walks through the amendments contained in the A-engrossed version of the bill. Explains the HB 3065-12 amendments (EXHIBIT F) for the most part are conforming, but do have some additional substantive information.

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SENATE WATER & LAND USE

May 25, 1995 - Page 7

216 SEN. CEASE: Asks who is proposing the -11 amendments (EXHIBIT G).

CHANDLER: Responds that the HB 3065-All amendments are being proposed by Mr. Ross for the Realtors.

CHAIR JOHNSON: I'd like you to give us an idea of what the A-engrossed bill is, and then tell what amendments we're being asked to make to it and what those do.

225 CHANDLER: Presents his testimony (EXHIBIT E).  
265 CHANDLER: Continues his presentation.  
325 SEN. CEASE: Asks who is supporting the current version of the bill.  
CHANDLER: The Department, Home Builders Association of Metropolitan Portland and the

Realtors; 1,000 Friends will be testifying because they have two areas of concern with the bill;

Mr. Sullivan has some areas of concern. Several legislators on the House side have concerns

about the expedited land division process.

435 -Explains the HB 3065-A12 amendments

TAPE 154, SIDE B

035 CHANDLER: Continues his testimony (EXHIBIT E, Page 3).

100 KELLY ROSS, OREGON ASSOCIATION OF REALTORS: Supports HB 3065, and the - A12 amendments with one exception--opposes changes proposed on the hill on lines 18, 21,23

of page 1 changing the fee structure--it feels it would put the fee too low and is inconsistent with

other bills passed by this committee. OAR's position would be to maintain it the way it passed

the House.

115 -Explains the -All amendments (EXHIBIT G)

140 MARY KYLE McCORDY, 1000 FRIENDS OF OREGON: Have been part of the group working on the bill since last Fall, and many of our concerns raised on the House side have

several been addressed by Mr. Chandler. This bill is an improvement, but we do have

residential development- concerns. The bill creates an expedited land use process for certain

to good we believe the reward of expedited land use proceeding should be given only

added that one of the development, and that can be defined in the bill. A provision should be

should be that a grounds for a hearing before a referee or an appeal to the Court of Appeals

violates someone's procedural error made by the local government in its notice provisions

substantive rights.

175 -Opposes -11 amendments and explains why--this is a last minute addition that deals with an

lands--the lot of record issue outside the scope of the bill--it deals with dwellings on resource

land prior to an provision was meant to address the alleged unfairness to those who bought

and then found acknowledged comprehensive plan and thought they could build a dwelling,

speculation; they were in a resource zone; this amendment would simply reward housing

thinks the -12 amendments are an improvement.

185 SEN. DWYER: In reference to your last statement, under current law, if I had a piece of

at't'ord to build and sold, ,~ property that was buildable, I could build it myself, but if I couldn't

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SENATE WATER & LAND USE

May 25, 1995 - Page X

the property, the right to build doesn't transfer with the property. Give me a reason why it shouldn't.

MCCORDY: That's correct. The philosophy and policy behind HB 3661 was to address the inequity and unfairness to those who had purchased property with an understanding that they could develop it. We think that this provision in the -11 amendment will open up a number of dwellings in the countryside that are not addressing that policy.

SEN. DWYER: Is it conceivable under current law that I could have a piece of property, can afford to build, can't sell it because if I do I lose the right to build, that I could build to suit'? Could I build the house for someone else and then transfer title under current law?

McCORDY:: I don't know.

SEN. DWYER: I suspect that you could do it under current law. I understand your concerns. Here's my philosophy--expectations. If someone bought something and paid the market price that's reflected, then the expectations, that I don't want to diminish, is the authority to build; it's unfair.

McCORDY: You could still transfer the property; the subsequent owner would not be able to build a house under the lot of record provision.

SEN. KINTIGH: I don't see any difference if you let party A build a house or party B.

SEN. DWYER: We're diminishing their value by saying that you can't afford to build, and if you sell it, you can't get the market price that's reflected in what you paid, because the person that's buying it can't have the same expectations that you have, you're depriving them of value. Is that correct?

McCORDY:: I understand your point of view--it's not one that we share.

260 ART SCHLACK, LAND USE SPECIALIST, ASSOCIATION OF OREGON  
COUNTIES: Support -A12 amendments with the exception of the proposed  
amendments on line 18 and line 22 of page I and explains why; they have to do with  
decreasing the appeals fee. Supports -1 1 amendments.  
320 PHILLIP FELT, LEAGUE OF OREGON CITIES: Supports lan`'uave in lhles 18  
and 22. Opposes -All amendments. In the A-engrossed version of bill, on paUc 7,  
lines 26-28, the language should be more refined; urge committee to delete that language;  
because LOC believes it substitute's LUBA's judgment for the local government's  
judgment.  
390 EDWARD SULLIVAN, ATTORNEY, PORTLAND, OR: Test)ifies in opposition to HB  
3065 A-Engrossed. Submits and summarizes testimony (EXHIBIT H).

TAPE 155, SIDE B

035 SULLIVAN: Continues testimony (page 3).

079 CHAIR JOHNSON: How many of these points were raised by you on the House side? .

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SENATE WATER & LAND USE  
May 2a, 1995 - Page 9

SULLIVAN: I raised a number of these same points and more, and some were taken care of.

081 CHAIR JOHNSON: How many of the points you've raised here are directed at the proposed amendments'?

SULLIVAN: One that is fairly technical--for the provision proposed to be added to Section 4 it should be put into ORS 197.835 (16).  
--On page 1 of the HB 3065-12 amendments, lines 8-10 should be added to ORS 197.835 and

not amend ORS 197.829.

096 CHAIR JOHNSON: Asks if Mr. Chandler has a response to Mr. Sullivan's suggestion.

124 CHANDLER: The language on line 23 and 23 of the A-Engrossed bill is duplicative of the language on page 8, lines 36 and 37 and should be deleted, and insert language t'rom lines 8-10 on page 1 of the HB 3065-A12 amendments. Also on page I of the HB 3065-A 12 amendments, the "(3)" should be changed to -(16)".

146 CHAIR JOHNSON: Mr. Sullivan, is it air to say that some ot'the things you re suggesting are policy decisions that were dealt with in the House!  
SULLIVAN: Yes, some of them, and some of them were technical.

WORK SESSION ON HB 3065-A Eng.

150 CHAIR JOHNSON: I understand there probably was in my absence a few other technical things raised in testimony. Is there any need on the part of the proponents ot'the bill to clarit'y any response to those points'?

158 CHANDLER: 1,000 Friends raised the issue ot' procedural det'ect being grounds tor an appeal. Mr. Sullivan's testimony may have some language that may be worth adding into the bill. Language submitted by Mr. Sullivan on page 4 of his testimony (D) would be an appropriate addition. The amendment would occur on page 12 of the bill between lines 15 and 16. Responds his groups is strongly opposed to the suggestion by the Cities that the language found in the bill on page 7 be deleted. Explains why it's necessary.

219 CHAIR JOHNSON: Do you agree with the -All amendments ot't'ered by the Realtors'?

CHANDLER: Those are acceptable.

CHAIR JOHNSON: I understand there was some testimony in my absence regarding the amounts on your amendments, page 1, lines 18 and 22. Do you have any t'ollow-up'?

226 CHANDLER: Those changes were made as a result of comments and questions raised on the House Floor by a number of representatives that t'elt \$500 and \$900 were too high. I agreed to the amendments based on those comments and those made by 1,000 Friends. That portion ot' the bill was a working group product, and the group used the \$500 and \$900 ti ,ures.

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SENATE WATER & LAND USE  
May 25, 1995 - Pztge 11}

CHAIR JOHNSON: Do you have any reason to believe that if we amend this bill with \$500 and \$900, it will not be concurred with or will garner a veto?

242 CHANDLER: No, I don't believe they'd draw a veto. I assured several House members and 1,000 Friends that we'd propose those amendments. For the record, we are tine with the amended language.

250 MOTION: SEN. KINTIGH moves to adopt the HB 3065-A 11 amendments.

VOTE: Hearing no objection, the amendments ARE ADOPTED.



MOTION: CHAIR JOHNSON moves that on page 1 of the HB 3065-A-12 amendments, in line 7, change the "7" to number" 9", and further on line 7, change '28" to -21" and on page 1, line 8, change the (3) to (16).

272 SEN. DWYER: Suggests on page 12, that "\$500" be deleted and "\$300" be  
h~scrtd.  
279 MOTION: CHAIR JOHNSON moves that on page 12, '\$500" be deleted and  
"\$300" be inserted.  
281 VOTE: Hearing no objection, the motion CARRIES.  
282 MOTION: SEN. DWYER moves that in line 22, "\$900" be deleted and "\$500"  
be inserted.  
284 VOTE: Hearing no objection, the motion CARRIES.  
300 MOTION: Chair Johnson moves that on page 12 of the bill, after line 15,  
insert the following sentence which is found on page 4 of the written  
testimony of  
Ed Sullivan; the sentence would be -(D) That the parties substantial rights  
have  
been substantially prejudiced by an error in procedure by the local  
:,overnment.~.  
303 VOTE: Hearing no objection, the motion CARRIES.  
305 MOTION: SEN. KINTIGH moves that the HB 3065-A12 amendments, as  
amended, BE ADOPTED.  
VOTE: Hearing no objections, the motion CARRIES.  
314 MOTION: CHAIR JOHNSON moves that HB 3065 A-Engrossed, as amended,  
be sent to the Floor with a DO PASS RECOMMENDATION.  
315 VOTE: In a roll call vote, SENS. DWYER, JOHNSON, KINTIGII AND  
SHANNON VOTE AYE. SEN. CEASE VOTES NO.  
319 CHAIR JOHNSON: Declares the motion CARRIED.

SEN. CEASE notes he will vote no at this time, but may change his mind  
before it gets to the  
Floor. ,

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SENA'IE WATER & LAND USE  
May 25, 1995 - Page 11

331 SEN. SHANNON will lead discussion on the Floor.

PUBLIC HEARING ON HB 2136 A-Eng.

Witnesses: Rick Hill, Asst. Administrator, Juvenile Corrections Keith  
Bartholomew, 1000 Friends of Oregon

368 RICK HILL, ASST. ADMINISTRATOR, JUVENILE CORRECTIONS: Supports HB  
2136 A-Eng. Gives explanation of what the bill does.  
384 CHAIR JOHNSON: Does the governor support this bill?  
HILL: Yes.  
392 CHAIR JOHNSON: What are the sat'eguards tor siting juvenile t'acilities  
near residential  
areas ?  
HILL: Not exactly sure if there are specific safeguards for that. Our  
experience thus far is  
that we have seven communities that are already asking for us to come down  
and site our  
facilities in those locations; we're talking about five facilities; lists  
communities that have  
invited them out for tours. Although we have a warm welcome from these  
communities'  
governments, we haven't had public hearings yet; we still need this bill to  
get where we need  
to get in the times frames that we're up against with Measure 11. We could  
not move  
forward  
with Measure 11 without this bill.

430 KEITH BARTHOLOMEW, 1000 FRIENDS OF OREGON: Opposes HB 2136 A-Eng  
Gives brief background of correction sitings in late 1980's legislation.  
Concerned that he's  
nor  
sure the bill is necessary, particularly when seven communities already  
want the sites.  
Second  
reason t'or opposing the bill is that we are concerned about the removal  
ot' focal control; also  
concerned about setting up a pret'erence system that allows that state to  
exempt itself from  
the  
land use planning controls that regular citizens have to labor with.

TAPE 156, SIDE A

WORK SESSION ON HB 2136 AEng.

040 MOTION: CHAIR JOHNSON moves that HB 2136 A-Eng. be sent to the Fluor  
with a DO PASS RECOMMENDATION.  
044 VOTE: In a roll call vote, SENS. DWYER, KINTIGH AND JOHNSON  
VOTE AYE. SENS. CEASE AND SHANNON ARE EXCUSED.  
SEN. KINTIGH will lead discussion on the Floor.  
050 CHAIR JOHNSON: Declares the meeting in recess.  
051 CHAIR JOHNSON: Reconvenes the meeting.

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SENA I E W4'l'EK & LANI) USE  
May 25, 1995 - Page 12

PUBLIC HEARING ON HB 2214 A-Eng.

Witnesses:

Jeff Van Walkenburg, Department of  
Justice  
Sally Anderson, Department of  
Corrections

050 JEFF VAN WALKENBURG, DEPARTMENT OF JUSTICE: Ret'erences -A3 ~mendment  
(EXHIBIT I). This essential is the adult corrections supersiting bill

065 SALLY ANDERSON, DEPARTMENT OF CORRECTIONS: Here to answer any  
questions about this bill which pretty much mirrors the juvenile bill.  
071 CHAIR JOHNSON: Is there any language in this bill that could be  
identified as protecting  
residential sites t'rom these kinds of facilities'?  
ANDERSON: The Department last time developed technical and desirable  
criteria; where we  
sited our t'acilities was primarily in industrial areas; neigHB ors are  
primarily farmers.

SEN. KINTIGH: Are these maximum or medium security ~

093 ANDERSON: These would be a combination ot' medium and minimum security  
beds.  
Perhaps in the future we'd need to look at some additional maximum beds.

WORK SESSION ON HB 2214

090 MOTION: CHAIR JOHNSON moves that the HB 2214-A3 amendments BE  
ADOPTED.  
VOTE: Hearing no objection, the motion CARRIES.  
097 MOTION: SEN. KINTIGH moves that HB 2214 A-Eng. as amended, be sent n'  
the Floor with a DO PASS RECOMMENDATION.

100 VOTE: In a roll call vote, all members present vote AYE. SEN. CEASE IS  
EXCUSED.  
101 CHAIR JOHNSON: Declares the motion PASSED.

CHAIR JOHNSON will lead discussion on the Floor.

WORK SESSION ON HB 3348 A-Eng.

Witnesses:

Gary Conkling, Developers of Rim Rock  
Resort  
Bill Gary, Attorney  
Don Schellenberg, Oregon Farm Bureau

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SENA 11 WA'IT & LANI) USI  
May 25, 1995 - Page 13

100 CHAIR JOHNSON: For the record, announces that the committee has received  
written

testimony from Margaret Forsythe (ENBIT J).

114 GARY CONKLING, REPRESENTING DEVELOPERS OF RIM ROCK RESORT:

Proposes the HB 3348-A5 amendments (EXHIBIT K) and briefly tells what they  
do.

Confirms it is a complete gut and stuff out the bill. Lists three things  
the amendment does-

preserves the existing prohibition against siting a destination resort  
within three miles of a high

value crop area, clarifies a definition of a high value crop area, and  
gives county commission

discretion in applying that three mile limit.

150 -Second thing amendment would do is allow a destination resort on a site  
containing 50 or

more continuous acres of high quality farmland, but only if those  
farmlands within the

destination resort are preserved for uses permitted in an agricultural  
zone.

-Third thing is to permit a county to amend its destination resort map  
simultaneously as it

reviews an application for a destination resort.

-As amended, this does not provide for supersiting of resorts

175 -One additional change came about because of LC's review of the  
bill--page 3, line 19, after

the word "predominately", insert any combination of"

180 SEN. KINTIGH: On this 50 acres. could that mean a 50 acres potato field  
could be

surrounded by a golf course'?

CONKLING: Supposes that is possible; the real impact of language is to  
prevent a

destination resort from locating in prime farmland areas. It probably  
eliminates virtually the  
entire Willamette Valley.

SEN. DWYER: The questions you asked about policy decisions regarding the  
last bill on the

House side, what decisions were discussed? Now, this is a gut and stuff.  
Why are we doing

this on this side as opposed to doing it over there'?

210 CONKLING: HB 3348 in its original form had opposition from a variety of  
quarters; we

negotiated with Association of Oregon Counties (AOC), farming interests,  
and others, and

arrived at a compromise which was the House-passed version of HB 3348.

There have been

continuing concerns expressed by the Department of Land Conservation and

Development

more strongly than on the House side. E: pl~lins the reasons t'or the further negotiations which have the character of making this bill more narrow and more targeted. It is less aggressive in dealing with appeals and giving more discretion. These are modest changes to the Goal 8 process relating to destination resorts. The t'ocus of the bill has been narrowed substantially.

244 SEN. DWYER: You don't think what we're doing will find opposition on concurrence'?

CONKLING: I've done my best to talk with members who voiced strong support in the

House; indication I have is they are comfortable with these changes.

257 SEN. DWYER: There are lots of areas that are in CRP; this may preclude some ot' those areas.

280 SEN. SHANNON: I saw the aerial photo of this area; concerned about so many grass seed farmers; burning and smoke. What about people who move into these homes, and their kids

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SENATE WAIVER & ANTI USE

May 25, 1995 - Page 14

have asthma, and they want this burning stopped'? Will the grass seed farmers be able to continue to burn'?

CONKLING: Effective existing strong right-to-farm provisions will protect legitimate farming interests.

SEN. SHANNON: My concern is that the people know that their resort has been put near farming land and the farmers were there first.

CONKLING: To some degree, that is the rationale for the three mile limit in the first place.

330 SEN. DWYER: What is the value of \$1,000 today in 1984 terms.

CONKLING: The reason for that particular reference was my understanding that this provision was put into law in 1984; presumably that is the reference point the law had in mind because that is when it was adopted. Sorry I can't compute it for you today.

SEN. DWYER: Why do we want to make it less than current dollars'?

SEN. KINTIGH: It has decreased the purchasing value.

373 CHAIR JOHNSON: Comments that \$1,000 in 1984 would buy more than it would today.

SEN. KINTIGH: Agrees with Sen. Dwyer that it should be current dollars.

420 BILL GARY, ATTORNEY, REPRESENTING PROPONENTS OF THE BILL:  
Comments the bill includes reference to 1984 dollars because they wanted to make the test static and have it grow with inflation. It would require more 1995 dollars to equal 1984 dollars--and that is what the intent was.

455 CHAIR JOHNSON: Reads proposed amendment to the HB 3348-A5 amendments on page 1, lines 11 - 13 (EXHIBIT K).

worked out  
CONKLING: Confirms the amendment read by Chair Johnson is the language  
this morning with the representative of the Oregon Farm Bureau.  
463 CHAIR JOHNSON: Cites another amendment to the HB 3348-A5 amendments on  
page 3 in  
line 26: delete "geographical or other factors" and insert "or other  
natural barriers".

TAPE 157, SIDE A

007 SEN. DWYER: Comments he cannot understand why the farm bureau would  
want to go against their own interest.

015 DON SCHELLENBERG, OREGON FARM BUREAU: Advises the committee it was his  
understanding that this amendment was 10% away from the actual dollars  
and going to  
the

capability test.  
019 SEN. DWYER: Comments this is using the other way.

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SENA'IE WATER & LANI) USE  
May 25, 199~ - Page 15

SCHELLENBERG: Comments that is a concern and wanted to raise that question.

CHAIR JOHNSON: Comments the amendment was said to have been worked out with  
Bill Perry. The amendment takes out "capable of producing" (EXHIBIT K).

GARY: This was the language after some give and take that was settled on.

031 SEN. KINTIGH: Suggest using "actual" instead of "capable of" because it  
is something  
concrete.

037 SEN. DWYER: Gives example of a farmer who may or may not want to produce  
but the

soils are there and are capable of producing.  
CHAIR JOHNSON: We're not doing a normal land use kind of thing. This is a  
specific  
thing where you have a particular use, a destination resort, that is asking  
to be located in a  
specific spot. There may be good term land nearby but it has not been  
farmed and there is no  
one nearby that will be affected financially by the location of the  
destination resort. That is  
different than leaving producing farms nearby.

055 SCHELLENBERG: States it is not the OFB's point to try to stop the  
destination resort just  
because there is high value farmland there that's not being farmed;  
normally, we go with the  
capability test because the actual income is pretty private stuff to a lot  
of people and there are  
different management levels. We generally try to stay aware from actual  
dollars, and use a  
capability test where the land is being farmed'; that would be our intent  
here. Says he was not  
part of the discussion.

GARY: The problem with capability test here is its designed to protect  
against existing term  
uses and you run into immediate problem with the current definition, and  
that is the  
hypothetical situation. Our intent is to get away from the hypothetical  
and into the specifics.

085 MOTION: CHAIR JOHNSON moves that on page 1 of the HB 3348-A5  
amendments (EXHIBIT K), delete the phrase three or more; after farms  
insert the phrase ~ at least three of which have" and at the end of line 11

delete

"each of 7 and on line 12 delete -which has'.  
VOTE: Hearing no objections, the motion CARRIES.  
MOTION: CHAIR JOHNSON moves that on page 3 of the HB 3348-AS  
amendments (EXHIBIT K) in line 19. after the word "predominately" insert  
"any combination of".

093 VOTE: Hearing no objections, the motion CARRIES.

094 MOTION: CHAIR JOHNSON moves that on page 3 of the HB 3348-AS  
amendments (EXHIBIT K), in line 26, delete 'geographical or other factors

and

insert "or other natural barriers".

VOTE: Hearing no objections, the motion CARRIES. ...

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refer to the tapes.

SENATE WATER ~ LAND USE

May 25, 1995 - Page 16

096 MOTION: CHAIR JOHNSON moves that the HB 3348-A5 amendments as  
amended. BE ADOPTED.

VOTE: Hearing no objections, the motion CARRIES.

098 MOTION: CHAIR JOHNSON moves that HB 3348 A-Eng., as amended, be  
sent to the Floor with a DO PASS RECOMMENDATION.

100 VOTE: In a roll call vote, SENS. JOHNSON, KINTIGH, AND SHANNON  
VOTE AYE. SENS. CEASE AND DWYER VOTE NO.

102 CHAIR JOHNSON: Declares the motion CARRIES.

SEN. SMITH will lead discussion on the  
Floor

105 CHAIR JOHNSON: Adjourns the meeting.

#### EXHIBIT SUMMARY:

A - HB 2889, HB 2889-A9 amendments, staff, 4 pp  
B - HB 3225, HB 3225-A5 amendments, staff, 4 pp  
C - HB 2754, HB 2754-A4 amendments, staff, 2 pp  
D - HB 3091, HB 3091-3 amendments, E. Florio, 3 pp  
E - HB 3065, prepared statement, 3 pp  
F - HB 3065, HB 3065-A12 amendments, J. Chandler, 18

pp

G - HB 3065, HB 3065-All amendments, K. Ross, 4 pp  
H - HB 3065, prepared statement, E. Sullivan, 5 pp  
I - HB 2214, HB 2214-3 amendments,

VanWalkenburg, 1 p

J - HB 3348, prepared statement, M. Forsythe, 1 p

K - HB 3348, HB 3348-AS amendments, 4 pp

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