

SENATE COMMITTEE ON  
WATER & LAND USE

February 2, 1995                      Hearing Room B  
1:00 P.M.                      Tapes 22 - 23

MEMBERS PRESENT:

Sen. Rod Johnson, Chair  
Sen. Neil Bryant                      ;  
Sen. Ron Cease j  
Sen. Bill Dwyer  
Sen Bob Kintigh  
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STAFF PRESENT:

Karen Quigley, Committee Counsel  
Kimberly Shadley, Committee  
Assistant  
Mitch Hack, Senate Floor Staff

MEASURES HEARD:

SB 197  
SB 244  
SB 245

These minutes contain materials which paraphrase and/or summarize statements made during this session. Only text enclosed in quotation marks report a speaker's exact words. For complete contents of the proceedings, please refer to the tapes.

TAPE 22, SIDE A

005 CHAIR JOHNSON: Calls the hearing to order (1 09 P M )

WORK SESSION ON SB 197

Witnesses: Doug Myers, Water Watch of Oregon

Beth Patrino, Water Resources Department

019 CHAIR JOHNSON Describes proposed amendments, submitted in conceptual form by Doug

Myers (EXHIBIT A).  
There is a typo it should be 1998 not 1988.

032 DOUG MYERS, WATER WATCH OF OREGON: Testifies in support of SB 197 with the

proposed amendment, see Exhibit A.

The date change is from 1998 to 1997 so there will be an opportunity to review this during the 1997 session

1, .

CHAIR JOHNSON We should make it December 31, 1996 if that is the rationale.

SEN DWYER The point is that the 1997 legislature will be able to review this again

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097 BETH PATRINO, WATER RESOURCES DEPARTMENT: We are happy with the date that

water watch is proposing.

118 MOTION: SEN. DWYER MOVES TO CHANGE THE DATE FROM 1998 TO 1997.

VOTE: IN A ROLL CALL VOTE THE MOTION FAILS, MEMBERS

VOTING NO: BRYANT, KINTIGH ~ JOHNSON

MOTION: SEN. CEASE MOVES THAT SB 197 BE SENT TO THE FLOOR WITH A DO PASS RECOMMENDATION.

136 VOTE: IN A ROLL CALL VOTE THE MOTION CARRIES UNANIMOUSLY. CARRIER: KINTIGH

WORK SESSION ON SB 244

Witnesses: Kelly Ross, Oregon Association of Realtors

Dick Benner, Department of Land Conservation and  
Development  
Carrel Irwin-Leah, Secretary of State's Office, Archives Division

147 KELLY ROSS, OREGON ASSOCIATION OF REALTORS: Testifies in support of SB  
244 with proposed, (-2) amendment, see (EXHIBIT B).  
... It isn't our intent that the Department would be required to put a staff  
economist on staff, it is  
our  
belief that they can operate on their existing resources.  
CHAIR JOHNSON: It is my understanding that the bill would require that the  
Department  
analyze economic impacts before adopting rules for people to look at.  
ROSS: The third requirement is that there be consideration of possible  
alternatives that achieve  
the same purpose.  
DICK BENNER, DEPARTMENT OF LAND CONSERVATION AND DEVELOPMENT:  
I think this responds to the concerns we expressed; we don't have a problem  
with it; we also  
agree with the amendment from the Archives Division, see Exhibit C.  
BENNER: In response to Sen. Cease; it is the difference of having to do it  
formally; these  
questions are looked at in some detail, but we don't formally put together  
an assessment and  
there is no question that this is an additional burden, but it makes sense.

228 SEN. CEASE: It is your judgment there is no fiscal impact?

BENNER: We do a fiscal impact statement with the proposed rules already,  
but it is limited.  
... I think it will require the Department to spend more time in preparation  
for rule making.

SEN. CEASE: I think it is important for the record to show that later on,  
if someone is unhappy with the economic analysis and the Department is  
accused of not having an economist on staff, that one understands how those  
pieces fit together.

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255 CHAIR JOHNSON: It would be my intent that we agree that this is not  
intended to require the  
Department to hire additional staff; the legislature will review this in a  
future session.  
SEN. DWYER: I don't think we can have it both ways; I think we should know  
how these things

impact development interests and the tax payers.  
... I intend to propose some amendments that will fix this.

288 MOTION: VICE CHAIR KINTIGH MOVES ADOPTION OF THE (-2)  
AMENDMENTS.  
VOTE: IN A ROLL CALL VOTE THE MOTION CARRIES  
UNANIMOUSLY.

CAROLE IRWIN-LEAH, SECRETARY OF STATES OFFICE, ARCHIVES DIVISION:  
Describes amendments, see (EXHIBIT C).  
... We'd ask that the assessment, instead of being filed with the rule, be  
kept in the records of the  
Land Conservation and Development Commission.  
... This would replace section three; reads amendment for the record.  
CHAIR JOHNSON: We will consider this in concept as Legislative Counsel,  
(LC), is going to

draft language.  
380 MOTION: CHAIR JOHNSON MOVES TO ADOPT IN CONCEPT THE  
AMENDMENT FROM THE STATE ARCHIVIST THAT LCDC KEEP THE  
ASSESSMENT ON FILE RATHER THAN HAVING ARCHIVES KEEP  
THEM.  
393 VOTE: HEARING NO OBJECTION THE MOTION CARRIES.

SEN. DWYER: I'd like to insert "taxpayer" on line thirteen; reads language.  
... I would like to have time to have LC work this through; my interest is  
that when looking at these economic impacts we consider the impact on the  
taxpayer.

440 KELLY ROSS, OREGON ASSOCIATION OF REALTORS: I agree with the concept but  
don't want this to impede the process.  
BENNER: I would have most concern, given existing staff, doing an  
assessment of tax rates  
and services.

TAPE 23, SIDE A

040 BENNER: We don't have people, computers or models to do this; it would  
be difficult with  
current staff, but those things should be considered.  
... If you want us to do that, you should give us the resources to do it.  
SEN. BRYANT: It would take away from objections and delays.  
SEN. DWYER: The bill says they can use relative agencies and I think those  
agencies have  
the information.

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CHAIR JOHNSON: We will get the amendments and have another work session on  
the bill.

WORK SESSION ON SB 245 Witnesses: Kelly Ross, Oregon Association of  
Realtors  
Art Schlack, Land Use Specialist, Association of Oregon Counties

100 CHAIR JOHNSON: Describes bill and (-1) amendment, (EXHIBIT E).  
  
113 KELLY ROSS, OREGON ASSOCIATION OF REALTORS: Testifies in support of the  
(-1)  
amendments  
... On page three, lines ten, eleven and twelve we've excluded from the  
definition of a land use  
decision a writ of mandamus issued by a Circuit Court. I  
SEN. DWYER: Is it possible to give jurisdiction to the Court of Appeals  
rather than the Circuit  
Court?  
147 ROSS: It is possible.  
... Page six, lines five - eight; this is the one provision where we didn't  
have total agreement with  
the cities and counties; this is proposing that local jurisdictions  
complete the application process  
within 120 days or return all fees to the applicant.  
SEN. DWYER: Couldn't a county terminate this by denying the request and  
having you start  
over?  
ROSS: There is a provision for an applicant to agree to stop the 120 days.  
... Page seven. Line thirteen and fourteen, the 120 period may be extended

for a "reasonable"

amount of time.

SEN. CEASE: In order to encourage the local government to do business within 120 days, if

they don't, they have to return the fees?

ROSS: Right.

SEN. CEASE: I understand that not many go beyond the 120 days, what is the cost?

ROSS: Describes planning costs.

SEN. CEASE: If it is a drawn out case and the county can't charge for the planning process, that

could cause problems.

ROSS: The county I dealt with required that you sign a contract taking liability for the costs.

309 ROSS: Page six, lines fourteen through sixteen; the intent there is to head off some appeals if

they could suggest conditions of approval.

... The final change on page six is for when counties require that the 120 days be waived.

... On line twentyone there is a hand engrossed change suggested by local governments that

there be

an exception to those limited cases when you have an application for a plan amendment and a

permit that come in at the same time and are filed jointly.

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SEN. DWYER: Section eight on page six & section eight on page eight concern me because I know how smart government is.

371 ART 9CHLACK, LAND USE SPECIALIST, ASSOCIATION OF OREGON COUNTIES:

... Our most significant concern is on page six, lines five through eight that speak to the refund

of the application fees.

... There is incentive with the change in the writ of mandamus.

... Planning offices are supported from fees or county funds; we believe that any unexpended

fees should be refunded, but in that 120 period there is a lot of work done and we believe that

those costs are part of the process and those portions shouldn't be

refunded.

456 SCHLACK: We recommend that you amend the (-1) amendment in line five to insert after

"any" the words "unexpended portion of the application fees"; with that the balance of the

revisions are acceptable.

SEN. CEASE: How would that compare to saying "any planning costs incurred either after the

application was deemed complete or after the 120 days couldn't be charged against the

applicant'?

SCHLACK: If it is a large fee there might be some money that is part of the initial fee that

hasn't been expended.

TAPE 22, SIDE B

040 CHAIR JOHNSON: The fee is a payment to the city or county to get the job done in 120 days,

it can be done. |

Is there any way to delineate in this bill an exception to the 120 day

requirement for those  
super complex applications?

SCHLACK: We could look at additional language at this point; when a government goes beyond 120 days and the applicant hasn't offered a waiver, it is because significant issues have been raised where additional information is required and it is often on the applicant to get that information to the government.

075 SEN. CEASE: It seems the intent is that there is no penalty for local government, it just keeps it's ticket running.  
... In other cases the tickets keep piling up and we should figure it out so that applicants are covered in legitimate cases.

SEN. DWYER: There may be unintended consequences; how will government react?

SCHLACK: I think that there would be a propensity in those situations that were complex for the responsible party to make the decision and say that there has been ample time, no information has come forth, deny the application and let it appeal.

ROSS: We are interested in improving the process and if it is the opinion of the committee that we should go back to the table we will.  
... Part of the intent in the refund was to send up a red flag to the county or planning department.

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180 CHAIR JOHNSON: We will reschedule this bill.

... If the statute says 120 days then it is time to get the permits issued in 120 days; the idea of this bill is to put some leverage on there to see it is done.  
... We are adjourned. (2:25 p.m.)

Submitted by, Reviewed by,

Kimberly Sey Karen Quigley  
Committee Assistant  
Committee Counsel

#### EXHIBIT SUMMARY:

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A - SB 197: Proposed amendment submitted by Mvers, PP 1

B - SB 244: Proposed (-2) amendment submitted by Ross, PP

C - SB 244: Written testimony and proposed amendment submitted by Turnbaugh, pP

D - SB 245: Proposed amendment handwritten & submitted by Ross, DP 8

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