

SENATE COMMITTEE ON
WATER & LAND USE

February 8, 1995 Hearing Room B
1:00 P.M. Tapes 24 - 25

MEMBERS PRESENT:

Sen. Rod Johnson, Chair
Sen. Neil Bryant
Sen. Ron Cease
Sen. Bill Dwyer
Sen. Bob Kintigh

STAFF PRESENT:

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

MEASURES HEARD:

SB 244
SB 245
HB 2096

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 24, SIDE A

Chair Johnson Calls the hearing to order. (1 26 p m.)

WORK SESSION ON SB 244

Witnesses: Greg Wolf, Department of Land Conservation and Development (LCDC)
Kelly Ross, Oregon Association of Realtors

008 CHAIR JOHNSON: Describes amendments
 ... We adopted the (-2) amendments at the last meeting; we have (-3) amendments, (EXHIBIT A),
 that were adopted in concept form that say that LCDC shall keep the economic assessments in their files
 MOTION: CHAIR JOHNSON MOVES THE ADOPTION OF THE (-3) AMENDMENTS.

025 VOTE: HEARING NO OBJECTION THE MOTION CARRIES.

CHAIR JOHNSON: The last set of amendments is the (-4); see (Exhibit A)

SEN DWYER: I think it is just as fair that we also know what impact these decisions are having on the public first
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045 GREG WOLF, LAND CONSERVATION AND DEVELOPMENT COMMISSION: The (3) amendments are in keeping with the testimony of the director at the last hearing.
 ... With respect to the (-4) amendments, these items all would involve a substantial effort on the part of the Department and there would be a fiscal impact.
067 SEN. DWYER: I know that nothing is free and I think we should pass this amendment and then see what the fiscal impact is as I don't believe it is as great as they say it is.
 CHAIR JOHNSON: Are there any of these in line seven through sixteen of the (4) that are more or less expensive?
 WOLF: Probably the effect on property tax rates would be the most difficult; the impacts on timber supply would probably be another that I would point to.

095 SEN. CEASE: The original bill with the amendments we've approved
wouldn't have a noticeable
fiscal impact on the Department?

WOLF: We believe we are doing those items in the original bill to some
extent now and the
impact on the Department would be in preparing a document.

CHAIR JOHNSON: Are you doing any part of these kinds of things, such as the
effects on
property tax rates or timber supply?

WOLF: When you look at things like property tax rates it becomes more
complicated.

- 146 SEN. CEASE: The bill would require that you look at and provide
information on economic
impact?

153 KELLY ROSS, OREGON ASSOCIATION OF REALTORS: There are other bills that
apply
to all state agencies and that may be the appropriate place to zero in,

referring to (4)
amendments.

186 MOTION: SEN. DWYER MOVES ADOPTION OF THE (-4)
AMENDMENTS.

CHAIR JOHNSON: I very much support the intent, to make all agencies analyze
more and
more the impacts of what they do.

209 VICE CHAIR KINTIGH: My concern is the fiscal impact.

SEN. CEASE: This does make sense, but one has to understand that you really
can't ask agencies in most cases to do more than what they are doing
without figuring out where to get the money.

241 VOTE: IN A ROLL CALL VOTE THE MOTION FAILS. MEMBERS
VOTING NO: BRYANT, KINTIGH, JOHNSON

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SENATE WATER & LAND USE February 8, 1995 - Page 3 MOTION: SEN. CEASE MOVES
THAT SB 244 AS AMENDED TO THE FLOOR WITH A DO PASS RECO\IMENDATION.

SEN. DWYER: The more we can assess the impacts of these decisions the
better off we'll be.

... This isn't what I would like to see, but it does move in that direction.

260 SEN. CEASE: I think the bill as printed would provide for some
additional review on
the economic side.

282 VOTE: IN A ROLL CALL VOTE THE MOTION CARRIES
UNANIMOUSLY. CARRIER - JOHNSON

PUBLIC HEARING ON HB 2096

SEN. CEASE: Is there opposition to this bill?

319 CHAIR JOHNSON: This bill passed 59 - 0 in the House and to my knowledge
there was
no opposition

SEN. DWYER: I would suspect that a geologist would know as much about water
rights as a surveyor.

WORK SESSION ON 2096

345 MOTION: SEN. DWYER MOVES HB 2096 TO THE FLOOR WITH A DO
PASS RECOMMENDATION.

SEN. CEASE: The bill still requires examination?

CHAIR JOHNSON: Yes.

355 VOTE: IN A ROLL CALL VOTE THE MOTION CARRIES
UNANIMOUSLY. MEMBER EXCUSED: BRYANT CARRIER: DWYER

WORK SESSION ON SB 245 Witnesses: Kelly Ross, Oregon Association of Realtors

385 KELLY ROSS, OREGON ASSOCIATION OF REALTORS: Describes amendments, see (EXHIBIT C).
... The first change is a reaction to local government concerns about refunding the entire amount of any application fees and have suggested that they shall refund either the unexpended portion of any application fees or deposits or 50% of the total amount, whichever is greater.
... We are suggesting amending the statutes dealing with LllBA allowing them to reverse a local government denial when those are made for the purpose of avoiding the 120 day requirement.
... Also relating to LUBA, when they can accept evidence outside the record.
CHAIR JOHNSON: We have a (-1) and conceptual amendments by Ross.
... We want to adopt to section dealing with the writ of mandamus; the other thing is to adopt all three sections of the conceptual amendment, see Exhibit .

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447 ROSS: We would add that LUBA can reverse local government denials and award attorney fees if they can show that the primary purpose was to avoid the 120 day requirements.
... The new section above that is to allow LUBA to accept evidence off the record in considering an accusation like that.
CHAIR JOHNSON: The (-2) conceptual amendments, which is the top section of the bill is essentially the agreement on 50% fee refund; the bottom section of the (-3) conceptual amendments is a way of putting some teeth into that agreement.
SEN. CEASE: Would staff make clear what the pencil changes are?
KAREN QUIGLEY, COMMITTEE COUNSEL: These were reviewed by Sue Hanna of Legislative Counsel and those are her pencil marks; the notation in the corner indicates that these were proposed by Kelly Ross.
... The words "the applicant is not liable" are Sue Hanna's.
485 MOTION: SEN. CEASE MOVES ADOPTION OF THE (-2) AMENDMENTS.

TAPE 25, SIDE A

040 CHAIR JOHNSON: Describes more changes.
SEN. CEASE: Withdraws motion.

055 PHIL FELL, LEAGUE OF OREGON CITIES: We have a concern with the language ... The concern is with the language that says "the applicant shall not be liable for any planning costs incurred subsequent to the payment of such fees or deposits."
... This would force cities to develop much more comprehensive requirements for applications.
CHAIR JOHNSON: This language only kicks in when they don't meet the 120 days.
100 FELL: The language says "the applicant is not liable for any planning costs incurred

subsequent
to the payment of such fees and deposits".

SEN. BRYANT: Is your concern solely the 120 days?

ROSS: It is the practice of some local governments to require a deposit up
front and then there

is
the possibility of getting a bill above and beyond the deposit.

CHAIR JOHNSON: This clause doesn't kick in until the 120 days is over.

... My intent in this bill is that this 50% clause and the line that
prohibits the city from assessing

the
applicant any new planning fees would only kick in when the city failed to
meet it's 120 day
deadline.

167 ROSS: I concur.

... The intent is to get at costs that the local governments would charge the
applicant and we aren't

talking about studies the local government would require an applicant to
do.

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CHAIR JOHNSON: We need to insert this language into the (-1) amendments.

197 MOTION: CHAIR JOHNSON MOVES THAT THE (-1) AMENDMENTS BE
AMENDED BY THE (-2) CONCEPTUAL AMENDMENTS.

218 VOTE: HEARING NO OBJECTION THE MOTION CARRIES.

MOTION: CHAIR JOHNSON MOVES TO ADOPT THE HANDGROSSED AMENDMENTS ON PAGE
SIX AND PAGE EIGHT OF THE (-1) AMENDMENTS.

254 MOTION: SEN. KINTIGH MOVES ADOPTION OF THE (-1)
AMENDMENTS AS AMENDED.

260 VOTE: HEARING NO OBJECTION THE MOTION CARRIES.

MOTION: SEN. KINTIGH MOVES ADOPTION OF THE (-3) CONCEPTUAL AMENDMENTS.

263 VOTE: HEARING NO OBJECTION THE MOTION CARRIES.

266 MOTION: SEN. DWYER MOVES THAT SB 245, AS AMENDED, BE SENT
TO THE FLOOR WITH A DO PASS RECOMMENDATION.

VOTE: IN A ROLL CALL VOTE THE MOTION CARRIES. CARRIER:
CEASE.

275 CHAIR JOHNSON We are adjourned (2 20 p m.)

Submitted by, Reviewed by,

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Kimberly Shadley

Committee Assistant

Karen Quigley ~~~

Committee Counsel

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EXHIBIT SUMMARY:

A - SB 244: Proposed amendments submitted by staff, pp 4

B - HB 2096: Preliminary staff measure summary submitted by staff. pp1

C - SB 245: Proposed amendments submitted by Ross, pp 9

D - LCDC: Written testimony submitted by Raymond. pp 1

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