

SENATE COMMITTEE ON
WATER & LAND USE

Hearing Room
Tapes - 70

MEMBERS PRESENT:

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

STAFF PRESENT:

Karen Quigley, Committee Counsel
Kimberly Shadley, Committee Assistant
Heather Gravelle, Senate Floor Staff

MEASURES HEARD:

SB 600
SB 531
SB 1081

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 , SIDE A

006 CHAIR JOHNSON: Calls the hearing to order. (1:05 p.m.)

PUBLIC HEARING ON SB 1081

Witnesses: Bill Moshofsky, Oregonians in Action
John Shafer
Phillip Johnson, Oregon Shores Conservation Coalition
John Allen
Kay Durtschi
Kelly Ross, Oregon Association of Realtors
Tom O'conner
Jeff Vanpelt, Umatilla Tribe
Michael Mason, Confederated Tribes of Grande Ronde
Janice Marsh
Tim Miller
Don Eixenberger, Federation of Fly Fishers
Charles Swindels, 1000 Friends Of Oregon
Bob Frenkle, Sierra Club
Sally Cross, Oregon Natural Resources Council

025 BILL MOSHOFSKY, OREGONIANS IN ACTION: Testifies in support with amendments, submits written testimony, (EXHIBIT A).

(We believe there should be one bill with the common objective of providing relief with the least amount of impact on local government.

(Follows written testimony, section by section.

225 SEN. BRYANT: What would be the fiscal impact or cost to each branch of government?

MOSHOFISKY: There is no way of knowing; most overlays wouldn't have been done if they had had to pay.

(Our view is that it would be very little; if we took away the administration of Goal 5, you could use that money; or use incentives.

SEN. BRYANT: How far back would this go?

MOSHOFISKY: Without limit; describes an overlay in 1985 in Lake County.

SEN. BRYANT: What about the situation where someone bought the property knowing of restrictions, and therefore perhaps paid a lower price; you aren't suggesting that that person should receive compensation are you?

MOSHOFISKY: There could be an adjustment, so that there wouldn't be a windfall there.

(It is often difficult to know the impact of the overlays until you want to do something with the land.

(In our scenario you have to be owner of the property at the time the claim is filed.

345 SEN. DWYER: Wouldn't it be better to require specific notice?

(I feel that 95% of the people that buy land know the uses allowed on it when they buy it.

MOSHOFISKY: This bill doesn't apply to downzoning or reducing the number of units.

415 SEN. DWYER: How much will this cost and where will the money come from?

(This bill is unworkable, a nightmare for government and a bill to make work for lawyers.

MOSHOFISKY: The cost is being borne, it is who is paying.

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045 SEN. DWYER: I want examples in writing.

MOSHOFISKY: I will be glad to get those.

SEN. DWYER: Gives hypothetical situation for example.

MOSHOFISKY: There would be no compensation for what you've described.

090 CHAIR JOHNSON: This doesn't apply to zoning; this is environmental restrictions.

SEN. CEASE: Property changes hands all the time; you'll find that government and the courts deal with this.

(I would suggest you not deal with the past.

MOSHOFISKY: Government didn't need to do what it did; I'm not suggesting there won't be a problem with prior owners, but our proposal is simple.

190 SEN. CEASE: If you want to figure out how to deal with the problems of the past go ahead but let us deal with the future.

CHAIR JOHNSON: It is not my intention that future rules of Goal 5 would be exempt from SB 600.

225 JOHN SHAFER: Testifies in opposition to SB 1081; submits written testimony, (EXHIBIT B).

280 PHILLIP JOHNSON, OREGON SHORES CONSERVATION COALITION: Testifies in opposition; submits written testimony, (EXHIBIT C).

TAPE 68, SIDE B

035 JOHNSON: Continues.

055 JOHN ALLEN: Testifies in opposition; submits copy of NW NeighB orhood News dated March 1995 and April 1995, Portland.

(We are in opposition to SB 600, 531 and 1081.

(There aren't properties that are undevelopable.

180 KAY DURTSCHI: Comments on the speed of the legislative session; testifies in opposition.

243 KELLY ROSS, OREGON ASSOCIATION OF REALTORS: Testifies in support.

(The one component that should be clear and without debate is that the US Constitution, the Oregon Constitution and the US Supreme Court have said that compensation is required if private property is taken.

(The choice is between a very expensive time consuming proposition, going through the court system; the alternative, represented by these bills is a much more accessible system.

(We are interested in improving the system.

285 TOM O'CONNER: Testifies in support.

345 ED LARSON, CONFEDERATED TRIBE OF GRANDE RONDE: I would like to reiterate what Katherine Harrison gave as testimony on Tuesday, March 21, 1995.

(Our concerns about SB 600 are the same as this bill.

353 JEFF VANPELT, UMATILLA TRIBE: I would ask that our testimony submitted Tuesday, March 21, 1995, on SB 600 be put in the record for SB 531 as well as SB 1081.

(You've asked questions pertaining to treaty rights, and again, our position is that these other bills affect our treaty rights as well as SB 600.

(I've put some language together with copies of some court decisions to address the questions, but this isn't exhausted of all the laws that pertain to treaty rights, it is only an example to show that if the Senate is going to be introducing bills they should do the research so we don't get a bad bill.

383 MICHAEL MASON, TRIBAL ATTORNEY, CONFEDERATED TRIBES OF GRANDE RONDE: The Oregon Tribes as a whole spent considerable time in 1993 to craft SB 61, a solution to some problems we had with the protection of archeological sites and burials, off of the federal lands.

(We were surprised when archeological and cultural resources were included.

CHAIR JOHNSON: If that one line was removed from the bill, would that take care of your objections?

MASON: Yes it would; we have further information if you'd like regarding some of the agreements we've worked out and some limitations.

(Referring to SB 1081); the tribe has learned from long experience that it is helpful to look forward; if the tribe were to spend too much time looking backward, they would be rather bogged down in the bitterness and disappointment in having dealt with some of the governments in this country.

450 JANICE MARSH: Testifies in support of SB 600 and SB 1081; submits written testimony, (EXHIBIT D).

TAPE 69, SIDE B

030 MARSH: Continues; describes organization.

075 TIM MILLER: Testifies in support.
(Describes personal situation.

SEN. DWYER: I agree with your comments, but I don't know that this is the vehicle.

210 DON EIXENBERGER: Testifies in opposition.

260 CHARLES SWINDELS, 1000 FRIENDS OF OREGON: Submits written testimony in opposition , (EXHIBIT E).

(I am concerned about regulatory inequities, but don't feel this bill is the answer to the problem.

(There was an error in my written testimony from Wednesday March 22, 1995;

I stated that set back regulations and building height regulations in Portland would be affected by SB 600 and I meant to say that regulations of that type would be the subject of SB 600.

CHAIR JOHNSON: I have looked at the bill, SB 600, and think there may be room for clarification that it does only apply to legislative actions taken after it passes.

375 BOB FRENKLE, SIERRA CLUB: Submits written testimony; testifies in opposition, (EXHIBIT F).

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025 SALLY CROSS, OREGON NATURAL RESOURCES COUNCIL: Submits written testimony in opposition (EXHIBIT G).

(We believe that if passed these bills would force Oregonians to pay higher taxes and suffer a loss in property values as a result.

PUBLIC HEARING ON SB 600

CHAIR JOHNSON: Offers opportunity for anyone who has not previously testified.

PUBLIC HEARING ON SB 531

CHAIR JOHNSON: Offers opportunity for anyone who has not previously

testified.

WORK SESSION ON SB 600

087 CHAIR JOHNSON: Will reschedule the work session on SB 600 and SB 531 next week.

(Adjourns meeting. (3:04 p.m.)

Submitted by, Reviewed by,

Kimberly Shadley
Committee Assistant

Karen Quigley
Committee Counsel

EXHIBIT SUMMARY:

- A - SB 1081: Written testimony with proposed amendments submitted by Moshofsky, pp 8
- B - SB 1081: Written testimony in opposition submitted by Shafer, pp 1
- C - SB 1081: Written testimony in opposition submitted by Johnson, pp 4
- D - SB 1081: Written testimony in support submitted by Marsh, pp 6
- E - SB 1081: Written testimony in opposition submitted by Swindles, pp 1
- F - SB 1081: Written testimony in opposition submitted by Frenkle, pp 1
- G: SB 1081: Written testimony in opposition submitted by Cross, pp 1
- H - SB 600: Written testimony submitted for the record by staff, pp 19
- I - SB 1081: Preliminary staff measure summary and written testimony submitted for the record by staff, pp 2