

HOUSE COMMITTEE ON GENERAL GOVERNMENT Subcommittee on Government

March 16, 1993 Hearing Room 357 8:30 a.m. Tapes 30 - 33

MEMBERS PRESENT: Rep. Del Parks, Chair Rep. Jim Edmunson Rep. Cedric Hayden Rep. Patti Milne Rep. Sharon Wylie

VISITING MEMBER: Rep. Ken Baker

STAFF PRESENT: Janet Adkins, Committee Administrator Kimberly Burt, Committee Assistant

MEASURES CONSIDERED: SB 22 HB 3034 HB 2541 HB 2007 [--- Unable To Translate Graphic ---]

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. [--- Unable To Translate Graphic ---]

TAPE 30, SIDE A

CHAIR PARKS: Calls meeting to order. (8:35 a.m.)

WORK SESSION ON SB 22

004 JANET ADKINS, COMMITTEE ADMINISTRATOR: Describes SB 22

020 MOTION: MILNE MOVES THAT SB 22 BE SENT TO THE FULL COMMITTEE WITH A DO PASS RECOMMENDATION.

VOTE: IN A ROLL CALL VOTE THE MOTION CARRIES. EDMUNSON AND HAYDEN EXCUSED.

PUBLIC HEARING ON HB 3034 Witnesses: Tom Linhares, Columbia County Assessor

030 JANET ADKINS, COMMITTEE ADMINISTRATOR: Describes HB 3034; submits written testimony from three county assessors, (EXHIBIT A).

055 TOM LINHARES, COLUMBIA COUNTY ASSESSOR: The assessors association is evenly split and we have no position.

CHAIR PARKS: We made all other county clerk and sheriff non-partisan offices; I'd like you to tell us, if you were arguing that is should remain a partisan office, what would the argument be?

LINHARES: I was under the understanding that only the sheriff was non-partisan.

CHAIR PARKS: This committee changed that.

LINHARES: If all the other offices are non-partisan, there isn't much argument for keeping assessors partisan.

REP. EDMUNSON ARRIVES. 9:44

WORK SESSION ON HB 3034 Witnesses: Tom Linhares, Columbia County Assessor

MOTION: REP. MILNE MOVES HB 3034 BE SENT TO THE FULL COMMITTEE WITH A DO PASS RECOMMENDATION.

REP. WYLIE: Am I correct in assuming that the reason that some assessor are elected and some appointed has to do with home rule charter?

ADKINS: Mostly, but the Morrow County Assessor thought that there was an assessor in a home rule county that is elected.

103 TOM LINHARES, COLUMBIA COUNTY ASSESSOR: The assessors that are not elected are from home rule counties; it is possible with home rule to retain the elected officials.

110 CHAIR PARKS: In those counties would they be non-partisan appointments?

LINHARES: I think it would be highly unlikely. I am assuming that would be a civil service position.

REP. WYLIE: Is it in the state constitution that home rule charters, if it is a home rule county, whether or not the assessors are appointed are elected?

LINHARES: I'm not real familiar with home rule situations; I think the constitution allows counties the option of going to home rule form of government and they have the choice of writing that home rule charter any way they choose.

127 REP. WYLIE: If we can't make it appointed instead of elected then we ought to make it non-partisan. - Is there 30 counties that are elected?

LINHARES: I can think of five counties where they are appointed.

VOTE: IN A ROLL CALL VOTE THE MOTION CARRIES. HAYDEN EXCUSED.

PUBLIC HEARING ON HB 2541 Witnesses: Allison Santos Curt Hohn, Administrator, Facilities Division, Department of General Services Elaine, Young, Executive Director, Oregon Advocates for the Arts

145 REP. EDMUNSON: HB 2541 does two things: 1. completes the turn key projects for public buildings and 2. closes some loop holes in the contracting in public buildings laws. - Describes project. - Submits (-1) amendments and fiscal impact statement, (EXHIBIT B).

210 CHAIR PARKS: The 1%, would that qualify for things such as "stained glass"?

REP. EDMUNSON: I believe that it must constitute 1% of the cost; art is in the eye of the beholder.

230 ALLISON SANTOS: Testifies in support of HB 2541; submits written testimony, (EXHIBIT C).

260 REP. EDMUNSON: Are you able to answer the question about art

being part of the building?

SANTOS: We have laws that support one percent for art; that being a total of the budget.

280 CURT HOHN, ADMINISTRATOR, FACILITIES DIVISION, DEPARTMENT OF GENERAL SERVICES: The intent of the bill isn't clear to us. - Regarding the structural part of the building being part of the building, it can be windows or hanging art. - The definition of notice should be written.

325 HOHN: Section 2; the statutes that are referenced, 279.011-445 are public bidding statutes; the thing that concerns us is the phrase in line 14, the phrase "if lease purchase or lease is contemplated or expected". - Our concern is that in every lease there could be a lease purchase.

380 REP. EDMUNSON: My intent is to affect those buildings that become state buildings; you are talking about where the state is a tenant, utilizing space and certainly that isn't the situation I intend to cover. - If we eliminated "lease agreement", so it is only where the state is the purchaser, would it help? HOHN: Yes, that would alleviate some concern.

REP. EDMUNSON: Are there such exclusive long terms leases that they are in essence property of the state?

HOHN: We are limited by the constitution as to the term; anymore we include provisions in leases that allow for termination in the event of a fiscal change.

442 REP. EDMUNSON: Are you familiar with the situation in Eugene? Was that a lease purchase agreement?

HOHN: What we know is that higher ed contacted us; we aren't aware of a lease purchase situation.

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030 REP. BAKER: Isn't it typical that even with shorter term leases you continue to roll those leases every 5 - 10 years so that after a period of time that the building takes on the identity of the agency or the state?

HOHN: We write a variation of lease terms and all include a non-appropriation clause.

REP. BAKER: When you put the non-appropriation clause into those leases do the owners of the building negotiate for a higher risk factor?

HOHN: Yes, some do attempt that; it tends to be a matter of the market.

REP. BAKER: Has anyone been successful in eliminating that clause?

HOHN: No.

REP. BAKER: Say in four years when hopefully times are better, is that going to be a policy of the agency that we continue to have that clause in all future contracts?

HOHN: We are working with the lease community around the state to look at other options; we haven't found a good option that protects the interest of the state.

Rep Hayden arrives 9:10

REP. BAKER: Do you ever negotiate a lease where initially when you go into the building the state puts in a detachable work of art, so that if you were to terminate, do you have a clause that says that you could take that work of art with you?

076 HOHN: Normally our leases don't include art work, we don't require as part of the remodel the 1% for art; where we own buildings we do remove the art.

REP. WYLIE: When the state purchases a building and does renovations, does the 1% for art apply?

HOHN: The 1% applies to anything over \$100,000; it has to be a capital construction project.

REP. WYLIE: How often is there a gift or transfer to a program?

HOHN: We don't see that often; higher ed probably sees more of that.

106 REP. WYLIE: One concern is the apparent theft of the idea of one of the artists in question; what state laws govern the theft of artistic property?

HOHN: That would fall under a civil situation.

136 CHAIR PARKS: Do you have anything to do with buildings on college campuses?

HOHN: We do not directly get involved in the construction programs that higher ed enters into, they handle most of those on their own.

CHAIR PARKS: You are like the property manager for the state, but that is one piece of property you don't manage?

HOHN: Right; under a lease purchase we would become more involved.

162 REP. EDMUNSON: The U of O situation was a donation project from the outset; how common is that category of donations of buildings constructed with the expectation of being given to the State of Oregon?

HOHN: It must be a higher education situation; the method needs to be fine tuned; we do see some land donated.

200 ELAINE YOUNG, EXECUTIVE DIRECTOR, OREGON ADVOCATES FOR THE ARTS: Testifies in support of HB 2541.

220 REP. EDMUNSON: Explains the intent of (-1) amendments.

YOUNG: A professional artist is protected under the visual artists rights act at the federal level.

275 CHAIR PARKS: In line 13 or 14 I would prefer some

modification; "or under a lease for so many years duration". That to be phrased if the total term of the lease is to exceed a certain number of years, probably eight or nine.

REP. BAKER: What about the language that the state was the exclusive occupant of the building?

REP. EDMUNSON: The major occupant; there are concessionaires in buildings that would be less than 100%

CHAIR PARKS: 90%; what about the number of years, what do you think it ought to be?

307 REP. EDMUNSON: We should consider public ownership; this was set up this way to avoid a number of public contracting laws.

REP. WYLIE: I don't want to create barriers to gifts to universities and such; how do you see that playing out?

REP. EDMUNSON: I see some balance that has to occur; we wouldn't want to be obligated to accept every idea or gift.

400 REP. WYLIE: Is there anything that would preclude the one percent for the art being provided by a matching grant or effort from an arts organization?

REP. EDMUNSON: My intent in bringing the bill was not to prevent that situation. That would be a very healthy solution. - On line 6, after "giving", that should be "written notice".

ADKINS: On the question of the exclusive or 90% occupancy, is that under the lease purchase or just lease?

450 REP. EDMUNSON: Goes over amendments to be prepared.

TAPE 30, SIDE B

5 minute break BACK AT 9:50

PUBLIC HEARING ON HB 2007 Witnesses: Dennis Goecks, Yamhill County Commissioner Rep. Tom Brian, House District 9 James Hamrick, Program Manager, State Historic Preservation Office, Parks and Recreation Department David Van Bergen, Amity Oregon Orville Bernards, McMinnville Oregon Mike Byrnes, Historic Preservation League of Oregon Judy Gerrard, Citizen Leslie Miller, Dayton Oregon Jo McIntyre, McMinnville Oregon

030 JANET ADKINS, COMMITTEE ADMINISTRATOR: Describes HB 2007; submits letters for the record, (EXHIBIT D).

065 DENNIS GOECKS, YAMHILL COUNTY COMMISSIONER: Testifies in support of HB 2007, submits and reads written testimony, (EXHIBIT E).

170 REP. EDMUNSON: You are talking about a zoning law for buildings; how do you distinguish the problem from the issue of zoning property and land?

GOECKS: LCDC up through LUBA has said that home itself does apply under land use law. That is the whole round that we went on. If that wasn't the case we probably wouldn't be here.

235 REP. TOM BRIAN, HOUSE DISTRICT 9: Testifies in support of HB 2007; describes intent of bill. - There is a careful balance of property rights here. - I'm a strong supporter of historic designation but I am concerned about property rights.

310 CHAIR PARKS: I live in a house that was built one hundred years ago and I stopped them from designating it as a historic building. - There is a bill in the Natural Resources Committee that this idea may fit into; we will not vote on this bill today.

REP. EDMUNSON: Historic designation amounts to spot zoning; this is an issue.

REP. MILNE: What is the relationship between the county and the state?

430 GOECKS: I've been frustrated with the attitudes of some regulators.

TAPE 31, SIDE B

035 JAMES HAMRICK, PROGRAM MANAGER, STATE HISTORIC PRESERVATION OFFICE, PARKS AND RECREATION DEPARTMENT: Submits written testimony, (EXHIBIT F) - Given the concerns about the consent issue, we want to make sure that the intent wouldn't be to remove all properties from land mark designation.

091 HAMRICK: We have been funding goal 5 surveys for almost 15 years now; we have inventoried about 25,000 properties statewide, set up historic preservation programs, helped local governments do ordinance work, lifted historic districts on the national register, helped with tourism economic development efforts, etc. We like to think that even though there are glitches, the program has basically been successful.

145 REP. MILNE: If I had a house built in 1900 and the siding has deteriorated, what is the process?

HAMRICK: Depending on the jurisdiction; some ordinances don't cover routine maintenance. - If the ordinance says items require review it would have to be looked at; our recommendation is that you try to repair it before replacing it. - We recommend that jurisdictions adopt guidelines that tell property owners what they can and can't do; that is a local thing.

205 REP. EDMUNSON: If the City decided T1-11 siding, do you have the authority to keep them from using that?

HAMRICK: No.

215 REP. EDMUNSON: Does LCDC have the authority to prohibit such an ordinance?

HAMRICK: They would look at whether or not there was a review of alterations to historic landmarks section in the ordinance. - Local land use preservation has worked; it is flexible; owners should be involved in the process; historic resources are finite and it is in the states best interest to preserve these properties.

270 REP. EDMUNSON: The distinction between land and

improvement; would it be appropriate to consider land to have historical significance?

HAMRICK: Some people feel "cultural resources" encompass many things.

322 REP. EDMUNSON: Where do you fit in state government?

HAMRICK: We are a federal/state partnership; it can be housed in any agency, we are housed in Parks. 358 REP. WYLIE: What about other states, do they freeze property taxes or have other incentives?

HAMRICK: The local option of the revolving loan fund. A few communities in Oregon have tried it.

410 REP. WYLIE: I live in a house that I've tried to get on the historic property list; there is a real difference in opinions on the benefits and the costs.

HAMRICK: We have a consulting role with DLCD through interagency cooperation; because the programs and ordinances are different in every jurisdiction, some of them are more regulatory than others. DLCD is flexible within a certain range.

TAPE 32, SIDE A

053 DAVID VAN BERGEN, AMITY OREGON: Testifies in support of HB 2007. - There are people who will do anything to be contrary to the designation of their property if they don't want that. - It is important that we look at preserving the rights we have now; I encourage you to pass this legislation.

190 ORVILLE BERNARDS, McMinnville, Oregon: Testifies in support of HB 2007; submits summarizes written testimony, (EXHIBIT G). - If we had owner participation we wouldn't have misinformation.

315 MIKE BYRNES, HISTORIC PRESERVATION LEAGUE OF OREGON: Testifies in opposition to HB 2007, (EXHIBIT H). - If passed, Oregon's land use planning goal 5 will become meaningless.

360 CHAIR PARKS: I own two buildings that are historic property; each time we talk about rules, we take away from citizens. - In many states there are conservation reserves where the state buys development rights for farm land; what is wrong with doing that?

BYRNES: Oregon has the ability to do that.

435 REP. MILNE: What does it mean for a citizen to participate?

BYRNES: Property owners were not properly notified that the designation process was being implemented, they were not notified that county staff was going to enter, photograph and measure their property although local governments are required by law to carefully weigh the testimony of citizens and property owners. REP. MILNE: The concern is that it has been ruled that goal 5 doesn't allow for owner consent and that is what this bill is talking about.

TAPE 33, SIDE A

040 BYRNES: I think that public involvement is critical to the land use process being successful. Owner consent should not being the sole

determining criteria is what the court is saying.

050 CHAIR PARKS: I think the difference is that the right to be heard is not the same as the right to be listened to. This bill makes the right to be listened to more paramount.

BYRNES: In the case of owner consent you wouldn't be listened to at all nor would the citizens of that community.

CHAIR PARKS: If this weren't a historic property, what right would you have to tell the person a block away that he couldn't do what he wanted with his commercial building?

BYRNES: All land use issues allow for those adjacent property owners and citizens in the community to comment; historic preservation in the statutes is considered important to the state. Therefore all citizens should have the right to at least comment on their heritage.

075 JUDY GERRARD, CITIZEN: Testifies in opposition to HB 2007; submits written testimony, (EXHIBIT I)

105 CHAIR PARKS: If your property is designated involuntarily, then is it subject to the same provisions as when you volunteer to have it in the program? One of the things is that you have to have it open one day per year?

GERRARD: There is no provision that people are going to come through your home; only national registered properties that have chosen to do so have that right. - People in communities want to participate in decisions that affect their non-renewable, one time only, unique historic resources.

145 LESLIE MILLER, DAYTON OREGON: Testifies in opposition of HB 2007. - I'm wondering why this type of land use designation is being singled out for such extra legislative action. - What the local authority does with regulations and how the property owner responds is different from the objective standards that go into the designation. - This is a misapplication of one section of the process to another; by putting owner consent into this designation you are removing major items from that inventory. This would make it nearly impossible to do historical research, make land use decisions or base a community economic development plan on that inventory.

215 JO McINTYRE, McMinnville Oregon: testifies in support of HB 2007; submits written testimony, (EXHIBIT J).

Meeting in Recess.

Submitted by, Reviewed by,

Timothy Marshall Janet Adkins Committee
Assistant

Committee Administrator

Exhibit Summary:

A - HB 3034: Written testimony from three county assessors

submitted by staff, pp 1 B - HB 2541: (-1) amendments and fiscal statement submitted by Rep. Edmunson, pp 3 C - HB 2541: Written testimony submitted by Santos, pp 3 D - HB 2007: Letters submitted by staff, pp 7 E - HB 2007: Written testimony submitted by Goecks, pp 7 F - HB 2007: Written testimony submitted by Hamrick, pp 8 G - HB 2007: Written testimony submitted by Bernards, pp 9 H - HB 2007: Written testimony submitted by Byrnes, pp 9 I - HB 2007: Written testimony submitted by Gerrard, pp 10 J - HB 2007: Written testimony submitted by McIntyre, pp 11