

HOUSE COMMITTEE ON GENERAL GOVERNMENT Subcommittee on Transportation

February 15, 1993 Hearing Room 357 8:30 a.m. Tapes 13 - 14

MEMBERS PRESENT: Rep. Chuck Norris, Chair Rep. Ken Baker Rep. Cedric Hayden Rep. Carl Hosticka Rep. Lonnie Roberts

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

MEASURES CONSIDERED: HB 2334 HB 2492 HB 2674 HB 2429

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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 13, SIDE A

CHAIR NORRIS: Calls the hearing to order. (8:40 a.m.)

WORK SESSION ON HB 2334 Witnesses: Dennis Koho, Motor Vehicles Division, (DMV)

CHAIR NORRIS: There was concern raised because this bill called for civil and criminal penalties for the same violation.

026 JANET ADKINS, COMMITTEE ADMINISTRATOR: There is an Attorney General, (AG), memo the issue, (EXHIBIT A).

037 DENNIS KOHO, MOTOR VEHICLES DIVISION, (DMV): We received the AG's memo late Friday and it says a number of things that support the provision; the one thing it doesn't point out is the discretion of the state agency.

_ The agency has no discretion as we don't prosecute criminally.

REP. HAYDEN: Would it depend on if the District Attorney, (DA), choose to prosecute as to if it would be a criminal penalty or not?

KOHO: Yes; a police officer can issue a citation, but the DA would have to prosecute.

054 REP. ROBERTS: What would trigger the cross over from civil to criminal penalties?

KOHO: It has been my experience that unless a police officer is involved criminal penalties aren't enforced.

REP. ROBERTS: Would it help if there was language to clarify when this would be civil and when it would be a criminal penalty?

KOHO: They system is working real well now.

REP. ROBERTS: Are you satisfied with the civil penalties?

KOHO: Yes.

091 ADKINS: The other issue brought up was whether some of the dealers that are exempt from liability insurance requirements should be brought in.

REP. HAYDEN: I don't have a problem with liability insurance for old time vehicles, historically it has worked well.

121 ADKINS: Reads definition of "special interest vehicle".

KOHO: Two types of vehicles, the antiques, older or obsolete cars; this bill has to do with the need for dealers to have liability insurance and there are very few businesses in the state that take the exemption.

_ Those are often very valuable cars and businesses often insure them; if the law were changed to require dealers to have insurance, I don't think it would effect most dealers.

REP. HAYDEN: We aren't dealing with farm trailers, farm tractors or snow mobiles?

KOHO: This deals with the businesses, the dealers.

REP. HAYDEN: Do they have blanket policies to cover their vehicles, but not insure them individually?

KOHO: Yes.

206 REP. HAYDEN: There were two burs in the bill; the duel penalty issue and the liability insurance; Mr. Koho has assured us that there was blanket insurance on dealers, so that has covered that.

PUBLIC HEARING ON HB 2492 Witnesses: Dennis Fantz, County Surveyor, Multnomah County & Delegate, Oregon Association of County Engineers and Surveyors Linda Lynch, City of Eugene

240 JANET ADKINS, COMMITTEE ADMINISTRATOR: Describes HB 2492, submits hand engrossed version of amendments, (EXHIBIT B).

288 DENNIS FANTZ, COUNTY SURVEYOR, MULTNOMAH COUNTY & DELEGATE, OREGON ASSOCIATION OF COUNTY ENGINEERS AND SURVEYORS: The county surveyors support the bill in it's revised state.

303 ADKINS: The amendments expand the exemption from requirement for surveys for cities and counties disposing of highway and road right of way and the original bill only gives the exemption to the Department of Transportation, (ODOT).

REP. ROBERTS: Are you happy with what you see in this bill?

FANTZ: Yes.

327 REP. ROBERTS: What happens ten to fifteen years down the road when there is a boundary dispute and there is no survey?

FANTZ: This says it doesn't have to be a partition of land; these parcels of property are surveyed before they are disposed of.

_ When Multnomah County takes property, it is surveyed; the Highway Division is similar.

_ This bill exempts surplus property from surveys.

REP. ROBERTS: Surplus in the hands of a government entity?

FANTZ: Yes.

420 REP. HOSTICKA: I think there is a typo; resulting from the acquisition of land; it says "or" and I think it should say "for".

ADKINS: Correct.

_ What are "other rights or purposes"?

FANTZ: Water, sewer; public uses.

484 LINDA LYNCH, CITY OF EUGENE: The part of the bill we would like you to consider clarification to is the exemption from the partitioning process.

TAPE 14, SIDE A

030 LYNCH: We have an opinion from our city attorney that says that the exemption only applies in properties zoned for Exclusive Farm Use, (EFU) and I don't believe that was the original intent of the statute as it does refer to city streets.

_ The amendment we have requested is on line 24 and clarifies that any right of way use has to comply with applicable plans and if it is in an EFU zone with those requirements.

REP. ROBERTS: EFU could stand for exclusive forest use.

LYNCH: We have written in Exclusive Farm Use; the statute reference is for farm use.

_ It should be "exclusive farm use zone with ORS 215.213".

_ We are interested in the exemption from the partitioning process, the hearing and the posting notice for these small pieces of property.

068 CHAIR NORRIS: Why only farm use zones?

LYNCH: The word "and" in line 24 bothered our city attorney; we are clarifying that it is not confined to exclusive land use zones.

ADKINS: Refers to statutes describing farm use zones; because of the "and" in the statute it implies that only EFU roads in EFU zones can have this exemption.

135 REP. HOSTICKA: The committee's intent is that this will apply within cities and in areas that aren't in an exclusive farm use zone.

ADKINS: I'm still confused about what these amendments do; I'm hearing that these lands are surveyed and that is what I was assuming we were

exempting them from.

164 REP. HOSTICKA: Section two explicitly deals with surveys and section one deals with the whole partitioning process. PUBLIC HEARING ON HB 2674 Witnesses: Dennis Fantz, Oregon Association of County Surveyors Ed Graham, Executive Secretary, Oregon State Board of Engineering Examiners

189 REP. ROBERTS: I'm concerned about the new section two; I need definitions as I get nervous about giving government too much power to enter upon any land; I need some justification.

198 DENNIS FANTZ, DELEGATE, OREGON ASSOCIATION OF COUNTY ENGINEERS AND SURVEYORS: Submits written testimony in support of HB 2674, (EXHIBIT C).

_ I've never had a problem with how broad the definition is, but the duties and responsibilities for the County Surveyor often require them to go on private property; who owns the property has never been a question.

_ There are some restricted areas due to industry or situations where areas are under control of the corrections division and such and we are careful about gaining access to those properties.

230 CHAIR NORRIS: What is the current provision and what are the problems with respect to this issue?

FANTZ: Sometimes there are problems to gain access; sometimes they ask the sheriff to accompany them to access corners that are necessary to visit to maintain.

_ The County Surveyor is responsible for maintaining the public land corner system.

CHAIR NORRIS: This implies that they could enter on any land without prior arrangement or permission of the land owner?

FANTZ: Yes, but in my jurisdiction we ask permission and we do notify the land owner and try to be on a good working relationship and most counties in this state follow that same practice.

CHAIR NORRIS: If we pass this there are no restricted areas; there are restricted zones for security purposes, safety hazards; what are the limits?

FANTZ: Federal property, outside of the forest reserve area, is usually managed by the Federal Government and we wouldn't go where it is hazardous to our employees health.

_ This would be helpful when the sheriff goes with the survey party to gain access so that they can cite the statute and say it is necessary.

280 REP. ROBERTS: If you look at line 6 section 2, would you have a problem if we added "upon seven day notification"?

FANTZ: If you put that language in we'd have to be careful not to restrict when the access takes place.

REP. ROBERTS: Right, but somehow inform these folks that you are coming.

313 FANTZ: In some cases that would be very appropriate; for going in someone's front yard to do maintenance, you need to give notice, but having to give seven days notice, by statute, you take away other options; I don't think it is necessary.

CHAIR NORRIS: Could we provide for the situation where the owner objects strenuously?

FANTZ: In the problem situations that come about, that already takes place; there is a process.

382 REP. BAKER: Is there a penalty for not allowing access?

FANTZ: No; we will negotiate with them.

CHAIR NORRIS: Should there be a method of appeal?

FANTZ: We go to the District Court for a court order, based on the statute, if negotiations don't work.

493 REP. HOSTICKA: I saw a bill that would wipe out all the right of entry statutes.

TAPE 13, SIDE B

037 REP. HOSTICKA: If the judge is going to give an order, there needs to be authority in the statute.

REP. ROBERTS: I'm satisfied.

REP. BAKER: I am in support of the bill.

CHAIR NORRIS: We have amendments in section three and section ten.

075 FANTZ: Describes public center land corners and the history of them.

ADKINS: There is a fiscal impact statement, (EXHIBIT D).

REP. ROBERTS: The impact statement says this will be fee driven?

FANTZ: Yes; the Land Corner Preservation Program, paid for by fees, is effective in about twenty counties in this state; we maintain those along with the quarter corners and the section corners.

132 CHAIR NORRIS: In some counties there are a small number of people and a large number of sections; will it cost the same amount of money?

FANTZ: This \$300,000 figure is reasonable for the corner maintenance program for center sections in the entire state.

CHAIR NORRIS: I will vote for no bill that imposes a mandate upon a local government unit unless we send a check.

FANTZ: This legislation will not impact the costs incurred in the public land corner maintenance program in any county in this state.

171 ED GRAHAM, EXECUTIVE SECRETARY, OREGON STATE BOARD OF ENGINEERING EXAMINERS: The board has taken no exception with the measure as composed; I am a land surveyor and what Dennis is trying to say is that the fund is already established and is available and has been used for this in the past.

REP. HAYDEN: Here we have a fund alive and well with excess dollars; I don't know if we should be mandating them to use these dollars in this way when there are other places to spend this money.

REP. ROBERTS: This is fee driven, it has to go to that.

FANTZ: Adding Center Quarter Corner doesn't change anything in any county; this in no way burdens smaller counties.

REP. HAYDEN: What is broken?

FANTZ: The center quarter corner isn't included, although it is the practice for the county surveyor to maintain those.

252 REP. HAYDEN: What would be the beneficial effect?

GRAHAM: The fund is dedicated; this will enable county surveyors to utilize those funds.

REP. HAYDEN: What is the public interest in having this done?

GRAHAM: The public who utilize that corner or whose property that corner is on; the preservation of that corner is paramount for the preservation of that individual or the adjoining individuals boundaries.

326 CHAIR NORRIS: What we will be imposing on Multnomah County isn't the problem, but what will that do to Harney and other less populated counties?

FANTZ: In rural counties that have problems, our organization helps the county put together programs.

ADKINS: Wouldn't the center quarter come under "maintenance of corners"?

GRAHAM: Some of the government surveys did in fact establish a center quarter and that definition was established under the government rules; there are center quarters that are subsequently set by private surveyors and those aren't defined as a public land survey corner.

377 REP. HAYDEN: Would you have a situation where corners were under barns or houses?

GRAHAM: Yes; one problem with regard to changing boundaries is if a corner controls a property line that is outside the ownership of the location in which the corner rests, it could be under a barn; that is a perpetual problem.

417 FANTZ: Continues going over amendments, see Exhibit .

451 CHAIR NORRIS: You deleted a reference "donation land claim"; is there any significance to that?

FANTZ: No; the purpose of "a" is the location of the survey and by one quarter section township and range is sufficient.

CHAIR NORRIS: Page five, line twenty one, the seal and original signature seems reasonable.

469 GRAHAM: That is unnecessary as ORS 672 requires the seal and the signature of surveyors on all final work.

CHAIR NORRIS: There is a reference to an LC on line twenty five and twenty six? TAPE 14, SIDE B

030 GRAHAM: LC 2345 is HB 3047 at this point and does tremendously alter the name and configuration of the Board of Engineering Examiners, creating a thirteen member board, changing the name and dealing with the structure of the board.

_ The board isn't opposed to that legislation, but there is a fiscal impact and again the registrants will provide the funds necessary to offset that impact.

043 FANTZ: Section twelve says that if LC 2345 doesn't become law then taking "land" out of "professional land surveyor" in section four through nine, doesn't happen.

_ Describes change.

075 REP. HOSTICKA: Are you allowed to use the global positioning system as part of your surveying business?

FANTZ: Yes.

REP. HOSTICKA: I'm talking about satellite systems that locate points on land which I think may, within a decade or so, replace this whole system of defining things in relationship to corners; maybe we should get rid this system and say they could survey the country, using that system.

FANTZ: All land in this state is described in reference to the public land corner system; the location surveys for public works projects, highways, irrigation systems and other things that change the nature of the land, now involve the global positioning system.

101 FANTZ: Lincoln, Linn and Lane Counties are using GPS as part of their corner restoration program; notwithstanding that, all real property in this state will continue to be referenced to the public land corner system notwithstanding how those points are referenced, located, preserved; they will still be the definition for almost all real property in this state.

PUBLIC HEARING ON HB 2429 Witnesses: Paget Engen, Oregon Public Ports Association

142 JANET ADKINS, COMMITTEE ADMINISTRATOR: Submits hand engrossed amendments, a copy of the amendments, and testimony from the Oregon Railroad Association, (EXHIBIT E).

155 PAGET ENGEN, OREGON PUBLIC PORTS ASSOCIATION: There is a branch and short line rail rehabilitation bill being considered in Revenue. ALLEN WILLIS, PORT OF PORTLAND, OPPA PRESIDENT: People are

understandably getting the two confused because at one time having them together was discussed.

_ Those bills do compliment each other.

184 REP. ROBERTS: Where do those funds come from?

ENGEN: Lottery appropriations.

_ The bill requests \$25 million; it is my understanding that when the department that managed the fund evaluated how the fund would work they assumed the money would be spent over a four year period.

WILLIS: All of the spending would be for the next three bienniums to do the kind of improvements necessary for marine navigation as part of the Oregon Transportation Plan.

CHAIR NORRIS: I understand the Governor's budget said \$3.5 million; the Chair of the General Government Committee has indicated that this will go forward with a blank.

222 REP. HOSTICKA: Would you have a problem if there was a percentage that couldn't be exceeded for administrative expenses?

ENGEN: It seems sensible to us; we couldn't object.

CHAIR NORRIS: We can insert the language and "%" while leaving the number blank here to.

WORK SESSION ON HB 2429

255 MOTION: REP. ROBERTS MOVES THAT THE BILL BE AMENDED TO DELETE THE WORD "AND" AND INSERT A BLANK ON LINE 1 OF PAGE 2, REPLACING IT WITH A BLANK, ALSO DELETING THE DOLLAR FIGURE IN THE EXPLANATION AND THE ADOPTION OF THE AMENDMENTS EXPRESSED IN THE HAND ENGROSSED VERSION OF THE BILL.

297 VOTE: HEARING NO OBJECTION THE MOTION CARRIES UNANIMOUSLY. BAKER EXCUSED;

MOTION: REP. HOSTICKA MOVES CONCEPTUAL AMENDMENTS; INSERT ON LINE FOUR TO SAY NO MORE THAN X AMOUNT OF THE FUNDS ALLOCATED UNDER THIS SECTION CAN BE USED FOR ADMINISTRATIVE EXPENSES.

325 VOTE: HEARING NO OBJECTION THE MOTION CARRIES. MEMBERS EXCUSED: REP. BAKER

327 MOTION: REP. ROBERTS MOVES HB 2429 AS AMENDED BE SENT TO THE FULL COMMITTEE WITH A DO PASS RECOMMENDATION SUBJECT TO REFERRAL TO WAYS AND MEANS.

337 VOTE: IN A ROLL CALL VOTE THE MOTION CARRIES. MEMBERS EXCUSED: REP. BAKER

WORK SESSION ON HB 2674

344 MOTION: REP. ROBERTS MOVES THAT HB 2674 AS AMENDED BE SENT TO THE FULL COMMITTEE WITH A DO PASS RECOMMENDATION.

REP. HAYDEN: Could you tell me what an expenditure of \$300,000

would be appropriate?

CHAIR NORRIS: I was assured that the bill had the full support of the Association of Oregon Counties and the gentlemen representing the Engineering Board and that there would be no impact on the counties, because there was a special fund.

366 REP. HOSTICKA: Could staff contact the County Surveyors in some of the counties indicated to see if there is an objection or not?

CHAIR NORRIS: We can do that; I was inclined, after the assurances we received here, but if you'd be more comfortable with that.

REP. HAYDEN: If you refer it to the full committee with conditions, sometimes we have to go through a process of returning it to the subcommittee; would you be open to holding it at the subcommittee level until you hear from them?

385 REP. ROBERTS: I have no problem with that; I withdraw my motion.

ADKINS: There could also be more explanation in the fiscal statement as to what the program levels are now and how much will be required.

405 CHAIR NORRIS: We are adjourned. (10:30 a.m.)

Submitted by, Reviewed by,

Kimberly Burt Janet Adkins Committee Assistant Committee Administrator

EXHIBIT SUMMARY:

A - HB 2334: Attorney General opinion submitted by KOHO, pp 3 B - HB 2492: Hand engrossed version of amendments and written testimony from Lynch, submitted by staff, pp 5 C - HB 2674: Written testimony in support submitted by Fantz, pp 1 D - HB 2674: Fiscal impact statement submitted by staff, pp 1 E - HB 2429: Hand engrossed version, amendments and written testimony from the Oregon Railroad Association submitted by staff, pp 4