

HOUSE COMMITTEE ON NATURAL RESOURCES SUBCOMMITTEE ON AGRICULTURE AND FORESTRY

April 9, 1993 Hearing Room D 1:00 p.m. Tapes 54 - 57

MEMBERS PRESENT: Rep. Liz VanLeeuwen, Chair Rep. Ray Baum Rep. Marilyn Dell Rep. Sam Dominy Rep. Bill Fisher Rep. Tim Josi Rep. Dennis Luke Rep. Bill Markham Rep. Chuck Norris

VISITING MEMBER: Sen. Rod Johnson

STAFF PRESENT: Catherine Fitch, Committee Administrator Sue Nichol, Committee Clerk

MEASURES CONSIDERED:

HB 2899 - Public Hearing and Work Session HB 3087 - Public Hearing and Work Session HB 3128 - Public Hearing and Work Session HB 2408 - Public Hearing and Work Session HB 2935 - Public Hearing and Work Session

WITNESSES: Rep. John Schoon, District 34 Rep. Bill Markham, District 46 Keith Bartholomew, 100 Friends of Oregon Sen. Rod Johnson, District 23 David Driscoll Charles Gehley, Oregon Department of Veterans' Affairs Bill Moshofsky, Oregonians in Action Dave Smith, Oregonians in Action Ruby Ringsdorf, Oregon State Grange Liz Frenkel, Sierra Club Fred Van Natta, Oregon State Homebuilders Association Bob Metzger, Society of American Foresters

[--- 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 54, SIDE A

005 CHAIR VanLEEUEWEN: Calls the meeting to order at 1:12. PUBLIC HEARING ON HB 'S 2899, 3087, 3128, 2408, 2935.

029 CATHERINE FITCH: Gives summary of the bills dealing with regulatory compensation. "Takings" refer to those government actions which deprive a property of its total economic viability. These bills address actions which may deprive a property of a partial economic value and they have

been given the term "regulatory compensation." HB 2899 is applicable to any restriction on private land which protects aesthetic resources or reduces the fair market value of the property. HB 's 3087 and 3128 are identical to SB 829. These would provide for compensation for specific

regulations. HB 2408 would apply to land use decisions under ORS 197.

HB 2935 requests that the State Attorney General's office adopt guidelines to guide state agencies when they are contemplating specific actions, to determine whether or not those actions will result in a "taking." The measure also gives a broad definition to "taking" to include those "regulatory compensation" actions also.

072 REP. JOHN SCHOON, District 34: Speaking also for Rep. Rod Johnson. This is a complicated issue. That doesn't mean we should ignore it. We

need to protect the rights of individuals.

105 REP. NORRIS: Can we solve this through legislation or do we need to go through the courts?

113 REP. SCHOON: I can't give a very good answer on that, but I think we need to try.

118 REP. DOMINY: Cities don't believe we should pass a law that would cost them money without giving them money to pay or it. How do you argue

against that statement?

123 REP. SCHOON: The county is there to serve the people. If we can give them some money, fine. If not, they still have the responsibility of

working for the people.

128 REP. DELL: What kind of fiscal impact will this really have?

134 REP. SCHOON: We have not put a fiscal impact together.

137 REP. JOSI: How can we justify passing something that we don't know what the fiscal impact will be?

148 REP. SCHOON: This needs to be thought out well. I don't know if we have time to do that.

158 REP. FISHER: If we don't want to burden the state with these costs, why do we burden the private individual?

165 REP. SCHOON: That's the question we have.

203 REP. BILL MARKHAM, DISTRICT 46: LCDC has cost private individuals a huge amount in the past 20 years. We need to draw the line on taking

private land for the public interest.

237 REP. JOSI: When society takes away the value of land for the good of society, then society should pay for it. We need to be careful to

respond to this problem in a responsible manner. 238 REP. MARKHAM: If they're worried about the cost, then they shouldn't take the property.

273 REP. SCHOON: There are ways to cause people to want to things that are beneficial for society. We don't have to force them to do everything.

294 KEITH BARTHOLOMEW, 1000 Friends of Oregon: Testifies against the bills. They go far beyond what is required by federal and state constitutions. Reads testimony contained in Exhibit A.

TAPE 55, SIDE A

027 REP. JOSI: How does the government protect the person who has timberland he's been counting on for income, but its use is taken away

from him?

055 BARTHOLOMEW: That's the risk the person takes.

066 REP. JOSI: How can these bills take away all land use planning regulations, if they're not retroactive?

070 BARTHOLOMEW: The bills do different things. HB 2899 would apply retroactively as well as prospectively.

073 REP. JOSI: If they are not retroactive, would it destroy all land use planning?

079 BARTHOLOMEW: The threat would be there to file lawsuits against cities who couldn't afford to fight. So even the appearance of controversy

would be avoided.

087 REP. LUKE: What secondary lands policies that have come out of LCDC were supported by your group?

099 BARTHOLOMEW: We were dissatisfied with the rules adopted last December.

104 REP. DELL: These bills are not the product of crafty lawyers and greedy speculators. They are from homeowners who are frustrated. How can we

work out these problems?

132 BARTHOLOMEW: Regulations are needed because developers are controlled by profit.

150 REP. DELL: The neighborhood I developed was developed in a responsible manner because people will recognize the importance of these features.

We went beyond what the regulations were.

158 BARTHOLOMEW: The line that should be drawn is whether the particular regulation is a good policy that works towards public

benefit, not

whether there should be compensation.

163 REP. DOMINY: Haven't you gone overboard by saying we will destroy everything by this compensation?

176 BARTHOLOMEW: I think the worst case scenario must be considered.

200 REP. NORRIS: These bills don't mention zoning.

218 BARTHOLOMEW: All the regulations specifically mentioned in the bills could be addressed by zoning.

259 SEN. ROD JOHNSON, District 23: Testifies in favor of HB 3087 and 312 8. SB 829 is an identical bill to HB 3087 with 15 sponsors. It's a

critical point raised by Rep. Norris that this bill, HB 3087, does not try to impose a payment obligation on every single kind of regulation that the state and counties and cities now have the power to employ. As Rep. Norris points out, it specifically doesn't mention zoning. And even though the witness just now pointed out that some of the kinds of things that would be prohibited here are currently affected through the zoning process, the intent of these bills is to focus on the results, not the process. The results here are when somebody has a piece of property that they own, for example, a piece of timberland, if that is by a road and for some reason the State or county wants to say that you can't cut those trees because we want people to be able to drive by and look at them. Then that is a public purpose; in essence, it's a public park or something similar to what's being established, for the public. If the public is benefitting by that regulation, then the public ought to pay for it. So if a person's value on his or her property has gone down by 50%, then he or she ought to be paid 50% of the value of the property before regulation.

295 In answer to what I understand were some objections and concerns that were raised earlier, if the imposing agency doesn't have the money to

pay that 50% value, so be it. They don't impose the regulation. It's high time that we brought some control to these government actions.

Without imposing a cost, of some kind, on these actions, there's absolutely no limit to the imaginations of the bureaucrats, and frankly, some legislators, can dream up more ways to take property rights away

from honest, tax-paying Americans. This bill is a very narrow bill. It's designed not to take care of the whole problem, because it won't take care of the whole problem. But it's designed at least to put a stop to the trend rolling over America right now. It's a small but important bite and I urge very strongly your passage.

336 REP. JOSI: Which one is the small bite bill?

338 SEN. JOHNSON: HB 3087 and 3127. That's the one I'm testifying on.

341 CHAIR VanLEEuwEN: And that's the bill, that hopefully, we're working toward in combining these bills.

353 SEN. JOHNSON: I met with your committee administrator earlier and discussed whether or not it was clear in the bill that it applied only

to actions taken or limitations imposed after January 1, 1994. She was going to look into that and satisfy herself whether she believed it did that or not. What this bill is designed to do is to only apply to impositions on property that take place after January 1, 1994. If a new regulation is passed after January 1, 1994, that's easy. The question is, if a regulation was passed in 1970, for example, for a set of easements, this bill should also apply to imposition of that regulation to new properties after January 1, 1994. If there's any question that

it does that, we need to make an amendment to do that. 373 FITCH: I did review the bill myself and I spoke with legislative counsel about it and it was Counsel Sue Hanna's opinion that indeed the bill was very clear about the timing of restrictive actions that would

be affected by it. She felt that it spoke to that. She has suggested a very minor amendment that would bridge two sections of the bill. Rep. Markham has an LC draft of that amendment.

383 REP. DOMINY: For example, if on February 1, 1994 a city council took part of a piece of property away from me through an easement, which is

an old law, and I've had this property for 15 years does it make a difference whether I've had the property for 15 years or if I bought it on January 15?

399 SEN. JOHNSON: It would make no difference. The key is that the imposition of the limitation took place after January 1, 1994. Even

though it was under a pre-existing law or regulation that gave them the power to do that, they imposed that on your piece of property after

January 1, 1994 and so you should be paid or else they don't do it.

407 REP. DOMINY: Anything imposed after January 1, 1994 would fall under this law, is that how you're thinking about it?

412 SEN. JOHNSON: That's the intent in those narrow six areas.

TAPE 54, SIDE B

005 REP. NORRIS: How is value determined? I don't find anything short of the courtroom that establishes the value.

014 SEN. JOHNSON: Legislative Counsel, Sue Hanna, was convinced that referring and bringing into this bill, by reference, ORS Chapter 35 was the cleanest and easiest way to do it rather than trying to establish a new system for figuring out the values of property. As I understand the eminent domain procedure the condemning agency makes an offer or somehow determines what they think the loss of value is and they offer that to

the landowner. If the landowner agrees, he or she takes it. If they don't, then they negotiate. And only if they can't come to an agreement on the value do they go to court. And that's what courts are for to help resolve situations where people can't agree. I'd be willing, if there's some other process you think would be more workable, I'd be happy to consider it.

030 REP. NORRIS: I'm wondering if this is going to be a parade of court cases if we make this work.

035 REP. JOSI: On page 2, Section 4, "notwithstanding the requirement to pay compensation, a regulating entity may, without payment of

compensation under Section 2 of this act, adopt and enforce regulations that address specific public health or specific public safety issues".

What does that say?

040 SEN. JOHNSON: In a brief outline of this bill, you have a requirement where in six different areas agencies or local governments are supposed to pay compensation if they impose a limitation on your property.

Section 4 says "unless the imposition of the restriction is for one of these three reasons". And it lists three things. It's an escape clause, in essence, for the government to be able to impose further limitations and regulations without paying. If the imposition of the regulation is to address a specific public health or specific public

safety issue, they don't have to pay. The word "specific" is in there for a very good reason. For example, if there was a regulation that said you couldn't cut trees in a scenic corridor, and the reason that you couldn't cut those trees was because there was some virus in that grove of trees, that if you cut the trees it would get loose and make everyone in your town deathly ill, then that's okay; they can tell you to cut those trees and they don't have to pay you for it. "Specific" was put in there for a reason. You can't say, for example, all Oregonians can never cut another tree because we want the people in Brazil to be able to breath more oxygen or something. That's not specific. It has to be a specific, narrow reason in order to use this exemption to get out of having to pay.

066 REP. JOSI: Is this a little door that lets everything through?

065 SEN. JOHNSON: That's why I'm trying to be clear in my testimony to make sure that it is narrow. It is a door that would let a lot of stuff

through and I think it's important to establish such a history that indicates that it is not supposed to be a big door that

071 REP. JOSI: For example, the spotted owl could be argued as being needed for public safety because the spotted owl is a public health indicator

of the environment. So the spotted owl could be argued as a specific public safety issue.

077 SEN. JOHNSON: That's a good example. The best argument anyone could make concerning public health or public safety regarding the spotted owl is that it affects all of us. To the extent that it is necessary to

protect the spotted owl, it is for the protection for every human. That is not specific to a narrow group of people that are directly affected by this regulation.

085 REP. JOSI: Is the word "specific" defined?

088 SEN. JOHNSON: No, I don't think so. That's why I'm trying to define it now.

097 REP. LUKE: In response to Rep. Norris' question, describes condemnation process taking place in Deschutes County.

105 SEN. JOHNSON: My experience with condemnation is that nearly all cases are resolved by settlement.

116 REP. JOSI: What is Section 4, subsection 3 referring to?

132 SEN. JOHNSON: Subsections 2 and 3 were added by legislative counsel because they were seen as necessary exemptions for the state to be able to keep the power to impose restrictions. Subsection 2 regards the net

advantage of a regulation. If a regulation helps you, you can't complain quite as much if it hurts you at the same time.

145 Subsection 3 talks about, for example, a nuisance law. If a person has a piece of property and they want to establish a factory or something

that emits noxious fumes, the state can regulate this without this bill making them having to pay for some reduction in value of property. It

just says the existing law regarding property and nuisance law isn't fundamentally changed by this bill.

153 The six actions this bill addresses are designed to be fairly narrow.

170 REP. DELL: If the State were imposing regulations on property that the Federal government required, would the state be responsible for payment?

175 SEN. JOHNSON: Yes. As a footnote, I have a bill in the Senate that will hopefully begin to study a recent case that the Supreme Court

issued that breathes some life into the tenth amendment of the U.S.

Constitution, that preserves some state rights. I strongly believe that the State of Oregon needs to start learning how to tell the Feds we aren't going to play their games.

183 REP. JOSI: Attorney fees would only be awarded to the property owner if he prevails?

195 SEN. JOHNSON: Yes. If you only get 10% of what you want, you are still prevailing. Prevailing party is defined in the statutes as the person

or entity that ends up with a judgement in its favor for some amount of money.

204 REP. JOSI: I'm concerned about a massive influx of court cases.

208 SEN. JOHNSON: With this situation with the attorney's fees, the state has incentive to offer you what the property is worth. The state's

responsibility is to give a legitimate offer. They don't want to lose condemnation cases.

244 CHAIR VanLEEUEWEN: This language makes the local government careful in how they treat the private landowners, is that correct?

253 SEN. JOHNSON: Yes. I think if there's a penalty, they will be more careful to offer a fair price.

263 REP. LUKE: The court sets the attorney's fees?

265 SEN. JOHNSON: Right. The court determines what reasonable is.

267 REP. DOMINY: The person who won does not have to pay the attorney's fees?

279 SEN. JOHNSON: Right.

287 DAVID DRISCOLL: Testifies in favor of HB 3087. Summarizes testimony in Exhibit B. His land can't be developed because it's been designated as

wetlands.

368 REP. JOSI: This has happened to a group of people in Manzanita.

TAPE 55, SIDE B

026 CHARLES GEHLEY, Oregon Department of Veterans' Affairs: Testifies in favor of the concept brought forward by HB 3128. Reads testimony in

Exhibit C. 091 BILL MOSHOFSKY, Oregonians in Action: Gives testimony in favor of HB 2899 and HB 's 3087 and 3128. Submits amendments for HB 2899 (Exhibit

D).

129 DAVE SMITH, Oregonians in Action: By having HB 3087 apply to actions after January 1, 1994 would alleviate concern that the state would have liability for past actions.

158 HB 3087 does not appear to encompass wetlands. That is one of the features of 2899 that I would ask the committee to include in HB 3087.

190 MOSHOFSKY: We're saying carry out what was originally intended.

198 REP. NORRIS: I'm wondering if this degree of specificity is good or bad, because something has probably been forgotten?

202 SMITH: This specificity forecloses some of the potential litigation that could arise.

218 MOSHOFSKY: This would track with goal 5 described in LCDC.

226 REP. NORRIS: Maybe the language should be, "includes, but is not limited to."

230 SMITH: I agree.

232 REP. MARKHAM: Where does this fit into HB 3087?

235 SMITH: In HB 3087, at Section 2, Line 26 is "regulating aesthetic values on private property for a public purpose." Then set in the

definition section, Section 1, to define what those aesthetic values are, including, but not limited to.

250 REP. DELL: Would the government body imposing the regulation be required to pay for it?

255 SMITH: We agree with Sen. Johnson's response that if the state implemented a regulation required by the federal government, the state

would be obligated to pay any compensation.

280 MOSHOFSKY: I think there may be a problem in the short run with local government and they will force some of these state agencies to back off enacting this goals. We think this is needed.

289 REP. DELL: Are we accepting financial liability for regulations the federal government mandates?

302 MOSHOFSKY: You may want to limit this to state imposed wetlands. You may want to exclude responsibility for federally imposed wetlands.

314 SMITH: Under almost all cases, the federal government does not require that the state enact similar provisions for protection of various

aesthetic resources on private property.

Would also recommend that the following provision of HB 2899 be included in HB 3087, lines 30 - 32 of the first page of HB 2899, that the amount of compensation owed may be reduced if, and to the extent the owner of

the private property receives a public benefit by the applicability of the restriction to other parcels.

406 MOSHOFSKY: The intent in the average reciprocity of advantage is to address the matter of whether or not there is compensation due at all.

TAPE 56, SIDE A

009 SMITH: On page 2, lines 16-18, there is a provision in HB 2899 dealing with the question of ripeness. "Ripeness" means that the individual has exhausted all of the individual's administrative avenues before the

decision maker before litigation is accepted by the court. The provision in HB 2899 makes it clear that all a litigant has to do in

order to bring a claim for compensation is to seek permission for some use or development and then seek a variance, if one is available. I would recommend that such a provision be put in HB 3087.

050 RUBY RINGSDORF, Oregon State Grange: Testifies in favor of the bills. Reads testimony in Exhibit E.

161 LIZ FRENKEL, Sierra Club: Testifies against the bills. Reads testimony in Exhibit F.

263 REP. LUKE: Is there a difference in a person buying a piece of property, knowing the regulations that apply and a person who buys a

property and then gets hit by a new regulation?

270 FRENKEL: I do, but I've seen both in court.

275 REP. LUKE: I have sympathy for the people who have owned the land and then through actions of the government, their right to use that land has been taken away from them.

283 FRENKEL: There are times when we don't know what the impacts are.

331 REP. JOSI: How do you solve the problem then of the individuals who get hurt?

359 FRENKEL: I can't respond to that problem.

TAPE 57, SIDE A

004 REP. JOSI: What about the person who bought land thinking it was developable. Is it right for the government to not compensate him for

that?

010 FRENKEL: I don't know.

015 REP. JOSI: It doesn't seem fair to take all the benefit away.

020 FRENKEL: Refers Rep. Josi to the Lucas case.

027 REP. FISHER: What property owner are you referring to whose land is increased in value should return the public windfall? 032

FRENKEL: Landowners in Tualatin's wetlands area had their property value increase because there won't be houses built there.

040 REP. FISHER: Because of regulation, there isn't one rural landowner that hasn't lost money.

050 FRENKEL: I think it should work both ways.

052 REP. FISHER: The government shouldn't be able to take land without giving compensation.

063 CHAIR VanLEEuwEN: Section 4 of the bill covers specific public safety issues.

075 FRENKEL: Some people will say certain water quality issues are public health, and some will say they aren't.

079 FRED VAN NATTA, Oregon State Homebuilders Association: Testifies in favor of the bills.

145 REP. MARKHAM: What do you recommend at the effective date?

147 VAN NATTA: The effective date of the act.

150 REP. MARKHAM: We must put an emergency clause.

163 REP. LUKE: Would your organization be in favor of an assessment on housing to help local government pay these costs?

172 VAN NATTA: There is no relationship to these rules and the building of a house.

179 BOB METZGER, Society of American Foresters: We do not have a position statement. We have a feeling in our membership for a need for law for

compensation for contributions of land for the benefit of the public.

203 I'm not opposed to regulation, but it is falling disproportionately on the private landowner.

230 "Taking" can have some negative effects on protection of our environment.

285 REP. LUKE: Apparently the attorney speaking for 1000 Friends of Oregon wasn't speaking for every member?

290 METZGER: No, organizations can't speak for every individual.

302 CHAIR VanLEEuwEN: Closes public hearing.

WORK SESSION ON HB 's 2899, 3087, 3128, 2408 and 2935

325 MOTION: REP. DOMINY: Moves that the committee adopt HB 3087 as a bill that we would work with as a vehicle.

330 CHAIR VanLEEuwEN: Repeats motion. Hearing no objection, the motion CARRIES.

334 REP. MARKHAM: Would like Mr. Smith's opinion on the second amendment in the -1 amendments.

348 SMITH: Regarding Section 4, Subsection 3 of the -1 amendments, the substituted language would be a significant narrowing of the language

that was in there before.

TAPE 56, SIDE B

004 CHAIR VanLEEuwEN: In your opinion, we would be better off

leaving in the old Subsection (3), Section 4 to accomplish what we want?

007 SMITH: Yes.

019 FITCH: The -1 amendment was intended by Rep. Baum. There was no intent to modify the meaning or scope of Subsection 3. It was only his intent

to make it more understandable. I don't think it would be offensive to Rep. Baum to go with the original Subsection 3.

027 CHAIR VanLEEuwEN: Page 1, line 10 of the -1 amendments would say "'Regulation' means the imposition of a restriction as described in

Section 2 of this Act on the use of private property by means including:" I think that makes it more clear in my opinion.

045 MOTION: REP. DOMINY: Moves the LC 1169-1 amendments, just lines 1 and 2.

048 CHAIR VanLEEuwEN: Repeats motion. Hearing no objection, the motion CARRIES.

054 CHAIR VanLEEuwEN: We had an amendment proposed by the Veterans' Department.

058 FITCH: Would be inserted in Section 2, Subsection 2 and become a new sub-item (g). This refers to the activities for which compensation

would be paid. Sub-item (g) would then read, "restricting or limiting the use of certified water rights because of public required conservation activities or limited uses."

063 MOTION: REP. DOMINY: Moves to add to Section 2, Subsection 2, Sub-item (g) the language that the Oregon Department of Veterans'

Affairs asked us to include.

070 CHAIR VanLEEuwEN: Repeats motion. Hearing no objection, the motion CARRIES.

080 FITCH: It was recommended by Oregonians in Action that language from HB 2899, page 1, lines 30-32 to adopted into HB 3087. The language that

they are proposing to be included in HB 3087 would be "The amount of compensation owed may be reduced if and to the extent the owner of the private real property receives an economic benefit by the applicability of the restrict to other parcels."

092 MOTION: REP. DOMINY: Moves from HB 2899, page 1, lines 30-32

to HB 3087.

097 CHAIR VanLEEUEWEN: Repeats motion. Hearing no objection, the motion CARRIES.

100 FITCH: The second amendment proposed by Oregonians in Action was that language from HB 2899, page 2, line 16-18 be adapted into HB 3087. This has to do with the issue of ripeness or the exhaustion of other avenues before seeking compensation. The language would read, "A claim for

compensation brought pursuant to this 1993 Act is ripe for adjudication when the property owner has sought, if applicable, a permit under ORS 215.416, and, if applicable and reasonably available, a variance."

110 MOTION: REP. DOMINY: Moves page 2, lines 16-18 of HB 2899 to be added to HB 3087.

113 CHAIR VanLEEUEWEN: Repeats motion. Hearing no objection, the motion CARRIES.

116 FITCH: The third recommendation for Oregonians in Action was that their definition of aesthetic resource from HB 2899 be included within HB

3087. That definition is on page 2 of HB 2899, lines 23 through 26.

122 REP. MARKHAM: Rep. Norris had a few words he wanted to add to that.

123 REP. NORRIS: I wanted to substitute for the word "means", "includes, but is not limited to."

125 FITCH: With Rep. Norris' amendment, it would read, "'Aesthetic resource' includes, but is not limited to, wildlife areas, corridors and habitats; natural areas, including desert areas; scenic views and sites; water areas, wetlands, watersheds and groundwater resources; wilderness areas; cultural areas; recreation trails; biological sites; historic

landmarks; and wild and scenic waterways."

125 SMITH: I believe it should read "aesthetic value" instead of "aesthetic resource" to be consistent with the language in HB 3087.

135 MOTION: REP. DOMINY: Moves to amend the language of HB 289 9, Section 9, lines 23 - 26 to replace the word "means" and insert the

words "includes, but is not limited to" and replace the word "resource" with the word "value" and include that language, as amended, on lines 23 through 26 into HB 3087.

155 CHAIR VanLEEUEWEN: Repeats motion. Hearing no objection, the motion CARRIES.

167 FITCH: The final amendment was suggested by members of the

committee, having to do with Section 7 of HB 3087. This would be the effective

date of the act. Currently, it would be effective January 1, 1994.

158 MOTION: REP. MARKHAM: Moves that an emergency clause should be included, effective upon signing.

167 REP. DOMINY: I think this will take time to decide what kind of rules should be adopted with it. I don't think we can do that in an emergency situation. For that reason, I will be opposing that amendment.

181 REP. MARKHAM: They'll still have to make these rules anyway. We just want to protect individuals from being overrun with regulations.

197 CHAIR VanLEEuwEN: Repeats motion.

196 SMITH: I think the effective date of the bill would be adequate.

244 CHAIR VanLEEuwEN: Coming back to Section 7, if we did what you propose Section 7 would say what we wanted it to say, is that correct?

247 SMITH: That's correct.

249 CHAIR VanLEEuwEN: Is that your motion, Rep. Markham?

250 REP. MARKHAM: Yes.

252 FITCH: Section 7 would read, "The provisions of Sections 1 - 6 of this act apply to any regulation adopted after the effective date of this

act."

255 VOTE: On a roll call vote, REPS. DELL, DOMINY, and JOSI vote NAY. REPS. FISHER, LUKE, MARKHAM, NORRIS and CHAIR VanLEEuwEN vote AYE.

253 CHAIR VanLEEuwEN: The AMENDMENTS are ADOPTED.

272 REP. MARKHAM: I want consensus.

277 MOTION: REP. MARKHAM: Moves to reconsider the vote.

289 CHAIR VanLEEuwEN: Hearing no objection, the motion CARRIES.

300 REP. MARKHAM: Let's go with the bill the way it's written in Section 7.

302 REP. DELL: I voted the way I did because Rep. Dominy has worked very hard on this bill and looking at this clause, I felt there would be a

hard time gathering support for a bill that he has worked very hard on.

311 REP. NORRIS: I would like to see a clean version of this before we vote on it.

337 REP. JOSI: We have created the zebra, why don't we stop and look at it until next week. I don't think we need to take any additional

action on this bill. This will return to committee on the 16th.

372 CHAIR VanLEEuwEN: Closes work session.

Meeting adjourned at 4:22. Additional information submitted for the record: - HB 3087-1 hand engrossed amendments (Exhibit G). - Outline of HB 3087 submitted by staff (Exhibit H). - Information on related court cases by Ed Sullivan (Exhibit I). - Letter from Kelly Ross, Oregon Association of Realtors (Exhibit J).

Submitted by:

Reviewed by:

Sue Nichol

Catherine Fitch Clerk Administrator

EXHIBIT LOG:

A - All bills - Testimony - Keith Bartholomew - 11 pages B -
HB 3087 - Testimony - David Driscoll - 5 pages C - HB 3128 -
Testimony - Charles Gehley - 1 page D - HB 2899 - Testimony Bill
Moshofsky - 1 page E - HB 2935 - Testimony - Ruby Ringsdorf - 3
pages F - HB 3087 - Testimony - Liz Frenkel - 3 pages G - HB
3087 - Hand engrossed amendments - Staff - 3 pages H - HB 3087 -
Outline - Staff - 1 page I - Information - Ed Sullivan - 23
pages J - HB 3087 - Testimony - Kelly Ross - 2 pages