

HOUSE COMMITTEE ON NATURAL RESOURCES ENVIRONMENT AND ENERGY SUBCOMMITTEE

June 9, 1993           Hearing Room D 1:00 p.m.   Tapes 139 - 140

MEMBERS PRESENT:   Rep. Bob Repine, Chair Rep. Marilyn Dell, Vice-Chair  
Rep. Sam Dominy Rep. Bill Fisher Rep. Carl Hosticka Rep. Bill Markham  
Rep. Nancy Peterson

MEMBERS EXCUSED:   Rep. Ray Baum Rep. Dennis Luke

STAFF PRESENT:           Kathryn Van Natta, Committee Administrator Karen  
McCormac, Committee Clerk

MEASURES CONSIDERED:           Work Session - HB 2070 - SB 96 A-Engrossed  
- HB 3501 - HB 3502 - HB 2934 - HB 2792

WITNESSES:                   BLAIR BATSON, 1000 Friends of Oregon GREG WOLF,  
Deputy Director, Department of Land

Conservation and Development (DLCD) CHUCK PEARSON, Washington County  
Surveyor JOHN CHANDLER, Staff Attorney, Common Ground; the

Urban Land Council of Oregon; the Homebuilders

Association for Metropolitan Portland KEN BIERLY, Wetlands Program  
Manager, Division of

State Lands NEIL MULLANE, Department of Environmental Quality LARRY  
TROSI, Oregon Farm Bureau

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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  
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TAPE 139, SIDE A

005     CHAIR REPINE:   Calls meeting to order at 1:14 p.m.

Let the record show that Rep. Luke and Rep. Baum are excused.

OPENS WORK SESSION ON SB 96 A-ENGROSSED

016 KATHRYN VAN NATTA, Committee Administrator: Senate Bill 96 was  
heard during the June 7 meeting. This bill reconciles the Columbia  
River

Gorge National Scenic Area management plan requirements with the state and local government land-use planning requirements. There is no revenue impact, and the fiscal impact for the A-Engrossed version is minimal. A slight cost savings is expected for the Department of Land Conservation and Development (DLCD) and the Land Use Board of Appeals (LUBA) by eliminating periodic periodic plan reviews, plan amendment processing, and appeal functions for lands in a scenic area. Once county land-use regulations are approved under the National Scenic Act, appeals of land-use decisions for compliance with statewide planning goals can no longer be made to LUBA. Senate Bill 96 passed the Senate on a 27 - 3 vote. The -3 amendments

add an emergency clause, which would help simplify the process due to current pending appeals.

039 MOTION: REP. DOMINY: Moves the adoption of the -3 AMENDMENTS (LC 512), dated 6-1-93 to SB 96 A-ENGROSSED.

041 CHAIR REPINE: Restates motion and calls for discussion. Hearing no objection, the motion CARRIES.

045 MOTION: REP. DOMINY: Moves SB 96 A-ENGROSSED, as amended by the -3 AMENDMENTS (LC 512), dated 6-1-93 to the Full Committee on Natural

Resources with a DO PASS RECOMMENDATION.

050 CHAIR REPINE: Restates motion and calls for discussion.

054 VOTE: REPS. DELL, DOMINY, FISHER, PETERSON and CHAIR REPINE vote AYE. REPS. BAUM, HOSTICKA, LUKE and MARKHAM are EXCUSED.

057 CHAIR REPINE: The motion CARRIES. We will ask Rep. Walden to lead discussion on the floor when it goes out of the Full Committee.

Additions to the record: SB 96 A-Engrossed Staff Measure Summary, Senate Amendments to SB 96, Oregon State Senate Vote Sheet for SB 96 A-Engrossed, Fiscal Analysis and Revenue Impact Analysis (EXHIBIT A) Proposed -3 Amendments to A-Engrossed SB 96 (LC 512), 6-1-93 (EXHIBIT B)

063 CLOSES WORK SESSION ON SB 96 A-ENGROSSED

064 OPENS WORK SESSION ON HB 2934

068 VAN NATTA: House Bill 2934 was in public hearing in this committee on April 12. It expands the definition of farm use to include the training and stabling of livestock, and comes to us from the Horse Council of

Oregon. The measure has a revenue impact, and we have also provided the revenue analysis from HB 3661 (EXHIBIT C), which includes a training and

stabling provision. There is no fiscal impact.

The committee has received a letter dated June 9, 1991 from 1000 Friends of Oregon to Rep. Repine suggesting amendments (EXHIBIT D). We have also received a letter from Lee Kersten dated June 8, 1993 to Rep. Repine regarding an agreement with various parties in reaching an agreement on amendments to HB 2934 (EXHIBIT E).

101 REP. PETERSON: Isn't this provision already in HB 3661?

102 CHAIR REPINE: Since we don't know the fate of HB 3661, I thought that a working group should try to make this bill more palatable. If HB 3661

is successful, this bill would follow it through the process.

110 REP. PETERSON: I heard some criticism earlier in the session about this issue, in which the possession of one or two horses would provide "farm use" status. Has that been clarified in this bill?

118 BLAIR BATSON, 1000 Friends of Oregon: Lee Kersten, an attorney for the Horse Council of Oregon, contacted 1000 Friends of Oregon early in the

session. We discussed an approach we could all agree on. A representative from the Farm Bureau also discussed their concerns about the bill. We never wrote up an agreement because we weren't sure whether the bill was going forward, but we talked again this week, and feel we can agree on amendments which would satisfy the concerns of different interests.

131 CHAIR REPINE: Had you discussed the issue of what constitutes "farm use"?

134 BATSON: Yes. It's an ongoing problem whenever you amend the exclusive farm use EFU zone to allow different uses. It's difficult to

distinguish between commercial uses which are allowed and non-commercial uses. The intent of the bill is to allow commercial stabling and training facilities and develop language which distinguishes between those types of operations.

147 REP. FISHER: What's your estimate of how many operations would be established with passage of this bill?

148 BATSON: We already see manipulation of land-use laws to allow hundreds of homes to be built in EFU zones, even though these people are not

interested in commercial farming. The challenge is distinguishing

between what is commercial and what is non-commercial.

157 REP. FISHER: How many people would stable five horses just to build a dwelling in an EFU zone?

162 BATSON: I cannot provide you with a precise number.

166 CHAIR REPINE: I have asked the Speaker to allow this bill to have another hearing next week so the parties can come to an agreement.

178 GREG WOLF, Deputy Director, Department of Land Conservation and Development: We would be happy to work with the other parties to help

address some of the concerns which were raised in testimony.

Additions to the record: HB 2934 Staff Measure Summary, Fiscal Impact Assessment and Notice of Possible Revenue Impact (EXHIBIT F)

186 CHAIR REPINE: CLOSES WORK SESSION ON HB 2934

OPENS WORK SESSION ON HB 2792

194 VAN NATTA: House Bill 2792 received a public hearing on April 5. This bill eliminates the requirement that a partition plat be required for

parcels that are not surveyed and monumented. The exception applies to greater than 10 acre parcels unless local government ordinances require recording. There have been amendments proposed, which are in your packet today. An engrossment error has been made on the hand-engrossed bill. On Page 2, Line 15, the bold material should read, "Private easements shall become effective upon recording of the plat." There is no revenue impact, and there is no fiscal impact on the unamended version of the bill.

224 CHUCK PEARSON, Washington County Surveyor: The -1 amendments are the result of some negotiations of the language with representatives from

the Title Company, the Home Builders Association, and the Oregon Association of County Engineers and Surveyors. We concur in those amendments.

232 The major impact of the bill is that two sessions ago, the partition platting statutes were enacted, which require that a parcel created

under 10 acres be surveyed, monumented and be part of a partition plat. Parcels over 10 acres did not have to be surveyed and monumented, but they did have to be shown in a partition plat, and this has led some of

the surveyors who create those plats to become uncomfortable in depicting them. It has also led to some additional expense in the preparation of the plat for those parcels. The amendment would remove parcels over 10 acres from the partition plat, and would require a declaration of partition, which is a description of the parcel, an acknowledgement by the planning authority having jurisdiction, and a review by the county or city surveyor. A recording of that declaration of partition with the county clerk's office would create the partition for unsurveyed parcels.

The other significant amendment is on Page 2 of the hand-engrossed version of HB 2792 regarding the division of land resulting from the recording of a subdivision of a condominium plat would be exempt from the partition laws. Currently, any division must be either subdivided or partitioned. This would allow the subdivision to be taken out, and leave the remainder as an existing parcel without any further action.

278 JOHN CHANDLER, Staff Attorney, Common Ground; the Urban Land Council of Oregon, the Homebuilders Association of Metropolitan Portland: For the

record, we are in accord with the amendments, which adequately address the concerns we raised in the earlier hearing, especially exempting subdivision or condominium plat from the partition lot.

291 CHAIR REPINE: Are you aware of anyone in opposition to this?

299 CHANDLER: No.

302 REP. DELL: This bill is a move in the right direction.

322 MOTION: REP. HOSTICKA: Moves the -1 AMENDMENTS (LC 2489), dated 4-27-93 to HB 2792.

324 CHAIR REPINE: Restates motion and calls for discussion. Hearing no objection, the motion CARRIES.

326 MOTION: REP. HOSTICKA: Moves HB 2792 as amended by the -1 AMENDMENTS (LC 2489) dated 4-27-93 to the Full Committee on Natural Resources with a DO PASS RECOMMENDATION.

331 CHAIR REPINE: Restates motion and calls for discussion.

333 VOTE: REPS. DELL, FISHER, HOSTICKA, PETERSON and CHAIR REPINE

vote AYE. REPS. BAUM, FISHER, LUKE and MARKHAM are EXCUSED.

340 CHAIR REPINE: The motion CARRIES.

Additions to the record: HB 2792 Staff Measure Summary, Revenue Impact Analysis and Fiscal

Impact Assessment (EXHIBIT G) HB 2792 Hand-Engrossed with HB 2792-1 Amendments (LC 2489), 4-27-93

(EXHIBIT H)

CLOSES WORK SESSION ON HB 2792

341 CHAIR REPINE: Recesses meeting at 1:40 p.m.

Reconvenes meeting at 1:47 p.m.

351 OPENS WORK SESSION ON HB 2070

House Bill 2070 has a subsequent referral to the Appropriations Committee. After discussion with the Chair of the Appropriations Committee, he assured me that this amount is in their budget. There might be discrepancy regarding the number of FTE, and possibly having to go to the Emergency Board to acquire the additional FTE, but he believes that would be taken care of on the Senate side. Whoever makes the motion to move HB 2070, please rescind the referral to the Appropriations Committee.

373 REP. HOSTICKA: I understand that the DEQ budget is on the floor again tomorrow, so by the time this bill arrives, the DEQ budget will have

already been passed.

379 MOTION: REP. HOSTICKA: Moves HB 2070 to the Full Committee on Natural Resources with a DO PASS RECOMMENDATION and RESCINDS

SUBSEQUENT REFERRAL to the APPROPRIATIONS COMMITTEE.

393 CHAIR REPINE: Restates motion and calls for discussion.

394 VOTE: REPS. DELL, FISHER, HOSTICKA, PETERSON and CHAIR REPINE vote AYE. REPS. BAUM, DOMINY, LUKE and MARKHAM are EXCUSED.

400 CHAIR BAUM: The motion CARRIES. REP. HOSTICKA will eventually lead discussion on the floor.

Additions to the record: HB 2070 Staff Measure Summary, Fiscal Analysis and Revenue Impact

Analysis (EXHIBIT I)

402 CLOSES WORK SESSION ON HB 2070

419 VAN NATTA: House Bill 3501 was in public hearing on April 12, and requires certain land use goal inventories by June 1, 1994, exempts

non-inventoried resources from consideration, and requires urban growth boundaries to be expanded under specified circumstances. At the time it was in public hearing, a revenue impact statement showed there was no revenue impact. We now have a fiscal impact statement dated June 7, 1993 which states there is an indeterminate effect on local government. Reads into record a letter dated June 8, 1993 from 1000 Friends of Oregon (EXHIBIT J) addressed to Rep. Repine.

414 JOHN CHANDLER, Staff Attorney, Common Ground; Urban Land Council of Oregon; Homebuilders Association of Metropolitan Portland: This bill

attracted a fair amount of controversy at its last hearing. We have tried to address many of those concerns with the -2 amendments, which essentially gives local governments more time to complete their inventories, we deleted Section 3 so that urban growth boundaries would not be moved, and addressed concerns raised about Goal 5 resources which are not immediately discoverable.

State agencies have requested additional time to explore items which we can't see today, such as mineral aggregates or aquifers, as well as the "latent resource site" phraseology.

TAPE 140, SIDE A

047 CHAIR REPINE: Will you be discussing these amendments with other interested parties?

050 CHANDLER: I discussed this with Mary Kyle McCurdy from 1000 Friends yesterday, and will be discussing it with her or Blair Batson today.

052 CHAIR REPINE: Who else will you be meeting with today?

053 CHANDLER: Greg Wolf of DLCD, representatives from State Parks and Recreation, the Water Resources Department, and one or two other state

agencies.

057 CHAIR REPINE: This letter from 1000 Friends suggests you may also want input from local governments.

059 CHANDLER: We certainly will be talking with them as well.

060 REP. DOMINY: Are you including anyone from the Farm Bureau?

062 CHANDLER: I'm happy to talk with representatives from the Farm Bureau.

065 CHAIR REPINE: Requests results from working group by June 16. Requests explanation of -1 amendments proposed by the Department of Geology and Mineral

Industries.

080 CHANDLER: I believe they expand the definition of "aggregate resource site." What we tried to do with the -2 amendments was to not be

specific about latent resources. I have no objection to their amendment, but I think we tried to cover that same point with the -2 amendments.

Additions to the record: HB 3501 Staff Measure Summary, Fiscal Analysis and Revenue Impact

Analysis (EXHIBIT K) Proposed -1 and -2 Amendments to HB 3501 (LC 979), 5-14-93 (EXHIBIT

L)

089 CHAIR REPINE: CLOSSES WORK SESSION ON HB 3501

OPENS WORK SESSION ON HB 3502

093 VAN NATTA: House 3502 deals with wetland regulations, and was in a public hearing on March 24 and April 19. It is sponsored by Common

Ground. The bill has no revenue impact, but there is a fiscal impact on the original measure for the Division of State Lands (EXHIBIT M).

This measure requires state agencies which report on wetlands to the Division of State Lands (DSL) not to vary their reports when they report to other governmental agencies, requires DSL to define significant wetlands and set regulatory standards, and prohibits local governments and other state agencies from setting their own standards by mandating compliance with DSL activities.

129 CHANDLER: Essentially, the bill was brought forward with two intentions; to streamline the process under the Clean Water Act between DEQ and DSL, and to make it clear that DSL was to be the lead agency for purposes of wetland definitions, etc. The -01 amendments (EXHIBIT N)

contain changes agreed to by DSL, DEQ and Common Ground. A new Page 2 (EXHIBIT O) contains additional language changes.

Reviews changes in HB 3502 due to new amendments.



212 KEN BIERLY, Wetlands Program Manager, Division of State Lands: We feel comfortable with the new interaction between DSL and DEQ. We have

discussed the new Page 2 with DLCD, and they did not object to these amendments.

227 REP. HOSTICKA: If a local government has already completed a comprehensive plan, will this be retroactive?

231 BIERLY: There is no intention to make this retroactive. Existing efforts would not be forced back through the hoops, other than periodic review, if there were changes.

237 REP. HOSTICKA: Since this provides that DSL will develop rules which apply to everyone, how will local governments have input into the

development of those rules?

240 BIERLY: The administrative rule process is an open, public process. We will insure that we mail any proposals to each city and county in the

state, as well as to the Association of Oregon Counties and the League of Oregon Cities.

247 REP. DELL: Yesterday we passed legislation that would allow Polk and Marion County to do pilot projects in which individuals do conservation plans on their own land. Wetlands were specifically brought up during

testimony. Is there any link between those plans and these amendments?

254 BIERLY: Without being familiar with that legislation, I would anticipate that if wetlands were protected on private lands due to a

pilot project, we would wish they be identified and inventoried.

266 CHAIR REPINE: That bill is HB 3101.

276 NEIL MULLANE, Department of Environmental Quality: We worked on the amendments a short time ago. DEQ tried to insure that the commission

maintain its responsibility and authority to develop water quality standards, especially for wetlands. These changes also insure that we will be able to meet the time limits in the bill.

300 LARRY TROSI, Oregon Farm Bureau: I would only request that we have some time to look over these amendments, unless the committee has plans to

move the bill.

302 REP. DOMINY: You would still have an opportunity to suggest changes before it goes to the Full Committee on Natural Resources.

317 CHAIR REPINE: If we move this today, it will still take a full week before it reaches the Full Committee.

329 MOTION: REP. DOMINY: Moves CONCEPTUAL AMENDMENTS entitled "ken 389" to HB 3502, which includes the deletion of Lines 1 through 5, and the inclusion of Subsection 3 in Section 4.

344 CHAIR REPINE: Restates motion and calls for discussion. Hearing no objection, the motion CARRIES.

367 VAN NATTA: In reference to HB 3502-01 amendments (LC 980), dated 6-3-93, "Work Copy," in Line 6, the deletion of the words "in the case

of a fill" and the retention of the comma.

The second change is on Line 13. The deletion of the blank and the insertion of "ORS 196.825 Subparagraph 5".

On Line 16, the deletion after Subparagraph (c) of "Unless the Department of Environmental Quality makes findings that establish significant cause,". We will capitalize the word "the" and after "Department" add "of Environmental Quality". Lines 16 and 17 will then read, "(c) The Department of Environmental Quality shall not subsequently make".

On Line 19 after the word "subsection" before the period, insert the words, "without good cause and without providing the director notice".

The last change is the deletion of the language in Lines 20 through 24.

408 MOTION: REP. DOMINY: Moves amendments as specified by staff to HB 3502-01 AMENDMENTS (LC 980), dated 6-3-93 to HB 3502.

410 CHAIR REPINE: Restates motion and calls for discussion.

414 REP. PETERSON: Does the "ken 389" amendment substitute for Page 2 of the HB 3502-01 amendments?

415 CHAIR REPINE: That is correct.

Hearing no objection, the motion CARRIES.

420 MOTION: REP. DOMINY: Moves HB 3502 AS AMENDED BY THE HB 350 2-01 AMENDMENTS (LC 980), dated 6-3-93 and AS AMENDED BY THE "KEN 389"

AMENDMENTS to the FULL COMMITTEE ON NATURAL RESOURCES.

435 CHAIR REPINE: Restates motion and calls for discussion.

438 VOTE: REPS. DELL, DOMINY, FISHER, HOSTICKA, MARKHAM, PETERSON and CHAIR REPINE vote AYE. REPS. BAUM and LUKE are EXCUSED.

451 CHAIR REPINE: The motion CARRIES. REP. DELL will lead discussion on the floor.

TAPE 139, SIDE B

Additions to the record: HB 3502 Staff Measure Summary (EXHIBIT P)

016 CLOSES WORK SESSION ON HB 3502 Adjourns meeting at 3:25 p.m.

Submitted by:

Reviewed by:

Karen McCormac  
Administrator

Kathryn Van Natta Assistant

EXHIBIT LOG:

A - SB 96 A-Engrossed Staff Measure Summary, Senate Amendments to SB 96, Oregon State Senate Vote Sheet for SB 96 A-Engrossed, Fiscal Analysis, and Revenue Impact Analysis - Staff - 5 pages B - Proposed -3 Amendments to A-Engrossed SB 96 (LC 512), 6-1-93 - Staff - 1 page C - HB 3661 Revenue Impact Analysis - Staff - 1 page D - HB 2934 Testimony - Blair Batson - 2 pages E - HB 2934 Testimony - Lee Kersten - 1 page F - HB 2934 Staff Measure Summary, Fiscal Impact Assessment, and Notice of Possible Revenue Impact - Staff - 4 pages G - HB 2792 Staff Measure Summary, Revenue Impact Analysis, and Fiscal Impact Assessment - Staff - 2 pages H - HB 2792 Hand-Engrossed with HB 2792-1 Amendments (LC 2489), 4-27-93 - 14 pages I - HB 2070 Staff Measure Summary, Fiscal Analysis, and Revenue Impact Analysis - Staff - 5 pages J - HB 3501 Testimony - Mary Kyle McCurdy - 2 pages K - HB 3501 Staff Measure Summary, Fiscal Analysis, ODFW Fiscal Analysis, and Revenue Impact Analysis - Staff - 4 pages L - Proposed -1 and -2 Amendments to HB 3501 (LC 979), 5-14-93 - Staff - 2 pages M - HB 3502 Revenue Impact Analysis and Fiscal Analysis - Staff - 2 pages N - Proposed Amendments to HB 3502-01 Amendments (LC 980), 6-3-93 - Staff - 2 pages O - Proposed Amendments to HB 3502-01 Amendments (LC 980), 6-3-93, Page 2 entitled "ken 389" - Staff - 1 page P - HB 3502 Staff Measure Summary - Staff - 1 page