

HOUSE COMMITTEE ON NATURAL RESOURCES ENVIRONMENT AND ENERGY SUBCOMMITTEE

March 15, 1993 Hearing Room D 1:30 p.m. Tapes 45 - 49

MEMBERS PRESENT: Rep. Bob Repine, Chair Rep. Marilyn Dell, Vice-Chair
Rep. Sam Dominy Rep. Bill Fisher Rep. Carl Hosticka Rep. Dennis Luke
Rep. Bill Markham Rep. Ray Baum

MEMBER EXCUSED: Rep. Nancy Peterson

VISITING MEMBER: Rep. Tim Josi

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

MEASURES CONSIDERED: Public Hearing - HB 2700 - HB 2594 - HB 2613
- HB 2688

WITNESSES: JAMES MONROE, Linn County Farm Bureau KELLY
ROSS, Oregon Association of Realtors DEBRA WEAVER, Corvallis Board of
Realtors JIM ALLISON, Washington County Landowners Association DON
SCHELLENBERG, Oregon Farm Bureau BLAIR BATSON, 1,000 Friends of Oregon
MIMI STOUT, Alsea Citizen's Advisory Committee LUCINDA MOSER, Citizen
GEORGE PUGH, Grass Seed Farmer HECTOR MacPHERSON, Member of the Land
Conservation and Development Commission, Commercial Farmer TAMRA SAACHI,
Row Crop Farmer RICHARD T. BLAINE, Avalon Orchards, Inc.

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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 ---]

AILEEN P. KAY, Marion County Resident BETTY JANZEN, Yamhill County
Resident HAZEL PETERSON, Marion County Resident JIM PETERSON, Marion
County Resident GENE LASATER, Oregon State Granges

RANDY BATEMAN, Washington County Resident THOMAS FISHER, Dallas Cattle
Farmer BILL MOSHOFSKY, Oregonians in Action DAVE SMITH, Oregonians in
Action JAN HUPP, Christmas Tree Farmer RICHARD BENNER, Land
Conservation and Development

Department

TAPE 46, SIDE A

005 CHAIR REPINE: Calls meeting to order at 1:37 p.m. Let the
record reflect the subcommittee does not presently have a quorum.

015 KATHRYN VAN NATTA, Committee Administrator: Since last week's
meeting regarding HB 2700, we have received notice that there is no

fiscal

impact on state or local governments. Introduces testimony into the record from Elizabeth Petillo dated March 15 (EXHIBIT A) in opposition to HB 2700.

022 CHAIR REPINE: We did not have an opportunity to hear all the witnesses who signed up to testify during last week's meeting. The remaining

witnesses will be called in the order in which they signed up last week. Caution witnesses to limit testimony to 5 minutes.

041 JAMES MONROE, Linn County Farm Bureau: Presents testimony (EXHIBIT B) in opposition to HB 2700. We recommend no non-farm dwellings in

resource zones.

099 CHAIR REPINE: Let the record show we now have a quorum present.

101 REP. LUKE: Who do you represent?

103 MONROE: The Linn County Board of Directors.

106 REP. LUKE: What is a non-farm dwelling? Do you believe farmers can do a better job living on site?

115 MONROE: Whether the activity can be managed on or off site depends more on the manager than on where an individual lives. Our concern is

non-farm dwellings and non-farm activity next to farmland, and the problems that can generate.

180 KELLY ROSS, Oregon Association of Realtors: Presents written testimony (EXHIBIT C) in support of HB 2700.

263 REP. DOMINY: Last week, Dick Benner from LCDC said that Washington and Lane counties already have a lot of record. How do these counties differ

from other counties? 276 ROSS: Their lot of record ordinances are in connection with marginal land laws. I believe the lot of record provisions have been drawn

restrictively, so they have not impacted a lot of land. This bill is much more permissive, and would supersede county ordinances.

289 DEBRA WEAVER, Corvallis Board of Realtors: Testifies in support of HB 2700.

354 REP. LUKE: Would your organization be opposed to a right-to-farm bill?

358 WEAVER: No. In our county, when people build homes

adjacent to farmland, they are required to sign a covenant recognizing farming or

forestry activity in the area, which remains on the property title.

378 REP. DELL: How many of these smaller unused parcels exist in your county?

380 WEAVER: I don't know. Several factors may prohibit a builder from building on these lots, such as septic problems, road access, etc.

Agrees to provide committee with testimony in written form.

407 JIM ALLISON, Washington County Landowners Association:
Testifies in support of HB 2700.

TAPE 46, SIDE A

054 REP. LUKE: Questions membership size of witness's association.

055 ALLISON: We have approximately 150 members.

060 DON SCHELLENBERG, Oregon Farm Bureau: Testifies in opposition to HB 2700.

150 REP. DOMINY: In my district, I hear complaints from farmers who have been absent from the land who now cannot live on their property because it had been leased for grazing. How do we respond to this?

163 SCHELLENBERG: They could develop more intensive farming operations to establish requirements for a farm dwelling. We do not oppose the

establishment of farm dwellings, but believe there is a need for deed restriction.

173 REP. LUKE: What would be a minimum lot size for farming?

174 SCHELLENBERG: Fifty acres. Twenty acres or less would probably never qualify for a farm dwelling.

185 REP. DELL: This proposal calls for a finite number of lots of existing lots. Has the Farm Bureau tried to assess the impact of HB 2700?

194 SCHELLENBERG: No.

216 REP. DELL: I understand that if we can keep farmland affordable, farm parcels will grow. How do we respond to a property owner who purchased

a homesite parcel for \$47,000, but the property is now worth \$17,000 as farmland?

245 SCHELLENBERG: That is an unfortunate circumstance. Perhaps compensation would resolve this if the zoning change occurred after the property was purchased. As a farmer who owns three parcels, I cannot

sell two of those parcels because they are not contiguous and would not qualify for a farm dwelling. However, Oregon must have continue to have farm zones, just as we have commercial and industrial zones. We

appreciate the fact that people desire to live in the country. However, farmland should be considered an industrial zone so farmers can continue to produce what consumers need at a fair price.

310 BLAIR BATSON, 1,000 Friends of Oregon: Presents written testimony (EXHIBIT D) in opposition to HB 2700.

TAPE 45, SIDE B

010 REP. DELL: We heard some willingness from the Oregon Farm Bureau to distinguish between merely speculative land purchases from land

purchases which were made before zoning changes altered land usage.

Would 1,000 Friends be willing to make a similar distinction?

028 BATSON: Since we do not know which purchases were purely speculative, it would be difficult to determine a distinction.

037 CHAIR REPINE: Your testimony includes data from the Department of Agriculture's 1987 census. Is there more current data available?

038 BATSON: The most recent census has not yet been released.

060 MIMI STOUT, Alsea Citizen's Advisory Committee: Presents written testimony (EXHIBIT E) in support of HB 2700.

110 LUCINDA MOSER, Citizen: Testifies in support of HB 2700. We purchased 19.6 acres in the King's Valley area in Benton County with the intent to build a home there. Because of changes in the land-use laws, we are now unable to proceed.

165 CHAIR REPINE: Did you intend to farm? Had you started the preliminary steps necessary for siting, such as site evaluations for septic or well water?

174 MOSER: We intended to farm, and the preliminary siting actions had been taken by the previous owner.

189 FISHER: Could you make a profit commuting the 35-minute drive from your present home to this site?

193 MOSER: No.

191 GEORGE PUGH, Grass Seed Farmer: Testifies in opposition to HB 2700.

282 HECTOR MacPHERSON, Member of the Land Conservation and Development Commission, Commercial Farmer: Testifies in opposition to HB 2700.

People are naturally attracted to the benefits of living in the country

and the less expensive farmland. Thousands of non-farm dwellings are already scattered across farm zones, but it would not be wise to increase that number. Proposes creating areas of "small-scale agriculture." LCDC has already set up joint rules between the state and counties to identify areas which are not commercially significant where houses can be built.

394 REP. HOSTICKA: Do you think these problems could all be solved by a good right-to-farm bill?

410 MacPHERSON: I am a right to farm supporter, but there are constitutional problems with some of the things we farmers would like to do.

446 HOSTICKA: Is the right to farm bill compatible with HB 2700?

TAPE 46, SIDE B

016 MacPHERSON: We do not want additional development in commercial farm zones, although there are areas where development would be suitable.

023 REP. LUKE: Requests definition of "small-scale areas."

025 MacPHERSON: In Linn County, most poor farmland is located along the Cascade foothills where the soil is not particularly good and the land

has already been divided.

041 REP. MARKHAM: Is "small-scale" the same as secondary lands?

043 MacPHERSON: Originally, the term "marginal lands" was used. "Secondary lands" was used when we had two classes of lands, i.e., "primary" and

"secondary." Now there are three classes of lands, including "high-value," "important" and "small-scale."

055 REP. MARKHAM: Our Douglas County planner looked at the secondary lands rules, applied them to about 15,000 acres in the southern portion of the county, and only came up with 246 acres which qualify.

061 MacPHERSON: We think there is a lot more land which qualifies than the Douglas County planner thought there was.

074 TAMRA SACCHI, Row Crop Farmer: Testifies in opposition to HB 2700.

093 CHAIR REPINE: Do you oppose this bill due to the intrusion of development upon farmland?

103 SAACHI: No. Exclusive farm-use zones must be protected for farming. There is still a substantial amount of land available for development

within the urban growth boundaries. 114 RICHARD T. BLAINE, Avalon Orchards, Inc.: Testifies in opposition to HB 2700. Today Hood River County produces 40% of all winter pears in the

country, two-thirds of all Bartlett pears in Oregon, and is the second-largest producer of sweet cherries in Oregon. Each acre of land is valuable.

244 AILEEN P. KAYE, Marion County Resident: Testifies in opposition to HB 2700. In the past two years, Marion County has seen the largest

increase in rural dwellings in the county's history. As a news commentator said last week, both the Oregon Citizen's Alliance and Oregonians in Action appear obsessed with the rights of people who want to develop their property at the expense of the rights of property owners who want to be able to farm.

280 BETTY JANZEN, Yamhill County Resident: Presents written testimony (EXHIBIT F) in support of HB 2700. Expresses frustration at not being

allowed to build on own property.

TAPE 47, SIDE A

021 HAZEL PETERSON, Marion County Resident: Testifies in support of HB 2700. Requests flexibility regarding development on small EFU-zoned

parcels.

067 JIM PETERSON, Marion County Resident: Testifies in support of HB 2700. Estimates that dwellings be placed on half the farms in Marion County

without adversely affecting farm operations.

098 REP. LUKE: Could the adjacent farms absorb smaller acres which cannot be built upon?

109 JIM PETERSON: No.

127 GENE LASATER, Oregon State Granges: I am neither for nor against HB 2700. My testimony was written for SB 30 regarding secondary lands, but it pertains to this measure. Land planners need to consider the needs

of people who are neither commercial farmers nor urban dwellers, and recognize the proclivity for an independent lifestyle. Population growth in Oregon will change land-use planning, including the expansion of urban growth boundaries, as well as changes in city and county codes and facilities (such as recent changes in manufactured housing

statutes).

Agrees to provide committee with copies of testimony.

200 RANDY BATEMAN, Washington County Resident: Testifies in support of HB 2700. Frustrated at being unable to build own home on parents' farm.

Characterizes bill proponents as amateurs and bill opponents as polished and well-funded.

335 THOMAS FISHER, Dallas Cattle Farmer: Testifies in support of HB 2700. I fought to stop the proliferation of authoritarian governments in World War II, and I feel our property rights are being usurped.

Additions to the record: HB 2700 Preliminary Staff Measure Summary (EXHIBIT G) HB 2700 Fiscal Impact Assessment (EXHIBIT H) HB 2700 Notice of Possible Revenue Impact (EXHIBIT I)

427 CHAIR REPINE: CLOSING PUBLIC HEARING ON HB 2700

Calls for a five-minute recess. Reconvenes meeting at 4:05 p.m.

OPENS PUBLIC HEARING ON HB 2594

123 BILL MOSHOFSKY, Oregonians in Action: The next three bills are an attempt to alleviate citizen frustration with restrictive land use.

137 DAVE SMITH, Oregonians in Action: Testifies in support of HB 2594, which allows counties to permit the routine replacement of farm

dwelling without forcing the owners back through the conditional use permit process.

180 CHAIR REPINE: Does this replacement refer to dwellings damaged by fire or other natural causes, or does it provide the opportunity to restore

or replace an existing dwelling?

194 SMITH: ORS Chapter 215 allows the replacement of dwellings due to casualty and is applicable to farm and forest dwellings. The adoption

of OAR 660-06-025 (3)(p) by LCDC allows the routine replacement of existing dwellings in forest zones.

196 REP. LUKE: Are there restrictions as to the type of replacement? Would a larger structure be allowed?

209 SMITH: Language in the current statute specifies that structural or usage alterations must have "no greater adverse impact on the

neighborhood."

223 CHAIR REPINE: Let the record show we are now in a full subcommittee.

230 JIM ALLISON, Washington County Landowners Association: Presents proposed amendment to HB 2594 (EXHIBIT J). Does not believe bill as

drafted guarantees replacement of farm dwelling.

434 VAN NATTA: Reads into the record a letter from Thor A. Berg on HB 2594 and HB 2688 (EXHIBIT K).

Additions to the record: HB 2594 Preliminary Staff Measure Summary (EXHIBIT L) HB 2594 Revenue Impact Analysis (EXHIBIT M) HB 2594 Fiscal Impact Assessment (EXHIBIT N)

CLOSES PUBLIC HEARING ON HB 2594

OPENS PUBLIC HEARING ON HB 2613 TAPE 47, SIDE B

025 VAN NATTA: Introduces meeting materials, including the Staff Measure Summary (EXHIBIT O) and a fiscal impact analysis showing no fiscal

impact (EXHIBIT P). However, there is revenue impact pending a future work session. Oregonians in Action will present the bill.

036 DAVE SMITH, Oregonians in Action: Testifies in support of HB 2613, which was written to address problems facing applicants who need to

secure land divisions in exclusive farm-use zones. Describes current LCDC Goal 3 rules.

136 CHAIR REPINE: Approximately how much would it cost to question all other farmers within a two-mile survey radius?

138 SMITH: A land-use consultant would probably charge \$4000. Consultants sometimes send out questionnaires to all owners of record, but there is no guarantee that all questionnaires will be returned. County

decision-makers could still determine that an applicant had failed to comply with the legal requirements.

157 REP. DELL: Concur with estimated fee.

187 REP. HOSTICKA: Would this change require other farmers to change their agricultural enterprises due to another farmer's division of land?

199 SMITH: Our intent was not to get involved with market forces, but to make it simpler and easier for a farmer to divide a parcel.

234 REP. FISHER: Suggests adding to statute requirement that other farmers within a two-mile radius surrender farming information.

237 SMITH: I'm not sure we would want that written into the law.

244 DON SCHELLENBERG, Oregon Farm Bureau: Testifies in opposition to HB 2613. Today's measures seem to go directly against Farm Bureau policy.

This bill allows a parcel to be created based on the highest crop value. As parcels are reduced, the parcel price increases, and eventually becomes prohibitive for a farmer to expand his operation.

309 REP. LUKE: Are you in favor of this bill as is?

317 SCHELLENBERG: We are opposed.

318 REP. LUKE: Have you polled your members on this issue?

321 SCHELLENBERG: The Oregon Farm Bureau Policy Book is developed by our House of Delegates. Our organization is based on a representative form

of government, with the number of delegates based on the number of members within each county. The House of Delegates votes on resolutions started at the grass roots level by a county member.

346 REP. DELL: Have you considered defining "commercial agriculture" to clarify the system?

365 SCHELLENBERG: Defining that with concrete factors, such as the number of acres, would be easier, but does not allow for flexibility.

387 MIMI STOUT, Alsea Citizen's Advisory Committee: Testifies in favor of HB 2613.

401 BLAIR BATSON, 1,000 Friends of Oregon: Testifies in opposition to HB 2613. Currently in an area like Yamhill County, a farmer can have

diverse farm operations within a single area. Existing law requires that the farmer analyze the size of parcel necessary to support various operations. If you already own several 40-acre parcels, but decide you want to add wheat, which needs 160-acre parcels, you don't want all your parcels only 40 acres.

TAPE 48, SIDE B

064 REP. LUKE: The current system is not fool-proof.

068 BATSON: That is true. However, disputes are currently resolved on a case-by-case basis, and county-wide hearings are held which assist

county policy-makers in their decisions.

077 JAN HUPP, Christmas Tree Farmer: Testifies in support of HB 261 3. Describes difficulties in obtaining dwelling permit for farmworkers and his own home.

CLOSES PUBLIC HEARING ON HB 2613

OPENS PUBLIC HEARING ON HB 2688

144 VAN NATTA: House Bill 2688 was published at the request of Oregonians in Action. Notes error regarding "at the request of" statement on

measure. Introduces meeting materials, including a Staff Measure Summary (EXHIBIT R), and a Notice of Possible Revenue Impact (EXHIBIT S). There is no fiscal impact on state or local governments. We have also included copies of the property tax statutes regarding zoned and unzoned farmland.

171 CHAIR REPINE: Reads into the record a letter from Bill Martin of Turner, Oregon (EXHIBIT T).

168 DAVE SMITH, Oregonians in Action: Presents HB 2688, which would reverse problems with the LUBA decision regarding Smith v. Clackamas County.

Mr. Smith had applied to partition off a portion of a parent tract he owned which was unsuitable for agricultural crops or livestock. LUBA held that it would be necessary for Mr. Smith to show that the entire tract was unsuitable for farm use.

273 DON SCHELLENBERG, Oregon Farm Bureau: Testifies in opposition to HB 2688.

411 CHAIR REPINE: For the record, Blair Batson of 1,000 Friends of Oregon had to leave the hearing. She has indicated that 1,000 Friends of

Oregon opposes HB 2688.

417 RICHARD BENNER, Land Conservation and Development Department: Describes history of non-farm dwellings in Oregon statutes and rules.

TAPE 49, SIDE A

In 1992, LCDC adopted its farm and forest rules, which affected non-farm dwellings. By establishing small-scale resource lands, the need for the non-farm dwelling process is eliminated. Because the Smith v. Clackamas County was based on statutes, and LCDC rules would not affect that decision, LCDC decided to propose SB 130, which would restore the interpretation to the unsuitability language in the current statute regarding parcel portions. The proposal was to apply only to eastern

Oregon.

In 1986, 264 non-farm dwellings were approved statewide. In 1990, 472 were approved statewide. The majority of those were in western Oregon.

In 1989-90, a study concluded that increasing density increases conflicts on commercial farms, and conflicts increased significantly at a density threshold between 40 - 80 acres. Increased density raises the cost of farm management, and there is a dramatic difference between the effects in eastern versus western Oregon.

117 REP. LUKE: Would a farmer have to pay back taxes if he changed his land from primary farmland to secondary land so a dwelling could be built on the property?

120 BENNER: The person who builds that dwelling cannot automatically qualify for farm value assessment. They can still qualify if they meet

the income test in Chapter 308.

183 REP. LUKE: What criteria does LCDC use to require farmers to increase minimum lot sizes?

188 BENNER: In periodic review, Yamhill County had to revise its agricultural lands provisions to respond to a change in the Goal 3 rule. Yamhill County had a study done to determine what an appropriate minimum lot size should be. LCDC derived different conclusions than Yamhill

County from the study, and determined that a 40-acre minimum lot size would not adequately protect extensive agricultural areas in the northeast portion of the county. LCDC recommended that 80-acre minimum lot sizes be required in the northeast portion, but agreed that 20 and 40-acre parcels would be appropriate in the remaining areas of the county. It is my understanding that the county agreed to use an 80-acre minimum lot size over a significant portion of the county.

Additions to the record: HB 2688 Fiscal Impact Assessment (EXHIBIT U).

241 CHAIR REPINE: CLOSES PUBLIC HEARING ON HB 2688 Adjourns meeting at 5:32 p.m.

Submitted by:

Reviewed by:

Karen McCormac
Administrator

Kathryn Van Natta Assistant

EXHIBIT LOG:

A - HB 2700 Testimony - Elizabeth Petillo - 1 page B - HB 2700
Testimony - James Monroe - 6 pages C - HB 2700 Testimony - Kelly
Ross - 25 pages D - HB 2700 Testimony - Blair Batson - 39 pages E
- HB 2700 Testimony - Mimi Stout - 1 page F - HB 2700 Testimony
- Betty Janzen - 2 pages G - HB 2700 Preliminary Staff Measure
Summary - Staff - 2 pages H - HB 2700 Fiscal Impact Assessment -
Staff - 1 page I - HB 2700 Notice of Possible Revenue Impact -
Staff - 1 page J - HB 2594 Testimony - Jim Allison - 1 page K -
HB 2594 Testimony - Thor Berg - 1 page L - HB 2594 Preliminary
Staff Measure Summary - Staff - 1 page M - HB 2594 Revenue Impact
Analysis - Staff - 1 page N - HB 2594 Fiscal Impact Assessment -
Staff - 1 page O - HB 2613 Preliminary Staff Measure Summary -
Staff - 1 page P - HB 2613 Fiscal Impact Assessment - Staff - 1
page Q - HB 2613 Notice of Possible Revenue Impact - Staff - 1 page
R - HB 2688 Preliminary Staff Measure Summary - Staff - 1 page S
- HB 2688 Notice of Possible Revenue Impact - Staff - 1 page T -
HB 2688 Testimony - Bill Martin - 1 page U - HB 2688 Fiscal Impact
Assessment - Staff - 1 page