

HOUSE COMMITTEE ON NATURAL RESOURCES ENVIRONMENT AND ENERGY SUBCOMMITTEE

April 19, 1993      Hearing Room D 1:30 p.m.      Tapes 69 - 71

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

MEMBER EXCUSED:    Rep. Ray Baum Rep. Bill Fisher Rep. Nancy Peterson

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

MEASURES CONSIDERED:            Informational Meeting - Property Tax  
Primer

Public Hearing and Work Session - HB 2862

Public Hearing - HB 3502

Public Hearing and Work Session - HB 3328

WITNESSES:                    STEVE MEYER, Legislative Revenue Office DON  
SCHELLENBERG, Oregon Farm Bureau JAMES HUNTSMAN, Douglas County  
Assessor's Office DENNIS DAY, Polk County Assessor, Association of

County Assessors JON CHANDLER, Urban Land Council of Oregon, Common

Ground, Homebuilders Association of Metropolitan

Portland DICK ANGSTROM, Oregon Concrete and Aggregate Producers  
Association

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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 ---]

REBECCA RUNDQUIST, Northwest Environmental Defense Center JACK BROOME,  
The Wetlands Conservancy KEN BIERLY, Division of State Lands LIZ  
FRENKEL, Sierra Club NEIL MULLANE, Department of Environmental Quality  
JERRY SCHMIDT, Oregon Association of Realtors MIKE PROPST, Polk County  
Commissioner

TAPE 69, SIDE A

005 CHAIR REPINE: Calls meeting to order at 1:38 p.m. Let the record  
show that at this time, Reps. Hosticka, Luke and Markham are the only  
other

members in attendance. Reps. Peterson and Fisher are excused.

OPENS WORK SESSION ON HB 2862

Steve Meyer with the Legislative Revenue Office will be educating the committee regarding property tax.

066 STEVE MEYER, Legislative Revenue Office: In 1967, we developed the basic outline for our current farm-use special assessment statute. To

determine the value of farmland, an income approach instead of a market sales approach was used. The income approach uses the farm income and the rate of return to obtain the value of farmland.

Statutes define "farm use" as the current employment of land for the primary purpose of obtaining a profit for doing various farm activities. For qualification for the special farm-use assessment, the land must be located in an EFU (exclusive farm use) zone, and it must be used for farming. There are stricter requirements to qualify for land which is outside an EFU zone. This land must have been farmed during the three previous years, an application must be made for special assessment, and the farmer must meet an income test. "Income" would be the gross income from the land, i.e., the value of the sales of the farm products, and three out of the last five years must meet this requirement, based on acreage. If a farm is less than six acres, the total gross income must be at least \$650.

180 REP. HOSTICKA: Wasn't there a net income on livestock?

182 MEYER: I'd have to check that.

186 REP. HOSTICKA: Some people buy and sell a horse the same year, making a \$1,000 profit for one transaction. Would that qualify for the \$650

total gross income?

192 MEYER: If the farm size is more than six acres but less than 30 acres, the gross income must be \$100 per acre. If the farm size is 30 acres or more, the gross income must be at least \$3,000. If it's over 30 acres,

the per-acre amount goes down. If the income test is not met, this would trigger additional taxes. The statute allows that the additional

tax does not have to be immediately paid as long as farm use continues. And for each year that farming is continued, back taxes are forgiven.

217 To qualify as a farm homesite, the site must be considered as one acre of land and used in conjunction with farm use. If a homesite is in a

non-EFU zone, the farm income must be at least half of the owner's adjusted gross income.

248 How is the value determined for a one-acre parcel? The highest value is the real market value, and the lowest is the farm-use special

assessment. To come up with a value between those two extremes, the process requires that the real market value of the entire farm parcel be determined. Divide that amount by the number of acres to get the real market value per acre, which is the value of the one-acre homesite. The larger the parcel, the smaller the real market value is per acre, so the size of the farm will impact the homesite value.

298 REP. LUKE: Does it matter that the one-acre homesite cannot be sold separately from the rest of the parcel?

300 MEYER: The law does not address that issue.

328 If a farm is outside an EFU zone, statutes recognize four ways to disqualify the property. The owner can request that it not be assessed

at special value; the assessor may determine the land is no longer being used for farming; a recording to subdivide the land may be discovered;

or the land is sold to an exempt owner, such as a charitable organization or non-farm owner.

351 REP. LUKE: Doesn't subdivision automatically eliminate the special assessment?

357 MEYER: Subdividing refers to lots. A development would probably no longer be able to be farmed.

368 If the land is disqualified, the statutes provide a "rollback" or tax penalty, which is the difference between the special assessment and

regular market value assessment. The maximum number of years for this penalty is five years.

Even in the 1960s, there was an additional tax for unzoned farmland to help recapture some of the tax benefits if the land is sold and put into a different use.

418 REP. MARKHAM: As I recall, it was a ten-year rollback, and quite onerous.

TAPE 70, SIDE A

003 MEYER: Yes it was. If land is inside an EFU zone, the disqualification methods are much simpler. One disqualifier is if the land is not being

farmed any more. If farming is stopped, but the land could revert back to farming, additional taxes do not need to be immediately paid. Another disqualifier is if the land boundaries are rezoned, which imposes an additional tax for ten years. However, if the land is within an urban growth boundary, the tax penalty is only up to five years. The reasoning behind this was to lessen the penalty if the land is rezoned within an urban growth boundary, because of the desire to increase the density inside the urban growth boundary.

047 REP. DELL: If I bought a 5-acre parcel with a house, as long as I can show you \$650 in income, the parcel will be assessed at farm-use value, excluding the homesite. I could then save about \$1,200 in taxes with a

\$650 income, obtaining a two-to-one return. This seems to encourage hobby farms.

074 MEYER: It's not for me to judge that policy. However, it is consistent in setting the value for farms.

083 REP. MARKHAM: Hobby farmers have always been a problem.

094 REP. HOSTICKA: Problems occur when people try to obtain a "twenty acre moat" around their house.

099 CHAIR REPINE: Is there nothing in existing statutes regarding exceptions for farmland owned by retired farmers? Is the income test

still applicable for them?

106 MEYER: Nothing in statutes addresses this. The income test is still applicable.

121 KATHRYN VAN NATTA, Committee Administrator: Introduces meeting materials, including a copy of the hand-engrossed HB 2862 with -3

amendments (EXHIBIT A) proposed by the Oregon Farm Bureau, and a preliminary staff measure summary (EXHIBIT B). House Bill 2862 does have a revenue impact (EXHIBIT C), and has a subsequent referral to the House Committee on Revenue.

139 CHAIR REPINE: CLOSES WORK SESSION ON HB 2862

OPENS PUBLIC HEARING ON HB 2862

149 DON SCHELLENBERG, Oregon Farm Bureau: Testifies in support of HB 286 2. When land-use planning came into effect, many farmers lost their

operating loans because their property was devalued by 50% or more. Also, once property is zoned EFU, the landowner cannot build on their property.

The problem with people buying and selling livestock to reflect a \$650 "income" was addressed by SB 15, which also established the current homesite assessment procedures.

220 Corrects previous witness regarding homesite assessment, in that it is calculated based upon the entire parcel being assessed as "bare land."

266 A homesite dwelling is assessed the same as anyone else's dwelling. The land under the dwelling never receives farm-use value, but is assessed

using the formula of dividing the value of the total parcel by the number of acres.

277 REP. MARKHAM: Is that at market value, and not at farm use value?

279 SCHELLENBERG: That is correct.

292 SCHELLENBERG: Describes the effects of -3 amendments to HB 2862.  
372 REP. MARKHAM: What happens if one of the owners of a farm dies?

376 SCHELLENBERG: If the house is leased to a party who is not involved in the farming, the homesite continues as one acre. The tax penalty does

not apply, since the land may revert back to farmland. Continues testimony.

TAPE 69, SIDE B

033 REP. HOSTICKA: Could you summarize the intent of this bill?

039 SCHELLENBERG: The purpose of this bill is to address the fact that farm homesites cannot be sold separately from the rest of the land, and

should not be so assessed.

050 REP. HOSTICKA: Is this to encourage people to live on their farms?

053 SCHELLENBERG: It addresses the inequity which occurs when an assessor puts a value on a homesite which is not attainable.

062 JAMES HUNTSMAN, Douglas County Assessor's Office: Testifies in opposition to HB 2862. It is possible that this bill might encourage

some farmers to retire early. It is also possible to create an expanding number of special farm homesite assessments, would eventually cause a burden to the community. A greater concern exists with five and ten-acre farms which have been zoned as EFU land. According to statute, a farm is land which "must be farmed with the intent to make a profit," which is vague and difficult to determine.

Existing statutes already allow special assessment, requiring the applicant to submit a copy of their income tax papers showing that at least fifty-one percent of their income is derived from farming, which would not be difficult for a retired farmer.

167 REP. LUKE: If a person over a lifetime earned at least 50% of their income from farming, would you consider that person a farmer?

172 HUNTSMAN: Is this someone who owns 300 acres or three acres?

176 REP. LUKE: It shouldn't matter.

178 HUNTSMAN: Your point is well-taken. I would consider that person a farmer.

203 REP. HOSTICKA: I don't see why a retired person should get a better tax break just because they're a retired farmer. The public policy purpose

should be connected with the use of the land, not the employment status of the retiree.

218 DENNIS DAY, Polk County Assessor, Association of County Assessors: Testifies in opposition to HB 2862. We're not quite sure of the public

policy regarding this bill. We had been concerned about the possibility of a third tier of farmland evaluation. Assessors must work with administrative rules, and treat the fair market value as part of the contiguous parcel. We know that the one-acre on which a homesite is sited cannot be sold separately from remaining property, and the only time a homesite is disqualified is if it has become a non-farm dwelling.

TAPE 70, SIDE B

030 REP. LUKE: What is the tax rate for farms in your area?

031 DAY: Our average tax rate is about \$20 per thousand dollars.

040 REP. HOSTICKA: Mr. Day testified that a person will not be disqualified from farm use solely by reason of retirement, yet another witness

declared that those people are disqualified due to retirement.

043 DON SCHELLENBERG: It varies from county to county. To determine the market value of a farm, some assessors are taking the fair market value of a homesite, adding it to the "bare land" acreage, adding those two

figures together, and dividing by the number of acres, which is incorrect. The -1 amendments clarified the correct process for determining the market value of a farm.

084 REP. LUKE: The Polk County Assessor testified that this bill may lower taxes by only about \$120. Are there counties in which it would be more

than that?

095 SCHELLENBERG: It depends upon the tax rate, which varies from county to county.

097 REP. LUKE: Tax rates will all be the same; a flat rate of \$15 (due to Measure 5).

099 SCHELLENBERG: That is true.

101 REP. HOSTICKA: Are you asking us to rewrite the tax laws to deal with this new category? I'm wondering whether we should find out what will

happen with other land-use bills before we address this one.

105 SCHELLENBERG: I don't believe that will affect this.

122 DENNIS DAY, Polk County Assessor: For a five-acre tract, the market says it will sell for \$5,000 an acre or \$25,000. This bill says we're

creating a homesite, and can't use the \$5,000 an acre, but only value it at \$1,000 for farmland. This proposes that we ignore the potential of a building site for which someone paid \$25,000, and that we are only

supposed to value that at what its farmland would sell for, which may be \$1,000 an acre.

144 CHAIR REPINE: If someone retires, and loses that deferral, they would be charged back assessments. Is that policy or rules?

151 DAY: The statutes say the only way to disqualify a farmsite is if a governing body has granted them a non-farm dwelling. It doesn't matter

if the owner is retired or if the homesite ceases to be used in conjunction with the farm operation. The only penalty is that the land is assessed at the market value of the homesite without going back and

collecting back taxes. 159 CHAIR REPINE: So counties which are going back are not assessing those correctly.

162 DAY: There is currently a case in the Oregon Supreme Court similar to this. In tax court, the judge held that the assessor could not

disqualify a homesite, and then go back and pick up the taxes. The judge ruled that the assessor could only roll it back to market value.

172 CHAIR REPINE: CLOSING PUBLIC HEARING ON HB 2862 Declares ten-minute recess, to reconvene at 3:25 p.m. Reconvenes meeting at 3:30 p.m.

182 House Bill 2862 has revenue implications, and probably should not have been referred to the committee. The two amendments proposed by the

Oregon Farm Bureau also have revenue impact. I would recommend that we entertain a motion that HB 2862 be referred to the House Committee on Revenue without recommendation and without any amendments.

OPENS WORK SESSION ON HB 2862

203 MOTION: REP. MARKHAM moves HB 2862 to the HOUSE COMMITTEE ON NATURAL RESOURCES with NO RECOMMENDATION and with SUBSEQUENT REFERRAL TO THE HOUSE COMMITTEE ON REVENUE.

206 CHAIR REPINE: Restates motion and calls for discussion.

218 It is not my intention to move this to the House Committee on Revenue to kill this bill. There are revenue policy questions in HB 2862 which

committees do not generally address.

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

234 CHAIR REPINE: The motion CARRIES.

CLOSING WORK SESSION ON HB 2862

OPENS PUBLIC HEARING ON HB 3502

252 VAN NATTA: Introduces meeting materials, including a preliminary staff measure summary (EXHIBIT D), and a fiscal analysis showing a fiscal

impact on the Division of State Lands (EXHIBIT E). House Bill 3502 is not anticipated in the Governor's mandated budget. The revenue impact analysis (EXHIBIT F) shows there is no impact on state or local revenues. Reads into the record a letter from Steven Schell dated March 24, 1993 in support of HB 3502 (EXHIBIT G).

283 JON CHANDLER, Urban Land Council of Oregon, Common Ground, Homebuilders Association of Metropolitan Portland: Presents written



testimony

(EXHIBIT H) in support of HB 3502.

346 REP. MARKHAM: Do the requirements of the Division of State Lands go beyond the federal Clean Water Act requirements?

360 CHANDLER: No. But that's not the issue we want to address.

371 DICK ANGSTROM, Oregon Concrete and Aggregate Producers Association: A few minutes ago, we had the opportunity to discuss the amendments which DEQ will be submitting. We had some major concerns with those

amendments, and would like to request that this hearing be rescheduled so we can work out these concerns.

We need to reach an agreement regarding the time limitations in which these materials should be reviewed and responded to by the affected agencies. Secondly, we need to allow the Division of State Lands to develop rules regarding time extensions when there is a significant reason.

Also, we want the limitations regarding administrative rules regarding wetlands to not apply to DEQ for water quality certification, nor for practices conducted under the Forest Practices Act.

424 REP. DOMINY: Requests explanation of \$44,000 fiscal impact.

433 CHANDLER: I'm not certain, since the bill doesn't specify a time frame.

441 ANGSTROM: It also surprises me, because if the coordination process works, it will actually save time, since fewer agencies will be

involved.

TAPE 71, SIDE A

012 REBECCA RUNDQUIST, Northwest Environmental Defense Center: Presents written testimony (EXHIBIT I) in opposition in HB 3502.

058 JACK BROOME, The Wetlands Conservancy: Since the bill is undergoing changes, I choose to not comment at this time.

066 KEN BIERLY, Division of State Lands: Presents written testimony (EXHIBIT J) regarding HB 3502.

109 REP. MARKHAM: Are our regulations more restrictive than federal regulations?

114 BIERLY: They are different; we regulate removal, whereas the

federal government does not. We use identical standards for wetlands as those

used by the federal government.

136 LIZ FRENKEL, Oregon Sierra Club: Defers comments until amendments are available.

142 NEIL MULLANE, Department of Environmental Quality: Presents written testimony (EXHIBIT K) with recommended amendments.

178 CHAIR REPINE: CLOSSES PUBLIC HEARING ON HB 3502

OPENS PUBLIC HEARING ON HB 3328 191 VAN NATTA: House Bill 3328 was in public hearing on March 23, when a -1 amendment was being considered. Introduces meeting materials, including a hand-engrossed version of HB 3328 with the -1 amendments (EXHIBIT L), a preliminary staff measure summary (EXHIBIT M), and a revenue impact

assessment (EXHIBIT N) showing no revenue impact. I will request a fiscal impact statement.

House Bill 3328 addresses the issue of determining which regulations are followed by the Division of State Lands in the delineation of wetlands.

233 REP. DELL: Recommends -2 amendments (EXHIBIT O) to the committee, and thanks Ken Bierly with the Division of State Lands for his assistance in developing the amendments. We will be requesting the Division of State

Lands to monitor the work on wetlands by the National Academy of Sciences, and to furnish the next legislature with a report on those findings.

279 KEN BIERLY: Presents written testimony (EXHIBIT P) in favor of HB 332 8 as amended by the -2 amendments.

288 REP. DELL: Will your report to the next legislature regarding the findings of the National Academy of Sciences require a fiscal impact?

294 BIERLY: We are routinely required to report to the legislature, so I see no fiscal impact as a result of this bill.

300 JERRY SCHMIDT, Oregon Association of Realtors: Testifies in support of HB 3328 as amended by the -2 amendments.

314 MIKE PROPST, Polk County Commissioner: Testifies in support of the bill as amended, and thanks parties involved for developing the amendments.

326 CHAIR REPINE: CLOSSES PUBLIC HEARING ON HB 3328

OPENS WORK SESSION ON HB 3328

335 MOTION: REP. DELL: Moves the -2 AMENDMENTS, LC 3327, dated 4-16-93 to HB 3328.

340 CHAIR REPINE: Restates motion and calls for discussion.

345 REP. HOSTICKA: Do we have any assurance that a Joint Legislative Committee on Land Use will exist on September 30, 1994?

348 CHAIR REPINE: It has already been appointed.

Hearing no objection to the -2 amendments, the motion CARRIES.

360 MOTION: REP. DELL: Moves HB 3328 AS AMENDED by the -2 AMENDMENTS, LC 3327, dated 4-16-93 to the FULL COMMITTEE ON NATURAL RESOURCES

with a DO PASS RECOMMENDATION.

362 CHAIR REPINE: Restates motion and calls for discussion.

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

377 CHAIR REPINE: The motion CARRIES.

CLOSES WORK SESSION ON HB 3328

Adjourns meeting at 4:53 p.m.

Submitted by:

Reviewed by:

Karen McCormac  
Administrator

Kathryn Van Natta Assistant

EXHIBIT LOG:

A - HB 2862 Hand-Engrossed with HB 2862-3 Amendments (LC 2162) dated 4-16-93 - Staff - 6 pages B - HB 2862 Preliminary Staff Measure Summary - Staff - 2 pages C - HB 2862 Notice of Possible Revenue Impact - Staff - 2 pages D - HB 3502 Preliminary Staff Measure Summary - Staff - 1 page E - HB 3502 Fiscal Analysis - Staff - 1 page F - HB 3502 Revenue Impact Analysis - Staff - 1 page G - HB 3502 Testimony - Steven Schell - 2 pages H - HB 3502 Testimony - Jon Chandler - 1 page I - HB 3502 Testimony - Rebecca Rundquist - 2 pages J - HB 3502 Testimony - Ken Bierly - 2 pages K - HB 3502 Testimony - Neil Mullane - 3 pages L - HB 3328 Hand-Engrossed with HB 3328-1 Amendments (LC 3327) dated 3-23-93 - Staff - 3 pages M - HB 3328 Preliminary Staff Measure Summary - Staff - 1 page N - HB 3328 Revenue Impact Analysis - Staff - 1 page O - HB 3328 -2 Amendments (LC 3327) dated 4-16-93 - Staff - 1 page P - HB 3328 Testimony - Ken Bierly - 1 page