

HOUSE COMMITTEE ON NATURAL RESOURCES ENVIRONMENT AND ENERGY SUBCOMMITTEE

May 10, 1993 Hearing Room F 1:30 p.m. Tapes 88 - 91

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. Nancy Peterson Rep. Ray Baum

VISITING MEMBERS: Rep. Tim Josi Rep. Chuck Norris Rep. Liz VanLeeuwen

STAFF PRESENT: Kathryn Van Natta, Committee Administrator
Catherine Fitch, Committee Administrator Pat Zwick, Committee
Coordinator Karen McCormac, Committee Clerk Sue Nichol, Committee Clerk

MEASURES CONSIDERED: Public Hearing and Work Session - HB 3661

WITNESSES: REP. RAY BAUM REP. MARILYN DELL MIKE EVANS,
Planning Consultant KENT HOWE, Lane County Planner QUINCY SUGARMAN,
Oregon State Public Interest Research Group (OSPIRG) AILEEN P. KAYE,
Citizen M. GREGG SMITH, Forestland Owner

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These minutes contain materials which paraphrase and/or summarize
statements made during this session. Only text enclosed in
quotation marks report a speaker's exact words. For complete contents
of the proceedings, please refer to the tapes. [--- Unable To Translate
Graphic ---]

TAPE 88, SIDE A

005 CHAIR REPINE: Calls meeting to order at 1:38 p.m.

015 KATHRYN VAN NATTA, Committee Administrator: Introduces
materials in land-use notebooks given to committee members

088 REP. DELL: House Bill 3661 has been developed due to a long
history of inability to develop a way to deal with rural lands in Oregon
which also has a unified backing from the majority of the population.

This controversy due to an inability to distinguish between very
productive land and less productive land. There is strong opposition to
the proposed LCDC rules from both sides of the spectrum, and there is
also a growing antagoniSM between the state and counties. During the
next decade, Oregon will see tremendous pressure for growth.

166 REP. BAUM: Cities and counties should remain the vehicles to
consider, promote and manage land use in the best interests of the
people within

their jurisdictions.

Refers to flow charts for farmland, forestland and rangeland, and introduces different effects of modified and unmodified criteria on the LCDC review and approval process (EXHIBIT A).

269 REP. PETERSON: What percentage of land will be considered "secondary land" under HB 3661?

270 REP. BAUM: It's about one to two times as much as existing secondary lands rules, depending upon the county. That doesn't mean that

secondary lands won't remain resource lands. Parcelization will be controlled by the counties.

Continues testimony.

TAPE 89, SIDE A

040 CHAIR REPINE: Will LCDC continue to approve plans?

042 REP. BAUM: Yes, within the specific criteria listed in Section 3(3). LCDC must approve or disapprove a plan within 90 days; if they do not

act, the plan is automatically approved.

048 REP. LUKE: What does this do to LCDC's budget?

049 REP. BAUM: They should have sufficient funds for their needs.

051 VAN NATTA: House Bill 3661 makes the identification of secondary lands by counties mandatory. Counties must choose the options listed in HB

3661 or the options in LCDC rules.

Refers committee to Section II in the HB 3661 General Outline (EXHIBIT B).

073 Reviews general framework for the four options of identifying resource lands. These include the Dell-Baum approach, based on the income test

of land capabilities; a modification of the Dell-Baum criteria, in which a technical advisory committee composed of experts will help modify

criteria to meet the unique circumstances found within a county; the

LCDC 1992 administration rules for the identification of secondary

lands, which were adopted in December; or choosing to identify no lands under the LCDC approach.

113 REP. HOSTICKA: When you say "no identification of land," do you mean no identification of secondary land?

112 REP. DELL: Under the current LCDC rules there are three

land classifications. All counties must identify their important farmland.

Eleven counties are required to identify their high-value farmland. No county is required to identify their secondary lands, but any county which wishes to identify secondary lands must also identify their high-value farmland.

190 VAN NATTA: Continues testimony. This bill divides land into nine different types of zones, and three different sizes in each of those

categories.

172 REP. NORRIS: Questions large-scale primary forestland classification in Resource Lands Classification matrix (EXHIBIT C).

177 VAN NATTA: You're correct. That should be "small scale primary forestland" and "small-scale primary farm-forestland."

Continues testimony. Section 8 of the bill contains the uses allowed on farmland. Refers to Section-by-Section Analysis, Pages 4 and 5 (EXHIBIT D).

235 REP. PETERSON: What is "farm-forestland"?

243 VAN NATTA: In Section 2 of HB 3661, there is a definition for farm-forestland, but it's my understanding that there is some land which is used for both farm and forest use. In the bill in Section 3(5)(c),

both farm and forestland criteria must be applied, and the most restrictive criteria must be used.

Land divisions can be region-wide, statewide or county-wide. Refers to Page 3 of the Section-by-Section Analysis regarding the regionalizing of minimum lot sizes.

There have been questions regarding the tax consequences of land which has been designated or redesignated. It is the policy intent of this bill to not change anyone's tax classification.

360 REP. LUKE: Would it be up to the owner to prove their land was eligible for a certain designation?

346 REP. BAUM: Landowners would still have to prove income from their farm or forestland to obtain special tax deferrals.

401 VAN NATTA: Continues testimony.

After land determinations are made, the county approves those determinations, then forwards them to LCDC for approval. Describes

program appeal process. Under this bill, appeals would go directly to the Court of Appeals instead of through arbitration or LUBA.

TAPE 88, SIDE B

035 REP. JOSI: You continue to refer to this as the "secondary lands bill." Shouldn't it be referred to as the "land-use modification bill"?

039 VAN NATTA: I was referring to the portion of the bill regarding secondary lands.

046 REP. DELL: This bill tries to address the potential conflict between rural homeowners and farmers or foresters, and tries to address that in two different ways; one is the blocking requirements, which attempt to

keep a scattering of homes outside the rural areas. We have not yet discussed the "right to farm" legislation which has been included in this bill, which requires that people moving onto farmland or forestland must know in advance about special protections afforded to farm and forest practices.

056 REP. BAUM: This bill also tries to bring more farm and forestland into production. Dwelling siting standards (EXHIBIT E) have been included to address the issue of lands which are no longer secondary lands, but

which become eligible for dwelling siting under this criteria.

092 REP. HOSTICKA: Requests listing of problems resolved by HB 3661.

101 REP. BAUM: Refers to Page 1 of the bill regarding intent. Basically, this bill sets aside commercial and industrial farm and forestland.

However, many lands are underproductive due to a variety of factors, including poor soil, historical patterns of parcelization, or development that makes the land less attractive to large-scale resource users, so allowing a dwelling on such land increases opportunities for more intensive management and resource production.

126 REP. HOSTICKA: How does having more houses in rural areas increase the productivity of those lands? And how will this reduce conflict?

137 REP. DELL: Current LCDC rules attempt to give flexibility, but those rules are also subjective. This bill attempts to walk people through

the process.

156 Not all counties have mapped their secondary lands. Testimony

indicates that with the current LCDC rules, mapping could cost \$125,000.

179 REP. HOSTICKA: Is wanting more secondary lands a sound basis for public policy?

182 REP. DELL: This bill takes an honest look at farmland, and helps determine which lands need a high level of protection and which do not.

191 REP. LUKE: I think that primary land is land from which someone can make a living, whereas secondary lands require a second job to support

the land.

198 REP. HOSTICKA: What kind of assumptions does this bill make regarding the effect of crops on the land's economic viability?

201 REP. BAUM: We'll elaborate on that later, but it will be based on soil capabilities and indicator crops. Most counties have a high mapping of

soil indicator crops.

211 REP. JOSI: Commends staff and committee members for work on HB 3661.

221 MIKE EVANS, Private Planning Consultant, Springfield: Describes professional planning experience, including thirteen years as a private planning consultant, and several years of experience working for the

Lane County Planning Department.

239 KENT HOWE, Associate Planner, Lane County: Has worked for Lane County since 1979, specializing in marginal or secondary lands.

248 EVANS: In the past, there were attempts to distinguish rural residential lands from prime farm and forestland.

This bill includes a substantial right to farm/forest provision, and includes a requirement that a covenant be signed by someone who places a dwelling on any resource land, whether it is secondary, farmland or forestland, to reduce conflict. It also identifies secondary lands already in highly-developed land. One of the major advantages of this bill that it is important to be able to control where dwellings will be located outside urban growth boundaries. Those dwellings should be located outside primary resource lands.

375 House Bill 3661 continues to keep the good components of land-use planning, but also modifies specific items which have caused problems.

400 This limits future parcelization of the primary resource lands.

Eighty acres of a particular soil type is the threshold to delineate secondary from primary lands, and this becomes the land division standard for the primary resource land. Lastly, objective standards are used to enable

counties to identify primary resource lands.

TAPE 89, SIDE B

014 CHAIR REPINE: How do the objective standards vary from the present system?

016 EVANS: The LCDC rules have an objective standard for one segment in identifying agricultural lands, but use subjective criteria as well,

such as an income standard. Counties must somehow set up criteria to allow them to make that determination.

030 HOWE: We applied data from HB 3661 to areas in Lane, Jackson, Josephine, Coos, Douglas and Union counties. In an area of 100 square

miles in Lane County, large parcels of productive forestland remain in a prime designation, areas in valleys become prime farmland, and highly-parcelized areas, most of which are adjacent to existing rural residential areas and adjacent to the transportation corridors become secondary land. This is a land use pattern that makes sense.

Shows effects of HB 3661 in other counties using maps.

TAPE 90, SIDE A

070 CHAIR REPINE: Calls for a recess at 3:38 p.m., to reconvene at 3:50 p.m.

074 Reconvenes meeting at 3:58 p.m.

084 VAN NATTA: Describes changes to HB 3661 if -1 amendments are adopted (EXHIBIT F). If the -1 amendments are adopted, all provisions of the bill will apply equally to all counties.

190 REP. VanLEEuwEN: Requests further explanation regarding -1 amendments.

210 VAN NATTA: In HB 3661 under Section 13, if a county chooses the LCDC rules option of identifying land, certain parts of the bill will not

apply. If the -1 amendments are adopted, all parts of the bill would apply, even to counties choosing to use the LCDC rules option.

TAPE 91, SIDE A

003 VAN NATTA: Begins detailed review of the Section-by-Section

Analysis of HB 3661.

Corrects Page 13, Section 75 of the Section-by-Section Analysis (EXHIBIT D). It should read, "Modifies the standard of proof for LCDC when interpreting plans, ordinances and regulations."

422 Concludes testimony.

428 CHAIR REPINE: CLOSSES PUBLIC HEARING ON HB 3661

OPENS WORK SESSION ON HB 3661

446 MOTION: REP. MARKHAM: Moves the -1 amendments, LC 3145-1, dated 5-7-93 to HB 3661.

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

042 MOTION: REP. BAUM: Moves to add a Section 81 containing an EMERGENCY CLAUSE to SECTION 81 of HB 3661, as amended by the -1

Amendments.

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

CLOSSES WORK SESSION ON HB 3661

OPENS PUBLIC HEARING ON HB 3661

066 QUINCY SUGARMAN, Oregon State Public Interest Research Group: Presents written testimony (EXHIBIT G) in opposition to HB 3661.

096 REP. FISHER: What is your farm background?

097 SUGARMAN: I am not a farmer. I have spent most of the past year and a half researching pesticide use in this state and around the region.

105 AILEEN P. KAYE, Citizen: Presents written testimony (EXHIBIT H) in opposition to HB 3661.

172 M. GREGG SMITH, Forestland Owner: Testifies in support of HB 3661. Describes difficulty with restrictions placed on his property. Refers

to handout (EXHIBIT I), which shows decreasing population in Baker and Grant counties.

227 REP. HOSTICKA: Would a simple lot of record bill resolve your problem?

228 SMITH: I'm not sure.

Additions to the record: HB 3661 Sectional Overview (EXHIBIT J) Proposed Amendments to HB 3661 (LC 3145-1), dated 5-7-93 (EXHIBIT K) HB 3661 Farm Uses (Comparison of LCDC Rules and LC 3145) (EXHIBIT L) HB 3661 Forest

Uses (Comparison of LCDC Rules and LC 3145) (EXHIBIT

M) HB 3661 Presentation (EXHIBIT N) Forestland Soil Productivity Chart
(EXHIBIT O) Forestland Conversion Chart (EXHIBIT P)

239 CHAIR REPINE: CLOSES PUBLIC HEARING ON HB 3661

248 Adjourns meeting at 5:07 p.m.

Submitted by:

Reviewed by:

Karen McCormac
Administrator

Kathryn Van Natta Assistant

EXHIBIT LOG:

A - HB 3661 Identification Process for Lands - Staff - 5 pages B
- HB 3661 General Outline - Staff - 4 pages C - HB 3661 Resource
Land Classifications - Staff - 1 page D - HB 3661
Section-by-Section Analysis - Staff - 16 pages E - HB 3661 Dwelling
Siting Standards - Staff - 1 page F - HB 3661-1 Amendment
Explanation - Staff - 2 pages G - HB 3661 Testimony - Quincy
Sugarman - 2 pages H - HB 3661 Testimony - Aileen P. Kaye - 3 pages
I - HB 3661 Testimony - M. Gregg Smith - 1 page J - HB 3661
Sectional Overview - Staff - 5 pages K - Proposed Amendments to HB 3661
(LC 3145-1), dated 5-7-93 - Staff - 5 pages L - HB 3661 Farm Uses
(Comparison of LCDC Rules and LC 3145) - Staff - 4 pages M - HB 3661
Forest Uses (Comparison of LCDC Rules and LC 3145) - Staff - 4 pages
N - HB 3661 Presentation - Staff - 1 page O - Forestland Soil
Productivity Chart - Staff - 1 page P - Forestland Conversion Chart
- Staff - 2 pages