

HOUSE COMMITTEE ON NATURAL RESOURCES ENVIRONMENT AND ENERGY SUBCOMMITTEE

May 26, 1993 Hearing Room D 1:30 p.m. Tapes 123 - 126

MEMBERS PRESENT: Rep. Bob Repine, Chair Rep. Marilyn Dell, Vice-Chair
Rep. Ray Baum Rep. Sam Dominy Rep. Bill Fisher Rep. Carl Hosticka Rep.
Tim Josi Rep. Dennis Luke Rep. Bill Markham Rep. Chuck Norris Rep. Nancy
Peterson Rep. Liz VanLeeuwen

STAFF PRESENT: Kathryn Van Natta, Committee Administrator Pat
Zwick, Committee Coordinator

MEASURES CONSIDERED: HB 3661 - Work Session

WITNESSES: Roy Burns, Lane County Planning Director

Dick Benner, DLCD Senator Kintigh Jim Scherzinger, Legislative Revenue
Office Dale Riddle Russ Neibon, Association of Oregon Counties Art
Schlack, Association of Oregon Counties 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 123, SIDE A

005 CHAIR REPINE: Calls meeting to order at 1:45 p.m.

002 KATHRYN VanNATTA, COMMITTEE ADMINISTRATOR: Enters following
items re HB 3661 into the record; letter dated May 21 from Community
Development Department of Deschutes County, May 17 letter from Gary
Reeser, May 25

letter from Louise Hawker and George Cruden of Bend, FAX from Matt Cyrus
to Reps. Luke and Clarno, May 24 FAX to Rep. Ray Baum supporting HB

3661, FAX from Bob Johnson to Rep. Ray Baum supporting HB 3661, letter
from Guy Tester Realty of Ashland, May 24 letter from Carlene Hester,

undated letter to Rep. Baum from Cynthia Towle, FAX from Warner Farms of
Oregon City to Chair Repine, FAX from Stan Wiley Realtors - Mary

Anderson, Associate Broker-Branch Manager, FAX to Rep. Baum from Sam
Sadtler, May 21 FAX from Curry County Board of Commissioners to support

HB 3661, May 20 FAX from Ted Streif in support of HB 3661, FAX to Rep. Baum supporting HB 3661, May 20 FAX to Rep. Baum in support of HB 3661 from Fred Miller, letter to Rep. Repine and the Committee from Peter Finkle of Ashland, May 18 letter to Rep. Baum from Linda Williamson, May 19 letter from Garton & Associates Realtors in support of HB 3661, May 19 letter to Rep. Baum in support of HB 3661 from Marilyn Dale, May 19 letter to Rep. Baum in support of HB 3661 from Peter and Glenda Leiken, May 19 letter from Junction City-Harrisburg-Monroe Board of Realtors in support of HB 3661 (EXHIBIT A).

070 Reviews meeting material before members.

080 REP. REPINE: Opens work session on HB 3661.

WORK SESSION, HB 3661

088 ROY BURNS, LANE COUNTY PLANNING DIRECTOR: Reads written testimony in support of HB 3661 which the Lane County Board of Commissioners believe provides a fair, equitable and long-term solution to the secondary lands issue (EXHIBIT B).

128 MOTION: REP. BAUM: Moves adoption of HB 3661-5 amendment presented by the counties to expand the LCDC commission (EXHIBIT C).

Baum reviews provisions of 3661-5 amendments (EXHIBIT C).

140 REP. HOSTICKA: Do we have fiscal impact figures?

141 REP. BAUM: The amendments we make here today will be reviewed by Fiscal. Information should be available before the bill goes to full

committee.

155 REP. HOSTICKA: Believe it was Rep. Markham that carried a bill last session that would have eliminated county commissioners on the LCDC

board because of a concern about some of the membership. Think we fool ourselves if we think by categorizing people we are going to change the outcome because the Governor can find among city or county officials anyone he or she wants from any philosophy. That is going to be far more important in determining the outcome of the deliberations of that commission than what title they hold when they are appointed. I think this amendment is primarily symbolic, will cost more money, and by adding two more members makes it even harder to get the work done.

168 VOTE: HB 3661-5 amendments are adopted by voice vote with Rep. Hosticka objecting.

187 MOTION: REP. BAUM: Moves adoption of HB 3661-7 amendment (EXHIBIT D).

There was some concern that the requirement of having people harvest timber is probably difficult to enforce. We might want to add language later to address that.

190 VOTE: Without objection, HB 3661-7 amendment is adopted.

194 MOTION: REP. BAUM: Moves adoption of HB 3661-10 amendment (EXHIBIT E).

210 VanNATTA: Reviews provisions of 3361-10 amendment (EXHIBIT E). Amendment language comes from James Coleman. Ed Sullivan commented on

this section in testimony before the committee. The amendment is a combination of Mr. Coleman - a land use attorney, and Mr. Sullivan's suggestions that if the committee were to amend ORS 197.625 that the HB 3661-10 amendment language be used.

225 REP. VANLEEUEWEN: Asks for further explanation of the amendment.

230 VanNATTA: The HB 3661-10 amendment is meant to deal with situations that have existed in Oregon, like the VonLubken v. Hood River County

decision. Explains amendment.

253 REP. BAUM: Adds comments on HB 3661-10 amendment.

260 REP. PETERSON: We are making law like sausages are made. We are hoping that no one notices what goes in, not looking carefully at the pieces,

and hoping that what ends up is somewhat tasty. Concerned we have not had time to discuss the amendments.

267 REP. HOSTICKA: Under what conditions is a stay granted?

Under what conditions could you not go ahead and make decisions because someone has said we are going to stay the effect of your amendment?

290 DICK BENNER, DLCD: Language in statute ORS 197.845 that talks about stays. Reads statute.

300 VOTE: Without objection HB 3661-10 is adopted.

315 SEN. KINTIGH: Testifies in support of HB 3661, reading written testimony (EXHIBIT F).

TAPE 124 SIDE A

020 SEN. KINTIGH: Concludes his testimony.

022 REP. FISHER: If only about 15 percent of the total forestland in Oregon is privately owned and subject to any type of building on it, would that meet your specifications or approval?

025 SEN. KINTIGH: Do not think our productivity would be decreased that much.

030 Van NATTA: Enters May 26 letter from Association of Oregon Counties in support of HB 3661 into the record (EXHIBIT G).

035 MOTION: REP. BAUM: Moves adoption of HB 3661-34 amendment (EXHIBIT H).

040 JIM SCHERZINGER, LEGISLATIVE REVENUE OFFICE: Reviews provisions of HB 3661-34 amendment (EXHIBIT H).

HB 3661-34 amendment attempts to put in provisions that allow a property owner who is switched from what is now an EFU zone to a secondary land zone to maintain the EFU assessment on the parcel until the owner somehow loses farm use assessment or develop the property. At that time they would be able to switch into farm assessment under the income standards that now apply to land not in an EFU zone.

Explains current process and effect of HB 3661-34 amendment.

195 Committee members and Scherzinger discuss various aspects of the HB 3661-34 amendments.

250 REP. PETERSON: Does this amendment affect the revenue of the state?

253 SCHERZINGER: You are allowing some development in areas now considered EFU that would not have occurred otherwise. If that is true, this

delays people going back under market value or having to meet an income test. Compared to what happens under current law that could increase state revenue to some extent. The horse stabling provisions probably lose you some revenue because you are going to qualify some things for special assessment.

275 REP. FISHER: Is there a provision that if it is not economically feasible to continue to farm because of economic reasons, to let the

land lay idle?

290 SCHERZINGER: There are some provisions to allow the land to lay idle in some circumstances but do not believe hard times is not one of them.

Revenue Committee has debated this every session. Do not know if there

is a simple solution. It is a policy judgment that the legislature has to make.

325 REP. FISHER: People can lay off land in eastern Oregon in the CRP program and get paid for not raising anything, but a person hit hard by weather or other circumstances who idles land is considered as doing a

use change.

340 SCHERZINGER: This amendment just deals with the situation of someone who has switched from an EFU to a secondary land classification,

allowing them to keep the farm use assessment without meeting the income standard until the property is not in a farm use or it is developed into a residence.

Continues review of HB 3661-34 amendment (EXHIBIT H).

Drafter will have to do reference changes. TAPE 123, SIDE B

SCHERZINGER: Training and stabling are the only other aspects of the bill that affects taxation and there are no amendments to address that. Under current rules, if you are breeding or raising horses as part of your farm operation you will get farm use assessment.

Assessors believe that not many commercial operations would be affected.

Concern of the assessors is that people who are not operating commercial operations in an EFU zone may qualify because they board a house for their neighbor or for a rent fee.

060 Concludes review of HB 3661-34 amendment (EXHIBIT H).

069 VOTE: Without objection, Chair Repine declares HB 3661-34 amendment (EXHIBIT H) adopted.

070 MOTION: REP. BAUM: Moves adoption of first three lines of HB 3661-21 amendment (EXHIBIT I).

083 VanNATTA: Reviews provisions of lines one through three of HB 366 1-21 amendment (EXHIBIT I).

Proposed amendment would amend the policy statement of the bill. The policy statement of the bill enclosed in Sec. 1 of this bill will become the land use policy for the whole state. It will govern not only the land use decisions under this bill, but the LCDC rules will refer to section 1 of this bill. ORS 215.243, the current policy statement for land use in Oregon is deleted in HB 3661 and Sec. 1 replaces it.

The policy statement would then read; many lands in the state are

under-productive due to a variety of factors including poor soils, short growing seasons, inadequate water, or historical patterns of parcelization and development that make the land less attractive to large scale resources users. Allowing a dwelling on such land increases opportunities for intensive management and increased resource production.

125 REP. BAUM: On page 5, line 13, we will delete the word "and" between "parcelization" and "development" and insert "or".

130 REP. HOSTICKA: Was that done because we thought the original drafting was wrong or do you want to change the policy? I think the policy here

says that you have to have both parcelization and development which makes land contribute less. If it is parcelized but undeveloped does not see how it causes land to be less productive. Thinks that is a significant change. Was the change because of change of intent or because original wording was wrong?

150 REP. BAUM: Do not intend to radically change the bill. Asks Riddle to explain change.

160 DALE RIDDLE: It was not the intent of the change to make a major policy change in the bill, but as per the maps we have seen over the last few

hearings, you have areas that may have a parcel on them that is simply undeveloped among parcels already developed. We want to make it clear that as part of the overall fabric of this bill that can in essence make that secondary lands.

Not intent to change overall context of the bill.

170 REP. DOMINY: After hearing what Rep. Hosticka said, would you interpret the bill as Rep. Hosticka did?

178 RIDDLE: No, that was not the intent and that is not my interpretation.

175 REP. NORRIS: If we make the change on page 5, line 13, should we also make the same change on page 1, line 17 where we still have

"parcelization and development"?

178 VanNATTA: Page 5, line 13 is the review standards for the Department of Land Conservation and Development and the Commission when looking at the second option for the identification of secondary lands.

It would only

apply to a county that chooses to use a technical advisory committee to identify lands and this is a change to the review criteria at which they look. To move that change to an earlier part of the bill would make a significant change.

185 RIDDLE: Agrees with VanNatta.

206 CHAIR REPINE: Restates motion before the committee.

208 VOTE: Without objection, Chair Repine declares motion adopted.

200 MOTION: REP. BAUM: Moves adoption of HB 3661-27 amendment (EXHIBIT K) to engrossed HB 3661.

220 VanNATTA: The -27 amendment is a rewrite of section 4 of the bill. It has not been hand-engrossed. Reviews conceptual amendment (EXHIBIT J).

245 REP. BAUM: The reason for the conceptual amendment is that blocks can sometimes be interpreted as being squares and we want to have more

flexibility so the blocking can be more effective and can be done more easily.

255 MOTION: REP. BAUM: Moves adoption of HB 3661-27 conceptual amendment (EXHIBIT J) to HB 3661-27 amendment (EXHIBIT K).

260 VOTE: Without objection, conceptual amendment is added to HB 366 1-27 amendment.

261 REP. BAUM: Reviews provisions of page 2 of HB 3661-27 amendment dealing with minimum lot sizes.

270 MOTION: REP. BAUM: Moves adoption of HB 3661-27 amendment (EXHIBIT K) as amended.

280 REP. LUKE and REP. BAUM: Discuss minimum lot sizes. 350 VanNATTA: Further reviews provisions of HB 3661-27 (EXHIBIT K).

TAPE 124, SIDE B

005 REP. BAUM: You will not be able to break property down further than 40 acres on secondary land eastern Oregon.

020 REP. LUKE: By taking lines 15-31 out, we have taken out the -16 amendment which we already passed.

021 REP. BAUM: Yes.

025 VanNATTA: This amendment does delete the language of the previously adopted -16 amendment. There is no need to put it back in. The -16

amendment modified a certain condition for the minimum lot size in

eastern Oregon and that is no longer necessary.

030 REP. LUKE: In Deschutes County we can currently have 20 acre EFU zones. With these amendments, if additional land is broken out of primary farm land, will they have to have a 40 acre parcel before they are able to

build a home on that ground?

036 REP. BAUM: If you have an existing 20 acre parcel that falls out as secondary land and you don't own any other land contiguous to that

parcel you can do the farm dwelling they have allowed out there. But if you have a 40 acre parcel that falls out as secondary land, and you own both 20s that add up to the 40, you can not split that property and put two dwellings on that property.

042 REP. LUKE: If you have a 30 acre parcel that falls out, can you build on that?

045 REP. BAUM: Yes.

050 VOTE: Without objection HB 3661-27 amendments are adopted.

052 MOTION: REP. BAUM: Moves adoption of HB 3661-28 amendments (EXHIBIT L).

055 REP. BAUM: Explains reason for amendment.(EXHIBIT L). Dick Benner of DLCD was concerned that if HB 3661 becomes law, people would rush around trying to parcelize land to take advantage of the bill. In order to

prevent that, on page 3 of the HB 3661-28 is proposed.

070 VOTE: Without objection, HB 3661-28 (EXHIBIT L) is adopted.

073 MOTION: REP. BAUM: Moves adoption of HB 3661-29 amendments (EXHIBIT M).

077 RIDDLE: Clarifies provisions of HB 3661-29 amendment (EXHIBIT M).

Proposes deleting the word "and" on line 7, HB 3661-29 (EXHIBIT M) and inserting "by deed or contract or" in its place.

120 REP. HOSTICKA: If the parcel was created prior to the adoption of the goals, and after the adoption was declared unbuildable and someone

purchased it knowing it had been declared unbuildable, does this give them a right to build?

Why is the idea of the goals included in the amendment?

130 RIDDLE: (A) takes care of the situation where someone, after the goals came into place, went through a partition pursuant to the

goals. In

that situation a person would be allowed to build.

(B) deals with the divisions of land that were created prior to the partition laws taking effect.

148 REP. HOSTICKA: Changing from "and" to "or" makes it a less limited lot of record than the original.

154 RIDDLE: It makes it less limited in the sense that it was drafted incorrectly in the first place.

160 REP. REPINE: Being under a call of the House recesses at 3:18 p.m.

Reconvenes at 3:45 p.m.

165 REP. BAUM: Change proposed on line 7 should also be done on lines 14 and 21 to be consistent.

180 MOTION: REP. BAUM: Moves deletion of the word "and" on lines 7, 14, and 21 of HB 3661-29 (EXHIBIT M) and insertion of "by deed or

contract or" in its place

183 CHAIR REPINE: Restates the motion.

180 MOTION: REP. BAUM: Moves adoption of HB 3661-33 amendment (EXHIBIT N).

193 RUSS NEIBON, REPRESENTING ART SCHLACK OF ASSN. OF OREGON COUNTIES (AOC): Reviews provisions on 3661-33 amendments (EXHIBIT N) which are one of

AOC's priorities to insure that when an interpretation of the state land use goals goes to the courts, and the courts read the language, either in the LCDC rules or in statute, there is an opportunity after that court case to look at the implications. The amendment directs LCDC to establish a formal procedure whereby after there is a court interpretation that affects more than just the individual application or county affected by the case, the case can be reviewed in its statewide implication, determine whether or not that was the commission's intent when they wrote the goal or rule, and if not to consider the goal and rule amendments to correct what the court has interpreted as being different intent or language.

We have instances where the rules and goals have been interpreted differently by the courts than what the counties thought the commission

intended when they were adopted.

AOC is not trying to undo what the court does, but court decisions are precedents which have impacts on future cases that might touch on the same issues.

250 VOTE: Without objection, Chair Repine declares HB 3661-33 amendment (EXHIBIT N) to be adopted.

255 MOTION: REP. BAUM: Moves adoption of HB 3661-35 amendment, including conceptual amendment (EXHIBIT P).

256 REP. BAUM: Committee will receive a conceptual change to the HB 366 1-35 amendment.

245 RIDDLE: Reviews provisions of conceptual amendment to HB 366 1-35 amendment.

The intent of the amendment is to require even lands designated as secondary lands of a certain size and certain quality of soil to meet the requirements of the farm enhancement or forest enhancement provisions in order to site a dwelling.

310 VOTE: Without objection, Chair Repine declares the amendment adopted.

312 MOTION: REP. BAUM: Moves adoption of HB 3661-37 (EXHIBIT P).

314 REP. BAUM: There is also a conceptual amendment to HB 3661-37.

Reviews provisions of HB 3661-37 which are changes in the income test (EXHIBIT P).

370 VanNATTA: Do we need to add "Clackamas, Hood River, Multnomah, Marion and Washington counties on line 5 of the HB 3661-37 amendment (EXHIBIT

P) to make it parallel?

380 RIDDLE: Yes, if it was the intent of the drafter to include those counties and treat them with the same standards as eastern Oregon. Will need to confirm that.

396 VanNATTA: Is there a gap for the small scale primary land between the \$50,000 and \$80,000 range?

420 RIDDLE: There would be a gap if you did not include those counties.

435 VanNATTA: Suggests that conceptual amendment to HB 3661-37 be as follows; on line 5 after the word "or", insert Clackamas, Hood River,

Multnomah, Marion, and Washington counties". 448 MOTION: REP. BAUM:

Moves adoption of the conceptual amendment stated by VanNatta.

TAPE 125, SIDE A

015 REP. BAUM: The decision to include Clackamas, Hood River, Multnomah, Marion, and Washington counties was based on testimony received.

025 VOTE: Without objection, Chair Repine declares conceptual amendment to include Clackamas, Hood River, Multnomah, Marion, and Washington

counties in the HB 3661-37 amendment, to be adopted. 036 MOTION: REP. BAUM: Moves adoption of conceptual amendment as amended.

038 VanNATTA: Reviews provisions of HB 3661-37 conceptual amendment - part of (EXHIBIT P).

048 RIDDLE: The conceptual amendment does not affect the enhancement dwelling but the other dwelling which is similar in statute, where you

may be zoned farmland but you actually have a woodlot. If you are meeting those standards, you can go ahead.

060 VOTE: Without objection, Chair Repine declares conceptual amendment adopted.

066 MOTION: REP. BAUM: Moves adoption of HB 3661-37 amendments, as amended (EXHIBIT P) to proposed engrossed HB 3661.

070 VOTE: Without objection, Chair Repine declares amendment adopted.

075 MOTION: REP. BAUM: Moves adoption of HB 3661-38 conceptual amendment (EXHIBIT Q).

085 RIDDLE: Reviews provisions of HB 3661-38 conceptual amendment (EXHIBIT Q) which is the corresponding amendment in the forest side of the bill.

100 REP. HOSTICKA: Why are Clackamas and Washington counties included in provisions for forestland in eastern Oregon?

110 REP. BAUM: In the actual mapping we found that those counties have had traditionally smaller parcelized lots that people are using to grow

timber. This makes those counties more similar to eastern Oregon.

125 VanNATTA: We need to deal with the conceptual amendment to the HB 3661-38 amendment on its own as written because the conceptual amendment does not mesh with the LC amendment.

135 MOTION: REP. BAUM: Moves adoption of conceptual amendment (EXHIBIT Q) dealing with forest income to HB 3661-38.

150 VOTE: Without objection, Chair Repine declares conceptual amendment adopted.

151 MOTION: REP. BAUM: Moves adoption of HB 3661-39 amendments at request of Association of Oregon Counties (EXHIBIT R).

152 ART SCHLACK, ASSOCIATION OF OREGON COUNTIES: HB 3661-39 amendment would provide the opportunity for alternative dispute resolutions where local governments are involved in periodic review, amendments to comprehensive plans, land use regulations, and local interpretation of statewide

planning policy.

155 REP. DELL: Is it your intent to flag it as something that could be helpful?

157 SCHLACK: It is the intent to identify, flag, and continue to work on that. We have used general alternative dispute resolution language.

170 REP. DELL: Suggests that if we include that kind of flag we quickly look at what procedures might work and that a group be formed including the department and the dispute resolution commission to come up with

good ways to make it happen.

180 VanNATTA: A conflict has arisen because of a previously adopted amendment. The -33 amendments have already inserted section 50 into the bill. If the committee were to adopt the -39 as written, it would

eliminate the county's other amendment which is the -33. Do not think this is the intent of the drafter or the committee.

Suggests that motion be amended to state that the -39 amendment be inserted into the bill at a proper location, not to take out sec. 50 as put in by the -33 amendment (EXHIBIT S).

200 MOTION: REP. BAUM: Amends previous motion to reflect Administrator's suggestion.

212 CHAIR REPINE: Motion is amended to state that -39 amendments be added to the proposed engrossed HB 3661 and inserted into its appropriate

place in the bill.

214 VOTE: Without objection, Chair Repine declares motion adopted.

215 REP. BAUM: Moves adoption of HB 3661-40 amendments (EXHIBIT T) to proposed engrossed HB 3661.

205 SCHLACK: Reviews provisions of 3661-40 amendments which are intended to clarify that local governments would provide reports to the Dept. of

Land Conservation and Development on a semi-annual basis as they relate

to farm dwellings and forest dwellings (EXHIBIT T).

240 MOTION: REP. BAUM: Moves adoption of conceptual amendment regarding deleting farm dwellings from siting standard requirements (EXHIBIT

U).

250 CHAIR REPINE: Let the record show that the counties indicate support for the amendment.

255 NEIBON: Reviews provisions of conceptual amendment explaining need and stating counties' support.

295 REP. BAUM: Notes location of conceptual amendment in HB 3661 as specified in (EXHIBIT U).

310 VOTE: Without objection, Chair Repine declares amendment adopted.

320 REP. NORRIS: Reads portion of Sec. 8. Need to give Water Resources Department opportunity to insert a clause as a caveat.

Speaks to need for flag to say issue is subject to water law.

TAPE 126, SIDE A

COMMITTEE MEMBERS AND RIDDLE: Discuss need and options for clarification.

085 REP. VANLEEUEWEN: Did we address ORS 215.213 to allow a dwelling replacement?

090 VanNATTA: Language in the bill is congruent to Oregonians in Action's draft to allow replacement dwellings.

103 REP. DOMINY: What is the different between that amendment and -8 amendments?

110 VanNATTA: -8 amendments were changes to section 11 dealing with the dwelling siting standards for all dwellings that were newly sited under the bill and they deal with fire.

110 CHAIR REPINE: We dealt with that by deleting the reference to section 8 which would then take out location of both dwellings and farm use but

preserve that siting standard for forest applications.

115 REP. VANLEEUEWEN: Are we leaving the portion at the bottom of page 10 and the top of page 11 so that manufactured housing would have to be

replaced?

120 VanNATTA: It is staff's understanding that section 8 uses have not been changed by amendment and stands as written.

130 REP. JOHN MEEK: Speaks to HB 3661-24 -living history museum

amendment.

160 MOTION: REP. BAUM: Moves adoption of HB 3661-24 amendment (EXHIBIT V).

VOTE: Without objection, Chair Repine declares amendment adopted.

170 MOTION: REP. HOSTICKA: Moves adoption of HB 3661-13 amendment (EXHIBIT W).

175 REP. HOSTICKA: The -13 amendment was proposed by Mr. Chapin and designed to insure that aggregate mining does not significantly damage

or destroy class 1 or class 2 prime unique soils and that aggregate mining is generally directed towards areas of less than high value or highly significant farmland.

180 VOTE: On a roll call vote, motion fails. Reps. Hosticka, Peterson, and VanLeeuwen vote Aye. Reps. Baum, Dell, Dominy, Fisher, Luke,

Norris, Josi, and Chair Repine vote No. Rep. Markham is excused.

220 MOTION: REP. HOSTICKA: Moves adoption of HB 3661-12 amendment (EXHIBIT X).

223 REP. HOSTICKA: The -12 amendment is similar to the -18 amendment, but more limited. The amendment was proposed by the Oregon Farm Bureau to

amend the right to farm provisions to delete reference to pesticides.

The amendment changes the language of section 17 to deal with all the issues except the drift of sprays that are not subject to federal regulation.

235 Amends his motion to exclude the words "but is not limited to" in the HB 3661-12 amendment (EXHIBIT X).

248 REP. BAUM: Reviews language on page 22, lines five through seven.

250 REP. VANLEEUEWEN: Believes original language in HB 3661 is better than that proposed by HB 3661-12 amendment (EXHIBIT X).

265 LARRY TROSI, FARM BUREAU: The Farm Bureau had originally proposed incorporating the -12 amendments into the bill because the way section

17 was written was confusing to us. We would now support section 17 as currently written.

340 REP. HOSTICKA: Withdraws his motion.

Suggests new language. On page 22, line 6 of the bill, after the word "vibration", strike the rest of the line. On line 7, strike the word "regulation". You then have "nuisance or trespass includes actions or claims based on noise, vibration, odors, smoke, dust, or mist from irrigation caused by farming and forest practice". That makes the language clean and indicates the intent.

365 CHAIR REPINE: New motion is to amend the proposed engrossed HB 3661 on page 22, line 6 to delete after the word "vibration" the remainder of

that sentence, and on line 7 delete the word "regulation" and punctuate appropriately.

355 TROSI: Not opposed to the motion. We were trying to not limit it to the concern of reference to federal regulations. There could be other

agricultural practices. Would like "but is not limited to" language included.

370 REP. VANLEEUEWEN: "includes but is not limited to" could be inserted after "includes" on line 5.

395 REP. HOSTICKA: That is not part of my motion.

415 VOTE: On a roll call vote, motion fails. Reps. Baum, Fisher, Luke, Markham, Norris, VanLeeuwen, and Chair Repine vote No. Reps. Dell,

Dominy, Hosticka, Josi, and Peterson vote Aye.

450 MOTION: REP. FISHER: Moves to insert after the word "include" on line 5 of page 22 of the bill, "but is not limited to".

475 CHAIR REPINE: Restates motion.

TAPE 125, SIDE B

035 REP. HOSTICKA: Do not think those words are appropriate in this situation because you are carving out exceptions to usual tort laws.

When you do that you should be as narrow as possible in carving out exemptions.

040 REP. BAUM: "But not limited to" is a legal term that opens the door to all kinds of potential. Has misgivings.

050 REP. PETERSON: Is nervous about the language.

060 VOTE: Motion fails. Reps. Baum, Fisher, Josi, Markham, Norris, VanLeeuwen vote Aye. Reps. Dell, Dominy, Hosticka, Luke,

Peterson,

Repine vote No.

066 CHAIR REPINE: Recesses at 5:00 p.m. for a call of the House.

Reconvenes at 5:35 p.m.

070 VanNATTA: Reads undated letter from Thomas O'Leary, president of Lane County Farm Bureau in support of HB 3661 with a qualifier, and May 25,

1993 letter from Small Woodlands Association in support of HB 3661, qualified with minor changes to the bill into the record (EXHIBIT Y).

090 MOTION: REP. BAUM: Moves Proposed Engrossed HB 3661, as amended, to the full House Natural Resources Committee with a do pass

recommendation.

100 REP. BAUM: Notes for the record that he has some partial interest in some real estate that may or may not be impacted by HB 3661.

107 REP. DOMINY: As the bill stands today, I think it will complicate the land use plan to a point that I don't think I can support it. I hope at some point we can put together a minority plan that would not be this

devastating. There are unanswered questions. I will be voting no today.

120 REP. DELL: Distributes discussion draft to committee members (EXHIBIT Z).

Has respect for people who have worked hard on HB 3661. If we are going to do responsible land use planning, there are no clean, simple answers. It is a very complicated business.

Reviews provisions of discussion draft (EXHIBIT Z).

Wanted a vehicle on land use out that allowed us to talk about some important issues because I think there are some things in our land use plan that need some attention and we need to work out those issues. Not sure that we made as much progress as we might have with the existing bill in terms of that discussion because of lack of time. Concerned about how quickly we did everything on HB 3661.

The discussion draft (EXHIBIT Z) is the result of listening to people who gave public testimony, reading submitted testimony, and talking to individuals and other interest groups.

A limited lot of record might be a better solution to some of the problems we face than a complete new land designation system.

The draft has also tried to incorporate the kinds of solutions that will be targeted and more broadly accepted by people.

Stresses that due to the lack of time the draft is not a finished document.

Asks committee to look at the draft and provide input.

Components of draft are; 1. a limited lot of record, 2. removes current LCDC rules adopted in December relating to designation and uses of rural lands. It puts back in that category of lands that would be the high-value farm land, very good farm land, and gives restricted uses on it.

The draft addresses court cases discussed in testimony, the right to farm bill, and does a few other minor things.

The draft says that we need some change, that a lot of record kept emerging as the likely solution and appears to be a publicly acceptable solution to the problem as long as it has reasonable limitations, and that right to farm is an important part of any legislation to do this.

205 REP. JOSI: How does the discussion draft fit into the framework?

210 REP. DELL: It does not fit in. It is not presented as an amendment, but is an alternative for your consideration. It has potential as an

amendment.

220 REP. PETERSON: Is it legitimate to turn the draft into a minority report?

224 CHAIR REPINE: Yes.

227 REP. JOSI: Concerned about turning draft into a minority report because author said the draft needs work.

230 REP. HOSTICKA: If serve minority report on Friday there is time to do work on the discussion draft.

Commends Rep. Dell for opening up process for an alternative.

240 REP. FISHER: Asks for clarification on conflict of interest since he owns a piece of property which he does not believe would be affected by this.

256 REP. BAUM: Not sure what the bill now does to any property he might have interest in, but decided to declare a potential conflict of

interest because of a partial interest in some timber property.

275 REP. FISHER: Declares potential conflict of interest.

295 VOTE: On a roll call vote, motion passes 7-5. Reps. Baum, Fisher, Luke, Markham, Norris, VanLeeuwen and Luke vote Aye. Reps. Dell,

Dominy, Hosticka, Josi, and Peterson vote No.

295 CHAIR REPINE: Adjourns meeting at 5:52 p.m.

Submitted by:

Reviewed by:

Pat Zwick
Administrator

Kathryn Van Natta Assistant

EXHIBIT LOG:

A - HB 3661-Assorted Letters - Staff - 32 pages B - HB
3661-Written Testimony - Roy Burns - 2 pages C - HB 3661-HB 3661-5 -
Counties - 2 pages D - HB 3661-HB 3661-7 - Oregon Assn. of Realtors
- 1 page E - HB 3661-HB 3661-10 - James Colman - 1 page F - HB
3661-Written Testimony - Sen. Kintigh - 2 pages G - HB 3661-Written
Testimony - Assn. of Oregon Counties - Staff - 2 pages H - HB
3661-HB 3661-34 - Revenue Officer - 3 pages I - HB 3661-HB 3661-21 -
Dale Riddle - 2 pages J - HB 3661-HB 3661-27 Conceptual Amendment -
Staff - 1 page K - HB 3661-HB 3661-27 - Staff - 2 pages L - HB
3661-HB 3661-28 - Staff - 2 pages M - HB 3661-HB 3661-29 - Dale
Riddle - 2 pages N - HB 3661-HB 3661-33 - Assn. of Oregon Counties -
2 pages O - HB 3661-HB 3661-35 - Staff - 4 pages P - HB 3661-HB
3661-37 and Conceptual Amendment - Staff - 3 pages Q - HB 3661-HB
3661-38 Conceptual Amendment - Staff - 1 pages R - HB 3661-HB
3661-39 - Staff - 2 pages S - HB 3661-HB 3661-33 - Staff - 2 pages T
- HB 3661-HB 3661-40 - Staff - 1 page U - HB 3661-HB 3661
Conceptual Amendment - Staff - 1 page V - HB 3661-HB 3661-24 - Staff
- 2 pages W - HB 3661-HB 3661-13 - Rep.Hosticka for Jack Chapin - 6
pages X - HB 3661-HB 3661-12 - Oregon Farm Bureau - 1 page Y -
HB 3661-Thomas O'Leary and Small Woodlands Assn. Letters - 6 pages Z
- HB 3661-Discussion Draft - Rep. Dell - 28 pages