

SENATE COMMITTEE ON AGRICULTURE & NATURAL RESOURCES SUBCOMMITTEE, ON LAND USE

April 19, 1993 Hearing Room Tapes 19 - 20 MEMBERS PRESENT: SEN. RON CEASE, Chair SEN. BOB SHOEMAKER SEN. GORDON SMITH STAFF PRESENT: CHRIS WARNER, Committee Administrator Committee Assistant MEASURES HEARD: SB 122 - Public Hearing Discussion of Smith Case 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. ..

TAPE 19\$ SIDE A 005 CHAIR CEASE: Calls the meeting to order.

Opens Public Hearing on SB 122 PUBLIC HEARING - SB 122 Witnesses: Anne Squier, Governor's Natural Resources Advisor Burton Weist, Special Districts Bob Stacey, Portland Planning Director Brent Curtis, Washington County Planning Director Ken Martin, Portland Boundary Commission Sy Kombrodt, Portland Boundary Commission Jeff Johnson, Tualatin Valley Fire & Rescue

010 ANNE SQUIER: Comments on reasons that SB 122 is important to Governor Roberts.

Bill was introduced because Governor feels it is an important part of the livable communities agenda.

Agenda for livable communities is being implemented through several initiatives: · Oregon Transportation Plan · Motor Vehicles Emissions Task Force recommendations · Oregon Department of Transportation & Department of Land Conservation and Development urban mobility benchmark package SENATE AGRICULTURE & NATURAL RESOURCES April 19, 1993 - Page 2

SB 122 and HB 2217 are closely related to the urban mobility growth management benchmark proposal. That proposal seeks to enhance the coordination between transportation and land use in the urban areas and provide the land use supports and land use changes and transitions that will support some of the transportation plan's most aggressive moves toward transit and other modes of travel for air quality and other reasons.

SB 122 and HB 2217 are outgrowths of DLCD's urban growth management project which seeks to strengthen growth management in Oregon. SB 122 smooths the way and clarifies the mechanics to implement the urban growth management project task force recommendation that calls for cities, counties, and special districts in an urban growth boundary to come to agreement on the long term provision of urban services.

052 Governor Roberts urges your support of SB 122 because: · The strategies for strengthening growth management will not contribute to improving community livability unless they can be put into effect at the local level through the coordinated activities of all jurisdictions that make up the major urban areas. · SB 122 improves the mechanics of how local governments will work together. · It is clear that cities, counties, and special districts recognize the need for this improvement and Governor Roberts is pleased with the collaboration they have exhibited and which has resulted in the details you see in SB 122.

072 CHAIR CEASE: Asks if the bill would apply to all areas of the

state?

076 SQUIER: Would apply to any urban area. It would have impact in larger urban areas that have complex interactions of special districts such as a variety of cities and counties.

083 SEN. SHOEMAKER: Would Portland be subject to SB 122?

087 SQUIER: Burton Weist will respond.

092 CHAIR CEASE: -2 amendment does relate to that in part. Wants to see how the boundary commission fits in. 095 BURTON WEIST: Asks that Bob Stacey, Portland Planning Director, and Brent Curtis, Washington County Planning Manager be allowed to join him. Reviews where the bill came from, the objectives of the bill, principle sections of the bill, and what they do. A group of interested parties have been working on the bill and amendments. LCDC was given a grant of \$250,000 by the legislature to perform a study to review how well we were managing growth in Oregon and to review current policies on management of growth. Study was authorized in 1991 by the Commission and completed in October, 1992. Study looked at Brookings Harbor, Medford-Jackson County area, Bend-Deschutes County area, and Portland metropolitan area.

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Areas were selected because they are large and small, yet all have very rapid growth and are experiencing a lot of pressures of rapid growth in common.

Study developed recommendations which were given to committees which included 80 people from cities, counties, special districts, and private industry for review and recommendations for legislation. That recommendation is before you in SB 122.

125 Objectives of SB 122 are: ·Develop better communications and working relationships between special districts, cities, and counties ·Actively involve special districts in the planning process ·Take advantage of regional and sub-regional issues ·Do what is necessary to match revenue resources with baneficiaries of service

178 CHAIR CEASE: Asks how the House bill fits into SB 122

180 WEIST: Anotha recommendation of the task force was to ease annexations, make them less contentious, and a vehicle for long term planning. Task force recommends that we try to provide a method for annexation that takes advantage of what SB 122 does, i.e., provides a reward for those local governments in which go to the effort to have agreements and solve local coordination problems. If local governments do the negotiating up front so that the comprehensive plan really means something and really says who is going to do what to whom, there should be a reward.

HB 2217 is that system and says that if you get the agreements with all the parties, you can create a growth management plan, put that on the ballot, and have one election in the urban growth boundary area that

gives voters the opportunity to approve the growth management plan. Once that has been done, it is no longer necessary for the cities or districts to go back to the voters and do lot by lot, block by block annexation.

Advantage is the city can sit down and say we now have a growth management plan, we know where we are going over the next ten or twenty years, we can start building infrastructure and making service plans that reflect that, and we know we can annex those areas in the future.

Originally put this into two bills, and I sought the agreement of the House chair, to ensure that SB 122 would be heard at the same time as the House bill on annexation so that the House could see the inter-relationship.

SB 122-3 amendments would include annexation provision in SB 122. Does not object to that. Concerned that in the House, where there is very strong resistance to annexation legislation, that SB 122 could die in addition to the annexation legislation.

Rep. Repine has assured that he would hold the hearing together as a package.

240 STACEY: Feels views of special districts and cities and counties can be accommodated on a case by case basis.

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Gives city's perspective of an urban service agreement as an opportunity to get down to specific cases and describe a process by which a transition to ultimate good urban planning and development can occur.

280 Reviews provisions of SB 122 and how it would work for special districts, cities, and counties. 330 CURTIS: Expresses county's support for LC 122-2 amendments.

Believes that legislation forwards what already exists as a requirement to do coordinated planning inside urban growth boundaries.

360 CHAIR CEASE: Wonders if SB 122 is appropriate for the Portland metropolitan area in light of the new charter. 380 WEIST: SB 122 sets up a process where the time of periodic review is the time that coordination agreements will be required. Issue for Metro was what role do they exercise in getting the agreements adopted. Metro reviewed this proposal and determined that their interest is where these agreements have regional significance. They were not interested in an agreement between Beaverton and Tualatin Valley Park and Recreation District. Metro wanted an ability to participate in those agreements and be a party to the agreements when they were of regional significance, but also have the ability not to participate in negotiations if they chose not to. Language in SB 122 was worded so that the individual counties in Metro's case would be the ones responsible for convening all the parties when they came up for periodic review. Metro would be one of the parties. 440 SEN. SHOEMAKER: Reviews Metro Charter which contemplates a regional framework plan which would take the place of LCDC's jurisdiction once it was acknowledged by LCDC. Thereafter, changes within all the counties, cities, and special districts of regional significance would go through Metro as the regional planning agency and coordination of anything of regional significance would be resolved at the Metro level. How does SB 122 fit for agreements involving matters of

regional significance. What is left for LCDC to do and why would we have this structure for Metro?

TAPE 20, SIDE A

020 WEIST: Do not think we know what will come of the planning authority established by the Charter. Framework planning effort will define the matters of regional significance that Metro intends to have policy on. There could be gaps in that policy framework through which the statewide planning goals continue to be the relevant standards for community planning work done by cities and counties, including the public facilities and services goal which is the primary element being implemented here.

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Metro could have regional policy with respect to some but not all issues important to the logical planning and development of areas within the urban growth boundary. Statewide planning goals could remain standards for some of that planning. In that sense it would be important to have the relationship between LCDC and the local governments retained for the metropolitan area just as it is for the rest of the state.

Believes that if Metro decided to exercise its powers broadly and exclude review for compliance with LCDC goals, we could be arguing about whether a public facilities plan adequately carries out a Metro policy rather than Goal 11. Would still be concerned, as local governments, to try to do the planning and agreeing initially among ourselves, subject to regional supervision and assistance where there were conflicts.

Does not contemplate that Metro will become the planners for matters of primarily local concern, but that local planners will exercise their powers and responsibilities subject to the authority of Metro to establish limits and requirements. It will be necessary to have rules of the road with respect to the details of implementation that are in an urban service agreement.

050 SEN. SHOEMAKER: Comments on differences between local and regional concerns.

052 WEIST: Metro is written into this legislation as a party that can express its interest in matters of regional significance.

057 Discussion of Metro charter, Metro's view of SB 122, and their participation. Metro expressed support for the bill. 090CHAIR CEASE: Closes public hearing on SB 122.

SMITH CASE Witnesses: Ron Eber, LCDC

093 EBER: Smith decision involves the standards for the approval of non-farm dwellings in exclusive farm use zones. Statutory provision allows for that siting when the dwelling is situated on lands generally unsuitable for the production of farm crops and livestock. That provision was put in state law as part of SB 101 in 1973 and has remained relatively unchanged. The practice and understanding of that statute was that if you had a farm of 50 or 100 acres and you have five

acres off to the side, that was poorer quality land, you could have approved a non farm dwelling on that portion of the farm or could create a new parcel in that area and approve the non-farm dwelling. Reviews the Smith v Clackamas County case which was upheld by LUBA, the Court of Appeals, and the Oregon Supreme Court. The decision has made it much more difficult to site a non- farm dwelling on poor quality farm land.

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130 SEN. G. SMITH: Asks Eber to restate holding of court.
131 EBER: Gives example of a specific situation. 140 SEN.
SHOEMAKER: Comments on case holding.

147 EBER: Reviews other standards in statute.

150 Further discussion of ramifications of court case and non-farm dwellings.

174 CHAIR CEASE: Reopens Public Hearing on SB 122.

PUBLIC HEARING - SB 122

180 STACEY: Reviews hierarchy and bill passed involving Metro.
207 Reviews portion of SB 122 applying to Metro. 222 SEN.
SHOEMAKER: Questions what LCDC would be left with, given Metro's authority. 238 CHAIR CEASE: Comments on Metro's ability to participate in issues of regional significance and what might happen.
255 STACEY: Comments on Cease's statement and intent of SB 122.

280 Discussion of EMPAC.

300 MARTIN: Expresses opposition to SB 122. 315 KORN BRODT:
Paraphrases written testimony expressing his understanding of problems SB 122 is addressing and concerns with SB 122 (EXHIBIT A).
380 Recommends exemption of areas under the jurisdiction of the Boundary Commission from the effects of SB 122. 400 Reviews problems of SB 122. 435 MARTIN: Paraphrases written testimony in opposition to SB 122 and identifying Boundary Commission's concerns with SB 122 (EXHIBIT B).

TAPE 19, SIDE B

MARTIN: Continues his testimony.

060 CHAIR CEASE AND MARTIN discuss SB 122 and LCDC process.

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080 CHAIR CEASE: Expresses his concerns with SB 122 provisions.

090 JOHNSON: Reviews development and operations of his Department and expresses support of SB 122 as a tool for efficiency. 172 Concludes his testimony. 175 SEN. SHOEMAKER: States his concerns with SB 122: Why this wasn't preempted by the Home Rule decision made last November by the voters of the Metropolitan District and why isn't this hearing before Metro rather than the legislature. Would like Metro representative to answer the question and other questions involving if there is a role for LCDC here, how did that relate to Metro. 185 CHAIR CEASE: Believes there is the question of the relationship between the cities and the districts, but thinks they have worked that out. Think we have to look at this in reference to the House annexation bill because there is a strong relationship. 200Closes hearing on SB 122 and adjourns meeting. Transcribed by,

Pat Zwick

EXHIBIT SUMMARY:

A - SB 122 - S Kornbrodt - 2 pages B - SB 122 - K Martin -11 pages

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