

SENATE COMMITTEE ON AGRICULTURE AND NATURAL RESOURCES Subcommittee on
Land Use

DATE: May 3, 1993 TAPES: 25 - 28 PLACE: Hearing Room C

MEMBERS PRESENT: Senator Ron Cease, Chair Senator Bob Shoemaker
Senator Gordon Smith STAFF PRESENT: Peter Green, Administrator
MEASURES HEARD: SB 1067 PUB SB 675 PUB SB 489 PUB

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 25, SIDE A

005 CHAIR CEASE: Calls the meeting to order.

PUBLIC HEARING ON SB 675 Witnesses: Senator Bob Kintigh, District 14
Representative Charles Starr, District 3 Leo Garre, 3rd Generation
Farmer Maureen Larsen Frank Peterson Denny Grande Mike Sadley Ray Haag
Marcus Semantel Greg Wolf, Assistant Director, Department Of Land
Conservation And Development Ralph Smith Carol Clark, Executive
Director, Washington County Visitors Association

012 SENATOR BOB KINTIGH, DISTRICT 14: Testifies in support. · I
introduced this bill when I learned about Mr. Garre's operation in the
Canby area and later found out this was very typical of farmers
throughout Oregon. · This is aimed at helping small farmers who are
direct sellers. Senate Agriculture and Natural Resources May 3, 1993
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· These people are having a tough time making a living on small acreage
and they need to be able to sell a few other products and do a little
promotion. · This bill would propose to allow them to sell accessory and
promotional items as long it didn't exceed 49% of their income.

054 REPRESENTATIVE CHARLES STARR, DISTRICT 3: Testifies in support. ·
Submits and summarizes written testimony, (EXHIBIT B). · In order to add
value to the product and enhance the profitability of the operation we
from time to time bring in companion products to add diversity. · In
addition, these operations usually have an educational opportunity
associated with them; describes. · These operations are necessary to
allow urban dwellers to have a farm experience.

085 LEO GARRE, 3RD GENERATION FARMER: Testifies in support. · I am
involved in row crops, mostly flowers; right now a big thing for me is
direct marketing. · I drew up a report that has been passed out, see
(EXHIBIT A). · This bill is designed to expand the ability of the retail
direct sales to the public by marketing methods which can conflict with
present guidelines and interpretation by governing agencies. · Reads
written testimony, Exhibit A.

139 SEN. SHOEMAKER: Do products from the farm have to make up 51% of
the profit?

GARRE: Yes, it could be specified that the products must be grown on
that farm, we would have no objection.

CHAIR CEASE: Describes issue.

175 GARRE: The 51% is in the bill to put the responsibility on the farmer to maintain that; this is the guideline the Department of Agriculture is licensing to.

194 MAUREEN LARSEN: Testifies in support of SB 675. · Describes farming activities. · We had an art fair on our farm two years ago and were told this was an illegal land use. · We were also told we couldn't donate our farm for fund raisers. · Reads written testimony, (EXHIBIT C).

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254 FRANK PETERSON: Testifies in support of SB 675; describes farming activities. · Our kitchen is licensed by the Department of Agriculture; we do our own apple butter, jelly and honey. · If I were to notify Washington County they would shut me down. · We are asking to be able to continue farming, but we won't be able to if things continue the way they are.

361 DENNY GRANDE: Testifies in support of SB 675. · We started a fresh market stand seventeen years ago. · We are basically providing a tourist type aspect to the farm; families come, so we provide different aspects.

404 SEN. SHOEMAKER: These commercial activities are really related to the particular farm; the bill as written, would limit it to that extent.

TAPE 26, SIDE A

GRANDE: As long as I'm not competing with the grocery store down the street they don't have a problem.

050 CHAIR CEASE: Where does it stop?

SEN. G. SMITH: As long as it is related to the farm I'm fine.

GRANDE: I might mention that most of us are only open six months a year.

071 MIKE SAJLEY: Testifies in support of SB 675; submits (EXHIBIT D). · We primarily sell livestock and fleece, but we also want to sell promotional items in the image of the animal we are promoting. · We are only open on weekends. · We sponsor children's field trips; we've been told that a gathering of more than twenty five people is in violation of some regulation.

107 CHAIR CEASE: The value of the land has gone up?

SAJLEY: I paid three or four thousand per acre and I think that probably could buy land; we have thirty acres.

114 RAY HAAG: Testifies in support of SB 675; submits written

testimony, (EXHIBIT E). · We sell flowers and are a visitor destination site.

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· SB 675 is a statewide solution to a statewide concern.

134 MARCUS SEMANTEL: Testifies in support of SB 675.; submits written testimony, (EXHIBIT F). · We raise filberts and feel we should be able to sell nut crackers with those nuts.

170 SEN. KINTIGH: Sen. Rasmussen asked me to convey his support for this bill.

173 GREG WOLF, ASSISTANT DIRECTOR, DEPARTMENT OF LAND CONSERVATION AND DEVELOPMENT: We support the concept that this bills attempts to deal with. · We have some comments about actual wording and we can work with the sponsor to define and clarify. · We do believe that a farm stand is a farm use under ORS 215.203, where the majority of the farm products sold are from the farm itself. · We do believe that sales of promotional items are allowed provided they are incidental to the farm operation and to the sales occurring. · We are concerned about what a small recreational attraction is or how it could be defined. · We believe that conducting promotional events should be allowed; we would want to add some language that would indicate that they are directly related to the activities. · Under the existing statute operating bed and breakfast lodging is allowed provided they are conducted in an existing dwelling.

225 RALPH SMITH: Testifies in support of SB 675; submits written testimony, (EXHIBIT G). · Due the small size of our farm, we need to buy in surplus vegetables and fruits from our neighbors to provide more diversity and improve our income.

257 CAROL CLARK, EXECUTIVE DIRECTOR, WASHINGTON COUNTY VISITORS ASSOCIATION: Testifies in support of SB 675. · Submits informative materials, and written testimony, (EXHIBIT H).

CHAIR CEASE: We will work on the language in the bill and bring it back. Closes the public hearing.

PUBLIC HEARING ON SB 1067 Witnesses: Senator Rod Johnson, District 23 Betsy Johnson

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Wanda Kenedy, Interim Manager, Aeronautics Section, Oregon Department Of

Transportation, (ODOT) Jerry Eames, Oregon Aeronautics Division Bob Ziemer Arthur Skipper Greg Wolf, Department Of Land Conservation And Development, (DLCD): Robert Stark, Twin Oaks Air Park Felicia Foresten, Sandy River Airport Dr. Paul Metzger Art Schlack, Land Use Specialist, Association Of Oregon Counties Ralph Hatley Cynthia Gay Norman Neil, Oregon State Experimental Aircraft Association Dwight Smith Raymond Meyer Mike Martheler, Willamette Valley Parachutes Inc. Frank White Mr. Warner

314 SENATOR ROD JOHNSON: SB 1067 is designed to protect the existing airports and what is being done at those airports. · I've handed out (-1) amendments, (EXHIBIT 1); describes amendments. · I have hand written on the bottom of the amendments that we also intend to delete section three of the bill.

392 SEN. JOHNSON: Describes why the bill is necessary. · Airports need flat spaces and those flat spaces are normally zoned for farming.

TAPE 25, SIDE B

030 SEN. JOHNSON: Continues describing why the bill is necessary.

060 SEN. SHOEMAKER: If an airport existed prior to the zoning being enacted, it would have been grandfathered in as a non-conforming use.

SEN. JOHNSON: Those non-conforming uses are disfavored under the land use laws. · I want to give amnesty to all existing airports currently registered. · I'm talking about landing strips through airports.

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SEN. SHOEMAKER: If they were legally installed then they don't need this law.

SEN. JOHNSON: No, they may not be able to go to court and win; under the current situation all it takes is a neighbor to stir up problems.

100 BETSY JOHNSON: Testifies in support of SB 1067; submits and summarizes written testimony, (EXHIBIT J).

170 WANDA KENEDY, INTERIM MANAGER, AERONAUTICS SECTION, OREGON DEPARTMENT OF TRANSPORTATION, (ODOT): Testifies in support of SB 1067; submits and reads written testimony, (EXHIBIT K). · We also support the (-1) amendments to SB 1067 · I have also submitted a copy of "Economic Benefits of Aviation in Oregon".

285 JERRY EAMES, OREGON AERONAUTICS DIVISION: The difference between registering and licensing is that we license the public use airports and we simply register the personal use airports; describes process for registering airports.

CHAIR CEASE: But the amendments say that this will only apply to airport

that are licensed or registered with the Aeronautics Division; what do they have to do to get registered?

EAMES: New airports have to go through our site approval process.

SEN. SHOEMAKER: Those there prior to planning and zoning are legal; those subsequent to that have to comply with other statutes?

EAMES: Yes.

SEN. SHOEMAKER: Could they expand?

EAMES: I don't see that in the bill at all. · Our rules say that if there is any significant change in the character or physical dimensions they have to go through our approval process again.

387 EAMES: The grandfathering of an airport is very tenuous.

SEN. JOHNSON: This bill, as amended, is limited to only those airports either licensed or registered with the; aeronautics division means it applies to preexisting non-conforming airport or any other airport registered since 1975.

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TAPE 26, SIDE B

052 SEN. JOHNSON: As originally written the bill would apply to any operational airport but we tightened it up with the (-1) amendments.

059 BOB ZIEMER: Testifies in support of SB 1067; submits written testimony, (EXHIBIT L). 203 SEN. SHOEMAKER: What if Mr. Warner had established the airport for ultra lights but then wanted to use helicopters? · Should that be allowed? ZIEMER: I think there has to be some common sense; from what I've seen common sense isn't being applied.

255 SEN. JOHNSON: Gives examples of "new use" of airports which requires going through the land use process and any other process required. 265 MR. WARNER: Testifies in support of SB 1067. · I have visual demonstration, shows picture. · Describes background; explains situation where there wasn't a based airplane on the ground for 15 months, so they had lost their non-conforming use. 329 ARTHUR SKIPPER: Testifies in support of SB 1067. · Some small airports have been dealt a severe blow because of zoning. · It's good to have airports for emergencies. ZIEMER: Mr. Warriar is a member of search and rescue and he can't even fly out to search or rescue.

442 GREG WOLF, DEPARTMENT OF LAND CONSERVATION AND DEVELOPMENT, (DLCD): We have no objection with the bill; we do have a concern with the issue of whether or not the uses contemplated in the bill are those that have been established lawfully and we wanted to get on the record saying that is our assumption. · I think the local control issue is one that needs

to be recognized as you deal with this; this is a different approach than we use on some other planning issues.

TAPE 27, SIDE A

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036 ROBERT STARK, TWIN OAKS AIR PARK: Testifies in support of SB 1067. It is difficult to educate people as to what is required for an airport. I feel this should be in the hands of someone who understands the problem.

049 FELICIA FORESTEN, SANDY RIVER AIRPORT: Testifies in support of SB 1067. · We need a governing body that is aviation oriented that would unify the control and governing of airports. · The Aeronautics Division would lend continuity.

080 DR. PAUL METZGER: Testifies in support of SB 1067. · Gives the history of aviation in America. · I hope that SB 1067 will help to ensure a continuous supply of strategically placed airports that will enhance the economy and commercial development of Oregon.

116 ART SCHLACK, LAND USE SPECIALIST, ASSOCIATION OF OREGON COUNTIES: There are different standards that different counties or local jurisdictions have adopted since the state has allowed local governments to provide standards within their land use plans and implementing ordinances that relate to their public and private airports. · The discretion at the local level is one major issue.

CHAIR CEASE: Has this been in legislation before?

SCHLACK: I don't know; at this point it is an issue of the non-conforming uses.

142 SEN. JOHNSON: It isn't the intent of the bill help make it easier to site new airports.

149 RALPH HATLEY: Testifies in support of SB 1067. · We are concerned with the interpretations of land use rules pertaining to aviation.

193 CYNTHIA GAY: Testifies in support of SB 1067. · I urge you to support this bill and save our small airports. 205 NORMAN NEIL, OREGON STATE EXPERIMENTAL AIRCRAFT ASSOCIATION: Describes Association. 216 DWIGHT SMITH: Testifies in support of SB 1067.

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· We need places like this; a golfer can live next to a golf course and be happy, a boater can live next to the river and be happy and I think we need to have the opportunity to live next to a private airport and be happy.

242 RAYMOND MEYER: Testifies in support of SB 1067. · I'd like to emphasize the safety factor, having my own life saved recently by an airport that was seldom ever used and might have been closed if the land owners around were able to do it.

150 MIKE MARTHELER, WILLAMETTE VALLEY PARACHUTES INC.: Testifies in support of SB 1067. · I want to emphasize the economic impact that small general aviation has on this state, including activities like parachuting.

258 FRANK WHITE: Testifies in support of SB 1067. · Describes personal situation. 284 CHAIR CEASE: I will close the public hearing on SB 1067.

PUBLIC HEARING ON SB 489 Witnesses: Jack Chapin, Oregon Farm Bureau Senator Catherine Webber, District 16 Larry Trosi, Oregon Farm Bureau James Monroe, President, Linn County Farm Dick Angstrom, Ocapa Karla Chambers, Farmer, Corvallis Oregon K.C. Klosterman, Morris Bros. John Altucker, Eugene Sand & Gravel Greg Wolf, LCDC Alan Lively, Department Of Transportation John Beaulieu, Oregon Department Of Geology Tamra Sacchi Tom Brawley, President, Marion County Farm Cameron Ferschweiler, Future Farmers Of America CHAIR CEASE: Describes issue.

377 JACK CHAPIN, OREGON FARM BUREAU: Submits written testimony in support, with one further amendment, (EXHIBIT M). · The purpose of this is to make it workable; if you had a big area with a smaller one that should have gravel extraction you wouldn't want to spoil the whole site.

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TAPE 28, SIDE A

015 CHAPIN: Continues, see Exhibit M.

024 SENATOR CATHERINE WEBBER, DISTRICT 16: I strongly support SB 489 with the (-1) amendments. · Marion County is the number one agricultural producer in Oregon because we have world class soils. · One concern we have is that if we allow mining in the Class one and two soils it is like "killing the goose that laid the golden egg".

046 LARRY TROSI, OREGON FARM BUREAU: We originally helped draft the bill because we were aware of the effect this was having on agriculture lands. · Our organization agreed that with the amendments this is a bill we can support as an organization. · Submits written testimony, (EXHIBIT Q).

074 JAMES MONROE, PRESIDENT, LINI I COUNTY FARM BUREAU: We support the bill, especially as amended.

098 DICK ANGSTROM, OCAPA: These are people we've asked to testify.

101 KARLA CHAMBERS, FARMER, CORVALLIS OREGON: Describes her background. · I don't believe that SB 489 is good legislation, nor does it represent the best interest of Oregon Farm Bureau member or Oregon agriculture. · I firmly believe that statewide legislation is an inappropriate way to handle land use issues that should be handled by county and local governments. · Submits and summarizes written testimony, (EXHIBIT P).

201 K.C. KLOSTERMAN, MORRIS BROS: I don't think any of us think we should solve a specific local problem with state legislation. · Submits written testimony, (EXHIBIT 0). · We believe that the current goals and ordinances in place are effective.

299 JOHN ALTUCKER, EUGENE SAND & GRAVEL: If I were to ask each of you to name the six or seven elements most important to sustain life in Oregon you would come up with air, water, food, housing, clothing, energy, transportation and communication.

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· I'd like to change that a little; everything you need beyond air and water, you have to have us to get there because every transportation system in the U.S. is supported and founded upon material we have to produce. · We can only mine where gravel is, you can put houses anywhere. · The challenge is to produce high quality aggregate at the lowest possible cost, in such a manner that you minimize the negative impacts on neighbors and the environment.

TAPE 27, SIDE B

032 CHAIR CEASE: Where would you be without LCDC?

ALTUCKER: I don't know; as I look back I think we might be better off.

SEN. G. SMITH: Do you recycle gravel?

ALTUCKER: That is coming in, there will be more of that in the future. · The Valley River Center in Eugene was a gravel site.

105 ANGSTROM: You need to realize that sand and gravel is a natural resource base. · We use recycled materials when possible. · The U of O is doing a study that tends to show that the site 3 lands are not blocked into economic units, but rather a lot of smaller units. · We would encourage the committee not to let a local issue dictate an entire Willamette Valley program. · The Goal 5 process provides a good basis for people who want to participate. · We are opposed to the revised amendments also as they don't allow us mine where the aggregate is needed for the market place.

147 GREG WOLF, LCDC: We would recommend that at this point there be some additional study work on this question given the fact that the state does have a high interest in our best agricultural land. · We need to sit down and look at the regional characteristics of resources and on a case by case basis try to find a way that the uses are adequately balanced. · We think there should be a better process for state agency coordination as we look at these sites. · It is our intent to ensure that those regional issues are adequately addressed in the planning process by reviewing the existing review process, Goal 5 and the statute.

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200 ALAN LIVELY, DEPARTMENT OF TRANSPORTATION: We are the largest user of aggregate in Oregon. · Submits and reads written testimony, (EXHIBIT R).

251 JOHN BEAULIEU, OREGON DEPARTMENT OF GEOLOGY: Submits and summarizes written testimony, (EXHIBIT S). · Although the notion of co-location sounds good when one talks about government, but when one co-locates two necessary resources it leads to conflict. · We support the idea of further interim study on this if that is deemed necessary.

278 TAMRA SACCHI: Submits and summarizes written testimony, (EXHIBIT T). · This is not just a local issue. · Farmers rely on land mass for expansion. · The eight counties this bill has been limited to generated 1.15 billion dollars in revenue on only 892,000 acres in 1991.

378 TOM BRAWLEY, PRESIDENT, MARION COUNTY FARM BUREAU: Set asides tie in with the philosophy of having enough food for our people. · Don't let "cost effectiveness" be a prime determination when making decisions that effect us forever.

425 CAMERON FERSCHWEILER, FUTURE FARMERS OF AMERICA: The Willamette Valley soil is the envy of the world and we have a tendency to take that for granted. · Once land is mined, we can never farm it again. · This is raping the land of all its natural resources. · This bill is fair for everyone; it allows the farmers to farm the land that is best for them and it allows the miners to mine the land that is best for them, where the rock is near the top.

483 CHAIR CEASE: I will close the hearing and we are adjourned.

Transcribed by,

Kimberly B. Shadley

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EXHIBIT SUMMARY:

A - SB 675: Written testimony submitted by Garre, pp 2 B - SB 675: Written testimony submitted by Starr, pp 2 C - SB 675: Written testimony submitted by Larsen, pp 11 D - SB 675: Written testimony submitted by Sailey, pp 5 E - SB 675: Written testimony submitted by Haag, pp 1 F - SB 675: Written testimony submitted by Simantel, pp 8 G - SB 675: Written testimony submitted by Smith, pp 1 H - SB 675: Written testimony submitted by Clark, pp 3 I-SB 1067:(-1) amendments submitted by staff, pp 1 J - SB 1 067: Written testimony submitted by Johnson, pp 3 K - SB 1067: Written testimony submitted by Eames, pp 13 L - SB 1067: Written testimony submitted by Ziemer, pp 5 M - SB 489: Written testimony submitted by Chapin, pp 2 N-SB 489: Proposed amendments submitted by Chapin, pp 2 O-SB 489: Informative material submitted by Klosterman, pp 8 P-SB 489: Written testimony submitted by Chambers, pp 5 Q-SB 489: Written testimony submitted by Trosi, pp 1 R-SB 489: Written testimony submitted by Lively, pp 1 S - SB 489: Written testimony submitted by Beaulieu, pp 1 T-SB 489: Written testimony submitted by Sacchi, pp 7 U-SB 489: Written testimony submitted by Ferschweiler, pp 1 V-SB 489: Written testimony submitted by Webber, pp 7 W -SB 489: Written testimony submitted by Chapin, pp 14 X - SB 489: Written testimony submitted by Egan, pp 1 Y-SB 489: Written testimony submitted by Witteman, pp 2 Z-SB 489: Written testimony submitted by Mathews, pp 2 AA - SB 489: Written testimony submitted by Batson, pp 1

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