

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.

HOUSE COMMITTEE ON ENVIRONMENT AND ENERGY

April 24, 1991Hearing Room E 1:15 p.m.Tapes 133 - 136

MEMBERS PRESENT:Rep. Parkinson, Chair Rep. Whitty, Vice-Chair Rep. Burton Rep. Courtney Rep. Naito Rep. Norris Rep. Repine Rep. Van Leeuwen Rep. Watt

VISITING MEMBER:Rep. Schoon

PRESENT: Kathryn VanNatta, Committee Administrator Andy Sloop, Committee Assistant

MEASURES CONSIDERED: HB 3570 (WRK) HB 3472 (WRK) HB 2086 (WRK) HB 2087 (WRK)

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TAPE 133, SIDE A

06CHAIR PARKINSON: Calls the meeting to order at 1:26 p.m.

WORK SESSION - HB 3570 Witnesses:Bill Grile, Coos County Matt Spangler, Association of Oregon County Planners Keith Cubic, Douglas County Planning Director Russ Nebon, Association of Oregon Counties Lauvel Prairie-Kuntz, Jackson County Bruce Bartow, Josephine County Bill Moshofsky, Oregonians In Action Lois Kenage, Agriculture For Oregon Gary Munsterman, Benton County Planning Director

12REP. SCHOON: Acknowledges need for a single vehicle bill in the House addressing secondary lands, and agrees that it should be HB 3570.

26CHAIR PARKINSON: Could you review similarities between your bill, the ideas from the Vida consensus group, and the committee bill?

30REP. SCHOON: HB 3560 is very similar to SB 91. HB 3560, HB 3570 and SB 91, all of which came out of the Vida group, are largely alike.

50REP. COURTNEY: Did you sign on to SB 91?

52REP. SCHOON: Yes.

54REP. COURTNEY: Are there any parts of that bill over which you have irreconcilable differences?

56REP. SCHOON: Realize this must be a compromise effort and that the philosophy on the Senate side is slightly different than it is on the House side. The committees have to identify and reconcile differences between the chambers of the Legislature.

64BILL GRILE, COOS COUNTY BOARD OF COMMISSIONERS: Testifies in support of the measure, which is "fair and reasonable". (EXHIBIT A)

>The HB 3570 secondary lands definition is solid and consistent with the Land Conservation and Development Commission definition.

>The local technical advisory committee concept in HB 3570 is sound, and bills without technical advisory committees will fail.

>Secondary lands won't work as a quantifiable planning model. Secondary lands answers aren't objective, or black and white.

>Review and appeal processes are solid and allow plenty of opportunity for input.

>Use list could be improved, but is OK.

>Supports right-to-farm and right-to-forest provisions.

>Urban fringe issue doesn't exist in most of rural Oregon. Intergovernmental agreements to deal with fringe growth have worked in many parts of the state for years.

145 REP. WHITTY: Do the HB 3560 and HB 3570 lot-of-record provisions pertaining to forest dwellings apply to lands that are designated secondary?

165 GRILE: Believe that is the intent. It is essential that any final secondary lands legislation include a lot-of-record provision. It is also essential to specify the size of new parcels that may be created on secondary lands.

178 CHAIR PARKINSON: HB 3570 is the least polished of the three main secondary lands bills because Legislative Counsel had the least amount of time to draft it. The issues that Mr. Grile has just raised will be decision points for this committee. With respect to parcel sizes on secondary lands, it is my intent to leave that largely to counties to decide.

200 GRILE: The lot-of-record provision in HB 3560 and HB 3570 seems to be consistent and it seems to be right on target. If a person owns a legally established parcel, s/he should be entitled to a lot-of-record privilege. With respect to the question of what size newly created parcels on secondary lands should be, 20 acres seems to be a reasonable starting point, but there are some places where 10 acres would be OK. Need to remember that secondary lands is intended to apply to resource lands, not rural residential homesite acreage.

220 REP. COURTNEY: Is it fair to assume from your comments that you are not here in support of HB 3560 or SB 91?

225 GRILE: Here to support HB 3570.

230 CHAIR PARKINSON: Didn't a group of county planners meet last week to evaluate the various secondary lands bills?

235 GRILE: Yes. That group determined that HB 3570 has significant advantages over its counterpart bills.

238 CHAIR PARKINSON: On a scale of one to ten, how does HB 3570 rate?

242 GRILE: Defers to president of Association of Oregon County Planners.

248 MATT SPANGLER, PRESIDENT, ASSOCIATION OF OREGON COUNTY PLANNERS: Testifies in support of the measure. (EXHIBIT B)

>Concerned about uses in secondary lands, but not insurmountable objections.

303 CHAIR PARKINSON: There are people in the state who want no rural development, and there are others who want unlimited development. Where do the concepts in HB 357 0 fall in this spectrum?

306 SPANGLER: Right in the middle.

327 REP. COURTNEY: When would the arbitration process proposed under HB 357 0 kick in?

331 SPANGLER: When there is an impasse between LCDC and local government during the designation process.

340 CHAIR PARKINSON: Acknowledges that the appeals process under HB 3570 has problems and that language will have to be changed, possibly by taking provisions from HB 3560.

383 REP. COURTNEY: Arbitration seems to add to already cumbersome process.

403 SPANGLER: The layers of appeal are not as important to us as the forum in which these questions are resolved.

TAPE 134, SIDE A

24KEITH CUBIC, DOUGLAS COUNTY PLANNING DIRECTOR: Confirms need for secondary lands legislation as a planning tool to manage and optimize use of resource lands.

>Douglas County already has provisions that resemble HB 3570.

>Need local approach to manage large spectrum of land uses in Oregon. (EXHIBIT C)

>Designation of secondary lands, taking into account medium-size parcels (e.g., 20 to 80 acres) could enhance productivity of Douglas County resource lands.

>There is a high level of parcelization in Douglas County that has never been dealt with effectively.

>HB 3570 approach will help enhance integrity of state land-use system.

>20-acre minimum lot size is reasonable.

>Supports local designation process.

>HB 3570 is the "best vehicle" to deal with secondary lands.

>HB 3570 section on uses of secondary lands needs work. Concerned about "necessary and accessory" development standard for farm dwellings.

>Unclear if list of permitted uses on secondary lands includes dwellings on divided parcels.

96CHAIR PARKINSON: Invites written comments from the Association of Oregon County Planners.

100 CHAIR PARKINSON: You're saying that a 5-acre minimum lot size in your county would not be appropriate. Are you talking about new land?

105 CUBIC: Yes.

107 CHAIR PARKINSON: What about somebody who currently has a 7-acre parcel of secondary land in your county?

102 CUBIC: Pre-existing parcels should be eligible for development. However, the creation of new parcels is not appropriate. Douglas County's comprehensive plan specifically says parcels of less than 10 acres are non-resource, and they are treated as residential properties.

107 CHAIR PARKINSON: And if they're right in the middle of farmland?

109 CUBIC: Those would have to be processes as non-farm dwellings. Douglas County does not approve non-forest dwellings on primary forestland.

113 REP. VAN LEEUWEN: What do you envision secondary lands would be used for in Douglas County?

116 CUBIC: Douglas County primary agricultural lands have variable minimum lot sizes. In our part of the state, small woodlands management is a vital part of our economic base, and small woodlands are largely on 30 to 50-acre parcels. Secondary lands would be an ideal tool to enhance small woodlands operations in Douglas County.

126 REP. VAN LEEUWEN: Aren't you saying those small woodland operations would be primary land uses?

128 CUBIC: They are lands that have less productive capability within the county's primary farm and forest zones, but they could be used for productive purposes. LCDC goals say that certain lands are agricultural and "other lands that might be necessary". Secondary lands would fit into that category of "other lands that might be necessary".

132 REP. VAN LEEUWEN: For what purposes other than what you just stated?

134 CUBIC: Agriculture or forestry, but they would be managed on a smaller scale and there would be restrictions on dwellings in conjunction with a productive activity on that land.

137 REP. VAN LEEUWEN: In other words, all dwellings on secondary lands would have to be resource related?

140 CUBIC: Yes. Because secondary lands in Douglas County would be a resource classification.

143 REP. VAN LEEUWEN: What about in the bill?

150 CHAIR PARKINSON: Seems lands around state are different and what will work in your county is different than what will work in other counties.

155 CUBIC: Continues testimony:

>Section 11 of the bill recognizes the investment in and integrity of our comprehensive plans, and it's a "top-notch proposal".

>Section 20 is "far superior" to other proposals with respect to rural communities. This section also satisfies a four-year need from a Supreme Court case and addresses necessary public policy in Oregon. Finally, it guides LCDC and DLCD, which is a step by the Legislature that may stimulate a solution to the rural communities' issue.

>Section 21: The existing system for dealing with urban growth management is not broken. Growth management needs can be addressed through intergovernmental agreements. If this provision is retained, it should be "clearly limited".

>The secondary lands identification, review and appeal process is very strong.

>Important that counties be given opportunities to submit designation maps to LCDC at other times after initial requirement.

178 CHAIR PARKINSON: On a scale of 1 to 10, how does HB 3570 compare to HB 356 0 and SB 91?

185 CUBIC: This is about 75 percent consistent with where counties want to go, and other bills are about 33 percent.

190 CHAIR PARKINSON: What will this bill do to or for land owners?

200 CUBIC:

>Provide certainty that there will not be down zoning.

>Provide guidance to state planners to deal with rural community needs.

>Provide protection for resource lands, and allow citizens opportunities to participate in designation process.

235 REP. NORRIS: "This may be a little bit like the gas station attendant who runs your tank over to make sure the number ends in zero." If a 40 acre parcel is bisected by a road, how many acres are left? "It ain't 40." If we approved a 20-acre minimum lot size, would each of the 19- acre parcels created by dividing that 40 acres be considered permissible?

240 CUBIC: No.

241 REP. NORRIS: Than shouldn't we be thinking about something other than 20?

245 CUBIC: That would be reasonable.

250 REP. SCHOON: Would you anticipate adding exclusive farm use zones in secondary areas?

255 CUBIC: Perhaps. Douglas County probably would have a secondary agricultural zone.

263 REP. SCHOON: Should we require urban reserves or encourage local government agreements to deal with urban fringe needs?

280 CUBIC: Encourage intergovernmental agreements.

284 CHAIR PARKINSON: The urban fringe area impetus came from the metro area. HB 3570 only mandates urban reserves in the Portland-metro the area.

314 RUSS NEBON, ASSOCIATION OF OREGON COUNTIES AND MARION COUNTY: Testifies in support of most provisions of the measure.

>Ought to consider practicality of 20-acre minimum lot size in light of Rep. Norris' comments.

>Concerned about "necessary and accessory" test for farm dwellings.

>States intent to propose amendments.

354 CHAIR PARKINSON: Advises Nebon to draft amendments at least as much from landowners' perspective as from planners' perspective so the committee doesn't have to sort through taxation ramifications.

370 NEBON: Planners work with landowners everyday, and we're often criticized for helping landowners too much.

375 NEBON: AOC's position is not bill-specific at this point.

>AOC legislative committee discussed four factors that are essential in a secondary lands bill. Some of these factors also pertain to use and management of primary lands. This bill (HB 357 0) addresses more of essential elements than other secondary lands bills.

>In order to qualify for a dwelling on a small-scale farm under current statutes, property owner has to show that land will maintain existing commercial agriculture, which is a very high standard. Qualifying in Marion County is especially difficult because there are a wide variety of soils and agricultural operations. There are many hobby farms in Marion County that do contribute to the economy, and the purpose of secondary lands is to identify areas where that kind of farming is appropriate. From a planning standpoint, it is better to take areas with historic pattern of parcelization or low-yield soils, and designate them for small-scale, part-time farming, rather than trying to mix small and large-scale operations within one area.

TAPE 133, SIDE B

00NEBON: All secondary lands bills suggest need to tighten down uses on

primary farmlands. However, need provisions for small agricultural operations.

35CHAIR PARKINSON: "Critical" to deal with this soon.

40REP. SCHOON: You mentioned cases where 20-acre minimum lot size would be appropriate and others where 10-acre minimum lot size would be appropriate. Not sure how to reconcile those two cases.

43NEBON: When we worked with LCDC on its secondary lands proposal, there was a process whereby a county with a pattern of 10-acre parcelization could have a secondary lands minimum lot size as small as 10 acres. Don't know how to implement that process in the context of this legislation, but would like to retain that flexibility. HB 3560 would take minimum lot size down to five acres, and planners are concerned that would blur secondary lands with exception areas. Planners are trying to use secondary lands as a discrete planning tool separate from exception areas.

50REP. SCHOON: Should the bill permit designation of exception areas to allow for five-acre parcels?

55NEBON: When counties review comprehensive plans, they may find aggregations of smaller parcels that make it appropriate to designate exception areas instead of secondary land. In some cases, however, it's preferable to allow dwellings on smaller parcels in conjunction with resource management than to take an exception.

65REP. SCHOON: Might be appropriate for counties to select areas where there has been some parcelization as exceptions.

73NEBON: Planners' concern with the provision in HB 3560 was that it implied that designating a secondary lands area with a residential density less than 10-acres effectively would create a lottery system where some people would be entitled to dwellings on secondary lands and some wouldn't.

80REP. SCHOON: What's the answer for that?

82NEBON: What you're suggesting is something in the bill saying that areas with densities less than some finite acreage determined by the county would automatically be designated as exception areas.

84CHAIR PARKINSON: Would you agree that existing lots in secondary areas that are smaller than the minimum lot size in this bill should be allowed?

93NEBON: Yes.

95REP. BURTON: So, you would support concept that any lot of record should be buildable?

102 NEBON: Within secondary lands, yes.

105 REP. BURTON: But if willing to let small lots of record be buildable, then why have a minimum at all?

113 NEBON: It's a very critical difference. One problem with the state land-use system is that it has not recognized historical practices or uses of land. On the other hand, lands that will be designated as

secondary have been under the umbrella of LCDC goals 3 and 4, so they have some resource potential that would be nullified by allowing divisions as small as five acres. However, allowing medium-sized parcels (e.g., 30-60 acres) to divide into 20-acre parcels would allow for part-time, small-scale farming operations that are appropriate on secondary resource lands and don't necessarily conflict with adjacent residential development.

124 REP. BURTON: So, the smaller the lots allowed on secondary lands, the greater the danger to resource lands? Trying to understand why land should be allowed for a particular use if a property owner had that right prior to 1973 but not if s/he owns that land in 1991.

137 CHAIR PARKINSON: Russ, do you support a lot-of-record provision on prime agricultural land? "Say no. Come on Russ. You certainly don't support a lot-of-record out in central Howell just because somebody owns 20 acres out there."

143 NEBON: Speaking as a Marion County planner, the answer is no.

145 CHAIR PARKINSON: What he's been trying to tell us is that on secondary lands he supports a lot-of-record. That is where a lot of people are being victimized because they bought buildable land, and then the rules were changed in the middle of the night so that they can't do anything with that land except pay taxes on it.

151 NEBON: Yes. Probability that parcels below 10 acres will be used for resource development is very slim. But need provisions for intermediate size parcels (10 to 40 acres).

165 REP. BURTON: Are you saying that the value of that land lies in its productivity under certain economic conditions, or if that land is allowed to operate with the kind of special assessments provided for those kinds of operations? Do you consider these factors in determining productivity, or do you look only at the capability of a parcel of land to produce a certain crop?

170 NEBON: Property owners can make productive use of small parcels but not earn enough to make it worthwhile.

185 LAUVEL PRAIRIE-KUNTZ, JACKSON COUNTY: Testifies in support of the measure.

>Supports local technical advisory committee in designation process.

>HB 3570 provides mechanism for local decisions and to build local support for planning system.

>Designation and review timelines built into HB 3570 will facilitate local planning.

>Need clarification as to outright permitted uses in Section 8 and which permitted uses will require further review at local level.

>Recommend recognition/clarification that divisions under the secondary lands program retain right to residences.

>Land-use planning needs to allow rural communities to grow and prosper within their rural context.

228 REP. REPINE: Does HB 3570 closely resemble Jackson County's pilot program?

243 PRAIRIE-KUNTZ: This is an "excellent example of what Jackson County pilot program was striving to produce." This model allows counties to deal with their differences and to develop programs that work.

260 REP. BURTON: Who represented "the public interest" on the technical advisory committee in Jackson County's pilot program, and how were those representatives appointed?

265 PRAIRIE-KUNTZ: Our technical advisory committee was made up of technical experts. On the other hand, a 15-member citizens advisory group developed Jackson County's alternative program, with technical assistance from the technical advisory committee.

275 REP. BURTON: Who was represented on the citizen advisory committee?

280 PRAIRIE-KUNTZ: Orchardists, business owners, woodland property owners, 100 0 Friends of Oregon, a former planning commissioner, realtors, ranchers, rural and urban property owners.

285 REP. BURTON: How did those people get appointed to the citizen advisory committee?

288 PRAIRIE-KUNTZ: It was wide open. The county commission openly solicited applications.

308 BRUCE BARTOW, JOSEPHINE COUNTY: Testifies in support of the measure.

>Citizens, resource experts and county accepted resource identification and designation in Josephine County.

>Worked with the State Forestry Department, LCDC and citizens involved in developing the continuum of resources inventoried in Josephine County.

>Josephine County residents support methodology for identification and designation of resource lands.

>Secondary lands are resource lands and can contribute to the state economy. Consequently, both the state and property owners have interest in secondary property, and property owners should have lot-of-record right on secondary lands.

>Support technical advisory committee concept.

>Josephine County currently uses a productivity and contextual analysis to zone agricultural lands. This process has led to zoning of 6,500 acres of secondary agricultural land and 25,000 of exclusive farmland in the county.

TAPE 134, SIDE B

03REP. REPINE: In regards to Josephine County and the lot-of-record definition, what is your preference?

06BARTOW: If own a legal lot, support allowing construction of a dwelling, but not necessarily allowing partitioning of the lot. As far

as lot size, Josephine County has a 40-acre minimum for lots adjacent to public or private managed resource land. If not adjacent, than allow creation of 20-acre new lots. Those new lots then become lots-of-record and owners are allowed to erect dwellings. Josephine County would have "very limited use" of 10-acre lots. Small but productive parcels should have some protection for resource purposes, but not the same level of protection as large prime parcels.

28REP. VAN LEEUWEN: Would any of the lands that we are considering classifying as secondary be suitable for rural residential development and not have resource capability?

32BARTOW: Because of the wide window during which county comprehensive plans were acknowledged, the definition of "exception areas", that is areas that can be zone rural residential, mutated. Most exception properties that are in 20 to 30 acre groupings and have been zoned rural residential. There are few enclaves of those kinds of properties.

68BARTOW: Concerned about Section 3 (2) (a) (F): Fire hazards should not be considered in designation of secondary lands. Hazards tend to have to do with how lots are built, not how they are zoned. Under provision of services, Section 3 (2) (a) (H), suggests substituting language pertaining to the carrying capacity of the land (i.e., can it provide ground water and can it handle septic systems).

90BARTOW: Supports arbitration concept as a way to deal with technical questions as opposed to legal or process questions.

93REP. SCHOON: Back to lot of record. Would you like services conditions attached to lot-of- record provision so that a property owner can't say he can build on his property whether public services are available or not?

100 BARTOW: Yes.

103 CHAIR PARKINSON: You wouldn't allow a building permit without adequate access to services, would you?

107 BARTOW: That's generally true, but not always. Carrying capacity of land is key question.

112 CHAIR PARKINSON: Assume your organization will submit written amendments?

116 BARTOW: Yes.

130 REP. NORRIS: This bill attempts to give a rather subjective description of what is or should be designated as secondary land. Are you comfortable with this approach?

138 BARTOW: Yes. In Josephine County, we started by identifying commercial or primary land, and then secondary land was everything that was left. One way to approach the identification question is to ask: "What land is important enough to the State of Oregon to justify the infringement on private property rights?"

143 REP. NORRIS: Would HB 3570 provide adequate local flexibility?

147 BARTOW: Yes.

149 CHAIR PARKINSON: Recesses at 3 p.m. Reconvenes at 3:20.

157 BILL MOSHOFSKY, OREGONIANS IN ACTION: Comments on specific provisions of the measure.

>Landowners have not been adequately represented in the land-use regulatory system.

>Supports allowing local decisions, but probable that little land will be designated as secondary after LCDC review.

>Concerned about "necessary and accessory" standard for non-farm dwellings. Recommends substituting "customarily in conjunction with" in place of "necessary and accessory".

>Need to define "suitable" in context of uses that would be allowed on prime land if no "suitable" secondary land available.

>Should continue to allow non-farm dwellings on unproductive land that is currently zoned for farming, as provided for in HB 3570.

>Supports non-farm dwelling provisions in HB 3570 and opposes provisions in other bills that only allow non-farm dwellings on marginal resource lands in Eastern Oregon.

>Proposes deleting subsection 3 on page 9.

>LCDC has given the impression that there needs to be a provision allowing non-farm dwellings in Eastern Oregon so that Eastern Oregon isn't stuck with farmland restrictions on marginal land. Such an approach wouldn't change the status quo, however, because the non-farm dwelling provisions being considered wouldn't change the limited conditions for non-farm dwellings already in existence. Moreover, under LCDC's proposal, Eastern Oregon would effectively forfeit the right to have a secondary lands program of any kind.

>On page 9, line 23, recommends deleting subsection c that would limit a non-farm dwelling unless the dwelling did not materially alter the overall land-use pattern of the area.

>May submit amendments to allow for destination resorts on primary land.

>Forest rules don't allow schools, churches or golf courses on forestland despite fact that decisions about what will be designated forestland have not been made yet.

>Need more flexibility for roads and highways. Recommends permitted or conditional use provisions for highways on prime lands.

>The Farm Bureau hasn't presented statistics or court cases to demonstrate/prove degree of farm/forest conflicts with rural residential development. OIA's preliminary study of conflicts indicates they are not substantial. Want to ensure people aren't unfairly denied use of their land.

402 CHAIR PARKINSON: Requests OIA comments in writing.

405 LOIS KENAGY, AGRICULTURE FOR OREGON: Supports secondary lands concept and recommends amendments.

TAPE 135, SIDE A

OOKENAGY:

>Supports SB 91 provision that would not permit non-farm dwellings in commercial resource zones.

>Supports page 9, line 2 exception that non-farm dwellings be allowed in Eastern Oregon in counties that have had growth of less than 1 percent.

>On page 11, suggests deleting line 14 allowing "any commercial or industrial use" on secondary lands.

>On page 11, line 20, prefer earlier date than Jan. 1, 1991. If December 27, 1974, which is listed in HB 3560, is unsatisfactory, could work out a compromise date. Ag. Oregon prefers December 31, 1988.

19>No problem allowing dwellings on lots-of-record that have existed for some time, even though they may be less than the minimum lot size prescribed in HB 3570.

38>Support 20 acre minimum lot size, and believe 40 acre minimum has merit, especially where farm or forest buffers are needed.

>Request arbitration process be subject to open meeting laws.

>Calls for members to do all in power to ensure Dispute Resolution Commission remains viable to address conflicts related to secondary lands and other issues.

>Need to clarify designation and review criteria.

>Important that commercial agriculture perspective be represented on technical advisory committees.

100 GARY MUNSTERMAN, BENTON COUNTY PLANNING DIRECTOR: Supports designation process, which dovetails well with OSU Extension service support in Benton County.

>"Necessary and accessory" standard on non-farm dwellings difficult to apply.

>Need to clarify use criteria.

>Should give conditional use standards approved by previous legislatures more time to succeed.

>Conditional uses have become too extensive.

>In Benton County, not every area that has been parcelized in the past is going to be designated as secondary land, so allowing provisions to review non-farm dwellings, under rigid criteria, would give counties "sorely needed flexibility."

>Need use provisions that give maximum local flexibility to deal with situations such as crops that rotate annually.

215 REP. COURTNEY: So, you like this because it gives "maximum flexibility and rigid detailed standards." How does that work?

223 MUNSTERMAN: Local designation using technical advisory committees gives flexibility. On the other hand, there is concern that land uses allowed under HB 3570 will be too loose, leading to appeals. The Legislature can and should set a tight framework for uses.

249 CHAIR PARKINSON: Closes work session on HB 3570 and opens work session on HB 2086.

(Tape 135, side A) WORK SESSION - HB 2086 Witnesses:Ralph Rodia, State Fire Marshal Office

277 RALPH RODIA, STATE FIRE MARSHAL OFFICE: Reviews bill and explains proposed amendments. (EXHIBITS D, E AND F)

370 REP. VAN LEEUWEN: Does this bill apply only to industrial employers? What exactly does it cover?

380 RODIA: The survey covers all firms and persons who possess hazardous substances, but the law directs the Fire Marshal to designate those kinds of firms that are most likely to handle hazardous materials. However, not all firms have been designated.

TAPE 136, SIDE A

10REP. VAN LEEUWEN: Page 3, line 25, subsection (n) has to have an antecedent. That's confusing language.

20KATHRYN VANNATTA, COMMITTEE ADMINISTRATOR: That subsection refers to page 1, line 17.

30REP. VAN LEEUWEN: Read that whole sentence after the (n). Something's missing there.

40REP. NAITO: It's pretty poorly drafted, but it doesn't look like anything is missing.

47RODIA: The intent, though it may not read well, is that the Department of Revenue will give to the State Fire Marshal the employer name, address, telephone number and standard industrial classification for that employer.

53MOTION:REP. WHITTY moves to adopt the dash 1 LC 831 amendments dated 4/11/91 to HB 2086.

57REP. WATT: Are we going to fix that language that Rep. Van Leeuwen identified?

60CHAIR PARKINSON: Staff will study and correct if necessary.

63REP. VAN LEEUWEN: The intent was made fairly clear.

74CHAIR PARKINSON: Satisfied with consensus efforts and amendments.

80VOTE:Hearing no objections, CHAIR PARKINSON so moves.

82MOTION:REP. WHITTY moves HB 2086 as amended to floor with a "do pass" recommendation.

84REP. VAN LEEUWEN: Would there be a cost to the Fire Marshal for getting this information from the state agencies listed in the amended

bill?

89RODIA: Suspect this would mean considerable savings to us compared to the method used in the past.

100 VOTE: In a roll call vote, the motion carries with all members voting AYE.

107 CHAIR PARKINSON: Appoints Rep. Naito to carry the measure on the floor.

111 CHAIR PARKINSON: Closes work session on HB 2086 and opens work session on HB 2087.

(Tape 136, Side A) WORK SESSION - HB 2087 Witnesses: Ralph Rodia, State Fire Marshal Office

135 RODIA: Explains bill and proposed amendments. (EXHIBITS H, I, J AND K)

214 REP. REPINE: How would concrete plants be handled under these proposed amendments? (EXHIBIT I)

225 RODIA: Oregon's Community Right To Know Program is unique because it is operated under the State Fire Marshal. In most states, it is operated by the Department of Environmental Quality because it relates to the impacts, not just the fire aspects, of hazardous materials on communities.

242 CHAIR PARKINSON: Last Legislature made the Community Right To Know Act into a fee raiser, which is a distasteful fact.

256 RODIA: Even minimally hazardous materials like cement have to be reported under this Act. The proposed fees would cover administration expenses. One of the proposals in this bill is a flat registration fee in lieu of a charge on quantities of hazardous materials. This approach would address the cement industry's concerns.

318 REP. NORRIS: What was the basis of the Attorney General opinion you cited concluding that propane is only exempted from the provisions of this measure if it is derived from crude oil? It is difficult to accept exemption provisions for liquified petroleum gases.

322 RODIA: The Attorney General considered existing law. The Fire Marshal's Office and representatives of the propane industry have discussed, and for the most part resolved, industry concerns about the exemption provisions.

350 RODIA: The dash 4 amendments limit the amount cities can bill industry for hazardous materials in an effort to minimize duplication of state and local billing. In particular, the dash 4 amendments say cities cannot bill for programs that duplicate state hazardous materials programs, and that cities cannot bill industry directly for local hazardous materials programs.

360 REP. PARKINSON: Will the billings specify who they are being collected for?

365 RODIA: Yes. It would be broken down, like a property tax statement, showing who each fee is for.

386 CHAIR PARKINSON: Does this measure specify that local fees be used only for local aspects of the Community Right To Know Program?

388 RODIA: Yes, it says local fees can only be used to supplement state Community Right To Know Programs.

421 REP. WATT: On the Orphan Site Program, would there be a registration fee in addition to fees paid on the fee schedule?

428 RODIA: If a registration fee is charged, there is no fee based upon aggregate quantity of hazardous materials an industry possesses.

444 CHAIR PARKINSON: Closes work session on HB 2087 and adjourns at 4:35.

Submitted by: Reviewed by:

Andy Sloop Kathryn VanNatta Committee Assistant Committee
Administrator

EXHIBIT LOG:

A -Testimony on HB 3570 - Coos County Board of Commissioners - 5
pages B -Testimony on HB 3570 - Matt Spangler, Association of Oregon
County Planning Directors - 2 pages C -Oregon Land Uses - Keith
Cubic, Douglas County Planning Director - 1 page D -Dash 1
Hand-Engrossed Amendments to HB 2086 - Committee Staff - 5 pages
E -Dash 1 Amendments to HB 2086 - State Fire Marshal - 1 pages
F -Testimony on HB 2086 Dash 1 Amendments - Ralph Rodia, State Fire
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Know Act, Hazardous Substance Survey, Possession Fees, Response Teams
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