

HOUSE COMMITTEE ON HOUSING AND URBAN DEVELOPMENT

April 23, 1991                      Hearing Room D 8:00 a.m.                      Tape 72 - 74  
MEMBERS PRESENT: Rep. Bob Repine, Chair Rep. Judy Bauman, Vice-Chair  
Rep. Marie Bell Rep. Rod Johnson Rep. Dave McTeague Rep. Gail Shibley  
Rep. Ron Sunseri STAFF PRESENT: Janet McComb, Committee Administrator  
Kimberly Burt, Committee Assistant MEASURES CONSIDERED: HB 3237 (PUB)  
HB 2824 (PUB) HB 3294 (PUB) SB 442 (PUB)

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TAPE 72, SIDE A

005 CHAIR REPINE: Calls the hearing to order. (8:00 a.m.)

... Roll Call: Representatives Johnson, Shibley, Sunseri & Repine answer "present".

PUBLIC HEARING ON 3237 Witnesses: Rep. Greg Walden, House District 56 Paul Tiffany, Bureau of Labor and Industries, (BOLI) John McCully, Tree Fruit Growers Tom Nelson, Manager, Hood River Shippers Association Bob May, CASA of Oregon David Nebel, Oregon Legal Services

... Staff submits SMS & fiscal and revenue impact statements, (EXHIBIT A).

010 REPRESENTATIVE GREG WALDEN, HOUSE MAJORITY LEADER, DISTRICT 56: Submits amendments, (EXHIBIT B). ... The amendments we are offering would exclude some people from the definition of a farm labor contractor; excluded would be any person who operates a farm worker camp regulated under ORS 658.405, but receives no enumeration from another grower for whom a farm worker residing in the camp may be casually employed. House Committee on HUD April 23, 1991Page 2

... Under the proposed exclusion the housing provider may not solicit jobs for workers or receive fees; they may post notice of available work and allow the growers to solicit workers.

045 REP. WALDEN: We don't want growers to become farm labor contractors if their workers go to another farm temporarily.

... It was never our intent to shut down the grower provided housing.

070 REP. JOHNSON: I've heard that the traditional use of "person" was determined to be no longer accurate by the supreme court; do you intend that to include corporations, partnerships and any other kind of entity?

REP. WALDEN: Yes, we want the broad definition of person which would include persons, partnerships and corporations.

130 PAUL TIFFANY, ADMINISTRATOR, WAGE AND HOUR DIVISION, BUREAU OF LABOR AND INDUSTRIES, (BOLI): Testifies in opposition to HB 3237; submits written testimony, (EXHIBIT C).

... BOLI opposes HB 3237 as many issues apparent in farm worker camps generally would be applicable to non-profit camps.

... The issue is the ability of camp residents to adequately deal with matters that arise in their living place, over which they have no control.

... BOLI believes it is premature to make an informed decision on whether or not non-profit camps should be exempt as the legislation passed last session has only been effective for one growing season.

... Non-profit farm worker camps are required to obtain federal farm labor contractor registration certificates and in our view it makes sense to apply consistent policies to the forprofit and nonprof~t farm worker camps until shown the need for different policies.

... In reviewing the statutes regarding farm worker camps we find a possible conflict as the farm worker statute itself defines people operating camps as farm labor contractors.

151 REP. SHIBLEY: Does your position change with the phrase on line 3 of the (-1) amendments, beginning "and who receives no remuneration from another grower"?

TIFFANY: The amendment speaks to a situation that may not be covered at this point under the law, where workers are residing at a camp where they aren't working for that particular farmer and the farmer doesn't actively recruit or solicit jobs for those workers.

... Our advise to the industry is that the situation isn't covered at this point.

... I will have to look at the amendments further, but my initial reaction is that there is a possibility that the operation of the current statute would exempt this type of activity.

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175 REP. SHIBLEY: Is your concern solely regarding entities rather than individuals; is there language to get at the issue that you would support?

TIFFANY: This language is close to acceptable, but I would have to review it.

... If the situation is to allow farm workers in a particular camp to work for other employers while living in that camp, and the owner has no input into that farm workers employment, then I believe that the operation is exempt now and I would question the need for this amendment.

190 CHAIR REPINE: This bill has been circulated for some time, have you made an effort to contact these people with the concerns of BOLI?

TIFFANY: No.

CHAIR REPINE: My frustration is with someone coming from an agency, opposing a bill rather than offering concrete suggestions; there is obviously reason for this bill to be here and being in opposition isn't

a very good posture.

TIFFANY: The policy position of the Bureau at this point, in connection with farm worker camp housing, is to let it try to work.

CHAIR REPINE: What is your responsibility to this assembly? TIFFANY: To indicate to you that we believe that the statute hasn't had an opportunity to fully work.

205 CHAIR REPINE: What about suggestions of amendments?

TIFFANY: I have prepared testimony in reaction to the bill as written and I believe my testimony is that we don't believe that this is appropriate.

CHAIR REPINE: We will be scheduling this bill next week for a work session and I would like to have your response to the (-1) amendments and I would suggest to you that if they aren't accurate in addressing the problem, you prepare amendments that do that.

215 JOHN MCCULLY, TREE FRUIT GROWERS: Testifies in support of HB 3237; submits written testimony, (EXHIBIT D). ... This is a small step in removing barriers to farm worker housing. 260 TOM NELSON, MANAGER, HOOD RIVER SHIPPERS ASSOCIATION: There are 320 growers in the valley and approximately one half provide housing. ... We haven't heard of any abuses of this program; there is just an agreement between the farmer and the worker to go to another farm when work is available. rker to go to another farm when work is available. 340 REP. SHIBLEY: Are we talking "apples and oranges" in terms of exempting non-profit farm 340 REP. SHIBLEY: Are we talking "apples and oranges" in terms of exempting non-profit farm worker camps and the issue that you are trying to address with this legislation? House Committee on HUD April 23,1991-  
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NELSON: Mr. Tiffany's testimony confused me as it sounded contradictory to what we had talked about.

REP. SHIBLEY: Would you have further discussion with BOLI to work this out?

NELSON: Yes.

370 BOB MAY, CASA OF OREGON: We feel that as written the bill is subject to abuse.

... REP. MCTEAGUE arrives. (8:32 a.m.)

... We would like 501(3)(c) added so that the organization would have to be a charitable organization and the IRS would check up on them and their activities.

390 MAY: We would propose that the bill be amended by adding, on page 1, after "ORS chapter 65" the phrase "exempt from taxation under IRC 501 (C) (3)".

REP. JOHNSON: Are you not comforted by the fact that in order to be exempt the owner of the camp must receive no enumeration from any other grower? MAY: It helps, but we are looking for more checks and balances and there is no one at this point that is going to go out and monitor these activities.

415 REP. JOHNSON: Would it be worth the risk, at least for two years, to see if this gives people to opportunity to have farm worker housing?

MAY: Yes it would be worth the risk; I was encouraged by most of the testimony today.

450 DAVID NEBEL, OREGON LEGAL SERVICES: Testifies in opposition to the bill as written.

... We are weary of any exceptions crafted to the farm worker contractor registration requirements as they exist now as people in that business are generally clever at using exceptions to do illegal activities.

... Just because a corporation provides housing it shouldn't relieve them from the other provisions in the act.

... We would support Mr. May's amendment to limit the application of this exception to 501(C) (3) corporations.

... We would also propose that the board be composed of a cross section of community including a substantial number of people besides the agricultural community, limit the purpose of the corporation exclusively to providing housing so that the corporation didn't do other kinds of activities and require that there be no restriction of occupancy of the housing based on the employment of a worker by any given employer.

TAPE 73, SIDE A

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045 NEBEL: We think that would solve our problems with the bill.

... I have looked at the (-1) amendments and it seems at first blush that it would be acceptable, but I would have to reserve judgement until I've talked to my colleges about it.

REP. JOHNSON: Given that farm worker housing is in short supply how would you compare the potential benefits from increased housing made available if we passed this law as opposed to the risk of abuse of farm workers if we pass this bill?

... REP. BELL arrives. (8:38 a.m.)

060 NEBEL: I don't know how you could weigh those kinds of risks; if this is passed and there are problems we will be back.

PUBLIC HEARING ON HB 2824 Witnesses: John McCulley, Tree Fruit Growers Ellen Lowe, Associate Director, Ecumenical Ministries of Oregon

... Staff submits SMS, revenue & fiscal impact statements, (EXHIBIT E).

075 JOHN MCCULLEY, TREE FRUIT GROWERS: Testifies in support to HB 2824, submits written testimony, (EXHIBIT F). ... This is another bill that would remove a barrier from the creation or expansion of farm labor housing. 110 REP. SUNSERI: The cost of sewer & water lines is high; who will pay this kind of money to hook up a sewer to migrant farm worker housing? MCCULLEY: That will limit the use, but if the grower wants to they should be able to. 135 ELLEN LOWE, ASSOCIATE DIRECTOR, ECUMENICAL MINISTRIES OF OREGON: Testifies in opposition to HB 2824. ...

We believe that the carte blanche approval in HB 2824 could endanger our association's and Oregon's commitment to the logical extension of urban services and to the conservation of prime agricultural plans. ... HB 2824 reads "shall" and that leaves no opportunity for intergovernmental agreements to accommodate sanitary needs, master urban service plans and farm land protection; we question the appropriateness of this legislation. 210LOWE: In some jurisdictions, the way they assess costs, the major trunk lines aren't immediately assignable to those requesting services. REP. SHIBLEY: I am troubled about providing urban services in rural areas, but we need to address health issues; how do you feel about having farm worker housing within urban service boundaries rather than segregating them out on farms? House Committee on HUD April 23,1991- Page 6

... REP. BAUMAN arrives. (9:50 a.m.) ... REP. MCTEAGUE leaves. (8:51 a.m.)

LOWE: We would like to see farm worker housing placed where services are.

REP. BELL: You advocate for farm worker housing and adequate conditions; we have farmers who want to help, yet you oppose this?

LOWE: We believe that if they are in an area where there are lines there is an opportunity with intergovernmental agreements for the use.

310 REP. JOHNSON: If the lines were running past the farm, in those circumstances you would want housing on the farm?

LOWE: When there is existing housing on a farm, outside the urban growth boundary, intergovernmental agreements could be made.

340 REP. SUNSERI: I can't imagine one farmer would be willing to pay the cost of sewer and water hook ups.

CHAIR REPINE: If the language was written more specifically, such as "properties that are contiguous" would you be comfortable?

LOWE: We would agree that would be a logical extension as long as that doesn't open it up for urban uses.

410 REP. BELL: Are you suggesting that the farm workers go into town and try to find housing?

LOWE: I believe that the local jurisdictions have the ability to do this.

PUBLIC HEARING ON HB 3294 Witnesses: Don Miner, Oregon Manufactured Housing Association Donald York, General Manager, Fleetwood Homes, Woodburn Pat Lewis, Manager, Manufactured Structures and Parks Section, Building Codes Agency Bob May, CASA of Oregon

... Staff submits SMS & revenue impact statement and (-2) amendments, (EXHIBIT G).

... REP. SUNSERI leaves. (9:04 a.m.)

488 DON MINER, OREGON MANUFACTURED HOUSING ASSOCIATION: Testifies in support of HB 3294; submits written testimony, (EXHIBIT H).

... Manufactured homes are difficult to use for farm worker housing as

there is a requirement that there only be a single family living in a manufactured home.

, 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 HUD April 23, 1991- Page 7

TAPE 72, SIDE B

085 MINER: We are proposing that the definition of "family" be changed in terms of seasonal farm worker housing, allowing ten unrelated people to occupy a manufactured home while it is used for seasonal farm worker housing.

... This housing would only be allowed to be used 9 months out of the year; it is not our intention to change the definition in terms of permanently occupied manufactured housing.

107 DONALD YORK, GENERAL MANAGER, FLEETWOOD HOMES, WOODBURN: We can build homes for farm workers for \$12,000 or less that are better facilities than what is in existence for them to purchase today.

... We can do this economically; these homes are movable, safe and give dignity to the people who live in them.

REP. BELL: Is there a quantity of dwellings you would have to be involved in to make this worth while?

YORK: We could do two or five; we do prefer big orders.

138 REP. SHIBLEY: Is "park trailer" defined currently in the statutes?

MINER: I couldn't find a definition; there is a reference to it ORS 446 and in administrative rule.

... Federal law says a manufactured home can't be smaller than 320 square feet and that an RV can't be larger than 400; that structure that falls between 320 and 400 is called a "park trailer".

... REP. BAUMAN leaves. (9:15 a.m.)

MINER: (In response to REP. SHIBLEY) It is my understanding that there are standards that must be met when you build a permanent mobile home park, manufactured dwelling community or RV park; the intent is to soften those so that it may be economically feasible to build a temporary farm labor camp.

210 JANET MCCOMB, COMMITTEE ADMINISTRATOR: ORS 446.095 - .115 are mobile home park regulations: ORS 446.145 requires that records of transfer of mobile homes be at the permanent mobile home park and ORS 446.310 - .350 refers to tourist facilities involving mobile homes.

230 PAT LEWIS, MANAGER, MANUFACTURED STRUCTURES AND PARKS SECTION, BUILDING CODES AGENCY: Testifies in support of HB 3294 as originally written and as amended in respect to the use of manufactured dwellings, with one addition, (EXHIBIT I). ... The amendment reads "having not more than 5 bedrooms with permanently wired smoke detectors in each bedroom.

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... This amendment would be for the safety of the people; we would want this extended to any housing provided for them.

260 LEWIS: Park trailer is only referred to in ORS 446.003 and is further defined in administrative rule. ... In section ten we state that these parks would be regulated as labor camps, not as manufactured dwelling parks or recreation parks. 295 REP. BELL: Should we include a definition of park trailers? LEWIS: There is one in the amendments, line 4; this agrees with both federal and state law. CHAIR REPINE: Would the conditions of construction evolve around the manufactured housing codes? LEWIS: Park trailers are under a national code adopted by the state through administrative rule; it is a nation wide standard that covers electrical codes, plumbing standards, fire and safety standards, mechanical heating and insulation standards as well. CHAIR REPINE: You are looking for smoke alarms in sleeping areas? LEWIS: Yes. REP. SHIBLEY: I am curious about the silence of the advocates for farm workers. 360 BOB MAY, CASA OF OREGON: We are in favor of this bill; we are administering a grant to test different types of farm worker housing and we are encountering problems with what is and isn't allowed. ... Growers around the state are interested. 395 MAY: With the Marion/Polk program there are a number of groups that would house families on their properties, but then we get into the definition of "family". ... This would help a lot. 445 MAY: Farm worker and migrant housing don't seem to fit in any niche and yes, you should be sensitive to that. 460 MCCOMB: In section 2 of the (-2) amendments you may want to address that section which refers to "at least two must be seasonal workers or all seasonal workers". 480 DON MINER: Page 1, line 22 & 23 of the (-2); when we requested the amendment, we didn't speak to the issue of how many of the 10 residents had to be farm workers; we assumed all would be. ... It seems to me that all the folks occupying the home should be farm workers or dependents .

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of the farm workers.

TAPE 73, SIDE B

MINER: This issue will be controlled by the farm and also, the home can only be used 9 months out of the year, so it may not be a problem.

055 REP. SHIBLEY: Between sub(1) and sub(2), why do you need the (1)?

MINER: That is how the building codes definition works; it speaks to the number of people related and those not related.

075 REP. SHIBLEY: There are families not related by blood, marriage or law; could we open that up?

MINER: I don't see a problem there, it was drafted to parallel the existing definition in the one and two family building code.

... REP. MCTEAGUE leaves. (9:25 a.m.)

CHAIR REPINE: Calls a recess for the purposes of a break. (9:35 a.m.) ...

Tape inadvertently left running, (blank spot).

210 CHAIR REPINE: Calls the hearing back to order. (9:52 a.m.)

PUBLIC HEARING ON HB 3294 Witnesses: Kristen Gallon, Intern, Sen. Fawbush

215 KRISTEN GALLON, INTERN, SEN. FAWBUSH: We inserted "at least two of whom are seasonal farm workers" to take into account family members of the farm workers.

... Senator Fawbush is from Hood River and there is a lack of housing there

... He has, for years, been working with groups around the state to set standards for farm worker housing, but now these standards have been directed towards the violators.

... Senator Fawbush wants to make life a little easier on the farmer and the farm workers.

PUBLIC HEARING ON SB 442 Witnesses: Bob May, CASA of Oregon

295 JANET MCCOMB, COMMITTEE ADMINISTRATOR: Submits SMS, revenue and fiscal impact statements, (EXHIBIT J).

... The basis on which to calculate an in lieu payment for some farm labor camps and day care centers wasn't clear.

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... The new definition of "net rental income" corresponds to how the law was interpreted by the Department of Revenue before a recent AG opinion.

306 REP. SHIBLEY: Without this change, would the income be regarded as higher or lower?

MCCOMB: The income would be calculated as higher.

335 BOB MAY, CASA OF OREGON: Testifies in support of SB 442; primarily we see this as a hindrance to something that is very important.

... A year ago we received funding to do research on on-farm housing and the importance or necessity of an on-farm manager was clear.

... This bill would allow us to keep rent rates at a low figure that we can then use the money to cover operational costs which would include a full time on-farm manager.

... If this bill isn't successful, many of the camps operated by non-profits would shut down.

380 REP. SHIBLEY: The definitions in section 1 seem to amend ORS 307.480, is that your understanding and what is the difference between a farm labor camp vs a farm worker camp, which is relevant to ORS 658.705?  
MAY: I can't answer that. 405 MCCOMB: ORS 307 contains the taxation



laws and perhaps that is why they are different. REP. SHIBLEY: If this bill goes forward, if we change on definition we should change it all through the statute, whether it is for taxation or registration. ... I would encourage this body to be sensitive to the fact that families take lots of shapes and forms these days. 450CHAIR REPINE: I would suggest that between now and the work session you come up with language to address your concerns; you should see how the senate side feels. 484 REP. BELL: We could say "immediate dependents" as dependents can be adults or children. REP. SHIBLEY: We wouldn't need to say "immediate".

TAPE 74, SIDE A

045 CHAIR REPINE: We are adjourned. (11:00 a.m.) Submitted  
by: Reviewed by:

Kimberly Burt Janet McComb Assistant Administrator

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EXHIBIT SUMMARY: .. . A - HB 3237 SMS, fiscal and revenue impact statements submitted by staff, pp 2 B - HB 3237 (-1) amendments submitted by Walden, pp 1 C - HB 3237 written testimony submitted by Tiffany, pp 3 D - HB 3237 written testimony submitted by McCulley, pp 1 E - HB 2824 SMS, fiscal and revenue impact statements submitted by staff, pp 2 F - HB 2824 written testimony submitted by McCulley, pp 1 G - HB 3294 SMS, revenue impact statement and (-2) amendments submitted by staff, pp 4 H - HB 3294 written testimony submitted by Miner, pp 2 I - HB 3294 proposed amendments submitted by Lewis, pp 1 J - SB 442 SMS, fiscal and revenue impact statements submitted by staff, pp 3

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