

Conference Committee on June 25, 1991 - Page

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.

CONFERENCE COMMITTEE ON HB 2797

June 25, 1991Hearing Room B 1:00 p.m.Tapes 1 - 2

SENATE MEMBERS PRESENT: Sen. Smith Sen. Springer

HOUSE MEMBERS PRESENT: Rep. Parkinson, Chair Rep. Repine Rep. Whitty

STAFF PRESENT: Kathryn Van Natta, Committee Administrator
Andy Sloop, Committee Assistant Sue Hanna, Legislative Counsel Joe
Barkowsky, Legislative Counsel

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TAPE 1, SIDE A

03CHAIR PARKINSON: Opens work session at 1:15. Invites testimony from Sue Hanna, Legislative Counsel and Greg Wolf, Department of Land Conservation and Development.

WORK SESSION - HB 2797 Witnesses:Sue Hanna, Legislative Counsel Greg Wolf, Department of Land Conservation and Development Fred VanNatta, Oregon State Homebuilders Association Joe Barkowsky, Legislative Counsel Phil Fell, League of Oregon Cities

10SUE HANNA, LEGISLATIVE COUNSEL: Reviews Senate amendments and outlines concerns about vague language and germaneness of relating to clause.

>Senate amended the bill with HB 3301 relating to school crowding.

>Concern about whether including schools in HB 2797 is consistent with the relating to clause and therefore if it is constitutional.

>Because HB 2797 relates to building moratoria, the only way schools can be included in HB 279 7 is if they are linked with building moratoria.

>Conference committee needs to consider how public schools should fit into the planning process.

37GREG WOLF, DEPARTMENT OF LAND CONSERVATION AND DEVELOPMENT: Main

concern is that the bill is vague.

>Could be interpreted that moratoria could be based on schools or couldn't based on schools, or could be based on schools if local government determines that schools are a public facility that is essential to public health and safety.

>Have convened consensus group on this, and the commission is going to move to rule making issues in the next three or four months.

50CHAIR PARKINSON: Is the commission's discussion centering on school planning?

52WOLF: Yes.

54CHAIR PARKINSON: It doesn't have anything to do with moratoria?

56WOLF: No, however, it's felt that if planning is consistent with needs, should be able to avoid moratoria.

58CHAIR PARKINSON: Ms. Hanna, have you looked at the decision points (EXHIBIT A) staff prepared?

60HANNA: Yes.

62REP. REPINE: Can you give direction about what you think will come of this dialogue on school planning?

64WOLF: The work in that area will clarify how schools will be involved in the planning process, how they would be linked to the planning program, and what the obligations of school districts and local government are in terms of coordinating their planning efforts.

70REP. REPINE: Assume there is a cost implication if increase school's role in the planning process.

75WOLF: Yes, there would be a cost to local government to update plans. However, jurisdictions go through lengthy planning process and answer lots of different kinds of public facility questions during periodic review, so this would just be one more. Believe local government would need assistance from schools in updating plans.

79REP. REPINE: In periodic review, would major rezoning and population influxes affecting schools also be included in the updating the commission envisions?

83WOLF: Yes. One of the draft recommendations is that plan amendments need to be coordinated with school districts.

99SEN. SMITH: There are three places in the Senate version of the bill where public facilities are addressed. Are schools part of the definition of public facilities in ORS 197 .712?

103 VANNATTA: Refers to statute (EXHIBIT F). No.

111 HANNA: It's not just a question of looking at one definition. The definitions in the Senate version are not the same, but they refer to the same body of law. When you start piecing these together, they can be interpreted in many different ways, and that presents a problem.

115 SEN. SMITH: So, we need to decide policy issue of if schools should be part of planning process?

123 HANNA: Don't know what was intended here, but if have policy direction, can draft alternative language and bring it back to this committee.

126 CHAIR PARKINSON: Ms. Hanna, is it your opinion that schools can't be put into this bill?

128 HANNA: Correct, this bill can't do anything that doesn't flow from moratoria.

134 CHAIR PARKINSON: So, first decision would be if schools can declare moratoria?

135 HANNA: Yes.

137 SEN. SMITH: "That's not my understanding of what we were doing." Understood that school districts wouldn't declare moratoria, but rather that local government would consider lack of school space in planning process.

144 HANNA: Have heard that view and others. The language in the bill is not clear. "There is language in here that clearly says: 'no city, county or special district may adopt a moratorium.' If you look at the definition of 'special district' it includes schools. There's an implication that the school district can adopt a moratorium. I'm not sure that if we look at more pieces of the statute if that would hold up. But we do have a problem with that as well, so you need to determine if you want the moratoria to apply to schools, and if so, who should adopt it?"

152 REP. WHITTY: There are school districts that haven't stepped forward to be a part of the planning and moratoria process, so we would be deciding if those districts should be forced to participate in the process and to work with local government to manage growth and school classroom space.

177 CHAIR PARKINSON: On page 2 of the bill, says water districts may declare moratoria. How does that work?

184 HANNA: Don't know.

192 SEN. SPRINGER: How is the commission going to approach this?

194 WOLF: By trying to make sure local governments and school districts are coordinating growth and talking the same language during planning process.

200 REP. REPINE: HB 3301 basically addresses the role school districts would play in this process, doesn't it?

203 WOLF: HB 3301 is very similar to the approach the commission would take.

209 SEN. SMITH: As a city councilor in an area with crowded schools, consistently heard testimony from residents during planning process saying that schools wouldn't have capacity to accommodate students associated with proposed subdivisions. Local jurisdictions consistently

had to respond that it didn't have the statutory authority to consider schools in making land-use decisions. Does the commission believe it has rule-making authority to allow local governments to make those kinds of considerations?

221 WOLF: That's the spirit of the commission's interest in this. It wants schools to be involved in the local planning process.

225 SEN. SMITH: Does the commission have statutory authority to do that?

230 WOLF: Yes.

234 CHAIR PARKINSON: How do cities adopt moratoria?

236 FRED VANNATTA, OREGON STATE HOMEBUILDERS ASSOCIATION: Responds to question about how cities adopt moratoria.

>Local governments and special districts simply order building department not to issue any more building permits.

242 CHAIR PARKINSON: How would a school moratoria be enforced?

245 SEN. SPRINGER: Confused. Senate intended to deal with Beaverton situation, where district asking local officials to take schools into consideration in reviewing development applications. In other words, the Senate intended for schools to be considered like other public facilities in the planning process, not for school districts to be able to declare moratoria.

269 CHAIR PARKINSON: Ms. Hanna has told us that we can't put schools in this bill unless the bill allows schools to effect moratoria.

273 HANNA: Correct, if can bootstrap schools to moratoria, can put all school planning want into this bill.

300 SEN. SPRINGER: When we state what local jurisdictions have to do before declaring a moratoria, could we require that those jurisdictions examine adequacy of school facilities, or use inadequate school space as a triggering mechanism for declaring moratoria?

310 WOLF: Preliminary recommendations of the commission committee that has been working on this indicate that: school districts should be involved in all comprehensive planning; that cities and counties should notify school districts when amending comprehensive plans; that cities and counties should use population and employment information to make enrollment projections and to identify school siting needs; that cities and school districts should agree on a common set of enrollment projections; that cities and counties should allocate population within jurisdiction to help school districts identify facility needs; etc.

338 JOE BARKOWSKY, LEGISLATIVE COUNSEL: If districts have authority to declare moratoria, which would be in their principle act or another statute, the governing body would declare the moratoria by ordinance or resolution.

350 CHAIR PARKINSON: And how would a water district enforce it? Would they not hook up water or would they put a hold on building permits?

355 BARKOWSKY: Without looking at the statutes, believe the water

district would have to enforce moratoria through connections to the water system.

360 CHAIR PARKINSON: Can water districts adopt ordinances?

362 BARKOWSKY: Yes.

364 CHAIR PARKINSON: But school districts can't?

366 BARKOWSKY: Don't know. Not sure how school districts would enforce a building moratorium.

378 SEN. SMITH: Assume that if schools were included as public facilities, then if city determines that schools don't have adequate space to accommodate growth, the city would stop issuing building permits.

TAPE 2, SIDE A

02REP. REPINE: Assume a 100-house subdivision is up for review by a local planning commission or city council, and the school district seeks a moratorium. Assume the school district is still going to enroll students from existing residences, so if every house that was occupied a retired individual or couple sold to a family with children, the effect of the moratorium has been registered against those 100 homes without really addressing school crowding.

11HANNA: All that can be done through statute is to provide a means to stop building.

14REP. REPINE: But that kind of moratorium may not solve school crowding.

18SEN. SMITH: Purpose of moratorium would be to give local jurisdiction breathing space to evaluate planning and to try to build infrastructure to sustain growth.

24REP. REPINE: But the threat to school districts could still exist even if no more houses were built.

27SEN. SMITH: Given local political realities, would only envision this happening when situation is critical and there was no alternative.

32CHAIR PARKINSON: Believe Sen. Smith said intent of Senate was not to give school district authority to declare moratoria.

34SEN. SMITH: Correct.

36CHAIR PARKINSON: Unless we give schools the authority to declare moratoria, we have take schools out of this bill.

39SEN. SMITH: The district or the facility?

41CHAIR PARKINSON: Districts.

43HANNA: "I think a better way of stating it is: 'unless you want school districts to be a factor in moratoria.' You don't have to give them the authority; you can give the authority to the local government, but unless there is moratorium authority pertaining to schools, it must be removed from the bill."

50CHAIR PARKINSON: Entertains a motion.

53MOTION:SEN. SMITH moves to amend HB 2797 to include schools in definition of public facilities when local governments are determining whether or not criteria have been met to declare a moratorium.

58HANNA: Clarifies that enforcement of a moratorium declared under the motion would be by local government, not the school district, through the construction permitting process. Notes that some districts already have authority to declare moratoria under existing law, so Sen. Smith's motion would remove that authority.

65VOTE:In a roll call vote, the motion carries, with CHAIR PARKINSON voting NAY.

68CHAIR PARKINSON: Directs Legislative Counsel to draft concept amendment for further review by the conference committee.

85PHIL FELL, LEAGUE OF OREGON CITIES: Concerned about Section 4 language requiring local government to implement corrective program within 60 days after declaring moratoria.

>Need language to protect cities from litigation.

90CHAIR PARKINSON: Recesses committee until Sen. Smith's concept amendment is drafted. Advises members that the conference committee will meet at the call of the chair.

Submitted by: Reviewed by:

Andy Sloop Kathryn VanNatta Committee Assistant Committee
Administrator

EXHIBIT LOG:

A -HB 2797 Decision Points - Committee Staff - 1 page B -Dash B4
Amendments to HB 2797 - Conference Committee On HB 2797 - 1 page
C -Staff Measure Summary of HB 2797 B-engrossed - Committee Staff - 1
page D -Fiscal Analysis of HB 2797 B - Legislative Fiscal Office - 1
page E -Revenue Impact Analysis of HB 2797 B - Legislative Revenue
Office - 1 page F -ORS 197.712 - Committee Staff - 1 page G -Staff
Measure Summary of HB 2797 A - Committee Staff - 1 page H -Fiscal
Impact Analysis of HB 2797 A - Legislative Fiscal Office - 1 page
I -Revenue Impact Analysis of HB 2797 A - Legislative Revenue Office
- 1 page