

Listing of Legislative records in the Oregon State Archives pertaining to:

1997 SB 588, relating to: activities in exclusive farm use zones

SENATE LIVABILITY COMMITTEE MINUTES:

Apr 10: p. 2	Also on audio cassettes:	39, sides A & B 40, side A
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May 1: p. 3-5 & 7-9	Also on audio cassettes:	57, sides A & B 56, side B 58, side A
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Separate exhibit file contains 26 pages.

HOUSE ENVIRONMENT & ENERGY COMMITTEE MINUTES:

May 30: p. 1-3	Also on audio cassettes:	108, side A 109, side A
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June 4: p. 3-4	Also on audio cassettes:	113, side A 114, side A
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June 11: p. 1-3	Also on audio cassettes:	119, side A
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Separate exhibit file contains 21 pages.

Total pages minutes: 15

Total pages exhibits: 47

***Total pages:* 62**

Compiled by Todd Shaffer, Reference Archivist, December 21, 2011.

- 165 Batson Discusses hardship dwelling issues.
- 180 Christin Smith Committee Administrator submits **(EXHIBIT B)** for record.
- 185 Don Schellenberg Introduces himself as representing the Oregon Farm Bureau and discusses current land use laws. Contrasts current land use laws to bill.
- 237 Sen. Brown Asks about the frequency of hardship dwellings on land zoned exclusive farm use (EFU).
- 244 Schellenberg Discusses criteria to qualify for a hardship dwelling.

SB 588, SB 862 PUBLIC HEARINGS

- 284 Chair Closes public hearing on SB 951 and opens public hearings on SB 588 and SB 862.
- 320 Christin Smith Committee Administrator submits **(EXHIBIT C)** for the record.
- 329 John McCulley Introduces himself as representing the Oregon Fairs Association and submits proposed amendments **(EXHIBIT D)**. Explains bill and proposed amendments.

TAPE 40, A

- 025 Greg Zerzan Introduces himself as representing the Oregon Greyhound Breeders Association and submits **(EXHIBIT E)**. Explains bill and states support for bill.
- 060 Mike Dewey Introduces himself as representing Multnomah Greyhound Park. Explains need for bill and states support for bill.
- 074 Sen. Kintigh Asks how many acres are required to train greyhounds.
- 076 Dewey Explains greyhound training procedures and requirements.
- 099 Sen. Brown Asks if past legislatures have dealt with the issue of training greyhounds on land zoned exclusive farm use (EFU).
- 102 Zerzan Discusses 1985 legislature relating to the expansion of activities on land zoned EFU.
- 170 Don Schellenberg Introduces himself as representing the Oregon Farm Bureau and submits **(EXHIBIT F)**. Explains bill and states position on bill. Discusses current land use laws and discusses possible impacts of bill.
- 312 Jill Zarnowitz Introduces herself as representing Oregon Department of Fish and Wildlife and submits proposed amendments **(EXHIBIT G)**. Explains bill and proposed amendments.
- 359 Ron Eber Introduces himself as representing the Department of Land Conservation and Development and submits **(EXHIBIT H)**. Explains bill and states position on bill.
- 400 Blair Batson Introduces herself as representing 1,000 Friends of Oregon and states position on bill.

TAPE 39, B

- 007 Dave Hunnicutt Introduces himself as representing Oregonians In Action and discusses bill. States position on bill.
- 033 Chair Ferrioli Closes public hearings on SB 588 and SB 862. Opens public hearing on SB 306.

- 252 Chair Ferrioli Refers to line 24 of the -9 amendments and asks about title transfers and smoke detectors.
- 255 Cedarleaf Responds that in the State Fire Marshall's report for 1996 there were 47 reported deaths and about 25 percent were in a manufactured home dwelling.
- 285 Chair Ferrioli Asks about the five year notice given for compliance.
- 290 Cedarleaf Responds that housing, including rental property, will be affected by the bill.
- 307 Don Miner Oregon Manufacturing Housing Association, provides testimony in support of SB 874 and on the impact to manufactured dwellings.
- 331 Chair Ferrioli Asks if the net effect of the bill would be to bring the state into compliance with federal standards.
- 340 Miller Agrees and responds that statute should comply with state building codes.
- 348 Cedarleaf Provides report on deaths caused by fire.
- 363 Chair Ferrioli Asks if the suggested amendments would affect the findings of the working group.
- 365 Cedarleaf Responds that they would not affect the findings.
- 368 Chair Ferrioli Asks if there would be objection to amendments to incorporate compliance standards.
- 374 Joe Brewer Building Codes Division, Department of Business and Consumer Affairs, responds that the division would be happy to work with the work group on amendment language.
- 394 Chair Ferrioli Asks the work group to incorporate Mr. Miner's concerns into the -9 amendments.
- 420 Chair Ferrioli Closes public hearing on SB 874; opens public hearing on SB 588, and SB 862.

TAPE 57, A**SB 588, SB 862 PUBLIC HEARING**

- 010 Don Schellenberg Oregon Farm Bureau, submits proposed amendments provided by the working group (**EXHIBIT B**).
- 015 Ron Eber Department of Land Conservation and Development, discusses the effects of the proposed amendments, issues discussed:
- farm-based processing activities and zoning
 - breeding and raising of greyhounds

- 040 Greg Zerzan Representing the Oregon Greyhound Breeders Association, expresses support for SB 588 which addresses issues contained in SB 862.
- 052 Sen. Kintigh Asks if greyhound breeding will be allowed anywhere within the state.
- 056 Zerzan Responds that greyhound breeding is considered to be animal husbandry and is currently a permitted use in the state.
- 062 Sen. Kintigh Asks why the bill was proposed.
- 065 Zerzan Responds that tax courts provide greyhound breeders with permitted use but they did not qualify for special assessments.
- 076 Dave Hunnicutt Representing Oregonians in Action, provides support for the proposed amendments to SB 588 and asks that the committee provide clear language definition on the difference between siting standards and approval standards.
- 108 John McCulley Representing Oregon Fairs Association, provides support of the proposed amendments to SB 588.
- 124 Don Schellenberg Oregon Farm Bureau, provides support of proposed amendments on SB 588.
- 135 Chair Ferrioli Asks if the amendments deal with processing.
- 140 Schellenberg Agrees that they have incorporated Mr. Hunnicutt's concern into the -4 amendments.
- 159 Sen. Burdick Asks if the bill does not pass, whether there would be other vehicles that could deal with the processing issue.
- 162 Schellenberg Identifies two bills: SB 1029 and SB 862.
- 168 Ron Eber Clarifies that siting standards deal with where, on a particular piece of ground, a use is sited, and that approval standards decide whether or not a use can go forward.
- 186 Carey Theil Testifying on behalf of Pet Lodge Adoptions, submits and provides testimony in opposition to SB 588 and SB 862 (**EXHIBIT C**).
- 240 Theil Continues with testimony on animal abuse.
- 300 Theil Continues with testimony on the greyhound industry.
- 313 Sen. Brown Asks if Mr. Zerzan is aware of SB 512 which relates to administrative procedures and would address his tax assessment concerns.
- 315 Zerzan Responds that he is not aware of the bill.

336 Chair Ferrioli Closes public hearing on SB 588 and SB 862; opens public hearing on SB 626.

SB 626 PUBLIC HEARING

372 Brad Higbee Representing Metro Council, provides testimony in support of SB 626.

375 Lisa Naito Government Affairs, Metro Council, submits and provides testimony in support of SB 626 (**EXHIBIT D**).

420 Sharon Timko Representing Multnomah County, provides testimony in support of SB 626.

TAPE 56, B

013 Sen. Qutub Refers to Page 2, line 17 of the bill and asks why they are clarifying "acquisition through title transfer" language.

015 Higbee Responds that it was to address concerns from a variety of park representatives that Metro could become aggressively involved in parks.

025 Chair Ferrioli Comments on correspondence received expressing support of SB 626.

028 Chair Ferrioli Closes public hearing on SB 626; opens a work session on SB 626.

SB 626 WORK SESSION

030 Sen. Qutub **MOTION: Moves to ADOPT SB 626-1 amendments dated 4/28/97.**

032 Chair Ferrioli **AYE: In a roll call vote, all members present vote Aye.**
EXCUSED: 2 - Brown, Kintigh

The motion CARRIES.

035 Sen. Qutub **MOTION: Moves SB 626 to the floor with a DO PASS AS AMENDED recommendation.**

038 Chair Ferrioli **AYE: In a roll call vote, all members present vote Aye.**
EXCUSED: 2 - Brown, Kintigh

040 Chair Ferrioli **The motion CARRIES.**

SEN. QUTUB will lead discussion on the floor.

045 Chair Ferrioli Closes work session on SB 626; opens public hearing on SB 831.

SB 831 PUBLIC HEARING

055 Paul Romain Representing the Oregon Beer and Wine Distributors Association, submits and provides testimony on SB 831 (**EXHIBIT E**).

- 106 Bishop Responds that this was an isolated incident; that a parent actually ordered the wine, and if it were a problem, the Oregon Liquor Control Commission (OLCC) would be more than willing to intervene.
- 126 Paul Williamson Portland OLCC representative, responds to the issue of whether minors can purchase liquor by mail.
- 159 Sen. Brown Asks how accessible ordering information is for young people and if there is sufficient law or regulations to address the issue.
- 170 Williamson Responds that if a young person is interested they can get the information.
- 172 Sen. Brown Asks if there are statute regulations in place that address the issue.
- 174 Williamson Responds that it is a growing area of concern.
- 196 Sen. Brown Asks why Mr. Williamson would be neutral on a bill that would deny access to minors.
- 200 Williamson Responds that they are not certain if the bill is the appropriate tool.
- 210 Chair Ferrioli Asks if the issue is whether or not reciprocity is at risk.
- 212 Williamson Agrees that reciprocity is one issue but that the other issue is that of discontinued carrier service.
- 217 Sen. Qutub Asks about the process involved to license UPS carriers and the impact on OLCC.
- 220 Williamson Responds that the licensing would be simplified but that the difficulty would be in enforcing the provisions.
- 222 Williamson Submits written communication by UPS (**EXHIBIT G**).
- 260 Gary Conkling Representing the Oregon Wine Growers Association, submits and provides testimony in opposition to SB 831 (**EXHIBIT H**).
- 310 Conkling Continues with testimony on illegal shipments.
- 362 Chair Ferrioli Close public hearing on SB 831; opens work session on SB 588.

SB 588 WORK SESSION

- 370 Sen. Qutub **MOTION: Moves to ADOPT SB 588-4 amendments dated 5/1/97.**
- 372 Chair Ferrioli **AYE: In a roll call vote, all members present vote Aye.
EXCUSED: 2 - Burdick, Kintigh
The motion CARRIES.**

- 375 Sen. Qutub **MOTION: Moves SB 588 to the floor with a DO PASS AS AMENDED recommendation.**
- 378 Chair Ferrioli **AYE: In a roll call vote, all members present vote Aye.**
EXCUSED: 2 - Burdick, Kintigh
- 380 Chair Ferrioli **The motion CARRIES.**
- SEN. FERRIOLI will lead discussion on the floor.**
- 389 Chair Ferrioli Closes work session on SB 588; opens public hearing on SB 944.

TAPE 58, A**SB 944 PUBLIC HEARING**

- 002 Sharon Hill Legislative Assistant, submits testimony on behalf of Sen. Avel Gordly in support of SB 944 (**EXHIBIT I**).
- 028 William Thomas Disabled citizen, submits and provides testimony in support of SB 944 (**EXHIBIT J**).
- 080 Thomas Continues with testimony on license for electricians.
- 111 Thomas Continues with testimony on certification programs for disabled citizens.
- 130 Chair Ferrioli Encourages Mr. Thomas to continue helping to educate people on disability issues.
- 141 Thomas Comments on the implementation of the ADA (American with Disabilities Act).
- 150 Chair Ferrioli Closes public hearing on SB 944; reopens work session on SB 588.

SB 588 WORK SESSION

- 185 Sen. Burdick **MOTION: Moves to SUSPEND the rules for the purpose of reconsidering the vote on SB 588.**
- 187 Chair Ferrioli **AYE: In a roll call vote, all members present vote Aye.**
EXCUSED: 2 - Brown, Qutub
- The motion CARRIES.**
- 190 Sen. Burdick **MOTION: Requests unanimous consent that the rules be SUSPENDED to allow SEN. BURDICK to BE RECORDED as voting NAY on the MOTION: "Sen. Qutub Moves SB 588 to the floor with a DO PASS AS AMENDED recommendation."**

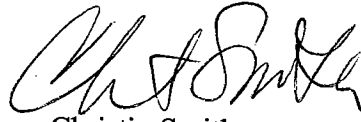
- 192 Chair Ferrioli Hearing no objection, declares the motion CARRIED.
- 194 Chair Ferrioli Closes work session on SB 588. Defers SB 1027 over to 5/8/97.
- 199 Chair Ferrioli Adjourns meeting 5:20 p.m.

Submitted By,



Nora Carlson,
Administrative Support

Reviewed By,



Christin Smith,
Administrator

EXHIBIT SUMMARY

- A - SB 874, proposed amendments, Randy Leonard, 4 pp
- B - SB 588, proposed amendments, Don Schellenberg, 2 pp
- C - SB 588 and SB 862, written testimony, Carey Theil, 6 pp
- D - SB 626, written testimony, Lisa Naito, 2 pp
- E - SB 831, proposed amendments and written materials, Paul Romain, 13 pp
- F - SB 831, written testimony, Sandra Bishop, 4 pp
- G - SB 831, written correspondence, Paul Williamson, 1 p
- H - SB 831, written testimony, Gary Conkling, 1 pp
- I - SB 944, written testimony, Sharon Hill, 2 pp
- J - SB 944, written testimony, William Thomas, 4 pp

FROM :

PHONE NO. : 541 776 0443

MEASURE: SB 588, SB 862
EXHIBIT: c
SENATE LIVABILITY COMMITTEE
DATE: 4-10-97 PAGES: 1
SUBMITTED BY: staff

CAROL N. DOTY
3665 Anderson Creek Road
Talent, OR 97540

April 10, 1997

Senator Ted Ferrioli, Chair
Senate Livability Committee
S-216, State Capitol
Salem, OR 97310

Dear Senator Ferrioli:

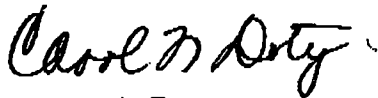
This afternoon your committee will conduct hearings on two bills on SB 588 and SB 862. Both of these bills are appropriately referred to the Livability Committee because even though the main issue appears to be the misuse of agricultural land, both of these bills would also allow uses which could affect public health and/or create nuisances.

SB 588 would allow the disposal of wastes which could ultimately cause damage to waterways and groundwater. SB 862 would increase traffic in farm areas.

There are now about 100 outright and conditional uses allowed in Oregon's farmland. No other of our natural resources comes close to being so misused and abused. (Forestland gets almost as much misuse.) Please no more!

If you feel the statutes need to be changed, reduce allowed uses on Oregon's prime farmland. Please vote against SB 588 and SB 862.

Sincerely,



Carol N. Doty

SB 5
(LC 239)
4/10/97 (CC/ps)

**PROPOSED AMENDMENTS TO
SENATE BILL 588**

- 1 On page 8 of the printed bill, after line 32, insert:
- 2 “(t) Fairgrounds and activities relating to fairgrounds.”.
- 3 _____

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TESTIMONY OF GREGORY P.J. ZERZAN FOR THE
OREGON GREYHOUND BREEDERS ASSOCIATION
BEFORE THE SENATE LIVABILITY COMMITTEE
REGARDING SENATE BILLS 588 AND 862

APRIL 11, 1997

Senate Bills 588 and 862 are intended to correct a flaw in the Oregon Tax Court's interpretation of land use and tax law which has denied greyhound breeders the tax deferral available for other agricultural uses such as the breeding, raising, and training of race horses. Greyhound breeders have traditionally believed they were engaged in an agricultural use in breeding, raising, and training their greyhounds for racing. In fact, the Court of Appeals held in 1989 that:

. . .kennel operations constitute "animal husbandry" and therefore come within the definition of "farm use" . . . "Animal husbandry" is defined by Webster's Third New International Dictionary 85 (1971) as "a branch of agriculture concerned with the production and care of domestic animals." Linn County v. Hickey 98 Or App 100, 102 (1989).

In order to help promote the raising of greyhounds in Oregon, the Multnomah Kennel Club and others sought an amendment

to the state land use law in 1985 to help assure that greyhound breeding could take place in Exclusive Farm Use (EFU) zones. Thus, ORS 215.213 (1)(L) was enacted. In the case of Kang v. Dept. of Revenue, 12 OTR 407 (1993), the Oregon Tax Court held that because the legislature had specifically enumerated greyhound breeding as a use which could be permitted in an EFU zone, the legislature must have viewed that use as a nonagricultural one. A copy of this case is attached for your review.

Our amendments would reverse the Kang case and would permit greyhound breeding in other areas of the state in EFU zones in addition to the limited number of counties previously covered by the 1985 amendment.

We are not aware of anyone having a problem with this proposal but we would be glad to work with any group or member with any concerns to assure that these amendments will have no adverse impact on anyone. Last session the House and Senate both passed SB 964, which had been amended to include similar language to what we are proposing today. Unfortunately, that bill was vetoed by Governor Kitzhaber for other reasons.

Greyhound racing has a long and proud history in Oregon. The raising, breeding, and kenneling of greyhounds in our state is often a family affair involving those who have a true love for their dogs and their sport. From greyhound racing come employment for breeders, veterinarians, feed suppliers, and employees of the Multnomah Kennel Club. But, with the onslaught

of video poker and Indian casino gambling, greyhound racing is in a fight for survival. The misconstruction of the legislature's desire to recognize greyhound breeding as a type of animal husbandry included as an exclusive farm use under ORS 215.203 has not helped.

We thank you for your careful consideration of these bills.

IN THE OREGON TAX COURT

Soon C. KANG

v.

DEPARTMENT OF REVENUE
(TC 3258)

Plaintiff owned property which he used to breed, kennel and train greyhounds. The county assessor disqualified the land from special farm use assessment. The court found the specific provision in ORS 215.213(1)(L) for the breeding, kenneling and training of greyhounds excludes that activity from the legislature's definition of farm use as found in ORS 215.203(2).

Property taxation - Farm use assessment

1. Any use of land which does not fall within the legislature's narrow definition of farm use does not qualify for special assessment under ORS 308.370(1). See ORS 215.203(2).

Property taxation - Farm use

2. The specific provision in ORS 215.213(1)(L) for the breeding, kenneling and training of greyhounds excludes that activity from the legislature's definition of farm use found in ORS 215.203(2).

Trial was held March 8, 1993, in the courtroom of the Oregon Tax Court, Salem.

Rodney C. Adams, Thompson, Adams, DeBast & Helzer, Beaverton, represented plaintiff.

Ted E. Barbera, Assistant Attorney General, Department of Justice, Salem, represented defendant.

Decision for defendant rendered March 25, 1993.

CARL N. BYERS, Judge.

Plaintiff owns property in Multnomah County used for breeding, kenneling and training of greyhounds. On May 16, 1991, the assessor disqualified the land from special farm use assessment and assessed additional tax under ORS 308.399.¹ Plaintiff appealed to defendant. After hearing, defendant denied the petition and plaintiff appealed to this court.

¹ All references to Oregon Revised Statutes are to the 1989 Replacement Part.

ORS 308.370(1) provides:

"Any land which is within a farm use zone * * * and which is used exclusively for farm use as defined in ORS 215.203(2), shall, for purposes of assessment, be valued * * * at its true cash value for farm use and not at the true cash value it would have if applied to other than farm use." (Emphasis added.)

ORS 215.203(2)(a) defines farm use as:

"(T)he current employment of land for the primary purpose of obtaining a profit in money by raising, harvesting and selling crops or the feeding, breeding, management and sale of, or the produce of, livestock, poultry, fur-bearing animals or honeybees or for dairying and the sale of dairy products or any other agricultural or horticultural use or animal husbandry or any combination thereof."

Plaintiff pointed out that breeding and kenneling of dogs has been adjudicated to be "animal husbandry" and within the definition of farm use in Oregon. See *Linn County v. Hickey*, 98 Or App 100, 102, 778 P2d 509 (1989). However, the court in *Linn County* noted that this applied "in the absence of more specific legislation bearing on the subject." *Id.* Defendant argues that because ORS 215.213 lists non-farm uses that are allowed in farm-use zones, it is "specific legislation which bear[s] on the subject." *Id.*

ORS 215.213(1)(L) provides:

"(1) The following uses may be established in any area zoned for exclusive farm use.

"* * * * *

"(L) The breeding, kenneling and training of greyhounds for racing in any county over 200,000 in population in which there is located a greyhound racing track or in a county of over 200,000 in population contiguous to such a county."

The parties have stipulated the issues before the court. Since there is no question that breeding and kenneling of dogs is animal husbandry, the only remaining question is:

"Does the specific authority, granted in ORS 215.213(1)(L) preclude such use from being a farm use under ORS 215.203(2)(a)?"

The court finds that it does. The legislature has, with some specificity, provided a limited definition of farm use. See ORS 215.203(2). That definition includes "animal husbandry." Generally, the breeding and kenneling of dogs might well be determined to be within the definition of farm use. However, by expressly placing that activity in the list of nonfarm uses, the legislature has determined that such use is not a farm use by its definition. By amending ORS 215.213 in 1985 to specifically provide for greyhounds in subsection (1)(L)² and to provide for other dog kennels in subsection (2)(L), the legislature made it clear that breeding and kenneling dogs was not a farm use. See Or Laws 1985, ch 583, § 1.

Plaintiff's evidence indicated that the greyhound industry had experienced inconsistent treatment in land use rulings by the various counties. It sought a legislative solution through the 1985 legislature. Plaintiff argues that it was not the purpose of the legislation to affect special farm assessment. Rather, the greyhound provision was added to ORS 215.213 as a way of getting the counties to recognize and allow greyhound breeding in EFU zones.

1. Plaintiff's view of the facts may be correct. However, it does not change the result. The legislature could have made kenneling of dogs or dog breeding an express part of the definition of farm use. It did not. Instead, it provided a limited provision for greyhound breeding in counties with populations over 200,000. It also provided a conditional use for other dog kennels. Placing both of these provisions in ORS 215.213 is a clear indication that the legislature did not view these uses as farm use. Just as farmhouses or barns might be considered farm use in a broad definition, the legislature has apparently determined that such structures should not fall within its narrow definition of farm use. Consequently, any use which does not fall within the legislature's narrow definition does not qualify for special assessment under ORS 308.370(1).

2. In conclusion, the court finds that the specific provision in ORS 215.213(1)(L) for the breeding, kenneling and

² When ORS 215.213 was amended in 1989, the greyhound provision was changed from subsection (1)(K) to subsection (1)(L) but the reference in subsection 2(L) was not corrected. See Or Laws 1989, ch 861, § 1.

training of grounds effectively excludes that activity from the legislature's definition of farm use as found in ORS 215.203(2). See *Fitzwater v. Dept. of Rev.*, 12 OTR 48, 51 (1991). Accordingly, the court sustains defendant's Opinion and Order No. 91-1263. Defendant to recover costs.

- 3-14(S) Introduction and first reading. Referred to President's desk.
 3-15 Referred to Health and Human Services.
 4-3 Public Hearing held.
 6-10 In committee upon adjournment.
 Allows employer to designate smoking room if room is ventilated, separate and enclosed. Prohibits person from smoking in place of employment except in room designated as smoking room. Requires employer to post appropriate signs. Defines "place of employment" and "ventilated." Allows Department of Consumer and Business Services to impose maximum \$100 civil penalty for first violation.
- SB 960 By Senator CEASE (at the request of Multnomah County Tax Collector) -- Relating to property taxes.
- 3-14(S) Introduction and first reading. Referred to President's desk.
 Referred to Government Finance and Tax Policy.
 6-10 In committee upon adjournment.
 Extends period of eligibility for discount on property taxes to payments made after November 15 if reason for nonpayment is extreme medical emergency, request for discount is made before December 1 and taxes are paid within 30 days after date of request. Waives interest on taxes if request is granted.
 Applies to tax years beginning on or after July 1, 1995.
- SB 961 By Senator CEASE (at the request of Governor John Kitzhaber) -- Relating to assault.
- 3-14(S) Introduction and first reading. Referred to President's desk.
 Referred to Judiciary.
 6-10 In committee upon adjournment.
 Expands crimes of assault in all degrees.
- SB 962 By Senator DUKES; Senators DWYER, McCOY, SPRINGER, Representative BROWN (at the request of Patrick Lavis, P.C.) -- Relating to medical records.
- 3-20(S) Introduction and first reading. Referred to President's desk.
 3-21 Referred to Health and Human Services.
 6-10 In committee upon adjournment.
 Requires Health Division to establish guidelines requiring reasonable cost to patients to duplicate medical records.
- SB 963 By Senator KINTIGH -- Relating to water collected from impervious surface.
- 3-14(S) Introduction and first reading. Referred to President's desk.
 Referred to Water and Land Use.
 4-6 Public Hearing and Work Session held.
 4-12 Recommendation: Do pass with amendments. (Printed A-Eng.)
 4-14 Second reading.
 4-17 Third reading. Carried by Kintigh. Passed.
 Ayes, 29 --Excused, 1--Phillips.
 4-18(H) First reading. Referred to Speaker's desk.
 Referred to Water Policy.
 5-2 Public Hearing and Work Session held.
 5-4 Work Session held.
 5-10 Recommendation: Do pass with amendments and be printed B-Engrossed.
 5-12 Second reading.
 5-15 Rules suspended. Taken from today's Calendar and placed in proper order on Tuesday, May 16 Calendar.
 5-16 Rules suspended. Taken from today's Calendar and placed in proper order on Wednesday, May 17 Calendar.
- 5-17 Third reading. Carried by Tarno. Passed.
 Ayes, 51 --Nays, 2, Carter, Naito, Excused, 2--Corcoran, Minnis, Excused for business of the House, 5---Mannix, Meek, Parks, Prozanski, Welsh.
- 5-22(S) Senate concurred in House amendments and repassed bill.
 Ayes, 23 --Nays, 1, McCoy, Attending Legislative Business, 6---Baker, Bryant, Hamby, Miller, Springer, Stull.
 6-9 President signed.
 6-12(H) Speaker signed.
 7-7(S) Governor signed.
 Chapter 537, 1995 Laws.
 Effective date, September 9, 1995.
 Exempts collection of precipitation water from artificial impervious surface and use of such water from requirements to obtain water right permit or certificate.
- *SB 964 By Senator KINTIGH; Representative MARKHAM (at the request of Oregon Farm Bureau) -- Relating to activities in exclusive farm use zones.
- 3-16(S) Introduction and first reading. Referred to President's desk.
 3-22 Referred to Water and Land Use.
 4-12 Public Hearing held.
 4-20 Work Session held.
 4-28 Work Session held.
 5-9 Recommendation: Do pass with amendments. (Printed A-Eng.)
 Dwyer not concurring.
 5-10 Second reading.
 5-11 Carried over to 05-12 by unanimous consent.
 5-12 Third reading. Carried by Kintigh. Passed.
 Ayes, 23 --Nays, 5, Cease, Dwyer, Gold, Sorenson, Springer, Absent, 1--McCoy, Attending Legislative Business, 1---Leonard.
- 5-15(H) First reading. Referred to Speaker's desk.
 Referred to Legislative Rules.
 5-19 Work Session held.
 6-1 Recommendation: Do pass with amendments and be printed B-Engrossed.
 6-2 Rules suspended. Second reading.
 6-3 Third reading. Carried by Roberts. Passed.
 Ayes, 46 --Nays, 11, Brown, Carter, Eighmey, Gordly, Naito, Prozanski, Rasmussen, Repine, Shibley, Shields, Wooten, Excused, 3--Fisher, Hayden, Tiernan.
- 6-6(S) Senate concurred in House amendments and repassed bill.
 Ayes, 19 --Nays, 6, Cease, Dukes, Gold, Sorenson, Springer, Trow, Excused, 2--Kintigh, Shannon, Attending Legislative Business, 3---Bryant, Dwyer, Kennemer.
 6-14 President signed.
 6-14(H) Speaker signed.
 7-21(S) Governor vetoed.
 Expands description of activities that qualify as farm use in exclusive farm use zone. Makes related changes.
- SB 965 By Senator KINTIGH (at the request of Warren and Vickie Jensen) -- Relating to home inspectors.
- 3-15(S) Introduction and first reading. Referred to President's desk.
 3-16 Referred to Labor and Government Operations.
 6-10 In committee upon adjournment.
 Exempts persons who conduct home inspections from regulation by Construction Contractors Board.
- SB 966 By Senator KINTIGH; Representative MARKHAM (at the request of Western Hardwood Association) -- Relating to forest administration.
- 3-20(S) Introduction and first reading. Referred to President's desk.



MEASURE: SB 588
EXHIBIT: F
SENATE LIVABILITY COMMITTEE
DATE: 10-4-10-97 PAGES: 2
SUBMITTED BY: Don Schellenberg

3415 Commercial St. S.E. • Suite G • Salem, OR 97302-5169 • (503) 399-1701 • FAX (503) 399-8082

April 10, 1997

Testimony Before the
Senate Livability Committee
Regarding SB 588

Mr. chairman and members of the Committee, I am Don Schellenberg, Associate Director of Governmental Affairs for the Oregon Farm Bureau.

Although we are not actually the requestors of this legislation we did have a bill last session that was similar to this bill.

The purpose of the language on page 1 lines 15 and 16 is to ensure that the land under a facility or activity related to the production and marketing of farm by-products, qualifies for farm use assessment. Our concern with the language is that the deletion of the phrase "on such land" in those lines, seems to open the door for a commercial processing, packaging or marketing facility to locate in a farm zone. Not that such an action would be all bad. There certainly would be no need to truck the crops into busy urban areas if the plants were located in the country. On the other hand plants already sited in the urban area may consider these new plants to be unfair competition. To prevent opening the door on that issue Farm Bureau would favor reinstating the phrase "on such land".

The intent of the language in lines 20 through 23 is to make it clear that farm use assessment does apply to land when game ranching activities that are allowed by law, occur on farms and ranches. I have seen some conceptual amendments that I believe the Fish & Wildlife Department will propose for clarification, and do not oppose those.

The new language on line 8 of page 2 simply makes it clear that the land under all buildings, except the dwelling, qualify for farm use assessment. There have been occasions when that has been a dispute in some counties. The land under the dwellings, commonly referred to as the homesite, are excepted because they are assessed at a farm market value. The deleted language on lines 18 and 19 and in line 3 of page 3 would not be necessary because of the change in line 8.

The one concern we have, Mr. Chairman, is changing the kenneling of greyhounds from a permitted use to an outright farm use. This

change qualifies the land in that use for farm use assessment and allows the establishment of a qualified farm dwelling based on that use. Not that we expect this activity would be a problem in a farm zone, but, I do not think anyone recognizes the raising and kenneling of greyhounds as a farm activity. Our concern is that at some point there may be too many activities that are not really farm activities, that are approved for farm use assessment. If that happens, what is a very appropriate and necessary assessment system for farm land, may come crashing down from the overweight of non-farm uses. Mr. Chairman, this issue is a public policy choice on your part. Farm Bureau will not take a position on the issue but we do want to raise our concerns for your consideration.

That concludes my testimony and I would be happy to answer any questions. Thank you.



April 10, 1997

Statement on Senate Bill 588

by

Oregon Department of Fish and Wildlife

The Oregon Department of Fish and Wildlife wishes to offer comments on SB 588 which expands the description of activities that qualify as farm use in exclusive farm use zones. We understand that the intent of the bill is to ensure that game farming, allowed under the Department's rules, may receive a farm use deferral. The Department requests that the wording be clarified to specifically reference the Department's rules for game mammal and game bird propagation (OAR 635-44-060), the Cervid Holding rules (OAR 635-49-000) and the Department's Wildlife Integrity rules (OAR 635-56-000). All of these rules have undergone extensive public review and comment. We request that the sentence starting on line 19 of the bill be amended as follows:

"Farm use" also includes the propagation, cultivation, maintenance and harvesting of aquatic species and bird and animal species to the extent allowed by the regulations of [the type that are regulated for hunting by] the State Department of Fish and Wildlife pursuant to OAR 635-44-060, OAR 635-49-000, and OAR 635-56-000.

The Department appreciates the opportunity to provide the committee with these comments.

Senate Committee on Livability

Contact Persons: Jill Zarnowitz, Director, Habitat Conservation Division, (503) 872-5255,
ext. 5594

OR

Jim Greer, Director, Wildlife Division, (503) 872-5260, ext. 5335

REPORT TO THE GOVERNOR from the AGRICULTURAL PROCESSING WORKING GROUP

Background

At the request of the Governor, the Department of Land Conservation and Development (DLCD) convened a representative group to review whether the provisions of the exclusive farm use statute (ORS Chapter 215) dealing with the processing of agricultural products should be revised. The Agricultural Processing Working Group was to consider whether changes were needed and, if so, to develop language to revise the statute for introduction in the 1997 Legislature. The Agricultural Processing Working Group met on July 2, 1996 to consider these issues.

Agricultural Processing Working Group

The group was comprised of the following persons: Ronald Eber, Agricultural Lands Specialist for DLCD; Senator Bob Kintigh; Lorna Youngs, Assistant Director for the Oregon Department of Agriculture; Lynn Beaton, Oregon Economic Development Department; Don Schellenberg, Oregon Farm Bureau; Art Schlack, Association of Oregon Counties, and Blair Batson, 1000 Friends of Oregon.

Results of Review

At its meeting, the group reviewed and discussed the applicable statutory provisions, an analysis of the current case law on the matter (enclosed), past legislative proposals including SB 946 (1995) and their experience(s) with the application of these provisions to specific land use proposals at the local level. No one was aware of any specific problem(s) with the existing provisions or the need for any new legislation at this time. However, the group agreed to continue to monitor the situation and if any problems should develop, refer them the Governor's Food Processing Council for review.

Finally, the group's discussion of SB 946 did uncover an issue that deserves further comment. SB 946 proposed a description of the term "preparation" included in the definition of "farm use" in ORS 215.203. "Preparation" of a farm product is allowed as a farm use and such activities receive special farm use assessment. "Processing" activities are not a farm use and do not receive special assessment. The bill was proposed because a local assessor disqualified an activity he believed was "processing" and not the "preparation" of a farm product. The proposed language was intended to resolve a tax issue by providing special farm use assessment to the land under an owner's preparatory activities but not authorize a new nonfarm activity in a farm use zone. Unfortunately, the

bill as drafted, appeared to allow some new processing activities as outright farm uses rather than just resolve the tax issue.

In light of this, the group agreed that caution is needed when proposing amendments to the definition of "farm use" because it both defines the allowed farm uses in a farm zone and the land eligible for special farm use assessment. Had the proposed amendment been to the subdefinition of "current employment" it would not have affected the allowed farm uses and provided the intended tax benefit.

The Farm Bureau expressed interest in legislation that would extend the provision of special assessment to not only the defined "farm uses" including preparatory activities but also to those nonfarm processing activities now allowed as "commercial activities that are in conjunction with farm use" by ORS 215.283(2)(a). **The group did not take on a position on this issue.**

Recommendation

The group does not recommend any legislation at this time. Based on the group's review of the situation, there is not a problem with the provisions allowing for the processing of agricultural products in an exclusive farm use zone.

If you have any questions, please call Ronald Eber at 373-0090.

Farm Zone Provisions Related to Processing Agricultural Products

ORS 215.203: Definition of Farm Use

The definition of farm use serves a dual purpose. It identifies both the uses allowed in a farm zone and the uses which receive special farm use property tax assessment. The definition is:

As used in this section, "farm use" means the current employment of land for the primary purpose of obtaining a profit in money by raising, harvesting and selling crops or the feeding, breeding, management and sale of, or the produce of, livestock, poultry, fur-bearing animals or honeybees or for dairying and the sale of dairy products or any other agricultural or horticultural use or animal husbandry or any combination thereof. **"Farm use" includes the preparation and storage of the products raised on such land for human use and animal use and disposal by marketing or otherwise.** "Farm use" also includes the current employment of land for the primary purpose of obtaining a profit in money by stabling or training equines including but not limited to providing riding lessons, training clinics and schooling shows. "Farm use" also includes the propagation, cultivation, maintenance and harvesting of aquatic species. It does not include the use of land subject to the provisions of ORS chapter 321, except land used exclusively for growing cultured Christmas trees as defined in subsection (3) of this section or land described in ORS

The highlighted (**bold**) part of the definition is the language used to allow some value added and marketing activities in farm zones as a "farm use." This provision allows initial preparation for sale, storage and the sale (wholesale or retail) of the farm products raised on a farm. As a general rule, the preparation, storage or sale of a farm product is considered an allowed farm use when a majority of the farm products come from the subject farm. Additional farm products can also be prepared, stored or sold from other farms in the area. However, when a majority of the farm products come from neighboring farms in the area, not the subject farm, preparation and storage are treated as "commercial activities in conjunction with farm use" and "sales" are treated under the "farm stand" provisions. "Preparation" has been interpreted to include cleaning, sorting, packaging and other preparatory activities for storage or sale of farm products grown on the subject farm, Reter v. Oregon Tax Commission, 3 OTR 477 (1969), aff'd, 256 Or 294 (1970). Making a new or different product from the naturally grown farm product is "processing" not "preparation" and treated as a "commercial" activity in conjunction with farm use.

ORS 215.283(1)(s): Farm Stands If:

(A) The structures are designed and used for the sale of farm crops and livestock grown on farms in the local agricultural area, including the sale of retail incidental items, if the sales of the incidental items make up no more than 25 percent of the total sales of the farm stand; and

(B) The farm stand does not include structures designed for occupancy as a residence or for activities other than the sale of farm crops and livestock and does not include structures for banquets, public gatherings or public entertainment.

ORS 215.283(2)(a): Commercial Activities That Are In Conjunction With Farm Use

A commercial activity in conjunction with farm use must be either exclusively or primarily a customer or supplier of farm uses. Such activities must either:

- (1) Enhance the farming enterprises in the local agricultural community; or
- (2) Occur together with agricultural activities in the local community.

Suppliers are limited to those providing products and services essential to the practice of agriculture.

This use was added to the EFU zone by SB 101 in 1973. The legislative intent was to let local government decide specifically what these uses may be. Uses discussed as falling within this category included hop, nut and fruit driers; feed mixing and storage facilities; mint distilleries; rendering plants; seed processing, packing, shipping and storage facilities; slaughter houses; agricultural produce storage facilities; feed lots; hullers; and any other similar processing and allied farm commercial activities. Copies of the different versions of this use considered by the Legislature in 1973 are enclosed.

The Court cases that have established these guidelines are Craven v. Jackson County, 308 Or 281 (1989), City of Sandy v. Clackamas County, LUBA No. 94-104, November 1994 and Earle v. McCarthy, 28 Or App 539, (1977).



April 24, 1997

Statement on Senate Bill 588

by

Oregon Department of Fish and Wildlife

The Oregon Department of Fish and Wildlife wishes to offer comments on SB 588 which expands the description of activities that qualify as farm use in exclusive farm use zones. We understand that the intent of the bill is to ensure that game farming, allowed under the Department's rules, may receive a farm use deferral. The Department requests that the wording be clarified to specifically reference the Department's rules for game mammal and game bird propagation (OAR 635-44-060), the Cervid Holding rules (OAR 635-49-000) and the Department's Wildlife Integrity rules (OAR 635-56-000). All of these rules have undergone extensive public review and comment. We request that the sentence starting on line 19 of the bill be amended as follows:

"Farm use" also includes the propagation, cultivation, maintenance and harvesting of aquatic species and bird and animal species to the extent allowed by the rules adopted by [of the type that are regulated for hunting by] the Oregon [State Department of] Fish and Wildlife Commission.

The Department appreciates the opportunity to provide the committee with these comments.

Senate Committee on Livability

Contact Person: Jill Zarnowitz, Chief, Habitat Conservation Division, (503) 872-5255

SB 588-
(LC 239)
5/1/97 (CC/ps)

**PROPOSED AMENDMENTS TO
SENATE BILL 588**

- 1 On page 1 of the printed bill, line 15, restore the bracketed material.
- 2 In line 16, restore "land".
- 3 In line 20, delete "of the".
- 4 Delete line 21 and insert "to the extent allowed by the rules adopted by
5 the State Fish and Wildlife Commission. 'Farm'".
- 6 On page 2, line 9, after "practices" insert ", including the processing fa-
7 cilities allowed by ORS 215.213 (1)(v) and 215.283 (1)(t)".
- 8 Delete lines 20 through 22 and insert:
- 9 "(K) Land used for the primary purpose of obtaining a profit in money
10 by breeding, raising, kenneling or training of greyhounds for racing."
- 11 On page 4, after line 11, insert:
- 12 "(v) A facility for the processing of farm crops located on a farm opera-
13 tion that provides at least one-quarter of the farm crops processed at the
14 facility. The building established for the processing facility shall not exceed
15 10,000 square feet of floor area exclusive of the floor area designated for
16 preparation, storage or other farm use or devote more than 10,000 square feet
17 to the processing activities within another building supporting farm uses. A
18 processing facility shall comply with all applicable siting standards but the
19 standards shall not be applied in a manner that prohibits the siting of the
20 processing facility."
- 21 In line 31, before the period insert "but not including the processing of
22 farm crops as described in subsection (1)(v) of this section".
- 23 On page 8, after line 32, insert:
- 24 "(t) A facility for the processing of farm crops located on a farm operation

1 that provides at least one-quarter of the farm crops processed at the facility.
2 The building established for the processing facility shall not exceed 10,000
3 square feet of floor area exclusive of the floor area designated for prepara-
4 tion, storage or other farm use or devote more than 10,000 square feet to the
5 processing activities within another building supporting farm uses. A proc-
6 essing facility shall comply with all applicable siting standards but the
7 standards shall not be applied in a manner that prohibits the siting of the
8 processing facility.”.

9 In line 35, before the period insert “but not including the processing of
10 farm crops as described in subsection (1)(t) of this section”.

11 On page 9, after line 40, insert:

12 “(u) Expansion of existing county fairgrounds and activities directly re-
13 lating to county fairgrounds governed by county fair boards established
14 pursuant to ORS 565.210.”.

15 On page 11, line 12, delete the first “or” and insert a comma and after
16 “(2)” insert “, or a proposed division that separates a processing facility from
17 the farm operation specified in ORS 215.213 (1)(v) or 215.283 (1)(t)”.

18

May 1, 1997
Carey M. Theil
829 NE 91st
Portland, OR 97220
(503) 255-2625
Pet Lodge Adoptions, 3884 SE Nolan Rd., Hillsboro, OR 97123
ARK Online <http://www.arkonline.com>

Testimony before Senate Livability Committee regarding Senate Bills 588 and 862.

Chair, members of the committee:

As always, it is a pleasure to testify before the Oregon Legislature, and I thank you for the honor of doing so.

My name is Carey M. Theil, and I am here today on behalf of various animal groups from across the state, including Pet Lodge Adoptions, an animal sanctuary and adoption agency, to oppose Senate Bills 588 and 862. Pet Lodge Adoptions is based in Hillsboro, and has rescued hundreds of dogs throughout the years, including many greyhounds.

SB 862, and a sub-section of SB 588 relate to Greyhound Racing. **They would make land used for the training, kenneling, raising, or breeding of dogs intended for sport, farm land in regard to tax laws and land use laws.**

Pet Lodge Adoptions, along with ARK Online, an online magazine dedicatd to our animal companions, and animal advocates statewide strongly oppose this concept for many reasons.

--- Greyhound racing/Gambling is not farming. We must always be extra careful about blurring the lines between laws meant to protect and nurture the agriculture industry, which is the backbone of Oregon's economy, and their application to special interest/commercial groups.

--- Greyhound racing/Gambling is often coupled hand in hand with animal abuse. **It has been banned in several states, including Washington, Idaho, Maine, Vermont, and Virginia.** Racing is so naturally paired with the discarding of dogs, most everyone has heard the term, 'greyhound rescue'. **In Idaho the abuses were so bad, Steve Bergeron, 1994's leading winner at the Couer d'Alene Greyhound Park, quit racing altogether and moved to Las Vegas. "I witnessed continuous and daily cruelty to greyhounds by most kennel personnel."** Bergeron wrote in 1995. Owners and trainers at the Couer d'Alene track witnessed, along with kenneling abuses and handling abuses, late night 'Tijuana Hot Plate' parties, where non-winning dogs were taken from their wooden crates and placed on wet floors, stiff wires were oiled and shoved up their rear ends, alligator clips were pinched onto their lips, and they were electricuted to death while onlookers placed their bets and rooted on the 'spectacle.'

--- Greyhound racing is a dying industry. We should not hand out government subsidies to industries which are less and less productive each year. Our public investments need to be carefully thought out and constantly considered and re-considered.

What SB 588 and SB 862 come down to is a speculative government tax-break for a commercial, special interest group that is often linked inseparably with animal abuse. I urge you to oppose SB 862 and SB 588.

Sincerely,

Carey M. Theil

Aging greyhounds put on 'Tijuana hot plate,' trainers say

Regulators investigate allegations that dogs killed amid party atmosphere

By J. Todd Foster
Staff writer

POST FALLS — Four years, and greyhound dog trainer Larry Conary can't shake the nauseating memories.

He still recalls the festive atmosphere, the trainers who sipped beer, smoked marijuana and snorted cocaine after bouts at Cedar d'Alene Greyhound Park, punning themselves for 20 seconds of entertainment.

An unlucky four-legged lady, a born insect on the track and unfit as a pet, was taken from her wooden crate, placed on a wet floor and prepped for the "Tijuana hot plate."

A stiff wire was oiled and shoved up the dog's rear end. An alligator clip was pinched onto her hip and another wire grounded on a metal gate

Inside

■ **Good times** needed for retrad greyhounds/A18

A jolt of electricity later, the dog was dead, bagged and thrown into a pickup for the next day's run to the dump.

Four years after Conary saw that and two other electrocutions, the Tijuana hot-plate parties are over.

■ The Idaho Department of Law Enforcement and the Oregon Racing Commission are investigating dog trainer and kennel owner Gary Burman, 62.

■ Burman's racing contract here was canceled two weeks ago because of the Idaho investigation, which was bolstered when another trainer, Rory Bracken, passed a lie-detector test about seeing an electrocution.

Continued **Greyhounds/A18**

Greyhounds: Park 'the Auschwitz of greyhound tracks'

Continued from A1

■ The National Greyhound Association is following the investigations to determine whether Burman should be banned for life from racing in the United States. Since 1980, 72 people in the greyhound business have been censured by the NGA, most of them for abuse.

■ Several trainers and greyhound welfare authorities say abuse at the Post Falls track by other trainers is widespread. Dogs have been shot, had their throats slashed and been beaten, they say, and kennel conditions are inhumane.

Track executives won't comment on the investigation because it is ongoing and because they fear lawsuits.

In an interview with The Spokesman-Review on Sept. 1, his last racing day here, Burman denied any wrongdoing.

"Why the hell should I go around killing dogs?" he asked. "I'm deathly against putting dogs down."

Hours later, Burman packed and left. He told neighbors he was moving to Kansas.

Investigator Tom Beal has submitted his findings against Burman to the Idaho Racing Commission, the agency that regulates dog and horse racing. Sources say the commission is mulling a lifetime ban.

Al May, Coeur d'Alene Greyhound Park's operations manager, says the track will be absolved of wrongdoing.

The track, May says, has little control over what handlers do after-hours on property they lease. Between 12 and 15 trainers are hired on a contractual basis and are not track employees, he adds. Burman owned Axel Greyhounds.

"I've come to work every week this year and worked my butt off to see that greyhound welfare and greyhound racing can coexist," May says.

Other trainers and greyhound adoption agents whose experiences here date back to the track's 1988 opening say Burman's abuse is a small part of inhumane conditions and corruption at Coeur d'Alene Greyhound Park.

"It's the Auschwitz of greyhound tracks," says Conarty, 40, who moved to Colorado in 1992 to start over. "That's where the dogs go to be tortured. They can't run anywhere else."

■ ■ ■

Trainer Rory Bracken might be his own worst enemy.

The wiry Irishman's brogue is thicker than

the head on a Guinness Extra Stout and, when coupled with his animated personality, intimidates many around him.

Bracken was suspended from racing for one day last month after shoving a teenager who operates the stuffed rabbit that lures dogs around the track. He claims he actually was suspended for four days without a hearing, so he promptly pulled his dogs off the track.

Management canceled his racing contract two weeks ago, claiming Bracken cost the track bettors by reducing the number of dogs available to race. To management, it was as if Bracken, 35, had called in sick for a week and then gone fishing.

But before Bracken got sideways with management, he told state investigator Beal about watching Burman electrocute one of his dogs.

Bracken, according to the racing commission, passed a polygraph.

The dog's name was Queen of the Ring. She was too slow to run at Coeur d'Alene Greyhound Park, a track designed for breaking in young racers or as the finish line for older dogs slowing down.

Queen of the Ring was too spooked to make a good pet so Burman ordered Bracken, his assistant at the time last December, to go get her.

"He zapped her," says Bracken, who later bought his own kennel, Celtic Racing Kennel. "Then he zapped her again. Then we took her to the Ramsey Road landfill."

Bracken says within a week he reported the killing to the track's chief racing judge, C.L. "Chick" Schomburg, who is employed by the Idaho Racing Commission.

Schomburg denies Bracken's claim.

When Schomburg never got back to him, Bracken says his conscience compelled him to participate in the state investigation.

That's when, he says, his troubles began with track management.

"I don't want to hurt the dog business or the industry," Bracken says. "I'm looking for justice. It's not a vendetta. I was always taught what right and wrong was."

"I'm Irish, and I'll fight to the end for what's right. I'm not going to be intimidated."

■ ■ ■

In the summer of 1991, Conarty says his conscience was getting to him, so he risked his racing career to go undercover to gather evidence.

Looking for a home

The majority of greyhounds no longer fit to race at Coeur d'Alene Greyhound Park wind up in happy homes. The total was 760 last year.

More families are needed to adopt these animals.

For more information, call:

■ Greyhound Pets of America in Otis Orchards at (509) 927-8002 or 1-800-368-1472.

■ Greyhound Pets Inc. in Coeur d'Alene at (208) 765-3115.

He decided to watch those Tijuana hot-plate parties he heard Burman and another trainer brag about.

After losing his racing contract later for what he says was blowing the whistle on abuse and mismanagement, Conarty wrote a letter dated Nov. 26, 1992, to the Kootenai Humane Society.

It mentioned electrocutions, shootings and throat slashings of greyhounds. Conarty says he also saw another trainer take a claw hammer and beat to death six puppies, the offspring of a greyhound who mated with a fellow racer — a taboo in the industry, he says, because such dogs can't be registered.

Pete Nikiforuk, executive director of the Kootenai Humane Society, says he took Conarty's complaints to track management and the racing commission, both of whom deny it.

"They laughed at it," Nikiforuk says. "I can't get anywhere with them."



Earlier this year, members of a greyhound adoption group based in Otis Orchards were pained over continued rumors of animal abuse.

Greyhound Pets of America is solely concerned about greyhound welfare and does not take a position for or against racing. Greyhounds, its members say, are born to run

and love it more than anything else.

But rumors of Burman's electrocutions were reaching GPA member Sandi Babcock. There is no need for trainers to kill their dogs here, she thought, because the track pays to have it done by pain-free, lethal injection.

While state law doesn't say electrocutions are illegal, it does say animals can't be killed with "intentional and malicious infliction of pain." Electrocutation is painful.

Babcock began her own investigation and got signed affidavits from one dog trainer and confirmation from two others of Burman's cruelty.

"My only conclusion is an atrocity is happening in the kennels and my conscience can no longer rest," Babcock wrote Feb. 16 to the National Greyhound Association.

Babcock also hired Spokane private investigator Sandra Brewer. Three months later, on April 14, Brewer caught a break.

An employee at the Ramsey Road dump called to say Burman had just left. He had dropped off a dead dog and said it was a pet

that had been hit by a car.

The carcass was driven to Washington State University. A forensic pathologist found the cause of death to be kidney disease but would not rule out electrocution, which is difficult to determine. The doctor found no evidence of trauma, however, which would contradict Burman's hit-by-a-car claim. The dog was no pet, either. The ear tags confirmed it was SR Casper, a racer.

Dr. D.M. French did find something disturbing: SR Casper had been mutilated, a long swath of skin removed from the shoulders to the hips by a sharp instrument. Nobody can explain why.

Unknown to the Babcocks, fellow greyhound adoption agents Robin and Jim McKee were writing Idaho Gov. Phil Batt and the racing commission about alleged atrocities. The April 4 letter, which also alleged corruption, incompetence and mismanagement, sparked the state investigation.

"I finally got sick of what was going on," Robin McKee says.

McKee requested in her letter that the state keep her anonymous to track management and the state's racing judges there so she wouldn't be black-balled. The first thing the investigator did was give McKee's signed complaint to the track. McKee says authorities never were interested in targeting anyone except Burman.

About the same time, a disgusted dog trainer quit the business and moved to Las Vegas.

On June 27, Steve Bergeron, 1994's leading winner at Coeur d'Alene Greyhound Park, sent Beal, the state investigator, a three-page complaint. He had mailed the same complaint to Coeur d'Alene police on April 18 but got no response.

"I witnessed continuous and daily cruelty to greyhounds by most kennel personnel," wrote Bergeron, 37. "I fought with the track management and state Racing Commission constantly to get them to enforce rules and stop this from happening. I was not successful."

Bergeron says Beal never called him.

May, the track's top manager, blames many of the allegations on disgruntled former trainers. As for taking five years to address Burman, May says, "I think anybody's entitled to their due-process rights."

The Greyhound Protection League in Palo Alto, Calif., doesn't like any greyhound racing tracks. But founder Susan Netboy says there is enough evidence of abuse at Coeur d'Alene Greyhound Park that it should be closed.

"The American public is no longer willing to support entertainment that kills its athletes," Netboy says. "It's a blood sport."

Aging greyhounds put on 'Tijuana hot plate,' trainers say

Regulators investigate allegations that dogs killed amid party atmosphere

By J. Todd Foster
Staff writer

POST FALLS — Four years, and greyhound dog trainer Larry Conarty can't shake the nauseating memories.

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A stiff wire was oiled and shoved up the dog's rear end. An alligator clip was pinched onto her lip and another wire grounded on a metal gate.

Inside

■ Good business needed for retired greyhounds/A16

A jolt of electricity later, the dog was dead, bagged and thrown into a pickup for the next day's run to the dump.

Four years after Conarty saw that and two other electrocutions, the Tijuana hot-plate parties are over.

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Continued Greyhounds/A16

HOUSE COMMITTEE ON ENVIRONMENT AND ENERGY

May 30, 1997
1:00 P.M.

Hearing Room E
Tapes 108 - 110

MEMBERS PRESENT: Rep. Leslie Lewis, Chair
Rep. Frank Shields, Vice-Chair
Rep. Mike Lehman
Rep. Dennis Luke
Rep. Mark Simmons

MEMBER EXCUSED: Rep. Michael Fahey
Rep. Jim Welsh

STAFF PRESENT: Judith Gruber, Policy Analyst
Pat Zwick, Policy Analyst
Marjorie Taylor, Administrative Support

MEASURE/ISSUES HEARD: SB 588 Public Hearing
SB 185 Public Hearing
SB 543 Public Hearing and Work Session
HB 3640 Work Session
SB 185 Public Hearing

These minutes are in compliance with Senate and House Rules. Only text enclosed in quotation marks reports a speaker's exact words. For complete contents, please refer to the tapes.

<u>Tape/#</u>	<u>Speaker</u>	<u>Comments</u>
TAPE 108, A		
003	Chair Lewis	Calls the meeting to order at 1:20 p.m. and opens a public hearing on SB 588.
<u>SB 588 PUBLIC HEARING</u>		
022	Carey Thiel	Animal Advocate. Expresses opposition to SB 588. Describes concerns related to the inclusion of greyhound raising and kenneling in the bill. Suggests that the raising of greyhounds is not a farm activity. (EXHIBIT A)
074	Rep. Lehman	Asks if any kenneling operation qualifies for farm use regardless of the breed.
076	Thiel	Indicates that they are allowed on farmland but not given tax breaks.
087	Rep. Lehman	Asks if there is a difference between raising retrievers and greyhounds if the bill is approved.
089	Thiel	There will be a difference because there will only be a farm use assessment for the purposes of raising and breeding racing greyhounds for profit.

- 094 Rep. Lehman Asks if there would be a difference if the greyhounds would not be used for racing purposes.
- 096 Thiel Answers affirmatively. Explains that the bill is intended for the racing industry.
- 107 Maryann Melvin Representative, People for Animal Rights. Expresses opposition to the bill. Explains that passage will subsidize an industry that is cruel to animals.
- 150 Greg Zerzan Representative, Oregon Greyhound Breeders Association. Asks that all members of the work group come forward for testimony. **(EXHIBIT B)**
- 165 Don Schellenberg Representative, Oregon Farm Bureau. Explains progress of the bill.
- 180 Ron Eber Representative, Department of Land Conservation and Development. Explains provisions of the bill. Indicates that land used for breeding, kenneling, and raising greyhounds would qualify for special land use assessments. **(EXHIBIT C)**
- 239 Chair Lewis Asks if the non-residential buildings related to farm use have been added to the currently employed definition.
- 243 Eber Answers affirmatively. Describes where the authorization is given. Continues to describe qualifications for farm use.
- 269 Chair Lewis Asks if "smaller operation" is related to the square footage of the facility
- 272 Eber Answers affirmatively.
- 274 Eber Provides clarification about commercial activities in farm use zones. Describes the provisions relating to county fair grounds on farm land.
- 303 Chair Lewis Asks about the fairgrounds provisions in relation to Lane and Washington Counties.
- 306 Eber Indicates that there is no need for the provisions in Lane and Washington Counties.
- 309 Eber Explains that parcels can't be divided. Describes more provisions related to farm use and by products.
- 376 Chair Lewis Describes language included in the -A5 amendments.
- 382 Schellenberg Is not familiar with -A5 amendments. Indicates that the Association of Oregon Counties did express concern about kenneling activity. Describes amendments suggested by the counties.

TAPE 109, A

- 004 Rep. Luke Suggests that the counties need to offer amendments for themselves.
- 007 Chair Lewis Verifies that Art Schlack is not available.
- 016 Schellenberg States that the Farm Bureau is not taking a position in favor or opposition to the bill.
- 022 Greg Zerzan Explains why the greyhound amendment was added to the bill.
- 040 Rep. Luke Clarifies that horse breeders that breed for racing get the same tax assessment break that the greyhound breeders would.
- 043 Zerzan Answers affirmatively.

- 044 John McCulley Representative, Oregon Fairs Association. Describes the provisions included in the bill that are related to fairgrounds. **(EXHIBIT D)**
- 064 Rep. Shields Asks what has happened with exclusive farm use lands that belong to fairgrounds.
- 068 McCulley Indicates that the land has been idle.
- 071 Rep. Shields Verifies that the land is not being used as farmland now.
- 072 McCulley Answers affirmatively.
- 073 Rep. Luke Asks if fairgrounds will have to make up for back property taxes if they are allowed to expand on exclusive farm use land.
- 076 McCulley Explains that county owns the land right now and taxes are not currently assessed on the property.
- 080 Rep. Luke Asks if it is private property that the county has taken back.
- 081 McCulley Doesn't know how the county got the property.
- 082 Rep. Luke Explains that fair boards in Deschutes County.
- 086 McCulley Indicates that the boards are divisions of the counties.
- 091 Dave Hunnicutt Representative, Oregonians in Action. Expresses support for SB 588. Describes the need for value added processing on farmland. Explains provisions related to product processing on farm land. Expresses one concern with the bill. **(EXHIBIT E)**
- 133 Schellenberg Understands the concerns of Mr. Hunnicutt, but suggests that most farmers buy products retail and sell them wholesale.
- 157 Chair Lewis Closes the public hearing on SB 588 and opens a public hearing on SB 185. Testimony was presented to the committee. **(EXHIBIT F)**

SB 185 PUBLIC HEARING

- 198 Lydia Taylor Deputy Director, Department of Environmental Quality (DEQ). Suggests that the committee hear testimony from the Department of Administrative Services first. **(EXHIBIT G)**
- 202 Patricia O'Sullivan Statewide Legislative Manager, Department of Administrative Services. Explains the history of the conflict related to the Sanitarians Board. Expresses support for SB 185. States that the DEQ staff is qualified to do their jobs.
- 232 Rep. Luke Asks the origin of the -1 and -2 amendments.
- 235 O'Sullivan Indicates that the -2 and -3 amendments are from the Sanitarians Board.
- 244 Rep. Luke Asks who brought forward the amendments.
- 246 O'Sullivan Does not know.
- 251 Judith Gruber Policy Analyst, States that the -2 amendments were brought forward at the request of the Sanitarians Board and the -3 amendments were introduced by the League of Oregon Cities.
- 264 Lydia Taylor Explains the purpose of the bill. Agrees that registration is appropriate for some workers, but not everyone. Indicates that they tried to find a resolution to the problem. States that there is no evidence to indicate

- 207 Chair Lewis Describes the provisions of the -A3 amendments.
- 211 Chair Lewis **Hearing no objections, declares the motion CARRIED.**
- 212 Chair Lewis Closes the work session on HB 2645 and opens a work session on SB 588.

SB 588 WORK SESSION

- 229 Chair Lewis Verifies that the -A6 amendments were adopted at a previous meeting. Indicates that the -A7 amendments assume the adoption of -A6.
- 238 Art Schlack Land Use Specialist, Association of Oregon Counties. Describes the provisions of the -A7 amendments.
- 257 Ron Eber Representative, Department of Land Conservation and Development. Verifies the provisions of the -A7 amendments.
- 283 Rep. Luke Asks who supports the bill.
- 286 Don Schellenberg Representative, Oregon Farm Bureau. Expresses support for the -A7 amendments and the bill.
- 289 Schlack Expresses support for the bill and amendments.
- 290 Eber Expresses support for the bill and amendments.
- 291 Rep. Luke Asks if 1000 Friends of Oregon supports the bill.
- 295 Rep. Lehman Asks if there is a conflict with allowing kenneling on farmland.
- 308 Schellenberg States that there is no conflict if the dogs don't cause problems.
- 313 Rep. Luke Indicates that he would rather have greyhounds raised on farms than in the city.
- 319 Schellenberg Indicates that the bill does not provide for the racing of dogs, just the training.
- 325 Eber Agrees that the bill will create an interesting situation in the "right-to-farm" laws.
- 336 Rep. Luke Discusses the "open-range" laws.
- 342 Rep. Lehman Asks if the bill makes a distinction between raising chihuahuas and racing greyhounds.
- 348 Eber Indicates that the animal husbandry laws allow for the raising of any animal in a farm zone.
- 362 Rep. Lehman Verifies that the bill equates the raising of racing greyhounds to that of other breeds and animals.
- 366 Eber Answers affirmatively.
- 369 Rep. Lehman **MOTION: Moves to ADOPT SB 588-A7 amendments dated 6/4/97. (EXHIBIT B)**
- 374 Chair Lewis **Hearing no objections, declares the motion CARRIED.**
- 375 Rep. Lehman Asks the opinion of 1000 Friends of Oregon.
- 383 Blair Batson Representative, 1000 Friends of Oregon. Explains that 1000 Friends does not support or oppose the bill.
- 393 Rep. Lehman **MOTION: Moves SB 588 to the floor with a DO PASS AS**

AMENDED recommendation.

TAPE 114, A

VOTE: 6-0**AYE:** In a roll call vote, all members present vote Aye.**EXCUSED:** 1 - Welsh

009 Chair Lewis

The motion CARRIES.

011 Chair Lewis

REP. FAHEY will lead discussion on the floor.

Closes the works session on SB 588 and reopens the work session on SB 377.

SB 377 WORK SESSION

014 Nan Evans

Representative, Oregon Parks and Recreation Department. Explains that all volunteers are covered by state insurance for liability. Indicates that the Department makes a blanket payment to Worker's Compensation to cover volunteers. States that claim rates are extremely low.

026 Rep. Lehman

Verifies that the Worker's Compensation plan covers medical expenses only.

036 Rep. Lehman

MOTION: Moves SB 377 to the floor with a DO PASS recommendation.**VOTE: 6-0****AYE:** In a roll call vote, all members present vote Aye.**EXCUSED:** 1 - Welsh

040 Chair Lewis

The motion CARRIES.

045 Chair Lewis

REP. SIMMONS will lead discussion on the floor.

Closes the work session on SB 377 and adjourns the meeting at 2:00 p.m.

Submitted By,

Marjorie Taylor,
Administrative Support

Reviewed By,

Pat Zwick,
Policy Analyst**EXHIBIT SUMMARY****A - HB 2645, -A3 amendments, Committee Staff, 2 pp.****B - SB 588, -A7 amendments, Committee Staff, 2 pp.**

HOUSE COMMITTEE ON ENVIRONMENT AND ENERGY

June 11, 1997
1:00 P.M.

Hearing Room E
Tape 119

MEMBERS PRESENT: Rep. Leslie Lewis, Chair
Rep. Frank Shields, Vice-Chair
Rep. Michael Fahey
Rep. Mike Lehman
Rep. Dennis Luke
Rep. Mark Simmons
Rep. Jim Welsh

STAFF PRESENT: Pat Zwick, Policy Analyst
Marjorie Taylor, Administrative Support

MEASURE/ISSUES HEARD: SB 588 Work Session
HB 2645 Work Session
SB 902 Work Session
SB 431 Work Session
SB 1169 Work Session

These minutes are in compliance with Senate and House Rules. Only text enclosed in quotation marks reports a speaker's exact words. For complete contents, please refer to the tapes.

<u>Tape/#</u>	<u>Speaker</u>	<u>Comments</u>
TAPE 119, A		
003	Chair Lewis	Calls the meeting to order at 1:43 p.m.
<u>SB 588 WORK SESSION</u>		
006	Rep. Luke	MOTION: Moves to SUSPEND the rules for the purpose of RECONSIDERING the vote on SB 588. VOTE: 5-0 AYE: In a roll call vote, all members present vote Aye. EXCUSED: 2 - Fahey, Welsh
030	Chair Lewis	The motion CARRIES .
037	Rep. Luke	MOTION: Moves to RECONSIDER the vote by which SB 588 was sent to the floor with a DO PASS AS AMENDED recommendation.
042	Chair Lewis	Explains why the bill is up for reconsideration.
054	Pat Zwick	Policy Analyst. Explains other concerns about the bill.
059	Chair Lewis	Reminds the committee that everybody loved the bill the first time. VOTE: 7-0
077	Chair Lewis	AYE: In a roll call vote, all members present vote Aye. The motion CARRIES .

085 Chair Lewis Closes the work session on SB 588 and opens a work session on HB 2645.

HB 2645 WORK SESSION

086 Rep. Luke **MOTION: Moves HB 2645 BE REFERRED AS AMENDED to the committee on RULES AND ELECTIONS without recommendation as to passage.**

098 Pat Zwick Policy Analyst. Reminds the committee that they adopted the -A3 amendments during a previous meeting.

VOTE: 6-1

AYE: 6 - Fahey, Lehman, Luke, Simmons, Welsh, Lewis

NAY: 1 - Shields

118 Chair Lewis **The motion CARRIES.**

119 Chair Lewis Closes the work session on HB 2645 and opens a work session on SB 902.

SB 902 WORK SESSION

120 Rep. Luke **MOTION: Moves SB 902 BE REFERRED to the committee on RULES AND ELECTIONS without recommendation as to passage.**

VOTE: 6-1

AYE: 6 - Fahey, Lehman, Luke, Simmons, Welsh, Lewis

NAY: 1 - Shields

126 Chair Lewis **The motion CARRIES.**

127 Chair Lewis Closes the work session on SB 902 and opens a work session on SB 431.

SB 431 WORK SESSION

129 Rep. Luke **MOTION: Moves SB 431 BE REFERRED to the committee on RULES AND ELECTIONS without recommendation as to passage.**

VOTE: 6-1

AYE: 6 - Fahey, Lehman, Luke, Simmons, Welsh, Lewis

NAY: 1 - Shields

140 Chair Lewis **The motion CARRIES.**

142 Chair Lewis Closes the work session on SB 431 and opens a work session on SB 1169.

SB 1169 WORK SESSION

150 Rep. Welsh **MOTION: Moves SB 1169 BE REFERRED to the committee on RULES AND ELECTIONS without recommendation as to passage.**

VOTE: 4-3

AYE: 4 - Luke, Simmons, Welsh, Lewis

NAY: 3 - Fahey, Lehman, Shields

163 Chair Lewis **The motion CARRIES.**

165 Chair Lewis Closes the work session on SB 1169. Stands the committee at ease.

SB 588 WORK SESSION

- 210 Chair Lewis Opens a work session on SB 588. Suggest that there be conceptual amendments to the bill.
- 218 Rep. Luke **MOTION: Moves to FURTHER AMEND the SB 588-A10 amendments dated 6/11/97 by deleting lines 1 and 2 on page 1.**
- 224 Ron Eber Representative, Department of Land Conservation and Development. Suggests another possible amendment.
- 234 Chair Lewis Indicates that the conceptual amendment will be ok.
- 250 Chair Lewis **Hearing no objections, declares the motion CARRIED.**
- 251 Rep. Luke **MOTION: Moves to ADOPT SB 588-A10 amendments dated 6/11/97 as FURTHER AMENDED. (EXHIBIT A)**
- 254 Chair Lewis **Hearing no objections, declares the motion CARRIED.**
- 256 Rep. Luke **MOTION: Moves SB 588 to the floor with a DO PASS AS AMENDED recommendation.**
- VOTE: 6-0**
- AYE:** In a roll call vote, all members present vote Aye.
- EXCUSED: 1 - Simmons**
- 265 Chair Lewis **The motion CARRIES.**
- 275 Chair Lewis **REP. FAHEY will lead discussion on the floor.**
- 286 Chair Lewis Expresses appreciation to the committee members and staff for a great legislative session.
- Adjourns the meeting at 2:20 p.m.

Submitted By,

Marjorie Taylor,
Administrative Support

Reviewed By,

Pat Zwick,
Policy Analyst**EXHIBIT SUMMARY**

A - SB 588, -A10 amendments, Committee Staff, 1 p.

KELL, ALTERMAN & RUNSTEIN, L

TED E. RUNSTEIN
LEE DAVIS KELL, CPA*
WAYNE D. PALMER
LLOYD R. SUMMERS
WILLIAM DICKAS
GARY P. COMPA‡
CHARLES R. WILLIAMSON
MARY ELLEN PAGE FARR
ERIC SOGGE
LARRY J. BRANT***‡
THOMAS J. MATSUDA**
DEAN N. ALTERMAN

DANA L. BARNES
MARIANNE E. BRAMS, CPA
NICHOLAS FISH*****
AMY OATFIELD HANSEN****
ROBERT E. KABACY***
JAMES H. KYUNG***
THOMAS R. RASK III
GREGORY P.J. ZERZAN

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RAYMOND M. KELL
(1911-1991)
CLIFFORD B. ALTERMAN
(1925-1995)

ALSO ADMITTED IN
* CALIFORNIA
** HAWAII
*** WASHINGTON
**** MICHIGAN
***** NEW YORK
‡ LL.M. IN TAXATION

TESTIMONY OF GREGORY P.J. ZERZAN FOR THE
OREGON GREYHOUND BREEDERS ASSOCIATION

BEFORE THE HOUSE ENVIRONMENT AND ENERGY COMMITTEE

REGARDING SENATE BILL 588

MAY 30, 1997

Senate Bill 588 is intended to correct a flaw in the Oregon Tax Court's interpretation of land use and tax law which has denied greyhound breeders the tax deferral available for other agricultural uses such as the breeding, raising, and training of race horses. Greyhound breeders have traditionally believed they were engaged in an agricultural use in breeding, raising, and training their greyhounds for racing. In fact, the Court of Appeals held in 1989 that:

. . .kennel operations constitute "animal husbandry" and therefore come within the definition of "farm use" "Animal husbandry" is defined by Webster's Third New International Dictionary 85 (1971) as "a branch of agriculture concerned with the production and care of domestic animals." Linn County v. Hickey 98 Or App 100, 102 (1989).

In order to help promote the raising of greyhounds in Oregon, the Multnomah Kennel Club and others sought an amendment

to the state land use law in 1985 to help assure that greyhound breeding could take place in Exclusive Farm Use (EFU) zones. Thus, ORS 215.213 (1)(L) was enacted. In the case of Kang v. Dept. of Revenue, 12 OTR 407 (1993), the Oregon Tax Court held that because the legislature had specifically enumerated greyhound breeding as a use which could be permitted in an EFU zone, the legislature must have viewed that use as a nonagricultural one. A copy of this case is attached for your review.

Our amendments would reverse the Kang case and would permit greyhound breeding in other areas of the state in EFU zones in addition to the limited number of counties previously covered by the 1985 amendment.

On the Senate side we worked with a large group of people to come up with a bill that met everyone's needs. The idea is not new; in fact last session the House and Senate both passed SB 964, which, with some exceptions, was similar to the bill we are presenting today. Unfortunately, that bill was vetoed by Governor Kitzhaber for other reasons. We believe that the offending passages which earned the Governor's veto have been eliminated, and that no one has a serious problem with this bill.

Greyhound racing has a long and proud history in Oregon. The raising, breeding, and kenneling of greyhounds in our state is often a family affair involving those who have a true love for their dogs and their sport. From greyhound racing come employment for breeders, veterinarians, feed suppliers, and

KELL, ALTERMAN & RUNSTEIN, L.L.P.

employees of the Multnomah Kennel Club. But, with the onslaught of video poker and Indian casino gambling, greyhound racing is in a fight for survival. The misconstruction of the legislature's desire to recognize greyhound breeding as a type of animal husbandry included as an exclusive farm use under ORS 215.203 has not helped.

We thank you for your careful consideration of this bill.

IN THE OREGON TAX COURT

Soon C. KANG

v.

DEPARTMENT OF REVENUE

(TC 3258)

Plaintiff owned property which he used to breed, kennel and train greyhounds. The county assessor disqualified the land from special farm use assessment. The court found the specific provision in ORS 215.213(1)(L) for the breeding, kenneling and training of greyhounds excludes that activity from the legislature's definition of farm use as found in ORS 215.203(2).

Property taxation - Farm use assessment

1. Any use of land which does not fall within the legislature's narrow definition of farm use does not qualify for special assessment under ORS 308.370(1). See ORS 215.203(2).

Property taxation - Farm use

2. The specific provision in ORS 215.213(1)(L) for the breeding, kenneling and training of greyhounds excludes that activity from the legislature's definition of farm use found in ORS 215.203(2).

Trial was held March 8, 1993, in the courtroom of the Oregon Tax Court, Salem.

Rodney C. Adams, Thompson, Adams, DeBast & Helzer, Beaverton, represented plaintiff.

Ted E. Barbera, Assistant Attorney General, Department of Justice, Salem, represented defendant.

Decision for defendant rendered March 25, 1993.

CARL N. BYERS, Judge.

Plaintiff owns property in Multnomah County used for breeding, kenneling and training of greyhounds. On May 16, 1991, the assessor disqualified the land from special farm use assessment and assessed additional tax under ORS 308.399.¹ Plaintiff appealed to defendant. After hearing, defendant denied the petition and plaintiff appealed to this court.

¹ All references to Oregon Revised Statutes are to the 1989 Replacement Part.

ORS 308.370(1) provides:

"Any land which is within a farm use zone * * * and which is used exclusively for farm use as defined in ORS 215.203(2), shall, for purposes of assessment, be valued * * * at its true cash value for farm use and not at the true cash value it would have if applied to other than farm use." (Emphasis added.)

ORS 215.203(2)(a) defines farm use as:

"[T]he current employment of land for the primary purpose of obtaining a profit in money by raising, harvesting and selling crops or the feeding, breeding, management and sale of, or the produce of, livestock, poultry, fur-bearing animals or honeybees or for dairying and the sale of dairy products or any other agricultural or horticultural use or animal husbandry or any combination thereof."

Plaintiff pointed out that breeding and kenneling of dogs has been adjudicated to be "animal husbandry" and within the definition of farm use in Oregon. See *Linn County v. Hickey*, 98 Or App 100, 102, 778 P2d 509 (1989). However, the court in *Linn County* noted that this applied "in the absence of more specific legislation bearing on the subject." *Id.* Defendant argues that because ORS 215.213 lists non-farm uses that are allowed in farm-use zones, it is "specific legislation which bear[s] on the subject." *Id.*

ORS 215.213(1)(L) provides:

"(1) The following uses may be established in any area zoned for exclusive farm use.

* * * * *

"(L) The breeding, kenneling and training of greyhounds for racing in any county over 200,000 in population in which there is located a greyhound racing track or in a county of over 200,000 in population contiguous to such a county."

The parties have stipulated the issues before the court. Since there is no question that breeding and kenneling of dogs is animal husbandry, the only remaining question is:

"Does the specific authority, granted in ORS 215.213(1)(L) preclude such use from being a farm use under ORS 215.203(2)(a)?"

The court finds that it does. The legislature has, with some specificity, provided a limited definition of farm use. See ORS 215.203(2). That definition includes "animal husbandry." Generally, the breeding and kenneling of dogs might well be determined to be within the definition of farm use. However, by expressly placing that activity in the list of nonfarm uses, the legislature has determined that such use is not a farm use by its definition. By amending ORS 215.213 in 1985 to specifically provide for greyhounds in subsection (1)(L)² and to provide for other dog kennels in subsection (2)(L), the legislature made it clear that breeding and kenneling dogs was not a farm use. See Or Laws 1985, ch 583, § 1.

Plaintiff's evidence indicated that the greyhound industry had experienced inconsistent treatment in land use rulings by the various counties. It sought a legislative solution through the 1985 legislature. Plaintiff argues that it was not the purpose of the legislation to affect special farm assessment. Rather, the greyhound provision was added to ORS 215.213 as a way of getting the counties to recognize and allow greyhound breeding in EFU zones.

1. Plaintiff's view of the facts may be correct. However, it does not change the result. The legislature could have made kenneling of dogs or dog breeding an express part of the definition of farm use. It did not. Instead, it provided a limited provision for greyhound breeding in counties with populations over 200,000. It also provided a conditional use for other dog kennels. Placing both of these provisions in ORS 215.213 is a clear indication that the legislature did not view these uses as farm use. Just as farmhouses or barns might be considered farm use in a broad definition, the legislature has apparently determined that such structures should not fall within its narrow definition of farm use. Consequently, any use which does not fall within the legislature's narrow definition does not qualify for special assessment under ORS 308.370(1).

2. In conclusion, the court finds that the specific provision in ORS 215.213(1)(L) for the breeding, kenneling and

² When ORS 215.213 was amended in 1989, the greyhound provision was changed from subsection (1)(L) to subsection (1)(L) but the reference in subsection 2(L) was not corrected. See Or Laws 1989, ch 861, § 1.

training of greyhounds effectively excludes that activity from the legislature's definition of farm use as found in ORS 215.203(2). See *Fitzwater v. Dept. of Rev.*, 12 OTR 48, 51 (1991). Accordingly, the court sustains defendant's Opinion and Order No. 91-1263. Defendant to recover costs.

Carey M. Theil
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MEASURE: SB 588
EXHIBIT: A
HOUSE ENVIRONMENT & ENERGY
DATE: 5-30-97 PAGES: 1
SUBMITTED BY: Carey Theil

Testimony before House Committee on Environment and Energy regarding SB 588

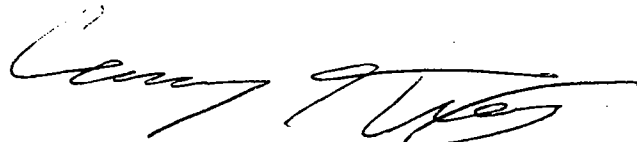
Chair Lewis, members of the committee, I thank you for the honor of being able to speak before you.

SB 588 is a huge bill relating to farming and farm use assessment laws. A section of it relates to greyhound racing. **Greyhound racing is not farming.**

Don Schellenberg, Associate Director of Governmental Affairs for the Oregon Farm Bureau, submitted in written testimony in Senate Committee Hearings, "The one concern we have, Mr. Chairman, is changing the kenneling of greyhounds from a permitted use to an outright farm use. ...Not that we expect this activity would be a problem in a farm zone, but I do not think anyone recognizes the raising and kenneling of greyhounds as a farm activity. **Our concern is that at some point there may be too many activities that are not really farm activities, that are approved for farm use assessment. If that happens, what is a very appropriate and necessary assessment system for farm land, may come crashing down from the overweight of non-farm uses.**"

Individual farmers are saying enough is enough. Greyhound racing is not farming. Carol Doty from Talent, OR wrote in the same public hearings, "There are now about 100 outright and conditional uses allowed in Oregon's farmland. No other of our natural resources comes close to being so misused and abused. **Please no more!If you feel the statutes need to be changed, reduce allowed uses on Oregon's prime farmland. Please vote against SB 588.**"

Thank you very much,



Carey M. Theil

MEASURE: SB 588
EXHIBIT: C
HOUSE ENVIRONMENT & ENERGY
DATE: 5-30-97 PAGES: 5
SUBMITTED BY: Ron Eber

Oregon

May 30, 1997

TO: The Honorable Leslie Lewis, Chair
House Committee on Environment and Energy

FROM: Richard P. Benner, Director

SUBJECT: DLCD'S TESTIMONY ON SENATE BILL 588:
*Providing for Processing and Other Uses in an EFU Zone under
ORS 215*

DEPARTMENT OF
LAND
CONSERVATION
AND
DEVELOPMENT

The Department of Land Conservation and Development supports increased opportunities for farm based processing of agricultural products in farm zones and specifically the proposed provisions in Sections 2 and 3 (pp. 4 & 8-9). However, there are some potential conflicts about the relationship of this language with the bills additions to the definition of "farm use" that should be clarified before the A-Engrossed bill is approved.

Background:

At the request of the Governor during the interim, the Department convened a representative group to review whether provisions of the exclusive farm use statute (ORS Chapter 215) dealing with the processing of agricultural products should be revised. The Report of this Agricultural Processing Group is attached for your review. The group's conclusion was that new legislation was not needed to solve any specific problems with regard to the approval of new agricultural processing facilities.

Notwithstanding the Report, the Department supports increasing the opportunities for farm based processing activities in farm zones. This is important to the very livelihood of Oregon's farmers and the preservation of Oregon's valuable farmland. However, the bill adds things "produced" for human and animal use and "facilities" for such production. Adding anything "produced" (undefined) is too broad and could allow large scale manufacturing or industrial processing and canning operations into active farming areas as well as other areas without providing county officials and local farmers the opportunity to review the proposed operation to ensure that it is compatible with the adjacent farm operations they are intended to serve. This can be remedied by deleting the words "or produced" on Line 16, page 1)

Thank you for the opportunity to testify. If you would like more information from DLCD on this matter, please do not hesitate to call Ronald Eber at 373-0090.

John A. Kitzhaber
Governor



1175 Court Street NE
Salem, OR 97310-0590
(503) 373-0050
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REPORT TO THE GOVERNOR

from the

AGRICULTURAL PROCESSING WORKING GROUP

Background

At the request of the Governor, the Department of Land Conservation and Development (DLCD) convened a representative group to review whether the provisions of the exclusive farm use statute (ORS Chapter 215) dealing with the processing of agricultural products should be revised. The Agricultural Processing Working Group was to consider whether changes were needed and, if so, to develop language to revise the statute for introduction in the 1997 Legislature. The Agricultural Processing Working Group met on July 2, 1996 to consider these issues.

Agricultural Processing Working Group

The group was comprised of the following persons: Ronald Eber, Agricultural Lands Specialist for DLCD; Senator Bob Kintigh; Lorna Youngs, Assistant Director for the Oregon Department of Agriculture; Lynn Beaton, Oregon Economic Development Department; Don Schellenberg, Oregon Farm Bureau; Art Schlack, Association of Oregon Counties, and Blair Batson, 1000 Friends of Oregon.

Results of Review

At its meeting, the group reviewed and discussed the applicable statutory provisions, an analysis of the current case law on the matter (enclosed), past legislative proposals including SB 946 (1995) and their experience(s) with the application of these provisions to specific land use proposals at the local level. No one was aware of any specific problem(s) with the existing provisions or the need for any new legislation at this time. However, the group agreed to continue to monitor the situation and if any problems should develop, refer them to the Governor's Food Processing Council for review.

Finally, the group's discussion of SB 946 did uncover an issue that deserves further comment. SB 946 proposed a description of the term "preparation" included in the definition of "farm use" in ORS 215.203. "Preparation" of a farm product is allowed as a farm use and such activities receive special farm use assessment. "Processing" activities are not a farm use and do not receive special assessment. The bill was proposed because a local assessor disqualified an activity he believed was "processing" and not the "preparation" of a farm product. The proposed language was intended to resolve a tax issue by providing special farm use assessment to the land under an owner's preparatory activities but not authorize a new nonfarm activity in a farm use zone. Unfortunately, the

bill as drafted, appeared to allow some new processing activities as outright farm uses rather than just resolve the tax issue.

In light of this, the group agreed that caution is needed when proposing amendments to the definition of "farm use" because it both defines the allowed farm uses in a farm zone and the land eligible for special farm use assessment. Had the proposed amendment been to the subdefinition of "current employment" it would not have affected the allowed farm uses and provided the intended tax benefit.

The Farm Bureau expressed interest in legislation that would extend the provision of special assessment to not only the defined "farm uses" including preparatory activities but also to those nonfarm processing activities now allowed as "commercial activities that are in conjunction with farm use" by ORS 215.283(2)(a). **The group did not take on a position on this issue.**

Recommendation

The group does not recommend any legislation at this time. Based on the group's review of the situation, there is not a problem with the provisions allowing for the processing of agricultural products in an exclusive farm use zone.

If you have any questions, please call Ronald Eber at 373-0090.

Farm Zone Provisions Related to Processing Agricultural Products

ORS 215.203: Definition of Farm Use

The definition of farm use serves a dual purpose. It identifies both the uses allowed in a farm zone and the uses which receive special farm use property tax assessment. The definition is:

As used in this section, "farm use" means the current employment of land for the primary purpose of obtaining a profit in money by raising, harvesting and selling crops or the feeding, breeding, management and sale of, or the produce of, livestock, poultry, fur-bearing animals or honeybees or for dairying and the sale of dairy products or any other agricultural or horticultural use or animal husbandry or any combination thereof. **"Farm use" includes the preparation and storage of the products raised on such land for human use and animal use and disposal by marketing or otherwise.** "Farm use" also includes the current employment of land for the primary purpose of obtaining a profit in money by stabling or training equines including but not limited to providing riding lessons, training clinics and schooling shows. "Farm use" also includes the propagation, cultivation, maintenance and harvesting of aquatic species. It does not include the use of land subject to the provisions of ORS chapter 321, except land used exclusively for growing cultured Christmas trees as defined in subsection (3) of this section or land described in ORS

The highlighted (**bold**) part of the definition is the language used to allow some value added and marketing activities in farm zones as a "farm use." This provision allows initial preparation for sale, storage and the sale (wholesale or retail) of the farm products raised on a farm. As a general rule, the preparation, storage or sale of a farm product is considered an allowed farm use when a majority of the farm products come from the subject farm. Additional farm products can also be prepared, stored or sold from other farms in the area. However, when a majority of the farm products come from neighboring farms in the area, not the subject farm, preparation and storage are treated as "commercial activities in conjunction with farm use" and "sales" are treated under the "farm stand" provisions. "Preparation" has been interpreted to include cleaning, sorting, packaging and other preparatory activities for storage or sale of farm products grown on the subject farm, Reter v. Oregon Tax Commission, 3 OTR 477 (1969), aff'd, 256 Or 294 (1970). Making a new or different product from the naturally grown farm product is "processing" not "preparation" and treated as a "commercial" activity in conjunction with farm use.

ORS 215.283(1)(s): Farm Stands If:

(A) The structures are designed and used for the sale of farm crops and livestock grown on farms in the local agricultural area, including the sale of retail incidental items, if the sales of the incidental items make up no more than 25 percent of the total sales of the farm stand; and

(B) The farm stand does not include structures designed for occupancy as a residence or for activities other than the sale of farm crops and livestock and does not include structures for banquets, public gatherings or public entertainment.

ORS 215.283(2)(a): Commercial Activities That Are In Conjunction With Farm Use

A commercial activity in conjunction with farm use must be either exclusively or primarily a customer or supplier of farm uses. Such activities must either:

- (1) Enhance the farming enterprises in the local agricultural community; or
- (2) Occur together with agricultural activities in the local community.

Suppliers are limited to those providing products and services essential to the practice of agriculture.

This use was added to the EFU zone by SB 101 in 1973. The legislative intent was to let local government decide specifically what these uses may be. Uses discussed as falling within this category included hop, nut and fruit driers; feed mixing and storage facilities; mint distilleries; rendering plants; seed processing, packing, shipping and storage facilities; slaughter houses; agricultural produce storage facilities; feed lots; hullers; and any other similar processing and allied farm commercial activities. Copies of the different versions of this use considered by the Legislature in 1973 are enclosed.

The Court cases that have established these guidelines are Craven v. Jackson County, 308 Or 281 (1989), City of Sandy v. Clackamas County, LUBA No. 94-104, November 1994 and Earle v. McCarthy, 28 Or App 539, (1977).



OREGON FAIRS ASSOCIATION

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MEASURE: SB 588
EXHIBIT: D
HOUSE ENVIRONMENT & ENERGY
DATE: 5-20-97 PAGES: 1
SUBMITTED BY: John McCulley

Statement in Support of SB 588-A

John McCulley for Oregon Fairs Association

May 30, 1997

The Oregon Fairs Association part of SB 588-A addresses a unique situation faced by a hand full of county fairs in Oregon. The fairgrounds are on property zoned for exclusive farm use and the county owns property zoned EFU that borders the fairgrounds. SB 588 would allow the county to expand the fairgrounds in EFU zones with approval of the county and adjacent EFU landowners.

The specific example that brought our amendment to the bill was that of the Jackson County Fair which is bordered by Interstate 5, the Central Point Urban Growth Boundary and EFU land which it owns. In reviewing options for expansion on the land it already owns, including coming under the Jackson County Public Park Overlay district, it was determined that the change proposed in SB 588 would be the most appropriate course of action.

As near as we can determine, about five other fairgrounds could be in a similar situation.

We urge your "aye" vote on SB 588.

OREGONIANS IN ACTION

MEASURE: SB 588
EXHIBIT: E
HOUSE ENVIRONMENT & ENERGY
DATE: 5-30-97 PAGES: 1
SUBMITTED BY: David Hunnicutt

May 30, 1997

Oregon House of Representatives
Environment and Energy Committee
State Capitol
Salem, OR 97310

Re: SB 588A

Dear Committee:

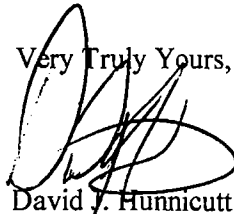
Oregonians In Action (OIA) supports the passage of Senate Bill 588A, a bill which contains a number of provisions aimed at assisting Oregon's small farmers.

OIA's interest in SB 588A centers on the addition of processing facilities to the uses allowed on lands zoned for exclusive farm use. Many counties currently allow a farmer to site a processing facility to process products raised on the farm or on surrounding farms. There is no specific provision in the Oregon Revised Statutes, however, which explicitly allows for processing facilities. As a result, OIA suggested amendments to SB 588A to expressly provide for the siting of processing facilities. Meetings were held with the Department of Land Conservation and Development, the Association of Oregon Counties, and the Oregon Farm Bureau regarding the specific language of the processing portion of the bill. Based upon those meetings, the parties agreed upon statutory language, amendments were made to the bill, and all parties testified in support of the bill. The agreed upon amendments are incorporated in the A-Engrossed version before you today.

The importance of value added processing cannot be underestimated, particularly in the case of organic farming. Many large processing facilities will not process organically grown crops, as these crops must be separated from the crops which were grown with the use of pesticides. Consequently, it is difficult for organic farmers to market their crops. SB 588A makes clear that these farmers can site a processing facility on their farmland, and allows a group of farmers to pool their resources and site one plant for the processing of all organically grown crops raised in a certain area. The processing plant is limited in size and scope, however.

OIA believes SB 588A represents a logical step in the refinement of our current land use laws, and urges support for the bill.

Very Truly Yours,



David J. Hunnicutt
Director of Legal Affairs

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May 30, 1997

MEASURE: SB 588
EXHIBIT: F
HOUSE ENVIRONMENT & ENERGY
DATE: 5-30-97 PAGES: 1
SUBMITTED BY: Committee Staff

The Honorable Leslie Lewis, Chair
House Committee on Environment and Energy
State Capitol, HR E
Salem, Oregon 97310

Re: SB 588

Dear Chair Lewis and Members of the Committee:

Senate Bill 588 is a "Christmas tree" bill with three components:

First, the bill would give greyhound racing kennels a tax break under the farm use assessment provisions of ORS chapter 308. 1000 Friends does not have a position on whether a particular facility should get a tax break. We are concerned, however, that giving farm use assessment to such nonfarm uses undermines the credibility of the farm use assessment program, and makes it more vulnerable to political attack. Since the farm use assessment provisions are a critical component of Oregon's farmland protection program, we would hate to see them diminished, or eliminated, for bona fide farmers -- because of a perception that the program was used for illegitimate purposes.

Second, the bill would authorize certain types of processing facilities in EFU zones. We believe these facilities are already authorized under existing law, and do not understand the need for the amendments.

Third, the bill would allow as a permitted use in EFU zones the expansion of certain fairground facilities. Again, this type of use is precisely what the exceptions process is for. We do not object to the use; yet we object to the method -- popular this session -- of going to the legislature, rather than the local planning office, to receive permission to site certain nonfarm facilities in the EFU zone.

Although SB 588 should have no perceptible impact on the actual use of land zoned EFU, it is also not an improvement to existing policy. In sum, 1000 Friends does not support SB 588.

Very truly yours,

A handwritten signature in black ink, appearing to be 'Blair Batson', written in a cursive style.

Blair Batson
Staff Attorney

cc: Committee Members

MEASURE:
EXHIBIT: E SB 588
HOUSE ENVIRONMENT & ENERGY
DATE: 6-2-97 PAGES: 2
SUBMITTED BY: Committee Staff

SB 588-A6
(LC 239)
6/2/97 (CC/lm/ps)

**PROPOSED AMENDMENTS TO
A-ENGROSSED SENATE BILL 588**

- 1 On page 1 of the printed A-engrossed bill, line 16, delete "or produced".
- 2 On page 2, line 12, delete "(1)(v)" and insert "(1)(w)".
- 3 In line 13, delete "(1)(t)" and insert "(1)(u)".
- 4 On page 3, line 23, after "(L)" insert "(k)" and restore "The breeding,
- 5 kenneling and training of greyhounds for racing" and insert a period.
- 6 In line 26, delete "(k)" and insert "(L)".
- 7 In line 27, delete "(L)" and insert "(m)".
- 8 In line 31, delete "(m)" and insert "(n)".
- 9 In line 33, delete "(n)" and insert "(o)".
- 10 In line 37, delete "(o)" and insert "(p)".
- 11 In line 39, delete "(p)" and insert "(q)".
- 12 In line 40, delete "(q)" and insert "(r)".
- 13 In line 41, delete "(r)" and insert "(s)".
- 14 In line 42, delete "(s)" and insert "(t)".
- 15 On page 4, line 5, delete "(t)" and insert "(u)".
- 16 In line 12, delete "(u)" and insert "(v)".
- 17 In line 15, delete "(v)" and insert "(w)".
- 18 In line 42, delete "(1)(v)" and insert "(1)(w)".
- 19 On page 5, line 29, restore the bracketed material and delete "(1)(L)" and
- 20 insert "(1)(k)" and delete the boldfaced material.
- 21 On page 8, line 10, restore "(j) The breeding, kenneling and training of
- 22 greyhounds for racing" and insert a period.
- 23 In lines 13 through 36, restore the bracketed material and delete the
- 24 boldfaced material.

- 1 In line 44, delete "(t)" and insert "(u)".
- 2 On page 9, line 9, delete "(1)(t)" and insert "(1)(u)".
- 3 On page 10, line 1, restore the bracketed material and delete the boldfaced
- 4 material.
- 5 On page 11, line 34, delete "(1)(v)" and insert "(1)(w)".
- 6 In line 35, delete "(1)(t)" and insert "(1)(u)".
- 7 In line 40, delete "(1)(o)" and insert "(1)(p)".
- 8 In line 41, restore the bracketed material and delete the boldfaced mate-
- 9 rial.
- 10 On page 12, line 4, restore the bracketed material and delete the boldfaced
- 11 material and delete "(1)(t)" and insert "(1)(s)".
- 12
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MEASURE: SB 588
EXHIBIT: B
HOUSE ENVIRONMENT & ENERGY
DATE: 6-4-97 PAGES: 2
SUBMITTED BY: Committee Staff

SB 588-A7
(LC 239)
6/4/97 (CC/lm/ps)

**PROPOSED AMENDMENTS TO
A-ENGROSSED SENATE BILL 588**

- 1 On page 1 of the printed A-engrossed bill, line 2, delete "197.065,".
- 2 On page 2, line 12, delete "(1)(v)" and insert "(1)(w)".
- 3 On page 3, line 6, restore the bracketed material.
- 4 In lines 7 through 21, restore the bracketed material and delete the
- 5 boldfaced material.
- 6 In line 26, delete "(k)" and insert "(L)".
- 7 In line 27, delete "(L)" and insert "(m)".
- 8 In line 31, delete "(m)" and insert "(n)".
- 9 In line 33, delete "(n)" and insert "(o)".
- 10 In line 37, delete "(o)" and insert "(p)".
- 11 In line 39, delete "(p)" and insert "(q)".
- 12 In line 40, delete "(q)" and insert "(r)".
- 13 In line 41, delete "(r)" and insert "(s)".
- 14 In line 42, delete "(s)" and insert "(t)".
- 15 On page 4, line 5, delete "(t)" and insert "(u)".
- 16 In line 12, delete "(u)" and insert "(v)".
- 17 In line 15, delete "(v)" and insert "(w)".
- 18 In line 42, delete "(1)(v)" and insert "(1)(w)".
- 19 In line 45, restore the bracketed material and delete the boldfaced mate-
- 20 rial.
- 21 On page 7, line 43, restore the bracketed material.
- 22 On page 10, delete lines 24 through 45.
- 23 On page 11, delete lines 1 through 8.
- 24 In line 9, delete "5" and insert "4".

- 1 In line 34, delete "(1)(v)" and insert "(1)(w)".
 - 2 In line 40, delete "(1)(o)" and insert "(1)(p)".
 - 3 On page 12, line 3, delete "6" and insert "5".
 - 4 In line 4, delete "(1)(r)" and insert "(1)(s)".
 - 5
-

MEASURE: SB 588
EXHIBIT: A
HOUSE ENVIRONMENT & ENERGY
DATE: 6-11-97 PAGES: 1
SUBMITTED BY: Committee Staff

SB 588-A10
(LC 239)
6/11/97 (CC/ps)

**PROPOSED AMENDMENTS TO
A-ENGROSSED SENATE BILL 588**

1 On page 1 of the printed A-engrossed bill, line 3, after "215.452" insert "
2 and declaring an emergency".

3 On page 2, line 11, delete ", buildings".

4 On page 12, after line 35, insert:

5 **SECTION 7. The amendments to ORS 215.203 by section 1 of this**
6 **Act apply to tax years beginning on or after July 1, 1997."**

7
