

TO: Senate Rural Communities and Economic Development Committee; Senators Arnie Roblan, Herman Baertschiger Jr., Ginny Burdick, Betsy Close, and Floyd Prozansk

FROM: John Borge, PO Box 227; Welches, OR 97067

SUBJ: SB 1575

DATE: February 12, 2014

INTRODUCTION

I am writing to express my opposition to the subject Senate Bill. Please be advised I do not live adjacent to forest zoned areas, nor am I a paid consultant for anyone regarding this proposal. I am involved in this matter because I cannot remain silent on an effort to change state laws in such a manner that will irrevocably harm the state's land use system, damage regional economies and disrupt local residential communities.

BACKGROUND FOR PROPOSED LEGISLATION

To be succinct, this proposal is a really bad idea that needs to be disclosed for what it really represents. This proposal is before you as a result of an individual who exhausted all local remedies and was denied legalizing a zoning violation due to poor business decisions. Make no mistake, this has been an ongoing zoning violation for several years, which can easily be confirmed by the records of Clackamas County . It is the result of a contractor who chose to locate his manufacturing plant to forest zoned lands adjacent to a residential subdivision without ever seeking or obtaining local (Clackamas County) authorizations or permits. (As a sidebar, it's incomprehensible in this day and age that an owner of any manufacturing facility would make a decision to relocate without ever performing the minimum due diligence of, at the very least, determining if the proposed use is allowed on the property.) This bill is an attempt to do an "end run" on the local government's (Clackamas County) Hearings Officer's denial of permitting the use on forest lands; however, most importantly, this proposal is an attempt to open up forest planned and zoned areas to industrial uses that should be confined to areas identified by local governments as planned and zoned for such uses. To contemplate changing state law that currently works just fine just to assist one individual with a zoning violation makes no sense and is bad policy.

THREE (3) REASONS WHY SB 1575 WOULD RESULT IN BAD POLICY

1. The proposed legislation would damage the economy of rural cities and rural communities. These cities and communities are resource dependent and rely upon the agriculture and forest industries to sustain their economy. They have planned and zoned areas for precisely this type of use by investing in the infrastructure of roads, sewers, water, surface water management and other facilities. These areas are the employment centers and they are desperate to have businesses such as these locate within their jurisdiction and contribute to their local economy. Passage of this proposed legislation would considerably undermine their efforts by allowing new resource dependent industries to locate outside rural employment centers...and also encourage existing industries to abandon these employment centers in search of cheaper land prices on

forest lands. The current language and definitions in the statutes and rules provide a reasonable balance; whereas, the proposed legislation upsets that balance and goes too far in permitting unnecessary businesses in our forest areas. At a time when the rural cities and rural communities of this state need our help in strengthening their economy, this bill is NOT the best way to do it. It makes absolutely no sense to intentionally create a developmental environment that would draw industries away from rural employment centers so they could locate on cheaper land. This bill goes too far.

2. The proposed legislation would seriously and irrevocably harm residential areas by increasing the frequency of conflicting uses in established rural residential areas. It has long been established that it is not wise or good planning to locate heavy industrial areas next to residential homes. The rural residential areas in the state are a patchwork of lands committed to residential subdivisions created prior to the passage of Senate bill 100 in the 1970s. These lands are typically surrounded by ag and forest lands where conflicts often arise due to dissimilar uses and activities. These conflicts are already many and it does not serve rural residential areas well to increase the potential for conflict by expanding opportunities for industries to locate on resource lands. Passage of this proposed legislation would expand the list of industrial uses that could be allowed on forest lands and increase conflicts to rural residential areas. Regardless of a person's opinion of Oregon's land use laws, it is rare to discover someone who advocates blending residential housing with heavy industrial uses...and make no mistake; this legislation is targeted directly towards heavy manufacturing uses. It's not just poor planning, it's a bad idea.

In the event common sense does not prevail in this matter, then at the very least an amendment to this bill is warranted. I would propose including minimal siting criteria to better protect owners of rural residential homes from the noise, fumes, dust, etc. impacts associated with a heavy industrial use. For example, including "on lands not adjacent to rural or urban residential zoned areas" ...or "where surrounding adjacent lands, including those across roads, exceed ten (10) acres in size" would provide distance to help mitigate impacts between these conflicting uses.

3. This proposed legislation is bad for forests and forest management practices. Not only does it expand the number of possible uses allowed in forest zones, it expands the types of uses that could be allowed in forest zones. Historically, any development has been considered incompatible in forest areas; however, through a careful process some limited development activities and uses have been found to be acceptable. Development activities and uses found to be suitable for location in forest zones are those that require close proximity to forest resources because they are involved with the primary processing of forest products, such as scaling stations, mills, etc. The language and interpretation of that language has intentionally been narrowly defined to protect our forest resources and preclude those who would abuse the system for cheaper land prices. The term "primary" is intended to allow only those uses that absolutely need to be in close proximity to the resource and should not be allowed to include

other uses simply because they make things out of logs and are looking for cheap land prices.

The proponent (Fritch), who instigated this legislation, advocates his log home building business should be permitted on forest lands because it fabricates homes out of logs. Testimony by Fritch at a Clackamas County conditional use hearing stated for the record activities at his facility include drafting designs for homes, notching logs, carving logs, applying treatment to the logs, stacking and assembling the logs into a home and finishing with dismantling and relocating the home to another location. These activities are NOT resource dependent and they go far beyond primary processing. It essentially is a manufacturing plant not dissimilar to any other cabinet or furniture business that happens to work with log materials. The current law is not broken, it works to allow those uses that genuinely are resource dependent and need to be located near forest areas. Additionally, it has been found by LUBA and the Court of Appeals to confirm what was established by the existing legislation, which provides certainty to our forest areas. This proposed bill goes too far.

Perhaps most important, please do not be persuaded these types of heavy industrial uses are dependent upon being located in forest areas due to their need to be close to forest resources because that just is not true. The fact of the matter is Fritch testified in the public hearing he needs only 10 loads of logs per year. Ten (10) loads of logs per year translates to less than one load of logs per month. It is pure folly to suggest a log home building business that requires a volume of less than one load of logs per month HAS to be located in a forest zone. In the event a log home building business can qualify, then any furniture, cabinet or other typical wood construction business could make the same claim. Make no mistake, this legislation is NOT about a resource dependent industry needing close proximity to its resources, it's all about cheaper land prices and whether or not we are going to open our forest areas to all wood working and contracting businesses.

To close, regardless of how a person feels about Oregon's land use system, it represents a process that has been tested over many years and reconfirmed by the voters of this state as representative of how we should manage our growth. Separating incompatible uses through sound judgement and planning is how the voters of this state want our lands managed. The development currently allowed in the forest zoning districts of this state, both outright and pursuant to the conditional use process, has been thoroughly vetted through the administrative process and has been confirmed through LUBA and Court of Appeals decisions. This careful and deliberate process should not be circumvented and hurried through a special session that abbreviates thorough consideration. The existing language works well and any changes to these existing provisions needs extremely careful consideration and warrants considerable time for scrutiny and testimony, which is not possible in the limited time period offered by this session.

Thank you for your time and I urge the honorable members of this Committee to vote "no" and deny moving this bill forward.