

2009 Legislative Summary

The 2009 legislative session was dominated by a weakened economy and a massive budget shortfall. Against that backdrop, 1000 Friends of Oregon worked on an ambitious agenda to strengthen protection for agricultural land and natural areas and to develop a climate-friendly transportation system. We had several successes, and will continue our work to achieve our other goals in future legislative sessions. Here's a review of our work in the 2009 legislature:

Destination Resort Reform Victory for Metolius protection, but statewide reform dies in the final hours

Metolius Basin Protections

HB 3298 declares the Metolius River Basin as an “area of critical state concern” and incorporates a management plan developed by LCDC with strong public involvement. HB 3298 protects the Metolius from the potential harmful impacts of proposed destination resorts.

This is the first time the Area of Critical State Concern designation has been applied since Oregon's land use system was adopted.

Statewide Destination Resort Reform

HB 2227 would have provided badly needed reform to the siting of destination resorts around the state. Provisions included greater protection for farm and ranch lands, updated big game habitat protections, reduced risks from wildfires, and requirements to mitigate traffic impacts from destination resorts.

HB 2227 passed the House by a narrow margin, then was amended in the Senate, where it also passed in a close



vote. A House and Senate conference committee could not reach agreement before the legislature adjourned.

During the legislative interim, we will continue our efforts to reform statewide resort policy and return resorts to their original purpose as tourist magnets, not rural gated subdivisions.

Transportation Funding A complex package with mixed results

HB 2001: The Governor's original Jobs and Transportation Act (JTA) was a comprehensive transportation package designed to raise revenue for a sustainable, multimodal transportation system while addressing climate change and other environmental goals. 1000 Friends supported the original JTA, but opposed HB 2001 after the legislature earmarked a list of road building projects that will increase sprawl and greenhouse gas emissions, cut transit and bike funding, and critically weakened a provision to require Oregon's six largest metro areas to adopt land use and transportation policies to reduce greenhouse gas emissions (“blueprint planning”), leaving it to apply only to the Portland metro area.

HB 2186: In the waning days of the session, we succeeded in amending this bill (to set a low carbon fuel standard) to create a task force to develop a bill for the 2010 session extending “blueprint planning” to the Eugene/Springfield, Salem, Corvallis, Bend, and Medford areas.

SB 34 allows TriMet and the Lane Transit District

to increase their transit payroll taxes slightly. 1000 Friends unsuccessfully supported the efforts of smaller transit districts to obtain the authority to raise revenue through a tax on employer payrolls.

Big Look Task Force Recommendations A bad bill gets improved

HB 2229, which included the recommendations of the Big Look Task Force, began as a major threat to farmland protection. The most controversial Big Look Task Force proposal authorized two or more counties to ask the Land Conservation and Development Commission to create a different definition of “agricultural land” in those counties, potentially opening the door to increased rural sprawl.

As amended, the bill allows a county to remap its resource lands, but it must use existing definitions of agricultural and forest land, and it must do so countywide. Although counties may do this under current law, the new provisions require counties that undertake this process to include exception lands in the review and complete a natural resources inventory under Goal 5. If a county chooses to shift the designation of resource land to non-resource land under this process, the county must also assess the carrying capacity of the proposed non-resource lands. The carrying capacity analysis uses a slightly modified list of carrying capacity factors developed by the Big Look Task Force, which evaluates the impacts of rural development on energy demand, fiscal impacts to the county, and on agriculture, water, and other resources.

Transfer of Development Rights New Tools for Farm and Forest Land Protection

Current law authorizes use of “transferable development rights” (TDRs) to encourage landowners to voluntarily protect resource lands, but the provision has rarely been used. **SB 763** was drafted in the hopes of attracting more state and local interest in TDRs and to make more easements protecting farmland eligible for federal matching funds under the national Farm and Ranch Land Protection Program. Oregon’s participation in the program has always been slight, even though the Farm Bill authorizes millions of dollars under this program. SB 763 allows added development in “receiving areas,” defined as land within urban growth boundaries or land within urban reserves.

HB 2228 was originally a Department of Land Conservation and Development (DLCD) bill for TDR pilot projects that would have allowed more rural residential development on farm and forest lands than allowed under current law. As amended, HB 2228 contains three sections: (1) a “transfer of development opportunity” for developers hoping to site a resort in the Metolius Basin to transfer development for an eco-resort from the Basin to high-unemployment counties, (2) a revised TDR pilot project that curbs rural residential development (the result of negotiations between 1000 Friends and DLCD), and (3) a land swap for Skyline Forest land near Bend that authorizes added rural residential development on forestland in exchange for transferring 30,000+ acres to a land trust or state agency.

Measure 49 Housekeeping and clarification

HB 3225 allows approximately 450 claims to obtain Measure 49 approval. These include claimants who filed with the state but not the local government; claims on land inside a city but outside the urban growth boundary; claimants who filed for development of more than three houses but did not pursue those claims; and claimants who made their Measure 49 claims, but submitted them as much as 30 days late. In addition, HB 3225 sets a June 30, 2010 deadline for LCDC to finish processing the “express lane” claims filed under Measure 49. HB 3225 fulfills the promise to Oregon voters that Measure 49 would operate fairly and efficiently.

SB 691: 1000 Friends worked closely with the Oregon Forest Industry Council to ensure that OFIC’s bill to clarify the claims process under Measure 49 for forest land owners maintained a narrow focus. Forest land



owners seeking to harvest trees will now operate under essentially the same process provided to Measure 49 claimants seeking to build houses on land designated for residential use. If new regulations restrict forest use and reduce value, SB 691 provides for a workable forest appraisal process, a Measure 49 waiver if financial loss is established, and transferability of the waiver.

Exclusive Farm Use Zone Protections

EFU “Omnibus” Bill

HB 3099 began as a request by 1000 Friends to find ways to reduce the 50+ non-farm uses allowed on land zoned for exclusive farm use. In 2008, an informal EFU workgroup comprised of 1000 Friends, Oregon Farm Bureau, farmers, and staff from the Oregon Department of Agriculture and DLCDC reviewed the list of uses allowed on farmland and recommended changes and deletions. HB 3099 included a subset of those recommendations. The bill was weakened through the course of the legislative process. The major benefit of the bill is to require that schools sited in the EFU zone serve primarily a rural population.

Soils Classification Analysis (HB 2761)

The EFU workgroup also identified the problem of soils analyses done at landowners’ requests by unqualified persons, purporting to show the land is not resource land. The Natural Resources Conservation Service (NRCS) prepares the initial soils classification. Current law allows landowners to provide more detail to challenge that classification. With increasing frequency, landowners are presenting a soils analysis to a county and having their land deemed nonresource land. Two problems are associated with this trend: (1) some landowners are, perhaps unwittingly, hiring people who are not qualified to do this work and appear to be paying for the soils classification results they want and (2) there are no standards in law stating who is qualified to conduct such analyses. For example, the EFU workgroup was told that in southern Oregon, septic installers are preparing soils classification results for landowners. Septic installers, among others, are not qualified to classify soils, but nothing in law makes this clear.

Soils classification is a technical science that requires specialized training and certification. Only a handful of certified soils classifiers live in Oregon. Soils

scientists who are not certified classifiers do not have the training to look at soils from a landscape level. HB 2761, introduced by Rep. Clem, required landowners to work through the state to hire a soils classifier, thus addressing both problems identified above. The bill passed the House and was referred to Ways & Means to keep the measure alive, but it died there.



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