Report gives possible fix for Measure 37

SALEM — Whether you’re for or against Measure 37, chances are you’re opposed to the latest attempt to alter it.

At hearing March 6, citizens provided the Joint Land Use Fairness Committee a steady stream of opposition testimony to Senate Bill 383. The bill would add a year to the existing six-month deadline for state and local governments to process claims filed between Oct. 15 and Dec. 5.

Approximately half of the 6,000-plus claims filed to date were filed in that window as claimants rushed to beat a regulatory deadline. SB833 also creates an express lane for claims for a single dwelling. Under the bill, claimants who enter the express lane forfeit future Measure 37 development rights.

SB833 was introduced at the request of the Association of Oregon Counties. It comes on the heels of a similar bill, Senate Bill 505, that failed to gain support from lawmakers and was never brought to a committee vote. Walter Mendezhall of Willamina, called SB833 “another attempt by the government to thwart the will of the people.”

More than 60 percent of voters supported Measure 37 in the 2004 General Election. The measure requires state and local governments to compensate eligible landowners for the loss of property value caused by a land-use regulation or waiver the regulation.

Gerard Curry of Estacada said the bill would unfairly reduce the limited time he has available to “take care of our property.”

“I’m 72 years old,” he said in a phone interview the next morning. “When you get to be that age, you start thinking about things like that.”

Mollas nurseryman Jim Gilbert, meanwhile, said SB833 doesn’t go far enough to limit development in farm zones. Under the bill, he said, governments will continue to process claims, putting his farming practices and those of his neighbors at risk.

And Peter Kenagy, an Albany farmer, said the bill has some merit but doesn’t solve the problems that have arisen since voters passed Measure 37.

He called on the committee to “just gut this bill, stuff it with a temporary hold on Measure 37 and send the issue back to voters.”

Cory Koos of Lebanon, meanwhile, said Oregon’s land-use laws “have made us bitter farmers.” She asked the committee to abandon all attempts to alter the measure.

However they change Measure 37, it should be put back on the ballot,” he said.

Richmond said Measure 37 does not pose a threat to farming in Eastern Oregon, where only a smattering of claims have been filed. And in cases where a single dwelling is proposed, the measure’s impacts will be minor.

But, he said, the impacts of Measure 37 on farming in the Willamette Valley, where the vast majority of the 6,000-plus claims have been filed — the majority of which include land divisions — will be extensive and span well beyond the actual acreage under claims.

“I will affect two or three times the amount of that acreage,” Richmond said.

“Farmers will not invest in their farms if they have subdivisions next door,” he said. “You don’t want to invest in your farms, it’s all over. It’s going to devastate farming (in the Willamette Valley).”

Under Measure 37, which was supported by more than 60 percent of voters in 2004, governments must compensate eligible landowners for the loss of property value caused by a land-use regulation or waive the regulation.

Richmond and fellow author Thomas Hetich called the last values advanced in most Measure 37 claims “monopoly value.” They used the term to show landowners have a monopoly on development under a scenario that includes today’s land-use restrictions.

A landowner didn’t have “monopoly value” in 1974, when most Oregon land-use laws were implemented, Richmond said, so under Measure 37, a landowner should not have “monopoly value” today.

One of the problems with Measure 37, he said, is the state did not act decisively after the measure passed — an indication that has cost the state tens of thousands of dollars in lawsuits. To date, approximately 153 Measure 37 lawsuits are in progress, he said.

By adopting the institute’s suggestions and providing tax breaks to landowners with vested interest in Measure 37 pre-development expenditures, Richmond said, the state can preserve farming in the fertile Willamette Valley and provide fairness to landowners.

“Today, the farm is out of the barn,” he said, “but you’re looking at a barn with the door open.”

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