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Legislators dip toes into Measure 37

By **DON JEPSEN**
for the Mail Tribune

SALEM — Although freshman state Rep. Peter Buckley opposed Measure 37 in his campaign for the House, he recognizes the measure's appeal to voters, who gave it a 61 percent majority in the November general election.

"When you can't subdivide or build a second home for your kids, the frustration is totally understandable," the Ashland Democrat said of the new state law restricting land use rules that affect property values.

Buckley and other members of Jackson County's delegation expressed their views as the Legislature opened hearings on the contentious measure, which requires waivers or compensation to landowners whose use is restricted by ordinance or state law.

Many legislators and state officials say the measure is ambiguous and needs to be fleshed out. The land-use watchdog 1000 Friends of Oregon asked the Oregon Supreme Court to declare Measure 37 unconstitutional because it grants special privileges to a select group of landowners.

"The concern I had during the campaign and still have is not throwing the baby out with the bath water — that the goal for the state is that we still have intelligent planing ... ," Buckley said. "(Measure 37) has the potential to be a very big problem."

His views were more or less reflected by two other Jackson County legislators, Rep. Sal Esquivel, R-Medford,

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and Sen. Alan Bates, D-Ashland.

Sen. Jason Atkinson, R-Jacksonville, took a more cautious approach on how far the Legislature should go in tweaking Measure 37.

There may be some "interpretation issues," but that doesn't mean changing the new law's provisions.

"I get nervous if I tinker with the will of the people," Atkinson said.

The Jacksonville lawmaker has a front-row seat on the deliberations as vice chairman of the Senate Environment and Land Use Committee, which is debating the measure.

Esquivel said implementing Measure 37 will be a challenge for counties, "and rightfully so because the counties and LCDC (state Land Conservation and Development Commission) have not worked well with their constituencies. ..."

Esquivel said that while he did not like Measure 37, he voted for it.

"This arrogant attitude by the state that we will dictate what you shall do with your property has to cease," said the Realtor and former Medford councilman.

Esquivel added that dire predictions of Measure 37 precipitating a flood of claims won't happen. "This was a fear tactic on the part of (Measure 37) opponents."

Esquivel opposes allowing waivers to be transferred with the property's sale to a developer.

Harlan E. Levy, senior attorney for the Oregon Association of Realtors, admitted during a committee hearing that language in the act regarding waivers may not have been specifically stated, but was implied.

The Legislature possibly could clarify that issue.

Bates said Measure 37 "is really unknown country, but I don't think the Legislature is going to change it substantially from what the voters passed."

He said he has concerns about some provisions, including high fees being charged by some cities and counties to file claims.

"And it appears that some of the (Measure 37) backers knew that if passed, they could put billboards up on their land along Interstate 5,"



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he said.

If those claims are made and upheld, Bates fears that compensation as opposed to waivers in those cases could cost the state highway fund tens of millions of dollars.

Don Jepsen is a free-lance writer living in Salem.

"Maybe 37 won't be a bad thing," he said. "Maybe it will address some real inequities that have happened. If counties and cities in many areas had been a little more pliable, we might not have had all these problems."

Don Jepsen is a free-lance writer living in Salem.

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