

## **SENATE ENVIRONMENT AND NATURAL RESOURCES COMMITTEE**

Wednesday, November 20, 2013

HR B, State Capitol, Salem Oregon

**Members Present: Senator Dembrow, Senator Olsen, Senator Hass, Senator Bates, Senator Hansell**

### **INFORMATIONAL MEETING**

#### **CLEAN AIR FEE STUDY (SENATE BILL 306)**

Paul Warner and Mazen Malik, Legislative Revenue Office reviewed a one page draft [outline](#) of the [Senate Bill 306](#) project, including a timeline. LRO has contracted with the Northwest Economic Research Center. A preliminary report is due December 1, 2013; a final report is due November 15, 2014. They have established a Technical Advisory Committee and hired a consultant to assist with modelling. Four legislators have provided informal feedback: Senators Hass and Boquist and Representatives Bentz and Bailey.

Dr. Jenny Liu and Jeff Renfro, Northwest Economic Research Center, Portland State University reviewed a study [outline](#) and provided a [presentation](#). A key report feature is to identify an effective administrative structure; including economic efficiency, effectiveness at reducing greenhouse gas emissions, and cost-effectiveness of the structure. She noted other factors that the study will address, including distributional impact on various household income levels and geographic regions. Mr. Renfro explained that the study will break the economy into 70 key sectors with an emphasis on key industry sectors. They are using the CTAM (carbon tax analysis model), which is a dynamic energy usage model. The price forecasts will go into REMI (Regional Economic Modelling Incorporated) and then be moved back into the economy through repatriation of the revenue to maximize positive impacts and mitigate negative impacts.

The study will also look at targeted reinvestments to specific industries and estimate the reduction in emissions from these changes. The starting point is the British Columbia carbon tax because it has been so successful; BC doesn't tax imported energy but this study will look at that option. They will run a variety of scenarios that vary with fee level and review the resulting impacts. They will also review the costs and benefits of existing laws, like the Renewable Portfolio Standard and Clean Fuels.

The committee discussed how a carbon tax would be applied.

Mr. Malik discussed the committee's question in the context of the study required in Senate Bill 306. The objective is to develop options with information from a well-informed study. He welcomed the committee's comments on the study. They could report to the committee on a quarterly basis next year if that is requested and the timing of legislative days is appropriate given the progress of the study.

## **AGRICULTURAL WATER QUALITY MANAGEMENT PROGRAM**

Katy Coba, Director and Ray Jaindl, Program Director, Oregon Department of Agriculture provided the committee with an [update](#) on the agricultural water quality program. This update is a follow up to a September 2012 presentation to this committee on a strategy to move forward with the program. The department has been working on how to do a better job to demonstrate the effectiveness of the program and how to move toward a more strategic approach and away from a complaint-based strategy. They have established two pilot areas called “strategic implementation areas” – one each in Clackamas and Wasco counties. This effort kicked off last month. The soil and water conservation districts are also working on focus areas at the local level. She expects to evaluate these pilots in a couple of years.

Mr. Jaindl provided a brief overview of the agricultural water quality program. He noted the important program partnerships at the state and local level. He discussed streamside assessments, including measuring current conditions, tracking progress and making comparisons to interim benchmarks and ambient water quality metrics (long term measurement). The sampling area will vary with the location. Because they need a constant distance to set a sampling area, they chose 35 feet. Mr. Jaindl stressed that this is not a buffer, not a regulatory area, and not a project area; it is an assessment area for purpose of sampling consistency across all partners.

Director Coba noted the resources to conduct the monitoring portion of the program; this past session, these funds were shifted to General Funds. The continuation of this funding is a huge benefit for the agency and she stressed the need for the continued funding of this effort.

## **CLEAN FUELS PROGRAM**

Paul Garrahan, Assistant Attorney-in-Charge, Oregon Department of Justice [summarized](#) the recent 9<sup>th</sup> Circuit decision in *Rocky Mountain Farmers Union v. Corey*; a challenge to California low carbon fuel standard. He provided some background on the California low carbon fuel standard. He noted that the Court didn’t address whether other states are pre-empted from adopting a low carbon standard. The Court overturned the district court decision that a low carbon standard is unconstitutional and sent it back to the district court. The Court also said that the California exemption in the federal Clean Air Act did not grant it immunity from the Commerce Clause. Mr. Garrahan anticipated it would be some months for a decision on whether to grant a motion to re-hear the case *en banc*.

Brian Doherty, Western States Petroleum Association provided the committee with a [handout](#) from Oregonians for Sound Fuel Policy. He noted that this is a complex issue and that the 9<sup>th</sup> Circuit decision was a 2-1 opinion. California raised the issue of its waiver in the Clean Air Act and Oregon argued that this waiver did not affect a clean fuels standard. The industry believes that the Court did agree that California has a waiver, but that it doesn’t relieve them from the Commerce Clause.

Dick Pedersen, Director, Oregon Department of Environmental Quality offered to provide the committee with a program update at a later meeting.

## **REPORT TO THE 77TH LEGISLATURE ON STUDY RESULTS AND RECOMMENDATIONS FROM HOUSE BILL 2105 (2013)**

Todd Cornett, Division Administrator, Energy Facility Siting, Oregon Department of Energy gave a brief overview of the Energy Facility Siting Council (EFSC) process. EFSC is seven member board appointed by the Governor. A site certificate is the end product of an EFSC process; this is a business contract between the state and the license holder.

He presented the [report](#) required by House Bill 2105 (2013) and its [Executive Summary](#). The report analyzes seven issues related to energy facility siting and makes recommendations. This report is first step in a longer process. Mr. Cornett discussed a few highlights of the report and noted four areas of recommended legislation. These are preliminary in nature and still require work with constituent groups. The timelines for implementing the recommendations are not set; the department intends to transition the report process into an annual work program over the next six months and can bring that back to the committee for further discussion in May 2014.

### **COMMITTEE DISCUSSION OF POTENTIAL COMMITTEE BILLS**

Senator Dembrow noted two potential committee bills: the first related to the Klamath discussions involving a potential consensus around temporary water rights and, second, a concept on environmental impact assessments.