

HOUSE COMMITTEE ON
ENVIRONMENT AND LAND USE

February 11, 2003 Hearing Room: HR E
8:30 AM Tapes 16 - 18

MEMBERS PRESENT: **Rep. Bill Garrard, Chair**
 Rep. Dennis Richardson, Vice-Chair
 Rep. Cliff Zauner, Vice-Chair
 Rep. Robert Ackerman
 Rep. Dan Doyle
 Rep. Mitch Greenlick
 Rep. Diane Rosenbaum

STAFF PRESENT: **Ray Kelly, Committee Administrator**
 David Peffley, Committee Assistant

MEASURES HEARD: **HB 2466 – Public Hearing**
 LC 1465 – Work Session
 HB 2273 – Work Session
 HB 2369 – Public Hearing

These minutes are in compliance with Senate and House Rules. Only text enclosed in quotation marks reports a speaker's exact words. For complete contents, please refer to the tapes.

TAPE/#	Speaker	Comments
TAPE 16, A		
003	Chair Garrard	Calls the meeting to order at 8:38 AM and opens a public hearing on HB 2466.
<u>HB 2466 – PUBLIC HEARING</u>		
010	Ray Kelly	Committee Administrator. Explains HB 2466.
014	Rep. Butler	HD 60, Harney County. Testifies that he has concerns with HB 2466. Recommends that amendments come forth in the interim in order to address the concerns of the propane industry.
041	Lana Butterfield	Northwest Propane Gas Association. Submits (EXHIBIT A) summarizing testimony in opposition to HB 2466. Emphasizes that the issue needs the legislature to re-examine the right-to-know program and its funding mechanism.
108	Chair Garrard	Recesses the public hearing on HB 2466 and opens a work session on LC 1465.
<u>LC 1465 – WORK SESSION</u>		
111	Rep. Zauner	MOTION: Moves LC 1465 BE INTRODUCED as a committee bill.
118	Rep. Greenlick	Asks for clarification as to whether this bill would add or take away from a present statute.
121	Kelly	Affirms that this bill does neither, but that it extends a statute presently in existence.

125	Chair Garrard	VOTE: 7-0
126	Chair Garrard	Hearing no objection, declares the motion CARRIED.
128	Chair Garrard	Closes the work session on LC 1465 and opens a work session on HB 2273.
<u>HB 2273 – WORK SESSION</u>		
134	Kelly	Explains the -1 amendment (EXHIBIT B) to HB 2273.
144	Wendy Johnson	Oregon Law Commission. Introduces Greg Mowe and David Kenagy.
160	Rep. Greenlick	MOTION: Moves to ADOPT HB 2273-1 amendments dated
164	Rep. Doyle	States that he thought that more issues were to be addressed by the amendment.
170	Greg Mowe	Discusses the amendment in relationship to property-owner liability.
230	Dave Kenagy	Executive Director, Oregon Law Commission. States that this amendment is the most efficient way to enforce this legislation. Believes that a comprehensive look at this issue is needed, but that this isn't the place to do so.
252	Rep. Rosenbaum	Asks what the change from shall to may would do.
263	Mowe	Asserts that the change would allow for greater judicial review. Believes that the courts are better suited to deal with this issue.
291		VOTE: 7-0
292	Chair Garrard	Hearing no objection, declares the motion CARRIED.
293		By unanimous consent, HB 2273 moves to the floor with a DO PASS AS AMENDED recommendation to be referred to Ways and Means by prior reference.
291	Chair Garrard	Closes the work session on HB 2273 and reopens a work session on HB 2466.

HB 2466 – PUBLIC HEARING

322	Jim Craven	American Electronics Association Oregon Council. Revisits the historical background of this issue. Explains how and why the hazardous substance fee came about.
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TAPE 17, A

010	Craven	Reasserts his conviction that this program should be reconsidered, whether in an amendment to HB 2466, or in another bill.
030	Rep. Ackerman	Asks for clarification on the fee schedule differential.
041	Craven	States that the differences depend on the level of potential hazard.
060	Rep. Ackerman	Asks where propane is on the matrix.
063	Craven	Defers to Bob Albers.
066	Rep. Zauner	Asks if DEQ collects the fees.
068	Craven	Responds that the Department of Revenue collects the fees.
073	Rep. Greenlick	Asks for clarification on the amendments of 402 on item 2.
080	Craven	Refers to the deleted language and points out that there is a formula to be adhered to.

088	Rep. Greenlick	Asks for further clarification on the language of the bill in regard to the fire marshal survey.
091	Craven	Defers to Bob Albers.
100	Bob Albers	Hazmet Service Manager, Office of the State Fire Marshal's Hazardous Materials Service programs. Submits (EXHIBIT C) and testifies that the present fee needs to be overhauled and replaced with a more equitable hazardous substance information survey-processing fee.
244	Rep. Ackerman	Refers to the last page of his testimony. Asks Albers to elaborate on the fee structure and why he feels that the present structure is inadequate.
260	Albers	Responds that the statute is too static and inflexible
266	Rep. Ackerman	Asks if giving the Department of Revenue more administrative discretion would make the system more equitable.
279	Albers	Agrees that Rep. Ackerman's suggestion could be a viable solution, but emphasizes that he hasn't looked at it from that angle before.
294	Chair Garrard	Asks for clarification on Section 6, repealing ORS 453.414-the local government exemption.
301	Jim Craven	Offers insight to the Tom McCall Memorial Clause. States local exemptions if state or federal statute override it.
333	Albers	Clarifies the exemption further. States that this bill has many major issues to deal with the way it's currently written.
361	Rep. Richardson	Asks if it would be better to address HB 2533 before taking any action on HB 2466.
367	Albers	Responds that HB 2466 could be addressed, but that it would require amendments.
381	Rep. Doyle	Asks for Albers' understanding regarding the impact on state revenue.
391	Albers	Responds to the dollar amount of the generated fees.
400	Rep. Greenlick	Asks if these theoretical violations actually occur.
415	Albers	Responds with the hypothetical processes in which they could occur.

TAPE 16, B

001	Rep. Greenlick	Asks if this legislation attempts to look at enforcement.
007	Albers	States that enforcement can not be proven in all cases.
016	Rep. Zauner	Asks about the collection of fees.
023	Albers	Responds to Representative Zauner's concern about the collection of these dedicated funds and that the collection of these fees is pretty good.
033	Rep. Richardson	Asks for a dollar figure as to how much money this generates.
037	Albers	Responds to the budgetary figures, which add up to about \$5.3 million generated per biennium.
045	Rep. Richardson	Asks if this legislation would change the number of payees.
049	Albers	Responds that under the new plan, the payments would be spread out over a wider range.
056	Rep. Richardson	Asks about a potential amendment addressing fee assessment.

062	Albers	States belief that less than one percent of the businesses abuse this system.
075	Chair Garrard	Informs the committee that another bill will be forthcoming on the same issue.
085	Terry Witt	Executive Director, Oregonians for Food and Shelter. Gives informational testimony on the toxic right to know. Offers to participate in a work group. Believes that we're trying to use a program for a broad system which was meant to be more specific. Attests to the inadequacies of the fee collection system.
179	Rep. Ackerman	Asks if the inequity is repealed by this bill.
188	Witt	Responds that it is, and that the reporting requirement would be changed.
196	Rep. Ackerman	Asks if this would give the Department of Revenue and the fire marshal greater administrative authority.
199	Witt	Responds that it would.
204	Glen Potter	Eugene Fire & Emergency Medical Services Department. Submits (EXHIBIT D) in support of his testimony in opposition to HB 2466, as it would cost the City of Eugene \$100,000.
268	Rep. Doyle	Asks if there are additional fees being assigned to Eugene businesses in addition to those being assessed statewide.
271	Potter	Responds that Eugene businesses are being assessed under both programs.
275	Rep. Ackerman	Asks for the basis of assessment based on quantity.
281	Potter	Clarifies the language of the bill as it relates to assessment.
288	Rep. Ackerman	Asks for clarification whether there's a court decision or an implication in the bill that precludes the city from assessing on a quantity basis.
297	Potter	Responds that the present bill assesses the fee, but that HB 2466 would preclude Eugene from doing so without a huge expense.
318	Bob Danko	Department of Environmental Quality (DEQ). States neutrality on this bill. Points out his experience dealing with the toxic clean-up program and states a willingness to serve on a work group.
353	Chair Garrard	States that the committee will postpone action until we visit HB 2533.
358	Ted Hughes	Pacific Northwest Paint Council. States the need to take another look at the fee schedule.
393	Chair Garrard	Closes the public hearing on HB 2466 and opens a public hearing on HB 2369.

HB 2369 – PUBLIC HEARING

404	Mike McCarthy	Member of the Technical Resource Committee which developed the \$80,000 test in 1994. Gives a background to the committee and their findings. Submits (EXHIBIT E) and (EXHIBIT F) in opposition to any changes to the present statute. Believes that weaker tests will destabilize the farm zones.
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027	McCarthy	Continues testimony. Believes that the present system has served farming well and that it should remain in place..
061	Rep. Richardson	States that this bill doesn't remove the \$80,000 rule, but merely adds other provisions. Asks witness to consider whether the present law might be made more fluid.
079	McCarthy	Believes that this is the best test that we have and that we shouldn't change it. The other dwellings make it difficult to farm.
090	Chair Garrard	Reminds the witness about the water issue in Klamath Falls, which serves as an example that we could use more flexibility in the system.
095	McCarthy	States his belief that perhaps those would not be classified as high-value farmland.
105	Rep. Greenlick	Asks McCarthy to comment on the significance of the split within the farming community.
121	McCarthy	Suggests that there is a split between those who are life-long farmers versus those who are not committed to long-term farming.
137	Tom Brawley	Full-time farmer, Marion County. States testimony in opposition of HB 2369, as those dedicated to the trade of farming would oppose this legislation.
234	Mark Nofziger	Testifies in opposition to HB 2369. Sees this as an issue of farmers versus people who wish to settle out in the country. Asserts that we need to protect farmland for farming, not for development.
344	Bob Leipper	Gives testimony in support of the concept of eliminating the \$80,000 rule, but is not necessarily in support of this bill. Expresses concern that he's being denied the right to build on his land.
385	Carrie McLaren	Submits (EXHIBIT G) as her written testimony in opposition to HB 2369.
397	Jim Welsh	Oregon State Grange. Testifies in support of HB 2369, as the Grange takes the official position of repealing the \$80,000 rule. Affirms that growth is inevitable and that we need to develop more land.

TAPE 18, A

010	Chair Garrard	Reminds the committee that this bill does not remove the \$80,000 rule.
018	Ron Eber	Farm and Forestland Specialist, Department of Land Conservation and Development (DLCD). States testimony in opposition to HB 2369 and submits the following exhibits: <ul style="list-style-type: none"> • (EXHIBIT H)-written testimony; • (EXHIBIT I)-the Gross Income Standard for Farm Dwellings in Exclusive Farm Use Zones; and • (EXHIBIT J)-the Statewide Goals and Administrative Rules for <div style="text-align: center;">Agricultural and Forest Lands.</div>
080	Chair Garrard	Closes the public hearing on HB 2396 and adjourns the meeting at 10:43.

EXHIBIT SUMMARY

- A – HB 2466, written testimony, Lana Butterfield, 2 pp.**
- B – HB 2273, -1 amendment, staff, 1 p.**
- C – HB 2466, written testimony, Bob Albers, 4 pp.**
- D – HB 2466, written testimony, Glen Potter, 2 pp.**
- E – HB 2369, written materials, Mike McCarthy, 1 p.**
- F – HB 2369, written testimony, Mike McCarthy, 1 p.**
- G – HB 2369, written materials, Carrie MacLaren, 15 pp.**
- H – HB 2369, written testimony, Ron Eber, 7 pp.**
- I – HB 2369, written materials, Ron Eber, 3 pp.**
- J – HB 2369, written materials, Ron Eber, 66 pp.**