HOUSE COMMITTEE ON WATER AND ENVIRONMENT

March 17, 1999 Hearing Room D

1:00 P.M. Tapes 70 -73

MEMBERS PRESENT: Rep. Jim Welsh, Chair

Rep. Jackie Taylor, Vice-Chair

Rep. Jason Atkinson

Rep. Richard Devlin

Rep. Juley Gianella

Rep. Deborah Kafoury

Rep. Jeff Kruse

Rep. Jeff Merkley

Rep. Susan Morgan

MEMBER EXCUSED:

STAFF PRESENT: Kristina McNitt, Administrator

Danielle Hamilton, Administrative Support

MEASURE/ISSUES HEARD: HB 2431 Public Hearing

HB 2627 Public Hearing and Word Session

HB 2626 Public Hearing and Work Session

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

TAPE/#	Speaker	Comments

TAPE 70, A		
004	Chair Welsh	Calls meeting to order at 1: 15 and opens public hearing.
HB 2431 PUBLIC HEARING		
005	Kristina McNitt	Administrator. Summarizes HB 2431.
008	Rep. Al King	District 44. Testifies in support of HB 2431 **(EXHIBIT A).** Supports a good statewide Toxic Right to Know (TRK) authority. Believes the Eugene TRK charter amendment is flawed. Addresses problems with the Eugene TRK charter amendments.
055	Rep. King	Discusses the statewide affects the TRK charter amendments. Comments on concerns that the TRK amendments are an attempt to limit growth in Eugene. Reiterates the importance a good statewide TRK authority.
101	Rep. Taylor	Asks Rep. King about a statements in his written testimony **EXHIBIT A.**
105	Rep. King	Clarifies that he meant it to read "city" and not "company."
109	Chair Welsh	Asks if Rep. Al King has been in communication with the Governor.
113	Rep. King	Answers that he has spoken with representatives from the Governor's Office.
120	Chair Welsh	Asks how will a statewide program help businesses in Eugene.
126	Rep. King	Answers the option of a statewide policy would give industry incentive to express their needs.
139	Chair Welsh	States that a statewide policy would not take care of the problems with the Eugene TRK charter amendment.
142	Rep. King	States that to his understanding if legislation creates a statewide program there are provisions in statute for that program to supercede Home Rule.
147	Chair Welsh	Notes that article 11 section two does not allow the legislature to repeal or amend action taken by a city.
149	Rep. King	Comments that there is still a need for a good statewide law.
152	Chair Welsh	States the goal today with HB 2431 is to provide some relief to local businesses

		in Eugene.
160	Rep. King	Comments that if Chair Welsh is saying the State has no authority to deal with a local ordinance he has no other plan, outside statewide policy.
164	Chair Welsh	States that the committee will ask Legislative Counsel (LC) what can be done.
172	Rep. King	Expresses concerns with the possibility of Eugene's TRK charter amendments being repeated in other communities.
194	Bob Danko	Department of Environmental Quality (DEQ). **(EXHIBIT B)** Discusses DEQ's background in dealing with hazardous substances and environmental data. Addresses the complexity of federal regulations on hazardous waste.
245	Danko	Comments on Oregon's hazardous substance reduction plan.
269	Anne Price	Manager of Hazardous Waste Program, DEQ. Provides overview of **EXHIBIT B.** Addresses the difficulty of reporting chemicals. Explains how DEQ's interacts with an industrial source.
330	Price	States that there is not full coverage in reporting chemicals, points out the gaps in the reporting process.
344	Chair Welsh	States it is important for the committee to understand DEQ's role in the reporting process and industry compliance.
353	Rep. Merkley	Asks if DEQ is familiar with the Eugene TRK charter amendments.
355	Danko	Answers with the overall idea, but not the details.
361	Rep. Merkley	Asks if the TRK amendments will provide additional information relating to the movement of chemicals through the environment.
367	Danko	Answers the Eugene amendments could provide addition information that would be useful, but DEQ has not seen any of the reports.
378	Rep. Devlin	Asks if Danko could comment on the usefulness of reporting what happens to chemicals in the manufacturing process.
400	Danko	Answers he is not comfortable with answering Rep. Devlin's question.
415	Price	States that there is a different purpose for tracking what happens to chemicals in the manufacturing process than is necessary for the needs of DEQ.

TAPE 71, A		
003	Rep. Merkley	Asks if a business would have to employ engineering estimates regarding how much chemical is being released into air and water.
006	Price	Answers that it may vary, depending on the program.
011	Chair Welsh	Asks if knowing the chemicals that are being used in the process is as important as knowing the emissions.
016	Danko	Answers that DEQ is primarily focused on emissions and discharges into the environment, that is not to say there is not a purpose for tracking chemicals in manufacturing.
021	Chair Welsh	Asks if the State Fire Marshalís purpose is for emergency response issues.
023	Danko	Answers the State Fire Marshals main purpose is knowledge on chemical storage.
026	Chair Welsh	Asks if the DEQ responds to clean up calls.
029	Danko	Answers yes.
030	Chair Welsh	Asks if DEQ deals with clean up related to chemical transportation.
033	Danko	Answers yes.
035	Price	States that there is a connection between what goes into the manufacturing process and what is emitted into the environment.
037	Dave Miller	TRK Program Coordinator, Oregon State Fire Marshall (OSFM). Overviews OSFMís process of monitoring hazardous substances **(EXHIBIT C).** Comments on the groups that use the information gathered by OSFM's monitoring process.
090	Miller	Continues discussing the differences between the OSFMís toxic program and Eugeneís TRK program. Addresses who is required to report. Comments on the purpose of the OSFM community right to know hazardous substance information system.
120	Miller	Provides overview of **EXHIBIT C.**
130	Rep. Morgan	Asks how the information is currently organized in terms of accessibility.

135	Miller	Explains the hazardous substance information survey process.
143	Rep. Morgan	Asks if all the pieces of data required by industry in reporting available on the internet.
147	Miller	Answers yes.
151	Rep. Morgan	Asks if OSFM has a way to categorize how many people and who is accessing the information on the internet.
158	Miller	Answers no.
166	Rep. Morgan	Asks which avenue of accessing information is most popular.
170	Miller	Answers he does not have a accurate number of which avenue is the most popular.
190	Rep. Merkley	Asks if OSFM tracks about 46,000 chemicals.
194	Miller	Answers yes.
197	Rep. Merkley	Asks if 650 of those chemicals are tracked by the EPA as they enter the water or the air.
199	Miller	Answers yes
201	Rep. Merkley	States that 650 chemicals is1.4 percent of the 46,000 total being tracked. Asks if that means 98.6 percent of the chemicals are not tracked as they enter the water or air.
203	Miller	Answers he does not have the information to answer Rep. Merkley's question.
208	Rep. Merkley	Asks if there is a system in place in Oregon to track the other chemicals that at not tracked by the EPA.
212	Miller	Answers the OSFM office is a receptor for the Toxic Release Inventory Reports.
229	Greg Green	Air Quality Administrator, DEQ. Discusses DEQ's Toxic Air Pollutants program. Overviews the purpose of the Hazardous Air Pollinates Consensus Advisory Committee (HAPCAC).
240	Chair Welsh	Asks if DEQ is identifying all hazardous air admissions.

244	Green	Explains the purpose of the HAPCAC is to identify pollutants that are most commonly found in an urban area.
260	Chair Welsh	Asks if DEQ is trying to identify those hazardous pollutant that are most harmful to humans.
270	Green	Answers yes.
292	Rep. Devlin	Asks if Green could identify some of the hazardous chemicals by name and their health impacts.
301	Green	Address some of the worst of the air pollution chemicals. Notes that many of them are produces by automobile and trucks.
304		Staff distributes **(EXHIBIT D, E).**
310	Chair Welsh	Asks Legislative Counsel about the constitutionality of making changes to the Eugene TRK charter amendments.
317	Barkofski	Legislative Counsel. States he does not believe HB 2431 is unconstitutional. Notes outside of local governmental structure Home Rule can be superceded by legislation.
378	Rep. Gianella	Asks for clarification on whether or not HB 2431 would overrule Eugeneís Home Rule.
384	Barkofski	Answers yes.
389	Rep. Kafoury	Asks Barkofski to restate his answer to Rep. Gianella's question.
395	Chair Welsh	Clarifies his question to Legislative Counsel.
TAPE 70, B		
002	Barkofski	Restates that, because Eugene's TRK charter amendments are not about governmental structure, the legislature can override Home Rule. States recent court cases have been decided in the favor of legislation.
017	Rep. Merkley	Asks if the court cases were based on another provision within the constitution or a theoretical construct that was placed into case law.
022	Barkofski	Answers the cases dealt directly with the Home Rule issue.

028	Rep. Devlin	Asks if an example of the overriding Home Rule would be legislation utilizing real-estate transfer taxes.
034	Barkofski	Answers yes.
038	Rep. Devlin	States a city, could not opt out of Oregon's land use program, because of Home Rule
041	Barkofski	Answers yes.
046	Jan Spencer	Resident, Eugene. Testifies in opposition to HB 2431. Expresses frustration with the difficulty of accessing industries chemical information. Comments that businesses operating in other states that have a similar TRK laws save money by complying with the reporting laws.
085	Spencer	Discusses the connection between pollution, the environment and human health. Addresses the importance of knowing where the chemicals originate.
115	Spencer	States that Oregon can not continue trading well being of people for business profit margin, provides an example of Hyundai.
165	Rep. Gianella	Asks where the $250,000 dollars in fines that Hyundaiís corporation paid went.
172	Spencer	Answers a small amount went to the federal treasury, a large part of it went to the attorney in the case, $75,000 dollars of it went toward the purchase of Amazon Creek, and another $75,000 went to school's in Eugene.
190	Rep. Gianella	Comments that Spencer said in his testimony that two other states have TRK programs. Asks if he said one or both of those states have higher reporting regulations than Eugene.
196	Spencer	Answers they have a higher threshold, a company can discharge more chemicals into the environment.
218	Margaret Waite	Resident of Eugene. Testifies in opposition to HB 2431. Reads testimony **(EXHIBIT F)**. States that she feels HB 2431 is unconstitutional.
261	Rep Merkley	Asks if it is possible that the Eugene TRK charter amendments are an attempt to stop development and growth.
268	Waite	Answers no.
285	Mary OíBrian	Testifies in opposition to HB 2431. Discusses the inadequacies of the current industry reporting system.

315	OíBrian	Asks the committee to wait for April 1, 1999 before making a decision on HB 2431.
385	OíBrian	States that only a very small amount of reporting in currently taking place, April 1, 1999 will uncover just the tip of the iceberg.
414	Rep. Gianella	Asks how many chemicals on the current reporting list would the average person be able to recognize.
TAPE 71, B		
002	OíBrian	Answers she does not know, but the names can be looked up in several places.
005	Rep. Gianella	Asks O'Brian to rename the chemicals that she mentioned.
009	OíBrian	States there are dozens and dozens of chemicals that the average person would not know.
012	Rep. Gianella	Asks if those chemicals could be looked up.
013	OíBrian	Answers not if they are trade names.
020	Rep. Devlin	Comments that for a program to work there has to be an educational component. Asks if a chemical was found down the road that it could cause cancer, aside from research how would the reporting program help.
036	OíBrian	Answers to change our ways. Notes that a chemical can not be correlated with a disease. Gives an example.
062	Rep. Devlin	States that under the structure of the Eugene TRK charter amendments chemicals could not be correlated to a disease.
065	OíBrian	Asks for clarification
068	Rep. Devlin	Provides and example. Asks what the Eugene TRK charter amendment achieves.
080	OíBrian	Answers a number of things: • Track actual toxic use. • Look cumulatively as to effects of chemical. • Track witch companies achieving major toxic use reduction consequences. Reiterates the importance of materials accounting.

125	Rep. Merkley	Explains -3 amendments **(EXHIBIT G).**
179	Rep. Gianella	Asks about Rep. Merkley's statement that several communities are considering Eugene's TRK amendments.
183	Rep. Merkley	Replies that he has heard that some of the other communities with significant industrial water and smoke releases are considering similar TRK amendments.
186	Rep. Gianella	Asks Rep. Merkley if he has an idea of how many communities.
191	Rep. Merkley	Answers no.
196	Tearnin Sittenfeld	Testifies in opposition to HB 2431. Discusses the possible industry cost savings in complying with the reporting process. Asks the committee to give Eugene the opportunity to be as environmentally and fiscally successful as other states with comparable laws.
250	Rep. Gianella	Asks if Sittenfeld suggested that most of the industry cost savings came from less chemical waste.
253	Sittenfeld	Answers the savings was from operating cost and being able to use less chemicals.
258	Rep. Gianella	Asks if waste was part of the savings.
265	Sittenfeld	Answers the Massachusetts law is a use reduction act, so it is a little bit different.
270	Rep. Gianella	Comments that she did not hear the business owners who testified in the 3-5-99 hearing say that the Eugene TRK reporting program would save them money.
275	Sittenfeld	Notes that they did not say they were saving money.
278	Rep. Gianella	States that she does not see how the business owners would be saving money.
283	Sittenfeld	States over the long term it will save them money.
287	Rep. Merkley	Asks if the "input-output" law in New Jersey similar to Eugene's.
	Sittenfeld	Answers yes.
290	Rep. Merkley	Asks if the Massachusetts law is the same as Eugene's.

294	Sittenfeld	Answers yes. Opines that a statewide law should be a floor, but individual communities should have the right to protect their residents as seen fit.
303	Chair Welsh	Closes Public Hearing on HB 2431 and Opens public hearing on HB 2626 and HB 2627
HB 2626 AND HB 2627 PUBLIC HEARING		
318	Rep. Lane Shetterly	District 34. Informs the committee that he is available to answers questions.
332	Rep. Kafoury	Explains the ñ1 amendments **(EXHAIBT H)**.
375	Rep. Shetterly	Address the ñ1 amendments and expresses concerns.
413	Liz Vanleeuwen	Testifies in support of HB 2626 and 2627. Explains why HB 2626 specifies certain areas of the Willamette to research. Addresses the traffic issues on the Willamette River.
TAPE 72, A		
038	Michelle Cape	Discusses why Oregon State University (OSU) was chosen to conduct the dredging research.
053	Rep. Kafoury	Asks if groups other than OSU had been contacted.
057	Cape	Answers no.
064	Rep. Kruse	States it seems OSU would get the same result as any other group.
070	Rep. Shetterly	Answers that would agree with Rep. Kruse's assumption.
082	Rep. Kruse	Comments that request for proposals (RFP) are helpful to ensure that the state is getting the best research for the cost.
094	Rep. Shetterly	States that the Oregon Water Research Institute of OSU represents all the universities and colleges in Oregon
099	Rep. Devlin	Comments that using a University to do research is very cost effective.
108	Vanleeuwen	States the main purpose for HB 2626 and 2627 is to get scientific documentation on what the real effects of dredging.

124	Rep. Gianella	States she agrees with Vanleeuwen.
129	Rep. Merkley	Asks what is the proposed cost for the -1 amendment to HB 2626.
134	John Lilly	Assistant Director, Oregon Division of State Lands (DSL). Answers DSL with have to modify the original estimate of 260,000-270,000 dollars to include the additional 65 miles of the Willamette.
154	Rep. Merkley	Asks if Lilly could describe what dredging will occur in the study.
161	Lilly	Specifies the nature of the study designated in HB 2626.
171	Rep. Merkley	Asks under HB 2626 would any dredging occur.
175	Lilly	Answers no.
178	Van Louhven	States there is not much of a point HB 2626 without the passing of HB 2627.
189	Rep. Merkley	Asks under HB 2627 how much dredging will occur.
196	Rep. Shetterly	Answers that will be determined by funding. States he believes it will be limited.
204	Cape	Comments that the amount of dredging will be decided during the study.
226	Rep. Merkley	Asks what is the cost of HB 2627.
230	Cape	Answers that last session the cost was 3 million dollars for the study and the dredging.
235	Rep. Merkley	Asks within the 3 million dollars how much dredging will be done.
240	Cape	Answers he does not know.
242	Rep. Merkley	Asks how the cost could be estimated without the knowing the amount of dredging that will be done, if the funding is the deciding factor in dredging.
245	Cape	Answers a large working group from 1997 session estimated the 3 million dollars.
251	McNitt	Notes that HB 2626 and HB 2627 do not have fiscal statements attached, because they both have subsequent referrals to Way and Means Committee.

257	Rep. Shetterly	Comments on the intent of HB 2626 and HB 2627.
274	Mike Probs	Commissioner, Polk County. Testifies on the history of his evolvement with dredging in Independence. Discusses spot dredging.
302	Rep. Devlin	Asks Rep. Shetterly asks if HB 2626 would be useful without HB 2627. Explains the question.
322	Mike Probs	States there are several purposes to research dredging. Comments on knowledge that may be gained from researching dredging during the study.
357	Rep. Shetterly	Explains the purpose of tying HB 2626 and HB 2627 together.
379	Kafoury	Asks about doing the study without the dredging.
389	Probs	Answers the study can be done without the dredging.
396	Kafoury	Asks under HB 2626 will there be any spot dredging.
403	Probs	Answers no.
412	Rep. Merkley	Stresses the important to tying HB 2626 and HB 2627.
TAPE 73, A		
008	Chair Welsh	Closes public hearing on HB 2627 and HB 2626 opens work session on HB 2626
HB2626 WORK SESSION		
031	**Rep. Kafoury**	**MOTION: Moves to ADOPT HB 2626-1 amendments dated 03/10/99.**
042	Rep. Devlin	Asks a question about point of order.
042	Chair Welsh	Clarifies point of order.
050	**Rep. Kruse**	**MOTION: Moves that the HB 2626-1 amendments be FURTHER AMENDED by deleting lines 4 through 6.**
054	Chair Welsh	Explains the effect of the deletion on lines 4-6 of the -1 amendments.

059	Rep. Atkinson	Asks if moving HB 2626 to an RFP will slow the process.
062	Rep. Kafoury	Answers if the study is designated doubt may be cast on the validity of the study.
070	Rep. Devlin	Comments that one benefit of RFP could be ideas as to what should be included in the study of dredging.
078	Chair Welsh	Asks Lilly how an RFP would effect the timeline of the study.
082	Lilly	Answers it would delay the contract about 3-5 months.
123	Rep. Kruse	Asks if RFP is added to HB 2626, will a season be lost.
125	Lilly	Answers yes.
130	Rep. Kruse	Withdrawals his previous motion.
135	Rep. Devlin	Asks if HB 2626 went to a RFP it could run the risk of not having Oregon State respond.
143	Lilly	Answers that is possible.
147	Rep. Gianella	Asks what RFP stands for.
150	Chair Welsh	Answers Request For Proposal.
155	**Rep. Atkinson**	**MOTION: Moves that the HB 2626-1 amendments be FURTHER AMENDED by deleting lines 1 through 6.**
164	Chair Welsh	Clarifies Rep. Atkinson's conceptual amendments.
170		**VOTE: 6-2** **AYE: 6 - Atkinson, Devlin, Gianella, Kruse, Morgan, Welsh** **NAY: 2 - Kafoury, Merkley** **EXCUSED: 1 - Taylor**
	Chair Welsh	**The motion CARRIES.**

175	Members	Discuss parliamentary procedure.
195	Chair Welsh	States the committee is now voting on the motion made by Rep. Kafoury.
210		**VOTE: 2-6** **AYE: 2 - Kafoury, Merkley** **NAY: 6 - Atkinson, Devlin, Gianella, Kruse, Morgan, Welsh** **EXCUSED: 1 - Taylor**
	Chair Welsh	**The motion FAILS.**
235	**Rep. Kruse**	**MOTION: Moves HB 2626 to the floor with a DO PASS AS AMENDED recommendation and BE REFERRED to the committee on Ways and Means by prior reference.**
242	Vanleeuwen	Points out that it was Rep. Shetterly's desire for HB 2626 to go to the floor before it goes to Ways and Means
250	Chair Welsh	Clarifies that HB 2626 was referred by the Speaker of the House to Ways and Means.
259	Rep. Merkley	Expresses concerns with HB 2626 and HB 2627.
290	Rep. Kruse	Comments that Oregon has gone to great length to protect the fish.
299	Rep. Morgan	Comments on a basic precept of the Oregon Plan.
319	Rep. Devlin	States the cost of $250,000 dollars is worth the amount of information that could be gathered.
340	Chair Welsh	Comments that more information on the effects of dredging is necessary.
345		**VOTE: 6-2** **AYE: 6 - Atkinson, Devlin, Gianella, Kruse, Morgan, Welsh** **NAY: 2 - Kafoury, Merkley** **EXCUSED: 1 - Taylor**

	Chair Welsh	**The motion CARRIES.**
362	Chair Welsh	Close work session on HB 2626 and opens work session on HB 2627.
HB 2627 WORK SESSION		
364	**Rep. Kruse**	**MOTION: Moves HB 2627 to the floor with a DO PASS AS AMENDED recommendation and BE REFERRED to the committee on Ways and Means by prior reference.**
369		**VOTE: 5-3** **AYE: 5 - Atkinson, Gianella, Kruse, Morgan, Welsh** **NAY: 3 - Devlin, Kafoury, Merkley** **EXCUSED: 1 - Taylor**
	Chair Welsh	**The motion CARRIES.**
373	Chair Welsh	Closes work session on HB 2627 and adjourns at 3:55.

Submitted By, Reviewed By,

Danielle Hamilton, Kristina McNitt,

Administrative Support Administrator

EXHIBIT SUMMARY

A - HB 2431, written testimony, Rep. Al King, 2 pp.

B - HB 2431, chart, Bob Danko, 2 pp.

C - HB 2431, written testimony, Dave Miller, 5 pp.

D - HB 2431, petition, staff, 5 pp.

E - HB 2431, letter, staff, 1 p.

F - HB 2431, written testimony, Margaret Waite, 1 p.

G - HB 2431, -3 amendment, Rep. Jeff Merkley, 1 p.

H - HB 2626. -1 amendment, Rep. Deborah Kafoury, 1 p.