

HOUSE COMMITTEE ON WATER AND ENVIRONMENT

March 05, 1999 Hearing Room HR D

1:00 P.M. Tapes 54 - 57

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 Informational Meeting

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 54, A		

004	Chair Welsh	Calls meeting to order at 1:03 and opens a public hearing on HB 2431.
<u>HB 2431 PUBLIC HEARING</u>		
007	Kristina McNitt	Explains and reads HB 2431.
021	Mary Alice Ford	Chair facilitator on the "Community Right to Know" task force. Testifies on the history of the task force. Discusses individuals and groups involved with the Right to Know task force. Explains some of the difficulties of the task force.
070	Ford	Discusses meetings and the different groups that participated in the in the task force hearings. Comments that because of the difficulty of not being able to reach consensus professional facilitators where hired.
120	Ford	Regrets not being able to comment on the "Right to Know" task force report. Notes it is not yet complete. Discusses the issues assigned to the task force.
152	Chair Welsh	Asks if the report will be ready in thirty days.
155	Ford	Answers most likely.
165	Lee Wilson	Attorney representing the Eugene Intergovernmental Relations Office (EIRO) (EXHIBIT A) . Introduces Glenn Potter and David Kelly.
215	Glenn Potter	Fire Marshalis Office, Eugene. (EXHIBIT B, C) Explains Eugeneis Toxic Right to Know (TRK) charter amendment. Discusses material balance accounting.
265	Potter	Continues to explain the (TRK) charter amendments. Discusses the Toxic Board and the entities involved. Notes the program cost about \$100,000 dollars.
280	Rep. Morgan	Asks Potter to expand on the reporting process.
289	Eugene	Expands on the reporting process and overviews the chemical tracking involved.
312	Rep. Morgan	Asks if the Toxics Board proscribes how the reporting program data is to be collected.
318	Potter	Answers business are allowed to collect the data the way that best suits them, but are required to report in a prescribed fashion.
328	Rep. Devlin	Asks what the reported data will be used for and how the content will explained to the general public.

334	Potter	Answers the amendment requires only that the information be made available to the public. Notes it will be accessible to the public on the World Wide Web.
340	Rep. Devlin	Asks how will the general population be able to interpret the reported information.
350	Potter	Answers a guidebook will be made available EXHIBIT C .
365	Rep. Devlin	Asks Potter about the cost of compliance.
368	Potter	Answers he is not aware of the costs.
370	Rep.Kafoury	Asks why state, federal and educational institution exempt from the charter amendment.
375	Potter	Answers to his knowledge the City of Eugene does not have the authority to regulate those entities.
380	Rep. Kruse	Asks if waste treatment facilities are included in the reporting program.
388	Potter	Answers that the charter amendment restricts itself to manufacturing enterprises.
390	Rep. Kruse	Asks if there is any concern for waste facilities.
392	Potter	Answers he is not prepared to speak to that issue.
395	Rep. Merkley	Asks for the rational behind the reporting threshold of 2,640 pounds.
397	Potter	Believes that number reflects a number used in federal compliance laws.
TAPE 55, A		
005	David Kelly	Eugene City Councilor. Testifies in opposition to HB 2431. (EXHIBIT D) Refers to the Oregon Constitution, article 11, section 2. Urges the committee to allow Eugene's experiment to continue.
040	Rep. Kruse	Asks Kelly if a community proposed a charter amendment to exclude an ethnic minority from their community, would you believe that amendment should not be interfered with.
044	Kelly	Answers no, there are clear constitutional provisions against that situation. Notes that such an amendment would have a larger impact.

051	Rep. Kruse	Comments that Eugene is one of the largest cities in Oregon and believes the TRK charter amendment will have quiet and impact.
056	Kelly	Notes that the businesses that will be affected by the reporting have not raised any issues that the TRK amendment will have a dramatic effect on their ability to do business.
062	Rep. Taylor	States the concern she has heard is companies with businesses throughout the state would have a patch-work of regulations. Asks if there is any solution for that concern.
074	Kelly	Answers a uniform state wide ordinance that matched Eugene's TRK ordinance.
087	Chair Welsh	Asks what problems existed with the state right-to-know reporting requirements before the Eugene initiative was posed.
091	Kelly	Answers he is not aware of specific instances of hiding information. Comments that as Eugene grew and industries developed there was not a sufficient level of public awareness.
099	Chair Welsh	Asks how the TRK amendment improves the environment.
104	Kelly	Answers the TRK charter amendment does not directly effect the environment, the purpose is to inform the public.
112	Chair Welsh	Asks if Kelly believes that reporting down to the pound of hazardous substance used is important to the public.
114	Kelly	Answers depending on the chemical it could be significant.
128	Chair Welsh	Asks the Oregon's TRK reporting was partly for emergency response.
133	Kelly	Reefers Chair Welsh's question to Potter. Reiterates that the people of Eugene voted for the more stringent TRK charter amendment.
139	Potter	Concurs with Kelly's statement about the voters of Eugene.
144	Rep. Kruse	Asks if the City of Eugene is reimbursing business for the extra amount of reporting necessary to provide the public with this information.
149	Kelly	Answers no.
155	Rep. Kruse	Comments as a matter of principle that the businesses should be compensated for

		their costs.
167	Rep. Morgan	Asks if the information program allows the people who are accessing the information to pay a charge to cover the cost of the system.
170	Kelly	Answers no.
176	Chair Welsh	Asks if the Toxics Board is taking the TRK charter amendment at face value, letter by letter.
178	Potter	Refers to EXHIBIT C . Reads two sentences from page nineteen.
195	Chair Welsh	Asks where in the TRK charter amendment are Hazardous Substance Tracking Instructions, EXHIBIT C .
198	Potter	Answers the Toxics Board is responsible for enforcement of violations.
203	Chair Welsh	Reads Article 8, under enforcement, in the TRK charter amendment section 8.2 under penalties and 8.3. Asks if any violator could be taken to court.
210	Potter	Answers the Toxics Board may be taken to court.
215	Kelly	Clarifies the Toxics Board may be taken to court, not the reporting company. Defines "Toxics Board."
226	Chair Welsh	Asks, through a private right of action, if a company could still be taken to court.
228	Potter	Answers he is not aware of such a provision in the TRK charter amendment, but such a provision may be in other laws.
240	Jim Craven	Government affairs manager, American Electronics Association (AEA). (EXHIBIT E) Testifies in support of HB 2431. Discusses the large efforts of industry to cut down pollutants entering the environment. States that he feels most of the people involved in industry are deeply committed to doing the right thing.
290	Craven	Comments on the International Organization for Standardization (ISO) 1400, an international standard. Shares his involvement in the history of TRK acts.
340	Craven	Discusses the Oregon's toxic and hazardous waste reduction law. Notes the Fire Marshall's program is not the only program to which companies are required to submit toxic data. Comments that he served on the Governors Task Force. Summarizes the Title Five program.

390	Craven	<p>Recognizes legitimate public interest in knowing the impacts on the community. Comments that boundaries could be set on right to know. Addresses the major debates:</p> <ul style="list-style-type: none"> • How much data • who it is collected from • what it is the purpose • how much will is the cost • who pays <p>Believes those are legitimate questions. Expresses concern about local programs proliferating.</p>
TAPE 54, B		
040	Craven	Comments on available web site information on companies and the chemicals used. Refers to EXHIBIT E . Reiterates the understanding of the publics interest. Discusses the state wide debates on natural resources.
090	Craven	Disagrees with any statement that the TRK Eugene charter amendment aides companies. Notes the Toxic Use Reduction Act adopted ten years ago is helpful to companies. States that companies are prepared to start the TRK charter amendment reporting process April 1,1999. Comments that because something is possible does not make it desirable or useful. Urges the committee to explore ideas and possible amendments.
123	John Ledger	Association Oregon Industries (AOI). Explains the HB 2431 -2 amendment (EXHIBIT F). Overviews section two of the -2 amendments. Discusses data and proposed internet service.
185	Ledger	Continues to overview section two of the -2 amendments, data collecting and internet service. Discusses section three of the -2 amendments, including local programs.
255	Ledger	Continues to overview section three of the -2 amendments.
270	Rep. Taylor	Asks if the \$100,000 cost would be just the cost of administration and not the cost to reporting businesses.
273	Ledger	Answers yes, under the -2 amendments the companies pay for all their internal cost and the city pays for its costs.
278	Rep. Taylor	Asks if it would cost Eugene \$100,000 for the reporting system under the -2 amendments.
280	Ledger	Answers at this time the entire costs of the Eugene program is carried by the businesses in the city.

283	Rep. Taylor	Asks Ledger when he speaks of cost sharing, what part of the cost businesses share.
284	Ledger	Answers the costs to comply will be paid for by businesses. Adds that the costs to run the program will be carried by the city. Continues with the overview of the -2 amendments. Comments on the \$25,000 per day penalties.
355	Ledger	Continues to discuss the HB 2431 -2 amendments.
365	Craven	States that the proposal is not for the City Council to have to conclusively prove medical or environmental damage. Note the council must have justification entered into a public record as to what relation the chemical has to the towns situation.
380	Ledger	Discusses line #27 on page 6 of the -2 amendments.
TAPE 55, B		
019	Rep. Devlin	Asks, if in discussions with legal council, was determined that the program be a mandate.
027	Ledger	Answers yes.
032	Rep. Merkley	Asks what parties where involved in the task force and in producing HB 2431.
034	Ledger	Answers HB 2431 is not a task force bill.
039	Rep. Merkley	Asks if AOI has had any conversations with the other affected parties.
043	Cravin	Answers that over the last 48 hours AOI and the AEA have been trying to brief the involved parties about the general outlines of the -2 amendments. Reads EXHIBIT A .
081	Rep. Taylor	Asks if the Task Force report is going to be worth waiting for.
087	Cravin	Answers that he feels the Task Force report has a lot of good information. Discusses his experiences on the Governor's Task Force.
123	Rep. Merkley	Comments that maybe the reporting program should be allowed to run its course until the next session so legislators can get an accurate view of how the program works.
134	Carson	Bakery Owner, Eugene. Discusses the TRK charter amendments. Refers to the

		TRK charter amendments as persecution legislation. Expresses frustration with the useless detail in reporting chemicals.
178	Carson	Stresses it is impossible to measure chemicals down to 2.2 pounds. Addresses the cost of the program to his bakery.
226	Carson	Expresses frustration with all the types of chemicals that must be reported.
275	Carson	Addresses concerns about the lack of limitation of auditors under the TRK charter amendments. Reiterate that the TRK charter amendments are unfair and unjust legislation.
223	Rep. Taylor	Asks if the threshold Carson is referring to as unreasonable is 3,000 pounds of any one chemical or a combination.
335	Carson	Answers it is about 2,000 pounds of total chemicals.
339	Rep. Taylor	Comments that some of the chemicals that Carson was referring to can cause harm. Asks Carson if after reporting for a couple of months would he have an idea of what his report will read.
355	Carson	Agrees that large quantities can cause problems, but that is not the case in his situation. Answers that, because of the 2.2 pound bench mark, a base-line of chemical use is very difficult to determine.
376	Craven	Reminds the committee the TRK charter amendments are not a regulatory program, but a reporting program.
420	Devlin	Comments on legislation from past sessions prohibiting Eugene from levying fines.
TAPE 56, A		
029	Craven	Comments that nothing in the -2 amendments prevents Eugene from establishing its pilot reporting program.
035	Morgan	Asks if any information relating to how many people would want access to the information has been determined.
041	Ledger	Answers yes, but no cost benefit analysis on the data has been done.
054	Morgan	Expresses a concern about the cost of the reporting system and the possibility of it becoming a state program. Asks how many people would be expected to use this information.

064	Rep. Taylor	Comments that although the TRK charter amendment may have some adverse effects, she struggles with the idea of telling the people of Eugene that they did not have the right to adopt such an amendment.
085	Craven	States that is the purpose of the -2 amendments is to allow Eugene's TRK program to continue.
110	Ledger	Adds that there are hundreds of situation where the state adds side boards to program.
120	Rep. Kruse	Comments that the actions of the community of Eugene do affect other communities. Believes it is a state issue.
133	Craven	Notes that Eugene's TRK charter amendment is well known throughout Asia, because of the Hundi situation.
144	Rep. Kruse	Comments that his district is an economically depressed part of the state and when business hear of complications they go elsewhere.
148	Rep. Merkley	Asks for clarification on -2 amendments. Asks for the cost per employee of cost sharing.
155	Carson	Answers that it varies, the base is about a couple hundred dollars.
161	Rep. Merkley	Asks if \$16 dollars per employee per year is the basic standard. Asks Carson if he knows which list the chemicals he has to report come from.
174	Carson	Answers no.
178	Rep. Merkley	Asks Carson how he knows which chemicals to report.
181	Carson	Answers he is given a list. Gives examples of which chemicals he does not need to report.
190	Rep. Merkley	Asks if vinegar as an ingredient in bread is considered part of the manufacturing process.
193	Carson	Answers yes.
195	Rep. Merkley	Addresses the issue of the lists.
204	Craven	Clarifies that there should be some process of reasoning for inclusion of chemicals on the list.

214	Ledger	Concurs with the need for reasoning for the list of chemicals.
228	Rep. Merkley	Questions if it is preemptive to be wrestling with the TRK charter amendments at the legislature.
237	Ledger	Notes Eugene's TRK charter amendments where passed as part of the city constitution and that the city counsel was not involved.
243	Steve Johnson	Co-author, TRK charter amendments. Refers to (EXHIBIT G, H) . Discusses the list of toxic chemicals and the chemicals required to be reported.
290	Johnson	Address measurements of the chemicals that need to be reported. Notes that no one is required to report any chemicals used in quantities of less than fifty pounds. Maintenance supplies are also excluded.
340	Johnson	Continues to discuss the amounts of chemicals that need to be reported.
355	Chair Welsh	Asks if ordinances passed by the Toxics Board can change the charter amendment.
360	Johnson	Answers that the Toxics Board's job is to enforce the law. The Toxic's Board passed a series of legislation through city ordinance to make it so businesses could comply with the charter amendment.
380	Chair Welsh	Asks if a person can sue the city when a problem arises.
389	Johnson	Answers yes. Continues testimony about the reporting system. Addresses the chemicals that Carson referred to as a waste of time to report. Responds to the sidebar on costs in the -2 amendments.
TAPE 57, A		
040	Johnson	Overviews history of other correlating legislation to the charter amendments. Discusses the companies that say reporting under the charter amendments will not be a problem. States the city manager of Eugene has not received a single complaint about the charter amendments.
080	Johnson	Discusses the cost of the program on businesses. Addresses the issue that it is impossible to meet the reporting requirements. Explains the Toxics Board and its duties. States the charter amendment requires companies do additional work.
130	Johnson	Comments the charter amendment will help save businesses money. Provides an examples of this money savings. Overviews a survey he conducted. States he does not have a problem with the -2 amendments list concept, but expresses concern on how the decision is made about what qualifies as toxic.

149	Rep. Taylor	Asks what Johnson would say to the assumption that the next step is to become a regulatory body.
156	Johnson	Answers that is not the goal. States at this point the TRK charter amendments have not been given due opportunity.
174	Chair Welsh	Asks how Johnson can say what is proper for a company and how it may or may not effect it.
182	Johnson	Comments that the companies have not yet had to report. Notes companies do not know at this point how hard it will be.
202	Chair Welsh	Asks if Johnson went out and talked to companies before the charter amendment was proposed.
210	Johnson	Answers no
220	Chair Welsh	Suggests that Johnson take about 2 million dollars of his own money and have to comply with this reporting system.
226	Johnson	Comments through his position at the University of Oregon (UOFO) he is planning on complying with the reporting requirements.
230	Tiernan Sittenfeld	Submits written testimony (EXHIBIT H).
235	Chair Welsh	Closes informational hearing and adjourns at 3:35.

Submitted By, Reviewed By,

Danielle Hamilton, Kristina McNitt,
Administrative Support Administrator

EXHIBIT SUMMARY

A - HB 2431, written testimony, Lee Wilson. 1 p.

B - HB 2431, hazardous substance tracking instructions, Glenn Potter, 83 pp.

C - HB 2431, written testimony, Glenn Potter, 1 p.

D - HB 2431, written testimony, David Kelly, 2 pp.

E - HB 2431, written testimony, Jim Craven, 3 pp.

F - HB 2431, written testimony, Steve Johnson, 9 pp.

G - HB 2431, -2 amendments, John Ledger, 7 pp.

H - HB 2431, written testimony, Tiernan Sittenfeld, 2 pp.