

## HOUSE COMMITTEE ON WATER AND ENVIRONMENT

March 8, 1999 Hearing Room D

1:00 P.M. Tapes 58 - 62

**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 Merkeley

Rep. Susan Morgan

**MEMBER EXCUSED:**

**STAFF PRESENT:** Kristina McNitt, Administrator

Samantha Demchak, Administrative Support

**MEASURE/ISSUES HEARD:** HB 2431 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 58, A		

007	Chair Welsh	Opens meeting at 1:17 p.m.
<b><u>HB 2431 PUBLIC HEARING</u></b>		
010	Rep. Piercey	District 39. Testifies in opposition to HB 2431. States her community wants to know about toxins in their environment. Continues the Toxic Board has expressed no desire to impose fines on an individual reporting usage. States business and environmental well being should go "hand in hand".
052	Rep. Kitty Piercy	States it is important to honor the communities' decision. Adds she is not against improving the statewide Right to Know (TRK) policy.
063	Rep. Floyd Prozanski	District 40. Testifies in opposition to HB 2431. States this ordinance was not passed by the City Council. Notes the decision was made by the voters of Eugene. States voters wanted a stronger reporting ordinance of toxic chemicals. Emphasizes the voters of Eugene should control this issue.
100	Rep. Prozanski	States he still receives mail on this issue. Continues the Legislature is not here to micro-manage every aspect of local government. Adds it will not be a hindrance to businesses in the city.
127	Rep. Gianella	Asks if someone using chemicals in a garden needs to report
135	Rep. Prozanski	Answers no. States there is a designated number of chemicals that have been identified for tracking. Notes there are approximately 40 companies that will be impacted.
146	Rep. Gianella	Asks if only businesses need to report.
154	Rep. Prozanski	Answers anyone within the city of Eugene that has storage or access to hazardous chemicals would need to report.
160	Rep. Devlin	States he supported the minority report last session. Addresses the fact that the minority report stated that Eugene's program could stay in place except for fines. Continues that there would be a task force created to report back to the legislative body.
174	Rep. Piercy	States she carried the minority report. Adds the report called for an interim committee to look at the feasibility of a statewide TRK policy.
179	Rep. Prozanski	States there was a Governor's task force that convened during the interim. Adds there will be no recommendations from that committee because of an impasse on their part.
188	Rep. Devlin	Asks if the Water and Environment committee expected this issue to be back this

		session.
196	Rep. Prozanski	Answers no.
200	Rep. Taylor	Ask if Rep. Prozanski has seen the ñ2 amendments.
204	Rep. Prozanski	States he has them, but he has not read the amendments.
214	Rep. Vicki Walker	District. 41. Testifies in opposition to HB 2431. States the legislative body has tried to over turn other decisions made by voters in her district. Notes the economy in Eugene is strong and this ordinance will not hinder businesses moving into that community.
237	Rep. Prozanski	Adds the committee needs to know that the voices of Eugene are strong and diverse. Adds the Chamber of Commerce is not a unified force concerning the ordinance.
251	Rep. Piercy	States she will not look at the ñ2 amendments. Stresses it is too early to look at changes. Indicates the Toxic Board will continue to address the issues brought forward by the community.
269	Rep. Kruse	Asks if the people of Eugene should share the cost of the TRK reports.
284	Rep. Prozanski	States that Measure 11 shifted funds from the General Fund into building prisons. Notes the ñ2 amendments would require a true test to determine what is happening with these hazardous chemicals. Adds without that information required by the reports it will be impossible to fulfill the criteria required by the ñ2 amendments.
311	Rep. Kruse	States it is easy for people to vote for something that is free to them. Asks if opinions would change if it could be demonstrated that this ordinance would have an impact on other communities.
328	Rep. Piercy	States it would not change her opinion of the ordinance.
336	Rep. Kruse	States if the ordinance impacted other communities, it would no longer be a local ordinance.
345	Rep. Piercy	States her constituents are asking for reporting in their community. Adds Oregon will be improved by reporting on toxins in the environment.
360	Rep. Merkley	Asks if there is a way for Eugene to amend this provision.
366	Rep. Prozanski	Answers yes.

370	Rep. Merkley	Asks how those changes could be made.
376	Rep. Prozanski	Explains if it is in the charter there would be a suggested change through the city council from the Toxic Board. Continues the changes would then be put before the voters.
388	Rep. Merkley	Asks if the city council would be able to initiate a change to the charter.
394	Rep. Prozanski	Answers yes. Adds the change would have to be made through a vote of the people.
399	Rep. Merkley	Asks if such a change could be made at any time throughout the year.
404	Rep. Prozanski	Answers the established voting times could be used.
<b>TAPE 59, A</b>		
004	Rep. Merkley	Asks why this issue needs to be before the State Legislature.
010	Rep. Prozanski	States a measure goes on a ballot and then is voted on. Indicates a test to determine the type of effect is the wrong type of test.
029	Rep. Merkley	Asks if a state conflict would be resolved between municipalities.
037	Rep. Prozanski	States there is no conflict at this time. Adds a preemptive strike is not the answer.
049	Rep. Piercy	States Eugene has set a higher safety goal than the Federal government requires.
052	Rep. Prozanski	States the charter can be clarified by a vote of the public <b>(EXHIBIT A)</b> .
060	Rep. Gianella	Asks if businesses affected by the TRK are farm related. States Woodburn has many farmers and it would be devastating to their community.
066	Rep. Piercy	Answers this initiative does not prohibit companies or people from doing anything, it only asks for an accounting of the amount of hazardous chemicals available to the company.
086	Senator Susan Castillo	District 20. Testifies in opposition to HB 2431 and the n2 amendments. Adds those who are opposed forget that this was debated last session. States the government needs to stay out of choices made by the voters. Continues there is a concern about the local government control issue.

130	Bob Albers	Hazardous Materials Service Handler for the State Fire Marshall (SFM). States in 1985 the SFM was charged with identifying companies in the State of Oregon that have hazardous substances. States that according to the SFM a hazardous substance is any substance for which the manufacturer is required to develop a material safety data sheet (MSDS). <b>(EXHIBITS B &amp; C).</b>
162	Albers	States the SFM currently surveys 40,890 facilities throughout the state. Notes they do not survey businesses that operate solely as an agricultural operation. Continues the SFM does not survey facilities to find out how much hazardous material is released into the air, water, or ground. Reports the SFM is required to identify what facilities in the state may have hazardous substances.
208	Albers	Continues the SFM identifies business by standard industrial classification. Adds once a company is surveyed that company must provide the SFM with demographic information.
254	Albers	States if a company does have a reportable amount of hazardous substance and poison substances, that information must be reported to the SFM.
286	Rep. Morgan	Asks if the SFM's Hazardous Materials Report states how much hazardous material is on site.
302	Albers	Answers yes.
307	Rep. Morgan	Asks if Mr. Albers is aware of the Eugene charter amendment. Adds she would like Mr. Albers to compare the charter amendment to the SFM reporting program.
311	Albers	States he is not adequately familiar with the Eugene charter to make a comparison. Continues the SFM staffs a Hazardous Material Information line. Notes this information line will answer questions about all types of hazardous materials. Adds there is also a web site for this information.
336	Albers	Continues that if a person is unable to find the information they are looking for on the access line or the web site, SFM will provide a specialized report. Notes the SFM has processed 232 specialized reports since July 1998.
362	Albers	Reports the SFM Hazardous Material Information line has processed 12,867 phone calls during this biennium. States the SFM would like to provide a hyper link to access all hazardous substance information.
<b>Tape 58, B</b>		
038	Albers	Notes the SFM goes to national meetings on hazardous material handling. States the reason the SFM can do this is the legislature has made a 2.3 million-dollar commitment to hazardous materials handling.

056	Rep. Devlin	Asks about the hazardous versus toxic reporting requirements.
066	Albers	Notes it is required to report both.
069	Rep. Devlin	Asks if the Eugene ordinance has the same reporting requirements as the SFM.
082	Albers	Answers it is not required to report how much hazardous material was released into the air, water, or ground in the SFM reporting.
089	Rep. Devlin	Asks about the reporting of the hazardous material that is lost in between the incoming and the outgoing.
093	Albers	States he is not qualified to answer that question.
094	Rep. Merkley	States under the Eugene TRK, soap, and vinegar are listed as toxins. Inquires if they are toxins under the SFM program.
103	Albers	States that if the soap or vinegar has a safety MSDS, then it must be reported.
117	Chair Welsh	States the Department of Environmental Quality was invited to be here for this hearing and did not want to make a report.
125	Tiernan Sittenfield	Oregon State Public Interest Research Group (OSPIRG). Testifies in opposition to HB 2431. <b>(EXHIBIT D).</b>
176	Sittenfield	Continues testimony in opposition to HB 2431. States the Willamette River is one of the most polluted rivers in the country. Notes a truck full of toxic chemicals caught fire and burned on Interstate 5 in 1995. Notes it is impossible to know the amount of toxins released into the air from something like that.
228	Rep. Kruse	Disputes the fact that the Willamette River is one of the most polluted rivers in the country. Asks how many people were killed in the truck fire.
269	Sittenfield	Admits more information is needed about the Willamette River. States she is unsure about the number of people who died as a result of the truck fire.
277	Rep. Kruse	Opposes calling the Willamette River one of the most polluted rivers if there is not enough information to back up the claim.
287	Sittenfield	Responds that industries have reported releasing over 4 1/2 million pounds of toxins in the river in a 4-year period.
296	Rep. Merkley	Asks for information on the New Jersey statute and how long it has been in

		effect.
301	Sittenfield	States she will find that information and provide it to the committee.
316	Beth Medler	Resident of Florence. Testifies in opposition to HB 2431. <b>(EXHIBIT E)</b> .
427	Rep. Gianella	Asks if Ms. Medler is involved with TRK in Woodburn.
<b>TAPE 59, B</b>		
013	Medler	Answers no.
019	Rep. Morgan	Asks if she has accessed the SFM Hazardous Material information web site.
027	Medler	Answers no.
032	Mary O'Brien	Co-author of Eugene's Toxic Right to Know Law. Testifies in opposition to HB 2431 <b>(EXHIBIT F)</b> .
093	O'Brien	Refers to a report that states the material in teething rings can contain a measurable level of toxins.
145	Rep. Gianella	Asks what toxins have been found in teething rings.
150	O'Brien	Answers information from Eugene's TRK details what chemicals are put into products. Adds there are facilities in the state that make teething rings and do not report the contents. Notes Green Peace did test teething rings and found that nearly half were phthalates, which are environmental hormone disrupters.
176	Rep. Gianella	Asks if part of the required reporting is what companies are making with the chemicals.
182	O'Brien	Answers yes.
201	Rep. Gianella	Asks where a person would find out about a specific item.
210	O'Brien	Answers the hazardous materials information web sites are a good place to start.
224	Rep. Devlin	Asks how the public knows what information is being provided concerning health impacts.

236	O'Brien	Answers that the public can get spread sheets with information on chemicals off the web. Notes that within 45 minutes, a consumer can access information relating to which companies are using specific chemicals.
284	Rep. Devlin	Asks about the long-term objective of accounting of hazardous chemicals.
316	O'Brien	Answers that community conversations with facilities are a good way to get accurate information. Continues only 3 out of 44 companies are required to report what they are putting into the air. Notes reporting is only required for companies with 10 or more employees.
345	O'Brien	Continues that less than 20 % of the chemicals stored in Eugene are currently reportable.
399	Chair Welsh	Asks if there is documentation that 90% of releases go unreported.
427	O'Brien	Answers she will supply the information to the committee.
<b>TAPE 60, A</b>		
023	Rep. Kruse	Asks if the information is scientifically verifiable.
027	O'Brien	States it may not be scientifically verifiable because no one is reporting.
030	Rep. Kruse	Asks if it is too much for the citizens of Eugene to pay a dollar a person per year for this information.
037	O'Brien	Answers Eugene citizens supported the program the entire first year. Adds the public believes the person who uses and releases the chemicals should pay for informing the public. Notes the public bears the consequences of toxins.
040	Rep. Merkley	Asks if sub-components from chemical breakdowns need to be tracked differently.
048	O'Brien	Answers that if it is a chemical that is on the list, it needs to be tracked. Continues this law does not require that chemicals be measured through this process.
087	Tami Wobbe	Green Irrigation. Testifies in support of HB 2431. States this law has been burdensome in her company. States their company would have to begin to take two inventories during the year to comply. Adds inventory is usually done on the finished product.
130	Wobbe	Notes Green Irrigation is tracking steels, by separating out grinding dust. States



		it is unfair to expect companies within the next 20 days to get onto the input sheet. Notes there are over 100 chemicals to report.
175	Kevin Mikkelsen	Purakal Cylinders. Testifies in favor of HB 2431. Notes it is unfair for companies outside of Eugene, which use Eugene water and electric, to not report. States this puts Eugene companies at a disadvantage.
191	Ken Luse	Small business consultant, Toxic Simplified, Eugene. Testifies in favor of HB 2431. States the Eugene law is antibusiness. States he likes the cost sharing aspect of HB 2431. Continues that the TRK law should be handled by one body not two. SIC code should be expanded to include things like dry cleaners, photo labs, and chemistry labs. Indicates he has had small businesses suggest they will leave Eugene when their leases are up.
230	Rep. Devlin	Asks what charges Toxic Simplified has made to businesses.
235	Luse	Answers \$1000-\$1500 dollars approximately \$85 dollars an hour.
245	Rep. Devlin	Asks the size and type of business helped by Mr. Luse's company.
249	Luse	Answers companies that average 30 or fewer employees.
251	Rep. Gianella	Asks what types of fittings are made by Green Irrigation.
260	Wobbe	Answers her company makes steel fittings.
261	Rep. Gianella	Asks if the filings and the powder dust are from cutting or fitting the pipe.
271	Wobbe	Answers the grinding dust is from both. States her company has considered moving to avoid the law.
285	Rep. Merkley	Asks if there are plans to go back to the city as a business community and suggest changes to be made in the ordinance.
296	Luse	Answers no.
309	Rep. Merkley	Asks why no plans are being made to approach the city as a business community.
311	Luse	Answers that suggestion will be taken back to business leaders.
313	Scott Forrist	Owner Forrist Paint, Eugene. Testifies in favor of HB 2431. States that stores in Eugene that have chemical products manufactured in other cities do not have to report. States that a "violation occurs when a regulated entity fails to file a

		complete and correct report". Notes his company has spent 600 man-hours to figure out what chemicals are being used.(EXHIBIT G)
402	Forrist	States any citizen can contest a Toxic Board decision. The reason the businesses are here is the fear of the fines and lawsuits.
<b>TAPE, 61 A</b>		
020	Rep. Morgan	Asks if companies will be able to file the reports in a timely manner.
023	Forrist	Answers yes. States his company is working hard to file an accurate report.
029	Rep. Morgan	Asks what the fee was for Mr. Forrist's company
034	Forrist	Answers \$4000-\$4600.
036	Rep. Morgan	Asks about the cost for the 600 man-hours in the report.
040	Forrist	Answers approximately \$20.00 per hour.
051	Rep. Gianella	Asks for clarification about the lawsuit.
059	Forrist	Answers the charter amendment states "any person may appeal a Toxic Board decision to the circuit court of Lane County, pursuant to the procedures providing for the writ of review, or the writ of mandamus".
065	Scott Trotter	A & K Development. Notes he has over 400 hours logged in for the report. Adds his company has just under \$10,000 invested, and only a quarter of the report is completed. Suggests it is impossible to report accurately because of the grinding that goes on.
090	Trotter	Notes if consumers want chemical information it is possible to call the companies. Suggests HB 2431 is set up poorly.
108	Chair Welsh	Ask if there were things that his company would do to protect workers and the community.
113	Trotter	States there are filters in place. Notes there is no way to measure the amount of chemicals that pass through the filter and into the air.
120	Chair Welsh	Asks how many of those chemicals are considered extremely hazardous.

122	Trotter	States he is unsure.
129	Forrist	Answers there have been 4 very hazardous chemicals identified.
139	Chair Welsh	Asks if there are some components and not bulk chemicals that would be considered extremely hazardous.
136	Forrist	Answers yes.
141	Les Duman	Owner, Lawrence David, Inc. Eugene. Testifies in support of HB 2431. States the reporting that is required in the charter is impossible. Expresses concerns with possible fines and lawsuits for unintentional reporting mistakes.
208	Chair Welsh	States it could be an advantage to have a competitor report mistakes.
210	Duman	Answers yes.
213	Rep. Kruse	Indicates the responsibility of this cost is circular between consumer and company.
229	Rep. Merkley	Notes that first time reporting will be more difficult than subsequent years. Asks if there has been a discussion to go to the City Council and discuss changes to the charter.
246	Duman	Answers the City Council in Eugene is not very responsive to businesses.
261	Forrist	States there were discussions, but he is not at liberty to discuss them.
264	Rep. Merkley	Asks if the state does not provide relief, will the business community come together to lobby for relief for Eugene.
	Trotter	Indicates that if there is no relief, the businesses will have no choice but to relocate.
285	Rep. Merkley	Suggests the committee is not the correct forum for this discussion. Notes Eugene has not had a chance to see how well the program will work.
297	Chair Welsh	Asks if preemption goes two ways.
303	Forrist	Answers this type of regulation belongs at the state level.
341	Rep. Morgan	Asks what other reporting requirements are on Mr. Forrist's company.

346	Forrist	Answers his company reports to the SFM, the Clean Air Reporting Act, Lane County Regional Air Pollution Authority, State Government. Hazardous Material Department, OSHA, Federal Aviation, and the EPA.
371	Rep. Morgan	Asks if the information is duplicated in all these reports.
375	Forrist	Answers the reports are different, but most of the information is the same.
397	Rep. Morgan	Asks the cost associated with creating all those reports.
402	Forrist	States he has 110 employees, one person deals with safety and health, and another person deals with environmental reports. Notes the money reported does not include staff time spent on the reports.
416	Chair Welsh	Requests a copy of the reports.
<b>TAPE 60, B</b>		
008	Rep. Taylor	States she is impressed with the people in the room expressing their fear. Indicates she would like to see the opponents and proponents come together. States she thought she heard a willingness to work together.
038	Trotter	Expresses the fines are something that could put a company out of business. Stresses his company would like to come to an agreement.
057	Rep. Devlin	Asks if the board will enforce the penalties if a company has missed the reporting deadline.
068	Duman	Answers it is impossible to report at levels as low as the charter requires.
083	Forrist	Adds there is a fear of the fines and lawsuits. The reports are difficult, but companies are willing to comply.
094	Tim Foelker	J.H. Baxter & Co. Certified Hazardous Material Handler. Testifies in support of HB 2431. States the reporting requirements are too low to be realistic.
125	Chair Welsh	Asks if this committee is getting to the heart of what the public wants.
140	Foelker	Answers yes, the public is genuinely concerned with safety.
148	Rep. Kafoury	Asks if there are chemicals that do not need to be reported.

150	Foelker	Answers yes.
155	Rep. Kafoury	Asks if any of those chemicals are known to be toxic.
161	Foelker	Answers yes. Adds any substance that exhibits characteristics of a hazardous chemical is to be listed as environmentally sensitive. Notes any substance that exhibits characteristics of a hazardous waste needs to be listed with similar items on the premises.
175	Rep. Kafoury	Asks if the people in Eugene have the right to know what chemicals are stored at local companies.
191	Foelker	Answers the community has the right to know the chemicals they might be exposed to.
194	Rep. Kafoury	Asks if Eugene citizens should be made aware of chemicals that do not need to be reported.
197	Foelker	Answers no.
200	Jeff Watkins	Sierra Club (SC). Presents testimony in opposition to HB 2431. States there are other communities that will model the Eugene charter. Indicates a statewide reporting law would be a good place to start a compromise. <b>(EXHIBIT G &amp; H).</b>
238	Rep. Kruse	If SC does not consider statewide laws to be adequate why not address the issue sooner.
244	Watkins	States he is unsure of the answer.
251	Rep. Kruse	Inquires about Oregon having the best statewide reporting in the nation.
260	Watkins	Answers the distinction is arbitrary. Eugene residents do want to know more.
270	Rep. Kruse	States that even though more people are aware of the issue, there is not an awareness of the state issue.
295	Howard Grotters	Resident of Eugene. Testifies in opposition of HB 2431 <b>(EXHIBIT I).</b>
345	Chair Welsh	Asks what Mr. Grotters does for a living.
351	Grotters	States he is a law student.

387	Rep. Morgan	Asks if he has used the SFM information system.
404	Grotters	Answers no. States the Constitution of the United States protects humans not corporations. Continues the burden on corporations does not weigh equally with the rights of the people.
<b>TAPE 61, B</b>		
030	Rep. Kruse	Stresses corporations are run by people, that gives them a human quality.
045	Rep. Taylor	Asks what the impact would be for companies doing business in several communities, if each community adopted a reporting law.
062	Grotters	Answers he has no plans to bring this to the city. Continues he would have no objection to raising the requirements. Adds there is a potential for unnecessary confusion.
088	Ms. Madronna	Teacher, Linfield College and Oregon State University. Testifies in opposition of HB 2431. States natural gas is not recordable. A material accounting does not need to be done on small amounts of material.
120	Madronna	States all anyone really wants is a safe, economic, and environmentally sound place for children to grow up.
166	Rep. Morgan	Asks if why the language in the charter is unclear as to who will be impacted by penalties and fines.
202	Madronna	Notes that language is part of the ordinance. The Toxic Board is responsible for implementing the charter. Indicates if people report in good faith, they are unlikely to be challenged in this way.
229	Rep. Morgan	Asks if this charter will be translated into an ordinance.
233	Madronna	Answers yes, in terms of putting it into effect.
246	Chair Welsh	States the Legislature provides statute through legislation, any Administrative Rules has to be closely associated with that statute to avoid having legal action taken.
250	Madronna	States the Toxics Board has the right of enforcement and the right of interpretation.
260	Rep. Gianella	States the word "unlikely" is a poor choice of words.

266	Madronna	Notes "blatant disregard" will be challenged as well.
275	T.J. Schaffer	Chemist. States he tried to obtain a public report, from the city of Turner, about heavy metal poisoning that effects rural wells and not city municipal water supplies. States he was not able to get the report. Gravel extraction from a wet pit causes pollution into the aquifer <b>(EXHIBIT J)</b> .
337	Ted Hughes	Pacific Northwest Paint Council. Testifies in support of the ñ2 amendments. Continues it is admirable of Mary O`Brien to bring this issue forward. Notes the citizens of Eugene do not need to be put at a competitive disadvantage when dealing with out of state corporations. States the ñ2 amendments would leave the ordinance in place.
<b>TAPE 62, A</b>		
021	Chair Welsh	Indicates he received a letter from the University of Oregon. States that in the committeeís last meeting, it was reported the University was ready to comply. Cites this letter contradicts that. Explains the letter states "given the variable and changing nature of our scientific work, this regulation would effectively end any kind of productive research at the university." Indicates both sides want to maintain the public right to know. <b>(EXHIBIT K)</b> .
045	Rep. Kruse	Emphasizes he is not against the citizens TRK. Explains the state needs policy that is reasonable. Notes this is more bureaucratic than reasonable.
065	Chair Welsh	Adjourns meeting at 5:15.

Submitted By, Reviewed By,

Samantha Demchak, Kristina McNitt,  
Administrative Support Administrator

#### **EXHIBIT SUMMARY**

**A ñ HB 2431, Written testimony, Rep. Floyd Prozanski, 18 pp.**

**B ñ HB 2431, Written testimony, Bob Albers, 3 pp.**

**C ñ HB 2431, Written testimony, Bob Albers, 8 pp.**

**D - HB 2431, Written testimony, Tiernan Sittenfield. 2 pp.**

**E ñ HB 2431, Written testimony, Beth Medler, 1 p.**

**F ñ HB 2431, Written testimony, Mary O'Brien, 2 pp.**

**G ñ HB 2431, Written testimony, Jeff Watkins, 2 pp.**

**H - HB 2431, Written testimony, Jeff Watkins, 1 p.**

**I ñ HB 2431, Written testimony, Howard Grotters, 2 pp.**

**J ñ HB 2431, Written testimony, T.J. Schaffer, 3 pp.**

**K- - HB 2431, letter submitted to prior to hearing, staff. 2 pp.**