

## **HOUSE COMMITTEE ON WATER AND ENVIRONMENT**

**April 14, 1999 Hearing Room D**

**1:00 P.M. Tapes 109 - 112**

**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**

**Samantha Demchak, Administrative Support**

**MEASURE/ISSUES HEARD: HB 2431 Work Session**

**HB 2681 Public Hearing**

**HB 3424 Public Hearing**

**HB 2817 Public Hearing**

**HB 3455 Public Hearing**

**HB 2637 Public Hearing**

**HB 2173 Public Hearing**

**HB 2932 Public Hearing**

**HB 3456 Public Hearing**

**HB 2800 Public Hearing****HB 3201 Public Hearing****HB 3202 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
<b>TAPE 108, A</b>		
005	Chair Welsh	Opens meeting at 1:35 p.m. Opens public hearing on HB 2431.
<b><u>HB 2431 PUBLIC HEARING</u></b>		
009	Kristina McNitt	Committee Administrator. Notes HB 2431 prohibits local government from adopting or enforcing local regulatory programs intended to distribute hazardous substance information to the public.
021	Rep. Al King	District 44. Testifies in support of HB 2431. Indicates the Toxic Right to Know (TRK) is damaging Oregon's reputation. Notes if Eugene's TRK had been in place in the 1970's there would not a new high-tech industry in the state <b>(EXHIBIT A)</b> .
063	Rep. King	Notes the -4 amendment democratically drafted. States the -4 amendment creates a community Right To Know technical committee. Notes the committee will consist of the State Fire Marshal, State Department of Agriculture, the DEQ, the Health Department, the Department of Transportation, and the Governor. Notes the director would coordinate the regulation of hazardous substances in the air and water, toxic use clean-up and waste programs.
121	Rep. Richard Devlin	District 24. Testifies in support of HB 2431. Notes HB 2431 requires surveys to be conducted at the local level. Adds it requires the local government to decide what chemicals are hazardous to human health. Adds the one area that is still a problem is the area of the businesses bearing the cost of the TRK.
170	Rep. Devlin	Notes HB 2431 provides some certainty for business of what the TRK is in Oregon. Notes there is a statewide initiative possibility for this issue.
193	Rep. Taylor	Indicates the "democratically" drafted amendments were drafted by two democrats. Asks if Rep. King has talked to citizens in Eugene.
206	Rep. King	Answers yes.

209	Rep. Taylor	States she talked to the Chamber of Commerce in her district, District 1. Indicates they believe the Eugene has a right to create and enforce its TRK. Notes she does not feel the threat of an initiative.
227	Rep. King	Answers it is true that there is much to learn about the Eugene TRK. Notes it is a difficult decision to go statewide.
238	Rep. Devlin	States it is not a terrible thing to have an initiative. Notes if the original bill was passed it would lead to an initiative. States the amendments are short of the Governor's requirements.
264	Rep. Merkley	Asks if there will be testimony since the committee is in work session.
274	Chair Welsh	Answers yes.
276	Rep. Merkley	Asks what will make Eugene unappealing to high-tech firms.
286	Rep. King	Answers he served on the local government organization that tries to bring in appropriate companies into the community. Notes the companies look at the quality of life and the quality of the schools, but the companies will look at the TRK first.
303	Rep. Merkley	Asks if the man power required to implement the In-put/Out-put Model is so high it would reduce the profit margin of companies.
306	Rep. King	Notes it is significant with some companies and not as significant with others. Answers it depends on the cleaning chemicals used.
320	Rep. Merkley	Asks if it will be easier for companies once the program is set up.
328	Rep. King	Answers that there will be benefits. Answers shop time is worth \$100.00 per hour. Notes the most detrimental factor is the damage to the state's image. Indicates judges do not interpret intentions of board members.
347	Rep. Merkley	Asks if this will keep companies from moving to Eugene.
353	Rep. King	Answers Oregon needs new business. There has been an economic miracle in Oregon.
374	Rep. Merkley	Notes the committee is jumping to conclusions since it is not known how many man hours are needed to keep the TRK running.
416	Rep. King	Notes most companies will do their best to live in the and support community in which they are located.

**TAPE 110, A**

003	Rep. Devlin	States this issue will come back to the Legislature if it is not dealt with now. Notes this is voluntary reporting.
025	Rep. Merkeley	Asks about the task force that is being set up.
038	Rep. King	Notes there is the Technical Advisory Committee and a Working Committee.
042	Rep. Merkley	Indicates he was referring to Section 4.
051	Rep. King	Notes that committee is put together at the direction of the Director of the DEQ.
081	Jim Cravin	American Electronic Association (AEA). Testifies in support of HB 2431. Notes HB 2431 does not effect Eugene's program for four years. Indicates after 2003, Eugene would have to investigate funding. Notes the Legislature has stated it has complete powers to set state policy.
130	John Ledger	Associated Oregon Industries (AOI). Testifies in support of HB 2431.
152	Cravin	Adds HB 2431 could be left and there would be none of the other positive pieces of the legislation. Notes there are positive steps forward.
187	Rep. Merkley	Indicates it is not up to Eugene to show that the program is working, but up to the commission to show it is not working.
194	Cravin	Notes the committee has already heard those in support of HB 2431.
210	Mary O'Brien	Eugene. Testifies in opposition to HB 2431. Testifies 90 percent of the public believes they have the right to know what toxics are in their bodies. Notes if HB 2431 passes it will trigger a statewide initiative <b>(EXHIBIT B)</b> .
267	O'Brien	Notes it is remarkable that the testimony offered today never mentioned the public. Adds HB 2431 requires citizens to remain ignorant about the identity and volume of releases of hazardous substances into their air, water, land and products.
307	Rep. Kafoury	Asks if the 4 amendments allow the Eugene's program to continue.
342	O'Brien	Responds not after 2003. Notes it takes away the right of citizens to enforce a law.

368	Rep. Kafoury	Asks if Eugene will continue its TRK after 2003.
372	O'Brien	Answers yes. Notes the State Fire Marshal requires estimates. Adds Eugene requires point estimates.
411	Rep. Gianella	Asks for a definition of point estimate.
<b><u>TAPE 109, B</u></b>		
006	O'Brien	Answers it is down to the point of a kilogram. Notes it does not mean it needs to be measured. Indicates the information has to balance by the estimates.
017	Rep. Gianella	Asks who reports the point estimates.
021	O'Brien	Answers the businesses.
025	Rep. Gianella	Asks if the people who voted for the TRK understand what a kilogram is.
029	O'Brien	Answers all the information needed is on the web.
032	Rep. Gianella	Asks who is transferring the information.
037	O'Brien	Responds Paul Ingleking, Holly Warren, and O'Briens family.
043	Rep. Gianella	Asks how many people total.
049	O'Brien	Answers she is unsure.
055	Rep. Devlin	Asks if the comments on the website option are hers.
062	O'Brien	Answers yes.
069	Rep. Devlin	Asks what is the problem with lowering the fine.
072	O'Brien	Answers the State Fire Marshall's procedure is to allow one week to fix problems and there is no fine.
078	Rep. Devlin	Asks if that is how the Toxic Board operates.

083	O'Brien	Indicates the board has no desire to fine a company that is trying to comply
090	Rep. Devlin	Asks about section 3 of O'Brien's testimony.
101	O'Brien	Answers the only one who can enforce the law is the government.
115	Rep. Devlin	Indicates the reason the language was changed is because there was concern with making the language consistent. Notes in the original ñ2 amendment had language requiring scientific evidence.
137	O'Brien	Notes that takes away the citizens to defend their right to know.
142	Rep. Devlin	Notes there are potential loses and gains. Notes if this issue is not resolved now it will be back. Asks if O'Brien will work to come to an agreement with the other parties involved.
156	O'Brien	Responds she will. Notes HB 2431 was conceived in industry. Notes there is no community that can have a TRK under this bill.
163	Rep. Devlin	Disagrees. Notes he has heard from the public on this issue.
172	O'Brien	Notes the Toxics Board has worked well for two and a half years.
176	Rep. Merkley	Asks how the Eugene program differs from the Massachusetts Program.
180	O'Brien	Answers that Massachusetts used number reporting to reduce emissions into the air. Notes Massachusetts was a toxic use reporting law and a toxic use reduction law.
204	Rep. Merkley	Asks if companies are leaving Massachusetts because of the reporting requirements.
215	O'Brien	Answers no. Responds New Jersey has a similar program.
222	Rep. Kruse	<b>MOTION: Moves to ADOPT HB 2431-4 amendments dated 4/17/99.</b>
239	Rep. Kruse	<b>VOTE: 6-2</b>  <b>AYE: 6 - Atkinson, Devlin, Gianella, Kruse, Morgan, Welsh</b>  <b>NAY: 2 - Kafoury, Merkley</b>

		<b>EXCUSED: 1 - Taylor</b>
	<b>Chair Welsh</b>	<b>The motion CARRIES.</b>
<b>248</b>	<b>Rep. Kruse</b>	<b>MOTION: Moves HB 2431 to the floor with a DO PASS AS AMENDED recommendation.</b>
281	Rep. Kruse	States he is reluctantly supporting the ñ4 amendments. Notes he liked the original bill. Adds HB 2431 does not vacate the Eugene law.
314	Rep. Devlin	States the easy thing would have been to vote no. Adds this version is better than the original bill. Indicates the Governor is not satisfied with this bill. Notes it is necessary to come to a resolution.
360	Rep. Merkley	States he is impressed by the argument that a patchwork quilt of regulation is not in the interest of the state. Indicates he favored the original bill.
400	Rep. Gianella	Notes the committee did hear from people on both sides. Indicates she will support the ñ4 amendments.
<b><u>TAPE 110, B</u></b>		
005	Chair Welsh	Notes he was offered an opportunity to have a hearing in Eugene. States he supports the original version of the bill. Notes it is extreme to the businesses.
<b>017</b>		<b>VOTE: 6-3</b> <b>AYE: 6 - Atkinson, Devlin, Gianella, Kruse, Morgan, Welsh</b> <b>NAY: 3 - Kafoury, Merkley, Taylor</b>
	<b>Chair Welsh</b>	<b>The motion CARRIES.</b>  <b>REP. DEVLIN will lead discussion on the floor.</b>
129	Rep. Merkley	Serves notice he will file a minority report.
135	Rep. Kafoury	States she will join Rep. Merkley on the minority report.

136	Chair Welsh	Closes work session on HB 2431. Opens public hearing on HB 2681.
<b><u>HB 2681 PUBLIC HEARING</u></b>		
138	Chair Welsh	Closes public hearing on HB 2681. Opens public hearing on HB 3424.
<b><u>HB 3424 PUBLIC HEARING</u></b>		
139	McNitt	States HB 3424 allows yard debris and chipped wood waste to be used as a daily cover at landfills.
140	Rep. Tim Knopp	District 54. Testifies in support of HB 3424.
143	Tim Schimke	Solid Waste Coordinator, Deschutes County. Testifies in support of HB 3424. Notes yard debris and wood waste are currently diverted from the waste chute in Deschutes County by offering lowered waste disposal rates for separated material. Deschutes County is experiencing a very high growth rate. Notes the growth creates a larger amount of wood waste.
170	Schimke	Adds California has regulations in place that ensure the use of solid waste for beneficial use in the construction and use of landfill.
175	Rep. Taylor	Asks for clarification of the problem.
176	Schimke	Indicates there is a large amount of wood waste in the waste stream.
177	Rep Taylor	Asks who would do the wood chipping.
179	Schimke	Indicates it would be processed on site.
166	Chair Welsh	Asks if HB 3424 is acceptable as written.
176	Schimke	States he would like to see an amendment.
180	Bob Danko	Department of Environmental Quality (DEQ). Testifies in opposition to HB 3424. States the DEQ is opposed to HB 3424 because it would require the DEQ to adopt rules for yard debris and wood waste. Notes the DEQ already has provisions in place. Adds if a state is approved by the federal government there is the ability to use alternatives as land-fill cover. Notes HB 3424 jeopardizes Oregon's status as an alternative approved state ( <b>EXHIBIT C</b> ).
220	Rep. Kruse	Notes he is concerned with doing something that brings Oregon out of



		compliance with the EPA. Asks if the bill added language that is required by the DEQ.
229	Danko	Notes the EPA already has a performance criteria in place. Notes 20 applications have been approved for daily cover.
257	Rep. Kruse	What are the alternatives that meet the EPA criteria.
262	Danko	Notes wood waste has been approved as cover because it is mixed with some dirt. Adds auto fluff has been approved for daily cover.
269	Rep. Kruse	Asks if they have looked at yard waste and chipped wood as an alternative.
275	Danko	Answers no one has proposed that option. Adds it would not meet the criteria dealing with fires.
282	Rep. Kruse	Asks if wood chips and yard waste were combined would it meet the criteria.
285	Danko	Answers that is why there is a process in place.
292	Chair Welsh	Asks how the discussion with Commissioner Luke ended.
299	Danko	Commissioner Luke understands that HB 3424 does not get at the recovery rate issue.
305	Chair Welsh	Closes public hearing on HB 3424. Opens public hearing HB 2817.
<b><u>HB 2817 PUBLIC HEARING</u></b>		
319	McNitt	States HB 2817 creates a personal income tax for cost of removal of heating oil tank for home use. Indicates there is a subsequent referral to Revenue.
333	Rep. Vicki Walker	District 41. Testifies in support of HB 2817. Notes there are 150,000 abandoned tanks in Oregon. Notes it is an important issue to resolve to help the residents of Oregon.
363	Rep. Floyd Prozanski	District 40. Testifies in support of HB 2817. Notes the -1 amendments address the assistance of the tank removal and the contamination of a leaking tank. Indicates this a difficult issue to address. Notes the tax proposal is a fair way to help have the work done.
339	Robert Despain	Department of Environmental Quality (DEQ). Notes the cost of the clean up can

		lead to financial ruin. States the cost of clean up can range from \$1,000.00 to \$15,000.00. Notes there is a minimal fiscal impact from HB 2817 ( <b>EXHIBIT D &amp; E</b> ).
<b>TAPE 111, A</b>		
056	Chair Welsh	Asks how many tanks are in Oregon.
059	Despain	Answers 60,000 in use and 150,000 abandoned tanks.
062	Rep. Prozanski	States he is hesitant about being HB 2817 being retroactive.
067	Chair Welsh	Asks how many certified contractors there are in Oregon.
072	Despain	Answers there are probably a couple of hundred.
075	Rep. Taylor	Asks about the disposal of the contaminated soil.
082	Despain.	Answers the DEQ has been relaxed with the impact of contaminated soil. Notes if the soil can be removed that is the preference.
085	Rep. Walker	States there is a significant problem with the leak rate in active tanks in Oregon.
090	Despain	Notes 70 percent of tanks removed from the ground show contamination.
099	Rep. Gianella	Asks about a poor family that does not make enough income to pay taxes.
102	Rep. Prozanski	Answers that since this is a tax credit, if the family had no taxable income this would not apply.
118	Rep. Walker	States there is a carry over period of 14 years. Notes local government is trying to work with the federal government to set up a low cost loan program.
131	Mary Wahl	Administrator of Waste Management and Clean-up, DEQ. Testifies in support of HB 2817. Notes this contamination has been a problem for years. States the DEQ gets an average of 11,000 calls a year for help with this type of clean up. Indicates DEQ would like revenue for technical assistance.
164	Chair Welsh	Asks about the leak rate.
180	Wahl	Notes the leak rate is between 50 and 75 percent. Notes people choose to leave

		them in the ground rather than remove them.
195	Chair Welsh	Asks about how many registered contractors there are in the state.
197	Wahl	Answers approximately 100.
204	Rep. Kruse	Asks about the Senate bill that is addressing the same issue.
216	Danko	Notes it HB 3107. Adds it is in work session today. Indicates it sets up a process of certifying contractors.
229	Rep. Gianella	Asks if homeowners find the tanks when the homes go up for sale.
241	Wahl	Answers yes.
246	Rep. Gianella	Asks if there are any mandatory programs in place now that check on the other tanks.
250	Wahl	Answers no.
253	Chair Welsh	Closes public hearing on HB 2817. Opens public hearing on HB 3455 and HB 2637.
<b><u>HB 3455 &amp; HB 2637 PUBLIC HEARING</u></b>		
300	Roberta L'Esperance	Portland. Legislative Aide to Rep. Jane Lokan District 15. Notes HB 3455 would require the Department of Environmental Quality (DEQ) to provide more user-friendly operating schedules for the vehicle emissions testing program <b>(EXHIBIT F)</b> .
355	L'Esperance	Indicates the language in HB 3455 creates a starting point for the DEQ and the Legislature to review the options and structure the changes and implementation schedule.
<b>TAPE 112, A</b>		
019	Rep. Kruse	Asks what are the stations current hours.
023	L'Esperance	Answers the hours are 9-5 on Monday, 8-6 Tuesday -Friday, and 9-5 Saturday.
035	Rep. Devlin	Asks if it would be satisfactory if there was an adjustment in the hours rather

		than an expansion.
037	L'Esperance	Answers yes, that would be helpful.
042	Rep. Devlin	Indicates an expansion in hours would increase the cost. States changing the hours would not involve a cost.
049	L'Esperance	States that is a valid point. Notes she will pass that information on the Rep. Lokan.
060	Chair Wells	Closes public hearing on HB 3455 and HB 2637. Opens public hearing on HB 2932 and HB 2173.
<b><u>HB 2932 &amp; 2173 PUBLIC HEARING</u></b>		
		Staff distributes proposed amendments to HB 2173 ( <b>EXHIBIT G</b> ).
072	Rep. Floyd Prozanski	District 40. Indicates HB 2932 would give people notice that they may be in the process of buying a house that has been contaminated by illegal drug manufacturing. States the purpose of HB 2932 is to inform a buyer that they are potentially buying a house that has not been cleaned and certified by the health division as being suitable for human habitation.
098	Pete Kerns	Interagency Narcotics Enforcement Team (INET). Notes in 1998, 80 illegal drug labs were found in Lane County. States only 10 percent of labs that are in Lane County are located. Indicates it is unlawful to enter the property until it has been decontaminated. States this type of legislation would help to reduce the amount of harmful chemicals ingested by children.
131	Rep. Prozanski	Notes if an individual owns property that is contaminated there is a judgement brought in civil court. Notes the judgement can be registered against the homeowner and a lean placed on the property.
145	Rep. Gianella	Asks who pays the clean-up bill.
150	Rep. Prozanski	Answers it is the property owner.
175	Rep. Gianella	Asks about the owner seeking reimbursement.
182	Rep. Prozanski	States the owner can seek reimbursement from the renter who contaminated the property.
194	Chair Welsh	Asks if there is testing equipment available.

200	Kerns	Answers that there is.
215	Rep. Prozanski	Indicates this is a standard procedure. Notes the only fee to be incurred is a filing fee for certification.
256	Rep. Prozanski	States that Lane County does public service messages to inform.
271	Rep. Taylor	Asks about contaminated cars being seized.
279	Kerns	Indicates cars are rarely contaminated.
282	Rep. Kruse	Asks if it the combination of the chemicals that causes the toxicity.
288	Kerns	Notes drugs are not cooked in cars because of the limited space.
295	Rep. Gianella	Asks if motor-homes are used to make drugs.
299	Kerns	Answers yes.
304	Sean Miller	Oregon Rental Housing Association (ORHA). Notes the victims are the individuals receiving the drugs and the land lords. Indicates it cost 4-5 thousand dollars to do a small clean-up. Notes the clean-up costs are high because a certified clean-up specialist is required.
350	Miller	Adds the City of Portland has its own regulations. Indicates he would agree to work on an amendment.
<b>TAPE 111, A</b>		
015	Chair Welsh	Notes it his intention with the ñ1 amendments to insert the owner into the clean-up process. Indicates there might be savings to the owner.
033	Rep. Gianella	Asks about a tax credit for the cost of the clean-up.
040	Miller	Notes there is a bill in Revenue addressing the fix cost.
050	Tom Johnson	Assistant Administrator, Heath Division. Testifies in support of HB 2932. Indicates the Heath Division would notify the County Clerk when a property has been designated as a clandestine drug lab site. Indicates the Health Division would provide this service at no extra charge to property owners ( <b>EXHIBIT H &amp; I</b> ).

060	Chair Welsh	Closes hearing on HB 2932 and HB 2173. Opens public hearing on HB 3456.
<b><u>HB 3456 PUBLIC HEARING</u></b>		
062	Chair Welsh	Closes public hearing on HB 3456. Opens public hearing on HB 2800
<b><u>HB 2800 PUBLIC HEARING</u></b>		
064	Chair Welsh	Closes public hearing on HB 2800. Opens public hearing on HB 3201 and HB 3202.
<b><u>HB 3201 &amp; HB 3202 PUBLIC HEARING</u></b>		
069	Chair Welsh	Closes public hearing on HB 3201 and HB 3200. Adjourns hearing.

Submitted By, Reviewed By,

Samantha Demchak, Kristina McNitt,  
Administrative Support Administrator

#### **EXHIBIT SUMMARY**

- A - HB 2431, written testimony, Rep. Al King, 3 pp.**
- B - HB 2431, written testimony, Mary O'Brien, 3 pp.**
- C - HB 3424, written testimony, Bob Danko, 3 pp.**
- D - HB 2817, written testimony, Mike Kortenhoff, for Robert Despain, 4 p.**
- E - HB 2817, written testimony, Mike Kortenhoff, for Robert Despain, 1 pp.**
- F - HB 2817, written testimony, Roberta L'Esperance, 4 pp.**
- G - HB 2173, proposed amendments, staff, 2 pp.**
- H - HB 2173, written testimony, Tom Johnson, 3 pp.**
- I - HB 2932, written testimony, Tom Johnson, 2 pp.**