

## HOUSE COMMITTEE ON WATER AND ENVIRONMENT

June 4, 1999 Hearing Room E

8:00 AM Tapes 189 - 190

**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

**STAFF PRESENT:** Kristina McNitt, Administrator

Stephen Kosiewicz, Administrative Support

**MEASURE/ISSUES HEARD:** HB 3456 Work Session

SB 882 Work Session

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 189, A		
003	Chair Welsh	Calls the committee to order at 8:15 a.m. Opens the work session on HB 3456.
<u>HB 3456 n WORK SESSION</u>		

010	John Ledger	Associated Oregon Industries. Submits written material ( <b>EXHIBIT A</b> ) and begins testimony in support of HB 3456.
058	Ledger	Continues testimony in support of HB 3456.
111	Ledger	Continues testimony by reviewing the independent action review board that they are proposing.
140	Rep. Morgan	Asks how the requirement of seven years of experience came about.
143	Ledger	Responds that there is nothing special about this number of years other than they thought this was a minimum requirement. Continues reviewing the proposed independent action review board.
194	Ledger	Continues testimony in support of HB 3456.
254	Rep. Morgan	Referencing page 3, lines 20 to 22 of the HB 3456-4 amendments, asks Ledger to describe what instances this would be used in.
265	Mark Morford	Environmental Practice Group Chair, Stoel-Rives. Responds that this provision would be used if there were not enough board members in the standing board to serve.
284	Rep. Taylor	Asks who would pay for the activities of the board.
285	Ledger	Responds that the petitioner would pay this.
291	Rep. Taylor	States that she sees this as another layer between industry and DEQ. Asks Ledger to justify HB 3456.
297	Ledger	Responds that there is no appeal method right now on independent cleanup.
338	Rep. Taylor	Asks for clarification that HB 3456 applies to all cleanups. Comments on the issue of cleanup.
359	Ledger	Responds that the bill only applies to independent cleanups.
378	Rep. Merkley	Asks for clarification on what types of contamination must be handled by DEQ and what types can be handled through independent cleanup.
383	Morford	Notes that DEQ has a process for prioritizing sites. Responds that HB 3456 does not dictate which sites DEQ must or can put through independent cleanup.

<b>TAPE 190, A</b>		
002	Rep. Merkley	Asks if this bill would alter DEQ's ability to keep the higher priority sites out of the independent cleanup process.
004	Morford	Responds that it would not.
007	Rep. Merkley	Comments on the issue of the site itself versus the impact of the way a person cleans up a site. Expresses concern that the current law does not encourage people to consult with DEQ before they cleanup.
022	Morford	States that current law allows an individual to do an independent cleanup without notifying or involving DEQ. Notes that this program would allow DEQ to be more involved in independent cleanups.
[Committee at ease]		
059	Dan Mercer	Mercer Industries, Inc. Testifies on his company's experience with independent cleanups.
097	Rep. Taylor	Asks Mercer why his letter of no further action was rescinded on the wood treatment facility cleanup.
101	Mercer	Responds that they were advised that the original investigation was incomplete and that the criteria by which the judgement had been made had now been upgraded and they were to resume cleanup. Continues testimony on his company's experience with independent cleanups.
130	Mercer	Notes his support for HB 3456.
135	Chair Welsh	Asks if other industrial owners would be more apt to be part of a program like this if the process outlined in HB 3456 were implemented.
139	Mercer	Responds that this would provide an incentive to do so.
141	Rep. Morgan	Asks Mr. Mercer if he would have taken advantage of this program if it had been in effect.
143	Mercer	Responds that he would have.
146	Chair Welsh	Closes the work session on HB 3456 and opens the work session on SB 882.
<b><u>SB 882 n WORK SESSION</u></b>		

150	Rep. Al King	House District 44. Comments in support of the SB 882-5 amendments that he proposed. Notes that Sen. Tarno supports the ñ5 amendments.
170	Ron Eber	Department of Land Conservation and Development. Submits written material <b>(EXHIBIT B)</b> and explains the provisions of the SB 882-6 amendments.
198	Rep. Kruse	Asks if DLCD supported the bill as it came out of the Senate.
203	Eber	Responds that they did not.
215	Rep. Kruse	Notes that there were some earlier amendments that addressed DLCD's specific concerns.
221	Kristina McNitt	Committee Administrator. States that these were the ñ3 amendments.
224	Eber	Comments on the different versions of amendments that have been proposed for SB 882.
231	Rep. Kruse	Clarifies that the point he was making is that they had a set of earlier amendments that addressed DLCD's specific concerns with SB 882.
233	Eber	Notes that the ñ6 amendments are basically the same as the earlier amendments.
237	Rep. Kruse	Asks for clarification that the ñ6 amendments address DLCD's concerns with the bill.
253	Eber	Responds that the ñ6 amendments cover all of DLCD's concerns and include Rep. King's proposed amendments.
261	Rep. Kruse	Asks for clarification that the ñ1 amendments did not adequately address DLCD's concerns.
265	Eber	Responds that there were some drafting errors in the earlier version.
275	Chris Crean	Legislative Counsel Office. Clarifies that the ñ6 amendments incorporate DLCD's and Rep. King's proposed amendments.
284	Rep. Kruse	Asks for clarification that if the committee wants to separate Rep. King's proposals from DLCD's they would need a new amendment.
290	Crean	Responds that they would need two new amendments.

301	Rep. Taylor	Asks for clarification that there is no zoning problem in terms of structures such as kitchens or restrooms facilities that may be provided.
310	Rep. King	Responds that the yurts for homeless people would not need to be permanently attached to any sort of foundation.
325	Rep. Kruse	Expresses concern that they are including Rep. King's proposed amendments. Notes that this is why he was inquiring about separating these amendments from DLCD's proposed amendments.
343	Rep. Taylor	Expresses support for keeping the proposed amendments combined.
352	Rep. Merkley	Comments in support of keeping the proposed amendments combined.
387	Rep. Morgan	Asks if cities would be able to use some kind of alternate structures within their boundaries without passing Rep. King's amendments to SB 882.
398	Bob Rindy	Department of Land Conservation and Development. Responds that it is his understanding that city governments would not be allowed to establish homeless camps using the kind of yurts described in the bill.
<b>TAPE 189, B</b>		
008	Rep. Morgan	Asks for clarification that the building codes do not specify that yurts are an allowable type of structure.
011	Rindy	Responds that this is his understanding.
013	Patrick Lewis	State Building Codes Division. Responds that the yurts they have today do not meet the building codes for this particular use within a city.
021	Rep. Morgan	Asks if mobile homes and travel trailers would be permitted under current building codes.
023	Lewis	Responds that manufactured homes would be permitted for use under current building codes, but travel trailers would not.
029	Rep. Morgan	Asks if Rep. King's amendments would limit the use of yurts to only this particular use.
033	Lewis	Responds that they would.
040	Rep. Morgan	Asks if the description of yurts in SB 882 is sufficient to meet the needs of the

		State Building Codes Division.
044	Lewis	Responds that they would have to write additional administrative rules to fill in the gaps that are not addressed in the bill.
052	Rindy	Notes that there are two different descriptions of yurts in the bill.
<b>061</b>	<b>Rep. Merkley</b>	<b>MOTION: Moves to ADOPT SB 882-6 amendments dated 6/4/99.</b>
065	Rep. Merkley	Notes an experience he had with a homeless family. Comments on the benefits of yurts as opposed to shelters.
096	Rep. Kruse	Explains that he will be voting against the ñ6 amendments.
114	Rep. Kafoury	Comments in support of the ñ6 amendments.
132	Rep. Taylor	Comments in support of the ñ6 amendments.
150	Rep. Devlin	Notes his support for the ñ6 amendments and that Sen. Tarno does not object to Rep. King's amendments to SB 882.
156	Rep. Kruse	Notes that Sen. Tarno does not object to passage of the original bill.
[Committee at ease]		
		<b>VOTE: 6-2</b> <b>AYE: 6 - Devlin, Gianella, Kafoury, Merkley, Taylor, Welsh</b> <b>NAY: 2 - Kruse, Morgan</b> <b>EXCUSED: 1 ñ Atkinson</b>
<b>175</b>	<b>Chair Welsh</b>	<b>The motion CARRIES.</b>
<b>179</b>	<b>Rep. Merkley</b>	<b>MOTION: Moves SB 882 to the floor with a DO PASS AS AMENDED recommendation.</b>
		<b>VOTE: 7-1</b> <b>AYE: 7 - Devlin, Gianella, Kafoury, Kruse, Merkley, Taylor, Welsh</b> <b>NAY: 1 - Morgan</b>

		<b>EXCUSED: 1 - Atkinson</b>
<b>189</b>	<b>Chair Welsh</b>	<b>The motion CARRIES.</b> <b>REP. KING will lead discussion on the floor.</b>
191	Chair Welsh	Closes the work session on SB 882 and reopens the work session on HB 3456.
<b><u>HB 3456 ñ WORK SESSION (CONTINUED)</u></b>		
199	Langdon Marsh	Director, Department of Environmental Quality. Submits written material <b>(EXHIBIT C)</b> and begins testimony by discussing DEQ's efforts in cleaning up contaminated sites.
256	Marsh	Continues discussing DEQ's efforts in cleaning up contaminated sites.
300	Marsh	Continues testimony by testifying in opposition to HB 3456.
344	Marsh	Continues testimony in opposition to HB 3456.
376	Rep. Kafoury	Asks Mr. Marsh if he is referring to the ñ4 amendments.
379	Marsh	Responds that he is.
381	Rep. Kafoury	States that it is her understanding that the ñ4 amendments allow DEQ to establish the process and write the rules on how the process would work. Asks Marsh if he has a different understanding.
389	Marsh	Responds that he does.
<b>TAPE 190, B</b>		
011	Rep. Kafoury	Asks what is it about the language in section 2 of the ñ4 amendments that would prohibit DEQ from considering the "hot spot" provisions and requirements of existing law.
015	Marsh	Explains the problem that is created if this language is put into law.
030	Rep. Kruse	Notes that he does not understand DEQ's problem with the amendments. Asks what is wrong with getting actual results.
040	Marsh	Responds that DEQ agrees that they should be after results. Notes the issue is

		which results and how far they go.
067	Rep. Kruse	Asks if DEQ's rules are going to cover contamination hot spots.
071	Marsh	Responds that they read the last sentence in section 2 as a directive to change the philosophy of the independent cleanup program from one that looks at the current issues, including hot spots, to one where the purpose is to have DEQ issue no further action letters on partial cleanups.
086	Rep. Merkley	Asks if clarification of this language might address DEQ's concerns.
094	Marsh	Responds that DEQ feels that improvements can be made in the cleanup program, but does not feel HB 3456 is needed.
131	Rep. Merkley	Comments that there is the ability to address the language in section 2.
140	Chair Welsh	Referencing section 4(4) of the ñ4 amendments, notes that the opportunity for negotiation and mediation is being established.
146	Marsh	States that he has not had time to review more than the first page of the ñ4 amendments. Notes DEQ's concern whether they are going to be as environmentally protective under HB 3456 as they are under current law.
162	Chair Welsh	States that this looks like an attempt to make the process more user friendly and that it is encouraging involvement.
170	Marsh	Agrees that there is a need for DEQ to find out what makes some people reluctant to go through their process.
198	Chair Welsh	Questions whether there are private property rights involved in this issue.
199	Marsh	States that there are, but it is a balance between property rights and public health and ecological rights.
215	Rep. Taylor	Asks if the rescinding of the letter for no further action in Mercer's situation is a common occurrence.
220	Marsh	Responds that he does not know the circumstances surrounding the letter being rescinded in Mercer's situation.
235	Rep. Morgan	Referencing the map of cleanup sites that was submitted, asks if there is any information that shows how long people were involved in the regulatory process before they got to the end of it.



242	Marsh	Responds that he does not have this data.
250	Rep. Morgan	Expresses surprise that DEQ has a customer service problem but they have not tried to determine what the problem is.
265	Marsh	Clarifies that they only have some dissatisfied customers. Agrees that they ought to come up with some statistical samples for residence time in the program. Cautions the committee that results could be skewed.
285	Rep. Morgan	States that with approximately 400 sites DEQ could come up with a normative timeframe for individuals' involvement in the system. Expresses concern about DEQ's resistance to adding the proposed mediation structure to their process.
297	Marsh	Comments that the addition of a mediation process is a good idea.
318	Rep. Morgan	Asks Marsh to describe DEQ's involvement with the proponents of HB 3456 in developing the legislation.
322	Marsh	Responds that DEQ has indicated their fundamental problems with the bill to the proponents since the beginning.
349	Rep. Devlin	Asks for the committee to receive information on the amount of time individuals have spent in the process.
370	Paul Slyman	Environmental Cleanup Program Manager, Department of Environmental Quality. Comments that it will be difficult to gather this information because of the nature of the voluntary cleanup program.
438	Rep. Devlin	Expresses concern that he has heard that DEQ has been unwilling to meet with the proponents and talk about specific language in the bill.
456	Chair Welsh	Closes the work session on HB 3456. Adjourns the committee at 10:07 a.m.

Submitted By, Reviewed By,

Stephen Kosiewicz, Kristina McNitt,  
Administrative Support Administrator

## **EXHIBIT SUMMARY**

**A ñ HB 3456, written material, John Ledger, 4 pp.**

**B ñ SB 882, SB 882-6 amendments, Ron Eber, 11 pp.**

**C ñ HB 3456, written material, Langdon Marsh, 12 pp.**