

SENATE COMMITTEE ON AGRICULTURE & NATURAL RESOURCES

May 5, 1999 Hearing Room 50

4:30 p.m. Tapes 116 - 117

MEMBERS PRESENT: Sen. Gary George, Chair

Sen. Thomas Wilde, Vice-Chair

Sen. Tony Corcoran

Sen. Joan Dukes

Sen. Ted Ferrioli

Sen. Bill Fisher

Sen. Marylin Shannon

STAFF PRESENT: Brad Harper, Administrator

Patrick Brennan, Administrative Support

MEASURE/ISSUES HEARD: SJM 13 Work Session

SB 940 Work Session

SB 1028 Public Hearing

SJM 14 Work Session

SB 12 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 116, A		
003	Vice-Chair Wilde	Calls the meeting to order at 4:55 p.m. Indicates that there will be no action taken on SB 1152 at this time, as the amendments have not been presented to the committee in their final form. Opens a work session on SJM 13.

SJM 13 WORK SESSION

018	Sen. Corcoran	MOTION: Moves to ADOPT SJM 13-2 amendments dated 5/4/99.
	Vice-Chair Wilde	Hearing no objection, declares the motion CARRIED.
022	Sen. Corcoran	MOTION: Moves SJM 13 be sent to the floor with a BE ADOPTED AS AMENDED recommendation.
024		VOTE: 6-0-1 AYE: In a roll call vote, all members present vote Aye. EXCUSED: 1 - Dukes
	Vice-Chair Wilde	The motion CARRIES. SEN. YIH will lead discussion on the floor.
030	Vice-Chair Wilde	Closes the work session on SJM 13 and opens a work session on SB 940.

SB 940 WORK SESSION

033	Vice-Chair Wilde	States that the amendments that would have prohibited the commingling of glass in cities with a population in excess of 250,000 have been withdrawn. Indicates that the n4 amendments (EXHIBIT B) have been submitted for consideration by the committee.
051	Sen. Corcoran	MOTION: Moves to ADOPT SB 940-4 amendments dated 5/4/99.
	Vice-Chair Wilde	Hearing no objection, declares the motion CARRIED.
053	Sen. Corcoran	MOTION: Moves SB 940 to the floor with a DO PASS AS AMENDED recommendation.
055		VOTE: 6-0-1 AYE: In a roll call vote, all members present vote Aye. EXCUSED: 1 - Dukes

	Vice-Chair Wilde	<p>The motion CARRIES.</p> <p>SEN. WILDE will lead discussion on the floor.</p>
		Additional testimony was submitted to the committee for the consideration of its members (EXHIBIT C).
065	Vice-Chair Wilde	Closes the work session on SB 940 and opens a public hearing on SB 1028.
<u>SB 1028 PUBLIC HEARING</u>		
075	Vice-Chair Wilde	Explains the parameters for the testimony during the hearing on SB 1028.
080	Sen. Susan Castillo	Senate District 20. Testifies in support of the ñ1 amendments (EXHIBIT D) to SB 1028. Explains that the amendments were put forth because an important pesticide bill, SB 617, did not receive a hearing. Asserts that there is strong support statewide for the pesticide-tracking program that would be instituted by the amendments. Explains that the amendments require those using pesticides to report information to an advisory board, which it would also create. Says that the bill creates a competitive grants program to facilitate environmentally sound strategies for pest management. Indicates that a similar program has been instituted in California. Discusses the activities of the Governor's task force on hazardous substance reporting and community right-to-know.
140	Sen. Shannon	Asks if the sponsors of the bill consider the ñ1 amendments to be "friendly amendments."
142	Sen. Castillo	Expresses doubt that the sponsors, Sens. George and Wilde, support the amendments, since they were unwilling to schedule a hearing on SB 617.
154	Sen. Corcoran	Asks Sen. Castillo to describe the composition of the task force and how it dealt with the argument that SB 617 would create a "bureaucratic problem" for pesticide users.
161	Sen. Castillo	Replies that the Oregon Department of Agriculture (ODA) would need to make the reporting system as easy as possible. Explains that much of the information is already being collected and would merely be better organized under provisions of the ñ1 amendments. Expresses a desire to avoid placing an unnecessary burden on pesticide users.
181	Rep. Chris Beck	House District 12. Testifies in support of portions of the ñ3 amendments (EXHIBIT E) to SB 1028. Explains that certain provisions of the ñ3 amendments originated as HB 3293, which did not receive a hearing in the House. Asserts that the provisions address air quality concerns for residents of

		North Portland.
197	Sen. Kate Brown	Senate District 7. Testifies in support of portions of the ñ3 amendments, specifically Sections 8-16. Indicates that the sections originated as SB 933 and that they require contact persons to be identified for consultation regarding pesticide use in schools and parks. Asserts the public has a right to be informed about what types of toxic substances are being used in schools so parents can protect their children and themselves from exposure. Says that approximately half of the states have similar notification requirements. Argues that children are especially vulnerable to toxic substances, given their age and propensity for exposure. Discusses potential hazards related with exposure.
249	Vice-Chair Wilde	Concurs with the need to protect children from pesticides. Acknowledges that school districts and others who would be impacted by the amendments have expressed opposition but indicates that he intends to continue to push for their adoption.
257	Sen. Brown	Submits that Sections 8-16 of the ñ3 amendments are actually more restrictive than SB 933, save for the time during which pesticide application notification must be in place. Expresses a desire to reinstate the 96-hour requirement for notification posting.
266	Vice-Chair Wilde	Replies that the limit was reduced at his suggestion. Explains that parents should be encouraged to be aware of their children's activities, but that too much notice could lead to over-reaction. Indicates that he would consider reinstating the 96-hour requirement.
292	Sen. Shannon	Asks if everyone who owns grass with access to the public would need to post warnings before pesticide application.
300	Sen. Brown	Replies that notification would be required for state and local parks.
304	Vice-Chair Wilde	Concurs with Sen. Brown. Says that parents should be aware if pesticides have been used before allowing their children to play at a park.
310	Sen. Shannon	Asserts that if pesticides pose such a danger to the public they should be outlawed.
314	Vice-Chair Wilde	Says that children are more vulnerable to the adverse effects of pesticides than are adults and are more likely to come in contact with them in a park.
332	Sen. Ferrioli	Requests confirmation that the ñ1 amendments are based on SB 617.
335	Sen. Castillo	Replies that they are.
337	Sen. Ferrioli	Wonders if the proponents of those amendments are aware of the recent decision by Circuit Court Judge Darrell Larson, regarding the Eugene ordinance dealing

		with toxics right-to-know.
345	Sen. Castillo	Replies that the proponents are aware of the decision and expresses hope that they will be able to speak to the issue.
348	Sen. Ferrioli	Indicates that the judge found for the plaintiffs, whom he considered over-regulated, in almost every count. Says that the judge considered the ordinance to be "unconstitutional, impossible to implement, duplicative, unenforceable, punitive, and in every other way illegal." Wonders why the committee should consider amendments based on such a "flawed" city ordinance.
370	Sen. Castillo	States that the case is irrelevant to SB 617 and the ñ1 amendments, as the fee program is different than the one used by the Eugene ordinance.
382	Sen. Ferrioli	Asserts that the judgeís opinion was correct and that the Eugene ordinance was a bad one.
390	Sen. Ginny Burdick	Senate District 6. Testifies in support of the ñ1 amendments to SB 1028. States that her district is heavily affected by pollutants and would be benefited by passage of the amendments. Says that pollution technology has improved since she first lived in North Portland but that the conditions are still deplorable.
TAPE 117, A		
005	Vice-Chair Wilde	Explains that the section was added specifically to address the problem. States that members of the committee have expressed a desire to take action on the ñ1 amendments so as to make the position of the committee known. Closes the public hearing on SB 1028 and opens a work session on SB 1028.
<u>SB 1028 WORK SESSION</u>		
020	Sen. Ferrioli	MOTION: Moves to ADOPT SB 1028-1 amendments dated 4/15/99.
025	Sen. Ferrioli	Indicates that he is opposed to the adoption of the ñ1 amendments.
026		VOTE: 2-4-1 AYE: 2 - Corcoran, Dukes NAY: 4 - Ferrioli, Fisher, Shannon, Wilde EXCUSED: 1 - George

	Vice-Chair Wilde	The motion FAILS.
028	Vice-Chair Wilde	Closes the work session on SB 1028 and reopens the public hearing on SB 1028.
<u>SB 1028 PUBLIC HEARING</u>		
029	Sen. Dukes	Inquires as to the purpose of voting on the ñ1 amendments at this time.
030	Vice-Chair Wilde	Replies that the committee is unwilling to pass the ñ1 amendments and wished to make that stance known. Asserts that a position can be debated for public consumption but that the goal is to work towards a bill that has four votes on the committee.
037	Sen. Dukes	Takes opposition to the committee's apparent refusal to listen to discussion on any issue before it. Asserts that if the subject matter is pesticides, the committee must be willing to listen to all arguments falling into that category. Argues that the committee's role is to listen to the views of the public. Suggests that "no one knows what will be in or out of a bill until it is voted out of committee" and that it is "outrageous" to take one group and publicly show that their position will not be considered.
050	Sen. Corcoran	Concurs with Sen. Dukes. Says that the actions of the vice-chair regarding the ñ1 amendments were unprecedented in the committee. Asserts that the hearing is simply a matter of allowing the public to express its concerns. Indicates that a minority report will be filed.
063	Sen. Ferrioli	Submits that SB 1028 is incompatible with the ñ1 amendments, meaning that they were an attempt to "gut and stuff" the bill. Indicates that such discussions occur all the time. Suggests that the only reason the ñ1 amendments were brought to the committee is the relating-to clause is similar. Asserts that the issue addressed by SB 617 has been in front of the legislature for three sessions without any action being taken. Says that the testimony should deal with how the bill was brought by the sponsors.
075	Sen. Corcoran	Says the committee "has never done this before."
080	Sen. Shannon	Says the legislature has been dealt with for almost 12 years and that "the other side" has handled the issue in an inequitable manner on occasion.
085	Vice-Chair Wilde	Explains that the normal procedure for submitting an amendment is to go to the sponsor of a bill and ask for permission to bring such an amendment forward. Acknowledges that the method used by the proponents of the ñ1 amendments was acceptable. Offers to continue to permit testimony on the issue.
103	Neva Hassanein	Representative, Northwest Coalition for Alternatives to Pesticides. Testifies in support of the ñ1 amendments to SB 1028 (EXHIBIT F). States that the purpose of the coalition is "to establish a reliable and accurate system to collect and publish information on the use of pesticides in Oregon." Says Sections 24-26 of

		the ñ3 amendments relate to a study to determine whether the state should monitor pesticide use. Asserts that the ñ3 amendments will not provide the public with needed information regarding pesticide use, though they provide several valuable pieces. Argues that the issue has been studied repeatedly and that it is a foregone conclusion that a monitoring program is necessary.
154	Laura Weiss	<p>Representative, Oregon Environmental Council. Testifies in support of the ñ1 amendments to SB 1028. Reiterates that California has made pesticide information available to the public with success. Explains how site-specific information on pesticides would benefit Oregon:</p> <ul style="list-style-type: none"> • Improved pest management • Consumer confidence • Children's health • Better water quality • Endangered species protection • Worker health and safety • Good science
200	Sen. Corcoran	Asks Sen. Castillo if she was the sponsor of a task force bill that was before the committee previously.
208	Sen. Castillo	Describes the bill in question, SJR 38.
210	Sen. Corcoran	Asks if the group that submitted the "gut and stuff" amendments to that bill consulted her regarding the amendments.
215	Sen. Castillo	Replies that no such consultation took place.
219	Vice-Chair Wilde	Reiterates that consultation is not required, but that it is appropriate and helps to prevent conflict.
228	Sen. Castillo	Concurs with the vice-chair. Adds that the committee should have been more forthright regarding its intentions toward SB 617.
251	Sharon Genasci	<p>Chairman, Health and Environment Committee, Northwest District Association. Testifies in support of the ñ3 amendments to SB 1028 (EXHIBIT G), specifically Sections 18-21. Indicates that these sections refer to air quality. States that her committee has worked for years to convince the Department of Environmental Quality (DEQ) to use the phrase "hot spot" in reference to areas of high pollution. Asserts that air quality is as important as water quality. Argues there should be permanent monitoring for toxins where homes abut industrial development. Indicates there are no adequate controls for air pollutants in Oregon. Submits that the ñ3 amendments adequately address the issue in that it recognizes the cumulative impact of a large number of toxins.</p>
310	Sen. Shannon	Asks Ms. Genasci how long she has lived in North Portland.
312	Genasci	Replies that she has resided there for eight years, adding that she would never

		have moved there had she known about the pollutants.
315	Sen. Shannon	Compares the issue with that of houses built on riverbanks and says that people who do not want to live near factories should not move into houses near them.
320	Genasci	Concurs with Sen. Shannon. Says that people move into the neighborhood without being told of the danger. Mentions that many low-income residents cannot afford to move or to live anywhere else.
365	David Spangler	Board Member, Northwest District Association. Indicates that the odor that originates in North Portland contaminates much of greater Portland. Discusses his experience with the adverse effects on health that can be caused by toxins in the air. Suggests that those who work in the neighborhood cannot easily remove themselves from the situation.
379	Sen. Shannon	Inquires what industry should do to address the problem.
381	Genasci	Replies that industry should adopt technology to control the problem and to be "good neighbors." Says that there are over 70 toxic compounds present in the area.
400	Elizabeth Pott	Resident, Northwest Portland. States that her neighborhood was established over 50 years before the creation of the industrial park that has contaminated the area. Asserts that advanced technology exists which could address the pollution problem but that it has not been applied. Implores the committee to address the problem.
TAPE 116, B		
005	Sen. Fisher	Suggests that city government should address the issue.
008	Genasci	Replies that city government has decided to defer the problem to DEQ. Says the city takes excellent care of drinking water but has made no effort to address air quality.
013	Pott	States that DEQ is contacted often and is receptive but has provided no relief.
015	Sen. Fisher	Suggests voters should hold elected officials in city government accountable.
016	Genasci	Says there has only been an organized effort on the part of the public to address the issue in the last five years.
020	Sen. Fisher	Submits that smog has been acknowledged for years, during which time there has been a great deal of turnover in city government in Portland. Asserts that the city has over-regulated business and industry without consideration as to the

		expense to companies who must comply with regulations.
032	Spangler	Mentions that city government defers to DEQ with regards to air quality, although Portland is "becoming aware" that DEQ is not addressing the issue adequately.
038	Sen. Fisher	Suggests that citizens could take legal action on the problem.
044	Genasci	Suggests that citizen lawsuits is "asking a lot." Implores the legislature to take action on the issue in order to "put some muscle" behind the effort. Argues that Portland will "turn into a Los Angeles" if nothing is done to curtail pollution.
050	Sen. Shannon	Remarks that she moved into a beautiful country area next to a strawberry field that was later plowed under by the farmer who owned it. Argues that the farmer was within his rights to do so, as he was in the area first.
058	Pott	Reiterates that the neighborhood has existed in the area since the late 19 th century, while industry moved in during the 1920s.
064	Vice-Chair Wilde	Closes the public hearing on SB 1028 and opens a work session on SJM 14.
<u>SJM 14 WORK SESSION</u>		
074	Chair George	Gives a brief description of the memorial.
088	Sen. GEORGE:	MOTION: Moves SJM 14 be sent to the floor with a BE ADOPTED recommendation.
090	Sen. Corcoran	Wonders if there are chemicals available to control eastern filbert blight that are not currently in use.
095	Chair George	Replies that industry representatives have said there are new fungicides that have a significant effect. Indicates that the Environmental Protection Agency (EPA) does not even allow testing of such chemicals at this time and that the memorial is an attempt to spur the effort to accommodate such efforts.
101	Sen. Corcoran	Requests confirmation that eastern filbert blight is present in Oregon.
103	Chair George	Confirms that it is present in Oregon.
105		VOTE: 6-0-1 AYE: In a roll call vote, all members present vote Aye.

		EXCUSED: 1 - Dukes
	Vice-Chair Wilde	<p>The motion CARRIES.</p> <p>SEN. GEORGE will lead discussion on the floor.</p>
108	Vice-Chair Wilde	Closes the work session on SJM 14 and opens a work session on SB 12.
<u>SB 12 WORK SESSION</u>		
110	Brad Harper	Committee Administrator. Indicates that the ñ8 amendments (EXHIBIT H) have been received that are the corrected versions of the amendments produced by the work group appointed by the chair.
130	Chair George	Mentions that the amendments also reflect the concerns expressed by Sens. Dukes and Wilde at the previous hearing.
134	Vice-Chair Wilde	Recalls that he was concerned that a landowner prohibited from building on a parcel of land determined to be in a landslide zone would be able to build in another restricted use area. Says that the requirements have been tightened to insure that such a landowner will have exhausted his or her options before being allowed to take such an action.
144	Chair George	Indicates that the "lights flashing" issue has been addressed by including the option to use portable flashing light units.
150	Sen. Shannon	MOTION: Moves to ADOPT SB 12-8 amendments dated 5/5/99.
	Vice-Chair Wilde	Hearing no objection, declares the motion CARRIED.
155	Sen. Shannon	MOTION: Moves SB 12 to the floor with a DO PASS AS AMENDED recommendation and BE REFERRED to the committee on Ways and Means by prior reference.
168	Sen. Fisher	Requests assurance for his constituents that the amended bill will address the problems concerning SB 13.
178	Ray Wilkeson	Representative, Oregon Forest Industries Council. States that the ñ8 amendments address the SB 13 issues on page 3, lines 19-21. Indicates that the language is a good substitute for SB 13.

180		<p>VOTE: 6-0-1</p> <p>AYE: In a roll call vote, all members present vote Aye.</p> <p>EXCUSED: 1 - Dukes</p>
	Vice-Chair Wilde	<p>The motion CARRIES.</p> <p>SEN. FERRIOLI will lead discussion on the floor.</p>
187	Vice-Chair Wilde	Closes the work session on SB 12. Reopens the work session on SB 940.
<u>SB 940 WORK SESSION</u>		
198	Sen. Wilde	<p>MOTION: Requests unanimous consent that the rules be SUSPENDED to allow SENS. FISHER AND GEORGE to BE RECORDED as voting AYE on the MOTION to Move SB 940 to the floor with a DO PASS AS AMENDED recommendation.</p>
	Vice-Chair Wilde	<p>Hearing no objection, declares the motion CARRIED.</p>
		The vote count listed previously in the minutes document has been edited to reflect the votes of Sens. Fisher and George.
210	Vice-Chair Wilde	Closes the work session on SB 940 and reopens the work session on SJM 13.
<u>SJM 13 WORK SESSION</u>		
217	Sen. Wilde	<p>MOTION: Requests unanimous consent that the rules be SUSPENDED to allow SENS. FISHER AND GEORGE to BE RECORDED as voting AYE on the MOTION to Move SJM 13 to the floor with a BE ADOPTED AS AMENDED recommendation.</p>
	Vice-Chair Wilde	<p>Hearing no objection, declares the motion CARRIED.</p>
		The vote count listed previously in the minutes document has been edited to reflect the votes of Sens. Fisher and George.
227	Vice-Chair Wilde	Closes the work session on SJM 13 and adjourns the meeting at 6:20 p.m.

Submitted By, Reviewed By,

Patrick Brennan, Brad Harper,

Administrative Support Administrator

EXHIBIT SUMMARY

A ñ SJM 13, -2 amendments, staff, 1 p.

B ñ SB 940, -4 amendments, staff, 2 pp.

C ñ SB 940, testimony, Lauri Aunan and Bob Danko, 1 p.

D ñ SB 1028, -1 amendments, Sen. Tony Corcoran, 13 pp.

E ñ SB 1028, -3 amendments, staff, 25 pp.

F ñ SB 1028, testimony, Neve Hassanein, 3 pp.

G ñ SB 1028, testimony, Sharon Genasci, 1 p.

H ñ SB 12, -8 amendments, staff, 17 pp.