

HOUSE COMMITTEE ON ENVIRONMENT AND ENERGY

January 27, 1997 Hearing Room E

1:00 PM Tapes 8 - 10

**MEMBERS PRESENT:**

Rep. Leslie Lewis, Chair

Rep. Frank Shields, Vice-Chair

Rep. Michael Fahey

Rep. Mike Lehman

Rep. Dennis Luke

Rep. Mark Simmons

Rep. Jim Welsh

**STAFF PRESENT:**

Judith Gruber, Policy Analyst

Pat Zwick, Policy Analyst

Marjorie Taylor, Administrative Support

**MEASURE/ISSUES HEARD:**

HB 2177 Public Hearing and Work Session

HB 2218 Public Hearing

HB 2021 Public Hearing

LC 1294, LC 1295, LC 1296 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.**

<b>Tape/#</b>	<b>Speaker</b>	<b>Comments</b>
<b>TAPE 8, A</b>		
001	Chair Lewis	Calls meeting to order at 1:02 p.m. and opens the public hearing for HB 2177.

<b><u>HB 2177 PUBLIC HEARING</u></b>		
006	Judith Gruber	Policy Analyst summarizes HB 2177 for the committee - it allows the Department of Environmental Quality (DEQ) to waive fees for sewage disposal in the event of a declared emergency.
011	Gruber	There is subsequent referral to the Ways and Means committee and there is an indeterminate fiscal effect related to the bill.
017	Chair Lewis	Calls for testimony from Rep. Josi.
019	Rep. Josi	State Representative - worked with DEQ to produce the bill.
029	Rep. Josi	Speaks of 1996 flooding experience and related DEQ actions in Tillamook County.
037	Rep. Josi	This bill plans to waive sewage disposal fees when in a state of emergency. Financial impact to the state wouldn't be large, but the waiver would be a great help to those that it would serve.
043	Lydia Taylor	Deputy Director of DEQ - encourages the passage of this legislation <b>(EXHIBIT A)</b> .
049	Chair Lewis	Calls for questions and ask for any other testimony on HB 2177.
058	Chair Lewis	Closes public hearing for HB 2177. Opens work session for HB 2177.
<b><u>HB 2177 WORK SESSION</u></b>		
061	Rep. Luke	<b>MOTION: Moves HB 2177 to the floor with a DO PASS recommendation and BE REFERRED to the committee on WAYS AND MEANS by prior reference.</b>
064		<b>VOTE: 6-0</b> <b>AYE: In a roll call vote, all members present vote Aye.</b> <b>EXCUSED: 1 - Shields</b>
	Chair Lewis	<b>The motion CARRIES.</b>
075	Chair Lewis	Opens public hearing on HB 2218. Calls Rep. Thompson for testimony.
<b><u>HB 2218 PUBLIC HEARING</u></b>		
081	Rep. Thompson	State Representative - Provides a description of the bill. Fuel tanks need to be upgraded and one of the criteria for financial assistance with the process is based on distance to the next station - this bill proposes to change the distance from nine miles to seven miles.
100	Rep. Thompson	Some rural stations serve as the life blood of the community and if they go out of business, the towns will die with them.

120	Rep. Thompson	Rural stations are having a hard time coming up with the finances that will allow them to conform to Federal regulations.
132	John Gardner	Assistant to Rep. Thompson. Has worked with DEQ to come up with language that will address the small town service stations - rural service centers.
154	Rep. Luke	Asks for clarification from Rep. Thompson about what type of stations are being discussed in relation to this issue.
158	Rep. Thompson	Responds that the stations are not cardlocked pumps, but rural service stations.
165	Rep. Luke	Indicates that there is a legal definition for rural service stations.
171	Rep. Thompson	Expresses desire to create a priority system in relation to the importance of the station to the survival of the community.
181	Rep. Welsh	Asks if this would be similar to Alaska's solution.
185	Rep. Thompson	Responds that it's not exactly the same but similar in some ways.
189	Chair Lewis	Asks for any other testimony from Rep. Thompson.
198	Chair Lewis	Calls for Mike Kortenhof from DEQ.
203	Mike Kortenhof	Manager, Underground Storage Tank Program with DEQ - Willing to answer questions related to the financial assistance program.
212	Kortenhof	The current assistance program (\$6,400,000/4 yrs.) is set to end with no more money planned or available.
218	Rep. Luke	Asks how many stations will close due to lack of funds.
222	Kortenhof	Approximately 1200 stations will close instead of upgrade.
236	Rep. Luke	Asks how the figure is related to competition.
237	Kortenhof	Doesn't have a answer about competition but believes that most stations that will close will do so because of a lack of finances.
244	Rep. Luke	Inquires about repayment from previous loans indicating that in earlier years both grants and loans were provided to station owners.
254	Kortenhof	The loans are being paid back.
262	Mary Wahl	Administrator with Waste Management and Clean Up with DEQ - Explains that there have been no defaults on the loans.
267	Kortenhof	Of 35 original loan guarantees, nine have been paid back - the remaining loans have a term of the year 2003.
272	Rep. Luke	Asks if the loans were made to primarily rural or urban stations.
277	Kortenhof	Responds that loans were made to both rural and urban stations.
278	Chair Lewis	Calls for further questions.
280	Rep. Welsh	States that this is a Federal regulation mandated on the states

		without backing funds.
290	Kortenhof	Answers that the Environmental Protection Agency is continuing to fund the underground storage tank program.
297	Rep. Welsh	Inquires to the mandated date and the age of tanks that are mandated.
301	Kortenhof	Upgrades must be completed by 12/22/1998 and this applies to all tanks currently in the ground.
304	Wahl	Explains the need for upgrading of tanks due to contamination of ground water.
310	Rep. Welsh	Inquires about other clean up options such as petroleum eating bacteria.
325	Kortenhof	Explains that bioremediation is used and that it is increasing in use, but the point is to stop the leak not just pick up the spill.
335	Rep. Welsh	Asks if there is a way to repair leaks in ground instead of pulling them out for replacement or repair.
344	Kortenhof	Acknowledges that tanks can be upgraded (by lining them) instead of being replaced, and indicates that susceptibility to corrosion is also a factor.
353	Rep. Welsh	Inquires as to what kind of funding, loan or grant, is needed to help the remaining stations.
357	Kortenhof	Approximately 70 stations currently need grants, but thousands more need grants or loans.
379	Chair Lewis	Calls Randy Quetschke for testimony.
<b>TAPE 9, A</b>		
007	Randy Quetschke	Owner of the Burnt Woods store which is a rural service station.
013	Quetschke	Estimated cost of clean up whether they operate or not is \$50,000.
019	Quetschke	Suggests reviewing stations without funding to do the mandated clean up on a case to case basis.
020	Rep. Luke	Inquires as to why Mr. Quetschke didn't take advantage of earlier programs.
023	Quetschke	States that his business was not eligible for assistance.
025	Rep. Welsh	Verifies that whether or not the business is in operation, the clean up must be paid for.
028	Quetschke	Acknowledges that is the case.
030	Rep. Shields	Asks if the leaking started prior to purchase of the tanks.
039	Quetschke	Explains that he currently believes that they are not leaking.
042	Rep. Shields	States that a person buys the problem that they're not aware of and now it's their problem.

047	Quetschke	Acknowledges the statement indicating that it's not the fault of anyone.
050	Chair Lewis	Calls Carol Lowe for testimony.
053	Carol Lowe	Owner of the Logsden Country Store - Her store satisfies many needs for the community.
063	Lowe	States that gas has been at the Logsden store for 60-70 years.
073	Lowe	States that she has been financially on her own to do testing and has been doing her own decontamination work with the help of a hydro-geologist.
087	Lowe	States that her pumps have been cleaned up and she is now back in the gas business. Reiterates that her store is the lifeblood of Logsden and if she doesn't survive the town won't either.
097	Rep. Welsh	Asks what customers did while the station was out of commission.
101	Lowe	Customers had to change their lifestyles, buy gas elsewhere, do without gas, or run out of gas.
113	Chair Lewis	Asks what the total cost of decommissioning has been so far.
115	Lowe	Indicates that the total right now is about \$45,000, but not everything is included in that price.
122	Chair Lewis	Asks about lost revenues.
125	Lowe	Indicates that she's not sure, but gross sales \$50-75,000.
133	Rep. Welsh	Asks how long it would take to make up the cost of decommissioning.
135	Lowe	States that she won't be able to unless she sells and breaks even.
142	Chair Lewis	Calls Jim Robertson.
149	Jim Robertson	Owner of the Elmira Station.
157	Robertson	Bought the station under the assumption that he was on the list for financial assistance - found out that he wasn't and now does not have the money to do the clean up.
173	Robertson	Small town service stations do a service to the general public - providing assistance with small repairs, gas, food, sense of community.
184	Robertson	Wonders where he can get help since he doesn't want to go out of business and didn't qualify for lottery money.
195	Robertson	If the station closes not only will he lose business income, but also property value, his livelihood, plus he must decommission the tanks.

202	Rep. Welsh	Uses Mr. Robertson's station - Asks how many people the station serves - about 2000 people, and two stations survive in the area.
218	Rep. Welsh	Asks what Mr. Robertson is facing if he doesn't meet the deadline.
222	Robertson	First, he must shut the station down and lose his job. Next the tanks must be decommissioned.
224	Rep. Welsh	Inquires as to what happens if a person can't afford decommissioning.
228	Robertson	The option is bankruptcy and then taxpayers must pay for the clean up.
235	Rep. Welsh	Verifies that if he doesn't clean up, he still won't have anything.
239	Robertson	Acknowledges that his business will die without financial aid and explains what needs to happen to his station.
248	Robertson	Owners understand why there is a mandate for clean up, but some people can't do it financially.
259	Chair Lewis	Calls Troy Dixon.
263	Troy Dixon	Owner of the Lowpass Station and Market about 20 miles from Junction City on the way to Triangle Lake.
270	Dixon	Explains services of his station.
277	Dixon	His station doesn't qualify for financial aid due to location. Without the aid he'll lose everything.
286	Dixon	States that the estimated cost of decommissioning is more than \$100,000 and he won't do it because he can't afford it.
296	Dixon	Doesn't want to pay to test the tanks now when he knows he'll have to remove them later.
304	Dixon	Indicates that he has a shallow water well nearby and there has not been noticeable contamination detected in his water supply.
310	Dixon	States that either owners have the money to do clean up or they don't and he is not willing to refinance for the clean up.
324	Dixon	Asks what will tourists do to get gas - possibly truck it in and cause more spills, damage, and danger.
339	Dixon	States that the program makes no sense to him and wonders what his customers will have to do in the future.
357	Rep. Welsh	States that when rural stations are lost, extra miles traveled for gas and service equal extra gas used, extra emissions, and increased safety risks.
369	Chair Lewis	Calls Mike Sherlock.
376	Mike Sherlock	Executive Director, Oregon Independent Gas Dealers Association (OGDA).

380	Sherlock	This is a serious problem to the local economies of the rural areas.
<b>TAPE 8, B</b>		
010	Sherlock	States that this legislative session is the last chance for the rural station owners to keep their stations, whereas next session will bring the problem of what to do with closed and abandoned stations.
016	Rep. Welsh	Verifies that the state and taxpayers will have to pay for clean up later.
018	Sherlock	Acknowledges that taxpayers will have to pay for clean up.
021	Chair Lewis	Asks if stations applying for the grant program were independent stations or corporately owned.
029	Sherlock	Speaks of a four tier classification system for the stations - tier one are large corporations, tier two are a step down from that, but the rural stations are tier four - owned by individuals.
036	Rep. Shields	Asks if tier one stations are happy with this plan and about competition.
041	Sherlock	Answers that tier one stations provide a much larger volume of gas than tier four therefore, the impact is minimal.
049	Rep. Shields	States that if one station goes out of business it doesn't affect all others, but it certainly helps their business.
063	Rep. Luke	Inquires to what type of financial program the stations are looking for, grants or loans.
067	Sherlock	Responds that OGDAs would support a combination program of some grants, but mostly loans.
076	Rep. Luke	States that a combination program is better than grants only.
083	Rep. Simmons	Restates the options that station owners have - take out a loan they can't pay back, or close the station and go bankrupt. In both cases, the taxpayer must still pay for clean up due to the Federal mandate.
087	Rep. Fahey	Inquires if prioritization can be based on the services provided by each station. Suggests other funding mechanisms such as a gas tax.
097	Sherlock	Responds about Oregon gas tax prohibiting use for anything other than road maintenance and construction.
105	Chair Lewis	Calls Brian Boe.
107	Brian Boe	Representative from the Oregon Petroleum Marketers Association.
111	Boe	Expresses support for the bill. This is a very difficult problem that has many components.
121	Boe	This is a matter of economic and social viability to the rural communities.
127	Boe	The entire petroleum industry is working together to solve this problem.
		Wonders about the clean up standards for the rural stations which in

132	Boe	turn drives the cost up, therefore not allowing for clean up.
145	Boe	Indicates that knowledge has been gained over the past years from other states and now people are realizing that extreme measures don't need to be taken to get things done.
160	Rep. Luke	Asks about former DEQ legislation that might apply to gas stations.
167	Boe	The legislation is not having a heavy impact.
177	Chair Lewis	Calls for other witnesses for HB 2218.
183	Rep. Luke	Asks if a bond has been created to protect new tanks from future financial problems.
192	Wahl	Indicates that the new tanks are being checked extensively to prevent leaking.
194	Rep. Luke	Asks if the new tanks are earthquake proof.
202	Kortenhof	Responds to earthquake proofing of tanks. States that there are Federal requirements on the new tanks for financial responsibility for leaks.
215	Rep. Luke	Inquires as to how insurance will help with a future leaking problem. The old tanks being removed now were state-of-the-art then, so what happens in the future when these tanks will leak.
227	Kortenhof	Current tanks have leak detection and prevention systems.
234	Rep. Luke	Verifies that there is no bond in place to assist with future leaks.
241	Kortenhof	States that insurance is in place which is a requirement of the DEQ program.
243	Rep. Luke	Asks what happens if after replacement, the business closes, the tanks are abandoned without insurance, and something happens to cause a leak - who pays for it?
246	Kortenhof	The tank would be an orphaned tank at that point and the state would bear the cost of clean up and replacement.
248	Rep. Fahey	Asks what the worry is if tanks aren't leaking.
253	Wahl	Answers that all tanks will leak at sometime - those that are not leaking now must do an upgrade whereas tanks that are leaking must clean up.
258	Rep. Fahey	Asks if tanks will be shut down if they aren't leaking and not upgraded.
260	Wahl	Answers that it is possible the deadline will be extended for such cases, but there is strong opposition to that idea.
274	Rep. Fahey	Expresses discontent with the idea of fixing something that isn't broken. Finds that when a tank is county property DEQ doesn't work as fast for clean up as if it is a private property.
295	Wahl	Acknowledges that there is an existing back log of sites that hasn't been cleaned up and the DEQ intends to be fair to all involved.
		Responds that tightness testing does not mean that the tank is not

312	Kortenhof	leaking - new tanks must have positive leak detection. Approximately 70% of tanks that are checked are leaking.
328	Rep. Welsh	Asks if the percentage is based on an air test on the tanks.
338	Kortenhof	Answers that there are pressure tests of the tanks that are not tests of the soil surrounding the tank. Leaks can occur at slow rates that are not testable.
343	Rep. Welsh	Asks about leakage rates.
344	Kortenhof	The leakage rates are at very low number of gallons per minute.
348	Rep. Luke	Inquires about a Gilcrest example where gas didn't penetrate into the groundwater, but penetrated the PVC pipe which contaminated the town's water source.
371	Chair Lewis	Inquires about independent owners who can't meet the deadline and then file bankruptcy - will the tanks be a orphan sites?
<b>TAPE 9, B</b>		
006	Wahl	Acknowledges that yes, those tanks will be orphan sites. The state will then determine which sites to clean up first based on ability to pay.
011	Rep. Luke	Asks if the state files a lien on the site in a case of bankruptcy.
014	Wahl	DEQ does try to put a lien on the site after the state spends any money.
022	Chair Lewis	Indicates that the committee will be working on this issue later.
025	Chair Lewis	Closes the public hearing on HB 2218.
<b>030</b>	<b>Rep. Luke</b>	<b>MOTION: Requests unanimous consent that the rules be SUSPENDED to allow REP. SHIELDS to BE RECORDED as voting AYE on HB 2177.</b>
	<b>Chair Lewis</b>	<b>Hearing no objection, declares the motion CARRIED.</b>
<b>035</b>	<b>Rep. Luke</b>	<b>MOTION: Moves HB 2177 to the floor with a DO PASS recommendation and BE REFERRED to the committee on WAYS AND MEANS.</b>
		<b>VOTE: 7-0</b>
<b>040</b>	<b>Chair Lewis</b>	<b>Hearing no objection, declares the motion CARRIED.</b>
043	Chair Lewis	Stands the committee at ease.
<b><u>HB 2021 PUBLIC HEARING</u></b>		
044	Chair	Opens the public hearing for HB 2021. Calls Rep. Sowa for

	Lewis	testimony.
045	Rep. Sowa	State Representative from the Oregon City area.
047	Rep. Sowa	Explains that in the past, during land use zoning changes, counties have placed non-conforming exceptions on property owners that existed before zone changes.
069	Rep. Sowa	Gives an example from his district of a rural land owner who had a business on his property which has now been rezoned.
088	Rep. Sowa	The main idea behind the bill is that property owners should be allowed to continue land use that was legal before zoning regulations were applied to the land.
103	Rep. Fahey	Inquires as to where Metro falls in the county.
106	Rep. Sowa	It is another unneeded layer of government in Clackamas county.
109	Chair Lewis	Ask if zoning is left up to the counties or if Metro can place conditions on land owners.
113	Rep. Sowa	Indicates that counties have the final word in property zoning, but Metro strengthens and expands the urban growth boundaries.
118	Chair Lewis	Calls Roy Burns
122	Roy Burns	A Lane county representative from the Association of Oregon Counties.
127	Burns	Expresses concerns with HB 2021 - it might place limitations on counties to place additional conditions on non-conforming property owners <b>(EXHIBIT B)</b> .
140	Burns	This bill could leave counties in a position to not be able to mitigate non-conforming use.
150	Burns	The definition of non-conforming use is a use that existed at the time the new zoning was implemented, and the use is permitted to continue as long as there are no changes to that use.
155	Rep. Simmons	Inquires who establishes what is or is not an adverse impact to a neighborhood.
162	Burns	It's a hard call - proposed and ongoing activity and surrounding property uses are analyzed.
179	Rep. Simmons	Asks if there are standards for the technical evaluations of land use.
182	Burns	It varies by case - planning commissions or elected officials might have to decide some cases whereas others can have evaluations.
193	Rep. Luke	Declares that he wants to study the bill for awhile - in some cases, zone changes are not requested by the land owners, yet they must conform.
209	Rep. Fahey	Expresses the hope that private land owners will have the flexibility in land use that the counties have - cites an example of parole offices being placed in neighborhoods at the protest of the

		community.
227	Burns	Can't respond on behalf of Multnomah county - the counties believe government ought to operate as the general public does.
239	Rep. Fahey	Addresses past legislation regarding the issue of super-siting.
247	Rep. Welsh	Agrees with Rep. Luke that the committee needs to study the bill.
257	Rep. Lehman	Expresses that he understands that counties should and want to be in local control, but wonders if those wanting local control, would be for or against this bill.
265	Burns	Answers that he is not sure, and that it would depend on how the bill was crafted.
270	Rep. Lehman	Verifies that the bill proposes to take some control from the counties and give it to the state.
276	Rep. Welsh	States that currently the overriding rules for land use are created by the state.
280	Chair Lewis	Calls Mr. Angstrom.
283	Rich Angstrom	Executive Director, Oregon Concrete and Aggregate Producers Association - Responds to Rep. Lehman's previous statement.
319	Angstrom	Many rock producing sites are working under non-conforming use.
333	Angstrom	Indicates that people against aggregate industry are trying to use the operating conditions to weed out production sites.
349	Angstrom	Aggregate producing owners must go through enormous procedures to grow their businesses.
366	Angstrom	This bill allows for the orderly use of lands.
<b>TAPE 10, A</b>		
003	Chair Lewis	Calls for questions.
006	Chair Lewis	Indicates that the committee will be working on this bill at a later date.
011	Chair Lewis	Closes the public hearing for HB 2021. Opens work session for LC 1294, LC 1295, and LC 1296.
<b>LC 1294, LC 1295, AND LC 1296 WORK SESSION</b>		
015	Chair Lewis	Speaks of committee bills and states that drafts of LC 1294, LC 1295, and LC 1296 were made available to the committee for inspection.
019	Rep. Luke	<b>MOTION: Moves LC 1294 dated 8/28/96, LC 1295 dated 9/30/96, and LC 1296 dated 9/30/96 BE INTRODUCED as committee bills.</b>
030		<b>VOTE: 7-0</b>

038

Chair  
Lewis

Closes the work session for LC 1294, LC 1295, and LC 1296 and  
adjourns the meeting at 2:57 p.m.

Submitted By, Reviewed By,

Marjorie Taylor, Judith Gruber,

Administrative Support Policy Analyst

**EXHIBIT SUMMARY**

**A - HB 2177, Department of Environmental Quality written testimony, Lydia Taylor, 2 pp.**

**B - HB 2021, Association of Oregon Counties written testimony, Roy Burns, 1 p.**