

WORK SESSION ON SB 1143 TAPE 002 - 003 SIDE A

CONFERENCE COMMITTEE ON SB 1143

JULY 4, 1997 - 9:20 P.M. - HEARING ROOM B - STATE CAPITOL BUILDING

Members Present: Sen. Ken Baker, Chair

Sen. Neil Bryant

Sen. Randy Leonard

Rep. Tom Brian, Chair

Rep. Bob Repine

Rep. Frank Shields

Testimony: Rep. Bob Repine, District 49, Grants Pass

Rep. Frank Shields, District 16, Portland

Jeannette Holman, Legislative Counsel

Brian Bowe, Oregon Petroleum Marketers Association

Staff: Ed Waters, Economist

Carol Phillips, Committee Assistant

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TAPE 002, SIDE A

005 Chair Baker Opened meeting at 9:45 p.m.

OPENED WORK SESSION ON SB 1143B

- 007 Rep. Bob Repine Discussed Exhibit I - (-B17) Amendments regarding Oil Heating Commission changes the bill from it was on the Senate Floor. The Chair had some reservations that the bill as it came to the Senate was losing an opportunity to reconsider and use moneys now being collected for the purpose of oil heating fees or taxes paid by users which are sent to the Oil Heating Commission for a variety of activities (a private and no longer state-related entity) could be better spent distributed in the (-B17) Amendments.
- 026 Rep. Repine Continued that it would set up a fund and from that fund Oregonians would be eligible to access that fund for the purpose of decommissioning oil tanks. It means people who have tanks (of which there are literally hundreds of thousands of in-ground tanks all over Oregon) can have them emptied of whatever residual fuel is in them, have the sediment removed, and have tank filled with concrete sand or vermiculite or whatever to keep water from entering them. This would keep old leaky tanks from contaminating surrounding water, soil, etc. Citizens making less than \$35,000 would be able to have this done for a reasonable cost.
- 046 Rep. Repine A sliding scale was created based on income. This program could decommission close to 4,000 tanks per year. Through the current process with the Oil Heating Commission they decommissioned only 400 tanks last year and have a backlog of over 700 tanks. Caveat for people to access funds for tank decommissioning is that they must agree to continue to use oil heat, even though they may want to switch to a different type of heat. In effect, someone who has been paying tax on heating oil for the last eight years is forced to continue to use heating oil if they want tank decommissioning assistance from the Oil Heating Commission.
- 077 Rep. Repine Stated that the issue is not customer service; it is a service that should be offered to anyone with a tank that could potentially pollute the environment.
- 081 Chair Baker Asked the difference between the (-B16) and (-B17) Amendments.
- 083 Rep. Repine Responded that the primary difference is the (-B16) address only the Oil Heating Commission issue. The (-B17) address both the Oil Heating issue and the Oregon Winegrowers exemption language.
- 089 Chair Baker Asked specifically what Section 9 of the (-B17) Amendments covers. It appears to be an assessment of 2.865% of the gross revenues but does not know what it does.
- 095 Rep. Repine Stated it is the current assessment on the product from the Oil Heating Commission. Understands it is collected through Department of Revenue and distributed to the Oil Heating Commission for their use. This would suggest funds are collected and go toward the Underground Heating Oil Tank Technical Assistance and Grant Fund.

- 107 Chair Baker Asked why the Oil Heating Commission is in these Amendments.
- 112 Jeannette Holman Responded that the funds are collected and go into two accounts: 1) to fund the Oil Heating Commission and 2) one to go into their tank decommissioning program. These Amendments would have them still setting the final amount of the assessment, which can exceed 3.5%. The Amendments further state the moneys collected will then go into a Grant Fund.
- 121 Chair Baker Asked if the Oil Heating Commission is a state or private organization.
- 122 Holman Replied that it is somewhat like a commodity commission and is modeled after many commodity commissions with authority to collect funds and transfer them to the Treasury Department.
- 124 Sen. Leonard Asked Rep. Repine what would happen in the instance of a rural oil user who is not served by natural gas. If a fund is established to decommission oil tanks, what advantage is there to a rural user of oil heat for this program?
- 136 Rep. Repine Responded that if a rural oil user knew they had a leaking tank they would be eligible under this program based on income level, have the tank decommissioned, and then put in a new tank. At least that rural user would have access to some assistance to decommission the leaking tank.
- 148 Sen. Leonard Asked why in areas served by other utilities, could this not be a marketing tool that a gas company or electric company would use to convince people that the state was subsidizing them to get rid of oil heat and urging customers to switch to them?
- 153 Rep. Repine Responded that from a practical sense there is more to it than that. Changing from one heat source to another is a very expensive exercise. Questions and discussion interspersed.
- 237 Chair Baker Pointed out to the Committee that the bill as it came from the House would have discontinued the assessment. This presents some options: Could move the bill and discontinue assessment, could make Amendments to go the DEQ route, or could effectively kill the bill.
- 244 Rep. Repine Said that he developed a plan before the Committee today so the moneys could still reach Oregonians and be more equitable in its use.
- Rep. Added a perspective from the Environment and Energy Committee that he served on all session. Learned that back in 1960 there was 300,000 home heating oil tanks in use in Oregon. The average tank has a life span of 30 to 40 years. In 1990 there were only 125,000 still in use. That means 175,000 were tanks have been abandoned. According to DEQ the average amount of oil in an abandoned home heating oil tank is 125 gallons.

- 253 Shields That amounts to a 20 million gallon oil spill at 175,000 locations across the state waiting to happen because the tanks last only 30 to 40 years. Suggested a simple tax credit of \$100 to anyone who would pump out their unused tanks to stop potential leaks in the future. Would like to spend more time next session in studying this issue. This is a huge environmental issue, not just in Oregon but across the whole country.
- 289 Sen. Leonard Feels like he is taking sides in a battle between utilities and oil companies. Does not disagree with what Rep. Shields said, but does not feel comfortable at this time with subject.
- 303 Rep. Repine Said that the Oil Heating Commission has made improvements in their expenditures and general direction. But for the amount of money they generate they also put a lot of money into things that normal business people would do to promote a business, and that, in his opinion, is being done on the back of other people. If all they did was tank decommissioning, there would be no need for this discussion. The DEQ does not have a plan for tank decommissioning, so they refer people to the Oil Heating Commission. If people agree to continue to use heating oil, then the Oil Heating Commission can help them with tank decommissioning. Questions and discussion interspersed.
- 365 Brian Bowe Said there are about 200 small fuel oil dealers who distribute heating fuels throughout Oregon.
- 374 Chair Baker Asked Bowe if it was correct that Rep. Repine had talked with the heating fuel industry over the last six years.
- 377 Bowe Replied there had been numerous discussions over that time.
- 378 Chair Baker Asked Bowe why the industry has not changed to be more receptive to Rep. Repine's request. been working toward this end in the past?
- 380 Bowe Responded that this is the first legislative session where such a proposal has been on the table. In private meetings with Rep. Repine and industry representatives tried to address specific concerns such as distribution of revenues by region. The shift of moving funds away from treating existing leaks in home heating oil tanks to a preventive policy of decommissioning non-leaking or abandoned tanks is a major change.
- 428 Bowe Converting utility customers is very big business. The number one goal of utilities is to gain new customers. When the Oil Heating Commission was established in 1989 it was set up under Commodity Commission Statutes.
- 444 Chair Baker Asked Bowe why he can't voluntarily assess their clients to contribute to their own marketing efforts.
- 452 Bowe Responded that if you want to do away with the ability of the Commission to collect

assessment for what is known as the Research and Education Fund that is one issue.

468 Chair Baker Interrupted and asked why they are even doing that; this money has been conscripted from the people of Oregon, but they use it to promote their own industry.

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034 Bowe Responded that the assessment is not a line item. Said the way the assessment is applied varies from dealer to dealer. In areas where there is intense competition for heating oil customers, some of that assessment may be absorbed to obtain a lower price as a competitive measure. But it is not fair to say that the 2.8% assessment is tacked on as a line item and everyone pays it.

050 Chair Baker Interrupted by saying the legislature could end this program totally. Said that if that happened, Bowe and his industry could fund their own program any way they wanted. Asked Bowe if he would prefer that?

054 Bowe Responded that between the two Amendments, yes they would.

055 Rep. Repine Discovered that the Oil Heating Commission has not adhered to statutes in reporting its activities or financial data. Clearly this is a group that has kept its activities hidden from legislative oversight.

066 Chair Baker Said if Mr. Bowe wants to end the program, we will end the program and immediately start our own program to take care of tanks.

069 Rep. Repine Reiterated that the Amendments he has offered do that. Pointed out that in the 1996 budget audit by the Secretary of State, the Oil Heating Commission had budgeted \$1,400,000 for remedial action claims (tank decommissioning), but the actual amount used was \$668,000.

075 Chair Baker Asked where did the rest of the money go? (approximately \$732,000)

076 Rep. Repine Said it appears they have so much money coming in, based on the criteria they cannot even spend what they have to decommission tanks. This audit suggested something over \$500,000 was used for travel and expenses, out of a total budget of \$2.579 million.

085 Bowe Said he does not understand the figures.

088 Chair Baker Said the public hearing was over.

CLOSED PUBLIC HEARING ON SB 1143B

Chair Asked preference of committee on Winegrowers situation. Feels uncomfortable going

- 091 Baker "down this road".
- 095 Rep. Brian Said he would defer to wishes of the Chair. Did not want to open up a door that would create a run by other industries to demand property tax exemptions for production facilities, etc.
- 118 Chair Baker Stated the revenue impact appears to be \$75,000 in the second year of the 1997-99 biennium and \$200,000 in the 1999-01 biennium.
- 123 Sen. Leonard Asked if that was assuming personal property was limited as described. Understands that the implications of the proposed Amendments opens the door much wider and can create a much larger hit on the General Fund.
- 128 Chair Baker Said he would defer to Committee Members, but personally not inclined to go with the Winegrowers proposal.
- 130 Rep. Shields Asked what is in the Amendment to keep this limited to Winegrowers activities? How did the concern translate itself into the actual language of the bill itself?
- 141 Rep. Brian Responded to those questions and summarized what the bill does. For example, someone could not open a winery in city and have wine grapes growing somewhere else. It must be connected to the agricultural setting.
- 156 Chair Baker Said he prefers to not "go down that road", and proceed only with the Amendment that deals with the Oil Heating Commission.
- 159 Rep. Repine Said he favors building a program that will help Oregonians to decommission heating oil tanks.
- 174 Chair Baker MOVES (-B16) AMENDMENTS TO HB 1143 BE ADOPTED.
- 176 All Questions and discussion.
- 207 Sen. Leonard Said he did not know until an hour ago that there was an Oil Heating Commission. Needs more time to consider entire issue and for that reason cannot support the bill. Further questions and discussion.
- 237 Chair Baker Asked for roll call vote on (-B16) Amendments:
 ROLL CALL VOTE: MOTION PASSES: 5 - 1 - 0
 SENATORS VOTING AYE: HARTUNG, BAKER.

REPRESENTATIVES VOTING AYE: REPINE, SHIELDS, BRIAN.

SENATOR VOTING NAY: LEONARD

245 Chair
Baker UPON ROLL CALL VOTE, THE AMENDMENT IS ADOPTED.

258 Ed
Waters Said that the (-B16) guts the bill, establishes new underground oil tank program, de-funds Oil Heating Commission, and directs Heating Oil Assessment to the Underground Heating Oil Tank Technical Assistance and Grant Fund.

MOVES SB 1143B AS AMENDED TO THE SENATE FLOOR WITH DO PASS RECOMMENDATION.

ROLL CALL VOTE: MOTION PASSES: 5 - 1 - 0

276 Chair
Baker SENATORS VOTING AYE: HARTUNG, BAKER

REPRESENTATIVES VOTING AYE: REPINE, SHIELDS, BRIAN

SENATOR VOTING NAY: LEONARD

287 Chair
Baker Adjourned meeting at 10:34 p.m.

Carol Phillips

Committee Assistant

Kim James

Office Manager

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Exhibit Summary:

- A. SB 1143B, Waters, Staff Measure Summary
- B. SB 1143B, Waters, Revenue Impact Statement, 1 page
- C. SB 1143B, Waters, Fiscal Impact Assessment, 1 page
- D. SB 1143A, Waters, Staff Measure Summary, 1 page
- E. SB 1143A, Waters, Revenue Impact Statement, 1 page
- F. SB 1143A, Waters, Fiscal Impact Statement, 1 page
- G. SB 1143B, Waters, Fiscal Impact Statement, 1 page
- H. SB 1143B, Waters, (-B16) Amendments, (JH/ps) 7/4/97, 4 pages
- I. SB 1143B, Waters, (-B17) Amendments, (JH/ps) 7/4/97, 4 pages
- J. SB 1143B, Waters, (-B18) Amendments, (DJ/ps) 7/4/97, 1 page