

HOUSE COMMITTEE ON
NATURAL RESOURCES

Hearing Room
Tapes 61-63

MEMBERS PRESENT:

Rep. Veral Tarno, Chair
Rep. Terry Thompson, Vice-Chair
Rep. Bill Fisher
Rep. Tim Josi
Rep. Leslie Lewis
Rep. Dennis Luke
Rep. Lisa Naito
Rep. Chuck Norris
Rep. Judy Uherbelau
Rep. Larry Wells
Rep. Jim Welsh

MEMBER EXCUSED: Rep. Tony Corcoran

STAFF PRESENT:

Mark Bauer, Committee Administrator
Sandy Ceballos, Committee Assistant

MEASURES HEARD:

HB 3390
HB 2648
SB 244
SB 245
SB 530

These minutes contain materials which paraphrase and/or summarize statements made during this session. Only text enclosed in quotation marks report a speaker's exact words. For complete contents of the proceedings, please refer to the tapes.

TAPE ,61, SIDE A

013 CHAIR TARNO: Opens the meeting at 1:40 PM.

015 Opens the WORK SESSION on HB 3390
Witnesses: Joe Gilliam, Oregon Reinforced Plastics Assn.
Carolyn Young, Oregon Department of Environmental Quality.
John Ruscigno, Oregon Department of Environmental Quality.

015 CHAIR TARNO: Announces that without objection the House Committee on Natural Resources will bring HB 3390 from the Environment & Energy Subcommittee to the full committee for a work session.

022 MARK BAUER, COMMITTEE ADMINISTRATOR summarizes HB 3390.

030 CHAIR TARNO: There are dash one amendments to HB 3390.

031 BAUER: Tells the committee the dash one amendments have been distributed to them.

037 JOE GILLIAM, OREGON REINFORCED PLASTICS ASSN: Explains they requested the drafting of the dash one amendments (EXHIBIT A AND A-1) to fix problems found in the bill and to clarify their intent.

046 Explains that the issue is compliance with the Clean Air Act and the required permits for industries who emit pollutants into the air. Explains the differences between the federal permit and state permit.

096 If prior to the first deadline of November 15, 1994, DEQ had not cited you or given you written information that you needed a state permit, and you are now coming in for a federal permit, they cannot fine you for not having had a state permit.

120 UHERBELAU: Has two different dash one amendments. Asks for clarification.

120 GILLIAM: Says the legislative counsel version is the correct one (EXHIBIT A-1).

133 REP. NAITO: Are these all of the amendments you've worked out with DEQ?

134 GILLIAM: We've included a proposal from DEQ as part of our amendments.

142 REP. NAITO: Would like to hear from DEQ what are the problems

145 REP. LEWIS: Has a note from legislative counsel that they did not understand the term synthetic miner permit. Asks Gilliam to explain.

147 GILLIAM: Explains the synthetic miner permit is a state permit you agree to fill out obtain if you're willing to stay under the emission levels for going into the Title V program.

159 REP. LEWIS: Questions subsection 8. Asks Mr. Gilliam to clarify what his intent was.

167 GILLIAM: Explains their intent was to provide protection against third party and third party action for non-compliance.

177 REP. NAITO: Questions synthetic miner permit at the federal level.

185 GILLIAM: Explains the federal Title V permit process.

190 REP. NAITO: States it's a problem to incorporate federal regulations and laws with state law, because they are subject to a different time line.

194 GILLIAM: Explains the time schedule.

196 REP. UHERBELAU: How long does it take to get this state permit that you're trying to get out from under.

200 GILLIAM: It depends on the company and the response from the department.

206 UHERBELAU: Sounds like it takes a lot longer to get the federal permit.

214 GILLIAM: Makes reference to language in parenthesis 8.

231 REP. UHERBELAU: Quotes from the dash one amendments, parenthesis 7.

243 GILLIAM: Intent is only to prevent enforcement action based on not having a state permit if you haven't received written notice or a citation before the Nov. 15, 1994, date:

255 CHAIR TARNO: If that company has previously filed for a Title IV permit DEQ cannot take any enforcement action. Is that correct?

259 GILLIAM: Yes, you have to have filed before you get any amnesty, and not received a written notice or citation.

262 CHAIR TARNO: Once a company receives their Title V permit they are still mandated to pay state fees to DEQ.

264 GILLIAM: They are required to pay one or the other of the fees.

274 CAROLYN YOUNG, DEPARTMENT OF ENVIRONMENTAL QUALITY: Has had productive discussions with Mr. Gilliam and his group. The \$17,000 penalty is still in negotiations.

290 Explains the departments problems with the enforcement section of the dash one amendments.

320 REP. JOSI: So we're talking about people who have been in business for some time and have not filed.

325 YOUNG: That's correct. People who should have applied for a state permit but now are coming in and applying for the new federal permit.

328 REP. JOSI:: What kind of a notification process has there been?

332 YOUNG: Has been quite a bit of publicity through various channels.

338 JOHN RUSCIGNO, DEPARTMENT OF ENVIRONMENTAL QUALITY: We have also been around the state putting on work shops and several mailings.

340 REP. JOSI: How long have you been doing this?

341 RUSCIGNO: Since 1993.

343 REP. JOSI: Was there ever an amnesty period?

344 RUSCIGNO: No.

344 REP. JOSI: So someone could have been polluting in this particular business for some time and not known.

349 YOUNG: What we're talking about is a state program that has been in existence for years and years.

360 REP. JOSI: Bottom line is the federal government will not allow an amnesty period?

364 RUSCIGNO: They won't allow amnesty periods for enforcement of the federal Clean Air Act. Their problem would be us not implementing our state approved program.

373 REP. JOSI: What happens if it has been determined by the federal government that you have not adequately implemented the state approved program?

376 RUSCIGNO: In the worst case they can come in and take over the program.

379 YOUNG: What may happen is the EPA could do what is called an overfile, so if the state doesn't act, EPA would feel as though they had to act

386 REP. NORRIS: Could you give me examples of what kind of businesses we're talking about.

392 RUSCIGNO: The typical type of industry involves a paint shop or a fiberglass shop. Someone whose emissions typically come from a coating or

painting operation.

417 REP. NORRIS: Would shops that deal with automotive air-conditioning be included in this category?

419 RUSCIGNO: Doesn't believe so.

421 CHAIR TARNO: When a business goes on line in our state and they make the proper applications to a multitude of agencies, don't you receive an application from that business if it has chemical processes being used.

427 YOUNG: The business would typically come to us if they had emissions above the level at which they would need a permit.

432 CHAIR TARNO: Do they normally know what those allowable emissions are?

433 YOUNG: We do try to work with the Department of Economic Development and others and provide them the information.

442 CHAIR TARNO: Is it safe to say that the state's objective is to bring about willing compliance with the Title V mandate?

TAPE 62, SIDE A

445 YOUNG: That's correct.

446 CHAIR TARNO: If that's the case, why wouldn't we be primarily concerned about bringing those twelve hundred business on line and give them an opportunity to do that within the time frame established by the federal government.

455 YOUNG: We have no problem with that.

457 REP. TARNO: You indicated in a letter that there had been some agencies or businesses that fall through the cracks. What kind of a problem would it cause to adopt the dash one amendments. Would that still bring about the compliance that the state wants?

468 YOUNG: The problem we see is that a business could have simply have avoided the regulation for a number of years by not informing DEQ of their emissions level. Now because of the federal requirement and the threat of citizen lawsuit they could come forward and receive amnesty for all of that time they we're out of compliance.

488 CHAIR TARNO: His concern is that those industries that are out there that are pollutants, have been allowed to function for such a period of time undetected.

TAPE 62, SIDE A

039 YOUNG: A lot of these companies are the type of companies that use paint and have volatile emissions that are very hard to regulate. It's not things that come out of a smoke stack or the traditional kinds of pollutants.

049 RUSCIGNO: These are also industries whose emissions can increase greatly in a very short amount of time.

057 REP. FISHER: You talk about ten tons of emissions. Is that a ton like I might pick up and carry on my back, or is that a ton like in air-conditioning or heating.

061 RUSCIGNO: That is tons like you would carry on your back.

071 REP. FISHER: Can you get more tonnage than what you bought originally?

074 RUSCIGNO: No you can't.

075 REP. LUKE: If you find these small companies is that going to take the pollution out of the air that they put in there.

077 YOUNG: No it's not.

078 REP. LUKE: Feels it's more important to get them in line now.

084 REP. UHERBELAU: But the amnesty, if I understand the testimony, may extend all the way to 1998 or 1999. Is that correct?

087 RUSCIGNO: That's correct. They may not get their Title V permit until 1998.

088 REP. UHERBELAU: It's my understanding that these are a few that you have found as the Title V program has geared up, and that you already have many on board. Did they come voluntarily?

094 YOUNG: That's correct.

095 REP. UHERBELAU: Is there not somewhat of a competitive advantage to those who didn't bother to notify you and have been putting these emissions in maybe even at illegal levels.

099 YOUNG: That really is the issue. The civil penalty primarily is based on the avoided cost of compliance.

106 REP. FISHER: How do paint shops differ from painting businesses that

paint houses?

111 RUSCIGNO: We don't regulate that by permit.

114 REP. FISHER: Are the products that go into the air any less obnoxious because they are in a mobile situation?

120 YOUNG: In some cases they are, it depends on the make-up of the paint.

128 CHAIR TARNO: The Title V deadline is January 3, 1998. You have given the users until January 3, 1996 to make application.

133 You should have all of the applications in hand by January 3, 1996, at that point who makes the inspections for those Title V. Do you make those inspections.

136 RUSCIGNO: Yes.

137 CHAIR TARNO: You then have the authority to issue the Title V permits.

137 YOUNG: That's correct.

138 CHAIR TARNO: What kind of time frame do you envision to have all of those permits issued.

139 RUSCIGNO: We have to issue 1/3 by 1996, 1/3 by 1997, 1/3 by 1998.

142 CHAIR TARNO: Those folks who submitted an application don't know when they will be issued the permit.

144 RUSCIGNO: We've assigned a call in date to them and we've told them when they could expect to get their permit.

149 REP. LEWIS: Mr. Gilliam testified that when they filed for the Title V permit they pay the \$2500 and then it sounded like they immediately started paying so much per ton.

155 RUSCIGNO: That is correct.

158 REP. LEWIS: Doesn't understand what the concern is.

161 YOUNG: Outside the scope of their concern with this particular amendment.

163 REP. LEWIS: There was concern on the other side that they we're going to have three years grace period.

172 You also keep mentioning that these companies have an advantage when some of these companies were told on four different occasions they didn't need a permit. Sounds like your agency was not being responsive to their requests.

182 RUSCIGNO: Admits there was a tremendous amount of confusion in that case.

186 YOUNG: We're continuing to work on the penalty negotiation in that particular case.

190 REP. LEWIS: Same thing seems to be true with S.R. Smith, Inc., in Canby.

193 RUSCIGNO: Not familiar with the details of that case.

195 YOUNG: We've talked with Mr. Gilliam about these, and that is a continuing concern. We'd have no problem at all if the amendment read that if they violated based on advice from DEQ, they would not be subject to a civil penalty.

201 REP. NAITO: There may be people who just don't know they we're supposed to get this permit as opposed to one who decides not to apply. Would be careful with an amendment if it said if they knew or should have known that a permit was required. But let the people who didn't know or were told they didn't need a permit off the hook.

216 YOUNG: We'd be much more comfortable with that, but would need to check with their enforcement people.

221 REP. FISHER: Tell us what Title V is, what it does.

227 RUSCIGNO: Title IV is means to deal with major emitters.

238 REP FISHER: What are the tonnage requirements.

241 RUSCIGNO: 100 tons per year of any of the criteria pollutants, 10 tons per year of any single hazardous air pollutant, or 25 tons per year of a sum of hazardous air pollutants.

248 REP. FISHER: In the case of these fiberglass businesses, the residues are heavier than air in that they don't go airborne easily, they could be blown around by wind or stirred up by someone walking past, but not to the point that they're going out of the building. They're swept up and put in the dust bin. Are these considered air pollutants?

259 RUSCIGNO: The pollutant that most of these fiberglass sources are caught by are the styrene emissions.

265 CHAIR TARNO: This is a federal mandate does that equal federal funds.

266 YOUNG: (To Ruscigno) do you know what our federal funds are?

270 RUSCIGNO: No, Title V must fund itself.

272 REP. FISHER: How do you measure ten tons of something. Is there a formula ratio.

267 RUSCIGNO: Believes all the materials these companies buy have material safety data sheets which give that information.

289 MOTION: REP. NORRIS: Moves the dash one amendments to HB 3390.

292 REP. NAITO: Offers a conceptual amendment to the dash one amendments. Provide that the enforcement action could not be taken as written, unless the Department of Environmental Quality can show that the party knew that a state permit was required.

302 What I'm trying to get at is the person who made the calculated decision not to get the permit, rather than a person who was either told by the DEQ that a permit was not required, or that inadvertently didn't know they were supposed to get one

The enforcement under subsection B, would add a subsection C stating unless the party knew a state permit was required.

REP. NORRIS: Unintelligible.

325 REP. NAITO: Was going to propose knew or should have known, but after talking with REP. LUKE feel like if we say knew they would have to put on some evidence they knew.

332 GILLIAM: That's what we're trying to get to too.

346 REP. NAITO: You're saying that is taken care of in line 10 "Had not received a written notice of non-compliance."

356 GILLIAM: If they get a letter from DEQ saying they need a permit, and they blow it off, they're not under the amnesty. If they've received a written notice saying they don't need a permit, they're in amnesty.

370 REP. LUKE: Do your amendments cover the fact that if they gave a letter to your clients that said you are not required to have a permit can DEQ go back and collect a permit fee from the time they should have had a permit.

376 GILLIAM: Yes they can go back and fine you for not having a permit retrospectively.

381 REP. LUKE: Can they charge you for the permit you should have had?

381 GILLIAM: All I've seen is not a charge for the permit. In our instance we had filed for Title V so we'd already paid the permit fee, and in fact they refunded the state fee they said we needed to have, but they fined us for non-compliance, not for back permit charges.

388 REP. NAITO: What about this idea that once they file for the Title IV, are they required to be regulated then for those next three years or until they get their sign off. Are they still under regulation or would this prevent DEQ from taking enforcement action on something they were doing in violation of state law.

387 GILLIAM: That's the purpose for parenthesis (8) a mutually agreed upon order that they're temporarily covered. DEQ can still come in if they're breaking the law.

421 REP. UHERBELAU: Still not clear if they're there yet because a written notice of compliance is different than a notice that you need a permit.

432 REP. NAITO: He's saying that the citation for non-compliance is what we would be talking about.

437 REP. UHERBELAU: But one of the things DEQ said was they don't know about all of those places out there.

443 GILLIAM: That's why we require them to file for Title V they have to be coming into compliance to be in safe haven. Title IV costs \$25,000 to file. Not a cheap way to get out of compliance.

468 CHAIR TARNO: Is there anything further? We have a motion on the dash one amendments before us.

472 REP. FISHER: Asks Mr. Gilliam about a paragraph 9, or subsection 9 that somehow got omitted from the legislative counsel version, would you tell us how you'd like that dealt with.

480 GILLIAM: The fees went as high as \$3,700 and we were trying to establish that once you file for your permit you're into Title V and the maximum you pay is Title V fees, \$2,500 plus \$29 a ton.

496 REP. NAITO: Withdraws her amendment.

TAPE 61, SIDE B

035 REP. FISHER: Asks questions airborne particulants.

050 GILLIAM: If you are at 9 1/2 tons you are not technically required to file, but if you exceed that you are required to file for Title IV.

059 REP. FISHER: If I'm a new business starting up now, do I have freedom to go up to ten tons before I have to file?

062 GILLIAM: As I understand it, if you start out and you're not emitting more than ten tons you're not required to file

092 CHAIR TARNO: Any further discussion on the motion before the committee?
HEARING NONE, SO ORDERED.

090 MOTION: REP. FISHER: Moves to amend the dash one amendments to add paragraph 9, which says "any case for a company that has Title IV pending.

099 REP. UHERBELAU: Objects.

102 CHAIR TARNO: The dash one's are accepted. Any additional discussion on paragraph 9?

102 REP. LEWIS: If you do that you have to suspend the rules. Would suggest that if Mr. Gilliam wants to do that he do it on the Senate side. We have agreement on the dash one's I think we should decide to move forward.

106 CHAIR TARNO: Any further discussion? Thinks the suspension of the rules is a good issue. Asks REP. FISHER if he cares to withdraw his motion.

108 REP. FISHER: Not particularly.

108 CHAIR TARNO: Are you going to have enough votes to get suspension?

109 REP. FISHER: How do I know.

109 REP. LEWIS: You have to have unanimous consent.

113 REP. LUKE: Mr. Gilliam can you get that on the Senate side?

114 GILLIAM: Yes.

117 REP. FISHER: Withdraws his motion.

117 MOTION: REP. LEWIS: Moves HB 3390 as amended to the floor with a DO PASS recommendation.

120 CHAIR TARNO: Asks for further discussion.

120 REP. NAITO: Gives reasons she will not be voting no on this bill.

124 REP. UHERBELAU: Gives reason she will vote yes.

128 VOTE: In a roll call vote, the motion CARRIES with a majority vote of 9 AYES; 1 NO (NAITO), (REP. CORCORAN & THOMPSON ARE EXCUSED).

REP. TIERNAN WILL LEAD THE DISCUSSION ON THE FLOOR

141 Closes the WORK SESSION on HB 3390.

Opens the PUBLIC HEARING on SB 530

Witnesses: Sen. Bob Kintigh, Oregon Senator, District 22

152 SEN. BOB KINTIGH, SENATOR, DISTRICT 22: Testifies in support of SB 530.

Calls this an afforestation act. Planting of trees on land that does not have tress without taxpayer subsidy.

185 This bill says that if a land owner establishes a forest on land not now supporting a forest, they will have the right to harvest the trees at some future date, regardless of other state laws in effect.

235 It's a new approach, different than what we've been using. Two places he sees it being used is the planting of Valley Ponderosa Pine. Normally think of Valley Ponderosa Pine as an East side species, but there was originally quite a bit of Ponderosa Pine here in the valley.

255 REP. NORRIS: I assume you're not referring to hybrid cottonwoods; thinking principally of softwoods for normal harvest rotation.

260 SEN. KINTIGH: That's the primary thinking but doesn't think it would preclude the planting of the poplar.

268 REP. NORRIS: Should we also be thinking of their heirs and assigns. Trying to think if there should be some continuity built into this.

273 SEN. KINTIGH: Once it's recorded it goes with the property.

274 REP. NORRIS: Pertinent to the land.

274 SEN. KINTIGH: Yes.

277 REP. LUKE: This is a statute and statutes can be changed by legislatures down the road. What protection do you see for the property owner.

282 SEN. KINTIGH: Statutes can be changed but contracts cannot be changed.

It's a contractual thing. The state is saying you have this right.

291 Closes the PUBLIC HEARING on SB 530.

Opens the WORK SESSION on SB 530

294 MOTION: REP. JOSI:: Moves SB 530 to the floor with a DO PASS recommendation:

296 REP. UHERBELAU: Makes note of the fiscal impact.

308 VOTE: In a roll call vote, the motion CARRIES with a majority vote of 11

AYES, 0 NO (REP. CORCORAN IS EXCUSED).

325 Closes the WORK SESSION on SB 530.

Opens the WORK SESSION on HB 2648.

Witnesses: Ted Hughes, Ted Hughes & Assoc., Representing the Northwest
Paint Council
Scott Ashcom, Pacific Northwest Paint Council
Bob Danko, Oregon Department of Environmental Quality
Mary Wahl, Oregon Department of Environmental Quality

329 CHAIR TARNO: Without objection the House Natural Resources Committee will bring HB 2648 from the Environment & Energy Subcommittee to the full committee for a WORK SESSION.

338 TED HUGHES, TED HUGHES & ASSOC., REPRESENTING THE NORTHWEST PAINT COUNCIL: Testifies in support of HB 2648 (EXHIBIT B).

359 In your file you should have a document showing how HazMat fees are distributed (EXHIBIT C).

416 After discussion with our clients, and discussions with other task force members, we offered to this committee, the last time we met, the dash three amendments (EXHIBIT D).. These dash three amendments need to be adopted.

461 Asks that lines 5 & 6 on page two of the dash three amendments be deleted.

476 REP. TARNO: You're saying that on page 2, line 7, 8 & 9 would still be omitted?

478 HUGHES: That's right. Lines 5 & 6 will not be.

490 Was admonished in last meeting by REP. NAITO that he didn't have a solution to how to fund orphan sites. Has met with the Ways & Means Committee and they have found a way to take it off of this fee base.

TAPE 62, SIDE B

058 REP. NAITO: Compliments Mr. Hughes on the work they have done. Would recommend that the bill be sent to the Ways and Means Committee.

063 REP. UHERBELAU: Explains the orphaned sites now funded by bonds and an alternative source of funding is needed.

073 CHAIR TARNO: By taking out the toxic use reduction hazardous waste reduction portion, how much of a loss of revenue is that for the Department of Environmental Quality?

076 HUGHES: It will add another million plus to their budget.

078 CHAIR TARNO: And then taking out the orphaned sites.

078 HUGHES: Orphaned sites from the 1993 - 1995 was a million, fifty thousand.

078 SCOTT ASCHOM, PACIFIC NORTHWEST PAINT COUNCIL: I want to correct that.

The orphan site account in the recommended Governor's budget for fiscal year 1995 - 1997 is one million , seven hundred thousand.

085 CHAIR TARNO: Are those suggested amendments amenable to the Department of Environmental Quality?

089 ASHCOM: In referring to the dash three amendments you stated that on page 2 of the dash 3 amendments, line 7 through 9 would remain deleted. I believe you should have said line 7 through 10.

095 CHAIR TARNO: Yes you're right on that.

096 BOB DANKO, OREGON DEPARTMENT OF ENVIRONMENTAL QUALITY: One technical correction, the lines above lines 5 & 6 on page 2 would have to be adjusted

also.

Agrees the bill should go next to Ways & Means and let that committee determine if there is alternative funding.

110 REP. NORRIS: Department of Environmental Quality is authorized to sell revenue bonds to partially fund orphan site clean-up. The principal of revenue bonds is that the revenue derived because of the loan of those bond

funds to somebody, generates the revenue to repay the bonds. How would that work in this case. Who would generate the revenue to help repay the bonds?

116 MARY WAHL, OREGON DEPARTMENT OF ENVIRONMENTAL QUALITY:: Actually these are general obligation bonds. Ultimately it's an obligation of the state.

124 REP. UHERBELAU: Could we send this to Ways and Means without a recommendation? Unless there's some other pot of money for this funding.

139 CHAIR TARNO: Has a problem with one of the small stores in his town. They are paying \$125.00 a year for orphan site clean-up because they store a few bags of Weed-N-Feed. I do think this needs a referral to Ways & Means, but personally I'm also inclined to go along with reinstating lines 5 & 6 of the dash three amendments.

150 MOTION: REP. FISHER: Moves the dash three amendments to HB 2648 .

155 CHAIR TARNO: Asks for further discussion.

Hearing no objections the motion CARRIES.

170 CHAIR TARNO: REP. FISHER makes a motion to suspend the rules for the purpose of adding a conceptual amendment to HB 2648.

173 Hearing no objection, the RULES ARE SUSPENDED.

175 MOTION: REP. FISHER: Moves that lines 5 & 6 be reinstated to page 2 of the dash three amendments to HB 2648. Any discussion?

179 CHAIR TARNO: Hearing no objections the motion CARRIES.

180 MOTION: REP. FISHER: Moves HB 2648 as amended to the Ways & Means Committee with a DO PASS recommendation.

185 CHAIR TARNO: Further discussion.

186 REP. NAITO: Gives reasons why she will be supporting the motion.

190 VOTE: In a roll call vote, the motion CARRIES with a majority vote of 10 AYES, 0 NO (REP. CORCORAN IS EXCUSED).

203 CHAIR TARNO: Re-opens the WORK SESSION on HB 2648 for the purpose of allowing REP. LUKE vote.

204 REP. LUKE: Votes yes.

VOTE: Motion now CARRIES with a majority vote of 11 AYES, 0 NO (REP. CORCORAN IS EXCUSED).

205 Closes the WORK SESSION on HB 2648.

Opens the PUBLIC HEARING on SB 244.

Witnesses: Kelly Ross, Oregon Association of Realtors

213 KELLY ROSS, OREGON ASSOCIATION OF REALTORS: Testifies in support of SB 244 (EXHIBIT E).

242 Closes the PUBLIC HEARING on SB 244.

Opens the WORK SESSION on SB 244.

242 MOTION: REP. NAITO: Moves SB 244 to the floor with a DO PASS recommendation.

248 VOTE: Motion CARRIES, with a majority vote of 11 AYES, 0 NO (REP. CORCORAN IS EXCUSED)

REP. NAITO WILL CARRY THE BILL

262 Closes the WORK SESSION on SB 244.

Opens the PUBLIC HEARING on SB 245.

Witnesses: Kelly Ross, Oregon Association of Realtors
Jon Chandler, Chief Counsel, Homebuilders Assn., of Metropolitan
Art Schlack, Land Use Specialist, Association of Oregon Counties
Christine Cook, Staff Attorney, 1000 Friends of Oregon
Charles Swindells, Staff Attorney, 1000 Friends of Oregon
Phillip Fell, League of Oregon Cities

265 KELLY ROSS, OREGON ASSOCIATION OF REALTORS: Testifies in support of SB 245 (EXHIBIT F).

315 -Continues to describe the provisions of the bill.

354 REP. UHERBELAU: Wonders about the penalty portion not tied to a specific amount. Wonders if he would accept an amendments if they tied it to the unexpended portion.

374 ROSS: Feels that most local governments by the time they get to the 120 days they would say it has all been expended. Fees are very substantial.

392 REP. LUKE: If most of the counties would put the money they collect on fees into the community development department instead of the general fund,

they would have enough money to get the job done that people are paying the fees for.

397 REP. UHERBELAU: What are you trying to say in the last line of 7 (A), page 4.

404 ROSS: This is one of the amendments that will be submitted to you by the counties and cities.

413 JON CHANDLER, CHIEF COUNSEL, HOMEBUILDERS ASSOCIATION METROPOLITAN PORTLAND: Introduces and describes the dash A5 amendments to SB 245 (EXHIBIT G).

459 CHAIR TARNO: Are you talking about the dash A4 amendments?

465 CHANDLER: Our amendment is just to the A engrossed version of the bill. Not amending the writ of mandamus.

476 CHAIR TARNO: Have you seen these dash 4 amendments to SB 245? (EXHIBIT H)

484 CHANDLER: No sir, I have not.

487 BAUER: CHAIR TARNO the dash A4 amendments were in our file, that's why you have those.

493 CHAIR TARNO: Am I to understand the dash A4's are no longer valid?

494 REP. LUKE: The date on them is March 7, probably were on the Senate side and got taken out.

TAPE 63, SIDE A

030 ART SCHLACK, LAND USE SPECIALIST, ASSOCIATION OF OREGON COUNTIES:: Introduces and describes the dash A009 amendments (EXHIBIT G).

070 -Gives his objections to the dash five amendments introduced by Mr. Chandler:

103 REP. UHERBELAU: Asks about the language "not liable for additional government fees."

106 SCHLACK: There are some counties that charge a deposit for an application.

125 CHAIR TARNO: Are you suggesting that we should not adopt the dash A5 amendments as suggested by Mr. Chandler.

127 SCHLACK: That's correct.

136 CHRISTINE COOK, STAFF ATTORNEY, 1000 FRIENDS OF OREGON: Testifies in opposition to SB 245.

173 REP. NAITO: Understands the counties have 120 days to say yes or no. What's to prevent them from saying no if they need more time. Couldn't that 120 day rule be waived by the applicant if desired?

171 COOK: That's our understanding of how, in fact, the process generally works at this point.

196 REP. NAITO: Sees the main point of the bill keeping the local government on it's toes.

202 COOK: Not aware that for those simple sorts of applications that this is currently a problem.

212 REP. UHERBELAU: There's a section that says county may not compel an applicant, but you're not saying that an applicant can't agree to waive the 120 days, are you?

216 ROSS: No, not at all.

218 REP. UHERBELAU: Up above it says "if there's not a decision within 120 days, the county shall refund", when I read that it looks as if the county has to refund even if the applicant waives the 120 days.

223 ROSS: I believe that's a correct interpretation.

226 REP. UHERBELAU: But if it is a complex decision that's in front of the county and the party agrees to waive the 120 days, shouldn't there be some provision there that the refund doesn't come into play?

229 ROSS: Responds to REP. UHERBELAU'S question.

242 CHARLES SWINDELLS, STAFF ATTORNEY, 1000 FRIENDS OF OREGON: Speaks in opposition to the dash A5 amendments to SB 245.

260 PHILLIP FELL, LEAGUE OF OREGON CITIES: Testifies in opposition to SB 245.

295 BAUER: Asks Kelly Ross to explain the dash A4 amendments to SB 245.

301 ROSS: The dash A4 amendments were at the suggestion of legislative counsel soon after the bill passed the Senate.

310 CHAIR TARNO: Asks Mr. Ross what the dash A4 amendments would do.

312 ROSS: Explains the dash A4 amendments.

347 REP. UHERBELAU: Asks if Kelly would entertain an amendment to put in language "except for when an applicant requests an extension under Section 4."

358 ROSS: He would be acceptable to that.

364 MOTION: REP. LEWIS: Moves the dash A4 amendments to SB 245.
VOTE: Hearing no objections, the motion CARRIES.

370 MOTION: REP. LEWIS: Moves the dash A009 amendments to SB 245.
VOTE: Hearing no objections, the motion CARRIES.

376 MOTION: REP. LEWIS: Moves a conceptual amendment that on line 10 of page 4 and on line 10 of page 5 insert "except for when an applicant requests an extension under Section 4."

389 MOTION: REP. LEWIS: Moves to SUSPEND the rules for the purpose of conceptually amending SB 245.
VOTE: Hearing no objections to suspend the rules, the motion CARRIES.
VOTE: Hearing no objections ,the motion to conceptually amend line 10 of pages 4 & 5 CARRIES.

412 MOTION: REP. LEWIS: Moves the A engrossed version of SB 245, as amended, to the floor with a DO PASS recommendation.

422 REP. FISHER: REP. LEWIS why did you not move the dash A5 amendments?

424 REP. LEWIS: In discussion with Mr. Chandler, Mr. Schlack, and Mr. Fell was convinced there was no way to work out their differences and she chose not the move the dash A5 amendments.

444 VOTE: In a roll call vote, the motion CARRIES with a majority vote of 11 AYES, 0 NAYS (REP. CORCORAN IS EXCUSED).
REP. LEWIS WILL CARRY THE BILL TO THE FLOOR.

47 Closes the WORK SESSION on SB 245

464 CHAIR TARNO: Announces the committee will adjourn for caucus and will not return this evening. Balance of items on agenda will be dealt with on Wednesday, May 3.

ADJOURNS the meeting at 4:00 PM.

Submitted by, Reviewed by,

Sandy Ceballos Mark Bauer
Committee Assistant Committee Administrator

EXHIBIT SUMMARY:

A -- Proposed amendments to HB 3390 - Joe Gilliam -- 6 pages
A-1.-- Proposed legislative counsel dash 1 amendments to HB 3390 -- Joe Gilliam - 1 page
B.-- Testimony on HB 2648 - Ted Hughes - 1 page
C.-- Hazardous Substance Possession Fee - Ted Hughes - 1 page
D.-- Proposed dash 3 amendments to HB 2648 - staff - 4 pages
E.-- Testimony, on SB 244 - Kelly Ross - 1 page
F.-- Testimony on SB 245 - Kelly Ross - 1 page
G.-- Proposed dash A5 amendments to SB 245 - staff - 1 page
H.-- Proposed dash A4 amendments to SB 245 - staff - 1 page
I.-- Proposed dash A009 amendments to SB 245 - staff - 1 page