

HOUSE COMMITTEE ON NATURAL RESOURCES ENVIRONMENT AND ENERGY SUBCOMMITTEE

March 22, 1993      Hearing Room D 1:30 p.m.      Tapes 53 - 54

MEMBERS PRESENT:    Rep. Bob Repine, Chair Rep. Marilyn Dell, Vice-Chair  
Rep. Sam Dominy Rep. Bill Fisher Rep. Carl Hosticka Rep. Dennis Luke  
Rep. Bill Markham Rep. Ray Baum

MEMBER EXCUSED:    Rep. Nancy Peterson

VISITING MEMBER:    Rep. Tim Josi

STAFF PRESENT:            Kathryn Van Natta, Committee Administrator Karen  
McCormac, Committee Clerk

MEASURES CONSIDERED:            Public Hearing - HB 2130

Public Hearing and Possible Work Session - HB 2129

Work Session - HB 2054

WITNESSES:                    RALPH RODIA, Office of the State Fire Marshal  
JIM PARK, Building Codes Agency JOHN DEER, Portland Bureau of Fire,  
Rescue and

Emergency Services DON WOODLEY, Marion County Building Inspector GROVER  
SIMMONS, Independent Employer Association, Inc. LARRY LOAR, Oregon Fire  
Marshal's Association NANCY CAMPBELL, Office of the State Fire Marshal  
MICHAEL GRAINEY, Department of Energy TOM O'CONNOR, Eugene Water and  
Electric Board

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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. [--- Unable To Translate  
Graphic ---]

TAPE 53, SIDE A 005      CHAIR REPINE:    Calls meeting to order at 1:44  
p.m.

OPENS PUBLIC HEARING ON HB 2130

015 KATHRYN VAN NATTA, Committee Administrator: Last Wednesday, four  
Fire Marshal agency bills were scheduled, but there was not sufficient  
time

to hear HB 2130. At the previous meeting, we distributed a Preliminary

Staff Measure Summary (EXHIBIT A) and a Revenue Impact Analysis (EXHIBIT  
B), which confirms there is no revenue impact. Describes bill.

015 RALPH RODIA, Office of the State Fire Marshal: Provides  
written testimony (EXHIBIT C) in support of HB 2130.

124 REP. MARKHAM: Asks whether company which has ignored previous warnings from the Fire Marshal's Office should be temporarily shut down as an

incentive to comply.

126 RODIA: We would certainly get their attention if we closed them down, but we would also put forty people out of work during that week.

134 REP. FISHER: If these are safety violations, why couldn't OSHA (Oregon Occupational Safety and Health Division) assist?

139 RODIA: If the problem relates to employee safety, OSHA could be asked investigate. But we also inspect places which OSHA does not because

employees are not involved, such as group care homes.

147 REP. FISHER: The company in violation is not a group care home.

151 RODIA; OSHA determined that insuring that exits are properly marked is our responsibility. Describes current Fire Marshal procedures. We

cannot close this facility on the basis of "imminent danger" merely because an exit sign is missing. This bill would allow us to instead issue a citation, and possibly a penalty.

245 REP. LUKE: Where do the penalty fees go?

247 RODIA: These fees go into the Fire Marshal's general operating budget. The legislature approves expenditures of those monies in the next

biennium.

253 REP. LUKE: What would prevent local officials from taking away an occupancy permit?

257 RODIA: Local officials do not want to be forced into an enforcement role. It complicates the situation to involve another governmental

agency.

277 REP. LUKE: The bill states that each violation shall be considered a separate offense. If a violator reaches the maximum of \$1,000 per

violation, could this be a \$10,000 fine?

282 RODIA: That is correct. However, after a certain point, those penalties become counter-productive. The maximum amount would rarely,

if ever, be charged. 302 JIM PARK, Building Codes Agency: We have no objections to this bill.

319 CHAIR REPINE: Questions Building Codes Agency regulatory limits regarding fines.

320 PARK: The Building Codes Agency has the authority to establish and levy civil penalties up to \$1,000 per day for each day of continued

violation. We do not have the authority to correct safety violations within existing structures which have already been issued an occupancy permit. Our jurisdiction only covers new construction under which a building permit has been issued.

365 REP. FISHER: Would an occupancy permit be issued if the building did not comply with all with all the fire codes?

381 PARK: It is possible. Ordinarily, problems are discovered when the initial occupancy permit is issued or when new construction requires

another inspection.

404 REP. FISHER: Would there be an advantage in coordinating inspections by different agencies?

TAPE 54, SIDE A

005 PARK: There is already cooperation between the Fire Marshal's Office and the building officials. However, it is difficult to obtain absolute

cooperation due to scheduling conflicts.

019 REP. LUKE: Do building officials sometimes take over the duties of the Fire Marshal?

021 PARK: Yes. Some local building officials and plans examiners for the building departments review the plans for fire safety issues.

Jurisdictions without qualified plans examiners send plan reviews to the state agency.

033 REP. LUKE: If a local jurisdiction reviewed the plan and issued the occupancy permit, it should enforce the rule.

034 PARK: That is true. However, safety problems can occur after a building is constructed. Generally, most building departments are

concerned with new construction instead of changing conditions which can occur within a building. These would fall outside of a building department's direct authority.

051 JOHN DEER, Portland Bureau of Fire, Rescue and Emergency Services: Provides written testimony in support of HB 2130 (EXHIBIT D).

076 REP. LUKE: Asks about "Codes Hearings Officer" referred to in testimony.

078 DEER: That is a quasi-judicial position with the City of Portland currently occupied by a practising attorney.

084 CHAIR REPINE: You indicated you only have approximately two or three cases per year within the Portland Metropolitan area. Is that because

of the penalties you have the authority to impose? 091 DEER: In 1991, the Starry Night night club could accommodate 1,300 people;, but as many as 1,600 people were allowed into the club. The

owner continually refused to provide necessary safeguards. It was only when he was taken to the Codes Hearings Officer and a suspended fine of \$500 per day was levied on him that he finally complied. He eventually paid a stipulated agreement fine of \$1,500 which was arranged by the Codes Hearings Officer, and we never again had serious problems with that facility.

118 CHAIR REPINE: Are non-compliances spotted through random inspections?

124 DEER: We are required by law to make systematic inspections. The Bureau of Buildings recently introduced a re-inspection fee system which charges \$50 per hour or \$30 per half-hour if an inspector must return

due to non-compliance. This has reduced their cases by about twenty percent.

138 CHAIR REPINE: Does the Codes Hearings Officer deal with anything other than these issues?

139 DEER: Yes. The Bureau of Buildings provides ninety-five percent of the caseload of the Codes Hearings Officer. In 1992, there were 474 cases.

In 1991, there were 586 cases.

Outside of the Bureau of Buildings, all other bureaus in Portland only produce about one dozen cases per year. This includes electrical, mechanical and plumbing inspections, as well as housing and building inspections.

151 REP. MARKHAM: What on site assistance do you provide building owners?

155 DEER: It is our practise to consider ourselves code consultants. If a large number of violations are found, it is normal to arrange a

phased

compliance. A very small number of actions result in any type of enforcement action.

174 DON WOODLEY, Marion County Building Official: Testifies in support of HB 2130. There are twenty-three fire districts within Marion County.

We need an authority to deal with dangers in existing buildings.

251 REP. LUKE: If an automotive shop is in a zone which does not allow automotive shops, why is the Fire Marshal required to get them out,

instead of a county or city agency?

257 WOODLEY: We would probably take the violator to circuit court and handle it as a land-use violation. Of course, the threat of a citation

from the Fire Marshal's Office would result in speedier compliance.

267 REP. MARKHAM: I think the Fire Marshal's Office already has the necessary authority. Isn't the threat of closure more effective than a

\$1,000 citation?

270 WOODLEY: It's tough to be the 800-pound gorilla in these cases.

297 GROVER SIMMONS, Independent Employer Association, Inc.: Presents written testimony in opposition to HB 2130 (EXHIBIT E). 417 REP. FISHER: The previous witness indicated they only use the threat of citation a couple of times each year. Isn't that a tremendous

testimonial to its deterrence value?

TAPE 53, SIDE B

001 SIMMONS: Perhaps the present State Fire Marshal's staff will not impose fines in order to keep their general operations fund full, but who knows what future staff may do?

019 LARRY LOAR, Oregon Fire Marshal's Association: Testifies in support of HB 2130. If a business is not in compliance, we can currently only

threaten to take the owner to court on a criminal charge. That seems not only heavy-handed, but time-consuming and a waste of government funds. I was the Assistant Fire Marshal for Tualatin Valley Fire and Rescue for twelve years. I oversaw 8,000 inspections each year, and in those twelve years, I only made two criminal citations.

068 REP. LUKE: How would you feel if the money from this bill went

into the General Fund instead of the Fire Marshal's Fund?

072 LOAR: It doesn't matter to me where the money goes. If that money is used for educational purposes, it might help mitigate these problems in the first stage.

080 REP. LUKE: I have a lot of respect for agencies like the Oregon State Police, but I would not want to see them keep the proceeds from their

citations.

Why isn't a letter sent to the insurance company which insures buildings which are not in compliance? I think that would be effective deterrent.

100 LOAR: We do not know how to find out who insurance company is. And by the time we've written up a criminal citation, that information will

probably not be freely volunteered by the violator.

120 CHAIR REPINE: Recalls Ralph Rodia, Office of the State Fire Marshall.

122 REP. LUKE: What portion of the bill is most important? The ability to write citations or the ability to collect money for violations?

125 RALPH RODIA, State Fire Marshal: The only reason penalties are assessed is to bring compliance. The amount of money we expect to receive will

not make a substantial impact on our budget. If the committee prefers that the money be directed to the General Fund, that would be fine.

139 CHAIR REPINE: Let record show that Burton Weast, Special Districts Association, is in support of HB 2130.

147 VAN NATTA: Reads into the record a letter dated March 22 to Chair Repine in support of HB 2130 signed by Rex H. Jeffries of the Tualatin

Valley Fire & Rescue and the Beaverton Fire Department (EXHIBIT F). 153

CHAIR REPINE: CLOSES PUBLIC HEARING ON HB 2130

OPENS PUBLIC HEARING AND POSSIBLE WORK SESSION ON HB 2129

157 NANCY CAMPBELL, Oregon State Fire Marshal's Office: Elaborates from earlier testimony regarding fee proration.

175 CHAIR REPINE: How many applicants do you presently have?

176 CAMPBELL: We have 532 installers, 1,101 fitters, and 405 truck companies. Their due dates would be divided into four quarters. We

also plan to group the same companies together.

194 CHAIR REPINE: CLOSES PUBLIC HEARING ON HB 2129

Due to lack of a quorum, declares recess at 2:54 p.m., to reconvene at 3:00 p.m. Reconvenes meeting at 3:04 p.m.

TAPE 54, SIDE B

000 CHAIR REPINE: RE-OPENS PUBLIC HEARING ON HB 2130

010 VAN NATTA: Reads into the record a letter from the Lebanon Fire District addressed to "To Whom It May Concern" from Fire Marshal Ray

Fair and Notary Cheryl Brown, dated March 17, 1993 in support of HB 2130 (EXHIBIT G).

017 CHAIR REPINE: CLOSSES PUBLIC HEARING ON HB 2130

OPENS WORK SESSION ON HB 2129

012 VAN NATTA: On March 17, we had a public hearing on HB 2129, and Ralph Rodia and Nancy Campbell from the State Fire Marshal's Office presented the bill. Lana Butterfield from the Northwest Propane Gas Association

spoke in favor of the bill. The Revenue Impact Statement verified there was no revenue impact on state or local government. Since then, we have received a Fiscal Analysis (EXHIBIT H), which shows there is a \$2,500

decrease in State Fire Marshal services and supplies for the 1993-95 and 1995-97 bienniums.

029 MOTION: REP. LUKE: Moves HB 2129 to the FULL COMMITTEE on NATURAL RESOURCES with a DO PASS RECOMMENDATION.

031 CHAIR REPINE: Restates motion and calls for discussion.

VOTE: REPS. BAUM, DELL, DOMINY, FISHER, HOSTICKA, LUKE, AND CHAIR REPINE vote AYE. REP. MARKHAM is ABSENT. REP. PETERSON is EXCUSED.

052 CHAIR REPINE: The motion CARRIES. REP. DOMINY will lead discussion on the floor.

CLOSSES WORK SESSION ON HB 2129 OPENS WORK SESSION ON HB 2054

059 VAN NATTA: We had a public hearing on HB 2054 in January, and a second public hearing regarding the co-generation of steam. A workgroup

developed amendments regarding the steam by-product, which were drafted by the Department of Energy. The bill in its original form had no

impact on state or local revenues, and had an indeterminate fiscal impact. It was also not anticipated in the Governor's mandated budget.

We do not know the effect of the amendments at this point.

076 MICHAEL GRAINEY, Department of Energy: The -2 amendments

represent an agreement between interested utilities and state agencies. This bill

provides incentives for state agencies to develop renewable resources and co-generation facilities that will meet some of their own energy loads. Excess energy will be able to be sold to the utilities.

Clarifies -2 amendments.

202 REP. DOMINY: I know that earlier versions of this bill were not agreed upon by the Eugene Water and Electric Board (EWEB). Do they approve of

the -2 amendments?

206 GRAINEY: Yes. We reached an agreement with EWEB on the steam language, and I believe the other utilities are also in agreement on the -2

amendments.

214 TOM O'CONNOR, Eugene Water and Electric Board: We support HB 2129 with the -2 amendments. This amendments recognize that the bill does not

limit the existing authority of state agencies, and also recognizes the existing authority of municipalities to regulate activity within their jurisdiction.

227 CHAIR REPINE: We also have telephone communication from George Richardson of Northwest Natural Gas. Mr. Richardson was unable to be

here, but wanted to concur on his support for the -2 amendments.

231 MOTION: REP. BAUM: Moves the -2 AMENDMENTS, dated 3-4-93 as submitted by the DEPARTMENT OF ENERGY to HB 2054.

235 CHAIR REPINE: Restates motion and calls for discussion. Without objection, the motion is so ordered.

238 MOTION: REP. BAUM moves HB 2054 as AMENDED by the -2 AMENDMENTS to the FULL COMMITTEE ON NATURAL RESOURCES with a DO PASS

RECOMMENDATION.

245 CHAIR REPINE: Restates motion and calls for discussion.

253 VOTE: REPS. BAUM, DELL, DOMINY, FISHER, HOSTICKA, LUKE, MARKHAM and CHAIR REPINE vote AYE. REP. PETERSON is EXCUSED.

258 CHAIR REPINE: The motion CARRIES. REP. HOSTICKA will lead discussion on the floor.

Additions to the record: HB 2054 Hand-Engrossed with HB 2054-2 Amendments (LC 933) dated



3-4-93 (EXHIBIT I)

CLOSES WORK SESSION ON HB 2054

OPENS WORK SESSION ON HB 2129

270 MOTION: SUSPENDS the RULES to allow REP. MARKHAM to vote on  
HB 212 9. Without objection, the rules are suspended. REP. MARKHAM  
votes AYE

on HB 2129.

CLOSES WORK SESSION ON HB 2129

274 Adjourns meeting at 3:46 p.m.

Submitted by:

Reviewed by:

Karen McCormac  
Administrator

Kathryn Van Natta Assistant

EXHIBIT LOG:

A - HB 2130 Preliminary Staff Measure Summary - Staff - 1 page B  
- HB 2130 Revenue Impact Analysis - Staff - 1 page C - HB 2130  
Testimony - Ralph Rodia - 8 pages D - HB 2130 Testimony - John Deer  
- 1 page E - HB 2130 Testimony - Grover Simmons - 2 pages F -  
HB 2130 Testimony - Rex H. Jeffries - 1 page G - HB 2130 Testimony  
- Ray Fair - 1 page H - HB 2129 Fiscal Analysis - Staff - 1 page I  
- HB 2054 Hand-Engrossed with HB 2054-2 Amendments (LC 933) dated  
3-4-93 - Staff - 4 pages