

HOUSE COMMITTEE ON NATURAL RESOURCES

July 1, 1993 Hearing Room D 1:30 p.m. Tapes 86 - 88

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

MEMBER EXCUSED: Rep. Nancy Peterson

STAFF PRESENT: Kathryn Van Natta, Committee Administrator
Catherine Fitch, Committee Administrator Sue Nichol, Committee Clerk
Jeannette Holman, Legislative Counsel

MEASURES CONSIDERED: HB 3177 - Work Session SB 86-B - Public
Hearing and Work Session SB 908-A - Public Hearing and Work Session SB
1014 - Work Session SB 1131-A - Public Hearing and Work Session

WITNESSES: Fred Hansen, Oregon Department of
Environmental Quality Susan Browning, Acting State Fire Marshall Bill
Marble, Oregon Department of Revenue Brian Boe, Petroleum Marketers'
Association Tom Gallagher, ARCO Steve Greenwood, DEQ, Air Quality
Division Jim Whitty, Associated Oregon Industries Doug Morrison,
Northwest Pulp & Paper Liz Frenkel, Sierra Club Gary Conkling, Beaverton
School District Jon Chandler, Common Ground, Home Builders Association
JoAnn Herrigel, Association of Oregon Recyclers Dave Barrows, Chemical
Management Waste [--- Unable To Translate Graphic ---]

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 86, SIDE A

005 CHAIR BAUM: Calls the meeting to order at 1:35.

WORK SESSION ON HB 3177

023 The -14 amendments have been submitted for the record (Exhibit
A).

030 REP. MARKHAM: This bill should go to Appropriations since it's a
public health issue.

036 MOTION: REP. DOMINY: Moves to remove railroad locomotive fuel
from the bulk load fee from the bill; delete lines 18 and 19 on page 2
in the petroleum distillate fee (removes exclusion for railroad
locomotive fuel); and delete Section 8 of the bill with the -14
amendments.

047 This would put the railroads back under the bulk load fee.

050 CHAIR BAUM: Restates motion. Rep. Dominy moves to remove the exception language on lines 18 and 19 of page 2 starting with "'Petroleum

distillate product'..." We would eliminate Section 8 on page 5 which would eliminate the railroad assessment fee. This brings the railroads under the petroleum distillate product assessment for .25 cents which would generate \$300,000 to \$400,000.

057 REP. HOSTICKA: I think on page 5, Section 8 you have to repeal Section 163 of the Oregon laws or put a zero in.

061 CHAIR BAUM: Staff suggests to repeal it.

063 REP. REPINE: How much will be raised?

070 CHAIR BAUM: There's a question on how much will be raised. It depends on how much is out there. It will probably cost the railroad about

\$100,000 more.

073 REP. LUKE: There was a question about what happens if these fees generate more money than is needed for the program. I would feel more

comfortable if the fee was cut off when the program was funded.

075 REP. NORRIS: How is the bulk petroleum load fee collected, and where is it paid?

080 CHAIR BAUM: They pay it when they purchase their fuel, at the point of purchase.

084 REP. HOSTICKA: To be technically correct, the railroads would not actually pay it. It would be included in the price of whatever product

they purchased from the wholesaler.

098 REP. VanLEEuwEN: Currently, they are under the bulk load fee, so this balances out somewhat?

099 CHAIR BAUM: Yes. 100 REP. NORRIS: Have we reached a final figure that we proposed for the rail line assessment?

101 CHAIR BAUM: We had \$200,000 last night, the amendment proposes to take that away and just put them under the same charges as we're charging the rest of users of off-road fuels.

105 The concept is to treat all parties equally.

124 REP. DOMINY: I received a note that this raises the railroad fee from \$100,000 to \$420,000. No one has given us numbers like that, have they?

128 CHAIR BAUM: No.

130 REP. DOMINY: What do they estimate that this will add up to?

135 CHAIR BAUM: They estimate that it would be just over \$400,000 if they were under the distillate fee of .25 cents, but they won't have any

other fees.

137 REP. DELL: I think we need the program. The program has been growing quickly and needs monitoring. The same type of formula for everyone has some appeal. I'm not convinced that the railroads are being treated

perfectly fair but I think this is the best way that it can be handled.

171 VOTE: On a roll call vote, REPS. DELL, DOMINY, HOSTICKA, JOSI, LUKE, NORRIS VanLEEUEWEN and CHAIR BAUM vote AYE. REPS. FISHER, MARKHAM and REPINE vote NAY. REP. PETERSON is EXCUSED.

185 REP. LUKE: I suggest we figure out how much money we want to put into this program and when that amount of money is reached, then we take this off until the next biennium.

189 REP. REPINE: Another suggestion is to put a cap on the first \$200,000 worth of rates that they are assessed on the distillate and a sliding

scale on the number of gallons.

200 CHAIR BAUM: I think we need to set the caps and then the Emergency Board can raise those if necessary.

209 REP. VanLEEUEWEN: To accomplish what Rep. Luke wanted you could collect the fee but not allow any money from that amount to be spent until the

next biennium.

214 CHAIR BAUM: That could be our direction to Appropriations.

215 REP. FISHER: That was my suggestion yesterday.

225 MOTION: CHAIR BAUM: Moves the conceptual amendment to give the direction to adopt the figures as on the sheet (Exhibit B), if they are to exceed those, it is to be put into the reserve account to be spent only during the next biennium or at the discretion of the Emergency Board.

230 REP. DOMINY: This does have a sunset for the next session?

232 CHAIR BAUM: Yes, so the money just sits there but it can be credited towards the next effort.

234 JEANNETTE HOLMAN, Legislative Council: The sunset is January 1, 1996. If you only want the fee collected for this biennium, you must do

something different.

236 CHAIR BAUM: But if the money is still collected through the first six months of the next biennium, it could still be held and used for future problems?

238 HOLMAN: Yes.

245 VOTE: CHAIR BAUM: Hearing no objections, the AMENDMENTS are ADOPTED.

250 REP. DOMINY: Where are the sunset provisions in the bill?

253 HOLMAN: Explains the sunset provisions.

260 FRED HANSEN, Oregon Department of Environmental Quality: On page 24, section 22 language addresses the concerns about bonding problems.

273 REP. DOMINY: When would you deal with these problems?

279 HANSEN: Either Appropriations or the Senate.

288 CHAIR BAUM: We have to deal with the issue of retroactivity on the lode fee.

292 HOLMAN: My understanding is that they have quit collecting the fees, and this bill will not go into effect until after July 1, so the issue

is to make it retroactive to July 1 so they can collect for the full biennium.

302 CHAIR BAUM: Asks Susan Browning if this is correct.

306 SUSAN BROWNING, Acting State Fire Marshall: It's retroactive back to April 1, 1993. This was not addressed in the -14 amendments.

308 CHAIR BAUM: What impact would this have if it didn't go into effect until October?

315 BILL MARBLE, Department of Revenue: If this isn't made retroactive to April 1, then they will receive only seven quarters of funding for the

eight quarters of the biennium.

332 CHAIR BAUM: What happened to the \$20 million already collected?

335 MARBLE: The portion that has been transferred to the Fire Marshall and DEQ, they have instructions from the Attorney General not to spend it.

341 Any money we have that has not been distributed is being held by us.

342 CHAIR BAUM: How much is that?

345 MARBLE: It is very little.

355 REP. HOSTICKA: I think we should ask the industry people whether they have collected money that they are holding in escrow in anticipation of fees being collected retroactively.

359 BRIAN BOE, Petroleum Marketer's Association: I very much doubt that any distributors have been setting any funds in escrow in anticipation of

that fee being reactivated here.

380 TOM GALLAGHER, ARCO: I have had conversations with our fuel collections people about retroactivity. I said I didn't know how they could collect retroactively. So they stopped collecting for the last quarter.

400 MOTION: REP. DOMINY: Moves to adopt the -14 amendments, as amended.

402 CHAIR BAUM: Restates motion.

TAPE 87, SIDE A

008 REP. NORRIS: Is anyone else supporting these programs?

016 HANSEN: Yes.

025 BROWNING: This is the complete funding for the state's hazardous materials emergency response team.

027 REP. NORRIS: So anhydrous ammonia doesn't pay their share?

030 BROWNING: They pay the hazardous substance possession fee, that supports the community right to know program and supports part of the

orphan site program.

037 REP. NORRIS: Only this program would support the hazardous materials emergency response team?

040 BROWNING: Correct.

048 CHAIR BAUM: We're voting on the -14 amendments, as amended.

050 VOTE: On a roll call vote, REPS. DELL, DOMINY, HOSTICKA, JOSI, NORRIS, VanLEEUEWEN and CHAIR BAUM vote AYE. REPS. FISHER, MARKHAM and REPINE vote NAY. REPS. LUKE and PETERSON are EXCUSED.

053 CHAIR BAUM: The AMENDMENTS are ADOPTED.

055 MOTION: REP. DOMINY: Moves HB 3177, as amended, to Appropriations with a DO PASS recommendation.

058 CHAIR BAUM: Restates motion.

060 VOTE: On a roll call vote, REPS. DELL, DOMINY, HOSTICKA, JOSI, VanLEEUEWEN and CHAIR BAUM vote AYE. REP. FISHER, MARKHAM and REPINE vote NAY. REP. NORRIS votes NAY but changes his vote to AYE in the interest of passing the measure on. He does not feel that this is a balanced program. REP. LUKE is EXCUSED.

075 CHAIR BAUM: The motion CARRIES.

077 REP. VanLEEuwEN: Has real questions about why \$280,000 are needed in addition to the other funds from FEMA and 911 for an emergency response systems.

086 REP. FISHER: I would be more supportive of this bill if it taxed all chemicals that spilled on the roads.

090 CHAIR BAUM: Closes work session on HB 3177.

Also submitted: Letter from Thomas Carmichael, Carmichael Columbia Oil, Inc. regarding HB 3177 (Exhibit C).

PUBLIC HEARING ON SB 86-B

106 KATHRYN VAN NATTA: Staff Measure Summary, Senate Amendments, Senate Vote Sheet, Budget Report and Measure Summary, Fiscal and Revenue Impact Statements have been submitted for the record (Exhibit D). Also

included are amendments from the Northwest Pulp and Paper Association (Exhibit E), and amendments from Jim Whitty (Exhibit F).

129 FRED HANSEN, DEQ: Summarizes written testimony in favor of SB 86-B (Exhibit G).

195 REP. VanLEEuwEN: How much does the State program exceed the federal standards for the Clean Air Program? Is this fee required by the

federal program? By how much is the state exceeding the requirements of the federal government?

210 HANSEN: The federal law says the minimum that can be charged is \$25 per ton, adjusted by inflation. In 1993 terms, that would be \$30 at a

minimum. We are accomplishing what is required by the federal law without going beyond their requirements for fees.

234 REP. VanLEEuwEN: Where does the state exceed the federal requirements in air quality?

240 STEVE GREENWOOD, DEQ, Air Quality Division: There is nothing in SB 86-B that exceeds federal standards.

248 CHAIR BAUM: What is the Department's position on the -B5 and -B6 amendments?

250 HANSEN: We are not opposed to the -B5 or -B7 amendments because they would be doing that which is already provided for within our rules and

within the statutes. The -B6 amendments would codify what we would intend to do by rule.

271 The -B6 amendments are amendments that apply only to the definition of "highest" and "best" in so far as that is contained within our rules. The -B7 amendments are submitted as a corrected version of the -B5

amendments (Exhibit H).

285 JIM WHITTY, Associated Oregon Industries: Describes the work of the working group on SB 86-B. Endorses the fee mechanism of the bill.

327 CHAIR BAUM: There were eight "no" votes in the Senate.

329 WHITTY: We did not endorse the bill on the Senate side because we might have needed to seek amendments at a later date.

333 CHAIR BAUM: Did you confer with the Senate side about the amendments?

340 REP. VanLEEUWEN: Does this bill refer only specifically to industrial sources of pollution?

344 WHITTY: It only refers to 300 major industrial sources.

366 Submits testimony explaining the rationale behind the proposed amendments (Exhibit I).

TAPE 86, SIDE B

010 We are trying to prevent government by lawsuit. The fee changes in the -7 amendments are endorsed by the Department.

020 REP. HOSTICKA: What do the rules say; is it "best available?"

027 WHITTY: Notwithstanding the general and specific emission controls and regulations contained in this division. The highest and best

practicable treatment of air contaminate emission shall..."

031 REP. HOSTICKA: Your amendments say "typically achievable". Is that a lowering of the standard?

037 WHITTY: Not from my viewpoint.

043 REP. HOSTICKA: In other areas we have moved to a lower standard. I want to make sure that this does not lower the standard.

050 WHITTY: This amendment does not change the authority of the Department to adopt standards that are more strict.

056 HANSEN: We don't believe this would lower the standards we use.

066 DOUG MORRISON, Northwest Pulp & Paper: We support the -6 amendments. Suggests additional amendments to make it more clear what we want to do (Exhibit J).

086 REP. NORRIS: Are "highest and best practicable treatment and control" and "typically achievable controls technology" compatible in usage as

are mentioned in Mr. Whitty's amendments.?

092 WHITTY: We named the existing rule in our amendments. We're looking at "typically available control technology" as the operative term, rather

than the title "highest and best."

099 REP. NORRIS: These two terms mean different things to me. I'm wondering if these two terms will be a problem.

100 WHITTY: I don't think so. All we're doing is naming the rule. That language should not affect us.

106 HANSEN: We see this as identical in application.

120 LIZ FRENKEL, Sierra Club: Reads letter from David Paul urging the committee to defer work on the amendments to SB 86-B regarding the

"highest and best" language (Exhibit K). We would like to go on record as having some concerns about the amendment.

WORK SESSION ON SB 86-B

160 MOTION: REP. REPINE: Moves the -6 amendments, dated 7/1/93 to SB 86-B.

161 CHAIR BAUM: Restates motion.

163 VOTE: CHAIR BAUM: Hearing no objections, the AMENDMENTS are ADOPTED.

165 MOTION: REP. REPINE: Moves the -B7 amendments, dated 7/1/93, to SB 86-B.

168 VOTE: CHAIR BAUM: Hearing no objections, the AMENDMENTS are ADOPTED.

176 MOTION: REP. REPINE: Moves SB - B Engrossed, as amended, to Appropriations with a DO PASS recommendation.

178 CHAIR BAUM: Restates motion.

180 VOTE: On a roll call vote, all members present vote AYE. REPS. DOMINY, FISHER, MARKHAM and NORRIS are EXCUSED.

200 CHAIR BAUM: The motion CARRIES.

210 CHAIR BAUM: Closes work session on SB 86-B.

PUBLIC HEARING ON SB 908-A

221 VAN NATTA: Staff Measure Summary, Senate Vote Sheet, Fiscal and Revenue Impact Statements have been submitted for the record (Exhibit I).

Amendments have been prepared by the Department of Land Conservation and

Development (Exhibit M).

265 GARY CONKLING, Beaverton School District: Summarizes written testimony in favor of SB 908-A-A (Exhibit N).

349 REP. NORRIS: Are there any other school district with similar problems?

357 CONKLING: There are probably 7 school districts, and about 10 or 11 cities in a similar situation.

368 REP. LUKE: Are there any high growth school districts on the east side of the mountains?

370 CONKLING: I believe Bend would qualify.

374 JON CHANDLER, Common Ground, Home Builders Association: A system needs to be implemented so schools can plan for growth. Our belief is that SB 908-A, with the amendments, will provide that system.

TAPE 87, SIDE B

020 REP. LUKE: How is the moratorium affecting schools?

025 CHANDLER: Schools are not allowed to be the basis of a development moratorium.

044 REP. NORRIS: What have you gained if your planning says you need additional schools but you didn't have the money?

050 CHANDLER: The idea behind the bill is to take steps ahead of time to accommodate growth.

066 REP. NORRIS: Will this facilitate you coming to the legislature asking for money to build these schools?

079 CHANDLER: The purpose of this bill is not to address funding problems. The purpose of the bill is to facilitate communication between schools

and the counties regarding growth.

100 REP. NORRIS: Why haven't school districts participated in the communication regarding the light rail system?

103 CONKLING: The current system hasn't worked effectively.

114 REP. NORRIS: I wonder if we need to have legislation to force people to talk to each other.

WORK SESSION ON SB 908-A

124 CHAIR BAUM: LCDC is in agreement with the bill and the amendments.

148 MOTION: REP. REPINE: Moves the conceptual amendments prepared by DLCD dated 7/1/93 to SB 908-A.

152 CHAIR BAUM: Restates motion.

153 VOTE: CHAIR BAUM: Hearing no objections, the AMENDMENTS are ADOPTED.

160 MOTION: REP. REPINE: Moves SB 908 - A Engrossed, as amended, to the floor with a DO PASS recommendation.

162 CHAIR BAUM: Restates motion.

164 VOTE: On a roll call vote, all members present vote AYE. REPS. DELL, FISHER, LUKE, MARKHAM and PETERSON are EXCUSED.

178 CHAIR BAUM: The motion CARRIES.

179 REP. REPINE will carry the bill.

180 CHAIR BAUM: Closes work session on SB 908-A.

WORK SESSION ON SB 1014

182 CATHERINE FITCH: Hand engrossed amendments are being distributed (Exhibit O). SB 1014 establishes a statewide used oil recycling and recovery goal. It creates a Used Oil Recovery Committee to work with DEQ and report findings to a future legislative interim committee.

190 REP. HOSTICKA: The major concern I had with the bill had to do with Section 4 where we were statutorily telling the committee what they

should report before they did their study. These recommendations have been taken out of the proposed amendments.

210 HANSEN: Is in support of SB 1014 as proposed in these amendments.

217 JoANN HERRIGEL, Association of Oregon Recyclers: We tried to accommodate all the concerns that came up yesterday, at the hearing.

223 REP. REPINE: Will this bill make an attempt to get all used oil into the recycling system?

244 HANSEN: SB 1014 would be the first step in the process. This will provide the information necessary so programs can be developed to get

non commercial source oil recycled.

264 REP. REPINE: From my experience, it seems like it's cheaper to go dump it off the side of the road than to pay someone \$40 to pick it up.

269 REP. VanLEEuwEN: Why aren't some of the heavy users included in the committee?

294 HANSEN: Additional people can be appointed, if interested.

315 REP. VanLEEuwEN: Agricultural and forestry users should be included.

317 MOTION: REP. HOSTICKA: Moves to adopt hand engrossed amendments to SB 1014.

319 CHAIR BAUM: Restates motion.

320 VOTE: CHAIR BAUM: Hearing no objections, the AMENDMENTS are ADOPTED.

322 REP. VanLEEuwEN: Wants a conceptual amendment to include industrial users of oil on the committee.

332 HANSEN: The scope of this bill is limited to household users, other activities focus on the industrial user.

340 REP. NORRIS: Would "households" apply to farming activities?

342 HANSEN: We didn't envision this applying to businesses.

357 REP. LUKE: Would anyone be put on the committee representing multi-family units?

359 HERRIGEL: We did take out the suggested recommendations of actual things the committee would look at. I would not be opposed to a member

of the Multi-family Housing Council as a representative on the committee.

365 REP. LUKE: I think they should be included.

370 HANSEN: I can appoint a representative from multi-family or you can put it in by statute.

374 I'll put it on the record that I will appoint a representative from the Multi-family Housing Council on the committee.

377 MOTION: REP. NORRIS: Moves SB 1014, as amended, to the floor with a DO PASS recommendation.

379 CHAIR BAUM: Restates motion.

380 VOTE: On a roll call vote, all members present vote AYE. REPS. DELL, FISHER, MARKHAM and PETERSON are EXCUSED.

391 CHAIR BAUM: The motion CARRIES.

REP. HOSTICKA will carry the bill.

392 CHAIR BAUM: Closes work session on SB 1014.

PUBLIC HEARING ON SB 1131-A

400 VAN NATTA: Staff Measure Summary, Senate Amendments Senate Vote Sheet, Fiscal and Revenue Impact Statements are submitted for the record

(Exhibit P).

TAPE 88, SIDE A

026 DAVE BARROWS, Chemical Management Waste: Testifies in favor of SB 1131-A so hazardous material can be transported to their facility by

train. 062 REP. VanLEEuwEN: This only applies to your facility?

066 BARROWS: Yes.

078 CHAIR BAUM: Closes public hearing on SB 1131-A.

WORK SESSION ON SB 1131-A

080 MOTION: REP. JOSI: Moves SB 1131-A to the floor with a DO PASS recommendation.

082 CHAIR BAUM: Restates motion.

086 BARROWS: Judge Laura Pryor supports this approach.

091 VOTE: On a roll call vote, all members present vote AYE. REPS. DELL, FISHER, MARKHAM and PETERSON are EXCUSED.

100 CHAIR BAUM: The motion CARRIES.

101 REP. VanLEEuwEN will carry the bill.

103 CHAIR BAUM: Closes work session on SB 1131-A.

118 Meeting is adjourned at 3:50.

Submitted by:

Reviewed by:

Sue Nichol
Administrator

Kathryn Van Natta Clerk

EXHIBIT LOG:

A - HB 3177 - HB 3177-14 Amendments - Staff - 26 pages B -
HB 3177 - HB 3177 Conceptual Amendments - Staff - 1 page C - HB
3177 - Testimony - Thomas Carmichael - 2 pages D - SB 86-B - Staff
Measure Summary, Senate Amendments, Senate Vote Sheet, Fiscal and
Revenue Impact Statements - Staff - 13 pages

total E - SB 86-B - SB 86-B5 Amendments - Staff - 2 pages F -
SB 86-B - SB 86-B6 Amendments - Staff - 6 pages G - SB 86 -
Testimony - Fred Hansen - 9 pages H - SB 86-B - SB 86-B7
Amendments - Staff - 2 pages I - SB 86-B - Testimony - Jim Whitty
- 2 pages J - SB 86 - Testimony - Doug Morrison - 3 pages K -
SB 86 - Testimony - Liz Frenkel - 1 page L - SB 908-A - Staff
Measure Summary, Senate Vote Sheet, Fiscal and Revenue Impact
Statements - Staff - 4 pages M - SB 908-A - Hand Engrossed
Amendments - Staff - 5 pages N - SB 908-A - Testimony - Gary

Conkling - 2 pages O - SB 1014 - Hand Engrossed Amendments -
Staff - 3 pages P - SB 1131-A - Staff Measure Summary, Senate
Amendments, Senate Vote Sheet, Fiscal and Revenue Impact Statements -
Staff - 4 pages

total