

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

HOUSE COMMITTEE ON BUSINESS AND CONSUMER AFFAIRS

June 14, 1991

Hearing Room F 1:30 P.M.

MEMBERS PRESENT: Rep. John Schoon, Chair Rep. Hedy L. Rijken, Vice-Chair Rep. Jerry Barnes Rep. Lisa Naito Rep. Carolyn Oakley Rep. Beverly S

STAFF PRESENT: Terry Connolly, Committee Administrator Annetta Mullins, Committee Assistant

MEASURES CONSIDERED: HB 3587 WS SB 1215 PH

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TAPE 103, SIDE A

010 CHAIR SCHOON calls the meeting to order at 1:44 and opens the work session on HB 3587.

HB 3587 - PROHIBITS STATE EMPLOYES' BENEFIT BOARD AND BARGAINING UNIT BENEFITS BOARD FROM ENTERING INTO CONTRACTS FOR HEALTH INSURANCE FOR R

006 CHAIR SCHOON: HB 3587 was introduced by the Ways and Means Committee recently, but because it relates to insurance it was referred to t

026 MOTION: CHAIR SCHOON moves that HB 3587 be sent to the Committee on Ways and Means.

029 VOTE: In a roll call vote, all members present vote AYE. REPS. STEIN and WALDEN are EXCUSED.

031 CHAIR SCHOON declares the motion PASSED.

(Tape 103, Side A) SB 1215 A-ENG. - ESTABLISHES LOAN AND GRANT PROGRAM TO ASSIST IN UPGRADING OR REPLACING UNDERGROUND STORAGE TANKS. Witnes

034 CHAIR SCHOON: We requested permission from the Speaker to have this public hearing specifically to inquire on the assessment in the bil

045 ELIZABETH STOCKDALE, Attorney in Charge, Tax Section, Department of Justice: I have been asked to talk about the aspect of SB 1215 A-En

068 CHAIR SCHOON: Did you consider the public's benefit or expense?

074 MS. STOCKDALE: To the extent the benefits to the public would be indirect, the fundamental purpose as we understood the assessment was

091 REP. BARNES: From the time of the assessment at the wholesale level until the person at the end gets the gas, there are a lot of interv

105 MS. STOCKDALE: I understand the problem you are describing. The perception on the end of the transaction is going to be that gas is go

137 REP. NAITO: Not all the people who will be paying the fee will benefit from it. Did you determine that everyone who pays into this wil

141 MS. STOCKDALE: My understanding is that the people who are going to be paying it are all eligible for the benefits that the program has

145 REP. NAITO: So the distinction is that they are all in a class that could be eligible. The fact that they are all eligible for this wo

148 MS. STOCKDALE: That is correct.

148 CHAIR SCHOON: Is there a difference between commodity commissions which do this and take a deduction on their receipts when they sell t

167 MS. STOCKDALE: The assessment itself is still a cost to them of conducting their business. The people who have the underground storage

176 CHAIR SCHOON: I have a letter I hope you will deliver to Attorney General Frohnmayer in which we asked that he consider the implication

193 Another question came up that dealt with diesel fuel. Revenue Committee staff said diesel fuel is not addressed in the bill in a compar

200 RICHARD REITER, Manager, Department of Environmental Quality's Underground Tank Compliance Program: The work group that Sen. Hill appoi

224 CHAIR SCHOON: We are varying a little from our approval from the Speaker which was specifically to get the information from the Attorne

234 REP. BARNES: I wonder if this isn't somewhat contrary to what the Assistant Attorney General said in terms of those who would benefit.

245 MR. REITER: My opinion is, and I am not an attorney, the assessment is on owners and operators of underground storage tanks. The benef

Another fact to consider is the use of the tanks can be interchangeable. That is the second reason I believe we don't have a problem. The o

276 CHAIR SCHOON: We just passed two bills requiring (government) using natural gas as a preferred source of fuel. Has DEQ discussed that

289 MR. REITER: DEQ is running several cars that will run on alternate fuels. The practical situation is there are very few fueling statio

318 REP. NAITO: I would question the pollution tax credit in the sense that is public moneys that would be giving incentives for this progr

333 MR. REITER: I think I would agree with you. The type of storage container to accommodate the new technology of compressed natural gas,

378 CHAIR SCHOON: Are the above ground tanks less expensive?

379 MR. REITER: My understanding is that above-ground tanks would be less costly because you avoid the excavation costs. You do incur some

416 CHAIR SCHOON: Why were Stage I and Stage 2 vapor collection systems added to the bill for additional financing?

424 MR. REITER: The work group felt this is an additional environmental regulation being imposed in the Portland 3-county area. The way th

On a typical installation, you may be looking at \$20,000 to \$30,000 of additional cost to meet this environmental regulation. They felt that
TAPE 104, SIDE A

013 CHAIR SCHOON: Could they use the pollution control credit?

014 MR. REITER: That credit is also eligible under the current pollution control tax credit program.

016 CHAIR SCHOON: Why were the tank tests deleted on page 2 of the bill?

017 MR. REITER: Under the existing program, which was established under HB 308 0, the soil testing and tank tightness testing programs, the
Second, the smaller businesses have said that is additional money and asked why they can't test and use the money to clean up the soil when

059 CHAIR SCHOON: I don't understand why you would be saying it is okay to not check the soil and tank because it might be leaking.

062 MR. REITER: It is not that we are not concerned about it. The solution is to go in and clean up the contamination. It is a cost that

072 CHAIR SCHOON: It seems you would at least like to know if the tank was leaking.

073 MR. REITER: We are finding, under the current program, of the 50 or so people who have applied for assistance, all but three have decid

093 CHAIR SCHOON: In reference to making an application for a loan (page 2 of the bill), it did say the applicant needed to provide the com

105 MR. REITER: My understanding of what the lenders would like to end up with is a clean site and tanks that meet the technical standards.

Discussion continues on soil testing and site cleanup.

212 CHAIR SCHOON: (In reference to line 19 on page 2) why are you establishing a list of contractors when we already have a Board of Contra

221 MR. REITER: We are working in conjunction with the Board of Contractors. They generally license people to do general excavation work.

242 CHAIR SCHOON: Can you explain (4) on page 3 beginning on line 7?

245 MR. REITER: At this point in time there is both a federal program that applies to owners- operators and a state program. We are in the

270 CHAIR SCHOON: Did EPA approve the program that was passed last session?

270 MR. REITER: EPA said HB 3080 is a nice program. They don't require states to have that type of program. They recognized that the stat

281 CHAIR SCHOON: Is the program which you are asking them to approve contained in this bill?

282 MR. REITER: We intend to, when we submit our application to have the State of Oregon's regulatory program approved (one of the document

297 CHAIR SCHOON: In Section 6, the program goes retroactive to 1988. The 198 8 date would indicate the current program isn't working very

305 MR. REITER: To the question of why it is retroactive--initially in the work group that worked for Sen. Hill, there was two concerns. W
December 22 was established because that is the date when the federal rules legally went into effect. That was the first date businesses in

366 REP. BARNES: When you came up with your cost estimations, did the department give any consideration to having the department purchase v

374 MR. REITER: Both in the design of HB 3080 and in the design of the program under SB 1215 we have attempted to have in place a system wh

425 REP. NAITO: Are the old tanks recyclable?

426 MR. REITER: By far the greatest majority, more than 80 percent, have the ends cut out or they are cut in half and are hauled to a steel

446 CHAIR SCHOON: Why isn't the current program working?

450 MR. REITER: The Oregon Gasoline Dealers Association attempted to tell the legislative committee last session that insufficient money wa

TAPE 103, SIDE B

What is dramatically different about what you have in front of you is the amount of state assistance being made available. In the past it w

045 CHAIR SCHOON: When you say the State will cover up to 90 percent, are you including the guaranteed loan?

045 MR. REITER: The guaranteed loan really provides no direct benefit to the tank owner. The advantage of the guaranteed loan is it brings

099 In addition, the loan will be guaranteed. The \$15,000 that an owner-operator borrows from a commercial lending institution is guarantee

132 REP. STEIN: It is my understanding that the back fill on the interest comes from the State. Does that come from the 1.1 cent assessment

138 MR. REITER: It comes directly out of the fund. The lending institution will bill the fund quarterly.

149 REP. STEIN: Did you include the availability of the pollution tax credit when you determined that the majority of businesses would be a

150 MR. REITER: No, we were looking at just the benefits under SB 1215. Should the current tax credit program continue, it would be an addi

162 REP. STEIN: Your assumptions, from the way the bill reads, is that the station can all meet the normal criteria stated in the bill to g

162 MR. REITER: We have assumed that all 1,800 businesses are eligible for help. Even in tier 4 a business could apply to a bank for a \$15

178 REP. STEIN: Did you talk to any banks about this. It is my understanding that the banks are very tough about who they are going to loa

182 MR. REITER: Even under HB 3080, the banks were cautious about their support for the program. They are interested in being a partner, t

194 REP. STEIN: Is the grant tied to the ability to get the loan from the bank?

196 MR. REITER: In theory, each of the programs is independent. An owner-operator could pick and choose. If they felt they had their own

207 REP. STEIN: What is the theory behind the State being the second mortgage if the banks are going to use their normal criteria?

214 MR. REITER: The difference is that for this type of business they have one additional criteria. That is, you have the potential for env

228 REP. STEIN: Then they aren't using their normal criteria because if they were using their normal criteria, they would just say no.

229 MR. REITER: That is correct, but the benefit of the loan guarantee program is it now gives them the equivalent of collateral for 80 per
233 REP. STEIN: If a number of stations go under despite all of this and we have to pay 80 percent of their loans--?
235 MR. REITER: In our model in predicting the amount of money necessary, we assume a 15 percent business failure rate. We will be reservi
239 REP. STEIN: Is the General Fund ultimately responsible?
240 MR. REITER: The way the law is written, it is only an obligation of this fund. Lenders understand that. They have been very hard on u
252 CHAIR SCHOON: In deciding whether to give a grant or subsidize the loan rate, you will be looking at the financial need of the borrower
257 MR. REITER: Except for tier 1. Under tier 1 there is no financial needs criteria. The benefit under tier 1 is a seven and one-half pe
263 CHAIR SCHOON: Then tier 1 is the financially strongest applicants.
263 MR. REITER: That is correct.
264 CHAIR SCHOON: You will be writing criteria that describes financial need. What do you intend to do?
268 MR. REITER: That is correct. As we provided in our testimony, we have been talking with lenders and the Small Business Administration.
292 CHAIR SCHOON: A few minutes ago I understood you to say that if they didn't have to borrow the money from the bank, you would consider
296 MR. REITER: They would still have to meet the financial needs criteria. They would still have to be in tier 3 or tier 4.
300 CHAIR SCHOON: If they are at the low end financially, they wouldn't qualify for the loan, probably. If they didn't qualify for the loa
310 MR. REITER: If they don't meet the financial needs criteria, then they don't fall into either tier 3 or 4 which are the only two levels
333 CHAIR SCHOON: I think you should tell us how you are going to address that because that is the key to making the program work and it se
354 MR. REITER: The sections that set up the grant programs are on page 4 starting on line 7, (3), "...may be eligible for a 50 percent gra
375 CHAIR SCHOON: Even if they have the ability to borrow the money, would you give them the grant?
377 MR. REITER: If they meet the financial needs tests, yes.
380 CHAIR SCHOON: That is the contradiction I find myself in when I look at this. I am not sure where these things meet in the middle. Yo
391 MR. REITER: There may be some people out there who have saved some money and they may be willing to apply that money rather than going
419 CHAIR SCHOON: We would be interested in knowing what you are looking at in the way of financial need criteria if you are able to be mor
429 MR. REITER: In the testimony I made available to you on June 4 (SEE EXHIBIT F OF COMMITTEE MINUTES DATED JUNE 4, 1991), attachment 1, p
450 CHAIR SCHOON: When the Small Business Administration had grants they always required the borrower to go to a couple of different banks
472 MR. REITER: The state of Iowa chooses to use that approach. They have just a subsidized interest rate program at this time. It is an
TAPE 104, SIDE B
025 CHAIR SCHOON: Can you enlighten us on the banks' response.
032 MR. BRAWNER, Oregon Bankers Association: We support passage of SB 1215 A-Eng. relating to the underground storage tank situation. We h
Section 71 of the bill discontinues at the end of this tax year the tax credit that was used to buy down the interest rates on approved loan
This bill does not require that the loan be based upon or secured by the property. Many loans are being made today outside the program to t
HB 3349 which the House has passed is out of the Senate committee. It is modified a great deal, but a week ago the EPA came forward with pr
The Chair was asking questions about page 2, lines 17 and 18 that are deleted from the act. The fact that is not a part of this bill doesn'
These loans will be secured or unsecured and the property is not required to be involved. I think it will work.
081 REP. STEIN: If the loan is secured, if they have additional property or other collateral, then do we still have the obligation to back
091 MR. BRAWNER: That is correct. The purpose of the loan is to carry out the mission. Using the example Mr. Reiter used, the \$100,000 lo
097 REP. STEIN: Who would have the first or second position?
098 MR. BRAWNER: We would take no position. Let's say it is a going concern. The three Cs of credit--collateral, character and capacity--
108 REP. STEIN: If you do take collateral, other than the station, from the person and they go belly up, do you take their property and try
113 MR. BRAWNER: A guaranty would be a guaranty. We would have to have the state's guarantee in our file.
111 4REP. STEIN: You cannot collect more than you are owed. What if there is enough in the collateral to pay what you are owed?
117 MR. BRAWNER: Then we wouldn't look to the state for the guaranty. If we made the loan on the property itself, we would have to look to
If we have collateral that is worth \$40,000 and the borrower is bankrupt and it is not the station, and we have an \$80,000 guaranty and a \$1
143 JAMES AYLING, Grants Pass: When I first saw this bill I was concerned with the way I interpreted it. I have since talked to the gentle
159 CHAIR SCHOON: That is my understanding. The load fee would only be used in case it is determined by the courts that the 1.1 or 1.2 cen
165 MR. AYLING: The load fee is a little bit unfair. It penalizes the person with the small transport versus those with the four-wheel tra
171 ROGER HARRIS, Attorney: I represented 10 retail gasoline dealers last year in a lawsuit against the State Fire Marshal with respect to
With respect to the third portion of SB 1215 having to do with the cardlock exemption or what is sometimes referred to as the non-retail exe
If that holding stands, that inherently undercuts what the cardlock dealers are attempting to do by this piece of legislation. Any facility
I think we end up creating an anomaly which puts it in a position that this matter will not be resolved if this bill is passed in tact and t
I submit the only way for this Legislature to avoid this problem is to simply delete the cardlock portion of this bill. I commend to you wh

248 CHAIR SCHOON declares the meeting adjourned at 3:26 p.m.

Respectfully submitted, Reviewed by,

Annetta MullinsTerry Connolly AssistantAdministrator

EXHIBIT SUMMARY

NONE