

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.

HOUSE COMMITTEE ON BUSINESS AND CONSUMER AFFAIRS

June 25, 1991
A.M.

Hearing Room B 9:00
Tapes 111 - 113

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

STAFF PRESENT: Terry Connolly, Committee Administrator Annetta
Mullins, Committee Assistant Ted Reutlinger, Legislative Counsel
MEASURES CONSIDERED: SB 1215 WS

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TAPE 111, SIDE A

010 CHAIR SCHOON calls the meeting to order at 9:08 a.m. and opens the work session on SB 121 5 A-Eng.

SB 1215 A-ENG. - ESTABLISHES LOAN AND GRANT PROGRAM TO ASSIST IN UPGRADING OR REPLACING UNDERGROUND STORAGE TANKS. Witnesses: Ramey Stroud, State Fire Marshal's Office Rich Reiter, Department of Environmental Quality Carol Kelsey, Administrator, Senate Business, Housing and Finance Committee John McCulley, Agricultural Cooperative Council of Oregon

006 CHAIR SCHOON: I have proposed language drafted by Sen. Jim Hill which President Kitzhaber, Speaker Campbell, Sen. Hill and I agreed on yesterday covering who would be grandfathered in (EXHIBIT A). Our agreement doesn't bind this committee, but the amendment grandfathers in business accounts that had cardlock service as of June 30, 199 1 without the gallonage requirement. Any new business account will have to meet all the provisions of the bill as it is written, including the 2,400 gallon requirement.

020 MOTION: CHAIR SCHOON moves that the conceptual language (EXHIBIT A), BE

ADOPTED.

024 CHAIR SCHOON: If this language is adopted, I would be open to further motions on any other matters that need to be addressed in the bill.

036 REP. STEIN: Does that mean the requirement of having to have safety training would remain in place?

037 CHAIR SCHOON: Yes.

VOTE: In a roll call vote, REPS. OAKLEY, STEIN, WALDEN, and CHAIR RIJKEN vote AYE. REPS. BARNES, NAITO and RIJKEN vote NO.

045 CHAIR SCHOON declares the motion PASSED.

046 CHAIR SCHOON: We have adopted the railroad amendments, SB 1215-A14 (SEE EXHIBIT R OF COMMITTEE MINUTES DATED JUNE 6, 1991).

052 REP. OAKLEY: I would like to see Rep. Dwyer's amendments, SB 1215-A15 (SEE EXHIBIT E OF COMMITTEE MINUTES DATED JUNE 10, 1991) be included in the bill.

059 MOTION: REP. OAKLEY moves that the SB 1215-A15 amendments BE ADOPTED.

084 CHAIR SCHOON: The amendments in effect establish findings that the Legislative Assembly wants to maintain the prohibition on self-service and lists various reasons.

091 REP. WALDEN: I will oppose that amendment. I am not sure I concur will all the findings.

106 REP. BARNES: I will be opposing it also. I don't think there is ample information or evidence to back up the bulk of these findings.

110 VOTE: In a roll call vote, REPS. NAITO, OAKLEY, STEIN, RIJKEN and CHAIR

SCHOON vote AYE. REPS. BARNES and WALDEN vote NO.

112 CHAIR SCHOON declares the motion PASSED.

114 REP. OAKLEY: We had discussed in line 13 on page 22, in Section 56, changing the "or" to "and."

121 MOTION: REP. OAKLEY moves that on page 22, Section 56, in line 13, delete "or" and insert "and."

127 CHAIR SCHOON: It would have the effect of saying that the State Fire Marshal may issue a conditional use license if there is no facility where gasoline is dispensed at retail within 10 miles of the facility. "and" would make both conditions required.

136 REP. OAKLEY: The language would tighten it up.

139 REP. WALDEN: That would make it more difficult in certain areas of the state to get gasoline service.

140 REP. OAKLEY: It would make it more difficult to get cardlock service.

145 REP. WALDEN: I will oppose that motion. Our object in this bill is to make more fuel stations available and help those survive that are facing extraordinary financial difficulties. Recognizing we are not the same around the state, I am not sure that helps some communities.

153 REP. BARNES: If you were willing to reduce the mileage, I could possibly support that.

156 MOTION: REP. WALDEN moves to amend REP. OAKLEY'S MOTION to reduce the mileage in line 13, on page 22, to 5 miles.

160 REP. WALDEN: We heard discussion in committee from those on the Senate side that they pulled 10 miles out of the air. In looking at maps of Oregon, it appears to me if you are going to take care of some of these communities, 10 miles won't do it, but five or seven miles could.

167 REP. RIJKEN: I would object to the amendment to the motion. I will support the motion Rep. Oakley made. I think once we reduce the mileage it just opens it up more and more toward self- service for individuals. Ten miles is probably the lowest I will go. The undue hardship conditions make me nervous because it is not defined in the bill; we are leaving that to the Fire Marshal.

The amendment tightens this up and would make it so they have to show that it is absolutely necessary that they need a cardlock.

186 REP. OAKLEY: I also object to the motion to amend the motion.

187 REP. BARNES: It is ironic that this Legislative Assembly has been on record as encouraging energy conservation. We are also concerned about pollution, yet in certain circumstances we are willing to require our citizens to travel 10 miles. There is a disconnect there and that is why I think it is out of line. I am fully in support of reducing the mileage.

195 VOTE: In a roll call vote on Rep. Walden's motion to amend Rep. Oakley's motion, REPS. BARNES, WALDEN and CHAIR SCHOON vote AYE. REPS. NAITO, OAKLEY, STEIN and RIJKEN vote NO.

202 CHAIR SCHOON declares the motion FAILED.

205 VOTE: In a roll call vote on Rep. Oakley's motion, REPS. NAITO, OAKLEY,

STEIN and RIJKEN vote AYE. REPS. BARNES, WALDEN and CHAIR SCHOON vote NO.

209 CHAIR SCHOON declares the motion PASSED.

213 REP. STEIN: I have an amendment in concept. I am concerned with the impact of what we are doing on the implementation of alternative fuels. In think in terms of energy conservation we need to be looking toward changes in our fuels system which may have an impact on the delivery system. I proposed that from the funds that are accrued in this bill we have a consultant study to evaluate the current motor fuel delivery system in terms of access and efficiency, analyze the possible future distribution system alternatives assuming an increased use of alternative fuels and to analyze how SB 1215 as implemented impacts the usage of alternative fuels and how the current legislation impacts the current distribution system in terms of access and efficiency, and make recommendations for the future.

I think this is complicated legislation and it is unclear what the impact is going to be in terms of access for people and efficiency. I think we should provide some funding to see what we are actually doing and revisit the issue in two years.

235 REP. WALDEN: Are you talking about studying self serve versus full serve versus cardlocks?

237 REP. STEIN: I need a pattern of where the stations are and where people are going, how far they are going, is there a move to alternative

fuels-- what will the future look like? It would include a look at the full range of the distribution system.

248 REP. NAITO: One of the concerns I have about this bill is that the state will be backing loans for 20 years and have a vested interest in the underground tanks and therefore a vested interest in the current fuel delivery system and the current type of fuel. I think it is something we need to look at. I see the need for the legislation in the short term to deal with the present problem of the underground tanks and the need to have fuel, but things will be changing.

I think they should also look at the accessibility of fuel and if there is a problem in Eastern Oregon, they could report back to us if this is not working. I think it (the study) is important to have since we are essentially operating blind on some of this at this time.

266 CHAIR SCHOON: I would agree with the motion and support it. Ten years ago we didn't know what cardlock meant. We are talking about a 20 year program and investing \$100 million in a program that is having problems right now. I would agree a study needs to be done. There is no requirement for anybody to report back to the Legislature on how the program is working or whether it is working. The last time we passed a multi-million bill, it didn't work at all. Do you anticipate a report to the Legislature on the study, or would that be a separate item.

279 REP. STEIN: I would see it as one report that comes back to the Legislature. I would think the State Fire Marshal's office would be in charge of hiring the consultant. I feel this issue is so contentious and there are so many different interest that I would prefer to have an outside consultant do the analysis.

290 CHAIR SCHOON: Do you have a date for the report to be brought back to the Legislature.

291 REP. STEIN: I would think January 1, 1993 would be appropriate.

297 CHAIR SCHOON: The motion is to have a report and study prepared by an outside consultant to report on the effect of the program and to study a number of items that relate to the distribution, use and possibly alternative fuels in Oregon.

307 REP. WALDEN: Since the committee just adopted language saying how terrible self service is, I hope that wouldn't prejudice work that might be done to evaluate whether it is terrible.

312 REP. STEIN: That is the point in hiring an outside consultant who is an expert in the issues of distribution systems. We want to know what the future might look like and what is going on now. I don't expect them to say get rid of self service or anything, that is up to the Legislature to decide. They are supposed to present the facts.

328 REP. WALDEN: Do we set a dollar amount, a cap, or a source of funding?

330 CHAIR SCHOON: The source is the fund that exists right now and is not being utilized.

335 REP. STEIN: I think we do need to put a limit in the bill. Perhaps Terry can find out what the study might cost and how much money is available.

338 CHAIR SCHOON requests that Terry check with DEQ and the Fire Marshal's office on what the costs might be.

344 VOTE: CHAIR SCHOON, hearing no objection to the motion, declares

the motion PASSED. All members are present.

350 REP. BARNES: I have been concerned about the costs on some of these service station operators. I wonder if we have done enough study to see if we can't give more options to our service station owners in terms of above-ground tanks and have exceptions, rural versus urban, etc. Is there any way to have provision where at their option owners could put in above-ground tanks and cut down on expense.

366 RAMEY STROUD, Chief Deputy, State Fire Marshal's Office: After last session, working with DEQ and Mr. Reiter, the State Fire Marshal adopted administrative rules within the context of the Uniform Fire Code that allows service stations to install a maximum of three above-ground storage tanks with a maximum of 6,000 gallons each, 18,000 gallons total, as long as it is consistent with the local zoning ordinances. There are some safety requirements in the Fire Code on containment walls, fire suppressant systems, etc.

364 CHAIR SCHOON: Rep. Stein, would you consider a friendly amendment to the last motion that was passed that the study include possible low-cost alternatives to underground storage tanks.

393 REP. STEIN: That would be fine.

394 MOTION: REP. BARNES moves that the study include low-cost alternatives to dispensing fuels.

401 VOTE: CHAIR SCHOON, hearing no objection to the motion, declares the motion PASSED.

406 MOTION: REP. WALDEN moves that on page 15, in line 22, after "rule", insert "The State Fire Marshal shall consider requests of the local citizens or local governing bodies when determining if undue hardship conditions exists."

411 CHAIR SCHOON: Rep. Walden's motion is to add language to the effect that the State Fire Marshal shall consider the input from the local population regarding the hardships.

421 REP. STEIN: I heard "input" and "requests."

427 REP. WALDEN: It would read, "The State Fire Marshal shall consider requests of local residents or local governing body when determining if undue hardship conditions exists." They would have to touch base with the local governing folks or the local people in considering that. They would have room, as they draft rules, to implement this.

436 REP. STEIN: I will oppose that unless you change "requests" to "input."

444 REP. WALDEN: I would accept that as a friendly amendment to my motion.

445 MOTION: REP. WALDEN moves that on page 15, in line 22, after "rule." insert "The State Fire Marshal shall consider comments of local residents or local governing bodies to determine if undue hardship conditions exists."

469 VOTE: CHAIR SCHOON, hearing no objection to the motion, declares the motion PASSED. All members are present.

TAPE 111, SIDE A

020 REP. WALDEN: In Section 50, in addition to the farm exemption, I

would like to add an exemption for government agencies that would provide for emergency services such as fire, ambulance and police to have access to cardlocks. On page 19 of the A-Engrossed bill, in line 30, after "that" insert a colon and delete the rest of line 30 and line 31 and insert: "(a) The fuel qualifies as a deductible farming expense on the customer's federal income tax return; or (b) The fuel was purchased by a governmental agency providing fire, ambulance or police services."

He explains that the (a) is not a policy change because it is currently in the bill and that parallel language is needed on page 20, beginning in line 4.

065 CHAIR SCHOON: Will that take care of the volunteer fire person who has to provide their own fuel?

068 REP. WALDEN: I don't believe so.

100 REP. BARNES: I was going to make a motion that we eliminate "farming" so it would be a deductible expense. A number of the members of the cardlocks are business people, other than farmers. One party files a Schedule F and the other files a Schedule C, but they are still in business. I would make a motion to eliminate "farming" in line 31 on page 19 and in line 5 on page 20.

108 CHAIR SCHOON: We will keep that as a separate amendment.

112 VOTE: CHAIR SCHOON, hearing no objection to Rep. Walden's motion, declares the motion PASSED. All members are present.

114 MOTION: REP. BARNES moves that "farming" be deleted on page 19, in line 31, and on page 20, in line 5.

127 REP. OAKLEY: I will object to that amendment because I feel it broadens the scope considerably more than what we had intended.

129 REP. STEIN: I will object because it basically makes the 2,400 gallon limit meaningless.

REP. RIJKEN: I will object also.

134 VOTE: In a roll call vote, REPS. BARNES and WALDEN vote AYE. REPS. NAITO, OAKLEY, STEIN, RIJKEN and CHAIR SCHOON vote NO.

137 CHAIR SCHOON declares the motion FAILED.

136 CHAIR SCHOON: While I philosophically support what Rep. Barnes is suggesting, I think it would violate my agreement with Sen. Hill.

140 REP. RIJKEN: On page 19, lines 32 and 33, what is the definition of "equivalent documentation?"

153 MR. STROUD: The specific interpretation of that would have to go through a rule-making process to get input from the affected parties as to what would be equivalent documentation. The interest the Fire Marshal would have would be to see a bona fide business activity and not just a means of acquiring a cardlock account.

175 REP. NAITO: With the 2,400 gallon requirement, I think it is unlikely that households will rise to that level. I am not as concerned about the documentation unless we do see businesses spring up to sell individual membership.

186 MOTION: REP. WALDEN moves that on page 4, in line 20, delete "the

only facility" and insert "one of five facilities." (SB 1215-A7 amendments).

200 REP. WALDEN: This would have the effect of transferring more of the grants to the smaller areas of the state, communities that have fewer facilities now as opposed to communities that have just one fueling facility.

210 CHAIR SCHOON: We discussed this before and concern was expressed that the facility must be the only facility in town and the smaller operator could be precluded from the grant by a major oil company having a facility in the same town. I think the response was that you were trying to hold down the costs. Could you review that for us.

220 RICHARD REITER, Department of Environmental Quality: Where there is more than one facility in town, the benefits that apply are 50 percent grant, a three percent interest rate on the subsidy, a 75 percent insurance co-payment for four years. The people who are eligible for slightly higher benefits, we intended to be fewer in number because of the cost to the program. For essential services, to ensure that each community or each rural population within a 10 mile radius doesn't lose that last station, those people who meet that location criteria would be eligible, rather than for a 50 percent grant, an 85 percent grant, rather than a five percent interest rate subsidy, a one and one-half percent, and on the insurance premium of co-payments, rather than 75 percent where there is two or more, there would be a 90 percent if it is the only facility.

We saw the higher benefits to be where there was a real hardship. You would substantially increase the cost to the program if you were to adopt the language of "one of five facilities." That would be the bulk of cities in Oregon. It is a question of where the additional revenue would come from to support those additional facilities.

254 REP. OAKLEY: I will object to the amendment.

REP. RIJKEN: I will object also.

258 VOTE: In a roll call vote, REPS. BARNES, WALDEN and CHAIR SCHOON vote AYE. REPS. NAITO, OAKLEY, STEIN and RIJKEN vote NO.

262 CHAIR SCHOON declares the motion FAILED.

266 MOTION: REP. WALDEN moves to amend on page 4, line 21, to say "not more than five facilities."

274 REP. WALDEN withdraws his motion.

277 MOTION: REP. WALDEN moves on page 4, in line 21, delete "10" and insert "7."

284 REPS. RIJKEN and OAKLEY object to the motion.

292 RICH REITER: The 10 miles was a judgement call. On this committee a number of members mentioned they were aware that facilities were located nine miles from cities. We have no way of knowing how many additional facilities that would include. Clearly by lowering the mileage you will make more facilities eligible for the additional benefits raising the costs of the program.

307 I failed to bring to your attention that for benefits in tiers 2, 3 and 4 businesses will have to meet a financial need. On competition between major oil and independents, major oil is likely not to meet the financial needs tests for tiers 2, 3, and 4 so they could never become eligible for the 85 percent grants.

318 CHAIR SCHOON: My concern is not with the major oil company getting the money, it is with the major oil company having a station there and by virtue of there being two stations in town the small independent needing the help couldn't get it.

321 MR. REITER: He would get slightly less help than at the tier 3 level. He would get the 50 percent grant, 75 percent on the insurance and the three percent interest rate subsidy.

343 REP. OAKLEY: Would the maker of the motion consider changing it to "9 miles."

354 REP. WALDEN: If that is the only way we can ratchet this down, I would accept the amendment. It disturbs me that special interests got together and pulled a figure out of the air that nobody can justify on the basis of fact that they even looked at a map. I accept you friendly amendment to go to nine miles.

375 CAROL KELSEY, Committee Administrator, Senate Business, Housing and Finance Committee, on behalf of that committee and Sen. Jim Hill: Without speaking for Sen. Hill, there have been discussions about how the mileage came together. Without speaking for Sen. Hill, the committee could conceivably consider eight miles and know that might be an acceptable component because it is clear that what hopefully will occur on this bill is a concurrence on the Senate side rather than a conference committee.

391 REP. RIJKEN: Is this a change that would deal with the tank loan program only?

420 MR. KELSEY: The discussion of the eight miles was in terms of the sole proprietorship, not in terms of the eligibility for the loan program to go from 50 percent to 85 percent. The major discussion about changing the mileage related to changing the mileage for the sole proprietorship for the communities in which there would be nine miles between an attended station and an unattended facility in terms of how far the consumer would have to drive to be able to access gasoline. However, I would not want to speak for the Senate members or the task force in terms of the 10 miles being changed as it related to the dramatic impact it has on tiers 1-4 of the program as it related to money because when you change the 10 miles, you dramatically change the eligibility.

TAPE 110, SIDE B

009 REP. STEIN: I think Rep. Walden's amendments related to tiers 1-4. You say the 8 miles is only for the other part and we are not talking about that.

010 MS. KELSEY: I apologize. I am incorrect and have it backwards.

014 REP. STEIN: Then you are objecting to the 8 miles.

MS. KELSEY: I would not be able to speak for the Senate committee or the task force.

016 REP. WALDEN: The Vice-Chair of the committee is here and indicates she would support 8 miles.

018 CHAIR SCHOON acknowledges an affirmative nod from Sen. Jolin.

020 REP. NAITO: I think we have to be concerned about the financial impact on the loan program by reducing this. If we change it, we should get some hard core numbers.

032 REP. WALDEN: I think the two are not linked. This deals with who gets the most help.

042 REP. OAKLEY: I would feel more comfortable with 9 miles and if it goes to conference and someone wants to change it to 8, it could be done at that time.

MOTION: REP. WALDEN amends his motion to amend the bill on page 4, in line 21, change "10" to "9."

052 VOTE: CHAIR SCHOON, hearing no objection to the motion, declares the motion PASSED.

053 MOTION: REP. WALDEN moves the SB 1215-A8 amendments relating to cooperative financial institutions (SEE EXHIBIT V, PAGE 3 OF COMMITTEE MINUTES DATED JUNE 6, 1991) BE ADOPTED.

063 REP. NAITO: Is cooperative financial institution defined and regulated in statute?

08JOHN McCULLEY, Agriculture Cooperative Council: There are two financial cooperative institutions that our members have told me about with whom they currently finance. One is the National Bank for Cooperatives which is authorized by federal legislation. It is a part of the farm credit system.

093 REP. NAITO: Is that a bank?

094 MR. McCULLEY: It is a bank that loans money. It has no deposits. It is a lender to cooperatives throughout the United States, agricultural cooperatives, rural electric cooperatives, etc. It is funded through the sale of securities. It is headquartered in Denver, has 12 regional offices in the U. S. and is overseen by the farm credit system, a federal agency.

The other is a financing arm of a regional cooperative that does business in this part of the United States, CENEX. It is a separate subsidiary of CENEX Finance Corporation which would be similar to GMAC or some other finance arm of a business. There are cooperatives that buy their fuel from CENEX. CENEX also has a loan program that has helped a cooperative upgrade its underground storage tank facilities.

126 TED REUTLINGER, Legislative Counsel: One way to do it would be to specifically require the institution to be one that is insured by the federal government or in some manner regulated by the federal government. It sounds like you might be excluding the second part that was described which sounds more like a private finance company organization.

132 CHAIR SCHOON: I understand Rep. Naito's concern, but if we can find anybody to loan to a service station to replace their tanks, does it matter who they are?

138 REP. NAITO: You may be right. If there was some language saying they were regulated by state or federal government or something saying there was oversight, would that work?

156 MR. McCULLEY: I understand your concern and if language were included to require oversight, that would be acceptable. I would think that any person lending money would have to meet certain requirements.

170 CHAIR SCHOON: Rep. Walden, would you accept Rep. Naito's concern as a friendly amendment in concept that the association needs to be a

regulated, or at least a federally or state authorized institution.

175 MOTION: REP. WALDEN'S moves to amend on SB 1215 A-Eng. on page 7, in line 18, after "association" insert "cooperative financial institution..." and modifiers as necessary to ensure that they are regulated agencies.

180 VOTE: CHAIR SCHOON, hearing no objection to the motion, declares the motion PASSED. All members are present.

180 MOTION: REP. WALDEN moves the SB 1215-A22 (EXHIBIT B), with lines 1-3 deleted, BE ADOPTED.

192 REP. WALDEN: These amendments say that Section 50 would not apply to ag co-op members that have cardlocks or key activated dispensing devices. However, those facilities would have to satisfy the safety training requirements in compliance with the State Fire Marshal.

194 REP. STEIN: This means then that anyone who is a member of the agricultural cooperative can use the cardlock? How does one become a member of an agricultural cooperative?

211 MR. McCULLEY: Each cooperative has by-laws which determine the membership. The primary criteria for membership is to be a producer of agricultural products. I don't think there are any straight consumer cooperatives that would have fuel dispensing.

246 REP. WALDEN: I don't believe this amendment would exempt people from ORS 480.330 to .340.

256 TED REUTLINGER: I think the basic intent of these amendments is to say if you are a member of a cooperative and you are dispensing gas from their cardlock on January 1, 1991, then you don't have to satisfy the other requirements in Section 50. You don't have to buy 2,400 gallons a year or provide the documentation, but you do have to satisfy the safety training requirement.

268 REP. WALDEN: Is this the "grandfathering" amendment?

268 MR. REUTLINGER: Yes, that is correct--just for members of cooperatives.

274 REP. OAKLEY: If they were a member of the cooperative on January 1 but did not have a cardlock card, would they fall under the grandfathering?

280 MR. REUTLINGER: It says Section 50 doesn't apply to the facility, rather than to the individual person. If there was a facility operating, as it is written now, on January 1, 1991, then that facility wouldn't have to have its people jump through these hoops listed in Section 50. If they had a cardlock on the first of this year and have been dispensing it continuously since then, then Section 50, except for the safety things, would not apply to that cardlock.

291 REP. OAKLEY: I would have to object to that amendment.

295 REP. NAITO: The by-laws could be changed to include new members and have new membership and open it up.

301 MR. REUTLINGER: The way the amendment is drafted now, I think that is correct.

305 REP. RIJKEN: I object to the amendment for the previous reasons.

306 REP. BARNES: I look upon this proposal as permitting existing agricultural cooperatives to stay in business. I would be supportive of it.

317 VOTE: In a roll call vote, REPS. BARNES and WALDEN vote AYE. REPS. NAITO, OAKLEY, STEIN and RIJKEN vote NO.

327 CHAIR RIJKEN declares the motion FAILED.

334 REP. WALDEN: As a matter of discussion, if we don't do it for the facility, would there be any support in committee to do it for the customer base as of January 1, 1991 not allowing non-business, non-agricultural?

347 REP. NAITO: I think allowing the farming operations to be exempted from the 2,400 gallon requirement is quite an accommodation.

356 REP. STEIN: I might be willing to support that. It would be consistent with my decision to grandfather in non-retail customers with some difference to the rural areas and also recognizing the study may reveal major changes that need to be made in the whole system.

370 REP. WALDEN: We are trying to grandfather in the existing customer base.

373 REP. STEIN: I am willing to support that, however, I want to revisit the date of June 30 and go back to the January 1 date. I will support this additional amendment only if I can get support for changing the other amendment.

398 REP. WALDEN: I would prefer to wait until the Chair returns since this was his agreement with the Senate.

TAPE 111, SIDE B

025 REP. BARNES: This is a step backwards for the small business people and we are forgetting the whole essence of our Oregon economy.

059 CHAIR SCHOON: I would like to make a motion. The effect of this motion is to make sure that attended service is provided when there is dual service. I need clarification on the dual service stations.

074 MR. STROUD: The dual service concept would allow a facility owner to operate a station that has both a cardlock island for qualified customers and a retail island for the general public. The retail owner, currently, could opt to install the cardlock or the cardlock station could opt to install the retail. If it is the latter case, the cardlock would have to provide attended service because it sells to the general public.

089 CHAIR SCHOON: There appear to be two conditions under which dual serve stations can operate. It is my intent to move language that would preclude the problem from occurring that we hear about in states with self service where the handicapped person pulls up and nothing happens, or they have a full serve island and the price is fifty cents greater than the self service rate. I think the potential exists for that occurring at the cardlocks. In any case, if we ever get self service, I think this bill provides a good precedent for assuring that the elderly and handicapped receive service in the first place and at the same price.

104 MOTION: CHAIR SCHOON moves that SB 1215 A-Eng. be further amended to include: "Any unattended facility (or dual service facility)

described in the bill shall have an attendant on duty at least eight hours a day and five days a week to provide dispensing service to any person who is qualified to obtain and has obtained an individual placard or special decal described in ORS 811.605 or disabled veteran registration plate to anyone who requests service. The price charged for Class I flammable fluids dispensed by an attendant under this section shall be the same as the price charged without an attendant at the same facility."

120 REP. NAITO: As I understand it under the bill now, a dual service station that didn't have a hardship or the sole provider provision, they would need to meet the gallonage and business requirements for dispensing at the cardlock. The only reason I could see to put the amendment is if you would allow a dual operation that would be within the 10 miles.

129 CHAIR SCHOON: I think the dual stations can, under some circumstances, include a non-retail account.

131 REP. NAITO: It was my understanding that the law as it stands here, unless we change it, would not allow a dual service station to operate within the sole provider hardship, but that is something I would consider changing.

136 MR. STROUD: Rep. Naito is correct. By its very nature a dual operation would qualify as a retail facility and since the retail facility would exist within the 10-mile radius of the sole provider provision, it would not qualify for the conditional use license which would waive the business requirement.

140 CHAIR SCHOON withdraws his motion.

144 REP. NAITO: We may want to consider allowing a dual operation to take the benefits of a sole provider in the sense that in the rural communities, people might want to get gas from the cardlocks, but then I think we would want to put in the assurances that the Chair outlined so we can be sure that a person could get service during the day.

151 CHAIR SCHOON: That is my concern and I think one way or the other we ought to address that.

152 MR. STROUD: One idea that has been put forth and would be allowed under the bill as written would be for a retail service station to convert its pumps so that at night or at times when it is not open to the general public, the pump could be used by bona fide and qualified cardlock accounts. This would allow a single facility operator to market to both the cardlock market and to the retail market. They would have to meet all the requirements for both the retail operation when it is open to the general public and when they are not open to the public, meet all the requirements for a non-retail cardlock facility. Hopefully, that would allow retail dealers to expand their markets and respond to the growth of cardlocks in Oregon.

168 REP. NAITO: I was thinking about the Eastern Oregon dual operations that don't have a station within the 10 mile limit. What you are talking about leads me to believe there will be an enforcement nightmare.

173 MR. STROUD: Dual operation facilities are currently in the Uniform Fire Code and there are approximately 50 dual operations facilities in operation. When we went through rule making over the last two years to try to clarify who could lawfully serve themselves at cardlocks, we asked for a formal AG opinion which went through months of debate. We received word from the AG's office that under the existing statutes dual operations should not be allowed. If this bill does not pass, we would

have to rescind those rules and grant a variance to existing facilities for some years so they would not be penalized by making a good faith installation under existing rule. We are not trying to create a new situation but allow an existing situation.

190 REP. BARNES: Do you have a 300 foot separation requirement between self service or cardlocks and the attended pumps?

190 MR. STROUD: It is a 50 feet separation. Regarding the sole provider provision, if during the course of the conditional license period, a retail dealer should happen to come into the area, the cardlock facility who had taken advantage of that provision would not go out of business but would revert back to its cardlock operation. There would still be a use from the capital investment.

208 CHAIR SCHOON declares the meeting in recess at 10:48 a.m. for the purpose of attending the House Floor Session.

215 CHAIR SCHOON reconvenes the meeting at 2:20 p.m. in Hearing Room 137.

218 CHAIR SCHOON: When we recessed we were talking about dual service stations and Rep. Naito had expressed a concern.

237 REP. NAITO: I was speaking to your proposed amendments. My recommendation is if we leave the bill as it is and not allow dual service where the hardship exemption would otherwise exists because the retail dispenser is and of itself a gas station, then we don't need the language you suggest, because we have already put in language saying we don't want self service. But if you decide you want to allow in the rural communities within the 10 mile exemption a service station to also have a cardlock to the general public, then it is important we put safeguards in.

250 CHAIR SCHOON: It appears there will be places, under the bill, that we will have cardlock services available for consumer use. Is that correct?

257 MR. STROUD: Under Section 56 of the bill (TAPE IS INAUDIBLE).

265 CHAIR SCHOON: It was my intent that we have language in the bill that would ensure that in those cases where a person was handicapped, or elderly, or had a disabled veterans plate, they would be assured of getting full service at least eight hours of the day and at a price no greater than the cardlock was charging. Does that fit with the configuration of the bill?

275 MR. STROUD: I am not sure it does. The reason Section 56 is in the bill is there is (TAPE IS INAUDIBLE)

280 CHAIR SCHOON: These places would be strictly cardlock and would not include full serve of any type?

281 MR. STROUD: (TAPE IS INAUDIBLE)

261 REP. NAITO: If you are talking about having an attendant at the cardlock stations in these areas, I would be fully supportive of that.

286 CHAIR SCHOON: I thought I was addressing the dual serve situation and want to make sure that a dual serve didn't turn into a cardlock only and exclude service for other persons who might need full serve. But apparently that doesn't exist in the bill.

293 MR. STROUD: There is a bright line between the dual operations concept and the sole provider provisions. They are two separate and

distinct ideas.

310 CHAIR SCHOON: I am not interested in changing the provisions of the bill.

316 REP. STEIN: We have a proposed study work sheet (EXHIBIT C) from Mr. Stroud.

327 CHAIR SCHOON: Rep. Stein will work with Mr. Reutlinger of Legislative Counsel in drafting language for the study.

331 MR. STROUD reviews the proposed study work sheet (TAPE IS INAUDIBLE).

363 REP. STEIN: In Item 3 we should do the analysis for 10 and 20 year projections. Is it clear that Item 4 would be on the distribution system and the financial impacts, or the whole thing.

398 MR. STROUD: Yes. (TAPE IS INAUDIBLE)

406 REP. STEIN: We don't want this short changed. This will be dealt with in Ways and Means presumably with an expenditure limitation. In my previous conversation with you, you indicated there is an ending balance in the Fire Marshal fund that we could tap for this. I think it would be a maximum of \$225,000 and it could be less. We would like this to be done as a collaborative effort between the State Fire Marshal and the Department of Energy.

421 MR. STROUD: (TAPE IS INAUDIBLE)

443 REP. STEIN: I want to make it clear that the goal is to recognize that we are hopefully shifting away from an oil-based economy internationally and we are going to move toward alternative fuels and it is important for us to be projecting into the future to see what impact that will have on the state to get ahead of the trends. I think the basis assumption is there is going to be some movement. I would like to see that movement accelerated.

TAPE 112, SIDE A

015 REP. BARNES: I wonder if we shouldn't have some kind of documentation, and maybe it will be included, on the population base.

021 REP. STEIN: That is what they will be getting at in the forecast in 10 or 20 years from now. Part of that forecast should look at population.

027 MR. STROUD: It would not be difficult to do a matrix looking specifically at the distribution system then overlay the population base and overlay the different industry segments.

030 REP. BARNES: I would like the record to show that I think that is essential.

035 REP. STEIN: We didn't say in the previous motion who was going to do the study or determine the amount of money.

039 MOTION: REP. STEIN moves that the previous amendment on the study be amended to indicate that the study should cost no more than \$225,000 and that it be done jointly by the State Fire Marshal and the Department of Energy with the State Fire Marshal being in charge and that the money would come from the ending balance of the fund that was described (State Fire Marshal Fund).

048 VOTE: CHAIR SCHOON, hearing no objection to the motion, declares the motion PASSED. All members are present.

049 MOTION: CHAIR SCHOON moves to further amend the bill to include two additional subparagraphs in the SB 1215-A15 amendments (SEE EXHIBIT E OF COMMITTEE MINUTES DATED JUNE 10, 1991) listing the various reasons for maintaining a prohibition on self service: "The Federal Disabilities Act requires that equal access be provided to disabled persons at gasoline stations" and "Small children left unattended when customers leave to make payment at self service stations creates a dangerous situation."

061 REP. WALDEN: Would that be a prohibition? I am thinking of the way some of the service stations operate now where you have to go in and pay.

063 CHAIR SCHOON: It is not a prohibition; it is a statement that it is a hazardous situation to specific people. It applies only to self service.

072 REP. WALDEN: I don't know the value in that it happens today when we have full service.

074 CHAIR SCHOON: It is not in any way directed at the full service stations.

074 VOTE: CHAIR SCHOON, hearing no objection to the motion, declares the motion PASSED. All members are present.

076 CHAIR SCHOON: We also have the SB 1215-A5 amendments (SEE EXHIBIT G OF COMMITTEE MINUTES DATED JUNE 4, 1991) that are technical changes.

080 TERRY CONNOLLY, Administrator: The SB 1215-A5 amendments were submitted prior to the committee hearing the bill; they are technical to clarify language in the bill.

088 MOTION: CHAIR SCHOON moves that the SB 1215-A5 amendments BE ADOPTED.

093 VOTE: CHAIR SCHOON, hearing no objection to the motion, declares the amendments ADOPTED. All members are present.

100 REP. WALDEN: I would be happy to suggest an east-side local county option, but I don't think the votes are here for it. If this were not going to Ways and Means I would be doing that as a minority report on the Floor.

111 CHAIR SCHOON: When could the amendments be completed by Legislative Counsel?

112 TED REUTLINGER: The amendments could be ready first thing in the morning or later tonight if you are desperate.

116 REP. STEIN: I would like to see the amendments before acting on the bill.

140 CHAIR SCHOON declares the meeting adjourned at 2:43 p.m.

Respectfully submitted, Reviewed by,

Annetta MullinsTerry Connolly Assistant Administrator

EXHIBIT SUMMARY

A -SB 1215, proposed amendment, Rep. John Schoon B -SB 1215, SB 1215-A22
amendments, Rep. Walden C -SB 1215, proposed study work sheet, Ramey
Stroud