

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 ENVIRONMENT AND ENERGY

February 01, 1991Hearing Room E 1:30 p.m.Tapes 24 - 27

MEMBERS PRESENT:Rep. Parkinson, Chair Rep. Whitty, Vice-Chair Rep. Burton Rep. Courtney Rep. Naito Rep. Norris Rep. Repine Rep. Van Leeuwen Rep. Watt

MEMBER EXCUSED: All members present

VISITING MEMBER:Rep. Eldon Johnson

STAFF PRESENT: Kathryn VanNatta, Committee Administrator Andy Sloop, Committee Assistant

MEASURES CONSIDERED: HB 2086 (PUB) HB 2087 (PUB) HB 2561 (PUB)

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TAPE 24, SIDE A

000 CHAIR PARKINSON: Calls the meeting to order at 1:36 p.m. Notes that representatives Burton and Whitty are not present and excused.

(Tape 24, Side A) INFORMATIONAL MEETING - STATE FIRE MARSHAL HAZARDOUS SUBSTANCE COMMUNITY RIGHT TO KNOW SURVEY AND HAZARDOUS SUBSTANCE POSSESSION FEE OVERVIEW Witnesses:Ralph Rodia, State Fire Marshal's Office

12RALPH RODIA, STATE FIRE MARSHAL'S OFFICE: Gives background and overview of Community Right to Know and Hazardous Substance Possession Fees. (EXHIBITS A AND B)

114 REP. WHITTY: OK, you've received reports from businesses about hazardous substances. Now, how are these fees charged again?

120 RODIA: The highest quantity of the substance reported is assessed, not as a percentage, simply the highest quantity of the substance.

123 CHAIR PARKINSON: To verify, if a firm stored six substances there would be six different fees, correct?

125 RODIA: No. Only the one substance in the highest quantity.

130 REP. NORRIS: It's quantity, not the relative hazard of the material?

132 RODIA: The first year of the fee system, we did not consider relative hazard at all. After receiving input from industry that we should consider the relative hazard, we modified the fee system. Our latest fee system reflects relative hazard in three hazard classifications -- low, medium and high hazard. We do have fees that are different this year depending on which hazard class a substance falls under. But again, we still bill on the highest quantity of hazardous substance, no matter which hazard classification it falls under. I'll cover these classifications in greater detail when I get to the hazardous substance fees themselves. For simplicity, the fees are based on the same premise in each of the fee ranges.

147 REP. WHITTY: I don't understand, I guess. You've got hazardous substances A, B, and C, and they each apparently have different hazard potentials. So there's a fee associated with the highest quantity in each classification?

164 RODIA: With the three chemicals in your example, the chemical in the highest quantity -- no matter whether it's a low, medium or high hazard -- is billed.

168 REP. WHITTY: I do not understand if there is a different fee for each type of hazardous material? Is there a different fee for one type of material as opposed to another? If A was the highest quantity, could that be a different fee than if C were in the highest quantity.

176 RODIA: That's absolutely correct. Continues overview.

216 CHAIR PARKINSON: We'd like some specific information about fees. Many members have complained about Fire Marshal fees. We wonder how fees translate down to specific materials.

230 RODIA: Explains how to use fee schedules. (EXHIBIT B)

254 REP. VAN LEEUWEN: I'm a little bit confused. I thought petroleum derivatives didn't come under this jurisdiction.

260 RODIA: The issue of propane is being addressed in HB 2087.

273 CHAIR PARKINSON: Opens public hearing on HB 2086. Calls Tom Lynch and Steve Tegger to testify.

(Tape 24, Side A) PUBLIC HEARING - HB 2086 Witnesses: Steve Tegger, State Employment Division Tom Lynch, State Employment Division Ralph Rodia, State Fire Marshal's Office Bill Henle, Portland Fire Bureau Terry Witt, Oregonians For Food and Shelter Rick Jacobson, Wilco Farmers Jim Whitty, Associated Oregon Industries

280 STEVE TEGGER, STATE EMPLOYMENT DIVISION: Gives interpretation of the bill and proposes amendments. (EXHIBIT F)

408 REP. NORRIS: If we're going to shift cost to the Fire Marshal, I

wonder if that was reflected in the fiscal statement that we have received.

410 TEGGER: I would have to defer to the Fire Marshal on that.

TAPE 25, SIDE A

12REP. WHITTY: On the paragraph after your second proposed amendment (EXHIBIT F), you say you are concerned about the dissemination of information beyond the state Fire Marshal and then you say the good that may be achieved through release of the information must be weighed against the "chilling effect" that this might have on employers who will know that their addresses and payroll information will be accessible for Fire Marshal purposes. I didn't hear anybody say anything about payroll information. What kind of information is going to be sent to the Fire Marshal?

20TEGGER: The Fire Marshal has asked us to report the number of employees for each employer. This is part of the payroll data that employers report to us on quarterly returns already.

24REP. WHITTY: I can't see what chilling affect that has. I don't have any goose bumps right now, and I doubt that I would if you released the number of employees and even their category. If you start giving their salaries, number of children and social security numbers, then it might bother me. Just listing the number doesn't have an affect on me.

29TOM LYNCH, STATE EMPLOYMENT DIVISION: Chair Parkinson, to answer your question about if the fees we are proposing are based on cost or if they include some profit, currently we charge agencies for computer-machine time to access information in our records. This would not change.

39TEGGER: I'd like to respond to Rep. Whitty's concerns. We always have to wrestle with harm issues involved in releasing confidential insurance information because of federal regulations. As you know, the unemployment insurance program is a federal/state partnership, and our laws are always reviewed by the U.S. Department of Labor. We have asked the U.S. Labor Department to tell us if they see any concerns from a "chilling-effect" standpoint of having this information released to the Fire Marshal. If they don't have any concerns, we won't have any concerns. We are also asking our statutory advisory council to tell us if they have any concerns about the release of this information. We would like to come back to this committee with those two opinions "very quickly."

58REP. WHITTY: I guess what the committee's task is, then, is to find out from the Fire Marshal what information he actually needs and why, and then to determine if putting that information in his hands promotes the public good and public safety.

64RALPH RODIA, STATE FIRE MARSHAL'S OFFICE: Explains HB 2086 (EXHIBIT G) and proposes amendments (EXHIBIT H)

80REP. WHITTY: Are you asking to access employment information by employment category or what?

82RODIA: Just raw names, addresses, standard industrial classifications, and number of employees for each employer.

85REP. WHITTY: In other words, you just want the address of the

employers, not the employees. Do you want employees names?

87RODIA: Just the name of the employer. We don't want any other information.

200 REP. REPINE: What's to make us believe that the Employment Division's reporting process yields better information than you have been able to obtain in the private sector?

215 RODIA: In talking with the Revenue Department and the Employment Division, it is our understanding that their information is considerably more current. We have not looked at their data in detail because we are not allowed that kind of access. They have data that is updated annually. Private companies get data from publicly available reports, like phone books.

224 BILL HENLE, PORTLAND FIRE BUREAU: Testifies in support of the bill.

>The Fire Bureau needs complete information, of the type the Fire Marshal is requesting, to minimize risks to personnel and to maximize response efficiency.

243 REP. NAITO: Would this information also be available to local law enforcement officials?

249 RODIA: Yes.

257 REP. NORRIS: Are you able to get this information to your people before they arrive at emergencies?

265 HENLE: Not yet, but we are exploring new technologies. Our dispatch center and other Fire Bureau offices can get most of this information, but it's a round-about system.

278 REP. NORRIS: But that's Portland. How about elsewhere?

280 RODIA: Every fire department has hard copies of most of the information we are requesting, but many do not have computers to access the most up-to-date information.

294 CHAIR PARKINSON: If you have this information on a state computer that Portland can tap, why would Portland want it's own system?

301 RODIA: To store supplementary local information.

307 REP. REPINE: Would the Fire Marshal be able to use this information for inspections?

323 HENLE: I believe it would. We don't do that right now.

330 RODIA: Other agencies could use this information, too. This is called the Community Right To Know Survey because this information is available to all community agencies with no restrictions.

344 CHAIR PARKINSON: If local fire departments didn't use this information for inspections, part of the value of this bill would be lost.

350 HENLE: To clarify my statement about inspections, we do take hazardous substances into consideration in our inspection purpose. To

my knowledge, however, we are not using hazardous substance reporting as a mechanism for determining if a building will be inspected or won't.

360 REP. REPINE: Would state OSHA also have access to this information?

362 RODIA: Yes. We currently share information with that agency on a two-way basis.

380 CHAIR PARKINSON: Calls Terry Witt to testify.

385 TERRY WITT, OREGONIANS FOR FOOD AND SHELTER: Expresses support for programs that bolster community health and safety, but questions validity of requesting the number of employees at work sites.

>This legislation apparently assumes a direct relationship between the number of employees and the number of hazardous materials at a work site.

TAPE 24, SIDE B

34RICK JACOBSON, WILCO FARMERS: Gives background of company, which, as a pesticide seller, stores a wide variety of hazardous materials on-site. Testifies in support of the bill, but questions validity of linking the number of employees and the number of hazardous materials at a work site. Notes that pesticide distributors often have fewer employees than other handlers of hazardous materials.

73REP. NORRIS: Does your company have any relationship with aerial sprayers?

76JACOBSON: We have a close relationship with aerial applicators in mapping fields and with growers to identify pest problems and recommending spray applications to combat these problems.

80REP. NORRIS: I ask that because of your comment about the lack of correlation between the number of employees and hazardous materials. I'm thinking it's typical to find a small number of employees in aerial application but maybe a large volume of hazardous material.

84CHAIR PARKINSON: Do you pay one fee for each location?

88JACOBSON: We pay a fee for each location based on the "easy survey."

91CHAIR PARKINSON: You're split by a highway in Silverton, so you have two locations. Do you pay two fees there?

94JACOBSON: Yes.

97CHAIR PARKINSON: What was your total fee last year?

100 JACOBSON: About \$5,000. The fees put us out of the aqua business at one of our locations because we couldn't justify the expense. It doesn't matter what the material is, the fee is assessed on the largest quantity at a site.

125 CHAIR PARKINSON: Calls Jim Whitty of Associated Oregon Industries.

127 JIM WHITTY, ASSOCIATED OREGON INDUSTRIES: Questions provisions of the bill and proposes amendments.

>AOI members are quite protective of information provided to the Department of Revenue and the Employment Division.

>Fire Marshal has a need for this information and it doesn't seem particularly damaging to AOI members.

>Questions need for and validity of reporting numbers of employees at work sites.

>Proposes amendment to page 3, lines 25, 26 and 27. "I think the word 'limited' ought to show up in there some place, and I would suggest in line 26 after the second statutory reference that the following words be added: 'but the information so provided shall be limited to'"

>Proposes amendment to page 5, line 32, after the word "be," that the two words "limited to" be inserted, to clarify the intent.

>I believe the representatives of the Employment Division were correct when they indicated that agents addresses and telephone numbers are often reported instead of employer addresses, so Employment Division information is sometimes questionable. Also, because the Employment Division can't always get employer addresses, there's a "workability" problem with this bill.

>Would support limitation on re-release of information.

164 CHAIR PARKINSON: We will be having another hearing on this bill. Could you bring your amendments, preferably after consulting with the Fire Marshal, to us in writing for that meeting.

169 REP. BURTON: You're an attorney Mr. Whitty. If you had a personal injury case, would this information be useful to you?

170 WHITTY: Yes.

173 REP. BURTON: Would it be available to you?

176 WHITTY: No.

182 REP. WHITTY: Asks rhetorically: If there were an emergency, like an earthquake, wouldn't it be useful to have the number of employees at every work site in a city in order to prioritize how to respond to calls?

215 CHAIR PARKINSON: Closes public hearing on HB 2086 and opens public hearing on HB 208 7. Calls Ralph Rodia of the Fire Marshal's office to testify.

(Tape 24, Side B) HB 2087 - PUBLIC HEARING Witnesses:Ralph Rodia, State Fire Marshal's Office Dell Isham, Northwest Propane Gas Association Wayne Buehner, Northwest Propane Gas Association Paul Ward, Suburban and Petrolane Bill Henle, Portland Fire Bureau Tom O'Connor, League of Oregon Cities

224 RALPH RODIA, STATE FIRE MARSHAL'S OFFICE: Explains bill and clarifies how it would pertain to propane and natural gas. (EXHIBIT L)

309 REP. NORRIS: On the issue of propane, it's difficult for the public to understand the difference between propane derived from crude oil versus that derived from natural gas. Are they the same?

324 RODIA: Absolutely.

326 REP. NORRIS: Then why should we care, then, what their derivation is?

328 RODIA: The present statute contains an exemption for oil-derived propane because there is a constitutional restriction that prohibits billing petroleum products based upon the quantity, except if revenue raised in this manner is used for highway projects.

338 REP. NORRIS: Can the dealer reasonably know if his fuel came from natural gas?

342 RODIA: My understanding is that in most cases they do, but you would have to ask them. If we were to bill for propane, we would ask dealers to tell us the source of their propane and bill them accordingly.

367 REP. WHITTY: Calls for break.

368 CHAIR PARKINSON: Reconvenes meeting at 3:12 p.m.. Calls Bill Henle of the Portland Fire Bureau to testify. Henle not present. Calls Dell Isham of the Northwest Propane Gas Association.

383 DELL ISHAM, NORTHWEST PROPANE GAS ASSOCIATION: Testifies in opposition to the bill. (EXHIBIT M)

TAPE 25, SIDE B

000 DELL ISHAM: Continues testimony (EXHIBIT M)

68REP. WHITTY: I always have trouble with things that say "exemption does not include something that is not derived." By the time I get to the second not, I don't know what's going on. Would you explain the section on exemptions.

79DELL ISHAM: This is very strangely worded, in my opinion. It's a triple negative to try to explain why you don't have an exemption. Section 5 means that if you think you're excluded in section 4, you're really not. There have been various interpretations of section 4, and during the first year of this biennium, I think the Fire Marshal believed that we were excluded and did not bill any possessors of propane. The second half of the biennium, the Fire Marshal did bill possessors of propane. Then the Fire Marshal's office decided maybe it wasn't sure about billing these people after all, so they sent a letter to everybody telling them they didn't have to pay the bills they had received earlier, pending an opinion from the Attorney General on some legal questions. However, this letter also said that if the Fire Marshal determined, after the Attorney General opinion, that a propane possessor was obligated to pay a fee and didn't, that possessor would be assessed a penalty and interest on the initial fee for not paying on time. We've recommended to all of our members not to pay the fee. We feel that we are excluded under existing statute and that this was the intent when the existing statute was approved. I think it's clear that liquid propane gas is not taxed under existing legislation. We also have the question of what percent of taxable propane is used as a motor fuel, because that would be untaxable.

127 WAYNE BUEHNER, NORTHWEST PROPANE GAS ASSOCIATION: Testifies in

opposition to the bill.

>The Legislature originally intended to exempt liquid propane gas (LPG) from hazardous materials fees.

>The hazardous materials response teams that would be funded with the proposed fee very rarely would respond to propane incidents because nearly all fire departments know how to fight propane blazes.

>LPG tanks and fires are very visible and easy to identify, so additional information for emergency response planning isn't necessary.

166 CHAIR PARKINSON: Calls Paul Ward of Suburban/Petrolane to testify.

170 PAUL WARD, SUBURBAN AND PETROLANE: Testifies in opposition to the bill.

>Petrolane is the largest propane supplier in Oregon and the nation.

>The proposed legislation would adversely affect employers and customers that use propane

>Customers beyond natural gas lines depend on propane for fuel.

>Commercial operations in Portland that use propane for vehicle fuel depend on a stable and affordable supply.

>Fees on average sized residential and commercial tanks are prohibitive already and this proposal would exacerbate this problem.

>There are very few propane storage fires.

>It's difficult to distinguish between products from natural gas versus crude oil because the biggest propane distributors in Oregon get products from a wide variety of sources.

252 BILL HENLE, PORTLAND FIRE BUREAU: Testifies in support of the bill.

>This legislation would make safer and more efficient hazardous substance response procedures.

>Changes should be made over reasonable time to allow conversion.

>Supports local fees.

282 CHAIR PARKINSON: What is the purpose of Portland's local fee?

284 HENLE: To cover Department costs to obtain information and to put information into a form for use in the field.

294 REP. VAN LEEUWEN: Are you saying that if I lived in Portland, I would pay a fee to the Fire Marshal and to the Portland Fire Bureau, and, if so, how much would that be?

306 HENLE: Yes. You would pay a local fee that is about the same as the state fee.

328 REP. NORRIS: Is propane unusually hazardous?

332 HENLE: Overall, there are very few incidents. Our main concern is

very large releases in vapor form. Any kind of ignition source could spark a vapor cloud.

348 REP. NORRIS: Is there much history of these massive clouds?

350 HENLE: There have been about 10 nationally in the last 20 years.

352 REP. NORRIS: Does the fee that you collect in Portland go into a dedicated fund or does it go into the city's general fund?

355 HENLE: Those fees are 100 percent dedicated to the administration and operation of the Title 3 program.

367 TOM O'CONNOR, LEAGUE OF OREGON CITIES: To clarify the issue of fees in response to Rep. Norris' question, the fees being proposed would be used to improve local firefighting capabilities and response procedures.

If a local jurisdiction chose to contract with the state Fire Marshal, the local fee would go to the Community Right To Know Program. We are substantially in support of this.

392 CHAIR PARKINSON: At this point, I'm going to break a little bit with our normal routine in order to call a witness, on a different bill, who we've had trouble scheduling. Closes public hearing on HB 2087 and opens public hearing on HB 2561. Notes that the committee, and in particular Rep. Burton, has concerns about timelines included in HB 2561.

TAPE 26, SIDE A

(Tape 26, Side A) HB 2561 - PUBLIC HEARING Witnesses: Associate Justice Michael Gillette, Oregon Supreme Court

010 REP. BURTON: The people who are proposing this have suggested a timeline necessary to meet certain federal requirements. There's a question raised in my mind about whether the Court would be able to meet those timelines. I'm loath to impose a specific time on the Court. I don't think we should be doing that, but there are questions in this particular case, because of the magnitude of the project, about how the court would react to deadlines. This is mostly an opportunity to make the Court aware of this issue and to get a response from a representative of the Court.

029 ASSOCIATE JUSTICE MICHAEL GILLETTE, OREGON SUPREME COURT: Highlights potential legal and appeal issues.

>The bill does not impose timelines drawn in stone.

>The considerations involved in this case do call for some kind of direction with respect to expediency in the appeals process.

>The language in the bill does send a clear signal to the Court to review appeals of the light- rail land-use decision expeditiously.

>The Court will do it's best to consider appeals on the light-rail as quickly as possible.

>The Court's record on deciding expedited cases in a timely fashion is good.

>Warns that this is not a one-issue question.

72REP. BURTON: Can you comment on the legal implications if this project required action that would override a quasi-judicial decision made by a jurisdiction not directly involved with this project.

77GILLETTE: May I mention a couple of things that I am concerned about.

>At the beginning of Section 8, "party" is not defined, and it probably should be.

>The process, as outlined in this legislation, winnows down those parties that are eligible to appeal. But suppose someone seeks administrative review through the Land Use Board of Appeals (LUBA), gets it, and someone else who didn't seek judicial review is then unhappy. Does the unhappy person then get to seek review through the Supreme Court? There's no provision in this bill that deals with the "party" that was happy until after the LUBA review, and you might want to think about what happens to those folks.

>Section 8 (2) says within "seven days of filing a request for review by the Supreme Court." Further, it says any party appearing before the board may submit a supplemental memorandum. That supplemental memorandum is the functional equivalent of a brief. I gather what is intended here is simultaneous briefing. If simultaneous briefing is what is intended, the outcome is going to look a little bit different than it would with one side briefing and then the other. People will have to guess at what they're fighting about. That's OK, but if you don't intend to make it that tight, you probably don't have to. You could provide seven days for each side to brief, and also provide for oral arguments, if there are any, to be held at the end of the second seven days.

152 REP. REPINE: In section 13, there's an issue that is somewhat contrary to the rest of the bill. Could that topic cause delays in these timelines?

157 GILLETTE: One could argue that Section 13's subject matter fails the one-subject test, so, to the extent that Section 13 arguably contains a second subject, then yes. There are two ways to deal with that situation. One is to ignore it. I can't remember the last time my court ever struck down a measure on that theory. Or, two, to provide that if a portion of the bill is found to be unconstitutional, the rest of the bill would survive. I don't recommend either action, I merely point out that fight is inherent in Section 13.

(Tape 26, Side A) 178 HB 2087 - PUBLIC HEARING (CONTINUED)

Witnesses: Richard Angstrom, Oregon Concrete and Aggregate Producers Association John Poer, Tilbury Cement Company Robert Beil, Ready Mix Concrete, Sand and Gravel Operator, Albany and Stayton John Buller, McMinnville Gas, Inc. Jim Craven, American Electronic Association Joe Bernard, Automotive Service Association Rep. Eldon Johnson Terry Witt, Oregonians For Food and Shelter Rick Jacobson, Wilco Farmers Hobart Jones, Wilbur-Ellis Co.

182 RICHARD ANGSTROM, OREGON CONCRETE AND AGGREGATE PRODUCERS ASSOCIATION: Gives background and industry interpretation. Proposes amendments.

>Some materials, like dry concrete, which are assessed under existing legislation as hazardous materials, probably were not intended to be

assessed. Dry concrete is not flammable and is only hazardous to the extent that it can be an eye and respiratory tract irritant in very large quantities.

251 REP. BURTON: How did we get cement in here in the first place?

253 ANGSTROM: The Occupational Health and Safety Administration requires material safety data sheets (MSDS) on everything with any potential physical effects, and the Fire Marshall assesses everything for which there is an MSDS. Continues industry interpretation of the proposed legislation.

>The bill is a vehicle designed primarily to raise money in the wake of Measure 5.

>There is an orphan-site cleanup aspect to the bill that will raise money and shouldn't be in the bill.

>Business would not understand why this legislation was approved and that would reflect poorly on the Legislature.

>Proposes amendment to page 2, line 26, providing that there be only a registration fee, not to exceed \$200, for minimally hazardous substances such as dry cement.

>Supports Fire Marshal's proposed elimination of duplication of Fire Marshal and local fees.

326 JOHN POER, TILBURY CEMENT COMPANY: Testifies in opposition to the bill.

(EXHIBIT N)

TAPE 27, SIDE A

43CHAIR PARKINSON: Interest groups should continue to work with the Fire Marshal on compromise amendments.

50ROBERT BEIL, READY MIX CONCRETE, SAND AND GRAVEL OPERATOR, ALBANY AND STAYTON: Testifies in opposition to the bill.

>Public and government have skewed perception of some environmental threats and tend to overreact. (EXHIBIT O)

>We're trying to tweak a bill and we should really overhaul it.

>This bill would discredit the Fire Marshal and his mission.

95CHAIR PARKINSON: Calls John Buller and Jim Craven to testify.

97JOHN BULLER, MCMINNVILLE GAS, INC.: Testifies in opposition to the bill.

>Would adversely impact propane storage and supply.

>Fees on propane storage are already excessive and proposed fees would exacerbate the existing problem.

>Ambiguous language makes effects of this legislation unclear.

>Small tank owners would be disproportionately impacted by this legislation.

>Could adversely impact competitiveness of small companies.

144 JIM CRAVEN, AMERICAN ELECTRONIC ASSOCIATION: Testifies in support of the bill (EXHIBIT P) and proposes amendments (EXHIBIT Q).

223 REP. VAN LEEUWEN: Will Mr. Craven also be working with the people who the Fire Marshall will be billing?

230 CRAVEN: I believe our direction from Chairman Parkinson is that we will all work together to develop amendments.

236 JOE BERNARD, AUTOMOTIVE SERVICE ASSOCIATION: Voices concerns about the bill.

>As a small service station operator, it seems the government assesses unending fees.

>Perhaps businesses should pay industry associations -- instead of government -- to address industry problems internally.

>Small service stations are so over-regulated now that the door is wide open for big oil to swoop in and monopolize control of gas stations. Regulations have good intent but they are killing small businesses.

>With respect to Section 5 (4), I assume crank case oil is exempt from Fire Marshal fees, although I am aware of shops that have been assessed fees for transmission oil. We don't know where this is going or who is going to set these fees.

292 CHAIR PARKINSON: Do you intend to work with the Fire Marshal on proposed amendments? I would urge you to do that.

305 REP. ELDON JOHNSON: Testifies in opposition to the bill.

>I'm a small businessman and we sell a lot of plastic pipe. Our materials won't burn.

>I pay fees that take 10 percent of my gross sales on some products.

>Lots of businesses, if they're taxed like I am, probably can't afford to operate.

>There must be another way to finance programs without what is, in effect, a value added tax.

354 CHAIR PARKINSON: Do you have proposed amendments?

355 REP. JOHNSON: I would cancel the system.

356 CHAIR PARKINSON: Calls Terry Witt, Rick Jacobson and Hobart Jones to testify.

360 TERRY WITT, OREGONIANS FOR FOOD AND SHELTER: Testifies in opposition to the bill.

>Disagrees with proposal to shorten the response time for the hazardous

materials survey form.

>Disagrees with language that would, in effect, empower the Fire Marshal to become a collection agency for cities and other governments.

>Would like to work with the Fire Marshal and other interest groups to develop compromise amendments.

380 RICK JACOBSON, WILCO FARMERS: Testifies in opposition to the bill but expresses support for the Community Right To Know survey (EXHIBIT R)

TAPE 26, SIDE B

44JACOBSON: Continues testimony.

>My operation has to keep track of 53,000 pieces of information to comply with existing state and federal hazardous materials regulations. We can't afford the sophisticated computer equipment needed to keep track of all of this.

>The method for assessing the proposed fees may be unfeasible because the inventory and sales information needed for the accounting is practically unattainable.

>Concerned that this legislation, in the face of a recession, might precipitate a market shakedown in industries that store and handle large quantities of hazardous substances.

81CHAIR PARKINSON: I would encourage you to work with the Fire Marshal on compromise amendments.

90JACOBSON: We have been working closely with Mr. Rodia and will continue to do so.

106 HOBART JONES, WILBUR-ELLIS CO.: Testifies in opposition to the bill (EXHIBIT S)

138 CHAIR PARKINSON: Closes public hearing on HB 2087 and calls for break.

138 CHAIR PARKINSON: Reconvenes the meeting at 4:54 p.m. Re-opens public hearing on HB 256 1 and calls Keith Bartholomew of 1000 Friends of Oregon to testify.

(Tape 26, Side B) HB 2561 - PUBLIC HEARING Witnesses:Keith Bartholomew, 1000 Friends of Oregon Dale Johnson, Concerned Citizen Dick Feeney, Tri-Met Chris Thomas, Tri-Met Richard Forester, Beaverton Citizens Alliance For BN Light Rail Alignment

145 KEITH BARTHOLOMEW: Expresses support and concern about the bill.

>Couldn't characterize any versions of the bill as good public policy.

>This is an unfortunate situation created by circumstances beyond the control of any of the responsible agencies or local governments.

>This is an emergency situation to take advantage of a funding opportunity for the largest public works project in the state of Oregon.

>The provisions in this bill, which are identical to the dash two

amendments to HB 2296, are an acceptable solution to the problem at hand. While these amendments fast-track the land-use process, they do not alter the substantive standards of the process.

>Sections 13 and 14 of the bill have nothing to do with light-rail, but rather with the supersiting of a church. This is not something that 1000 Friends of Oregon supports. We have a categorical position against supersiting. These sections do change the substantive standards of the state's land-use process.

>ORS 215.283 allows the uses described in Sections 13 and 14 on the lands described in Sections 13 and 14. The siting of the church proposed in Sections 13 and 14 is an issue of local control. One of the cornerstones of Oregon's land-use planning system is a partnership between the state and local governments. The land-use system is not strictly a state mandated program.

215 CHAIR PARKINSON: Calls Dale Johnson to testify.

217 DALE JOHNSON, CONCERNED CITIZEN: Testifies in opposition to the bill (EXHIBIT W)

TAPE 27, SIDE B

22CHAIR PARKINSON: Calls Richard Forester, Dick Feeney and Chris Thomas to testify.

25DICK FEENEY, TRI-MET: Gives brief progress report.

>Chris Thomas, Tri-Met General Counsel, has prepared a written report that responds to issues this committee raised at the public hearing on HB 2296, namely: directing the Supreme Court to issue appeals decisions pertaining to the Westside Corridor Project expediently and notification procedures and eligibility.

>Tri-Met has met with Richard Forester to discuss his question about what party should bear the burden of proving the compelling merit of approving an alignment other than the abandoned Burlington Northern Rail Road alignment in Beaverton that was selected during the initial planning stages of the project in 1983. We have come to an agreement about how that problem might be addressed.

42CHRIS THOMAS, TRI-MET: Presents status report on negotiations over HB 229 6 and HB 256 1 (EXHIBIT X)

54CHAIR PARKINSON: Rep. Van Leeuwen, does this letter from Tri- Met satisfy your concerns about notification?

56REP. VAN LEEUWEN: I haven't had a chance to read it yet.

63REP. NORRIS: What's the relationship between HB 2296 and HB 2561?

65FEENEY: HB 2561 contains the original concepts Tri-Met proposed, along with our proposed amendments.

82RICHARD FORESTER, BEAVERTON CITIZENS ALLIANCE FOR BURLINGTON NORTHERN LIGHT RAIL ALIGNMENT: Proposes amendments (EXHIBIT Y).

98REP. BURTON: We just got handed three amendments. Which ones can we throw out?

100 CHAIR PARKINSON: The dash one and two. Closes public hearing and opens work session on HB 2561.

(Tape 27, Side B) HB 2561 - WORK SESSION

105 CHAIR PARKINSON: Entertains motion on dash three amendments.

MOTION:REP. REPINE moves to adopt the dash three LC amendments dated 2/1/91 to HB 2561 (EXHIBIT Z).

113 REP. COURTNEY: Calls for question.

VOTE:In a roll-call vote, the motion carries with all members voting AYE (EXHIBIT AA)

125 CHAIR PARKINSON: I think maybe apologies are in order. Rep. Naito, did you wish to move your dash two amendments?

127 REP. NAITO: Yes.

MOTION:REP. NAITO moves to adopt the dash three LC amendments dated 2/1/91 to HB 256 1 (EXHIBIT BB)

132 CHAIR PARKINSON: Calls for discussion.

134 REP. NAITO: The lines that I am asking we delete refer to something other than light rail. Apparently a local decision has been made with respect to the church referred to under the items I have asked to be deleted. We, as a Legislature should not interfere with local control. In this instance, I think we should abide by the wishes of rural communities.

145 REP. COURTNEY: I support Rep. Naito's amendments. Along with the chair, I represent portions of Marion County. This is a significant part of the bill, and to vote to keep it in this piece of legislation when most of us on this probably are not aware of why the county commissioners who denied the application for this church did what they did I think is a very poor precedent. To vote to keep this in this legislation, when there has been no record made as to what went on or why the Marion County Planning Commission chose to do what it did, is very poor policy. I also find it interesting that one of the biggest criticisms of LCDC is that it interferes with local control. I'm not saying locals are certified smart and do everything right, but this certainly flies in the face of the local-control criticism. There's also an expediency issue. By putting this section in this bill, we are undermining one of the most important things that we are trying to do here, and that is to expedite this decision. I can't help but think this section would slow this decision down if it stays in, and it may very well. If it stays in, it's going to get ripped out in the Senate probably and it will go to a conference committee. Now, one other thing, fairness. I would suggest that every member of this committee, and probably every member of the House and Senate, probably has a project in his district that he would like sped up in this way. "And one last thing. This is a very interesting procedural move. It's very legal. It's very proper. But I have to give the chair an awful lot of credit for his bold and daring, because you see, going into my fourth term, this kind of maneuver you usually don't see until late in the session. And you usually only see it late in the session because somebody has really been tweaking you and jacking you around. And so legitimately,

you decide to send a message. And so, unless there's something going on here that I don't know about, Mr. Chair, I thought that we had agreed, at least for a day or two, to work in cooperation and harmony in the land-use area, and so I'm a little bit surprised that so early on we're using this method. I very much support the amendment, and I thank you Mr. Chair for allowing me to have my moment on my views."

185 CHAIR PARKINSON: "Rep. Courtney, we appreciate your remarks."

189 REP. BURTON: I support the amendment. When Justice Gillette testified before this committee, he indicated that there were some questions about what parties would be identified in this legislation for notification and appeals purposes. As I understand Section 13 of this bill, Marion County made a quasi-judicial decision about the siting of the church. As Rep. Courtney has indicated, there is nothing on the record that tells us how that decision was reached. If this matter went to the Supreme Court, it would open up that question. And, if I were Marion County and my decision was reversed, I would certainly seek recourse through this process. "I think we're opening up an area here, by doing this to these types of bills, that does not track very well with the kinds of local land-use decisions that we like to maintain."

208 CHAIR PARKINSON: As I understand Justice Gillette's remarks, he couldn't remember when this kind of thing had been overturned.

245 CHAIR PARKINSON: Calls for a vote on the dash two amendments.

VOTE: In a roll-call vote, the motion fails, with Representatives Burton, Courtney, Naito and Repine voting AYE. Representatives Parkinson, Whitty, Norris, Van Leeuwen and Watt voting NAY.

255 REP. VAN LEEUWEN: I have some real qualms with this bill. We have been shown two routes, one of which has gone through a hearings process and the other of which hasn't. What happens if Tri-Met decides to use the alternate route on which there haven't been any hearings?

248 THOMAS: Although selection of one of the alternative routes would not go through the normal Beaverton planning process, it would go through a series of public hearings under the proposed legislation. There is a regional citizen advisory committee that is reviewing all of the issues relating to the project. There is also the Westside Corridor Steering Committee, which is a group of regional elected officials, representatives from the Citizens Advisory Committee, Tri-Met and Metro. The Beaverton City Council also will review alignments and make a recommendation to the Tri-Met Board. There will be a hearing before the Tri-Met Board, as described in this legislation, during which citizens will have an opportunity to testify. This would not be the same process as a project normally would go through for a comprehensive plan amendment, but this is at least comparable to that process and probably more extensive. This all would be in addition to a vast number of informational meetings. Finally, there will be a hearing on the draft environmental impact statement, which describes all of the options, and the public will have an opportunity to testify then also.

283 CHAIR PARKINSON: Closes work session on HB 2561 and opens work session to introduce committee bills.

WORK SESSION - INTRODUCTION OF COMMITTEE BILL

290 CHAIR PARKINSON: Calls for discussion on LC 1264 relating to

illegal drug cleanup.

MOTION:REP. WHITTY moves for introduction of LC 1264 dated 10/29/90 as a committee bill at the request of the Oregon Association of Chiefs of Police.

VOTE:Hearing no objection, CHAIR PARKINSON so moves.

330 CHAIR PARKINSON: Closes work session and adjourns meeting at 5:30 p.m.

Submitted by: Reviewed by:

Andy Sloop Kathryn VanNatta Committee Assistant Committee
Administrator

EXHIBIT LOG:

A -Overview of Oregon's Community Right To Know Act, Hazardous Substance Survey, Possession Fees, Response Teams and Petroleum Load Fees - Ralph Rodia, State Fire Marshal's Office - 2 pages
B -Hazardous Substance Possession Fees Overview - Ralph Rodia, State Fire Marshal's Office - 3 pages C -HB 2086 - Committee Staff - 6 pages
D -Revenue Impact Analysis for HB 2086 - Legislative Revenue Office - 1 page E -Fiscal Impact Analysis for HB 2086 - Legislative Fiscal Office - 1 page
F-Testimony on and amendments to HB 2086 - Steve Tegger, State Employment Division - 3 pages G -Testimony on HB 2086 - Ralph Rodia, State Fire Marshal's Office - 2 pages
H -Amendments to HB 2086 - Ralph Rodia, State Fire Marshal's Office - 1 page
I-HB 2087 - Committee Staff - 3 pages J -Revenue Impact Analysis for HB 2087 - Legislative Revenue Office - 1 page
K -Fiscal Impact Analysis for HB 2087 - Legislative Fiscal Office - 1 page
L -Testimony on HB 2087 - Ralph Rodia, State Fire Marshal's Office - 2 pages
M -Testimony on HB 2087 - Dell Isham, Northwest Propane Gas Association - 2 pages
N -Testimony on HB 2087 - John Poer, Tilbury Cement Company - 2 pages
O -"EPA Director Trying To Reorder Efforts To Save Environment" - Bob Beil - 2 pages
P -Testimony on HB 2087 - Jim Craven, American Electronics Association - 1 page
Q -Amendments to HB 2087 - Jim Craven, American Electronics Association - 1 page
R -Testimony on HB 2087 - Rick Jacobson, Wilco Farmers - 9 pages
S -Testimony on HB 2087 - Hobe Jones, Wilbur-Ellis - 1 page
T -HB 2561 - Committee Staff - 10 pages
U -Revenue Impact Analysis for HB 2561 - Legislative Revenue Office - 1 page
V -Legislative Fiscal Analysis for HB 2561 - Legislative Fiscal Office 1 page
W -Testimony on HB 2561 - Dale Johnson - 21 pages
X -Status Report on Westside Corridor Project Legislation - Chris Thomas, Tri-Met - 4 pages
Y -Testimony on HB 2561 - Richard Forester, Beaverton Citizen Alliance For BN Light Rail Alignment - 2 pages
Z-Dash Three Amendments to HB 2561 - Rep. Repine - 1 page
AA -Roll-Call Vote Sheet for Dash Three and Dash Two amendments to HB 2561 - Committee Staff - 1 page
BB -Dash Two amendments to HB 2561 - Rep. Naito - 1 page
CC -Dash One amendments to HB 2561 - Richard Forester, Beaverton Alliance For BN Light Rail Alignment - 1 page
DD -LC 1264 - Chair Parkinson - 1 page
EE -Background Information Packet on LC 1264 - Oregon Association Chiefs of

Police - 16 pages