

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

March 20, 1991 Hearing Room E 1:00 p.m. Tapes 85 - 88

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

STAFF PRESENT: Kathryn VanNatta, Committee Administrator Andy Sloop, Committee Assistant Joe Barkowsky, Legislative Counsel Holly Blanchard, Transcriber

MEASURES CONSIDERED: SB 94 (WS) SB 231 (WS) HB 2246 (WS) HB 2759 (PH)

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TAPE 85, SIDE A

04CHAIR PARKINSON: Calls the meeting to order at 1:05 p.m. and opens work session on SB 94. Representatives Courtney and Burton not present and excused.

(Tape 85, Side A) WORK SESSION -SB 94 Witness: Michael Graine, Oregon Department of Energy

15MICHAEL GRAINEY, OREGON DEPARTMENT OF ENERGY: Reviews purpose and effects of the measure. SB 94-1 amendments (EXHIBIT B) intended to insure prudent loans.

56CHAIR PARKINSON: Before these amendments, had a concern that the bill would open the program to a wide range of state agencies. More comfortable, however, with the 75 percent clause.

(Representative Burton arrives 1:07)

67MOTION: REP. WHITTY moves to adopt the dash one LC 923 amendments dated 3/19/91 to SB 94 (EXHIBIT B).

70VOTE: Hearing no objection, CHAIR PARKINSON so moves.

73MOTION:REP. WHITTY moves SB 94 as amended to the floor with a "do pass" recommendation.

76REP. NAITO: Declares possible conflict because huSB and is a share holder in the Northwest China Company. Will look into the matter and advise the committee.

91VOTE:In a roll call vote, the motion carries, with all members present voting AYE.

95CHAIR PARKINSON: Appoints Representative Naito to carry the bill.

100 CHAIR PARKINSON: Closes work session on SB 94 and opens work session on SB 231.

(Tape 85, Side A) WORK SESSION - SB 231 Witness:Denise McPhail, Portland General Electric

108 DENISE MCPHAIL, PORTLAND GENERAL ELECTRIC: Testifies in support of the measure (EXHIBIT D).

144 MOTION:REP. WHITTY moves SB 231 to the floor with a "do pass" recommendation.

150 VOTE:In a roll call vote, the motion carries with all members voting AYE.

160 CHAIR PARKINSON: Appoints Representative Watt to carry the bill.

175 MOTION:REP. REPINE moves to suspend the rules to allow Rep. Courtney to vote on SB 94.

176 VOTE:Hearing no objections, CHAIR PARKINSON so moves.

178 CHAIR PARKINSON: Closes work session on SB 231 and reopens work session on SB 94.

(Tape 85, Side A) WORK SESSION - SB 94

180 Representative Courtney votes "yes" on SB 94.

182 CHAIR PARKINSON: Closes work session on SB 94 and opens work session on HB 2246.

(Tape 85, Side A) WORK SESSION - HB 2246

Witnesses:Joe Barkowsky, Oregon Legislative Counsel Keith Rowbotham, Oregon Tire Dealers Association Helen Borkestrausen, Oregon Tire Dealers Association David Phillips, Clackamas County Penny Manning, Oregon Gasoline Dealers Association Kathryn Ryan, Oregon Department of State Parks

185 KATHRYN VAN NATTA, COMMITTEE ADMINISTRATOR: Explains status of the bill

and reviews new amendments (EXHIBITS E, F, G, H, I, J). Enters written testimony submitted by Mark Hope (EXHIBIT K).

225 REP. BURTON: Reviews work group efforts, and explains amendments (EXHIBITS E, F, G, H, I, J)

TAPE 86, SIDE A

04CHAIR PARKINSON: We don't want the sunset removed on the regulatory program. Where is that in the bill?

06REP. BURTON: That's referred to in HB 2246-6 proposed amendments (EXHIBIT F), Page 7, Section 9, lines 10-16.

25REP. NORRIS: Refers to HB 2246-6 proposed amendments (EXHIBIT F), Page 16, line 23, "ORS 459.770 is repealed on July 1, 1993." Does that have to do with the sunset?

28REP. BURTON: It's included in the bill.

47MOTION:REP. BURTON moves to adopt the dash six LC 621 amendments dated 3/15/91 to HB 2246 (EXHIBIT F).

93CHAIR PARKINSON: Why don't we go ahead and adopt the dash 6 amendment (EXHIBIT F) in concept and make the correction later.

98REP. NORRIS: Recommends alternative language.

105 JOE BARKOWSKY, LEGISLATIVE COUNSEL: Analyzes questionable language. Recommends new language.

139 VOTE:Hearing no objections, CHAIR PARKINSON so moves.

156 MOTION:REP. WHITTY moves to adopt the dash nine LC 621 amendments dated 3/15/91 to HB 2246 (EXHIBIT I).

160 REP. WHITTY: Advocates approval for the dash nine amendments.

>Revenue for state parks is problematic.

>Revenue comes primarily from parks and recreational vehicle fees.

>The Parks Department has identified upgrades to the state park system in its strategic plan, and support for the dash 9 amendments would advance that plan.

215 REP. VAN LEEUWEN: Advocates amending the dash nine amendments so that county parks get share of fee revenue.

242 REP. NAITO: If we're going to tax tires, we should spend that money on something related to transportation.

252 CHAIR PARKINSON: Parks used to be funded by the gas tax, which appeared to be directly connected because everyone who used the parks also used gas. Everyone who uses the parks also buys tires.

259 REP. REPINE: Supports Rep. Naito's proposal.

>The Legislature started to address the need for better rural transit during the 1989 session but "didn't finish the job."

>Understands merits of parks proposal, but the Parks Department hasn't fully demonstrated need.

300 CHAIR PARKINSON: Invites testimony.

304 KEITH ROWBOTHAM, OREGON TIRE DEALERS ASSOCIATION: Testifies in opposition to extending fee.

>The tire industry and dealers supported the waste-tire program from day one, but do not support the "vultures or buzzards circling to get some of the money."

>DEQ has done an outstanding job with the waste-tire program.

>Parks and these other funding proposals are not the responsibility of tire purchasers.

350 REP. BURTON: You mentioned bookkeeping. This doesn't seem like it would change dealers' bookkeeping practices.

362 ROBOTHAM: You're right. This wouldn't require any additional changes.

367 CHAIR PARKINSON: Would this put anybody at a competitive disadvantage?

373 ROBOTHAM: This is a very competitive industry. With very large purchases, this bill could make a difference in the net price of tires in border areas.

390 REP. REPINE: Do you believe that if this were continued but the moneys were shifted to another goal that dealers would object to clean up efforts.

402 ROBOTHAM: No.

TAPE 85, SIDE B

00REP. REPINE: Suspects that when the bill was put into place originally there was a sales program to the people of Oregon that said: Nobody is going to like paying an extra dollar but because of the problem of scrap tires, it's important that people pay a dollar to help address the issue. Are we now compromising that handshake with the citizens of Oregon?

06 ROBOTHAM: Yes.

07HELEN BORKESTRAUSEN, TIRE DEALERS ASSOCIATION: Testifies in opposition to extending the fee for non-tire programs.

22REP. BURTON: Has your organization taken a position on a general sales tax?

24ROBOTHAM: No, but we will.

30REP. BURTON: It obviously would be better if we had sufficient sales-tax revenue to take care of parks, but we don't.

45BORKESTRAUSEN: The public perception is that we collect that dollar to get rid of tires.

49REP. BURTON: Wonder how your customers would feel if you had posters in your shops that said: "You're helping to support parks!"?

50BORKESTRAUSEN: People would rather take their waste tires with them and dump them in parks.

58CHAIR PARKINSON: "I don't think this \$1 fee will ever disappear. In my mind, this is a way to lock this money up so that it will benefit the most number of people in the future."

69REP. WHITTY: Already had an effort last session to tax tires and batteries \$2 and \$3. What you say is true.

78DAVID PHILLIPS, SOLID WASTE ADMINISTRATOR, CLACKAMAS COUNTY: Supports extending fee and using revenue to develop recycling markets.

>The intent of the waste tire bill was to clean up waste tires and to address the solid waste problem over the long term by developing alternative markets. However, this session, inroads are being made to improve recycling markets in various ways.

>DEQ has a number of solid-waste proposals on the table that add up to a substantial amount of money. There has been a lot of discussion about where that money is going to come from.

125 PEGGY MANNING, OREGON GASOLINE DEALERS ASSOCIATION: Testifies in support of the dash 10 amendments (EXHIBIT I).

>The state's underground storage tank problem is getting "closer and closer to disaster."

>Anticipating 50 percent loss of gas stations statewide, and 70 percent in rural areas, without support to deal with the expense of underground storage tank clean-up.

146 REP. NORRIS: Do you have any idea how much it would take to address this problem?

150 MANNING: In process of calculating that number for various remedial procedures. "We're looking at millions and millions of dollars."

163 REP. NORRIS: Revenue generated by extending this fee would be a drop in the bucket.

168 MANNING: The underground tank problem requires funding from numerous sources.

174 REP. NORRIS: Sympathize with you, but this probably wouldn't add enough money.

187 KATHRYN RYAN, DEPARTMENT OF STATE PARKS: Answers questions by committee

members.

200 CHAIR PARKINSON: Does the Parks Department have the authority to issue revenue bonds?

205 RYAN: The way I interpret the dash 9 amendments, it would.

212 REP. COURTNEY: Is it your interpretation of these amendments that this money could only be used for park purchases?

218 RYAN: Only for park use but not for purchase.

227 REP. BURTON: Rep. Courtney's asked if the dash nine amendments would authorize the Parks Department to use revenue bonds only to purchase parks. What can the revenue bonds your department is seeking be used for?

244 RYAN: To maintain facilities, to purchase facilities or to develop facilities.

241 REP. VAN LEEUWEN: Why should we underwrite this bonding out of this tire fund. Are you assuming this funding would go on forever?

250 RYAN: This fee revenue would provide a steady stream of revenue for about 10 years to finance a \$10 million revenue bond issue.

277 REP. WHITTY: Couldn't some of this money be used to clean up state parks after major storms?

290 REP. NORRIS: It appears to me we're on sort of shaky ground using this for revenue bonds.

306 RYAN: We understand that our department would have to work closely with the Treasury Department and the Attorney General if these amendments are approved. There doesn't have to be a direct link between the revenue payment and the revenue bond itself. We would use our financial history as collateral.

333 REP. REPINE: Would you run through the mechanical parts of other funding measures you have submitted to this assembly?

346 RYAN: HB 2121 would give use authority to issue general obligation bonds. We would like to amend that measure to allow us to issue revenue bonds. HB 2136, which is a charge on soda pop syrup at the wholesale level at about \$.075 per gallon, would bring in about \$12 million per year. That \$12 million could be used to either offset our general fund monies or to pay for our 201 0 plan.

383 REP. REPINE: If HB 2246 were amended to provide extra money, would the Parks Department let go of other funding requests, or would this just be "frosting?"

392 RYAN: This wouldn't provide enough money alone to meet our plan.

406 REP. REPINE: To reiterate, if this bill were successful, would you reduce other requests?

409 RYAN: We've been working with the Governor's office to deal with the issues raised by cities and counties of their needs for parks and recreation facilities.

420 REP. REPINE: If we support the dash 9 amendments, maybe we should consider the issue Rep. Van Leeuwen raised about providing additional money, via this fee, to cities and counties for parks.

TAPE 86, SIDE B

00REP. NAITO: When you issue bonds, you have to have a 10-year guaranteed stream of income of a certain amount?

08RYAN: When bonds are issued there are two levels on review -- one insuring the Treasurer's Office that you able to meet the bond obligations, and the other is being able to convince investors they should buy your revenue bonds. There are a number of checks and balances in statute to insure a department like ours can cover revenue bonds.

26CHAIR PARKINSON: Is it your understanding, Rep. Burton, that the dash 9 amendments would give the Parks Department the authority to issue revenue bonds?

30REP. BURTON: This would establish a fund that would allow the department, with approval from the Treasury Department, to issue bonds. No department can issue bonds without going through standard hoops.

60CHAIR PARKINSON: Entertains motions on amendments as a "barometer" of committee support for the various proposals.

70MOTION:REP. VAN LEEUWEN moves to amend HB 2246 conceptually to give revenue from the tire fee to counties for public parks.

88REP. WHITTY: That cuts down, substantially, the bonding ability of the state. This would be such a small amount to counties that it wouldn't be worth much.

101 REP. BURTON: To clarify, understood Rep. Van Leeuwen to say a portion of the revenue bonds would be made available to counties.

115 REP. VAN LEEUWEN: Didn't say that but the intent would be so that the counties that provide park facilities would get their fair share. Notes that Linn County provides a third of the public RV spaces but only get 7 percent of the money that comes into state parks.

121 REP. REPINE: Probably wouldn't support any of these amendments at this time. The committee should go back to the original bill and adopt the dash 6 amendments.

128 REP. COURTNEY: Rep. Van Leeuwe, if the committee adopts your motion, will you support the overall amendments.

129 REP. VAN LEEUWEN: No, not necessarily. Having a real struggle with the dash nine amendments.

135 REP. WATT: "I will vote against all the amendments" because it's like killing the goose that laid the golden egg.

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

168 REP. NAITO: Concerned about uncertainty regarding bonding authority that the dash 9 amendments could give to the Parks Department. Requests additional information.

198 REP. NORRIS: Opposes dash 9 amendments.

>The mission of this committee is not to fund parks.

>It's inappropriate to tie this tire fee to parks.

211 REP. WHITTY: Advocates for the dash 9 amendments

>The state parks system is approaching the point of diminishing returns. Fees are reaching the point that fewer people are attending parks and paying the fees that support the system.

228 REP. BURTON: The Speaker's Office referred this measure to this committee, and it is this committee's prerogative to consider these funding questions in this context.

255 MOTION:REP. WHITTY moves the previous question.

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

265 MOTION:REP. BURTON moves to amend the dash six LC amendments (EXHIBIT F)

dated 3/15/91 to HB 2246 by deleting the words "with the person's own solid waste" on page 4, lines 21 and 22 of the dash six amendments.

270 REP. BURTON: That section addresses the Department of Veterans Affairs needs to haul small amounts of waste tires, so it is unnecessary to include language specifically exempting individuals from carrying their own tires.

300 VOTE:Hearing no objection, CHAIR PARKINSON so moves.

305 CHAIR PARKINSON: Closes work session on HB 2246 and calls break at 2:50. Reconvenes at 3:06. (Representatives Repine, Burton, and Whitty not present.)

(Tape 86, Side B) PUBLIC HEARING - HB 2759 Witnesses:Kelly Ross, Oregon Association of Realtors Robert Clay, Planning Bureau, City of Portland Beth Bridges, City of Eugene Phil Fell, League of Oregon Cities Bill Moshofsky, Oregonians In Action Russ Nebon, Association of Oregon Counties Jim Allison, Washington County Landowners Association Greg Wolf, Dept. of Land Conservation & Development

320 KELLY ROSS, OREGON ASSOCIATION OF REALTORS: Explains the bill. (EXHIBIT

L)

(Rep. Repine arrives 3:09)

(Rep. Burton arrives 3:10)

(Rep. Whitty arrives 3:11)

TAPE 87, SIDE A

54ROSS: Notes Subsection 3 of Section 2 of the bill refers to an additional individual notice. This is not intentional and it will be deleted. The class of mail delivery also will be changed to give discretion to the local government.

62REP. BURTON: Is this notice for hearing in Section 2 for legislative or quasi judicial?

68ROSS: Only legislative.

69REP. WATT: Is this, in effect, a mandate on local government?

71ROSS: Yes.

77REP. WATT: Legislative Revenue Office indicates this will have no impact on state or local revenues (EXHIBIT L).

78REP. REPINE: Is it your belief that the local planning process is pretty much self-supporting?

84ROSS: It may not be 100 percent revenue neutral, but that's the basic intent.

89REP. VAN LEEUWEN: Assume the postage expense for this would be less than posting notices in newspapers.

102 REP. NAITO: Can you be more specific about the extent of notification proposed under this bill?

114 ROSS: Anytime there is consideration of a specific ordinance that would result in a change in zoning a notice would be necessary. If that ordinance were to be adopted later, another notice would be required.

115 REP. NAITO: What would be the penalty to localities that fail to do this?

119 ROSS: Failure to notify would not invalidate adopted ordinances.

126 REP. BURTON: Why is there a window for notification instead of a deadline?

135 ROSS: We just took the language that existed in ORS 215.503.

138 REP. BURTON: Why isn't this in ORS 197? And do cities adopt comprehensive plans by ordinance?

148 ROSS: Not sure. Cities almost always adopt by ordinance.

155 ROBERT CLAY, PLANNING BUREAU, CITY OF PORTLAND: Testifies in opposition to the measure. (EXHIBIT M)

233 REP. VAN LEEUWEN: Could you explain why you believe this should be in ORS 197 and not ORS 215?

240 CLAY: ORS 197 deals with both city and county land-use procedures, which is what this bill deals with. ORS 215, which is the cities' enabling planning legislation, deals with more substantive issues of planning.

254 CHAIR PARKINSON: Is it possible that the city could adopt a significant overlay zone without any property owners being given direct notice?

265 CLAY: No. If an overlay is applied, that's rezoning, and would require a 30-day notice to property owners in most jurisdictions.

303 REP. VAN LEEUWEN: Did you just tell us that the city wants to be

able to make broad changes without giving notification to people and then maybe, when you make a specific change, you would give notice?

320 CLAY: When we make a legislative decision (i.e., broad policy) that's going to affect the entire city, we give broad notice, through the newspaper. Then, when we identify specific properties that legislative decision would affect, we would give direct notice.

350 REP. NORRIS: Don't comprehensive plan amendments affect more people in more comprehensive ways than decisions that affect specific properties? And how do you provide notice for such broad policy decisions?

360 CLAY: We notify more than a 100 professional and citizen organizations and publish notice in the major metro newspapers.

TAPE 88, SIDE A

63BETH BRIDGES, CITY OF EUGENE: Shares representative land-use cases (EXHIBIT N) to demonstrate costs.

>Notes that Eugene has not taken a position on this measure yet.

111 PHIL FELL, LEAGUE OF OREGON CITIES: Testifies in opposition to the measure, primarily because of notification costs and possible legal costs.

149 REP. VAN LEEUWEN: How would the savings from abolishing newspaper notification balance with the additional costs to cities of providing direct notification?

158 FELL: The balance would not be the same for every city, but, in general, there would be substantially greater costs for direct notification.

163 BILL MOSHOFSKY, OREGONIANS IN ACTION: Testifies in support of the measure.

>Inadequate notification for zoning changes is one of the most prevalent complaints of property owners statewide.

>Notice should be given before rezoning property.

>Direct notification would cost a few pennies more per person to provide fairness to property owners.

>There should be a delineation in notification requirements between general plan amendments and more specific rezoning.

211 CHAIR PARKINSON: Does your bill, HB 2571, address the same section of the ORS as this bill?

217 MOSHOFSKY: I'm not sure, but HB 2571 addresses the same intent.

222 REP. BURTON: What, in HB 2759, would insure up-to-date notification lists?

232 MOSHOFSKY: There might be a need for a savings clause.

240 RUSS NEBON, ASSOCIATION OF OREGON COUNTIES: Testifies in opposition

to the measure.

>Intent is good, but costs are prohibitive. If it is approved, funding should be appropriated to LCDC to help localities meet increased notification costs.

>Not always clear what land-use actions are quasi-judicial and which are legislative. This determination dictates notification procedures.

>The new LCDC goal 4 will amend forest zones and potentially will affect thousands of property owners. AOC has a big question about if it should provide all of those people with individual notice. Secondary lands reforms also raise this question?

TAPE 87, SIDE B

00>AOC conservative estimate places bottom-line cost per individual notification at 50 cents.

13JIM ALLISON, WASHINGTON COUNTY LANDOWNERS ASSOCIATION: Testifies in support of the measure, but recommends amendments.

>There needs to be some changes in the language that addresses any potential conflicts between adopted ordinances and notifications. Notes possible problems with zoning and development codes.

>Notes that Washington County has a land-use ordinance advisory commission to analyze proposed ordinances and to write general descriptions of what the ordinances would do. Citizens can subscribe to this service for a flat \$5 fee.

85CHAIR PARKINSON: Is that Washington County method working well?

88ALLISON: OK.

90CHAIR PARKINSON: How long has it been in effect?

92all Four years.

92REP. BURTON: How does the system you've described deal with people who don't have the \$5.

99all We don't have a provision for that.

106 REP. BURTON: You mentioned the need to change language. Apparently there are some defects in this bill.

108 ALLISON: Section 2 (2) (a), makes it possible for a city to adopt plan amendments that have the effect of rezoning, but because they aren't rezoning per se, they don't have to meet the same notification requirements. This needs clarification.

127 GREG WOLFE, DEPARTMENT OF LAND CONSERVATION AND DEVELOPMENT: Scope of bill too broad for LCDC funds to cover local notification needs.

>2759 would apply not only to state mandated plan changes, but also to locally initiated changes.

>Local government can determine when individual notice is necessary.

170 CHAIR PARKINSON: Closes public hearing and adjourns meeting at 4:23 p.m.

Submitted by, Reviewed by,

Holly Blanchard
Administrator

Kathryn VanNatta Transcriber

Committee

EXHIBIT LOG:

A - SB 94 (Preliminary Staff Measure Summary), 1 page B - Proposed Amendments, SB 94-1, dated 3/19/91, 1 page C - SB 231 (Preliminary Staff Measure Summary), 1 page D - Written Testimony only, Denise McPhail, Portland General Electric, SB 231 , 2 pages E - Written Analysis of Proposed Amendments, HB 2246, Andy Sloop, Committee Assistant, 2 pages F - Proposed Amendments, HB 2246-6, dated 3/15/91, 16 pages G - Proposed Amendments, HB 2246-7, dated 3/15/91, 2 pages H - Proposed Amendments, HB 2246-8, dated 3/15/91, 2 pages I - Proposed Amendments, HB 2246-9, dated 3/15/91, 3 pages J - Proposed Amendments, HB 2246-10, dated 3/15/91, 4 pages K - Written testimony only, Mark W. Hope, Waste Recovery, Inc., 1 page L - Revenue Impact Analysis, HB 2759, dated 2/22/91, 1 page M - Written testimony, Kelly Ross, Oregon Association of Realtors, HB 2759, 6 pages N - Written testimony, Robert E. Clay, Portland Planning Bureau, HB 2759, 9 pages O - Written testimony, Planning Division, City of Eugene, HB 2759, 1 page