

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 27, 1991Hearing Room E 1:00 p.m. Tapes 93 - 95

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

VISITING MEMBER:Rep. Ron Cease

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

MEASURES CONSIDERED:HB 3343 (PAW)

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TAPE 93, SIDE A

04CHAIR PARKINSON: Calls the meeting to order at 1:24 and opens public hearing on HB 3343. Representatives Naito, Burton, and Whitty not present and excused.

(Tape 93, Side A) PUBLIC HEARING - HB 3343 Witnesses:Mary Payton, Salem Citizen Dave Nelson, Oregon Seed Council Steve Greenwood, Department of Environmental Quality Chuck Craig, Department of Agriculture Jane Raymond, Corvallis Citizen Art Krenzel, Phoenix Industries, Inc. Donald Arkell, Lane Regional Air Pollution Authority Sandra Thiele, Oregonians Against Field Burning Bill Johnson, End Noxious Unnecessary Fumes, Inc. (ENUF)

(Representatives Burton, Naito and Whitty arrive 1:25)

30MARY PAYTON, SALEM CITIZEN: Testifies in opposition to the measure because it doesn't go far enough to reduce open burning. (EXHIBIT A)

75DAVE NELSON, OREGON SEED COUNCIL: Gives section-by-section review (EXHIBIT B) of HB 3343-3 amendments (EXHIBIT C). Notes differences between the dash 2 and dash 3 amendments.

252 CHAIR PARKINSON: In Section 14, it looks like farmers would have to register all fields that would be propaned. How do they know at the beginning of the season if they will have to propane?

258 NELSON: It's our intention that all fields be registered to determine how excess straw will be used.

307 REP. BURTON: How do the fees proposed in this bill tie into the provisions of the federal Clean Air Act amendments of 1990?

320 NELSON: The mandates of the Clean Air Act do not impose tonnage fees on agriculture burning. The Seed Council's intention for these fees is to pay for the Smoke Management Program and to fund research into burning alternatives.

386 NELSON: It's the industry's intention that no registration fee be imposed for this burning season, since that registration would have to be done by April 1, and charging that fee retroactively is problematic. However, we intend for the burning fee proposed in this bill to be charged this summer when burning actually occurs.

410 REP. NORRIS: You mentioned that roughly \$500,000 would accrue to a research and development fund. Is that covered in your proposal?

420 NELSON: The Department of Agriculture would be given statutory authority under the dash 3 amendments (EXHIBIT C) to collect money for research and development, and an advisory committee would provide direction on research.

TAPE 94, SIDE A

30REP. NORRIS: The language in these amendments seems like it doesn't lock in how money from these proposed fees would be used for research and development.

40NELSON: Under the old law, we attempted to restrict smoke management and administration expenses so that a maximum amount of funding would be left over for research and development of alternatives to open burning. We put a limit of \$500,000 a year on the Smoke Management Program, and the Attorney General said that was not legal. Over time, then, fees have been used first to finance the Smoke Management Program, and whatever was left has been used for research.

69CHAIR PARKINSON: We're not seeing where there is statutory authority to set up a research and development program. You've been dancing all around this and haven't answered this question.

72NELSON: We'll dig for that answer while others are making their comments.

75REP. BURTON: The fund is set up under an existing statute, which is ORS 468 .480. The DEQ is asking for fees in HB 2175 to cover what apparently is covered under HB 334 3 Section 14 (c). Is the DEQ abrogating to the Department of Agriculture the section in HB 217 5 pertaining to field burning and collecting other field burning fees through HB 3343? Also, has the Environmental Quality Commission taken a position on this bill?

93STEVE GREENWOOD, DEQ: The fees in HB 2175 would be separate from the fees in this bill because the fees in these two bills are for different

purposes.

102 REP. BURTON: It seems that approving HB 2175 and HB 3343 would establish double fees.

119 NELSON: There are different purposes for the fees in this bill and those in HB 2175. HB 2175 is designed to treat all polluters alike and to be a disincentive to polluters. We need more fees and more focused fees over which we have good control.

145 GREENWOOD: To answer your earlier question, Rep. Burton, the EQC has not made any direct comments on this bill. Page 13, Section 5 of HB 3343 would appropriate money to DEQ only for monitoring and enforcement. HB 2175, on the other hand, is intended to provide market disincentives for polluting and to plow fee revenues back into burning alternatives.

208 CHAIR PARKINSON: Directs committee to confine discussion and questions to HB 3343.

236 GREENWOOD: Clarifies that HB 3343 would not specifically authorize joint rule making between the DEQ and the DOA.

303 CHUCK CRAIG, DOA: Reviews how research and development of burning alternatives would be established.

334 REP. NORRIS: I still don't see how these amendments nail down how fees will be spent on research and development.

345 CRAIG: The bill says that money can be spent for research and development, and it prescribes a mechanism for spending that money, but it doesn't guarantee that any certain part of the money would be spent for research and development.

350 CHAIR PARKINSON: Would you have to go through Ways and Means for these fees?

355 CRAIG: Yes.

363 REP. NORRIS: It seems the R and D component of this is key, and that funding for that component should be protected.

374 NELSON: The way this is designed, fee money left after funding the Smoke Management Program would accrue to the R and D fund. However, we would like to have a more reliable and dependable research fund.

TAPE 93, SIDE B

05CHAIR PARKINSON: Advocates adopting the dash 3 amendments while leaving the door open for future amendments.

20JANE RAYMOND, CORVALLIS CITIZEN: Testifies in opposition to the measure because it doesn't go far enough to reduce open burning.
(EXHIBIT D)

85ART KRENZEL, PHOENIX INDUSTRIES, INC: Advocates composting as a viable use for waste straw, and requests funding for research and a 5,000-acre demonstration project.

138 CHAIR PARKINSON: What kind of money are we talking about?

140 KRENZEL: \$258,000.

159 REP. BURTON: What would that money buy?

162 KRENZEL: A composting demonstration, dethatching research and redistribution.

170 REP. BURTON: So this would be a capital investment. How much per acre would composting cost after the capital investment?

173 KRENZEL: I envision a program where composting equipment is owned by a separate company and farmers don't have any capital costs. The service I'm proposing would cost about \$45 per acre.

220 DONALD ARKELL, LANE REGIONAL AIR POLLUTION AUTHORITY: Testifies in opposition to the HB 3343-4 amendments because they would not reduce smoke intrusions or complaints in Lane County. (EXHIBIT E)

290 CHAIR PARKINSON: Can you explain how these amendments would be a step backward in smoke management.

295 ARKELL: There is some evidence that suggests that propaning may create higher ground-level concentrations of pollution than open burning.

340 CHAIR PARKINSON: Where you live, is there a problem with people confusing slash burning and field burning?

345 ARKELL: We check thoroughly with the DEQ and the Department of Forestry so that we don't misinform the public, and we have a pretty good track record.

368 CHAIR PARKINSON: The additional 25,000 acres eligible for open burning under this bill is for highly erodible land that is not adequate for other kinds of farming. It seems to be environmentally beneficial to leave that for grass seed cultivation.

380 ARKELL: "I'm not in a position to quarrel with that assessment, but I would point out that there are other parts of the bill which allow the Department of Agriculture to make judgements based on terrain and drainage that it seems would get at that . . . It seems to me that 25,000 acres is unnecessarily added to the maximum."

TAPE 94, SIDE B

22REP. COURTNEY: Is it your position that burning acreage should be zero some day?

25ARKELL: No. There should be criteria based on a needs test.

30REP. COURTNEY: What would be the maximum limit that you think should be allowed?

38ARKELL: I couldn't answer that.

50SANDRA THIELE, OREGONIANS AGAINST FIELD BURNING: Advocates measures that

go further toward reducing open burning than the bill with dash 4 amendments. Lists alternatives to open burning. Calls for research

grants. (EXHIBIT F)

118 BILL JOHNSON, END NOXIOUS UNNECESSARY FUMES (ENUF), INC: Testifies in opposition to the measure. (EXHIBIT G)

>Composting would cost \$53 per acre, which seed growers definitely can afford.

162 REP. WHITTY: What's an "air-curtain destructor"? And why is nobody using it?

165 JOHNSON: A metal trough or dugout trench over which air can be blown with a large fan to reduce smoke. It is not expensive, can be portable and is being used in Washington State to burn slash piles.

224 REP. NORRIS: I've heard quite a bit of interest in this composting idea. Do you think it is promising enough to become commercially viable?

228 JOHNSON: Yes.

243 CHAIR PARKINSON: Closes public hearing on HB 3343 and opens work session and HB 3343.

(Tape 94, Side B) WORK SESSION - HB 3343

248 CHAIR PARKINSON: Entertains motion to adopt the HB 3343-3 amendments with minor language changes.

250 MOTION:REP. WHITTY moves to adopt the dash three LC amendments dated 3/26/91 to HB 3343 (EXHIBIT C) and to amend: page 9, line 7, removing the word "propane" and inserting "stack or pile burning" after the word "of", and deleting line 8; page 19, line 19, after the word "registration" deleting ", permit or".

288 MOTION:REP. COURTNEY moves to amend Rep. Whitty's motion, making the following revisions: on page 8, line 17, delete 140,000 acres and insert 125,000 acres; on line 18, after "(B)", delete the rest of the line and insert "from 1996 and

thereafter, 25,000 acres."; and delete line 19.

320 REP. COURTNEY: I understand the actual burning ceiling now is 165,000 acres, not the 250,000 acres cited by the industry, so this amendment wouldn't shut down the industry. This would still allow open field burning to continue for a full, four-year period. "I'm not going down to zero acreage. I'm not trying to shut the industry down. I am trying to use the phase down. . . This is not an arbitrary or capricious motion."

356 CHAIR PARKINSON: I'm convinced that if we set the limit at 140,000 acres, the actual acreage burned will be about 120,000 acres, so there would be a "real and immediate reduction" under the industry proposal.

363 REP. NAITO: I'm hesitant to support Rep. Whitty's motion because it wouldn't be a real reduction. I would support Rep. Courtney's amendments to Rep. Whitty's motion, but even that may not go far enough. I would support a complete ban of open field burning by 1996.

380 REP. CEASE: Hopes there will be movement on this issue this

session. Criticisms of industry proposal probably are accurate. Bipartisan support in the House, starting in the Environment and Energy Committee, is needed for meaningful field burning legislation to succeed.

416 REP. REPINE: Rep. Courtney's position on this matter is not necessarily wrong, but we need a viable alternative to open burning before we approve any radical reductions in open burning. The Legislature needs to invest in finding alternatives.

TAPE 95, SIDE A

31REP. COURTNEY: Everyone appears to be dealing in good faith with R and D at this time, and the industry proposal calls for increased fees to fund research and development. The history of what has been done to deal with this issue is "deplorable". My motion was made to allow individuals to continue to move toward a solution to this issue in good faith. "Finally, Mr. Chair, by you're own words, you're indicating that the 125,000, which is the limit in my amendment from 92 to 96, is probably what all they'll burn anyway. So I don't think that my amendment is so overdramatic or off the wall that it doesn't attempt to deal with industry concerns."

46CHAIR PARKINSON: In response to the 125,000 limit in your amendment, that much would not be burned. 100,000, 110,000 and 115,000 would be burned with that limit.

48REP. WHITTY: "I don't believe that the people doing the field burning like to burn. . . I believe that if they had an alternative in the right price range, they wouldn't burn." My motion is intended to get this legislation to the Senate. They will deal with it in a "very liberal fashion" and that would be a good starting point. I might support something more stringent this session, but we need a good-faith effort for everybody's benefit.

71REP. CEASE: Comments further on the field burning issue and the strengths and weaknesses of HB 3343.

>Concerns about increasing population pressures in the Willamette Valley are valid.

>No desire to put industry out of business.

>Need pressure to encourage industry, through economic means, to come to a resolution.

>There hasn't been agreement in past legislative sessions about the need to fund research.

>Legislation needs to be meaningful to the public or it will appear that the Legislature is stalling.

>Industry proposal doesn't suggest a "real intent or desire to phase it out in a meaningful way."

>With regard to strategy, would prefer for House to resolve in a "meaningful package" and then pass to the Senate. On the other hand, if the Environment and Energy Committee passes field burning legislation by a narrow margin, it could get trashed in the Senate.

136 REP. VAN LEEUWEN: Speaks on behalf of growers' good-faith efforts to address field burning issues, and advocates research into alternative straw utilization projects.

189 REP. BURTON: "I'm inclined to support these amendments (EXHIBIT C)." Research has been going on for 20 years. I support public facilities like cogeneration, but perhaps the onus should be on the industry to solve it's own problems. "It's a Ballot Measure 5 kind of thing. . . We need to do something meaningful," and these seem to do it.

215 REP. COURTNEY: "I want this committee to do it . . . If we can get together on this issue, that will be the breakthrough." The package that this committee approves will get 50 votes on the House floor. "I've listened to some of your comments on the amendments that I've offered, and you're not taking my head off. You're not saying they're outlandish, and I can see that you really want to work this issue . . . It's right here. We can do it."

240 CHAIR PARKINSON: "Maybe you can blow on some ears in the next 48 hours and work a miracle."

245 VOTE:In a roll call vote, REP. COURTNEY'S motion fails, with Representatives Norris, Repine, Parkinson, Van Leeuwen, Whitty and Watt voting NAY.

255 CHAIR PARKINSON: Declares the motion failed.

260 VOTE:In a roll call vote, REP. WHITTY'S motion carries, with Representatives Burton, Courtney and Naito voting NAY.

275 CHAIR PARKINSON: Declares the motion carries.

286 REP. NORRIS: There have been several references to the need for research and development into alternatives to open field burning, and I would like "showcase that thing a little better before we put this thing to bed."

291 CHAIR PARKINSON: Could you discuss that with the DEQ, DOA and the seed industry. It certainly wouldn't hurt the bill.

296 REP. REPINE: Supports fee funding for R and D.

305 CHAIR PARKINSON: A problem with this program for many years is that as the acreage burned decreases, so do the fees. "I think there is interest with trying to use lottery money . . . for the R and D."

329 REP. VAN LEEUWEN: In the last several years, many growers have not been paying the non-refundable sign-up fee because they haven't been burning. This bill, as amended, should increase revenue for the Smoke Management Program.

347 CHAIR PARKINSON: Closes work session on HB 3343 and adjourns at 3:40.

Submitted by: Reviewed by:

Andy Sloop Kathryn VanNatta Committee Assistant Committee
Administrator

EXHIBIT LOG:

A -Testimony on HB 3343 - Mary Payton, Salem - 1 page
B -Section-By-Section Analysis of HB 3343-3 Amendments - Dave Nelson,
Oregon Seed Council - 3 pages C -HB 3343-3 Amendments - Oregon Seed
Council - 19 pages D -Testimony on HB 3343 - Jeanne Raymond,
Corvallis - 2 pages E -Testimony on HB 3343 - Donald Arkell, Lane
Regional Air Pollution Authority - 2 pages F -Testimony on HB 3343 -
Sandra Thiele, Oregonians Against Field Burning - 4 pages
G -Testimony on HB 3343 - Bill Johnson, End Noxious Unnecessary
Fumes, Inc. - 2 pages