

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 29, 1991Hearing Room E 1:00 p.m.Tapes 97 - 100

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

MEASURES CONSIDERED: HB 3343 (WRK) HB 2150 (WRK) HB 3290 (PUB)

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TAPE 97, SIDE A

07CHAIR PARKINSON: Calls the meeting to order at 1:18 p.m. Representatives Norris and Burton not present and excused.

(Tape 97, Side A) WORK SESSION - HB 3343 Witnesses:James Britton, Department of Agriculture Dave Nelson, Oregon Seed Council Beth Bridge, City of Eugene

24KATHRYN VANNATTA, COMMITTEE ADMINISTRATOR: Reviews status of the bill and explains new amendments.

>Clarifies that the revisions the committee made to page 9 of the HB 3343-3 amendments (EXHIBIT A) at its last hearing allow the Environmental Quality Commission and the Director of Agriculture to jointly reduce field burning acreage as economically feasible alternatives to field burning are found. Stack and pile burning also may be reduced, but propaning cannot be reduced.

66JAMES BRITTON, DEPARTMENT OF AGRICULTURE: Explains dash 7 amendments, which are intended to clarify appropriation of funds for research and development.

86DAVE NELSON, OREGON SEED COUNCIL: These amendments seem to be consistent with the Committee's and Rep. Norris' concerns that funds for

research and development track clearly. However, we're not sure if these amendments nail down a funding amount. The intent statement is a stab at that. We want the maximum amount of money possible for research and development with as little overhead as possible.

111 CHAIR PARKINSON: I guess you're saying we'll still have to depend on Ways and Means to do the right thing.

115 MOTION:REP. WHITTY moves to adopt the dash seven LC amendments (EXHIBIT B) dated 3/29/91 to the HB 3343-3 amendments.

120 CHAIR PARKINSON: Calls for discussion.

124 REP. WATT: On lines 4 and 5, the words "as efficiently as possible" are "a little scary with regards to a state agency."

127 CHAIR PARKINSON: "I thought that was a little loose, but I don't know how else we'd word it."

129 REP. REPINE: In line with Rep. Watt's question, I'm concerned in line 10 about the words "of remaining funds" being "in the hands of the same [agency] people".

133 CHAIR PARKINSON: I suspect that would be a Ways and Means decision.

137 REP. VAN LEEUWEN: The terms the committee has just identified are loose, but this program is being closely scrutinized by both sides.

143 REP. WHITTY: Accepts Rep. Watt's suggestions to remove the words "as efficiently as possible" as friendly amendments to motion.

154 REP. COURTNEY: Why take out words that specifically call for a state agency to be efficient?

160 REP. WHITTY: I think these amendments would be stronger without those words than it is as printed.

166 REP. WATT: It should go without saying that agencies should be run as efficiently as possible.

176 REP. BURTON: Agree with Rep. Whitty that removing that language strengthens the direction these amendments are intended to provide. However, we don't want to go on record as failing to acknowledge that we want agencies to be as efficient as possible.

200 MOTION:REP. WHITTY moves that the dash seven LC amendments (EXHIBIT B) dated 3/29/91 to the HB 3343-3 amendments be adopted with the deletion of the words "as efficiently as possible" from lines 4 and 5, by which motion his previous motion was effectively withdrawn.

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

214 BETH BRIDGE, CITY OF EUGENE: Explains dash 8 amendments (EXHIBIT C), which would give the Department of Agriculture authority to assign priority of burning permits upon passage of the bill, instead of after 1996, based on numerous criteria listed in the dash 3 amendments, including particular local air quality condition.

304 CHAIR PARKINSON: It's hard to understand why 1996 was included in the dash 3 amendments in the first place. Could the Department of

Agriculture address that?

309 JAMES BRITTON, DEPARTMENT OF AGRICULTURE: It seems that the grass seed industry has no concerns about allocating the amount of acreage that can be burned each year until 1996. However, local air quality conditions are always considered in the day-to-day operation of the field burning program when we are issuing permits.

325 CHAIR PARKINSON: So you're saying the amendment isn't necessary and doesn't achieve what the City of Eugene wants?

332 NELSON: Farmers are required to register fields by April 1 each year. Then, in 60 days, the DOA has to issue permits, which are not valid permits to burn. These amendments (EXHIBIT A) would affect those preliminary permits, which do not, themselves, affect air quality. "The operative air quality functions are in the operating rules of the Department of Environmental Quality that say 'keep your smoke out of other peoples' noses while you're doing this burning'." The dash 3 amendments, then, affect the issuance of the non-permit permit, which isn't a permit until it's validated. I would like some time to re-read the dash 3 amendments, to make sure they would do what they are intended to do.

378 REP. COURTNEY: "Just so you know, I don't understand an awful lot of what was just said." So, the dash 3 amendments took out particulars, and now the request is to put those particulars back in? "But the explanation is: it's necessary to put them back in because we're not doing it any way or it doesn't apply?"

380 CHAIR PARKINSON: I don't think the amendments would accomplish what the City of Eugene thought they were going to accomplish.

400 NELSON: We are not, and would not, advocate allowing burning if it impacted local air quality conditions. In fact, we have supported rules to prevent impacts from field burning. "It's simply not in our interest to try to smoke up Eugene or any other city."

TAPE 98, SIDE A

05REP. COURTNEY: Does the phrase "local air quality" appear anywhere in your amendments?

11NELSON: I don't recall that it is or isn't, but it certainly appears throughout the rules implementing this law.

14BRITTON: If we added, on line 13 before "permits", the word "first-phase", it would satisfy us all.

20CHAIR PARKINSON: Recommends that Eugene, the DOA and Seed Council discuss amendments to the dash 8 amendments. I am not comfortable with the amendment at this time.

27REP. REPINE: Maybe we should throw the amendment out and see if it has any support.

30CHAIR PARKINSON: I don't support that, but you're welcome to make a motion.

33REP. REPINE: OK.

36CHAIR PARKINSON: Calls for break. Reconvenes at 2:01 and opens work session on HB 215 0. (Tape 98, Side A) WORK SESSION - HB 2150
Witnesses: Russ Nebon, Association of Oregon Counties Greg Wolf, Department of Land Conservation and Development Dick Angstrom, Oregon Concrete and Aggregate Producers Association Phil Fell, League of Oregon Cities John Chandler, Common Ground

51KATHRYN VANNATTA, COMMITTEE ADMINISTRATOR: Reviews new documents and gives section-by-section analysis (EXHIBIT G) of the hand-engrossed measure (EXHIBIT H), incorporating dash 6 amendments (EXHIBIT I).

80CHAIR PARKINSON: I submitted the dash 6 amendments to give LCDC a little more flexibility, especially for those small cities and counties in Eastern Oregon that really don't need to undergo periodic review.

140 RUSS NEBON, ASSOCIATION OF OREGON COUNTIES: Testifies in support of the dash 6 amendments.

>Give LCDC wider window for periodic review. There are some areas where there is so little development and change that maybe reviewing comprehensive plans every 10 years is appropriate.

>Concerned about shortage of planning grant funds with Measure 5. These amendments make a clear distinction between funding planning at the local level and funding planning at the state level.

160 CHAIR PARKINSON: What you're saying is that there would be a grant program in the budget that would allow the Department of Land Conservation and Development to hire consultants to provide technical assistance to cities and counties?

170 NEBON: Yes. I believe this would allow development of model ordinances to deal with tough local problems.

181 REP. REPINE: Is it true that some counties would not be able to perform periodic review without those planning grant funds?

185 NEBON: That could happen in small counties that have less ability to absorb unusual expenses, especially with Measure 5.

189 REP. REPINE: The language in these amendments says DLCD "may" use the grant program is discretionary, so I don't see what the concern is.

197 NEBON: The word "may" makes use of that fund optional, but there's no control over how the LCDC uses that fund, and cities and counties have no veto authority, review or say in that process. We feel it's cleaner to keep LCDC out of that money.

202 REP. REPINE: Does AOC unequivocally endorse these amendments?

216 NEBON: When the AOC committee met last week, it didn't have these amendments for review, but I am speaking in good-faith as the AOC land-use lobbyist.

225 NEBON: Mr. Chairman, with regard to your question about state agencies coordinating with local planners to keep plans up-to-date, there are cycles, and state agencies can get out ahead of local jurisdictions. If state agencies don't get back to locals, there could be serious inconsistencies. So, we like the criteria in your amendments that make state agencies take an extra step.

240 CHAIR PARKINSON: Calls Greg Wolf, DLCD, to testify.

260 CHAIR PARKINSON: Greg, you need to tell us what the bill, as it is written, would allow DLCD to do with that grant money.

265 GREG WOLF, DEPARTMENT OF LAND CONSERVATION AND DEVELOPMENT: The bill would allow the department to hire a consultant to help several jurisdictions with similar problems.

293 CHAIR PARKINSON: Mr. Nebon, is it more efficient for counties to get grants and spend as they see fit, or for the Department to hire a consultant?

304 NEBON: In a lot of cases, local jurisdictions could pool their money and hire a consultant just as efficiently as having the Department do it for them. My concern is that the amendment doesn't contain controlling language to keep the Department from dipping into the fund to hire a consultant for a county that doesn't need or want a work program. Perhaps we could add wording that indicated that departments would only hire consultants to do work subject to approval of the affected local governments.

315 REP. NAITO: Is the grant program provided for by statute or administrative rule?

320 WOLF: It's a line item in our budget.

325 REP. NAITO: My concern is that we're setting up a legislative history that we don't want the Department to use money to go to local grant programs.

338 WOLF: That is one of our concerns, too. I think we could work with AOC on some wording. It was never intended that these funds would be used for our own staff.

350 CHAIR PARKINSON: Mr. Wolf, why don't you start at the front of the amendments and give us your opinions.

352 WOLF: Comments on the amendments.

>The Department is not averse to having the flexibility that would be provided by lengthening the review window to 10 years, but there are interest groups that could be concerned about dragging out the review process that long.

>Ought to maintain language from the original bill allowing the department to use the grant program as a funding source for staff or consultant to provide planning services related to periodic review. This provides needed flexibility to make scarce money after Measure 5 go as far as possible.

>The third revision (lines 11 and 12 of the dash 6 amendments) doesn't change much from existing statute, but need to recognize that this creates another hoop through which state agencies must jump to apply legal changes locally. The intent seems to be the same as current law. Also, there are some potential legal interpretation questions about this "reasonable efforts" language. Might want to consider more specific language to the effect that the agency has applied for a plan or lang-use regulation amendment and been denied by the local government.

TAPE 97, SIDE B

23DICK ANGSTROM, OREGON CONCRETE AND AGGREGATE PRODUCERS ASSOCIATION:
Comments on page 5 lines 25 and 26 (EXHIBIT I)

>Advocates a five or six line bill that simply says state agencies, by
October 1993, bring their plans into compliance with state goals and
laws that have been adopted between now and then.

>LCDC and local governments need tools to enhance and expedite periodic
review, so deleting tools that facilitate periodic review is a mistake.

42CHAIR PARKINSON: Would you object to compromise language?

45ANGSTROM: No.

46CHAIR PARKINSON: Other than the amendments proposed, is your group
comfortable with this bill?

47ANGSTROM: Yes.

53CHAIR PARKINSON: Calls Phil Fell from the League of Oregon Cities.

55PHIL FELL, LEAGUE OF OREGON CITIES: Testifies in support of the dash
6 amendments.

>Supports flexibility of widening review time window.

>Suggests inserting "subject to the approval of the affected local
government" on page 5, line 25 (EXHIBIT I), following "(3)".

>Supports language proposed by DLCD pertaining to state agency
coordination.

80JOHN CHANDLER, COMMON GROUND: Testifies in support of the bill but
raises concerns about dash 6 amendments.

>Sympathetic to idea that some local governments don't need as much
state supervision as others.

>Concerned that periodic review will be dragged out by government if the
window is widened to 10 years.

92CHAIR PARKINSON: Recommends that the Department, cities and counties
develop compromise language on grant funding and agency coordination.

(Tape 97, Side B) PUBLIC HEARING - HB 3290 Witnesses: Fred Hansen,
Department of Environmental Quality Terry Obteshca, Department of
Environmental Quality Carol Clinton, Pioneer Motor Sports Club Sherry
Patterson, Rosewood Action Group Constance Emmons, Rosewood Action Group
John Hilley, Milwaukie Citizen Lewis Scott, Beaverton Planning
Commission Albert Duble, Acoustical Consultant Pamela Arden, Kenton
Neighborhood Association Dane Pitarresi, Pitarresi Motorsports, Inc.
Doug Van Dyke, Oregon Region Sports Car Club of America Sharon Tracey,
Portland Rose Festival Jill Shaw, Portland Rose Festival Jim Livingston,
Woodburn Drag Strip Denise McPhail, Portland General Electric

118 REP. BURTON: Acknowledges that the bill is a "gut and stuff" sought
due to bill-drafting deadlines, and apologizes for "flap". The dash 1

amendments (EXHIBIT J) are intended to supersede the original bill.
Explains motivation and intent for the legislation.

>Intended to fund DEQ noise pollution program which was cut from
Governor's budget. Bill not intended to tax race tracks or trucking.

>District is most heavily industrialized in the state, with two race
tracks, two major airline flight paths, and 194 trucking companies.

>Dash 1 amendments do not change exemptions already existing in law.

210 REP. BURTON: Gives section-by-section overview (EXHIBIT K) of the
dash 1 amendments and reviews the dash 2 amendments (EXHIBIT L) which
grandfather existing noise sources.

310 REP. NAITO: Is the statutory scheme proposed here in effect in any
other states?

316 REP. BURTON: Don't know.

353 FRED HANSEN, DEPARTMENT OF ENVIRONMENTAL QUALITY: Welcomes
questions for clarification.

360 REP. BURTON: Intent is for fees to go back to the DEQ to fund this
program (EXHIBIT N).

374 HANSEN: We have contemplated legislation along this line in the
past, principally as a preventative measure.

TAPE 98, SIDE B

00REP. WHITTY: Are you aware of any cities with local noise pollution
ordinances and enforcement?

06TERRY OBTESHCA, DEPARTMENT OF ENVIRONMENTAL QUALITY: Yes. There are
several local ordinances that vary in scope. The cities of Portland and
Salem have more comprehensive local ordinances than other cities in the
state, primarily because they have more resources.

11REP. BURTON: Under the governor's budget, there wouldn't be
sufficient enforcement personnel for this program, except in larger
cities with local ordinances, isn't that right?

18HANSEN: We hope to hold standards in place and hand off the ball to
municipalities.

45REP. REPINE: This list of controlled sources could go down to skill
saws, etc. Where does this stop?

57HANSEN: That's a part of our questions. This could be written in a
number of ways.

66REP. BURTON: This is aimed at fixed-source facilities. Oregon
Administrative Rules (EXHIBIT O) address this.

82HANSEN: With respect to Rep. Repine's question, the DEQ already
specifically exempt construction.

86OBTESHCA: Notes that some local governments have restrictive
ordinances that go beyond DEQ regulations.

90REP. VAN LEEUWEN: How are public works repairs handled currently and how would they be handled under this proposal?

92OBTESHCA: That is also exempt under DEQ rules.

99REP. WHITTY: HB 3290-1 won't deal with local disturbances, will it?

107 HANSEN: No. We consider those to be nuisance issues that we choose not to address.

116 CARL CLINTON, PIONEER MOTOR SPORTS CLUB: "Gut and stuff" approach offensive.

>Concerned about Sections 3 and 4 (EXHIBIT J).

>What are "emission sources"? This appears to open the door for DEQ to do whatever it wants.

>Auto racing has self-regulating noise practices.

158 REP. BURTON: This wouldn't ask for any new restrictions on existing noise sources. What I'm saying is that DEQ should look at new facilities in the design phase to minimize noise.

250 SHERRY PATTERSON, ROSEWOOD ACTION GROUP: Testifies in support of the measure. Submits petition (EXHIBIT P) requesting that DEQ's noise pollution section be continued.

>Most cities and counties can't afford noise enforcement.

>If DEQ eliminates noise control personnel, it could get sued for not enforcing noise standards that it has said should be preserved.

>HB 3290-1 would prevent noise pollution problems.

>Mixed uses in densely populated areas are increasing and noise complaints are likely to increase with population growth.

>Suggests dedicating 10 percent of permit fees to a low interest loan program for noise reduction, similar to weatherization.

370 CONSTANCE EMMONS, ROSEWOOD ACTION GROUP: Testifies in support of the dash 1 amendments.

>Advocates adding language to address sporting noises, including power boating and skate boarding?

415 REP. WHITTY: The more you add onto a bill like this, the more groups you offend and the less chance you have of getting it through the process.

TAPE 99, SIDE A

35JOHN HILLEY, MILWAUKIE CITIZEN: Testifies in support of the dash 1 amendments (EXHIBIT Q).

>Noise problems bother almost everybody and kill people before their time.

>Land-use and noise control are closely related.

>Government should protect people from noise pollution.

>Most people I've talked to have no faith in local government handling this in an adequate way because local governments are swamped with responsibility.

128 LEWIS SCOTT, BEAVERTON PLANNING COMMISSION: Testifies in support of the dash 1 amendments.

>Beaverton is growing very fast, and there is limited local noise pollution monitoring and enforcement.

>Noise pollution needs to be given greater consideration in the land-use planning process.

>DEQ is appropriate agency to develop, monitor and enforce noise pollution.

>DEQ needs funding mechanism to ensure monitoring and enforcement consistency and adequacy.

161 REP. BURTON: Notes the dash 1 amendments' need for support at Ways and Means review.

185 ALBERT DUBLE, ACOUSTICAL CONSULTANT: Testifies in favor of the measure (EXHIBIT R).

237 REP. WHITTY: I assume that in dealing with the wide variety of businesses that you do, that you note ways in which facilities could have been built better with respect to noise.

255 DUBLE: 75 to 80 percent of my business is retrofitting. I really like the emphasis of this proposal on preventative designing.

280 REP. WHITTY: What's it going to cost the department to employ a registered acoustical engineer?

287 DUBLE: \$40,000-\$50,000.

340 PAMELA ARDEN, KENTON NEIGHB ORHOOD ASSOCIATION: Testifies in support of the dash 1 amendments.

>Noise is a key component of livability.

>City of Portland noise control staff can't control noise adequately without DEQ.

378 DANE PITARRESI, PITARRESI MOTORSPORTS, INC.: Section 14 of dash 1 amendments need to be more specific. (EXHIBIT S)

408 REP. BURTON: We have an amendment that I think is going to be proposed by PGE that will address that.

TAPE 100, SIDE A

05DOUG VAN DYKE, OREGON REGION SPORTS CAR CLUB OF AMERICA: Testifies in opposition to the measure and generally in support of the dash 1

amendments (EXHIBIT T).

>Concerned about kinds of activities that would be regulated under the dash 1 amendments. Seems dash 1 could restrict such things as outdoor band practices and school busses braking on hills.

75REP. BURTON: You made an interesting distinction between "noise" and "sound". I wonder if that's something we shouldn't consider.

85SHARON TRACEY, PORTLAND ROSE FESTIVAL: Testifies in opposition to any increases in noise regulation at raceways (EXHIBIT U).

167 JILL SHAW, PORTLAND ROSE FESTIVAL: Testifies in opposition to the measure and the dash 1 amendments.

>The measure and amendments are ambiguous.

255 JIM LIVINGSTON, WOODBURN DRAG STRIP: Section 14, line 7 of dash 1 amendments are too broad and may give the DEQ authority to regulate a very wide range of noise sources.

270 REP. BURTON: The permit that we're talking about here would be on new facilities.

344 DENISE MCPHAIL, PGE: Recommends revisions to dash 2 amendments (EXHIBIT V).

360 REP. WHITTY: Closes the public hearing on HB 3290 and adjourns at 4:15.

Submitted by: Reviewed by:

Andy Sloop Kathryn VanNatta Committee Assistant Committee
Administrator

EXHIBIT LOG:

A -HB 3343-3 Amendments - Oregon Seed Council - 19 pages B-HB
3343-7 Amendments - Oregon Seed Council and Department of Agriculture -
1 page C-HB 3343-8 Amendments - City of Eugene - 1 page D -HB
3343 Preliminary Staff Measure Summary - Committee Staff - 1 page
E -Fiscal Analysis of HB 3343-1 Amendments - Legislative Fiscal
Office - 2 pages F -Testimony on HB 3343 - Bill Johnson, End Noxious
and Unnecessary Fumes, Inc. (ENUF) - 1 page G -Analysis of HB 2150-6
Amendments - Committee Staff - 1 page H -HB 2150-6 Amendments - Chair
Parkinson - 1 page I -HB 3290-1 Amendments - Rep. Burton - 9 pages
J -Analysis of HB 3290-1 Amendments - Committee Staff - 2 pages
K -HB 3290-2 Amendments - Rep. Burton - 1 page L -HB 2150
Hand-Engrossed, Incorporating HB 2150-1, HB 2150-3, HB 2150-5 and HB
2150-6 Amendments - Committee Staff - 19 pages M-ORS Chapter 467 -
Committee Staff - 3 pages N -DEQ Program Outline - Fred Hansen,
Department of Environmental Quality - 1 page O -Oregon Administrative
Rules, Chapter 340, Division 35 - Rep. Burton - 11 pages P -Citizen
Planning Organization Petition to Continue DEQ Noise Pollution Control
Section - Sherry Patterson, Rosewood Action Group - 1 page

Q -Testimony on HB 3290 - John Hilley, Milwaukie - 3 pages
R -Testimony on HB 3290 - Albert Duble, Acoustical Consultant - 3
pages S -Testimony on HB 3290 - J. Dane Pitarresi, Pitarresi
Motorsports, Inc. - 6 pages T -Testimony on HB 3290 - Doug Van Dyke,
Oregon Region Sports Car Club of America - 2 pages U -Testimony on HB
3290 - William T. Hildick, Portland Rose Festival Association - 1 page
V -Proposed Amendments to HB 3290-2 Amendments - Denise McPhail,
Portland General Electric - 1 page W -Proposed Amendments to HB 3290
- Rep. Burton - 1 page X-Testimony on HB 3290 - James A. Goss,
Pacific Industrial Components, Inc. - 1 page Y -Testimony on HB 3290
- Peggy Hennessy, Portland - 2 pages Z -Testimony on HB 3290 - Joseph
Coleman, Grants Pass - 1 page