

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

April 12, 1991Hearing Room E 1:00 p.m.Tapes 115 - 118

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 MEMBERS: Rep. Randy Miller Rep. Ron Sunseri

PRESENT: Kathryn Van Natta, Committee Administrator Andy Sloop, Committee Assistant Holly Blanchard, Transcriber

MEASURES CONSIDERED: LC 4044 - Introduction HB 3247 - Public Hearing HB 3278 - Public Hearing HB 3074 - Public Hearing HB 2508 - Public Hearing HB 3362 - Public Hearing

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TAPE 115, SIDE A

02CHAIR PARKINSON: Calls the meeting to order at 1:07 p.m. Representatives Burton and Whitty not present and excused.

WORK SESSION - INTRODUCTION OF COMMITTEE BILLS

04CHAIR PARKINSON: LC Draft 4044 (EXHIBIT A) is practically identical to HB 2702-4, the land use bill.

20REP. NORRIS: Moves the introduction of LC 4044 dated 4/12/91 as an Environment and Energy Committee bill.

(Representative Whitty arrives 1:10.)

22CHAIR PARKINSON: Roll call taken. There being no objection to the motion, it is so moved.

(Tape 115, Side A) PUBLIC HEARING - HB 3247

Witnesses: John Loewy, Department of Environmental Quality John Kowalczyk, Department of Environmental Quality James Park, Building Codes Agency, State of Oregon Fred Van Natta, Wood Energy Institute of Oregon

36REP. REPINE: Sponsor of HB 3247 which is a carryover from the last session. Explains the bill which would have a \$48,000 fiscal impact.

84REP. VAN LEEUWEN: When you're talking about retrofitting, are you talking about adding catalytic converters to existing stoves?

89REP. REPINE: No. Retrofitting would mean going into existing houses and removing the noncomplying stove and replacing it with a new stove.

95REP. NORRIS: The bill seems to address two things; replace existing woodstoves to certified woodstoves or retrofit existing noncertified woodstoves. That would be a technological modification of a noncertified woodstove. Is the technology available to do that?

102 REP. REPINE: There may be accessory items that could be added to stoves, but the intent of the bill is to retrofit houses with the latest stoves.

111 REP. REPINE: Expenditure justified for this project.

120 JOHN LOEWY, ASSISTANT TO THE DIRECTOR, DEPARTMENT OF ENVIRONMENTAL QUALITY (DEQ): Offers to assist in developing language that would provide alternative energy sources and replaced woodstoves be rendered inoperable.

(Representative Burton arrives at 1:20 p.m.)

130 CHAIR PARKINSON: Describe how this would work in industry. Would an industry buy 50 woodstoves at \$500 apiece, for example?

140 JOHN KOWALCZYK, DEQ: That's what would happen but a lot of details would need to be worked out to make that transaction enforceable. Industry would be paying for the total conversion of the woodstove to a certified stove or to some other heating system. It has to be an enforceable transaction and the old stove would have to be rendered inoperative.

150 CHAIR PARKINSON: It has nothing to do with tax credits, right?

152 KOWALCZYK: That's correct.

156 REP. REPINE: What kind of technology is available now?

160 KOWALCZYK: There are retrofitted stoves that are eligible for woodstoves. We'd have to give a small emission reduction credit compared to a completely redesigned certified stove.

168 REP. REPINE: How would the value of the stove credit be established?

172 KOWALCZYK: Would have to custom the offset to the actual emission potential of those stoves.

180 REP. REPINE: And that is achievable?

183 KOWALCZYK: Yes.

185 CHAIR PARKINSON: Notes just DEQ and the Building Codes Division are signed up to testify.

187 REP. REPINE: This bill was not prompted by industry. Saw the need for this bill and came up with this idea.

200 JAMES PARK, RULES COORDINATOR, BUILDING CODES AGENCY, STATE OF OREGON (EXHIBIT F): Submits proposed amendments to HB 3247 that's intended to clarify for the public that this retrofit or reinstallation would not vary or alter the requirements for installation standards for the Building Codes.

235 FRED VAN NATTA, WOOD ENERGY INSTITUTE OF OREGON: Testifies in support of HB 3247. Outfitting houses with certified wood stoves will lower pollution.

258 CHAIR PARKINSON: Would there be an area in the state where a builder might buy 10 woodstoves for a subdivision?

262 VAN NATTA: Presently there is no effort to limit occupancy in an air shed because of the level of pollution. If a new home is built, the Home Builders Association builders would put a clean-burning, certified woodstove in it according to state law.

274 REP. VAN LEEUWEN: Assume that this includes old-fashioned wood cook stoves?

290 REP. REPINE: This is strictly voluntary. There's no mandatory participation.

(Tape 115, Side A) PUBLIC HEARING - 2508

Witnesses: Representative Peter Courtney, District 33 Phil Ward, Oregon Department of Agriculture Lydia Taylor, Water Quality Division, DEQ Peter Jensen, Oregon Dairy Farmers Association

315 REPRESENTATIVE PETER COURTNEY, DISTRICT 33, (EXHIBITS J-N): Discusses foul smelling Oregon waters and rotting car carcasses in them. Gives results of police analysis of four syringes found on banks of Willamette River--tests were unable to determine illicit substance in three of four syringes. Found methamphetamine in one. Presents test results for fecal matter found in the Willamette River. Submits Oregonian newspaper articles concerning sewer and pollution in the Willamette River.

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74REP. COURTNEY: Introduced some other bills that addressed each of the problems presented. HB 2507 would remove cars from rivers; HB 2509 would allow highway litter patrol to clean waterways; HB 3181 would allow testing of Oregon's waters; HB 2881 would add the word "education" to be part of elementary and secondary education curriculums. Goes through sections of HB 2508.

123 CHAIR PARKINSON: The coliform counts you submitted indicate municipal wastes?

127 REP. COURTNEY: Your comment and question is accurate. Have looked at that.

135 CHAIR PARKINSON: Your liter patrol idea is interesting. Is that funded out of the gas tax money?

140 REP. WHITTY: It comes from the vanity license plate money.

145 REP. BURTON: My district is bordered by the Willamette and Columbia Rivers which includes the Columbia slough. Would this require cleanup of the Columbia Slough?

154 REP. COURTNEY: That is the intent, particularly because of the proximity of that site to rivers with high recreational use.

160 REP. BURTON: What is the ratio of municipal versus feed lot contribution to problem?

175 REP. COURTNEY: Can't tell.

194 PHIL WARD, OREGON DEPARTMENT AGRICULTURE (EXHIBITS O & P): Will answer questions concerning the confined animal feeding program that's conducted in cooperation with DEQ.

212 LYDIA TAYLOR, ADMINISTRATOR, WATER QUALITY DIVISION, DEQ: In Section 2, effluent levels are determined industry by industry by DEQ. Currently, DEQ doesn't have delegation of federal Title 404 dredging regulations. Concerned about wording in Section 2 because it could complicate 404 permitting.

260 CHAIR PARKINSON: What does Section 4 do?

263 TAYLOR: Addresses sludge management requirements under Oregon law.

273 CHAIR PARKINSON: What's the effect of taking ORS 468.778 and putting it into ORS 468?

278 TAYLOR: Can't address why Legislative Counsel drafted it this way.

284 CHAIR PARKINSON: What is the significance of the bold language at end of the bill?

290 TAYLOR: We believe that would be the current strategies and activities we do to meet the water quality standards set by the Environmental Quality Commission. All of our standards and activities are adopted by rule.

308 REP. VAN LEEUWEN: Think it does change things considerably. Look like the EQC could adopt any standard they want to.

328 TAYLOR: The Commission already has that authority, I believe.

368 REP. NORRIS: When referring to waters across the state, does that include ground and surface water--all waters?

370 TAYLOR: Yes, all waterways are protected.

375 REP. NORRIS: Thought somewhere there was recognition for the uses for a particular body of water?

380 TAYLOR: That's correct. It's the Environmental Quality Commission's responsibility to adopt standards, usually numeric, that protect the beneficial uses of water which are determined by the Water Resources Department.

400 REP. WATT: With regard to Representative Courtney's study which was done in April, should we expect maximum runoff at this time of year?

416 TAYLOR: We have an ambient water quality network of people for DEQ who must cover 90,000 river miles, plus lakes and oceans. Sewage treatment plants have meters on their outlets that must meet certain requirements.

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36REP. WATT: How would this legislation change your standard operating procedure today? Can you do this with the existing dollars you've been allocated?

42TAYLOR: We won't be able to thoroughly monitor and assess the water in the State of Oregon either under the existing budget or the proposed budget. Ballot Measure 5 cuts would not allow us all that we'd like to do.

47REP. COURTNEY: Notes a document from Legislative Counsel which describes each section of HB 2508 (EXHIBIT Q).

58CHAIR PARKINSON: Refers to the fecal count test presented by Representative Courtney. Something doesn't add up.

67TAYLOR: When we get a fecal count over 200, it indicates a problem. If we could identify the source of the content, we could track the problem better. Gives examples of identification problems.

76CHAIR PARKINSON: Give reasons for high river sample count.

78TAYLOR: Adding to complying treated runoff, runoff from confined feed lots, grazing, surface runoff.

126 REP. REPINE: Refers to EXHIBIT P concerning 119 complaints received this biennium and 125 complaints investigated.

137 WARD: Noted the discrepancy which included pending investigations from the previous biennium.

150 PETER JENSEN, OREGON DAIRY FARMERS ASSOCIATION: (EXHIBIT R) Strongly opposed to HB 2508. Dairy farming is supposed to be a non-point source discharge. As a dairy farmer, we understand that we cannot contribute to water pollution. We want clean water and, as an association, are working for it.

180 CHAIR PARKINSON: Your program is less than a year old because it didn't go into affect until after the last session?

190 JENSEN: It went into affect at the end of last session, however, the program with the Department of Agriculture was initiated earlier.

225 CHAIR PARKINSON: Do you have regular annual inspections?

228 JENSEN: No, but we have regular dairy inspections. Usually, when there is a complaint, then there is an inspection.

265 REP. NORRIS: Could your association provide evidence of concrete situations where improvements have occurred since 1989 when the law was passed?

271 JENSEN: That would be very easy to do.

307 CHAIR PARKINSON: Calls for break at 2:27 p.m. Reconvenes at 2:35 p.m. and opens HB 327 8.

(Tape 115, Side A) PUBLIC HEARING - HB 3278

Witnesses: Representative Randy Miller, District 24 James Hamerick, State Parks Department

315 KATHRYN VAN NATTA, COMMITTEE ADMINISTRATOR: Reads League of Oregon Cities' testimony in opposition to HB 3278 (EXHIBIT S).

324 REPRESENTATIVE RANDY MILLER, DISTRICT 24: Sponsor of HB 3278 and discusses problems encountered by historic property owners. The bill would require a city, county, or some jurisdiction wanting to proceed with a historical designation to compensate the property owner. Suggests an amendment that if the affected landowner of the property designated historic disagrees, then the property should go through condemnation.

412 REP. BURTON: Would this apply to non-profit property? Concerned it might impede further development of property if it's designated historic.

443 REP. MILLER: If the jurisdiction wants to designate land as historic, it must be prepared to pay the owner of that property its fair market (real) value.

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175 GREG WOLF, DEPARTMENT OF LAND CONSERVATION AND DEVELOPMENT: We do have a statewide goal that incorporates historic resources.

183 REP. WHITTY: Wants clarification on the idea of land issues the state should control and historic designations that local government should control. Doesn't understand that position.

191 WOLF: We have a statewide planning goal that relates to historic resources protected under Goal 5. We also provide a framework for local government that requires them to identify historic structures for protection. The only time we've had a problem with local government is when a historic structure has not been included that's on the national register.

211 REP. WHITTY: So no matter what somebody wants to do, he has to go through a government process because of the way his property is designated?

213 WOLF: Goal 5 requires a planning process. The regulation is not one of preservation but rather notification of demolition of the property to see if anyone wants to buy it. If no one wants to buy it,

the landowner can remodel or demolish the structure which is subject to a review process.

255 REP. WHITTY: The landowner's plans must be approved by the local government first?

257 WOLF: Yes, but the structure could be demolished but there is a waiting period requirement.

259 REP. WHITTY: There's a lot of misinformation about historic preservation. Goal 5 works both ways. If the local government can't justify the reason for their provision to govern paint color, for example, Goal 5 will give the landowner the opportunity to have LCDC remove that provision from the local ordinance.

275 CHAIR PARKINSON: Suggests Rep. Whitty review some local historic ordinances which do call for a local committee to approve the color of the buildings.

340 JAMES HAMERICK, STATE HISTORIC PRESERVATION SECTION, STATE PARKS DEPARTMENT: Not able to get authorization to testify on this.

357 CHAIR PARKINSON: Are you aware of any ordinances that regulate paint color on historic structures?

362 HAMERICK: Color is usually excluded from ordinances. Some local governments have stricter ordinances than others.

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15REP. NAITO: So, there are objective standards, but there are some inconsistencies in how resource structures are defined?

20HAMERICK: Definitely differences among communities.

25REP. NAITO: Should there be state criteria?

30HAMERICK: We've made recommendations concerning what criteria should be used but they are not mandated by statute.

32CHAIR PARKINSON: Closes hearing and opens public hearing on HB 3074.

(Tape 117, Side A) PUBLIC HEARING - HB 3074

Witnesses: Representative Ron Sunseri, District 22 Don Miner, Oregon Manufactured Home Association Joe Van Haverbeck, Oregon Manufactured Home Association Emily Cedarleaf, Manufactured Housing Communities of Oregon Bradley Wilder, Oregon Housing Agency

45REPRESENTATIVE RON SUNSERI, DISTRICT 22: Explains the bill, which addresses housing crisis in Oregon by increasing land available for mobile homes, and proposes amendments (EXHIBIT Y).

100 CHAIR PARKINSON: Would an area that is designated industrial have to be down-zoned to allow for a mobile home site?

114 REP. SUNSERI: The zone designation wouldn't have to be changed, just grant a conditional use permit which can be granted perpetually.

128 REP. WHITTY: Are there problems with local ordinances and taxes that aren't geared toward modern manufactured homes?

135 REP. SUNSERI: Yes. That's why there's still a personal property tax on what was once called the trailer house.

140 REP. NORRIS: There was a change in the law that allows the mobile home to be registered as a vehicle to beat the personal property tax.

145 REP. SUNSERI: Believes there's still a requirement to pay personal property tax on mobile homes. Another bill would reduce the personal property tax on mobile homes for people in mobile home parks who are 60 years of age and older.

158 REP. NORRIS: Why would you want to give a break to people over 60 when they might take off during the winter in their 40-foot motor home for Florida?

162 REP. SUNSERI: Most older mobile home owners are low-income.

170 CHAIR PARKINSON: Need to run your proposed amendments through Legislative Counsel before any action can be taken. Wouldn't this bill affect the ordinances of cities and counties?

175 REP. SUNSERI: Yes, in the sense that they'll have to dedicate a portion of the residential property already designated as such for mobile home parks. But not a great deal of change involved.

180 CHAIR PARKINSON: Don't see the League of Oregon Cities or the Association of Oregon Counties signed up to testify on this.

195 DON MINER, OREGON MANUFACTURED HOME ASSOCIATION (EXHIBIT Z): Testifies in support of HB 3074. Discusses problems the industry is facing in terms of manufactured home development. Unfair that a person with an outright permitted use property can't put a manufactured home on it.

246 JOE VAN HAVERBECK, OREGON MANUFACTURED HOME ASSOCIATION: Testifies in support of HB 3074. We provide affordable housing for fixed-income retirees and first-time home buyers. Manufactured homes must be affordable and secure. Would help to have park designation along with manufactured home designation, to finance land for tenants to put homes on. Manufactured homes can get tied up forever in land-use appeals and be very costly. Fast losing the opportunity to be a single-family homeowner country. This bill begins to address that.

400 EMILY CEDARLEAF, MANUFACTURED HOUSING COMMUNITIES OF OREGON: Testifies in support of the measure. Would force local governments to allow prospective home buyers affordable manufactured home option.

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02CHAIR PARKINSON: What's the manufactured home vacancy in the state?

05CEDARLEAF: Low in the Willamette Valley. Figures not really available.

28BRADLEY WILDER, OREGON HOUSING AGENCY: Testifies in support of HB 3074. Mobile home park tenants are captive due to low vacancy rates, the investment they've made and their inability to move their mobile home to

some other location. Mobile parks don't have vacancy rates that allow a flow of free movement by tenants. HB 3074 has been needed for some time.

51CHAIR PARKINSON: Closes public hearing on HB 3074 and opens HB 3362.

PUBLIC HEARING - HB 3362

Witnesses:Quincy Sugarman, OSPRIG David Stewart-Smith, Department of Energy Robert Hall, Portland General Electric Nancy Newell, Citizens for Peace and a Rational Energy Policy, Northwest Environmental Advocates, and The Don't Waste Oregon Committee

55REP. NAITO: Introduces the bill with written testimony (EXHIBIT CC) and proposed amendments (EXHIBIT DD).

100 REP. WHITTY: Could you give us an example of what you're talking about?

116 REP. NAITO: There's a broad range of articles from gloves and clothing exposed to certain parts of nuclear reactors and the like.

130 QUINCY SUGARMAN, OSPIRG (EXHIBIT EE): The concern is that some of the metals that would be deregulated could be recycled into other products.

132 REP. WATT: When does federal deregulation take effect?

133 SUGARMAN: The policy, passed in 1985, is a little vague. Heard the NRC is working on a consensus process. Also heard the NRC is working on rule making to develop certain waste streams.

147 REP. WATT: So this legislation is precautionary.

149 SUGARMAN: Yes.

152 REP. VAN LEEUWEN: Why prohibit recycling?

158 REP. NAITO: Concerned that radioactive materials would be recycled and used in consumer goods that could be harmful.

192 REP. WATT: Do federal regulations now preclude recycling low-level radioactive material?

195 DAVID STEWART-SMITH, DEPARTMENT OF ENERGY: Testifies in support of the measure. (EXHIBIT FF) Currently, the Nuclear Regulatory Agency makes below-regulatory- concern kinds of decisions on a case-by-case basis.

232 REP. WATT: The way this reads, the State of Oregon would regulate low-level radioactive waste. Is the criteria in this bill the same as that which is currently used by federal regulators?

250 STEWART-SMITH: Not in all cases. For the most part, states are allowed discretion to impose stricter regulations than federal regulations.

258 REP. NORRIS: Where is the line between low-level radioactive waste and other waste?

265 STEWART-SMITH: Virtually everything other than transuranic waste or

high level waste is known as low-level waste. There's a wide range of low-level waste. This bill would prohibit the NRC in Oregon from not regulating radioactive wastes below certain levels.

300 REP. VAN LEEUWEN: Which sections of HB 3362 are new language?

306 REP. NAITO: Section 1 is findings, and Sections 2, 3 and 4 are new language. Section 5 is amending existing law.

316 REP. VAN LEEUWEN: Would the sludge ponds at Teledyne Wah Chang come under HB 336 2?

323 STEWART-SMITH: No. HB 3362 specifically excludes naturally occurring radioactive materials. Uranium and its decay products are not addressed by this bill primarily because the NRC has no regulatory authority over them.

333 REP. VAN LEEUWEN: Then what is included?

330 STEWART-SMITH: Materials that are known as by-product material, produced by either high energy, electronic accelerators or by nuclear reactors. There are very few circumstances where radioactive waste can be incinerated.

405 ROBERT HALL, PORTLAND GENERAL ELECTRIC (EXHIBIT GG): Testifies in support of HB 3362 with the dash 1 amendments.

TAPE 117, SIDE B

019 NANCY NEWELL, CITIZENS FOR PEACE AND A RATIONAL ENERGY POLICY, NORTHWEST ENVIRONMENTAL ADVOCATES, AND THE DON'T WASTE OREGON COMMITTEE (EXHIBIT HH): Testifies in support of HB 3362.

114 CHAIR PARKINSON: Closes the hearing and adjourns the meeting at 4:12 p.m.

Submitted by, Reviewed by,

Holly Blanchard Kathryn Van Natta Transcriber
Committee Administrator

EXHIBIT LOG:

A - LC Drafts, dated April 12, 1991, 65 pages B - Preliminary Staff Measure Summary, HB 3247, Committee Staff, 1 page C - Revenue Impact Analysis, Legislative Revenue Office, HB 3247, dated March 12, 1991, 1 page D - Fiscal Analysis, Legislative Fiscal Office, HB 3247, dated April 11, 199 1, 1 page E - Energy Conservation ORS 469.930, HB 3247, Committee Staff, 5 pages F - Proposed Amendments, HB 3247, Committee Staff, 1 page G - Preliminary Staff Measure Summary, HB 2508, Committee Staff, 1 page H - Revenue Impact Analysis, Legislative Revenue Office, HB 2508, dated January 30, 1991, 1 page I - ORS 468.681, HB 2508, Committee Staff, 7 pages J - Written testimony, Representative Peter Courtney, District 33, HB 2508, 3 pages K - Editorial, The Oregonian newspaper, dated May 31, 1990, submitted by Rep. Courtney re HB 2508, 1 page L - Article, The Oregonian newspaper, submitted by Rep. Courtney re HB 250 8, 2 pages M - Crime Detection Laboratory Report, dated May 15, 1990, submitted by Rep. Courtney re HB 2508, 1 page N - Water Lab Report, dated April 13, 1990, submitted by Rep. Courtney re HB 2508, 3

pages O - Written testimony only, Kenneth Bierly, Oregon Division of State Lands, HB 2508, submitted by Phil Ward, Oregon Dept. of Agriculture, 3 pages P - Fact Sheet by Phil Ward, Oregon Dept. of Agriculture, HB 2508, 1 page Q - Office of Legislative Counsel, submitted by Rep. Courtney, HB 2508, 2 pages R - Written testimony, Peter Jensen, Oregon Dairy Farmers Association, HB 250 8, 2 pages S - Written testimony, League of Oregon Cities, submitted by Rep. Van Leeuwen, HB 3278, 2 pages T - Preliminary Staff Measure Summary, HB 3278, Committee Staff, 1 page U - Fiscal Analysis, HB 3278, Legislative Fiscal Office, dated April 12, 199 1, 1 page V - Revenue Impact Analysis, HB 3278, Legislative Revenue Office, dated March 13, 1991, 1 page W - Preliminary Staff Measure Summary, HB 3074, Committee Staff, 1 page X - Revenue Impact Analysis, HB 3074, Legislative Revenue Office, dated March 8, 1991, 1 page Y - Written testimony, HB 3074, Representative Ron Sunseri, District 22, 7 pages Z - Article, Enterprise Daily Courier newspaper, dated April 4, 1991, HB 307 4, 1 page AA - Preliminary Staff Measure Summary, HB 3362, Committee Staff, 1 page BB - Revenue Impact Analysis, HB 3362, Legislative Revenue Office, dated March 13, 1991, 1 page CC - Written testimony, HB 3362, Representative Lisa Naito, District 15, 3 pages DD - Proposed Amendments, HB 3362-1, dated April 12, 1991, 1 page EE - Written testimony, Quincy Sugerman, OSPiRG, HB 3362, 8 pages FF - Written testimony, David Stewart-Smith, Nuclear Safety, etc., HB 3362, 2 pages GG - Written testimony, Robert Hall, Portland General Electric, HB 3362, 1 page HH - Written testimony, Nancy Newell, Citizens for Peace, etc., HB 3362, 4 pages