

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 29, 1991Hearing Room E 1:00 p.m.Tapes 141 - 144

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

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

MEASURES CONSIDERED: HB 2175 (PUB) HB 2246 (WRK) HB 3257 (PUB) HB 2227 (WRK)

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TAPE 141, SIDE A

06CHAIR PARKINSON: Calls the meeting to order at 1:05 p.m.

WORK SESSION - HB 2246 Witnesses:Andrew Sloop, Committee Staff Fred Hansen, Director, Department of Environmental Quality Deanna Mueller-Crispin, DEQ

08ANDREW SLOOP, COMMITTEE SLOOP: Reviews workgroup discussions and status of the measure. (EXHIBIT A)

30CHAIR PARKINSON: Entertains motion on the dash 11 amendments (EXHIBIT B), which would supersede the dash 6 amendments as the working version of the bill.

35MOTION:REP. WHITTY moves to adopt the LC 621 (dash 11) amendments to HB 224 6 dated 3/26/91, which replace the LC 621 (dash 6) amendments dated 3/15/91, as modified by the LC 621 (dash 9) amendments previously adopted by this committee.

42CHAIR PARKINSON: "Kathryn tell us what that does."

45KATHRYN VANNATTA, COMMITTEE ADMINISTRATOR: Replaces the old working version of the bill and the dash 9 amendments pertaining to funding for

state parks with a clean working version of the bill.

52REP. WHITTY: "Can we get it on the record as to why the state parks provision that we determined was a good way to go is no longer feasible?"

55CHAIR PARKINSON: "I told State Parks that if they could find the support we would turn it out, and that was not forthcoming."

59REP. BURTON: "It's disappointing that we're not going to be able to do something to fund State Parks, which are desperately in need of that. I don't think there are any other proposals in the Legislature at this time that are going to get anywhere that are going to do that, so we will go once again this session without finding an adequate funding base for State Parks. That's short-sighted on somebody's part, but certainly not on the part of this committee."

70VOTE: In a roll call vote, the motion carries with all members voting AYE.

81REP. VANLEEUEWEN: In the dash 11 amendments, what is the boldface language?

84VANNATTA: That would be amendments to existing language in statute. The only difference between the dash 11 amendments and the dash 6 amendments are two grammatical changes.

93CHAIR PARKINSON: Entertains discussion on the dash 13 amendments (EXHIBIT C), which would change the sunset on the waste tire program from June 30, 1993 to June 30, 1992. If adopted, the waste tire fee would sunset during the legislative interim, and extending the fee would require action by the 1993 Legislature.

98MOTION: REP. WHITTY moves the LC 621 (dash 13) amendments dated 4/26/91 to the LC 621 (dash 11) amendments dated 4/26/91 to HB 2246.

101 REP. NAITO: What the impact of changing the sunset be on funding for the various aspects of the Waste Tire Program?

103 CHAIR PARKINSON: The chair was satisfied that, with funds on hand and another year of fee revenue, the program would have adequate funding.

106 FRED HANSEN, DIRECTOR, DEPARTMENT OF ENVIRONMENTAL QUALITY: Explains three funding scenarios. (EXHIBIT D)

>The dash 13 amendments would prohibit the program from accomplishing as much as the department believes is needed, both in terms of clean-up and reimbursement for recycling.

>Continuing funding for reimbursement through 1993 is important to ensure adequate market development to accommodate recycled waste tires as clean-up, and thereby supply, progresses.

>There is ongoing need for enforcement presence to prevent relapse of problem after high level of achievement.

134 CHAIR PARKINSON: Won't the regulatory program remain in effect?

136 HANSEN: Licensing of haulers is important to enforcement, but that

enforcement requires staffing.

139 CHAIR PARKINSON: Using that logic, the department would always need the fee.

141 HANSEN: "Hopefully, we would expect that, after a number of years, it becomes second-place nature and does not cause as much difficulty. But I think at the current time, when tires are still at the margin of being a valuable resource, and it is cheaper to be able to dispose of them than it is to haul them off to someplace to get them utilized, there will still be economic incentive to dispose of them inappropriately."

147 CHAIR PARKINSON: On your handout (EXHIBIT D), scenario II and scenario III both have a one-year extension. What's the difference?

150 HANSEN: In scenario II, reimbursement would end July 1, 1993, whereas in scenario III, it would end July 1, 1992. The department recommends extending reimbursement for the full two years.

158 REP. BURTON: Understand the reason for extending the fee through 1993 is that it would carry the program through 1997. There is no ending balance in the program account under scenarios II and III. In the original concept of this bill, who was intended to be reimbursed?

170 HANSEN: People who would make use of waste tires.

177 REP. BURTON: Who is the program supposed to assist on the clean-up side? Isn't there something in your rules providing assistance to people who can't afford clean-up?

182 HANSEN: Many problems are on public property, so often city and county governments receive clean-up assistance.

184 REP. BURTON: Reimbursement doesn't seem to be as important as the clean-up function of this program. Hope we'll find way to continue clean-up aspects.

195 HANSEN: Don't believe reimbursement needs to be ongoing, but reimbursement is particularly important as the clean-up accelerates during the next biennium. Washington and Idaho also have waste tire programs that will be introducing a flood of tires into the market. Reimbursement will be necessary to promote beneficial use of Oregon waste tires.

204 CHAIR PARKINSON: You could change the reimbursement and clean-up formula by rule, couldn't you?

207 HANSEN: Yes.

209 CHAIR PARKINSON: Again, staffing will continue for the regulatory portion of the program, regardless of what happens to licensing fees.

210 HANSEN: Yes.

210 REP. NAITO: Staffing on regulation of carriers will continue irrespective of this fee, then?

212 HANSEN: There are two staffing components to this program. There is staffing associated with the regulatory part of the carrier component

of the program. This is relatively small portion of total staffing. The department believes regulatory staffing would not be adequate under scenarios II and III. That's why the dash 13 amendments are not appropriate. Best to sunset July 1, 1993.

231 REP. REPINE: Which scenario gives us the "biggest bang for our buck"?

240 HANSEN: There are lots of mix and matches that could be added here. If the \$1 extension were given until July 1, 1992, we would watch the waste tire market carefully, while also watching the clean-up scene. The product would probably be a balance between the two functions.

271 HANSEN: The issue is that tire-pile cleanup takes a significant amount of staff time and effort. That's why staff time would remain high in 1993-1995 under scenarios I and III.

288 REP. VANLEEuwEN: So the difference between scenarios II and III is that one assumes clean-up by promoting recycling through reimbursement, and the other assumes enforcement and clean-up assistance by the department.

292 HANSEN: Reimbursement pays for a portion of clean-up. Generally, the penny per pound reimbursement translates into about 22 cents for a passenger tire. It costs about \$1.50 to dispose of that tire. The ability to recover 22 cents reduces the cost of disposing of that tire some, but not enough to overcome the full clean-up costs. Tire-pile clean-ups are when the department will split costs with responsible parties on an 80-20 basis. Under this scenario, the property owner gets 80 cents per dollar expended by the department versus about 20 cents for reimbursement to end users.

320 REP. VANLEEuwEN: On scenario II you've got \$194,000 but on scenario III you have \$581,000 out of the same dollar. How does that work?

323 DEANNA MUELLER CRISPIN, DEQ: Reimbursement happens one calendar quarter after the actual use of tires, so the reimbursement that shows in 1993-95 under scenario II is for tires used in 91-93. The \$200,000 in scenario III, for 93-95 is for tires that would actually be cleaned up in 93-95.

347 HANSEN: Under reimbursements, there will be numbers that will continue into future biennia because they will be applied for later, even though the obligation will be incurred in the 93-95 biennium.

353 REP. NORRIS: Confused because the scenarios have different numbers of sites cleaned but the same total expenditures.

360 HANSEN: Scenario II uses dollars for full reimbursements for the entire 1991-93 biennium. In Scenario III, about \$400,000 is shifted from reimbursement to cleanup. Consequently, there is a difference in the number of sites clean up under each scenario.

378 REP. WATT: At the last work session, had impression that DEQ could get the job done with existing surplus funds, and now you're saying you need an extra funding.

383 HANSEN: Until now, the sunset on the fee has been June 30, 1993.

385 REP. WATT: Had understood the fee would sunset in 1991, and that

there would be surplus dollars remaining at that time to continue the program.

406 REP. BURTON: The original bill had a sunset of 1993. The dash 6 amendments took the sunset to 1992, so funding for state parks would begin before the next biennium started.

TAPE 142, SIDE A

05REP. WHITTY: How do we come out with the 1995-97 situation in scenario II, where we do nothing for \$25,000, and then scenario III, where we do nothing for \$143,000? How come two-tenths of an FTE is \$25,000 and nine-tenths of an FTE is \$143,000?

15HANSEN: Tried to pull these numbers together this morning. Think they are accurate, but they were computed on short notice.

18REP. WHITTY: In scenario II, what are we getting for \$25,000 in staffing?

20HANSEN: That individual would deal with clean-up identification and enforcement.

25REP. WHITTY: "Doesn't make sense, Fred." How come you can clean up 144 sites for \$143,000 in scenario III and 44 sites for only \$25,000 in scenario II?

34HANSEN: Need 1.5 FTE ongoing enforcement to control the problem. With fewer dollars available under scenarios II and III, we have divided needed enforcement staffing.

48REP. BURTON: Cleanups and reimbursements both require payouts of dollars in addition to staffing. Under scenario II, no one is being paid.

60REP. WHITTY: Still don't understand why need more staffing in scenario II than III.

64MUELLER-CRISPIN: May be confusion because the figure for sites cleaned on the departments funding summary refers to sites for which DEQ has appropriated money "out-of-pocket". Means some sites would be cleaned up in scenarios II and III, just no sites cleaned up with DEQ money.

76REP. WHITTY: Would there be the same number of sites cleaned up during the 1995-97 biennium under both scenarios?

82MUELLER-CRISPIN: Yes, but might identify more sites with more staff. Also, staff are beginning to work more closely with counties to identify problem tire piles.

92CHAIR PARKINSON: Calls for vote on the dash 13 amendments.

97REP. COURTNEY: Thought the issue that drove this measure into a workgroup was not so much the sunset, but whether the dollar fee was an accurate reflection of the cost to administer this program. What happened to the 60 cents fee discussion, which implied program needed to continue, but could continue at lower fee.

108 CHAIR PARKINSON: "Rep. Courtney, there isn't too much difference

between 60 cents for two years and a dollar for one year. I there was a feeling by some on the committee that the fee will never disappear."

112 REP. BURTON: Several reasons for keeping \$1.

>\$1 already in place and changing would be pain.

>Among tire dealers, recyclers and people with waste tires, there was feeling that there was a problem with waste tires, and once that problem solved, the fee should end.

>Since not going to use fee revenue for other purposes, players argument is that might as well sunset fee now.

>If the fee sunsets in 1992, the next Legislature can re-examine the program and the fee.

>Can make political argument in favor of continuing or ending fee.

148 REP. VANLEEUEWEN: My constituents have expressed adamantly that this fee is intended for cleanup, and when cleanup is completed, the fee should end.

158 REP. WHITTY: Subsidy promotes use of tires as alternative energy. If subsidy ended, use of waste tires might end, and then what happens to tires?

165 CHAIR PARKINSON: Satisfied that reimbursement isn't needed now, and that starting to create unfair markets. "Right now, I'm going to force a vote and see what happens."

172 VOTE:In a roll call vote, the motion carries, with representatives Courtney, Naito, Burton and Whitty voting NAY.

176 MOTION:REP. WHITTY moves HB 2246 as amended to the floor with a "do pass" recommendation.

180 VOTE:In a roll call vote, the motion carries with Rep. Courtney voting NAY.

184 CHAIR PARKINSON: Appoints Rep. Burton to carry the measure on the floor.

(Tape 142, Side A) PUBLIC HEARING - HB 2175 Witnesses:Jim Whitty, Associated Oregon Industries Doug Morrison, Northwest Pulp and Paper Association Jim Craven, American Electronics Association Fred Hansen, DEQ Steve Greenwood, DEQ Wendy Simms, DEQ John Kowalczyk, DEQ Julie Seminara, Junior High School Student

211 JIM WHITTY, ASSOCIATED OREGON INDUSTRIES: The industry workgroup has met with DEQ and made progress, but remains stuck on the amount of the industrial emissions fee.

>Oregon has had model industrial emission program for 20 years.

>Don't get many improvements to existing industrial emission program under this bill, but do get costly new bureaucracy.

>As a result of industrial permit program, industrial emissions currently contribute 6 percent of air pollution in Oregon.

>The cost to major industrial sources would increase from \$160,000 a year to \$2.6 million when the federal industrial emissions section is fully implemented.

>Because industry wouldn't get much for what it would pay under this bill, it is seeking the "skinniest" program possible.

252 DOUGLAS MORRISON, NORTHWEST PULP AND PAPER ASSOCIATION: Explains the dash 3 amendments. (EXHIBIT F)

262 REP. BURTON: Can you summarize your working groups' proposal in one paragraph?

272 MORRISON: For the larger industrial sources required to have federal permits, the workgroup has developed a program with a two-part test. Under this test, the DEQ would be authorized and limited to take any action that is "required" by federal law and "necessary" to comply with federal law.

285 REP. WHITTY: If we don't do anything, we have about two years until we have to comply with the new Clean Air Act amendments before the feds come in and administer the program themselves. So, how do we know if we satisfy the federal requirements? Who monitors Oregon's program to make sure it's in compliance?

300 MORRISON: There is a formal process under which states are required to establish a program, and submit it to the EPA for approval.

303 REP. WHITTY: Then does the workgroup believe the program established under the dash 3 proposal will stand up under the scrutiny of the EPA?

308 MORRISON: This sets forth minimum compliance with federal mandates.

314 REP. NORRIS: How much of your proposal is compliance with the federal act and how much is own engineering?

324 CHAIR PARKINSON: For the committee's information, this is a complete rewrite of the bill.

334 MORRISON: Gives section-by-section analysis of the dash 3 amendments (EXHIBIT G).

TAPE 141, SIDE B

15REP. NAITO: Are there any sorts of delegation problems that this creates by requiring DEQ to implement an EPA program?

21MORRISON: This program is different than state implementation of federal hazardous materials and water programs in that it is not delegated to states per se. States required to apply for approval, so EPA doesn't delegate, it approves.

29REP. NAITO: And there aren't any problems with the Legislature delegating to DEQ something that the federal government wants?

31MORRISON: No. As part of federal approval process, state must submit a state Attorney General opinion saying the legislative authority is adequate to meet federal mandates.

41MORRISON: Continues section analysis.

51REP. BURTON: On Section 5 (2): That would be a one-time fee that would apply to everyone, and it would sunset when the EPA administrator gives the program approval?

58MORRISON: Yes.

62REP. BURTON: What happens to someone who comes in with a new company?

63MORRISON: Have discussed "new source review" issue. DEQ has separate permitting process and fees for new sources. The emission fees would not be paid by new sources under the dash 3 proposal until the year after operations occur, and then only on a pro rated basis for the prior year.

72REP. BURTON: So, existing businesses are going to pay all "ramp up" costs on this program, and there's no way to pro rate those costs for new businesses. What's that \$5 ramp-up going to buy?

79MORRISON: The DEQ has a proposal for what will be required for the ramp-up phase of the program. Basically, that includes getting the small business technical assistance program started, reviewing federal rules as they are issued, and starting on the air toxics program.

84REP. BURTON: Want it on record from the DEQ that the ramp-up costs are one-time expenses. If an existing business is going to pay for a program, it should be a program that benefits existing business.

93MORRISON: All of the dollar figures in here will have to be inflated based on the 1989 Consumer Price Index, as mandated by the Act.

102 CHAIR PARKINSON: If there was evidence demonstrating that the state needed a fee greater than the minimum \$25 industrial fee mandated by the federal Act, the state fee could be raised, couldn't it?

107 MORRISON: That's correct. The Act requires that the state collect a minimum of \$25 per ton of actual emissions. State is free to impose more or less than the \$25 fee if it can demonstrate that the fee is not in line with the state's needs.

115 REP. NORRIS: When would there be the \$5 charge, and when would there be the \$25 charge?

118 MORRISON: In Section 5 (2), the \$5 fee would be paid March 1, 1993 for the 1992 calendar year, and every subsequent year until formal program approval. There is also a "hand-off date" where you go from interim funding to the \$25 fee, or whatever other funding is approved.

124 REP. NORRIS: So the \$25 would follow the \$5 and they would not be concurrent?

128 MORRISON: Correct.

131 REP. NORRIS: What kind of industries are we talking about and how many tons?

134 MORRISON: D.R. Johnson Lumber Company is permitted to emit 126 tons of nitrous oxides, 152 tons of particulates, and 63 tons of volatile

organic compounds.

138 REP. NORRIS: So you would add all of that up and multiply by 25?

140 MORRISON: It would be a total of 341 tons multiplied by 5 or 25.

143 CHAIR PARKINSON: Is that actual or permitted?

145 MORRISON: Permitted. If the source had adequate data to document actual emissions, it would be free to pay on that lower amount. If the source does not have monitoring equipment or engineering capability to make actual emission determination, then it would pay on permitted emissions.

166 MORRISON: Continues section analysis.

179 CHAIR PARKINSON: On section 7, some people are saying the Emergency Board can't approve a rule. Is there any conflict there?

184 MORRISON: Have discussed that section with Legislative Counsel. That section is intended to be a reporting function only, and not any type of approval.

192 MORRISON: About 1,200 permits under existing state industrial emission program. This federal permit program only applies to 150 of those sources. Don't intend to repeal or backtrack on any part of the existing program with respect to those other industrial sources.

204 REP. NAITO: On those sources that we now propose to permit under this Act, will they face more stringent requirements than under the existing state emissions program?

205 MORRISON: Intend for federal permit sources to implement federal requirements. Don't intend to backtrack in face of revamping the entire program.

250 CHAIR PARKINSON: Is Section 12 new?

253 MORRISON: Yes. I drafted the language in this section based on discussions with the DEQ. Intend to revise the dash 3 amendments so language is consistent with existing statute.

262 REP. NAITO: How often is appointment to the Compliance Advisory Panel done?

272 MORRISON: That appointment process is all set out by federal law.

278 REP. BURTON: I would really question that.

285 MORRISON: This section of the bill is exactly as it appears in federal law.

307 MORRISON: DEQ not particularly comfortable with proposed language in Section 14.

320 REP. NORRIS: Why does this include incarceration at county jails when county jails are "all boarded up"?

325 MORRISON: Prefer that there not be any criminal liabilities for environmental violations, but this is a requirement. Don't know exactly

where this language came from, but can find out.

336 REP. VANLEEUEWEN: On Section 16, can you explain the exemption for field burning further?

365 MORRISON: That is existing statute. It seems odd there, and needs to be explained.

386 REP. NORRIS: Who is the "regional authority".

389 MORRISON: In Oregon, believe that is only the Lane Regional Air Pollution Authority.

398 JIM CRAVEN, OREGON COUNCIL OF AMERICAN ELECTRONICS ASSOCIATION: Should be general language in statute about where this state is going with the federal Clean Air Act. Don't want special treatment for Oregon, but want expression of legislative intent. That is voiced in Section 4 of the dash 3 amendments.

TAPE 142, SIDE B

14CRAVEN:

>Section 6 asks DEQ to establish an accounting system and section 7 requires DEQ to present an evaluation report to the Legislature on this new program.

>Will be extensive rule making at the federal level about industrial control technology. As those rules are handed down, true costs of implementing the Act to states are going to boil down to the costs of implementing control technology required by the federal government, in addition to any state fees required for DEQ to run its program.

>The AEA doesn't have a firm position on the amount of the interim fee. That question still needs to be resolved, however, either in this committee or in Ways and Means.

>The AEA added a subsection in Section 13 to establish a task force on motor vehicle emissions. That provision doesn't go nearly as far as the original version of the Senate's Air Bill, but there ought to be something in HB 2175 addressing auto emissions.

>Electronics firms in the Portland metro area compete directly with auto emissions for space in the metro air shed.

>All stakeholders in this debate need to be involved in discussion on how to deal with auto emissions.

57CHAIR PARKINSON: There are a half a dozen non-attainment areas statewide. Why have you singled out the metro area?

64CRAVEN: The original bill singled out the problem in the metro area, and that's what we're trying to do here.

69REP. BURTON: What's the date for implementation in Section 13?

76CRAVEN: Been asked by DEQ to change the word "implementation" to say "the task force shall identify short-term approaches, including enhanced stage-two vaporage."

79REP. BURTON: So are you saying you're not recommending implementation? Is there going to another two-year study until next session?

82CRAVEN: The department is currently adopting stage-two vapor recovery rules. The language the AEA is proposing in Section 13 is that the state look at moving to an enhanced stage-two vapor recovery.

86REP. BURTON: Understand movement away from original bill, but this doesn't do anything. "We're going to hammer industry and the guy with the woodstove, and we're going to study cars. I really hope we'll discuss something a little more focused than just what I see here -- which is nothing."

99REP. NAITO: Concerned that this proposed language might undermine the departments efforts to adopt stage-two vapor recovery rules.

103 CRAVEN: Believe the language your are referring to is tied to the Title V permit program for industrial sources under the federal Act. The AEA doesn't intend to dilute language on any other clean air issue that the department is pursuing. With respect to Rep. Burton's comments, the electronics industry appreciates the challenge motor vehicles pose. We've submitted language so that there is something to address this issue in this bill. Willing to join those who would prefer tougher regulation of motor vehicle emissions. AEA's language is being presented as a substitute for language the DEQ may present this committee which calls for the Environmental Quality Commission and Metro to meet during the legislative interim to decide fees that would be implemented on their initiative. Unacceptable for this Legislature to delegate such a decision to Metro.

127 REP. BURTON: Will attempt to develop concepts for this section. Also, while the metro- Portland area is has the most substantial auto emissions concerns because of the volume of vehicles in the area, it is not the only area of concern in the state, so there should be an even-handed approach to auto emissions statewide.

132 CHAIR PARKINSON: So many of the electronics industry's problems could be solved if the industry diversified and relocated outside of the metro area.

136 MORRISON: Pulp and paper industry in this state is most visible with respect to fee provisions of this bill. It is also the most heavily regulated industry in this state. The industry is willing to pay all reasonable fees and services provided. Congress has spoken, however, and, as Rep. Burton noted earlier, industry was out lobbied there. If industry pays the \$25 per ton mandated fee, it "will be grossly subsidizing the DEQ program." Not willing to pay more than \$25 per ton. Willing to talk about reasonable ramp-up cost and start-up funding.

174 CHAIR PARKINSON: Breaks at 2:50. Reconvenes at 3:05. Calls DEQ.

179 FRED HANSEN, DEQ: Outlines areas of concern.

>Important for state to be able to operate this program at a minimum, but professional, level that protects air quality in Oregon.

>Those who are required to pay these emission fees are paying for the service of protecting and improving Oregon's air quality. This is not a

payment of fees for services on a one-for-one basis.

225 REP. NORRIS: If this fee is not paying for a service, what is it paying for -- investigation and enforcement?

230 HANSEN: These fees are to fund a program that has development of standards, enforcement, inspection and permitting elements. The purpose of the program is to address the broader issue of air quality, not to be a fee for a service.

235 REP. NORRIS: "So it's essentially a police function?"

238 HANSEN: "As a regulator, that is what we do."

240 REP. VANLEEUEWEN: As a police function, does the department fine polluters without trying to help them reduce emissions first?

243 HANSEN: Some violations require immediate actions because of the threat they pose to the public and the environment. This program, however, is aimed at small businesses, and contains provisions for technical assistance to small businesses to ensure that they know how to comply with this legislation.

262 STEVE GREENWOOD, DEQ: Working with industry group to draft minimum requirements with the federal Act. Want to insure requirements are met and that proposal is workable. Have worked out language addressing most issues. Still four major issues remaining:

>Disagreement about what size and scope of permanent funding under Section 5 (3) should be. Language in the dash 3 amendment calls for a \$25 per ton fee on actual industrial emissions. The department had proposed that there be a \$25 per ton industrial fee, or whatever is required to meet federal requirements. The problem is that the DEQ doesn't have all of the guidelines yet from the EPA.

295 REP. WHITTY: "What do you want? A blank check?"

298 GREENWOOD: Recognize industry concern about issuing a blank check, but want enough of a check that can comply with federal requirements.

302 REP. WHITTY: Who's going to police DEQ to make sure DEQ is doing this in the most efficient way? That's Ways and Means' job, and they don't have time.

313 GREENWOOD: Have proposed language to give industry security to ensure that DEQ is not given a blank check. Have proposed \$25 per ton fee with conditions that the fee could exceed \$25 if necessary to run the program if other state or federal funding is not available for the Title V program, and then the fee could only be increased to fund the loss of the 1991 subsidy from state and federal sources. DEQ already has funding sources besides permitting fees to pay for the industrial regulatory program. DEQ interprets the federal Act to prohibit the department from tapping these other sources.

338 CHAIR PARKINSON: Appears chances are slim that DEQ will collect the \$25 fee before the next Legislature convenes.

345 GREENWOOD: True, but we're talking about the permanent funding. Interim funding is another issue.

348 CHAIR PARKINSON: Does this fee address the permitting fee?

353 GREENWOOD: The proposed amendments eliminate present permitting fee when new permanent funding becomes effective.

372 GREENWOOD: The second condition under which the EQC could approve a fee exceeding the \$25 per ton is if the program that would be funded by the \$25 per ton fee was not approved by the EPA, or if annual emissions result in collection of revenue below that needed to fund the program approved by the EPA.

TAPE 143, SIDE A

05REP. WHITTY: When does this program have to be in place? If we get a bill out this session, what steps is the department going to take to determine if the fee is consistent with the scope of the program?

07GREENWOOD: Remember, this proposal distinguishes between interim and permanent funding. Expect to get final guidance from the EPA by November on what will be required to implement Title V of the federal Act.

30HANSEN: The lack of federal guidelines at this time forces the department and industry to predict what requirements will be handed down by the EPA, and, therefore, what resources will be required to operate the program once it is defined. The department and industry simply have different predictions about what the federal guidelines are going to look like. One thing that is known is that the program developed to comply with federal mandates must be funded through this industrial emission fee.

50REP. WHITTY: The problem with including an emission fee in this measure that is chiseled in stone is that we don't know what level of federal funding will be available.

53GREENWOOD: That statement is there because we disagree with industry on that requirement. The department believes it will not be able to use other sources of funding.

59REP. WATT: Is the \$25 per ton fee on actual emissions, with the CPI adjustment, enough to fund the industrial permit program?

65HANSEN: No.

67REP. WATT: With that in mind, if this Legislature determines that it is, how will that affect submission of this program to the EPA?

72HANSEN: Submission of this program would be after the 1993 legislative session. If the DEQ found, after receiving all requirements, that it could not submit an approval program given the level of approved funding, the department would revisit this legislation during the 1993 session. If a specific fee is included in this legislation, there needs to be language that protects industry against the writing of a blank check that they would have to pay.

106 GREENWOOD: The second issue on which the department and industry still disagree is interim funding. Industry has proposed \$5 per ton on actual industrial emissions during the legislative interim, and the department estimates a one-time, one calendar-year, \$17 per ton interim fee on permitted emissions is needed to support the program.

120 CHAIR PARKINSON: Does industry have actual emission figures?

122 WENDY SIMMS, DEQ: Yes. DEQ data indicates that the sources that would be covered by this interim fee would emit about 54,000 tons per year of the regulated pollutants.

130 GREENWOOD: The third unresolved issue has to do with enforcement authority. The federal requirements still are unknown. Putting criminal enforcement authority into this bill has impacts on criminal statutes and law enforcement authorities that have not been considered adequately to date. Consequently, the department believes it is better to postpone decisions on criminal enforcement authority until the 1993 session.

142 REP. NORRIS: Are you suggesting Section 14 should be removed from the bill?

145 GREENWOOD: Yes. Finally, the department's last concern is related to the automatic default of challenged permits to the federal government. The department has discussed that with the EPA, and has a letter indicating that this provision would not meet federal mandates, and that if that section is included, the proposal would be rejected. Additionally, the EPA recently has come out with additional requirements on wood heating, including some of the provisions in HB 2175.

173 REP. VANLEEUEWEN: Notice in the dash 3 amendments that the cord-wood fee has grown from \$3 to \$7 per cord.

177 JOHN KOWALCZYK, DEQ: The minimum Clean Air Act bill needs to have some woodstove provisions, in addition to industrial provisions. Section 189A1C of the new Act requires reasonable available control measures be applied to woodstoves, and the department has received final guidance from the EPA about what that entails. Have met with woodstove players to develop minimum woodstove provisions. Woodstove requirements include programs that accelerate conversion of non-certified stoves to certified stoves and discourage free firewood. The Act also requires adequately funded local public education and curtailment. These basic provisions have been incorporated into the dash 3 amendments.

217 REP. WHITTY: It's obvious that the department worked with the woodstove industry to develop Section 10a. Should have gone out in the boonies and knocked on doors instead of talking to people who build stoves.

234 KOWALCZYK: These provisions may look beneficial only to the woodstove industry, but the department believes they are beneficial to all parties involved. This will clean up the air and encourage conversion to certified woodstoves. With respect to Rep. VanLeeuwen's earlier question, the department initially had proposed an environmentally weighted emission fee depending on the health hazard potential of various pollutants. The industrial emission fee in the dash 3 amendments is based on a flat \$25 per ton fee on all pollutants. Carrying this concept over to woodstoves translates to a \$7 fee per cord of wood instead of the \$3 or \$4 per cord mentioned previously.

257 REP. REPINE: Under the logic on page 9, line 14, maybe we should include by 1995 the weatherization improvement of all single family dwellings.

265 KOWALCZYK: Goes beyond air quality.

270 REP. REPINE: Then why is weatherization in this funding mechanism in the first place?

272 KOWALCZYK: Weatherization tends to reduce emissions.

274 REP. REPINE: Following that logic, could mandate improvement of weatherization of homes upon sale of homes.

276 KOWALCZYK: Trying to relate this just to wood-heated homes. Weatherization, in conjunction with replacement of non-certified woodstoves, is very cost-effective.

278 REP. REPINE: Could add language, then, that if a woodstove is subject to removal, then the house structure housing it could be weatherized at the same time.

279 KOWALCZYK: That would be appropriate.

280 REP. VANLEEUEWEN: By your calculations, burning three cords of wood would generate a ton of particulate pollution?

283 KOWALCZYK: That would be all kinds of pollutants, not just particulates.

286 GREENWOOD: Correct, though, that burning three cords of wood in a woodstove would generate a total of one ton of pollution.

328 REP. REPINE: Never seem to address fire places. They were around long before wood stoves. Would be appropriate to include in woodstove section.

335 KOWALCZYK: Fireplaces are only very small part of wood burning pollutants, and removing fire places would be very difficult.

350 REP. WATT: Confused because testimony suggests that burning a cord of wood in a woodstove generates a different amount of pollution than burning a cord of wood in a fire place.

355 HANSEN: Very little wood burned in fire places, and fire places burn hotter and cleaner than woodstoves.

370 CHAIR PARKINSON: Directs the department to broaden participation in woodstove discussions.

386 HANSEN: This committee has asked for a minimum program, but the department remains interested in addressing a broader range of pollution sources through a more comprehensive program.

390 JULIE SEMINARA, JUNIOR HIGH STUDENT: Testifies in support of the original measure. (EXHIBIT I)

>Passage would benefit the "Oregon Society", which outweighs the acknowledged expense of the measure to business and industry.

>Fear without control measures, pollution will become so bad that children won't be able to play outside.

>Pollution affects everyone, whether they pay taxes or not.

TAPE 144, SIDE A

25CHAIR PARKINSON: Closes public hearing on HB 2175.

27MOTION:REP. WHITTY moves to suspend the rules to reconsider the motion by which HB 2246 was sent to the floor.

30CHAIR PARKINSON: Instead of going to the floor, this bill should have been sent to Ways and Means.

32VOTE:In a roll call vote, the motion carries, with all members voting AYE.

WORK SESSION - HB 2246

38MOTION:REP. WHITTY moves HB 2246 as amended to the Committee on Ways and Means.

43VOTE:In a roll call vote, the motion carries, with Rep. Courtney voting NAY.

45CHAIR PARKINSON: Closes the work session on HB 2246 and opens a work session on HB 325 7.

(Tape 144, Side A) WORK SESSION - HB 3257 Witnesses:Judge Laura Pryor, Gilliam County Bob Danko, DEQ

55JUDGE LAURA PRYOR, GILLIAM COUNTY: Explains the bill, which is intended to streamline the process for closure of solid-waste disposal sites. (EXHIBIT L)

95CHAIR PARKINSON: Does the county have to provide financial assurance?

97PRYOR: Yes.

98CHAIR PARKINSON: Thought government was excluded from that requirement.

100 PRYOR: This measure just refers to closure.

105 CHAIR PARKINSON: Is there another section of law pertaining to private disposal site operators?

109 PRYOR: The issue on the timelines is that the agency can't meet them. We're asking that reasonable timeline be put into agency administrative rules and statute.

127 REP. VANLEEUEWEN: Are you referring specifically to municipal landfills?

132 PRYOR: There's no difference between municipal landfills and other landfills.

135 BOB DANKO, DEQ: Not an expert on financial assurance. Assume that local government also had to provide financial assurance, but that they have more options to provide that assurance than private operators. Believe both public and private operators have to show financial assurance for closure.

140 CHAIR PARKINSON: What's the alternative to closure?

144 DANKO: Present closure and financial assurance language in statute was part of a consensus recycling and solid waste bill passed in 1983. The EQC adopted rule implementing that measure in 1984. Existing statute says that when present permittees get within 5 years of closure have to begin the closure process. The way that statute works is that the permittee applies to amend the existing permit to make it an existing and closure permit. The existing statutory language and rules are OK, but DEQ can't turn around closure plans as fast as it should. In 1989, the department was taking an average of 14 months turnaround. That's down to 8 months, but the number of applications, and work load, has increased. The answer is not to adjust current law; the answer is for DEQ to do a better job under the current system.

182 PRYOR: Granted DEQ has backlogs and problems, but while DEQ may be short staffed, we in the counties have fewer people.

211 REP. BURTON: Is Section 2 all new language?

213 DANKO: Yes.

215 REP. BURTON: Has it taken 17 months to approve financial assurance plans after issuance of the closure permit?

233 DANKO: The closure permit is an amendment to a permittee's operating permit. There are three things included in the amendment to the operating permit: a closure plan, a financial assurance plan, and post-closure care. The long turnaround time to process closure applications is from the beginning of the renewal of a permit to include closure all the way through to the end of the closure process.

271 REP. COURTNEY: Under law, how long does DEQ have to process a permit?

276 DANKO: Current law calls for 60 day turnaround, but that's simply impossible.

282 REP. COURTNEY: So will that time be changed?

284 DANKO: Not our intention to change it.

295 REP. NORRIS: Did your county ask for this bill?

298 PRYOR: Yes. And it's not just Gilliam County that needs this.

306 CHAIR PARKINSON: Closes public hearing on 3257 and opens public hearing on HB 2227.

(Tape 144, Side A) PUBLIC HEARING - HB 2227 Witnesses: Norm Meyers, Public Utilities Commission Diana Godwin, Oregon Sanitary Services Institute John Anderson, PUC Richard Kosesan, Therm Tec Steve Yocum, Therm Tec Loretta Scott, Northwest Environmental Corporation

330 NORM MEYERS, PUBLIC UTILITY COMMISSION: Testifies in support of the measure, and amendments that would enable the PUC to move away from regulating rates and entry for franchised solid waste haulers.

>Cities and counties already regulate solid waste haulers, so PUC

regulation is redundant.

341 CHAIR PARKINSON: Did the PUC have this bill drafted?

343 MEYERS: Yes.

345 DIANA GODWIN, OREGON SANITARY SERVICE INSTITUTE: Proposes amendments (EXHIBIT N)

>Have been working for months with franchised haulers to get clarification on PUC regulation and to "surgically remove" PUC from job of regulating franchised solid waste haulers, while retaining safety, insurance, and weight-mile tax requirements.

TAPE 143, SIDE B

05CHAIR PARKINSON: Doesn't this have something to do with medical waste?

08MEYERS: Yes. Solid waste does include medical and infectious wastes. Believe these amendments would get the PUC out of regulating transportation of medical waste and solve many problems with this bill.

18JOHN ANDERSON, PUC ATTORNEY: This bill is intended to maintain the status quo for the PUC, which historically has not regulated franchised solid waste haulers. Clarifies that solid waste haulers are exempt from ORS Chapter 767, except with respect to safety, insurance and taxes.

34REP. BURTON: Does the PUC regulate non-franchised solid waste haulers?

36MEYERS: No, because they are considered to be private carriers, and, therefore, they are not subject to rates and entry regulation. Private carriers that haul hazardous wastes, however, are regulated by the PUC.

60RICHARD KOESAN, THERM TEC: Therm Tec disposes of medical wastes. Should allow generators of medical waste to choose disposal method they prefer.

84REP. VANLEEUEWEN: Where are medical waste currently disposed of?

86STEVE YOCUM, THERM TEC: Most medical waste is incinerated. Other options include steam sterilization autoclaving. Most of the state is under franchise, and people in franchised areas aren't given service options, so prices tend to be higher.

104 LORETTA SCOTT, NORTHWEST ENVIRONMENTAL CORP.: Testifies in opposition to the measure. (EXHIBIT O)

>Many companies like NVEC founded on PUC guidelines and principles, but now can't make progress in free enterprise system because effectively shut out by franchise haulers operating in counties.

128 REP. NAITO: How are you helped now by PUC regulations governing common carriers?

132 SCOTT: Not being supported by the PUC at all now. Were supported in our efforts to become authorized as a common carrier, but have not received any relief or enforcement in the common carrier versus private carrier issue. The Attorney General's office ultimately will be

deciding this issue, so right now we're in a holding pattern and can't go forward.

143 REP. NORRIS: Prior to award of franchise, isn't there a competitive bid process?

147 SCOTT: These franchises have been in existence for many years. They are not being issued now.

149 KOSESAN: Our intention isn't to address solid waste issues, but rather to begin to address medical waste specifically.

155 YOCUM: Neither Therm Tec nor Northwest Environmental deal in solid waste. We only deal with the specialized service of medical waste disposal, so it would be ineffective for everyone for companies like ours to compete for municipal franchise contracts.

161 CHAIR PARKINSON: Committee will need more information on this measure. Closes public hearing on HB 2227 and adjourns committee at 4:30.

Submitted by: Reviewed by:

Andy Sloop Kathryn VanNatta Committee Assistant Committee
Administrator

EXHIBIT LOG:

A -Status Report on HB 2246 - Committee Staff - 1 page B -Dash 11
Amendments to HB 2246 - Environment and Energy Committee - 16 pages
C -Dash 13 Amendments to HB 2246 - Environment and Energy Committee -
1 page D-Financial Summary of Tire Fee Extension Scenarios -
Department of Environmental Quality - 1 page E -Fiscal Impact
Analysis of HB 2246-11 Amendments - Legislative Fiscal Office - 2 pages
F -Dash 3 Amendments to HB 2175 - Northwest Pulp and Paper
Association and Associated Oregon Industries - 20 pages G -Section
Analysis of HB 2175-3 Amendments - Committee Staff - 3 pages
H -Revenue Impact Analysis of HB 2175 - Legislative Revenue Office -
2 pages I -Testimony on HB 2175 - Julie Seminara - 1 page
J -"Incorporation of New Science into Risk Assessment", Science
Magazine, December 14, 1990 - 1 page K -Testimony on HB 2175 -
Christine Walsh, U.S. Forest Service - 4 pages L-Staff Measure
Summary of HB 3257 - Committee Staff - 1 page M -Notices of No
Revenue or Fiscal Impact of HB 2227 - Legislative Revenue and Fiscal
Office - 1 page N -Proposed Amendments to HB 2227 - Diana Godwin,
Oregon Sanitary Services Institute - 2 page O -Testimony on HB 2227 -
Loretta Scott, Northwest Environmental Corp. - 3 pages