

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

May 15, 1991Hearing Room E 1:15 p.m.Tapes 163 - 163

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

MEMBER EXCUSED: ?Sen./Rep. Name

VISITING MEMBER:?Sen./Rep. Name

PRESENT: Kathryn VanNatta, Committee Administrator Andy Sloop, Committee Assistant ?Name, Legislative Counsel

MEASURES CONSIDERED: HB 3570 (WRK) HB 2175 (WRK) HB 2087 (WRK) SB 1030 (WRK) HB 3074 (WRK) HB 2702 (WRK)

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TAPE 166, SIDE A

06CHAIR PARKINSON: Calls the meeting to order at 1:22 p.m. Representative Whitty not present and excused.

WORK SESSION - HB 3570 Witnesses:???????

10?????

?????

80par: Let's zero in on the dash 8 amendments. ????

(whi: arrives 1:32)

92van: You are hoping to delete lines 15-17 on page 18 and to insert

98par: ???

100 FRED VANNATTA, OREGON STATE HOMEBUILDERS ASSOCIATION: Proposes amendments ??????

??????

BURTON WEAST, METRO:

260 par: Is it correct to say you are amending your own proposal?

265 wea: Yes. Believe not changing anything substantively

????

TAPE 167, SIDE A

216 DOUGLAS MORRISON, NW PULP AND PAPER ASSOCIATION: ????

222 wat: Do we need a definition of a "non-exceedence area"?

225 mor: ????

228 ANDY GINSBURG, DEQ: That section is only relevant ????

237 mor: Continues explanation of changes in dash ???? amendments. Made an additional change in line 22, page 1 of dash 17 amendments. ????

300 cou: ????

311 mor: ??? Instead of "air contaminant" rather use "pollutant" because more consistent with Clean Air Act.

334 mor: Continues explanation of dash 17 amendments.

>DEQ signed onto all housekeeping changes from page 6 to end of amendments.

354 nai: So stationary source insertion/deletion and amount of fees are major differences between dash 17 and ?????

362 mor: ?????

365 bur: You say you have amendm ???

372 mor: Have not modified Section 14 in dash 17 amendments.

383 par: Invites DEQ to address dash 17 amendments.

387 STEVE GREENWOOD, DEQ: Addresses conflict on dash 17 amendments.

>Page 1, line 21: Advocates retaining word "stationary" because deletion would place burden on DEQ to ?????

408 bur: Would an air toxic be field burning, auto emissions, etc. or are we talking about something we haven't addressed yet?

421 gre: Talking about legal distinction pertaining to specifics in the federal Clean Air Act.

TAPE 167, SIDE B

15gre: We are talking about stationary sources?

17bur: To me that means something that doesn't move.

19gre: Right.

21bur: So why ?????

????

39WENDY SIMMS, DEQ: There are certain kinds of industrial stationary sources that do move.

47whi: What this section does is limit authority.

50gre: ????

53whi: ???

58gre: If leave the word "stationary" in, limits ????

60whi: ?????

72mor: If say "major stationary source" than DEQ doesn't have authority to implement Title V and the program might be rejected by EPA.

80par: ????

85mor: We are dealing with intricacies and vagueries of a poorly drafted legal document.

????

99sim: DEQ doesn't have same interpretation of that language as you just heard from mor: ??? major toxic sources under the Act, and DEQ has yet to identify those sources. Have to identify those sources before submitting this program to the EPA. Can't propose fee until have identified who would pay it. With respect to limiting authority, EPA would not disapprove a program because it has broader authority than required under the Act.

129 par: ????

131 sim: Yes.

133 cou: Where did the phrase "major stationary sources" come from.

135 sim: Directly from the Act.

137 cou: So your lawyers are telling you what that term means?

139 sim: ?????

142 cou: ???? If your amendments are adopted, not sure if limitation you are talking about would apply.

152 gre: In that case, that language would determine who was assessed the fee.

156 nai: What I'm hearing is talk about an implementation problem on

your part that would have to be worked out in the interim or during the next session. ?? rather than rehash next session?

165 gre: mor: and I agreed that while there was implementation issue, we don't have major substantive differences.

174 whi: ?????

180 gre: No.

184 gre: Department more or less agrees with technical amendments in dash 17, except for 2, 3, 4 (line 9-17). Still have not come to agreement with industry workgroup on those points.

200 nor: Is this "stationary" source language referred to in the Clean Air Act. "What kind of a monster are we talking about?"

210 gre: ????

???

223 gre: Yes. The department's concern is that page 2, lines 9 and 11 of the dash 17 amendments, you will see that the fees have to be paid by "major sources" not "major stationary sources" and we haven't identified all major sources.

235 wat: If "stationary" is so important, why aren't "area" sources also as important?

349 gre: When look at who will pay fees, dash 17 would require payment by polluters the DEQ hasn't identified.

260 par: Could you give some examples of "major stationary sources"?

264 sim: Major solvent dry cleaning operations or paint shops.

280 mor: Page 2, dash 17: Can we amend these here and now?

287 par: Reluctant if substantial.

289 mor: Proposes language ????? Excludes from interim fee, toxic sources that DEQ doesn't know about.

298 nor: ????

301 mor: Believe covered by rule ?????

306 whi: Any other changes mor:?

309 mor: That's it.

310 whi: Moves dash 17 with mor: amendments.

325 bur: Does the DEQ already permit and regulate toxic sources that say haven't been identified?

????

343 bur: Would whi: amendment ?????

354 par: This proposed amendment does address your concern?

356 gre: yes.

362 whi: Restates motion with friendly amendments.

399 van: The DEQ objected to dash 17 fees, what would they have preferred there?

410 gre: The amendment just proposed does resolve conflict over word "stationar" but not over fees. ????? \$13 per ton on permitted emissions.

TAPE 167, SIDE B

05van: Don't understand how amendment to dash 17 resolves "stationary"issue.

15sim: In almost all cases, major sources are part of current permit program and would pay fees under existing DEQ program.

22gre: ??????

28nai: ?????

39gre: That's correct.

41bur: The battle is over who is going to pay ramp up cost.

45gre: Wouldn't put it that way. Friendly amendments allow DEQ to implement the bill more smoothly.

????

53whi: It's in industries interest to ????

55mor: ?????

63cou: ?????

66par: The only thing they've agreed on is the word "stationary".

87bur: Questions blanks in dash 17 ????

92vanatta: ??????

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

124 par: Entertains discussion on dash 12 amendments.

127 gre: Key point here is size of interim fee. We are proposing \$13 per ton in dash 12.

139 nai: Could you go through dash 12 where it differs from dash 17?

144 vannatta: Those amendments only differ in Sections 1, 2, 3, 4, 5, and 14 of dash 6 base amendments. Dash 12 delete criminal penalties from dash 6 while dash 17 leave criminal penalties in modified form.

182 par: van: would like elaboration on differneces in Section 7.

187 vannatta: Could the DEQ highlight major differences between the dash 12 and dash 17 amendments.

200 ????

215 gre: ????

20van: ????

228 gre: In dash 12, we are proposing changes so our authority is not limited by the Clean Air Act.

239 par: Calls for break at 3:10 and reconvenes at 3:20.

341 gre: ?????

356 cou: Moves dash 12 amendments.

358 van: ????

????

286 rep: You're proposing a \$13 per ton interim fee and the original proposal called for a \$5 per ton fee ?????

297 gre: That would be one time during the 1991-93 biennium and then again during the first year of the following biennium.

302 rep: ??? Assuming a calendar year is for

312 par: That's in the dash 17 amendments we just adopted.

????

352 nor: We adopted the dash 17, which do ??, and now we're considering adopted dash 12 which do ???. If we adopt these

????

378 cou: Moves sections 2 and 4 of dash 12 ??????

400 van: Question on differences between dash 17 and dash 12 and between sections 2 and 4 the cou: proposing.

TAPE 168, SIDE A

02par: ????

07cou: ?????

28par: fails 3-6, with burton, naito and courtney voting aye.

WOODSTOVES

????

47vannatta: Dash 11 amendments change subsection references from dash 6 amends.

54JOHN KOWLYC, DEQ:

60par: Entertains motion on dash 11

???? pass 5-4

81rep: moves ????????

????? vannatta: 98rep: motion to dash 11 ?????? from semi colon on line 5, page and deleting lines 6-8.

113 vannatta: Restates motion for clarification.

124 rep: Questions definition on lines 8a and 8b ?????? Amends motion to include line 8a-8g on page 7e of dash 11 hand-engrossed.

134 vannatta: restates amendmed motion for clarity.

186 par: Breaks and reconvenes at 3:50.

191 rep: Withdraws motion and requests rules be suspended to reconsider vote by which

????

394 whi: moves deletion page 7, line 6-8 of dash 6 amends.

407 wat: also need to delete ; on end of line 5

409 whi: accepts riendly amendments.

TAPE 169, SIDE A

02cou: What is your intention?

04????

20par: Entertains discussion of dash 7 amendments on ethanol fuels.

26PAUL COSGROVE: This proposal can make immediate and significant improvements in air quality, especially carbon monoxide emissions.

37bur: Moves dash 7 amendments.

43vannatta: Haven't adopted amendments yet that would create another 13a. ?????

49par: ?????

55van: In dash 6 amendments, section 13, line 4, page 11, there ??????

69par: ?????

72DELL ISHAM: This amendment would give a significant break to gashole and threaten the Highway Fund. Issue alternative fuels is being addressed in other committees.

84whi: If everybody in Oregon had to use this fuel, how much would it reduce emissions? "???" "??We've got a chance to cut emissions by one thrid in one fell swoop."

93van: ????

95ish: Present gas tax is 20 cents, and each cent is worth ????. This fuel is already exempt from federal gas tax.

103 nor: ?????

111 cos: Yes, temporarily, until ethanol gains market viability ????

118 rep: Is the anniversary date based on some kind of amortization?

120 cos: yes. ???

124 par: The chair is in a bit of a quandry about where this bill should go if it is adopted. Recesses and reconvenes at 4:25

130 whi: ?????

140 par: ????

vote on dash 7 passes 9-0

163 par: Entertains discussion on dash 10 amendments.

181 DENNY MOORE, DOT: Three issues have arisen since this originally proposed: fee structure too complex, should be shortened and reduced ??????

????

231 par: Do we delete line 13?

233 moo: Yes. Then 14 would say: "????? Delete item E in its entirety. (252) ????"

258 van: So this would be an annual permit fee and this would double license fee?

264 moo: Yes. ????. The state Transportation Commission is well represented by rural interests. Highest priority under this program would be to get newer and cleaner equipment on the road. This agency has put premium on serving smaller communities first, figuring larger communities can meet their needs OK.

309 van: How would these funds to DEQ be used?

318 moo: ????

345 moo: Fund in place now that would receive this money ?????

353 rep: Line 16 of dash 10 proposes attaching this fee to the CPI. Are we kidding ourselves with this kind of language, knowing that someone will come back to the Legislature in time to raise that fee?

393 moo: This is fairly routine, but if want to lock in fees so they can't increase without a needs study, could do.

TAPE 168, SIDE B

01bur: ????

???

05moo: Part if goes out onbasis of population and part ?????

09bur: Assume you're not saying this would exclude other parts of the state from applying for those funds?

14moo: ????

19kow: Need to raise awareness of drivers that they are using the air shed and that they should expect to pay for it.

26wat: What's in Transit and Acquisition Fund now?

28moo: Nothing. Approved last sesssion and expected to get video pocker money.

33wat: ?????

????

41nor: On page 3, line 13, do we mean "if proceeds are insufficient"?

61lish: Reads article 9, section 3 (a) of Oregon Constitution that says, in effect, that any moneys levied on motor vehicles shall be used for road development and maintenance.

72bur: The fee is onemissions, not vehicles.

75ish: This would be a good time to get a legal opinion.

76bur: ????

80par: Entertains a motion on the dash 10.

82bur: moves dash 10 amendments, changing: section 8(c), line 11 ????

99vannatta: restates motion: ????

125 nai: These are good amendments, but prefer dash 15 from Oregon Enviromental Council. Concerned that dash 10 might be at odds with dash 15.

130 par: If we get into that fix, we'll have LC iron out.

133 rep: Going to vote against because this could ?????

158 par: Entertains discussion on dash 13 amendments.

160 vannatta: Explains dash 13 amendments. ????

166 rep: Haven't we already established another section 13a?

170 vannatta: Yes. So we would have to ???

175 GARY CONKLIN, TEKTRONIX: Participated in industry workgroup that developed dash 13. Intention to retain same participants on task force as prescribed under dash 6 amendments, which does not include Automobile

Association of Oregon. Reviews effect of amendment.

>Realization that Portland will be dealing with growing mobile source emission problems as the metro area grows.

?????

303 cou: Moves dash 13 amendments

306 rep: ???? Are you familiar with it, and if you are, are you creating a situation resembling one we've already labored over?

332 con: ??? Don't know if there is consensus in Portland area about what to do. Number of options including transit in suburban communities. There's nothing predetermined here. Idea is to create stakeholders, and to see if they can work out a consensus.

363 rep: Hate to see duplicate efforts.

372 con: What we are proposing here isn't being done by anyone else.

375 nor: ???????

384 nai: Preference is to deal with auto emissions on statewide basis, even though Portland does have unique problems and concerns.

401 wat: ?????

406 con: Unlikely that this will stop growth in use of cars. This is an attempt, however, to deal with mobile air pollution sources.

TAPE 169, SIDE B

12bur: makes friendly amends motion to include reps. from Automobile Association ????

dash 13 pass as amended 7-2, with par: and van: voting nay.

43par: Entertains discussion on dash 15 amendments.

45vannatta: Explains amendments. ????

56JOHN CHARLES, OREGON ENVIRONMENTAL COUNCIL: Explains motivation for the dash 15 amendments. Submits cross-cultural empirical evidence that demonstrates that user fees do change behavior and reducing pollution, if they are on a per unit basis and not a flat fee. That's what these amendments would do by assessing fees based on actual pollution, passage of inspection/maintenance program. Believe this will reduce pollution n a fair and equitable way, plus revenue would be shared around the state.

115 nai: moves dash 15 amendments.

120 vannatta: On page 1 of dash 15, line 6, inclusion of section 12a

???

138 nai: Amends motion ?????

dash 15 fail 5-4, with nai:, bur:, whi: and cou: voting nay.

155 par: Entertains discussion on dash 16 amendments.

160 vannatta: Explains amendments.

171 LIZ FRANKEL, SIERRA CLUB: Have there been any changes to section 14 of the dash 6s?

????

182 fra: ????? This would be sensible and enforceable. Section 15 (2) and (3) believe there are certain things that should be specified

????

216 nai: So you are referring to page 2, line 29?

221 fra: yes.

242 par: Entertains motion on dash 16 and suggests that potential conflicting sections in dash 16 and dash 6 be part of the motion.

250 vannatta: ???????

?????

255 fra: ?????

???

274 par: Asks vannatta for concise restatement of motion.

277 vannatta: Restates motion, including fra: revisions.

292 nai: Amends motion ??????? Not appropriate to add negligence as criminal penalty given that criminal penalties are new.

307 bur: ??????

310 vannatta: ?????

?????

353 nai: Going to vote against the motion ??????

???????

02passes 6-3, with bur:, cou: and nai: voting nay.

04par: ??????

WORK SESSION - HB 2087

20VANNATTA: gives status report on the bill. ??????

40par: ?????

41vannatta: Yes. Continues status report.

48cou: moves dash 6 amendments.

50par: ????

62par: Invites testimony. Asks Dell Isham, NW Propane Gas Association if he's in support of dash 6 amendments.

68DELL ISHAM, NW PROPANE GAS ASSOCIATION: ????

72RALPH RODIA, STATE FIRE MARSHAL: Speaking on behalf of ????

>???

>Intend, by administrative rule, to exempt propane tanks used by schools and other public buildings from ????

>Opposed to dash 7 amendments.

94par: Requests written comments for the record.

98van: What propane tanks would not be exempt under the dash 6 amendments?

101 rod: ????

????

106 nor: Correct that if two propane tanks sitting side by side at a service station ????

117 nor: Where does this bill lay out exemptions?

119 rod: ?????

124 nor: So there would still be a distinction, as far as billing, between propane derived from petroleum versus natural gas.

?????

140 par: restates motion ????

dash 6 pass 9-0

???

170 nor: mvoes that dash 6 aproved be further amended ?????

200 bur: Did the workgroup on this have consensus as to whether that provision should remain in here?

204 rod: ??? This simply clarifies what is or is not billable, not whether either is billable ???

216 ish: Purpose of subsection 5 is to clarify something that is very unclear now. Believe propane industry is not subject to this. ???
Deletion of sub 5 would return us to present law. There is a legal question here (235) ???

237 par: Did you ever agree to language on lines 14-16.

240 rep: Could you elaborate on distinction between types of propane so committee understand how this would provide greater equity?

245 rod: ????

267 nor: Amends his previous motion ??????

275 rod: If you did that, another thing would fall out. ????

288 nor: ??????

291 van: Wouldn't ethanol blends be compounded petroleum product?

300 rod: Yes.

303 nor: Withdraws his previous motion

309 van: ????

320 rod: If approved nor: original motion, it would put us back to present statute.

334 rep: Suspect ???, so Attorney General opinion only as good as ???

344 nor: moves dash 7 amendments, revising ????

361 par: Restates motion

376 nai: What would the effect of this motion be?

380 rod: ???? If exempt any product, fees would be potentially higher for all fee-paying people within the system.

395 ish: Present law has been effect for two years. First year, propane was exempt from these fees, and then the second year the Fire Marshal sent out fees. This issue needs to be clarified. ????

????

TAPE 171, SIDE A

15rep: ???

?????

35nor: If this read: "the ????"

39rod: Yes, that would limit it, but, if you did that, it would increase fees.

45rep: In light of fact that Departmet of Revenue would be tied into billing, submit that identificfation of billable payers would improve, so numbers of people in the fee system would increase to balance fee rates.

63nai: moves bill with dash 6 to floor

66par: Have promised to consider dash 7

68nai: Withdraws motion.

74par: Entertains motion on dash 6

76nor: Moves dash 6, revising by ?????

?????

fails 4-5, with whitty, burton, naito, and courtney voting nay.

110 ish: ?????

117 rod: That was one of the points we have been negotiating with the propane industry. ???

128 ish: The question was the Legislature's intent, not the Fire Marshal's intent.

???

134 ish: Present dash 7 amendments, which would be a safeguard on burgeoning fees by stipulating that any local fees would not duplicate Fire Marshal fees nor exceed state fees.

156 van: Is this totally new ?????

?????

171 ?????

185 cou: ??? Going to vote no because City of Salem is telling me it has problems with this.

204 ish: Does allow ?????

209 rep: ??????

224 ish: Think dash 7 language is tighter than in original bill. It's intended to.

230 nai: Concur with rep: Concerned about use of word "supplemental". Don't see need ???

fails 1-7, with nor: voting aye and wh: absent.

260 rep: moves dash 6 with amendments.

265 rep: ????? We've created a new category of registration for hazardous materials, many of which are minimally hazardous. Concerned that municipalities might raise fees on minimally hazardous materials identified under this program.

340 whi: moves to floor with do pass.

?????

passes 8-1, with nor: voting nay.

385 rep: ???

410 par: Closes work session on HB 2087 and opens work session on SB 1030.

422 cou: moves to floor with do pass.

425 par: Inprocess of considering dash 2 amendments

????

TAPE 170, SIDE B

?????

dash 2 pass unanimously

adjourns at 6:38