

Senate Committee on Agriculture and Natural Resources February 15, 1991  
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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.

SENATE COMMITTEE ON AGRICULTURE AND NATURAL RESOURCES

February 15, 1991 Hearing Room C 8:00 a.m. Tapes 43 - 46

MEMBERS PRESENT: Sen. Dick Springer Sen. Joyce Cohen, Vice-Chair  
Sen. John Brenneman Sen. Shirley Gold Sen. Bob Kintigh Sen. Tricia  
Smith Sen. Eugene Timms

VISITING MEMBER: Sen. Bill Bradbury

STAFF PRESENT: Peter Green, Committee Administrator Chris Beck,  
Research Associate Angela Muñiz, Committee Assistant

MEASURES HEARD: SB 500 - OCEAN COMPACT - PH SB 496 - OCEAN DATA -  
PH SB 185 - ASB ESTOS - PH, WS SB 184 - ENVIRONMENTAL PENALTIES - PH, WS  
SB 259 - ENVIRONMENTAL PENALTIES - PH, WS

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TAPE 43, SIDE A

003 VICE CHAIR COHEN: Calls the meeting to order at 8:15 a.m.

SB 500 - OCEAN COMPACT - PUBLIC HEARING: Witnesses: Sen. Bill Bradbury

007 SEN. BILL BRADBURY: Presents testimony on SB 500 (EXHIBIT A).

128 SEN. COHEN: If you have a uniform rule in the compact does that nullify the need to move ahead with oil spill legislation with the details of prevention?

SEN. BRADBURY: The one specific area of vessels submitting contingency plans for spills would be superceded by the compact. The need for each state to have a spill response capability in place will still exist. The compact would ensure a coordinated network of oil and hazardous substance spill response plans. The compact doesn't draw up those plans. It simply has the responsibility to make sure the plans make sense when you put the plans next to each other.

SEN. COHEN: Say one port has a problem specific to that area, would the compact have the ability to change the plan for the problem developed by

the port?

169 SEN. BRADBURY: Doesn't want to say yes or no. The authority of the compact is to create uniform standards for routes, crews and equipment. That does not speak to specific needs that rivers or bays may have. Will have different traffic and safety systems in different ports. The compact wouldn't override the specific safety systems developed by the ports. It would try to bring some uniformity of what's expected from a vessel region-wide. Returns to written testimony (EXHIBIT A).

327 SEN. KINTIGH: The compact is operative when one or more state endorses it. What happens when one state accepts it and the other rejects it? Is it bound to the compact? How would voting go if you only had one or two parties?

SEN. BRADBURY: It is written from the standpoint of Oregon. One other state and Oregon must ratify the compact. Two states could make it effective with the approval of Congress.

SEN. KINTIGH: Two could make it effective. Is it binding on the third or fourth state?

SEN. BRADBURY: It is only binding on the states that join the compact. Each state must voluntarily join.

365 SEN. TIMMS: Has a bill to form the Northwest Leadership Forum also. These things keep arising where we have to form another compact or group. It makes sense to figure out how to coordinate these multiple issues in a regional group. Also have the private organizations that are developing programs for handling spills. Are trying to cut costs but keep increasing the groups. What do you suggest to limit what we're doing?

SEN. BRADBURY: If the states want to assert a broader authority then they currently have they can lobby Congress or form a compact. A compact is delegation of authority from the state and federal government to the compact body, so it is a governing body.

SEN. TIMMS: Maybe that's what we should be doing with the other areas. We should have a compact relating to a variety of issues such as solid waste because the region would get more political clout.

440 SEN. BRADBURY: The political reality is that if you put together a compact like that Congress would not approve creating a region akin to a separate nation.

SEN. TIMMS: It would not allow a compact addressing a multitude of issues?

SEN. BRADBURY: No, it would not.

TAPE 44, SIDE A

008 SEN. GOLD: In regards to the solid waste commission: It was created by the Legislature to investigate the possibilities of developing a regional policy. Made a conscious decision not to seek a compact. Oregon is still trying to develop its own policy. There is a regional group that meets on hazardous wastes. If we are considering compacts, should go in that direction.

SEN. TIMMS: Hasn't seen a reduction in commissions, instead seem to create more. Need to figure out some way to consolidate.

SEN. GOLD: The Solid Waste Commission sunsets on June 30, 1991.

SEN. BRENNEMAN: In the circumstances of this compact would see duplication of membership with members of the Fisheries Task Force. Have had coordinated meetings with other groups, could do that here.

SEN. BRADBURY: Will get a clear answer to Sen. Cohen's question about how local port efforts relate to the compact.

051 CHAIR SPRINGER: The committee will take further public testimony on SB 500 at a later date.

SB 496 - OCEANOGRAPHIC DATA - PUBLIC HEARING: Witnesses: Sen. Bill Bradbury

SEN. BILL BRADBURY: The federal government has created a Center for Ocean Analysis and Prediction (COAP) to create a data depository. Goals: find data needs the states have and get the information to the states. Designates one agency within state government to act as the conduit to communicate with National Oceanic and Atmospheric Administration (NOAA).

CHAIR SPRINGER: What is the next step for Oregon now that we have an ocean resources plan for coastal zone management?

SEN. BRADBURY: There is a bill that would create an Ocean Policy Council to continue the work of the Ocean Resource Management Task Force. Need to develop a specific territorial sea plan. Also wants to get all state agencies working on ocean resource issues.

105 SEN. TIMMS: Is there a reason for using the Department of Land Conservation as the lead agency.

SEN. BRADBURY: The Department of Land Conservation and Development is currently the coordinator of the state's ocean planning effort. Are the lead agency because there is a lot more than minerals off shore. LCDC has expertise in planning and citizen involvement. Also they already have an Outer-Continental Shelf Coordinator and they are responsible for the Coastal Zone Management Plan.

CHAIR SPRINGER: Will return to both SB 500 and SB 496 at another hearing.

COMMITTEE INFORMATION - THE DEQ BUDGET:

145 KAY HUTCHISON, Legislative Fiscal: Has analyzed the major components of the Department of Environmental Quality's budget. Will speak about how big the budget is, how the programs are funded, funding sources, and the decision packages. Refers to charts in testimony (EXHIBIT B). The budget is \$329.8 million, but \$162 million is non-limited which goes for loans and bond payments. The real budget is \$168 million. The budget for operating programs is \$91.6 million composed of federal, general and other funds. There is a \$23 million increase, 34%, in this portion of the budget. \$15 million is for inflation and phase in of programs approved by the Legislature and increases in compensation due to bargaining agreements.

247 SEN. SMITH: Describe some of the roles of programs included in the \$15 million.

HUTCHISON: Many of these programs that are expanded are funded from other funds such as fees. Some of the programs phased in are a voluntary clean up program and a pretreatment and sludge program.

SEN. COHEN: The Legislature has done a lot with pay equity over the last 5 or 6 years. How much of that is in the personnel cost?

HUTCHISON: Doesn't have that information here. Gives more examples of phased in programs: the underground storage tank clean up program. Will be providing information about the decision packages that combine new programs or expansion of new programs before there is a work session on the budget. Moves back to pie charts in testimony (EXHIBIT B). General funds and other funds are increasing because federal funds remain static.

346 CHAIR SPRINGER: Could you give us some examples of the kinds of federal impact you're speaking to?

HUTCHISON: Was thinking of the new regulations on federal waste sites and hazardous waste requirements. The requirements have increased but federal funds are not provided for them.

PETER DALKE, Management Services Administrator, DEQ: The comprehensive air

emission fee bill submitted by the governor is not included in the DEQ budget although there are some increases for the program off the existing fee structure. Doesn't see new federal dollars coming to support the air program even with the Clean Air Act.

CHAIR SPRINGER: How many FTE's are assigned to the different program areas?

407 DALKE: There are roughly 25 to 30 major fees. Some are dedicated for programs such as the motor vehicle inspection program. Most of the fees are dedicated for programs. Other examples are the waste tire program, aSB estos fees and water fees.

SEN. BRENNEMAN: This budget has grown over the years because of new programs. People have gone out of business because of some of the programs. Could you provide the committee with a table showing federally mandated programs, where the money comes from, where it goes, state mandated programs and discretionary programs? State has so many fees, can't keep them separate.

TAPE 43, SIDE B

032 DALKE: Will provide that chart. Struggles with the complexity of the budget because of the number of fees the agency tracks. Could give the committee information about where the fees are found in the budget and where the federal programs are.

SEN. BRENNEMAN: Wishes the state had rejected the argument 'If we don't do it, they will.'

CHAIR SPRINGER: Welcome to the new federalism.

HUTCHISON: Continues explanation of DEQ budget. It eliminates one program - the noise pollution control program. Explains the funding strategy. Two parts: 1) to take \$9 million out of the base budget general fund. \$3 million was added back to use as backfill for the \$15 million of roll up costs. The other \$6 million went to other budgets in the system. The general fund match to federal dollars for the sewer construction program is gone. Can fund by finding general funds elsewhere, using lottery funds, or selling bonds. 2) Fee increases. There are 14 new fee increases raising about \$12 million. Developed a chart showing where those fees go (EXHIBIT B).

122 CHAIR SPRINGER: Regarding the sewer pump fee: Counties can't get new or replaced septic systems approved because they can't get DEQ representatives there to sign off on the inspection. The local government and counties do not want this responsibility. It falls on DEQ to check inspection and they don't have the staff to fill the need.

DALKE: The DEQ has worked closely with counties in delegating the operation of the program to the counties. A number of counties do not find it in their interest to operate the program because of costs. In those counties, DEQ operates the program. Would be raising fees to improve service and allows the counties that operate the program to increase their fees as well.

160 CHAIR SPRINGER: Not our job to become the Ways and Means Committee. How many FTE's do you have to perform this, how many requests they get and how much money you need?

DALKE: Don't have precise number of FTE's here.

SEN. BRENNEMAN: That would be good information to put with information asked for earlier.

CHAIR SPRINGER: Some answers might be found in the budget document, but it would take the committee hours to search through it.

HUTCHISON: The budget has been reconstructed into the program areas shown in testimony (EXHIBIT B). It will need to be reconstructed.

CHAIR SPRINGER: Please provide further information to staff. Are you asking for a doubling of the fee to handle the sewer program? Wants a rough estimate.

DALKE: The revenue from the fee would increase \$1.2 million to \$1.7 million. Are preparing a report for the Environmental Quality Commission describing the increases in the specific fees needed to generate that revenue.

206 SEN. TIMMS: Met with DEQ representatives who said if any cuts were made they would be made at the top, not at the field offices at the grassroots level. Is that correct?

DALKE: Yes, believes so.

SEN. TIMMS: So those people will remain in those field offices. You mentioned the \$60 million in federal money for sewer and water areas that you couldn't bond. Are we turning down a federal match of a 1 to 2 in regards to those projects?

HUTCHISON: The governor gives you a choice to sell bonds to provide matching money, a 1 to 5 match. Must find the money some way to get the money for the local communities. You can either get the bond sale authorized or find funds somewhere else.

SEN. TIMMS: So in the past we haven't been using the bonds?

255 HUTCHISON: Had enough flexibility last biennium to put in about \$9 million of general funds.

SEN. TIMMS: Sen. Cohen probably knows our bonding limitations and if we could do that.

HUTCHISON: Refers to testimony (EXHIBIT B).

CHAIR SPRINGER: One issues stressed during the interim was about a bi-state study of the Columbia River. Even with federal funds, the study wasn't free, but the two governors perused other funding. Now there is a commitment for this study and some dollars for it. Is that built into the budget and is that a new fee?

300 HUTCHISON: There was significant money requested for these programs. The base budget has \$185,000 and a decision package adds \$15,000. There is a total of \$200,000 which is enough to make our commitment to our agreement for the first year. The governor hopes to find federal funds to continue the agreement for the second year.

CHAIR SPRINGER: In addition to the Columbia River, Sen. Yih had some concerns raised about the Willamette River. Is the Willamette commitment carried over?

HUTCHISON: That was part of the \$3 million requested by the commission, but there are no funds for the Willamette River study continuation. They will complete the first phase of it this biennium.

CHAIR SPRINGER: Another issue of past session is underground tanks. How are we dealing with that in terms of investigation and monitoring?

DALKE: During the interim, the Emergency Board approved funding to conduct an insurance study of underground tank owners. That study is on-going. Are going forward with implementation of the underground tank grant and loan guarantee program authorized by the last legislature. That is part of the \$15 million roll up. Not a high level of activity in that program because federal guidelines have been moved back. A third approach is tax credits for the installation of underground storage tanks.

395 SEN. TIMMS: For the tax credit you need to be making money. You need to prioritize where those monies go so the smaller Ma-and-Pa type stations can survive. They do not have the income to pay the insurance and fees. Seems the credit is helping out the ones who don't need it.

TAPE 44, SIDE B

012 SEN. COHEN: Need to find a way to use language so that if a facility meets certain criteria, it can qualify for help. Can prioritize to take care of some of these small stations. Asks Sen. Timms to make a list of criteria to define these small stations.

SEN. TIMMS: It's not an easy issue to cover, but there are some

parameters. It is also interesting that the \$2 dump fee was not put into this program. That is building up in the department, but the reason is that nobody is using it.

HUTCHISON: The dump fee has a balance of \$4 million carrying over. On March 15 a report is due that looks at the issue of costs.

SB 185 - ASB ESTOS - PUBLIC HEARING, WORK SESSION: Witnesses: Dan McCulloch, Seventh-Day Adventist Sarah Armitage, DEQ Joe Gilliam, National Federation of Independent Businesses Kim Mingo, Association of General Contractors Fred VanNatta, Multi-Family Housing Council John Loewy, DEQ David Sparks, Oregon Housing Agency

083 CHRIS BECK, Committee Researcher: Presents amendments to SB 185 suggested by a work group (EXHIBIT C). The amendments address Multnomah County's concerns about inspectors and the Pulp and Paper Association's concerns about public tours. The main amendment addresses concerns of the committee about construction and remodeling. It changes the language in Section 2 to define materials suspected to be aSB estos.

CHAIR SPRINGER: The Realtors and Mr. VanNatta still feel they can't sign off on the bill. The counties can't take a position until after Feb. 25, but they are concerned about any new costs due to training inspectors.

SEN. BRENNEMAN: There are parts of the amendment that address his concerns. The change does not fully satisfy concerns with the bill.

BECK: SB 185 goes to Rules Committee because of the impact on local jurisdictions and also to Ways and Means.

140 DAN MCCULLOCH, Seventh-Day Adventist Church: The bill covers all public access buildings which includes churches. Is concerned that the church will be able to use the people the state trained to inspect when aSB estos abetment was done in the schools. Will the same certified people be able to inspect the churches and if it doesn't will the church be able to certify its own people to save money? The Seventh-Day Adventist is a large denomination and can handle the costs. Is concerned for small churches also.

SARAH ARMITAGE, ASB estos Supervisor, DEQ: Concerns that facilities that have been surveyed will not have to be reinspected have been addressed. Would not have to reinspect provided the materials had already been tested.

192 CHAIR SPRINGER: Your comments apply to those specific areas that have been inspected, not to an entire premises.

ARMITAGE: Yes, that's correct.

SEN. COHEN: The people doing the inspection will not have to be retrained, you can use the same people trained to inspect the schools, right?

ARMITAGE: The people who already have been trained will have to go through a refresher course.

SEN. COHEN: But they could and most likely would be the same people.

ARMITAGE: Yes.

SEN. KINTIGH: The inspection would just be the project area. What would that project area be if someone was going to add a wing to a building?

ARMITAGE: Only the materials to be disturbed in the construction would need to be inspected.

SEN KINTIGH: It wouldn't be the whole building then?

ARMITAGE: That's right. Not the intent to inspect a whole building as a result of the requirement.

236 JOE GILLIAM, National Federation of Independent Business: Is concerned about requirements that say if there is suspicion of aSB estos in the building, then a contractor must identify and dispose of aSB estos in an appropriate manner. Already is a requirement to inspect for aSB estos. By moving responsibility to the building owner, believes would have less success with the program. Would have problems enforcing the contractors to perform proper inspection. Need to talk to contractors and go with the current program and requirements. A small business owner with his own place relies on the contractor for the whole project.

CHAIR SPRINGER: What about the do-it-yourselfer who doesn't contract out? How would we get at those people?

286 GILLIAM: Doesn't know if bill even gets to the do-it-yourself type person. Could identify any contractor in the action of removal to be responsible for the aSB estos inspection and removal.

SEN. SMITH: Surprised at NFIB's opposition. DEQ says it has problems getting contractors to comply with aSB estos inspection and removal regulations. It seems small business people are put at risk if contractors improperly disturbs aSB estos. The business owner is the one who is exposed to the aSB estos for a long period of time. Also, if the small business owner has a general contractor do work and the contractor gets the inspection, then contractor would add in profit margins into the bill. It seems the business owner would save money by having a direct involvement in the inspection. Can you explain your position to these points?

GILLIAM: Not always a question of dollars that the general contractor may add on. It is a matter of time, responsibility and regulation. Small business owners are burdened with regulations and licenses from the state and local level. DEQ requirements have become more prominent to the small business owner such as the new Clean Air Act and hazardous waste disposal. Its a matter of expertise. The people who buy a small business don't know about aSB estos or other regulations, so they contract out to someone whose job it is to know. There is a safety question, but the owners would like to rely on someone who knows about aSB estos.

365 ARMITAGE: If the building owner does an inspection, the contractor will not have to do an additional inspection to comply with the regulation. Through enforcement, have seen that contractors can be small business owners too. They have various levels of sophistication. They are not the ones responsible for everything, although maybe they should be. Reads the bill to mean an owner or operator doing his own work would need to get the materials surveyed. Contractors could be



licensed aSB estos inspectors and perform the function for building owners. In rural areas that could be what happens.

SEN. COHEN: If you want to hire a contractor, you can still do that. Doesn't understand the amendments or the bill. Why wouldn't this bill allow for someone to hire a contractor to do the full remodeling services? Sure, the contractor would have to have been certified or hire someone who has been, so if the building owner didn't want anything to do with it, he could hire a contractor.

423 GILLIAM: We're making a requirement for business owners to file a plan on how the aSB estos would be removed when they would rather just hire a contractor.

SEN. COHEN: Thinks that would be allowable. If it's not, it should be added as another option. Needs to know what's intended. Why can't the contractor file any plans or papers regarding the inspection?

ARMITAGE: There are three possible scenarios to comply with the bill:  
-- People could have licensed inspectors on staff already, as in the case of the Seventh-Day Adventists. -- A contractor could come in. If the contractor is a licensed aSB estos inspector, he could do the work.  
-- A building owner hires a contractor. The owner or the contractor hires an outside licensed aSB estos inspector.

465 SEN. COHEN: Needs to have that in the bill so the paper work would not have to go through the business owner if the owner has made arrangements with the contractor.

TAPE 45, SIDE A

024 SEN. BRENNEMAN: Describes a personal example about getting a new floor. If calls a contractor to put linoleum on the lab floor, the contractor would put down a layer of plywood over the old linoleum then put the new linoleum on top. Under this bill, if the contractor isn't certified, he will have to call someone in to inspect the lab before doing the job. That really isn't necessary.

ARMITAGE: Would the job require removing the tile?

SEN. BRENNEMAN: No. The contractor would put plywood over the old floor, then put the new floor in, except with the bill, the contractor would have to have the old floor inspected first. It would cost the owner extra for the inspection.

SEN. COHEN: Would that example qualify for inspection under the bill?

ARMITAGE: Laying plywood on a linoleum floor would not be considered working on or removing materials suspected of containing aSB estos, even if it meant tacking the linoleum on in places.

SEN. BRENNEMAN: Well it would be working on materials suspected of containing aSB estos.

SEN. TIMMS: Whether the example is relevant or not, the same problem is there. You have to go out and get an inspection. When you get to rural areas, not going to have people certified to be inspectors.

CHAIR SPRINGER: There's a judgement call on the part of the owner,

operator or contractor. There is a threshold of disturbance of the materials required before an inspection. We are relying on good faith and the knowledge of the individuals. What we're getting at is adding a check off box on a contractor's bid sheet saying aSB estos inspection needed or not.

078 ARMITAGE: Not her area of expertise but it would be one way to track compliance to the regulation.

CHAIR SPRINGER: One of the problems is that not all these projects are contracted.

GILLIAM: There is an enforcement problem today getting contractors to do the regulation. Doesn't think the enforcement would improve by moving the responsibility to the owner. The bill requires the business owner to require written notice of aSB estos before the contractor starts work. There may be a glitch there.

ARMITAGE: The construction contractor would be able to do inspection prior to work and have the written document on hand so the contractor knew what he or she was getting into.

CHAIR SPRINGER: Wants more education available about what people are required to do. Wants something that will get as much compliance as possible.

114 ARMITAGE: That's right. There is not enough knowledge out there and people are not aware of what they are dealing with.

CHAIR SPRINGER: The philosophy here is that you need to build in another player, the owner or operator, to have responsibility to get higher compliance.

123 KIM MINGO, Associated General Contractors: Supports SB 185 because:  
- If contractors had prior knowledge of the existence of aSB estos material prior to bidding, they would be able to submit adequate bids. ASB estos removal is a specialty trade, not all contractors have the proper training or equipment to do that type of work. - With prior knowledge of aSB estos at the work site, would be able to protect employees.

CHAIR SPRINGER: Have tried to meet consensus it may not be possible.

144 FRED VANNATTA, Oregon Multi-Family Housing Council: Under the present system the penalties and enforcement occurs when there is aSB estos there and the contractors or owner is not doing what is suppose to be done. The initial bill required a lot of inspections in cases where there was not likely to be aSB estos. The amendments bring the bill more clearly to narrowing the requirements for inspections to cases where there is a probability of aSB estos. The problem is that you're moving the penalty and enforcement from instances where there is aSB estos and hazards to people who had suspect material but did not do the inspection. In those instances there will be cases where there is no danger to anyone. Will be moving away from coming down on people where there is a real problem and moving to coming down on people who didn't follow the letter of the regulation. It is a better bill then it was.

CHAIR SPRINGER: Is DEQ going to be 'dropping the hammer' on people in situations like this?

173 JOHN LOEWY, Assistant to the Director, DEQ: Interprets things differently. Trying to move toward a preventative situation. Environmental protection is better if you get to it before you have the problem. In the aSB estos program, has seen a lot of enforcement that could have been prevented if the property had been inspected before the construction.

SEN. KINTIGH: Wanted a definition limiting the project area in the amendments. Where is that?

ARMITAGE: It's not in there yet because couldn't get it into the draft of the amendments.

SEN. KINTIGH: Read that into the -2 version of the amendments (EXHIBIT C).

CHAIR SPRINGER: Summarizes the purpose and supporters of the amendments.

ARMITAGE: Reads proposed amendments using the hand-engrossed version of the bill (EXHIBIT D). In Section 2: -- After "... by a licensed aSB estos inspector to determine whether the materials ..." would add "to be handled, worked on, removed or disturbed contain aSB estos." It repeats that language and addresses the concern that only the area to be worked on be inspected, not other unrelated areas of the building. -- Delete the words construction, renovation, remodeling or demolition project in Section 2 because is having difficulties defining them. That would carry through throughout the bill. In Section 6: -- Adds subsection 9.

254 SEN. COHEN: Assumes that you could define something more specific in the rules about what kind of floor tiles and procedures that may be exempt. Is that the kind of thing you will be coming out with so that people have something to refer to when remodeling?

ARMITAGE: That is the kind of list was thinking of when designed the amendments. Could interpret the bill to read that handling, disturbance and removal are physically disruptive process. It is not just putting a piece of plywood on top of a floor.

SEN. KINTIGH: Is not satisfied with the wording. Doesn't feel comfortable that the rest of the building would not have to be inspected. Wants it to say specifically that the remainder of the building not disturbed need not be inspected. Can we do that?

ARMITAGE: Could design an amendment to say just that.

300 SEN. SMITH: The wording could be added in Section 2, subsection 2.

ARMITAGE: Yes, we could do that.

SEN. SMITH: Do you have any form of education program that you communicate to aSB estos business owners and employers? If you do could you incorporate information into those materials about aSB estos requirements established by this bill?

DAVID SPARKS, Deputy Administrator, Oregon State Housing Agency: There is an outreach program as part of the consultative unit. Two industrial hygienists are available to respond to employers' requests about aSB estos. Doesn't know if there is a packaged training program routinely given to employers.

363 SEN. SMITH: It sounds like the inspectors wait in the office for someone to call them. Do you have any outreach or education programs for employers or employees that discuss the dangers of aSB estos?

SPARKS: No. Doesn't know if there is a packaged routine program taken to employers.

SEN. SMITH: You don't have a brochure or anything you mail to them? You don't educate them generally, you just wait until they call?

SPARKS: Can't respond to question about programs related specifically to aSB estos. There are a number of brochures related to industrial hygiene concerns.

SEN. SMITH: Could you include information about aSB estos in those brochures? It is possible for you to educate and inform employers?

SPARKS: Yes, we could.

SEN. TIMMS: Could you give me copies of the brochures you distribute to employers about regulations?

SPARKS: Yes, would be glad to.

400 CHAIR SPRINGER: Understands the realtors are not in agreement with the bill even with the amendments. The amendments with the new language read into the record that specifies that portions of the building to be inspected will be what is disturbed in construction.

MOTION:Chair Springer moves for passage of the -2 amendments to SB 185 with the new language previously identified.

VOTE:In a voice vote, there were no objections.

MOTION:Sen. Smith moves to send SB 185 to Rules Committee by prior reference with a do pass recommendation.

SEN. COHEN: The discussion helped to clarify that the disturbed area will be what is inspected and to specify what types of construction will require an inspection. Will be looking at the rules to make sure that is specified. Supports the bill.

TAPE 46, SIDE A

020 SEN. TIMMS: Is in opposition to the bill because the groups that have spoken against it today represent the people in his district. Wants the committee to realize the people he represents. Have so many laws and regulations that require inspections it would be difficult to get a qualified aSB estos inspector in the region.

SEN. BRENNEMAN: Was out of the room. Could you run through the amendments?

CHAIR SPRINGER: Explains the adopted amendments and the new language.

SEN. BRENNEMAN: Echoes thoughts of Sen. Timms in regards to opposition of the bill.

VOTE:In a roll call vote, the motion passed 4-3. Voting AYE: Sen.

Cohen, Sen. Gold, Sen. Smith and Chair Springer. Voting NAY: Sen. Brenneman, Sen. Kintigh and Sen. Timms.

079 SEN. KINTIGH: Explains his vote. Believes the committee has improved the bill greatly, but is not fully convinced that the whole thing is needed.

CHAIR SPRINGER: Moves the work session on SB 98 to Monday, Feb. 18, so that Dick Angstrom with the Aggregate lobby can testify.

SEN. BRENNEMAN: Does that mean that Mr. Angstrom will have a chance to work with staff before the work session Monday, or is he closed out of the process?

CHAIR SPRINGER: Mr. Angstrom has not been closed out of the process. He has had every opportunity to work with staff. He will have every opportunity to testify.

INTRODUCTION OF MEASURES:

Staff presents new legislation: LC 3225, LC 3232, LC 3222, LC 356 and LC 175 6

MOTION:Chair Springer moves for introduction of the five LC measures.

VOTE:In a voice vote, there were no objections.

SB 184, SB 259 - ENVIRONMENTAL PENALTIES - PUBLIC HEARING, WORK SESSION:  
Witnesses:John Charles, Oregon Environmental Counsel Holly Duncan, DEQ Brad Higbee, City of Portland Diana Godwin, OSSI Jim Whitty, AOI Susan Schnieder, City of Portland

145 JOHN CHARLES, Oregon Environmental Counsel: Supports SB 184. Proposal to delete ORS 468.125 in Section 13 a good idea. Confused why Section 14 follows because it is almost the same. Seems there is still a class of violators that are shielded from civil penalties. Believes it hampers the department and suggests to delete Section 14 from the bill. Proposes adding language to the bill dealing with cost recovery. One problem with enforcement is that the agency spends money and time but the penalty goes to the general fund, not to cost of enforcement. Has had people tell him they won't enforce a penalty because it is not cost efficient.

192 SEN. COHEN: Would like better documentation of when people said they would not enforce penalties.

CHARLES: ORS 536.930 and 536.935 in the water laws addresses the problem of recalcitrant violators. That language should be added to the bill.

CHAIR SPRINGER: Needs amendments in writing for them to be considered.

HOLLY DUNCAN, Enforcement Division, DEQ: Responds to comments raised by Mr. Charles. Section 14 is statutory requirements for permittees to bring the facilities into compliance within five day. It serves the purpose of notifying the violator and reaching a solution within a short period of time. Not prepared to respond to the issue of cost recovery.

245 CHAIR SPRINGER: This bill is coming up again on the Feb. 25 so you two can discuss any problems before then.

BRAD HIGBEE, City of Portland, Bureau of Environmental Services:  
Presents amendments to SB 184 and SB 259 (EXHIBIT E, EXHIBIT F).  
Amendments to SB 184 delete ORS's that deal with recycling matters.

CHAIR SPRINGER: Whose names are we going to put on these amendments?  
They should be properly identified.

HIGBEE: The City of Portland, League of Oregon Cities and the  
Association of Oregon Counties. Explains amendments to SB 259 (EXHIBIT  
F). They are on behalf of the City of Portland and the League of Oregon  
Cities.

310 CHAIR SPRINGER: Have you had a chance to share these amendments  
with DEQ?

HIGBEE: Yes.

DUNCAN: The amendments to SB 184 (EXHIBIT E) delete any enforcement  
authority for recycling and solid waste. Doesn't want all enforcement  
authority removed for recycling and solid waste.

HIGBEE: It is more appropriate to consider sanctions and enforcement in  
context of larger recycling negotiations.

335 DIANA GODWIN, Oregon Sanitary Service Institute: Supports Mr.  
Higbee. Not the intention to delete any enforcement authority. Need to  
consider what new enforcement mechanisms will be put in place if people  
violate the new recycling standards. Need to look at the penalty  
increase in the failure to get a closure permit for a landfill five  
years before the closure. Also the infectious waste bill is only one  
year old; does not want to see the fines increased so soon.

CHAIR SPRINGER: Any other bills or amendments dealing with infectious  
waste?

GODWIN: Not that she knows of.

DUNCAN: Needs more discussion on what would be appropriate enforcement  
of the solid waste statutes.

377 JIM WHITTY, Associated Oregon Industries: Presents amendment to SB  
184 (EXHIBIT G). May have an amendment on the noise pollution penalty  
later.

SUSAN SCHNIEDER, City of Portland: On SB 184, is satisfied with  
deletion of Section 10 as long as can call on DEQ's expertise in certain  
situations.

CHAIR SPRINGER: Needs language for amendments in writing to staff  
before the day of the work session.

425 SEN. BRENNEMAN: Could staff keep a 'score card' of the amendments  
so the committee can keep track of who supports what?

CHAIR SPRINGER: The staff can do that better if it has the amendments  
ahead of time. Soon will have an instruction that the committee won't  
accept amendments on the day of a work session. Adjourns the hearing at  
11:00 a.m.

EXHIBIT LOG:

A - Testimony on SB 500 - Sen. Bill Bradbury - 4 pages  
B - Information on DEQ budget - Kay Hutchison - # pages  
C - Amendments to SB 185 - Staff - 3 pages  
D - Hand-engrossed version of SB 185 - Staff - 5 pages E -  
Amendments to SB 184 - Brad Higbee - 1 page F - Amendments to SB 259  
- Brad Higbee - 1 page G - Amendments to SB 184 - Jim Whitty - 1  
page H - Testimony on SB 496 - COAP Monterey - 3 pages I -  
Testimony on SB 496 - W.F. 'Zeke' Grader, Jr. - 2 pages J -  
Testimony on SB 496 - William Schramm - 2 pages

Submitted by: Reviewed by:

Angela Muñiz Peter Green Assistant Administrator