

## HOUSE COMMITTEE ON WATER

April 29, 2003 Hearing Room B  
8:30 AM Tape 78 - 80

**MEMBERS PRESENT:**        Rep. Bob Jenson, Chair  
                                 Rep. Jackie Dingfelder, Vice-Chair  
                                 Rep. Jeff Kropf, Vice-Chair  
                                 Rep. Linda Flores  
                                 Rep. Jeff Kruse  
                                 Rep. Mike Schaufler  
                                 Rep. Carolyn Tomei

**STAFF PRESENT:**        Pete Test, Committee Administrator  
                                 Ryan Sherlock, Committee Assistant

**MEASURE/ISSUES HEARD:**        HB 3534 – Work Session  
                                 HB 2138 – Work Session  
                                 HB 2606 – Work Session  
                                 HB 2887A – Work Session  
                                 HB 3519 – Work Session  
                                 SB 174 – Work Session  
                                 HB 3220 – Work Session

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These minutes are in compliance with Senate and House Rules. Only text enclosed in quotation marks reports a speaker's exact words. For complete contents, please refer to the tapes.

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<u>TAPE/#</u>	<u>Speaker</u>	<u>Comments</u>
<b>TAPE 78, A</b>		
003	Chair Jenson	Calls meeting to order at 8:10 a.m., and opens a work session on HB 3534.
<b><u>HB 3534 – WORK SESSION</u></b>		
005	Chair Jenson	<b>MOTION:</b> Moves to <b>SUSPEND</b> the rules for the purpose of reconsidering the vote on HB 3534. <b>VOTE: 5-0</b> <b>EXCUSED: 2 - Kruse, Kropf</b>
010	Chair Jenson Rep. Dingfelder	Hearing no objection, declares the motion <b>CARRIED</b> . <b>MOTION:</b> Moves to <b>RECONSIDER</b> the vote by which HB 3534 was sent <b>Do Pass</b> as Amended to the floor. <b>VOTE: 5-0</b> <b>EXCUSED: 2 - Kropf, Kruse</b>
015	Chair Jenson Rep. Dingfelder	Hearing no objection, declares the motion <b>CARRIED</b> . <b>MOTION:</b> Moves HB 3534 to the floor with a <b>DO PASS AS AMENDED</b> recommendation and <b>BE REFERRED</b> to the committee on Ways and Means.
020	Chair Jenson	<b>VOTE: 5-0</b> <b>AYE:</b> In a roll call vote, all members present vote Aye. <b>EXCUSED: 2 - Kropf, Kruse</b> The motion <b>CARRIES</b> .

040 Chair Jenson Closes the work session on HB 3534, and opens a work session on HB 2138.

**HB 2138 – WORK SESSION**

045 Pete Test Committee Administrator. Offers a description of HB 2138, and introduces the proposed -4 amendments (**EXHIBIT A**).

055 Ed Bowles Oregon Department of Fish and Wildlife, Fish Division. Indicates his support for HB 2138 and the proposed -4 amendments.

065 Chair Jenson Thanks Mr. Myron for his work on the amendments to the bill.  
070 Jim Myron Governor's Office. Offers testimony in support of HB 2138 and the proposed -4 amendments.

075 Chair Jenson Explains the history of the bill and issue, and recognizes all those who participated in drafting the legislation.

**145 Rep. Dingfelder MOTION: Moves to ADOPT HB 2138-4 amendments dated 04/29/03.**

**VOTE: 6-0**

**EXCUSED: 1 - Kruse**

**Hearing no objection, declares the motion CARRIED.**

**150 Chair Jenson Rep. Dingfelder MOTION: Moves HB 2138 to the floor with a DO PASS AS AMENDED recommendation.**

155 Rep. Dingfelder Thanks the Chair for his hard work on the bill and the issue.

160 Chair Jenson Thanks Rep. Dingfelder and others for their work on the issue.

**215 VOTE: 6-0**

**AYE: In a roll call vote, all members present vote Aye.**

**EXCUSED: 1 - Kruse**

**The motion CARRIES.**

**CHAIR JENSON will lead discussion on the floor.**

220 Chair Jenson Closes the work session on HB 2138, and opens a work session on HB 2606.

**HB 2606 – WORK SESSION**

225 Pete Test Committee Administrator. Offers a description of HB 2606, and introduces the proposed -5 amendments (**EXHIBIT B**).

230 Chair Jenson Asks Mr. Myron to address the -5 amendments.

235 Jim Myron Governor's Office. Offers testimony in favor of the HB 2606 with the -5 amendments.

250 Ed Bowles Oregon Department of Fish and Wildlife. Offers testimony in support of HB 2606 and the proposed -5 amendments. Indicates the possible need for a conceptual amendment.

265 Chair Jenson Asks Mr. Bowles to give the wording of the proposed conceptual amendments.

270 Bowles Explains the wording of the conceptual amendments.

280 Chair Jenson Further clarifies the language of the conceptual amendments.

285 Bowles Acknowledges the clarification.

290 Chair Jenson Indicates his interest to include the conceptual amendments to the bill, and reiterates the proposed conceptual amendments.

**300 Rep. Tomei MOTION: Moves to AMEND the -5 amendments to HB 2606 on page 3, in line 1, delete "to assist in," insert "consistent with".**

305 Chair Jenson Explains the conceptual amendment to the -5 amendments.

**315 VOTE: 6-0**

**AYE: In a roll call vote, all members present vote Aye.**

**EXCUSED: 1 - Kropf**

**The motion CARRIES.**

**Chair Jenson**

320 Rep. Tomei **MOTION: Moves to ADOPT HB 2606-5 amendments dated 4/29/03 as conceptually amended.**

235 **VOTE: 6-0**  
**EXCUSED: 1 - Kruse**  
**Hearing no objection, declares the motion CARRIED.**

240 Chair Jenson  
Rep. Tomei **MOTION: Moves HB 2606 to the floor with a DO PASS AS AMENDED recommendation.**

345 Rep. Dingfelder Thanks those who were involved in the bill and the issue.  
350 Chair Jenson Concurs with Rep. Dingfelder.  
355 **VOTE: 6-0**  
**AYE: In a roll call vote, all members present vote Aye.**  
**EXCUSED: 1 - Kruse**  
**The motion CARRIES.**  
**DINGFELDER will lead discussion on the floor.**

360 Chair Jenson Closes the work session on HB 2606 and opens a work session on HB 2887.

**HB 2887A – WORK SESSION**

365 Pete Test Committee Administrator. Offers a description of HB 2887A, and indicates why the bill was re-referred to Committee.

385 Chair Jenson Clarifies that Legislative Counsel is ok with the issue.

390 Rep. Tomei **MOTION: Moves HB 2887A to the floor with a DO PASS recommendation.**

395 **VOTE: 6-0**  
**AYE: In a roll call vote, all members present vote Aye.**  
**EXCUSED: 1 - Kruse**  
**The motion CARRIES.**

400 Chair Jenson Clarifies the previous motion for the record.

410 Rep. Tomei **MOTION: Moves HB 2887A be placed on the CONSENT CALENDAR.**  
**VOTE: 6-0**  
**EXCUSED: 1 - Kruse**  
**Hearing no objection, declares the motion CARRIED.**

415 Chair Jenson  
Chair Jenson Closes the work session on HB 2887A, and opens a work session on HB 3519.

**TAPE 79, A**

**HB 3519 – WORK SESSION**

020 Pete Test Committee Administrator. Offers a description of HB 3519. Introduces and describes the proposed -9 amendments **(EXHIBIT C)** and -10 amendments **(EXHIBIT D)**.

040 Chair Jenson Recesses the work session on HB 3519 and reopens the work session on HB 3519 upon seeing Rep. Doyle enter the room.

045 Representative Dan House District 19. Offers testimony in support of HB 3519 with Doyle  
075 Rep. Kropf the proposed -9 amendments added.  
Expresses concern for specific wording in the proposed -9 amendments.

085 Rep. Doyle Indicates that he cannot address that topic for lack of substantive knowledge, and defers to other witnesses.

090 Rep. Kropf Thanks Rep. Doyle for his work on the issue.

095 Chair Jenson Concurs with Rep. Kropf in recognizing Rep. Doyle. Recesses the work session on HB 3519, and opens a work session on SB 174.

**SB 174 – WORK SESSION**

100 Chair Jenson Comments on the issues surrounding SB 174.

110	Pete Test	Committee Administrator. Offers a description of SB 174 with reference to the action taken on the bill on the Senate side.
120	Chair Jenson	Points out the recent history of the bill, indicating that the Judiciary Committee is comfortable with the Water Committee moving the bill.
130	<b>Rep. Tomei</b>	<b>MOTION: Moves SB 174 to the floor with a DO PASS recommendation.</b>
135	Chair Jenson	Clarifies the previous motion.
140		<b>VOTE: 6-0</b> <b>AYE: In a roll call vote, all members present vote Aye.</b> <b>EXCUSED: 1 – Kruse, Kropf (vote recorded: Tape 79A, #155)</b>
	<b>Chair Jenson</b>	<b>The motion CARRIES.</b>
145	<b>Rep. Tomei</b>	<b>MOTION: Moves SB 174 be placed on the CONSENT CALENDAR.</b>
150	Chair Jenson	Clarifies the current motion to Rep. Kropf.
152	Rep. Kropf	Acknowledges.
155		<b>VOTE: 6-0</b> <b>EXCUSED: 1 - Kruse</b>
	<b>Chair Jenson</b>	<b>Hearing no objection, declares the motion CARRIED.</b>
160	Chair Jenson	Asks if Rep. Kropf would like to record a vote on the motion to send SB 174 to the floor with a Do Pass recommendation.
162	Rep. Kropf	Indicates that he would like to record such a vote.
165	<b>Rep. Kropf</b>	<b>MOTION: Requests unanimous consent that the rules be SUSPENDED to allow REP. KROPF to BE RECORDED as voting AYE on the MOTION: Moves SB 174 to the floor with a DO PASS recommendation.</b>
		<b>VOTE: 6-0</b> <b>EXCUSED: 1 - Kruse</b>
	<b>Chair Jenson</b>	<b>Hearing no objection, declares the motion CARRIED.</b>
170	Chair Jenson	Closes the work session on SB 174 and reopens the work session on HB 3519.
<b><u>HB 3519 – WORK SESSION</u></b>		
180	Chair Jenson	Asks Ms. Holman to address the -10 amendments.
190	Jeannette Holman	Division of State Lands (DSL). Offers testimony in support of the proposed -10 amendments to HB 3519.
230	Chair Jenson	Clarifies that the DSL is in concurrence with the -10 amendments.
235	Holman	Acknowledges.
240	Rep. Dingfelder	Asks for a clarification of the reporting requirement.
245	Holman	Further discusses the reporting requirement.
250	Rep. Dingfelder	Further clarifies the reporting requirements.
255	Holman	Discusses the reporting requirements.
260	Chair Jenson	Points out, the Department of Agriculture has a similar reporting requirement.
270	Marc Lucca	Rep. Gordon Anderson’s Office. Offers testimony in favor of the proposed -10 amendments to HB 3519.
315	Chair Jenson	Welcomes a group of students from Westlund Middle School, and offers them a brief overview of the issue currently being discussed before the committee.
330	Rep. Anderson	House District 3. Offers testimony in opposition to the proposed -9 amendment to HB 3519.

370	Rep. Kruse	Comments on the original intent of the bill.
375	Rep. Anderson	Indicates the -10 amendments address the original intent of the bill.
<b>380</b>	<b>Rep. Dingfelder</b>	<b>MOTION: Moves to ADOPT HB 3519-10 amendments dated 04/28/03.</b>
385	Rep. Flores	Clarifies that this motion only adopts the -10 amendments and not the -9 amendments.
390	Chair Jenson	Acknowledges.
<b>395</b>	<b>Chair Jenson</b>	<b>VOTE: 7-0</b>
400	Chair Jenson	<b>Hearing no objection, declares the motion CARRIED.</b> Recesses the work session on HB 3519, and opens a work session on HB 3220.
<b>TAPE 78, B</b>		
<b><u>HB 3220 – WORK SESSION</u></b>		
020	Pete Test	Committee Administrator. Offers a description of HB 3220, and a brief history of the issue. Introduces the -4 amendments <b>(EXHIBIT E)</b> .
030	Chair Jenson	Further comments on the recent history of HB 3220.
045	Rep. Tomei	Indicates that she is unclear as to what the -4 amendments accomplish.
045	Chair Jenson	Defers to Mr. McCarthy of Legislative Counsel.
050	Brendan McCarthy	Legislative Counsel. Offers a description of the -4 amendments to HB 3220.
055	Rep. Tomei	Clarifies the location of the changes.
065	McCarthy	Acknowledges, continues with the description of the -4 amendments.
070	Rep. Tomei	Further clarifies the intent of the -4 amendments.
075	McCarthy	Further explains the proposed -4 amendments.
085	Rep. Kruse	Expresses concern for how the scope of the bill and how the attempts to limit the bill to the Deschutes River Basin might be interpreted in rule.
095	Chair Jenson	Clarifies that the limitation is in statute.
100	Rep. Kruse	Points out that rule does not always follow statutory intent.
105	Chair Jenson	Recognizes Rep. Kruse's concern, but clarifies the intent of the measure.
<b>125</b>	<b>Rep. Kruse</b>	<b>MOTION: Moves to ADOPT HB 3220-4 amendments dated 04/24/03.</b>
		<b>VOTE: 7-0</b>
	<b>Chair Jenson</b>	<b>Hearing no objection, declares the motion CARRIED.</b>
<b>130</b>	<b>Rep. Kruse</b>	<b>MOTION: Moves HB 3220 to the floor with a DO PASS AS AMENDED recommendation.</b>
135	Rep. Schaufler	Expresses his concerns for the bill, and his intention to vote No on the bill.
145	Rep. Dingfelder	Expresses her intent to vote NO on the bill, and discusses her concerns with the issue.
155	Rep. Tomei	Expresses her intent to vote No on the bill.
<b>175</b>		<b>VOTE: 4-3</b>
		<b>AYE: 4 - Flores, Kropf, Kruse, Jenson</b>
		<b>NAY: 3 - Dingfelder, Schaufler, Tomei</b>
	<b>Chair Jenson</b>	<b>The motion CARRIES.</b>
		<b>CHAIR JENSON will lead discussion on the floor.</b>
180	Chair Jenson	Closes the work session on HB 3220, and reopens the work session on HB 3519.

**HB 3519 – WORK SESSION**

190 Chair Jenson Comments on the task force which worked on HB 3519.  
Recesses the meeting.

**RECESS**

200 Chair Jenson Calls the meeting back to order. Indicates the Committee will be discussing the -9 amendments.

210 Nick Coffey Marion County, Oregon. Explains the efforts of the work group regarding the issue, which cumulated in the -9 amendments to HB 3519.

265 Chair Jenson Clarifies who was on the work group in question.  
270 Coffey Explains those who worked on the committee.  
280 Chair Jenson Clarifies that Mr. Stewart was involved on the work group.  
285 Coffey Explains that Mr. Stewart was initially involved in the -9 amendments, but withdrew. Continues with testimony in support of the -9 amendments.

300 Rep. Tomei Asks whether there were any representatives from the environmental community who participated on the task force.

305 Coffey Explains that there were no participants from the environmental community, and further comments on their lack of participation.

315 Phil Scoles Portland, Oregon. Points out his experience as a wetland consultant, and discusses the efforts of the work group. Indicates that the concerns being expressed might be resolved on the Senate side.

370 Chair Jenson Points out that it is not his policy to pass unfinished bills out of the Committee. Welcomes students from Westlund Middle School who entered the room to the Water Committee meeting.

380 Rep. Dingfelder Indicates her experience in the wetland field. Asks why these changes are being addressed at the statute level and not at the rule level.

**TAPE 79, B**

005 Scoles Comments on the reasoning for introducing the proposed changes at the statute level.

025 Coffey Points out that some of the issues must be dealt with at the statute level.

030 Rep. Dingfelder Expresses concern for specific wording in bill which would change a commonly accepted definition, “functions and values,” to “functional attribute.”

040 Scoles Comments on the wording in question, indicating his perception that either term could be used, and that “functional attribute” was used to keep the statute consistent.

055 Rep. Dingfelder Further questions this wording.  
060 Scoles Reiterates that either term would be sufficient.  
065 Rep. Dingfelder Expresses concern over another wording choice in the bill.  
070 Scoles Comments on the wording in question.  
080 Rep. Kruse Expresses his concerns with mitigation banking, especially on smaller scales.

100 Coffey Comments on Rep. Kruse’s concern.  
110 Rep. Kruse Further expresses concerns with the bill.  
115 Rep. Schaufler Expresses concerns for folding the issues involved in the -9 amendments into HB 3519, and expresses concerns with the concept of mitigation banking.

125 Jim Myron Governor’s Office. Indicates his support for continuing the discussion of the -9 amendments, and expresses concern for the lack of participation of the environmental community on the

		issue.
150	Chair Jenson	Acknowledges the concerns that the issue may be too complicated for the short time frame the Committee is presented with. Expresses concern for the lack of representation of the agricultural community.
180	Myron	Expresses the Governor's Office's interest in furthering the discussion on the issue.
200	Karen Tarnow	Department of Environmental Quality. Offers testimony regarding HB 3519.
250	Liz Frenkel	Lane County. Offers testimony regarding HB 3519.
270	Marc Lucca	Rep. Anderson's Office. Offers testimony in support of HB 3519, but in opposition to inclusion of the -9 amendments.
350	Mel Stewart	Salem, Oregon. Offers written testimony ( <b>EXHIBIT F</b> ) regarding the -9 amendments to HB 3519.
400	Chair Jenson	Announces his intent to pass HB 3519 out of Committee with the -10 amendments, and to hold off action on the -9 amendments because of the complexity of the issue.
<b>TAPE 80, A</b>		
<b>030</b>	<b>Rep. Kruse</b>	<b>MOTION: Moves HB 3519 to the floor with a DO PASS AS AMENDED recommendation.</b>
<b>035</b>		<b>VOTE: 6-0</b>
		<b>AYE: In a roll call vote, all members present vote Aye.</b>
	<b>Chair Jenson</b>	<b>EXCUSED: 1 - Kropf</b>
		<b>The motion CARRIES.</b>
		<b>REP. ANDERSON will lead discussion on the floor.</b>
040	Chair Jenson	Further clarifies his intent with the bill, closes his work session on HB 3519 and adjourns the meeting.

**EXHIBIT SUMMARY**

- A – HB 2138, -4 amendments, Staff, 4 pp.**
- B – HB 2606, -5 amendments, Staff, 3 pp.**
- C – HB 3519, -9 amendments, Staff, 54 pp.**
- D – HB 3519, -10 amendments, Staff, 2 pp.**
- E – HB 3220, -4 amendments, Staff, 1 p.**
- F – HB 3519, written testimony, Mel Stewart, 3 pp.**