

HOUSE COMMITTEE ON WATER

**May 06, 2003 Hearing Room B
8:30 AM Tape 83 - 84**

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: **SB 499A – Public Hearing and Work Session**
 HB 2659 – Work Session
 HB 3620 – Work Session
 HB 3298 – Work Session

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.

TAPE/#	Speaker	Comments
TAPE 83, A		
003	Chair Jenson	Calls meeting to order at 8:41 a.m. and opens a public hearing on SB 499A.
<u>SB 499A – PUBLIC HEARING</u>		
015	Brad Harper	Water For Life, Executive Director. Offers testimony in support of SB 499A.
030	Jean Wilkinson	Oregon Farm Bureau. Offers testimony in support of SB 499 A.
040	Ed Goodman	Oregon Water Trust. Offers testimony in support of SB 499 A.
055	Wilkinson	Expresses concern for the proposed conceptual amendment offered by Mr. Levy.
065	Chair Jenson	Asks whether Ms. Wilkinson whether she would be appeased by adding two more members from the development interest.
070	Wilkinson	Indicates her support if one of those additional members were from agriculture interests.
075	Chair Jenson	Asks the other witnesses to address the proposed conceptual amendments.
085	Goodman	Expresses concern for the conceptual amendments.
095	Harper	Indicates his willingness to work with Mr. Levy on the task force, but expresses concern for having an evenly split task force.
105	Chair Jenson	Expresses doubt for the concerns regarding having an even number on the task force, pointing out that the legislature would have difficulty passing any measure which came out of a task force with a five-four split.
115	Rep. Dingfelder	Asks how much water rights the developers have, therefore necessitating their involvement.

125	Rep. Schaufler	Points out his unwillingness to vote for anything which may come from the task force which seems unbalanced.
145	Katie Fast	Oregon Cattleman's Association. Offers testimony in support of SB 499A.
160	Adam Sussman	Oregon Water Resources Department. Offers written testimony (EXHIBIT A) in support of SB 499A.
180	Harlan Levy	Oregon Association of Realtors. Offers testimony in support of SB 499A, with the proposed conceptual amendments (EXHIBIT B) .
190	Chair Jenson	Asks Mr. Levy to define "growth."
195	Levy	Offers his definition of "growth."
200	Rep. Dingfelder	Asks why Mr. Levy feels the development interest would not be met by the members from the "water suppliers and hydroelectric users" whom are already included in the tasks force.
210	Levy	Expresses his concerns with relying on this representation.
225	Rep. Dingfelder	Expresses her background working with these water suppliers, and questions Mr. Levy's expressed concerns.
230	Levy	Explains that these are the concerns of his membership.
235	Rep. Schaufler	Clarifies Mr. Levy's concerns.
245	Levy	Discusses the development interests concerns.
250	Chair Jenson	Asks why the development interests did not participate on the work group which created SB 499A.
255	Levy	Indicates he has no excuse.
260	Chair Jenson	Asks who decided the membership of the workgroup.
265	Anita Winkler	Oregon Water Resources Congress. Offers a brief history of the work group and the make up of the membership.
280	Chair Jenson	Asks the Water Resources Department to address who initiated the work group.
285	Sussman	Explains that originally the Department was not apart of the work group, and the task force was convened by the various stake holders.
300	Chair Jenson	Expresses his view that economic growth could be supported by Mr. Levy's group. Closes the public hearing on SB 499A, and opens a work session on SB 499A.

SB 499A – WORK SESSION

315	Rep. Kropf	Indicates his support for having Mr. Levy's group involved in the task force.
320	Rep. Kropf	MOTION: Moves to AMEND SB 499A on page 1, in line 9, delete "nine," insert "ten," and on page 1, after line 13 , insert "(E) One member to represent development interests".
335	Chair Jenson	Clarifies the purpose, wording and intent of the proposed conceptual amendments. Points out the Committee should suspend the rules to accomplish the motion.
340	Rep. Dingfelder	Questions whether line five of the bill would also need to be changed from "12 members" to "13 members."
345	Chair Jenson	Acknowledges, and asks Rep. Kropf to withdraw his previous motion.
350	Rep. Kropf	Withdraws previous motion to adopt conceptual amendments to HB 499A.
355	Chair Jenson	MOTION: Moves to SUSPEND the rules for the purpose of Considering a conceptual amendment to SB 499A..

VOTE: 7-0

360	Chair Jenson Rep. Kropf	Hearing no objection, declares the motion CARRIED. MOTION: Moves to AMEND SB 499A on page 1, in line 5, delete "12," insert "13"; on page 1, in line 9, delete "nine", insert "ten", and on page 1, after line 13 , insert "(E) One member to represent development interests".
385 410	Chair Jenson Rep. Kruse	Clarifies the purpose and intent of the conceptual amendments. Asks that Mr. McCarthy from Legislative Counsel address the proposed conceptual amendments.
TAPE 84, A		
005	Brendan McCarthy	Expresses concern for the lack of definition of "development" in the conceptual amendments.
010	Rep. Kruse	Asks whether leaving the language vague would allow the governor leeway in deciding who represents the "development interests."
015	Rep. Kropf	Expresses concern for leaving such wide discretion.
017	Rep. Kruse	Clarifies with Mr. McCarthy that the language in question is broad.
020	McCarthy	Acknowledges the breadth of the definition.
030	Chair Jenson	Asks Mr. Levy to address the expressed concerns.
031	Levy	Clarifies his understanding of the expressed concerns with the definition of "development."
033	Chair Jenson	Clarifies the concerns of the Committee.
035	Rep. Kropf	Asks Mr. Levy to define "development."
040	Levy	Offers his definition for "development."
045	Rep. Kruse	Expresses concern for the vagueness of Mr. Levy's definition of "development" and asks Mr. Levy to indicate which constituent group would fill this position.
050	Levy	Indicates those groups which may adequately fill the position.
055	Chair Jenson	Comments on the difficulty of the situation, and thanks Mr. McCarthy for discovering the problem.
057	Rep. Schaufler	Observes that Mr. Levy is defining building and construction interests, and asks whether this could be used as wording.
060	Levy	Indicates that he would be satisfied with this definition.
061	Rep. Kruse	Clarifies the definition.
065	McCarthy	Indicates that this would satisfy his concerns over the clarity issue.
070	Rep. Kropf	Withdraws previous motion to conceptually amend SB 499A. MOTION: Moves to AMEND SB 499A on page 1, in line 5, delete "12," insert "13"; on page 1, in line 9, delete "nine", insert "ten", and on page 1, after line 13 , insert "(E) One member to represent building and construction interests".
075	Rep. Kropf	Clarifies the purpose and intent of the conceptual amendments.
080	Chair Jenson	Further clarifies the proposed conceptual amendments.
085	Rep. Kruse	Asks whether the word "interest" or "industry" should be used.
090		VOTE: 7-0
100	Chair Jenson Rep. Kropf	Hearing no objection, declares the motion CARRIED. MOTION: Moves SB 499A to the floor with a DO PASS AS AMENDED recommendation and BE REFERRED to the committee on Ways and Means by prior reference.

102	Rep. Tomei	Points out there could be a rescinded referral to Ways and Means.
105	Pete Test	Committee Administrator. Explains that the bill does have a subsequent referral to ways and means.
110	Rep. Kruse	Asks for a clarification regarding the subsequent referral.
115	Test	Further clarifies that there is a subsequent referral to Ways and Means.
120	Chair Jenson	Concurs with Mr. Test, and commenting on the cost of initiating a task force.
125		VOTE: 7-0
	Chair Jenson	AYE: In a roll call vote, all members present vote Aye. The motion CARRIES.
130	Chair Jenson	Comments on the Committee amending a Senate Bill. Closes the work session on SB 499A. Opens the work session on HB 2659.
<u>HB 2659 – WORK SESSION</u>		
135	Chair Jenson	MOTION: Moves to SUSPEND the rules for the purpose of RECONSIDERING the vote on HB 2659.
		VOTE: 7-0
	Chair Jenson	Hearing no objection, declares the motion CARRIED.
140	Chair Jenson	Requests a motion to send HB 2659 Do Pass to the Committee on Ways and Means by prior reference.
145	Rep. Kruse	MOTION: Moves to RECONSIDER the vote by which HB 2659 was sent Do Pass as Amended to the floor.
150	Chair Jenson	Points out that the committee already has the bill under reconsideration.
155	Rep. Kruse	Explains that there was a motion to suspend the rules, but there was not a motion to reconsider the vote by which HB 2659 was passed out of the Committee.
160	Chair Jenson	Asks Rep. Kruse to restate his motion.
161	Rep. Kruse	Restates his previous motion:
		MOTION: Moves to RECONSIDER the vote by which HB 2659 was sent Do Pass as Amended to the floor.
165		VOTE: 7-0
	Chair Jenson	Hearing no objection, declares the motion CARRIED.
170	Chair Jenson	Opens a work session on HB 2659.
172	Rep. Kruse	MOTION: Moves HB 2659 to the floor with a DO PASS AS AMENDED recommendation and BE REFERRED to the committee on Ways and Means by prior reference.
175		VOTE: 7-0
	Chair Jenson	AYE: In a roll call vote, all members present vote Aye. The motion CARRIES.
179	Chair Jenson	Closes the work session on HB 2659 and opens the work session on HB 3620.
<u>HB 3620 – WORK SESSION</u>		
180	Chair Jenson	MOTION: Moves to SUSPEND the rules for the purpose of RECONSIDERING the vote on HB 3620..
		VOTE: 7-0
	Chair Jenson	Hearing no objection, declares the motion CARRIED.
185	Rep. Kruse	MOTION: Moves to RECONSIDER the vote by which HB 3620 was sent Do Pass as Amended to the floor.
		VOTE: 7-0
	Chair Jenson	Hearing no objection, declares the motion CARRIED.
187	Chair Jenson	Opens a work session on HB 3620.

190	Rep. Kruse	MOTION: Moves HB 3620 to the floor with a DO PASS AS AMENDED recommendation and BE REFERRED to the committee on Ways and Means by prior reference.
	Chair Jenson	VOTE: 7-0
	Chair Jenson	AYE: In a roll call vote, all members present vote Aye. The motion CARRIES.
195	Chair Jenson	Closes the work session on HB 3620, and opens a work session on HB 3298.
<u>HB 3298 – WORK SESSION</u>		
200	Chair Jenson	Recesses the meeting.
RECESS		
205	Chair Jenson	Calls meeting back to order, and discusses the history of HB 3298.
225	Richard Cosezan	Water For Life. Offers testimony in support of HB 3298.
300	Chair Jenson	Clarifies the possible amendments to the bill, and asks the witness to address the amendments.
315	Cosezan	Discusses the amendments, and the concerns which have been discussed.
330	Chair Jenson	Asks for further clarification which may be offered by the possible amendments.
340	Cosezen	Discusses what particular issues which may be addressed by the amendments. Explaining that the amendments would narrow the bill to dealing with irrigation districts. Points out that the districts expressed concerns for keeping the ability to own water rights if the district owns land.
370	Jean Wilkinson	Oregon Farm Bureau. Discusses the issues regarding the work group and the concerns expressed by the irrigation districts.
400	Chair Jenson	Asks Ms. Wilkinson to allow the district representatives to address their concerns.
405	Wilkinson	Acknowledges, and continues discussing the issue.
TAPE 83, B		
010	Brad Harper	Water For Life. Discusses the issues discussed by the work group, and addresses the coming amendments.
025	Katie Fast	Oregon Cattlemen’s Association. Discusses the concerns of her members regarding the ownership issue and the need to define that ownership.
040	Rep. Kropf	Asks whether there is any language in the amendments which would help the water districts achieve the goal of delivering water down stream effectively.
050	Kosezan	Discusses the possible cancellation of water rights in regards to Water Districts and their ability to make contracts.
070	Wilkinson	Concurs with Mr. Kosezan, and further comments on the issue.
085	Kosezan	Points out that senior water rights are often delivered before those of more junior water rights.
095	Harper	Concurs with the previous witnesses comments.
105	Fast	Concurs with the other witnesses, and refers to the relevant Attorney Generals decision.
115	Rep. Kropf	Clarifies that the water districts do have a limited ownership right, and asks whether, in the bill as written, this right would be limited or taken away.
120	Richard	Explains that he does not believe there is any limitation of this ownership.

130	Rep. Kropf	Clarifies his earlier question, and expresses his wish to conserve the statutes quo.
135	Richard	Explains that he does not believe there would be any such change.
140	Chair Jenson	Asks Mr. Tiffany to address the issue.
150	Willie Tiffany	League of Oregon Cities. Offers testimony regarding HB 3298.
160	Amanda Rich	Special Districts Association of Oregon. Explains that her group is satisfied with the proposed amendments, but her group is still concerned with the possible limitations imposed by the bill.
180	Anita Winkler	Oregon Water Resources Congress. Offers testimony regarding HB 3298, and expresses continued concerns regarding the bill.
250	Chair Jenson	Apologizes for not having the amendments for the meeting, but points out the general time crunch of the legislature.
265	Winkler	Thanks the Chair, and points out that there are two or three amendments being discussed by the work group. Comments on an earlier question posed by Rep. Kropf.
290	Rep. Schaufler	Asks whether there was any thought given to ensuring that nobody would lose their water rights as an unintended consequence.
310	Winkler	Discusses the problems associated with the issue.
335	Kristina McNitt	Oregon Water Resources Congress. Concurs with Ms. Winkler.
345	Doug Myers	WaterWatch. Points out that the while in stream water rights are not included in the bill, the issue is an extremely broad and complex issue which should be addressed by a task force.
365	Chair Jenson	Asks Mr. Myers if WaterWatch is willing to fund such a task force.
370	Myers	Points out the issue could be addressed by the Water Resources Department.
375	Chair Jenson	Points to the inability of the Department to effectively resolve the issue so far.
380	Rep. Kruse	Comments on the time between sessions.
395	Adam Sussman	Oregon Water Resources Department. Offers testimony regarding HB 3298 and the issue of defining "owner."
410	Chair Jenson	Clarifies that in light of the AG decision that "owner" is already defined in law.
415	Sussman	Acknowledges the AG decision, but expresses concerns for defining "owner" or "holder" in statute.
TAPE 84, B		
005	Sussman	Continues with testimony regarding HB 3298.
035	Rep. Schaufler	Comments on the confusion regarding definitions in statute.
045	Tom Paul	Oregon Water Resources Department. Further discusses the department's concerns with regarding the issue.
060	Chair Jenson	Asks whether the district can have water right not apertinent to the land for delivery purposes.
065	Paul	Discusses the districts ability to own water rights.
080	Chair Jenson	Asks whether the statutes discussed by Mr. Paul are available.
082	Sussman	Indicates that he will get that information to the Chair.
095	Chair Jenson	Comments on the upcoming schedule for the committee. Closes the work session on HB 3298, and adjourns the meeting at 10:11 a.m.

EXHIBIT SUMMARY

A – SB 499A, written testimony, Adam Sussman, 4 pp.

B – SB 499A, conceptual amendment, Harlan Levy, 2 pp.