

CONFERENCE COMMITTEE ON HB 3981

June 25, 2001
4:00 PM

Hearing Room B
Tapes 1 – 2

MEMBERS PRESENT: **Rep. Bob Jenson, Chair**
 Rep. Jeff Kropf
 Sen. Ryan Deckert
 Sen. Ted Ferrioli
 Sen. Ken Messerle

MEMBER ABSENT: **Rep. Al King**

STAFF PRESENT: **Sandy Thiele-Cirka, Committee Administrator**
 Linda Gatto, Committee Assistant

MEASURES HEARD: **HB 3981B 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.

<u>TAPE/#</u>	<u>Speaker</u>	<u>Comments</u>
TAPE 1, A		
004	Chair Jenson	Calls the committee to order at 4:12 p.m. and opens the work session on HB 3981B.
<u>HB 3981B WORK SESSION</u>		
009	Brendan McCarthy	Deputy Legislative Counsel. Reviews the changes in HB 3981-B9 amendments dated 6/25/01. (EXHIBIT A) .
082	Sen. Messerle	Requests clarification, if the study will be done when the listing is being developed and at the completion of the listing.
090	McCarthy	Responds affirmatively. States the report is not a criteria for the listing, the listing is defined by a biological decision.
095	Sen. Deckert	Questions if the fiscal impact is known.
100	Chair Jenson	Responds that the fiscal on the original was indeterminate and should be significantly less.
107	Sen. Messerle	Questions if there is a requirement for this information to be presented during the hearing process.
116	McCarthy	Responds there is no requirement.
117	Sen. Messerle	Comments that the report should be available for the hearing process.
120	Chair Jenson	Concurs that this is the intention.
125	Sen. Ferrioli	Supports the concept as stated by Sen. Messerle. States that basing the listing on biological information should be a concurrent consideration with other sciences including sociology and economics.
147	Chair Jenson	Refers to page 2, sub 2, sub c, of HB 3981B.
158	Rep. Kropf	Questions if in the phrase beginning on line 4, page 1, the word existing means that the economic analysis would be considered to be existing.
168	McCarthy	Responds that would be prior to the creation of the report.
180	Sen. Ferrioli	States in the federal Endangered Species Act, (ESA) consideration is limited to published documentation.
226	Rep. Kropf	States that the language needs to clearly express that the economic analysis is available for review while the listing

		process is occurring.
214	Sen. Ferrioli	Notes that the federal ESA puts the emphasis on the biological opinion of the scientific community and considers the economics after the fact.
235	Sen. Messerle	Refers to page 2, lines 30 – 33, of HB 3981B and discusses placing in a time for completion.
247	McCarthy	Responds there is no requirement to make the report available for public scrutiny.
261	Sen. Messerle	Suggests that in sub b there should be a time frame that the information be available at the public hearing prior to the listing.
263	Chair Jenson	Suggests inserting within 30-days of completion of the report.
275	McCarthy	Expresses concern on statutory time limits.
331	Sen. Ferrioli	States his objective is for the effects of a listing to be made available during the listing and disclosed to the public.
367	Rep. Kropf	Comments on line 16 and proposes that there be some change to the language to ensure that the report is available for review by the time the commission makes the final decision.
438	Sen. Ferrioli	Offers to conceptually amend line 17 of the –B9 amendments by striking the words “the time” and add the words “30 days before the commission” and reads the new sentence.
455	Sen. Messerle	Notes that the hearing process is greater than 30 days.
TAPE 2, A		
011	Rep. Kropf	Suggests using the word “initial” to imply that the report be made available before the first hearing.
013	Chair Jenson	Questions if the concern is the rule making process or the hearing process.
014	Sen. Ferrioli	Responds the concern is to have full disclosure to communities and encourage full participation in the hearing process.
022	Rep. Kropf	Questions if the information would be available for consideration at the hearings process and also for recovery. Questions legislative counsel if the proposed changes to the bill or amendments delete the statutory rule requirements for Oregon Department of Fish and Wildlife, (ODFW) to complete an economic analysis during the recovery plan period.
040	McCarthy	Responds he is not aware of that requirement and has not deleted it that he knows of. Suggests allowing an extension of the time frame to list the species if the report is not completed.
069	Sen. Ferrioli	Refers to line 17 and suggests striking the words “by the time the commission makes a final” and add language behind the word review “before the commission holds it’s initial public hearing for”.
081	Sen. Ferrioli	States the conceptual amendment for the record, “the commission shall prioritize the completion of the report to ensure that the report is available for review before the commission holds its initial public hearing for making a determination on the addition of the species to the list”. Explains the intent.
105	Pete Test	Associate Director Oregon Farm Bureau Federation. Testifies in support of the conceptual amendment.
157	Rep. Kropf	Questions Chair Jenson if the amendments on page 3, of HB 3891A-9 restating that the Oregon ESA only applies to endangered species on state land will satisfy the circumstances in the wind power facility.
170	Chair Jenson	Responds affirmatively.
180	Sen. Ferrioli	MOTION: Moves to ADOPT HB 3981-B9 amendments

dated 06/25/01 and FURTHER AMENDED on page 1, line 17, by deleting "by the time the commission makes a final" and inserting after "review" on page 1, line 17 "before the commission holds its initial public hearing for making a".

181 **VOTE: 5-0**
ABSENT: 1 – King
Chair Jenson **Hearing no objection, declares the motion CARRIED.**

187 Chair Jenson Questions what comments Water Resources Department, (WRD) has on section 7, of the B-10 amendments, **(EXHIBIT B)**.

195 Tom Byler Water Resources Department, (WRD). Responds that this would direct the Oregon Law Commission to review the adjudication process. Explains the process.

220 Chair Jenson Referring to section 7, asks what his recommendation to the governor would be.

222 Byler Responds that any review of the process would not be productive. Comments the people in the Klamath Basin are looking for certainty not delays.

229 Sen. Messerle Questions if the people who have adjudicated rights have certainty now.

238 Byler Responds that federal case law makes clear in its opinion that the basin has to be managed as a whole and at issue is the sub basins that have already been adjudicated would subject to regulation as a whole.

306 Sen. Deckert Questions how would the process slow down and ask what are the primary concerns with section 7.

312 Byler Responds that the adjudication process would be changed by the commission and the legislature.

344 **Rep. Kropf** **MOTION: Moves HB 3981 to the floor with the recommendation that the House CONCUR in Senate amendments dated 06/12/01 and that the bill be further amended by the –B9 amendments dated 6/25/01 with conceptual additions and REPASS the Measure.**

349 **VOTE: 4-1-1**
AYE: 4 – Senators Messerle, Ferrioli, Representatives Kropf, Jenson
NAY: 1 – Senator Deckert
ABSENT: 1 – Representative King

315 **Chair Jenson** **The motion Carries.**
SEN. FERRIOLI and REP. JENSON will lead discussion on the floor.

467 Chair Jenson Closes the work session on HB 3981 and adjourns the meeting at 5:07 p.m.

Submitted By,

Reviewed By,

Linda K. Gatto,

Sandy Thiele-Cirka,

Committee Assistant

Committee Administrator

EXHIBIT SUMMARY

- A. HB3981B, -9 amendments dated 6/25/01, staff, 8 pp.**
- B. HB 3981B, -10 amendments dated 6/25/01, staff, 2 pp.**