

HOUSE COMMITTEE ON WATER AND ENVIRONMENT

May 14, 1999 Hearing Room D

1:00 P.M. Tapes 163 -166

MEMBERS PRESENT: Rep. Jim Welsh, Chair

Rep. Jackie Taylor, Vice-Chair

Rep. Jason Atkinson

Rep. Richard Devlin

Rep. Juley Gianella

Rep. Deborah Kafoury

Rep. Jeff Kruse

Rep. Jeff Merkley

Rep. Susan Morgan

STAFF PRESENT: Kristina McNitt, Administrator

Danielle Hamilton, Administrative Support

MEASURES HEARD: HB 3216 Work Session

SB 301 Public Hearing and Work Session

SB 465 Public Hearing and Work Session

SB 759 Work Session

SB 1098 Work Session

HB 2540 Work Session

HB 2979 Public Hearing

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 163, A

004

Chair Welsh

Calls meeting to order at 2:35 PM and opens a work session on HB 3216.

HB 3216 WORK SESSION

*NOTE: Staff submits written information from Consultants in Toxicology, Risk Assessment, and Product Safety (CTRAPS) regarding Estrogenicity of Willamette River Water and written testimony from Kevin Hanway, Director, Willamette Water Supply Agency (**EXHIBIT A**).

012

Rep. Jerry Krummel

House District 27, submits written information regarding Tualatin Valley Water District (TVWD) Project Report 8/94 (**EXHIBIT B**), Willamette River Water Supply System Preliminary Report 12/98 (**EXHIBIT C**), TVWD Willamette River Raw Water Monitoring Program Summaries 3/97 (**EXHIBIT D**), and newspaper articles regarding the Willamette River as a resource for potable water (**EXHIBIT E**). Testifies in support of HB 3216. Refers to EXHIBIT D, and states that the Willamette River is the most studied river in the state.

040

Rep. Krummel

Refers to EXHIBIT D, page 2, and states that the monitoring program did not reveal any water quality concerns for development of high-quality drinking water. Refers to EXHIBIT B, page 4, and states that the 1994 pilot study indicated that the Willamette River was a good, future source of treatable drinking water. Explains that since 1973 the city of Wilsonville has held a 20 million gallon per day water right to the Willamette River. Discusses the problems with relaying on ground wells.

077

Rep. Krummel

States that the TVWD holds a permit for 130 million gallons per day from the Willamette River. Explains that in the next twenty years, the Portland-metropolitan area will need approximately 60 million gallons of water per day from the Willamette River.

095

Rep. Krummel

Maintains that science has proven that the Willamette river is a potable water source. Points out that there are other cities along the Willamette River, including Portland and Newberg, that have the old, open-sanitary sewer systems. Explains that heavy rainfalls flood these systems and create a back-flow of raw sewage that is washed into the Willamette River. Explains that when this happens, warning signs are put up along the river. Notes that many people swim and play in the river without becoming ill.

145

Rep. Kafoury

Asks if there have been studies regarding human consumption of fish from the Willamette River.

147

Rep. Krummel

Responds that he is not aware of studies regarding human consumption of Willamette River fish. Explains that there have been studies conducted on organisms in the river as well as sedimentation rates.

158

Rep. Kafoury

Comments that the issue of people eating fish from the Willamette is the important issue that must be addressed.

162	Chair Welsh	Refers to EXHIBIT E, page 3, and notes that the newspaper article states that scientists were asked to comment on the decline of fish deformities. Asks if the city conducted fish studies cited in the article.
175	Rep. Krummel	Responds that the reports that he is most familiar with are the ones he has submitted to the committee.
196	Rep. Devlin	<p>Points out that there are two different issues:</p> <ul style="list-style-type: none"> • Whether the Willamette River is a safe source of potable water. • Limited studies regarding human consumption of fish from the Willamette. <p>Points out that representation from the Oregon Health Department (OHD) is available concerning fish consumption health risks.</p>
215	Rep. Devlin	<p>Introduces the 4 amendments dated 5/11/99 (EXHIBIT F). States that the 4 amendments completely replace HB 3216 and all previous amendments. Explains the 4 amendments are a collaborative effort of state agencies, paper industry spokespersons, and HB 3216 proponents. Discusses what is new in the amendments:</p> <ul style="list-style-type: none"> • Added Columbia Slough as potential study area. • Portion of bill to be a pilot study. • Examining existing studies and clarifying what work must continue. <p>Informs the committee that the 4 amendments are the only legislation that will be considered regarding HB 3216.</p>
240	Chair Welsh	Asks for additional information regarding human consumption of fish.
247	Tom Johnson	Assistant Administrator, OHD, testifies that there is good information regarding mercury levels in fish. States that very little information is available regarding "organics;" i.e., PCB, Dioxins, etc. Indicates that studies conducted on fish have looked at contaminants within the entire fish body and have not focused on the parts of fish that are most frequently consumed by humans.
270	Chair Welsh	Asks Johnson if he was at the Willamette River water treatment plant discussions.
271	Johnson	Responds negatively.
272	Chair Welsh	<p>States that areas covered included:</p> <ul style="list-style-type: none"> • Dioxins. • Alzheimer's Disease related to chemicals. • Fish deformities. <p>Maintains that there is a gap in research regarding health concerns related to human consumption of Willamette River fish.</p>

302	Johnson	Responds that he is aware of studies conducted by Oregon Department of Environmental Quality (ODEQ). Explains that these studies were for purposes "other than" determining human health effects. Testifies that OHD would like to pull all existing studies together for the purpose of determining what the most current data is saying, and what the next move should be.
327	Chair Welsh	Comments that studies are not indicating high levels of contamination.
328	Johnson	Responds that information regarding "human health consumption" is inconclusive.
331	Laurie Aunan	ODEQ, testifies in regard to studies conducted on fish tissue for the purpose of determining the causes of fish deformities. States that results are inconclusive. Reports that the Willamette River is a water quality limited river on the 303-D list for certain pollutants; i.e., bacteria. Maintains that ODEQ has committed to cooperating with provisions of HB 3216 as amended.
374	Chair Welsh	Comments that he is having problems with HB 3216-4, page 1, lines 4 ñ 6, ending with "water." Expresses concern that this language indicates that the Willamette River is a contaminated waterway. Wants this language deleted from the amendments.
405	Johnson	Elaborates that OHD involvement is only from a fish consumption point of view.
406	Chair Welsh	Concurs.
419	Trish Conrad	H2 OK Citizenís Group, submits news release (EXHIBIT G) and testifies in regard to concerns with the ñ4 amendments. Concurs that language on page 1, lines 4-6, ending with "water." inappropriately relates the Willamette River with contaminated water. Relates that Section 1, of the ñ4 amendments does not exclude drinking water. Refers to EXHIBIT G, and discusses the May 3, 1999 Wilsonville Water Quality Panel Discussion that she attended.
TAPE 164, A		
021	Rep. Devlin	Comments that Conrad is speaking to skeletal deformities in fish and the ñ4 amendments address human health consumption of fish.
028	Conrad	Replies that her concerns of ambiguous language in the ñ4 amendments is the reason she is discussing the Wilsonville panelís testimony regarding fish disease. Reiterates that there is no exclusion to looking at drinking water in the amendments. Explains that her point will become clear if she could be permitted to continue.
030	Chair Welsh	Responds affirmatively.
031	Conrad	Continues to point out testimony provided at the May 3, 1999 Wilsonville panel

		meeting. Explains that she realizes that the intent of HB 3216-4 is to look at health risks regarding human fish consumption. Discusses the Tigard Citizenís Task Force which spent weeks looking at drinking water issues and fish health issues. Refers to EXHIBIT G, page 1, and reports that Dr. Dick Pratt concluded that there is no current link to people living along the Willamette and them getting Parkinsonís Disease. Suggests that the committee contact members of the May 3, 1999 Wilsonville panel for additional information.
053	Rep. Kafoury	Asks if Conrad is aware of studies regarding human health and consumption of fish from the Willamette River.
055	Conrad	Responds negatively. Explains that Dr. Pratt testified that the rate of fish consumption was so low that it did not pose a health risk.
062	Hillary Abraham	Program Director, Oregon Environmental Council, testifies in support of HB 3216-4. States that the issue of the Newberg pool regarding fish deformities is distinct and separate from issues of human health risk associated with consumption of Willamette River fish. Maintains that the Newberg Pool Study focused on water quality.
080	Karen Lewotsky	Director of Water Programs, Oregon Environmental Council, testifies in support of HB 3216. Reiterates that the issue is not water quality, but the health risks associated with the consumption of fish over time. Explains chemicals of concern accumulate in fish bodies and when humans eat fish those chemicals accumulate in human bodies.
113	Rep. Gianella	Asks about the safety of the water for recreational activities such as water skiing.
120	Karen Lewotsky	Responds that the original bill addressed the safety issue of contaminated recreational activity. States that this has been removed in the ñ4 amendments. Explains that an important component of the bill is public awareness and education.
136	Rep. Gianella	Asks if Lewotsky is talking about putting up warning signs for people who are fishing.
139	Lewotsky	Responds that some warning signs currently exist. States that HB 3216 is addressing a more extensive outreach program. Explains that there are problems of comprehensive language and cultural barriers with warning signage.
152	Rep. Gianella	Asks if Lewotsky believes that the Russian and Hispanic community would read a warning sign if it was in their native language.
157	Lewotsky	Responds affirmatively. Explains that reading a sign and following up with correct choices and behavior are not the same thing.
166	Rep. Kafoury	Comments that she appreciates the studies that have been brought before the committee regarding water quality. States that Willamette River water will only

		be consumed after it has been treated and made safe. Emphasizes that the concern that people may be putting their health at risk by eating fish that are full of chemicals is an entirely different matter.
176	Rep. Kruse	Asks who the people are who are eating Willamette River fish.
178	Lewotsky	Responds that there is not sufficient information to specifically define these populations.
183	Johnson	Responds that OHD has been to the river when people were fishing underneath warning signs. Explains that OHD has asked people if they have read the signs and have any concerns. Explains that the state must have a different approach to people of diverse ideas and cultures.
201	Rep. Gianella	Asks what OHD is considering as a "different approach."
204	Johnson	Responds that OHD must have conversations with people fishing the Willamette. Asserts that cultural awareness must be raised to discover what type of reading literature and verbal messages get through to different people. Lists social groups and churches as location resources for sharing information.
211	Rep. Gianella	Asks about the cost of this kind of outreach.
215	Johnson	Estimates that costs would include one full-time public educator at \$96 thousand per year.
229	Rep. Kafoury	Asks if HB 3216 was part of the Governor's Willamette River Basin Task Force.
230	Abraham	Responds affirmatively.
243	Rep. Kruse	Asks if it has been determined how many fishing licenses have been bought by people intending to fish the Willamette.
248	Johnson	Responds negatively. States that up to this point OHD has not been responsible for determining the number of fishing licenses sold and who is purchasing them. Asserts that OHD is responsible for educating the public of health hazards.
260	Rep. Kruse	Asks what Johnson means by "a lot" of fish consumption going on.
264	Johnson	Responds that the purpose of HB 3216 is to quantify the definition of "a lot." States that OHD knows that people are fishing the Willamette and people are eating fish from the Willamette.
272	Rep. Morgan	Asks if there is statistically significant information showing that people are

		getting sick from eating Willamette River fish.
276	Johnson	Responds negatively. Explains that there are no statistics pointing to death rates or cancer. Reports that the contaminants in question would not have immediate, acute health effects. States that health effects would be gradual.
289	Rep. Morgan	Asks if OHD has been collecting data longer than thirty years.
293	Johnson	Responds affirmatively. Explains that data has been collected on the population as a whole. Explains that data has not been collected on the specific population of people eating Willamette River fish.
296	Rep. Morgan	Asks if OHD currently has a program in certain areas warning people of the dangers of eating fish.
299	Johnson	Responds that OHD has issued some health advisories across the state where significant data has been collected to determine sufficient health risk.
306	Rep. Morgan	Asks for the nature of the "data" that OHD collected and used to determine health risks.
307	Johnson	Responds that OHD has not conducted "field research" on health risks. Explains that the studies have come from many sources, such as, Department of Fish and Wildlife, Department of Environmental Quality, and other sources that have been mentioned in the committee meeting today.
318	Rep. Morgan	Asks if OHD is telling the committee that it does not have the funding needed to do the outreach and public education that is required.
333	Johnson	Responds that there are two elements to HB 3216: <ul style="list-style-type: none"> • Outreach - - Public health educator going to communities. • Assessments of current data, identifying gaps, and proposing a plan of action.
349	Rep. Taylor	Comments that mercury is a known health hazard. Appreciates the sponsors of HB 3216 and would like to see provisions in the bill extend out towards Astoria where she lives.
374	Rep. Gianella	Comments that reaching people by mail could be done for a lot less than \$97 thousand dollars.
379	Chair Welsh	States that he wants to have further discussions before he is comfortable with moving the bill.

392	Rep. Devlin	Asks if it would be possible to move conceptual amendments into the ñ4 amendments, and move the ñ4 amendments into the bill without moving the bill out of committee.
403	Chair Welsh	Comments that he would prefer to move ñ5 amendments to the bill.
418	Rep. Devlin	Refers to HB 3216-4 amendments and discusses conceptual changes: <ul style="list-style-type: none"> • Page 1, line 5, insert the word "a" before "programs" and remove the "s" from the word "programs." Delete "address" and insert "examine." • Page 1, line 6, delete "water" and insert "fish." • Page 1, line 12, place period after "fish" and eliminate "resulting from water." • Page 1, line 13, delete "contamination."
439	Rep. Morgan	Refers to page 1, Section 1(a), and asks if language regarding a "study of health risks" should be added to make the intent more clear.
451	Rep. Devlin	Responds that language regarding "studying" or "identifying" health risks can be made more clear through further discussions. Comments that he does not want to see the bill go through continued amendment drafts. Asks that the Chair make his intentions known regarding passing the bill as it still must clear the Ways and Means Committee.
475	Chair Welsh	Responds that he will know by Monday.
477	Chair Welsh	Closes the work session on HB 3216 and opens a public hearing on SB 301.
TAPE 163, B		
<u>SB 301 PUBLIC HEARING</u>		
030	Kristina McNitt	Committee Administrator, summarizes the bill.
048	Tom Byler	Water Resources Department (WRD), submits and presents written testimony in support of SB 301 (EXHIBIT H). Refers to EXHIBIT H, page 1, and discusses background of industrial water rights. Emphasizes that the bill was unopposed in the Senate Water and Land Use Committee and unopposed on the Senate Floor.
089	D. E. Bridges	Oregon Water Association (OWA), submits and presents written testimony in support of SB 301 (EXHIBIT I). Provides examples of industrial water rights that were initially obtained for specific industrial use and that now can be used for general industrial use.
121	Byler	Introduces SB 301ñ1 amendments dated 5/3/99 (EXHIBIT J). Explains that the ñ1 amendments resolve the problem of a water rights holder transferring from a surface water source to a ground water source where the ground water source

		affects a second stream. States that the water rights holder could mitigate the impact on the second ground water source. Maintains that although the ñ1 amendments are a solution to problems found in the City of Vale, they will be of use to many other areas in the state.
160	Rep. Morgan	Asks for an example of how the ñ1 amendments would apply.
164	Byler	Responds that ground water sources are usually of better quality than surface water sources. Explains that the City of Vale desires to move from a surface water source to a ground water source. Reports that the ground water source was discovered to be connected to another water source that would be effected by the cityís transfer. Explains that the city has the ability to mitigate the effects to this second water source via another water right that they hold.
187	Rep. Morgan	Asks if a ñ1 situation means entering into a "mitigation loop" with the Water Resources Department to assess the situation and figure out the best solution for negating effects to water sources.
192	Byler	Responds affirmatively.
196	Rep. Morgan	Asks about the time involved in water transfers and investigations regarding water source impacts.
201	Byler	Responds that plenty of time is provided for investigating the effects of water transfers. States that there are certain timelines for water transfers.
218	Byler	<p>Introduces the ñ2 amendments dated 5/10/99 (EXHIBIT K). Explains that the ñ2 amendments also deal with surface to ground water transfers. Explains that the ñ2 amendments are a part of SB 0093 (1999). States that the ñ2 amendments deal with primary and supplemental water right issues.</p> <ul style="list-style-type: none"> • Primary Right - - first or main use for water. • Supplemental Right - - supplies water when the primary source is not available or is not enough. <p>Explains that the ñ2 amendments allow these rights to be switched.</p>
261	Rep. Morgan	Asks if the ñ2 amendments allow for water right holders to switch back and forth between primary and supplemental sources.
266	Byler	Responds affirmatively. Explains that requests must be made each time a primary and supplemental water right is established or changed.
275	Rep. Taylor	Asks how the City of Vale is mitigating the impact on Bully Creek.
290	Byler	Responds that in the transfer of the water right, the City of Vale has the same amount of water allowed to them. In order to mitigate the impact on Bully Creek, the City of Vale has another water right that they will use.

320	Rep. Gianella	Refers to SB 301-1, page 2, line 21, and asks for a definition of "require mitigation measures."
337	Byler	Responds that this language allows mitigation of the depletion of a second water source to occur.
356	Bridges	Submits a letter from an engineering company in the City of Vale explaining the city's situation and their support of the ñ1 amendments (EXHIBIT L). States his support of the ñ2 amendments.
372	Kathryn VanNatta	Northwest Pulp and Paper Association (NWPPA), testifies in support of SB 301. Explains that the bill provides regulatory flexibility and protection of instream water use. States that NWPPA is neutral on the amendments.
398	Richard Koesan	Water for Life, testifies in support of the ñ2 amendments.
412	Doug Myers	Water Watch, testifies in support of SB 301 and the ñ1 amendments. Expresses concern with the ñ2 amendments. Refers to SB 301-2 amendments, page 2, after line 9, inserting language that states that "The director may approve a substitution only if the substitution results in net benefits for instream flows." Asks for additional time to work with other proponents regarding consensus of language.
TAPE 164, B		
010	Rep. Morgan	Asks if this additional language would preclude the holder of water rights from switching back to an instream use, after switching to a supplemental water right.
012	Myers	Replies that Water Watch supports water right holders switching back and forth between water rights.
013	Rep. Morgan	Asks if language could read "only if the substitution has no detrimental impact on instream flows" instead of "only if the substitution results in net benefit for the instream flows."
016	Myers	Responds that Water Watch would prefer language speaking to net benefits for instream flows.
023	Rep. Morgan	Asks how it is possible to create a net water increase in a stream.
027	Myers	Responds that the director would look at the application requesting a switch and determine that the switch will result in a net benefit to instream flows.
031	Rep. Morgan	Asks what happens if a person switches back from a ground water source to an instream source.

034	Myers	Responds that this is part of the bill and is supported by Water Watch.
037	Rep. Morgan	Asks if switching to instream sources contradicts the conceptual amendment proposed by Water Watch.
039	Myers	Responds that much would depend on the reasons a person wanted to switch back to instream flows.
044	Richard Koesan	Water for Life, states that the proposed amendment by Water Watch is overly restrictive and difficult to demonstrate. States that it is difficult to quantify net benefit to instream flows.
066	Rep. Morgan	Comments that it is important to protect a water right holder's ability to switch back to the primary source while suffering no net loss for doing so.
068	Myers	Believes that the bill and proposed amendments do protect water right holders.
072	Koesan	Believes that there are inherent protections in the amendments.
075	Rep. Merkley	Asks for examples of transfers of primary rights from instream flows to ground sources that did not result in net benefits to the instream flow.
081	Myers	Responds that ground water sources in the Deschutes region are connected to surface streams.
088	Rep. Merkley	Asks if Water Watch supports the ability to revert back to surface water sources without a test.
095	Myers	Responds affirmatively.
098	Rep. Kruse	Comments that there are too many variables to the way water systems connect to prove net benefit or detrimental impact upon instream flows.
105	Rep. Merkley	Asks if the water resources director will be the entity that determines the result of net benefit to instream flows.
117	Myers	Responds affirmatively.
118	Rep. Merkley	Comments that language could state the director may approve a substitution only if "in his or her judgement," it would result in net benefit to instream flows. Maintains that Water Watch is not proposing scientific tests be conducted to determine net benefit.

121	Myers	Concurs. Explains that the director's approval would partially be a judgement call.
136	Rep. Kruse	Comments that better science is not available to get where he believes Water Watch wants to go with the proposed amendment.
145	Myers	Responds that the department will need to use its best judgement based on experience and existing science.
164	Chair Welsh	Closes the work session on SB 301 and opens a work session on SB 301.
<u>SB 301 WORK SESSION</u>		
170	Rep. Kruse	MOTION: Moves to ADOPT SB 301-1 amendments dated 5/3/99.
		VOTE: 7-0 EXCUSED: 2 - Devlin, Kafoury
173	Chair Welsh	Hearing no objection, declares the motion CARRIED.
174	Rep. Kruse	MOTION: Moves to ADOPT SB 301-2 amendments dated 5/10/99.
180	Rep. Merkley	MOTION: Moves to AMEND SB 301-2 on page 2, after line 9, insert "The director may approve a substitution only if, in the judgement of the director, the substitution would result in net benefit for instream flows."
200	Rep. Morgan	States her opposition to the conceptual change to the ñ2 amendments. Believes that the changes allow for the possibility of water right holders to lose their water rights.
209	Rep. Taylor	Comments that she does not see the conceptual change as too restrictive. Asks that committee majority members consider the conceptual amendment as a compromise to the issue of water transfers.
225	Rep. Kruse	States that the ñ1 and ñ2 amendments are works of compromise brought forth as a result of workgroup discussions.
229	Chair Welsh	Comments that last minute conceptual amendments to water right bills have not been historically adopted.

241	Rep. Merkley	Comments that the burden of proof in the conceptual amendments would be in extraordinary situations that were causing a situation other than the intended effect of the amendments. States that the proposed changes give the director the ability to stop an unintended detrimental impact on instream flows. Asks that the committee support the conceptual amendments.
270	Rep. Kruse	Comments that SB 301-2, Section 2(4), is already considering instream flows. Believes that the conceptual changes are "vague calls of judgement."
284	Rep. Merkley	Comments that the conceptual amendments do no harm. Asks Meyers if Section 2(4) satisfactorily addresses the concern of "decreased surface water."
304	Myers	Responds that not every stream has instream water rights.
320	Rep. Kruse	Asks Meyers to name streams with no instream water rights.
321	Myers	Responds that he will provide the committee with a full list by Monday.
354	Chair Welsh	Asks that the clerk call the roll for the motion to adopt the conceptual amendment.
		VOTE: 2-5 AYE: 2 - Merkley, Taylor NAY: 5 - Atkinson, Kruse, Gianella, Morgan, Welsh EXCUSED: 1 ñ Kafoury, Devlin
359	Chair Welsh	The motion FAILS.
360	Chair Welsh	Asks that the clerk call the roll for the motion to adopt the ñ2 amendments.
		VOTE: 6-1 AYE: 6 - Atkinson, Gianella, Kruse, Merkley, Morgan, Welsh NAY: 1 - Taylor EXCUSED: 1 ñ Kafoury, Devlin
364	Chair Welsh	The motion CARRIES.

366	Rep. Kruse	MOTION: Moves SB 301 to the floor with a DO PASS AS AMENDED recommendation.
		VOTE: 7-0 AYE: In a roll call vote, all members present vote Aye. EXCUSED: 2 - Devlin, Kafoury
377	Chair Welsh	The motion CARRIES. REP. MORGAN will lead discussion on the floor.
380	Chair Welsh	Closes the work session on SB 301 and opens a public hearing on SB 465.
<u>SB 465 PUBLIC HEARING</u>		
395	D. E. Bridges	Oregon Water Association, submits written testimony in support of SB 465 on behalf of Jan Lee, Executive Director, Oregon Water Resources Congress (EXHIBIT M). Refers to EXHIBIT M, and discusses provisions of the bill.
434	Chair Welsh	Closes the public hearing on SB 465 and opens a work session on SB 465.
<u>SB 465 WORK SESSION</u>		
436	Rep. Atkinson	MOTION: Moves SB 465 to the floor with a DO PASS recommendation.
		VOTE: 7-0 AYE: In a roll call vote, all members present vote Aye. EXCUSED: 2 - Devlin, Kafoury
451	Chair Welsh	The motion CARRIES. REP. ATKINSON will lead discussion on the floor.
453	Chair Welsh	Closes the work session on SB 465 and opens a work session on SB 759.

TAPE 165, A

SB 759 WORK SESSION

019	D. E. Bridges	Oregon Water Association, submits written testimony in support of SB 759 on behalf of Jan Lee, Executive Director, Oregon Water Resources Congress (EXHIBIT N).
030	Chair Welsh	Asks if there is known opposition to the bill.
038	Bridges	Responds negatively.
040	Rep. Kruse	MOTION: Moves SB 759 to the floor with a DO PASS recommendation.
		VOTE: 7-0 AYE: In a roll call vote, all members present vote Aye. EXCUSED: 2 - Devlin, Kafoury
048	Chair Welsh	The motion CARRIES. REP. MORGAN will lead discussion on the floor.
050	Chair Welsh	Closes the work session on SB 759 and opens a work session on SB 1098.

SB 1098 WORK SESSION

058	D. E. Bridges	Oregon Water Association, submits written information in support of SB 1098 on behalf of Jan Lee, Executive Director, Oregon Water Resources Congress (EXHIBIT P).
060	Tom Byler	Oregon Water Resources Department (OWRD), submits and presents written testimony in support of SB 1098 (EXHIBIT O).
110	Bridges	Adds two items pertinent to SB 1098: <ul style="list-style-type: none">• Tumalow Water District will lose \$1.5 million in federal grants if SB 1098 does not pass.• The Senate Floor passed the bill, 26-0.

115	Rep. Kruse	MOTION: Moves SB 1098 to the floor with a DO PASS recommendation.
		VOTE: 7-0 AYE: In a roll call vote, all members present vote Aye. EXCUSED: 2 - Devlin, Kafoury
122	Chair Welsh	The motion CARRIES. REP. KRUSE will lead discussion on the floor.
124	Chair Welsh	Closes the work session on SB 1098 and opens a work session on HB 2540.
<u>HB 2540 WORK SESSION</u>		
130	Rep. Kruse	MOTION: Moves to ADOPT HB 2540-1 amendments dated 5/7/99.
131	Chair Welsh	Reminds the committee that the ñ1 amendments dated 5/7/99 (EXHIBIT Q) have been previously considered as HB 3500. Explains that the ñ1 amendments will gut and stuff HB 2540 with HB 3500. States that Rep. Kropf brought HB 2540 to the committee.
140	Kristina McNitt	Committee Administrator, summarizes the bill and the ñ1 amendments.
146	Rep. Taylor	Asks for clarification regarding acceptance by the Farm Bureau.
150	McNitt	Responds that the Farm Bureau, the Boy Scouts, and people from Deschutes County testified before the committee regarding HB 3500. States that there is widespread consensus with these amendments.
159	Chair Welsh	Comments that the ñ1 amendments adopt criteria to make land zone rules consistent with rules adopted by Department of Land Conservation and Development (LCDC).
191	Rep. Merkley	Asks if LCDC is supportive of the bill.
193	Chair Welsh	Responds affirmatively and states that LCDC was part of the workgroup.

		<p>VOTE: 6-0</p> <p>AYE: In a roll call vote, all members present vote Aye.</p> <p>EXCUSED: 3 - Atkinson, Devlin, Kafoury</p>
212	Chair Welsh	The motion CARRIES .
214	Rep. Kruse	MOTION: Moves HB 2540 to the floor with a DO PASS AS AMENDED recommendation.
		<p>VOTE: 6-0</p> <p>AYE: In a roll call vote, all members present vote Aye.</p> <p>EXCUSED: 3 - Atkinson, Devlin, Kafoury</p>
223	Chair Welsh	<p>The motion CARRIES.</p> <p>REP. KROPF will lead discussion on the floor.</p>
225	Chair Welsh	Closes the work session on HB 2540 and opens a public hearing on HB 2979.
<u>HB 2979 PUBLIC HEARING</u>		
230	McNitt	Clarifies that the ñ5 amendments dated 5/13/99 (EXHIBIT R) are the ñ4 amendments hand-engrossed with conceptual language (EXHIBIT S).
238	Paul Hannaman	<p>Seafood Processors, Cloverdale, OR, testifies in support of HB 2979. Discusses five significant changes to HB 2979:</p> <ul style="list-style-type: none"> • The separate school fund has been deleted. • The inventory will be conducted by June 30, 2001. • A rate equity clause replaces the rate schedule found in the original bill. • A review panel of stakeholders will be implemented to consider hardship and discriminatory rates. • The bill establishes policy and not rates.
284	Hannaman	Refers to the ñ4 amendments and clarifies where each of these changes occur to create the ñ5 amendments.
307	Rep. Morgan	Asks where the money that would have been used for the Small School

		Correction fund is currently going.
309	Hannaman	Responds that it is going to the main account of the common school fund.
313	Hannaman	Continues clarifying where each of the five changes take place in the ñ4 amendments.
338	Rep. Taylor	Asks if the intent is still to preclude rule adoption until the inventory is completed in 2001.
368	Hannaman	Responds affirmatively.
390	Rep. Taylor	Asks if the process to examine the current rate structure started by previous legislation will be stopped by HB 2979-5.
404	Hannaman	Responds that four years ago the land board decided to appoint the Water Way Task Force. States that the task force gave guidelines to the division's rule making process. Explains that he does not recall any legislative directive behind this action.
433	Hannaman	Continues clarifying conceptual changes to HB 2979-4 amendments.
482	Rep. Merkley	Assumes that there have been lease changes between 1998 and 1999, and the 1999 revenue is higher. States that there will automatically be higher revenues in the next two-year period than there were in the last two-year period. Refers to EXHIBIT S, page 4, lines 4-7, and asks how this conceptual change can be implemented.
TAPE 166, A		
011	Hannaman	Responds that some leases are excessive and oppressive. States that there are some people who have not been included who must now be included, which is the reason for the inventory. States that rates of some leases must go down and some should go up.
034	Jay McCally	Portland, OR, explains that the Division of State Lands proposed a freeze to the current rate structure in 1997. Explains that the task force wanted to address the highs and lows in lease rates and reach an equity of fairness. States that revenue generation was not the focal point.
052	Rep. Merkley	Refers to EXHIBIT S, page 5, line 1, and asks about the term of the loan and the additional language, "plus ten years."
073	McCally	Responds that the term of the loan is the primary consideration. States that people take on a loan to enjoy a good rate of return and the time in which to

		carry out their project. Explains that "plus ten years" is language that came from previous division documents and was removed in 1975.
088	Rep. Merkley	Comments that a forty-year lease is an extraordinary period of time for projecting what the lease rates should be. States that this is probably why it was removed.
091	McCally	Responds that he does not know the reason that the division removed the language "plus ten years." States that the current proposal is for a fifteen-year lease which would preclude almost every loan. Explains that the additional language referencing ten years is to correct this situation.
102	McCally	Comments that HB 2979 is not about establishing good rates, it is about establishing good policy with regard to managing a significant resource. Explains that the bill does not denote a change of long-term policy for the division.
174	Paul Cleary	Director, Division of State Lands, submits and presents written testimony in regard to HB 2979 (EXHIBIT T). Refers to written testimony and points out unintentional consequences of provisions in the ñ5 amendments.
215	Cleary	Continues to refer to EXHIBIT T and points out consequences of the ñ5 amendments.
265	Cleary	Continues discussing problems inadvertently created by the ñ5 amendments as listed in EXHIBIT T.
282	Cleary	Responds to the question "How do you enter leases that allow people to borrow money on their own lease rights?" Explains that the division wants to create a fifteen-year lease with a continuing right of renewability so long as the lessee is in good standing. States that it is a lease that continues to roll over without the continued need to change lease documents.
303	Rep. Merkley	Asks if it is common for individuals to have a term longer than fifteen years.
306	Cleary	Responds that lenders look for "assuredness." Explains that this comes through the terms or the renewability clause.
309	Rep. Merkley	Asks if renewability is completely allowed through discretion of the lessee, as long as they are in good standing.
313	Cleary	Responds affirmatively.
314	Rep. Merkley	Asks if renewability is allowed at the same price.

315	Cleary	Responds that the lease rate adjusts over time. Explains that the division is proposing new rules that fix lease rates over a fifteen-year period. States that current rules allow the board to change rates at five-year intervals.
325	Cleary	Continues by referring to EXHIBIT T and responding to proposed amendments. Maintains that current administrative rule, along with the State Land Board, is sufficient oversight for the program. States the board's inability to support the bill.
373	Rep. Merkley	Asks about the appeal process for a lessee who feels their rate is unfair.
381	Cleary	Responds that the initial appeal process is an informal appeal to the director. Explains that the next step is a "contested case" where an independent hearing officer is involved and facts are brought before the land board. States that there have been no "contested case" hearings in the three and one-half-years that he has been with the board. Explains that the board is proposing another step with an independent mediator, before a case becomes contested. Discusses the board's awareness that a formal review process of the program is needed.
432	Rep. Taylor	Comments that the need for an inventory is great. Asks how the development of water location maps is progressing.
445	Cleary	Responds that water map progression is going well. Explains that aerial photos are being overlaid on maps and adjacent land owners are being documented. Would be happy to provide examples to the committee.
465	Rep. Taylor	Asks if there is accommodation for willing volunteers to assist with the inventory process.
478	Cleary	Responds affirmatively.
487	Chair Welsh	Closes the public hearing on HB 2979 and adjourns the meeting at 5:30 PM.

Committee Support By, Reviewed By,

Danielle Hamilton, Kristina McNitt,
Administrative Support Administrator

Complete Transcription By,

Diane M. Lewis,

Administrative Support

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EXHIBIT SUMMARY

A ñ HB 3216, written information from Consultants in Toxicology, Risk Assessment, and Product Safety (CTRAPS) regarding Estrogenicity of Willamette River Water and written testimony from Kevin Hanway, Director, Willamette Water Supply Agency, Staff, 31 pp.

B ñ HB 3216, TVWD Willamette River Water Treatment Pilot Study 8/94, Rep. Jerry Krummel, 17 pp.

C ñ HB 3216, Willamette River Water Supply System Preliminary Engineering Report, Rep. Jerry Krummel, 12 pp.

D ñ HB 3216, TVWD Raw Water Monitoring Program, Executive and Technical Summaries, Rep. Jerry Krummel, 6 pp.

E ñ HB 3216, Newspaper articles regarding Willamette River as a potable water source, Rep. Jerry Krummel, 4 pp.

F ñ HB 3216-4 amendments dated 5/11/99, Rep. Richard Devlin, 2 pp.

G ñ HB 3216, news release and information regarding Willamette River as potable water source, Trish Conrad, 4 pp.

H ñ SB 301, written testimony in support, Tom Byler, 3 pp.

I ñ SB 301, written testimony in support, D. E. Bridges, 3 pp.

J ñ SB 301-1 amendments dated 5/3/99, Staff, 3 pp.

K ñ SB 301-2 amendments dated 5/10/99, Staff, 5 pp.

L ñ SB 301, written testimony in regard to amendments, D. E. Bridges, 2 pp.

M ñ SB 465, written testimony of Oregon Water Resources Congress, D. E. Bridges, 9 pp.

N- SB 759, written testimony of Oregon Water Resources Congress, D. E. Bridges, 1 p.

O ñ SB 1098, written testimony in support, Tom Byler, 3 pp.

P ñ SB 1098, written testimony of Oregon Water Resources Congress, D. E. Bridges, 4 pp.

Q ñ HB 2540-1 amendments dated 5/7/99, Staff, 2 pp.

R ñ HB 2979-5 amendments dated 5/13/99, Staff, 7 pp.

S ñ HB 2979-4 hand engrossed amendments, Staff, 9 pp.

T ñ HB 2979, written testimony in opposition, Paul Cleary, 4 pp.