

JOINT COMMITTEE ON STREAM RESTORATION
AND SPECIES RECOVERY

March 15, 1999 Hearing Room 50

7:00 AM Tapes 52 - 53

MEMBERS PRESENT: Sen. Ted Ferrioli, Co-Chair

Rep. Ken Messerle, Co-Chair

Sen. Joan Dukes, Vice-Chair

Rep. Bob Jenson, Vice-Chair

Sen. David Nelson

Sen. Frank Shields

Sen. Veral Tarno

Rep. Al King

Rep. Jeff Kruse

Rep. Randy Leonard

Rep. Lynn Lundquist

Rep. Susan Morgan

Rep. Bruce Starr

Rep. Terry Thompson

STAFF PRESENT: Judith Callens, Administrator

Stephen Kosiewicz, Administrative Support

MEASURE/ISSUES HEARD: Measure 66 Definition Discussion

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 52, A

004

Chair Ferrioli

Calls the committee to order at 7:15 a.m. Welcomes Sen. Shields as a new member of the committee. Announces Sen. Dukes as the new vice-chair.

MEASURE 66 DEFINITION DISCUSSION

017

Judith Callens

Committee Administrator. Reviews the materials members received prior to the meeting. States what the object of today's meeting is.

033

Chair Ferrioli

Comments on defining capital expenditure.

048

Rep. Thompson

Explains his definition of capital expenditure.

059

Chair Ferrioli

Notes the dictionary definition of capital expenditure included in the pre-meeting materials. Comments on including research in the definition of capital expenditure.

069

Rep. Messerle

Explains his definition of capital expenditure as a cost that builds toward an end product. Notes that when it is defined in this way, research would fit under it much better.

088

Rep. Kruse

States that it is important for the committee to structure the definition of capital expenditure to include every thing other than static positions they are putting in place. States that he would like to see a definition that would allow the committee to include some part of the monitoring.

114

Rep. King

Notes that building materials are typically included in a narrow definition of capital expenditure. Comments on the broader definition of capital expenditure.

132

Rep. Morgan

Comments that research and monitoring should be included in the definition of capital expenditure. States that the remainder of the money should cover administrative and personnel costs.

166

Chair Ferrioli

Asks if Rep. Morgan would want personnel costs included in the definition of capital expenditure.

168

Rep. Morgan

Responds that these costs should be covered by the other part of the money.

170

Rep. Thompson

Notes that the term capital expenditure could expand to include a bunch of different things if the definition is written too broadly. Questions whether ocean research would be considered a capital expenditure. Questions how broad the committee wants to make the definition.

183	Chair Ferrioli	Comments on how he viewed the inclusion of research in the definition.
192	Sen. Nelson	Suggests the committee tie the definition to the rules of accountancy. States that they have to have some reasonable basis for the definition.
202	Chair Ferrioli	Notes that the definition of intangibles may help the committee understand what capital expenditures could be.
207	Rep. Messerle	Expresses hope that the committee could find a way to fund some ocean research with the Measure 66 money. Asks if Measure 66 instructs the committee to pull out the administrative costs from grants and pay for them separately.
221	Jeannette Holman	Legislative Counsel Office. Responds that Measure 66 does not address how the 35% is pulled out. States that it is her understanding that each grant that GWEB has given in the past has included a certain amount for the administration of the grant money itself.
231	Chair Ferrioli	States that he did not see the 35% being an aggregate of all the administrative costs.
237	Rep. Lundquist	Questions whether there would be a timeline on research or monitoring if it is considered a capital expenditure. Questions what role the Attorney General will have in the definition process.
258	Chair Ferrioli	States that he sees nothing in Measure 66 that requires a timeline consideration.
264	Rep. Lundquist	Questions whether money can be attached to a project that does not get expended in the biennium.
267	Chair Ferrioli	Notes that there can be carryover, but it would be subject to subsequent legislatures. States that it would be in the committee's interest to use definitions that have passed the scrutiny of the Attorney General.
279	Rep. Kruse	Explains that he envisions having as broad a definition as possible.
301	Rep. Leonard	Expresses concern about some of the items the committee has discussed as including under the definition of capital expenditure.
332	Rep. King	Responds to Rep. Thompson's earlier question that he believes research would be included under capital expenditure. Comments that administration of the grants would also be included.
359	Rep. Kruse	Asks if the committee has the ability to have separate definitions for the salmon side and the parks side.

371	Ken Rocco	Legislative Fiscal Office. Responds that Measure 66 does not specify a split of the money on the parks side. Notes that the 65%-35% split is only on the salmon and watershed restoration side.
383	Chair Ferrioli	Speculates that the 35% was actually a limitation on administrative costs because people wanted more of the money to go on the ground.
389	Sen. Tarno	Questions whether research in the areas of water quality and water quantity would be an appropriate expenditure of Measure 66 funds.
TAPE 53, A		
005	Chair Ferrioli	Notes that it would be impossible to do any project without having some assessment at the front and back end of it.
007	Rep. Thompson	States that it was his understanding that Measure 66 funds were for salmon restoration. Comments on why he would like a narrow definition of capital expenditure.
015	Chair Ferrioli	Comments that there are different aspects of this that have come up as the committee considered the question of backfill.
026	Rep. Jenson	Comments on what he would consider a capital expenditure from the private sector point of view. Expresses concern about some of the issues of research that the committee has discussed.
044	Chair Ferrioli	States that he would argue whether capital expenditures are always depreciable items. Questions whether this is germane to the definition.
048	Rep. Leonard	Asks for some examples of capital expenditures that are not depreciable.
050	Chair Ferrioli	References the SB 321 definition and the Oregon Business Council definition of capital expenditure included in the pre-meeting materials.
069	Rep. Kruse	Suggests that before the committee settle on definitions and direction they have NMFS come to discuss where they are going to be a year or two from now as far as listings.
084	Chair Ferrioli	Notes that NMFS will be before the committee next week. States that holding up the definitions would not be a good idea.
094	Rep. Kruse	States that he has seen a reluctance on the part of the Executive Branch to step up to the plate and tell NMFS no when they should.

099	Rep. Messerle	Expresses hope that enough research could be done to know where to focus some of the capital expenditures. Comments that they learned last session that they should not try to draft a program based on what the federal government might be thinking.
114	Rep. Morgan	Notes that the goal of the Oregon Plan is to restore salmon runs. States that the committee needs to recognize that they have an opportunity to design and implement a program that works for Oregon.
125	Rep. Kruse	Clarifies that the purpose of the Oregon Plan was to improve watersheds.
131	Rep. Jenson	Comments that he reads the language in Section 4b of Measure 66 as defining what capital expenditures are.
149	Chair Ferrioli	Notes that Rep. Jenson is referring to Section 4b(1).
155	Rep. Jenson	Notes that Section 4b(2) through (6) can also be included in the definition of what is a capital expenditure.
164	Chair Ferrioli	Asks where the definition of capital expenditure in SB 321 came from.
166	Louise Solliday	Governor's Natural Resources Office. Responds that in developing the Governor's recommended budget they needed to have a definition of capital expenditure in order to categorize budget expenses. Notes that in looking at the list Rep. Jenson referenced, they felt that it was the intent of the Measure 66 writers that this list applies to 100% of the salmon and watershed restoration money, not just the capital expenditures.
190	Rep. Jenson	Notes that it is difficult to look at what the intent was if they are simply looking at the grammatical construction of Measure 66.
203	Chair Ferrioli	States that the language in SB 321 appears to include everything except research and monitoring and that the language in Measure 66 seems to add the issue of enforcement. Suggests Ms. Holman use the language in Section 4b(1) of Measure 66 as the basis for developing a draft definition of capital expenditure, making it consistent with SB 321.
229	Pat Amadeo	Measure 66 proponent. Explains that they assumed that the lead agency would have the authority to administer all of the purposes listed. States that they assumed 100% of the money would go to one or all of the purposes stated in Measure 66. Notes that 65% of it had to be for "on the ground" projects and 35% would be directed toward staffing.
256	Chair Ferrioli	Notes that this is the same understanding the committee has. Comments on the issue of law enforcement.
275	Amadeo	Comments that the proponents' intent was that Measure 66 money would be for

		fish and wildlife law enforcement and would be in addition to existing program commitments.
284	Chair Ferrioli	States that there is conflict in regard to the base budget and there is assumption that the committee will shift a lot of positions to Measure 66 funding.
289	Rep. King	Asks if research is "on the ground" activity.
291	Amadeo	Responds that the proponents assumed that research efforts that led to quality projects are part of Measure 66's intent.
304	Chair Ferrioli	Asks if law enforcement fits under the definition of capital expenditure.
307	Holman	Responds that it would not.
317	Rep. Jenson	Notes that the Measure 66 structure established by the committee could end up before the court. Asks how the court will read and interpret it.
323	Holman	Responds that the court will look at the language in Measure 66 first, and then at the legislative history.
349	Rep. Jenson	States that the committee should make their best effort in creating the Measure 66 structure so it can survive a court appeal.
365	Rep. King	Notes that one of the first things the court will look at is what the Legislature's intent was in creating the structure.
379	Rep. Messerle	Notes that inserting the word research into the list in Section 4b(1) of Measure 66 would cover everything the committee has discussed today. Asks if the Legislature has the ability to prioritize the expenditures if this list is used as the basis for the definition.
392	Holman	Responds that the Legislature can prioritize in the criteria as far as what grants are awarded for. Notes that they cannot exclude any type of project that is included in Measure 66.
409	Rep. Messerle	Asks if they can prioritize in the budget process and not further prioritize in the bill itself.
TAPE 52, B		
004	Holman	States that she needs more clarification as to how they could prioritize in the budget.

007	Chair Ferrioli	States that they would want to leave the general purposes in statute and use the budget documents to do the prioritization. Directs Ms. Holman to draft a definition based on the list in Section 4b(1) in Measure 66, including the word research. Asks Ms. Holman to be prepared to give the committee an opinion at a later time as to whether enforcement fits under the definition of capital expenditure.
025	Chair Ferrioli	Notes that there is no Subsection (5) under Section 4b in Measure 66, and asks why it is missing.
030	Holman	Notes that Subsection (5) was also missing from the printed measure in the voters' pamphlet.
032	Amadeo	Responds that there was a typographical error in the printing of the ballot measure.
038	Chair Ferrioli	Adjourns the committee at 8:13 a.m.

Submitted By, Reviewed By,

Stephen Kosiewicz, Judith Callens,
Administrative Support Administrator

EXHIBIT SUMMARY

No exhibits submitted