

JOINT COMMITTEE ON STREAM RESTORATION
AND SPECIES RECOVERY

March 8, 1999 Hearing Room 50

7:45 AM Tapes 46 - 47

MEMBERS PRESENT: Sen. Ted Ferrioli, Co-Chair

Rep. Ken Messerle, Co-Chair

Sen. Ginny Burdick, Vice-Chair

Rep. Bob Jenson, Vice-Chair

Sen. Joan Dukes

Sen. Veral Tarno

Rep. Al King

Rep. Jeff Kruse

Rep. Susan Morgan

Rep. Bruce Starr

Rep. Terry Thompson

MEMBER EXCUSED: Sen. David Nelson

Rep. Randy Leonard

Rep. Lynn Lundquist

STAFF PRESENT: Judith Callens, Administrator

Stephen Kosiewicz, Administrative Support

MEASURE/ISSUES HEARD: SB 131 Work Session

SB 130 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 46, A		
004	Sen. Ferrioli	Calls the committee to order at 7:57 a.m. Notes a change in today's agenda. Opens the work session on SB 131.
<u>SB 131 - WORK SESSION</u>		
008	Judith Callens	Committee Administrator. Explains the provisions of SB 131 and the proposed -1 amendments.
026	Rep. King	Comments on the workgroup that was formed to discuss the bill and develop the amendments.
034	Chair Ferrioli	Asks if the workgroup reached consensus that the -1 amendments are acceptable.
035	Rep. King	Responds that this was his understanding.
037	Rep. Kruse	Expresses concern as to whether SB 131 is really necessary to provide liability coverage to watershed councils. Notes that he is gathering information on the fiscal relationship between watershed councils and soil and water conservation districts.
051	Rep. King	States that it would be nice to use an existing system, but what SB 131 is creating does not create any significant burden.
059	Sen. Tarno	Asks where the -1 amendments came from.
061	Callens	Explains that the workgroup drafted the amendments.
066	Sen. Tarno	Asks if the committee is going to have a role in how this liability coverage is provided.
070	Chair Ferrioli	States that the committee can have a role in terms of review and what is done.
073	Dan Hartman	Risk Management Division Administrator, Department of Administrative Services. Explains the questions he has about extending liability coverage to watershed councils.
103	Sen. Tarno	Expresses concern about putting GWEB in a supervisory position.

109	Rep. Messerle	Notes that Sen. Tarno raises a good point about whom exactly they are talking about insuring. Expresses concern about providing liability coverage for the watershed council boards and coordinators. Notes that at the Astoria meeting, members of two watershed councils testified on the need for funding for support staff and services.
136	Hartman	Comments on the liability coverage they provide for the officers, employees, and agents of soil and water conservation districts.
159	Ken Bierly	Program Manager, Governor's Watershed Enhancement Board. Notes that SB 131 provides liability coverage for watershed council board members and their employees. States that the amendments were designed based on committee members' concerns about providing guidance to watershed councils on how this coverage would be applied.
179	Rep. King	States that there is a need for the liability insurance. Comments on discussions that took place in the workgroup about the issue.
199	Chair Ferrioli	Questions whether the discussion by the committee is going beyond the scope of clarifying what is covered and what is not under insurance.
229	Rep. Kruse	Asks Mr. Hartman if he can give other examples of where the state has tort coverage for "private organizations" that do not have a direct relationship with a state agency or publicly elected body.
235	Hartman	Responds that he cannot think of any. Notes that there are a large number of volunteers doing work on behalf of agencies.
266	Rep. Kruse	Expresses concern that the committee might be going outside the box on this issue and they may be opening up this coverage to other private, non-profit organizations.
278	Sen. Tarno	Asks if it can be construed that the bill amendments put the liability for acts and omissions on GWEB.
285	Hartman	Responds that he does not believe so.
295	Sen. Tarno	Asks what role the watershed council coordinators will have in developing the guidelines and rules for liability.
298	Bierly	Responds that in any rulemaking GWEB has done they develop a policy advisory committee, and watershed council members and coordinators have been included in these activities.
306	Sen. Tarno	Asks for clarification that watershed coordinators are included in the policy and guideline development of administrative rules.

308	Bierly	Responds that if the ñ1 amendments are adopted, they will be.
314	Rep. Messerle	Notes the discussion the workgroup had about the watershed councils having some responsibility and having a requirement to file with DAS who it is they are going to be covering. States that he does not think the committee wants to extend liability coverage to all of the volunteers.
334	Sen. Dukes	Notes that watershed councils are a creation of county commissions. Asks if there is a chance that watershed councils are covered under county insurance.
338	Hartman	Responds that they could be. Notes that he would like to look into this issue more.
348	Bierly	Notes that the watershed council in the Umpqua Basin is a direct advisory committee to the county commissioners and the watershed coordinator is an employee of the county. States that under these circumstances, the coordinator would be covered by the county's liability insurance and council members could also be.
363	Sen. Dukes	Notes that it is clear in a situation like this, but in other areas of the state the county commission created the watershed council and then "turned it loose". Questions whether the county insurance would provide coverage in these instances.
371	Chair Ferrioli	Notes that there are 85 watershed councils in the state, and they are configured differently.
373	Sen. Dukes	States that it would be interesting to see how all of these councils are configured.
380	Chair Ferrioli	Asks Mr. Bierly to prepare a matrix of the 85 watershed councils and how they are constituted. Asks the workgroup to get back together and refocus the ñ1 amendments.
399	Chair Ferrioli	Closes the work session on SB 131 and opens the work session on SB 130.
<u>SB 130 ñ WORK SESSION</u>		
TAPE 47, A		
002	Callens	Explains the provisions of SB 130.
012	Rep. Thompson	Asks for clarification on whether there are amendments to SB 130.
014	Chair Ferrioli	Notes that there are proposed amendments.

020	Jim Myron	Oregon Trout. Explains the proposed ñ1 amendments.
046	Rep. Thompson	Asks Mr. Myron how he plans to handle the date-certain aspect for drafting administrative rules.
050	Myron	Notes that this would be one way to deal with the concern that the process might take too long. Responds that the first of next year might be an appropriate time to have administrative rules in place.
055	Rep. Thompson	Asks whether the date-certain portion of the amendments is for reviewing the overall hatchbox proposals, or will the IMST be evaluating each individual stream or basin.
059	Myron	Responds that all the ñ1 amendments ask for is that the IMST be involved in reviewing the administrative rules.
062	Rep. Thompson	States that he can see a situation where rules may be adopted to individual watersheds and they may have a bigger job then planned.
065	Myron	Notes that this is a possibility. Suggests the committee get feedback from ODFW as to whether or not they think they can do this in a timely manner. States that the committee may want to look at an ODFW report that just came out which assesses the STEP hatchbox program.
073	Rep. Messerle	Expresses desire to not make the SB 130 too complicated. States that it is not proper to include the concurrence of the IMST as part of this bill.
088	Rep. Thompson	Asks for the committee to receive copies of the ODFW report on the STEP hatchbox program.
092	Rep. Morgan	Referencing section A of the ñ1 amendments, asks what the difference is between the wording "be developed with the concurrence of" and "be reviewed by".
096	Myron	Responds that concurrence means the IMST would have to agree. Notes that this is in relation to the protocols for how the program is run.
101	Rep. Morgan	Asks Mr. Myron how he relates this to the IMST's role of reviewing and not being involved in policy issues.
104	Myron	Responds that he views the protocols for the hatchbox program as a science question, not a policy issue.
108	Sen. Tarno	Notes that the IMST already has a large workload. Expresses concern that the ñ1 amendments could add to this workload.

116	Chair Ferrioli	Comments on the STEP hatchbox program. Notes that the IMST's role is advisory.
134	Rep. Thompson	States that he would like ODFW to comment on the ñ1 amendments.
139	Joe Rohleder	Assistant to the Director, Department of Fish and Wildlife. States that ODFW concurs with the ñ1 amendments.
157	Chair Ferrioli	Asks if ODFW would submit the protocols to the IMST for review regardless of the ñ1 amendments.
159	Rohleder	Responds that ODFW would do this as part of this process.
163	Rep. Messerle	Notes that there has not been much discussion about a major component of the hatchbox program, and that is the involvement of the public.
178	Rep. Thompson	Expresses concern that every application for hatchboxes may not be as good as it could be. States that it would be a good idea to have the IMST review these.
189	Sen. Tarno	Questions why local fish biologists could not review applications.
193	Chair Ferrioli	Clarifies that any rules developed by ODFW in regard to SB 130, with or without the ñ1 amendments, would go forward with input from the IMST.
197	Rohleder	Notes that this is correct.
200	Sen. Dukes	Asks how much additional money is being put into the IMST this session.
202	Chair Ferrioli	Responds that the committee has not been advised of this yet.
205	Sen. Dukes	Expresses concern about involving the IMST in this review.
219	Sen. Burdick	States that her understanding is that the IMST would be reviewing the overall rules, not individual applications.
223	Rohleder	States that this is his understanding.
228	Sen. Burdick	States that she would like to have a chance to vote on the ñ1 amendments.
231	Sen. Dukes	Asks who proposed the ñ1 amendments.

233	Chair Ferrioli	Responds that Mr. Myron did.
236	Sen. Dukes	Asks for clarification that according to committee rules, the committee has to receive proposed amendments 48 hours in advance.
239	Callens	Notes that these concepts were before the committee on February 23. States that if there is an objection, the amendments would have to be brought back to the committee 48 hours in advance.
245	Sen. Dukes	Objects to considering the ñ1 amendments today.
255	Sen. Tarno	MOTION: Moves SB 130 to the floor with a DO PASS recommendation.
257	Sen. Burdick	MOTION: Moves to AMEND the motion to move SB 130 to the floor with a DO PASS recommendation by moving to ADOPT SB 130ñ1 amendments.
261	Chair Ferrioli	Explains that he allowed the ñ1 amendments to be presented this morning at the request of Mr. Myron.
272	Rep. Thompson	Clarifies that Sen. Burdickís motion should be considered first.
279		VOTE: 3-6 AYE: 3 - Burdick, King, Thompson NAY: 8 - Dukes, Ferrioli, Jenson, Kruse, Messerle, Morgan, Starr, Tarno EXCUSED: 3 - Leonard, Lundquist, Nelson
294	Chair Ferrioli	The motion FAILS.
298		VOTE: 11-0 AYE: In a roll call vote, all members present vote Aye. EXCUSED: 3 - Leonard, Lundquist, Nelson
304	Chair Ferrioli	The motion CARRIES. SEN. TARNO will lead discussion on the floor.
305	Chair Ferrioli	Apologizes for not getting the committee members copies of the ñ1 amendments ahead of time.

309	Rep. Thompson	Expresses hope that this kind of situation does not happen again.
322	Callens	States that the committee never had possession of the ñ1 amendments until this morning.
331	Chair Ferrioli	Clarifies that he received the amendments on Friday.
336	Rep. Thompson	Expresses hope for better communication regarding amendments.
342	Chair Ferrioli	Notes that testimony today indicated that all of the aspects of the ñ1 amendments are already in public policy for developing the administrative rules for hatchboxes.
353	Rep. Kruse	Notes that the proponents of the amendments made an effort to reach members.
357	Chair Ferrioli	Closes the work session on SB 130. Adjourns the committee at 8:49 a.m.

Submitted By, Reviewed By,

Stephen Kosiewicz, Judith Callens,
Administrative Support Administrator

EXHIBIT SUMMARY

No exhibits submitted