

JOINT COMMITTEE ON STREAM RESTORATION
AND SPECIES RECOVERY

May 11, 1999 Hearing Room 50

4:30 PM Tapes 118 - 120

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: HB 3225 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 118, A

004

Chair Ferrioli

Calls the committee to order at 4:51 p.m. Opens the work session on HB 3225.

HB 3225 n WORK SESSION

014

Chair Ferrioli

Comments on the meeting that took place between the Co-Chairs and the Governor's Office.

042

Rep. Kruse

Comments that there should be full discussion on the appointments to this board.

056

Rep. Jenson

Agrees with Rep. Kruse's previous comments. States that he would feel better if there were reasons to assume that this might be necessary.

061

Rep. Morgan

Comments on the dual confirmation process.

067

Rep. Leonard

Comments on his experience with the executive appointment process. States that he cannot support a dual confirmation process.

081

Rep. Messerle

Notes that one of the issues discussed was the fact that there is an expanded board, and this is why they are considering a dual confirmation.

093

Rep. King

Comments in opposition to the idea of dual confirmation.

099

Rep. Kruse

Notes that the appointees to this board are an important group of people they are putting together and states that the full discussion needs to happen.

109

Rep. Jenson

Comments on the importance of the appointment process.

123

Chair Ferrioli

Comments on the proposed makeup of the board.

143

Rep. Kruse

States that they need to have permanent appointment to this board for continuity.

148

Chair Ferrioli

Clarifies that his previous comments were that occasionally there might be a change in designations.

154

Sen. Dukes

Expresses hope that members of the Senate take into consideration the fact that appointing someone to a board could mean that they might end up serving on this board also.

162

Chair Ferrioli

Notes that the current statute specifies five non-voting members of the board and asks staff to review this language.

169	Rep. Jenson	States that the reference to tribal representative needs to be specified as a federally recognized treaty tribe.
181	Judith Callens	Committee Administrator. Explains who the non-voting members of the board would be.
199	Sen. Dukes	States that people need to be made aware that this is different than the sheet they have in front of them.
205	Chair Ferrioli	Asks what the current statute language is.
26	Callens	Explains who the non-voting members are according to current statute.
214	Rep. Kruse	Asks what the reason for the change is.
215	Chair Ferrioli	Explains that they will get to the reason a little later.
217	Rep. Kruse	Asks for a definition of "as needed". Notes that he has some concerns with this language.
224	Chair Ferrioli	Asks Rep. Kruse to hold his question for now. Explains the agreements that were reached with the Governor's Office on HB 3225.
270	Chair Ferrioli	Continues explaining the agreements that were reached on HB 3225.
320	Chair Ferrioli	Continues explaining the agreements that were made on HB 3225. Notes that there is an additional list of options the Co-Chairs have developed. Notes that the Governor's Office is in support of changing the name from GWEB to OWEB and allowing state and federal agencies to apply for grants as co-applicants with watershed councils.
393	Sen. Dukes	Asks who all of the parties are that have come to agreement on the definitions.
399	Callens	Responds that the Ms. Holman and the Attorney General's office worked out the definitions. Notes that the language in the working draft is the latest language that Mr. Whitman feels he could defend in court.
409	Chair Ferrioli	Comments on the development of the definitions.
TAPE 119, A		
006	Rep. Morgan	Asks for clarification that the definition of capital expenditures in the working draft is the definition that has passed muster.

008	Chair Ferrioli	Responds that it is.
018	Rep. Kruse	Comments on why the committee wanted to have legislators as non-voting members on the board.
034	Rep. Messerle	Comments that this issue was talked about quite a bit.
055	Rep. Kruse	Reiterates the reason why they wanted legislators to be non-voting members on the board.
066	Chair Ferrioli	Comments on how he looked at excluding the Governor's Office and legislators as non-voting members.
093	Rep. Kruse	Comments on the need for connection between the oversight committee and this board.
105	Chair Ferrioli	Responds to Rep. Kruse's earlier question regarding the definition of "as needed" by explaining that this term means that these agencies might be needed at a later point.
118	Rep. Kruse	Notes that GWEB currently has two advisory committees to assist them in the grant process. Asks if these committees will continue under the new structure.
122	Chair Ferrioli	Responds that nothing that was created by GWEB would necessarily transfer.
125	Rep. Lundquist	Asks Rep. Kruse if the lack of connection between the committee and GWEB during the interim was due in part to the fact that the Oregon Plan was a brand new program.
133	Rep. Kruse	Responds that the program is still brand new and they need to be able to be flexible. Notes that the committee got bogged down during the interim.
147	Chair Ferrioli	Comments on the issue of legislative oversight [comments inaudible at times].
168	Rep. Lundquist	Questions whether the Legislature could have some unofficial connection to the board.
173	Rep. Kruse	Clarifies that the intent was not to have oversight over this board, but to have some connection between the board and the Legislature.
182	Chair Ferrioli	Notes that this committee does have oversight over this group and all other issues associated with the Oregon Plan. Comments that there is no authority in the Legislature to limit the funds that are appropriated.

196	Rep. Kruse	Notes that this speaks volumes to the need for a connection.
205	Chair Ferrioli	Notes that the committee does have legislative oversight of the implementation of the Oregon Plan and they have legislative authority to limit agency budgets.
214	Rep. Thompson	Expresses concern about the way the money is handled. Asks if there is anything in the bill language which says that DAS has to put the money into OWEB once the funds are put into the subaccount.
231	Ken Rocco	Legislative Fiscal Office. Responds that this would be taken care of in the budget.
238	Chair Ferrioli	Asks if this is a constitutional mandate.
243	Rocco	Responds that it would not be a constitutional mandate, but it would be directed in Oregon law.
247	Jeannette Holman	Legislative Counsel Office. Responds that the only thing that is mandated is that the money go to a single agency, which they do by sending it to DAS
251	Rep. Thompson	Asks for clarification that once the money is sent to DAS they have fulfilled the constitutional obligation and there is nothing that says that \$1 has to flow into salmon recovery.
256	Rocco	Responds that the way this is intended to work is that the money would flow to DAS, they would split the money into two subaccounts, and there would be a limitation provided for a certain amount of funding from the restoration subaccount in each agency budget.
279	Rep. Thompson	Notes that this issue was of concern to him. Asks if the committee is going to take public testimony today.
283	Chair Ferrioli	Responds that the intention today is to come to closure on the concepts and then have public input at a later time [response inaudible at times].
293	Rep. Thompson	Expresses concern that they are pushing too far into this process and they have not had adequate public input.
304	Chair Ferrioli	Notes that if they have closure on this set of concepts, and staff works to develop a working draft amendment, they can distribute this for public input.
318	Rep. King	States that what is here is something that they have been working on for some time. Expresses support for the concepts outlined.

332	Rep. Lundquist	Expresses concern that they ensure that the members of the board have experience in natural resources.
344	Rep. Messerle	[Response to Rep. Lundquist's concerns inaudible]. Notes that a better way to address Representative Kruse's concerns is to give better direction as to what the Legislature really has in mind in what the grants should be used for [comments inaudible at times].
379	Sen. Dukes	Asks for clarification that they are under a timeline to finish deliberations on HB 3225.
383	Chair Ferrioli	Responds that this is correct.
391	Sen. Dukes	Comments that she is anxious to move the Measure 66 legislation out of committee [comments inaudible at times].
413	Chair Ferrioli	Notes that they had planned to come to closure on these concepts at yesterday's meeting. Comments on what the rest of the process will be in terms of deliberations on HB 3225.
TAPE 118, B		
029	Rep. Thompson	Expresses concern that they are circumventing the process by doing all of this pre-planning.
034	Chair Ferrioli	States that he expects these discussions to take place in the Ways and Means Committee.
039	Rep. Morgan	Asks what the oversight of the money is once it goes from DAS to OWEB.
048	Rocco	Responds that there are a couple of mechanisms that could be used.
058	Rep. Morgan	Asks if budget notes could be construed as limiting the expenditures.
059	Rocco	Responds that they are just directions to an entity on how to spend the money.
067	Rep. Morgan	Asks if she is correct in assuming that OWEB would have to be audited at the end of the biennial cycle.
070	Rocco	Responds that all agencies that receive money from Measure 66 would be audited.
077	Chair Ferrioli	Comments that he is trying to make sure committee members have an

		opportunity to propose further amendments if they want to.
090	Rep. King	Asks for clarification that the committee could adopt the working draft amendments, refer the bill to Ways and Means, and then get the bill back for further deliberation.
096	Chair Ferrioli	Responds that the working draft would have to be rewritten as an official legislative concept and would come back to the committee on Thursday for final consideration.
102	Rep. Messerle	States that the committee is working to try and get consensus on the final version of HB 3225.
112	Rep. Thompson	Asks for a five-minute recess so committee members can talk to some individuals about the working draft.
113	Chair Ferrioli	Recesses the committee for a break at 5:54 p.m.
115	Chair Ferrioli	Calls the committee back to order at 6:00 p.m. Explains how the Co-Chairs developed their list of 12 preferred options. Explains the process for further deliberation on HB 3225.
154	Chair Ferrioli	Begins reviewing the Co-Chairs' preferred options list. Asks how they came up with the five geographic regions that they looked at.
164	Callens	Responds that these came from the watershed map that was used. Notes that in the working draft amendments there is more generic language stating that all of the geographic regions of the state shall be represented within the 11 voting members of the board.
169	Chair Ferrioli	Explains that a tribal representative would be necessary on this board. Continues reviewing the Co-Chairs' preferred options list.
183	Rep. King	Expresses concern about using geographic representation.
209	Rep. Morgan	States that putting in generic language about geographic representation is not good enough. Suggests that a map of the watershed regions be circulated among the committee members.
220	Chair Ferrioli	Comments that the committee has struggled with this issue. Notes that there will be further discussion on the issue of geographic representation.
239	Rep. Messerle	States that the only way they may be able to address geographic representation is with the six public members.

246	Rep. Morgan	States that her thought is to have the five geographic regions represented by five public members, with the sixth public member being a tribal representative.
261	Sen. Shields	Notes his concern with geographic representation.
265	Rep. Thompson	Notes his concern with geographic representation.
272	Chair Ferrioli	Continues reviewing the Co-Chairs' preferred options list.
280	Rep. Messerle	Explains how the 11 voting members are required to take action.
293	Chair Ferrioli	Notes that they discussed the issues of consensus organization and that if three people have a problem with a grant application it should not be killed, but reworked.
313	Rep. Morgan	Asks why the language regarding board members having an understanding of natural resource issues and/or grant making does not appear on the Co-Chairs' preferred options list [question inaudible at times].
321	Chair Ferrioli	Responds that this is an oversight, not an intentional deletion.
329	Rep. Morgan	Expresses hope that whatever else they do, they get people on the board with knowledge of natural resource issues.
333	Chair Ferrioli	Asks if the draft amendments contain the requirement that the board members have knowledge of natural resource issues.
334	Callens	Responds that this language is contained on page 5, line 6 of the draft amendments.
342	Rep. Messerle	Asks Rep. Jenson if his concern regarding tribal representation was addressed.
344	Rep. Jenson	Responds that he does not believe so, but staff is aware of it. Reiterates that the tribal representative should be from a federally recognized treaty tribe.
354	Chair Ferrioli	Continues reviewing the Co-Chairs' preferred options list.
366	Rep. Messerle	Asks why the public members cannot start serving once they are confirmed.
375	Holman	Responds that the Governor must make his appointments on or before October 1, 1999. Notes that the Governor's Office requested that the board members all take office at one time.

395	Chair Ferrioli	Continues reviewing the Co-Chairs' preferred options list.
403	Rep. Kruse	Expresses concern that they are not including legislators as non-voting members to have a better connection with the board and to provide more balance.
TAPE 119, B		
002	Chair Ferrioli	Agrees that balance is the issue. Comments on the hiring of an Executive Director.
013	Rep. Leonard	Asks what the relationship would be between the Executive Director and OWEB after the director is confirmed.
015	Chair Ferrioli	Responds that it would primarily be one of facilitation.
016	Rep. Leonard	Asks if the Executive Director would have some sort of authority over the board.
017	Chair Ferrioli	Responds that the Executive Director position is not one of independent authority, but they fill all of the functions of executing the will of the board.
023	Rep. Leonard	Asks whom the Executive Director serves at the pleasure of.
024	Chair Ferrioli	Responds that they serve at the pleasure of the Governor.
027	Rep. Starr	Asks for clarification that the Executive Director is not under OWEB, but is under the Governor's Office.
030	Chair Ferrioli	Responds that this is correct.
031	Rep. Starr	Notes his objection to this.
038	Rep. King	States that it is his understanding that the Executive Director would be the chief executive officer of OWEB.
043	Rep. Starr	States that he would like to see the Executive Director serve at the pleasure of the board.
047	Rep. Messerle	Comments on the makeup of boards and commissions in state agencies. Notes that this is a very important issue for the Governor's Office.
063	Rep. Lundquist	States that having the Executive Director under the Governor would give the Legislature a better opportunity to have some influence.

077	Rep. Thompson	Expresses support for having the Governor in charge of this position.
084	Rep. King	States that there is more opportunity for cooperation among boards and commissions if the Governor has some influence over them.
089	Rep. Kruse	Comments that there is still no balance with what is being proposed.
104	Chair Ferrioli	[Comments inaudible]
127	Rep. Starr	[Question inaudible]
129	Chair Ferrioli	Responds that this is his understanding.
142	Rep. Jenson	[Question inaudible]
146	Chair Ferrioli	Responds that he has never heard of this process being done. Comments that there are two models in state government and they have to decide which one is better [comments inaudible at times]. Continues reviewing the Co-Chair's preferred options list [comments inaudible at times].
170	Callens	Clarifies that it would be a budget note asking WRD to contract with DAS for the check writing.
174	Rep. King	Notes that there were concerns expressed by the Measure 66 proponents that the salmon money might be handled differently than the park money. States that it would be helpful to note how the money on the park side is handled versus how it will be handled on the salmon and restoration side.
191	Sen. Shields	States that it is his understanding that, based on the draft amendments, there is no requirement that the money end up in OWEB after DAS gets it.
197	Chair Ferrioli	States that it is his understanding that they need to put in statute what will happen, and put in the agency budgets how it will happen.
201	Sen. Shields	Questions why this is not included in the draft amendments.
205	Rocco	Explains that the allocations of the funds would be made in an allocation section that Ways and Means would take care of in HB 3225.
217	Sen. Shields	States that he would appreciate some public input on this issue.
220	Chair Ferrioli	Comments that it is unthinkable to him that they would create this mechanism and then not move the money to the board that would do the granting [comments

		inaudible at times].
229	Rocco	Notes that the best example of this is the way the state allocates the general lottery funds.
240	Sen. Shields	Notes that the proponents are not agreeing with everything that is being said.
252	Sen. Dukes	Notes that even though, theoretically, DAS could choose to not pass the money on to OWEB, they could not do anything with it either.
262	Rep. Messerle	Comments that this does not seem to be a big issue to him. Notes that a number of witnesses have testified in support of how the money is currently handled through WRD [comments inaudible at times].
273	Chair Ferrioli	[Question inaudible]
275	Rocco	Responds that under the current GWEB system there was an intrafund transfer of revenues that paid for WRD's fiscal staff to process checks. Notes that in the draft amendments, OWEB is given the authority to enter into interagency agreements which would facilitate the process of contracting with WRD.
290	Chair Ferrioli	Continues reviewing the Co-Chairs' preferred options list.
299	Rep. Morgan	[Comments inaudible]
306	Rep. Thompson	States that he wants to make sure that the wording comes out to reflect that this money is for salmon.
313	Chair Ferrioli	Notes that there could be a problem here in that the language is related to the way Measure 66 refers to wildlife habitat.
326	Sen. Dukes	Questions what native habitat is.
337	Chair Ferrioli	Continues reviewing the Co-Chairs' preferred options list. Notes the options where objections were voiced [comments inaudible at times].
353	Sen. Nelson	Notes that he does not see anything regarding the purposes or duties of the board.
360	Callens	Explains that there are three issues that are not covered in the draft amendments.
382	Chair Ferrioli	Notes that there was consensus from the committee that grant applications from state and federal agencies were only acceptable with a watershed council or SWCD as a co-applicant.

389	Rep. Messerle	States that they need to think about drafting some kind of language that encourages the SWCDs and the watershed councils to work together [comments inaudible at times].
407	Callens	Notes that the applications that come to the granting body are a matter of public record, so by staying silent on that issue, and by virtue of the public records laws, anyone would be able to review and comment on any grant application that came to that body.
TAPE 120, A		
006	Chair Ferrioli	States that the committee should be prepared to come to Thursday's meeting ready to look at a drafting version of HB 3225 [comments inaudible at times].
016	Holman	Clarifies that the draft amendments only include the issues that the committee reviewed on the Co-Chairs' preferred options list. Comments that there are other parts that the committee has discussed at previous meetings that need to be in there.
034	Chair Ferrioli	Asks Ms. Holman to prepare these additional issues as separate items when including them in the draft so the committee can see where they have been added in.
040	Rep. Messerle	Expresses concern as to whether Ms. Holman can get the draft done in time to give the committee a chance to thoroughly review it before Thursday's meeting [comments inaudible at times].
048	Holman	Explains that she could have draft amendments ready by 3:00 p.m. on Wednesday, but not an official draft that has gone through the full Legislative Counsel Office process.
052	Rep. Messerle	Reiterates that if they are going to do an adequate review on Thursday they are going to need at least this much time.
053	Holman	Clarifies that if the committee moves the draft amendments on Thursday they would have to be adopted as conceptual amendments with the expectation that they would have official amendments drafted afterwards.
058	Rep. Kruse	States that there should be something in the draft amendments regarding work being done on the ground. Expresses concern about including the term "native habitat" in the bill.
077	Rep. Leonard	Referencing page 2, line 6 of the draft amendments, notes that the definition of "native" talks about fish that are indigenous to Oregon.
082	Rep. Kruse	States that native habitat is a much broader concept.

085	Rep. King	Agrees with the concerns expressed by Rep. Kruse. Notes that they could open themselves up to a lot more issues if they are talking about native habitat.
096	Holman	Clarifies that this language came from the Attorney General's Office. States that she believes they were trying to match the language up with the constitutional provision, but she will look into this.
101	Chair Ferrioli	Asks if there is consensus on the concern about including the term "native habitat".
108	Rep. Jenson	Notes that there is reference in the draft amendments to wildlife habitat, but not necessarily native habitat [comments inaudible at times].
114	Rep. Lundquist	Asks for clarification that the committee will not go through the draft amendments at all until Thursday.
116	Chair Ferrioli	Clarifies what is in the draft amendments. Responds that the committee will see expanded draft amendments on Thursday that could be adopted as conceptual amendments.
123	Rep. Lundquist	Asks for clarification that there will be an opportunity to discuss other concerns with the draft amendments on Thursday.
126	Chair Ferrioli	Responds that it would not be a waste of time to review and note concerns about anything in the current draft amendments.
136	Rep. Messerle	Asks the committee members to let Ms. Holman know if they have significant concerns about anything in the draft.
139	Rep. Lundquist	Notes that this was what he was asking.
143	Rep. Kruse	Expresses concern about members on the board serving beyond their term until a replacement is appointed.
155	Callens	Referencing page 9 of the draft amendments, notes that the Governor shall appoint the OWEB board not later than October 1, 1999, subject to Senate confirmation.
161	Rep. Kruse	Clarifies that he is referring to replacing members after they have completed their term. Notes that what is in the draft language is the same process they use everywhere, and he has a problem with this.
168	Chair Ferrioli	Notes that this issue has been around for a long time [comments inaudible at times]. States that the committee could discuss the possibility of a board member being removed at the end of their term.

176	Rep. Leonard	States that this possible solution is a method by which government is shut down. Notes that it is not a question of the Governor not appointing a replacement, but one of the Senate not confirming a replacement.
187	Chair Ferrioli	Comments that there are three issues here [comments inaudible at times].
203	Rep. Lundquist	Referencing section 7 of the draft amendments, states that he would like to see some sort of parameters around the Executive Director's ability to enter into interagency agreements.
215	Chair Ferrioli	Comments that there are no limiting factors in the draft amendments. Notes that the committee could be under time constraints for further deliberations on HB 3225. Commends the committee members for their work on this bill.
257	Chair Ferrioli	Closes the work session on HB 3225. Adjourns the committee at 7:04 p.m.

Submitted By, Reviewed By,

Stephen Kosiewicz, Judith Callens,
Administrative Support Administrator

EXHIBIT SUMMARY

No exhibits submitted