

JOINT COMMITTEE ON STREAM RESTORATION
AND SPECIES RECOVERY

May 17, 1999 Hearing Room 50

7:00 AM Tapes 121 - 122

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 121, A

004

Chair Messerle

Calls the committee to order at 7:13 a.m. Opens the work session on HB 3225.

HB 3225 n WORK SESSION

007

Chair Messerle

Comments that the HB 3225-04 working draft amendments are what the committee has agreed to at this point.

023

Rep. Jenson

Referencing Section 1, subsection 3 of the n04 draft amendments, suggests using the term "native" instead of "wild".

026

Judith Callens

Committee Administrator. Clarifies where in the n04 draft amendments Rep. Jenson is referring to and what he is suggesting.

034

Rep. Jenson

Referencing section 5, subsection 2(A)(a) of the draft amendments, states that he would be more comfortable if the member were elected by the board, rather than being the board or commission chair or their designee. Referencing section 5, subsection 2(B), states that he did not see any mention of reappointment.

062

Chair Messerle

Notes that it is normal for appointees to serve two terms.

064

Rep. Jenson

Comments on the issue of reappointment. Referencing section 12(D) of the n04 draft amendments, asks why WRD was referenced in this section.

086

Jeannette Holman

Legislative Counsel Office. Responds that this language is a carryover from when they were considering giving the money to WRD. Notes that this is a draft amendment and in the final version the reference has been changed to the board.

093

Rep. Jenson

Referencing section 15 of the draft amendments, states that it appears that the landowners will be left out to dry.

108

Rep. Starr

Asks if the statute is silent on term limits or reappointment, does this leave the opportunity open for reappointment.

112

Holman

Responds that this is correct. Notes that the custom has been to reappoint, but there is a four-year limit on a term.

116

Rep. Kruse

States that he still prefers dual confirmation.

126

Rep. Thompson

Referencing section 15 of the draft amendments, expresses concern about how they cap this money or control the fund that they have created.

133	Chair Messerle	States that they tried to deal with this issue in section 15, subsection 2.
138	Rep. Morgan	Notes that on page 16, line 15 there is language about "to the limits of the fund", so it appears there is a finite amount of money in the fund.
146	Holman	States that this is the Attorney General's language and the intent was that there would be some sort of limit on how much money could go for this.
167	Roy Hemmingway	Oregon Plan Manager, Governor's Office. Submits written material (EXHIBIT A) and begins testimony on the Governor's top seven concerns with the HB 3225-1002 working draft amendments.
214	Chair Messerle	Asks Mr. Hemmingway for clarification that their first concern could be addressed by changing the term "individual" to "person" in the 1002 draft amendments.
215	Hemmingway	Responds that this is correct.
217	Rep. Morgan	Asks if changing "individual" to "person" would change the meaning of it at all.
224	Holman	Responds that this would change considerably who could be eligible for grants.
229	Rep. Morgan	Asks for clarification that substituting the term "person" would open up the eligibility.
231	Holman	Responds that this is correct.
232	Chair Messerle	Asks Rep. Morgan if she is saying this would be a problem.
233	Rep. Morgan	Responds that she is not.
234	Rep. Kruse	Asks Mr. Hemmingway if he has a problem with the removal of state and federal agencies at that point.
237	Hemmingway	Responds that they have stated previously that they felt state and federal agencies should be eligible for grants if they apply in cooperation with a watershed council or SWCD.
240	Rep. Kruse	Notes that the way it is stated in the draft amendments, the current language allows them to apply on their own.
242	Hemmingway	Notes that this is correct. States that they would agree to a compromise that would require them to apply with a watershed council or SWCD.

246	Chair Messerle	States that this is spoken to farther down in the draft amendments.
250	Holman	Clarifies that this is spoken to in the ñ04 draft amendments, but she is not sure if it is spoken to in the ñ1002 draft amendments.
252	Callens	Notes that it is spoken to in the ñ1002 draft amendments on page 13, line 22.
257	Hemmingway	Continues testimony on the Governor's concerns with the ñ1002 draft amendments.
271	Chair Messerle	Notes that there is common agreement on the issue of the definition of "tribe" and that the narrow definition was an oversight.
274	Rep. Morgan	Referencing page 3, line 3 of the ñ1002 draft amendments, asks if it is necessary to have the reference to off reservation fishing rights in the same section.
278	Chair Messerle	States that he would like Mr. Hemmingway to finish his testimony before the committee takes a look at the ñ1002 draft amendments.
281	Rep. Kruse	Asks Mr. Hemmingway for clarification that they would like the definition of "tribe" to be just federally recognized tribes.
282	Hemmingway	Responds that this is correct. Continues testimony on the Governor's concerns with the ñ1002 draft amendments.
294	Sen. Ferrioli	Asks if this is permissive language, rather than requires.
303	Hemmingway	Responds that he always thought "shall" meant that it was required. Notes that they would prefer the language to be more permissive.
308	Sen. Ferrioli	Asks if changing "shall" to "may" would help.
309	Hemmingway	Responds that it would. Continues testimony on the Governor's concerns with the ñ1002 draft amendments.
362	Hemmingway	Continues testimony on the Governor's concerns with the ñ1002 draft amendments.
378	Chair Messerle	Asks if section 10 of the ñ1002 draft amendments is a problem for the Governor's Office.
392	Hemmingway	Responds that they do not have a problem with section 10 if the duties and responsibilities of the board are grant making only. Comments on their concerns

		with section 12.
TAPE 122, A		
010	Sen. Ferrioli	Comments that he read these sections differently than Mr. Hemmingway does.
036	Hemmingway	Notes that subsection A does not present as many difficulties for them as other subsections. Comments that the Oregon Plan is watershed based.
046	Chair Messerle	Notes that they need to be careful that they do not give responsibilities that they do not have the authority to give.
048	Rep. Kruse	Asks for clarification that the Governor's Office is willing to create this independent body as long as all of the authorities are left in the Governor's Office.
054	Hemmingway	Responds that right now there is no authority in any state agency to command the attention of another state agency.
068	Rep. Kruse	Notes that the language was crafted so that the new entity would not have any authority over other state agencies.
079	Rep. Leonard	Asks how they can get to the point where they have oversight of the Oregon Plan and have a structure that will minimize political influence on decisions that are made in implementing the Oregon Plan.
104	Hemmingway	Comments on the situation regarding Ross Island and the decision made by ODFW.
126	Chair Messerle	Notes that boards and agencies have their own rules and regulations and no one has oversight authority over this.
138	Rep. Leonard	Comments that the point he is trying to make is that if there is going to be an entity that oversees the Oregon Plan, they should be assured that right decisions are made absent of some political influence.
164	Sen. Ferrioli	Comments that he would like to see some specific language changes to raise the comfort level of the Governor.
227	Hemmingway	Continues testimony on the Governor's concerns with the 1002 draft amendments. Notes that on page 13, lines 25 through 27, OWEB is asked to submit a General Fund budget request to the Legislature, which bypasses the Governor's normal budget process.

239	Chair Messerle	Asks for clarification that OWEB should make a budget request through the budget process rather than directly to the Legislature.
240	Hemmingway	Responds that OWEB would be entitled to submit a General Fund budget request through the general executive budget process.
250	Sen. Ferrioli	Notes that this language is an attempt to deal with the definition of the word "limitation" and was not an attempt to circumvent the Governor's Office.
272	Rep. Thompson	Notes the difference between the draft amendments and what he has proposed in the HB 3225-12 amendments.
287	Sen. Ferrioli	Referencing page 1, line 19 of the ñ1002 draft amendments, states that they are going to have to deal with the word "wild" or "native".
314	Chair Messerle	Questions whether it would be appropriate to refer to "wild" and "native" in this line.
319	Rep. Kruse	Suggests that they delete the reference to "wild" and "native".
325	Sen. Dukes	Expresses concern that they are reviewing the ñ1002 amendments, which bring in issues they had not reached consensus on. Asks what the Co-Chairs' expectations are at this point.
342	Chair Messerle	Clarifies what the HB 3225-04 and ñ1002 draft amendments are [comments inaudible at times].
358	Sen. Dukes	Asks if it is the Co-Chairs' intent to get consensus on the ñ1002 draft amendments.
360	Chair Messerle	Responds that it is not.
363	Sen. Dukes	Expresses additional concerns about the ñ1002 draft amendments.
386	Chair Messerle	States that other members of the committee share the same concerns, but they need to keep moving forward on HB 3225.
289	Sen. Dukes	Asks if they can expect to see another set of new amendments at the next meeting. Notes that this is part of the reason for her frustration.
398	Chair Messerle	Notes that the committee rules allow for any member of the committee to bring forth amendments.

401	Sen. Dukes	States that it is frustrating when the Co-Chairs' work behind the scenes and bring new amendments to the committee.
404	Chair Messerle	States that the Co-Chairs are simply trying to bring HB 3225 together.
406	Rep. Thompson	Expresses frustration that he has not had time to adequately review the ñ1002 draft amendments.
TAPE 121, B		
014	Sen. Ferrioli	[Comments inaudible]
019	Chair Messerle	Clarifies that the ñ1002 draft amendments are not a Co-Chairsí proposal [comments inaudible at times].
023	Sen. Ferrioli	Comments that he is not seeing any new concepts, but he is seeing the mechanisms on paper that would accomplish setting up the Measure 66 structure.
052	Rep. King	Expresses optimism that the committee can come to some conclusions on HB 3225 by the next meeting.
077	Chair Messerle	[Comments inaudible]
097	Rep. Jenson	[Comments inaudible]
104	Rep. Morgan	Asks if the definition of "riparian area" came from some other place, or did the committee formulate this.
108	Holman	Responds that this is existing statutory language.
111	Rep. Jenson	[Comments inaudible]
134	Rep. Starr	[Comments inaudible]
143	Chair Messerle	Referencing page 6, line 7 of the ñ1002 draft amendments, asks for clarification that this is where Mr. Hemmingway had his concerns.
149	Hemmingway	Responds that this is one area.
150	Holman	Notes that Mr. Hemmingway has some suggested language for this line.

157	Chair Messerle	[Comments inaudible]
169	Holman	Notes that this language comes straight from the constitution.
174	Chair Messerle	Notes his concerns with the language in line 27 on page 14 of the ñ1002 draft amendments [comments inaudible at times].
189	Rep. Morgan	States that they need to have everybody going through the same process in terms of applying for grants.
195	Rep. Lundquist	Asks if there are areas of the state where there are not local watershed councils.
200	Rep. Kruse	Responds that the entire state is covered by either a watershed council, an SWCD, or both.
201	Sen. Dukes	Notes that there are some areas where the watershed councils do not work well with the SWCDs. Asks if they are giving the opportunity, where both exist, for some grant applications to go to one and some to the other, and could this setup a conflict.
211	Chair Messerle	Responds that they are not requiring that the grant applications go to both [comments inaudible at times].
216	Sen. Dukes	Expresses concern that if the two entities are not working well together, a grant application that might not have been encouraged by one could be encouraged by the other, and this could lead to more discord.
235	Chair Messerle	States that he does not see a conflict [comments inaudible at times].
243	Sen. Ferrioli	Comments that the language in the draft amendments states that these agencies and organizations should work together to the maximum extent practicable.
254	Holman	Notes that the language about "the requester may submit a request to the board or a local SWCD" goes back to the creation of GWEB in 1987.
281	Sen. Ferrioli	Referencing section B on page 9 of the ñ1002 draft amendments, notes that the dismissal on line 24 is for cause. Asks if there was a section in the draft amendments that dealt with holding over. Notes that this was an issue of concern for some committee members.
286	Holman	Responds that this is not addressed in the ñ1002 draft amendments, or any other set of amendments.
296	Chair Messerle	Adjourns the committee at 8:29 a.m.

Submitted By, Reviewed By,

Stephen Kosiewicz, Judith Callens,
Administrative Support Administrator

EXHIBIT SUMMARY

A ñ HB 3225, written material, Roy Hemmingway, 1 p