

PUBLIC HEARING HB 2047

PUBLIC HEARING HB 2511

TAPES 53-54, A-B, 55 A

HOUSE REVENUE COMMITTEE

FEBRUARY 23, 2005 1:00 PM STATE CAPITOL BUILDING

Members Present:

- Rep. Tom Butler, Chair
- Rep. Vicki Berger, Vice-Chair
- Rep. Mark Hass, Vice-Chair
- Rep. Brian Boquist
- Rep. Sal Esquivel
- Rep. Larry Galizio
- Rep. Betty Komp
- Rep. Andy Olson
- Rep. Chuck Riley

Witnesses Present:

- Pat Shaw, Gilliam County Assessor
- Rob Myers, Gilliam County Court
- Kelsey Wilson, Confederated Tribe of Umatilla Indian Reservation

Bruce Zimmerman, Confederated Tribe of Umatilla
Indian Reservation

Les Minthorn, Confederated Tribe of Umatilla Indian Reservation

Shawn Miller, PPM Energy

Norm Ross, Pacific Corp/PPM Energy

Bill Linden, City of Klamath Falls

Gil Riddell, Association of Counties

John Phillips, Dept. of Revenue

Mike Olson, Dept. of Revenue

Grover Simmons, Oregon State Elks Association

Staff Present:

Paul Warner, Legislative Revenue Officer

Mary Ayala, Economist

Kristi Bowman, Committee Assistant

TAPE 53, SIDE A

002 Acting Chair Berger Calls meeting to order at 1:06 p.m.

OPENS PUBLIC HEARING FOR HOUSE BILL 2047

005 Mary Ayala Gives overview of HB 2047 which exempts qualified government entities from property taxation on any intangible property (Exhibit 1).

044 Ayala Discusses revenue impact (Exhibit 2).

056 Pat Shaw

Testifies against HB 2047 because the bill would exempt the wind-power energy project from taxation (Exhibit 3). The company will be located on Indian property that is exempt from taxation, causing a negative financial impact in Gilliam County.

- 090 Rob Myers Testifies against HB 2047 because it presents another statutory barrier against using potentially productive ground.
- 111 Kelsey Wilson Introduces other speakers from the tribe.
- 120 Les Minthorn Testifies in support of HB 2047 because it proposes business development and economic diversity.
- 133 Rep. Riley Asks how far the tribe is from the proposed energy project.
- 135 Minthorn The property is in the ceded boundary of the reservation; about 45 minutes from the current reservation.
- 144 Acting Chair Berger Asks if the power plant has been built.
- 146 Minthorn Responds not yet; the permit process has been started.
- 150 Bruce Zimmerman Testifies in support of HB 2047 because the bill recognizes Indian tribes as a qualified governmental entity that provides necessary

services to the tribe. The bill provides certainty about intangible property (contract and contract rights). If contracts are taxed, there is an additional cost that must be borne by reservation residents. Existing services can be provided with more stable costs. Describes essential services provided to tribal residents.

- 227 Rep. Riley Asks Mary Ayala about what intangible property is taxed.
- 229 Ayala Responds that it is the value placed on the use of certain property. For example, the piece of paper that a contract is written on is not valuable, but the rights extended in the contract are assigned values that are taxed.
- 240 Rep. Galizio Asks Mr. Zimmerman about the costs of doing business and jobs being created that impact county infrastructure.
- 257 Zimmerman Responds that this bill only affects tax exemption of contracts and contract rights, e.g., a management contract to administer the project. Regarding the barrier to entry question, that is an issue facing rural counties statewide. That is why partnerships between government entities and private enterprise are viable options to extend services that are usually only available in urban areas.
- 296 Rep. Boquist Asks for an explanation of the partnership proposed in Gilliam County of energy project.
- 307 Zimmerman Responds with details of the proposed project and how the energy will be shared.

- 333 Rep. Riley Asks Mary Ayala about her opinion of the partnership.
- 336 Ayala Responds that her discussions with the tribe indicated that their project would not be finished during this biennium, so it was not a factor regarding property taxation. She discusses the wind power project as it relates to HB 2047.
- 350 Zimmerman Further discussion of the wind farm project and a future energy project that will be on tribal land.
- 392 Rep. Boquist Asks about shareholder equity regarding the tribe. Is the tribe going to be a majority stockholder?
- 431 Minthorn Responds that the tribe would not be a majority stockholder. PPM Energy hopes to return some of the wind-powered energy back to the reservation for job development and to add infrastructure. The tribe will be an equity investor.

TAPE 54, SIDE A

- 037 John Phillips Informational testimony regarding intangible property. Dept. of Revenue believes the whole project is taxable. With centrally assessed property, the entire value of the company is assessed (unitary valuation method). This includes the tangible and intangible property, and the two types of properties are not able to be separated. Discusses amendment proposed (Exhibit 4). States that the bill proposes a

separation of a property value that the Dept. of Revenue does not recognize.

- 104 Rep. Galizio Asks if Mr. Phillips is aware of other cases like this situation.
- 112 Phillips There have been bills introduced in the past addressing this issue and the Dept. has testified with the same information. Discusses a similar case pertaining to a FCC license.
- 132 Rep. Boquist Requests clarification of Klamath Falls case regarding intangible property.
- 145 Phillips Responds that the Dept. agrees with the court's decision that the property is taxable.
- 150 Shawn Miller Testifies in support of HB 2047 because it resolves the relationship between an energy company and the city of Klamath Falls. PPM Energy initiated the bill during the 2004 interim. Currently PPM Energy is the only taxpayer affected by this legislation, although the future project proposed by the Umatilla tribe and Gilliam County could be potentially affected. Explains specifics of the PPM/Klamath Falls business relationship.
- 191 Norm Ross Testifies in support of HB 2047 on behalf of PPM Energy because of the tax exemption of the intangible property. The bill has been purposefully drafted to have a narrow focus on the energy business. Explains the litigation that PPM Energy is currently involved in. States that the tax assessment on intangible property is a poor tax

policy because the value of the assessment is based on energy revenues that are volatile.

- 280 Miller Comments on the wording of the HB 2047-1 amendment and relating clause of the bill.
- 327 Rep. Boquist Asks: 1) Does the original bill or the amendment address the tangible/intangible property issue regarding the PPM-Klamath tribe project? 2) Would real property then be exempt?
- 341 Miller 1) Responds that the language in the amendment must have the word “tangible” in it. States that the amendment is not correct. The one-word change involves the Klamath situation.
- 356 Ross 2) Responds to the real property question. Discusses the assessments regarding tangible and intangible assets.
- 385 Rep. Boquist Discusses the impact of the change of wording that would affect the project proposed in Gilliam County.
- 409 Ross Responds that the wording “arising from a contract” precludes real property from being exempt. That addresses the Gilliam County issue.

420 Rep. Galizio Questions and discussion with witnesses regarding the current litigation involving PPM Energy.

TAPE 53, SIDE B

033 Rep. Esquivel Asks PPM witnesses who would own the assets of the Umatilla project.

040 Ross Responds that he believes that the Umatilla tribe will be putting an equity interest into their project, but defers to the tribal representatives for further clarification.

047 Chair Butler Questions and answers exchanged with PPM Energy witnesses, and with John Phillips and Mike Olson, Dept. of Revenue.

175 Rep. Boquist Asks Dept. of Revenue who will pay the intangible tax.

177 Mike Olson Responds that PPM Energy will pay the tax, and the costs most likely will be passed on to the ratepayers.

188 Bill Linden Testifies in support of HB 2047. Provides background of the city of Klamath Falls relationship with PPM Energy in operating the utility. Supports the bill because it maintains the status quo without violating other tax policies. States the city/PPM Energy relationship has worked very well so far.

248	Rep. Butler	Questions and answers exchanged with Mr. Linden and Mr. Miller.
284	Rep. Riley	Asks if there is more than one contract for marketing the energy and administering the power generation, and are there other entities receiving energy from PPM?
297	Ross	Responds that there are multiple contracts involved between PPM and Klamath Falls. Discusses the specifics of the contracts.
322	Rep. Komp	Asks who is buying the power.
324	Ross	Responds that there are three other buyers of energy—PPM Energy, and two out-of-state buyers. PPM Energy is a broker for energy sales.
365	Rep. Boquist	Questions and answers exchanged with Mr. Linden and Mr. Miller.

TAPE 54, SIDE B

031	Rep. Esquivel	Expresses concern about the future of other projects potentially affected by this bill.
035	Miller	Responds that the statute concerns the “essentially assessed” which is what the tax court used in its opinion. PPM tried to use narrow language to be specific to its own situation.

065 Gil Riddell Submits written testimony (Exhibit 5). Testifies against HB 2047 because of the proposed tax exemptions.

129 Rep. Butler Asks if this had been strictly a city-run energy program with city employees, would there have been new revenue?

140 Riddell Responds that he does not know; there may be different “footing” if the city was selling energy for a profit. PPM is selling their energy to the grid and PPM is not being taxed.

164 Rep. Butler Further questions and answers exchanged with Mr. Riddell.

CLOSES PUBLIC HEARING FOR HOUSE BILL 2047

OPENS PUBLIC HEARING FOR HOUSE BILL 2511

211 Ayala Gives overview of HB 2511 (Exhibit 6) which exempts from tax any property owned by a fraternal organization and conforms to federal code. Refers to revenue impact statement (Exhibit 7).

252 Acting Chair Berger Clarifies intent of previous language from the bill.

- 255 Ayala Responds that previous language left in bill may have some revenue impact.
- 294 Phillips Provides informational testimony on HB 2511. States that a charitable organization has an exempt status in another part of the tax code. This bill would open up tax-exempt status to organizations that otherwise may not qualify under current law. Discusses the definition of fraternal organization. Dept. of Revenue needs clarification of “service system” language in bill (line 20, page 1).
- 382 Rep. Riley General comments about service versus fraternal organizations.
- 411 Rep. Berger Polls members about their membership with various service organizations.

TAPE 55, SIDE A

- 030 Grover Simmons Testifies against HB 2511 because of the proposed language change pertaining to ritualistic form of work. Discusses the Tax Expenditure Report handout, section 2.077 (Exhibit 8), containing the statute definition pertaining to fraternal organizations and the revenue impact of exempted property tax. Refers to the annual Elks report stating the organization’s contributions (Exhibit 9). Refers to proposed language handout (Exhibit 10). Asks that the bill go back to the current law and leave the language involving ritualistic form of work.
- 123 Riddell Testifies against HB 2511 because of potential unintended consequences of definitions in various sections of the bill.

CLOSES PUBLIC HEARING FOR HOUSE BILL 2511

145 Acting Chair Berger Adjourns meeting at 3:06 P.M.

Tape Log Submitted by:

Reviewed by:

Kristi Bowman, Committee Assistant

Kim Taylor James, Committee
Coordinator

Exhibit Summary:

1. 1. HB 2047, Staff Measure Summary, Ayala, 1 pg., 02/22/05
2. 2. HB 2047, Revenue Impact Report, Ayala, 1 pg., 02/22/05
3. 3. HB 2047, Testimony, Shaw, 1 pg., 02/23/05
4. 4. HB 2047, Amendment, Legislative Counsel, 1 pg., 02/22/05
5. 5. HB 2047, Testimony, Association of Oregon Counties, Riddell, 2 pp., 02/23/05
6. 6. HB 2511, Staff Measure Summary, Ayala, 1 pg., 02/23/05
7. 7. HB 2511, Revenue Impact Statement, Ayala, 1 pg., 02/23/05
8. 8. HB 2511, Handout: Tax Expenditure Report, Simmons, 3 pp., 02/23/05
9. 9. HB 2511, Handout: Elks Annual Statement, Simmons, 1 pg., 02/23/05
10. 10. HB 2511, Handout: Suggested Language, Simmons, 1 pg., 02/23/05