

SENATE REVENUE COMMITTEE
FEBRUARY 3, 2005 9:00 AM STATE CAPITOL BUILDING

Members Present: Senator Ryan Deckert, Chair
Senator Charles Starr, Vice Chair
Senator Gary George
Senator Rick Metsger
Senator Floyd Prozanski

Witnesses Present: Debra Buchanan, Oregon Department of Revenue
Dexter Johnson, Legislative Counsel
Patrick Allen, Office of Regulatory Streamlining

Staff Present: Paul Warner, Legislative Revenue Officer
Lizbeth Martin-Mahar, Economist
Barbara Guardino, Committee Assistant

TAPE 24, SIDE A

006 Chair Deckert Calls meeting to order at 9:05 a.m.

WORK SESSION, LC DRAFTS

030 Paul Warner Directs members' attention to LC's For Session Filing –LC 1281, LC 69 and LC 2364 (**EXHIBIT 1**).
Introduces LC 1281 (**EXHIBIT 2**), LC 69 (**EXHIBIT 2**) and LC 2364 (**EXHIBIT 4**), which is the vehicle for a future bill on tax amnesty.

057 Vice Chair C. Starr MOTION: MOVES TO INTRODUCE AS COMMITTEE BILLS, LC 1281, LC 69 AND LC 2364.

068 Chair Deckert ASKS FOR ANY OBJECTIONS TO MOTION. THERE BEING NO OBJECTION THE CHAIR SO ORDERS.
VOTE: 3-0-2
MEMBERS VOTING AYE: GEORGE, VICE CHAIR C. STARR, CHAIR DECKERT
MEMBERS EXCUSED: METSGER, PROZANSKI

072 Warner Directs members' attention to Bill Introduction Committee Tax Compliance Bill (**EXHIBIT 5**).
• Who is eligible?

131 Warner Continues comments on who is eligible with discussion of abusive tax shelters/specific transactions. Advises combining the issues of voluntary compliance and amnesty in the Oregon bill, unlike the California bill.

139 Chair Deckert Reiterates Warner's concern that people who come forward could be penalized anyway.

156 Warner In California people who participate in abusive tax shelters are not

eligible for amnesty. Tax board would not waive their penalties and interest.

- 193 Debra Buchanan Gives Oregon Department of Revenue's perspective on Who is Eligible issues. The LC draft deals with those who have not filed or those who have under-reported and have not been found.
- 223 Sen. Prozanski Asks, how many people are in the system who have been billed. If they've been identified, why should they be given amnesty?
- 246 Chair Deckert Has difficulty with the possibility of people in the system being billed and others who have not been found having penalties waived.
- 245 Buchanan Good point. That is a concern.
- 263 Dexter Johnson Suggests considering people who volunteered to pay to be eligible for the amnesty program, but use another option for those discovered by the department.
- 270 Buchanan This might be possible.
- 286 Sen. Prozanski Would like to see the law set up as a carrot for people who come in and pay, and a hammer for those who don't.
- 310 Warner Two main sticks are penalties and interest, and DOR can vary who pays what.
- 314 Sen. George Asks how much discretion DOR has.
- 321 Buchanan DOR has authority to waive penalties and interest, has administrative rules to address people who have not filed on time but come forward voluntarily. Interest waivers are rare.
- 345 Warner Points out, elimination of DOR discretion is one possible stick.
- 365 All Continue discussion on who is eligible.
- 412 Sen. George Relates an example of a past employee who got behind on taxes and couldn't feed his family. There should be special category for first-time filers who don't understand the system.
- 441 Buchanan Responds, this illustrates why DOR is against elimination of discretion.
- 462 Chair Deckert Requests language to leave in some discretion.

TAPE 25, SIDE A

- 025 Warner Another way to help is to allow people to pay over a period of time.
- 035 Chair Deckert Asks if committee would be comfortable using HB 2486 as a starting point for the abusive tax shelter issue.
- 044 Johnson Understands it is similar in language to the California bill
- 060 Warner Continues discussion:
 - What tax years?

076	Chair Deckert	Asks committee for reaction to going back 10 years as a starting point.
079	Sen. George	Responds, if a person has a pattern of tax evasion, DOR should go back as far as possible.
087	Johnson	There may be a reason for keeping the Voluntary Compliance Initiative (VCI) program and the amnesty program separate. VCI is geared toward those who are manipulating things to look like they have no income and should be treated differently.
105	Warner	Continues discussion: <ul style="list-style-type: none"> • What are the carrots?
133	Chair Deckert	Expresses concern that California program is weighted toward sticks and not the carrots. Considers two-tiered penalty levels.
150	Sen. George	Prefers a positive carrot approach with a big stick for continued noncompliance. Enforcement may require additional staff.
175	Chair Deckert	Agrees, would prefer customer-friendly approach.
187	All	Continue discussion on carrot approach.
218	Johnson	Questions concerning positive approach incentive in the bill. How do you want that framed? Follow-up questions.
232	Chair Deckert	There needs to be description of legislative intent. Would like wiggle room for discretion.
285	Warner	Continues discussion on carrots: disclosure agreements, appeal rights.
310	Chair Deckert	Asks committee's opinion on no criminal prosecution if they comply. Follow-up discussion on who this applies to.
345	Buchanan	Asks whether this amnesty applies to those whom DOR does not know about, or to those who have filed but under-reported their income.
395	Chair Deckert	Asks what latitude the state has on disclosure in terms of the federal government.
410	Buchanan	Will look into this.
431	Chair Deckert	Invites discussion on carrot issue of appeal rights.
442	Warner	Appeal rights become less of an issue if more broadly defined.
<u>TAPE 24, SIDE B</u>		
019	Sen. George	Expresses concern that some who make a deal will then appeal.
030	Chair Deckert	Concurs with that concern. Turns attention to issue of sticks. Likes option of anonymity for those who come into compliance.
040	Warner	<ul style="list-style-type: none"> • What are the sticks?

Enhanced future enforcement

- 054 Sen. George
- When is the Amnesty period?
- See exhibit 5. Contends that current amnesty is too short.
- 062 Warner
- Responds, most of the time periods tend to be about 60 days. VCI has a longer time period, and the Oregon bill could be 6 months. At the end of the period, increased interest and penalties go into effect. California has 50% additional interest as an amnesty penalty.
- 074 Sen. George
- Why couldn't it be longer than that?
- 076 Buchanan
- Committee could consider setting a one-year period and then authorizing the DOR to determine an appropriate amnesty time. Expresses doubt whether a one-year amnesty period would gain much more than a 4-month period. People still wait until the last minute.
- 093 Chair Deckert
- Would like to know how other states have rolled out their programs and how Oregon might learn from them, and could set a date around that.
- 098 Warner
- How will taxpayers know about the program?
- Maximize public awareness
- 108 Chair Deckert
- Asks if whistle blowing language is necessary.
- 110 Sen. George
- State should give whistle blowers incentive and maximum protection.
- 158 Chair Deckert
- Closes work session on LC 2364. Acknowledges the promotion of Marine Corps Officer Matthew Hicks to Captain. He is the son of Senate Revenue Committee Assistant Barbara Guardino.
- 179 Chair Deckert
- Opens public hearing on SB 31.

PUBLIC HEARING, SB 31

- 182 Lizbeth Martin-Mahar
- Gives review of Senate Bill 31. Grants cases before the Oregon Tax Court the authority to determine if additional individuals are liable for withholding taxes. See Revenue Impact of Proposed Legislation (**EXHIBIT 6**), and Staff Measure Summary (**EXHIBIT 7**).
- 216 Chair Deckert
- Asks Buchanan whether all parties are named in proceedings until the responsible party is identified. Is that how it occurs in tax court?
- 225 Buchanan
- That is generally correct, if DOR knows about people. See written testimony (**EXHIBIT 9**).
- 254 Chair Deckert
- Closes public hearing on SB 31.

WORK SESSION, SB 31

- 256 Vice Chair Starr
- MOTION: MOVES SB 31 TO THE SENATE FLOOR WITH A DO PASS RECOMMENDATION.
- 258 Chair Deckert
- ASKS FOR ANY OBJECTIONS TO MOTION. THERE BEING NO OBJECTIONS THE CHAIR SO ORDERS.

VOTE: 4-0-1

MEMBERS VOTING AYE: GEORGE, METSGER, VICE CHAIR STARR, CHAIR DECKERT

MEMBERS EXCUSED: PROZANSKI

PUBLIC HEARING, SB 32

- 274 Martin-Mahar Explains SB 32. Adds language how DOR can establish rules to waive penalties. See Revenue Impact of Proposed Legislation (**EXHIBIT 10**) and Staff Measure Summary (**EXHIBIT 11**).
- 287 Buchanan Bill would allow for waiver of first-time offenses even without sufficient cause. See written testimony (**EXHIBIT 13**). This addresses Sen. George's earlier example.
- 324 Chair Deckert Wonders if language is needed at all. Doesn't want to pass two similar bills.
- 365 Patrick Allen Regulatory Streamlining office is following this bill as part of a package of 3 dozen bills. Encourages support of SB 32.
- 374 Chair Deckert Closes public hearing on SB 32.

PUBLIC HEARING, SB 33

- 380 Martin-Mahar Gives description of SB 33, regarding 5% delinquency penalties (**EXHIBIT 14**) and (**EXHIBIT 15**). Bill would take effect 90 days after 2005 legislative session.
- 425 Buchanan See written testimony (**EXHIBIT 17**). Poses policy question: Should the 5% penalty be applied to both groups evenly? A second change corrects an inadvertent change made in 1995.
- 459 Chair Deckert Asks if there are any conflicts with other bills.
- 474 Buchanan Does not see any conflicts.
- 480 Chair Deckert Closes public hearing.

WORK SESSION, SB 33

- 485 Vice Chair Starr MOTION: MOVES SB 33 TO THE SENATE FLOOR WITH A DO PASS RECOMMENDATION.
- 490 Chair Deckert ASKS FOR ANY OBJECTIONS TO MOTION. THERE BEING NO OBJECTIONS THE CHAIR SO ORDERS.
VOTE: 4-0-1
MEMBERS VOTING AYE: GEORGE, METSGER, VICE CHAIR STARR, CHAIR DECKERT
MEMBERS EXCUSED: PROZANSKI
- 490 Chair Deckert Adjourns meeting at 10:29 a.m. Committee will reconvene at 8:30 Monday, Feb. 7.

Tape Log Submitted by,

Barbara Guardino, Committee Assistant

Exhibit Summary:

1. LC 2364, LC's for Session Filing, Warner, 1 pp.
2. LC 1281, Draft, Warner, 4 pp.
3. LC 69, Draft, Warner, 7 pp.
4. LC 2364, Draft, Warner, 5 pp.
5. LC 2364, Bill Introduction Committee Tax Compliance Bill, Warner, 1 pp.
6. SB 31, Revenue Impact of Proposed Legislation, Martin-Mahar, 1 pp.
7. SB 31, Senate Committee on Revenue, Martin-Mahar, 1 pp.
8. SB 31, Legislative Fiscal Office, No Expenditure Impact Statement, Martin-Mahar, 1 pp.
9. SB 31, Senate Revenue Committee SB 31 testimony, Buchanan, 1 pp.
10. SB 32, Revenue Impact of Proposed Legislation, Martin-Mahar, 1 pp.
11. SB 32, Staff Measure Summary, Martin-Mahar, 1 pp.
12. SB 32, Legislative Fiscal Office No Expenditure Impact Statement, Martin-Mahar, 1 pp.
13. SB 32, Senate Revenue Committee SB 32 testimony, Buchanan, 1 pp.
14. SB 33, Revenue Impact of Proposed Legislation, Martin-Mahar, 1 pp.
15. SB 33, Staff Measure Summary, Martin-Mahar, 1 pp.
16. SB 33, Legislative Fiscal Office, No Expenditure Impact Statement, Martin-Mahar, 1 pp.
17. SB 33, Senate Revenue Committee SB 33 testimony, Buchanan, 7 pp.