

SENATE REVENUE COMMITTEE
MAY 18, 2005 9:00 AM STATE CAPITOL BUILDING

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

Witnesses Present: Justin Martin, Defenders of Wildlife
Cheryl Hummond, Defenders of Wildlife
Kay Teisl, Oregon Cattlemen's Assoc.
Cheryl Livingston, Oregon Cattlemen's Assoc., Pendleton
Gil Riddell, Association of Oregon Counties

Staff Present: Paul Warner, Legislative Revenue Officer
Mary Ayala, Economist
Mazen Malik, Economist
Barbara Guardino, Committee Assistant

TAPE 123, SIDE A

004 Vice Chair C. Starr Calls meeting to order at 9:07 a.m.
009 Chair Deckert Opens work session on SB 171-B.

WORK SESSION, SB 171-B

012 Sen. Metsger Hopes to have a revised bill next week. After the bill came out of committee there was a lot of confusion regarding the approach in dealing with income tax for utilities. The primary point of discussion was consolidation/deconsolidation. A group met Monday and developed an approach that it is working on with Legislative Counsel. They are attacking it as a rate-setting issue. Public Utility Commission, when it sets liability, will mirror what taxpayers owe. It will more closely reflect the liability of the company. If those liabilities are less than what customers pay, PUC will take that into account. Believes this could have a significant tax reduction for businesses and individuals collectively which will return to the Oregon economy. Attorneys representing the interested parties, Sen. Vicki Walker and Sen. Metsger were involved in this discussion group.

061 Sen. Prozanski Sounds like consolidated returns would still be permitted but the PUC would take under consideration a utility company's obligations. If they consolidated with other components of their parent corporation and their actual tax was less, is there some type of offset as to future rates?

067 Sen. Metsger It won't have any impact on how they file tax returns. PUC will look at historical liabilities. Tax rates are an estimate of that liability, created by multiple corporations. This bill will have PUC measure the liabilities

against rates, and adjust the allowable collection of taxes based on that figure.

- 084 Sen. Prozanski Follows up. Will there be more discussion as to how a utility may try to justify a rate increase in an attempt to offset an adjustment? People who paid the taxes in the past may no longer be in the system to benefit from the adjustments.
- 104 Sen. Metsger Responds, the adjustments are ongoing. PUC will look at the last three years and see what has been collected and whether that amount reflects the liability. The PUC will credit collections until those taxes are achieved.
- 124 Sen. Prozanski Could PUC look back and see what the liability was and make that adjustment? Is concerned that there will be a need to reflect back on what the actual liability was in order to make those adjustments.
- 134 Sen. Metsger They will be doing this on a regular basis.
- 137 Sen. George Basically, we're saying, "don't collect more in taxes than you pay or we'll be back." This puts everything back on the real numbers – if you collect it, pay it.
- 148 Chair Deckert This seems to be the easiest way to get at this issue. This bill will return. Closes work session on SB 171-B.

WORK SESSION, HB 2197

- 163 Mazen Malik Refreshes members' memory on HB 2197-A. It attempts to complete the circle on the transient lodging tax passed in 2003 session. That language omitted certain lodging facilities. The tax is 1% dedicated to tourism. This bill increases what would be collected under the previous bill by 1.5%. Clarifies confusion about numbers discussed in an earlier committee meeting. The bill was amended in the House.
- 235 Vice Chair C. Starr **MOTION: MOVES HB 2197-A TO THE SENATE FLOOR WITH A DO PASS RECOMMENDATION.**
- 237 Sen. George Does not see a relationship between this bill and tourism, so will vote no.
- 239 Chair Deckert **ROLL CALL VOTE: 4-1-0**
MEMBERS VOTING AYE: METSGER, PROZANSKI, C. STARR, DECKERT
MEMBERS VOTING NO: GEORGE

PUBLIC HEARING, SB 593-A

- 250 Mary Ayala Notes, SB 593-A2 (**EXHIBIT 1**) and SB 593-A3 (**EXHIBIT 2**) correct errors discovered over the last few days. The corrected items are trivial. Summarizes, the bill establishes a property tax special assessment program for land subject to a conservation easement (**EXHIBIT 3**). This bill is important because it pertains to owners of property that are designated as farmland and forestland. However, some owners have not declared that they have given conservation easements to portions of their property because under current law the properties might lose their designations and be taxed at a higher rate.

- 298 Ayala Discusses revenue impact (**EXHIBIT 4**) and how she arrived at the estimate.
- 315 Justin Martin Submits written testimony (**EXHIBIT 7**). Urges support of SB 593 which resolves a minor technical problem in current statutes. It allows landowners to enter into a conservation easement without being penalized by back taxes. There is minor-to-no revenue impact. Would like to sit down with county officials and work with them on their concerns over this bill.
- 334 Cheryl Hummond This bill came out of an interim work group in 2002, which met to review Oregon's conservation incentive programs and develop recommendations. This bill had broad support from a wide group of stakeholders. They are ironing out details with amendments. Points out, counties attended part of the interim work group.
- 355 Hummond At Chair Deckert's request, explains that this bill allows a landowner who has a conservation easement to retain a special assessment they already had for property taxes, but still move into a new category.
- 383 Chair Deckert Asks for an example of who could benefit from this.
- 388 Hummond Gives an example of a landowner in Lincoln County with scenic property in a forestry special assessment, which requires the forest be used for timber harvest. She prefers to have a conservation easement on the property. Currently, she would lose her forestry special assessment and would owe back taxes based on the full market value.
- 443 Sen. George The reason for timber tax breaks is to keep farmers in business. The anticipation is, eventually they make the harvest. Here, the product is only the scenic value. How do we justify the potential revenue loss?
- 467 Hummond Responds, land that is used for conservation does provide economic value – for example, clean water, fish and wildlife. Second, conservation incentive bills passed in 2001 and 2003 recognize conservation as a legitimate land use in Oregon. Goals 3 and 4 of Oregon's land use planning system, which address farming and forestry, are very important.

TAPE 124, SIDE A

- 038 Sen. George About 56% of Oregon is already owned by government. Expresses concern that the productive portion of Oregon continues to be diminished. Resents the idea that good forestry results in dirty water. It is the cities that are polluting the rivers. Has a problem with granting the same status of tax break as would be granted for commercial purposes.
- 053 Hummond Responds, this assessment would involve only a dozen or so landowners each year. It is a very complex tool. Having this special assessment is another tool for a private landowner to make choices for their property without being penalized. Also, this does not necessarily take land out of production. Easements are at times used

to retain the current use of the land.

- 084 Sen. George Asks, how do you get out of an easement if that land is needed?
- 089 Hummond It is usually a permanent agreement, and it takes a lot of work.
- 102 Vice Chair C. Starr Objects to Hummond's definition of conservation. It is a figment of the environmental movement's imagination that setting aside property is conserving. Conserving is using property that brings added value through management and use. Setting it aside is preservation, not conservation. Nature has a way of destroying what we don't use and manage well – e.g. insects, disease and fires. Conservation is managed use that benefits mankind. Is disturbed to see this term used to tie up property from beneficial uses.
- 130 Hummond The word "conservation" in this context follows the federal definition and is in the Oregon statutes.
- 140 Chair Deckert It seems that the definition gets in the way of the program itself. Wonders if there is a way to change the name so it won't provoke strong feelings.
- 149 Hummond Adds, the definition of conservation as a voluntary tool is between the landowner and the holder. We don't determine the definition.
- 184 Kay Teisl Testifies against the bill. See written testimony verbatim (**EXHIBIT 8**). Encourages the committee to vote against the bill.
- 210 Cheryl Livingston Testifies against the bill. Gives an example of why OCA is opposing this bill. There are several conservation easements in Umatilla County, and it has lost a great deal of land. The region is a depressed area. This is a poor use of state funds. It locks up property that could be used for production.
- 256 Sen. George Discusses a fire that occurred on a conserved property because the grass was allowed to grow tall and decay. The fire was started by lightening. Eventually the fire burned through the countryside, caused great erosion, and then headed for the federally owned timberlands.
- 276 Livingston Her property borders a national forest. She logs her land and keeps her timber thinned. She can't ride a horse through the national forests because the vegetation is so thick. "When the fire comes next door," she hopes her efforts will save her property from destruction.
- 299 Chair Deckert Grapples with situations such as in Lincoln County where a landowner wants to do an easement. In that case the state should not stand between the landowner and the public trust. Question is, why not allow them the same tax treatment as if they were using that land for production?
- 326 Livingston Responds, she conserves her property because it's the right thing to do, not for money. Don't take land out of production and expect our county to struggle. There are two sides to every issue.
- 339 Chair Deckert Is it accurate to say that you believe if it's not in production an

exemption should not be given?

- 349 Livingston Responds, why should we pay them to take it out of production and also reduce their taxes? Take the easement money, put it in a fund and pay your taxes. They want both – to keep their land and to have reduced taxes.
- 360 Sen. George What happens to the tax deferral if this land is sold?
- 365 Livingston The back taxes must then be paid.
- 375 Sen. Prozanski Wouldn't that scenario play out that it would be logged and taxes would be paid at that time?
- 389 Sen. George They would capture some of it back, but developers try to keep the trees standing.
- 402 Gil Riddell Testifies in regard to fiscal impact/cost of service issues. Conferred with Washington County Assessor Jerry Hanson who told him the filing process for this is different from a normal assessment and taxation process. There are two sets of responsibilities: 1) process the application; 2) periodic review. Requests amendments to this bill.

TAPE 123, SIDE B

- 030 Sen. George Asks if anyone has calculated the actual tax loss.
- 035 Riddell That is revenue impact, not fiscal. AOC has stayed out of this issue because it doesn't know which direction to go. Times change and this program seems to have evolved into this area. Proponents mentioned that easements can include harvesting and managing. That's the kind of easement that AOC supports. There is certainly a revenue impact.
- 061 Sen. George State has created a lot of wetland areas and now West Nile virus has infested them. Has anyone determined the cost of fighting this?
- 075 Riddell Responds, no.
- 078 Hummond Most discussion she's heard assumes conservation easements are used only for conservation and not for production. This is untrue. Many landowners are interested in multiple uses of their land. In addition, very few conservation easements occur in Oregon and not many would take advantage of this new tool. Conservation easements are not causing wildfires or diseases; they require active management by the landowner or holder. Responds to Riddell's comments on the growing uses of special assessments.
- 109 Sen. George If counties were to be compensated for lost revenues, he's fine with this concept, but does not want any more land taken away from counties and cities that are hurting.
- 117 Sen. Prozanski Wonders if witnesses have information where these properties are benefiting the areas economically.
- 123 Hummond Does not have specific examples, but scenic value is important to tourism, hunting and fishing, and provides economic benefits to

Oregon.

129 Chair Deckert

Closes public hearing. Adjourns meeting at 10:12 a.m.

Tape Log Submitted by,

Barbara Guardino, Committee Assistant

Exhibit Summary:

1. SB 593-A, Amendment SB 593-A2, Leg. Counsel, 5/10/05, 1 pp.
2. SB 593-A, Amendment SB 593-A3, Leg. Counsel, 5/17/05, 1 pp.
3. SB 593-A, Staff Measure Summary, Ayala, 5/18/05, 1 pp.
4. SB 593-A, Revenue Impact of Proposed Legislation, Ayala, 5/18/05, 1 pp.
5. SB 593-A, Staff Measure Summary for SB 593-A2, Ayala, 5/18/05, 1 pp.
6. SB 593-A, Staff Measure Summary for SB 593-A3, Ayala, 5/18/05, 1 pp.
7. SB 593-A, Removing barriers to voluntary land conservation agreements, Martin, 1 pp.
8. SB 539-A, testimony of Kay Teisl, 5/13/05, 1 pp.