

**HOUSE REVENUE COMMITTEE**  
**APRIL 21, 2003 8:30 AM STATE CAPITOL BUILDING**

Members Present: Representative Lane Shetterly, Chair  
Representative Wayne Scott, Vice Chair  
Representative Joanne Verger, Vice Chair  
Representative Phil Barnhart  
Representative Vicki Berger  
Representative Pat Farr  
Representative Mark Hass  
Representative Elaine Hopson  
Representative Max Williams

Witness Present: Richard Koesan, LifeLine Renewable Energy  
John Powell, LifeLine Renewable Energy  
Patricia Pilz, LifeLine Renewable Energy  
Gil Riddell, Association of Oregon Counties  
Judge Laura Pryor, Gilliam County Judge  
Paul Chalmers, Umatilla County Assessment and Taxation  
Brad Higbee, Renewable Northwest Project  
Debra Buchanan, Department of Revenue (DOR)  
John Phillips, DOR  
Mike Burton, Oregon Economic and Community Development Department  
Representative Dave Hunt, District  
John Pascone, Albany-Millersburg Economic Development Corporation

Staff Present: Paul Warner, Legislative Revenue Officer  
Mazen Malik, Legislative Revenue Office  
Kathy Tooley, Committee Assistant

**TAPE 135, SIDE A**

004 Chair Shetterly Calls meeting to order at 8:40 a.m.

**OPENED PUBLIC HEARING ON HB 3610**

022 Mazen Malik Provided description and background of HB 3610, (Exhibit 1).

056 Richard Koesan Spoke in support of HB 3610, (Exhibit 2). Discussed disincentives for development and production of wind generation facilities in Oregon. Cited concerns about revenue loss by Morrow County on four existing facilities; administrative concerns by DOR. Will be addressing concerns through future amendments.

100 John Powell Spoke in support of HB 3610. Discussed scope of amendments will create phase in date building to a production tax over a 5 to 10 year period.

140 Patricia Pilz Discussed problem trying to solve with HB 3610. Discussed Oregon property tax rules disadvantages to wind development. Facilities are not asking for enterprise zone as they did not want wind power to require special exemptions as a boutique form of energy. Want to be able to sell power on the open market at market rates. Looking at wind friendly tax model; chose production tax model with dependable steady revenues for the county with no depreciation.

223	Rep. Berger	What does Wyoming do with longer history?
227	Pilz	Discussed Riverside County, California as having longest experience; wind farm is viewed as a collection of equipment assessed at cost; county property tax is a little higher, and depreciation of equipment over 5 years. Kansas exempts wind facilities from property taxes. Minnesota program described as most progressive and has a production tax credit which is the model for the Oregon program.
260	Chair Shetterly	How many turbines go into a facility of \$100 million?
264	Pilz	61 turbines, depends on megawatts.
272	Rep. Barnhart	Is there a place to go to get an overview of the economics of this operation?
288	Pilz	Can provide web site names and provide spreadsheets.
294	Chair Shetterly	Do you have facilities in Oregon now?
285	Pilz	Have licensed with Morrow County to build facility.
292	Rep. Hass	Asked for background on Lifeline, what is the track record?
312	Pilz	LifeLine was founded to build this facility in Eastern Oregon.
338	Chair Shetterly	Question regarding length of time required to startup.
340	Pilz	Six to 10 months from breaking ground to reaching capacity.
345	Chair Shetterly	Issue is not tax imposed before energy produced; issue is rate of tax vs. rate of return?
362	Pilz	Tax based on cost to build is prohibitive vs. cheaper cost to build gas fired plant with ongoing tax break. Cited need for equity.
350	Rep. Barnhart	How do operating costs equate. Gas plant pays for fuel, wind powered does not pay for fuel. Secondly, can run gas all time, and wind only when available.
396	Pilz	Wind can be competitive, high cost of construction offset by low operating expense. Wind power is competitive, but close to the bone.
430	Powell	Discussed Exhibit 2, outlines who is involved in the project, current status, environmental benefit, acreages required, and problems encountered. Includes incentives from other states; does not include Minnesota which has gone to production tax.

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020	Malik	To offset high starting costs, would equalize costs by lowering taxes. When producing a gas plant, does the tax rate go to the same amount?
028	Pilz	No, the project is 20 years for a power purchasing agreement. Low cost to operate lasts forever in all places except in this rural area which has a high tax rate. First 10-12 years everything is used to pay off debt. The second 10 years investors get money back on their investments. After that new land and power agreements are negotiated.

055	Rep. Verger	What changes with the amendments?
056	Chair Shetterly	The amendments phase in the operating tax for existing facilities? To minimize or delay the impact of existing facilities so counties don't see a drop off from property tax to production tax?
060	Koesan	Answered affirmatively.
061	Chair Shetterly	Twenty years for an agreement, what is the life span of a turbine?
069	Pilz	Lifespan of modern turbine with proper maintenance can be indefinite, blades, turbines change out; they are modular can be moved about the site.
080	Gil Riddell	AOC opposes concept of original bill.
090	Judge Laura Pryor	Owns land that has towers placed on farm; may be conflict of interest.
098	Chair Shetterly	Go ahead.
100	Judge Pryor	Described SeaWest project received an enterprise zone. Project was done in two pieces in order to receive federal tax credit. Test towers have not shown that they would be profitable. Wind energy is incentivized through federal government and Oregon through enterprise zones. Morrow County told not going to need enterprise zones. Would like to know what size the projects are, and who is buying the power. Described losses in property taxation when project is placed on property.
160	Judge Pryor	Opposed HB 3610 because in rural Oregon if you lose taxing ability it is gone, no transparency to how much power is being provided. Wind power can start or stop based on tax benefits. Many times towers are not running even though there is plenty of wind. There are either problems with construction, or manipulated to benefit the company. It is not something that can be counted on. Rural communities will lose tax base.
183	Paul Chalmers	Spoke in opposition to HB 3610 Umatilla Board of Commissioners passed a resolution in opposition to HB 3610 based on potential loss of functions. Discussed visual display of wind projects on line actual and proposed.
220	Chalmers	Does not understand the disincentive claims as the federal tax credit is being reviewed, and does not appear to be eliminated.
228	Chalmers	Concern over production tax, shifts burden to the state in education funding.
240	Chalmers	Discussed gas power assumptions and enterprise zones in Umatilla County. Once there is an income stream it goes through utility section of DOR.
265		Questions and discussion regarding income vs. cost taxation.
291		Questions and discussion regarding tax rate and valuation.
300	Chalmers	Strong local relationships with energy company in terms of vested interest in donations, community service, and civic projects. Transition to production tax would transfer relationship to state level.
323	Chair Shetterly	The appraisal on income basis is done by DOR not county?
331	Chalmers	All three approaches are done at the state level. Discussed Morrow County rate as being excessively high.

322	Rep. Barnhart	What is the comparison between HB 3610 tax and current tax is?
330	Judge Pryor	Assessor worked up numbers after SeaWest gets through the enterprise zone and comes on line \$250,000 to county, if this bill goes through it would be \$50,000.
340	Chalmers	Has numbers that substantiate that although it is proprietary information regarding production.
390	Brad Higbee	Neutral on HB 3610. Provided background on economic benefits. Tentative on creation of brand new tax to deal with it and flies in the face of local government, would prefer local option taxation. Should leave incentives to discretion of county. Impediment to wind projects is the construction costs, about a \$1 million dollars per megawatt.

#### **TAPE 135, SIDE B**

033	John Phillips	DOR has done analysis on appraisal process (Exhibit 3).
042	Chair Shetterly	What other tax incentives are there for projects like this, federal and state level?
048	Buchanan	Enterprise zones.
049	Phillips	Strategic investments.
050	Higbee	Federal production tax credit; it expires frequently and gets extended.
059	Chair Shetterly	To wind power specifically or other types of power generation?
061	Higbee	Renewable energy, primarily wind, defer to people in audience.
062	(Audience)	Green power.
075	Rep. Barnhart	When looking at tax structure change, would require more information about the economics to consider than present at the current time. Ought to insist on a lot more information.
083	Chair Shetterly	Explained the bill is on loan to the Committee specifically to look at tax and revenue implications.
085	Chair Shetterly	Closed public hearing on HB 3610.

#### **OPENED PUBLIC HEARING ON 2299A**

090	Mazen Malik	Described HB 2299A and provided background, (Exhibit 4).
130		Questions and discussion regarding -5 (Exhibit 5), and -6 (Exhibit 6) amendments.
180	Mike Burton	Discussed overview and history of HB 2299-A (Exhibit 7-8). The bill provides technical corrections on business tax incentives including strategic investment and enterprise zone programs.
190	Burton	Discussed policy changes (Pages 1-2, Exhibit 8); consensus building that occurred in crafting HB 2299-A, department recommends passage,
233	Burton	Discussed strategic investment program (Page 3, Exhibit 8). Targeted toward investments over \$100 million.

Questions and discussion about wind turbine incentive.

276	Burton	Discussed proposed changes scaled to benefit rural areas.
284	Rep. Dave Hunt	Discussed rural aspect of -5 amendment in strategic investment program vs. inclusion in urban growth boundary (UGB).
341	Chair Shetterly	What or who is the 30,000 or more?
349	Rep. Hunt	That is not changed; it is taken out of another section of the existing statutes. The substantive change is "as the urban growth boundary is acknowledged on December 1, 2002".
352	Rep. Hass	This amendment is a good add, the amendment talks about rural areas, even though amended into UGB.
356	Chair Shetterly	Does this require a sunset?
365	Burton	Will address date next session. As to who is 30,000, that is Corvallis, Albany, Bend, Klamath Falls, Portland, Salem, Eugene and Medford.
375	Malik	Can we say "latest" as part of definition?
378	Chair Shetterly	The department will keep tabs on this on a biennium to biennium basis.
385	Burton	The -5 amendment benefits those areas that have been rural and have been recently changed to urban due to recent changes in metro boundaries.
418	Burton	Discussed removal of exclusion of electrical generating facilities from strategic investment program.
425	Burton	Discussed enterprise zone statute changes.
458	Burton	Discussed productivity incentive.
410	Burton	Explained requirements for and what an enterprise zone does. HB 2299-A simplifies, provides fixes.

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060	Burton	Discussed bill relative to enterprise zones; increasing investment or increasing employment.
072	Burton	Discussed controversial aspect of HB 2299-A relates to construction period exemptions.
097	Burton	Amendment proposes change to remote investments to be capped at \$12.5 million.
122	Burton	Discussed extension of sunset on long term rural exemption for a couple of years, only used once due to down economy.
134	John Pascone	Provided history and need for -6 amendment which will require additional changes.
170	Pascone	Discussed good faith effort by a company (Exhibit 9), that invested and did not qualify for exemption based on reduced employment in the face of

declining economy, September 11, and the recession. Explained rules require company make first year of exemption or would not qualify for exemption years 2 through 5.

- 188 Pascone Amendment to look at year-by-year basis so that in a year the company did not make numbers it would pay taxes.
- 125 Burton Department in conceptual agreement with Pascone. Do not have problem with first year. Amendment does propose that the DOR pass judgment on whether this would happen. DOR would rather have legislature have a policy decision on year-to-year basis, so it does not have to pass judgment.
- 224 Pascone That language was written by legislative counsel. Art Fish provided some language that would put it back on the sponsors which is where it should be.
- 225 Chair Shetterly Clarifies would apply same rules that currently apply to a company that meets qualifications, yet fails to meet in second or third year. The amendment puts that same standards to a company that makes the investment, but fails to make its first year, allows them to be eligible for another year.
- 235 Burton Certification becomes year-by-year.
- 237 Rep. Hass Is this similar to Sumco Wafer has?
- 239 Burton It's similar. There is already a fix for very large investments. This is a different fix for a different problem, but is related.
- 248 Rep. Hass It raises the issue in declining economy, in light of best of intentions, also do have to guard against higher than realistic claim.
- 257 Burton An existing firm would not be able to qualify.
- 262 Pascone Discussed experience as enterprise zone manager; companies try to be conscientious in projecting numbers.
- 270 Chair Shetterly Bottom line is if they don't make the projections, they don't get the benefit.
- 272 Pascone It's a shame that this company which was looking forward to five years of enterprise zones is locked out the first year and then forever.
- 274 Chair Shetterly Is it your intention to make this retroactive?
- 275 Pascone Answered affirmatively.
- 279 Rep. Barnhart If we accept enterprise zones and incentives, want to make transparent so future businesses aren't afraid of being shut out if don't make it the first year.
- 297 Chair Shetterly Closed public hearing on HB 2299-A.
- 301 Chair Shetterly Meeting adjourned at 10:20 a.m.

Kathy Tooley, Committee Assistant Reviewed by Kim Taylor James

Exhibit Summary:

1. Malik, "Staff Measure Summary HB 3610", 1 page
2. Kosesan, Powell, "Presentation on behalf of Lifeline Renewable Energy", 11 pages
3. Phillips, "SB 874/HB 3610 Questions, observations and analysis", 5 pages
4. Malik, "Staff Measure Summary HB 2299-A", 3 pages
5. Malik, "HB 2299-A5 Amendment", 1 page
6. Malik, "HB 2299-A6 Amendment", 1 page
7. Burton, "HB 2299 Testimony", 2 pages
8. Burton, "Proposals by A-Engrossed House Bill 2299 – With Material Effect on Business Development Tax Incentives",
9. Pascone, "Letter to Rep. Betsy Close; Subject: Enterprise Zone Rule Amendment HB 2296 or HB 2890", 6 pages
10. Oregon Revenue Coalition "Written Testimony HB 2299", 1 page