

**HOUSE REVENUE COMMITTEE
JULY 23, 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: Ken Strobeck, League of Oregon Cities
Doug Riggs, Central Oregon Cities Organization
Michelle Deiser, League of Oregon Cities
Larry Campbell, Oregon Lodging Association

Staff Present: Paul Warner, Legislative Revenue Officer
Richard Yates, Legislative Revenue Office
Kathy Tooley, Committee Assistant

TAPE 223, SIDE A

004 Chair Shetterly Calls meeting to order at 8:41 a.m.

WORK SESSION ON HB 2267

006 Chair Shetterly Discussed -13 amendments (Exhibit 1) as superseded by the -14 amendments (Exhibit 2), replacing "primary" to "substantial"; described with amendment from Rep. Wayne Scott, -15 amendments (Exhibit 3), makes clarification on retroactivity date.

022 Richard Yates Described differences between the -15 amendments and -14 amendments.

036 Rep. Scott Described the -15 amendments as providing clarification regarding the definitions of retroactivity date.

048 Chair Shetterly Stated for the record, his intention to make a conceptual amendment to delete on line 8 of either of the -14 or -15 the language "other transportation facilities" described as extraneous to the requested amendments (Exhibit 4).

059 Ken Strobeck Stated he did not believe local governments have had collaborative and productive negotiating effort, discussed surprise insertions in new versions of amendments.

074 Strobeck Responded to questions asked of industry representatives in the prior hearing that he felt were not adequately answered.

080 Strobeck Discussed question regarding who is considered an eligible entity to receive money from the 1% tourism tax and would the lodging association meet that definition.

095 Strobeck Discussed issue regarding definitions of conference center and convention center you were told it is in current law and it is but refers to nothing, there is

no money to be appropriated to these entities they are simply definitions. Discussed only two centers in Oregon meet the definition, Cautioned Committee that most local convention/conferences do not meet the criteria.

- 116 Strobeck Discussed definition of convention center, explained why he doubted the Salem Convention Center would qualify.
- 147 Strobeck Described tourism commission as dominated by the lodging industry and exempt from legislative oversight.
- 168 Strobeck Said local governments have serious objections to legislature telling them how to manage local affairs, particularly when relating to taxation. Discussed support for 1% statewide tax for tourism promotion. Described opposition to pre-emption as an inappropriate intrusion on local authority. In good faith effort to compromise, supported the Governor's proposals in the -10 amendment which stipulated a 60/40 split with 60% going to tourism promotion/tourism facilities; and 40% to public safety. Said -10 were presented as final compromise, not starting point for beginning negotiations.
- 170 Strobeck Discussed changes in amendments since -10 and their impacts.
- 175 Strobeck Discussed Cannon Beach's system of appropriation, said comments that none of its lodging tax goes to tourism as untrue.
- 205 Strobeck Discussion regarding treatment of local government and restrictions to authority. Described lack of legislative oversight and accountability in HB 2267.
- 223 Strobeck Discussed preemption as an area of contention between the lodging industry and local government that could kill the bill, jeopardizing the 1% statewide tax to stimulate the economy. Discussed limitation on tourist tax proceeds to those areas that cater to tourists that travel more than 50 miles. Contrasted amendment to the -10 amendment from the Governor which allows for construction on real property and facilities that support regional tourism and those from long distances. Described resistance to the word "substantial" in the amendments, warned of possible court cases.
- 242 Strobeck Described the bill as a complete win for the lodging industry; with the -14 and -15 amendments, the lodging industry will control how new statewide tax is spent including locally raised money.
- 270 Strobeck Discussed retroactivity issue.
- 283 Strobeck Referred Committee to June 24 handout regarding Governor's principles for the -10 amendments which includes reference to avoidance of retroactivity, the -14 and -15 amendments do not uphold spirit of the Governor's request.
- 290 Strobeck Said state government should not tell local governments how to run their business.
- 294 Strobeck Described imbalance between the lodging industry and local governments in negotiations. Said local governments in good faith agreed to -10 amendments including a 60/40 split. Said the -14 and -15 amendments give the lodging industry control of state tax funds and restrict local governments. In his opinion, money would not be spent to improve "mom and pop" operations but money will be spent on out of state and country visitors to large tourist areas.
- 314 Strobeck Urged rejection of the -14 and -15 amendments as bad public policy, bad tax policy and urged the committee to adopt the -10 amendments.

- 306 Doug Riggs Strongly supports the 1% increase. With associated tourism costs, need to be able to pay for police, fire, sewer and other activities. Said Bend and Redmond might be grandfathered in under -15 amendments. Concerned regarding restrictive definitions, new restrictions on roads and other transportation facilities, sewers or sewer plants that are important in addressing the needs of the tourism industry. Concerned about retroactivity and the definitions in the bill.
- 371 Questions and discussion regarding retroactivity date as it affected Bend and Redmond.
- 380 Questions and discussions as to whether, a small town like Brownsville could attract transient lodging.

TAPE 224, SIDE A

- 010 Chair Shetterly Disagreed with Strobeck's strict interpretation of "substantial".
- 047 Rep. Berger Discussed issues with the exclusion of Salem's new Convention Center, reading the definitions, believe Salem Center would qualify as a substantial purpose.
- 057 Strobeck Discussed new restriction on local government spending; establishment of a test where "substantial" must be proved. On page 1 of the bill current law describes how 1% of statewide tax can be spent where the definition will create a hurdle, have to have room block relationship, and generate a majority of business income from people more than 50 miles away.
- 069 Chair Shetterly Would you agree for local tax dollar, that a convention center would qualify as a substantial purpose?
- 074 Strobeck The issue is somebody has to go out and prove that, it puts up a barrier that doesn't exist currently.
- 085 Rep. Berger That would be only for new taxes imposed by the city?
- 090 Strobeck Answered affirmatively, that would be the test for new or additional. In all versions of the bill there is agreement to a "maintenance of effort" clause; local government is doing this currently.
- 098 Rep. Farr Commented on "substantial" vs. "primary", believes the Hult Center would continue to qualify. Far more honourous is reaching back and undoing local decisions that have already been made. Which local jurisdictions would be undone with the retroactivity clause?
- 110 Strobeck Not sure if affected by the clause: Redmond, Bend, Hermiston, Joseph, Lakeside and Gates.
- 119 Rep. Farr Pre-empting local decisions is one of the worst things this body can do and will affect decisions made on this bill. Is there anybody that can answer the question of who is going to be preempted?
- 125 Michelle Deiser According to their survey that did not have a 100% response rate, since January 1, 2003, it affects cities of Gates, Joseph, Hermiston and Lakeside would be affected by retroactivity.
- 140 Questions and discussion regarding Bend's effective date.

154	Riggs	Local communities are expanding sewers around tourism facilities, as a result of tourism. In Redmond, as defined none of lodging tax revenue could be used for that purpose.
167		Questions and discussion regarding specific reference Legislative review in the amendments.
187	Rep. Scott	There will always be argument whether "substantial" meets the criteria of primary, but is convinced it will alleviate many of the problems. What has to be remembered is all cities that imposed tax prior to the effective date will not be affected by what may happen. Discussed Gates, Joseph, Lakeside and Hermiston.
215	Rep. Scott	Salem is clearly covered, and there are several other facilities that will qualify, there is always the ability to contest it. Need dollars to market the state of Oregon. We have people that come farther than 50 that don't stay in the rooms and generate the tax. This is a huge step in the right direction.
244	Strobeck	Regarding the issue of addressing the problem, contends there is not a problem, 50% is already being spent on tourism promotion and facilities and the other half on sewers, police; local governments have already shown there isn't a problem. The existing tax will be affected by these bills because it requires "a maintenance of effort".
266	Rep. Scott	Agreed with Strobeck's definition of what is done locally.
279	Larry Campbell	The language in -14 amendments regarding "substantial" is not language the lodging association is particularly happy with, but see the need for compromise. Discussed City of Bend agreement, with incremental increases going to tourism each year and have asked that it be included in the -15 amendments.
299	Campbell	Regarding retroactivity, attempted to honor the communities that passed a tax increase before the bill was introduced. Reason for retroactivity is important because some communities were going to move forward with a tax increase in order to beat the date of the bill. Intent not to stop Medford, Bend, or Redmond and supports protecting those cities. Doesn't stop Gates and Hermiston from increasing taxes, interested in seeing local communities use it for tourism related activities. In the bill 70% is identified as to use, 30% can be used by community for anything. The idea behind the 1% tax is for marketing Oregon.
380	Rep. Verger	Why no oversight on 1% tax?
385	Campbell	Believes there is oversight. The Governor reviews and approves* (See Tape 223, Side B, Meter 045) the Tourism Commission budget. Cities in difficult position in getting monies to operate, discussed continued erosion of dollars. Want tourism dollars at state level spent on tourism, if funds are easily available, the state is liable to spend the money other than intended. Discussed Oregon's spending on tourism ranking as 48 th and the desire to improve that ranking.
427	Rep. Verger	Why shouldn't there be legislative oversight just as there is on anything else? It doesn't have the nexus to be able to skim off for the general fund. The Governor looking at the budget is fine, but what could be done if he didn't approve?
445	Campbell	The Governor controls the commission by its appointees.

465 Rep. Verger You are talking about the Legislature, I thought you were talking about the cities. In Coos Bay, where there is a Tourism Commission, that money is not eligible for the general fund. That can clearly be understood.

450 Rep. Farr Would the Hult Center qualify?

489 Campbell Not an attorney, but seems that is a tourism destination.

497 Rep. Farr In Eugene room taxes are dedicated to the Hult Center currently. For the record, said his wife has starred in numerous productions at the Hult Center.

TAPE 223, SIDE B

040 Rep. Williams The Governor can just review the tourism budget, not review and approve?

045 Campbell Answered affirmatively, (See Tape 224, Side A, Meter 385).

048 Chair Shetterly It's not in Constitution, if the Commission is there by statute, it can change by statute.

056 Rep. Berger What about the proposed Salem convention center, do you think it is excluded?

058 Campbell I can't answer that question, there has to be a way to find tax dollars from the entire community rather than focus on lodging industry tax.

069 Rep. Hass Has supported, but has received pressure regarding "other transportation facilities and sewers", what can you say to allay fears about excluding those.

076 Chair Shetterly Told of his intent to remove "other transportation facilities".

075 Rep. Hass Sewers?

077 Campbell Our position is that the hotel facilities pay a substantial amount for sewer usage and property taxes, which is the reason this is a restriction. Do not believe these facilities should pay in addition to fees they are already paying. It's too easy to raise taxes on lodging industry, should tax all businesses rather than one.

106 Discussion regarding Salem Conference Center and qualifications for the transient lodging tax.

114 Campbell Emphasized 30% can be used for any purpose including convention center, and sewers.

120 Rep. Berger Have been a proponent of this concept, Salem is making a substantial investment in urban renewal funds to build a convention center, regional in nature that would draw tourism and conventions; would hope funds would be available under this proposal and not be restricted. If they are excluded I am very bothered that it is too restrictive. The reason for supporting this bill is the global vision of promoting the State of Oregon.

150 Rep. Scott Believes Rep. Berger's concerns have been answered. It is important to remember the whole purpose of 1% tax is statewide. Salem currently collects a sales tax which is unrestricted, the new bill allows 30% as discretionary to cities, 70% to be spent on tourism. The important part is what it does for the whole state.

178	Sen. Dukes	Tillamook feels it won't be getting anything out of collecting the tourism tax. Discussed communities in her district market areas that are not 50 miles away, and therefore not eligible. Discussed affects Seaside on spring break and long range plans for adequate policing and the limitations from state tax. Astoria is building a convention center, if Salem doesn't qualify it would not as well. Cities are going to ask not to tie the hands of the local officials.
274	Rep. Scott	MOTION: MOVED ADOPTION OF A CONCEPTIONAL AMENDMENT TO THE -15 AMENDMENTS INTO HB 2267. ON LINE 8, DELETE "OTHER TRANSPORTATION FACILITIES,".
287	Chair Shetterly	ORDER: HEARING NO OBJECTION, THE CHAIR SO ORDERS. ALL MEMBERS PRESENT.
288	Rep. Scott	MOTION: MOVED ADOPTION OF THE -15 AMENDMENTS AS CONCEPTUALLY AMENDED INTO HB 2267.
291	Rep. Barnhart	MOTION: MOVED ADOPTION OF THE -10 AMENDMENTS AS A SUBSTITUTE FOR THE -15 AMENDMENTS INTO HB 2267.
299		Discussion on parliamentary procedure.
300	Rep. Barnhart	This motion allows those that oppose the -10s and favor the -15s to vote no. It allows those that support the 10s and oppose the 15s to vote yes, it allows those that support either to vote yes.
312	Chair Shetterly	Recessed 9:55 a.m.
314	Chair Shetterly	Reconvened 10:00 a.m.
315	Chair Shetterly	Accepted Rep. Barnhart's motion to amend Rep. Scott's motion.
328	Rep. Barnhart	The -10 amendments have the advantage of a clean definition of tourism-related property; it fixes issues regarding roads and sewers; it provides for a statewide tax that everyone is interested in; and addresses retroactivity by taking affect the date it becomes law. The -10 re-establishes the 60/40 split, municipalities agreed to, but maintains "maintenance of effort" issues in the original bill. It establishes a governance board which represents the state and the state's tourism needs. The Governor and cities support the -10s rather than -15. Said -10s represent the interests of state in a broader way than the -15s, and only partially restricts the cities. Problem with -15s is no one can describe how a city can raise a tax locally and spend 70% on tourism related activities and facilities due to restrictions, even with the conceptual amendment.
407	Rep. Hopson	Supported -10 amendments although not perfect, but felt it was a well worked-out compromise; thoroughly supports 1% tax for furthering Oregon's economy. Would vote against the whole concept with limitations on roads and sewers and sewer plants. Concerned for the need to get movement, it would be a tragedy for this bill to be bottled up. Would strongly support the -10s to get the movement and honor the 1%.
436	Rep. Scott	Would not support the -10s, don't think there was agreement on the proposals. Feels the -10 has additional problems that will be harmful to the industry.

010	Rep. Verger	Strongly supports the -10s, could move to 70/30, but then it couldn't be used for roads and sewers, and there is no oversight, so can no longer compromise.
023	Rep. Farr	Concurred with Rep. Hopson, 1% absolutely important. The Chair placed on record that he feels "substantial" includes the Hult Center, Deschutes and Astoria facilities and felt having that on record goes a long way to the intent and language of the bill. There is gubernatorial oversight on how the 1% is spent. Oregon has a wonderful product here; we have to sell this product. The -10s are fine, but will vote against them because of language the Chair has placed on the record, which he felt satisfies the intent of the bill. Will make a conceptual amendment to the -15s to change the retroactivity date to July 2.
052	Rep. Hass	Would support -15s if it were not for the wording that includes roads and sewers. Would like discussion to modify the language on the -15s that would allow him to support.
060	Chair Shetterly	Issues are "retroactivity" and language in the (c) on -15s.
064	Rep. Berger	There is the governance issue, concurred with Rep. Verger on governance.
070	Rep. Williams	Strongly hoped for a compromise on this bill believe in 1% in promoting brand Oregon. Disappointed in the -15 that it is not in a form he could support. Believes fundamentally the degree of preemption is too large, not sure an over-riding state interest has been satisfied. Concerned about issues of retroactivity and "substantial" language, modifying word tourism, worried about independence issue with budget and oversight with no legislative control. Hesitant on -10 which he could support, suggest Rep. Barnhart withdraw his motion and allow the Chair to work with Committee members to see if there are amendments that could be fashioned to gain the support of the committee.
107	Rep. Barnhart	Given concerns from several people, if chair's intent to continue discussions about possible amendments would withdraw the motion. Would prefer a bill the committee would support. If followed the procedure recommended by Rep. Williams would withdraw motion.
	Rep. Barnhart	Withdrew motion to approve -10 amendments.
	Rep. Scott	Withdrew motion to approve -15 amendments.
139	Chair Shetterly	Closed work session on HB 2267.
140	Chair Shetterly	Meeting adjourned at 10:20 a.m.

Tape Log Submitted by,

Kathy Tooley, Committee Assistant

Exhibit Summary:

1. Chair Shetterly, "HB 2267-13", 7 pages
2. Chair Shetterly, "HB 2267-14", 7 pages

3. Rep. Scott, "HB 2267-15", 7 pages
4. Chair Shetterly, "Memo HB 2267-14", 1 page
5. Claire, Written Testimony on Tax Reform Discussion, 1 page
6. Haack, "Written Testimony on Tax Reform Discussion, 1 page