

HOUSE REVENUE COMMITTEE
JULY 30, 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 Max Williams

Members Excused: Representative Elaine Hopson

Witnesses Present: Senator Vicki Walker, District 7
Floyd Lanter, Division of Finance and Corporate Securities,
Department of Consumer and Business Services, (DCBS)
Bruce Piper, ADAPT,
Alcohol and Drug Abuse Directors Association of Oregon
Rick Trealeaven, Best Care Treatment Services, Central Oregon
Mental Health Director Jefferson County
Association of Oregon Community Mental Health Programs
Ann Uhler, Women's Commission on Alcohol and Drug Issues
in the state of Oregon
Karl Ockert, BridgePort Brewing Company
Paula Troyer, BridgePort Brewing Company
Jim Parker, Oregon Brewer's Guild
Jamie Floyd, Steelhead Brewing and Café
Oregon Brewer's Guild
Gordon Fultz, Organization of Oregon Counties
Gina Firman, Association of Community Mental Health Programs
Ellen Lowe, former President League of Oregon Cities
Angela Kimball, National Alliance for the Mentally Ill of Oregon
Steve Harris
Mary Ann Schwab
Roger Martin, The Investment Company Institute
Peter Threlkel, Corporation Division, Secretary of State's Office (SOS)
Jim Carlson, Oregon Health Care Association
Brett Salmon, Oregon Health Care Association

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

TAPE 223, SIDE A

004 Chair Shetterly Calls meeting to order at 8:35 a.m.

OPENED PUBLIC HEARING HB 3656

010 Mazen Malik Provided "Staff Measure Summary HB 3656", (Exhibit 1). Described proposed fee increases in: "Exhibit B1: Senate Bill 826, Securities Program

Proposed Fee Increase Analysis”, (Exhibit 2); business registry transactions, “Exhibit A: Business Registry”, (Exhibit 3); “Revenue Impact HB 3656”, (Exhibit 4); fee increases in: “Exhibit B2: Senate Bill 826 Securities Program Proposed Fee Increase Analysis”, (Exhibit 5).

- 100 Sen. Vicki Walker Asked Committee to include an amendment originally in SB 826 that did not make it into HB 3656 which sets the implementation date for the securities fees increase for December 1. Discussed impetus for bill. Discussed low securities fees in comparison with the rest of the country. Discussed possible testimony of Roger Martin in opposition to the bill before the Senate Business and Labor Committee. Compared stockbroker registration fee of \$15 to that of a court reporter at \$50 year. Spoke with Securities Industry Association regarding fee increase; said Association would remain neutral on the bill. Discussed testimony of Peter Tool of Financial Planning Association of Oregon and Southwest Washington received in Senate Business and Labor Committee on SB 826 who she said reluctantly supported the bill as paying their fair share of the financial burden for the state to provide proper regulation.
- 193 Sen. Walker Said Martin previously argued against looking at other states to determine what Oregon does. Said it was important that Oregon be at a median point in its fees and that the DCBS should have authority to increase fees through the public hearings process.
- 212 Sen. Walker Said one of Martin’s arguments was that suggested fee increases were sometimes 300% of the current fee. Said most of the increases were from \$15 to \$50 and not that significant.
- 219 Sen. Walker Said one of Martin’s arguments was that historically fees tied to licensing are related to the cost of regulating the licensed profession. Described legal fees incurred when the department tries court cases.
- 225 Sen. Walker Said Martin objected to charges for notice filing fees. Said the state is entitled to collect fee for privilege of doing business in Oregon.
- 240 Floyd Lanter Spoke in support of HB 3656, specifically Sections 1-5, 8 and 9; recommended conceptual amendment. Paraphrased written testimony, (Exhibit 6).
- 381 Rep. Scott What basis did you use for calculating fee increases other than midpoint?
- 383 Lanter Information available on websites from self-regulatory organizations, the National Association of Securities Dealers and the Investment Advisors Representative Board was used to reach a midpoint.
- 393 Rep. Scott Other fee increases under consideration use the COLA basis for increases, were any of those calculations used to see where the fee would fall?
- 399 Lanter Not aware of using any COLA testing, suspect fees would be impact would be higher since it has been so long since these fees have been adjusted.
- 401 Rep. Scott Have these funds been transferred to from your department to the general fund in the past?
- 404 Lanter Answered affirmatively. In 2002, \$2 million was transferred and there will be about the same this year.
- 409 Question and discussion regarding the ending balance for 2001-03 in Lanter’s department.

414	Rep. Scott	Do you also calculate what funds you need to have for operating?
416	Lanter	Answered affirmatively, the DCBS has a funds balance policy that it is required to follow. The securities section is required to maintain a minimum of two quarters of fund balance and it transfers funds on a quarterly basis to the general fund.
429	Rep. Scott	You propose the date for collection of fees be changed to December 1, 2003. What are the collection dates throughout the department; are they annual or do they spread throughout the entire year?
433	Lanter	License and other fees for investment advisors are handled electronically nationally in December; registrations occur throughout the year.
436	Rep. Scott	If transferred money through last quarters and there is sufficient cash flow, other than the theory that says Oregon should be at the median rate, why would fees need to be increased?
440	Lanter	Making available an additional source of revenue to the general fund, operating expenses currently are covered with existing fee structure.
447	Sen. Walker	Oregon raises more than needed for the general fund, as was done with tobacco, it is not unreasonable as there are other costs involved for DCBS.

TAPE 233, SIDE A

038	Chair Shetterly	It's the general fund impact of this bill which requires the three-fifths majority, if it was just a fee bill that would not be necessary.
043	Sen. Walker	Wanted to dedicate one-half of 1% or \$250,000 to the DCBS to promote financial education to combat financial illiteracy. Cited trend in credit card reform is to increase difficulty of filing bankruptcy.
066	Rep. Barnhart	People well educated in their own finances, can understand the relationship between programs and taxes in state budgets as well.
068	Chair Shetterly	Recessed public hearing on HB 3656.

OPENED WORK SESSION ON HB 2837

150	Bruce Piper	Gave committee quiz, (Exhibit 7). Spoke in support of HB 2837. Discussed Oregon's alcohol tax ranking nationally and social impacts from elimination of health care positions and treatment reduction. Countered claims of large percentage increase in tax due to decades without an increase. Described requiring people who consume too much to pay for the necessary treatment as a policy choice. Business taxes are a necessity passed on to the consumer; described increased tax as a user fee that will help pay for the damage caused by consumption.
220	Rick Treleaven	Spoke in support of HB 2837. Paraphrased written testimony, "The Economics of the Beer Tax", (Exhibit 8).
319	Ann Uhler	Spoke in support of HB 2837. Paraphrased written testimony (Exhibit 9). Described accountability clause.

TAPE 233, SIDE B

- 086 Rep. Barnhart Regarding public/private partnership and malpractice insurance, asked for description of the risks involved in the operation of this kind of business.
- 090 Piper Difficult for private sector to partner with government because of funding levels. Described risks and capitated contracts which provide a finite amount money. Personally watched 9 providers come and go out of business in Coos County, concerned when Coos County requested ADAPT services. The trade association sees itself as the primary solution for Oregon human services provided in the private sector. Described risks, directors and officers' insurance, professional liability and malpractice insurance.
- 130 Uhler Discussed risks of treating people with medical and mental health complications. In the women's program, there are additional costs with children in residence. Malpractice and regular business insurance increased due to risks.
- 124 Rep. Verger Described worsening problem of drugs in Coos County. Provided quiz for Piper. Said money is not the answer. Felt accountability clause in HB 2837 is an extremely important part of the money track in the war against drugs and in drug treatment.
- 150 Sen. Morrisette Spoke in support of HB 2837, provided "Proposed Beer Tax Distribution with Small Brewer Exemption", (Exhibit 10). Provided history of beer tax, its supporters, and current bills designed to increase the tax. Reiterated earlier testimony in support of HB 2837, said it was extremely important to go to the source of many of society's problems.
- 196 Karl Ockert Described growth of BridgePort Brewing and beer industry. Described family wage and service positions, support for Oregon agriculture, glass, paper and tanks/equipment industry and union jobs. Described \$300,000 state and federal taxes already paid; opposed increase in beer tax as it singles out and harms the beer industry and is an extra cost of doing business which will decrease sales and inhibit growth.
- 237 Paula Troyer Spoke in opposition to HB 2837. Described heritage, quality and community commitment brought by industry, and the risk to community programs by a tax increase, (Exhibit 11).
- 265 Rep. Farr Declared potential conflict of interest, had BridgePort Blue Heron beer earlier in the week.
- 267 Rep. Williams Current proposal has a small brewer's exemption which would not affect BridgePort Brewing Company based on level of production.
- 276 Karl Ockert BridgePort wants to grow, sees tax as a growth penalty. Said if the tax is increased the distributor would institute a price increase on its whole portfolio, the price on the shelf will go up impacting sales.
- 296 Jim Parker Spoke in opposition to HB 2837, paraphrased written testimony, (Exhibit 12).

TAPE 234, SIDE B

- 150 Rep. Berger The exemption piece is designed to help the craft beer industry, but may have legal problems and the industry says they are going to pay for the tax anyway, why are we looking at this exemption?

154	Parker	There is no way to protect us because of the Commerce Clause and the Hawaii case. Said Committee cannot have the intent of protecting local industry; based on those two tests the exemption would fail. The Guild has decided not to support an exemption because if the distributors are being hit, they won't raise the tax on the just the large distributors, they will raise it across the board in order to hit price points.
177	Chair Shetterly	Clarified the intent, although talking casually in committee about local brewers because that is who is in front of it, the exemption is based on volume not location. Does the industry need a new distribution system?
183	Parker	No response for the record.
188	Rep. Berger	The excise tax rates by state shows Oregon's rank, you would rather see a retail than an excise tax, Oregon does not have a retail tax and a lot of these states cited in the handout do (Exhibit 12).
197	Rep. Barnhart	The federal government charges differential tax based on production?
199	Parker	Answered affirmatively.
200	Rep. Barnhart	Why do they do that?
201	Parker	They created the small brewer differential to encourage the growth of craft brewing nationwide.
206	Rep. Hass	Both sides of this issue have argued for a restructuring of the tax codes; until that is done every time there is an economic bump in the road it will come up again. There's a pretty strong consensus for a different kind of tax system from the ground up.
215	Parker	Refuted earlier testimony that this is a user fee. It is not a consumption tax, and selling it as one is dishonest.
279	Rep. Barnhart	Asked if Parker would support a direct consumption tax on a glass of beer in the tavern, or bottle of beer in the grocery store?
225	Parker	His personal feeling is that if the tax was applied at the consumption level evenly, not drastically increased, that there would not be a lot of opposition. It would truly be what everyone wants; and that is to see that problem drinkers pay the bulk of the tax.
233	Chair Shetterly	The sales tax solves your distribution problem too.
238	Jamie Floyd	Discussed brewer contributions to communities, challenge from additional tax would mean a loss of jobs. Would support the search for revenue that doesn't outlaw one specific industry.
330	Rep. Barnhart	Would you describe what your barrelage is per year and what percentage is sold retail vs. wholesale?
332	Floyd	1355 barrels a year, 1 10-barrel batch of beer per day. On site vs. distributorship flexes depending on the events asked to attend; sells 60-70% on site.

TAPE 235, SIDE A

039	Rep. Barnhart	Are these figures comparable to other brew pubs or are there likely to be
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significant differences?

042 Floyd Each brewery is complex and has a different business plan, difficult to assess how they are run, varies some have outside distribution, some do not have outside distribution, and some have an site brew pub.

057 Chair Shetterly Recessed work session on HB 2837 at 10:30.

TAPE 236, SIDE A

016 Chair Shetterly Resumed hearing on HB 2837 at 1:43 p.m.

018 Gordon Fultz Spoke in support of "HB 2804 and Beer and Wine tax proposals – HB 2837", (Exhibit 13). Paraphrased written testimony. Described Press Packet "Advocates Observe Beer Tax Rate 'Birthday' at Capitol, (Exhibit 14).

137 Gina Firman Spoke in support of HB 2837. Discussed loss of 1800 family wage jobs, serving 50,000 people. Have operated from February 1 with zero crisis dollars, some counties no longer have crisis services. Discussed need for philosophical look at what is done with needy Oregonians with mental health issues. Discussed specific cuts. Considered HB 2837 to provide a part of the solution.

163 Chair Shetterly Recess hearing on HB 2837.

BILL INTRODUCTION LC 3743

165 Chair Shetterly Describes LC 3743, (Exhibit 15), as the implementing bill to HJR 18 and authorizes the issuance of COPs for pension bond, pension liability refinancing if the general obligation bond in HJR 18 is not approved.

169 Chair Shetterly **MOTION: MOVES INTRODUCTION OF LC 3743 AS A COMMITTEE BILL.**

Clarifies the bill is entered as a Committee Bill, but does not indicate support or opposition b the members of the Committee.

170 Chair Shetterly **ORDER: HEARING NO OBJECTION, THE CHAIR SO ORDERS. (ALL MEMBERS PRESENT EXCEPT REPS. FARR, HOPSON, SCOTT, EXCUSED).**

REOPENED HEARING ON HB 2837

173 Chair Shetterly Reopened hearing on HB 2837

210 Ellen Lowe Spoke as to historical intent for fund allocation for cities and counties as a logical provider for urban services. Later cities and counties were to be part of receiving funds due to the use and abuse of alcohol. Surprised still looking at the same amounts in general revenue sharing.

275 Angela Kimball Spoke in support of HB 2837. Paraphrased written testimony (Exhibit 16). Discussed "Diminished Care, Diminishing Returns", (Exhibit 17).

320 Rep. Verger Said testimony regarding the national television advertising expenditures, might not connect with Oregon breweries.

328 Kimball It refers nationally, including Oregon breweries.

329 Rep. Verger They probably participate, but couldn't afford anything like that kind of advertising. Believes industry claims of economic hardship are not intended to be disingenuous. Regardless of having a beer tax or not, need to address people who have this kind of need in Oregon.

TAPE 237, SIDE A

029 Steve Harris Relayed personal experience of drug and alcohol abuse, now a successful drug/alcohol counselor. Discussed affects of budget cuts on people without representation. Described concerns for people he's seen die from drug and alcohol use and the little it would cost per bottle to have an impact. Described the value and successes he and others have in receiving treatment. Urged the Committee pass the additional tax in order that others may receive treatment and services the money would provide.

070 Rep. Verger Is there anything in your success that made the difference? Was it the length of time, 90 days vs. 30 days of treatment for instance?

185 Harris Believes if a person is properly assessed as needing inpatient treatment, the longer the treatment the better in order to learn new ways of life. Other's need education. Said 7-day treatment does nothing.

201 Mary Ann Schwab Spoke in support of a beer tax; paraphrased written testimony (Exhibit 18); provided Multnomah County Commissioner Letter to Rep. Dingfelder and Sen. Morrisette, (Exhibit 19); provided "The True Costs of Alcohol in Oregon", (Exhibit 20), provided American Medical Association letter to Karen Minnis, (Exhibit 21).

165 Chair Shetterly Closed hearing on HB 2837

REOPENED PUBLIC HEARING ON HB 3656

172 Roger Martin The motivation for HB 3656 is the \$22 million the tax would raise. Said the point he objected is not one refuted by Sen. Walker's earlier remarks. Section 2 of the bill itself covers new securities which Oregon should charge fees for. Section 4 of the bill, Page 5, Lines 8 and 9 regarding license fees, covers federally licensed investment advisors for whom the State of Oregon does not have jurisdiction. Oregon covers those investment advisors that do less than \$225 million a year. The Investment Company Institute is made up of 7000 investment companies known as mutual funds. The federal government allows the states to charge a filing fee of \$350 for every mutual fund. Said HB 3656 would approve the largest consumer increase in mutual fund fees that will have adverse affects on small mutual funds resulting in selected filings in Oregon by smaller funds. Urged Committee to consider a sunset clause.

287 Chair Shetterly Is the sunset directed to a particular section or sections?

289 Martin Suggested Section 1 which deals with mutual funds.

295 Peter Threlkeld The Secretary of State has no formal position on the bill. Described results of recent online survey (Exhibit 22).

328 Chair Shetterly ABN fee currently \$20 going to \$50?

330 Threlkeld Answered affirmatively, \$50 for 2-year period.

TAPE 236, SIDE B

- 022 Threlkeld In Section 7 (3), (5), discussed concerns of SOS office in setting up a new accounting procedure requiring a separate budget system, said it would be an additional expense and burden.
- 032 Chair Shetterly Sees the separate account as being set up by the Treasurer, do you feel SOS would be setting up a separate account? Is that your operating account or an operating account under the control of the Treasurer?
- 036 Threlkeld That would be at the Treasury, believes a fee is charged for that, but would have to account for salaries and other expenses that need to be balanced on a monthly basis and would put existing programs at risk.
- 070 Threlkeld A flat fee works well and raising it to \$50 would be easy to implement. Asked the Committee to consider changing language that allows operation out of a single budget.
- 074 Threlkeld Another concern exists in Sections 8, 9, 10, where the language regarding timing in the bill is problematic. Asked the Committee to consider changing the implementation date to be based on the anniversary date.
- 093 Threlkeld Mentioned feedback from the smaller non-profits, that the \$20 annual fee can be a burden.
- 107 Rep. Verger There are advantages to the state of having a registry on non-profits, the state needs to know who is doing business, even if it is community good. If they are not going to be legitimate they may not want to do business in Oregon.
- 118 Chair Shetterly Closed public hearing on HB 3656.
- 130 Recessed at approximately 2:30.
Reconvened at approximately 2:35.

OPENED WORK SESSION ON HB 2812

- 144 Lizbeth Martin-Mahar Described -14 amendments as similar to -6 (Exhibit 23); provided Revenue Impact HB 2182-14 (Exhibit 24); described -15 amendments, (Exhibit 25); Revenue Impact HB 2182-15 (Exhibit 26).
- 256 Jim Carlson Discussed components of -14 amendments, (Exhibit 27), and -15 amendments, (Exhibit 28). Outlined changes in amendments which represent technical legal issues to address concerns of DHS attorneys and outside legal counsel. Have reached agreement on all the technical legal issues. A policy issue still outstanding concerns itself with locking the formula, payment system or delivery of dollars into the statute which is the key provision for OHCA's support of the bill. Described the major change in the Programs All Inclusive Care of the Elderly. Responded to staff comments about less federal matching money. Provided Statesman Journal article "Magnolia Manor closes its doors, (Exhibit 29).
- 292 Rep. Verger Are questions regarding methodology in the bill itself or the amendments?
- 296 Brett Salmon Described a key issue for OHCA, in Section 13, (4) of the amendment, uneasy with legislation going forward, not knowing that the dollars are going to go back into the program. Discussed the "relationship %".

405	Chair Shetterly	Looked at members of DHS in the audience and received affirmation of signoff on the bill on legal and technical issues. The outstanding issue becomes a choice of putting reimbursement methodology in the bill or not.
320	Chair Shetterly	Asked the Committee if there was any objection the -14 or -15 in the bill?
322	Rep. Barnhart	This bill isn't ready to move?
324	Chair Shetterly	No.
325	Chair Shetterly	MOTION: MOVED ADOPTION OF THE -14 AMENDMENT INTO HB 2182. ORDER: HEARING NO OBJECTION, THE CHAIR SO ORDERS. (ALL MEMBERS PRESENT EXCEPT REPS. FARR, HOPSON, AND SCOTT, EXCUSED).
326	Chair Shetterly	MOTION: MOVED ADOPTION OF THE -15 AMENDMENT INTO HB 2182. ORDER: HEARING NO OBJECTION, THE CHAIR SO ORDERS. (ALL MEMBERS PRESENT EXCEPT REPS. FARR, HOPSON, AND SCOTT, EXCUSED).
328	Chair Shetterly	Closed the Work Session on HB 2182.
330	Chair Shetterly	Meeting adjourned at 3:00 p.m.

Tape Log Submitted by,

Kathy Tooley, Committee Assistant

Exhibit Summary:

1. Malik, "Staff Measure Summary HB 3656", 1 page
2. Malik, "Exhibit B1: Senate Bill 826, Securities Program Proposed Fee Increase Analysis", 2 pages
3. Malik, "Exhibit A: Business Registry", 1 page
4. Malik, "Revenue Impact HB 3656", 1 page
5. Malik, "Exhibit B2: Senate Bill 826, Securities Program Proposed Fee Increase Analysis", 2 pages
6. Lanter, "Testimony HB 3656", 6 pages
7. Piper, "Revenue Committee Quiz", 1 page
8. Treleaven, "The Economics of the Beer Tax", 3 pages
9. Uhler, "Testimony HB 2837", 1 page
10. Sen. Morrisette, "Proposed Beer Tax Distribution with Small Brewer Exemption", 2 pages
11. Troyer, "Testimony HB 2837", 1 page
12. Parker, "Testimony HB 2837", 8 pages
13. Fultz, "Support of HB 2804 and Beer and Wine Tax Proposals", 21 pages
14. Fultz, "Advocates Observe Beer Tax Rate 'Birthday' at Capitol", 50 pages
15. Chair Shetterly, "LC 3743", 16 pages
16. Kimball, "Support of -1 Amendments to HB 2837", 2 pages
17. Kimball, "Diminished Care, Diminishing Returns", 4 pages
18. Schwab, "Testimony HB 2837", 2 pages
19. Schwab, "Multnomah County Board of Commissioners letter to Rep. Dingfelder and Sen. Morrisette", 1 page
20. Schwab, "The True Costs of Alcohol", 4 pages
21. Schwab, "American Medical Association letter to Karen Minnis", 6 pages
22. Threlkel, "Testimony for House Bill 3656", 6 pages
23. Martin-Mahar, "HB 2182-14 Amendment", 10 pages

24. Martin-Mahar, "Revenue Impact HB 2182-14", 2 pages
25. Martin-Mahar, "HB 2182-15 Amendment", 4 pages
26. Martin-Mahar, "Revenue Impact HB 2182-15", 1 page
27. Carlson, "Major Components of -14 Amendment HB 2182", 3 pages
28. Carlson, "Major Components of -15 Amendment HB 2182", 1 page
29. Carlson, "Statesman-Journal article, "Magnolia Manor closes its doors", 2 pages
30. Yates, "State Beer Excise Tax Rates as of January 1, 2003", 1 page
31. Burreight, Wolfe, written testimony, "HB 2837-1 Beer tax increase – County Health Fund", 1 page
32. Cooper, written testimony, "Memo dated July 30, 2003 - House Bill 2182, dash-6 amendments", 2 pages
33. Cooper, written testimony, "Memo dated July 29, 2003 - House Bill 2182, dash-6 amendments", 2 pages
34. Lanter, written testimony, "HB 3656 – Data requested", 4 pages