

PUBLIC HEARING: SJR 21 A-ENG., SJR 22 A-ENG.

PUBLIC HEARING AND WORK SESSION: HJR 46

TAPES 183 — 184 A/B

HOUSE SCHOOL FUNDING AND TAX FAIRNESS/REVENUE COMMITTEE

MAY 16, 2001 — 1:00 P.M. - HEARING ROOM A - STATE CAPITOL BUILDING

Members Present: Representative Lane Shetterly, Chair

Representative Janet Carlson, Vice Chair (1:44 arrived)

Representative Deborah Kafoury, Vice Chair

Representative Alan Bates (1:45 arrived)

Representative Chris Beck (1:45 arrived)

Representative Alan Brown

Representative Mark Hass (1:43 arrived)

Representative Max Williams

Representative Bill Witt

Staff: Paul Warner, Legislative Revenue Officer

Steve Meyer, Economist, Legislative Revenue Office

Richard Yates, Economist, Legislative Revenue Office

James Jensen, LRO Intern from Willamette University

Joan Green, Committee Assistant

Witnesses: Greg Chaimov, Legislative Counsel

Randall Edwards, Oregon State Treasurer's Office

Chuck Smith, Oregon State Treasurer's Office

David Williams, Oregon School Employees Association

Mark Nelson, Oregon Head Start Association

Kate Richardson, Oregon State Treasurer's Office

Cindy Hunt, Legislative Counsel

Sen. Peter Courtney, Legislative Senate District 17

B. Harrison Conley, Legislative Counsel

Grattan Kerans, Oregon University System

Ken Armstrong, Seattle Northwest Securities

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007 Chair Shetterly Meeting called to order at 1:40 p.m.

OPENED PUBLIC HEARING ON HJR 46

026 Randall Edwards Spoke in support of the measure, as amended by the (-7) amendments. (Exhibit 2)

Noted the policy question is should the State have a responsibility to the "capital side of schools".

The Treasurer's office will not oppose the (-6) amendments which will be presented to include pre-school and would benefit some Head Start programs. (Exhibit 3)

080 Chair Shetterly Asked if Edwards wanted to address any specific changes in the (-7) amendments, (Exhibit 2).

082 Chuck Smith A specific change made by the e (-7) amendments is a decrease in the amount of the constitutionally authorized to one-half of one percent, for a cap of about \$1.2 billion in today's values.

089 Chair Shetterly Noted he requested the clarification language that bonds not be used to finance operating costs, (Page 2, Lines 22-24, Exhibit 2).

096 Rep. Witt What would be the maximum value bonds based on today's property values.

100 Smith Approximately \$1.2 billion.

101 Rep. Witt Are these twenty-five or thirty year bonds?

102 Edwards From twenty to thirty years.

104 Rep. Witt If the maximum is \$1.2 billion what is the debt service requirement?

105 Edwards Approximately a \$100 million/year.

107 Rep. Witt Does not see the matching on a ten to forty percent formula in the (-7) amendments.

109 Edwards That is in the implementing law HB 3370.

110 Rep. Witt The mechanics of implementation would fall to the next legislature if the constitutional measure passed?

115 Edwards Concurred.

116 Vice Chair Does the phrase "technology and equipment" apply only to technology or is it a broader set of equipment. (Page 2, Line 15, Exhibit 2)?
Carlson

132 Edwards My reading is it is broader than technology.

136 Vice Chair "For the record your intent is it is broader than just technology?"
Carlson

138 Edwards "Yes."

160 Rep. Beck Questioned if the language is such that the voters' would interpret passage of this measure at the ballot box as a mandate to the legislature to fund this kind of debt service. Noted it is not a mandate, but allows the legislature discretion should this measure pass.

173 Edwards This is a starting point for opening discussion, to be defined next session.

180 Chair Shetterly Spoke to his support of this measure out of Committee, but noted this is strictly a tool and funding for this to be used is a whole different issue that will require somebody finding resources to make this happen. The agreement seems to be that the resources will come at a later point.

209 Rep. Bates Questioned how far this would go on resolving the capital needs of schools on a matching basis.

216 Edwards Noted this is a starting point only, but it will not meet the needs of every school district.

256 David Williams Presented testimony in support of measure.

(Exhibit 4)

- 290 Mark Nelson Spoke in support of the measure, as amended by the (-6) amendments, which would allow funds to be used for pre-kindergarten/Head Start operations. (Exhibit 3)
- 293 Rep. Williams Referenced language in the (-6) amendments, which reads "The proceeds from bonds issued under this section may be used . . .", (Page 2, Line 6, Exhibit 3), and language in the (-7) amendments, which reads "The proceeds from bonds issued under this section shall be used . . .", (Page 2, Line 6, Exhibit 2).
- Is there a difference between the "may" and the "shall", as used in this context (-6) and (-7) amendments, (Exhibits 2-3).
- 311 Greg Chaimov "Legislative Counsel would use the term 'may' as a limited form of authorization; 'shall' is a directive and would require the use of the funds for those purposes."
- 316 Rep. Williams Under the (-6) amendments if funds were approved and used they would have to be used for (a) and (b), but they would not necessarily have to be used, (Page 2, Lines 6-21, Exhibit 2). Whereas in the (-7) amendments if bonding occurred and funds resulted the language obligates the use for (a) and (b), (Page 2, Lines 6-21, Exhibit 3).
- 320 Chaimov Concurred.
- 322 Vice Chair
Carlson Noted additional language in the (-7) amendments (4), (Page 2, Lines 22-24, Exhibit 2), which does not appear in the (-6) amendments, (Page 2, Exhibit 3).
- 333 Chair Shetterly Requested the Treasurer's office address whether they have a preference on "may" vs. "shall" and then address Vice Chair Carlson's question.
- 344 Kate Richardson The Treasurer's office and interested work parties would prefer "shall" to prevent the funds being "sat upon".
- 367 Rep. Hass Requested clarification of "sat upon".
- 369 Richardson There was the concern that "may" was more permissive.

370 Chair Shetterly Spoke to bond law that has implied limitations.

375 Rep. Williams Noted that it raises some interesting questions and discussed possible scenarios that could occur with the "may" language vs. the "shall" language.

393 Chair Shetterly Questioned Nelson if "pre-kindergarten appears anywhere else in the (-6) amendments, (Page 2, Line 9, Exhibit 3)?

395 Nelson Noted it appears on page 1, line 14 also, (Exhibit 3).

404 Rep. Williams Requested that Vice Chair Carlson's prior question be addressed.

406 Chair Shetterly The (-6) amendments do not include my requested language that the proceeds may not be used to finance operating costs, (Exhibit 3). In the (-7) amendments that language is in (4), (Page 2, Lines 22-24, Exhibit 2).

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005 Rep. Williams Spoke to his preference for the "may" language in the (-6) amendments, (Exhibit 3).

Questions and discussion regarding the use of "may" vs. "shall", (Pages 2, Line 6, Exhibits 2-3).

024 Rep. Witt Spoke to his preference for the "shall" language in the (-7) amendments, (Exhibit 2).

037 Chaimov "If 'may' is used, that list includes the items for which the funds 'may' be spent. It isn't a direction to spend the money for those items. You could, in Rep. Hass terminology 'sit on the money'. The 'shall' is a direction to spend the money and to spend it for the two purposes listed."

045 Rep. Witt Does the use of "may" open it up the use of the funds to anything other than the things specifically stipulated, in your opinion?

047 Chaimov No.

048 Rep. Witt If "shall" is used does it require that the money will be spent on those things in any given timeframe?

049 Chaimov Without having read either the (-6) or the (-7) amendments I cannot answer that question

definitively, but in the abstract no, (Exhibits 2-3).

- 056 Rep. Witt Based on Chaimov's answer he does not see how "may" rather than "shall" addresses Rep. Williams's concern, unless a timeframe is stipulated for use of the fund.
- 066 Cindy Hunt Concurred with Rep. Witt; the "shall" and the "may" does not speak to a timeframe of when the money is spent. Believes timeframes are addressed elsewhere in the amendments, (Exhibits 2-3).
- 075 Rep. Witt Will defer to Rep. Williams's preference because he believes either word works.
- 076 Rep. Williams Noted that he has a note that states bond counsel prefers "shall" rather than "may", why?
- 088 Hunt In this context I don't think it makes a difference, however the requestor of the (-7) amendments did want it to read "shall", (Exhibit 2).
- Questions and discussion regarding school boards issuing of bonds and the overarching law of finance and bond debt.
- 150 Vice Chair
Carlson Referenced differences in language between the (-6) amendments " . . . authorized by the State Treasurer.", (Page 2, Line 1, Exhibit 3) and the language in the (-7) amendments reads, " . . . provided by statute.", (Page 2, Line 1, Exhibit 2).
- 158 Richardson The language in the (-7) amendments is preferred; it reflects the language that already in the Constitution, (Exhibit 2).
- 170 Chair Shetterly The public hearing on HJR 46 remained open concurrently with a public hearing on SJR 21 A-Eng. and SJR 22 A-Eng.

OPENED Concurrent PUBLIC HEARING ON SJR 21 A-Eng. And SJR 22 A-Eng.

- 189 James Jensen Described what the measures do and provided background material. (Exhibits 5-6)
- 209 Sen. Peter
Courtney Spoke in support of the measures and findings of the Oregon Seismic Safety Policy Advisory Commission (OSSPAC).

- 362 Rep. Beck Why wouldn't these two measures be combined into one?
- 371 Sen. Courtney Spoke to providing choices to the Oregon public.
- 403 Rep. Beck Spoke to concerns about sending two measures to the public.

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- 011 Sen. Courtney Spoke to reasons behind dividing them up, it primarily a fiscal decision.
- 023 Rep. Beck Questions and discussion regarding different ways of combining the two measures and capping it.
- 058 Chair Shetterly Are there proposed amendments to add the police?
- 067 Rep. Courtney Amendments would be required to add the police; there are (-A4) amendments for both SJR 21 and SJR 22 to meet concerns of the League of Oregon Cities concerns with ad valorem taxes. (Exhibits 7-8)
- 069 Richard Yates Described the (-A4) amendments for SJR 21 and SJR 22, which specifically forbid the use of a property tax. (Exhibits 7-8).
- 086 Chair Shetterly Questioned if the may/shall conversation from HJR 46 applies to these two measures.
- 087 B. Harrison Conley Does not believe that conversation applies to the (-A4) amendments for SJR 21 or SJR 22, (Exhibits 7-8).
- 111 Rep. Witt Questioned if both measures were approved with a total cost of \$1 billion; what would that amount to per biennium in terms of general fund dollars?
- 123 Yates Described the model used for a cost of \$160 million per biennium.
- 137 Rep. Witt Questioned if Sen. Courtney has concerns about sending these to the ballot and competing with other measures — does that create a concern on the part of voters causing them to vote no on all measures?
- 139 Sen. Courtney Yes, but spoke to the Task Force's findings, which are compelling.

- 191 Rep. Bates Are there statewide requirements to have all new public buildings constructed to a level of nine on the Richter scale?
- 199 Sen. Courtney Yes.
- 209 Rep. Bates This may be more than what is needed to accomplish the need based on the requirements for new construction.
- 216 Sen. Courtney This is not a Portland issue, but everything west of the Cascades and noted that the coast has an additional issue of Tsunamis.
- 241 Vice Chair Questioned if there is any estimate of the cost statewide and how will competing demands be met?
Carlson
- 253 Yates Spoke to a three-part plan of implementation.
- 316 Grattan Kerans Spoke in support of the measure.
- 374 Chair Shetterly Doesn't the state already have some bonding authority for higher education?
- 381 Kerans Yes, described the areas that bonding authority already exists.
- 386 Vice Chair Referenced the (-A4) amendments to SJR 21 and language defining a "public education building" and questioned how that includes higher education, (Page 2, Line 6, Exhibit 7).
Carlson
- 407 Kerans There is another section that addresses the State Board of Higher Education in the original printed measure; noted that language needs to be put back into the measure.
- 432 Dave Williams Presented testimony in support of measure. (Exhibit 9)

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OPENED WORK SESSION ON HJR 46

- 021 Vice Chair **MOTION: MOVED THE RULES BE SUSPENDED FOR THE PURPOSE OF CONCEPTUALLY AMENDING THE (-7) AMENDMENTS, (Exhibit 2). HEARING NO OBJECTION, THE CHAIR SO ORDERED.**
Carlson

(ALL MEMBERS PRESENT EXCEPT Kafoury, EXCUSED)

- 026 Vice Chair **MOTION: MOVED TO CONCEPTUALLY AMEND THE (-7) AMENDMENTS, (Exhibit 2), BY REPLACING THE WORD "KINDERGARTEN" WITH "PRE-KINDERGARTEN" ON PAGE 1, LINE 14 AND PAGE 2, LINES 9 AND 23. HEARING NO OBJECTION, THE CHAIR SO ORDERED. (ALL MEMBERS PRESENT EXCEPT Kafoury, EXCUSED)**
Carlson
- 036 Vice Chair **MOTION: MOVED LC (-7) AMENDMENTS DATED 05/15/2001 TO HJR 46, AS CONCEPTUALLY AMENDED, BE ADOPTED.**
Carlson
- 046 Rep. Beck Requested that someone from the bonding industry speak to why "shall" is superior to "may".
- 047 Ken Armstrong Spoke to the original language being permissive (may) and the group working on the drafting of this measure urged the Treasurer's office to have the language be mandatory (shall). If schools are to get State assistance for capital construction they should be required to do a local bond issue.
- 064 Chair Shetterly Questioned if Armstrong's testimony is that underwriters and bond counsel prefer shall.
- 065 Armstrong Concurred.
- 067 Richardson Spoke to this measure going out for a vote and the voting public would not have the advantage of explanation that the Committee had today on the interpretation of "shall" vs. "may" — "shall" is generally the stronger statement.
- 072 Chair Shetterly Restated motion.
- 074 **HEARING NO OBJECTION, THE CHAIR SO ORDERED. (ALL MEMBERS PRESENT EXCEPT Kafoury, EXCUSED)**
- 076 Vice Chair **MOTION: MOVED HJR 46 TO THE HOUSE FLOOR WITH A DO ADOPT AS AMENDED RECOMMENDATION.**
Carlson
- 079 Rep. Williams Will support the measure today, but will need clarification on the "may/shall" issue prior to a

final vote.

082 Rep. Witt Spoke in support of the motion, but noted concerns he does have in supporting construction needs in addition to operational needs.

102 Rep. Hass Spoke in support of the motion.

109 Rep. Bates Spoke in support of the motion.

121 Chair Shetterly Spoke to his concerns with the measure and its lack of a funding mechanism.

133 **ROLL CALL VOTE: MOTION PASSED 8-0-1**

REPRESENTATIVES VOTING AYE: Bates, Beck, Brown, Hass, Williams, Witt, Carlson, , Chair Shetterly

REPRESENTATIVES EXCUSED: Kafoury

Rep. Hass will carry the bill.

LRO Staff Distributed informational material to members:

1. HJR 64, (-2) amendment, submitted by Rep. Witt. (Exhibit 10) HJR 64, (-3) amendment, submitted by Rep. Witt. (Exhibit 11)
2. HB 3127, (-3 and —5) Staff Measure Summary and Revenue Impact Statements, submitted by Martin-Mahar. (Exhibit 12)
3. HB 3127, (-3) amendment, submitted by Oregon Trucking Association, Bob Russell. (Exhibit 13)
4. HB 3127, (-5) amendment, submitted by Chair Shetterly at the request of the Short Line Railroads Association. (Exhibit 14)

141 Chair Shetterly Meeting adjourned at 3:11 p.m.

Submitted by, Reviewed by,

Joan Green Kim Taylor James

Committee Assistant Revenue Office Manager

Exhibit Summary:

1. HJR 46, (-7) Staff Measure Summary and Revenue Impact statement, Meyer, 2 pages
2. HJR 46, (-7) amendment, (CH/ps) 05/15/01, Edwards, 3 pages
3. HJR 46, (-6) amendment, (CH/ps) 05/15/01, Oregon Head Start Association, 3 pages
4. HJR 46, Testimony, Williams, 1 page
5. SJR 21, Staff Measure Summary, Senate Staff Measure Summary and Fiscal Impact Statement, Jensen, 3 pages
6. SJR 22, Staff Measure Summary, Senate Staff Measure Summary and Fiscal Impact Statement, Jensen, 3 pages
7. SJR 21, (-A4) amendment, (BHC/ps) 05/15/01, LRO Staff, 3 pages
8. SJR 22, (-A4) amendment, (BHC/ps) 05/15/01, LRO Staff, 3 pages
9. SJR 21, Testimony, Williams, 1 page
10. HJR 64, (-2) amendment, (GAC/ps) 05/15/01, Rep. Witt, 1 page
11. HJR 64, (-3) amendment, (GAC/ps) 05/16/01, Rep. Witt, 1 page
12. HB 3127, (-3 and -5) Staff Measure Summary and Revenue Impact statement, Martin-Mahar, 3 pages
13. HB 3127, (-3) amendment, (DJ/ps) 04/23/01, Russell, 2 pages
14. HB 3127, (-5) amendment, (DJ/ps) 05/07/01, Chair Shetterly, 2 pages