

PUBLIC HEARING AND WORK SESSION

SB 130, SB 424, SB 428

PUBLIC HEARING

SB 426

TAPES 011 - 012 A/B

SENATE REVENUE COMMITTEE

January 18, 2001 — 8:30 A.M. - HEARING ROOM A - STATE CAPITOL BUILDING

Members Present: Senator Ted Ferrioli, Chair

Senator Lee Beyer, Vice Chair (absent 9:10 to 9:48 a.m.)

Senator Susan Castillo

Senator Tony Corcoran

Senator Gary George

Senator John Minnis

Senator Charles Starr

Staff: Paul Warner, Legislative Revenue Officer

Richard Yates, Economist, Legislative Revenue Office

Ed Waters, Economist, Legislative Revenue Office

Carol Phillips, Committee Assistant

Witnesses: Robert Alexander, Oregon Department of Revenue

Debra Buchanan, Oregon Department of Revenue

John Scott, Oregon Department of Revenue

Tom Potiowsky, Office of Economic Analysis, Dept.

of Admin. Svc.

Cora Parker, Office of Economic Analysis, Dept. of
Admin. Services

TAPE 011, SIDE A

005 Chair Ferrioli Meeting called to order at 8:34 a.m.

OPENED PUBLIC HEARING ON SB 130

021 Warner Stated SB 130 requires the Department of Revenue to pay reasonable expenses and attorney fees in property tax proceedings. The chair of the Judiciary Committee requested this bill be referred to Judiciary without recommendation from Senate Revenue, for subsequent referral to Senate Revenue.

030 Sen. Minnis As chair of the Judiciary Committee, stated his committee and staff felt the attorney fees portion of the bill should be examined further before Senate Revenue handles it.

CLOSED PUBLIC HEARING ON SB 130

OPENED WORK SESSION ON SB 130

036 Chair Ferrioli Considered motion to move SB 130 to the Judiciary Committee.

037 Sen. L. Beyer MOTION:

MOVES SB 130 TO THE FLOOR WITHOUT RECOMMENDATION AS TO PASSAGE AND THE BILL BE REFERRED TO THE COMMITTEE ON JUDICIARY WITH SUBSEQUENT REFERRAL TO THE SENATE REVENUE COMMITTEE.

044 Chair Ferrioli ORDER:

HEARING NO OBJECTION AND BY CONSENSUS SB 130 IS MOVED TO THE

FLOOR WITHOUT RECOMMENDATION.

CLOSED WORK SESSION ON SB 130

OPENED PUBLIC HEARING ON SB 424

058 Dick Yates SB 424 changes definition of cigarette to conform to federal definition. Adds definitions for "cigarette activity in this state", "exporting", and "importing" to identify non-distributors with cigarette activity and to facilitate new reporting requirements. Requires non-distributors with cigarette activity in Oregon to report quarterly. Allows Department of Revenue to make a determination that activity is taxable based on these reports.

Questions and answers interspersed.

107 Debra Buchanan Introduced two colleagues: John Scott, Administrator of the Business Division; and Bob Alexander, Program Manager for Cigarette Tax Program.

117 Bob Alexander Stated the reason for changing the definition of a cigarette two-fold. First, after the master tobacco settlement agreement the states entered into with manufacturers, model legislation was passed last session that defined cigarette for those purposes. After the end of session, it was discovered there were two definitions in statutes. The definition to be changed is from the early 1960s and is hard to be administered. Other states have changed their definition not to include small cigars. The change in definition is requested because of mechanical difficulty in stamping the small boxes in which small cigars are packaged. It is felt passage of SB 424 would provide administrative benefit and the distributor who has to deal with product stamping will be happier.

General discussion, and questions and answers interspersed.

196 Alexander The bottom line is that regarding untaxed cigarettes within Oregon, the Department wants to know if they are in the state, where they are, and when they leave to make sure none of them enter the economy without being taxed. The burden of reporting would be upon businesses distributing cigarettes to another state. The vast majority of cigarettes go through legal distribution channels and are tracked, taxed, reported, and audited within legal guidelines.

Questions and answers interspersed.

332 John Scott Stated that the Department of Revenue is seeking to add nine positions to perform increased oversight of the cigarette taxing compliance issue. There is currently only one compliance person (Revenue Agent) dedicated for cigarette and tobacco compliance for the entire state. As a comparison, Washington and California have 30 to 40 agents each.

Questions and answers interspersed.

446 Scott Began discussion of Cigarette Tax Compliance. Cigarette Tax Program is the third largest revenue-generating program administered by the Department of Revenue. As an example, 1997-99 generated approximately \$370 million for the biennium. Exhibit 4.

470 Scott Discussed page 3: Cigarette Tax Rate History.

TAPE 012, SIDE A

029 Scott Discussed page 5, regarding counterfeit stamps, and page 6 regarding internet sales, export cigarettes (grey market), "Swiss" cigarettes, and smuggling. Stated approximately \$10 million a year is lost in untaxed product that should in fact be taxed by the Department of Revenue.

Questions and answers interspersed.

083 Alexander Stated that if the Department of Revenue becomes aware of untaxed cigarettes being held for sale in Oregon, the Department of Revenue can seize them. The owner has a 90-day opportunity to pay the tax plus 100% penalty to redeem the seized product. If the owner chooses not to do that, which happens only rarely, the product will be destroyed. There are also provisions for civil and criminal penalties. Those are being addressed in a separate bill because they have not been changed since the early 1960s.

Questions and answers interspersed.

141 Alexander Continuation of questions and answers.

CLOSED PUBLIC HEARING ON SB 424

OPENED WORK SESSION ON SB 424

189 Sen. Castillo MOTION:

MOVES SB 424 TO THE SENATE FLOOR
WITH DO PASS RECOMMENDATION.

193 Chair Ferrioli ORDER:

HEARING NO OBJECTION, MOTION
PASSES: 6 — 0

SENATOR ABSENT: L. BEYER

Sen. Starr will carry the bill on the Senate
Floor.

CLOSED WORK SESSION ON SB 424

OPENED PUBLIC HEARING ON SB 426

206 Ed Waters Discussed SB 426, which was requested by the Department of Revenue and addresses some non-resident taxation issues. It exempts from personal income taxation compensation paid to crews on vessels operating on interstate waters. It also has provision relating to taxation of federal Columbia River hydroelectric workers,

and increases income threshold that requires non-residents to file Oregon income tax returns. A similar concession has already been provided to employees serving on aircraft.

229 Buchanan Stated that SB 426 has three separate provisions dealing with non-resident taxation. States have authority to tax non-residents on income derived from that state. (For example, a resident of Vancouver, WA who works in Portland.) Oregon has the ability to tax the wages earned in Portland. Exhibit 8.

Questions and answers interspersed.

246 Buchanan To clarify the watercraft employee situation, information was provided with the example of an airline pilot who crosses each state on a flight from Oregon to New York. Technically each state has jurisdiction to tax wages earned while the pilot is over that particular state. The same applies to riverboat pilots on the Mississippi. Each state bordering the river has authority to tax the person while in the river waters of that state.

Many years ago the federal government recognized this as a problem for employers and employees. At that time legislation was passed to limit states in their ability to tax non-residents of those states. Federal law was later changed to offer remedies for employees of air carriers, but they neglected to include employees of water carriers. Interstate motor carrier and rail employees were later included, but still not water carrier employees, thus the reason for SB 426.

Further discussion, and questions and answers interspersed.

343 Buchanan Stated the second provision in SB 426 deals with federal legislation. In 1997 Oregon adopted legislation to exempt non-resident federal employees who work on one of the four

dams spanning the Columbia River. Federal restrictions apply only to federal employees working on a dam. An independent contractor, however, is liable to pay Oregon tax on the time spent on the Oregon side of the dam. The request is to extend the same federal exemption to any non-resident on one of the four dams.

380 Buchanan The third provision of SB 426 increases Oregon income threshold for requiring non-residents to file Oregon income tax returns from current level of \$600 (\$1,200) to equal the Oregon standard deduction (\$1,800 single; \$3,000 joint).

TAPE 012, SIDE B

026 Buchanan Continued discussion.

Questions and answers interspersed.

065 Sen. Minnis Proposed including Snake River dams in this bill, since they cross from Oregon to Idaho.

083 Chair Ferrioli Chair Ferrioli was inclined not to include them because the tax structure in Idaho is different from that with Oregon/Washington. However, the Chair asked for a revenue report on this issue.

* See also meter 230 following for further instructions.

CLOSED PUBLIC HEARING ON SB 426

OPENED PUBLIC HEARING ON SB 428

132 Waters Stated that the State Economists Office, Office of Administrative Services, has requested SB 428. It would grant additional access to certain kinds of taxpayer information for the purposes of forecasting revenues and performing revenue analysis on legislation.

- 145 Tom Potiowsky Stated that SB 428 proposes to revise ORS 314.840 to allow the Office of Economic Analysis additional access to tax data administered by the Department of Revenue. Greater access to this information would help the Office of Economic Analysis in their forecasting and predictions for corporate and personal income levels. This access is "View Only", and data viewed would not be written down in any form The data would not be used improperly nor fall into unauthorized hands.
- 191 Chair Ferrioli Added he was concerned about the maintenance of confidentiality of the data.
- 214 Waters Added that it is a Class 3 felony for improper disclosure of this financial information.

CLOSED PUBLIC HEARING ON SB428

OPENED WORK SESSION ON SB 428

- 222 Sen. Starr MOTION:

MOVES SB 428 TO THE SENATE FLOOR
WITH DO PASS RECOMMENDATION.

- 224 Chair Ferrioli ORDER:

HEARING NO OBJECTION, MOTION
PASSES: 6 — 0

ABSENT: L. BEYER

Sen. Ferrioli will carry the bill on the Senate
Floor.

CLOSED WORK SESSION ON SB 428

- 230 Chair Ferrioli As a reminder stated that regarding SB 424 and the requested additional nine agents, Sen. George's commentary and Sen. Minnis' concerns should be included before the bill appears before Ways and Means. Also wanted

to be provided with a more accurate figure on the possible negative \$500,000 revenue impact regarding SB 426.

General comments, and questions and answers interspersed.

272 Chair Ferrioli Adjourned meeting at 9:48 a.m.

Submitted by, Reviewed by,

Carol Phillips Kim Taylor James

Committee Assistant Revenue Office Manager

Exhibit Summary:

1. SB 424, Yates, Fiscal Impact Statement, 1 pp.
2. SB 424, Yates, Revenue Impact Statement, 1 pp.
3. SB 424, Yates, Staff Measure Summary, 1 pp.
4. SB 424, Scott, Cigarette Tax Compliance, 8 pp.
5. SB 426, Waters, (-1) Amendments, (DJ/ps), 1/17/01, 1 pp.
6. SB 426, Waters, Revenue Impact Statement, 1 pp.
7. SB 426, Waters, Fiscal Impact Statement, 1 pp.
8. SB 426, Buchanan, Summary, 3 pp.
9. SB 428, Waters, Revenue Impact Statement, 1 pp.
10. SB 428, Fiscal Impact Statement, 1 pp.
11. SB 428, Potiowsky, Written testimony dated 1-18-01, 1 pp.