

PUBLIC HEARING AND WORK SESSION: SB 423-A, SB 948

WORK SESSION: SB 935, SB 763

TAPES 120-121, A/B

SENATE REVENUE COMMITTEE

April 26, 2001 — 8:10 A.M. - HEARING ROOM A - STATE CAPITOL BUILDING

Members Present: Senator Ted Ferrioli, Chair

Senator Lee Beyer, Vice Chair

Senator Susan Castillo

Senator Tony Corcoran

Senator Gary George

Senator John Minnis

Senator Charles Starr

Staff: Paul Warner, Legislative Revenue Officer

Lizabeth Martin-Mahar, Economist, Legislative Revenue Office

Ed Waters, Economist, Legislative Revenue Office

Richard Yates, Economist, Legislative Revenue Office

Carol Phillips, Committee Assistant

Witnesses: Dexter Johnson, Legislative Counsel

Jim Gardner, Phillip Morris

Bill Linden, RJ Reynolds Tobacco

Steve Vincent, Avista Utilities

Mike Burrill, Burrill Development

John Ledger, Associated Oregon Industries

Lauri Aunan, Legislative Coordinator., Department of
Environmental Quality

Robert Hessla, President, Oregon Retail Liquor
Association

Darrell Morgan, Liquor Agent, Albany

Peter Grabel, Liquor Agent, Eugene

Paul Cosgrove, Distilled Spirits Council of the United
States

TAPE 120, SIDE A

005 Chair Ferrioli Meeting called to order at 8:33 a.m.

018 Chair Ferrioli Pointed out that SB 486 and SB 509 will not be
heard today. As stated before, no education bills
will be heard in Senate Revenue until the
committee has closed the issue of SB 260.

OPENED WORK SESSION ON SB 763

028 Vice Chair L. MOTION:
Beyer
MOVES THE RULES BE SUSPENDED FOR
THE PURPOSE OF RECONSIDERING THE
VOTE ON SB 763.

030 Chair Ferrioli ORDER:
HEARING NO OBJECTION, THE CHAIR SO
ORDERED.

032 Vice Chair L. MOTION:
Beyer
MOVES TO RECONSIDER THE VOTE BY
WHICH SB 763 WAS SENT TO THE
SENATE FLOOR WITH A DO PASS
RECOMMENDATION.

- 038 Vice Chair L. Beyer Explained why the (-5) amendments are necessary for the passage of SB 763. Because of confusion and lack of clarity on what was removed from the (-3) amendments and how to re-word the bill, Legislative Counsel created the (-5) amendments.
- 053 Sen. Minnis Stated he was uncomfortable with Legislative Counsel's position of creating the (-5) amendments and thought yesterday's discussion was adequate. Requested perhaps someone from Legislative Counsel should appear at this meeting for one-on-one direct discussion.
- 063 Vice Chair L. Beyer Understood why Legislative Counsel wanted to create the (-5) amendments for clarity and feels it was not a waste of time to have them created and brought to members of this committee.
- 075 Lizbeth Martin-Mahar Explained that the (-5) amendments clarify when special districts must give input when a particular project is considered by the Economic and Community Development Department.
- Questions and answers interspersed.
- 097 Chair Ferrioli Reiterated that the Housing and Community Development Authority would still be involved the in process.
- 101 Vice Chair L. Beyer Stated this exercise would provide special districts with the opportunity to be consulted with and provide input into a decision whether or not to create a vertical housing zone; but that having input on each individual project would not be workable.
- Questions and answers interspersed.
- 116 Martin-Mahar Because of confusion on the part of members to follow the change made by adoption of (-3)

amendments yesterday and their incorporation into the (-5) (Exhibit 1), discussed each section of the (-5) to be sure members understood the matter.

Questions and answers interspersed.

252 Dexter Johnson Explained that the (-5) amendments change the time at which special districts are allowed to comment on proposed vertical housing project from when the developer applies for certification of a project to when the city or county applies for designation of the vertical housing zone.

Member comments interspersed.

284 Vice Chair L. Beyer MOTION:
MOVES THE (-5) AMENDMENTS TO SB 763 BE ADOPTED.

289 Martin-Mahar Added that the (-5) amendments supersede and incorporate all previous amendments to this bill.

292 Chair Ferrioli ORDER:
HEARING NO OBJECTION, THE CHAIR SO ORDERED.

295 Vice Chair L. Beyer MOTION:
MOVES SB 763 AS AMENDED TO THE SENATE FLOOR WITH A DO PASS RECOMMENDATION.

301 Chair Ferrioli ORDER:
HEARING NO OBJECTION, THE MOTION PASSES: 6-0-1
SENATOR EXCUSED: CORCORAN

Sen. L. Beyer will carry the bill on the Senate Floor.

303 Chair Ferrioli General comments and discussion from members regarding further input from Legislative Counsel in a timely manner if other bills require it.

CLOSED WORK SESSION ON SB 763

OPENED PUBLIC HEARING ON SB 423-A

367 Richard Yates Stated SB 423-A deals with cigarette tax and penalties for violations of the provisions of the cigarette tax law. The bill allows a civil penalty, not to exceed \$1,000, for violation of any cigarette tax provision. It increases penalty from a misdemeanor to a Class C Felony where intent is to defeat or evade requirements for:

- Distributions without a valid license
- False distributor reports
- False transporter reports (or intent to aid distributors to evade)
- And false refund claims.

396 Yates Discussed the (-A6) amendments presented by the cigarette industry adding provisions to Oregon law, which are consistent with federal provisions.

413 Sen. Minnis Objected to the (-6) amendments because they contain substantive issues that should have been brought before the Senate Judiciary Committee when it heard the bill. SB 423-A was before Judiciary on two occasions, and the cigarette industry did not testify. Irritated that this amendment brings substantive changes to the structure of penalties at this time before Senate Revenue.

430 Jim Gardner Offered by way of explanation and apology the fact that until recently the cigarette industry had not come to consensus on the issue of whether

or not there should be a private right of action to accompany the extension of the "gray market" law to conform with federal law.

- 458 Sen. Minnis Observed that the statutory designation of a private right of action is a substantive issue that should have been considered before the Senate Judiciary Committee, and has no sympathy for the cigarette industry in their failure to "get their act together" on this issue.
- 464 Bill Linden Added that all provisions in the (-A6) except for the private right of action were in HB 3798, which is still before the House Judiciary Committee. Because of the narrow relating clause, the private right of action aspect could not be added HB 3798.
- 486 Sen. Minnis Stated that although Chair Ferrioli has control of this meeting, he was not pleased. The attempted action is discourteous. The witnesses are not novices and should know how the process works. The issue should have been brought to Sen. Minnis' attention before the (-6) amendments appeared in Senate Revenue.
- 498 Chair Ferrioli Recessed the meeting from 9:08 to 9:14 a.m..

TAPE 121, SIDE A

- 038 Sen. Minnis Restated that neither of the two witnesses are novices to the legislative process, nor are others who represent the cigarette industry, and is not pleased with the industry's lack of preparedness on this issue. Given that, would like the Chair to accept a motion to refer SB 423-A back to Senate Judiciary for review.
- 049 Yates Added there would be no revenue impact associated with this bill.

055 Chair Ferrioli Stated that the bill specifies a threshold of 60,000 cigarettes, and asked how that number was derived as violating criminal statutes. that designate a Class C felony?

059 Gardner Suggested that could be answered by the Department of Revenue.

060 Sen. Minnis Stated that 60,000 is the federal threshold. This measure is meant to go after people who bring in truckloads of untaxed cigarettes. Said that about \$100 million per year in revenue is lost through cigarette tax evasion. It is suspected that loss is through large semi-truckloads of untaxed cigarettes crossing Oregon's borders.

CLOSED PUBLIC HEARING ON SB 423-A

OPENED WORK SESSION ON SB 423-A

087 Sen. Minnis MOTION:

MOVES SB 423-A TO SENATE JUDICIARY COMMITTEE WITHOUT RECOMMENDATION AND WITH NO SUBSEQUENT REFERRAL TO SENATE REVENUE.

094 Chair Ferrioli ORDER:

HEARING NO OBJECTION, THE CHAIR SO ORDERED.

CLOSED WORK SESSION ON SB 423-A

OPENED PUBLIC HEARING ON SB 948

102 Ed Waters Explained that SB 948 in its original form permits designation of distressed rural areas if certain population and economic criteria are met. It would then allow property tax exemption and income tax credit for qualified businesses locating in these specified zones. The sponsors of the original bill have

introduced the (-3) amend-ments containing provisions to direct the Department of Environmental Quality (DEQ) to establish a community emission credit bank.

118 Steve Vincent Stated that the concepts contained in SB 948 were developed by economic development people in southern Oregon. The (-3) amendments remove reference to property tax exemption and income tax credit for the development of industrial lands and replace it with language related to air-shed banks. The DEQ and the Governor's office approve the (-3) amendments.

133 Mike Burrill Testified in support of SB 948. Related information about his family's 60 years in the forest products industry (in Medford), which was closed down about two years ago and has since been trying to find ways to create new jobs in rural Oregon. In traveling around rural Oregon he has seen many communities that had wood manufacturing plants, and the plants are sitting unused. Those were family-wage jobs in the facilities, but now the communities are having trouble finding ways to create new jobs to take care of their citizens. The credit outlined in the (-3) amendments would give distressed communities a chance to try to find new industry to come in and create family-wage jobs for its citizens. Further comments about how the credit bank would work and types of businesses that could use the credits.

Further discussion, and questions and answers interspersed.

292 Vincent Added that companies would not be forced to deposit their credits into an air-shed bank. It would be up to local communities to encourage companies to do so for greater economic development purposes.

Further questions and answers interspersed.

312 Chair Ferrioli Stated he had contacted different state agencies to create a mitigation bank, not just for emission reduction credits. There are many companies that have made investments that have created the potential for mitigation banking and watershed and wetlands management. Currently there is no central clearinghouse for credits, and (-3) amendments address that issue. At present there is no system for converting credits between different environmental sectors (water, air, etc.).

340 John Ledger Stated Associated Oregon Industries (AOI) is very pleased to see the (-3) amendments and believe they promote a very good idea. Concepts that facilitate the use of credits are environmentally beneficial and very good for the economy. Rural areas of the state are losing manufacturing operations, so measures that would keep or attract businesses are very important. Companies do trade credits, but the problem has been finding a convenient way to do it. Having a credit bank for companies to deposit credits or acquire them

379 Lauri Aunan Stated that the DEQ supports the (-3) amendments.

CLOSED PUBLIC HEARING ON SB 948

OPENED WORK SESSION ON SB 948

404 Vice Chair L. Beyer MOTION:
MOVES (-3) AMENDMENTS TO SB 948 BE ADOPTED.

407 Chair Ferrioli Because SB 948 was sponsored by Senator Hannon, asked Mr. Burrill if he had check with the Senator regarding the (-3) amendments, to which Mr. Mr. Burrill stated he had.

440 Vice Chair L. Beyer MOTION:
MOVES SB 948 AS AMENDED TO THE

SENATE FLOOR WITH A DO PASS
RECOMMENDATION.

446 Chair Ferrioli ORDER:

HEARING NO OBJECTION, THE MOTION
PASSES: 5 — 0 — 2

SENATORS EXCUSED: CORCORAN,
MINNIS

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

CLOSED WORK SESSION ON SB 948

OPENED WORK SESSION ON SB 935

459 Sen. George Discussed escalating insurance costs faced by
liquor sales agents compared with their
diminishing revenues. Exhibits 8 and 9.

468 Chair Ferrioli Stated the intention this morning is to consider
amendments eliminating the portion of the bill
that would prohibit minor sting operations.

TAPE 120, SIDE B

032 Robert Hesla Regarding the insurance issue, stated that all
agents are greatly affected by rising costs. A
large Oregon insurance company has recently
decided to stop insuring liquor stores
completely. Some insurance companies charge
from 50% to 100% more than the company that
discontinued coverage.

057 Darrell Morgan Stated he has had problems with sting
operations and was one of the agents requesting
the procedure be changed. Believes that a
person who sells alcohol under the rules of
engagement in place now is assumed to be
guilty until proven innocent by a liquor sting, or
that everyone is selling liquor sells to minors.
There are other pro-active approaches that

could be taken to see if in fact an agent sells to minors.

069 Chair Ferrioli Advised that there are many agents who feel the same. Senate Revenue has heard from law enforcement agencies that they would be willing to look at a model using a different approach. Sting operations have a proven track record in detecting agents who sell to minors. There should be a study that offers alternatives before eliminating the procedure that works.

111 Peter Gabel Expanded on previously mentioned rising insurance costs. Stated that the picture is larger than just rising insurance costs. Rising minimum wage, tax rates, and electricity rates, and general costs of doing business are all increasing. Under the current Oregon Liquor Control Commission (OLCC) budget, there is no way for agents to recoup any of the increased costs they incur in the process of selling liquor for the state. Gave example of a Gresham agent whose annual store rent went from \$17,000 to \$45,000. Liquor agents have no financial support from OLCC for dealing with unreasonable increases in the cost of doing the state's business. Stated the system must be changed and recommended that a study committee be formed for that purpose.

156 Sen. Corcoran MOTION:

MOVES (-2) AMENDMENTS TO SB 935 BE ADOPTED.

166 Chair Ferrioli ORDER:

ROLL CALL VOTE: THE MOTION PASSES:
5 — 1 - 1

SENATOR VOTING NO: GEORGE

SENATOR EXCUSED: MINNIS

170 Paul Cosgrove Stated the Distilled Spirits Council of the United States requested the (-1) amendments that add two members to a task force. The Council has experience in other states where those states have chosen to change their distribution system, but those states have done so in ways that caused major disruptions to markets resulting in far-reaching ramifications.

182 Vice Chair MOTION:

MOVES (-1) AMENDMENTS TO SB 935 BE ADOPTED.

184 Sen. Castillo Stated she will support motion, but is concerned that the (-1) amendments do not go far enough. Feels the task force is not balanced because there is no one from law enforcement, public health, or alcoholism treatment, etc.

195 Chair Ferrioli Regarding Sen. Castillo's concerns said that further amendments would be forthcoming from the Governor's staff and others.

207 Chair Ferrioli ORDER:

HEARING NO OBJECTION, THE CHAIR SO ORDERED.

CLOSED WORK SESSION ON SB 935

208 Chair Ferrioli Stated that SB 935 will be rescheduled for further consideration when those amendments are available

223 Chair Ferrioli Adjourned meeting at 9:46 a.m.

Submitted by, Reviewed by,

Carol Phillips Kim Taylor James

Committee Assistant Revenue Office Manager

Exhibit Summary:

1. SB 763, Legislative Counsel, (-3) Amendments, (DJ/ps) 4/26/01, 6 pp.
2. SB 763, Martin-Mahar, Staff Measure Summary, 1 pp.
3. SB 763, Martin-Mahar, Revenue Impact Statement, 1 pp.
4. SB 423-A, Phillip Morris & RJ Reynolds, (-A6) Amendments, (DJ/ps) 4/25/01, 1 pp.
5. SB 423-A, Yates, Staff Measure Summary, 1 pp.
6. SB 423-A, Department of Revenue, Summary, 2 pp.
7. SB 948, Sen. Hannon, (-3) Amendments, (BJM/cb/ps) 4/26/01, 2 pp.
8. SB 935, Sen. George, insurance data, 1 pp.
9. SB 935, Sen. George, insurance data, 2 pp.
10. SB 935, Liquor Industry, (-1) Amendments, (DH/ps) 2/28/01, 1 pp.
11. SB 935, Sen. Minnis, (-2) Amendments, (DH/ps) 4/25/01, 1 pp.