

PUBLIC HEARING:

SB 614, HB 2281, HB 2550, HB 2558

TAPES 099-100, A/B

SENATE REVENUE COMMITTEE

APRIL 9, 2001 — 2:00 PM, METRO COUNCIL CHAMBERS, PORTLAND, OREGON

Members Present: Senator Ted Ferrioli, Chair

Senator Lee Beyer, Vice Chair

Senator Susan Castillo

Senator Charles Starr

Representative Lane Shetterly, Chair

Representative, Chris Beck

Representative, Mark Hass

Representative, Max Williams

Members Excused: Senator Tony Corcoran

Senator Gary George

Senator John Minnis

Representative Janet Carlson, Vice Chair

Representative Deborah Kafoury, Vice Chair

Representative Alan Bates

Representative Alan Brown

Representative Bill Witt

Staff: Paul Warner, Legislative Revenue Officer

Carol Phillips, Committee Assistant

Joan Green, Committee Assistant

Jennifer Wells, Committee Clerk

Witnesses: Paul Phillips, Smart Growth Coalition

Dennis Peterson, Chief Tax Officer, Nike

Paul Kelly, General Counsel for International Law and
Government Affairs, Nike

Lewis Horowitz, Chair, Oregon State Bar Association
Tax Section Executive Committee

Curt Copenhagen, Director of Public Affairs,
Longview Fibre Company

Mark Modjeski, Senior Tax Manager, Tektronix

Dwayne Tofell, Director of Taxes, Louisiana-Pacific Corporation

Erik Amos, Columbia Sportswear Company

Dierdre Molander, Project Director, Oregon Business Council

Bill Linden, Oregon Metals Industry Council and Les
Schwab Tire Companies

John McNamara, Regional Director of Tax, AT&T

David Bragdon, Chief Presiding Officer, Metro

TAPE 099, SIDE A

010 Paul Warner Discussed Exhibit 1 page 3: Sales Only
Apportionment Formula for the Corporate Income
Tax — Sales Only Apportionment.

049 Warner Discussed Exhibit 1 page 4: Sales Only
Apportionment Formula for the Corporate Income
Tax — By Federal Taxable Income Category.

095 Warner Discussed Exhibit 1 page 5: Sales Factors.

- 117 Warner Discussed overall revenue impact. Stated there are plans to run changes in apportionment factor through the Oregon Tax Incidence Model (OTIM). This will show lower cost of capital, so impacts will be smaller, thus encouraging investment.
- 139 Warner Discussed Exhibit 1 pages 6, 7, 8, and 9.
- 160 Chair
Ferrioli Called Senate Revenue Committee meeting to order at 2:16 p.m.
- 162 Chair
Shetterly Called School Funding and Tax Fairness/Revenue meeting to order.
- 167 Chair
Ferrioli Stated that because SB 614, HB 2281, HB 2550, and HB 2558 were scheduled for Public Hearing today, it was determined that HB 2558 would be the vehicle for exploring the issue.
- 173 Warner Explained that HB 2558 was sent directly to the House Revenue Committee in January, where it has been waiting for Public Hearing. HB 2281 came through the Smart Growth and Commerce Committee.
- 186 Chair
Shetterly Stated he would open a public hearing on HB 2558, HB 2281, HB 2550, and SB 614 in case testimony referred to any or all of the bills.

OPENED PUBLIC HEARING ON HB 2558, HB 2281, AND HB 2550

- 195 Chair
Ferrioli Opened public hearing on SB 614.

OPENED PUBLIC HEARING ON SB 614

- 198 Chair
Ferrioli Listed names of members of Metro Council who are past members of the House of Representatives. They are Mike Burton, Carl Hosticka, and Rod Monroe. The Chair also named Paul Phillips, as past member of the Senate, who will testify during today's

meeting.

211 Paul Phillips Stated he represents the Smart Growth Coalition, whose members include adidas, Columbia Sportswear, intel, KinderCare, Les Schwab, Louisiana-Pacific, Nike, Tektronix, and Schnitzer Steel. Referred to Exhibit 2, followed by extensive discussion of Exhibit 4. Discussed state apportionment formulas and which states fall under the following categories:

- Single or Super-Weighted Sales
- Contemplating Single Sales Factor
- Double-Weighted Sales
- Equal Weighting Three Factor
- No income tax

Further discussion regarding how the weighting factors either attract or repel new businesses locating in Oregon.

Questions and answers interspersed.

454 Chair
Ferrioli Stated that the map (Exhibit 4 page 2) is indicative of states that have moved quickest to the single-weighted sales factor. These states include the old "rust belt" coal and steel states of Michigan, Ohio, Illinois, Iowa, Minnesota, and Pennsylvania. These states stagnated longer than almost any other group of states because of their heavy reliance on heavy manufacturing. Manufacturing is still a key factor in Oregon; but it depends on what is being manufactured: wood products or computer wafers. Manufacturing CD-ROMs, floppy disks, or software might not seem like heavy industry to many people, but it is in fact still manufacturing. That indicates the products may have changed, but Oregon is still in the manufacturing business.

Comments, and questions and answers interspersed.

- 514 Dennis Peterson Testified in support HB 2558. Nike is a member of the Smart Growth Coalition and is in support of a move to the single-sales-factor method. Read Exhibit 5. Believes the single sales factor would be best for Oregon. It would spread the tax burden on the same basis among all multi-state companies selling into Oregon, both based in Oregon and those with branch locations here. Several advantages of the single sales factor are:
- An even playing field for all multi-state companies
 - No penalties for job creation and investment
 - Simplicity
 - Diversified tax base
- There is a growing national trend to single sales factor. Oregon must keep its existing companies and attract new ones as well.
- 614 Paul Kelly Testified in support HB 2558. Discussed Exhibit 4 page 2 (map). Read Exhibit 6. Pointed out that eleven states have gone to the single sales factor and nine more are considering doing so. Oregon should not find itself one day in the competitive disadvantage of being at the tail end of that national trend. Oregon's business environment should be kept competitive with that of other forward-looking states.
- Questions and answers interspersed.
- 681 Chair Shetterly Referred to Exhibit 4 page 2 (map). Pointed out that California is also contemplating going to the single sales factor. The Boeing Company in Seattle recently announced it will relocate its corporate offices to Colorado, Illinois, or Texas. Two of those states have the single sales factor. If California moves to the single sales factor, what might that do to Oregon competitively regarding the West Coast economic environment?
- 695 Peterson Responded that taxes are just one of several factors companies study when they look for a state in which to locate. Pointed out that a state trying to attract

new business would not want to be surrounded by states with more favorable tax structures. If California moves to single sales, Oregon should do so defensively as quickly as possible.

Questions and answers interspersed.

TAPE 099, SIDE B

019 Kelly Commented that Nike is a member of the Oregon Business Council, which endorses the single sales factor apportionment method. Stated that everyone at Nike feels responsible in contributing to the steward-ship of the state. That is partly why Nike is located in Oregon and does not plan to leave.

Questions and answers followed.

048 Chair Stated that the (-1) amendments to HB 2558 would
Shetterly make the effective date tax years beginning 2003. Asked Mr. Peterson how important the timing would be. In terms of competitiveness, investment, job growth, etc., what would be best for companies like Nike?

056 Peterson Replied that 2003 is not that far away. If it goes to 2007, it might not be received as well as if the change would be made sooner. Believes 2003 would seem about right. Other states may have already gone to single sales factor by 2007, in which case it may be too late for Oregon to react.

096 Lewis Testified in support of HB 2558. Exhibit 7. Said the
Horowitz Oregon State Bar Tax Section Executive Committee supports the proposals contained in HB 2558 regarding single sales factor apportionment for Oregon. Observed that single sales factor apportionment as well as sales factor trends in other states have already been explained by Mr. Warner.

103 Horowitz Noted that his Executive Committee does not have any direct economic interest in the outcome of the sales factor bills. Aspects of interest are 1) what is in Oregon's best interest 2) what is more likely to

encourage economic activity, and 3) what is the best phase-in effective date with the benefits of encouraging growth. The Executive Committee has rarely stood up and taken a position on any tax issue in Oregon, the Committee thought HB 2558 was worth endorsing. The Tax Section Executive Committee sees four primary benefits to adopting single-factor apportionment in Oregon:

- It will promote business investment in Oregon by encouraging businesses to increase their investment in property and payroll in Oregon, without fear of increasing corporate income tax liabilities;
- The adoption of single-factor apportionment should promote economic growth in Oregon;
- The adoption of single-factor apportionment will place Oregon in the forefront of an important nationwide trend toward favoring single-factor apportionment, and failure to do so now will force Oregon to play catch-up with the rest of the nation later; and
- Any short-term revenue loss from the adoption of single-factor apportionment should be offset by long-term revenue enhancement likely to result from expanded business investment in Oregon.

Numerous questions and answers followed.

291 Curt
Copenhagen

Testified against HB 2558 Longview Fibre (LF) did not testify against this single sales factor concept in 1989. Simpson Lumber Company is another natural resources company that would be adversely affected if this bill passed. LF is opposed to all single sales factor bills because they would substantially increase their state income tax. Exhibits 8 and 9.

Questions and answers followed.

305 Copenhagen

- LF is one of the largest private timberland owners in Oregon, managing approximately one-third million acres, most of which were acquired up to 40 years ago.
- LF provides work for about 65 Oregon contractor companies. Many of them are

independent logging contractors that have been employed by LF virtually full-time for many years.

- LF has provided these mills with needed wood fiber for several decades.
- LF annually buys \$40 to \$50 million in wood chips at market prices from Oregon wood products plants for papermaking at their paper mill.
- LF has done its share and more in cooperative salmon recovery and stream restoration projects.

337 Copenhagen Said that although LF is located in Washington State, they feel like an Oregon company because they do so much business with Oregon. The single sales factor proposal would cost LF about \$5 million over a ten-year period when fully implemented. Considering LF's long and positive history in Oregon, they feel the single sales factor is unfair.

Questions and answers followed.

445 Mark Modjeski Testified in support of HB 2558. Read Exhibit 10. Pointed out that Oregon is bordered by two states that impose no income tax on corporations (Washington and Nevada). The playing field is difficult for Oregon in this regard.

Questions and answers interspersed.

532 Dwayne Tofell Testified in support of HB 2558. Read Exhibit 11. Supports the single sales factor system for the following reasons:

- Louisiana-Pacific (LP) has operations in 35 states. LP believes that a single sales factor adds a significant incentive to businesses that are labor intensive (company headquarters).
- Oregon cannot be a follower; it must be a leader in developing programs to attract new and expanded businesses for today's youth as they enter the work force.
- Business growth results in new jobs.
- A single sales factor will increase the tax

burden of non-Oregon businesses that extract income from the state by using its market place for the sale of its products but do not contribute jobs or participate in community activities.

- As more states move to the single sales factor, it becomes imperative that Oregon modify its apportionment factor to avoid flight of existing companies to those states already using the single sales factor.

629 Erik Amos Testified in support of the bill. Exhibit 12. Columbia Sportswear (CF) feels it is bad public policy to discourage companies from investing in Oregon infrastructure and to discourage them from hiring Oregonians. The current income tax structure does exactly that.

Questions and answers followed.

640 Amos In the last two years Columbia Sportswear has grown significantly. They doubled the size of the distribution center outside of Portland and purchased a new corporate headquarters in Washington County. As a result of these investments in Oregon, their Oregon tax liability will be two times what it would have been if they had located in a state with the single sales factor apportionment method or if they had gone ten miles north and located in Vancouver, Washington. Columbia is being penalized for two things: 1) for creating jobs in Oregon and for keeping jobs in Oregon and 2) for investing and spending a lot of money in Oregon. Why did Columbia expand in Oregon? The bottom line is that Columbia is a "home grown" company with senior management from Oregon, and it is very costly to move out of state. However, other companies may not be so loyal to Oregon.

703 Amos As further evidence that Oregon's income tax structure may no longer be competitive on a national scale, one has only to look over the past decade to realize the exodus out of Oregon of Fortune 500 companies.

Questions and answers followed.

TAPE 100, SIDE A

- 001 Chair Shetterly Continuation of questions and answers.
- 022 Deirdre Molander Testified in support of HB 2558. Read Exhibit 13. The Oregon Business Council recognizes there is a vital link between public services and a health economy. Public services, including education, are critical for economic growth. At the same time, the best source of revenue for public services is a strong and growing economy.
- 050 Bill Linden Testified in support of HB 2558. Stated the Metals Industry Council and its fifteen member companies are part of an industry that employs over 60,000 Oregonians. The Council's members collectively have exports of over \$700 million a year, which is about 12% of Oregon's total exports. Oregon's metals businesses spend approximately \$4.5 billion in purchases annually, mostly from Oregon companies. Les Schwab Tires has over 300 stores in the Pacific Northwest. Both clients support Oregon's moving to a single sales factor system. There is a fairness issue to consider. Under the current system, out-of-state businesses are taxed only on sales, but in-state businesses are taxed on sales, payroll, and property.
- 084 John McNamara Testified against HB 2558. AT&T does not support any bill related to increasing sales factor weighting. Pointed out that certain states tax different industries at different rates. Stated only a handful of out-of-state companies would benefit from the single sales factor. Two-thirds of tax filers in Oregon would be harmed by this legislation if passed.
- 155 Various Miscellaneous comments, and questions and answers.
- 286 Chair Closed public hearing on SB 614.

Ferrioli

CLOSED PUBLIC HEARING ON SB 614

289 Chair Shetterly Closed public hearing on HB 2558, HB 2550, and HB 2281.

CLOSED PUBLIC HEARING ON HB 2558, HB 2550, AND HB 2281

298 David Bragdon Thanked members of the Senate and House Revenue Committees for holding this public hearing at the Metro Center. Extended offer for Revenue or other committees of the legislature to utilize other Metro facilities in the Portland area, i.e Metro Center, Convention Center, at the zoo, or Expo Center.

311 Chair Ferrioli Thanked Mr. Bragdon for the offer and will transmit the information to leadership.

336 Chair Ferrioli Adjourned Senate portion of the joint committee meeting at 4:17 p.m.

347 Chair Shetterly Adjourned House portion of the joint committee meeting at 4:18 p.m.

Submitted by, Reviewed by,

Carol Phillips Kim Taylor James

Committee Assistant Revenue Office Manager

Exhibit Summary:

1. HB 2558, Warner, Apportioning Multi-State Corporate Income, 9 pp.
2. HB 2558, Phillips, Written testimony dated April 9, 2001, 2 pp.
3. HB 2558, Phillips, (-1) Amendments, (DJ/ps) 4/4/01, 1 pp.

4. HB 2558, Phillips, Smart Growth Coalition written testimony, 48 pp.
5. HB 2558, Kelly, Written testimony dated April 9, 2001, 2 pp.
6. HB 2558, Peterson, Written testimony dated April 9, 2001, 2 pp.
7. HB 2558, Horowitz, Written testimony dated April 9, 2001, 3 pp.
8. HB 2558, Copenhagen, Written testimony undated, 1 pp.
9. HB 2558, Copenhagen, Written testimony dated February 14, 2001, 1 pp.
10. HB 2558, Modjeski, Written testimony dated April 9, 2001, 2 pp.
11. HB 2558, Tofell, Written testimony dated April 9, 2001, 2 pp.
12. HB 2558, Amos, Written testimony dated April 9, 2001, 2 pp.
13. HB 2558, Molander, Written testimony dated April 9, 2001, 1 pp.
14. HB 2558, Scott, Written testimony dated April 6, 2001, 1 pp.
15. HB 2281, Scott, Written testimony dated April 6, 2001, 1 pp.