

WORK SESSION: SB 67, HB 2208-A

PUBLIC HEARING AND WORK SESSION: HB 2272-A

TAPES 155-156, A/B

SENATE REVENUE COMMITTEE

June 6, 2001 — 3:30 P.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

Carol Phillips, Committee Assistant

Witnesses: Debra Buchanan, Department of Revenue

Lisa Nuss, Legislative Director, Oregon Alliance of Senior and Health Services

Shirley Leiper, Department of Revenue, Property Tax Division

TAPE 155, SIDE A

005 Chair Ferrioli Meeting called to order at 3:47 a.m.

OPENED PUBLIC HEARING ON HB 2272-A

012 Ed Waters Stated that HB 2272-A is the general reconnect bill this session. This bill establishes December 21, 2000 as the connection date to the Internal Revenue Code for Oregon tax law matters (other than for definition of taxable income). Note that connection to general changes in the definition of taxable income are adopted continuously under rolling reconnect, which was enacted in 1997. That is not affected by provisions of HB 2272-A.

025 Waters Added that the bill also:

- Reconciles conflicting language in ORS regarding the Business Energy Tax Credit program.
- Corrects some tax administration provisions regarding "innocent spouse" protection and "safe harbor" rules for estimated tax payments.
- Revises factors used to make inflation adjustments in ORS 316, particularly relating to personal income tax brackets and personal exemption credit. (This is where the revenue impact as described on Exhibit 2 originates.)
- Makes technical changes (which will be described by Debra Buchanan below.)

042 Debra Buchanan Discussed Exhibit 5—HB 2272-A Summary. Purpose of the bill is:

- Clarify that tax shown on an amended return filed with an extension period is the "prior year's tax" for figuring the estimated safe harbor amount for individuals.
- Clarify provisions allowing an "innocent spouse" to seek relief from liabilities attributable to filing a joint tax return. Allow the department to provide additional relief in certain circumstances by rule.
- Conform to provisions of Measure 88,

which increases the federal tax subtraction from \$3,000 to \$5,000 beginning in 2002 and adjusts for inflation beginning in 2003.

- Update the income thresholds that are used to determine whether resident taxpayers are required to file returns.
- The time allowed for filing an appeal with the state after resolution of a federal appeal is extended from 60 days to 90 days to conform to other appeal periods.
- Technical correction to 1999 legislation clarifying that the department is not limited to refunding overpayments made prior to the filing of a return, but may also refund overpayments received after the return is filed.
- Corporations can rely on paying a safe harbor amount to avoid interest on underpayment of estimated tax. The bill changes the base amount to the difference between the actual payment and the safe harbor amount.
- Repeal obsolete statute related to medical savings accounts.

068 Waters

Discussed the (-A2) amendments, which update Internal Revenue Code connection dates for two income tax credit programs recently expanded by HR 1836. Discussed the (-A3) amendments, which reconcile conflicts with SB 521. Also discussed the Revenue Impact Statement regarding HB 2272-A showing a \$23.4 million impact for the 2001-03 biennium and \$34.6 for 2003-05.

CLOSED PUBLIC HEARING ON HB 2272-A

OPENED WORK SESSION ON HB 2272-A

128 Vice Chair L.
Beyer

MOTION:

MOVES THE (-A2) AMENDMENTS TO HB 2272-A BE ADOPTED.

131 Chair Ferrioli

ORDER:

HEARING NO OBJECTION, THE CHAIR SO ORDERED.

SENATOR EXCUSED: MINNIS

132 Vice Chair L. Beyer MOTION:

MOVES THE (-A3) AMENDMENTS TO HB 2272-A BE ADOPTED.

135 Chair Ferrioli ORDER:

HEARING NO OBJECTION, THE CHAIR SO ORDERED.

SENATOR EXCUSED: MINNIS

135 Vice Chair L. Beyer MOTION:

MOVES HB 2272-A AS AMENDED TO THE SENATE FLOOR WITH A DO PASS RECOMMENDATION.

140 Chair Ferrioli ORDER:

HEARING NO OBJECTION, THE MOTION PASSES: 6 — 0 — 1

SENATOR EXCUSED: MINNIS

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

CLOSED WORK SESSION ON HB 2272-A

152 Waters Discussed amendments for SB 67. The (-3) amendments were adopted by this committee on April 12, 2001. The (-3)s affect capital gains beginning tax year 2003. The (-6) amendments also become effective tax year 2003, but have a more gradual reduction in the capital gains tax rate over time. Eventually both amendments arrive at the 4% capital gains rate, with the (-3)s

getting there tax year 2005, and the (-6)s in tax year 2007.

167 Chair Ferrioli Stated it was his intention to move with bill with the (3) amendments. Stated the (-3)s create a 6% tax rate for capital gains for tax years 2003 and 2004, and rate of 4% for tax year 2005 and thereafter.

OPENED WORK SESSION ON SB 67

191 Sen. Starr MOTION:

MOVES SB 67 AS AMENDED TO THE SENATE FLOOR WITH A DO PASS RECOMMENDATION.

195 Sen. Castillo Stated she would vote no on the bill.

CLOSED WORK SESSION ON SB 67

210 Martin-Mahar Began review of HB 2208-A and amendments that have been discussed previously. At the last Senate Revenue Committee meeting the (-A12) and (-A13) amendments were adopted. The (-A14)s have been withdrawn and replaced with (-A16)s and (-A17)s. Stated HB 2208-A was passed out of committee on May 22, 2001 but was brought back to add conflict resolution amendments. This bill was brought by the Department of Revenue and addresses several technical changes and clarifications. (See Exhibit 10.) This committee has adopted several amendments to this bill in previous work sessions.

265 Martin-Mahar Discussed the (-A14) amendments, which were presented by Rep. Witt, that allow war veterans to come onto the property tax deferral program without an income limit. The (-A16)s provides that war veterans would have a lien exactly like the disabled population currently on the deferral program. The (-A17)s are basically the same as the (-A16)s but reduce the revenue and fiscal impacts by placing war veterans under the same household income limit of \$32,000. However,

Rep. Witt has advised that it will be acceptable to pass the bill without the (-A14)s, (-A16)s, or (-A17)s.

OPENED WORK SESSION ON HB 2208-A

- 308 Sen. Corcoran MOTION:

MOVES REMOVAL OF THE (-A13)
AMENDMENTS FROM HB 2208-A.
- 311 Chair Ferrioli Stated there is a motion on the floor to remove the (-A13) amendments from HB 2208-A.
- 315 Sen. Corcoran Said that he made the motion because the (-A13) amendments seem to have been the "bane of contention" for committee members.
- 318 Various Comments among members regarding this motion.
- 327 Chair Ferrioli Stated the Chair would not support removal of the (-A13)s from the bill.
- 337 Sen. Corcoran MOTION:

MOVES THE RULES BE SUSPENDED FOR
THE PURPOSE OF RECONSIDERING THE
VOTE BY WHICH THE (-A13)
AMENDMENTS TO HB 2208-A WERE
ADOPTED.
- 340 Chair Ferrioli ORDER:

ROLL CALL VOTE: MOTION FAILS: 3 — 3
— 1

SENATORS VOTING AYE: CORCORAN,
STARR, L. BEYER

SENATORS VOTING NO: CASTILLO,
GEORGE, FERRIOLI

SENATOR EXCUSED: MINNIS

- 356 Vice Chair L. Beyer Stated he had received a letter from the Department of Human Services raising issue of a potential conflict. Asked Ms. Martin-Mahar for clarification.
- 363 Martin-Mahar Stated she had not read the letter in question, but believes the issue may be about non-profit homes for the elderly regarding administrative and technical changes that were brought forth in HB 2208-A. Under current law the Elderly Rental Assistance and the Non-Profit Elderly Homes are funded together in one appropriation each biennium. If for some reason program payments come in higher than what they have an appropriation for, the Department of Revenue will pro-rate the Elderly Rental Assistance program payment, not the Non-Profit Elderly Homes program. Under HB 2208-A, both programs would be pro rated.
- 396 Chair Ferrioli Summarized that discussion was held on this issue in the House consideration of the bill. Ms. Elizabeth Harchenko of the Department of Revenue supports the version of the bill before this committee today.

INVITED TESTIMONY

- 415 Lisa Nuss Testified regarding HB 2208-A. Represents non-profit housing groups that would be affected by the amendments. Disagrees with the statement that the bill makes only technical changes. On the contrary, it would represent a major policy change. Since 1977 non-profit housing for the elderly has had full exemption. Feels there should be more discussion if the policy in place for 30 years is to be reversed. This bill would change a full exemption to a partial exemption. Concerned because HUD Section 202 money requires a full exemption.

TAPE 156, SIDE A

- 021 Nuss Continued comments regarding the bill.
- Questions and answers interspersed.
- 041 Chair Ferrioli Summarized that the Department of Revenue has put forth a policy change. Therefore, people from the Department should provide more information.
- 049 Buchanan Stated that the Department of Revenue (DOR) came to the committees with a problem; specifically the Elderly Rental Assistance Program and the Non-Profit Housing Program are both funded with one appropriation. During the last payment cycle, the DOR sent out payments for the Elderly Rental Assistance Program and spent the entire appropriation. The DOR appealed to the Emergency Board and received funds for the other program. This issue was presented to the House Revenue Committee for policy to follow if this situation arose next biennium; and that preference was to pro rate both program payments if the appropriation is not enough to fund all payments in their entirety. Current law allows pro ration of Elderly Rental Assistance payments only. Further comments regarding the situation.
- Questions and answers interspersed.
- 101 Chair Ferrioli Summarized by stating that the agency can go to the Legislative Emergency Board and ask for additional funding; and if that funding was not available, this bill would pro rate payments between the two programs.
- 108 Buchanan Added that one more option considered at the time was to fund the program adequately so no pro ration was necessary, but funds were not available to allow this option. It is estimated that the program will be \$2 million short in the

next biennium. Stated that people being helped under the Elderly Rental Assistance Program are 58 years or more, household income \$10,000 or less, and renting their housing.

Further questions and answers interspersed.

161 Shirley Leiper Added that under the Non-Profit Housing Program, people have to meet certain HUD requirements. The amount of time people spend under the program varies from case to case.

Questions and answers interspersed.

174 Chair Ferrioli Summarized that this looks like an \$11 million program with only \$9 million in funding. Requested periodic updates to both Legislative Revenue Office and Legislative Fiscal Office to keep them apprised of payments under the two programs so those staff people, who also advise the Legislative Emergency Board, are aware and can advise all concerned.

200 Chair Ferrioli Stated that given the fact that this was considered in Ways & Means, an appropriation was decided upon, and the DOR came up with a strategy for dealing with an anticipated shortfall, cannot conclude otherwise than that people have fully considered what the effect of this policy change might be. The issues raised about housing were timely and important. Does not feel the bill needs to go back to Ways & Means for further consideration; it should be moved forward.

237 Richard Yates Extensive discussion regarding revenue impact of HB 2208-A. Exhibit 13.

390 Sen. Minnis MOTION:

MOVES REMOVAL OF THE (-A13)
AMENDMENTS FROM HB 2208-A.

393 Various General discussion regarding parliamentary

procedure.

- 409 Vice Chair L. Beyer Stated that as the bill stands now the tax is 67 cents per gallon. Asked what tax would produce a revenue neutral position.
- 415 Yates Responded that, using data contained in Exhibit 13, the revenue neutral tax would be 83 cents per gallon. At present every gallon that moves through state stores produces \$11.70. For every gallon that moves through grocery stores, the state receives 67 cents. If there is a price differential, people will naturally shift their purchases from state stores to grocery stores; and the bigger the shift, the less money the state will receive.
- 434 Vice Chair L. Beyer Disagreed with Yates' statement. Consumers of beer and wine do not make their purchases in hard liquor state stores but at grocery stores.
- 451 Various Additional comments concerning their relevance to the bill.
- 472 Sen. Minnis Stated he is disheartened that he voted for this amendment in the first place. As it was originally presented, he believed there was little opposition to it. Has subsequently discovered that is not true. Said there is intent from the Governor's Office to conduct a study into the issues by Executive Order. Believes the issue is extremely complex and is something that needs extensive research and discussion before a vote is taken.

TAPE 155, SIDE B

- 036 Chair Ferrioli Stated there in fact may be an Executive Order forthcoming.
- 045 Sen. Minnis Explained that if this issue was brought to

Senate Revenue at the beginning of the session, and there had been more time to conduct thorough research, he may have felt more comfortable, but is not at this point.

048 Chair Ferrioli

ORDER:

ROLL CALL VOTE: MOTION PASSES: 4 —
3 — 0

SENATORS VOTING AYE: CORCORAN,
GEORGE, MINNIS, STARR

SENATORS VOTING NO: CASTILLO, L.
BEYER, FERRIOLI

056 Sen. Corcoran

Asked if further amendments were needed to pass the bill. Is concerned about issues raised by the Oregon Alliance of Senior and Health Services.

066 Chair Ferrioli

Believes sufficient research was done on this issue, and that the only option may be to refer it back to Ways & Means.

074 Sen. Corcoran

Added that there is still enough time between now and the bill being heard on the Senate Floor so that if new information was discovered, the bill could be pulled back to committee.

076 Chair Ferrioli

Because this committee is officially closed and can be opened only at the direction of the Senate President, speculated that the committee could be re-opened to hear this bill. Believes it might be best to move the bill now.

089 Sen. Corcoran

MOTION:

MOVES HB 2208-A AS AMENDED TO THE
SENATE FLOOR WITH A DO PASS
RECOMMENDATION.

105 Sen. George Asked if all appropriate amendments had been heard.

108 Chair Ferrioli ORDER:

ROLL CALL VOTE: MOTION PASSES: 6 —
1 — 0

SENATORS VOTING AYE: CASTILLO,
CORCORAN, GEORGE, MINNIS, STARR, L.
BEYER

SENATOR VOTING NO: FERRIOLI

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

CLOSED WORK SESSION ON HB 2208-A

RE-OPENED WORK SESSION ON SB 67

127 Sen. Minnis Expressed a parliamentary inquiry.

130 Sen. Minnis MOTION:

MOVES SB 67 TO THE SENATE FLOOR
WITH A DO PASS RECOMMENDATION.

136 Chair Ferrioli ORDER:

ROLL CALL VOTE: MOTION PASSES: 4 —
3 — 0

SENATORS VOTING AYE: GEORGE,
MINNIS, STARR, FERRIOLI

SENATORS VOTING NO: CASTILLO,
CORCORAN, L. BEYER

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

144 Chair Ferrioli Adjourned at 4:52 p.m.

Submitted by, Reviewed by,

Carol Phillips Kim Taylor James

Committee Assistant Revenue Office Manager

Exhibit Summary:

1. HB 2272-A, Waters, Staff Measure Summary, 1 pp.
2. HB 2272-A, Waters, Revenue Impact Statement, 2 pp.
3. HB 2272-A, Sen. T. Ferrioli, (-A2) amendments (DJ/ps) 6/6/01, 3 pp.
4. HB 2272-A, Legislative Counsel, (-A3) amendments (DJ/ps) 6/6/01, 5 pp.
5. HB 2272-A, Department of Revenue, HB 2272-A Summary, 12 pp.
6. SB 67, Waters, Amendment Comparison, 1 pp.
7. SB 67, Associated Oregon Industries, (-6) amendments (DJ/hm/ps) 5/16/01, 7 pp.
8. SB 2208-A, Martin-Mahar, Revenue Impact Statement, 1 pp.
9. HB 2208-A, Martin-Mahar, Revenue Impact Statement, 1 pp.
10. HB 2208, Martin-Mahar, Fiscal Impact Statement, 1 pp.
11. HB 2208-A, Rep. B. Witt, (-A16) amendments (DJ/ps) 6/6/01, 11 pp.
12. HB 2208-A, Rep. B. Witt, (-A17) amendments (DJ/ps) 6/6/01, 7 pp.
13. HB 2208, Yates, HB 2208-13 Revenue Impact, 3 pp.