

**PUBLIC HEARING: HB 2034, HJM 2,**

**HB 2753, HB 2811**

**TAPES 113, 114 A/B, 115 A**

## **HOUSE REVENUE COMMITTEE**

**APRIL 1, 1999 ñ 8:30 A.M. - HEARING ROOM A - STATE CAPITOL BUILDING**

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Members Present: Rep. Ken Strobeck, Chair

Rep. Anitra Rasmussen, Vice Chair

Rep. Deborah Kafoury

Rep. Jeff Merkley

Rep. Diane Rosenbaum

Rep. Lane Shetterly

Rep. Jim Welsh

Rep. Max Williams

Rep. Bill Witt

Staff: Paul Warner, Legislative Revenue Officer

Steve Meyer, Economist, Legislative Revenue Office

Ed Waters, Economist, Legislative Revenue Office

Richard Yates, Economist, Legislative Revenue Office

Barbara Guardino, Committee Assistant

Witnesses: Gary Carlson, Associated Oregon Industries

Joan Austin, A-Dec Inc.

Rep. Leslie Lewis, District 29

Susan Browning, Oregon Dept. of Revenue

Leonard Hamilton, Oregon Dept. of Revenue

Jim Manary, Oregon Dept. of Revenue

Laurie Wimmer, Oregon Education Association

Rep. Montgomery, District 56

Paul Donheffner, State Marine Board

Dave Tyler, Oregon Dept. of Transportation

Mazen Malik, Oregon Dept. of Transportation

**TAPE 113, SIDE A**

005 Chair Strobeck Called meeting to order at 8:39 a.m. Opened public hearing on HJM 2.

**PUBLIC HEARING n HJM 2**

012 Paul Warner Reviewed HJM2. Memorial urges Congress to eliminate federal gift and estate taxes. See Revenue Impact of Proposed Legislation (**EXHIBIT 1**).

020 Warner Commented on contents of packet entitled Estate and Gift Taxes.

081 Gary Carlson Spoke in support of the measure. See written testimony (**EXHIBIT 2**) verbatim. Also see booklet, An Everyday Burden To American Business: Federal Estate and Gift Taxes, National Association of Manufacturers (**EXHIBIT 3**). Describes effect of "death tax" on American economy. This tax destroys jobs and wealth. It is especially burdensome in Oregon because the economy is dependent heavily on small businesses.

114 Carlson Referred to Family Owned Business: Looking To The Future, a Publication of Associated Oregon Industries (**EXHIBIT 4**). Death tax is prominent in this publication.

Asked committee to "join the chorus of voices in Washington D.C. to remove the heavy burden placed upon family-owned businesses" by passing HJM 2.

146 Joan Austin Spoke in support of the memorial. Gave brief overview of A-Dec, a small company that manufactures dental chairs, other equipment in Newberg. Described how estate taxes devastate privately owned businesses like A-Dec. Gave brief history and overview of A-Dec.

A-Dec shares a significant portion of its profits with its employees. See Expand With Performer (**EXHIBIT 5**); also see The A-Dec Way (**EXHIBIT 6**).

209 Austin Future for A-Dec and its employers is uncertain due to federal estate and gift taxes. Seems unfair for anyone upon their death, to pay taxes once again for utilizing prudence with their resources. Mrs. Austin's family would like to continue to expand the company. Very questionable whether A-Dec will survive after she and her husband die, with a death tax rate of 55%. Upon their demise, corporate earnings will barely pay the interest on the

balance due the federal government.

- 255 Austin Company could go public, but emphasis would change to quarterly earnings and dividends to stockholders. Managers would leave; 950 families would lose their jobs.
- Asked for the opportunity to continue to invest and grow A-Dec, and to give employees confidence in their future. Anything lawmakers can do to convince Congress to eliminate these taxes will be of benefit to all.
- 300 Rep. Shetterly State and gift taxes have created a false economy of corporate entities in trusts and transactions that have no basis in economic reality other than to avoid taxes. Complicated trusts, etc. have no other economic purpose. Death is a false taxable event. This is not just an issue for business owners; it is for everyone. Will vote in favor of memorial. Volunteered to carry it.
- 344 Rep. Lewis Spoke in support of the memorial. This memorial is much needed, as well as any other efforts. Problems as stated by Mrs. Austin are true of her company as well as businesses all over Oregon. It is good to go public, even better to remain privately held. When it becomes time for private ownership to pass down to heirs, business owners can't do it.
- 391 Rep. Lewis In Europe, one thing that makes companies strong is that people can pass their businesses on to their heirs. This does not affect only business owners, but many who have created retirement accounts and paid taxes.
- 412 Rep. Williams Commended Mrs. Austin for sharing her story about her company, and for being a good corporate citizen.
- 424 Rep. Welsh Thanked Mrs. Austin for her testimony. His family is in its third generation of a business and wants to transfer ownership. This change would make a big difference.
- 445 Rep. Witt Has toured the Austinsí facility. Typically, this tax is makes the second or third time that the income is taxed. These taxes destroy businesses and jobs, and hurt the economy.

#### **TAPE 114, SIDE A**

- 040 Chair Strobeck Closed public hearing on JHM 2; opened public hearing on HB 2034.

#### **PUBLIC HEARING ñ HB 2034**

- 046 Ed Waters Reviewed HB 2034. Repeals "throwback rule" that includes certain sales in a multistate or multinational businessís Oregon sales factor in determining the portion of income that is taxable by Oregon. See Revenue Impact of Proposed Legislation (**EXHIBIT 7**). Throwback rule is a provision whereby certain sales to a jurisdiction that are not taxable

are thrown back to the state from which they were shipped.

067	Gary Carlson	<p>Spoke in support of the measure. See written testimony <b>(EXHIBIT 8)</b> paraphrased. Throw-Back Rule is a feature of Oregon's Corporate Income Tax code that throws back to Oregon certain sales to the U.S. Government, foreign sales, and sales into non-nexus state of the taxpayer.</p> <p>Theory behind rule is, in the apportionment process is that in the apportionment process for multi-state corporations, all income should be subjected to state taxation. Currently, only 23 states employ the rule.</p>
144	Chair Strobeck	<p>There is a proposal to change double weighting to a single weighting. Would that have any effect?</p>
148	Carlson	<p>Yes, for in-state manufacturers that would be a substantial and beneficial change.</p>
155	Rep. Merkley	<p>Is it true that the throw back rule affects only businesses of goods manufactured in Oregon? Follow-up questions.</p>
159	Carlson	<p>It affects any business that is conducting business in Oregon. Primary concern is in-state manufacturers who are burdened by this rule.</p>
187	Waters	<p>Clarified, single weighting of sales versus sales only weighting. Other proposals this session involve sales only weighting.</p>
219	Susan Browning	<p>HB 2034 represents a major policy change. Has created a packet (exhibits 9, 10, 11) of information. Packet addresses: How current tax treatment for multistate corporations works; how treatment would differ under HB 2034; also, what other states do.</p> <p>Directed members' attention to Allocation and Apportionment: General Formula <b>(EXHIBIT 9)</b>. Sales Factor.</p>
245	Browning	<p>Discussed 1999 Multistate Corporate Tax Guide <b>(EXHIBIT 10)</b>. Definition of throwback is on page I-541.</p> <p>"Taxable in Another State" Test</p> <p>Page I-542, "Jurisdiction to Tax" Test</p>
289	Browning	<p>Returned to exhibit 9, discussed Sales Factor, page 3, example throw back rule as applied to a company doing business in Oregon, Washington, and Idaho.</p>

- 355      Browning      Sales Factor, page 3: Distributing Taxable Income Among States.  
  
Directed members' attention to summary sheet, Sales Factor Treatment of Sales To A Destination State That Cannot Tax **(EXHIBIT 11)**.
- 388      Rep. Witt      Washington state has no income tax, but has business and occupation tax. If Oregon based business is subjected to business and occupation tax in Washington, are those sales thrown back into Oregon for corporate income tax purposes?
- 404      Leonard Hamilton      Washington's business and occupation tax would not throw back to Oregon.
- 414      Browning      Expressed uniformity concerns with HB 2034. The majority of states are using throw back rules; Dept. of Revenue would like to maintain that uniformity.  
  
"Nowhere sales" lead to income that is not taxable. See page I-546 of exhibit 10 discusses possibility that corporations can be paying no taxes in certain instances.
- 457      Rep. Merkley      Is it feasible for the reverse to occur, that a corporation can have more than 100% of its income taxed? Follow-up questions.
- 462      Browning      That can happen, it is a concern. Explained how this could occur.

**TAPE 113, SIDE B**

- 074      Jim Manary      The legislature added a provision to this law due to concern about companies being taxed on more than 100% of income. This could occur when more than one state counts the same sales. Bill states that any time another state picks up the same sales, Oregon will not pick them up.
- 098      Chair Strobeck      Committee will discuss again at a later date. Closed public hearing on HB 2034. Opened public hearing on HB 2753, local option.

**PUBLIC HEARING n HB 2753**

- 120      Steve Meyer      Discussed HB 2753-1 amendments replace entire original bill, **(EXHIBIT 12)**. In addition, this bill includes personal income tax portion of HB 2752. It also allows for a regional tax for school districts to form a region and have voters in the region pass a personal income tax so personal income tax rate would be the same in all school districts in the region. Requires Dept. of Revenue to act as administrator and collector of this tax.
- 134      Chair Strobeck      Requested amendments based on prior testimony and feedback about the broadness of proposals in HB 2752. Ability to have local option tax was eliminated under Measure 50. Referred to Revenue Impact of Proposed Legislation, March 12, exhibit 17.

166	Laurie Wimmer	Spoke in support of the measure on behalf of Oregon Education Association (OEA). Anything that helps school funding is important. Would welcome as broad a local option as possible.
182	Wimmer	Expressed concern with breadth issue ñ OEA wants local communities to be able to select the kind of revenue producer that is most appropriate for their area. Also, principle of equity needs to be considered. Warned against using local option as a back-fill. Timing of this bill is important with respect to current discussions on K-12 budget.
205	Chair Strobeck	Discussion during the 1995 session was how essential is a local option in getting local districts to point of meeting basic needs. 1997 session didn't discuss this issue. This session, local option seems to be a more popular alternative. Purpose to its use has changed.
248	Chair Strobeck	Would OEA oppose this concept if committee were to pass this bill out before school budget passage?
252	Wimmer	OEA would not oppose it.
272	Meyer	Reviewed HB 2753-1 amendments section-by-section.  Section 2: Definitions  Section 3: School district can enact a local option tax.  Discussion and questions interspersed.
335	Meyer	Section 4: Enactment procedure for school district  Section 5: Ballot title for election procedures  Section 6: Regional income tax
401	Meyer	Section 7: Defines what tax would apply to. Taxpayer must be a resident of the school district in which he is taxed.
425	Meyer	Section 8: Options limit  Discussion and questions interspersed.

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049	Meyer	<p>Section 8 (2): What happens if revenue raised is more than limit</p> <p>Section 9: School distribution formula</p> <p>Remainder of ñ1 amendments amend sections of statutes that address local option but would have to be converted to "property tax local option."</p>
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079	Chair Strobeck	Suspended public hearing on HB 2753. Opened public hearing on HB 2811.
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**PUBLIC HEARING ñ HB 2811**

088	Richard Yates	Gave brief background of HB 2811. Oregon has two taxes on fuel used to propel motor vehicles; when fuelís predominant use is for that purpose (gasoline); other major uses (diesel, natural gas, and propane). HB 2811 requires that the estimate of gasoline consumed by motor boats be based on a percentage of total motor vehicle fuel tax collections during the preceding fiscal year. See Staff Measure Summary ( <b>EXHIBIT 13</b> ).
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141	Yates	<p>Directed membersí attention to HB 2811-1 amendments (<b>EXHIBIT 14</b>).</p> <p>Directed membersí attention to HB 2811: Marine Board Fuel Tax chart (<b>EXHIBIT 15</b>).</p>
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158	Rep. Montgomery	Spoke in support of the measure. Sponsored HB 2811 at request of Oregon Parks Association (OPA). A motor boat gas tax is a major source of revenue for Parks projects. This bill establishes a fixed percentage rate for transfer of motor boat gas tax. Bill should settle disagreements between Oregon State Marine Board and Parks.
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181	Paul Donheffner	Spoke in support of the measure. See written testimony ( <b>EXHIBIT 16</b> ) paraphrased. Believes bill would put to rest an ongoing problem over agreeing on amount to be transferred to Parks from Marine Board.
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232	Donheffner	Directed membersí attention to Motorboat Gasoline as Percentage of Total Gasoline Gallons ( <b>EXHIBIT 17</b> ). Urged committee to support HB 2811.
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254	All	Questions and discussion concerning chart, HB 2811: Marine Board Fuel Tax (exhibit 15).
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321	Dave Tyler	Expressed concern about differences between marine Board and ODOT. Wants to resolve them, maintain stable funding for Marine Board programs. Also expressed concern about constitutional issues. Would like an opportunity to review survey before committee decides whether to move the bill.
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344	Mazen Malik	See Oregon Department of Transportation Annual Fuel Tax Revenue Transfer Final
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Report (**EXHIBIT 18**). Malik supervised this study. In the course of review of fuel tax transfers, examined recreational boating transfer. Judging from percentage (1.46%), this tax should be examined more carefully before placing a percentage into the statutes.

384 All Discussion and questions concerning report, methodology.

459 Donheffner Would be appropriate to revisit this percentage (1.46%) in future.

**TAPE 065, SIDE A**

037 Rep. Shetterly Suggested placing 8-10 year sunset on measure.

041 Chair Strobeck Suggested second amendment: Line 13 of bill, delete "estimate" and add "percentage". Suggested six-year review of bill.

069 Chair Strobeck Closed public hearing on HB 2811. Adjourned meeting at 10:30 a.m.

Submitted by, Reviewed by,

Barbara J. Guardino Kim T. James

Committee Assistant Revenue Office Manager

**Exhibit Summary:**

1. HJM 2, Warner, Revenue Impact of Proposed Legislation, 6 pp.
2. HJM 2, Carlson, Testimony Before House Revenue Committee on HJM 2, Associated Oregon Industries, 2 pp.
3. HJM 2, Carlson, An Everyday Burden to American Business: Federal Estate and Gift Taxes, National Association of Manufacturers (NAM), 12 pp.
4. HJM 2, Carlson, Family Owned Business: Looking To The Future, 40 pp.
5. HJM 2, Austin, Expand With Performer (A-Dec), 10 pp.
6. HJM 2, Austin, The A-Dec Way, 19 pp.
7. HB 2034, Waters, Revenue Impact of Proposed Legislation, 1 p.
8. HB 2034, Carlson, Testimony Before the House Revenue Committee on HB 2034, Associated Oregon Industries, 2 pp.
9. HB 2034, Browning, Allocation and Apportionment: General Formula, 3 pp.
10. HB 2034, Browning, 1999 Multistate Corporate Tax Guide, 12 pp.
11. HB 2034, Browning, Sales Factor Treatment of Sales To A Destination State That Cannot Tax, 1 p.
12. HB 2753, Proposed Amendments To House Bill 2753 (HB 2753-1), 37 pp.

13. HB 2811, Yates, Staff Measure Summary, 1 p.
14. HB 2811, Yates, Proposed Amendments to House Bill 2811 (HB 2811-1), 1 p.
15. HB 2811, Yates, HB 2811: Marine Board Fuel Tax, 1 p.
16. HB 2811, Donheffner, Testimony on HB 2811, Paul Donheffner, Director, State Marine Board, 2 pp.
17. HB 2811, Donheffner, Motorboat Gasoline as Percentage of Total Gasoline Gallons, 1 p.
18. HB 2811, Tyler, Oregon Department of Transportation, Annual Fuel Tax Revenue Transfer Final Report, 70 pp.