

HOUSE REVENUE COMMITTEE

MAY 26, 1999 - 8:15 A.M. - HEARING ROOM A - STATE CAPITOL BUILDING

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

Lizbeth Martin-Mahar, Economist, Legislative Revenue Office

Ed Waters, Economist, Legislative Revenue Office

Barbara Guardino, Committee Assistant

Witnesses: Rep. Floyd Prozanski, House District 40

Rep. Vicki Walker, House District 41

Rep. Roger Beyer, House District 28

Bob Muir, State Attorney General's Office

Kathy Thole, Citizen

Rob Douglas, Oregon Food Processors Council

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008 Chair Strobeck Called meeting to order at 8:25 a.m.

WORK SESSION ON HB 2817 A-ENG.

022 Rep. Floyd Prozanski Submitted the (-A5) amendment, as requested by the Committee. The (-A5) amendment would require certification of individuals removing heating oil tanks through the Department of Environmental Quality (DEQ). (Exhibit 1)

Spoke in support of the (-A6) amendment, which would provide a tax credit for clean up of contaminated soil due to leakage of a home heating oil tank and places a cap on the time for the credit to be used. The credit would be a declining percentage of cleanup costs, based on income. (Exhibit 2)

The revenue impact for the (-A6) amendment would be a General Fund reduction of \$2.3 million. (Exhibit 4)

076 Rep. Vicki Walker The (-A6) amendment also deletes the provision for removal of a tank and limits it to soil contamination clean up. (Exhibit 2)

097 Rep. Roger Beyer Spoke in support of the (-A7) amendment, which would eliminate the up-front \$500 deposit currently charged by DEQ. (Exhibit 3)

125 Rep. Witt Why is it appropriate to have the tax credit tied to the taxpayer's income?

132 Rep. Prozanski The potential revenue impact to the General Fund dictated limiting the tax credit in some way.

154 Rep. Merkley How do you explain shifting these costs, through a tax credit, to the general public?

167 Rep. Prozanski There is a potential health hazard to society at large, through contamination of ground water.

188 Rep. Merkley Asked if sponsors had explored the option of pumping tanks.

200	Rep. Prozanski	Would support a more proactive approach through the pumping of tanks, however tanks that are leaking need to be addressed in some manner.
219	Rep. Walker	A leaking tank is often not discovered until it is decommissioned; contamination of ground water is a problem that affects all Oregonians.
236	Vice Chair Rasmussen	Spoke to SB 542 and HB 3107 and concern that the amendments, particularly the (-A5 and -A7) amendment to HB 2817, might conflict with those bills.
264		Discussion and questions regarding status of SB 542 and HB 3107 and how they might interact with this measure.
305	Rep. Shetterly	Referenced language on lines 4-5 of the (-A7) amendment; discussed attorney fees vs. legal expenses and what is the intent of this language, (Page 2, Exhibit 3).
316	Rep. Prozanski	If the Attorney General needed to help recover fees it would allow for the recovery of those costs.
324	Rep. Shetterly	Spoke to how courts treat fees and expenses. Suggested that perhaps the Committee might want to consider a conceptual amendment to insert "fees".
348	Rep. Williams	Concurred with Rep. Shetterly's suggestion; recommended that if a conceptual amendment were adopted it should read "fees and expenses".
367	Chair Strobeck	Requested Mr. Muir response to whether the proposed language accomplishes the legislative intent.
373	Bob Muir	The terms are vague and could create arguments; providing a definition would remove doubt as to intent.
396	Rep. Prozanski	Would prefer that it read "fees and expenses"
405	Rep. Shetterly	MOTION: MOVED BY CONCEPTUAL AMENDMENT ON LINE 5 PAGE 2 OF THE (-A7) AMENDMENT TO HB 2817, DELETE EXPENSES AND INSERT FEES AND COSTS. HEARING NO OBJECTION, THE CHAIR SO ORDERED.

449 Rep. Merkley MOTION: MOVED (-A7) AMENDMENT TO HB 2817, AS CONCEPTUALLY AMENDED, BE ADOPTED.

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022 Vice Chair Rasmussen Objected.

023 VOTE ONE OBJECTION TO ADOPTION OF THE (-A7) AMENDMENT NOTED FOR THE RECORD (VICE CHAIR RASMUSSEN), HEARING NO FURTHER OBJECTION, THE CHAIR SO ORDERED.

025 Chair Strobeck MOTION: MOVED (-A6) AMENDMENT TO HB 2817 BE ADOPTED.

026 Rep. Witt Objected.

027 VOTE ONE OBJECTION TO ADOPTION OF THE (-A6) AMENDMENT NOTED FOR THE RECORD (REP. WITT), HEARING NO FURTHER OBJECTION, THE CHAIR SO ORDERED.

028 Chair Strobeck MOTION: MOVED (-A5) AMENDMENT TO (MEASURE) BE ADOPTED. HEARING NO OBJECTION, THE CHAIR SO ORDERED.

030 Rep. Merkley MOTION: MOVED HB 2817 A-ENGROSSED TO THE HOUSE FLOOR WITH A DO PASS AS AMENDED RECOMMENDATION AND BE REFERRED TO COMMITTEE ON WAYS AND MEANS.

032 Chair Strobeck Why the referral to Ways and Means?

033 Rep. Merkley This measure should be reviewed along side HB 3107 and it also provides the opportunity for DEQ to respond to the current procedure and the (-A7) amendment, (Exhibit 3).

045 Discussion and questions regarding the motion to refer measure to Ways and Means Committee.

120 VOTE ROLL CALL VOTE: MOTION PASSES 6-3-0

REPRESENTATIVES VOTING AYE: Kafoury, Merkley, Rosenbaum, Welsh, Witt, Rasmussen

REPRESENTATIVES VOTING NAY: Shetterly, Williams, Chair Strobeck

123	VOTE EXPLANATIONS	Rep. Shetterly, Rep. Williams and Chair Strobeck noted for the record that the no vote was in opposition to the referral, not the measure.
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WORK SESSION ON SB 245

141	Bob Muir	Summarized history and the Oklahoma Supreme Court decision, which moves away from the terminology of "reservations". The Department of Revenue requested that the statute be simplified. The measure has three objectives:
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1. Change the terminology from "reservations" to "Indian country".
2. Clarify that personal property within the tribal trust lands is exempt.
3. Simplification of the statute.

175	Muir	Simplification of the statute is complicated by a specific series of federal statutes from 1887-1934 that allowed for allotment of Indian lands, which were freely alienable, to be subject to taxation after being held in trust for 25 years.
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211	Chair Strobeck	Referenced May 12 letter from Department of Justice; requested further comment on the meaning of "Indian country". (Exhibit 8)
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214	Muir	The Supreme Court has changed the expression, but has not provided a definition. The Court's opinion is firm that the exemption is not to apply simply to formal reservations, but to all trust lands. Two descriptions are given as to what is meant by Indian country, as stated in the letter, (Page 2, Exhibit 8).
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243	Chair Strobeck	Does the bill provide clarity for county assessors?
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245	Muir	No, clarity has not been achieved.
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255	Chair Strobeck	Referenced lines 5-8 of the measure; the language seems redundant.
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263	Muir	It is circular; for clarity it could be read "The real and personal property that is located in federally recognized Indian country, of Indians residing upon federally recognized Indian country."
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288		Discussion and questions as to interpretation of lines 5-8 of the measure.
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316	Chair Strobeck	What affect does this measure have on private property owned by non-Indians that is now within the borders of an Indian reservation?
318	Muir	I donit see that this would address the parcels of non-Indian land that are isolated within reservations or other Indian country.
328	Chair Strobeck	What would be the potential of interference from tribes if a non-Indian should choose to sell property within the borders of an Indian reservation?
331	Muir	The measure would not take away from the current ability that exists.
340	Lizbeth Martin-Mahar	<p>Discussed Supreme Court decisions referenced by the Tholeis previously (May 4 hearing):</p> <ol style="list-style-type: none"> 1. County of Yakima v. Confederated Tribes and Bands of Yakima Indian. (Exhibit 5) 2. Cass County, Minnesota v. Leech Lake Band of Chippewa Indians. (Exhibit 6) <p>My interpretation of these cases deals with only taxation of the land, not personal property. Requested clarification from Mr. Muir.</p>
376	Muir	Spoke to the general rules that apply in situations.
388	Rep. Witt	Does SB 245 go beyond what is required by federal law in terms of the tax exempt status of this property, and if so to what extent and how?
392	Muir	Yes it goes beyond what is required by federal law. Federal law allows for freely alienable land, allotted to the Indians from 1887-1934, to be subject to state taxation. Lands that are tax exempt cannot be enlarged later by acquisition.
430	Rep. Witt	What is the public policy reason for going beyond federal law, in terms of declaring this property tax exempt?
433	Muir	The Department of Revenue stated that tax assessors do not have the staff or competence to make the individual property determinations with respect to the parcels that were conveyed to the Indians from 1887-1934.
454	Chair Strobeck	Referenced lines 5-8 of the printed bill and discussed his interpretation of that language.

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030	Rep. Shetterly	Agreed that two tests are required in determining if property is subject to tax: 1. An Indian who resides off of federally recognized Indian country, but owns real property that is located within Indian country, or 2. Owns personal property located on Indian country. The question is does that help the assessor.
044	Rep. Witt	Is there a revenue impact?
045	Martin-Mahar	No, counties are not assessing these properties.
048	Rep. Witt	Is there a revenue impact for what would be collected if assessors were taxing the land subject to tax under current law?
049	Martin-Mahar	No.
056	Kathy Thole	Spoke in opposition to the measure and proposed an amendment. (Exhibit 7)
125	Thole	Continued with testimony in opposition to measure and support of the proposed amendment, (Page 1, Line 14-16, Exhibit 7).
171	Rep. Merkley	The concern is that the tribe may tax your land, but I don't see that this piece of legislation addresses that issue.
178	Thole	The bill would establish the term " federally recognized Indian country", which would allow for taxation of our land. Tribes are already evicting non-Indians on Indian land all over the United States.
230	Chair Strobeck	Asked Mr. Muir to more precisely define language to eliminate ambiguity.
239	Muir	Oregon will be subject to federal law and would not be harmed if this legislation does not pass. Mrs. Thole is correct about her concern with identification of "Indian country". The U.S. Supreme Court said in the Oklahoma case that the land in question was not reservation land. Oregon will have to face this issue on a parcel-by-parcel basis.
273	Jim Manary	Suggested language stating "the property of Indians shall be exempt as required by federal

law". The Department of Revenue was simply attempting to clean up the statute.

PUBLIC HEARING ON HB 2625

307 No testimony presented.

WORK SESSION ON HB 2625

314 Lizbeth Martin-Mahar Reviewed questions surrounding interpretation of current law. (Exhibit 9)

Discussed revenue impact statement. (Exhibit 10)

424 Martin-Mahar Reviewed 1999 Department of Revenue County Survey ñ Emphasis on Winery Industry. Ambiguity in whether personal property should also be exempt. (Exhibit 11)

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068 Rob Douglas This doesn't have much revenue impact; it's unclear why there is a problem.

044 Chair Strobeck The bill does not change any tax issue on the land; it only allows the size of structure to be taxable, correct?

047 Douglas Correct.

057 Rep. Rosenbaum Concerned with ambiguity, unclear language could be challenged.

064 Martin-Mahar Has heard different opinions from attorneys.

076 Gil Riddell Association of Oregon Counties (AOC) is concerned about the policy implications concerning exemption of processing equipment. AOC's concern becomes moot, as long as legislative intent concerning revenue issue is clear that the measure is to limit it to the land under the building.

092 Chair Strobeck Questioned the Committee as to whether the intent is to exempt personal property and deal

only with the land.

- 095 Rep. Shetterly Will vote to move the bill to the floor, but reserved the right to vote against it on the floor if concerns aren't resolved by the time it comes up for a vote.
- 105 Rep. Welsh MOTION: MOVED HB 2625 TO THE HOUSE FLOOR WITH A DO PASS RECOMMENDATION.
- 107 Rep. Merkley Will oppose bill because it removes "good neighbor" provisions.
- 116 VOTE ROLL CALL VOTE: MOTION PASSES 7-2-0
- REPRESENTATIVES VOTING AYE: Kafoury, Rosenbaum, Shetterly, Welsh, Williams, Witt, Chair Strobeck
- REPRESENTATIVES VOTING NAY: Merkley, Rasmussen
- Rep. Welsh will carry the bill.
- 124 Chair Strobeck Meeting adjourned at 10:00 a.m.

Submitted by, Reviewed by,

Joan Green Kim T. James

Committee Assistant Revenue Office Manager

Exhibit Summary:

1. HB 2817, Walker, (-A5) amendment, (DJ/ps) 05/24/99, 1 page
2. HB 2817, Walker, (-A6) amendment, (DJ/bjm/ps) 05/26/99, 2 pages
3. HB 2817, Beyer, (-A7) amendment, (DJ/bjm/ps) 05/25/99, 3 pages
4. HB 2817, Waters, HB 2817 (ñA6) Revenue impact statement, 1 page
5. SB 245, Martin-Mahar, County of Yakima v. Confederated Tribes and Bands of Yakima Indians Court Case, 14 pages
6. SB 245, Martin-Mahar, Cass County Minn. v. Leech Lake Band of Chippewa Indians Court Case, 8 pages
7. SB 245, Thole, Hand-engrossed amendment, 1 page
8. SB 245, Manary, Letter from Department of Justice, 2 pages
9. HB 2625, Martin-Mahar, Flow chart and statute, 7 pages
10. HB 2625, Martin-Mahar, Revenue impact statement, 2 pages
11. HB 2625, Department of Revenue survey, 1 page