

HOUSE REVENUE COMMITTEE

JULY 16, 1999 ñ 9:00 A.M. - HEARING ROOM A - STATE CAPITOL BUILDING

Members Present: Rep. Ken Strobeck, Chair

Rep. Deborah Kafoury

Rep. Diane Rosenbaum

Rep. Jim Welsh

Members Absent: Rep. Anitra Rasmussen, Vice Chair

Rep. Jeff Merkley

Rep. Lane Shetterly

Rep. Max Williams

Rep. Bill Witt

Staff: Paul Warner, Legislative Revenue Officer

Lizbeth Martin-Mahar, Economist, Legislative Revenue Office

Joan Green, Committee Assistant

Invited Witnesses: Rep. Susan Morgan, House District 46

Robert Manicke, Stoel Rives Attorneys

Craig Hanneman, Willamette Industries

Arthur Fish, Oregon Economic and Community Development Department

Jim Manary, Department of Revenue

TAPE 222, SIDE A

005 Chair Strobeck Meeting called to order at 9:05 p.m. as a subcommittee. Full committee convened at 9:06 a.m. with arrival of Rep. Merkley.

WORK SESSION ON SB 245 A-ENG.

010 Lizbeth Martin-Mahar The (-A3) amendment contains HB 2248 B-Eng., which revises laws relating to tax exemptions available to qualified businesses in enterprise zones. (Exhibit 1)

Reviewed the sections of the (-A3) amendment that were not present in HB 2248 B-Eng., beginning with §3(5). (Exhibit 2)

053 Rep. Merkley Which line in the (-A3) amendment would change current law to stipulate that to continue to receive the property tax exemption Oregon law is the law to be complied with?

054 Martin-Mahar Section 3(a) would address the issue involved in the Hyundai case. (Exhibit 2)

061 Rep. Merkley "Does that change the actual impact of the concerns that have been raised over Hyundai complaints?"

062 Martin-Mahar "Those complaints were filed due to California state law." Recounts her understanding of the case. By changing the word "state" to "Oregon" on lines 16-17, page 4 of the (-A3) amendment that particular concern would be eliminated. (Exhibit 2)

070 Chair Strobeck The term "state" is being interpreted to mean any state and not a particular state?

071 Martin-Mahar Concurred.

072 Chair Strobeck Request staff briefs the Committee on what happened to HB 2248.

074	Martin-Mahar	The Senate added an amendment that allowed a health care facility to receive an exemption in a zone that had already terminated. The (-A3) amendment is more in keeping with the B-Eng. version passed out of House Revenue. (Exhibit 2)
081	Chair Strobeck	The conference committee could not come to agreement on HB 2248 and so we are using SB 245 as a vehicle?
082	Martin-Mahar	Concurred.
084	Rep. Susan Morgan	Distributed the House Revenue Committee staff measure summary for HB 2248 B-Eng. Spoke in support of the (-A3) amendment, which would provide 150 family wage jobs to her community. (Exhibits 2-3)
105	Rep. Rosenbaum	What is the history of HB 2248 B-Eng.?
106	Chair Strobeck	Reviewed the history of HB 2248; SB 245 is being used as the vehicle for the B-Eng. version of HB 2248, with the changes made by the (-A3) amendment.
116	Rep. Morgan	Noted that HB 2248 B-Eng. had some very specific amendments to the enterprise zone legislation that were tailored to very specific situations. With that in mind, SB 245 could make a big difference to a number of areas in the State.
121	Rep. Merkley	Where in the (-A3) amendment is the language pertaining to Riddle? (Exhibit 2)
124	Rep. Morgan	Uncertain, perhaps staff could respond.
125	Rep. Merkley	Was the Riddle language part of the original version of HB 2248?
126	Rep. Morgan	The Riddle language was a part of the original package; the conference committee amendments modified the Roseburg Forest Products piece. The specific language in the (-A3) amendment that refers to Riddle would be in the part allowing aggregation between different enterprise zones. (Exhibit 2)
134	Rep. Merkley	How does the aggregation language allow for the Riddle situation?

141	Robert Manicke	HB 2248 allowed aggregation when a company builds a facility that qualifies under the \$50 million, 100 employee test and then within a specified time period builds another facility that does not satisfy the above test. The key, under the bill, is that the second facility must be built within a specified time period.
165	Rep. Merkley	Where exactly in the (-A3) amendment is that language located? (Exhibit 2)
167	Martin-Mahar	The language can be found in B17(a) and (b) of the (-A3) amendment, (Page 28, Exhibit 2).
188	Chair Strobeck	Is that the same language as was in HB 2248?
189	Martin-Mahar	Yes, as part of the B-Eng. version of HB 2248.
194	Chair Strobeck	Requests Mr. Fish's comments on (-A3 and -A4) amendments. (Exhibits 2 and 6)
199	Rep. Rosenbaum	Requested that the Department of Revenue also speak to the (-A3 and -A4) amendments. (Exhibits 2 and 6)
202	Arthur Fish	<p>The (-A3) amendment is a clear reiteration of HB 2248 B-Eng. (Exhibit 2)</p> <p>"I am not sure that the (-A4) amendment will achieve all of the purposes that the (-A3) were met to address." (Exhibit 6)</p>
216	Craig Hanneman	Spoke in support of the (-A3) amendments; it could be tightened further, if the Committee wished. (Exhibits 2 and 4)
252	Fish	Concurred with Mr. Hanneman's comments. If the Committee would be happier with a more limited version Mr. Hanneman has some proposed language.
263	Chair Strobeck	"I am comfortable with the (-A3) amendment." Requested Mr. Hanneman's response to the (-A4) amendment.
266	Hanneman	"I don't believe the (-A4) amendment works, some changes were made that create a problem." (Exhibit 6)

273	Jim Manary	"The Department of Revenue is comfortable with the (-A3) amendment and is unaware of the problem with the (-A4) amendment; it must be very specific." (Exhibits 2 and 6)
280	Rep. Merkley	Requested Mr. Hanneman expand on the concern with the (-A4) amendment. (Exhibit 6)
284	Hanneman	"It is my understanding that the existing laminating veneer lumber plant application, which was approved, would be put in jeopardy."

Language in the (-A3) amendment, (Exhibit 2), could be tightened as follows:

On page 2, line 31 delete \$5 and insert \$25. On page 6, after line 19 add section 3c, which says ORS 285B.701(5) applies only to a business firm applying on or before January 1, 1999.

308	Chair Strobeck	That would tighten it both by dollar amount and date of application?
309	Hanneman	Concurred.
314	Chair Strobeck	MOTION: MOVED BY CONCEPTUAL AMENDMENT INTO THE (-A3) AMENDMENT THAT ON LINE 31, PAGE 2 DELETE \$5 AND INSERT \$25 AND AFTER LINE 19, PAGE 6 INSERT SECTION 3C, WITH THE LANGUAGE ORS 285B.701(5) APPLIES ONLY TO A BUSINESS FIRM APPLYING ON OR BEFORE JANUARY 1, 1999. HEARING NO OBJECTION, THE CHAIR SO ORDERED.
332	Chair Strobeck	MOTION: MOVED (-A3) AMENDMENT TO SB 245 A-ENG. BE ADOPTED. HEARING NO OBJECTION, THE CHAIR SO ORDERED.
334	Chair Strobeck	MOTION: MOVED SB 245 A-ENG., AS AMENDED, TO THE HOUSE FLOOR WITH A DO PASS AS AMENDED RECOMMENDATION.
337	VOTE	<p>ROLL CALL VOTE: MOTION PASSED 7-0-2</p> <p>REPRESENTATIVES VOTING AYE: Kafoury, Merkley, Rosenbaum, Shetterly, Welsh, Witt, Chair Strobeck</p> <p>REPRESENTATIVES EXCUSED: Williams, Vice Chair Rasmussen</p> <p>Rep. Shetterly will carry the bill.</p>

Submitted by, Reviewed by,

Joan Green Kim T. James

Committee Assistant Revenue Office Manager

Exhibit Summary:

1. SB 245, Martin-Mahar, SB 245-A3 staff measure summary and revenue impact statement, 6 pages
2. SB 245, Martin-Mahar, (-A3) amendment, (DJ/ps) 07/15/99, 32 pages
3. SB 245, Rep. Morgan, House Revenue staff measure summary and House Floor roll call sheet dated June 3, 1999 for HB 2248 B-Eng., 3 pages
4. SB 245, Hanneman, Written testimony, 1 page
5. SB 245, Martin-Mahar, SB 245-A4 revenue impact statement, 2 pages
6. SB 245, Martin-Mahar, (-A4) amendment, (DJ/ps) 07/16/99, 2 pages

HOUSE REVENUE COMMITTEE

JULY 16, 1999 - 5:00 P.M. - HEARING ROOM A - STATE CAPITOL BUILDING

Members Present: Rep. Ken Strobeck, Chair

Rep. Deborah Kafoury

Rep. Jeff Merkley

Rep. Diane Rosenbaum

Rep. Lane Shetterly

Rep. Jim Welsh

Rep. Max Williams

Rep. Bill Witt

Members Absent: Rep. Anitra Rasmussen, Vice Chair

Staff: Paul Warner, Legislative Revenue Officer

Lizbeth Martin-Mahar, Economist, Legislative Revenue Office

Joan Green, Committee Assistant

Invited Witnesses: Dexter Johnson, Legislative Counsel

Bill Linden, Oregon Historic Property Association

John Tess, Oregon Historic Property Association

Jim Lockwood, Oregon Parks and Recreation Department

TAPE 223, SIDE A

002 Chair Strobeck Meeting called to order at 5:50 p.m.

WORK SESSION ON SB 497

003 Lizbeth Martin-Mahar Referenced handout titled *Key Issues with SB 497*. (Exhibit 3)

The (-12) amendment would remove the aquatec portion of SB 497 and would replace it with language relating to historical property. (Exhibits 1 and 3)

Reviewed the (-13) amendment section by section, beginning with β1. (Exhibits 2-3)

037 Chair Strobeck What are the changes from the earlier amendment that was discussed July 10? (Reference July 10 meeting, Exhibits 8-9)

039 Martin-Mahar The (-13) amendment is different; the July 10 amendments did not have how economic value would be specified. Continued with review of (-13) amendment, beginning with β4. Noted confusion as to what β4 will do and discussed her concerns. Questioned whether the frozen value would be the original frozen value of 15 years ago or is it a new recalculated frozen value based on the assessed value on that year in which reapplication is made. (Exhibits 2-3)

If it is the original frozen value that is a change from current policy it will cause a large tax impact. (Exhibit 5)

063 Martin-Mahar Continued with review of (-13) amendment, beginning with β5. (Exhibits 2-3)

075 Martin-Mahar The (-12) amendment deals with the treatment of new property. Reviewed current law vs. the (-12) amendment. (Exhibits 1 and 3)

103 Chair Strobeck Since the (-12) and (-13) amendments amend the same section of the printed bill, is it possible to adopt both or do they stand alone?

107 Martin-Mahar Both of the amendments could be adopted or they could each stand alone.

111 Bill Linden Spoke in support of the (-12) and (-13) amendments. (Exhibits 1-2)

Sections 4-5 of the (-13) amendment are clarifying amendments and were not requested at the July 10 meeting, (Pages 6-9, Exhibit 2).

The (-12) amendment was in response to city concerns, as it related to new construction. (Exhibits 1)

Both the City of Portland and the League of Oregon Cities have indicated that they are neutral on the bill with the adoption of these amendments.

148 Rep. Witt Reference B3, lines 21-24 of the (-13) amendment; is that cost an annual property tax, (Page 5, Exhibit 2)?

156 Linden Explained how the projection would be made, as outlined in (b) in B3 of the (-13) amendment, (Page 5, Exhibit 2).

168 Rep. Witt If the tax benefit over 15 years was \$100,000 then the conditions that are required could not exceed \$200,000?

171 Linden Concurred.

173 Rep. Rosenbaum What is the revenue impact?

174 Martin-Mahar Referenced the revenue impacts for the amendments. The (-13) amendment, which has the biggest change in allowing commercial properties to have the frozen value for 30 years. The revenue impact would be about \$100,000 in tax; did not have the opportunity to do runs for commercial properties that would reapply on the roll. (Exhibits 4-5)

193 Linden The 30 year issue is a result of the court issue, not of the (-13) amendment. (Exhibit 2)

196 Martin-Mahar Clarified that is not the way it was calculated in 1998-99 and would be a change from how it was calculated last year, the court case notwithstanding.

203	Rep. Rosenbaum	"Mr. Linden, is the legislature being asked to codify what that court case has already dictated the law as being?"
206	Linden	Only in terms of B4-5 of the (-13) amendments, which codify and clarify the Tax Court January ruling, (Pages 6-9, Exhibit 2).
216	Dexter Johnson	Reviews the tax court case and what the basis of the decision was. "When Measure 50 was implemented some ambiguity arose and this language would remove that. If the desire of the body were to have the value go up in the second 15-year period then the language would need to be changed. The purpose was to clarify the language in conformance with the Tax Court Decision."
239	Rep. Witt	Is it current practice that when the first 15 years expires that the property value is set and frozen for an additional 15 years at the time of the new application being filed and approved?
246	Johnson	"If one remains in the program, without a gap where one is assessed regularly, then current practice from 1995 forward is that the frozen value from the first 15 year period is carried forward to the second 15 year period."
261	Rep. Witt	The property would be set at the frozen value for over 30 years?
262	Johnson	Concurred.
265	Rep. Merkley	Referenced the (-13) amendment, B3, line 22; is the projected value of the property taxes based on the 15 or 30 year period, (Page 5, Exhibit 2)?
270	Johnson	It would be the 15-year period; that is the period that classification can be applied for at any one time. Commercial property can apply for an additional 15 years.
277	Rep. Merkley	Is additional work required for the second 15 years?
278	Johnson	Reapplication is required.
278	Rep. Merkley	Referenced the (-12) amendment, B2, why does this fall outside of the normal framework of the law? Why are special exceptions needed in statute for two properties,

(Exhibit 1)?

- 285 John Tess Described situations that normally occur in new construction on commercial property and to comply with requirements an allotted portion of the square footage is moved to another part of the building. This section states that the person would not be taxed for moving that allotted square footage to be in compliance. However, additional square footage over and above that allotted square footage would be taxed at the new value.
- For various reasons residential buildings have been demolished because it was not economically feasible to proceed with the project. The additional square footage that is needed to make a project economically feasible is very limited. The law is about saving historic properties and the (-12) amendment was meant to give additional incentives, while preserving the historic buildings and streetscape. (Exhibit 1)
- 328 Rep. Merkley Requested clarification. "Is new construction done somewhere else, as it relates to the 20,000 square feet taken out of the building?"
- 330 Tess It is on the building, generally on top of it.
- 332 Rep. Merkley This is residential area?
- 332 Tess This would be commercial.
- 333 Rep. Merkley Essentially the same tax break that is established for the historic building would be established to new construction on the roof that is outside of the old framework?
- 336 Tess It would be outside of the old framework, but it would not be increasing the square footage of what was started with.
- 340 Rep. Merkley That is the exception in B2, lines 4-5 for the historic residential property, (Page 3, Exhibit 1)?
- 343 Tess The historic residential would actually receive some tax break for the additional housing that was added.
- 345 Rep. Merkley Which two specific properties are these for?

346	Tess	Both buildings are in the Pearl District; they are the Chawn Pella Building and the Cold Storage Building.
354	Rep. Merkley	What is the reason for B2, (2) on new construction completed on historic commercial property, (Page 3, Exhibit 1)?
359	Tess	<p>Leaving old buildings standing in areas where taller buildings can be built often is not prudent because of seismic codes and other issues. The language is designed to give an enhancement for the small amount of construction that might be allowed on the top floor, which would be housing. This would accomplish two goals:</p> <ol style="list-style-type: none"> 1. It would promote housing in downtown areas. 2. It would help preserve historic buildings.
378	Rep. Merkley	Would these provisions, in any way, allow one to take a deduction on a building and essentially sit on it as investment property?
389	Linden	Referenced B1, (f) of the (-13) amendments, which contains language providing safeguards against the suggested scenario. A preservation plan that contains three components (maintenance, preservation and rehabilitation) must be prepared, submitted and approved, (Page 2, Exhibit 2).
411	Tess	Definitions that are used for preservation and rehabilitation come from the same source that the Preservation Office uses to define the maintenance portion of it. Building can and have been taken off of the special assessment for maintenance.
429	Rep. Witt	Referenced B1 of the (-13) revenue impact, "I understand that B1 of the (-13) amendment allows participation in this program for property owners who are already under some other sort of special assessment. Doesn't this allow property owners to get two special breaks on the same property, (Exhibit 5)?"

TAPE 224, SIDE A

020	Martin-Mahar	Correct, the State Historical Office and I both interpret the language in B1(1)(c), lines 12-14 of the (-13) amendment to allow a property that is under another special assessment to also qualify under this special assessment, (Page 1, Exhibit 2).
030	Johnson	"As I interpret that language it is meant to really reflect the fact that when one reapplies for the second period of historic assessment that is a special assessment program. ORS 308.146 is the general rule for property that is not subject to any special assessment program. If you are going to have the historic value from the first

period be the frozen value for the second period something is needed to make it clear that the regular assessed value is not being used."

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| 040 | Martin-Mahar | "I have not had an opportunity to talk with Mr. Johnson about his interpretation of this particular section." |
| 043 | Chair Strobeck | "I would draw the same conclusion as Mr. Johnson. Frozen value is being determined under the historic provision or one of the other provisions. I see it as an either or situation." |
| 049 | Linden | The intent was not to allow a property owner two special breaks on the same piece of property. |
| 049 | Chair Strobeck | Noted for the record that the intent is to allow an either or situation; not double dipping on two different special assessments. |
| 051 | Rep. Williams | MOTION: MOVED (-12) AMENDMENT TO SB 497 BE ADOPTED. |
| 055 | Rep. Merkley | Can someone from the Historic Office speak to this? |
| 062 | Jim Lockwood | Noted that although he is from the Oregon Parks and Recreation Department he does not represent the State Historic Preservation Office. "The Deputy of the State Historic Preservation Office has had some serious concerns about some of the provisions of the bill and the integrity of the preservation program. I am not technically skilled enough to specifically to the concerns." |
| 081 | Chair Strobeck | What is the mission of the State Historic Preservation Office? |
| 082 | Lockwood | The State Historic Preservation Office administers all aspects of this program. |
| 094 | Chair Strobeck | Is there anything in the amendments that would change the requirements for submission of a plan, etc. that would conflict with the mission of the State Historic Preservation Office? |
| 098 | Lockwood | I can't speak to that specifically. |

099	Rep. Kafoury	Doesn't a property owner have to apply through the State Historic Preservation Office to receive this assessment and would anything in the amendments change that application process?
101	Lockwood	Concurred and stated that the application is still required; the amendments place a cap on improvements; referenced lines 25-27 of the (-13) amendment, (Page 5, Exhibit 2).
114	VOTE	REP. WITT OBJECTED TO ADOPTION OF THE (-12) AMENDMENT, HEARING NO FURTHER OBJECTION, THE CHAIR SO ORDERED. (EXCUSED: VICE CHAIR RASMUSSEN)
116	Rep. Williams	MOTION: MOVED (-13) AMENDMENT TO SB 497 BE ADOPTED.
117	VOTE	REP. WITT OBJECTED, HEARING NO FURTHER OBJECTION, THE CHAIR SO ORDERED. (EXCUSED: VICE CHAIR RASMUSSEN)
121	Rep. Williams	MOTION: MOVED SB 497, AS AMENDED, TO THE HOUSE FLOOR WITH A DO PASS AS AMENDED RECOMMENDATION.
124	VOTE	<p>ROLL CALL VOTE: MOTION PASSED 7-1-1</p> <p>REPRESENTATIVES VOTING AYE: Kafoury, Merkley, Rosenbaum, Shetterly, Welsh, Williams, Chair Strobeck</p> <p>REPRESENTATIVES VOTING NAY: Witt</p> <p>REPRESENTATIVES EXCUSED: Vice Chair Rasmussen</p> <p>Rep. Williams will carry the bill.</p>
135	Chair Strobeck	Meeting adjourned at 6:27 p.m.

Submitted by, Reviewed by,

Joan Green Kim T. James

Committee Assistant Revenue Office Manager

Exhibit Summary:

1. SB 497, Linden, (-12) amendment, (DJ/ps) 07/16/99, 3 pages
2. SB 497, Linden, (-13) amendment, (DJ/ps) 07/16/99, 9 pages
3. SB 497, Martin-Mahar, Handout on key issues of (-12 and ñ13) amendments, 2 pages
4. SB 497, Martin-Mahar, SB 497-12 Revenue impact statement, 1 page
5. SB 497, Martin-Mahar, SB 497-13 Revenue impact statement, 2 pages