

**PUBLIC HEARING AND WORK SESSION: SB 495, SB 497**

**PUBLIC HEARING: SB 496**

**TAPES 066 A/B**

**067 A**

## **SENATE REVENUE COMMITTEE**

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**MARCH 17, 1999 - 3:00 P.M. - HEARING ROOM A - STATE CAPITOL BUILDING**

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Members Present: Senator Randy Miller, Chair

Senator Thomas Wilde, Vice Chair

Senator Lee Beyer

Senator Tom Hartung

Senator Charles Starr

Staff: Paul Warner, Legislative Revenue Officer

Lizbeth Martin-Mahar, Economist, Legislative Revenue Office

Ed Waters, Economist, Legislative Revenue Office

Joan Green, Committee Assistant

Witnesses: Senator Bill Fisher, District 23

Susan Browning, Department of Revenue

Gil Riddell, Association of Oregon Counties

Dean Bloemendaal, Tax Consultant

Ed Collins, Citizen

Debra Buchanan, Department of Revenue

**TAPE 066, SIDE A**

005 Sen. Hartung Meeting called to order at 3:14 p.m. as a subcommittee for purposes of hearing.

Full committee convened at 3:20 p.m.

**PUBLIC HEARING ON SB 495 AND SB 496**

011 Ed Waters Described SB 495, which amends the appeals procedures applying to certain late filers and certain non-filers.

034 Sen. Fischer Spoke in support of the measure.

050 Dean Bloemendaal Presented testimony in support of measure. (Exhibit 5)

146 Ed Collins Concurred with Mr. Bloemendaal's comments regarding the case.

160 Sen. Fisher Noted that Oregon Administrative Rules are being quoted not Oregon Revised Statutes. Read Kennedy letter into the record, (Exhibit 2) read Thornburg letter into the record, (Exhibit 3) and submitted written testimony from Marilyn Johnston. (Exhibit 4)

218 Susan Browning Explained the Oregon Department of Revenue's current appeal process. (Exhibit 6)

311 Vice Chair Wilde Why does the Department of Revenue assess the tax as a single taxpayer filing when a pattern has been established that the filing was joint?

313 Debra Buchanan The married, filing joint is an election that must be made by both taxpayers when a return is filed.

318 Vice Chair Wilde Discussed the Collins case. Some opportunity is afforded, but not a complete opportunity because the window of opportunity has been missed and in effect the filer is penalized.

336 Browning Discussed "doubtful liability" and now it is applied; the Department is in agreement.

The intent in dealing with tax non-filers is to get them into the system and not make it punitive or difficult to file and pay. Continued with testimony, (Page 4, Exhibit 6).

400      Browning                      Continued with testimony and doubtful liability, (Page 1, Exhibit 6).

**TAPE 067, SIDE A**

022      Browning                      Continued with testimony and discussed administrative rule, (Page 5, Exhibit 6).

044      Vice Chair Wilde              Spoke to the Collins case and ORS 305.295. Stated that if the Director saw fit to cancel the penalty under ORS 305.295 didn't that admit acceptance that the case fell under rule and, therefore the interest could also have been dropped?

065      Browning                      Referenced SB 496, §1, prior to doubtful liability (d) did not exist. DOR saw doubtful liability as a tool to get the taxpayer into the system. Discussed the rule writing process undertaken by the Department to meet the legislative intent.

102      Vice Chair Wilde              Referenced the Department's rule, which clearly lump together the ability to deal with the tax, penalty or interest. The District Director eliminated the penalty, but not the interest or the tax when the person clearly showed neither the tax nor interest was owed. This is troubling.

123      Browning                      Referenced Mr. Bloemendaal's testimony, as it relates to the rule; I don't have the specifics of the case.

132      Vice Chair Wilde              The tax was assessed on an activity that took place, the interest is assessed to the amount owed, and therefore it could be argued the interest is not a tax, but separate from a tax. Shouldn't the interest be refunded as well, under that argument?

140      Browning                      Acknowledged Vice Chair Wilde's point. Explained why the rule was written in the way it was. Experience has shown the rule to be a useful tool and the Department of Revenue would like to broaden it.

The Department has questions about the drafting of the bill and some of the consequences, but the purpose of the measure is laudable. Doubtful liability is arbitrary and the Department would like to move away from it.

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| 180 | Browning         | Continued with testimony, (Page 2, Exhibit 6).   |
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| 245 | Vice Chair Wilde | Requested the Department of Revenue address the issue of the interest not be treated as a tax, but could be refundable.  |
|     |                  |  |
| 267 | Dean Bloemendaal | Spoke to the Collins case and read excerpts of letters from the Department of Revenue. Mr. Collins issue wants to have a corrected return on file. With a three-year window open an amended return could be filed and he could receive the refund due him. |
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| 330 | Vice Chair Wilde | Referenced the third bullet of the Department's testimony, (Page 2, Exhibit 6). What would the response be to the scenario listed in that bulleted item?   |
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| 338 | Bloemendaal      | Responded that if a late tax return was filed and a refund was due the refund should be paid, without interest.  |
|     |                  |  |
| 354 | Sen. Fisher      | Commented that the 25% rule could amount to \$1,000's of taxes for someone, if they had a paid a large sum of taxes. Perhaps "25% of the tax or \$100, whichever is less", would be more appropriate language.   |
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| 377 | Vice Chair Wilde | Concurred with Sen. Fisher's comments, but added some caveats to the recommendation.   |

#### WORK SESSION ON SB 495

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| 418 | Chair Miller | Requested that the interested parties convene and draft appropriate amendments to bring back to the Committee. |
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#### **TAPE 066, SIDE B**

#### OPENED PUBLIC HEARING ON SB 497

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| 018 | Lizbeth Martin-Mahar | Described SB 497, which allows a property tax exemption for tax years 1992-23 and 1993-94 for trucks equipped with a sewer cleaner that are held under lease or lease-purchase agreements by a sanitary authority. Discussed revenue impact statement. (Exhibit 7) |
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| 039 | Sen. Fisher  | Spoke in support of the measure and provided legislative background to measure.   |
| 074 | Sen. Beyer   | Both parties are public agencies, correct?  |
| 076 | Sen. Fisher  | Yes.  |
| 079 | Sen. Beyer   | Is Douglas County in opposition to this measure?  |
| 084 | Sen. Fisher  | No.   |
| 099 | Gil Riddell  | Spoke to the measure; lines 8-12 and lines 18-20 of the bill are of concern to the counties. Quoted ORS 307.162 (2), which provides for a filing fee and states the county doing the work, will collect that fee. Recommended that if the measure is reported out that there should be parody with other late filers. |
| 126 | Martin-Mahar | Reported on a conversation with the Douglas County Assessor's office. The Assessor's office has received \$7,796 in May of 1998. It not clear whether the payment came from the bank that owned the piece of equipment or Roseburg Urban Sanitary Authority.  |
| 144 | Sen. Beyer   | Questioned the revenue impact and the two different figures of \$4,402 and \$7,796. (Exhibit 7).  |
| 142 | Martin-Mahar | Explained the reasoning behind the revenue impact statement. The difference is represented by five years of delinquent tax interest that has accumulated between the applicable tax years and 1998 when the money was actually paid.  |
| 160 | Sen. Fisher  | Referenced lines 25-29 of the bill. This does not state that the interest paid can not be returned. Was unaware that the \$7,796 had been paid.   |
|     |              | The bill met the needs of the prior Assessor in Douglas County and was what was needed to refund the dollars.   |

202 Vice Chair Wilde MOTION: MOVED SB 497 TO THE SENATE FLOOR WITH A DO PASS RECOMMENDATION.

205 Sen. Beyer Referenced Mr. Riddell's testimony; this is different from similar measures the legislature has addressed in the past. Generally those measures have involved a private party, but the measure before us is for two public agencies, which are feuding. The public will ultimately pay the additional fee; I don't think that was the intent.

219 VOTE ROLL CALL VOTE: MOTION PASSES 5-0-0

SENATORS VOTING AYE: Beyer, Hartung, Starr, Wilde, Chair Miller

Sen. Fisher will carry the bill.

230 Chair Miller Meeting adjourned at 4:22 p.m.

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Submitted by, Reviewed by,

Joan Green Kim T. James

Committee Assistant Revenue Office Manager

Exhibit Summary:

1. SB 495, Waters, Preliminary staff measure summary, 1 page
2. \*SB 495, Fisher, Submitted written testimony for Kennedy, 1 page
3. \*SB 495, Bloemendaal, Submitted written testimony for Thornburg, 1 page
4. \*SB 495, Fisher, Submitted written testimony for Johnston, 1 page
5. \*SB 495, Collins, Written testimony, 2 pages
6. \*SB 495, Browning, Written testimony, 5 pages
7. SB 497, Martin-Mahar, Revenue impact statement, 1 page

\*Refers also to SB 496