

WORK SESSION HB 2047 TAPES 23-24 A/B

HOUSE REVENUE COMMITTEE

FEBRUARY 3, 1997 8:30 AM HEARING ROOM B STATE CAPITOL BUILDING

MEMBERS PRESENT: Rep. Tom Brian, Chair

Rep. Lee Beyer, Vice-Chair (arrived 9:15 a.m.)

Rep. Tony Corcoran

Rep. Randall Edwards

Rep. Leslie Lewis

Rep. Anitra Rasmussen

Rep. Lane Shetterly (arrived 9:24 a.m.)

Rep. Mark Simmons

Rep. Ken Strobeck (arrived 8:55 a.m.)

WITNESSES PRESENT: Vickie Totten, Oregon Community College Assn.

Bob Muir, Department of Justice

Noel Klein, Special Districts Assn.

STAFF PRESENT: James Scherzinger, Legislative Revenue Officer

Barbara Guardino, Committee Assistant

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006 Chair Brian Called meeting to order 8:52 a.m.

PUBLIC HEARING HB 2047, SHIFT RESTRICTIONS

- 011 Jim Scherzinger Introduced Vickie Totten.
Concerning HB 2047 shift provisions as they relate to community colleges: Refer to testimony (EXHIBIT A).
Shift concerns include:
Tuition increases for 1995-96
- 017 Victoria Totten Whether local governments suffer a one-time loss or ongoing losses
Whether state general fund backfill for property tax losses changes the shift provisions for education local governments
Definition of: government product or service
Including bonds within the base would result in potential inequities
Effects on public education property tax losses will differ
- 152 Totten Referred to legal opinion written by attorney John W. Osburn (EXHIBIT B).
153 All Questions and discussion concerning Totten testimony.

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Concerning shift restrictions, original draft is the one people are still working from. A revised version should be ready Tuesday, Feb. 4.

- 179 Scherzinger Two issues arise from discussions so far. Rep. Shetterly submitted a letter that identifies these issues (EXHIBIT C). Amendments will deal with process definitions. Both questions center around those definitions.

A shift is intended to replace losses from Measure 47.

Directs members' attention to definitions in HB 2047 (*Refer to exhibits, Jan. 30,*

1997): Section 40 (5) Government Product or Service; Section 40 (10) Property Tax Reduction Amount. (HB 2047 Section 40 relates to M47 Section 8. For M47, refer to Jan. 21, 1997, Exhibit D)

- 240 Scherzinger In M47, amount of loss less backfill from state is the property tax reduction amount
- Section 40 (6) Shift, transference or conversion - meant to replace losses from M47 only.
- 286 Chair Brian Suggested committee adjourn meeting early to read newest information.
Suggested committee concentrate on definitions and issues raised so far.
- 308 Scherzinger Discussed shift issues pertaining to products and services.
- 330 All Questions and discussion concerning shift restrictions, government product or service.
Concerning government product or service, courts could interpret the wording of M47 differently than committee.
- 434 Scherzinger Purpose of the committee is to provide statewide uniformity, give guidance, perhaps some legal weight to interpretation. Nothing mandates the committee define terms.

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- 045 Chair Brian Asked committee whether they chose to get involved in definitions concerning shift restrictions etc. or let local governments define terms themselves.
- 051 Vice Chair Beyer Premature to make that decision. Would rather wait and see Attorney General's opinion.
- 081 Rep. Corcoran Expressed frustration with vague wording of M47.
- 101 Rep. Strobeck Cautioned committee must stay within spirit of law.
- 137 Shetterly Warned the committee against rewriting the Measure rather than interpreting it.
Attorney General will defend any position provided by legislature. In terms of involvement of Attorney General, office is to be notified in certain circumstances.
- 153 Bob Muir
- 205 Muir Constitutionality would have to be in question in order for Attorney General to intervene.
- 391 Chair Brian Requested Muir comment on questions raised earlier during this meeting concerning community colleges. Muir has not had a chance to review documents.
- 399 Muir Responded to questions of fee increases and voluntary action.

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- 016 Muir Doubts that a fee, charge, or assessment could be increased without a resolution or an ordinance. Question pertains to preexisting law. If the resolution was valid, it would have the same status as an ordinance.
- 044 All Questions and discussion concerning community college tuition increases in anticipation of M47.
- 079 Muir Attorney General opinion will address whether the loss is a one-time loss or one that occurs each tax year.
- 089 Scherzinger Summarized committee's three choices:
- 1) More broadly define "government product or service"
 - 2) Define it the way it reads in proposed statute HB 2047
 - 3) Not define it at all, let local governments decide.
- 127 Rep. Corcoran If committee adopts more narrow definition to assist local government, does that give Attorney General's Office more ammunition to defend against a lawsuit dealing with constitutionality?
- 138 Muir Expression, government product or services, needs to be interpreted by court. In cases of policy choices, court will defer to legislative judgment. Legislation will provide the court with weight.
- 150 All Questions and discussion about M47 wording concerning shift restrictions.
Court asks committee to look at words in context.
- 203 Muir Broad intent of M47 is property tax relief. Ambiguous words require interpretation.
- 227 Rep. Shetterly Expressed concern that to read revenue reduction element into Section 8 (B) requires a restructuring.
Clarified, if there is an offsetting reduction in property taxes, a fee increase doesn't matter.
- 252 Muir
- Directed committee back to Oct. 17, 1996 Attorney General opinion. (*Refer to Jan. 27, 1997, Exhibit E*)
- 299 Muir Problem is with triple negatives involved in explanation. Must determine what is a shift, transfer or convert means in context of M47. Issue is "from what?" It is not the product or service that cannot be shifted, it is the funding for a product or service. The only logical candidate is ad valorem property taxes.
- 361 Muir Intent is to close loophole - so that governments don't find another way to fund government products and services. Another issue arises, how long does door remain closed?

M 47 Section 8 (b): In the event of a property tax reduction, M47 says voter approval is necessary in order to build back losses.

379 Noel Klein Governments can affect greater property tax reductions by moving to a fee without the limitation of (a) which is the vote requirement.

Cannot see a circumstance where 8 (b) would be put in effect. He does not understand what (b) is trying to do.

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034 All Questions and discussion concerning M47 Section 8 (b).

077 Klein M47 Section 8 (a): Language "no government product or service..." If language said "no product or service provided by government," there would be a different meaning.

100 Rep. Shetterly Warned against committee adding to the uncertainty of M47 by adopting tenuous statutes and definitions. Stay closer to literal meanings.

116 Chair Brian Adjourned meeting at 10:19 a.m.

Submitted by, Reviewed by,

Barbara Guardino Kim James

Committee Assistant Revenue Office Manager

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EXHIBIT SUMMARY:

A. HB 2047, Totten, Testimony on Shift Provisions, 2 pp.

B. HB 2047, Totten, Attorneys Opinion on Community College Funding, 16 pp.

C. HB 2047, Shetterly, Letter to Chair Brian, 2 pp.