

WORK SESSION: HB 2047 TAPES 25-26 A/B

HOUSE REVENUE COMMITTEE

FEBRUARY 4, 1997 8:30 AM HEARING ROOM A STATE CAPITOL BUILDING

MEMBERS PRESENT: Rep. Tom Brian, Chair

Rep. Lee Beyer, Vice-Chair

Rep. Tony Corcoran (arrived 8:55 a.m.)

Rep. Randall Edwards

Rep. Leslie Lewis (arrived 9:02 a.m.)

Rep. Anitra Rasmussen

Rep. Lane Shetterly (departed 10:22 a.m.)

Rep. Mark Simmons (arrived 8:59 a.m.)

Rep. Ken Strobeck

WITNESSES PRESENT: Bob Muir, Department of Justice

Noel Klein, Special Districts Association

Bob Cantine, Association of Oregon Counties

Carol Samuels, League of Oregon Cities.

STAFF PRESENT: James Scherzinger, Legislative Revenue Officer

Barbara Guardino, Committee Assistant

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006 Chair Brian Called meeting to order at 8:47 a.m.

WORK SESSION - HB 2047 PROPOSED AMENDMENTS

- 012 Jim Scherzinger Directed members' attention to proposed amendments concerning shift restrictions. Introduced Bob Muir, Noel Klein. When Governor's Advisory panel first met, it had concepts before it. By end of process, almost every aspect of proposed legislation was still in draft form.
- 017 Bob Muir Local government representatives approached Muir with need to take a look at technical issues. Amendments presented today come out of that process, to continue to improve upon drafts.
- 044 Muir Proposed amendments relate to Fees, Assessments and Charges (EXHIBIT A) of HB 2047, beginning Section 39. Reviewed amendments to Section 40 (1) - fee, assessment or other charge. Definition of what kinds of items can/cannot be shifted without a vote.
- 079 All Questions and discussion concerning fees, assessments, other charges; taxes, and spending restrictions. Measure 47 does not take away taxing powers, it limits jurisdictions' spending powers. Anti-shifting provision doesn't restrict increase in fees, assessments and other charges. It is a spending restriction.
- 095 Muir Only source of revenue a government can use to replace loss is state income tax (M47 Section 8). Local governments can enact a tax for purposes other than backfilling lost ad valorem property taxes. Create new programs and pay for them with new taxes.
- 157 Muir Backfilling is a voluntary action of legislature, it is not a direct consequence of M47. Purpose of amendments is to clarify. If something causes doubt, now is a good time to fix it rather than later.
- 171 Chair Brian Committee will attempt to complete revision of proposed amendments today.
- 175 All Discussion of language changes in Section 40 (1). Prior to now, distinction of a fee, assessment or charge and a tax has been the

- 204 Noel Klein concept of specific benefit. Notion is confused with the notion of a tax, which is a cost of a service unrelated to benefit.
- 254 Vice Chair Beyer Expressed concern that language is changing the intended meanings of taxes, fees, assessments and charges.
- 298 Muir Prefers to stay with language in M47 and let courts decide meanings.
- 325 All Meaning is a matter of interpretation of M47 Section 8 (a), but Attorney General Office believes its interpretation is correct.
- 325 All Questions and discussion concerning interpretation of language, shifting of funds, imposing new taxes to replace property taxes.

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- 047 Chair Brian Summed up committee's comments concerning HB 2047 Section 40 (1):
- Do not interfere with traditional definitions of fees, assessments, charges.
- Discussed HB 2047 Section 40 (5) (a) and (b) Government product or service.
- 063 Muir (a) cannot legally obtain from a source other than government; or (b) cannot reasonably obtain from a source other than government.
- 141 Rep. Lewis Would prefer to leave language to say a government product or service is that which is available from government.
- 209 Vice Chair Beyer Suggested elimination of HB 2047 Section 40 (5) (a) and (b).
- 230 All Questions and discussion concerning M47 8(a)
- 295 Klein In reference to M47 8(a), if the gap is covered by property taxes and local government wants to recover extra cost, a vote would be necessary.
- 336 Bob Cantine Drafter of M47 could not conceive of all the impacts of the bill. Result is some rather absurd results. Association of Oregon Counties tried to find a balance and reason in its interpretation. In case of what is a qualified governmental service, flexibility is important in order to avoid absurd results.
- 360 Rep. Shetterly Suggested leave HB 2047 Section 40 (5) (a) intact, strike (b).

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- 045 Rep. Corcoran In terms of consensus, if language was formulated by parties most impacted by M47, committee would defer to position of those parties. Appears local governments are taking the brunt of M 47, and committee should acknowledge that in terms of formulating statutes. Wants to defer to drafters, give local governments the most latitude.
- 058 Rep. Edwards Committee needs to provide definitions.

- 074 Chair Brian **Committee's consensus appears that either strike HB 2047 Section 40 (5) (a) and (b) or come up with a different definition of government product or service.**
- 087 Chair Brian **THERE BEING NO OBJECTIONS, CHAIR SO ORDERED TO STRIKE 2047 Section 40 (5) (a) and (b) FROM PROPOSED AMENDMENTS.**
- 113 Muir Continued discussion of amendments, HB 2047 Section 40 (8) (a) Affirmative action. Means an act of a local government, by resolution, ordinance, rule or order, to create or increase fees;
- 121 Carol Samuels Requested elimination of phrase: "rule or order."
- 130 All Questions and discussion concerning rule or order.
- 183 Muir Discussed Affirmative Action Section 40 (8) (c). Does not include increases in fees ... Fee increases are not due to anti-shifting, but rather from other causes.
- 190 All Questions and discussion concerning Affirmative Action. Term "contemporaneous" has to do with timeline in relation to backfilling.
- 209 Muir Suggested committee strike it (top of page 3).
- 275 Muir Discussed Section 40 (9): Qualified government product or service ... after June 30, 1995 and prior to December 5, 1996 ... Effect is to grandfather fee increases.
- 285 All Questions and discussion concerning Section 40 (9).

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- 012 Cantine Seemed absurd to make counties second guess what to do before raising a fee, before counties even knew about Ballot M47. Has to be tied to property tax reduction.
- 020 Rep. Edwards Legislators must allow local governments some latitude in what they implemented before M47.
- 030 Cantine Committee will run into same issue when begin talking about voter approved levies.
- 037 Chair Brian Red flagged Section 40 (9) as is to discuss later.
- 055 Muir HB 2047 Section 40 (10): Property tax reduction amount means an amount of ad valorem property taxes that ...
From the mind of the voter who receives a property tax reduction amount is the difference between 1996-97 property tax bill and 1997-98 tax bill. Bills in subsequent years will increase by 3% or more. Asked committee to define "property tax reduction amount" accordingly.
- 101 Rep. Rasmussen Requested committee red flag issue and return to it later.
- 117 Rep. Strobeck Cut and cap, cut occurs when bill shows up reduced. Idea of cut going on forever is unworkable. Should define cut as occurring when bill shows up with reduced amount rather than ongoing cuts.
- 124 All Questions and discussion whether cut and cap are one-time or ongoing.
- 150 Chair Brian Noted that Section 40 (10) is referring to tax reduction from point of view of service providers, so committee doesn't have to get involved in what taxpayers see on their bills.
Question, "What is the loss," is one of questions addressed in pending Attorney

- 165 Muir General opinion. There is more than one interpretation of this. Could be a one-time loss or every year there is a loss.
- 184 Rep. Shetterly Does 3% cap have to be kept in mind in context of shift restrictions?
- 190 Muir Yes, intent is to close loopholes.
- 211 Vice Chair Beyer Cut implies a one-time event, then continuing cap of 3% per year.
HB 2047 Section 40 (11) cleans up language.
- 280 Muir Section 41 - begins certification process to ensure use of a fee increase does/does not violate shifting provision.
- 340 Chair Brian Muir will make outline of amendment process. Will continue discussion of amendments in next two days.
- 360 Chair Brian Adjourned meeting 10:28 a.m.

Submitted by, Reviewed by,

Barbara Guardino Kim James

Committee Assistant Revenue Office Manager

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EXHIBIT SUMMARY:

A. HB 2047, Muir, Proposed Amendments to HB 2047: Fees, Assessments and Charges, 30 pp.