

WORK SESSION: **HB 2047**

TAPES 33, 34 A/B 35

A

HOUSE REVENUE COMMITTEE

FEBRUARY 10, 1997 8:30 AM HEARING ROOM A STATE CAPITOL BUILDING

MEMBERS PRESENT: Rep. Tom Brian, Chair

Rep. Lee Beyer, Vice-Chair (arrived 9:07 a.m.)

Rep. Tony Corcoran (arrived 9:15 a.m.)

Rep. Randall Edwards (arrived 8:33 a.m.)

Rep. Leslie Lewis (arrived 8:38 a.m.)

Rep. Anitra Rasmussen

Rep. Lane Shetterly (arrived 8:35 a.m.)

Rep. Mark Simmons (arrived 8:35 a.m.)

Rep. Ken Strobeck

WITNESSES PRESENT: Mark Campbell, Multnomah County

Sharon Timko, Multnomah County

Pete Kastine, City of Portland

Noel Klein, Special Districts Association

---~ Carol Samuels, League of Oregon Cities

STAFF PRESENT: James Scherzinger, Legislative Revenue Officer

Barbara Guardino, Committee Assistant

TAPE 033 SIDE A

006 Chair Brian Called meeting to order at 8:32 a.m.

020 Jim Scherzinger Introduced a revised Shift Restriction Issues (EXHIBIT A) with additions

at the end.

Introduced Government Product or Service Definitions (EXHIBIT

B): as

they appear in HB 2407 and HB 2407-las in past bills.

075 Chair Brian Reviewed Bob Muir's rewrite of the definition of Government product or

service.

(a) Cannot legally obtain from a source other than government; or

(b) Cannot reasonably obtain from a source other than government.

100 Chair Brian ASKED IF ANYONE OBJECTED TO THIS LANGUAGE.

NOTED THAT REP. SHETTERLY VVILL RESERVE HIS

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OBJECTION FOR NOW.

120 Rep. Shetterly Courts will not ask M47 drafter what he intended. They will look at language of measure, regardless of intentions of drafter.

145 Scherzinger Shift restriction issues: Classification process: (refer to HB 2047 - 1,

Sections 41-43). Creates distinction between local government that is

raising a fee for its own use or one that is receiving revenue from another

government. Puts responsibility in latter case the receiving unit of government to certify whether a shift has occurred.

Guests will address this:

201 Sharon Timko One key tax, recording fee for assessment and taxation. County collects

lions share of tax, distributes some back to the state for distribution to

other counties. Question is who votes in this situation?

220 Mark Campbell Other examples of fee increases.

252 Pete Kastine Suggested minor technical amendment to HB 2047-1 Section 40 (7)(b):

Definition of Affirmative Action (p. 2 line 17). It is clear money received

by one unit of government from another unit of government in payment

for products or services is not viewed as fee, charge or assessment.

Requested clarification in this in the bill.

New language would read as follows: (EXHIBIT C)

322 Kastine New language draws distinction between one government paying for a

product or service of another one, and one government raising money to

transfer to another government to provide service to some other party.

380 Kastine Concerning mingled funds, above subsection intends to address those

transfers of revenues.

390 All Questions and discussion concerning interpretation, suggested changes to

Section 40 (7)(b), fee for service issue.

TAPE 034 SIDE A

049 Noel Klein Language in M47 will cause property tax reductions for number of taxing

districts in a county - ex: motel/hotel tax. County cannot control whether

use of proceeds in receiving jurisdictions will or will not cause a shift.

M47 does nothing to change county's underlying revenue raising authority. Not raising the fee, but use of the proceeds, is required to be voted on.

M47 puts jurisdictions in a box where raising the fee is separate from use of the fee.

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100 Scherzinger Under shift restrictions (per outline):
Changing shall to may:

HB 2047-1, Section 43; (p. 4, line 29); . . . and may determine whether a shift has occurred.

Subsections 2, line 7; Subsection 3, line 11. ... may classify ...

Subsection 5, line 15: . . . may adopt . . .

Not convinced these changes allow local governments to take different legal position from what state has determined.

130 All Questions and discussion concerning the above proposed changes.

169 Rep. Shetterly Summed up perceived consensus of group: "May" opens the door too far

for local governments to take action. Recommended "shall" in all four cases.

196 Scherzinger If "shall" is used, local jurisdictions don't have choices concerning whether a government product or service requires a vote.

215 Rep. Rasmussen Recommended leave "may" on lines 7 and 11 (p. 5).

244 Chair Brian ASKED IF ANYONE OBJECTED TO CHANGING ALL FOUR "MAY'S" TO "SHALL." HEARING NO OBJECTION, THE CHAIR SO ORDERED.

248 Scherzinger Certification and classification. Original bill contained separate certification process. HB 2047- 1 amendments deleted this section.

Language in original bill prohibits raising fees or spending fee money if

it's class)ified as a shift, until an election is held. This was removed in amendments.

292 Klein Purpose of HB 2047-1 amendments was to mesh the certification requirements under M5 provision certification requirements with requirements under M47.

310 Carol Samuels Three sections from HB 2047 were deleted: Section 47 - indicated new fee or fee increase could not be imposed until approved by voters. Does not believe language is necessary, wouldn't object to putting it back in.

351 Chair Brian ASKED FOR ANY OBJECTION FROM MEMBERS. THERE BEING NO OBJECTIONS, CHAIR ORDERED DELETED LANGUAGE OF SECTION 47 BE RESTORED.

362 Samuels Section 48 - indicated government could not spend fees class)ified as requiring a vote until voter approval. No objection to restoring language.

Section 49 - Creating a suspense account for money received from another

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government. Seems unnecessary.

372 All Questions and discussion on Sections 47, 48, 49.

TAPE 033 SIDE B

060 Vice Chair Beyer Seems like dealing with two situations: Something that may happen prospectively; something that is retroactive to 1995. Must deal with them differently.

070 All Questions and discussion on Sections 48, 49 language.

097 Chair Brian Summed up: Section 48 (3) delete language that references suspense account.

98 Chair Brian ASKED FOR ANY OBJECTION FROM MEMBERS. THERE BEING NO OBJECTION TO DELETING LANGUAGE IN SECTION 48 (3), CHAIR SO ORDERED.

100 Scherzinger Page 2 of Exhibit A: Shifts that occur before effective date. Section

52

original bill (HB 2047), local refund process allowed local government

to refund prior fees. New bill requires filing in Tax Court.

123 All Questions and discussion concerning Section 52, draft amendments.

168 Chair Brian Section 52, local government is first remedy. Question is the next step

tax court or another direction?

198 Klein Section 52 talks about issue between July 1, 1995 and effective date of

bill, there is a non-voter approved shift. Measure says shift is continued

beyond July 1, 1997, need voter approval. There's ample time between

now and end of current fiscal year to correct. Broader issue is how appeals will be dealt with through certification and classification process.

229 Rep. Corcoran Questioned whether community colleges will have to refund tuition increases retroactive to 1995.

249 Rep. Rasmussen Argued for low barrier to keep accessibility to constituents. Too easy to

say you can't fight city hall, government is personal. Low barrier process keeps connection between government services and individuals.

275 Klein As local government determines whether there is a shift in its fees, remember there is no shift unless there is a loss of property taxes, until

1997-98 fiscal year. If a shift has occurred, take care of it by July 1,

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1997. Doesn't believe there is any circumstance where government will have to repay anyone for fees charged prior to June 30, 1997.

312 Rep. Shetterly Favored restoring Section 52.

320 Samuels Requested amendment of HB 2047 Section 52 lines 18-29; Replace by

p. 17 in amendments, lines 12-27 (HB 2047-1).

Also requested amend HB 2047 Section 52, line 38.

324 All Questions and discussion concerning above proposed changes.

399 Rep. Shetterly Comments on difference refund calculations in M47 and in HB 2047 -1 amendment.

TAPE 034 SIDE B

036 Rep. Strobeck Concerning a fee raised on or after June 30, 1995 and before Dec. 31,

1996, there has to be a vote to continue this fee. Didn't see this wording in the bill.

070 All Question and discussion on Section 52; college tuition increases.

094 Chair Brian Asked whether HB 2047 Section 52 was taken out at recommendation of Special Districts Association.

096 Klein Came out as result of M5 certification process.

107 Chair Brian Should 52 be maintained?

110 Klein Doesn't foresee a circumstance where Section 52 will ever be used.

125 All Questions and discussion. Concluded HB 2047 Section 52 is not necessary.

231 Scherzinger P. 2-3 HB 2047-1: definition property tax reduction amount is difference

between what would have collected otherwise and what can collect under

M47 minus replacement aid from state.

If committee takes this interpretation, there are no prior shifts because no

prior property tax reductions prior to date of act.

280 Rep. Shetterly If that is the case, large segment of M47 Section 8(a) means nothing.

328 All Questions and discussion.

364 Rep. Strobeck M47 doesn't say people who paid retroactive fee get it back, i.e. community college tuition increase; it says all property owners get refund.

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393 Chair Brian Will ask Bob Muir to come in and explain rationale on deleting HB 2047

Section 52.

415 Scherzinger Property tax voucher (see Exhibit A second page). Two issues:

- 1) Amendments inadvertently deleted the section that talks about what a voucher is. (HB 2047 Section 53 p. 24)
- 2) Amendments appear to make potential issuance of voucher as a remedy to be permanent. Believes it is meant to be temporary.

TAPE 35 SIDE A

045 Klein Governor's Policy Advisory Committee sees voucher as applying only for refund period prior to effective date of act. Group believes it is a one time event.

060 All Questions and discussion on whether voucher process is necessary.

104 Scherzinger Summarized main purpose of Section 52: Set up a process to resolve

these questions. Danger if no process is someone can say this is an improper shift, and litigate claim. Claimant is not the person who paid the

fee, but any property tax payer in district.

135 All More questions and discussion concerning retroactive fee return, vouchers, who is harmed by a shifts.

164 Rep. Shetterly Remedy provided in M47 Section 8 is specific to remedy for shifts that

occurred between June 30, 1995 and date of act. Need to follow it.

175 Chair Brian Committee will further discuss Sections 52 and 53 with Bob Muir, Department of Justice. Allowing indexing of a vote: Bill drafter Mr.

Sizemore said as long as there is qualified voter approval, there is no

objection to indexing of fees. He said one vote could cover one fee.

Also,

he said no objection to renewals under 3% cap to be simple majority.

197 Chair Brian Adjourned meeting at 10:32 a.m.

Submitted by, Reviewed by,
Barbara Guardino Kim
Committee Assistant Revenue Office Manager

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EXHIBIT SUMMARY:

A. HB 2047, Scherzinger, Shift Restriction Issues, 2 pp. B. HB 2047, Scherzinger, Government Product or Service Definitions, 1 p. C. HB 2047, Kastine, Proposed amendments to HB 2047-1, 1 p.

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