

WORK SESSION: **HB 2047**
TAPES 36, 37 A/B, 38 A
HOUSE REVENUE COMMITTEE
FEBRUARY 11, 1997 8:30 AM HEARING ROOM A STATE **CAPITOL BUILDING**

MEMBERS PRESENT: Rep. Tom Brian, Chair
Rep. Lee Beyer, Vice-Chair (arrived 8:40 a.m.)
Rep. Tony Corcoran
Rep. Randall Edwards (arrived 9:12 a.m.)
Rep. Leslie Lewis (arrived 9:23 a.m.)
Rep. Anitra Rasmussen
Rep. Lane Shetterly
Rep. Mark Simmons (arrived 8:40 a.m.)
Rep. Ken Strobeck

WITNESSES PRESENT: Bob Muir, Department of Justice
Noel Klein, Special Districts Association
Bob Cantine, Association of Oregon Counties
STAFF PRESENT: James Scherzinger, Legislative Revenue Officer
Barbara Guardino, Committee Assistant

TAPE 036 SIDE A

006 Chair Brian Called meeting to order at 8:35 a.m.
011 Bob Muir Refer to written testimony paraphrased (EXHIBIT A):
025 Muir First Question: If a prohibited shift occurs between June 30, 1995
and
December 5, 1996, is the amount property taxes that must be
reduced
equal to the amount of fees improperly shifted from June 30m,
1995, or
only equal to the amount of fees improperly shifted in 1997-987.
Answer, ambiguity.
037 All Questions and discussion on First Question.
079 Muir Second Question: Who is entitled to the property tax relief
prescribed in
section 1 lg(8)(a) if funding of government goods or services was
improperly shifted between June 29, 1995 and December 5, 1996?
Four possible answers (Refer to text):

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1) All fee payers may be entitled to the relief. 2) All property owners may be entitled to relie_ 3) All

property owners who are subject to the fee. 4) Best interpretation, owners of property who have actually paid an improperly shifted fee are entitled to have the ad valorem taxes on their property taxes reduced by the amount of such fee.

090 All Questions and discussion concerning Second Question.

267 Muir Concerning M 47 Section 8 (a): "No goods (government products)

or

services shall be shifted." Wording is poor, drafter is actually talking

about the shifting of funding.

292 Rep. Strobeck If local government finds a shift occurred and it is not approved by a vote,

should they reduce it back to fee base?

305 Muir Yes.

339 Vice Chair Beyer Summed up: In order to have a shift, there questions must be answered in

the affirmative: reduction in property taxes, increase of fees, use of fees to

replace property taxes.

360 All More questions and discussion concerning what is a shift.

410 Chair Brian Welcomed members of Beaverton Chamber of Commerce who were

sitting in the audience.

TAPE 037 SIDE A

039 All More questions and discussion concerning what is a shift, addressing

anticipatory shifts.

050 Rep. Corcoran Concerning community college tuition, suggested let current rates stand.

062 Vice Chair Beyer Probably few instances in past year where test of shift could have occurred.

075 Rep. Strobeck Two cut and cap measures were proposed in 1995 legislative session, so

governments did have forewarning.

OXO All Questions and discussion.

196 Chair Brian Referred to original bill (HB 2047) regarding jurisdictions going through

classification process to examine for shift.

205 Scherzinger Concerning bill, opposite is true. Local governments would not have to

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do anything immediately. Anyone who believed fee to be improperly raised could appeal to local government, which would make a decision whether a classification occurred. In amendments this is handled in to tax court. Notion leave well enough alone until someone files a claim. Believes committee is moving toward defining shift to be in anticipation, then require local governments to review and classify their shifts, then allow appeals from that classification.

240 Chair Brian Questioned whether classification and certification process is needed.

304 Rep. Shetterly As long as committee provides remedy for taxpayers to enforce terms of

Measure, it has done its. Classification system was not imposed by M47,

committee should leave it out.

365 Chair Brian Invited comments from audience.

374 Noel Klein HB 2047 Section 52 identifies shift as anticipatory shift. Requiring local

government to go through classification process addresses this issue.

400 Bob Cantine Concerning 1995 proposed legislation for property tax cap, had no fee

shifting provision in it. First time a fee shifting provision existed was in

M47.

429 Chair Brian Summarized: whether HB 2047 Section 52 plus anticipation language

suffices or whether to require a classification process on fees raised on

subject dates.

TAPE 036 SIDE B

047 Chair Brian Asked if certification process was required, what would be the volume of cases.

051 Cantine The work load on assessors could be huge.

Is it necessary for legislature to mandate classifications. He asked county

council. They answered no.

Reluctant over concept of shift being an anticipation issue.

Anticipated

lawsuits as a result.

099 Rep. Shetterly If no anticipatory shift is possible between June 30, 1995 and Dec. 31,

1996, what does the language in M47 mean concerning this issue?

110 Cantine It's hard to tell what drafter of M47 had in mind. Confused as to which

fiscal year drafter was dealing with. Believes provision is meaningless.

131 Rep. Strobeck HB 2047 Section 52 (5) talks about local government classifying funding mechanism that is appealed during time frame. Question is whether it

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would be practical to identify fees and justify whether they were a shift.

162 Vice Chair Beyer Summed up perceived consensus: Clear M47 is talking about an anticipatory claim, but only on fee that continue after July 1, 1997.

193 Rep. Corcoran Identify aggrieved party - the only claimant should be a person in a tax

district that is affected by a fee. Claimant should take action, not local government.

228 Muir Discussed expos factor laws, providing retrospective relief.

Because lawmakers don't know what Court will do, possibly legislation

will create remedies that don't exist. Someone will address the problem of whether a shift occurs.

271 Scherzinger Summed, if lawmakers don't give taxpayers an avenue of appeal, what

avenue do they have?

278 Muir Aggrieved property tax owner would go to Board of Equalization and

challenge tax collection as excessive.

316 Klein HB 2047 Section 52 (5) talking about shift that is anticipatory, is a limiting clause. May exclude agencies where fees increase by previous

indexing. Anticipated volume of new/increased fees in anticipation of

M47 should not be great.

350 All Questions and discussion concerning anticipation of M47.

444 Chair Brian Need to give direction on who is aggrieved party.

TAPE 037 SIDE B

039 Scherzinger In answer to this, according to the current draft, it is the fee payer.

Does

not cover property owners who do not pay the fee.

054 Muir Believes narrowest interpretation is most certain of four possibilities

(referred to Exhibit A, Second Question) could cause the court to

take a
broader view. Recommended narrowest interpretation (answer 4) as
the
best one.

101 Rep. Edwards Preferred answer 4, property owner must have actually paid an
improperly
shifted fee to have property taxes reduced.

120 All More discussion and questions concerning which is the best answer
to
Second Question.

239 Rep. Strobeck Gave example to illustrate ramifications of a shift under answer 3:

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Community college increased tuition in anticipation of decrease. That additional fee must be refunded to
all property tax owners in tax district.

308 Chair Brian Jim Scherzinger will give a presentation on Effect of Property Tax
Levies

in preparation for Feb. 12 topic, allocation of loss. With 15 minutes
left,

he will begin and will continue Wednesday, Feb. 12.

329 Scherzinger Purpose of presentation is to address questions that came up at
hearing on

elections. Walk through effect of property tax levies on M47.

(EXHIBIT

B).

Three property tax limits:

Levy limits on district (tax base limits)

Rate limits on each property (M5)

Tax limits on each property (M47)

367 Scherzinger Discussed levy limits: Budget, tax to balance, election, certified
levy,

district rate, district value. Example: School District with \$1 billion
value

passes \$16 million levy, rate is \$16 per \$1,000.

420 Scherzinger Levy types. Many of these levies are still in effect:

Permanent - tax base, continuing, school safety net

Temporary - one-year, fixed dollar serial (5/10 years), rate based
serial (3

years)

Bonds

TAPE 38 SIDE A

039 Scherzinger Majority of levies are tax base.

080 Scherzinger Home tax example: Levy system, based on \$100,000 home value.

Governments calculate this rate first before they apply M5 rate.

098 Scherzinger Measure 5:

Splits into two categories, taxes for non-schools and taxes for schools. For

non-schools, applies \$10 rate limitation. If rate is already below that, it

has no effect on property taxes. For schools, it applies \$5 rate limitation.

128 Scherzinger Explained Home Tax Example M5 table, p. 9.

140 Scherzinger Explained Community College Passes Levy table, p. 9 School and community college under compression, they approve a new levy.

Total

tax doesn't change, community college gets more and K-12 get less.

186 Scherzinger Measure 47: Home Tax Example, see table, p. 11.

Under M47, tax on same house will be \$1,080. M47 doesn't say how this

money is allocated.

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224 Scherzinger Home Tax Example 1997-98 Summary, p. 12.

Under M47, different kind of compression.

275 Scherzinger Suppose county passes levy inside limit (p. 13).

Under each of three systems, no reduction under M5; but under M47 the

proportions change, and county gets bigger share of \$1,080.

332 Scherzinger Two options to deal with this:

Limit levy within cap (cannot grow more than 3%)

Fix shares within cap (calculate 1997-98 share, use in future subject to

local agreement to change.)

Will continue presentation Feb. 12.

Chair Brian Adjourned meeting at 10:45 a.m.

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

EXHIBIT SUMMARY:

A. HB 2047, Muir, Written testimony: Two questions answered by Department of Justice, 2 pp. B. HB 2047, Scherzinger, Measure 47: Effect on Property Tax Levies, 15 pp.

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