

PUBLIC HEARING AND WORK SESSION

HJR 85, HB 3511

TAPES 70 A/B, 71 A/B, 72 A/B, 73 A/B

HOUSE REVENUE COMMITTEE

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

MEMBERS PRESENT: Rep. Tom Brian, Chair

Rep. Lee Beyer, Vice-Chair

Rep. Tony Corcoran

Rep. Randall Edwards

Rep. Leslie Lewis

Rep. Anitra Rasmussen

Rep. Lane Shetterly

Rep. Mark Simmons

Rep. Ken Strobeck

MEMBERS PRESENT: Sen. Ken Baker, Chair

Sen. Neil Bryant, Vice Chair (Excused)

Sen. Joan Dukes

Sen. Vern Duncan

Sen. Tom Hartung (Excused)

Sen. Randy Leonard

WITNESSES PRESENT: Lincoln Cannon, Oregon Forest Industries Council (OFIC) David Brown,
Oregon Forest Industries Council Ray Wilkison, Oregon Forest Industries Council

Don McIntire, Oregon Taxpayers United

Bill Sizemore, Oregon Taxpayers United

Dennis Koho, Mayor of Keizer

Bob Muir , Oregon Attorney General

Craig Hanneman, Willamette Industries

Carol Samuels, League of Oregon Cities

Marge Kafoury, City of Portland

Linda Meng, City of Portland

Tom Linhares, Columbia County Assessor

STAFF PRESENT: James Scherzinger, Legislative Revenue Officer

Barbara Guardino, Committee Assistant

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TAPE 070 SIDE A

010 Chair Brian Called meeting to order at 10: 55 a.m.

PUBLIC HEARING

032 Chair Brian Noted for the record that he has a business relationship and friendship with speaker,
David Brown.

Introduced memo from Oregon Department of Transportation Public Transit Section **(EXHIBIT A)**.

Refer to written testimony **(EXHIBIT B)** verbatim. Testified against excluding privilege tax from tax relief. This would create a de facto "split roll."

034 Lincoln Cannon To address this issue, he proposed the following amendment for HJR 85: "All real property shall be taxed under the ad valorem system, provided that exemptions and optional statutory systems in lieu of ad valorem taxes may be provided by law."

Change would tax forest lands at 100 %, would require implementing legislation.

Questions and discussion concerning changing timber taxes.

113 David Brown Intent would be that the ad valorem system would apply to timberlands, unless and to the extent the harvest system was continued by the legislature.

120 Cannon The way the statute reads now, forest lands are taxed based on the value of forest land and production. 80 % of value is excluded from the tax roll. This refers to the land only, not the timber.

Questions and discussion on changing the collection system.

160 Brown The proposal leaves the legislature full authority to any system the legislature would choose to continue or change the deferral system. It establishes principle that forest land is not left out of HJR 85. It was left out of M5 and M47.

Questions and discussion on privilege tax system.

220 Rep. Rasmussen Commented on the salmon bill, asked how Cannon's testimony relates to this project (preventing salmon from going extinct).

235 Ray Wilkison Timber tax issue related to salmon plan is Forest Products Harvest Tax, different from privilege tax.

251 Don McIntire Refer to testimony **(EXHIBIT C)**. Raised questions:

1) Assessed value - why is this necessary? The voters did not approve that device.

2) Why insert the term "ad valorem" again, when M5 drafters took it out.

Summed up: We know what the voters wanted when they adopted M47. To roll taxes back 10 % then tax bills could not grow at more than 3 % per year. Suggested treating taxes same as before M5, invoke M5 standard (\$15 per \$1,000). Then, invoke a further limitation (M47 limitation of 3 %), in addition to initial rollback.

352 McIntire Urged committee not to forget that these amendments are actually limits to taxation, not new taxes. Urged committee to take more time, and implement M47 the way it was adopted., in a fair way.

Summed up, McIntire's biggest concerns are the ad valorem reference, and the change to

assessed value methodology rather than real market value methodology.

404 Chair
Brian

Questions and discussion on whether committee can meet time frame for taking constitutional amendments to voters by May 20.

TAPE 071 SIDE A

Provided background and goals of M47, and discussed what the committee needs to preserve in its rewrite.

040 Bill
Sizemore

Primary goal: of M47: To protect property owners of all sorts from the whim of the assessor.

Questions and discussion concerning Sizemore testimony.

081 Sizemore

He has asked hundreds of people if an assessor has ever come to their home, nobody has. They assess neighborhoods, and their methods are not technically precise.

Under M47, property owners will know what their bill will be every year and can budget in advance.

102 Sizemore

When he drafted M47, taxpayers felt didn't receive kind of cut they voted for when they passed M5. Properties were assessed at 50 - 70% of real market value. M5 capped the rate accelerating a trend of bringing assessments closer to real market value.

Questions and discussion interspersed.

Believes there is no difference between true cash value and real market value. M5 did not dictate how property would be assessed, it placed a limit on the rate.

168 Sizemore

Real estate values have grown dramatically due to influx of people, canceling the tax cut provided by M5. M 47 drafters' goal was to give everyone the tax cut they thought they were getting from M5.

He did not support HJR 71 in 1995 because committee refused to let cap come effective that year.

In participating in rewrite of M47, Taxpayers United does not concede that M47 cannot be implemented. Things in M47 could have been clearer (local option is inadvertent), and he would have done some things differently now. Draft of M47 was reviewed by State Treasurer, Port of Portland, Legislative Revenue Office, Associated Oregon

247 Sizemore

Industries, private citizens and attorneys.

Does not believe people gave the draft the kind of scrutiny they have since it passed.

316 Sen.
Dukes

Commented that she keeps hearing that annexation cannot be implemented under M47.

The one provision people have told him cannot be implemented is annexation provision.

- 332 Sizemore He does not understand why. Question arises, what if there are no voters in annexation property? Problem could be solved by statute by saying that the voters can be deemed electors for the purpose of that annexation.
- Committee has come a long way in making annexation workable. More troubling issue is what to do with upcoming elections, hospitals and ports that are included in anti-shift provision. Believes a constitutional amendment is needed.
- 373 Chair
Brian It is not that M47 is impossible to implement, it is just impossible to implement fairly. Committee is working to streamline it.
- Questions and discussion interspersed.

TAPE 070 SIDE B

- 034 Vice Chair
Beyer M47 could be implemented even if committee did no work on it. The problem is dealing with unintended consequences.
- 060 Sizemore M47 is an example of how the initiative process can work. Working together, state will end up with a fairer, cleaner law.
- 097 Sizemore Suggestions concerning the rewrite:

- 1) Anything that reflects a split roll is unacceptable.
- 2) Cut as it is distributed must reflect M47's cut. A 17 % cut across the board would not reflect it.

- 158 Sizemore Shift did not occur as result of M5. M47 benefits residential more than it does commercial.
- Has come around to Sizemore's way of thinking to the extent that property tax is an unfair way to tax citizens, particularly the elderly. Property tax is not a good way to fund government. M47 and M5 didn't go far enough.
- 186 Sen.
Leonard Suggested completely replacing the property tax system with a sales tax. Asked Sizemore to respond.
- 256 Sizemore Supports sales tax to replace property tax. He polled taxpayers recently, 49 % said yes, 51 % said no. This a change from other years. Larger editorial boards have recommended he propose this. Taxpayers are suspicious that sales tax will become an additional tax. A sales tax could pass if it was to replace property tax.
- 320 Sen.
Leonard Property owners voted for M47 to eliminate their unfair share to fund government. They believe schools should be funded adequately, but they want to pay their fair share.
- 356 Rep.
Strobeck Concerning improvements on residential property, does the idea of the 3 % cap on assessed value answer the problem?
- HJR 85 still allows assessed value to increase for improvements and new construction.

380 Sizemore It puts a cap on assessed value, but can be increased if homeowner builds an addition. Suggested exempting perhaps \$10,000 or \$15,000 that a homeowners could increase their property value without it increasing taxes.

TAPE 071 SIDE B

015 Dennis Koho Under current proposal, Keizer would get 83 % of its tax base. M47 will create serious problems. Keizer recently took the option to of updating its tax base. Not allowed to do this again until 1998. With new measure hitting ballot in May, no way to exercise local option until then. Asked committee to address this problem.

052 Vice Chair Beyer Addressed Attorney General Robert Muir on M47 restriction of backfill of school funds. Lottery funds are used heavily. Is this a problem?

064 Bob Muir With reservations, this is not a problem. The anti-shifting provision addresses whether lottery revenues are the result of some sort of charge. They are not because government does not exact that revenue. It is voluntary and available from another source. He doesn't know what "charge" means, it is not defined ("fee assessment or other charge").

Lottery revenues are not charges for purposes of this provision, although the attorney general does not guarantee this interpretation would hold up in court.

103 Chair Brian Committee has made conclusions about backfill for schools, so if there is no reduction, then a fee shift cannot occur. Question, if some other taxing district raised money through voluntary efforts (cookie sales, etc.) for the purpose of backfilling property tax reductions, does this put the district outside the shift provision?

115 Sen. Dukes Gave an example of cookie sales for a 4-H Extension group. Under M47 they will lose some of their tax base. Can these districts backfill their losses through private contributions?

147 Rep. Shetterly Reduction being replaced not by income tax, but by bake sales. Now there is no revenue reduction. Afterwards, can the district raise its fees?

152 Muir Yes, once the district makes up for the lost property taxes from some source other than a fee, assessment or other charge, any increase does not violate the anti-shifting provision.

170 Jim Scherzinger Introduced proposed amendments: HJR -9 (**EXHIBIT D**); and HJR -10 (**EXHIBIT E**).

183 Chair Brian Recessed at 12:25 p.m.

PUBLIC HEARING CONTINUED

187 Chair Brian Reconvened public hearing at 2:09 p.m.

093 Craig Hanneman Willamette Industries supports amendment to tax all real property under ad valorem system. Three points:

- 1) A split roll component that applies only to forest landowners is unacceptable.
- 2) Willamette Industries will accept any reasonable number that reflects timber land value in the marketplace applied against its ownership.
- 3) Willamette Industries is not seeking a M47-type cut. It is seeking a M47 cap.

OFIC proposal is about the fair, equitable treatment of timber land.

WORK SESSION

Committee will spend the rest of the day on language issues.

242 Chair Brian

Introduced rewrite of HJR 85 Issues (**EXHIBIT F**). Dated March 7, 1997.

264 Scherzinger

Page 3, Bonds, added three issues:

- 1) Gap bonds outside M47, inside M5 (Section 11 (7))
- 2) Exempt bonds outside M47 and M5 (Section 11b)
- 3) Urban renewal (Section 11a (2) and (3))

Discussed exempt bonds page 4. Definition in HJR 85 of an exempt bond is the same as in M47. M47 amended M5 definition of exempt bond, put restrictions on definition of capital improvements. (See HJR 85 page 4 line 19).

329 Scherzinger Introduced Proposed Amendments to HJR85: HJR85 -7 (**EXHIBIT G**) and HJR85-8 (**EXHIBIT H**), concerning reducing the useful life of public vehicles. Committee earlier stated it would revisit items that were excluded. Also, no double majority requirement in HJR 85 as in M47.

In addition, committee will discuss -9 and -10 amendments that address Portland Police and Fire Pension Fund.

Discussed HJR 85 -7 and HJR 85 -8 which are similar. Eliminate concern about bonding for items that don't have a long life. Talking about useful life less than the bond issuance (ex: Fire and police vehicles).

390 Rep.
Edwards

Suggested delete from HJR 85 -7, lines 19 and 23.

TAPE 72 SIDE A

037 Carol
Samuels

Clarified, LOC suggested the committee delete lines 19 through 24 from HJR 85.

This replaces limitations on what capital construction and capital improvements are,

- 042 Scherzinger with limitation that says financing terms cannot be longer than the item's useful life.
- 055 All Questions and discussion concerning levies to purchase items that are not intrinsic to a building structure under M47.
- 097 Rep. Edwards Clarified his intent in writing -7 and -8. These clean up language in M47, they do not address what committee will eventually do with this issue.
- 110 All Questions and discussion concerning keeping faith with the voters, clarifying what is intrinsic to a school structure, voting for police and fire vehicles, double majority.
- 136 Rep. Simmons Expressed concern that amendments differ to greatly from M47 language.
- 191 Sizemore Clarified that he intended to exclude police cars from M47 but not fire trucks. Drafters of M47 felt that, since passage of M5, the door was open by statutory redefining of constitutional terms, in changing the way courts had previously defined capital improvements/construction. Since 1991, anything with a useful life of one year or more could fall under that provision. Therefore, things like text books could be moved over to bonds that placed them outside the limits of M5. Drafters did not want bonded indebtedness to pay for operating expenses. They wanted them to be for major projects. Decided if useful life was less than 5 year it would not be subject to bonds. Double majority was intended in this circumstance.
- 235 All Questions and discussion concerning Sizemore testimony.
- 251 Rep. Rasmussen Asked whether, if a jurisdiction builds a new school, can they furnish it?
- 261 Sizemore Taxpayers United intended to treat furnishing of new schools differently from other furnishings. In building a new school, furnishings can be covered by the bond.
- 293 Sen. Duncan He thought he had excluded furnishing of new schools from M47.
- 310 Vice Chair Beyer This encourages renovation of old schools rather than new construction.
- 321 Sen. Dukes Suggested committee reject -7 and -8 amendments and stay with current language.
- 328 Sizemore Asked what Sizemore means by "furnishings."
- 340 Chair Brian Desks, laboratory things intrinsically built into building, not test tubes or supplies.
- 348 Rep. Rasmussen **ASKED FOR CONSENSUS TO STAY WITH ORIGINAL LANGUAGE OF HJR 85.**
- OBJECTED TO STAYING WITH ORIGINAL LANGUAGE.**
- Referenced HJR 85 Issues summary sheet: Exempt bonds
- 360 Scherzinger Exception for Portland Police and Fire Pension obligations. (contained in HJR 85 -9 amendments page 7, lines 10-12, 31; page 8 lines 1-4.
- Conclusion: "Local government pension and disability plan obligations ... fill those obligations."

Line 31 gives definition of local government.

410 Sen. Leonard Legislative Counsel intended to write this section so its future application is as limited as possible.

TAPE 73 SIDE A

038 Chair Brian Question is whether committees wish make an exception for fire and police pensions. If so, how narrowly should issue be defined.

050 Scherzinger Effect would be to take it outside rate limits of M47 and M5.

072 Sen. Leonard City of Portland has filed a suit concerning interference of contract.

080 Scherzinger Amendment will not the affect way taxes imposed, it will affect the amount of the taxes that can be imposed by City of Portland. Refer to HJR 85, Section 11b Subsection 6, lines 5-9

95 Sen. Leonard Clarified, what will change are: Bonds that the city sold for \$80 million will be retired immediately; future increases due to increased retirements will not be subject to 3 % limitation.

107 Marge Kafoury Introduced herself and Linda Meng. Both will testify for an exception for Portland Police and Fire Pension obligations.

114 Linda Meng Explained that Portland Police and Fire Pension works differently from PERS. Pay-as-you go with a yearly determination of needs Levied as separate charter. Any reduction would leave fund without the money to pay its contractual obligations. City has brought a legal challenge to M47 because this is a contractual obligation. Fund requirements have increased 6 % per year. That is more than what is allowed under M47 or the rewrite.

192 Kafoury Exception would not affect City's levy rate. It would be fixed according to committee's formula. Annual levy is about \$2 - 3 million, depending on annual need.

211 Rep. Edwards Questions and discussion concerning proportional impact.

MOTION TO ADOPT AMENDMENT TO EXEMPT PORTLAND POLICE AND FIRE PENSION OBLIGATIONS.

222 Chair Brian **ASKED IF THE COMMITTEE HAS ANY OBJECTIONS TO INCLUDE AN EXCLUSION OF PORTLAND POLICE AND FIRE PENSION IN HJR 85 -9 AMENDMENTS. HEARING NO OBJECTION, CHAIR SO ORDERED.**

Returned to Exhibit F, Gap Bonds

HJR 85 Section 11 (7), page 3.

230 Scherzinger Difference between -9 and -10 amendments is shift language changes. Gave examples of gap bonds (repaid from operating levies).

There is no particular definition of what constitutes bonded debt. Question is, which bonds might be eligible for this treatment? As a parallel to M47 is a provision for gap bonds outside M47 limits -- exempt from 17 % cut.

HJR 85 as written defines what these bonds would be. This contrasts with attorney general's definition of M47. HJR 85 says a bond is basically something that is a traditional bond or other formal written borrowing (per M5). M47 definition according to the attorney general is tighter.

Questions and discussion concerning contractual obligations.

Districts that have pledged operating tax bonds.

341 Scherzinger

Bonds that are outstanding on effective date of M47 that would be exempt from 17 % rollback.

352 Samuels

Questions and discussion.

422 Chair Brian **ASKED COMMITTEE FOR ANY OBJECTION TO ACCEPT GAP BONDS AS EXEMPT FROM THE RATE CALCULATION. HEARING NO OBJECTIONS, CHAIR SO ORDERED.**

TAPE 72 SIDE B

026 Scherzinger Continued his discussion on gap bonds, page 4. Three choices:

- 1) Exclude from calculation, allow bond taxes to be imposed outside rate until paid.
- 2) Include in calculation, require bonds to be paid within rate.
- 3) Exclude from calculation, allow bond taxes outside rate.

062 Chair Brian **ASKED FROM ANY OBJECTION FROM MEMBERS TO ALLOW GAP BONDS TO BE EXCLUDED FROM THE CALCULATION, AND TO ALLOW BOND TAXES TO BE IMPOSED OUTSIDE RATE UNTIL PAID. HEARING NO OBJECTION, CHAIR SO ORDERED.**

069 Samuels Objected to committee's decision. When a bond is paid off, those operating taxes may still be needed.

118 Sen. Leonard Questions and discussion interspersed. Needs remain even after a bond is retired. Suggested asking exemptions be retired after bonds are paid. May need to issue another bond. Example of school bonds. Biggest concern is fairness. Has a lot of small districts.

162 Sen. Dukes Example: Small water district, needs money for capital projects. Instead of going for bonds, it planned ahead and charged an additional fee. They will not have any less need after expense is paid, but will now have to deal with M47.

Questions and discussion concerning gap bond option # 1, fairness.

Vice Chair Suggested amending existing language to add the authority for a jurisdiction to proceed

- 243 Beyer as in past, pay off bond.
Proposing option 3, exclude from calculation of 17 % reduction, allow the bond tax to be collected, then convert it to operating levy when the bonds are paid off. Example of
- 255 Samuels City of Klamath Falls Airport, its expansion and its ongoing needs.
- Questions and discussion.
- 355 Chair Brian Hopes discussion has helped clarify direction of the committee, not wanting a bond to set up permanent increased rate. Committee must think about whether it makes sense to force a bond to be lost. Suggested the committee set the issue aside and come back to it.
- 411 Rep. Simmons Uncomfortable with things significant enough to be finance by bonds not going out to a vote.
- 429 Samuels Asked committee not to forget the topic, definition of capital construction and improvement.

TAPE 73 SIDE B

Referred to Exhibit F, Urban renewal: HJR 85 Section 11a (2) and (3):

HJR 85 returns to original form of urban renewal. When this is done, capacity of urban renewal will be cut in half or more. Provision in HJR 85 to make grandfather legislation for existing debt mandatory.

055 Scherzinger

Association of Oregon Redevelopment Agencies (AORA) has proposed alternative wording. **(EXHIBIT I).**

Refer to HJR 85 Section 11a (3): "The Legislative Assembly shall enact laws that temporarily allow collection of taxes to pay indebtedness ..."

128 Chair Brian

ASKED FOR ANY OBJECTIONS FROM MEMBERS CONCERNING ACCEPTING THE AORA LANGUAGE IN LIEU OF THE EXISTING SECTION 11A (3) OF HJR 85. HEARING NO OBJECTION, THE CHAIR SO ORDERED.

135 Scherzinger

HJR 85 Section 11a (4) (b) lines 2 -5 : "Real market value" means ... Language was copied from M5, but deleted language in order to get away from problems of declines in value during the year. Questioned whether committee wants language drafted to assure if a catastrophic reduction in value occurs, that would be reflected in taxes on a property.

152 Chair Brian

Example: If a home burns down, should the owners pay a full year's property taxes? Suggested committee add language to address catastrophic loss deduction.

180 Tom Linhares

Appraisers support this definition of real market value. Recommend committee keep this definition of real market value in the constitution. The Oregon Constitution contains an "act of God" statute that provides for lowering taxes.

239 Chair Brian

Committee will plan to deal with this situation statutorily, but will have a change drafted in case it is needed.

Referred to:

252 Scherzinger Effect of HJR 85 on Taxing District Operating Revenue (**EXHIBIT J**); Effect of JHR 85 on Taxes of the Largest Code Area in Each City (**EXHIBIT K**).

Discussed upcoming schedule, deadlines.

295 Chair Brian

332 Chair Brian Adjourned meeting at 4:03 p.m.

Submitted by, Reviewed by,

Barbara Guardino Kim James

Committee Assistant Revenue Office Manager

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EXHIBIT SUMMARY:

- A. HJR 85, Brian, Oregon Department of Transportation, 8 pp.
- B. HJR 85, Cannon, Oregon Forest Industries Council testimony, 2 pp.
- C. HJR 85, McIntire, Don McIntire comments, 2 pp.
- D. HJR 85, Scherzinger, HJR 85 -9 Amendments, 9 pp.
- E. HJR 85, Scherzinger, HJR 85 -10 Amendments, 9 pp.
- F. HJR 85, Scherzinger, HJR 85 Issues, 4 pp.
- G. HJR 85, Scherzinger, HJR 85 -7 Amendments, 1 p.
- H. HJR 85, Scherzinger, HJR 85 -8 Amendments, 1 p.
- I. HJR 85, Scherzinger, Association of Oregon Redevelopment Agencies (AORA), 1 p.

J. HJR 85, Scherzinger, Effect of HJR85 on Taxing District Operating Revenue, 20 pp.

K. HJR 85, Scherzinger, Effect of HJR85 on Taxes of the Largest Code Area In Each City, 13 pp.