

PUBLIC HEARING & WORK SESSION

HB 2623, SB 170, SB 172

TAPES 098, 099 A/B

HOUSE REVENUE COMMITTEE

APRIL 3, 1997 8:30 AM HEARING ROOM A STATE CAPITOL BUILDING

MEMBERS PRESENT: Rep. Tom Brian, Chair (Excused 9:20 - 9:40 a.m.)

Rep. Lee Beyer, Vice-Chair (Excused 10:00 a.m.)

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

Rep. Randall Edwards

Rep. Leslie Lewis (Excused)

Rep. Anitra Rasmussen

Rep. Lane Shetterly

Rep. Mark Simmons

Rep. Ken Strobeck

WITNESSES PRESENT: Gary Carlson, Associated Oregon Industries

David Canary, AOI Tax Policy Advisory Committee

Jim Manary, Dept. of Revenue

Tom Linhares, Oregon State Assoc. of County Assessors

Debby Huggins, Dept. of Assessment & Taxation

Diane Belt, Washington County Assessment & Taxation

Art Fish, Oregon Economic Development Dept.

STAFF PRESENT: Ed Waters, Economist

Brian Reeder, Economist

Barbara Guardino, Committee Assistant

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TAPE 098 SIDE A

PUBLIC HEARING -- HB 2623

- 018 Chair Called meeting to order 8:50 a.m.
 Brian
- 026 Ed Waters Opened public hearing on HB 2623
 Directed members' attention to Revenue Impact Statement (EXHIBIT A) No revenue impact.
- 036 Gary Refer to written testimony verbatim (EXHIBIT B): Columbia Sun and Universal Food
 Carlson Company vs. Dept. of Revenue, resulted in restricted property tax appeal rights. HB
 2623 will remedy this problem.
- Columbia Sun case was a surprise to everyone who represents taxpayers. The judge raised the issue of why someone with no interest in the case could appeal it. Judge discharged the case, which reversed a long-standing line of cases where the lessee has a direct monetary interest in a case (has to pay the property taxes). Consequently, lessee should have standing to appeal property taxes.
- 061 David Columbia Sun case focused on language.
 Canary
- As a result of Columbia Sun case, a lessee of a triple net lease cannot appeal. HB 2623 reverses this decision. Bill says one can appeal from an act or omission of the Department or an assessor, but it must affect the person or property of the person making the appeal either directly or indirectly.
- Gave examples from actual cases:
- * Does the beneficiary of a trust have the right to appeal a state energy tax credit where

the facility that is entitled to credit is owned by the trust?

* Shareholder of a closely held corporation

* Priest at a church owned by archdiocese

Vice
133 Chair
Beyer

Suggested deleting language HB 2623 Section 1 (b) Line 28, delete "indirectly, including but not limited to ..."

138 Canary

Bill not only affects property, it affects the Dept. of Revenue. One thing court focused in with Columbia Sun is that there is no personal liability for property taxes. If landowner doesn't pay taxes, only recourse is to foreclose on land. Taxes run with the land, not with an individual. Concerned with saying "only directly affects the property" since lessee no property interest.

180 All

Questions and discussion concerning ramifications of language changes in HB 2623 (page 1, line 28).

332 Chair
Brian

Asked which phrase Canary would prefer to delete, "indirectly" or "including but not limited to."

342 Canaray

Would choose to delete "indirectly."

353 Rep.
Shetterly

Concerned with breadth of bill, in particular talking about an indirect impact. Wondered if issue could be addressed by authorizing parties by contract to grant standing to a lessee.

385 Canary

Two responses:

1) Some taxpayers and landlords do not know what the law is.

2) Port of Portland will not allow airlines to appeal Port's taxes. Restricting which parties can make decision would lead to inequalities.

424 Chair
Brian

Asked, how far can Dept. of Revenue go in establishing rules to narrow either of those references.

430 Canary

Dept. of Revenue can interpret statutes as long as they are not inconsistent.

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Rep.

Repeated concern with breadth of bill. Disagreed that airlines should be allowed to appeal taxes of airport just because they occupy a counter at the airport.

- 035 Shetterly
- 040 All Questions and discussion concerning who should have standing in an appeal.
Asked Canary to explain situation prior to Columbia Sun case with regard to "indirectly" and "not limited to" language.
- 125 Chair
Brian
- Tax Court in Columbia Sun case ruled exactly the opposite of the Supreme Court ruling. Tax Court judge said a taxpayer may be anyone who, due to an interest in the property, becomes obligated for the tax.
- 130 Canary
- This is essentially what the law has been for years.
- 151 All Questions and discussion concerning what it would take to restore the Supreme Court decision.
- 211 Canary Addressed one last issue, language at the end of the bill that makes it somewhat retroactive. Number of pending appeals were caught by surprise by Columbia Sun case. Must be able to continue their appeals.
- 231 Rep.
Corcoran Asked how many appeals are pending that would be impacted.
- 238 Canary Only aware of three. Impact minimal, perhaps \$50,000 - \$60,000 in taxes.
Assessors were caught off guard by Columbia Sun decision. Before this, there was an understanding as to who could appeal. Columbia Sun owned property, qualified for enterprise zone exemption. Sold property part way through exemption period. This automatically disqualified the property from exemption. Columbia Sun was supposed to pay back taxes. Columbia Sun appealed disqualification even they no longer had an interest in the property. If buyer of property had appealed, this bill would not be necessary.
- 273 Tom
Linhares Unfortunately, some people have interpreted Columbia Sun decision as meaning that people with triple net lease no longer have standing to appeal.
- 330 Linhares
- 360 Chair
Brian Apologized for having to leave meeting, asked which is more important, "indirectly" or "not limited to".
- 376 Jim
Manary "Indirect" was the concern. If committee adopts this language (indirect), Dept. of Revenue would adopt an administrative rule.
- Agrees that if someone is obligated to pay taxes, they should be able to contest them.
- 412 Chair
Brian Asked Manary and other witnesses to recommend language.
- 420 All Questions and discussion

TAPE 098 SIDE B

- 034 All Questions and discussion on language.
- 065 Rep. Shetterly Eliminating "indirectly" may narrow it too much. Would prefer to work off language in Columbia Sun case.
- 072 Chair Brian Asked whether it would benefit to write a section in bill to help clarify.
Expressed concern that this might confuse things more.
- 082 Canary Concerning the idea of returning to tax court decisions language in Columbia Sun case: Court made its decision on two points. First, Sun had no interest in property; second, Sun was "not directly effected." Using this language may confuse things more.

Suggested changing language on page 1 line 27 "The act or omission must ..." add "monetarily" "affect the person or the property ..."
- 176 Rep. Strobeck Expressed concern with the idea that an adjoining property owner might appeal someone else's property value without "direct" impact. Suggested changing language to say "must monetarily affect the person ... through the operation of"...
- 197 Chair Brian Page 1 line 29, suggested broadening this list. Example: Trust beneficiary

Questions and discussion on "indirectly," "included but not limited to,"
- 231 All "monetarily," "intervening."
- 246 Canary Putting in "monetarily" prevents companies from appealing their neighbors' taxes.
- 365 Chair Brian Asked whether testifiers can easily modify lines 27-29 or whether they need a day or two.
- 393 Canary Can provide language in the next few days.
- 398 Vice Chair Beyer Asked whether committee wants to cover appeals after January 1, 1995.

TAPE 099 SIDE B

026 Manary Page 4, lines 15-19 -- Section 7 (3) is okay as written.

033 Chair Brian Closed Public Hearing on HB 2623

PUBLIC HEARING - SB 170

- 035 Chair Brian Opened public hearing on SB 170
- 036 Jim Manary Directed members' attention to Summary (EXHIBIT C) Housekeeping, to insert oversights that the bills omitted.
- 066 Manary Sections 1-3 Enterprise Zone Reference Cleanup
Sections 4-6 Centralize Appraisal and Exemption Process for Water Association Property with Assessor

- 080 Manary Sections 7-8 Adding Increased Veterans' Exemption Amount to Nonprofit Homes for the Elderly Program
- 104 Art Fish Supports changes made in bill. Attorney General Office advised that omission was not a problem for implementation of approval of assessors. HB 2143-A has same corrections.
- 121 Brian Reeder Revenue and fiscal impacts are insignificant. (Refer to EXHIBITS D, E, and F)

WORK SESSION - SB 170

- 124 Rep. Strobeck **MOVED SB 170 TO THE FLOOR WITH A DO PASS RECOMMENDATION.**
VOTE 7 - 0 - 2
IN A ROLL CALL, MEMBERS VOTING AYE:
- 128 Vote **REPS. CORCORAN, EDWARDS, RASMUSSEN, SIMMONS, STROBECK, VICE CHAIR BEYER, CHAIR BRIAN.**
MEMBERS EXCUSED: REPS. LEWIS, SHETTERLY.
(Refer to # 280 for Rep. Shetterly's vote)
- 138 Chair Brian **MOTION CARRIED. REP. CORCORAN WILL LEAD DISCUSSION ON THE FLOOR.**

PUBLIC HEARING - SB 172

- 132 Chair Brian Opened public hearing on SB 172
- 140 Brian Reeder Revenue impact negligible (Refer to EXHIBITS G, H, and I)
Directed members' attention to "SB 172 Summary" (EXHIBIT J)
- 154 Jim Manary Section 1: Extend 3 % Discount to Error Corrections
Currently, a property taxpayer who pays early gets a 3 % discount. However, if an error occurs and slows down the process, the taxpayer loses that discount. SB 172 remedies this.
- 220 Debby Huggins If correction is in current year, taxpayer has opportunity to pay additional tax within 30 days. If it falls within installment period, they can pay it in thirds and not pay interest. Prior years, they pay interest. Limitation of five years to catch an error.

WORK SESSION - SB 172

- 252 Chair Brian Opened work session for SB 172

260 Rep. Shetterly **MOVED SB 170 TO THE FLOOR WITH A DO PASS RECOMMENDATION.**
VOTE: 7 - 0 - 2

262 Vote **IN A ROLL CALL VOTE, ALL MEMBERS PRESENT VOTED AYE: REPS. CORCORAN, EDWARDS, RASMUSSEN, SHETTERLY, SIMMONS, STROBECK, CHAIR BRIAN.**

MEMBERS EXCUSED: REP. LEWIS, VICE CHAIR BEYER.

276 Chair Brian **MOTION CARRIED. REP. RASMUSSEN WILL LEAD DISCUSSION ON THE FLOOR.**

280 Rep. Shetterly **REQUESTED UNANIMOUS CONCENT TO REOPEN THE WORK SESSION ON SB 170 TO CAST HIS VOTE.**

UNANIMOUS CONCENT RECEIVED.

WORK SESSION - SB 170

285 Chair Brian Reopened work session for SB 170. Advised, Shetterly's vote will not change the outcome.

290 Rep. Shetterly **VOTED AYE. FINAL VOTE 8 - 0 - 1.**

296 Chair Brian Adjourned meeting at 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 2623, Waters, Revenue Impact of Proposed Legislation, 1 p.

- B. HB 2623, Carlson, Testimony on HB 2623, 2 pp.
- C. SB 170, Manary, Senate Bill 170, 2 pp.
- D. SB 170, Reeder, Staff Measure Summary, 1 p.
- E. SB 170, Reeder, Revenue Impact of Proposed Legislation, 1 p.
- F. SB 170, Reeder, Fiscal Analysis of Proposed Legislation, 1 p.
- G. SB 172, Reeder, Staff Measure Summary, 1 p.
- H. SB 172, Reeder, Revenue Impact of Proposed Legislation, 1 p.
- I. SB 172, Reeder, Fiscal Impact Assessment, 1 p.
- J. SB 172, Manary, SB 172 Summary, 1 p.