

ORIENTATION - HB 3163-A

TAPES 135 A/B, 136 A

HOUSE REVENUE COMMITTEE

APRIL 23, 1997 8:30 AM HEARING ROOM A STATE CAPITOL BUILDING

MEMBERS PRESENT: Rep. Tom Brian, Chair

Rep. Lee Beyer, Vice-Chair (Arrived 8:43 a.m.)

Rep. Tony Corcoran (Arrived 8:45 a.m.)

Rep. Randall Edwards (Arrived 8:45 a.m.)

Rep. Leslie Lewis (Excused)

Rep. Anitra Rasmussen (Arrived 8:57 a.m.)

Rep. Lane Shetterly (Arrived 8:45 a.m.)

Rep. Mark Simmons (Arrived 9:15 a.m.)

Rep. Ken Strobeck (Arrived 8:45 a.m.)

STAFF PRESENT: Dick Yates, Economist

Barbara Guardino, Committee Assistant

TAPE 135 SIDE A

008 Chair
Brian Called meeting to order at 8:42 a.m. Overview of transportation system, and transportation finance.

Refer to EXHIBIT A, slide presentation.

Financing Roads (page 1): Will cover three broad areas:

- * Funding Overview
- * Highway Fund Taxes
- * Cost Responsibility

015 Dick
Yates Statewide Revenue for Roads and Transit: 1995

1995 Revenue For Transit (page 2)

Local Transit Funds
Federal Transit Funds (page 3)

State Transit Funds

1995 Revenue for Roads (page 4)

051 Local Road Funds

Federal Road Funds (page 5)

State Road Funds
Highway Fund (page 6)

Highway Fund Constitutional Dedication

097 Highway Fund Distribution (page 7)

Tax Rate History
Taxes and Fees (page 8)

168 Yates A Primer on Cost Responsibility
Travel on Oregon Roads (page 9)

226 Discussed how data is collected

287 Planned Expenditures (per year)

Engineering Data and Judgments (page 10)

- 370 Heavy Vehicle Share of Cost Allocations
436 Planned Expenditures (per year) (page 11)

TAPE 136 SIDE A

- Current System (page 11 bottom)
- Analysis of Whole Tax (page 12)
- 044 Yates
Total Tax Per Mile -- 5-Axles (page 12 bottom)
- Total Tax Per Mile -- 5-Axles (page 13 top)
- 097 Total Tax per Mile -- 50,000 mile (Page 13 bottom)
- Setting Heavy Vehicle Tax Rates (page 14)
- 108
Questions and discussion
Analysis of Each Tax
- 144 Yates Registration Fees (by weight class) (page 15)
- Tax Per Mile (page 15 bottom) with regard to registration fees
- 178 Tax Per Mile (page 16 top)
- Fuel Tax Rates -- Vehicles Under 26,000 Pounds
- 188 Miles Per Gallon (page 17)
- Tax Per Mile (page 17 bottom)
- Weight Mile Tax Rates (page 18)
- 231
Cost Responsibility
Travel By Class: 1996 (page 19)
- 269
Questions and discussion
Truck Travel
- VMT Over 26,000 Pounds (page 20 top)
- 370 Yates (Dominant class is five axles)
- VMT Over 26,000 Pounds (page 20 bottom)
- VMT Over 26,000 Pounds (page 21 top)

TAPE 135 SIDE B

PCE Weights (PCE = Passenger Car Equivalent -- space taken up by vehicle on road)

030 Yates

ESAL= Equivalent Single Axle Load - measure of stress

Example PCE Values (page 22)

ESAL Weights

055 Yates

(Measure of stress, vehicle weight plus number of axles)

Formula comes out of federal research study testing damage amount at different axle loads.

ESAL's and Axle Load (page 23 top)

106

ESAL's and Axle Load (page 23 bottom)

EASL's: Light vs. Heavy (page 24)

130

Ratio between heavy truck and light vehicle is 6,000 to 1

ESAL's: Tractor-Trailer

Heavy Vehicle Share (of ESAL's) (page 25)

159

Cost Allocations

Pavement Cost Allocation (page 26-- Flexible Pavement on Rural Interstate

184 Yates

Graphic -- Extra width necessary for heavy vehicles

Structures On Rural Interstate (page 27)

241

New, Rural Secondary

Maintenance, Rural Interstate

Summary: Allocation by Work Category

256

State Comparisons: Direct Highway Taxes on Typical Vehicles (page 28)

(direct taxes include registration fees)

State Comparisons : Total Taxes on Typical Vehicles

344

Questions and discussion

382 Vice Chair
Beyer

Adjourned meeting at 10 a.m.

Submitted by, Reviewed by,

-
-
-
Barbara Guardino Kim James

Committee Assistant Revenue Office Manager

-
EXHIBIT SUMMARY:

A. HB 3163, Yates, Financing Roads overview, 28 pp.

B. HB 3163, Yates, Oregon Highway Revenue: An Introduction, 8 pp.

WORK SESSION

HB 3710

TAPES 137, 138 A/B

HOUSE REVENUE COMMITTEE

APRIL 23, 1997 3:00 PM HEARING ROOM 50 STATE CAPITOL BUILDING

MEMBERS PRESENT: Rep. Tom Brian, Chair

Rep. Lee Beyer, Vice-Chair

Rep. Tony Corcoran

Rep. Randall Edwards (arrived at 3:43 p.m.)

Rep. Leslie Lewis (arrived at 3:49 p.m.)

Rep. Anitra Rasmussen

Rep. Lane Shetterly

Rep. Mark Simmons

Rep. Ken Strobeck

WITNESSES PRESENT: HB 3710 - Kathy Rodeman, Corvallis School District

HB 3710 - Carol Samuels, League of Oregon Cities

HB 3710 - Harvey Rogers, Preston Gates & Ellis

STAFF PRESENT: Jim Scherzinger, Legislative Fiscal Officer

Steve Wermuth, Clerk

-

TAPE 137 SIDE A

006 Chair Brian Calls meeting to order at 3:31 p.m. Opens work session on HB 3710.

**HB 3710 -
WORK
SESSION**

015 Kathy Rodeman Business Manager, Corvallis School District. Gives concerns of HJR 85 on page 6. Explains concerns of bonded debt issued.

054 Chair Brian Says that will be looked into. Asks Jim Scherzinger to stay in touch with her.

062 Vice-Chair Beyer Agrees with comments made by Rodeman.

068 Chair Brian Asks if "issue" can be defined as a bond that has been partially issued.

070 Rodeman Says that she will look into that. Says regarding the legislation passed in the May 1995 election does not know if it met the 50% standard.

088 Scherzinger Says there is a revised decisions handout **[EXHIBIT A]**.

095 Carol Samuels League of Oregon Cities, representing Association of Oregon Counties and Special Districts Association of Oregon.

102 Harvey Rogers Preston Gates & Ellis. Discusses proposed amendments to HB 3710 **[EXHIBIT B]**.

107 Rep. Rasmussen Asks if underlined text is new language.

109 Rogers Says yes and explains underlined and stricken out text. Discusses the first amendment to be considered (ORS 288.160) which authorizes people to refund general obligation bonds which were issued before Measure 5 took effect.

155 Chair Brian Asks if refund process allows new or additional money or lengthen duration of required debt service.
Says that when governments refund general obligation bonds, typically the

161 Rogers interest rate goes down and the principle amount goes up. Explains current refunding and advanced refunding. Answers yes to Chair Brian's question in that they can increase amount of debt but cannot do it in a way that gets them money.

183 Samuels Says they cannot do it in a manner than increases cost to taxpayers.

187 Chair Brian Says it would be simple to say "limit the increase to administrative and re-issuing costs." Comments that principle can increase, is advanced refunding. Asks about using refund methodology to raise more money.

199 Rogers Says advanced refunding is already heavily regulated by the state. Explains. Says refundings, by their nature, do not allow government to get more money and that refunds of general obligation bonds are altruistic.

222 Chair Brian Says that whatever can be done to make that clear would be helpful.

224 Rogers Confirms that they should come back with the proposal that make it clear that there is no special "yummy" in it for government.

226 Chair Brian Says yes, that would be a good idea.

232 Rogers Discusses [EXHIBIT B, p. 2] and explains section and subsection changes.

263 Chair Brian Gives advice of rewording.

272 Rogers Outlines page 3 and summarizes it. Explains how Beaverton School District was allegedly sued for misspending funds in violation of capital construction or improvements restriction. Speaks of misspending and consequences and penalties of doing so. Says that Beaverton School District won the case because the funds spent were on capital construction or improvements.

322 Rep. Shetterly Asks for an example.

326 Rogers Supposes a school district had been approved for \$10 million in bonds, builds a \$9 million building, and buys \$1 million on personal computers for the building. They would have misspent \$1 million, and what this proposal says is that the district can take \$1 million from operating funds or other money, put it back into bond fund with interest and spend it on the building or capital construction.

341 Rep. Shetterly Asks what the interest rate is.

341 Rogers Says that the bill does not specify and that courts would make that determination.

350 Rep. Shetterly States that 9% is currently the statutory rate of interest.

360 Chair Brian Asks if statutory rate is always used.

363 Rep. Shetterly Says that if it is not specified, they probably would.

380 Rep. Edwards Asks if the bond fund rate can be used.

385 Rep. Lewis Believes there should be a stiff penalty on local government for creatively avoiding the Constitution.

Asks if there is a governmental organization that made an honest mistake

402 Rep. and misspent funds and lost in court, will they have a different repayment
Rasmussen package.

TAPE 138 SIDE A

004 Chair Brian Explains that if the money has been spent and is not covered, the court orders reimbursement.

010 Rep. Shetterly Reads aloud from ORS 882.010.

016 Vice-Chair Beyer Asks if repayments would come out of local property tax dollars.

021 Rep. Shetterly Makes a reference to a bill in Civil Law Subcommittee.

033 Rep. Shetterly Says that statute that provides personal liability provides it without fault.

037 Chair Brian Asks if there are any disagreements as to leaving it as it is proposed in draft.

041 Rogers Continues talking about Beaverton School District. Talks about the final section of the measure that he calls the "diminimus rule" which is intended to discourage nuisance lawsuits.

054 Chair Brian Asks what would happen if an amount that has been misspent and subject to Measure 5 limitations had no room under \$5 or \$10 limit.

064 Rogers Says under old rules, all levies were "squashed" down to meet the \$10 limit. Under Measure 50, there is a concept that local option levies are disproportionately "squashed" to comply with Measure 5 limits.

080 Chair Brian Says if jurisdiction is already up to their limit, the penalty aspect is that misspent funds would eat up any gap between aggregate rate limit which is a penalty. If already to the cap, the issue of what kind of compression occurs is a different effect.

096 Rep. Lewis Asks if there is a time period in which suits against government unit must be filed.

101 Rogers Says there is a published notice with a 60 days statute of limitations for filing and that it embraces all issues that are limited by Measure 50 or Measure 47, whichever.

113 Chair Brian Uses schools for an example and asks when the 60-day time limit starts.

121 Rogers Says if there were questionable assets, then the government would publish the notice and specify that they were spending the bond proceeds on that type of asset.

132 Chair Brian Asks where statement would appear.

133 Rogers Says existing law requires a publication in a newspaper of general circulation of the area of the taxing body. Says statutes do not allow to publish a notice saying bond proceeds will be spent on "stuff" and run the 60-day statute.

146 Rep. Edwards Asks why such a low threshold.

151 Rogers Says to avoid lawsuits.

Rep.

- 155 Shetterly Says for smaller jurisdictions, \$5,000 is significant.
- 159 Carol Samuels Says that it is unusual for any size jurisdiction to go into debt market for amounts less than \$100,000.
- 165 Rep. Lewis Says that a 5% mistake could be \$5,000 and so taxpayers in that jurisdiction would be concerned whether the 5% misspent was \$10,000 or \$1 million.
- 173 Rogers Says what is often found is that the definition of capital construction and improvements in not clear.
- 186 Vice-Chair Beyer Asks about programs where economic development department issues an "umbrella" bond and asks if it can get that low.
- 193 Rogers Says there are no pooled bond programs that are subject to capital construction and improvements restrictions.
- 200 Chair Brian Says that the committee will be revisiting sections 61 and 62 dealing with appeals.
- 204 Rep. Shetterly Discusses language of subsection 2 in reference to the \$5,000 threshold.
- 216 Rogers Talks about proposed amendments to ORS 310.140. Says the first change is on page 5, subsection 15. Says a mistake was made in dealing with subsection 15(b).
- 240 Rep. Lewis Clarifies that subsection 15(b) will not be changed.
- 241 Rogers Says correct, and underlined will be deleted. Says subsection 15(c) incorporates language of Measure 50. Comments that Measure 50 says that if bonded indebtedness is issued after Measure 5's effective date but before Measure 47's effective date, then the bonds can be general obligations if they were approved by a majority of people voting in a normal election.
- 265 Rep. Lewis Asks if by deleting words, "issued as a general obligation," are the bonds that currently exist being changed that were issued between 1990 and 1996.
- 279 Rogers Says that was not intentional and that is Measure 50 language.
- 286 Rep. Lewis Realizes that and says that she does not want to remake those mistakes in the statutes and would feel more comfortable if "issued as a general obligation of the issuing governmental unit" after November 6, 1990, but prior to December 5, 1996.
- 296 Rogers Says that can be added back and that he was just trying to match Measure 50.
- 297 Chair Brian Clarifies that underlined part will not be deleted.
- 305 Rogers Says that the next set of changes deal with definition of capital construction and improvements **[EXHIBIT B, pp. 5-6]**. Says that if bonds were approved by voters before December 5, 1996, then bonds could be spent for old definition of capital construction and improvements.
- 352 Rogers Continues explaining changes and proposals in subsections 18-20.
- 372 Rep. Lewis Asks what kinds of things are trying to be excluded from maintenance and repairs that could be reasonably anticipated.
- 383 Rogers Asks what consequence should be when a roof wears out. Asks if bonds can be issued for a new roof.
- 389 Rep. Says she has not though that through and is trying to figure out what does not fall under

Lewis category that could reasonably be anticipated.

TAPE 137 SIDE B

- 010 Rogers Says that a new roof should be able to be financed and that the concept is that when someone buys a new asset, the asset is going to be good for a certain amount of time if cared for properly. States that expenses incurred for care cannot be financed with bond proceeds and that when it wears out when it is "supposed" to, the person should be able to replace it with bond proceeds.
- 021 Rep. Edwards Discusses section 20, subsection (b).
- 025 Vice-Chair Beyer Believes that concern about the roof is reasonable and discusses concern for difference between maintenance and reconstruction.
- 037 Rep. Rasmussen Gives examples of older buildings with lead pipes and asbestos.
- 046 Chair Brian Clarifies that roof repair replacement with bonds, and asks if that is the intent.
- 054 Chair Brian Explains section 19 on capital improvements and what they do not include. Says that it sounds like capital improvements would not allow maintenance and repairs.
- 074 Rogers Says clarity is needed and explains projected useful life of property.
- 087 Rep. Shetterly Says that the roofing issue is unclear.
- 095 Rep. Lewis Says that if she owned a building, projected useful life would be based on the fact that she knows she would have to re-roof at least 4-5 times in a 100-year period.
- 103 Vice-Chair Beyer Says that IRS has a code that says if investment/business properties re-roof the whole roof, they cannot deduct it because it is a capital investment.
- 111 Rep. Lewis Agrees with Vice-Chair Beyer and suggests to look to that for guidance.
- 117 Chair Brian Explains that current things that can be deducted for tax purposes would not be allowed under the bond because they would be maintenance.
- 129 Rogers Says that Measure 47 and Measure 50 do not just address whether there is capital but also damage and destruction. Says he is uncertain on how to substitute for useful life concept as to whether it is depreciable or an expense item.
- 142 Chair Brian Asks if language can be lifted.
- 145 Rogers Says he will try to change that.
- 146 Chair Brian Says to add that damage would not be reasonably anticipated.
- 148 Rep. Edwards Says putting another roof on extends the life and that it cannot always be anticipated.
- 160 Chair Brian Says roof replacement also depends on weather.
- 164 Rep. Edwards Asks what is trying to be prevented.
- 171 Chair Brian Says intent was to prevent routine maintenance and using bond proceeds for those such as painting. Says that roof issue is definitely a gray area.
- 180 Rep. Shetterly Asks if there is a "laundry list" of possible uses that should be excluded. Would it be possible to list items in particular, "including but not limited to."
- 193 Rogers Says he is convinced that a better job can be done, and that he will try.
- Asks that along with language to be worked on, a list of things that are being thought

- 196 Rep. Lewis of being excluded would be helpful.
- 205 Rogers Says that next attempt to add clarity is to define supplies and equipment that are intrinsic to a structure and says that current language is close to language proposed in Measure 47. Explains that supplies and equipment would be intrinsic to a structure if they are: a) fixtures under the law, structure being personal property that is glued or bolted down to a building that has to be "torn out," b) if the supplies or equipment are taxed as real property under Oregon tax laws, and c) supplies and equipment that are necessary to permit a structure to perform the functions for which the structure was constructed.
- 238 Samuels Says examples include things like monitoring equipment for jails, equipment for public safety vehicles, and equipment for sewer and water facilities that are often not bolted the floor but are intrinsic to a function of the structure.
- 248 Rep. Shetterly Asks about computers in schools.
- 250 Samuels Believes computers would not be eligible under this language.
- 254 Rep. Shetterly Asks if that is because they are not fixtures.
- 260 Rogers Says they could not be financed and would not be necessary to permit a structure to perform its functions.
- 270 Chair Brian Asks about desks and chairs.
- 270 Rogers Believes furnishings are not part of equipment.
- 276 Chair Brian Asks if it was previously concluded that furnishings were allowed on initial construction.
- 298 Rep. Lewis Asks if it is possible to tighten down on that statutorily. Gives an example of Secretary of State's office and the constant remodeling.
- 336 Rep. Shetterly States that he would like language to include bonding of computers for schools.
- 362 Rep. Simmons Says he sympathizes, but supports idea of not including computers for schools.
- 377 Samuels Says furniture for new construction or for remodeled facilities would be acceptable.
- 392 Rogers Says furnishings have a reasonably expected useful life that is less than the life of the building.
- 401 Chair Brian Says that originally redecorating was not included, but now is comfortable with it.

TAPE 138 SIDE B

- 002 Rep. Shetterly States that it might be possible to provide exception or different definition for maintenance and repairs under bonds approved before December 5, 1996 even if issued after that date.
- 010 Rogers Says he has continued to fret this problem and will continue to work on it.
- 017 Chair Brian Says that some bonds that were issued before December 5, 1996 have not been completely issued.
- 025 Rogers Explains next proposals[**EXHIBIT B, p. 7**] which give a restrictive definition of what a capital project is for purposes of levies. Says that Measure 50 requires capital levies in excess of five years to not exceed the useful life of assets financed. Requests that if

a local option levy is approved by the voters and if the ballot measure also says that the taxing district can bond against the levy, then the statutes be amended to say that bonds that are payable from the levy can be issued.

- 068 Rogers Explains that capital projects do not have unitary useful lives. Says that language is unsatisfactory and asks for input.
- 080 Chair Brian Asks to explain the significance for a) and b) changes in subsection 2.
Explains that they are changes to existing serial levy statutes which are limitations that legislature had imposed before Measure 47 and 50 were thought of. Says that prior to implementation of Measure 47, legislature stated that serial levies for operating purposes could not exceed five years and a levy for capital project for other items could not exceed ten years. Says that subsection 2 states that if there is a local option levy under Measure 50, it can be for five years, and can be longer if it is for a capital project but not longer than the expected life of assets being financed.
- 085 Rogers
- 115 Chair Brian Asks what difference is between operating levy times prior to Measure 47 and what is being discussed.
Says that subsection 2 is different in that it imposes the Measure 50 limitation that a capital levy beyond five years not exceed the expected life of financed assets, which is not a limitation in current law.
- 121 Rogers
- 125 Chair Brian Asks prior to Measure 47, if something had a useful life of seven years, could it be bonded for ten years.
- 127 Rogers Says that it would still be levied over ten years to pay for its cost.
- 132 Samuels Clarifies that this provision deals with pay-as-you-go capital project financing as well as bonding.
- 137 Scherzinger Says section 288 **[EXHIBIT B, pp. 7-8]** controls all local option levies including operating local option levies.
- 151 Rep. Lewis Asks about subsection 4 and how it affects taxpayers.
- 164 Rogers Says that it would allow districts to borrow money in anticipation of future years' levies and would not increase or extend amount of the levy.
- 177 Rep. Lewis Asks if taxpayers would pay more.
- 179 Rogers Says existing law says that if a serial levy is being done then an even dollar amount is levied every year, or a rate is levied.
- 187 Chair Brian Clarifies that it is similar to transforming a levy into a bond.
- 191 Scherzinger Asks if there is anything in constitution that says that statutorily providing for a bonding opportunity under these provisions could not be done.
- 209 Rogers Confirms question in that statutory authorization for a tax that is not otherwise explicitly described in Measure 50.
- 214 Scherzinger Says no. Asks that under local option provisions, why can't a bond be approved that allows to levy a tax for ten years to repay.
- 218 Rogers Explains that under old law, if voters approved a general obligation bond, it carried with it taxing authority.
Asks why question cannot be reworded to say "taxing authority want to issue this amount of bonds and levy whatever taxes to repay what it is, and here is taxing authority's estimate of what that is."
- 238 Scherzinger
- 241 Rogers Says that subject to useful life, would be delighted to do so.

- 246 Chair Brian Clarifies that would include election provisions. Says not that comfortable with having a levy being turned into a bond.
- 274 Samuels Asks for a sense of what aspect as to what causes to be uncomfortable.
- 277 Chair Brian Gives concerns of taxpayers paying for levy that has been "pulled forward" when there is no activity going on.
- 306 Scherzinger Says the only difference between this provision and a general obligation bond is that this is imposed within the gap as opposed to outside of Measure 5, and the capital improvement restrictions would not apply.
- 327 Chair Brian Gives an example of a five-year operating levy for city operations and because it is an operating levy, money can be spent for any lawful purpose. Says that the city pulls in the first year and spends on furnishings.
- 349 Rep. Lewis Says for people to be honest, if it is a bond, say it is a bond.
- 350 Chair Brian Comments on how he is not opposed to the flexibility but if the nature is changed, there should be a disclosure.
- 358 Vice-Chair Beyer Says that is already in the provision.
- 367 Rogers Says that there are no objections. Says that if committee finds it better to do a bond that is payable from a local option, that would be great.
- 376 Samuels Explain that flexibility would like to be retained.
- 384 Vice-Chair Beyer Says if local government is trying to issue bonds and is trying to get bond council approval, council will probably make sure that all information the government is worried about is in the ballot title anyway because they will not be able to serve the bonds otherwise.
- 395 Rogers Explains that there is no problem with disclosure.
- 414 Chair Brian Says that committee will look for language. Adjourns at 5:16 p.m.

Submitted by, Reviewed by,

Steve Wermuth Kim James

Committee Clerk Revenue Office Manager

-

EXHIBIT SUMMARY:

A - HB 3710, Measure 50 handout, Staff, 4 p.

B - HB 3710, Proposed amendments by League of Oregon Cities, Harvey Rogers, 8 pp.