

PUBLIC HEARING & WORK SESSION: HB 2585A

WORK SESSION: HB 3163A

TAPES 184, 185 A/B, 186 A

HOUSE REVENUE COMMITTEE

MAY 27, 1997 8:30 AM HEARING ROOM A STATE CAPITOL BUILDING

MEMBERS PRESENT: Rep. Tom Brian, Chair (Arrived 9:10 a.m.)

Rep. Lee Beyer, Vice-Chair

Rep. Tony Corcoran

Rep. Randall Edwards (Arrived 9:10 a.m.)

Rep. Leslie Lewis (Arrived 9:05 a.m.)

Rep. Anitra Rasmussen

Rep. Lane Shetterly

Rep. Mark Simmons

Rep. Ken Strobeck

WITNESSES PRESENT: Mike Dewey, Oregon Cable Telecommunications Association

Bill Tierney, TCI Portland Metro Cable

Sandy Coleman, North Willamette Telecom

Capt. Greg Williford, Dept. State Police, Gaming Enforcement Div.

Bruce Anderson, Oregon Boxing and Wrestling Commission

Donna Merrill, Children's Trust Fund of Oregon

Cindy Thompson, Children's Trust Fund of Oregon

Rep. Eldon Johnson, District 51

Grace Crunican, Oregon Department of Transportation

Gregg Dal Ponte, Oregon Department of Transportation

Dave Barenberg, League of Oregon Cities

Bill Penhollow, Association of Oregon Counties

STAFF PRESENT: Dick Yates, Economist

Barbara Guardino, Committee Assistant

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TAPE 184 SIDE A

006 Vice Chair Beyer Called meeting to order 8:48 a.m. Opened public hearing on HB 2585A.

PUBLIC HEARING - HB 2585A

008 Dick Yates Reviewed HB 2585A: Deals with Oregon Boxing and Wrestling Commission. Currently, 6 % gross receipts tax applies to admissions and telecasts, either close circuit television or Pay-Per-View. Bill reduces 6 % tax rate to 3.5 % as it applies to telecasts. Sunsets gross receipts tax on Dec. 31, 1999. Bill also requires Commission to report to 1999 legislature on boxing and wrestling events sponsored at Indian tribal sites during next biennium.

025 Mike Dewey Refer to written testimony (EXHIBIT A) "Oregon Cable Telecommunications Association". Supports HB 2585A. Asked committee to discuss tax policy of funding Boxing and Wrestling Commission substantially by Pay-Per-View tax. Taxes apply to out-of-state events such as Mike Tyson fight. When legislature discussed this in 1993, it said customers would not be paying the 6 %, the event distributor would pay it.

Contracts require cable companies to reimburse distributors this 6 %. Cable companies have to decide whether to pass this onto customers.

This tax is not really a 6 % tax, it is 11 % for most cable companies, due to a 5 % tax on franchise.

When 6 % measure passed, revenues from Boxing and Wrestling Commission were down and this was a way to find someone to pay 6 %. Now there is a \$90,000 surplus, much of which will be given to Children's Trust Fund. Asked, why is cable industry paying for something that has nothing to do with state of Oregon? Most boxing events are held out of state.

060 Dewey

Now state police say they are concerned that Indian casinos are going to hold boxing matches, and cable will have to pay for that regulation. The Indian casinos can avoid state regulation if they want to. This is an opportunity for cable companies to move away from tax, from 6 % to 3.5 %, then sunset it. In case of Indian events, 6 % live gate tax will be applicable. That, and cost for promoter, should pay for the regulation. Promoters should not get a free ride.

Asked, why should cable companies or customers have to pay this tax?

108 Dewey

Large proportion of ending balance of boxing goes to Children's Trust Fund. Does not understand relationship between boxing and cable companies and Children's Trust Fund. Would like to see Children's Trust Fund receive its money elsewhere.

132 Dewey

Directed members' attention to Exhibit A, page 3: "Wrestlemania Sunday, March 31, 1996 ..." and subsequent pages of invoices for boxing events.

Testified in support of HB 2585A. North Willamette Telecom has 10,000 customers in conservative community of Canby. They do not hold boxing events. Difficult to explain to customers why they have to pay cumulative 11 % tax. Cable companies are not paying the tax, customers are.

152 Sandra
Coleman

Referred to Exhibit A Examples 1 and 2: 50-50 split. In reality, the split is closer to 80-A20. Her company makes little money after costs and the 6 % tax.

Testified in support of HB 2585A. Pay-Per-View is a small part of the total cable operations. Generates annual revenues of only \$2 million. Very low profit margin. 6 % margin can make a difference whether it is good business or poor business. Cable companies uncertain whether these events should continue to run. Consumer demand is there. In addition, tax policy says cable customers paying for unrelated regulatory agency.

207 Bill Tierney

247 Rep.
Rasmussen

Asked for explanations of "Boxing Tax Scenario" two examples of tax splits, page 6:

250 Dewey

Explained, example 1: \$50 event equals \$10,000 gross receipts, with 50/50 split distributor and cable company would each get \$5,000. With 6 % tax, income to cable customer is actually \$4,400.

329 Dewey

Explained example 2: In the case of passing the 6 % tax onto customers, increases gross revenues to \$5,300.

Distributor pays Boxing and Wrestling Commission. Contracts provide that cable

companies will reimburse distributors. Cable company then has to decide whether or not to add 6 % tax to the bill.

Dept. State Police, Gaming Enforcement Division proposed budget for next biennium is approximately \$170,000. That funds one full-time position and per diem for commissioners. Needs to be level of regulation involving wrestling events, and a stable funding source.

365 Capt. Greg
Williford

Tribal venue professional fights is potentially a new trend. If tribes use state commission, 6 % gate receipt tax would apply to promoter.

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013 Rep. Corcoran Asked, what percentage of Capt. Williford's time is spent on Boxing Commission?

019 Williford More than half.

As director of Oregon Boxing and Wrestling Commission, he is disturbed to hear this session that Commission's existence be determined by number of events in Oregon. If Oregon allows blood sports, state has to regulate it. Asked, who will pay for these events, taxpayer money or those who profit from the event? Should be those who benefit and/or profit from the events. Taxing gate receipts won't work -- promoter will go elsewhere.

039 Bruce
Anderson

Suggested, if committee intends to pass this bill and cut revenue source, to tax satellite companies to make up for lost revenue. If cable systems want to enter into a contract, they can choose whether to pay this tax and/or pass it onto subscribers.

If funding is sunset, lawmakers should also prevent potential for promoters to pass tax onto cable companies.

Tribes enter into agreement which will require them to enter into contract with promoter, which will provide oversight to maintain integrity of casino.

Noted, tribes can hold these events with or without a state commission. A tribe can form its own commission, or it can contract with state to provide that oversight.

145 Donna
Merrill

Refer to written testimony verbatim (EXHIBIT B) in opposition to HB 2585A. Children's Trust Fund, a recipient of boxing revenues, helps prevent child abuse and neglect. Revenue projections from Boxing and Wrestling Commission for 1995-97 biennium are \$30,000.

222 Chair Brian

Asked, what was the original reasoning for the connection between cable distribution of boxing and Trust Fund.

224 Merrill

Explained, legislature knew importance of Children's Trust Fund. Its sources of revenue come from a variety of places, and this was one opportunity.

236 Cindy

This is one of many funding sources, but is critical. Opposes HB 2585A.

- Thompson
- 250 Vice Chair Beyer Noted, in federal law, if state does not have a commission, state has to contract with another state to use their commission. Would this be a cheaper way to go?
- 260 Anderson State would have to consider lots of liability questions. Association of Boxing Commissions took position that no state would go into another state, even though federal law allows it.
- 278 Vice Chair Beyer Asked, what about asking promoters to pay full cost of their events?
- 284 Anderson Does not believe promoters would agree to it. Tribes could still hold these events whether the state regulates them or not.
- 299 Vice Chair Beyer Asked, what would be the problems for law enforcement?
- 305 Williford If tribes self-regulate, state lose ability to oversee/monitor tribal boxing activities. Organized crime could become involved.
- 334 Vice Chair Beyer Suggested tribes pay cost of commission.
- 344 Anderson Currently, state has model agreement with tribes. If tribe wants fights in its casino, it enters into contract with promoter and requires promoter to comply with Oregon statute.
- 365 Rep. Shetterly Clarified, will casinos capture live event market?
- 367 Anderson Yes, that is what he foresees. The cheaper shoe-string shows are the most dangerous, create the most problems.
- 371 Rep. Shetterly Bill would reduce Commission's revenue, but would not eliminate Commission. Wondered, if in light of shift to casino venues, whether reduction is warranted.
- 383 Rep. Edwards Suggested, if bill passes, lawmakers make up lost revenue to Children's Trust Fund elsewhere.
- 396 Chair Brian Agreed, give them a more rational means of funding.
- Closed public hearing on HB 2585A, opened work session on HB 2585A.

WORK SESSION -- HB 2585A

- 411 Vice Chair Beyer **MOTION TO MOVE HB 2585A TO THE FLOOR WITH A DO PASS RECOMMENDATION.**

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IN A ROLL CALL VOTE, ALL MEMBERS PRESENT VOTED AYE:

REPS. CORCORAN, EDWARDS, LEWIS, RASMUSSEN, SHETTERLY,

STROBECK; VICE CHAIR BEYER, CHAIR BEYER.

MEMBERS EXCUSED: REP. SIMMONS

448 VOTE

MOTION CARRIED.

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WORK SESSION -- HB 3163A

036 Chair
Brian Closed work session for HB 2585A, opened work session for HB 3163A.

Directed members' attention "Amendments to HB 3163A, (EXHIBIT D). List begins with -A15 amendments, which have been changed. -A16, -A17 and -A19 have also been changed. Today, committee will address -A20, -A21, -A23, -A24.

039 Dick
Yates HB 3163 -A21 amendments separate out change in funding for state parks

HB 3163 -A23 amendments combine most of previous amendments

HB 3163 -A24 amendments modifies old issues, brings up new issues.

055 Rep. E.
Johnson Addressed HB 3163 -A20 amendments. (EXHIBIT E): -A20 make changes in way weight mile taxes are collected in Oregon. He also addressed these changes in HB 3729, and prepared testimony based on HB 3729 as its basis.

Requested:

1) Remove exemption for farm vehicles

2) Remove flat rate schedule from statutes

Fairness issue not being met at this time. -A20 amendments are intended to be revenue neutral. Bill reduces two rate schedules to one. Under this bill, operators would report weight mile taxes on quarterly basis, a departure from current monthly requirements.

Bill would remove farm exemption, which would add \$2.3 million annually. Corporate farms not paying a penny for weight mile tax. Times have changed and it is not fair to exempt farm use vehicles.

Bill would eliminate flat rate payment for weight mile taxes. 1995 survey disclosed that flat rate operators paid \$3.4 million less using this method than using standard weight mile tables.

109 Rep. Bill would deal with evasion by allowing company to take 2 % tax discount if it installs transponders. Oregon Green Light Project system would track all trucks with

Johnson transponders via a computer. Estimated, evasion is up to 10 %. Urged committee to approve the -A20 amendments.

143 Rep. Rasmussen Asked, how mileage tax rate tables contained in -A20 affect fairness issue.

147 Rep. Johnson Explained, compression in charts does not change weight mile taxes an operator would pay. It reduces numbers of computations, selection opportunities. Technology for transponders should be completed in six months. Believes catching evaders will offset 2 % discount.

197 Grace Crunican Introduced Gregg Dal Ponte, manager of Motor Carrier Transportation Branch of Oregon Department of Transportation.

210 Gregg Dal Ponte Has not seen HB 3163 -A20 amendments, but was part of drafter and believes everything in them is do-able. ODOT will have substantial components of Green Light Program in place shortly.

217 Vice Chair Beyer Referred to a correspondence he received from ODOT listing suggested potential changes. Asked, are there some suggestions listed to lessen burden on truckers that committee has missed?

227 Crunican Nothing to add from list. ODOT will work with truckers during interim. Their concern was, why fix structure since it is fundamentally flawed.

288 Dal Ponte Bill represents cooperative effort between motor carrier industry and. Motor carriers do not support weight mile tax, and are seeking alternative form of taxation. Views bill as good first step.

Concerning memo to which Beyer referred, does include "encourage electronic recording." Suggested additional incentive of further tax discount.

339 Rep. Shetterly Expressed interest in decreasing economic impact on trucking industry.

359 Dal Ponte 1995 similar bill referred to 3 % transponder discount. Suggested discount not exceed 3 % in aggregate.

402 Rep. Rasmussen Questions and discussion per discount requirements. Noted, all tax credits need to be reviewed on regular basis. Suggested a sunset in about six years.

424 Dal Ponte Noted, three-fold reason for discount:

1) As an economic incentive to influence motor carriers to change the way they do business.

2) Favorably impact on weight mile tax evasion.

3) Cost savings to the state.

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- 045 Crunican ODOT would support a sunset for this bill so it will be reviewed. ODOT continues to work with motor carrier industry.
- 060 Dal Ponte Allowing weight mile reporting on fleet basis would not be practical. If carriers could report tax on fleet basis, they would still be required to keep individual records. This would not eliminate record keeping.
- Indicated drafting error in HB 3163 -A20 amendments: page 3, Section 15, line 18: January 1999 should be 2000.
- 081 Yates Also, need to clarify 2 % discount. It reads that if company invests in transponder for one vehicle, it can take 2 % discount for its entire fleet.
- 093 Dal Ponte This is not the intent. Clarification must be made.
Pointed out additional corrections and additions to HB 3163 -A20.
- 099 Chair Brian
- 111 Chair Brian **ASKED MEMBERS FOR ANY OBJECTIONS TO CONCEPTUAL AMENDMENTS. HEARING NO OBJECTIONS, CHAIR SO ORDERED.**
Reviewed HB 3163 -A21 amendments (EXHIBIT F): Three 3-cent gasoline tax increases. Amendment gives first 3-cents increase to Parks, 2 cents of second increase goes to Parks, remainder goes to Marine Board.
- 123 Yates
- 134 Rep. Simmons This is consistent with Ways and Means change in previous bill. If amendment is voted down, it will remain that Parks gets 6 cents.
- 154 Vice Chair Beyer **MOTION TO MOVE HB 3163 -A21 AMENDMENTS INTO HB 3163.**
- 164 All Questions and discussion. Rep. Simmons would prefer to keep language as it is.
- 191 Chair Brian **ASKED MEMBERS FOR ANY OBJECTIONS TO MOVING HB 3163 -A21 AMENDMENTS INTO HB 3163. NOTING OBJECTION FROM REP. SIMMONS, CHAIR SO ORDERED.**
- 197 Vice Chair Beyer **MOTION TO MOVE HB 3163 -A15 AMENDMENTS INTO HB 3163.**
- 199 Chair Brian **ASKED MEMBERS FOR ANY OBJECTIONS TO MOVING HB 3163 -A15 AMENDMENTS INTO HB 3163. HEARING NO OBJECTIONS, CHAIR SO ORDERED.**
- 202 Yates Reviewed HB 3163 -A23 amendments, most of which come out of the -A19 amendments.
- 283 All Questions and discussion concerning bid process.
- 313 Crunican Reason ODOT added Associated General Contractors (AGC) as members, is ODOT will set up parallel process for negotiation. Will rely heavily upon those who have done this in other states.
- 355 Yates Concluded comments on HB 3163 -A23 amendments.
- 372 Rep. Strobeck **MOTION TO MOVE HB 3163 -A23 AMENDMENTS INTO HB 3163.**
Bill Explained, amendments would allow ODOT, cities and counties on road projects, to

403 Penhollow use negotiated approach rather than developing plan and doing bid response approach.
418 Chair Brian **ASKED COMMITTEE FOR ANY OBJECTIONS TO MOVING HB 3163 -A23 AMENDMENTS INTO HB 3163. HEARING NO OBJECTIONS, CHAIR SO ORDERED.**

Reviewed HB 3163 -A24 amendments:

423 Yates Page 2, Section 2, changes dedication to debt service from 1 cent to 2 cents. Current bill says concerning first 1 cent, instead of being distributed out on a 50/30/20 basis to cities and counties, 100 % goes to state. Change would allow first 1 cent and portion of second cent would go exclusively to state.

TAPE 186, SIDE A

040 Dave Barenberg Currently in bill, all of funds are split 50/30/20 except for 1 penny taken for bonding. Taking an additional penny off would reduce funds and would substantially reduce the amount of modernization funds available locally. Suggested rather than taking this penny, extend authority to use additional ODOT modernization funds to finance additional bond issues.

452 Penhollow Concurred with Barenberg's comments.

062 Crunican Concerning previous conversations about bonding capacity, she did not mean take another penny from cities and counties.

105 Crunican Suggested committee keep 1 cent in bill. ODOT is trying to avoid taking money from cities and counties. Bill needs language change.

129 Chair Brian Asked committee to consider whether to leave bill as it is.

Continued review of HB 3163 -A24 amendments, line 5, page 1: In current bill, Modernization and Operations, Maintenance and Preservations money goes back to cities and counties to be spent for specific purposes. This could lead to situations when city has maintenance need and not much modernization, and cannot use this money.

140 Yates

Amendment says cities and counties will be deemed to meet requirement individually if they meet it in the aggregate. Directs Association of Oregon Counties (AOC) to facilitate counties in meeting aggregate requirement. Directs League of Oregon Cities (LOC) to facilitate cities in meeting this requirement.

171 Barenberg LOC had discussions with governor's office. Governor felt comfortable with this language. Governor recommended a 1999 sunset, LOC recommends sunset.

197 Rep. Shetterly Delete "each year," add legislative "70th assembly" (page 1, line 15).

212 Yates Referred members to bill, page 24: Distribution of new transportation safety and service fund tax (Subsection 3, line 12): 70 % goes to elderly and disabled transportation; 20 % to Dept. of State Police. The other 10 % goes to various places. HB 3163 -A24 amendments combine the 10 % into one, goes to ODOT to finance inner city and commuter rail.

HB 3163 -A24, page 2, line 14 section 32: Gives ODOT authority to allow 911 and

- transportation tax to use one form.
- 269 Yates
- 911 tax rate sunsets in 2001. That would not cause this tax to sunset.
- 301 Rep. Strobeck Expressed disagreement with attaching service fees to utility bills, etc.. Would prefer a line on state income tax, more up front. Objected to this section of -A24 amendments.
- 327 Rep. Shetterly Expressed discomfort with amendment, asked committee to delay decision and come up with a better amendment. Rep. Simmons agreed.
- HB 3163 -A24, page 3, line 25: Allows Transportation Commission to recommend for use of funds, projects that deal with inner city and commuter rail development.
- 342 Yates
- Bottom of page 4: Changes effective date to Jan. 1, 1998.
- Page 5: Increases debt limit from \$230 million to \$410 million.
- 421 Chair Brian Noted proposed changes. Committee will consider the new amendments tomorrow. Adjourned at 11:00 a.m.

Submitted by, Reviewed by,

Barbara Guardino Kim James

Committee Assistant Revenue Office Manager

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EXHIBIT SUMMARY:

- A. HB 2585, Dewey, Oregon Cable Telecommunications Association, 6 pp.
- B. HB 2585, Merrill, Children's Trust Fund of Oregon Testimony to House Revenue Committee, 2 pp.
- C. HB 2585, VanVliet, Tony VanVliet State Representative testimony, 2 pp.
- D. HB 3163, Yates, Amendments to HB 3163A, 5 pp.
- E. HB 3163, E. Johnson, Proposed Amendments: HB 3163 -A20, 10 pp.
- F. HB 3163, Yates, Proposed Amendments: HB 3163 -A21, 2 pp.
- G. HB 3163, Yates, Proposed Amendments: HB 3163 -A23, 5 pp.

H. HB 3163, Yates, Proposed Amendments: HB 3163 -A24, 5 pp.

I. HB 2585, Yates, Fiscal Analysis of Proposed Legislation, 1 p.

J. HB 2585, Yates, Staff Measure Summary, 1 p.

K. HB 2585, Yates, No Legislative Impact statement, 1 p.

L. HB 2585, Yates, Revenue Impact of Proposed Legislation, 1 p.