

INFORMATIONAL MEETING

ON SB 1103 TAPES 137 - 138 A/B

**SENATE REVENUE COMMITTEE**

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**MAY 5, 1997 - 9:00 A.M. - HEARING ROOM B - STATE CAPITOL BUILDING**

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Members Present: Sen. Ken Baker, Chair

Sen. Neil Bryant, Vice Chair

Sen. Joan Dukes

Sen. Verne Duncan

Sen. Tom Hartung

Members Excused: Sen. Randy Leonard

Witnesses: James Hamrick, State Historic Preservation Officer

John M. Tess, Oregon Historic Property Owner's Association

Sam Naito, H. Naito Properties, Portland

Mike Burns, Historic Preservation League of Oregon

Tom Sjostrom, Morgan Park Properties, Portland

Doug Ebner, Marion County Assessor, serves on Historic

Assessment Review Committee

Staff: Jim Scherzinger, Legislative Revenue Officer

Brian Reeder, Economist

Carol Phillips, Committee Assistant

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**TAPE 137, SIDE A**

005 Chair Baker Opened meeting at 9:15 a.m.

OPENED INFORMATIONAL MEETING ON SB 1103

015 Jim Scherzinger Started a general review of historic property exemption. Discussed Exhibit A- Historic Property Exemption detail. Under the exemption, which was enacted in 1975, when a property qualifies the value is frozen for 15 years. As long as a property met the minimum standards and was open to the public one day a year it continued on the program.

041 Scherzinger This program came up for sunset last session. It did not just cut off new applications, but cut the program itself. There was a bill to extend program two years which was vetoed by Governor, but that was eventually overridden. Because the effective dates got mixed up, a new bill was enacted to "clean up" the program. In that process the legislature amended the program.

051 Scherzinger SB 588 modified the freeze to correct a number of problems that were caused by the veto. It allowed people on existing program to continue. It did not allow any new applications for one year. It set up a new program that requires filing a preservation plan to rehabilitate properties. It also has a periodic review process for compliance with plan. It reestablished the Review Committee with three members representing the State Historic Preservation Office, the County Assessors, and local historic preservation organizations.

067 Scherzinger Allowed business property to apply for additional 15 year period of frozen value. The summary states that if approved it refreezes the property at its market value at the time of reapplication. That was the intent of the legislation but it turned out, due to a drafting error, that it allowed people to continue on at the old value. It has a provision that allows property owners to refuse historic designation by a local government. Was in prior legislation and was the subject of veto; not the program itself. It extended sunset to 2002. Now sunset is on new applications.

081 Chair Baker Asked about the interplay with Measure 47 on the 1995 base year.

082 Scherzinger Responded he is not sure what it will be because Measure 50 says if a property is on a special assessment, the rollback in value will be based on the specially assessed value. Have not yet asked Legislative Counsel whether a correction can be made to that. The

Measure clearly says you cannot go back and adjust market value. But it does not say you cannot go back and adjust a specially assessed value.

100 James Hamrick Exhibit C - Annual Report and Exhibit D - Handbook. Special Assessment Program sunseted after HB 2124 was vetoed by Governor because it contained the owner consent/land use provision. When SB 588 was introduced it was changed criteria somewhat, i.e. the reapplication provision was added in the House Committee and subsequently changed in Conference Committee. The Department never actually saw the language before it went out of the Committee.

133 Hamrick Program now allows a person with property listed on National Registry of Historic Places or which is in a National Registry Historic District to apply for a freeze. That person can file an application which includes a fee of .2 of 1% of the assessed value of the property. The application contains a current statement of value from the Assessor's Office along with a preservation plan.

147 Hamrick In last session a preservation plan was described as a rehabilitation plan. Program came under attack in late 1980s because there was a perception that people with historic property that needed no rehabilitation were applying as a way to avoid paying property tax. SB 2124 and SB 588 asked that property owners be required to do some rehabilitation before they qualify for the benefit. Preservation plan says here is the building, here are the problems it has, here is how to correct them, and time schedule for completion over 15-year period. Those applications are reviewed for sufficiency. Department has enforcement ability once property has been approved for special assessment. Department can then inspect the property at any time.

186 Hamrick Said if property owner does not perform, Department undertakes examination if property should be removed from special assessment. Has been done, but not frequently. Often removals are prompted by local government, but must be investigated. If a property is administratively removed, there is a substantial 15% penalty plus back taxes with interest, plus another 15% interest penalty on top of that.

203 Hamrick Explained that staff examines all applications, then are scheduled for review by Historic Assessment Review Committee. (This is the Committee scheduled for elimination under SB 1103. It would change from a review body to an appeal body.) Referred to page 6 of Exhibit D to show review process. Applications currently are received from January 1 to April 1 annually. Committee meets several times a year to review applications. Committee consults with local governments and commissions. Committee has until September 15 annually to approve the applications, which are retroactive to July 1 (beginning of tax year). Questions and discussion interspersed.

274 Sen. Dukes Asked if a property must have a building on it to receive special assessment.

280 Hamrick Answered yes. Statute says if a property is listed on National Registry it is eligible for tax freeze. For example in historic farm ensembles, if the national register application includes an orchard or barns or building spread over several acres, they will carve out

three or four acres of the total and freeze that amount. Some of that is open space but considered to be important to the whole ensemble. Questions and discussion.

321 Sen. Dukes Asked how many properties today are under special assessment in Oregon.

322 Hamrick Answered that at the end of 1996 there were 1,483 under special assessment. In 1996 147 went off special assessment, either by rotation because their 15 years were over or they removed themselves or they were removed. Next year about 60 will go off, with 85 going off in 1999 and 46 in 2000. Have 55 new applications this year. Have full-time temporary architect and a program coordinator 3/4 time. Program has never had dedicated permanent staff.

354 Sen. Dukes Concerned with long-term inability of this program to deal with almost 1,500 properties. The two most noteworthy historic examples in Astoria, which is basically completely historic, went onto the list a long time before committee was able to deal with it. The first one was a hotel, and the second a movie theater, which is a decrepit building but an historic one.

376 Hamrick Before last session when the bill was reauthorized, there was no requirement for preservation plans. The program was initially set up with legislation for a preservation and maintenance program. Oregon has the oldest tax incentive program for historic properties in the United States. When the Astor Hotel and the movie theater went on special assessment, there was no rehabilitation requirement. A property owner was required only to maintain and preserve a property. 1,500 properties is a lot to keep an eye on, so have relied on friends in local government to "spill the beans" as it were.

402 Chair Baker Asked about the amount of taxes deferred under this program.

404 Hamrick Answered approximately \$8.4 million.

419 Brian Reeder Said that when estimates were made state was still under Measure 5 tax system. For local governments not under compression, if properties were exempted the rate on other properties would go up slightly. The entire levy of the local government would be collected, so there would be no loss in revenue to that local government. It would be shifted from the taxpayer who got the exemption to other taxpayers, thus the "shift" amount. The "loss" amount is from taxes that would be paid to schools. Because they are all under compression that represents a loss because there is no one to "shift" it to.

#### **TAPE 138, SIDE A**

019 Reeder If non-school taxing districts are under compression, there will be a loss and not a shift. Under either Measure 47 or Measure 50 this notion of a shift goes away and there will be revenue loss every time an exemption is granted.

027 Sen. Dukes Asked how do we know how accurate these figures are? Would suspect the estimate is low.

031 Reeder Replied there is a certain amount of uncertainty in the 1995 Value of Property Exempted of \$312.5 million for that reason.

056 John Tess Exhibit E - Written testimony. Generally get together every two years and review tax laws, seismic issues, etc. to discuss how they relate to historic preservation. Oregon's tax law has probably resulted in more rehabilitation than any other incentives at any level in the state. Old buildings are always facing new issues. The new issues now are specifically seismic and code related.

075 Tess SB 1103 redefines "open to the public" by limiting the viewing of historic residential properties to the exterior of a building unless provided by the owner. The proposed amendments limits the viewing of multi-family residential property to the exterior and public spaces as determined by State Historic Preservation Office.

105 Tess SB 1103 redefines a Preservation Plan as a "Resource Evaluation" for purposes of determining condition of the resource at time of application for Special Assessment. Changes role of Historic Assessment Review Committee to an appeals board. Allows applications for special assessment to be received throughout the year as had previously been the policy. Makes clear the law is intended to provide for preservation, maintenance, and rehabilitation of historic buildings which may, but does not require, restoration.

154 Chair Baker Asked what the difference is between rehabilitation and restoration.

155 Tess Answered that rehabilitation is putting a building back into an economic useful life. Restoration is putting a building back exactly as it was when new. Restoration is very expensive and does not necessarily put the building into an economic feasible state. Rehabilitation of an old building sometimes is taking care of deferred maintenance that had not been done for years. The line between maintenance and rehabilitation is a fine one. Questions and discussion interspersed.

201 Sen. Dukes Stated that she wanted to "draw some of those lines" before she agrees to this bill. She believes restoration is what we ought to be getting. Watched a bad project which eventually turned out good, only because the state finally stepped in. The tax liability would have been \$500,000 had the building lost its designation. She saw first-hand the difference between restoration and just rehabbing.

215 Tess Pointed out that rehabilitation does now allow a building owner to do anything at all to a property. The work must be compatible with the existing building.

232 Sen. Dukes Stated that to remove "restoration" from the bill and leave it "rehabilitation and maintenance" would be a mistake, or to move the thrust onto rehabilitation and away from restoration downgrades the value of what the public gets when the project is done.

Reassured Sen. Dukes they were probably talking about the same thing to come to a happy

247 Tess medium. SB 1103 sets no monetary limits on minimum investment for purposes of reapplication for special assessment.

257 Mike Burns Sat on special assessment task force in 1991-92 and been involved in program for several years. This is a wonderful program that has done much for preservation. SB 1103 makes program more "user-friendly" for property owners, but protects public's investment in the properties. Regarding open house issue, the task force recommended the open house requirement for residential property owners be dropped for several reasons. One issue was liability for the property owner by having the public entering their private residences. Owners were concerned about insurance issues and theft. Exterior viewing only would bring this into compliance with federal regulations.

287 Burns An issue he hears from property owners is the lack of clear and objective standards for decision making. Would like to see more members added to group. SB 1103 recommends two additional members. Special task force in 1992 recommended that maintenance be included in the process. However, current State Historic Preservation Office has decided not to allow maintenance to be a component of the special assessment program. For example, for a property owner to be required to put a cedar shingle roof on a home would be a very expensive undertaking. Today's shingles do not last the 30 to 40 years they used to, so the maintenance issue of those shingles is critical. The property owner could have put an asphalt roof on and not had to worry about maintenance at all.

318 Burns Discussed rehabilitation versus restoration. Not talking about eliminating restoration, but allowing it not to be the only requirement. To meet code requirements a building would not be forced to include a coal furnace or out of code plumbing, etc. But cornices would be restored, along with all other exterior features on building relating to its historic integrity. Property owners are worried about forced museum-grade restoration, which they could not afford.

337 Sen. Dukes Asked if Burns knows of any instances where state forced an antiquated heating system to be restored as opposed to being able to put in a new one?

342 Burns One example was a store front that was required to be restored, when the property owner wanted to do that at a later date, or maybe not at all. Another case was some awnings in Southern Oregon. A property owner had worked out an agreement to remove the awnings in seven years, but the Historic Assessment Review Commission required them to do it immediately. The issue is when a property comes onto the program the initial savings the first few years are small. To force property owners into restoring or doing major rehabilitation at the beginning of a projects tenure becomes a financial burden. In the case of the awnings an agreement was made to replace them in seven years, but the Historic Assessment Review Commission, with no standards or criteria, then overruled the State Historic Preservation Office and said they wanted it done immediately, placing an unfair burden on the property owner.

Chair Referred to letter from Lisa Burcham (Exhibit G). The letter asks for the elimination of the requirement for a public open house for single family residential in order to protect the

384 Baker privacy rights of residential property owners. Chair Baker stated that was a very weak argument. If a property owner wants to be in the program, they surrender certain rights to do that in exchange for certain other privileges.

398 Burns Stated there has been testimony from property rights organizations and historic property owners in which they are very concerned about this issue. For them it boils down to privacy, insurance, and liability.

407 Sen. Views SB 1103 a little cynically because of fighting for years on behalf of properties in Astoria. Asked just exactly what is it that the owners of these properties are expecting to give to the public? It seems these owners want to perform only maintenance and not restoration, they want to make sure that the public never gets in to see the interiors of residential properties for even one day a year, and they want the advisory committee to disappear and be only for appeals. So just what is it the public gets?  
Dukes

424 Burns Thinks there is a misunderstanding about weakening this program. It is actually making the program more effective and streamlined. Not eliminating restoration; it will be a component of rehabilitation. Not going from restoration to just maintenance. Have no intent of allowing people to purchase properties, sit on them for 15 years, and not put a dime into that property, but walk away 15 years later having paid no property taxes. That is what was happening several years ago. The Astor Hotel in Astoria was an example of that. On the other hand, property owners are not expected to bring a building back to how it was in 1845 or whatever.

### **TAPE 137, SIDE B**

026 Sam Exhibit F - Read written testimony.  
Naito

052 Tom Morgan Park Properties in Portland. Manages eight office buildings in downtown Portland, all of which are historic and were built between 1906 and 1956. Was appointed by Governor to State Seismic Rehabilitation Task Force. Addressed the issue of what happens to old buildings. Old buildings are forced over time to be brought up to code. Many things are very difficult for older buildings, i.e. Americans With Disabilities Act and seismic upgrades in particular. Cost to a building owner, when those are undertaken, is from \$10.00 to \$40.00 a square foot. An entire old building can be purchased for \$40.00 a square foot. Older office building owners feel that restoration is very difficult to undertake and could mean the difference between life and death for an older building. Would like to see SB 1103 adopted. Questions and discussion interspersed.  
Sjostrom

155 Hamrick Stated that the Department would appreciate an opportunity to testify on some of the provisions of the bill, but did not know this meeting today was to be a public hearing when it was scheduled to be a work session only.

Thinks Historic Assessment Review Committee formed under SB 588 was a good one. Would like to see members increased to five. SB 588 did put some teeth into State Historic Preservation law which previously allowed people to have tax exemption for 15

- 161 Doug Ebner years, do nothing, then sell property. To sell this program, building exteriors in particular should be maintained appropriately because that is what most of the public sees. Thinks program is very good for preserving historical properties, but it comes down to economics.
- 253 Chair Baker Adjourned meeting at 10:27 a.m.

Carol Phillips

Committee Assistant

Kim James

Office Manager

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Exhibit Summary:

- A. SB 1103, Scherzinger, Tax Expenditure Report, Historic Property, 2 pages
- B. SB 1103, Scherzinger, SB 588 Research Report, 1 page
- C. SB 1103, Hamrick, 1996 Annual Report on Special Assessment to Historic Property, 6 pages
- D. SB 1103, Hamrick, Special Assessment of Historic Property Program Handbook, 17 pages
- E. SB 1103, Tess, Written testimony dated 5/5/97, 1 page
- F. SB 1103, Burcham, Written testimony dated 5/5/97, 2 pages
- G. SB 1103, Naito, Written testimony dated 5/5/97, 1 page