

WORK SESSION ON SB 1215 TAPES 211-212 A/B, 213- A

**SENATE REVENUE COMMITTEE**

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**JUNE 19, 1997 - 8:00 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

Sen. Randy Leonard

Invited Testimony: Jeff Condit, Lake Oswego

Jerry Hanson, Washington County Assessor

Gil Riddell, Association of Oregon Counties

Linda Burtlehaus, Department of Revenue

Tim Nesbitt, Oregon Public Employees Union

Bernie Guisto, Police Chief, City of Gresham

Mayor Gussie McRoberts, City of Gresham

Joe Parrott, Fire Chief, City of Gresham

Staff: Jim Scherzinger, Legislative Revenue Officer

Carol Phillips, Committee Assistant

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**TAPE 211, SIDE A**

005 Chair Baker Opened meeting at 8:25 a.m. Opened work session on SB 1215.

008 Jim Scherzinger Reviewed, committee covered issue of mergers and divisions. One issue cities want to discuss. Jeff Condit will explain.

Glitch in annexation sections of M50. Problem with the way Measure 50 works with mergers, consolidations, withdrawals.

014 Jeff Condit Emerged or consolidated city set permanent rate by combining taxing authority that two entities could otherwise levy, to set permanent rate. Problem for Lake Oswego is if one of those two entities does not levy any property taxes (i.e. River Grove).

Solution in M50 would be, if a taxing district has levied no taxes, voters can set a permanent rate once. Suggested, amend merger statute, for jurisdictions where one does not levy taxes, to allow election to set permanent rate, and election on merger to happen at same time, make sure one does not happen unless other passes.

051 Condit Three elections: one to set permanent rate, one for River Grove to merge with Lake Oswego, one for Lake Oswego to merge with River Grove. Would like to have all three on one or two ballots, speed up process. Minor adjustments to the one section in question would permit this.

Questions and discussion interspersed.

064 Sen. Duncan Asked, is River Grove council supportive of this move?

066 Condit River Grove requested merger with Lake Oswego, new set of councilors, but still pursuing option.

As annexations go, this would be a small one. Makes sense for River Grove to join with Lake Oswego. Would like to make option available for them.

108 Sen. Dukes Agreed that it makes sense to have all options available in one election.

116 Jim Scherzinger Not aware of any drafting problems regarding this request.

121 Chair Baker Reiterated that their main issue is the surviving tax rate for this area. Currently, Lake Oswego has tax rate for special districts and for county, but not for city. Asked, if merge River Grove into code area, wouldn't it also assume city rate?

126 Condit Yes. Adjusted assessed value for River Grove would be added to Lake Oswego's adjusted assessed value, and city's taxing authority would extend. City's revenue does not increase. Initially there would be a lot of planning costs for bringing River Grove into conformance with Lake Oswego standards. River Grove is not aware Lake Oswego is here today. Lake Oswego has been discussing this with River Grove since

Measure 47 passed, but no action has been taken until now. River Grove will make the final decision. This request just gives option for annexation, realizing there will be a service burden and no money to help offset it.

- 164 Sen. Duncan Expressed concern that River Grove was not aware of Lake Oswego's presence. Wanted to have people from both sides here for discussion.
- 173 Scherzinger Draft would be limited to situations where other district has no levy because that is only time they can vote for new permanent rate. Would be limited amendment. Wouldn't apply in most cases to a merger or consolidation.
- 181 Condit Will contact River Grove city attorney.
- 191 Condit Noted a potential problem with Section 348. Under current law if a city makes a decision to withdraw territory from a special district, it also has option to place increased tax base measure on ballot to increase taxes in response to taking over new service burden from special district. Under M50 cannot do that anymore. Problem is, if a city does not already provide one of major services (i.e. Beaverton fire service), the local citizens can no longer make decision to withdraw from Tualatin Valley and provide their own fire services. In Lake Oswego about one-third of every dollar levied goes to fire service. If did not have this one-third, would be prevented from withdrawing. Recommended provide a withdrawal statute to allow a district to continue to levy its taxes but require taxes to be transferred to city. Not a pressing need right now, but should be addressed in a future legislative session.
- 252 Sen. Baker Envisions issues related to Measure 50 will come up in year or two and legislature can look at issue later.
- 266 Scherzinger Exhibit A - Down-Zoned Property. Exhibit B - Down-Zoned Property (chart). This section of the law says that if market value of property is reduced due to a zone change or comprehensive plan change, property value goes down. Get double reduction for five-year period.
- Gave example of property with \$100,000 real market value in 1995-95. Down-zoning decreased value to \$90,000. Not sure this would affect anyone right now. Under current law, homeowner would get reduction of value to \$60,000. That additional reduction would continue for five years.
- 316 Scherzinger Basic idea is to partially compensate an owner for reduction in value caused by down-zoning.
- Under current law, partial compensation for reduction in value. Does not believe this has ever happened.
- 361 Jerry Hanson This concept goes back to the 1970s when comprehensive planning was instituted state-wide. Was not considered determining factor for zoning. Court case with a Mrs. Baker in Milwaukie, court decided plan would override the zone, so in cases where plans were in conflict and lower use, that dictated highest and best use of property. Lot of similar conflicts triggered lot of concern. Remedy was this law regarding special treatment for properties that had declined value due to lower use under comprehensive plan. Very few down-zoning situations exist now. Has been basis for

land use for 20 - 25 years, but is rarely used. Designed to be a partial payback to people who lost value. Has not seen a case of this in Washington County for over fifteen years. Law is somewhat an anachronism. Does not get close to reimbursing property owner for devaluation in property.

443 Sen. Dukes Asked, could any of this happen during periodic review when wildlife is discovered and county or city says this is a natural area now and zones it accordingly?

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014 Hanson Responded, this type of situation would be a natural resource issue. Typically not something a district would do without some unusual reason.

024 Sen. Dukes Gave example of parcels of land with spotted butterflies and how federal government is curtailing building on those lands.

042 Hanson These situations might possibly come up, just not the same as when Oregon went through the major change in 1970s.

049 Chair Baker Inclined to remove this section and repeal the statute. Hanson will check with the Dept. of Revenue to see if there would be any financial impact if the section was eliminated.

075 Scherzinger When this was discussed in a work group it was asked if anyone is on this program currently. No one is aware of anyone on it.

086 Scherzinger Exhibit C - Single-Family House in Higher Use Zone. In SB 1215 Section 215. This says a single-family residence that is included in a higher valued zone (multiple family, commercial, etc.) can apply to have its property assessed as if it were in a residential zone. There are people on this program now. Program gets property valued as residential instead of commercial. Under M50, if a residence was in a residential zone in 1995-96 and valued as a residence, then property was up-zoned, owner would still be appraised as residential. In effect, Measure 50 almost does this anyway for such a residence. One exception is, a property owner could apply for this now if in a commercial zone.

136 Scherzinger Provisions in current law for penalties if a homeowner becomes disqualified. Under M50 there wouldn't be provisions.

142 Hanson Added, people currently under program do have penalties. Up to five years of back taxes would be due if they sold property, or new owner would continue with liability. May want to consider phasing out penalties over five years.

154 All Questions and discussion regarding where penalty payments go and who benefits from them.

190 Chair Baker Pointed out that there would not be much revenue impact if the program was eliminated, only about \$50,000 a year.

234 Chair  
Baker Asked Scherzinger to draft language to repeal this section.

Returned to June 2 outline, Measure 50 Implementing Draft. Discussed Issues Not Yet in Bill, end of outline: County Trust Forest Lands Distribution.

238 Scherzinger Exhibit D - Statute 530.115. Regarding County Trust Forest Lands. Distribution that comes off these lands is that the county takes 10% off the top, or higher if it feels it is needed. 25% of balance goes into County School Fund. Remainder is pro rated in apportion to districts in a county. Pro-ration is in (c). The rates used for that are the pre-compression rates. Schools have historically received a large share of these funds. District rates to be used now will be Measure 50 rates, and that will reduce revenue by about half, which is about \$10 million in lost state school funds for biennium. That money would go mainly to county.

346 Scherzinger Options are leaving it the way it is and absorbing the loss, or adjusting the formula.

368 Gil Riddell This is the third step of the formula. Initial share, one-third stays with state, two-thirds goes into a pot. Money goes back to where the trees were cut, so it stays local. First 10% goes to county; of remainder, 25% goes to county school fund. Statute is talking about last sharing of remainder, about 55%. Needs to confer with board members regarding this section.

434 Scherzinger The other option is to do something temporary to get through this biennium. One of the available options is to do nothing.

453 Riddell There has been informal discussion about changing this to benefit state parks. This will be studied in interim. Expressed concerned that more attention is being paid to schools and less to human services and public safety.

#### **TAPE 211, SIDE B**

029 Sen. Dukes Commented, this is an unanticipated transfer of money to counties. Different from retrieving money it already has.

032 All Questions and discussion on situation.

055 Sen. Dukes Suggested Riddell confer with Ozzie Rose (Confederation of Oregon School Administrators) and John Marshal (Oregon School Boards Association) on this matter.

060 Scherzinger Similar issue on Severance Tax distribution (ORS 321.307). Exhibit E - Timber and Forestland Taxation. Complex formula, 75% share is in second column paragraph (A). Using pre-compression tax rates to allocate 75% of funds. Averages out over five years. Probably can get through next biennium with minor changes. Also, discussion is going on about whether to repeal Severance Tax will in 1999-00.

- 107 Sen. Dukes Asked if the Severance Tax is not repealed, where would the money go?
- 109 Scherzinger Responded, shift to counties and other districts as opposed to school districts. Severance Tax runs \$40-50 million per year, and schools get about 85% of that. Concerning formula, the distribution does not mean anything anyway, because it is offset through the State School Fund.
- 151 Sen. Dukes Concluded, this money makes it possible for other school districts to get more out of funding formula.
- 154 Scherzinger Longer term solution if continue Severance Tax would be to take whatever K1-12 share schools should get off top and put it into State School Fund. Distribution formula does nothing for K-12 districts.
- 183 Tim Nesbitt Referred to Revenue Impact of Proposed Legislation, Exhibit F - When compute loss of Severance Taxes and look at increase in property taxes, loss to school districts is net \$42.1 million in 1999-01. Total loss of local revenue from this class of taxpayers is \$51.9 million; differential amount is tax shift to taxpayers.
- To the extent it is a bond levy, it is reduction in offset for bond levy, and taxes shift to other taxpayers as opposed to lost revenue.
- 197 Scherzinger Need to clarify what rates to be used for this calculation over the next two years. There may be pre-compression rates that can be used. That would get state through next biennium without change to distribution formula. If Severance Tax is eliminated, there will be a whole different problem. Under M50, for K-12 schools, make it a direct state school resource.
- 256 Chair Baker Asked Scherzinger to draft amendments to clarify the rates for further review.
- 265 Scherzinger Exhibit G - SB 1215 -9 amendments. This is last issue on outline.
- 297 Linda Burtlehaus Concerned that property tax statements will not be sent out in time. Under current law, if tax statements are not mailed, taxpayers can make estimated payment by November 5 for 15 days. Dept. of Revenue is concerned that if anything happens, 15-day window may not be sufficient. This is discussed in Exhibit G. Amendment takes away 15 day window and allows tax collectors to accept payments beyond that time.
- 318 Burtlehaus Second, currently a county has ability to buy out small districts. Under current statute that must be done by December 1 to obtain 3% discount. Anticipating December 15 due date instead of November 15 this year. Under current law there is no provision for people to pre-pay property tax.
- 386 Sen. Baker Questions and discussion interspersed. Asked if any policy problems with the way people pre-pay.
- 389 Scherzinger No, these amendments take into account that this may be an extraordinary year for tax payments. Often, people try to get their payments in before end of year so they can deduct them on income tax.

420 Burtlehaus Tax collectors have been meeting with lending institutions and looking at some of these issues. Anticipates a lot of problems if statements are late.

427 Chair Baker **ASKED MEMBERS FOR ANY OBJECTIONS TO ADOPTING SB 1215-9 AMENDMENTS INTO SB 1215. HEARING NO OBJECTIONS, CHAIR SO ORDERED.**

430 Chair Baker Asked whether prepayment issue is a huge policy issue that committee can anticipate. Yes. Currently, tax collector cannot accept prepayment with no tax roll available.

434 Burtlehaus Exception would be if a mobile home was going to be moving, those taxes would be pre-collected.

455 Chair Baker Asked if members are interested in eliminating prepayment barrier. Yes. Asked Scherzinger to look into drafting pre-payment language.

463 Scherzinger Reviewed, committee has gone through entire bill and all items on outline. Counsel has provided up to at least -9 amendments.

#### **TAPE 212, SIDE B**

024 Hanson Does not know what counties would do with the money if it was prepaid. Every year is a totally separate transaction.

037 Sen. Leonard Asked if the computer program could be reprogrammed to allow prepayment of property taxes.

053 Hanson Stated it would be too big a problem to try to handle prepayment. Solving problem would take extra time that they do not have. Cannot explain all the potential problems it would cause.

Questions and discussion interspersed.

084 Sen. Leonard Commented on status of -2 amendments concerning Gresham. Explained, Gresham had a public safety levy dedicated to fire and police. They went for tax base to replace levy and it failed. With passage of M47, would have included levy when it was in effect. M50 moved the year up and this precluded base Gresham would have used under M47.

111 Chair Baker Even though levy failed, they still use earlier base which is higher.

114 Scherzinger Continued explanation of Gresham situation. (White board presentation) Same thing would have happened under M47 in Gresham. In 1995-96, levy was expiring, they wanted to roll it into a new tax base so asked voters for that and it failed. So, in 1997-98, Gresham had lower levy than in 1995-96. Under M47 and by extension under M50, 10% reduction for each property for 1995-96, distribute money by a formula. Assuming this is proportional distribution, in this set of code areas, there is a higher base than typical because of serial levy. Relatively smaller cuts. But, effect of smaller cuts end up being shared by all districts in code area, not just city, because it is a

proportional allocation of revenue. Gresham gets some benefit, but other districts get benefit too.

147 Scherzinger SB 1215 -2 amendments, page 1, Subsection (2): Says individual districts cannot get less than 1994-95 or 1995-96 less 10%. Gresham cannot do worse than 1995-96 less 10% on this levy.

174 All Questions and discussion regarding Gresham levy situation.

176 Sen. Bryant Explained, Gresham made decision to go after a tax base rather than extend its levy. They rolled dice and tax base didn't pass so they were without a levy.

178 Sen. Leonard Residents of Gresham say they would have done better under Measure 47 than under Measure 50.

192 Scherzinger Disagreed with that statement because the numbers do not show that, unless one assumed a different distribution of the M47 allocations.

205 Chair Baker Recessed meeting at 10:05 a.m. and reconvened at 1:25 p.m.

### **SESSION CONTINUED, AFTERNOON**

206 Scherzinger Reviewed, committee is waiting for language on replacement costs on valuing utility property. Bonding attorney for cities wants to discuss bonding. Also, coming up with solutions to Hillsboro and Heppner anomalies.

Reviewed Heppner problem. (White board diagram) Unique aspect is, Heppner does worse under M50 than under M47. Area was high compression. Total rate for non-schools under M5 was \$16. Under M5, this compresses down to \$10. County rate in code area is reduced. Under M47, further compression occurs, which lowers county rate even more. County and city both get less.

234 Scherzinger Heppner is only 3% of value of county, so when it loses revenue it does not drive rate down much. M50 Backwash effect drives rate back up in county and throws it back under compression again. City ends up with less money. Also, Heppner had passed a local option levy under M50. Under M47 it would have recaptured entire gap. But, with M50 compression, they lose entire local option levy and end up about \$50,000 worse off under Measure 50 than under Measure 47.

319 Scherzinger Answer is to give Heppner more authority so they can compress county back out of picture, so Heppner can compete better under compression calculation.

336 Riddell Got call saying city and county have met. Letter signed by all parties stating intent to work this out will be forthcoming. Parties hoped they could spread effect state-wide. If not, they will be back where they began. If issue is to beef up Heppner's levying authority as opposed to paring down county's already low levy authority, it would be more agreeable.

Continuation of Heppner situation explanation and possible remedies. Two issues that must be separated: What happens to districts and what happens to taxpayers. Taxpayers won't pay any more because they are under compression. If allocate more authority to Heppner, it can compete better against county, but county and other



districts would lose revenue. That shifts the loss out onto other districts.

355 Scherzinger Only way to spread it state-wide is to give county and other districts more authority, which would mean taxpayers outside city would pay more. Loss of revenue to districts is what would be spread statewide, not tax burden.

This doesn't entail a lot of money, only about \$55,000.

393 Chair Baker Asked Scherzinger to diagram Gresham situation.

405 Scherzinger Gresham is a M47 problem. 1995-96 is base year for M47. Diagrammed Gresham code area, other districts. City tax base, serial levy expired. Taxpayers in code area get 10% reduction from 1995-96 taxes. Because city had serial levy in 1995-96, code areas have relatively high base compared to rest of county. That benefits districts in code areas. 1997-98, that benefit is shared proportionately. M47 works property-by-property basis. Taxpayers are paying 10% less than 1995-96. Then, under M47, this permitted tax was being distributed to taxing districts in proportion to levy. Because of levy that expired, city has lower share of total taxes in code area in 1997-98. Although high base year, city gets some benefit, but shares it with other districts.

This does not change base year. Levy in base year made it relatively high base year, that does produce higher M47 taxes in code areas than otherwise would occur. Benefit shared by city and other districts.

Questions and discussion interspersed.

#### **TAPE 213, SIDE A**

033 Sen. Leonard Noted, it doesn't save a taxpayer in Gresham any money. Just divides up differently, what governments are getting..

042 Scherzinger Explained SB 1215-2 amendments in this regard. Because city doesn't have serial levy, it gets some benefit but not all. Amendments say, what city gets in M50 authority, is lowest of 1994-95 authority, 1995-96 less 10%, or M5 authority in 1997-98. In effect, translate levy into authority less 10% in 1997-98.

061 Sen. Leonard Commented, amendments alone do not change the amount an individual taxpayer pays.

063 Scherzinger Yes they do. They add to city's authority without taking anyone else's. Those taxpayers pay more, and everyone else in state is adjusted to get 17%. Some taxpayers pay less, others pay more.

Questions and discussion interspersed.

087 Bernie Guisto Exhibit I - Measure 47/50 Impact on Gresham. Gresham delegation is here to answer questions from the committee.

092 Chair Baker Asked, why are -2 amendments needed.

Voters voted for M47 with understanding that Gresham could stand on its own, take

- 093 Gussie McRoberts its own losses. Gresham is frugal city. If could stand on its own, would lose \$100,000, so that is why voters passed M47. When Gresham has to help Multnomah County and other jurisdictions cover their losses, Gresham would lose \$2 million. That is what M50 did, which is why voters voted against M50.
- Explained how this came about: If public safety levy goes into district code pool, it helps other jurisdictions cover their losses.
- 111 Joe Parrott In equity issue, taxpayers paid original levy. Any add-back as result of that should come back to them to provide public safety services. Nobody else in taxing jurisdiction helped Gresham pay for it, now shouldn't realize benefit of spread-back.
- 117 McRobert In M50, priority changed away from public safety.
- 124 All Questions and discussion regarding this issue.
- 148 McRobert Voters did not pass M50. Gresham could go out for a levy, but it wouldn't help this year. Voters are saying, under M5, because Portland and Multnomah County were in compression, Gresham taxpayers paid between 88 cents and \$1 more per \$1000 for county services. Gresham was cash cow for Multnomah County, and they are tired of it.
- 165 Sen. Leonard Asked if he could conceptually move adoption of an amendment that would help the problem.
- 167 Chair Baker Asked Scherzinger if he knows of any drafting problems/consequences in doing this.
- 170 Scherzinger Would have to localize codes and have different distribution. That can be done. Existing amendments are limited to one place. Does not anticipate that it would be a big drafting problem to achieve this amendment.

- 188 Sen. Leonard **MOTION TO CONCEPTUALLY AMEND SB 1215-2 AMENDMENTS LOCALIZE DISTRIBUTION INTO IN CODE AREA ONLY.**

**4 - 1 - 1**

**IN A ROLL CALL VOTE, MEMBERS VOTING AYE: SENS. DUKES, HARTUNG, LEONARD BRYANT.**

- 199 **VOTE** **VOTING NO: CHAIR BAKER.**

**MEMBERS EXCUSED: SEN. DUNCAN.**

**MOTION CARRIED.**

222 Chair Baker Adjourned meeting at 1:55 p.m.

Carol Phillips

Committee Assistant

Kim James

Office Manager

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Exhibit Summary:

- A. SB 1215, Scherzinger, Down-Zoned Property, Oregon Statute: 308.341, 2 pp.
- B. SB 1215, Scherzinger, Down-Zoned Property (Sections 173-174), 1 p.
- C. SB 1215, Scherzinger, Single Family House in Higher Use Zone, 2 pp.
- D. SB 1215, Scherzinger, 530.115 Disposition of certain moneys described in ORS 530.110, 1 p.
- E. SB 1215, Scherzinger, Timber and Forestland Taxation, 1 p.
- F. SB 1215, Nesbitt, Revenue Impact of Proposed Legislation, 2 pp.
- G. SB 1215, Scherzinger, Proposed Amendments: SB 1215-9, 1 p.
- H. SB 1215, Scherzinger, Proposed Amendments: SB 1215-2, 3 pp.