

HOUSE COMMITTEE ON
GENERAL GOVERNMENT AND REGULATORY REFORM

March 22, 1995 Hearing Room 357
1:00 PM Tapes 76 - 77

MEMBERS PRESENT:

Rep. Bob Tiernan, Chair
Rep. Mike Lehman, Vice Chair
Rep. Jerry Grisham
Rep. Bryan Johnston
Rep. Bill Markham
Rep. Lonnie Roberts
Rep. Barbara Ross (Arrived: 1:47 PM)
Rep. Charles Starr
Rep. Ken Strobeck
Rep. Sharon Wylie

MEMBERS EXCUSED:

Rep. Bev Clarno
Rep. Cedric Hayden

STAFF PRESENT:

Greg Moore, Committee Counsel
Kay C. Shaw, Committee Assistant

MEASURES HEARD:

SJM1 Work Session
HB 2482 Work Session
HB 2269 Work Session
HB 2752 Public Hearing

These minutes contain materials which paraphrase and/or summarize
statements made during this session. Only text enclosed in quotation marks

report a speaker's exact words. For complete contents of the proceedings,
please refer to the tapes.

TAPE 76, A

008 CHAIR TIERNAN: Calls meeting to order at 1:30 PM. REP. CEDRIC HAYDEN
IS EXCUSED. REP. ROSS IS ABSENT.
> Announcements.

021 CHAIR TIERNAN: Opens the work session on SJM1.

SJM1 - WORK SESSION

023 GREG MOORE, Committee Counsel: Reviews Preliminary Staff Measure
Summary. Submits Preliminary Staff Measure Summary (EXHIBIT A).

MOTION: REP. ROBERTS moves SJM1 be sent to the Floor with the
recommendation that it be ADOPTED.

VOTE: In a roll call vote, REPS. GRISHAM, LEHMAN, MARKHAM, ROBERTS, STARR,

STROBECK, WILEY and CHAIR TIERNAN vote AYE. REP. JOHNSTON votes NAY.
REPS. CLARNO and HAYDEN ARE EXCUSED. REP. ROSS IS ABSENT.

048 CHAIR TIERNAN: Declares MOTION PASSED.

CHAIR TIERNAN: Closes the work session on SJM1 and opens work session on
HB 2482.

HB 2482 - WORK SESSION

055 GREG MOORE, Committee Counsel: Reviews Preliminary Staff Measure

Summary. Submits Preliminary Staff Measure Summary (EXHIBIT B).

078 COUNSEL MOORE: Submits HB 2482-2 Amendments (EXHIBIT C).

085 CHAIR TIERNAN: Understands the amendments are technical and not substantive in nature.

COUNSEL MOORE: Yes. Points out:

> Subcommittee's concern that the goal of this bill was not to apply to state parks or other designated camping areas.

> Intent of this bill that it apply to the homeless situation and to municipalities/counties only, not to state properties.

> HB 2482-2 Amendments defines "campsite" to exclude a "day use recreational area and public property that is a designated campground and occupied under an agreement". Also clarifies "unclaimed" property on Page 1, Line 19.

CHAIR TIERNAN: Explains the committee's policy about amendments.

110 REP. STROBECK: Explains the oversight issue. The amendments are based on a City of Tigard ordinance that the police and council both worked on and did not account for public and state campgrounds.

CHAIR TIERNAN: This is something the homeless advocates and cities want so there is an orderly process into those situations in which homeless people are camping out in different areas.

REP. STROBECK: That is correct. Explains the unanimous public testimony received about this issue.

REP. ROSS: Arrives at 1:47 pm

MOTION: REP. STROBECK moves that HB 2482-2 amendments be ADOPTED.

VOTE: In a roll call vote, REPS. GRISHAM, JOHNSTON, LEHMAN, MARKHAM, ROBERTS, ROSS, STARR, STROBECK, WYLIE, and CHAIR TIERNAN vote AYE. REPS. CLARNO and HAYDEN are EXCUSED.

141 CHAIR TIERNAN: Declares the MOTION PASSED.

MOTION: REP. LEHMAN moves that HB 2482-2 amendments be sent to the Floor with a DO PASS recommendation.

VOTE: In a roll call vote, REPS. GRISHAM, JOHNSTON, LEHMAN, MARKHAM, ROBERTS, ROSS, STARR, STROBECK, WYLIE, and CHAIR TIERNAN vote AYE. REPS. CLARNO and HAYDEN are EXCUSED.

156 CHAIR TIERNAN: Declares the MOTION PASSED.

CHAIR TIERNAN: Closes the work session on HB 2482 and opens the work session on HB 2269.

HB 2269 - WORK SESSION

159 GREG MOORE, Committee Counsel: Reviews the Preliminary Staff Measure Summary. The Preliminary Staff Measure Summary is hereby made a part of these Minutes (EXHIBIT D).

211 COUNSEL MOORE: Continues a review of the Preliminary Staff Measure Summary.

240 REP. STROBECK: Confirms there has been extensive work by the subcommittee. Explains the:

> Report by the Office of Emergency Management on the success of the 9-1-1 system across the state.

> Progress toward the enhanced 9-1-1 system.

> Operational efficiency of PSAPs (Primary Safety Answering Points).

> Past collection of the 9-1-1 tax from one cellular phone company and declaration of a moratorium -- potential liability of \$1.6 Million over the

next biennium.

311 REP. MARKHAM: What is the average rebate for people who apply? Do you have an example?

REP. STROBECK: Depends on how long they were a subscriber (e.g., if the tax was 75(a month on an instrument, it would be approximately 75(for the number of months the subscriber had the phone).

317 REP. MARKHAM: How long has the subscriber been paying in?

REP. STROBECK: Four years was the maximum.

COUNSEL MOORE: Explains the difficulty. Cellular phone bills, depending on the plan, can vary and it will be on a case by case basis.

333 REP. JOHNSTON: Explains opposition to the bill:

> Confirms the work involved to create a better bill.

> Points to two dislikes about the bill.

- Significant liability exposure to the state of about a 10-20% group of people who will apply for rebates. The bill is silent about interest on such a rebate. There is potential for a court question or class action case. A class action case could result in \$1.7 Million plus interest and attorney's fees.

-This bill represents another transfer of revenues. Currently businesses pay more than residential; however, under this bill, residences will pay more of the burden than will businesses. It is revenue neutral, but there is a revenue shift.

387 REP. ROSS: Since Rep. Johnston dislikes this bill, what would Rep. Johnston propose as the resolution?

REP. JOHNSTON: It is very important to extend 9-1-1. Mentions proposed amendments that were unsuccessful:

> One amendment returned to the old system and extended the deadline.

> Another amendment cut out resolution of the past case.

Cellular companies have voluntarily agreed to pay the 75(from "this point forward."

414 REP. STROBECK: Cites subcommittee discussion about:

>This being an unsolvable problem.

> Something that should have been addressed sessions ago.

> Issue is whether or not to proceed now -- whether this bill saves money, whether money is saved by proceeding to court or whether money could be lost either way.

> Suggests "taking care of the people who paid the tax in the past and let's start clean from this point forward."

REP. ROSS: Summarizes her understanding of the bill that the company will notify subscribers of the possible entitlement to a refund and if the subscriber asks for a refund, then it will be paid.

TAPE 77, A

002 REP. STROBECK: That is correct. It is similar to an overcharge notice given by the airlines. Explains about the revenue neutral aspect of the bill (i.e., the 75(is based on what most subscribers pay; however, some subscribers pay more or less than 75() and that all subscribers will pay the same amount plus every business will pay for each line.

013 REP. MARKHAM: Who will make the refund?

REP. STROBECK: Office of Emergency Management since OEM received the benefit of the paid tax.

COUNSEL MOORE: Reviews the intent of the proposed HB 2269-11 amendments. HB _2269-11 amendments are hereby made a part of these Minutes (EXHIBIT E).

035 MOTION: REP. ROBERTS moves that HB 2269-11 amendments be ADOPTED.

CHAIR TIERNAN: Hearing no objections the MOTION is ADOPTED. REPS. CLARNO and HAYDEN are EXCUSED.

046 MOTION: REP. MARKHAM moves that HB 2269-11 amendments be sent to the Floor with a DO PASS recommendation.

CHAIR TIERNAN: Explains his intent to vote "No" due to similar concerns as those expressed by Rep. Johnston.

VOTE: In a roll call vote, REPS. GRISHAM, MARKHAM, ROBERTS, STARR, STROBECK and WYLIE vote AYE. REPS. JOHNSTON, LEHMAN, ROSS, and CHAIR TIERNAN vote NAY. REPS._CLARNO and HAYDEN are EXCUSED.

CHAIR TIERNAN: Declares the MOTION is FAILED.

066 MOTION: REP. JOHNSTON moves that HB 2269-11 amendments be sent back to the Subcommittee.

CHAIR TIERNAN: Hearing no objections the MOTION is PASSED. REPS._CLARNO and HAYDEN are EXCUSED.

070 REP. MARKHAM: Questions sending the bill back to subcommittee.

CHAIR TIERNAN: Moves for a ROLL CALL VOTE to return HB 2269 to Subcommittee.

076 REP. WYLIE: Requests clarification.

CHAIR TIERNAN: Explains the two issues:
> Vote AYE to send the bill back to Subcommittee to be reworked.
> Vote NAY to keep the bill in Full Committee for another scheduled vote.

REP. STROBECK: Desires continuation of the bill in Full Committee as it pays for the 9-1-1 system across the state. What are the wishes of the Chair regarding the substantive amendments to pass the bill?

CHAIR TIERNAN: Explains the options.

099 REP. STROBECK: Supports returning the bill to Subcommittee.

CHAIR TIERNAN: Restates MOTION to return HB 2269 to Subcommittee.

VOTE: All MEMBERS PRESENT vote AYE. REPS._CLARNO and HAYDEN are EXCUSED.

CHAIR TIERNAN: Declares the MOTION PASSED.

120 CHAIR TIERNAN: Closes the work session on HB 2269 and opens public hearing on HB _2752.

HB 2752 - PUBLIC HEARING

Witnesses: Noel Klein, Special Districts Association of Oregon
Sandra Russell, U.S. Bank
George Mardikes, Davis, Wright & Tremaine (Portland)
Philip Barth, Port of Portland
Craig Smith, Chemeketa Community College
Charles Stern, Yamhill County Clerk and Oregon Association of County Clerks

Legislative Committee
Gary Holliday, City of Albany
Roy Wall, City of Gresham
Debra A. Brusie, Dain Bosworth Incorporated

117 GREG MOORE, Committee Counsel: Explains HB 2752.
> Intent of the bill.
> Prior public hearing.
> State financing tools -- comparison of general obligation bonds, revenue bonds and certificates of participation.

155 NOEL KLEIN, Special Districts Association of Oregon: Testifies from prepared testimony in opposition to HB 2752. Submits (Exhibit F).
> Introduces Sandy Russell, U. S. Bank, and George Mardikes, Davis, Wright

& Tremaine.

- > Provides background of Special Districts Association of Oregon, including representation of 700 special service districts (see SDAO Profile, Page 3).
- > Cites concern that the bill will damage a very successful membership program introduced in 1992 -- called FlexLease (see FlexLease Program, Pages 4 - 6).
- > Explains the FlexLease Program.
- > Refers to list of districts that have participated in the program, including the purpose for which the funds were borrowed (see Pages 8 - 11).
- > Explains that the SDAO FlexLease program is market driven.
- > Provides remarks about the issue of public oversight.
- > Describes the difference between a general obligation bond issue and the SDAO FlexLease program.
- > Contends that a pooled purchasing program is of great benefit to the general public.

245 REP. ROBERTS: Requests an explanation of FlexLease in conjunction with COPs.

MR. KLEIN: Explains by illustrating that districts around the state may have the need to acquire a fire truck. The districts could go to the market individually and pay, under a leasing arrangement, a very high interest rate. This program takes 4 or 5 districts' needs, pools them together and, through the bank, the bank then issues certificates of participation on behalf of the program.

262 REP. ROBERTS: What is the security for the money?

MR. KLEIN: Security of the money is payments that the districts make over the life of that asset.

REP. ROBERTS: Is the thing purchased, the security collateral the bank needs?

MR. KLEIN: Yes, that's part of it. Defers to witnesses Sandra Russell and George Mardikes for detailed explanation.

271 SANDRA RUSSELL, Municipal Finance Officer, Public Finance Department, U.S. Bank. Testifies from prepared testimony in opposition to HB 2752. Submits (EXHIBIT G).

- > Provides work experience with the Oregon School Boards Association FlexFund financing program since its inception in 1991 and the Special Districts Associations FlexLease financing program since its inception in 1992.
- > Explains the purpose for initiating the programs (Page 1).
- > Submits example of FlexLease Program completed in February 1, 1995 (Page 3).
- > Provides example of FlexFund lease (Page 3).
- > Lists problems to districts if the programs did not exist (Page 2).
- > Explains the process the district goes through prior to entering into the lease purchase agreement (Page 1).

- > Program results give districts access to competitive interest rates to acquire necessary equipment, vehicles and improvements needed.

- > Lists the results if the programs were not available to the district: higher interest rates, inability to purchase necessary equipment, or forced

to use antiquated equipment or facilities.

380 REP. ROBERTS: Illustrates a district purchasing a fire engine. What would be the interest rate?

MS. RUSSELL: What kind of interest rate are we talking about in the special districts?

REP. ROBERTS: Is it correct that it is a floating rate?

MS. RUSSELL: No, it is not a floating rate. It is called a "curved rate" (i.e., the first year they will pay 5.1, the second year they pay 5.3, and

the third year they pay 5.6). Districts have the ability to prepay.

397 REP. ROBERTS: Assuming it is the same illustration. In order for the bank to be protected does the district carry insurance? Are they self-insured?

MS. RUSSELL: They are insured through the special districts association.

387 REP. MARKHAM: Why are cities not included?

MS. RUSSELL: Programs weren't designed for cities.

411 GEORGE MARDIKES, Attorney, Davis, Wright & Tremaine (Portland): Refers to the question about cities. Explains the reason cities are not in this program is because the legislature has provided uniform statutes, basically, for special districts to lease purchase. It is very easy to put

them altogether. Lease purchase agreements are binding obligations. As a credit concern, it is a very common credit and works as a program to pool special districts. Most cities, under their charters, already have authority to lease purchase; therefore, cities chose not to be included in that statute.

TAPE 76, B

011 REP MARKHAM: How many districts, if any, has the bank refused?

MS. RUSSELL: Bank has not refused any.

018 CHAIR TIERNAN: Requests an explanation of the statement "The Bank, not the districts, packages the lease purchase agreements in the form of certificates of participation which are in turn sold to investors."

MR. MARDIKES: Think in terms of banks making house loans. When the bank originates the house loan, all house loans are assigned to a trustee. Then

the bank does a CMO in which investors may invest. Rather than the bank holding it in their own portfolio, which requires a higher interest rate, selling it to investors as CMOs results in a lower interest rate due to access of a different investor pool. The bank is the lessor under the lease purchase agreements; the bank's interest is assigned to a trustee who

then executes certificates that allows participation by the investors in that lease purchase agreement.

033 CHAIR TIERNAN: If consideration is given to an amendment that 5% of the budget of any district, special district or aggregate district could be expended without a vote of people on COPs, do you have a problem with that?

MR. KLEIN: Cites the case of the Glendale Fire Department, who is largely a volunteer department that needed to buy a fire truck or an ambulance. The 5% would not allow them to get anywhere near the purchase of a fire truck.

CHAIR TIERNAN: If the fire truck is that big of a purchase, what is the problem with having a 5% of budget limit?

MS. RUSSELL: Statute says that rural fire protection districts can only have 1.25% of their assessed valuation as the amount of debt.

057 CHAIR TIERNAN: Would you have a problem with 5% of the budget or it would go to the vote of the people?

MR. MARDIKES: Two options: whether or not to look at the annual obligation or look at total obligation under the lease purchase agreements.

070 CHAIR TIERNAN: So, the answer is "Yes, you'd have a problem with that"?

MR. MARDIKES: Yes.

CHAIR TIERNAN: Asks Ms. Russell and Mr. Klein whether they do or don't have a problem?

MR. KLEIN and MS. RUSSELL: Yes.

078 CHAIR TIERNAN: Shouldn't the people have a vote if the assets are that big or a debt can be incurred that much? Why deny the people the right to vote if it is such a large portion of the budget?

083 MS. RUSSELL: The Board of Directors were voted in. Board of Directors in these districts overall are members of the community who are very active and involved.

091 MR. MARDIKES: Submits prepared testimony in opposition to HB 2752. Submits (EXHIBIT_H).
> Expresses concern about how to pay for these. What's the revenue, because there are no new taxes.
> Cites examples from prepared testimony of why lease purchase financing makes smart business sense.
> Benefits of consolidation.
> Efficiency pays for improvements.
> Opines voter approval is not needed for every lease-purchase agreement.

132 REP. ROBERTS: Says the intent of the bill is what the legislature should do rather than the people voting on every fee and increased tax.

MR. MARDIKES: Explains his authorship of a 50-states survey that is a perspective of what occurs in the rest of the country.

142 REP. JOHNSTON: Presents hypothetical of Marion County purchasing a lease building. What remedies do you have?

MR. MARDIKES: Explains what happens:
> Lease would have to be subject to annual appropriation.
> Lease terminates automatically if the money isn't appropriated for the following lease.
> Trustee, who represents the certificate holders, takes possession of the building.
> Building is sold and any money remaining after investors are paid is turned over to Marion County.

REP. JOHNSTON: There is no access to the taxpayer for those additional revenues?

MR. MARDIKES: Not for the counties or the state.

161 CHAIR TIERNAN: Is there any COP that would need voter approval? Is there any limitation on COP that would need approval?

MR. MARDIKES: No.

MR. KLEIN: It is not a limitation on the COP. Perhaps there is a limitation when additional tax revenues are needed to pay for something (i.e., the public should get to vote).

184 REP. LIZ VANLEEUWEN (R - District 37): Submits proposed amendments (EXHIBIT I). > Opines that FlexLease agreements are not COPs, but short-term loans by law.
> Raises questions about COPs being as expensive, or more expensive, than revenue bonds, and why revenue bonds aren't used, which don't require a vote of the people, instead of the COPs?

215 JOHN MARSHALL, Oregon School Boards Association: Testifies against HB 2752. Submits (EXHIBIT J).
>Points out problems due to legislative mandate that school districts provide transportation and open access.

224 CHAIR TIERNAN: When planning for scheduleable purchases, why not put it out to a vote?

MR. MARSHALL: Assuming a bus is needed immediately v. the ability to save up for a couple of years and then make a future purchase, COPs offer is a very attractive, less than market interest rate that can be used to purchase buses or module classrooms. The issue of a vote involves in many cases smaller school districts. Cost of the election would exceed any savings that might be accrued, because of the issuance of the COP. Opines HB 2752 doesn't contribute to efficiency and economy.

268 PHILIP BARTH, Port of Portland: Relinquishes to Craig Smith, CFO, due to time constraints.

273 CRAIG SMITH, Chief Financial Officer, Chemeketa Community College:
> Echoes sentiments mentioned already.
> Colleges have used certificates of participation.
> Refers to use of certificates by Lane Community College, Linn-Benton Community College, Portland Community College and Chemeketa Community College.
> Opines that the certificates are completely different than bonds.
> Illustrates the purchase of the phone system for Chemeketa Community College that cut phone costs.

300 MR. SMITH: Continues testifying. Points out:
> Cost of a new election (i.e., \$50,000-60,000).
> Expense of an election plus the informational campaign would more than outweigh the savings by paying interest to local investors.

327 CHAIR TIERNAN: Is it true that you are obligating future budgets by COPs?

MR. SMITH: Yes, we are.

CHAIR TIERNAN: What debt do you reach when voters should be able to say "yes or no"? Is there any limit you should have to go for a vote?

MR. SMITH: Limit would be if there is a request for additional tax dollars from taxpayers to finance the purchase. Should be up the local boards. Explains the difference between schools and the state is the local boards that manage the legitimate business purposes.

356 REP. JOHNSTON: Do you think prudence requires there be some limitation on the amount of commitment for income stream? In other words, is there some limit beyond which a prudent manager should commit the future income stream?

MR. SMITH: Yes, there is a conservative limit and, as a business officer, cautions going beyond a certain point. Limits are imposed by the local board. Doesn't know what number limit would fit all the different jurisdictions and situations that would apply to state -- limit should be set by the local governing body.

387 REP. JOHNSTON: Is the safety mechanism in the use of COPs that they cannot attack the revenue -- if it is not allocated, it is simply not available?

MR. SMITH: Simply not available. Nothing would come back to the state.

397 CHAIR TIERNAN: You somewhat disagree with the three previous speakers -- you think there should be some limit, but you are unsure of how you would do that?

MR. SMITH: Opines there should be a limit, but it should be set by the local board rather than a "one size fits all across the state for all jurisdictions."

406 CHARLES STERN, Yamhill County Clerk and Chair, Oregon Association of County Clerks Legislative Committee:
> Says that the proposed bill, as amended by HB 2752-3, is a different bill than he previously viewed.
> Remarks that the mechanics of the election process which the HB 2752-3

amendments have altered greatly appear to resolve the concerns about moving from a policy statement to the voter.

TAPE 77, B

005 GARY HOLLIDAY, Finance Director, City of Albany: Submits prepared testimony (EXHIBIT K). Explains that B. J. Smith, League of Oregon Cities,

would also testify basically the same except that she was involved in a vehicle accident. Makes two points:

> Discussion of language in the proposed bill about "all financing agreements" has been overlooked. Financing agreements, basically are any agreements that are or not paid for by cash and encompasses a far broader scope than just certificates of participation.

> Refers to a graph that depicts the importance of timing in Certificates of Participation v. voter-approved General Obligation Bonds (Page 2) and the consequences.

033 ROY WALL, Financial & Information Services Director, City of Gresham: Provides example of issuing certificates of participation for a new city civic center:

> Extensive public review process.

> Underlying money to pay back the certificates were from ongoing, recurring revenues -- moneys were already in the budget.

047 REP. MARKHAM: What kind of rate did you get?

MR. WALL: 5.5%

REP. MARKHAM: What would the interest have been through the bank?

MR. WALL: Probably up about 1/2% -- not sure.

051 CHAIR TIERNAN: What was the total cost of the project?

MR. WALL: \$12.1 Million.

CHAIR TIERNAN: If there had been a vote of the people, would the people have said "Aye or Nay"?

MR. WALL: There was wide support for the project. If approved, it would have pushed back the timing and it could have added to the cost of the project.

057 CHAIR TIERNAN: Shouldn't people be able to vote on a financial commitment or a building that size for the City of Gresham?

MR. WALL: City Council ensured there was a public information process to gauge whether there was wide public support.

CHAIR TIERNAN: If a poll showed the public wasn't supportive of the project, would that have changed your mind at all?

MR. WALL: Would have impacted the City Council's view on whether or not to go ahead with the project.

070 JIM SHANNON, Chair, Oregon Municipal Debt Advisory Commission: Desires to testify at a later date to provide explanation and clear up confusion about what are lease purchase agreements and certificates of participation.

085 DEBRA A. BRUSIE, Associate Vice President, Dain Bosworth Incorporated: Testifies about experience with Flex programs.

> Reaction to legislation is there are plenty of small districts that would simply do without some of the projects they financed.

> There are limits/controls:

- Payment is out of a voted tax base.

- Elected board members/commissioners are representative of the taxpayer and set policies on borrowing for these types of projects.

> Such a "broad brush" would do many districts a disservice.

CHAIR TIERNAN: Adjourns the meeting at 3:03 pm.

Submitted by, Reviewed by,

Kay C. Shaw Gregory G. Moore
Committee Assistant Committee Counsel

EXHIBIT SUMMARY:

- A - Preliminary Staff Measure Summary on SJM1 -- Staff -- 2 Pages
- B - Preliminary Staff Measure Summary on HB 2482 -- Staff -- 2 Pages
- C - Proposed HB 2482-2 Amendments -- Staff -- 1 Page
- D - Preliminary Staff Measure Summary on HB 2269 -- Staff -- 1 Page
- E - Proposed HB 2269-11 Amendments -- Staff -- 7 Pages
- F - Prepared Testimony on HB 2752 - Noel Klein -- 11 Pages
- G - Prepared Testimony on HB 2752 -- Sandra Russell -- 52 Pages
- H - Prepared Testimony on HB 2752 -- George Mardikes -- 6 Pages
- I - Proposed HB 2752-3 Amendments -- Rep. Liz VanLeeuwen -- 1 Page
- J - Prepared Testimony on HB 2752 -- John Marshall -- 6 Pages
- K - Prepared Testimony on HB 2752 -- Gary Holliday -- 2 Pages