

Public Hearing: SB 277A  
Work Session: HB 2423  
Tapes 54-56 A/B  
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HOUSE COMMITTEE ON  
HOUSE REVENUE AND SCHOOL FINANCE  
PROPERTY TAX SUBCOMMITTEE

- MARCH 24, 1993 8:00 AM HEARING ROOM A STATE CAPITOL BUILDING  
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Members Present: Representative Tom Brian, Chair  
Representative Mike Burton  
Representative Margaret Carter  
Representative Fred Girod  
Representative Delna Jones  
Representative Jim Whitty

Witnesses Present: Paul Cosgrove, Northwest Ethanol Fuel Association Tom  
Koehler, Parallel Products Glenn Zirkle, Astro Western Stations Mike Dewey,  
Oregon Wheat Growers League Lila Leathers, Leathers Oil, Past President  
Oregon Petroleum Marketing Association Teresa Hogue, Oregon Ethanol  
Corporation Jim Whitty, Associated Oregon Industries Merlyn Hough,  
Nonattainment Area Coordinator, Planning&Development Section, Department of  
Environmental Quality Bill Penhollow, Association of Oregon Counties Karen  
Scheffer, American Automobile Association Delores Devine, Oregon  
Association of County Tax Collectors Dale Matsel, Fiscal Services Manager,  
Department of Insurance and Finance Jim Manary, Department of Revenue Gary  
Carlson, Associated Oregon Industries Robert Carus, Tax Manager, Schnitzer  
Steel Mike Dewey, Oregon Cable Television Association

Staff: James Scherzinger, Legislative Revenue Officer  
Terry Drake, Legislative Revenue Office  
Steve Meyer, Legislative Revenue Office  
Paula McBride, Committee Assistant

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meeting. Text enclosed in quotation marks reports the speaker's exact  
words. For complete context of proceedings, please refer to the tape  
recording.

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TAPE 54 SIDE A

006 CHAIR BRIAN called the meeting to order at 8:07.

010 CHAIR BRIAN reopened the Public Hearing on HB 2423 and conducted  
administrative business.

017 PAUL COSGROVE continued his testimony from yesterday (3/23/93,  
interrupted by the fire alarm) against HB 2423. He summarized the areas he  
wanted to discuss: (1) the tax incentive (a 5 cent/gallon tax exemption) on  
ethanolblended fuels and its intent, (2) what has happened to the

incentive, and (3) the relationship of the blended fuels to air quality in Oregon. He expressed his displeasure concerning major oil companies purchasing and distributing ethanol-blended fuels that they don't produce. (See Exhibit 5, 3/23/93 for an outline of his testimony).

Questions and discussion interspersed

112 PAUL COSGROVE discussed the issue of volatile organic compounds (VOC's), which contributes to the problem of ozone. Ozone is a problem all year long, like carbon monoxide; but whereas carbon monoxide occurs most in the winter, VOC's happen most in the summer months. Ethanolblended fuels (blended at 10~) are slightly more volatile (evaporate slightly faster) than other fuels. He believed evaporate emissions were relatively easy to control.

150 PAUL COSGROVE mentioned the support of the Environmental Protection Agency (EPA) on the use of ethanolblended fuels.

155 PAUL COSGROVE discussed how major oil companies have moved aggressively to use ethanol, which benefitted the ethanol-blended fuel program. The major problem with the involvement of the major oil companies was a more significant drain on the Highway Fund, which the Oregon Department of Transportation (ODOT) protested by advocating HB 2423. He wanted to work with ODOT to develop a proposal that would keep the benefit of the incentive yet reduce the impact on the Highway Fund, and he suggested examples of how this comprise could be accomplished. One was to reduce the tax incentive from 5 to 2 cents/gallon.

239 PAUL COSGROVE repeated his observation (first given 3/23/93) of the problem with the Oregon Revised Statutes (ORS) concerning tax exemptions for ethanol-blended fuels. The exemption did not apply to income or property taxes, but the particular reference note that attests to this fact was inadvertently dropped during a

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printing of the ORS.

272 PAUL COSGROVE said he supported the new "Oregon Transportation Plan." He mentioned the established goals of ODOT, one of which is to "move away from oil-dependent fuels.

Questions and discussion

301 PAUL COSGROVE wanted to keep the same sunset (December 31, 1977). HB 242 3 would sunset the tax exemption this year.

Questions and discussion

316 PAUL COSGROVE discussed how ethanol-blended and/or oxygenated fuel programs work in other states.

Questions and discussion

TAPE 55 SIDE A

002 Questions and discussion continued with PAUL COSGROVE concerning the incentive for ethanol-blended fuels and his opposition to HB 2423.

031 PAUL COSGROVE said there are no production facilities currently being built in Oregon, although there are some being planned. He discussed the

complications of establishing an ethanol plant.

047 TOM KOEHLER testified against HB 2423. His company has been marketing ethanol in Oregon for two years, and he discussed the importance of keeping the incentive for this fuel. He also explained how ethanol is produced in California. His company is currently working on a technology that will use cellulose products for the production of ethanol. He mentioned the benefits to the Oregon timber industry of this new technology.

092 TOM KOEHLER explained what he thought was necessary to create ethanol production plants in Oregon. One criteria was to establish that Oregon was an ethanol-friendly state, and continuation of the tax incentive would be one way of doing this.

Questions and  
discussion

124 TOM KOEHLER believed that the ethanol industry is an extremely

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exciting one that greatly benefits society, especially because it solves so many waste problems.

Questions and discussion

173 TOM KOEHLER addressed the issue of capital investment in his industry, which could make the tax incentive unnecessary. He reiterated that the ramifications of the technology being developed to produce ethanol fuels is of tremendous benefit to society.

Questions and discussion

218 PAUL COSGROVE talked about ways to get plants operating in Oregon that don't rely on the tax incentive, but he believed the incentive was still needed.

Questions and discussion continued with PAUL COSGROVE and TOM KOEHLER

269 TOM KOEHLER discussed the production capacity of his ethanol plant and its history.

Questions and discussion

304 TOM KOEHLER related that California did not offer any incentives to his company.

Questions and discussion

372 TOM KOEHLER believed production incentives should be encouraged for the ethanol-fuel industry, and he gave some examples.

Questions and discussion

TAPE 54 SIDE B

002 Questions and discussion continued with TOM KOEHLER and PAUL COSGROVE.

016 PAUL COSGROVE believed two benefits resulted from this industry: the first is an incentive to create production plants, and the second is to sell the fuel (cleaner air).

Questions and discussion

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043 PAUL COSGROVE discussed the differences between oxygenated fuels.

080 PAUL COSGROVE talked about tax credits that have been given to his industry in Idaho and Washington.

09S GLENN ZIRKLE testified against HB 2423. He discussed his organization, and explained the purpose of using ethanol-blended fuels in Oregon. He believed this industry would be beneficial to Oregon, especially in the creation of jobs. He mentioned several uses for ethanol-blended fuels. He gave some statistics about the distribution of ethanol-blended fuels in Oregon for 1992, 43% of which was done by the major oil companies. He thought this was not a major oil company issue and that the tax incentive was needed to support the smaller distributors in the state. He mentioned the impact on the industry of new Federal regulations.

195 GLENN ZIRKLE discussed the issue of using ethanol during summer months. He believed all the research had not been done in this area.

Questions and  
discussion

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265 PAUL COSGROVE mentioned a handout given to members, which was a press release about the building of an ethanol factory in Columbia City, Oregon. Exhibit 1

299 CHAIR BRIAN mentioned testimony received from JAMES BEARD (Oregon Environmental Council) and VALERIE PAULSON (League of Oregon Cities). Exhibits 2 and 3

310 MIKE DEWEY testified against HB 2423. His organization supported the continuation of the state tax incentives for the production of ethanol in Oregon and to blend agriculture products and oxygenated fuel. He believed the tax incentive was a marketing tool that could be used when there is surplus of wheat, potatoes, or other agricultural products Exhibit 4

Questions and  
discussion

TAPE 55 SIDE B

002 Questions and discussion continued with MIKE DEWEY.

027 LILA LEATHERS testified against HB 2423 because she wanted to

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keep the tax incentive in place. She spoke about her organization and its role in Oregon. She believed the use of ethanol-blended fuels benefits the state, and she thought that keeping the tax incentive would enable dealers to expand the use of this fuel. She also mentioned the plans for building production plants. She suggested a compromise plan whereby the tax incentives would be cut in half from November 1-February 28 high use period.

081 TERESA HOGUE presented information about her company, a production plant at the Port of Morrow for ethanol. She discussed the benefits of her industry to Oregon and across the United States.

135 TERESA HOGUE talked about the creation of family-wage jobs that occurs from her industry, especially in rural areas. She mentioned products and

technology used in her industry, and other areas of the Oregon economy that were impacted.

167 TERESA HOGUE discussed transportation issues concerning the ethanol fuels. Another concern was the political climate in Oregon regarding ethanol fuels, especially in relationship to attracting capital investors for production plants. She believed the encouraged use of ethanol was vital to Oregon, especially because of the importance of developing alternative fuels.

Questions and discussion

206 TERESA HOGUE believed that the developing of ethanol production facilities in Oregon would be at risk if HB 2423 passed and the tax incentive ended sooner than designated.

Questions and discussion continued with TERESA HOGUE about the creation of other incentives for the production of ethanol in Oregon.

291 JIM WHITTY testified in support of HB 2423, and stated that his organization generally oppose the diversion of gas tax revenues for non-highway related uses. He spoke about environmental issues, supporting the data that ethanol-fuels cause a depletion of ozone during the summer months. He discussed his position on HB 2175 from the 1991 Legislative Session as related to the use of ethanol fuels. He stressed the need to control ozone levels before the Federal Government imposes more severe controls, especially on the area of Portland.

Questions and discussion

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407 JIM WHITTY continued his explanation of support for HB 2423. He mentioned marketing of ethanol and/or oxygenated fuels, which has become a "competing" market. He suggested that it might be necessary to put an emergency clause in HB 2423 that would specifically discourage ethanol-blended fuels during the coming summer months. He read from a letter that "clarified EPA's current position that ethanol-blends causes substantial increase in both vehicle VOC emissions and their contribution to ozone relative to conventional and reformulated fuels." He suggested that other fuels could be used to help clean the air (natural gas and electricity). Exhibit 5

TAPE 56 SIDE A

002 JIM WHITTY continued with his testimony in support of HB 2423.

036 MERLYN HOUGH discussed other oxygenated fuels, specifically whether or not they have the same problems during the summer months. He mentioned specific fuels and their content. He also mentioned the letter from the EPA and other Federal reports concerning the use of oxygenated fuels and their volatility. Exhibit 5

Questions and discussion interspersed

182 MERLYN HOUGH said his industry encouraged the use of oxygenated fuels during the winter month, but believed the use should be actively discouraged during the summer months. He believed the evidence that supported the view that oxygenated fuels cause ozone during the summer months.

Questions and discussion

220 BILL PENHOLLOW testified in support of HB 2423, as a significant part of the "Oregon Transportation Plan" funding. His organization supported the

"Transportation Plan," and wanted each aspect of the funding for the Plan to be accomplished. He mentioned his organization's interest in establishing an ethanol production plant in Oregon, but he believed there was a better way to provide incentives. He suggested a targeted incentive toward the building of plants or the conversion of plants. He reminded the members that there already exists an tax incentive on ethanolblended fuels, and also a Federal mandate for the use of these fuels in six Oregon counties. He mentioned the 1991 legislation that crated the incentive, and how the Highway Fund was not

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supposed to be depleted by this incentive. His organization did not support the original incentive.

Discussion

397 KAREN SCHEFFER testified in support of HB 2423. She believed the tax incentive on ethanol fuels did not provide any benefits to Oregon, because profits from the incentive were going out of state rather than being used to develop production of ethanol within the state. Her organization supported the concept of developing cleaner-burning alternative fuels; but since the use of ethanol fuels is already mandated, the incentive was no longer needed.

Questions and  
discussion

TAPE 57 SIDE A

002 Questions and discussion continued with KAREN SCHEFFER.

039 CHAIR BRIAN closed the Public Hearing on HB 2423 and conducted administrative business.

047 CHAIR BRIAN recessed the meeting at 10:29 and reconvened at 10:44.

050 CHAIR BRIAN opened a Work Session on SB 275A and conducted administrative business.

066 DELORES DEVINE explained the intent of SB 275A, which relates to payment of taxes. Currently tax collectors can only accept payments at the time and date they are received in the office, or by the official cancellation of the post office. SB 275A would include payments (which they have been receiving) from UPS and other "private express carriers."

Questions and  
discussion

08 DALE MATSEL testified in support of SB 275A, but he suggested amendments, SB 275-A3, which he explained. These amendments broaden the bill by including "lockboxes." His testimony was verbatim. Exhibits 6 and 7

Questions and  
discussion

170 DALE MATSEL addressed the issue of whether or not there was a

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need to further define some terms in his amendments SB 275A3. Exhibit 7

Questions and

discussion

225 JIM MANARY said the Department of Revenue (DOR) did not use electronic processing systems outside the department. This was tried and dismissed in the early 1980's, when technology was different.

Questions and

discussion

250 CHAIR BRIAN asked the proponents of amendments SB 275A3 to clarify the language. Exhibit 7

Discussio

n

307 CHAIR BRIAN closed the Work Session on SB 275A and opened the Public Hearing on SB 277A.

311 JIM MANARY testified about the purpose of SB 277A, using a handout entitled "Industrial Appraisal Task Force Report: HB 3050," which dealt with two issues: (1) intangibles in the valuation of property, and (2) thirdparty subpoenas. He delineated the concerns about thirdparty subpoenas. Exhibit 8

TAPE 56 SIDE B

002 JIM MANARY continued his explanation of third-party subpoenas as relate to SB 277A.

019 JIM MANARY talked about the second issue in SB 277A, which related to intangibles, and he expressed the concerns of the DOR which precipitated discussion with the Task Force. However, the Task Force could not derive a conclusion on this issue, so he explained the treatment in SB 277A of intangibles. He believed the solution was limited and would have to be revisited. Exhibit 8

054 GARY CARLSON testified in support of SB 277A. He was part of the "Industrial Appraisal Task Force," and he further explained the two relevant issues. He supported the proposed changes in SB 277A, but he clearly stated that state law should prohibit the use of subpoenas by the DOR to gather data from industrial owners,. He agreed that there had been a compromise reached on intangibles rather than resolving the problems. Exhibit 9

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Questions and discussion

104 ROBERT CARUS believed that attributes of property were separate entities from intangible assets, and that a clear definition of what is an intangible assets already existed within the DOR in order to distinguish entities from tangible assets.

He expressed a concern from a business perspective of the Task Force that the counties and DOR might be willing to allow the taxation of intangibles.

Questions and

discussion

133 GARY CARLSON clarified his position of SB 277A, which was that it was an improvement over current law but that it didn't really resolve the concerns of his organization.

Questions and  
discussion

170 MIKE DEWEY testified in support of SB 277A. He didn't have a recommendation on third-party subpoenas, but he did support setting within the statute a clear statement that intangibles are not taxable. He wanted a list created on intangibles, especially that would be significant to the cable industry and other businesses in Oregon. He also wanted the list to include terminology "not limited to...". These items are in SB 277A. He mentioned a Tax Court case involving the cable industry.

Questions and  
discussion

245 JIM MANARY discussed the Task Force's response to the issue of "influence," about which the members of the Task Force did not agree. He had no idea what impact the case before the Tax Court (regarding the cable industry) would have.

Questions and  
discussion

296 MIKE DEWEY believed it was incongruent to decide that intangibles will not be taxed but then to talk about the influences, impacts, or effects of intangibles. This was in relation to language in SB 277A.

Questions and  
discussion

321 CHAIR BRIAN closed the Public Hearing on SB 277A.

322 CHAIR BRIAN adjourned the meeting at 11:28.

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Paula K. McBride, Committee Assistant  
Kimberly Taylor, Office Manager

#### EXHIBIT SUMMARY

1. Ark Energy, Inc., press release, Paul Cosgrove, Northwest Ethanol Fuel Association.
2. Testimony on House Bill 2423 by James E. Beard, Director, Transportation Project, 3/23/93.
3. Letter to Chair Brian, in opposition to HB 2423, from Valerie S. Paulson, Sr. Staff Associate, League of Oregon Cities.
4. Oregon Wheat Growers League Supports Ethanol Incentive, Bob Johns, President, Oregon Wheat Growers League.
5. Letter to K. Randall Pearson, Renewable Fuels Association, from the United States Environmental Protection Agency, presented by Merlyn Hough, Department of Environmental Quality.
6. Testimony in Support of Amendment to SB 275, presented by Dale Matsel, Department of Insurance and Finance.
7. SB 275-A3, Dale Matsel, Department of Insurance and Finance.
8. Industrial Appraisal Task Force Report, HB 3050, Jim Manary, Department of Revenue.
9. Testimony on SB 277, presented by Gary Carlson, Associated Oregon Industries.



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