

Public Hearing: HB 2862  
Work Session: HB 3031  
Tapes 101-102 A/B

HOUSE COMMITTEE ON  
HOUSE REVENUE AND SCHOOL  
FINANCE  
PROPERTY TAX SUBCOMMITTEE

MAY 19, 1993 8:00 AM HEARING ROOM A STATE CAPITOL BUILDING

Members Present: Representative Tom Brian, Chair  
Representative Mike Burton  
Representative Margaret Carter  
Representative Fred Girod  
Representative Delna Jones  
Representative Jim Whitty

Witnesses Present: Don Schellenberg, Oregon  
Farm Bureau

Joe Brumbach, Oregon Farm Bureau

Stan Hendy, Oregon Farm Bureau

Tom Linhares, County Assessor, Columbia  
County; Oregon State Association of  
County Assessors

John DiLorenzo, Counsel, Willamette Egg Farms

Greg Engrav, Tax Counsel, Willamette Egg  
Farms

Jim Manary, Department of Revenue

Staff: James Scherzinger, Legislative Revenue Officer

Steve Meyer, Legislative Revenue Office

Paula McBride, Committee Assistant

TAPE 101 SIDE A

006 CHAIR BRIAN called the meeting to order at 9:39.

007 CHAIR BRIAN opened the Public Hearing on HB 2862.

013 DON SCHELLENBERG testified in support of HB 2862. He spoke about three separate but related issues in the bill that had to do with the category of "farm use" in the property tax system. The first issue was about dwellings in a farm zone. His testimony was verbatim. Exhibit 1

Questions and discussion

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These minutes paraphrase and/or summarize statements made during this 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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056 DON SCHELLENBERG continued his testimony in support of HB 2862. The second issue centered around retired farmers. His testimony was verbatim. Exhibit 1

Questions and  
discussion

105 DON SCHELLENBERG explained the third issue of concern related to farm

zone homesites. He mentioned possible amendments to HB 2862, 2962-4.

Exhibits 1 and 2

Questions and  
discussion

161 JOE BRUMBACH described his experience with a farm since 1960, and the circumstances that had led him to lease out his equipment and land to another person who now farms the property under the supervision of MR. BRUMBACH. He explained interaction he has had with the county concerning changes in his property taxes. He believed that he should be allowed to stay on his land and that it should continue to receive the exemption for "farm use homesites;" therefore, he supported HB 2862-4.

253 STAN HENDY testified in support of HB 2862, which he believed would clarify statutes for county assessors who have been penalizing retired farmers who add additional homesites on their land for farm workers who rent their land. He described some personal circumstances relating to his own farm. Exhibit 2

Questions and  
discussion

310 TOM LINHARES believed there were two distinct aspects of HB 2862, which he explained. The first related to farm ground converted to a farm-related homesite, and whether or not that ground would become disqualified for "farm use special assessment" and subject to back taxes. Because this situation has not arisen in his county, he was forced to guess and defend the rationale assessors in other counties have used to resolve it. He also spoke about when backtaxes were collected when "farm use" status changed. There was a case before the Oregon Supreme Court related to this issue in Douglas County.

Questions and  
discussion

391 CHAIR BRIAN explored the amendments HB 2862-4 with TOM LINHARES, specifically discussing differences between the bill and the amendments.

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TAPE 102 TAPE A

008 TOM LINHARES believed that most counties would convert the second farm homesite ground from "farm use specially assessed" value to "farm-related dwelling" value, but would not disqualify the ground from the program entirely and impose back taxes. He thought that Douglas County had responded to information from the Department of Revenue (DOR) from a couple of years ago that "seemed to imply the acreage was disqualified," but then the DOR changed their rules. He stated that his organization would not oppose Section 4 of HB 2862 related to this issue, especially because the issue would be resolved.

Questions and discussion

089 TOM LINHARES spoke about another provision in HB 2862 concerning retired farmers, and he explained current practices in the counties related to retired farmers. He explained his organization's position regarding people in "retired situations," and he believed that Section 3 of HB 28632,

written to address this issue, was far too broad and would allow too many homesites that were not connected with the farm use to qualify for the special assessment.

Questions and discussion

171 TOM LINHARES spoke about specific language in HB 2862, and pointed out the language he thought was too broad. He proposed getting together with representatives from the Farm Bureau to work out language in Section 3 of HB 2832 related to retirees.

Questions and discussion concerning language in HB 2832.

294 CHAIR BRIAN closed the Public Hearing on HB 2832.

295 CHAIR BRIAN opened the Work Session on HB 3031.

300 STEVE MEYER reminded members that HB 3031 had to do with a property tax exemption for equipment used in the production of eggs. The original bill exempted both equipment used for production and that used for the "washing, drying, handling, grading, packaging, and shipping" of the fresh shell eggs. HB 3031-2 provided the exemption only for the production equipment. Section 2 contained language that should have been included in the original bill, related to setting up a procedure for applying for

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the exemption back to 1987 and allowed a refund process. Exhibit 4

328 CHAIR BRIAN believed HB 3031-2 narrowed what property would be exempted and make the egg industry parallel with other agricultural properties that have been exempted.

353 JOHN DILORENZO related that the amendments HB 3031-2 were done "in the spirit of compromise," and he explained the amendments. He believed that certain production equipment was essential to get fresh-shell eggs to market, which is why he believed the relevant equipment should be exempted. He supported the amendments HB 3031-2.

Questions and discussion

370 JOHN DILORENZO explained the original issue that caused HB 3031 to be requested, and he compared the amendments HB 3031-2 to the original bill. He believed that no significant refunds would have to be made by any Oregon county because of the date in HB 3031. HB 3031-2 would become effective 7/1/94 but also allow a refund process for any taxes that may have been paid on production equipment from the tax year beginning 7/1/87, the date when some county assessors began to "administratively recharacterize" (reclarify) production equipment bolted to the floor as "real estate. He stressed that counties would actually have to make very few refunds, and he thought this provision would merely allow taxpayers to file and seek "forgiveness" of property taxes assessed against production equipment used for fresh shell eggs.

Questions and discussion

TAPE 101 SIDE B

014 Questions and discussion of HB 3031-2.

019 STEVE MEYER said the potential revenue impact of HB 3030-2 of \$1 million was based on the assumption that fresh shell egg farms had been taxed during the last seven years, and based on information from 1992-93

from the DOR.

031 GREG ENGRAV described the operations of Willamette Egg Farms, most of which were in Clackamas County. Some taxes have been paid in the past on the Klamath Falls "reclarified" production equipment, but not any longer because of depreciation. The

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reclassified equipment on the Clackamas County sites have added about \$1 million to the property tax roll, but no taxes were ever paid and no refund would be necessary.

Questions and discussion

055 JOHN DILORENZO discussed language in the amendments HB 3031-2 related to refunds, which he believed came as technical amendments from Legislative Counsel. He stressed that the proponents of HB 3031 never wanted a windfall. He reiterated that most farms would not receive refunds, because although taxes had been assessed in some counties on egg farm equipment, those taxes had not been paid.

Questions and discussion

117 JOHN DILORENZO agreed to a possible amendment to HB 3031-2 that would eliminate any language related to an egg farm receiving a "refund" for taxes that had been paid since the production was "recharacterized" by county assessors. However, he urged members to keep language that would "forgive" the "recharacterization" of production equipment back to 1987, which was the intent of HB 3031.

Discussion

174 TOM LINHARES explained why he was uncomfortable with the term "recharacterization," and he said he had been able to find only one case in Clackamas County where this had happened and additional taxes had been collected for previous years. He spoke about the reasons for the increase in assessments for the fresh shell egg company in Sherman County. He believed that most assessors had for many years assessed equipment on egg farms as real property, that this equipment had been properly assessed, and he cited the court case that established production equipment as taxable (1985).

211 TOM LINHARES believed that Columbia Egg Ranch and Willamette Egg Farms were the only two businesses that had not paid their taxes, and that all other fresh shell egg companies in the state had paid their taxes on time.

218 JOHN DILORENZO believed that assessors in Oregon did not have a uniform practice of "recharacterizing" production equipment, and he had draft of a letter to Columbia River Egg Farms to support this belief. He read the draft to the members.

237 CHAIR BRIAN suggested changing the date in HB 3031, on line 16, from "1987" to "1990." He explained this request.

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Discussio

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262 JOHN DILORENZO did not want the date changed in HB 3031, and he explained why he did not.

Questions and discussion

282 JOHN DILORENZO justified his use of the term "recharacterization," which he chose in response to the assessor's office using another term, "clerical error," in relation to the assessment of production equipment at Willamette Egg Farms as real property.

Questions and discussion

304 TOM LINHARES talked about his general discomfort with property tax exemptions. He believed that exemptions should only be granted for one year at a time. He talked about a specific example in Sherman County to support his position. He thought the situation with Willamette Egg Farm in Sherman County should not cause the state to implement a retroactive exemption through HB 3031 in every county in Oregon.

Questions and discussion

TAPE 102 SIDE B

002 Questions and discussion continued about the merits of HB 3031, specifically about the policy of granting exemptions to "farm" equipment and then "recharacterizing" that equipment as assessable. Members generally wanted a uniform policy that wouldn't change years into the future.

026 JIM MANARY related that the "Miller Egg Farm Case" in 1985 delineated what was personal property, which was not whether it was or was not bolted to the floor. Rather, the decision said it was used as a normal part of the real property operations. One problem was that all assessors did not apply the court case immediately, which is why some egg farms were assessed in 1987 and some still haven't been assessed. He believed there were two distinct issues the members had been discussing: (1) How big the exemption was and what it included for farm equipment machinery, and (2) the omitted property statute that goes back five years.

Questions and discussion

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098 CHAIR BRIAN conducted administrative business.

106 CHAIR BRIAN closed the Work Session on HB 3031.

107 CHAIR BRIAN adjourned the meeting at 12:10.

Paula K. McBride, Committee Assistant

Kimberly Taylor, Office Manager

EXHIBIT SUMMARY

1. Testimony of Don Schellenberg, Oregon Farm Bureau.
2. HB 2862-4, Don Schellenberg, Oregon Farm Bureau.

3. Testimony of Stan Hendy, Oregon Farm Bureau.
4. HB 3031-2, Steve Meyer, Legislative Revenue Office.

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