

Work Session: HJR 10 Tapes 158-159 A/B 160-161 A/B

HOUSE COMMITTEE ON
REVENUE AND SCHOOL
FINANCE

JUNE 21, 1993 8:00 AM HEARING ROOM A STATE: CAPITOL BUILDING

Members Present: Representative Delna Jones, Chair
Representative John Schoon, Vice Chair
Representative Ron Adams
Representative Tom Brian
Representative Mike Burton
Representative Margaret Carter
Representative Tony Federici
Representative Fred Girod
Representative Gail Shibley
Representative Jim Whitty

Members Excused: Representative Greg Walden

Witnesses Present: Barbara Seymour, Legislative Counsel
Staff: James Scherzinger, Legislative Revenue Officer Steve Bender,
Legislative Revenue Office
Paula McBride, Committee Assistant

TAPE 158 SIDE A

006 CHAIR JONES called the meeting to order at 9:42 and conducted administrative business. Exhibit 1

041 STEVE BENDER began an explanation of the amendments HJR 10-1, which totally replaced HJR 10. Section 1 referred to the appropriate Oregon Revised Statutes. Section 10 dealt with the expenditure limitation language. He related that Legislative Counsel had advised that these sections could be reorganized. Exhibit 2

Discussion

070 JIM SCHERZINGER explained that there were two blanks in Section 10, on the spending limitation, related to the amount of money and the percentage of the rate of the sales tax (based on information yet to be determined concerning the sales tax). Exhibit 2

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House Committee

on

Revenue and School Finance June 21, 1993 Page 2

Questions and discussion of example numbers that could be used in the blanks in Section 10 of HJR 10-1. Exhibit 2

127 CHAIR JONES concluded that a definition rather than an amount should go into HJR 10-1, Section 10, subsection (2) for the proposed spending limitation. She asked a working group (REPS. GIROD and BURTON) to come up with this language during a break.

129 JIM SCHERZINGER continued explaining HJR 10-1, specifically on language in Section 10, subsections (2) and (3). The date in (3) should be 1995, not 1997. He mentioned numbers that had been suggested for the blank in (3) related to the reserve fund for a revenue limitation. Exhibit 2

Questions and discussion of the working group's intent for the proposed limitation in HJR 10-1. Exhibit 2

110 JIM SCHERZINGER talked about economic situations in the past that had

effected the spending limitation.

230 CHAIR JONES suggested a figure of 7-1/2 percent for the revenue limitation in subsection (3)(b) of Section 10 in HJR 10-1.

Discussion

249 JIM SCHERZINGER explained that the language in subsection (3) would ensure that the reserve fund would be used to reduce the sales tax. He continued his explanation of Section 10, discussing how funds can be withdrawn from the reserve fund, stating that this withdrawal would be subject to the limit.

Questions and discussion

399 JIM SCHERZINGER talked about options for how subsection (3)(c) of Section 10 in HJR 10-1 might be accomplished. Exhibit 2

TAPE 1S9 SIDE A

005 JIM SCHERZINGER explained subsection (4) of Section 10, related to procedures for handling appropriated revenue from a tax by the State Legislature and the Governor. Exhibit 2

Questions and discussion

067 JIM SCHERZINGER related there was no other language in HJR 10

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House Committee

on

Revenue and School Finance June 21, 1993 Page 3

1 about the spending limit. Exhibit 2

Discussion

080 CHAIR JONES conducted administrative business.

096 STEVE BENDER explained Section 10(a) which dealt with the constitutional language of the sales tax and described the sales tax, including the rate cap of 5%. The language in this section also dedicated the revenues from the sales tax to "education, school improvement programs and to meet the requirements of Section 11b (5) of Article IX of the Oregon Constitution (this related to Measure 5). Exhibit 2

126 CHAIR JONES said she would like to language in Section 10(a) to be clearer.

Discussion

180 CHAIR JONES pointed out that the phrase "...used exclusively for education" in Section 10(a) did not stipulate specifically what education (i.e., what grades). Exhibit 2

Discussion of concerns with the language in Section 10(a)

235 CHAIR JONES asked members if they wanted language in HJR 10-1 that was more specific concerning the dedication of the sales tax revenues to education. Exhibit 2

Discussion

280 CHAIR JONES noted the members agreed to adding more specific language in Section 10(a) of HJR 10-1 related to education. Exhibit 2

285 CHAIR JONES asked members if they wanted to keep the language that was in Section 10(a), HJR 10-1, related to using revenues from the sales tax for "school improvement programs." Exhibit 2

Discussion

323 CHAIR JONES assigned members as a working group to figure out the language in Section 10(a) of HJR 10-1. (REPS. CARTER, WHITTY, and BRIAN). Exhibit 2

Discussion

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House Committee

on

Revenue and School Finance June 21, 1993 Page 4

375 Members discussed what grades they want to include for support through dedication of the revenues from the sales tax.

TAPE 158 SIDE B

003 CHAIR JONES informed members that Section 10a subsection (2) contained those items that they had decided to exclude from the Constitution (these things would not be subject to the sales tax. Exhibit 2

005 STEVE BENDER went through the items in Section 10(a), subsection (2). Exhibit 2 -

Discussion

018 Questions and discussion regarding the issue of putting the category "medical equipment" into the exempted items. Exhibit 2

055 CHAIR JONES related that Legislative Counsel will look into the appropriate language for adding "medical equipment" to the list of exempted items in Section 10(a), subsection (2) of HJR 10-1. Exhibit 2

060 Members discussed other difficulties they had with language in subsection (2) related to exempted items. Exhibit 2

076 STEVE BENDER explained to members why the term "heating oil" was in subsection (2) of Section 10(a). Exhibit 2

Discussion

110 STEVE BENDER read subsection (3) of Section 10(a), related to the rate cap. Language in this section also prohibited other "sales" taxes in the state. Other language related to how the proposed sales tax would apply to lowpriced items, allowing the tax to be rounded upward even if the 5% rate cap were exceeded. Exhibit 2

Discussion

169 STEVE BENDER discussed subsection (4) related to the "use tax" which would help prevent Oregon businesses from being put at a disadvantage with businesses in other states, specifically on border areas. He explained the "use tax." Exhibit 2

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House Committee on

Revenue and School Finance June 21, 1993 Page 5

Discussion

198 STEVE BENDER explained subsection (5), which prohibits local governments in Oregon from imposing additional excise taxes. He mentioned a change in language in this subsection. Exhibit 2

Discussion

257 CHAIR JONES recessed the meeting at 10:56 and reconvened at 4:27.

263 STEVE BENDER introduced new amendments to HJR 10, HJR 10-2, which contain the changes asked by members during the morning session. Exhibit 3

Discussion

304 JIM SCHERZINGER explained the changes in HJR 10-2 from HJR 10, the first item of which related to "covered taxes" (the sales tax) in the context of the state expenditure limitation in Section 10, subsection (2).

Exhibit 3

Questions and discussion

395 JIM SCHERZINGER continued his explanation of language in HJR 102 contained in Section 10, subsection 3(a)

Questions and discussion

TAPE 159 SIDE B

020 JIM SCHERZINGER discussed subsection 3(b) in Section 10. Exhibit 3

027 BARBARA SEYMOUR explained language changes in subsection 3(c) of Section 10. Exhibit 3
Discussion

044 JIM SCHERZINGER read subsection 4 of Section 10, related to an emergency clause. Exhibit 3

052 JIM SCHERZINGER revealed that subsection 5 of Section 10 was new, and he explained the language. Exhibit 3

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House Committee on

Revenue and School Finance June 21, 1993 Page 6

054 BARBARA SEYMOUR clarified the legislative intent of subsection 5 of Section 10 in HJR 10-2. Exhibit 3

Questions and discussion

080 JIM SCHERZINGER discussed the purpose of the "rainy day fund" and how this differed from the "emergency fund" (subsection 3(c), Section 10 of HJR 10-2). Exhibit 3

Questions and discussion

184 BARBARA SEYMOUR related that there are definitions and interpretations of "emergency" in the Oregon Revised Statutes (ORS). She also believed the Legislature could put an emergency clause into any bill, except a tax bill.

191 JIM SCHERZINGER related that in the case of HJR 10-2, "emergency" was defined by the language of subsection 4-of Section 10. Exhibit 3

Discussion

227 JIM SCHERZINGER again explained to members the language in Section 10a of HJR 10-3, beginning with subsection (1). Exhibit 3

Discussion

245 JIM SCHERZINGER described subsection (2) of Section 10 in HJR 10-2. Exhibit 3

Questions and discussion

285 BARBARA SEYMOUR explained what language that had to be put into the Constitution in subsection (2) of Section 10, HJR 10-2.

306 CHAIR JONES reiterated her interest in making the language in HJR 10 understandable for ballot purposes, and she asked Counsel to eliminate some of the language in subsection (2). Exhibit 3

318 JIM SCHERZINGER explained the meaning of subsection (3) (a) from Section 10 of HJR 10-2 to the members. Exhibit 3

Questions and discussion

327 BARBARA SEYMOUR explained why she had chosen the word "excise" instead of "sales tax" in subsection (3) (a) of HJR 10-1. The terms

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House Committee

on

"excise tax" and "privilege tax" were synonymous in law. She changed "excise tax" to "sales tax" in HJR 10-2. Exhibits 3
Questions and discussion

TAPE 160 SIDE A

002 Questions and discussion continued about language in subsection (3)(a) of HJR 109-2, specifically concerning the "reserve fund." Exhibit 3

079 JIM SCHERZINGER clarified that money isn't appropriated into the "reserve fund;" rather, money would be transferred into or out of the "reserve fund" and then appropriated for specific purposes.

Questions and discussion

103 JIM SCHERZINGER explained subsection (3)(c) of Section 10 in HJR 10-2, relating to "withdrawals from the reserve fund." Exhibit 3

Questions and discussion

120 JIM SCHERZINGER explained that only income tax money would be going into the "reserve fund," which meant there should be changes in the language of subsection (3)(c). He suggested what language would be more appropriate. Exhibit 3

Questions and discussion

160 JIM SCHERZINGER clarified that language in subsection (3)(c) doesn't allow money to be spent, only withdrawn from the "reserve fund." Exhibit 3

Discussion

177 JIM SCHERZINGER explained the principal problem inherent with "rainy day funds." Exhibit 3

Discussion

209 JIM SCHERZINGER discussed subsection (4) of Section 10, HJR 10-2 related to the emergency use of "reserve" funds. Exhibit 3

Discussion about the degree of flexibility members wanted to

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House Committee on

Revenue and School

Finance

June 21, 1993 Page 8

include with the "declaration of emergency" after a spending limit has been reached, in subsection (4) of HJR 10-2. Exhibit 3

289 JIM SCHERZINGER related that subsections (5) and (6) of Section 10 contained definitions for HJR 10-3. Exhibit 3

298 STEVE BENDER related that Section 10(a), subsection (1), had the constitutional language related to the sales tax. He read the language. He asked members if they wanted to make changes in language in this subsection for reasons he explained. Exhibit 3

Discussion

354 CHAIR JONES clarified what the language changes would be for subsection (1) in Section 10(a).

363 STEVE BENDER continued his explanation of subsection (1) in Section 10(a) that dealt with articles of the Oregon Constitution. He described these articles. Exhibit 3

Discussion

395 STEVE BENDER further explained the language in subsection (1) of Section 10(a) in HJR 10-2. Exhibit 3

397 CHAIR JONES clarified that the language at the end of subsection (1), related to the dedication of revenues from the sales tax, came from a working group comprised of REPS. WHITTY, CARTER, and BRIAN.

Discussion with BARBARA SEYMOUR concerning the dedication language in subsection (1), Section 10(a) of HJR 10-2. Exhibit 3

TAPE 161 SIDE A

002 Discussion continued with BARBARA SEYMOUR about the dedication language. Exhibit 3, HJR 10-2, Section 10(a), subsection (1)

036 BARBARA SEYMOUR announced that there was not wording in HJR 10-2 that indicated "public" rather than "private!" education in Oregon.

Discussion

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House Committee

on

Revenue and School Finance June 21, 1993 Page 9

097 STEVE BENDER talked about the constitutional exemptions to the sales tax in HJR 10-2, subsection (2) of Section 10(a). He showed members where changes in language had been made, and he suggested another change the members might want to make concerning "fuel used for space heating."

Exhibit 3, page 3

Questions and discussion

191 BARBARA SEYMOUR explained what the term "utilities" should not be used in HJR 10 because of how broadly this word could be interpreted. Exhibit 3, subsection (2)

Discussion

220 STEVE BENDER said there were no changes in subsection (3), Section 10(a) from the same subsection in HJR 10-1.

215 CHAIR JONES asked Counsel to ensure that there wasn't any language in HJR 10 that would prohibit local governments (or the state) from imposing other kinds of taxes. Exhibit 3

233 BARBARA SEYMOUR explained the differences between a "general tax" and a "selective tax."

Discussion

279 STEVE BENDER related that subsection (4) of Section 10(a) in HJR 10-2 clarified language concerning the "use tax" as part of the sales tax.

Exhibit 3

301 BARBARA SEYMOUR proposed a way to restate language concerning the "use tax" and explained why she had described it the way she did in HJR 10.

Exhibit 3

Discussion

351 BARBARA SEYMOUR explained how a "use tax" would apply to the purchase of a service in a state with a sales tax.

Discussion

413 STEVE BENDER reviewed with the members subsection (5) (will be subsection (4) in the next set of amendments for HJR 10), of Section 10a, which contained the prohibition of having local sales taxes. He mentioned the changes in language requested by members from HJR 10-2 to HJR 10-3. Exhibits 2 and 3

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House Committee

on

Revenue and School Finance June 21, 1993 Page 10

Questions and discussion concerning what subsection (5) in HJR 10-2 would prohibit. Exhibit 3

TAPE 160 SIDE B

002 Questions and discussion continued regarding what subsection (5) in HJR 10-2 would specifically prohibit. Exhibit 3

073 CHAIR JONES summarized what she believed the Committee was, and was not, trying to prohibit in subsection (5) of Section 10a in HJR 10-2. Exhibit 3

Discussion

112 STEVE BENDER suggested language to clarify what the members wanted to attempt regarding prohibiting local governments from imposing additional sales taxes in subsection (5) of Section 10a in HJR 10-2. Exhibit 3

Discussion

125 STEVE BENDER explained the new language in subsection (6) of HJR 10-2 (which will be subsection (5) in the next set of amendments). Exhibit 3

Discussion

136 STEVE BENDER discussed Section e, related to the corporate income tax. Exhibit 3

Questions and discussion

180 STEVE BENDER talked about Section 4a, and he explained why the sections were out of order in the- amendments HJR 10-2. This section related to the use of lottery funds for "education and child development services." Exhibit 3, page 4

Discussion

243 CHAIR JONES asked if members had any problems with using the lottery funds only for "education" and not for "child development services."

Discussion

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House Committee

on

Revenue and School Finance June 21, 1993 Page 11

266 BARBARA SEYMOUR mentioned the possibility that Section 4a might not be appropriate for HJR 10 and, in fact, not legally justifiable because of an Article in the Constitution that required all amendments be referred. She explained ways the legal question could be alleviated. Exhibit 3

Questions and discussion

327 CHAIR JONES clarified the issue related to the language about lottery revenues in Section 4a of HJR 10-2. Exhibit 3

Questions and discussion

TAPE 161 SIDE B

002 Questions and discussion continued about the language contained in HJR 10-2, Section 4a, related to revenues from the lottery being used for "education and child development services." Exhibit 3

014 CHAIR JONES explained how she thought members wanted to define education in Section 4a of HJR 10-2. Exhibit 3

Discussion

028 STEVE BENDER reviewed Section 3(a) of HJR 10-2, which contained the legal definitions of language used elsewhere in HJR 10. He provided options for members who have to fill in the blanks of this section. Exhibit 3

Discussion

070 STEVE BENDER continued his explanation of Section 3, further explaining the decisions that have to be made for this section. Exhibit 3

081 STEVE BENDER related that subsection (2)(a) of Section 3, HJR 10-2, related to the preparation of a ballot measure for the sales tax. He reviewed this subsection. Exhibit 3

106 STEVE BENDER said subsection (2)(c) of HJR 10-2 related to the text of the ballot measure rather than the ballot title, and he explained this subsection. Exhibit 3

120 STEVE BENDER explained subsection 3(c) of Section 3, which set

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House Committee on

Revenue and School Finance

June 21, 1993 Page 12

the procedure for the approval of the ballot measure.

Exhibit 3

Discussion

162 STEVE BENDER related that Section 4 of HJR 10-2, page 5, would be another temporary section of the constitution. He discussed the significance of this section. Exhibit 3

Questions and

discussion

199 STEVE BENDER finished his review of the language in Section 4, "Paragraph 2," dealing with the special election for the sales tax. He informed members that the "elections bill" would be HB 3677. Exhibit 3

203 CHAIR JONES conducted administrative business.

233 CHAIR JONES adjourned the meeting at 6:43.

Paula K. McBride, Committee Assistant

Kimberly Ta ore es, fice Manager

EXHIBIT SUMMARY

1. House Revenue Committee Tax Reform Proposal, Steve Bender, Legislative Revenue Office.
2. HJR 10-1, Steve Bender/Jim Scherzinger, Legislative Revenue Office.
3. HJR 10-2, Steve Bender/Jim Scherzinger, Legislative Revenue Office.
4. Letter from Kathryn Van Patten, on tax reform.
5. Letter from Harold R. Sewell, on tax reform.
6. Letter from Charlene Reich, on tax reform.
7. Letter from Donald S. Hudson, on tax reform.
8. Letter from H.M. McCleary, on tax reform.
9. Letter from Dong Hoang, on tax reform.
10. Letter from Jane Roberts, on tax reform.

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