

February 5, 1991 8:00 AM Hearing Room A State Capitol Building  
Members Present: Representative Delna Jones, Chair Representative Carl Hosticka, Vice-Chair Representative Mike Burton (arrived 8:10) Representative Kelly Clark (arrived 8:08) Representative Bev Clarno Representative Mike Nelson Representative Fred Parkinson Representative John Schoon Representative Jim Whitty Staff Present: Jim Scherzinger, Legislative Revenue Office Linda Leach, Committee Assistant Witnesses Present: Elizabeth Stockdale, Department of Justice Linda Lynch, City of Eugene, League of OR Cities Jim Kenney, Department of Revenue Tom O'Connor, League of Oregon Cities Kim Worrell, Association of Oregon Counties  
TAPES 43 SIDE A 005 CHAIR JONES called the meeting to order at 8:05 and conducted administrative business. She referred to Measure 5 Implementation Issues as of 2/4/91. Exhibit 1 WORK SESSION - HB 255 0 021 JIM SCHERZINGER pointed out that the definition of tax is located in Section 210 of HB 2550. He referred to recommended definitions from the League of Oregon Cities and from the Municipal Debt Advisory Commission. Exhibits 2 and 3 042 CHAIR JONES pointed out definitions suggested by the Association of Oregon Counties. Exhibit 4 057 ELIZABETH STOCKDALE referred to the definition of "tax on property" in Section 210 of HB 2550 which is the same as the definition in Ballot Measure 5 with the exception of the addition of "tax, fee,". She explained that "tax, fee" was added to provide clarity. 080 REP. HOSTICKA was concerned that this committee was making a record of interpreting the Constitution.

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093 ELIZABETH STOCKDALE explained the process for defining tax was for clarity in describing items that are subject to the limit under Measure 5. 111 REP. HOSTICKA noted that "charge" could be interpreted as broad or narrow. He clarified that the definition of tax on property in HB 2550 was a broad definition. 128 ELIZABETH STOCKDALE discussed proposed detailed legislation from the State Treasurer. 43 CHAIR JONES pointed out that this committee must make a decision regarding the amount of clarification given to definitions in Measure 5. 150 REP. CLARK explained an attempt from this committee to interpret the language in Ballot Measure 5. 171 CHAIR JONES recommended moving forward with clarification of definitions in terms of Ballot Measure 5. 194 CHAIR JONES requested input from the committee regarding "tax on property" definition. 196 REP. CLARNO suggested keeping the language as described in Ballot Measure 5 regarding tax on property. 194 REP. PARKINSON supported an effort to clarify definitions. 204 CHAIR JONES provided an example regarding a taxpayer question of a property tax bill concerning a definition of tax. 218 ELIZABETH STOCKDALE pointed out the lack of Legislative history for Ballot Measure 5. She explained risks if the Legislature defines terms more narrowly than the courts and how litigation could be forced if issues are not defined. The definitions in HB 2550 represent an effort of balance and judgment. 260 CHAIR JONES summarized that the committee is charged with making decisions in order for the property tax system to function. 270 ELIZABETH STOCKDALE explained that the Attorney General opinion acted as a guide in the development of HB 2550. (see Exhibit 7 from House Revenue January 25, 1991 meeting - Measure 5) 280 REP. SCHOON questioned the philosophy

which guided the language in HB 255 0. He commented on a part of HB 2550 which attempts to define, refine and implement Measure 5 and a part of HB 2550 which appears to reverse the effects of Measure 5.

These minutes paraphrase and/or summarize statements made during this meeting. Text enclosed in quotation marks reports the speakers exact words. For complete context of proceedings, please refer to the tape recording. House Committee on Revenue and School Finance February 5, 1991 Page 3 290 ELIZABETH STOCKDALE provided examples of policy issues reviewed by the Department of Revenue in relationship to minimizing the effect on revenue flow from taxes that were not ad valorem taxes. 310 REP. SCHOON was concerned that the policy issues in HB 2550 were not what the people wanted when Measure 5 was passed. 320 ELIZABETH STOCKDALE explained that some of the definitions in HB 2550 are policy decisions and she will point out the range of choices for each issue. 336 CHAIR JONES clarified that definitions will provide the ground work for the balance of HB 2550. She noted her concerns with combining implementation issues with policy issues. 356 REP. SCHOON wanted a detailed review of the proposed definitions. 366 Questions and discussion regarding five categories of items which could be deemed as taxes in a handout entitled Taxes on Property Subject to the Limit. Exhibit 5 TAPE 44 SIDE A 001 Questions and discussion continued. 020 ELIZABETH STOCKDALE provided an example using dog license and explained statutes which impose fees or charges. She pointed out that Measure 5 does not limit fees or charges for people engaging in activities. She explained changing the way a charge is imposed or changing the reason for a charge could remove the impact from Measure 5. 040 CHAIR JONES summarized reasons why definitions must be clear. 050 Questions and discussion regarding changing a tax v. eliminating a tax and creating a new tax. 060 Questions and discussion regarding replacing property taxes with activity taxes. 066 REP. SCHOON provided an example of changing taxes and commented on a possible court interpretation. 074 ELIZABETH STOCKDALE explained a review of the way certain charges are imposed or taxes are assessed. 090 REP. SCHOON expressed concern of an appearance to reverse the effects of Measure 5.

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- 096 CHAIR JONES interjected that Elizabeth Stockdale provides advice to the committee, but the committee is charged with making a decision to reflect the will of the people of Oregon. 102 Questions and discussion regarding clarification of taxes under the limit. Exhibit 5 112 CHAIR JONES recessed the meeting at 8:43 and reconvened the meeting at 8:58. 118 CHAIR JONES reviewed the options of a narrow or broad definition of tax on property. 120 ELIZABETH STOCKDALE pointed out that the definition of tax on property in HB 2550 will not include incurred charges or assessments for local improvements. She noted that this was consistent with Measure 5. 125 ELIZABETH STOCKDALE reviewed the definition of direct consequence of ownership in Section 210 of HB 2550. This definition is to provide clarity (if a charge to a property owner comes under the limit). She pointed out that the Department of Justice

was requested to reconsider a portion of the Attorney General Opinion dated September 7, 1990 that relates to motor vehicle registration fees and amusement device taxes (relating to direct consequence of ownership). 166 Questions and discussion. 180 CHAIR JONES suggested that the committee address the section of direct consequence of ownership after reconsideration by the Attorney General. 184 Questions and discussion regarding a definition being broad or narrow. 214 REP. CLARK was concerned with defining a phrase in the Constitution. He referred to lines 1 and 2, Section 210 of HB 2550. 226 ELIZABETH STOCKDALE explained the intent was for the Legislature to provide assistance to the court and not to bind the court. 253 Questions and discussion. 265 ELIZABETH STOCKDALE reviewed a desire of local governments for guidance from the Legislature regarding Ballot Measure 5 while recognizing that the court has the final word. 299 Questions and discussion.

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316 JIM SCHERZINGER explained a process proposed in HB 2550 where individual taxing districts must state if a tax is under the limit or not. The certification by the taxing district is subject to appeal. 324 REP. BURTON pointed out that the establishment of the committee record in making decisions has an implication to law which could be binding. 368 CHAIR JONES commented on the importance of Legislative history. ,350 Discussion regarding Legislative authority to define and interpret portions of the Constitution. 390 Questions and discussion regarding the language in the opening statement in Section 210 of HB 2550. TAPE 43 SIDE B 012 CHAIR JONES questioned the impact if "fee" was not included in the definition of tax on property in HB 2550. 010 ELIZABETH STOCKDALE related that the interpretation would probably not change because the word "charge" is a broad term in the constitutional provision. 026 ELIZABETH STOCKDALE clarified why the word "fee" was added in the definition of tax on property. 040 Questions and discussion. 063 CHAIR JONES referred to the League of Oregon Cities recommendation for definition of direct consequence of ownership. Exhibit 2 075 ELIZABETH STOCKDALE explained the differences between the definition of direct consequence of ownership in HB 2550 and the definition as suggested by the League of Oregon Cities. She believed that the reference to accrual tax in the League's recommendation involved a timing question (when a tax must be paid, not whether a tax must be paid). Elizabeth Stockdale noted her opinion that the issue was should a tax be charged (not when). 098 Questions and discussion regarding an example provided by the League of Oregon Cities regarding their recommendation. 120 LINDA LYNCH discussed reasons for the recommendation by the League regarding direct consequence of ownership. 142 Questions and discussion regarding direct consequence of ownership.

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178 ELIZABETH STOCKDALE interjected that a "use" tax probably did not come within the limits of Measure 5. 194 Questions and discussion

regarding possible impact from a reconsideration by the Attorney General of direct consequence of ownership. 220 JIM SCHERZINGER clarified that the discussion of a "broader" definition would mean more things would be impacted. 216 Questions and discussion regarding a need to define property. 230 Questions and discussion pertaining to judgments and definitions which will come out of this committee. 244 ELIZABETH STOCKDALE reviewed the definition of incurred charge in Section 210 of HB 2550 which is the same as Ballot Measure 5 with a language change for clarity. She pointed out elements which are not defined in Ballot Measure 5, but are defined in HB 2550 or are suggested by the League of Oregon Cities: actual cost, controlled or avoided, direct control, specific request, and routine obligation of ownership. 281 CHAIR JONES desired a detail review of definitions with regard to the intent of the definition and how proposed definitions would impact the implementation of Ballot Measure 5. 283 Questions and discussion regarding language of "specifically limited" and the use of language in HB 2550 which is different than the Constitution. 362 ELIZABETH STOCKDALE noted that there is no functional difference between the definition of incurred charge between HB 2550 and Ballot Measure 5. 397 Questions and discussion regarding a reference to incurred charges in the Constitution and a relationship to HB 2550. 382 Questions and discussion regarding language of limited "by government" and limited "by a unit of government". TAPE 44 SIDE B 001 Discussion regarding "or" on line 13 in Section 210 of HB 2550. 011 ELIZABETH STOCKDALE compared the definition of incurred charge from the League of Oregon Cities to HB 2550. The changes in HB 2550 were made for clarity.

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032 ELIZABETH STOCKDALE noted no difference between the basic definition of what constitutes an incurred charge (between League definition and HB 2550). The committee should look at the phrases within the definition which are not defined. 045 Questions and discussion regarding language used in the definition of incurred charge in HB 2550 compared to Ballot Measure 5. 069 REP. CLARK emphasized that the committee must clarify for each issue if a change is made for clarity or if a change is made to the meaning of Ballot Measure 5. 072 CHAIR JONES agreed with Rep. Clark. 075 ELIZABETH STOCKDALE reviewed the definition of actual cost in Section 210 of HB 2550. She explained that the phrase of actual cost is used in Ballot Measure 5 with respect to incurred charges and local improvement assessments. The League's recommendation is more detailed in dealing with debt service. 120 Questions and discussion. 130 CHAIR JONES added that the League's recommended definition of actual cost is a reflection of current practice and provides a clarification of the meaning of financing and debt service. 144 ELIZABETH STOCKDALE agreed with Chair Jones. 144 CHAIR JONES acknowledged a consensus from the committee to include the recommendation from the League of Oregon Cities regarding financing and debt service payments under actual cost definition. Exhibit 2 150 ELIZABETH STOCKDALE commented on the last sentence of the League's recommended definition of actual cost which is an attempt to inject a reasonableness standard (she provided an example). 182 Questions and discussion regarding actual cost of a project. 208 REP. HOSTICKA supported the League's recommendation regarding cost of a total project. 215 Questions and discussion regarding items charged to a project and

reasonable amount of costs. 250 CHAIR JONES suggested to include the recommended language from the League of Oregon Cities (referring to the last sentence of actual cost definition). Exhibit 2 248 Questions and discussion regarding forward funding of a project.

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These minutes paraphrase and/or summarize statements made during this meeting. Text enclosed in quotation marks reports the speakers exact words. For complete context of proceedings, please refer to the tape recording. House Committee on Revenue and School Finance February 5, 1991 Page 9 124 TOM O'CONNOR explained the intent of specific request (iii) was to cover a situation where an initiated request for service came from a group of downtown business people (where a group voluntarily assessed themselves). 134 CHAIR JONES noted her concern regarding specific request (iii) from the League of Oregon Cities. 147 Questions and discussion regarding examples covered by specific request (iii). 212 REP. BURTON commented that Ballot Measure 5 calls for broader language for specific request than the language as proposed by the League - specific request (iii). 222 KIM WORRELL provided an example of a downtown improvement organization. 238 Discussion regarding an election process in relationship to specific request (iii). 250 ELIZABETH STOCKDALE pointed out the proposal from the League regarding specific request (iii) illustrates a conflict for this committee. She discussed risk factors in connection with specific request definition. 313 Questions and discussion regarding a definition of government unit and the powers of government. 339 Questions and discussion regarding limits place on government v. the free will of people to tax themselves. 375 ELIZABETH STOCKDALE explained that Measure 5 deals with charges on

property of a property owner. 400 Questions and discussion regarding specific request (iii) from the League of Oregon Cities. 467 CHAIR JONES conducted administrative business and adjourned the meeting at 10:43.

Linda Leach, Committee Assistant

Kimberly Taylor, Office Manager

These minutes paraphrase and/or summarize statements made during this meeting. Text enclosed in quotation marks reports the speakers exact words. For complete context of proceedings, please refer to the tape recording. House Committee on Revenue and School Finance February 5, 1991 Page 10 ~.. EXHIBIT SUMMARY 1. Measure 5 Implementation Issues (as of 2/4/91), LRO - HB 2550 2. Testimony from League of Oregon Cities (see Exhibit 3 from House Revenue 2/4/91 meeting) - HB 2550 3. Testimony from MDAC (see Exhibit 2 from House Revenue 1/28/91 meeting) - Measure 5 4. Testimony from Association of Oregon Counties (see Exhibit 4 from House Revenue 1/30/91 meeting) - HB 2550 5. Taxes on Property Subject to the Limit (see Exhibit 5 from House Revenue 1/25/91 meeting) - Measure 5

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