

Senate Government Operations May 10, 1991 Page 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.

SENATE COMMITTEE ON GOVERNMENT OPERATIONS

May 10, 1991Hearing Room "B" 3:00 p.m. Tapes 87 - 88

MEMBERS PRESENT:Sen. Jane Cease, Vice-Chair Sen. Jim Bunn Sen. Tricia Smith Sen. Dick Springer

MEMBERS EXCUSED:Sen Glenn Otto, Chair Sen. Ron Grensky Sen. John Kitzhaber

STAFF PRESENT: John Houser, Committee Administrator Joan Green, Committee Assistant Julie Muñiz, Committee Assistant

MEASURES CONSIDERED: SB 799 - Relating to transient occupancy taxes of local government, PH HB 3477 - Relating to marriage, PH/WS

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TAPE 87, SIDE A

005 VICE-CHAIR CEASE: Called the meeting to order at 3:17 p.m.

(TAPE 87, SIDE A)

PUBLIC HEARING

SB 799 RELATING TO TRANSIENT OCCUPANCY TAXES OF LOCAL GOVERNMENT

Witnesses:Phil Peach, Oregon Lodging Association, Executive Director Sam Allen, Hotel Owner, Clackamas County Larry Harvey, Shilo Inn Corporation

019 PHIL PEACH, OREGON LODGING ASSOCIATION, EXECUTIVE DIRECTOR: We are the requestors of SB 799. The -2 amendment to SB 799, dated 05/03/91, Exhibit B address some of the concerns expressed by some Committee Members. Nearly every hotel/motel, in the State of Oregon, falls under some city/county hotel room tax ordinance. Originally, in many cases, those taxes were enacted with the support of the local lodging industry, as a means for some local tourism promotion. We've seen, over the years, room taxes escalating and becoming a convenient source of funding for almost any need that arises. With Ballot Measure 5, this has become the first source looked to by a number of cities/counties who need funding. Cites examples from different cities/counties. We can also point to success stories where the larger percent of hotel taxes go to tourism or economic development related projects. Albany has had a lot of success in spending all of its tax on tourism promotion, Gold Beach spends the majority of its tax on tourism promotion and is thriving. When Portland and Multnomah County went from 6% to 9% there was a recognizable loss of tour bus business from Portland to Vancouver, where taxes are at 6%. The National Association of Exhibition Managers and Meeting Planners International are quite outspoken on room taxes and how they are spent. Both have strong policies not to meet in cities that do not spend the majority of any local hotel/motel tax on tourism promotion. The bill proposes to cap local hotel/motel taxes at current levels. The -2 amendments, Exhibit B, allows an increase in the tax, if it is spent for a tourism related project as agreed to by the city or county and local convention visitors bureau or chamber of commerce. What is meant by tourism expenditure can often be the subject of abuse. Cites examples in different states. Refers to ln. 21, -2 amendment, Exhibit B, that needs to be changed to percentage. Refers to the survey, Exhibit A. The 1990 figure is not complete because the survey was compiled prior to the end of the fiscal year.

125 SMITH: In the -2 amendment, lns. 2-8, Exhibit B, how would you see this occurring?

138 PEACH: The increase would have to be tourism related.

141 SMITH: With the -2 amendment, Exhibit B, you're saying they must agree to it before the city can allocate resources, as they see fit?

149 PEACH: Correct, and that is critical to the bill. If it is significant and tourism related, the industry should have some say in what is appropriate.

157 SMITH: Why should they have more power over the budget process than I do as a taxpayer?

164 PEACH: It is dependent on them to act as an agent for the city/county to collect that tax and that tax level has an impact on their business and the ability to do business. The partnership in successful communities is where there is a committee of commissioners and industry members who agree on how best to allocate taxes and determine if increases are necessary.

176 SMITH: But the ultimate decision rests with the budget committee and then the city council. Your amendment would add a third party to that ultimate decision making process.

180 SAM ALLEN, HOTEL OWNER, CLACKAMAS COUNTY: The amendment speaks to changing the allocation. We are trying to protect the level of funding for tourism promotion and several protections were discussed.

193 SMITH: I would love to say the level of expenditures for police and fire could not be changed without my permission, as a person who pays for them and uses them.

197 ALLEN: I would tend to agree with you.

198 SMITH: I'm trying to determine why you should be set apart from anyone else who pays for services, who is dependent on the services, in the local budget process?

203 PEACH: There is a direct correlation of lost business to the rate of tax. We have more at stake, more than the taxpayer in general, with regard to the lodging tax and its specific effects on the lodging industry. This is not a sales tax state, at least it's not believed to be, but there is a sales tax and our industry collects it. We're trying to slow down a problem that has become runaway.

247 LARRY HARVEY, SHILO INNS: With additional lodging taxes we experience a decline in business. It seems inappropriate to rush into any decisions regarding the increase of lodging taxes anywhere in the state. At a time when the state is trying to determine how much money can be allocated to the overall tourism budget, it is inappropriate to designate money that would have gone to promote tourism locally. We don't feel an outright panic to grab funds from what is considered a weak point, and put them into a general coffer situation, is appropriate. (TAPE 87, SIDE A)

PUBLIC HEARING

HB 3477 RELATING TO MARRIAGE

Witnesses: William Jolley, Oregon Municipal Judge's Association

290 WILLIAM JOLLEY, OREGON MUNICIPAL JUDGE'S ASSOCIATION: We're only asking for a service, not money. We currently perform marriages within cities, but a municipal judge's jurisdiction ends there. Quite often there are marriages outside the city so we must perform a legal ceremony within the city and perform a mock ceremony outside, in the county where we go. This would save a lot of time and inconvenience if we could perform a marriage within the home or wherever.

335 SPRINGER: How are municipal judges compensated?

341 JOLLEY: I don't take money, I just perform it as a service. I don't know about other municipal judges.

344 CEASE: You consider your salary pays for the function?

345 JOLLEY: Yes.

WORK SESSION

348 MOTION: SEN. BUNN MOVED HB 3477 TO THE FLOOR WITH A DO PASS RECOMMENDATION.

354 VOTE: MOTION CARRIED: 4-0. EXCUSED: SEN. GRENSKY, SEN. KITZHABER, CHAIR OTTO. SEN. BUNN WILL LEAD THE FLOOR DISCUSSION.

(TAPE 87, SIDE A)

PUBLIC HEARING

SB 799 RELATING TO TRANSIENT OCCUPANCY TAXES OF LOCAL GOVERNMENT

Witnesses: Nancy Littell, Cannon Beach Chamber of Commerce, Executive Director Jim Hauge, ExecuLodge, Salem, General Manager and Salem Area Lodging Association, Chair Tom Barrows, City of Bend Karolyn Adamson, Rep. Jackie Taylor's Office Jerry Justice, Clackamas County B.J. Smith, League of Oregon Cities Gary Holliday, City of Albany, Finance Director Olivia Clark, City of Salem Jeff Towery, City of Cottage Grove, City Manager Sam Allen, Hotel Owner, Clackamas County Phil Peach, Oregon Lodging Association, Executive Director

372 SAM ALLEN, HOTEL OWNER, CLACKAMAS COUNTY: For eleven years I have dealt with room taxes, as an owner and operator. County and city

negotiations have a tendency to take a leap-frog attitude, "we aren't as bad as the community down the way". We could be facing expensive room taxes in the State of Oregon, if this is allowed to continue. I would therefore ask that you give this serious consideration; even if you don't like parts of the bill, let's get together and put a cap on it.

378 JIM HAUGE, EXECULODGE, SALEM, GENERAL MANAGER AND SALEM AREA LODGING ASSOCIATION, CHAIR: I work closely with the Salem Convention Visitor Association, (SCVA). The State of Oregon, the City of Salem, the organizations within Salem all work cooperatively in promoting tourism. We feel strongly that the state should have a voice in what the cities and counties are doing, as it relates to the transient room tax (TRT). How is tourism defined? Is it painting a wall at the airport and paying for it out of TRT funds? We have a committee made up of all the organizations involved in TRT, inclusive of the Historical Society, Bush House, hotels, etc. These people hash over these problems, take their recommendations to the official Tourism Advisory Committee which reports to the city budget group. The -2 amendment, Exhibit B is something our organization supports.

455 SMITH: I'm confused about your statement that the state should have a say in this. If I read the amendments right, what you're saying is, in your case, SCVA should be a required sign-off on the budget not the state. The state's only role would be to allow you to put . . .

464 HAUGE: I am sorry, I don't understand that SCVA should be a sign-off on the budget.

465 SMITH: The language says, in your case, SCVA, "must agree that a project is tourism related before tax revenues may be expended on the project."

469 HAUGE: SCVA does not determine what the tax would be.

470 SMITH: According to these amendments they would have to agree to it before it could occur.

473 HAUGE: And they would agree, if it were tourism dedicated.

475 SMITH: Why should SCVA be put in a different and higher position in the budget process than other citizens of a community?

484 HAUGE: They have been delegated the responsibility of representing the community when it comes to tourism.

487 SMITH: They also put the budget together and make recommendations to the budget committee.

488 HAUGE: Along with all of the rest of the organizations (unintelligible) yes.

TAPE 88, SIDE A

031 SMITH: I know it's a very painful and a very politically hot process. If this amendment occurred other organizations who think they also have something to say about where tourism dollars and gratuity funds are expended would be cut out of this process.

034 HAUGE: What do you refer to when you say many other organizations?

037 SMITH: You mentioned the Bush House, for example. They wouldn't be on the same par with the lodging association, if this amendment occurred.

039 HAUGE: Why not?

040 SMITH: Because this says SCVA is going to make the decision whether or not the project is tourism related.

041 HAUGE: Bush House is on the SCVA committee; in that respect SCVA does not act as an overlord or coordinator of all of these organizations. The tourism advisory committee has more power than SCVA.

046 SMITH: The ordinance that allows the city to collect (unintelligible) and expend them, defines the type of projects that those funds can be used for. Isn't that a better way to go?

052 HAUGE: Yes, and that becomes one of our problems, not a problem related to this legislation.

056 KAROLYN ADAMSON, REP. JACKIE TAYLOR'S OFFICE: I see two major issues with this bill. There are many different towns in Oregon, all with different tax needs and ways to spend it. The other issue I see is how the transient room tax is spent. Cannon Beach has a swelling on summer weekends of 3,000-10,000 people a day, in a town of approximately 800 permanent residents. That has a huge effect on all facilities and services that Cannon Beach provides for the town, including water/sewer facilities, police, parking lots, etc. While some of those things may not be viewed as tourism related, they are by city officials. The Mayor's comment is that the money pays for the impact of tourism on Cannon Beach. They would oppose SB 799 for those reasons.

087 NANCY LITTELL, CANNON BEACH CHAMBER OF COMMERCE, EXECUTIVE DIRECTOR: The Cannon Beach Chamber urges the Committee to consider this bill and the - 2 amendments, Exhibit B. Discusses written testimony, Exhibit C.

149 SPRINGER: I share Sen. Smith's concerns about a private organization being in a decision making, sign-off role of public funds. Most cities that I have visited in Europe have a lodging bureau in every train station in every town, and they charge no fee to make these connections. Why doesn't that work here or has it been tried?

160 LITTELL: Our group's view is that it is at the expense of motel owners that those TRT's are being collected. If there was no room tax every lodging facility in Cannon Beach could raise its rates 5%. Because of that there is a responsibility on the part of cities to provide information services. Continues review of testimony, pg. 2, Exhibit C.

204 SPRINGER: My only question is why I only got letters from 14 cities?

211 CEASE: Refers to correspondence from a number of cities, Exhibits G-J.

202 GARY HOLLIDAY, CITY OF ALBANY, FINANCE DIRECTOR: Speaks in opposition to

SB 799. I think the attitude of all cities is that it's beneficial to the city to keep hotel rooms full. If we increased fees to such a level as to not be competitive, nothing would be gained but to take money out of our own pockets. It is a fine line to keep the tax to a minimum. With Ballot Measure 5, the City of Albany has lost over 20% of our tax revenues, and we are looking at ways to make that up, including use of the TRT. In the past we have used 100% of the TRT for tourist promotion, but we are no longer in the position to continue that. We will be asking for \$0.02 to go to the parks, and we relate that to tourism. The visitors association does not consider parks, or numerous other functions sponsored by the city, to be tourism-related. At some point the decision must be made whether to promote horse drawn carriage rides through the historic district or covered bridge tours or to lay off police officers, fire department personnel, etc. Those are the priority decisions we have to make.

250 JEFF TOWERY, CITY OF COTTAGE GROVE, CITY MANAGER: Opposes SB 799 and the -2 amendments, Exhibit B. Discusses testimony, Exhibit D. Some chambers use those funds for general operations within the chamber, they do not necessarily use those funds for specific promotion. I think that creates a clear conflict of interest, if they see the opportunity to lose staff. The occupants of these rooms are the ones paying the taxes not the hotel/motel operators. For a number of years Coos Bay had a room tax and North Bend didn't. Rather than losing business to North Bend, the City of North Bend, after a couple of years, imposed a room tax themselves.

352 TOM BARROWS, CITY OF BEND: Reads part of the letter from the Mayor of Bend into the record, Exhibit E.

383 OLIVIA CLARK, CITY OF SALEM: Refers to handout, Exhibit F. I would like to reiterate that we go through a tremendous public process to decide how these funds should be spent. In Salem competition for the funds is fairly stiff. The City Council has recently adopted priorities on how the funds will be spent as outlined on pg. 1, Exhibit F.

416 B.J. SMITH, LEAGUE OF OREGON CITIES: There seems to be confusion as to whether hotel/motel taxes are user fees. As a result of collecting those they should be dedicated to one use. Tourism is not something specific that everyone can agree on, but what is attractive about our communities is their ability to provide water, safe and good streets and a pleasant experience in the city. That is not always arrived at because of property tax paying attractions. For example in Salem there are a number of non-property paying attractions that bring business people into the community. This provides a way to recycle some of the public revenue that is lost, back into communities that support higher education institutions. The State Capitol facilities and other non-profit institutions that bring people into communities. The letters presented to the Committee relate a wide range of things that cities feel tourism depends on and in which they need to make investments. The City of Yachats has a water system that is a definite limiting factor to tourism.

TAPE 87, SIDE B

021 B. J. SMITH: Who's to be accountable to the public? It should be the locally elected officials. There is a whole body of law, not only budget law, but audit law and ethics law that has to go with how local level officials take those actions. It is probably questionable whether you can delegate to some groups, not subject to the same requirements in the law, the choice of whether a project will be benefitted by public funds or not.

033 SMITH: I appreciate your saying that. The amendments basically

changes budget law. We don't allow that anywhere else for anyone else, and to allow it here surprises me. Have you checked on the legality of the amendments?

039 B. J. SMITH: We haven't asked for an opinion. One attorney that has viewed this is concerned that there is an unconstitutional delegation. There may be an unconstitutional delegation, but even if that were resolved otherwise, there are very significant policy questions about how the decisions would be made.

052 JERRY JUSTICE, CLACKAMAS COUNTY: Concur with Sen. Smith's concern regarding the constitutionality of SB 799, but even if it is not unconstitutional it would be poor public policy. Relates Clackamas County ordinance drafted in the 1980's that is similar in wording to SB 799. It has resulted in much wrangling as to what constitutes tourism.

094 PHIL PEACH, OREGON LODGING ASSOCIATION, EXECUTIVE DIRECTOR: I think there is a point that is being misunderstood. SB 799 does nothing to disrupt existing tax, existing budget committees, existing public process, existing distribution expenditures, etc. The bill simply says if there is any increase to the existing tax, it would be for purposes of tourism-related expenditures. Tourism-related expenditures are broad and go well beyond tourism promotion. The enactment of a tax increase would have to be done with consent, as defined in the -2 amendment, Exhibit B. The overall process would still be subject to whatever is in place, however. I would work on new language to define that, because that is the intent.

112 SMITH: If your intent is to require the advice of the bureau or chamber then my comfort level is increased, but it doesn't say that. Lns. 7-8, -2 amendments, Exhibit B, state "must agree . . ."

121 CEASE: It says enacted or enforced, I assume that applies to enforcement of current . . .

123 SMITH: That is what brings me to my real concern of adding an un-elected body of private business people to the process in a decision making capacity. Advisors are one thing, the decision hinging on their agreement is totally different.

128 CEASE: I would assume you'd need to make people subject to all the restrictions of the Ethics Commission, the same as any other decision maker, including the public meetings law. If you're asking for that kind of authority then you need that.

141 PEACH: The intent is certainly not for the convention bureau people or chamber people to try to assume the role of public officials.

144 CEASE: I think there is some conflict of interest that is substantial.

145 SMITH: You are taking the bureau/association/commission out of the advisory role and putting it into the decision making role. I don't think it's possible constitutionally, and even if it is, I don't think it is appropriate. You might want to have your legal counsel look at this.

161 PEACH: I'd be happy to do that. Again we have many success stories, in many communities. Unfortunately we have horror stories also. Our intent is not to give private citizens from our industry special authority. I would be willing to have amendments drafted limiting the industry to an advisory role.

180 Meeting adjourned at 4:28 p.m.

Submitted
By:

Reviewed By:

Joan Green
Muñiz
Assistant
nt

Julie

Assista

EXHIBIT LOG

A - Survey, Peach, 6 pgs. B - SB 799-2 amendments, Peach, 1 pg. C - Testimony, Littell, 9 pgs. D - Testimony, Towery, 1 pg. E - Letter, Barrows, 1 pg. F - Hand-out, Clark, 3 pgs. G - Letters from cities, Staff, 12 pgs. H - Letter, City of Brookings, 1 pg. I - Letter, City of Eugene, 2 pgs. J - Letter, City of Portland, 1 pg.