

- Tapes 95-96, (A\B)
Tape 97, (A)
Public Hearing: HB 2550A
Staff Orientation
SENATE COMMITTEE ON REVENUE AND SCHOOL FINANCE
April 3, 1991 1:00 PM Hearing Room A State Capitol Building

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Members Present: Senator Jane Cease, Chair
Senator Joan Dukes, Vice Chair
Senator John Brenneman
Senator Shirley Gold
Senator Ron Grensky
Senator Bill McCoy
Senator Tricia Smith
Staff Present: Jim Scherzinger, Legislative Revenue Officer
Mary Ann Zimmermann, Committee Assistant

Witnesses Present: Elizabeth Stockdale, Department of Justice
Jim Kenney, Department of Revenue (DOR)
Richard Munn, DOR

TAPE 95. SIDE A

005 CHAIR CEASE called the meeting to order at 1:11 and conducted administrative business.

STAFF ORIENTATION - HB

255 0

015 RICHARD MUNN reviewed the efforts of the Department of Revenue (DOR) to construct a bill since the passage of Ballot Measure 5 in November, 1990.

039 RICHARD MUNN addressed the change Oregon will be undertaking with the passage of Measure 5 and all the changes and problems will not be solved during the current Legislative Session. The DOR attempted to examine the long range perspective of the impact of Measure 5.

067 RICHARD MUNN explained HB 2550A is not perfect as is and there will be changes the Senate Committee will need to examine.

080 RICHARD MUNN referred to the LRO Research Report on the Implementation of Measure 5 as being the guideline during the present orientation. EXHIBIT 1

093 CHAIR CEASE voiced concern in the massive bill and the speed at which the committee must examine the bill.

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118 SEN. DUKES commented on the massive undertaking of the DOR in writing HB 2550A.

127 JIM SCHERZINGER explained HB 2550A is a difficult bill to address because issues are in ORS order therefore if a particular topic is wanted an index is available in the Research Report. EXHIBIT 1, Page 15

153 JIM SCHERZINGER referred to the definitions beginning on Page 4 of Exhibit 1 which are in Section 210 of HB 2550A. The definitions define what taxes are subject to Measure 5 limits.

165 SEN. SMITH asked to point out major differences between the original HB 255 0 and the A-Engrossed version as the Committee works through the bill.

172 JIM SCHERZINGER read how Measure 5 defines "tax" in Exhibit 1, Page 4. HB 2550A interprets the definitions.

188 ELIZABETH STOCKDALE referred to Section 210, Page 102 of HB 2550A and explained how the definitions focus on what kinds of taxes, fees and

charges are going to be subject to the limits of Measure 5. Page 102, Line 21 begins with the definition of "tax". The remaining definitions in Section 210 interpret and define the terms in the Constitution. The most significant terms are addressed beginning with "direct consequences of ownership" on Line 27. -

238 ELIZABETH STOCKDALE explained another significant definition of "actual cost" in reference to the incurred charges and special assessment for local improvement.

275 ELIZABETH STOCKDALE discussed "bonded indebtedness" as another important definition found in Section 210, Page 104 in HB 2550A. Exempt bonded indebtedness are the limitations outside of Measure 5.

315 Discussion and questions follow regarding the timeframe involved in bonded indebtedness.

344 ELIZABETH STOCKDALE explained the types of debt in which taxes are excludable: 1) debts authorized by the constitution including state debts, urban renewal indebtedness and certain bonds of peoples utilities districts; 2) debt for capital construction or capital improvements that are General Obligation Debt.

370 ELIZABETH STOCKDALE reviewed the definitions involved with capital construction.

395 ELIZABETH STOCKDALE pointed out the final word on the definitions will be from the Oregon Supreme Court and definitions before the Legislature are an attempt to act on the interpretations.

407 SEN. DUKES questioned the exempt bonded indebtedness with reference to capital construction. Discussion follows.

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436 Discussion and questions follow regarding capital construction with reference to local improvement situations that are outside the limitations of Measure 5.

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A

027 Discussion continued on local improvement districts. Reference is made to urban renewal indebtedness.

039 SEN. SMITH asked if capital construction from tax increment dollars will be exempt from the limit. The response was the exemption for urban renewal will only be for urban renewal debt.

047 Discussion and questions follow regarding urban renewal.

054 CHAIR CEASE commented that the urban renewal bill (HB 2609) being addressed in the House committee could be amended into HB 2550A.

062 SEN. DUKES asked since HB 2550A exempts bonded indebtedness for urban renewal districts then does HB 2609 clearly define how the process works.

064 JIM SCHERZINGER explained HB 2609 defines how to interpret, in a Measure 5 context, how the limit works. It is not clear in current law who pays urban renewal taxes.

096 Discussion and questions follow regarding urban renewal.

113 RICHARD MUNN felt there would be little testimony wanting changes because the issue of bonded indebtedness has been thoroughly addressed from other interested groups and agencies.

130 JIM SCHERZINGER addressed Sections 25-27 of HB 2550A in which the bill sets up a process for the courts to determine whether a charge is subject to Measure 5 limits. The process allows for three types of appeals. EXHIBIT 1, Page 5

165 SEN. GRENSKY asked the basis for addressing the appeals process in Measure 5.

171 Discussion follows regarding the appeals process in determining charges subject to the limitation. Reference was made to the necessity for an orderly process.

194 Discussion and questions continue regarding Sections 25-27 of HB 2550A.

230 SEN. GRENSKY asked if there is an expedited procedure for taking the process from the tax court to the Supreme Court.

235 ELIZABETH STOCKDALE responded there is nothing in the bill to provide for expedited review. The requirement for adequate notification is addressed.

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279 ELIZABETH STOCKDALE explained another type of proceeding is the competition between local governments due to certain fees or charges subject to the limit affecting how the pie will be divided.

307 Discussion and questions follow regarding the appeals process. Reference is made to payment of attorney fees.

321 ELIZABETH STOCKDALE explained there is nothing in the bill dealing with taxpayers lawsuits.

334 CHAIR CEASE clarified this is an appeal to the court to determine if the law meets the courts interpretation of the Constitution. Discussion follows. Reference is made to flagging the section of the bill dealing with the court costs.

364 SEN. DUKES referred to Section 26, Page 15 and questioned the ten interested taxpayers challenging a decision not only being subject to the limit, but also the effect of the limit. The response was the intent was so either position could be taken.

400 Discussion follows regarding the appeals process and the language on Page 15, Line 19.

TAPE 95 SIDE

B

013 JIM SCHERZINGER referred to Section 88, Page 47 of HB 2550A dealing with the definition of Real Market Value. EXHIBIT 1, Page 5

025 JIM SCHERZINGER explained the decisions of the House Revenue Committee on real market value. Taxable property will be identified as of July 1 and the value will be the minimum during the current year. This changed the schedule of how value is determined and the appeals process was changed to accommodate the date change.

066 JIM KENNEY explained the changes in HB 2550A addressing real market value. Reference was made to the property identification date and therefore the value of the property would be based on the assessment date. It was necessary to have a date to identify the property.

092 JIM KENNEY referred to Section 88, Line 9-10 which explains what the property value would be in a general market.

100 SEN. GRENSKY asked if every tax assessor in the state will assess on the same date of July 1.

105 Discussion and questions follow regarding the assessment date.

117 JIM SCHERZINGER explained Section 88 defines real market value which is the minimum during the year. Section 90 deals with when taxable property will be identified which is different than the valuation date.

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137 Discussion continues regarding real market value.

147 SEN. DUKES questioned the expectation of county assessors to determine what is taxable property and also determine minimum value.

151 JIM KENNEY responded yes by using the ratio study programs.

161 SEN. DUKES questioned the timeframe for identifying property and assessing value. Discussion follows.

172 Discussion and questions follow regarding the use of January 1 as the identification date.

185 RICHARD MUNN explained property is constantly going through change and a snapshot needs to be taken so the assessors know what they are working with and that is why the January 1 date is set aside for identification purposes.

200 Discussion follows regarding dates involved in assessing property.

220 JIM SCHERZINGER referred to the chart on page 7 EXHIBIT 1 which compares the appeals process during current law and the change in HB 2550A. Discussion deals with the appeals process in the current law.

253 JIM SCHERZINGER discussed the chart of the appeals process in HB 2550A. Reference is made to the Board of Ratio Review (BORR) and the function of the board. EXHIBIT 1, Page 7

310 Discussion and questions follow regarding the appeal process with reference to the Board of Equalization and the Board of Ratio Review. The function of the two boards are discussed as well as who makes up the board. (Section 185, Page 90 of HB 2550A)

431 CHAIR CEASE suggested flagging Section 185 because of the concern of two members of the county commission being on the same board.

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015 Discussion follows regarding the wording in Section 185, Page 90 to include only one elected official.

035 JIM KENNEY further explained the functions of the BORR. Questions are interspersed regarding real market value.

046 JIM KENNEY referred to Section 206, Page 101 which address the ratio duties of the BORR.

051 SEN. DUKES voiced concern with the Section 185, Page 91 and the terminology of representing an alternate. Discussion follows.

064 JIM SCHERZINGER referred to Page 8 in EXHIBIT 1 which deals with Property tax calculation. There are definitions in Section 215 explaining what a unit of property is.

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081 JIM KENNEY explained the unit of property is in Section 215, Page 106, Line 37.

102 Discussion and questions follow regarding two property tax lots which would be combined to test for the limit. Discussion deals with the difference of a one and two tax lots.

146 JIM SCHERZINGER referred to EXHIBIT 1, Page 9 explaining property taxed at less than their market value which are specially assessed or partially exempt property. The impact of Measure 5 on this type of property was explained. The specially assessed value would still be present but the

limits would be imposed. Section 216 in HB 2550A creates a statutory limit on this type of land.

178 JIM SCHERZINGER explained the other partially exempt property and an example is provided of a farm in EXHIBIT 1, Page 9.

193 SEN. GOLD questioned the constitutionality of the statutory interpretation of the limit.

196 JIM SCHERZINGER reviewed the statutory limit.

198 ELIZABETH STOCKDALE explained the Legislature can restrict the activities of local government more than the Constitution. Therefore it was decided to use the specially assessed value to determine the maximum amount of tax rather than the higher real market value.

213 SEN. DUKES asked if the assessor has to carry two limitations, both the real market and the specially assessed. The response was no they carry the lower value.

223 Discussion and questions follow regarding the real market value provision in Measure 5. Reference is made to bringing people closer to the limitation by tax shifting.

245 SEN. SMITH referred to Page 9 of EXHIBIT 1 which reduces taxes above what Measure 5 does with the difference being paid by the state.

258 JIM SCHERZINGER discussed the small impact on non schools of the specially assessed and partially exempt property.

306 JIM SCHERZINGER addressed limits of other taxes and charges with reference to timber tax. The Western and Eastern Oregon Severance Taxes were changed into a privilege tax to avoid the Measure 5 limitation. Reduced rates are depicted in a chart. EXHIBIT 1, Page 10

329 Discussion and questions follow regarding the sunset of the severance taxes. Section 277 deals with the WOST and Section 301 deals with the Eastern Severance tax.

340 SEN. GOLD felt there should be an interim study on all forms of favored taxation.

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372 JIM SCHERZINGER reviewed and discussed the other taxes which are in leu of property taxes including electric cooperatives, private rail car tax and water assessments.

TAPE 97 SIDE

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011 JIM SCHERZINGER explained how HB 2550A defines the calculation of the state replacement obligation in Section 229, Page 112.

020 JIM SCHERZINGER referred to the chart in Exhibit 1, Page 12 which depicts the calculation of the state replacement obligation. Reference is made to penalties imposed on change in use of property.

034 JIM SCHERZINGER discussed penalties imposed on change in use of property which keeps it within the limits of Measure 5. It was pointed out that this section of the bill may require technical review.

037 JIM SCHERZINGER referred to the index in EXHIBIT 1 which lists the penalties.

042 SEN. DUKES questioned if the state has the ability to tax for prior fiscal years.

046 Discussion follows regarding the agenda schedule of HB 2550A.

060 CHAIR CEASE adjourned the meeting at 3:08 P.M.

Mary Ann Zimmermann, Committee Assistant

Kimberly Taylor, Office Manager

EXHIBIT SUMMARY

1. Research Report: Implementation of Measure 5, LRO, 3/25/91 -
HB 2550
2. Staff Measure Summary, LRO, 4/3/91 - HB 2550
3. Revenue Analysis, LRO, 4/3/91 - HB 2550
4. Fiscal Analysis, LFO, 4/3/91 - HB 2550

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