

Tapes 121-122, (A\B)  
Work Session: HB 2550-A  
SENATE COMMITTEE ON REVENUE AND SCHOOL FINANCE  
April 19, 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 (arrived 1:23)  
Senator John Brenneman  
Senator Ron Grensky (arrived 1:21, departed 2:15)  
Senator Bill McCoy  
Senator Tricia Smith (arrived 1:16)  
Visiting Members: Senator Scott Duff  
Members Excused: Senator Shirley Gold  
Staff Present: Jim Scherzinger, Legislative  
Revenue Officer  
Mary Ann Zimmermann, Committee Assistant  
Witnesses Present: Jim Kenney, Department of  
Revenue DOR  
Don Schellenberg, Oregon Farm Bureau Federation  
Kim Worrell, Association of Oregon Counties  
Tom Linhares, Columbia County Assessor  
Greg Wolf, Land Conservation and Development LCDC

TAPE 121. SIDE A

005 CHAIR CEASE called the meeting to order at 1:13 as a subcommittee until a quorum was reached at 1:21. Senator Duff was welcomed to sit in on the committee. Administrative Business was conducted.

019 JIM SCHERZINGER presented a summary of SB 815A and SB 815B. EXHIBIT 1  
WORK SESSION - HB 2550-

A

023 JIM SCHERZINGER explained the structure that HB 2550-A created dealing with specially assessed, partially exempt and exempt property. The difference between the tax calculation under current law, Measure 5 and in HB 2550-A is depicted under the three exempt headings in a blackboard illustration. Under current law there is a specially assessed property based on use value. Discussion continued explaining partially exempt property. EXHIBIT 2

100 JIM SCHERZINGER used an example of farm exemptions and special assessment in the Measure 5 research report. EXHIBIT 3

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122 SEN. SMITH questioned Measure 5 limiting use value for farm, forest, and open space land but not for other exempt or partially exempt property.

128 JIM SCHERZINGER explained in HB 2550-A the use value is used on specially assessed property, but on partially exempt property real market value is the limit. Reference is made to the distinction between partially exempt and exempt property in Section 216.

143 SEN. SMITH asked for a list of the kinds of property that are partially exempt.

160 JIM SCHERZINGER discussed Section 216 explaining the difference between exempt and partially exempt property.

187 SEN. SMITH asked if there are programs that allow exemptions for certain types of properties in certain areas. Reference is made to a

multifamily development in a particular area. Enterprise zone is also addressed.

195 Discussion follows regarding particular types of property that would be considered partially exempt.

252 DON SCHELLENBERG explained that HB 2550-A does include single family residence as well as open space, small woodlots, forest and farm land in Subsection 2 of Section 216. Reference is made to the assessed value being driven by the use of the property and not by who owned the property such as veteran exemption.

288 SEN. SMITH clarified that any single family residence which currently has the special assessment will be under the specially assessed category in HB 2550-A if in a commercial zone.

294 CHAIR CEASE clarified that Measure 5 says nothing is intended to require or prohibit the amendment of any current statute which is partially or totally exempt classes of property unless dealing with property involved with the limitation.

308 JIM SCHERZINGER clarified that the single family residence in a commercial zone is a limited exemption with transition neighborhoods being an example.

328 SEN. SMITH felt if the legislature is granting certain exemptions then all exemptions should be addressed not just those with lobbying capabilities.

345 JIM SCHERZINGER explained the farm use issues brought to the committee beginning with changing the calculation use value for farmland. Reference is made to Page 59 in HB 2550-A. EXHIBIT 4

373 JIM SCHERZINGER discussed another issue brought before the committee dealing with tightening the eligibility restrictions for farm or forest land. Reference is made to HB 3345.

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400 CHAIR CEASE explained wanting to include the land use and property tax issue in the discussion.

TAPE 122 SIDE

A

000 JIM SCHERZINGER referred to the Research Report giving a summary of how farm use values are calculated. EXHIBIT 3

015 JIM KENNEY presented a section out of the DOR draft appraisal method manual dealing with the valuation of farm use lands. There are two ways that farm use value can be determined, one through the use of the prudent investor test and the other is the income approach to farm use land value.

030 CHAIR CEASE questioned ORS 308.345.

035 JIM KENNEY explained using the income approach to farm use land value. The capitalization rate is developed from sales giving a market rate but to arrive at a farm use value the capitalization rate is put in statute.

EXHIBIT 5

064 JIM KENNEY referred to Exhibit 5, Page 4 giving an example of arriving at the net income calculation. Discussion follows regarding income data used to estimate farm-use land value. EXHIBIT 5

112 JIM KENNEY explained there are eight different types of farm land in which examples are provided in EXHIBIT 5.

123 JIM KENNEY referred to Page 3, Exhibit 5 explaining the difference between farm use value and market value.

138 JIM SCHERZINGER asked how the market interest rate is derived.

143 JIM KENNEY explained it is the relationship between the net income from the land in the sales price using sales of comparable property. Discussion follows.

171 JIM SCHERZINGER explained statute says only to use sales when capitalizing the property with the price justified by a prudent investor. Discussion follows regarding using sales to find the market interest rate to other portions of the property. Reference is made to recent sales in EXHIBIT 5 cannot be used because of not meeting the prudent investor test.

196 JIM SCHERZINGER explained the proposal is to use farm-to-farm sales with an interest rate generated from sales to calculate farm use values.

203 CHAIR CEASE referred to Page 2 of the AOC proposal. EXHIBIT 6

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215 KIM WORRELL discussed AOC does not disapprove of applying the Measure 5 limits to farm property providing the value represented farmer-to-farmer bonafide sales. One method to arrive at that value is a change in the capitalization rate which is in the statute. It was suggested to address the issue in an indepth study in an interim committee.

236 TOM LINHARES suggested to stairstep the capitalization rate downward until arriving at current rate. Another suggestion is to eliminate the tax rate component of the capitalization rate. Discussion follows regarding the farm/forest reduction in taxes with Measure 5 giving other property a greater reduction.

281 DON SCHELLENBERG explained the purpose of using the income approach to value farmland is to remove the speculative value. The current system eliminates speculative value and would encourage to maintain the current system.

306 CHAIR CEASE discussed the policy statement in current statute and changing the capitalization process needs further study.

321 KIM WORRELL presented an historical overview of Exclusive Farm Use (EFU) land. Now that the market for farm land is recovering the farm use value is not coming up. The capitalization rate currently in the statute does not reflect actual anticipated returns that farmers anticipate receiving.

371 CHAIR CEASE explained the House will chair the interim and it will be suggested that the capitalization issue be put into an interim study.

389 SEN. DUKES questioned what could be done in terms of HB 2550-A. Discussion follows.

TAPE 121 SIDE

B

002 TOM LINHARES explained there were three issues identified by the assessors and it was decided to remove one of the issues from HB 2550A for an interim study which deals with changing the calculation of farm value.

025 JIM SCHERZINGER referred to EXHIBIT 4 addressing the other two issues which are setting stricter income requirements and requiring minimum forest acreage. Reference was made to a working group dealing with these issues and are reflected in HB 3345.

039 JIM SCHERZINGER presented a hand engrossed version of HB 3345 dealing with setting stricter requirements on farm land. EXHIBIT 7

055 KIM WORRELL explained AOC would like to come up with a simpler method of testing for qualifications of farm use assessments which would work statewide.

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085 SEN. SMITH questioned how much farmland is owned by corporations rather than individuals.

096 KIM WORRELL explained many family farm operations are considered corporate farm and the number of large corporation owned farms is unknown.

101 SEN. SMITH asked if the gross income of specially assessed property has been addressed in terms of the major corporate operations.

107 KIM WORRELL responded not from that aspect. Reference was made to defining the bonafide farmer.

123 SEN. SMITH asked why the reason to eliminate did the requirements that over half of the gross income must come from farm activities.

123 DON SCHELLENBERG responded that land zoned as EFU (exclusive farm use) is taxed based on use and not who owns the land.

130 SEN. SMITH clarified that special assessment is not because they are farmers but because the land is restricted through land use regulation.

138 JIM SCHERZINGER explained the two goals are how to address farm use assessment and planning. For tax policy the goal has been to keep farmers farming and that is the reason for special assessment.

153 SEN. SMITH commented on currently the farmers are given a bonus because the land is zoned EFU.

154 CHAIR CEASE added that the question was not if the land was in a farm use zone but whether Oregonians wanted to maintain the capability for farm use or should land be encouraged.

164 JIM SCHERZINGER explained the presumption under law is to meet the test for operating a farm then special assessment will be received. The test is more difficult when outside an EFU zone. The law is written, not to meet planning goals but to keep farms in operation even though there is encouraging urban development.

180 KIM WORRELL explained the reason for the policy change was to induce people to go into a restricted EFU zone.

192 DON SCHELLENBERG explained in 1973 it went from a voluntary to a mandatory land use for farming in a restricted zone.

206 GREG WOLF presented background on a LCDC discussion on tying the special assessment program to land use which created a working group to work on the issue. The group included representatives from AOC, farm bureau, county assessors, DOR, Oregonians in Action, A Thousand Friends of Oregon, the Urban Land Council, Department of Agriculture, Act for Oregon, Wheatgrowers, Cattlemen's Association, Nurserymen, Department of Forestry, Columbia County Assessor, and Legislative Counsel. From

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this working group came HB 3345 and the group would like to bring a recommendation to modify HB 2550A.

242 SEN. SMITH asked if the Legislature stated the policy that special assessment should be tied to land use.

244 CHAIR CEASE responded that it is in ORS 215 planning statutes. A

statement in the tax statutes will refer to what farmers should be.

255 Discussion follows regarding who and why a person should get the special assessment because they are a farmer or because they live in a EFU zone. Reference is made to ORS 308.345.

268 SEN. SMITH questioned the intent to keep farmers farming or to benefit a person who owns EFU land whether they are farming or not.

273 GREG WOLF referred to the adoption of SB 100 and the special assessment program.

280 CHAIR CEASE explained the direct intent to link tax policy as a means of protecting farm land to discourage land development.

297 SEN. SMITH asked why land zoned EFU should get an additional reduction.

303 DON SCHELLENBERG explained it is not an additional break because farm use assessment is not a tax break but is the commercial value of that property in terms of it's restricted use. Measure 5 provided all other property with a reduction in taxes but farm land was not given a corresponding reduction in property taxes. The farmers are asking to be treated the same under Measure 5 as other property.

330 CHAIR CEASE explained if trying to have the separation between getting the potential taxes closer between farms and other development then HB 255 0A does the job to bring that separation closer together.

348 SEN. SMITH discussed if the reason for the assessment was to protect the EFU status of the land then there must be some sort of financial inducement in this assessment.

360 DON SCHELLENBERG addressed the difference of farmland being taxed based on commercial value use and the speculative market value which is higher and farmers must compete with that value. Reference is made to the golf course issue.

TAPE 122 SIDE

B

000 GREG WOLF explained HB 3345 does not deal with the EFU side of the assessment question but deals with the lands outside of the EFU zone including the rural residential exception areas and the secondary lands.

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006 SEN. SMITH asked who else is given the assessment besides owners of EFU lands.

008 GREG WOLF responded that anyone can qualify for farm use assessment, even inside the city limits.

011 SEN. DUKES commented on the income test is \$500.

014 SEN. SMITH questioned why the farm use assessment.

016 DON SCHELLENBERG discussed the different rationale for having farm use assessment outside the EFU zone as opposed to inside the zone. The reason for the assessment outside the EFU zone is to discourage development. Taxes will go up for property owners outside the zone if they are not receiving farm use assessment. Reference is made to the income test to determine farmers eligibility for farm assessment.

039 SEN. SMITH asked why there is special assessment for people outside the EFU. Discussion follows.

052 Discussion follows regarding giving special assessment to a two acre parcel of land outside the EFU zone.

064 DON SCHELLENBERG addressed the income test outside the EFU zone protects the small farmer that could not afford the increased property taxes.

074 SEN. DUKES suggested giving special assessment for EFU property and then deal with everything else on an income test.  
085 GREG WOLF explained that is the intent of the commission working on HB 334 5 to arrive at more definitive rules for an income test on lands outside of the EFU zone.  
093 Discussion follows regarding the rules to reflect the zoning and the planned use of the property.  
098 SEN. SMITH asked if a special assessment was allowed for EFU and everything else was assessed at real market value.  
103 DON SCHELLENBERG explained there are many viable farms outside of the EFU zone and that is the reason for the income test.  
108 GREG WOLF commented on nurserymen would be an example of an exception in which a system must be designed around.  
114 KIM WORRELL explained the marginal parcels that are under special assessment outside of the EFU zone are because they are constituents of Legislators.  
129 TOM LINHARES commented the same conversation can deal with forest land. County assessors assess property in a particular way because the land is used for the purpose to produce profit from farming or the

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property is used for the growing and harvesting trees. It should be called a land use planning assessment instead of a farm or forest use assessment.  
160 CHAIR CEASE asked what should be done with the land.  
163 TOM LINHARES suggested land that is in an exclusive zone where a resident is not permitted outright use then it should be assessed at 50 percent of market value.  
174 CHAIR CEASE questioned how a single family dwelling would be assessed.  
190 Discussion follows regarding assessing land at real market value based on sales of similar property.  
195 JIM SCHERZINGER clarified that if property is in an exclusive zone then the assumption is the buyer will use the land for that purpose.  
203 TOM LINHARES suggested there be a distinction in the charges on bare land as opposed to land being farmed.  
214 SEN. SMITH commented Mr. Linhares suggestion would promote putting land in cultivation.  
218 TOM LINHARES explained that would make a distinction between the issue of use and the issue of planning.  
222 CHAIR CEASE clarified the request of Mr. Wolf. The response was the working group would come back with recommendations in two weeks on stricter income test requirements.  
251 CHAIR CEASE clarified there are proposals to address an income test involved in HB 3345 which is currently in another committee.  
266 SEN. SMITH encouraged to further discuss the farm use issue in conjunction with HB 2550-A.  
287 CHAIR CEASE adjourned the meeting at 3:00.

Mary Ann Zimmermann, Committee  
Assistant  
Kimberly Taylor, Office Manager

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EXHIBIT SUMMARY

1. SB 815A and SB 815B Compared, OSB A, 4/19/91 - SB 815
2. Blackboard Illustration, LRO, 4/19/91 - HB 2550-A
3. Research Report: Implementation of Measure 5, LRO, 3/25/91, (See Exhibit 1, Senate Revenue Committee Meeting on 4/3/91,- HB 2550)
4. HB 2550-A Issues, LRO, 4/16/91 (See Exhibit 1, Senate Revenue Committee Meeting on 4/16/91 - HB 2550-A)
5. Income Approach to Farm Use Land Value, DOR, 4/19/91 - HB 2550-A
6. Written Testimony HB 2550-A Issues, AOC, 4/5/91 (See Exhibit 3, Senate Revenue Meeting on 4/5/91 - HB 2550-A)
7. HB 3345 hand engrossed, LRO, 4/19/91 - HB 3550-A

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