

HB 2859

A capital gains tax reduction bill



This bill provides a capital gains tax break for any public benefit corporation owner. But Oregon's public benefit --or B-Corp law --requires only self-certification by the business that it "provides a general benefit to society as a whole." No government agency or outsiders certify these businesses as providers of public benefit. We believe this bill is a back door to a capital gains tax break. That is not acceptable.

Tax Fairness Oregon opposes HB 2859 for two main reasons; it violates the original intent of B Corp status, and there is not current governmental check validating companies who claim B Corp status.

In today's job-hungry mindset, any job is now a good job. A business that hires only temporary workers at minimum wage, and installs and overcharges for solar panels, could say their work provides public benefit. There is nothing in this, or the ORS relative to public benefit corporations, that would limit their ability to lay claim to the lowered capital gains rate in this bill.

The idea of Public Benefit, or B Corp businesses, was that they would serve the public, not the public would serve them. The concept behind this capital gains tax reduction bill is the total opposite of the intentions presented to this body when B corps were approved. To be true to the stated intentions of Eric Friedenwald-Fishman and others who encouraged the recognition of public benefit corporations, any bill about the capital gains of these companies would increase the rate by 3.3%, not reduce it by 3.3% and 4.3%.

Under the definitions in ORS 60.750 it says: "General public benefit" means a material positive impact on society and the environment, taken as a whole, from the business and operations of a benefit company."

Reducing public resources does NOT provide a material positive impact on Oregon's society and the environment, it increases the wealth of the lucky few who have capital gains.

In reading the ORS in relations to benefit corps, we find that under Oregon's public benefit law, no one working in a benefit corporation is liable for not providing public benefit. For example:

ORS 60.764 (3)(b) A member, officer or manager of a benefit company is not personally liable for money damages for the benefit company's failure to provide a general public benefit or a specific public benefit.

ORS 60.766 (3)(c) A benefit company is not liable for money damages as a consequence of failing to provide a general public benefit or a specific public benefit. [2013 c.269 §9]

*ORS 60.770 Assessment of public benefit. The **benefit company shall assess the extent to which the benefit company provides a general public benefit** and any specific public benefit identified in the benefit company's articles of incorporation or articles of organization against a third-party standard. [2013 c.269 §11]*

Again, there is nothing in our current law or this bill that would keep a company from converting to a benefit corporation, adding the appropriate words to their official documents, and voting the conversion with no public purpose in mind, but rather for the sole purpose of legal tax evasion.

For those with capital gains over \$1 million, the public's support of the individual with the gain would be \$33,000 per million of gain. We urge a resounding disapproval of any work session for this bill.

We read the bills and follow the money

