

WILLAMETTE VALLEY

VINEYARDS

Support HB 4058-A and Help Protect Investors of Small, Publicly Held Oregon Companies

Willamette Valley Vineyards urges passage of HB 4058-A which establishes ground rules for the proper conduct of those persons acquiring a control position in publicly held, Oregon chartered corporations by allowing the Board of Directors to choose to not count the votes of any person, group of persons or entity who failed to comply with federal securities laws in the acquisition of their shares.

Currently, it is possible for accumulators to do this while suffering no consequences for their actions except the Oregon protections for dissenting shareholders to get fair value for their stock in a takeover. The problem for minority dissenting shareholders is they could have achieved much higher stock values if the hostile acquirer hadn't taken control. Small, publicly held companies' stock often trades lightly in the market and as a result are more vulnerable to an acquirer or group quietly obtaining a substantial, control position over time at stock prices below the market value of the company and then using the assets in a manner benefiting the hostile acquirer to the disadvantage of the surprised, small investors.

In 1968, Congress adopted the Williams Act to complement the Securities Act of 1933 and the Securities Exchange Act of 1934 to protect investors by requiring full disclosure of persons seeking to acquire corporate control. Prior to the Williams Act, use of the tender offer to acquire corporate control escaped the disclosure requirements of federal securities laws. Takeovers were engineered through the use of proxy solicitations or exchange offers of securities. As these takeover actions required quick response, little time was available for investors to make an informed decision and for management to make recommendations to their shareholders. Successful takeovers often resulted in the new controlling shareholder raiding the acquired company's assets to the detriment of affected local communities.

The Williams Act was intended to prevent the adverse effects of corporate takeovers caused by gaps in disclosure requirements by requiring public disclosure of material information of those acquiring directly or indirectly 5% or more of a company's securities to relieve the time pressures of actions taken by these persons or group. State legislatures believed the public policy established by Congress was positive but lacking in enforcement so many states have adopted statutes to address the dangers of hostile takeovers and to make sure investors receive their fair value for their shares in a hostile takeover.

HB 4058-A provides an additional defense to publicly held Oregon chartered companies. These companies will be allowed the opportunity to not count the votes of persons who failed to comply with the public disclosure requirements of federal securities laws in the acquisition of their stock and help protect investors from the dangers of hostile takeovers. This is not a mandatory defense...the bill simply provides an additional tool to a company. Accumulators of stock, hoping to quietly acquire small company lightly traded stock substantially below actual value, will think twice about attempting to sneak up on an Oregon company for a hostile takeover by violating the transparency requirements of the securities laws.