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STATE REPRESENTATIVE
DISTRICT 20



HOUSE OF REPRESENTATIVES

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Representative Phil Barnhart, Chairman
Committee on Revenue
Oregon House of Representatives
Oregon State Capitol
900 Court Street NE
Salem, Oregon 97301

Chairman Barnhart:

Thank you for agreeing to hold a public hearing on House Bill 4091 (HB 4091). It is offered for consideration this legislative session to serve as a “starting point” for a discussion regarding potential remedies for the challenges resulting from the absence of a safe, secure, and sustainable financial structure for an emergent Cannabis Industry in Oregon. HB 4091 is a straightforward instrument: legal depository services for what is essentially a cash business environment. In simplest terms, HB 4091 is a public safety solution for the clear and present dangers associated with existing realities.

The legislation was purposefully crafted to yield a limited scope: to serve necessary functions that existing financial services provide at significant risk because of changes in leadership at the federal level. United States Attorney General Jeff Sessions has reversed Obama Administration policies and therefore increased the potential for penalties including prosecution for businesses participating in the Cannabis Industry. Many of the banks and credit unions that had previously shown at least modest interest in providing financial services for legitimate businesses must now recalculate their own exposure: and would be irresponsible if they did not do so – under changing federal direction.

Language matters. HB 4091 would not create an “Oregon State Bank.” It seeks to establish an “Oregon Cash Depository Corporation” as a public entity with tightly constrained legal authority for providing legal businesses an opportunity to deposit and withdraw revenues in a safe and secure location. All customers would pay a charge for the service. Administration of the program would be paid for by the charges, with additional revenues (above cost) eligible for use in support of economic development programming throughout the State of Oregon. An added benefit could be implementation of a “closed loop” electronic transfer capability to encourage tax payment efficiencies.

To ensure clarity of form and function, it is helpful to identify functions that would not be authorized for the Oregon Cash Depository Corporation to perform:

- Checking accounts would NOT be authorized
- Savings accounts would NOT be authorized
- Consumer loans would NOT be authorized
- Credit cards/instruments would NOT be authorized

Let me be clear: this measure is not intended to establish a public “competitor” for private and/or cooperative financial services institutions. Rather, this legislation provides a new tool for small businesses with a unique set of challenges. I believe that small businesses throughout the State of Oregon would benefit from the availability of a “default” security alternative for cashflow management. A state-owned deposit corporation would provide stability for an emergent industry. And it would mitigate and/or prevent potential violence associated with daily cash transport and storage in an increasingly dangerous climate.

Opponents to HB 4091 may argue that the establishment of a cash depository store will aid and/or abet criminal activities. While that may occur, it is far more likely that the status quo – the continued absence of a legitimate depository function will “normalize” or perhaps even accelerate ongoing criminal behaviors. History reminds us that “organized crime” gained a significant foothold during the Prohibition Era – at least in part – because of the myriad “off the books” financial services provided. No law will eliminate all crime. The establishment of a deposit store would likely reduce its incentive, while providing at least a measured improvement in recordkeeping; it might even provide an increase in tax revenues as a result.

Some opponents believe HB 4091 poses a threat to the financial security of existing institutions. There is concern from some that HB 4091 would establish a full-spectrum bank. I can only surmise – after reading emails sent to my office – that the claim has gained the fancy of the “black helicopter conspiracy” crowd. The claim is false: the language of the bill constrains the functions of the depository corporation. And while some financial interests have a long-held suspicion of and opposition to public financial alternatives, the State of North Dakota has shown the relative impact of a full-spectrum public bank to be limited. In truth, there may be a day for discussing the utility of a public bank in Oregon, but that day is not today. HB 4091 does not, cannot, and would not establish a state bank, period. It merely authorizes the safe deposit, storage, and withdrawal of cash to assist an industry Oregonians have determined legitimate.

A very few opponents of HB 4091 fear the success of a public alternative. While this faction may likely remain silent during the public discussions regarding the fate of this measure, it should not be surprising that at least a few organizations favor continuation of the status quo – unabated. Consider for a moment all who currently benefit from the absence of a safe, secure, and sustainable depository function. After all, what better target for illicit activities than investment in an all cash industry? Think about the situation right now: someone, somewhere is making money – a lot of money. This is happening legally, but without the support structures and systems every other legitimate business depends upon. Fact: some people are making money off the industry right now – people who may be taking unfair advantage of the disconnect between state and federal policies. Benign neglect is an illusion: we must define the landscape, or it will be defined for us.

In conclusion, I ask for your earnest consideration of HB 4091. I do not seek passage in 2018; the measure is not ready for “prime time” – yet. Rather, I ask for your assistance – for establishment of a formal work group to report back to your committee in 2019. As a person convinced of the existing and emergent dangers associated with the continued absence of a rational alternative, I know that we can find a solution – if not this, then something better.

Respectfully,



Paul L. Evans