

Tax disconnection bill faces lawsuit threat and displeased governor



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A bill designed to separate Oregon's tax code from a new federal tax provision has met opposition on all sides in the past week with a displeased Democratic governor and a Republican senator threatening a

lawsuit.

Senate President Peter Courtney, D-Salem, said Gov. Kate Brown told him during a meeting in his office Wednesday that she still wants more work done on the bill. This would be a warming to the legislation relative to her position last week when, Courtney said she told him she wouldn't sign the legislation as it was first constructed.

"She made it very clear to me that she would have vetoed that bill," Courtney said. "This one, she still has some concerns."

A spokesperson for Brown confirmed she is unhappy with the current legislation. Additional calls and emails for details were not returned. Brown has only vetoed two bills since she came into office three years ago.

Sen. Mark Hass, D-Beaverton, said too many outside people injecting ideas into the process has been the problem from the beginning.

"We've got 10,000 backseat drivers," the chairman of the Senate Finance and Revenue Committee said.

The main provision of the current bill would disconnect Oregon from a federal tax policy granting pass-through entities — small businesses, including S corporations and LLC's — a deduction of 20 percent off business income.

According to analysis by the Legislative Revenue Office, if the pass-through provision was allowed to remain, it would cost the state about \$270 million in

**From the Desk of
Senator Jackie Winters**

revenue this biennium. Senate Bill 1528, as originally written, had provisions that would have cut the state's losses to about \$120 million.

The current version would amount to a "clean" disconnect — simply separating Oregon from the federal law — and would be revenue neutral.

But Republicans say removing that provision is actually a tax increase of 20 percent on those pass-through entities.

Democrats say it's not, the bill would just remove a federal tax deduction that Oregon businesses have never taken advantage of before.

State economist Mark McMullen said it sounds like the Republicans and Democrats are intentionally arguing past each other — the former is looking at changes to current law, while the latter is comparing proposed provisions to the law from when Oregonians last filed taxes.

"It depends on perspective," he said. "In a way, they're both right."

At the Senate Finance and Revenue Committee hearing on Tuesday, Sen. Brian Boquist, R-Dallas, said he would file a lawsuit against the bill if it goes through in its current form.

He reiterated that Wednesday, saying it's the best opportunity he has seen to bring a bill to the Supreme Court and finally get an answer on what a "bill for raising revenue" really means.

Bills that raise revenue in Oregon are required to pass both houses by a three-fifths majority, but there is often disagreement on what constitutes "raising revenue."

Boquist said he thinks it is unlikely the bill will get those votes, opening up the opportunity for a challenge.

"This is the perfect case for a court decision," he said.

While he isn't a member of that committee, Courtney was present Tuesday because Sen. Chuck Riley, D-Hillsboro, was out (he was back in the Senate Wednesday) and the Democrats needed his vote to move it to the floor of the Senate.

Normally in that finance committee, under those circumstances — when it's clear a party has the votes to move a piece of legislation but a member is absent — the other party will give them a "courtesy vote" to move the bill along.

That didn't happen Tuesday because of vice-chairman Boquist's lawsuit plan.

It's also illustrative of the rare friction present among members of the finance committee.

Boquist said this is the first time in his years in the Senate that the committee has been unable to find a way to work across the aisle. Even if they ultimately disagree on the bill or proposed solutions, at least both sides know what the other is thinking.

"Something is up here," he said. "I'm puzzled."

