



HB 2699 Brownfields are better handled via loans and grants

Testimony for House Economic Development – Gerritt Rosenthal – 2.27.2019

My name is Gerritt Rosenthal and I live in rural Washington County. I was an environmental consultant in Oregon for approximately 45 years before retirement. In that capacity I had the opportunity to work on remediation in many situations, including brownfields cleanups. I was involved in smaller dry cleaner and automotive shop projects as well as larger lumber oriented and chemical manufacturing facilities.

I am speaking today based on my consulting experience and my belief, shared by Tax Fairness Oregon, in the cardinal principle of “polluter pays” as enshrined in our environmental laws. I am also a strong advocate for the cleanup up of industrial brownfield sites to improve economic situations, particularly in neighborhoods of mixed use.

When the current chapter 96 law was passed, Tax Fairness Oregon (TFO) observed that “prudent buyers” would already be getting a “bargain” by means of a reduced purchase price. TFO was concerned that many jurisdictions would not carry out adequate “due diligence” in finding private monies or in pursuing all public program options before resorting to providing property tax breaks, and that, as a result, public funds would be used to subsidize the gains of private developers at the expense of funding for education and social services. Under most circumstances, approximately 40-45% of a local tax break comes from k-12 allocations and thus is essentially state funds because of the way our state funding formula backfills any locally abated property taxes.

This lack of due diligence is likely not due to bad intent but probably just due to a lack of familiarity with the complex brownfield remediation landscape, both legal and technical. The current law, although well intentioned, continues the tendency to give away tax revenues with little control or limit, which, in both the short and long runs, reduces the money available for education support.

Recent testimony by TFO on a related bill (SB 211) noted that there are a number of available brownfield funding programs including:

- DEQ Orphan Site Cleanup - with funding through bonds
- DEQ Prospective Purchaser Agreements- including grants
- Business Oregon - Brownfield Redevelopment Fund - funded by state revenue bonds
- Oregon Coalition Brownfields Cleanup Fund - a revolving loan grant from the USEPA
- Brownfields Redevelopment Loan Fund under ORS 123-135-0100
- USEPA Brownfields Program - a competitive grant program
- Oregon Health Authority - through the Agency for Toxic Substance and Disease Registry.
- The Governor’s Budget allocation of \$10 million in additional grant and loan funds

In addition, for some sites, insurance coverage may be available if the effort is made to do diligent document archeology, something many jurisdictions have little experience with and often do not have the staff to pursue.

We strongly believe brownfields should be given a “helping hand” and cleaned up if all other reasonable options are exhausted, and that public funds can be carefully used to ensure public benefit and not site

developer profits. These existing programs are the way Oregon should continue to help fund brownfield cleanup, not via the tax code.

To that end, although we would prefer eliminating the tax abatement method the problem can be largely rectified by the following addition to HB 2699, in the form of an added constraint, likely as Section 1 (2)(a)(E), as follows:

(E) That the owner shall provide reasonable demonstration and documentation that the credit to ~~be~~ be allowed against taxes otherwise due under ORS chapter 316 (or 317 or 318) are requested only subsequent to unsuccessful efforts to secure funding under existing and applicable laws, including grant and loan programs administered by the Oregon DEQ, Business Oregon, the Oregon Health Authority, the USEPA, and other public programs, and that "due diligence" has been carried out in seeking private funding from applicable insurance coverage.

I regret that we did not suggest this additional condition when the original legislation was considered but its addition to HB 2699 would improve the overall brownfield situation at little added public effort and, quite possibly, significant benefit to other revenue demands.

We read the bills and follow the money