

Committee: No changes to Measure 97 voters' guide text

Legal opinion leaves cloud

By PARIS ACHEN
Capital Bureau

SALEM — The November elections guide will say that revenue from a controversial corporate sales tax measure must be spent on education, health care and senior services, despite a legal opinion to the contrary.

Measure 97, formerly Initiative Petition 28, levies a 2.5 percent tax on the Oregon sales of certain large corporations exceeding \$25 million. The measure, proposed by union-backed Our Oregon, would yield an estimated \$3 billion per year in new revenue.

Each year, a committee of state and local officials composes what is intended to be an unbiased description of the financial impact of each ballot measure to include in the voters' pamphlet.

Committee language

The committee is made up of the secretary of state, state treasurer, director of revenue, head of the Department of Administrative Services and a local government representative.

The committee on Friday denied multiple requests to change language in the statement on Measure 97 that "the increased revenue will require increased expenditures by the state in the areas of public early childhood and kindergar-

The fiscal impact statement in the elections guide is 'both factually incorrect and also misleading to the public.'

State Rep. John Davis
R-Wilsonville

ten through grade 12 education, health care and senior services."

The requests were based on an opinion by legislative counsel. The opinion concludes the measure effectively places no restrictions on lawmakers from spending the revenue on other things.

The Legislature "may appropriate revenues generated by the measure in any way it chooses," according to the opinion.

State Rep. John Davis, R-Wilsonville, wrote in an email to the committee that the fiscal impact statement is "both

factually incorrect and also misleading to the public."

Committee members, however, noted that the Legislature could alter any non-constitutional ballot measure, including Measure 97.

"I don't think we put that caveat in all of statutory changes in measures in the past," said George Naughton, interim director of the Department of Administrative Services. "I probably wouldn't include it just for that reason."

Point of contention

How the money will be spent is a point of contention between the campaigns for and against the measure. The opposition has compared the tax with writing "a blank check" to law-

makers, while proponents have described the tax as a fix-all to the state's school and health care funding problems.

Pat McCormick, a spokesman for the Defeat the Tax on Oregon Sales campaign, said the committee could have easily addressed the inaccuracy in the statement by saying the ballot measure "states," rather than requires, that the revenue is to be used to provide additional funding for education, health care and senior services.

"It's disappointing," McCormick said. "I think they are failing to provide the kind of help to voters they are supposed to provide."

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Oyster farmer wins clear victory in court

Pacific County considering next moves

By NATALIE ST. JOHN
EO Media Group

SOUTH BEND, Wash. — For two years, oyster farmer Dan Driscoll has been telling anyone who would listen that Pacific County's legal and administrative actions against his small seafood shop and deli were just plain wrong.

In late July, a Pacific County Superior Court judge ruled that Driscoll was right.

The striking opinion from visiting Judge William Faubion reverses a South District Court ruling last year that found Driscoll guilty of two infractions from the County Department of Community Development. But the potential legal implications go much farther. Faubion essentially gutted Judge Doug Goelz's determinations about what type of business activities are allowed on the site of the Driscoll family's historic Oysterville cannery. Faubion called many aspects of that decision — and the county's rationale for taking action against Driscoll — "erroneous," and ruled that Driscoll's business was not in either of the protected zones the county believed it to be in.

"It's a vindication of Dan, and Dan's position. It basically



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Oysterville Sea Farms appears to have finally prevailed in a long regulatory dispute with Pacific County.

says that he's been operating legally and properly, as we've said from the beginning," Driscoll's Olympia-based attorney, Ben Cushman, said.

Good news for land use?

The county has long contended that although Driscoll's business was grandfathered because it predated the county's current land-use policies and shoreline master program, he had altered and intensified the business in ways that went too far. County officials and other regulatory agencies initially approved Driscoll's plans to open the retail shop and deli. But later, Community Development Director Faith Taylor-Eldred, who left the department earlier this summer, reversed course.

In summer 2014, the county cited Driscoll, saying that he violated county ordinances and the shoreline master program by selling wine and beer and

packaged cereal, and by offering outdoor seating on a deck that overlooks the bay. Driscoll asked for the court hearing in hopes of gaining clarity about what was allowed on the property. Goelz's decision offered a "partial, but not complete vindication" Cushman said, because it said Driscoll did have the right to continue most food service and retail activities, but still found him guilty of the violations. Driscoll took his case to Superior Court.

Faubion, on the other hand, said not only does Driscoll have the right to continue operating his business, but "it is clearly the intent" of both the shoreline master program and the existing land-use ordinances, "to encourage the continued use of existing commercial properties such as the historic Oysterville Cannery, including the intensification of uses, so long as consistent with other health and environmental regulations, and

not detrimental to the aquatic environments."

"It's kind of a return to normalcy, and that's a very promising sign, I think, both for Dan's case, and probably for land use in the county," Cushman said, "If the county takes this to heart."

Pacific County Prosecutor Mark McClain, who represents the county in civil and land-use matters, said the county would review options.

"This ruling appears to be in conflict with existing state law and our locally adopted ordinances which are designed to protect the environment. The logic in this ruling would appear to support high-intensity commercial or industrial uses next to the shoreline, which this community has determined to be an area we wish to protect against intensive development. While this case is personal to Mr. Driscoll, the board has viewed this as a community issue in protecting their adopted land-use regulations. We will meet with our clients, the Board of Commissioners, later in the week to outline the legal issues presented by this decision and discuss the board's options," McClain said in an email.

Initiative petitions receive official ballot numbers

By PARIS ACHEN
Capital Bureau

SALEM — Seven ballot measures up for a vote in November have received measure numbers from the Secretary of State's Office.

Initiative Petition 28, levying a 2.5 percent tax on Oregon sales of certain large corporations exceeding \$25 million, is now known as Measure 97.

The measure would yield about \$3 billion annually in new state revenue with the intent to help support schools, health care and senior services.

Measure 98 is the new name for the Initiative 65 high school dropout measure. The measure requires \$147 million in new funding for high school dropout prevention, college readiness and career technical education programs.

Measure 99, the new name for Initiative 67, dedicates lottery proceeds to continuously fund a statewide outdoor education program.

Initiative 68 seeking to prohibit the sale of items made from 10 endangered species is now called Measure 100.

Violation of the law could result in a civil penalty of up to \$6,500, along with seizure by the state Department of Fish and Wildlife.

Three of the seven ballot measures stem from legislative referrals.

• Measure 94 amends the constitution to abolish the mandatory retirement age for state judges, which is set at 75.

• Measure 95 allows public universities to invest in equities to reduce financial risk and increase investments to benefit students.

• Measure 96 dedicates 1.5 percent of state lottery proceeds to support services for Oregon veterans.

The measures are numbered according to the order the Secretary of State's Office approves each initiative for the ballot. Legislative referrals are first in line. Campaigns for the initiatives already largely knew what number each measure would receive, but the Secretary of State's Office made the numbers official Friday.

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Warrenton Police seize drugs, stolen property

By KYLE SPURR
The Daily Astorian

While checking on an illegally parked RV in the Fred Meyer parking lot in July, Warrenton Police discovered more than 10 pounds of drugs, a stolen .22 caliber gun, jewelry and other property.

Shyann Howard, 29, who was with the RV, was arrested for a warrant, providing false information to police, identity theft, possession of heroin, possession of methamphetamine, unlawful possession of marijuana and unlawful distribution of marijuana.

When Officer Robert Wirt initially contacted Howard on July 16, she identified herself as Tiffany Howard, her sister. While waiting for Howard to get her identification, Wirt saw a syringe with a brownish substance on the bed. He also saw evidence of drug use on Howard, and she admitted she uses drugs. He confirmed there was no one else in the RV. He saw numerous items of drug paraphernalia and multiple pieces of jewelry lying around the RV.

At the time, Wirt seized 3.8 pounds of marijuana, heroin and methamphetamine.

He then applied for a search warrant for the RV and a pickup truck. Both vehicles were searched on July 28. The search uncovered an additional 6.86 pounds of marijuana, 3.1 grams of black tar heroin, a Ruger .22 caliber firearm, numerous scales and other items associated with drug distribution, hundreds of rounds of ammunition in various calibers, numerous items of jewelry, jewelry making tools, loose gems and multiple other items that are possibly stolen.

Some of the items had markings from Ketchikan,

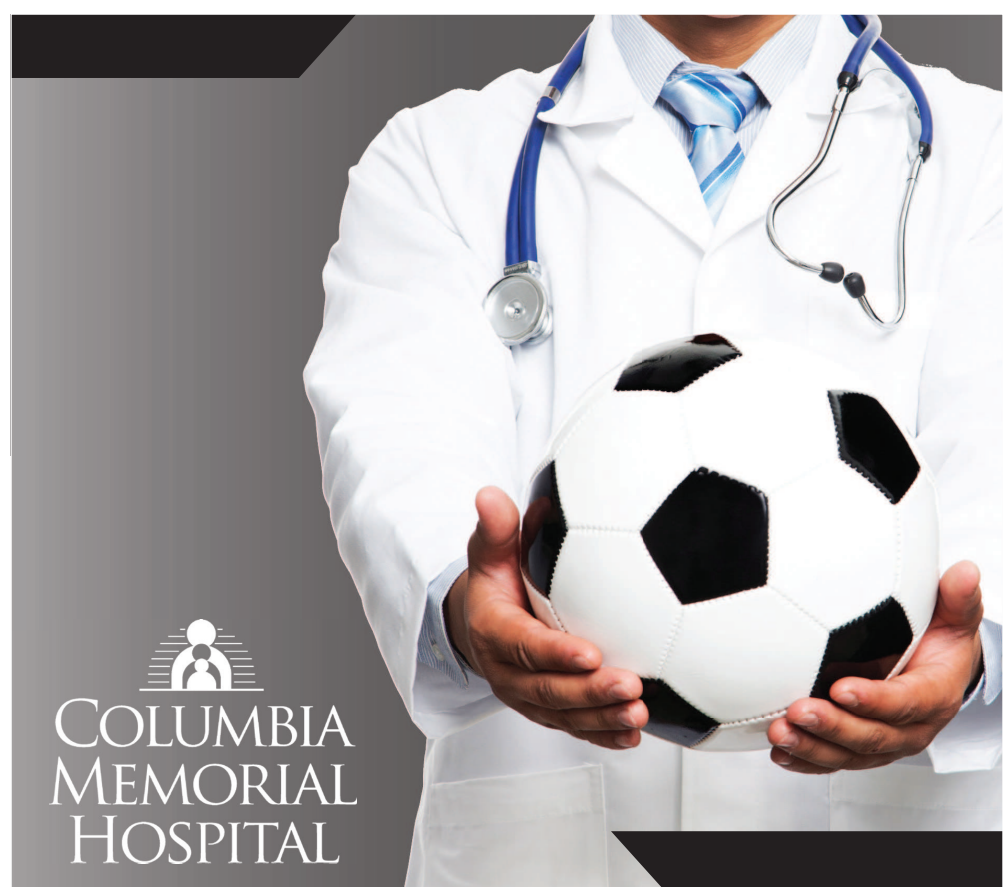
Alaska. Wirt contacted Ketchikan Police to work with them on identifying the items that were stolen. A passport was found in the RV that was

stolen from the mail in the Seattle area. Police do not believe any of the other items were stolen locally, but the investigation continues.

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