



HB 2093: Raise the bid floor on tax credit auctions

Senate Finance and Revenue Committee – Bennett Minton – 3/28/2023

Chair Meek, Vice Chair Boquist, members of the committee:

I'm Bennett Minton with Tax Fairness Oregon. We're a network of volunteers who advocate a rational and equitable tax code.

We are neutral on the bill, but we bring to your attention its provision to maintain the bid floor on tax credits sold by a closed-bid auction. As you heard from me in the Joint Committee on Tax Expenditures, I've delved into these auctions.

To fund a pool of money that Oregon Film distributes to applicants to produce movies, TV shows, advertisements and video games, the Department of Revenue sells tax credits in \$500 increments in an annual auction. Bidders guess at what price they can win certificates, offering the least amount. The difference between the \$500 face value and the amount they bid is their tax savings, applied to their state income tax liability.

In December, I bid \$475 for one certificate in the auction that funds a sliver of Opportunity Grants. I could have bid as low as \$450, but it didn't matter to me, because I'm sending my profit—\$25—to the Portland State scholarship fund. After administrative costs, the beneficiaries—low-income students—got \$467.

The question is whether the \$450 bid floor is too low. Bidders are taking more than the legislature need give them to make the program attractive.

Before the IRS changed the rules in 2019, bidders paid an average premium of 4% or 5% on the face value of the tax certificates because of the value of the federal charitable deduction. This committee responded by lowering the bid floor from 95% of value to 90% because it thought bidders would need the enticement after the IRS changed the rules.

Here's what happened in the Oregon Film calendar 2021 auction:

- DOR received 563 bids worth \$65.5 million in certificates, in an auction selling \$20 million in certificates.
- The lowest bid accepted was \$458, from a total of 134 bidders. That is, they all paid between \$458 and \$500.
- Three-quarters of the bidders missed the cut, offering no more than \$8 above the floor.

Which is to say, at a floor of 90%, there's a ton of market potential.

We read the bills and follow the money

The calculations for the bidder:

- 1) What's the minimum I must offer to win against other secret bidders?
- 2) How big must my profit be for the auction to be worth my time (or my accountant's) to participate?

Allowing the floor to snap back to 95% perhaps would affect these calculations on the margin, but it would provide more funding to the program.

As I said on Friday, this is a dumb financing mechanism.

Oregon Film says the leakage of the tax credit mechanism is worth it, because a six-year tax provision provides funding certainty for potential producers. But if I'm the producer who didn't get a subsidy because the state sent a million dollars to bidders instead of my company, then maybe I don't want to do business in Oregon.

Politically, subsidies for Oregon Film are very popular. You could fund it in other ways.

One would be to capitalize Oregon Film: appropriate amounts for future years but bar subsidies of more than a portion of it in any biennium. The state now spends \$40 million per biennium on the tax credit auctions. Suppose Ways and Means appropriated \$120 million one biennium and then \$40 million in each biennium thereafter, and Oregon Film always maintained a balance of at least \$80 million.

Thank you.