

Oregon State Board of Tax Practitioners Administration Committee Meeting

Meeting Date: June 24, 2010

Time: 9:03 a.m. to 3:00 p.m.

Location: Board Administrative Office, Small Conference Room 1st Floor

Attendees: Alan Twombly (Committee Chair)
Jess Gutierrez
Dorothy Hudson

Staff: Ron Wagner, Executive Director
Jane Billings, Exam & Education Coordinator

ITEM	ACTION / DISCUSSION
Twombly called the meeting to order at 9:03 a.m.	
Roll called	Board members present: Twombly, Gutierrez, Hudson
Budget Issues	Wagner reported that the formal process required by the Department of Administrative Services (DAS) necessary to complete the fund sweep has been finalized and the funds have been transferred DAS. He noted that DAS requires that agencies have a minimum of six months operating expenses, which OBTP currently exceeds.
Public Awareness Campaign	<p>Wagner stated that our accountant needs the numbers for the Board's policy option packages by the end of the month. Twombly asked for suggestions of a specific dollar amount the agency would want to put into the public awareness campaign. Gutierrez asked what the normal revenue for the agency is and suggested that a percentage of that revenue be designated for a public awareness campaign. Gutierrez noted that most businesses allocate four to six percent of their revenue as a starting point for advertising.</p> <p>Wagner shared that the projected revenues are 1.1 million for the biennium of July 2009 to June 2011. Gutierrez noted that this dollar amount currently includes fees for testing. Gutierrez noted that with the national program going into effect and should the Board decide to eliminate the preparer exam that could reduce the agency fees notable. Twombly stated that his understanding is that the national exam will be a minimum competency exam, and unless the Board wants to lower its standards, it would be unlikely it would do away with the state exam.</p> <p>Hudson commented that looking at our current budget she foresees no changes. Hudson noted that it would take at least a year before we have any results from the federal program and at least another year to implement any changes should the board decide to do so. Hudson then asked if we currently have any money designated for</p>

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advertising. Wagner shared that there is none at the current time; however, there are other areas within the budget where funds could be accessed. Wagner also noted that as a result of the implementation of the federal program we could potentially receive some free advertising.

Gutierrez suggested that a part time person skilled in communication may be an option to consider or consider hiring a marketing company. Wagner mentioned he had contacted the Department of Revenue to inquire about job sharing with another agency. Hudson noted that the Board will naturally get attention with the federal licensing program. Hudson stated her belief that all licensees' advertising should include their license number. This makes consumers aware that licensees are regulated. Hudson suggested that the Board allocate money in the future budget for the sole purpose of advertising for consumer protection. Wagner stated the legislature requires a clear explanation of why the Board needs these funds and how these funds are to be spent.

Wagner also noted that the Board has some money for contract labor currently available in the budget. Committee discussion revolved around keeping and possibly increasing the current line item for contract labor along with including a policy option package to the proposed budget for advertising so that there would be adequate funds available in the future. Wagner explained at the end of the biennium money in excess or shortage in specific areas of the budget can be controlled to take care of agency needs. By tracking this information it assists the agency in planning for future budgetary needs.

Wagner asked for volunteers from the Committee to be present when the budget bill goes before the legislature for review to assist in explaining the proposed policy option package. The Committee determined that hiring a marketing company would be the best option and proposed allocating \$30,000 to \$40,000 as a policy option package within the proposed budget for this purpose.

Wagner brought up possible involvement of licensees by asking them to include the Board's information on their business cards and/or advertising. Hudson noted that if the Board made this mandatory it would require an administrative rule change. Possible rule language was discussed. The Committee determined that it was better to have business cards or advertising state that the licensee is licensed by the Oregon Board of Tax Practitioners instead of requiring the Board's complete mission statement. Discussion also addressed including the Board's Web site.

Gutierrez suggested the Board have a logo designed to make the Board readily identifiable. Discussion included inviting licensees to submit their ideas to the Board and the Board would select a winner.

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	<p>Hudson suggested the Board consider creating a placard with the Board logo that licensees could display in their offices stating “<i>This office is licensed by the Board of Tax Practitioners.</i>” Discussion included redesigning the current business registration issued by the Board to make it more visible and to include the information previously suggested to be included on business cards. Wagner commented that to change the current business license would involve programming. Hudson noted that there is no consistency with the Board’s acronym. She noticed that within certain documents and on the Web site there are at least two variations, OBTP and OTPB. Wagner acknowledged he is aware of this.</p>
<p>Legislative Concept (to expand the Board’s jurisdiction)</p>	<p>Twombly believes it is still necessary to expand the jurisdiction of the Board to be similar to the federal licensing program. Wagner noted that the Board should go back to the core mission of the agency, which is to protect the consumer. Currently there is no recourse for the Board regarding individuals preparing S Corp., Partnership, Fiduciary, etc. This might also include bookkeepers. The Board needs to make this determination. There is no protection for the consumer on these entity types. Hudson asked if we can go back to the legislature again with this issue. Wagner affirmed the Board could. Wagner then asked the Committee to determine if the Board were to expand its jurisdiction what it would include. He also noted that the Board could have jurisdiction without requiring them to be licensed or to take an exam. He proposed the following questions to the committee.</p> <ul style="list-style-type: none"> • Do we require them to become licensees? • Do we require them to take a test? • What kind of test? • Do we require them to only register? <p>Twombly stated that he was under the impression with the federal licensing program only enrolled agents would be allowed to do business entities. If this is true, then any exam would relate to Oregon only. Gutierrez expanded on the idea of just a registration program so that the Board would have jurisdiction if any of these entities violated Oregon rules. Hudson noted that a lot of this depends on what the federal licensing program encompasses. Wagner noted that Monica Walker, the Board’s investigator, may attempt to mediate with licensees doing these types of entities when she receives a complaint from a consumer. However, this could be considered outside the Board’s jurisdiction. Discussion continued regarding the pros and cons of registration vs. licensing. The Committee also discussed the necessity of overseeing these entities generally. Gutierrez suggested polling the licensees. Hudson noted that consumers need to take some responsibility in</p>

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choosing individuals that are capable of doing this type of work, and if the public is made more aware of licensing then the public should be looking for people that are licensed to do that. Wagner responded that this assumes they fall under the federal licensing program. Wagner continued that the Board could ask for oversight without registration or licensing. This would give the Board ability to go in and try to mediate, take care of situations, or possibly impose a fine.

Gutierrez felt this could be a good idea to at least oversee the current licensees preparing these entities. Wagner noted that there are individuals limiting themselves to these particular entities, so do not have to fall under the scrutiny or jurisdiction of any Board. This would take away that loophole.

Gutierrez mentioned the Board's inability to make a competency call on a return if these individuals are not tested in these areas. Wagner noted that requiring CE may be a way to insure a degree of competency.

Gutierrez asked for clarification as to whether this would be limited to current licensees preparing these types of returns or any unlicensed individuals. He expressed concerns as to how the Board could oversee individuals that are not licensed or registered. Wagner believed the idea was to have jurisdiction over any individual preparing these types of returns. Hudson expressed concerns about having jurisdiction over unlicensed individuals other than unlicensed individuals preparing personal income taxes without a license. Wagner suggested that the statutes/rule language could be changed to specify that the Board's jurisdiction would be over anyone preparing tax returns, but only those doing personal income tax returns require licensure. He continued by presenting the following options:

- Require licensing and testing for everyone
- Jurisdiction, but no licensing or testing for these additional entities
- Registration for these additional entities
- Jurisdiction over current licensees doing these
- entities only
- No changes - leave program as currently is

Gutierrez noted that there would be a cost associated with some of these options and that legal bills could increase our AG costs. There would be also costs associated with notification that this is going into affect. One way to address these costs is with a registration fee. Wagner agreed that it would be necessary to include an associate piece with the budget in anticipation of these additional fees. Hudson again stressed her discomfort regarding jurisdiction without ever testing individuals doing these types of returns. She felt it important to do all or nothing.

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	<p>Twombly volunteered to do research on the federal programs requirement that may allow only enrolled agents to do business entities. He will pass what he finds out to the other committee members.</p> <p>Gutierrez suggested the addition of “jurisdiction over current licensees doing these entities only.” He again expressed his earlier suggestion of canvassing the licensees, and getting their feedback.</p> <p><i>[Twombly took a short break to research online the federal programs proposed requirement.]</i></p> <p>Twombly reported that there appears there will be a second test for business returns and a possible third test for more complex returns. Twombly suggests that we hold off on this matter at this time and wait to see what happens with the federal testing. Hudson proposed that the Board hold off on any legislative concept at this time. Gutierrez agrees. Wagner said he would check with Kelly Gabliks to see if there is a legal problem with having jurisdiction over individuals if we don’t test them and license them. It may be helpful if the Board wants to review this again in the future. The Committee unanimously agreed to put this on hold for the time being and wait to see the outcome of the federal licensing program.</p>
Other Business	<p>Hudson made comment regarding the recent survey, and asked if the Board is going to do anything with it. She noted that Coleman had done a wonderful survey and had made a nice report to the Board. She feels the need to follow up on the recommendations made. Gutierrez felt it could be a springboard for what we do next year, and that those are the types of programs to invest in, once we have a budget to accomplish these things. In the fall of this year, with the money currently available, the Board could start the process. Hudson noted that Coleman had suggested the Board form a Communication Committee, however does not want to form another committee but fit it under an existing committee. Hudson felt that the Administration Committee would be the most likely to take this on. Hudson also noted Coleman’s suggestion to rewrite the Board’s current mission statement. Hudson was disappointed in the low response from the survey sent out. She felt the mission statement could be reviewed at the next Board meeting for comment. Hudson also reminded Wagner to align the Board’s Web site. Discussion continued about the pros and cons of social media.</p>
<p>Adjournment Twombly adjourned the Administrative Committee meeting at 11:25 a.m.</p>	