

GeTtin' SALTy Podcast – Episode 51

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- Max Martin: Now that that COVID relief money is tapering off, we're in this situation now where we have to fund these state programs. How are we going to do it?
- Nikki Dobay: [00:00:30] Hello, and welcome to GeTtin' SALTy, a state and local tax policy podcast hosted by Greenberg Traurig. My name is Nikki Dobay, shareholder in the Sacramento, California and Portland, Oregon offices. I'm very pleased today to be joined by Max Martin. He is the director of tax and fiscal policy at the Association of Washington Business.
- Max, thank you so much [00:01:00] for being here.
- Max Martin: Thanks for having me, Nikki.
- Nikki Dobay: Washington has been one of those states during this legislative session where I've got a lot of clients and we've got a lot of our listeners paying attention. Max is here today to help us navigate what we think may be happening as the end of session approaches. We'll get into that conversation in just a minute.
- But, Max, you are new to the GeTtin' SALTy Podcast. One thing I like to ask of my guests [00:01:30] when they first join is how you got into state and local tax? I don't know if you thought you'd been in this position of being the tax and fiscal policy director at AWB, but how did you get here?
- Max Martin: That's a great question, and you're right. If you were to ask me, "Hey, where are you going to be in five years," this would be the last place I would say.
- I was a non-traditional college student that graduated right in the middle of the COVID shutdown. I went to school for psychology, had dreams of [00:02:00] being a therapist one of these days, but I was looking for any port in the storms in terms of work. I was fortunate enough to get a job at Carney Badley Spellman in Seattle, being the assistant for two old-school lobbyists. In that role, I fell in love with the public policy world. They have a lot of business community clients, so getting to work with them, and understand their challenges, and all the things they are facing in a state like Washington. It's a group of people I got really passionate about it.
- When the position opened [00:02:30] with the Association of Washington Business, I didn't care what the subject was, I just wanted to be a part of something this big. I was fortunate enough to be staffing in to the tax and fiscal role. Man, what an interesting subject matter, especially at a session like this.
- Nikki Dobay: Yes.

Max Martin: It's pretty historic. It's been a lot to learn, but I've been having a fun time doing it.

Nikki Dobay: Well, awesome, awesome. I'm sure the associate is very, very pleased to have you in this role. All right, well let's get into it. For [00:03:00] our podcast listeners, we are recording this a few days before this podcast is airing. Where we're sitting, we're about 10 days out from the end of Washington's session.

Max, I think you described it as historic. Why is this session so historic? Tell us about the lead-up to this session. Spoiler alert, it has a lot to do with revenues.

Max Martin: Yeah, you hit the nail on the head. Leading up to this session, we knew we were going to have a budget shortfall. [00:03:30] We had a lot of one-time COVID pandemic money that we spent. We created a lot of programs here in the state. Now that that COVID relief money is tapering off, we're in the situation now where we have to fund these state programs. How are we going to do it?

Leading up the months before January, we were thinking that that shortfall number was going to be around 6.6 to 6.7 billion dollars. That [00:04:00] was according to the nonpartisan staff to the legislature. That was just including the maintenance level costs, so just what we need to keep the current situation going.

Nikki Dobay: Okay.

Max Martin: That's part of it. Then, again, just moving forward, that number started to grow bigger and bigger as legislators started to work in some programs that they wanted. That 6.6 billion number grew all the way up to between 16 to 20 billion.

Keep in mind, Washington's not in a recession. [00:04:30] In fact, over the next four years as it is right now, we're projected to bring in over \$9.9 billion. Even with that revenue coming in, we're still missing the mark in terms of what we need for our programs right now.

Nikki Dobay: This is all taking me back to last November. I was actually up at some national meeting where there was some Washington legislators there. During that meeting, those numbers started to creep up, and creep up, and creep up. [00:05:00] There was a lot of nervousness. I vaguely, not vaguely, I clearly recall that panicked look when they realized, "Oh, wow, this is really bigger than we thought."

I know, again, going into the session, there was essentially a menu of all the ideas that the policymakers would consider for raising revenue. Can you tick off that list of all the ideas that were originally on [00:05:30] the table? Then we'll get into where we're at and where we think we'll end up.

- Max Martin: Well, if I went over the whole menu, I think this podcast would be at least four hours long.
- Nikki Dobay: Okay. We'll do the abridged version.
- Max Martin: Perfect, perfect. Yeah, I'll give them the headlines.
- Nikki Dobay: Yeah.
- Max Martin: There was a payroll expense tax paid by the employers, that was one consideration. A BNO surcharge on corporations making over \$250 million in Washington taxable income. Property tax [00:06:00] growth limit increases from 1% to 3%. At one point, there was even talks of potentially doing a wealth tax, a 1% tax on intangible assets above \$50 million. We also had sales tax on services, that's being considered right now. There was a tax on online dating services, taxes on alcohol. It truly feels like they're looking under every couch cushion right now for revenue. It has been [00:06:30] quite the full list right now.
- Nikki Dobay: I know the governor has come out with some, call them hard nos. What has been really shut down, based on where the governor stands on a lot of these issues?
- Max Martin: It's been interesting. That's a good thing to mention, too. We have a new governor for the first time in 12 years.
- Nikki Dobay: Yeah.
- Max Martin: This is an unknown variable that the legislator and the public are still trying to feel out a little bit. He's been surprising some folks [00:07:00] with how he's been speaking about the budget in a pretty moderate tone.
- At a press conference earlier this month, he mentioned that the current budget proposals, "There's just too much revenue." In that same press conference, he really shut down the idea of a wealth tax. Earlier, he mentioned that it was "novel, untested." He said he "won't be signing a budget that relied upon those revenues to balance our budget." With that said though, in the Q&A section of that press conference, [00:07:30] he came out that he wouldn't veto a wealth tax if it was a higher threshold, say \$100 million, but he wants to see how it plays out in the courts. He would assume that would be challenged pretty quickly. There are some rumors right now that we still might see a wealth tax, but it might include a referendum, so going to the vote of the people. Then from there, assuming it does pass, it would go straight to the courts as well.
- Nikki Dobay: Okay.
- Max Martin: He wants to kick the tires, but [00:08:00] he has some doubts about it.

But also, I got to say too, leading up to it, we've been hoping he would talk a little bit more about the revenue, but he's been holding those cards close to his chest. He's said before the first, second, third conversation he want to have right now wants to be about government efficiencies before we start talking about revenue.

Nikki Dobay: Okay. He's on the side of, "Let's shore up our own house before we start making that house bigger." It [00:08:30] sounds like that's a little bit of the, "Let's check our expenses before we start asking for more money."

Max Martin: One of my favorite quotes from Governor Ferguson so far is he "is here to reform government, not here to defend it." He's been talking the talk and walking the walk so far.

Nikki Dobay: As we roll into this last less than two weeks of session, do we know where we stand on are [00:09:00] some of these proposals truly dead? That we can maybe breathe a sigh of relief, especially on the business side, which is where we focus our time. Wealth taxes are very interesting, but my clients are generally businesses and your members are generally businesses.

On the business front, is there anything that's off the table of those scaries that you talked about?

Max Martin: Yeah. Again, complete disclaimer right here at the top, [00:09:30] Democratic leadership has been saying since day one, "Everything is on the table until sine die." While I may give you a few things right now, don't hold me to it.

Nikki Dobay: Right.

Max Martin: You never know. These things are in flux right now. It feels like there's a new tax popping up every day.

But something I feel like we won't be seeing is that payroll tax.

Nikki Dobay: Okay.

Max Martin: I think Seattle recently saw lower than expected revenue and they pointed towards businesses were leaving the city. They were going [00:10:00] across the water to places where they did not have that head tax, payroll tax. I don't think we'll be seeing that in the final revenue package. I definitely anticipate some BNO tax increases, property tax increases, and I think we'll see some kind of expansion of the capital gains tax as well.

Nikki Dobay: Okay, okay. That's still a pretty significant list, but those numbers are pretty significant that you were talking about. I did see, again, [00:10:30] I'm sure these things will change, but at least on the BNO surcharge side, that initially

started out at a 1% surcharge. I think I saw in the Tax Press this morning it may be down to .5%. It seems like there's a lot of negotiating going on.

Max Martin: Absolutely. Some of the changes too in that is who's been exempted from the that surcharge as well. Before it was just manufacturers, now we see grocers and farmers as part of the second addition of that BNO surcharge. [00:11:00] Still a lot to be determined at this point.

We actually just had the public hearing for that proposal last night. Not even 12 hours ago, we were just now starting to talk about it. We received that bill language on Monday. Again, things have been moving so quickly. I don't think where it is right now, as of the 17th at 10:16 AM, I don't think this is going to be the final form. I do think this is getting changed some more.

Nikki Dobay: [00:11:30] To that point, what are your recommendations on how businesses should be engaging in these final couple days? As I'm sure you're working round the clock these days, and once that sine die hits, you'll take a nap. How can the businesses, is just the stay in touch with AWB, are there other avenues, anything else, recommendations you would have for folks?

Max Martin: Yeah. Trade associations are a great place to get [00:12:00] information, stay up-to-date on things, because again, things are moving so quickly. I try really hard to let my membership know when there's a new proposal and do a brief that way.

But how do you move the needle? You got to talk to your local legislators. You got to help them understand the real world impacts this will have in their backyard to their constituents. Because they can hear from folks like me and other lobbyists all day long, but when it hits closer to home, a little bit more personal, [00:12:30] your words will speak louder volumes than mine. I am a great messenger for sure, but that real world experience is invaluable. You got to let folks know how this is going to hit you. It's pretty easy when you're in the legislature to think that these costs are just in a vacuum. But again, when you put it all into perspective, we got a lot going on at the state level and federal level. Again, just really relaying those real world impacts to your legislators is huge.

Nikki Dobay: [00:13:00] Washington is such an interesting state because it's not so tied to everything going on at the federal level. When it comes to the tax policy, we see a lot of states this session trying to grapple with this uncertainty and not knowing what to do. A state like Oregon is looking at a static conformity for a year to try to hedge their budget in this very uncertain time. But because Washington isn't tied [00:13:30] directly to the Internal Revenue Code, that provides more freedom. But I think with that, also it creates additional challenges for legislators because they've got to figure this stuff out all on their own. That's just an aside.

But the other question I guess I'd ask you is the states are really looking at competitiveness, and Oregon and Washington have their very different tax policies. [00:14:00] No sales tax in Oregon, high sales tax in Washington. No income tax, but now capital gains, and Portland's awful tax policy. I wonder if people are sick of thinking about moving back and forth across the river, so a state like Idaho or Montana becomes much more of a focal point for the legislators to think about, because those are two states where things have been a little more stable perhaps. Are those conversations going on for policymakers?

Max Martin: [00:14:30] That's something I always try to mention in my testimony. I constantly point back to the council and state taxation, state and local tax burden study. I make sure to note that Washington, our businesses pay nearly 50% of all state and local taxes. I try to make the comparison to California and Oregon to our lawmakers, because politically that's where we align way more than Idaho for sure.

Nikki Dobay: Right.

Max Martin: But California and Oregon, their share is under [00:15:00] 43%. We're higher than [inaudible 00:15:04].

Nikki Dobay: Everybody, yeah. Yeah.

Max Martin: The policies we consider are just going to add to that burden. In an effort to provide all these critical services that Washingtonians do really on, we are session after session making Washington a less competitive, less friendly business environment. At some point, you got to think about your bottom line, you got to make those tough decisions. I just hope [00:15:30] that we wake up and smell the coffee. Washington takes a lot of pride in being an innovative state, but we need to make sure we have an environment that's conducive to that.

Nikki Dobay: Yeah. I think all of the West Coast states, you are right to compare Washington more to California and Oregon. While the progressive agenda, not trying to say that's not a good thing, but we [00:16:00] see the impacts it has on people and where they are willing to live. Really, as those tax burdens just creep up, and up, and up, and especially on individuals. You talked about an increase in the capital gains tax. At some point, people start looking at those dollars and saying, "Maybe Texas isn't such a bad place to live. Maybe I don't agree with all the politics there, but this is a significant amount of money." Those are the people that can leave, and businesses [00:16:30] as well. I definitely see this in Oregon and California, California for sure.

It's hard to convey those messages to legislators because I think some of it is just denial and not wanting to think that that would actually happen. But our world has become so much more portable that, I agree with you and wholeheartedly support. I hope they wake up and smell the coffee. We have

great coffee in the Pacific Northwest, so let's try to [00:17:00] drink some of that.

Well, Max, do you have any final thoughts, predictions, crystal balling it for the session? I understand if your crystal ball's a little cloudy right now.

Max Martin: It's absolutely cloudy and we are going to find out so much in these next 10 days. I will say, this conversation is not ending in the session. This is going to be something we're going to be coming back, year after year. I don't think the decisions we're making right now, it's not going to [00:17:30] be the longterm fix. I believe, for example the payroll tax, while it may not be progressing any further this session, it's going to be back again. That ideal will return unless we start to get our state spending more in line with our revenue, which again, is not the declining. We're going to be back here again, asking the same questions and looking to the same community, the business community, to help us get out of this jam. Like we've been talking about, [00:18:00] there's only so much you can do before you start looking at other states and making some tough decisions.

Nikki Dobay: Yeah. All right, well, thank you for that. I'm sure we'll be back after session to get the blow-by-blow of where we're at, and then probably talking about some of the regulatory things we'll be seeing out of the Department of Revenue. Thank you for your time today, I really appreciate it.

Okay, can't let you go without a surprise non-tax question. I feel like I've probably asked this to some guest in the past. [00:18:30] We're both in the Pacific Northwest and the sun came out this week. It's April, middle of April, tax time. We're all filing our tax returns, and the sun came out. Yesterday, I met a good friend out for a happy hour, and we sat outside, and the sun was out. My surprise non-tax question is, as a Pacific Northwesterner, what is your favorite thing about spring?

I'll go first, so you can gather your thoughts. I think [00:19:00] it's that first week when you just see everybody coming out of their house. We've all been in the rain, and making a lot of stews, and hibernating a little bit. That first bit of sunshine, I've seen more very untanned folks out in their tank tops. We get out there and we want to just bask in the sun because it's such a fleeting thing here. It's a very entertaining time of year. I'm down in Portland this [00:19:30] week.

How about for you, Max? What's your favorite thing about spring in the Pacific Northwest?

Max Martin: It has to be all the colors that start to pop around this time. Again, being in Washington, Pacific Northwest, we see a lot of gray. A lot, a lot of gray for the majority of the year, so when the sun does come out ... For example, our state capital, we have all these cherry trees around and they start to blossom all pink. It's special and it's local event. Everyone starts [00:20:00] to come out and start taking pictures with these trees. You'll see baby photos, you'll see wedding

photos. It's truly beautiful. To start seeing all those colors start to pop and all the green, it's hard not to get excited, and start thinking about summer and spring, and everything like that.

Nikki Dobay:

Yeah. I haven't spent much time in Olympia, but I was there once and got to hang out on the lake, right on the water there. It's a really beautiful place. I don't think anybody [00:20:30] gives Olympia enough credit for being a very cool spot, but there are some very cool, special places. That's awesome to hear about the cherry trees there, because they are ... I noticed that in Bend the other day, there was a big cherry tree that had blossomed. I was like, "Oh, that's beautiful!" Yes, we're in a very cheery time, despite the uncheery news that's coming out on the tax front on Washington.

Well, Max, thank you again so much for joining me [00:21:00] and getting us caught up. As I said, I'm sure we'll be back to get a postmortem. Thank you for the listeners, for tuning in today. The contact information for Max and I will be in the show notes. If you have any questions or comments, feel free to reach out or leave a comment in the show notes. I will be back in a few weeks on the next GeTtin' SALTy.