

BEFORE THE COUNCIL OF THE  
METROPOLITAN SERVICE DISTRICT

FOR THE PURPOSE OF ADOPTING A ) RESOLUTION NO. 85-543  
COUNCIL POSITION ON PROPOSED )  
LEGISLATION EXTENDING ENERGY ) Introduced by  
TAX CREDITS ) Councilor Ernie Bonner and  
 ) Executive Officer Rick Gustafson

WHEREAS, Energy tax credits are an important component of the financing for an energy recovery facility because such credits allow the facility to be cost-effective; and

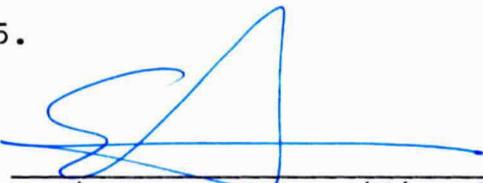
WHEREAS, The Council of the Metropolitan Service District (Metro) has adopted policies encouraging the increase in the volume of material which is recycled; and

WHEREAS, These same energy tax credits have encouraged the investment of over \$6 million in recycling equipment by metropolitan area recyclers, and are an important factor in encouraging additional increases in the volume of material recycled; now, therefore,

BE IT RESOLVED,

That the Metro Council supports passage of House Bill 2053 which would extend Oregon's Energy Tax Credit program from 1985 until 1991.

ADOPTED by the Council of the Metropolitan Service District this 28th day of February, 1985.

  
\_\_\_\_\_  
Ernie Bonner, Presiding Officer

PF/srs  
2952C/405-1  
02/19/85

# House Bill 2053

Ordered printed by the Speaker pursuant to House Rule 12.00A (5). Pre-session filed (at the request of Department of Energy)

## SUMMARY

The following summary is not prepared by the sponsors of the measure and is not a part of the body thereof subject to consideration by the Legislative Assembly. It is an editor's brief statement of the essential features of the measure as introduced.

Requires facility receiving energy conservation tax credit to be facility for which first year energy savings yields simple payback period greater than one year.

Revises kinds of facilities which are to receive preference in determining eligibility for tax credit. Permits Director of Department of Energy to set aside portion of annual allocation for tax credit for projects given statutory preference.

Extends tax credit for energy facility or recycling facility to facility erected, constructed or installed before January 1, 1991. Imposes fee to be submitted with application for preliminary certification. Permits director to adopt fee schedule. Permits applicant to submit receipts for cost of facility if actual cost is less than \$10,000 rather than certified actual cost by certified public accountant. Applies to tax years beginning after December 31, 1985.

## A BILL FOR AN ACT

1  
2 Relating to energy; creating new provisions; and amending ORS 469.185, 469.195, 469.200, 469.205 and  
3 469.215.

4 **Be It Enacted by the People of the State of Oregon:**

5 **SECTION 1.** ORS 469.185 is amended to read:

6 469.185. As used in ORS 469.185 to 469.225:

7 (1) "Cost" means the capital costs and expenses necessarily incurred in the acquisition, erection, construc-  
8 tion and installation of [*an energy conservation*] a facility.

9 (2) "Energy [*conservation*] facility" [*or "facility"*] means any capital investment for which the first year  
10 energy savings yields a simple payback period of greater than one year. An energy facility includes:

11 (a) Any land, structure, building, installation, excavation, machinery, equipment or device, or any addition  
12 to, reconstruction of or improvement of, land or an existing structure, building, installation, excavation,  
13 machinery, equipment or device necessarily acquired, erected, constructed or installed by any person in  
14 connection with the conduct of a trade or business and actually used in the processing or utilization of renewable  
15 energy resources to:

16 (A) Replace a substantial part or all of an existing use of electricity, petroleum or natural gas;

17 (B) Provide the initial use of energy where electricity, petroleum or natural gas would have been used;

18 (C) Generate electricity to replace an existing source of electricity or to provide a new source of electricity for  
19 sale by or use in the trade or business; or

20 (D) Perform a process that obtains energy resources from material that would otherwise be solid waste as  
21 defined in ORS 459.005.

22 (b) Any addition to, reconstruction of or improvement of land or an existing structure, building, installation,  
23 excavation, machinery, equipment or device necessarily acquired, erected, constructed or installed by any person  
24 in connection with the conduct of a trade or business in order to substantially reduce the consumption of  
25 purchased energy.

NOTE: Matter in bold face in an amended section is new; matter [*italic and bracketed*] is existing law to be omitted.

(c) A necessary feature of a new commercial building or multiple unit dwelling, as dwelling is defined by ORS 469.160, that causes that building or dwelling to exceed an energy performance standard in the state building code.

(d) The replacement of an electric motor with another electric motor that substantially reduces the consumption of electricity.

(3) "Facility" means an energy facility or a recycling facility.

[(e)] (4) "Recycling facility" means equipment used by a trade or business solely for recycling:

[(A)] (a) Including:

[(i)] (A) Equipment used solely for hauling and refining used oil;

[(ii)] (B) New vehicles or modifications to existing vehicles used solely to transport used recyclable materials that cannot be used further in their present form or location such as glass, metal, paper, aluminum, rubber and plastic;

[(iii)] (C) Trailers, racks or bins that are used for hauling used recyclable materials and are added to or attached to existing waste collection vehicles; and

[(iv)] (D) Any equipment used solely for processing recyclable materials such as bailers, flatteners, crushers, separators and scales.

[(B)] (b) But not including equipment used for transporting or processing scrap materials that are recycled as a part of the normal operation of a trade or business as defined by the director.

[(f) Any land, structure, building, installation, excavation, machinery, equipment or device, or any addition to, reconstruction of or improvement of land or an existing structure, building, installation, excavation, machinery, equipment or device necessarily acquired, erected, constructed or installed by any person as a trade or business and actually used in the utilization of a renewable energy resource to supply or displace existing sources of electricity, petroleum or natural gas.]

[(3)] (5) "Renewable energy resource" includes, but is not limited to, straw, forest slash, wood waste or other wastes from farm or forest land, industrial or municipal waste, solar energy, wind power, water power or geothermal energy.

**SECTION 2.** ORS 469.195 is amended to read:

469.195. In determining the eligibility of [energy conservation] facilities for tax credits, preference shall be given to those projects which:

[(1) Are not routinely used in a commercial or industrial trade or business;]

[(2) Have the potential, if developed at other suitable locations, for making a significant contribution to meeting the energy needs of the state; or]

[(3) Are not reasonably expected, in the absence of the tax credit granted under ORS 316.140 to 316.142, 317.104 and 469.185 to 469.225, to be cost effective within five years of erection, construction or installation.]

(1) Are research development or demonstration facilities of new renewable resource generating and conservation technologies; or

(2) Provide long-term energy savings from the use of renewable resources or conservation of energy resources.

**SECTION 3.** ORS 469.200 is amended to read:

469.200. (1) The total of all costs of [energy conservation] facilities that receive a preliminary certification from the director for tax credits in any calendar year shall not exceed \$40 million. [If the applications exceed the

1 \$40 million limit.] The director annually may set aside a portion of the \$40 million limit to be allocated, in  
 2 accordance with applicable standards and application deadlines, to facilities qualifying as priority projects under  
 3 ORS 469.195. The director[, in the director's discretion,] shall determine the dollar amount certified for any  
 4 facility and the priority between applications for certification based upon the criteria contained in ORS 469.185  
 5 to 469.225 and applicable rules and standards adopted under ORS 469.185 to 469.225.

6 (2) Not less than \$5 million of the \$40 million annual certification limit shall be allocated to facilities having  
 7 a certified cost of \$100,000 or less for any facility.

8 (3) With respect to the balance of the annual certification limit, the maximum cost certified for any facility  
 9 shall not exceed \$10 million. However, if the applications certified in any calendar year do not total \$35 million,  
 10 the director, in the director's discretion, may increase the certified costs above the \$10 million maximum for  
 11 previously certified facilities. The increases shall be allocated according to the director's determination of how  
 12 the previously certified facilities meet the criteria of ORS 469.185 to 469.225. The increased allocation to  
 13 previously certified facilities under this subsection shall not include any of the \$5 million reserved under  
 14 subsection (2) of this section.

15 SECTION 4. ORS 469.205 is amended to read:

16 469.205. (1) Prior to erection, construction or installation of a proposed facility any person may apply to the  
 17 department for preliminary certification under ORS 469.210 if:

18 (a) The erection, construction or installation of the facility is to be commenced on or after October 3, 1979,  
 19 and before January 1, [1986] 1991;

20 (b) The facility complies with the standards or rules adopted by the director; and

21 (c) The applicant will be the owner or contract purchaser of the [energy conservation] facility at the time of  
 22 erection, construction or installation of the proposed facility, and:

23 (A) The applicant is the owner, contract purchaser or lessee of a trade or business that plans to utilize the  
 24 [energy conservation] facility in connection with Oregon property; or

25 (B) The applicant is the owner, contract purchaser or lessee of a trade or business that plans to lease the  
 26 [energy conservation] facility to a person who will utilize the facility in connection with Oregon property.

27 (2) [Applications] An application for preliminary certification shall be made in writing on a form prepared by  
 28 the department and shall contain:

29 (a) A statement that the applicant or the lessee of the applicant's facility:

30 (A) Intends to convert from a purchased energy source to a renewable energy resource;

31 (B) Plans to construct a facility that will use a renewable energy resource or solid waste instead of electricity,  
 32 petroleum or natural gas;

33 (C) Plans to use a renewable energy resource in the generation of electricity for sale or to replace an existing  
 34 or proposed use of an existing source of electricity;

35 (D) Plans to construct or install a facility that substantially reduces the consumption of purchased electricity;  
 36 or

37 (E) Plans to construct or install equipment for recycling as defined in ORS 469.185 [(2)(e)] (4).

38 (b) A detailed description of the proposed facility and its operation and information showing that the facility  
 39 will operate as represented in the application.

40 (c) Information on the amount by which consumption of electricity, petroleum or natural gas by the  
 41 applicant or the lessee of the applicant's facility will be reduced, and on the amount of energy that will be  
 42 produced for sale, as the result of using the facility.

1 (d) The projected cost of the facility.

2 (e) Any other information the director [*deems*] considers necessary to determine whether the proposed  
3 facility is in accordance with the provisions of ORS 469.185 to 469.225, and any applicable rules or standards  
4 adopted by the director.

5 (3) An application for preliminary certification shall be accompanied by a fee established under section 7 of  
6 this 1985 Act. The director may refund the fee if the application for certification is rejected.

7 [(3)] (4) The director may [*waive the filing of*] allow an applicant to file the preliminary application after the  
8 start of erection, construction or installation of the facility if the director finds: [*the*]

9 (a) Filing the application before the start of erection, construction or installation is inappropriate because  
10 special circumstances render [*the*] filing earlier unreasonable; [,] and [*if the director finds such*]

11 (b) The facility would otherwise qualify for tax credit certification pursuant to ORS 469.185 to 469.225.

12 SECTION 5. ORS 469.215 is amended to read:

13 469.215. (1) No certification shall be issued by the director under this section unless the facility was acquired,  
14 erected, constructed or installed under a preliminary certificate of approval issued under ORS 469.210[*, except*  
15 *where the filing of a preliminary application has been waived under ORS 469.205,*] and in accordance with the  
16 applicable provisions of ORS 469.185 to 469.225 and any applicable rules or standards adopted by the director.

17 (2) Any person may apply to the department for final certification of a facility:

18 (a) [*Unless filing has been waived,*] After having obtained preliminary certification for the facility under ORS  
19 469.210; and

20 (b) After completion of erection, construction or installation of the proposed facility.

21 (3) [*Applications*] An application for final certification shall be made in writing on a form prepared by the  
22 department and shall contain:

23 (a) [*Unless filing has been waived,*] A statement that the conditions of the preliminary certification have been  
24 complied with;

25 (b) The actual cost of the facility certified to by a certified public accountant who is not an employe of the  
26 applicant or, if the actual cost of the facility is less than \$10,000, copies of receipts for purchase and installation of  
27 the facility;

28 (c) A statement that the facility is in operation or, if not in operation, that the applicant has made every  
29 reasonable effort to make the facility operable; and

30 (d) Any other information determined by the director to be necessary prior to issuance of a final certificate,  
31 including inspection of the facility by the department.

32 (4) The director shall act on an application for certification before the 60th day after the filing of the  
33 application under this section. The action of the director shall include certification of the actual cost of the  
34 facility. However, in no event shall the director certify an amount for tax credit purposes which is more than 10  
35 percent in excess of the amount approved in the preliminary certificate issued for the facility.

36 (5) If the director rejects an application for final certification, or certifies a lesser actual cost of the facility  
37 than was claimed in the application, the director shall send to the applicant written notice of the action, together  
38 with a statement of the findings and reasons therefor, by certified mail, before the 60th day after the filing of the  
39 application. Failure of the director to act constitutes rejection of the application.

40 (6) If the application is rejected for any reason, or if the applicant is dissatisfied with the certification of cost,  
41 then, within 60 days of the date of mailing of the notice under subsection (5) of this section or from a denial under

1 subsection (5) of this section, the applicant may request a hearing to appeal the rejection under the provisions of  
2 ORS 183.310 to 183.550 governing contested cases.

3 (7) Upon approval of an application for final certification of a facility, the director shall certify the facility.  
4 Each certificate shall bear a separate serial number for each device. Where one or more devices constitute an  
5 operational unit, the director may certify the operational unit under one certificate.

6 (8) The director shall not grant final certification under this section for any facility after December 31, [1988]  
7 1993.

8 **SECTION 6.** Section 7 of this Act is added to and made a part of ORS 469.185 to 469.225.

9 **SECTION 7.** By rule and after hearing, the director may adopt a schedule of reasonable fees which the  
10 department may require of applicants for preliminary or final certification under ORS 469.185 to 469.225. Before  
11 the adoption or revision of the fees, the department shall estimate the total cost of the program to the department.  
12 The fees shall be used to recover the anticipated cost of filing, investigating, granting and rejecting applications  
13 for certification and shall be designed not to exceed the total cost estimated by the department. Any excess fees  
14 shall be held by the department and shall be used by the department to reduce any future fee increases. The fee  
15 may vary according to the size and complexity of the facility. The fee shall not be considered as part of the cost of  
16 the facility to be certified.

17 **SECTION 8.** This Act applies to tax years beginning after December 31, 1985.

## HOUSE AMENDMENTS TO HOUSE BILL 2053

By COMMITTEE ON ENVIRONMENT AND ENERGY

February 7

### Amended Summary

Requires facility receiving energy conservation tax credit to be facility for which first year energy savings yields simple payback period greater than one year.

Revises kinds of facilities which are to receive preference in determining eligibility for tax credit. Permits Director of Department of Energy to set aside [*portion*] \$6 million of annual allocation for tax credit for [*projects given statutory preference*] research development or demonstration facilities of new renewable resource generating and conservation technologies .

Extends tax credit for energy facility or recycling facility to facility erected, constructed or installed before January 1, 1991. Imposes fee to be submitted with application for preliminary certification. Permits director to adopt fee schedule. Permits applicant to submit receipts for cost of facility if actual cost is less than \$10,000 rather than certified actual cost by certified public accountant. Applies to tax years beginning after December 31, 1985.

- 1 On page 2 of the printed bill, delete lines 35 and 36 and insert:
  - 2 "(1) Provide energy savings for real or personal property within the state inhabited as the principal residence
  - 3 of a tenant, including:
  - 4 "(a) Nonowner occupied single family dwellings; and
  - 5 "(b) Multiple unit residential housing; or".
  - 6 On page 3, line 1, delete "a portion" and insert "\$6 million".
  - 7 In line 2, delete "facilities qualifying as priority projects under".
  - 8 In line 3, delete "ORS 469.195" and insert "research development or demonstration facilities of new
  - 9 renewable resource generating and conservation technologies".
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# House Bill 2308

Sponsored by Representative McCracken, Senator Otto

## SUMMARY

The following summary is not prepared by the sponsors of the measure and is not a part of the body thereof subject to consideration by the Legislative Assembly. It is an editor's brief statement of the essential features of the measure as introduced.

Creates Commission on Intergovernmental Relations. Establishes terms, qualifications, number and method of appointment of commission members. Prescribes duties, powers and functions of commission. Appropriates \$140,000 from General Fund, to commission.

## A BILL FOR AN ACT

1 Relating to the Commission on Intergovernmental Relations; and appropriating money.

2 **Be It Enacted by the People of the State of Oregon:**

3 **SECTION 1.** As used in this Act:

4 (1) "Commission" means the Commission on Intergovernmental Relations established by section 2 of this  
5 Act.

6 (2) "District" has the meaning given that term by ORS 198.010 and, in addition, means a council of  
7 governments established under ORS 190.003 to 190.110 and a local government boundary commission formed  
8 under ORS 199.410 to 199.519.

9 (3) "Local government" includes a city, county and district.

10 **SECTION 2.** (1) There is established the Commission on Intergovernmental Relations consisting of 14  
11 members appointed as provided in section 3 of this Act and the executive secretary of the Commission on Indian  
12 Services who shall serve as a member of the commission ex officio.

13 (2) The term of each appointed member of the commission is four years and shall begin on January 1 in an  
14 even-numbered year. Before the expiration of the term of an appointed member, the appointing authority shall  
15 appoint a successor. A member is eligible for reappointment. If there is a vacancy for any cause, the appointing  
16 authority shall make an appointment to become immediately effective for the unexpired term.

17 (3) Members of the commission are not entitled to compensation for service on the commission. However,  
18 in accordance with the rules of the commission and ORS 292.495 (2), members may be reimbursed from funds  
19 available to the commission for actual and necessary travel expenses incurred by them in the performance of  
20 their official duties.

21 **SECTION 3.** Fourteen members of the commission shall be appointed as follows:

22 (1) The Speaker of the House of Representatives shall appoint two members of the House of Representatives  
23 to the commission.

24 (2) The President of the Senate shall appoint one member of the Senate to the commission.

25 (3) The Governor shall appoint to the commission:

26 (a) Two county officers, at least one of whom shall be popularly elected.

27 (b) Two city officers, at least one of whom shall be popularly elected.

28 (c) Two district officers, at least one of whom shall be popularly elected.

29  
NOTE: Matter in bold face in an amended section is new; matter *[italic and bracketed]* is existing law to be omitted.

1 (d) One member of the Governor's staff.

2 (e) Two heads of administrative departments in the state government.

3 (f) Two residents of this state who are not public officers or employes.

4 **SECTION 4.** The Commission on Intergovernmental Relations shall:

5 (1) Elect from among its members a chairperson who shall serve for a term of two years.

6 (2) Prescribe its internal organization and adopt rules to govern its proceedings.

7 (3) Meet at least once every three months.

8 (4) Study the structural, functional and financial relationships among federal, state and local governmental  
9 entities, issue findings and recommendations regarding those relationships and publish reports regarding them.

10 (5) Propose constitutional amendments, statutes, charter provisions, ordinances, administrative rules and  
11 other measures that would, if adopted, implement the recommendations of the commission.

12 (6) Publish annual reports of current developments in state and local government in Oregon and of the  
13 activities of the commission.

14 (7) Provide notice to, and solicit information, advice and assistance from, state and local governmental  
15 entities and nongovernmental persons and institutions concerning any activity of the commission that might  
16 affect those entities, persons and institutions and offer them the services of the commission.

17 **SECTION 5.** The Intergovernmental Relations Division of the Executive Department, upon request, shall  
18 provide the commission with professional, technical and clerical services. The commission may also contract  
19 with units of the Department of Higher Education or with other public or private persons for other specific  
20 services.

21 **SECTION 6.** The commission may apply for and receive funds and other assistance from governmental and  
22 nongovernmental sources. The Executive Department shall account for the income and expenditures of the  
23 commission separately from other governmental accounts.

24 **SECTION 7.** For purposes of ORS 182.605 to 182.635, the Commission on Intergovernmental Relations is  
25 an agency.

26 **SECTION 8.** (1) Notwithstanding the term of office specified by section 2 of this Act, of the 14 members first  
27 appointed to the commission, seven shall serve for terms ending December 31, 1987. The seven members shall  
28 be determined by lot in the manner prescribed by the commission. The remaining members shall serve for terms  
29 ending December 31, 1989.

30 (2) Notwithstanding subsection (1) of section 4 of this Act, the Governor shall designate a chairperson pro  
31 tempore who shall preside over the deliberations of the commission until it organizes itself and elects a  
32 permanent chairperson.

33 **SECTION 9.** There is appropriated to the Commission on Intergovernmental Relations, for the biennium  
34 beginning July 1, 1985, out of the General Fund, the sum of \$140,000 for the purpose of carrying out this Act.



# Memo

Agenda Item No. 7.4

Meeting Date Feb. 28, 1985

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METROPOLITAN SERVICE DISTRICT 527 S.W. HALL ST., PORTLAND, OREGON 97201 503 221-1646  
Providing Zoo, Transportation, Solid Waste and other Regional Services

Date: February 20, 1985

To: Metro Councilors

From: Phillip Fell, Acting Public Affairs Director

Regarding: Resolutions on proposed legislation

**RESOLUTION NO. 85-543** FOR THE PURPOSE OF ADOPTING A COUNCIL POSITION  
ON PROPOSED LEGISLATION EXTENDING ENERGY TAX  
CREDITS

The Metro Council has adopted positions favoring energy recovery facilities and recycling as methods of waste management. Oregon's Energy Tax Credit program is an important component of financing these energy recovery facilities by virtue of making them cost-effective to construct. Staff contacts with several area recycling firms indicate that these firms would not have invested in necessary equipment if they had not been able to count on the tax credit offered under the existing program. This program is scheduled to sunset this year unless H.B. 2053, which would extend the program until 1991, is passed.

RESOLUTION NO. 85-544 FOR THE PURPOSE OF ADOPTING A COUNCIL POSITION  
ON PROPOSED LEGISLATION ESTABLISHING A STATE  
ADVISORY COMMISSION ON INTERGOVERNMENTAL  
AFFAIRS

Overlapping responsibilities and duplication of services have long been problems which all levels of government have tried to reduce. They contribute to an inefficient allocation of both functions and finances among governments and a public perception of government which is out of control and wasteful.

The Federal government acted to reduce these problems in 1958 by creating a Federal Advisory Commission on Intergovernmental Relations. Since that time, the ACIR has encouraged a reevaluation of relations between the federal and state governments which has reduced the duplication of services among levels of government. H.B. 2038, if passed, would create the same type of commission focusing primarily on state and local relations. The commission would be charged to recommend changes in the structural, functional and financial relationships existing among Oregon's cities, counties, special districts and the State. Although the Commission's authority would be limited to making recommendations, an analysis of the

existing relationships by an independent third party is clearly the first step toward reducing existing inefficiencies in governmental service provision.

RESOLUTION NO. 85-545 FOR THE PURPOSE OF ADOPTING A COUNCIL POSITION  
ON PROPOSED LEGISLATION MODIFYING STATE  
LANDFILL SITING AUTHORITY

Although the Metro Council has not introduced any legislative proposals seeking to streamline the landfill siting process, we are aware of the existence of at least one such bill. At its special Council meeting on the Legislature, the Council decided that it would be easiest to evaluate those principles which such a bill should contain, rather than attempt to analyze any specific bill when we aren't sure that we have all related bills in our possession. Accordingly, Resolution No. 85-545 contains the five principles which the Council had discussed prior to this date. Of these five principles, the greatest controversy has surrounded the proposal that statewide land use goals are a more appropriate criteria than an acknowledged comprehensive plan.

RESOLUTION NO. 85-546 FOR THE PURPOSE OF ADOPTING A COUNCIL POSITION  
ON PROPOSED LEGISLATION ALLOWING METRO TO  
CREATE CITIZEN COMMISSIONS

Citizen commissions are a time-honored Oregon mechanism for involving the public in administering the provision of various services. Local governments and the public at large are looking to Metro today as a vehicle to provide additional services, such as parks, on a regional basis. Should Metro actually assume a greater service delivery role, the Council should have the option of using citizen commissions to provide those services. Legislation which was originally introduced as an amendment to a Metro bill, would provide us the necessary authority, which we currently lack, to appoint citizen commissions. These amendments have since been introduced by the House Intergovernmental Affairs Committee as H.B. 2558. The language in the bill is exactly the same as the language in the attached amendments.

RESOLUTION NO. 85-547 FOR THE PURPOSE OF ADOPTING A COUNCIL POSITION  
ON PROPOSED LEGISLATION TO PROTECT EXOTIC  
ANIMALS

Under current law, a person can keep exotic animals without regard to any safety or hygenic standards as long as that person does not exhibit or sell the animals.

In September of last year, a raid on the Siletz Game Ranch resulted in the owner's arrest on charges of animal cruelty. Because the owner did not exhibit nor attempt to sell the animals, State Police were forced into an after-the-fact enforcement situation.

Legislation recently introduced in the Senate would require all keepers of exotic animals, for whatever reason, to comply with the regulations of, and receive a license from, the U.S. Department of Agriculture. The U.S.D.A. regularly inspects its licensees, such as the Washington Park Zoo, to assure that the animals are receiving

a certain standard of care. Passage of this legislation would provide authorities with a necessary tool to prevent animal cruelty, rather than limiting them to arresting an irresponsible keeper after-the-fact.

RESOLUTION NO. 85-552 FOR THE PURPOSE OF EXEMPTING METRO'S ZOO AND  
SOLID WASTE SERVICES FROM A SALES TAX

Although the House version of a state-wide sales tax has emerged from the Revenue Committee, the final form of the sales tax will be determined by the Senate Revenue Committee. One of the more controversial elements of the tax plan has been the question of local government's responsibility to pay a sales tax on their purchases. Local governments have consistently pointed to the irony of being forced to increase either property tax revenues or fee schedules to raise the money they would be forced to pay the State in the form of a sales tax levied on their purchases. Resolution No. 85-552 would give Metro's legislative representative the authority to seek exemption from the sales tax for solid waste disposal fees; zoo admissions and food purchased for resale at the Zoo in the event that the Legislature determines that local jurisdictions should be included in the sales tax payments.

PF/cam

9.2 Consideration of Resolutions for the Purpose of Adopting Council Positions on Proposed Legislation

Phillip Fell explained that as a result of the informal Council meeting of February 7, 1985, regarding Metro's legislative program, staff had prepared five resolutions for Council consideration on February 28, 1985. He encouraged the Council to review the proposed language of each resolution, ask questions and come back on February 28 ready to consider the following resolutions:

1. Resolution No. 85-543, Adopting a Council Position on Proposed Legislation Extending Energy Tax Credits (H.B. 2033)
2. Resolution No. 85-544, Adopting a Council Position on Proposed Legislation Establishing a State Advisory Commission on Intergovernmental Affairs (H.B. 2038)
3. Resolution No. 85-545, Adopting a Council Position on Proposed Legislation Modifying State Landfill Siting Authority
4. Resolution No. 85-546, Adopting a Council Position on Proposed Legislation Allowing Metro to Create Citizen Commissions (H.B. 2558)
5. Resolution No. 85-547, Adopting a Council Position on Proposed Legislation to Protect Exotic Animals

Executive Officer Gustafson asked the Council to review Resolution No. 85-545, regarding modification of state landfill siting authority, and recommend any language changes staff should consider before February 28.

Presiding Officer Bonner asked why paragraph 4 of the resolution wasn't stated more directly such as, "Allows a landfill to be sited outside the Metropolitan Service District as long as it is within the Solid Waste Management Plan area." Executive Officer Gustafson suggested it be worded, "Allows a landfill to be sited anywhere in the tri-county area." He said this would satisfy legal requirements of siting landfills only within the boundaries of the requesting jurisdiction. The Presiding Officer then suggested the following language: "Allows the site to be outside the boundaries of the requesting jurisdiction as long as it is within the boundaries of the Solid Waste Management Plan." The Executive Officer pointed out that language would allow any local jurisdiction to site a landfill in another local jurisdiction. He said the real question to be answered was which boundary would the state honor the solid waste planning agency designation or solid waste disposal agency designation in determining the boundary for the siting request.

Metro Council  
February 14, 1985  
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In response to Councilor Gardner's question, Executive Officer Gustafson replied he would like Metro to have the authority to request initiation of the state landfill siting process (as outlined in paragraph 3 of the resolution) and that Metro would be making this request as a solid waste planning authority for the tri-county area (per paragraph 4).

Councilor Kelley said she had copies of ORS 459.047 which she would distribute to the Council and explained if the legislation addressed in Resolution No. 85-545 were viewed as emergency legislation, it would be desirable to have a safety net if Metro failed to site a landfill on the local level. She said the problem with this plan was if the state assumed responsibility for the siting process, the state would not be required to secure local land use permits and Metro could end up "shooting itself in the foot." Metro's primary responsibility is to provide solid waste services and a plan for the region, including a landfill site, and it would be important for Metro to respect local rules and regulations in meeting these responsibilities, she explained. Councilor Kelley said the process Metro used for siting a landfill must have integrity and must be unreproachable.

Councilor Waker said he did not agree with Councilor Kelley's statement, especially since he had not heard any critical comments about the selection of Wildwood as a landfill site from any of his constituents. He said he was willing to take the chance to follow through with the Wildwood site because the selection process was defensible. To not follow through would doom Metro to repeating the same lengthy process, he said.

Councilor Hansen said he agreed with Councilor Kelley because the basic flaw with the Executive Officer's plan was the local jurisdiction that would have the new landfill sited within its boundaries would have to trigger the emergency siting process. He said he would be happier with the language suggested by Presiding Officer Bonner.

Regarding paragraph 5, Executive Officer Gustafson said he had added a qualifier that the State Land Use Goals would only be applied if local governments failed to select a site after given an opportunity to do so. This, he explained, was consistent with State Representative Mike Burton's proposed landfill siting legislation and would give local governments the opportunity to responsively exercise their authority.

Councilor Hansen requested copies of Representative Burton's proposed legislation be included in the agenda packet for the February 28 Council meeting.

Mr. Fell explained two additional resolutions would be presented to the Council on February 28. One would address whether food for resale at the Zoo, Zoo admissions revenue and solid waste revenue would be subject to a sales tax. Metro's position would be forwarded to the State Legislature for further consideration, Executive Officer Gustafson said.

Mr. Fell said the second resolution would address restricting Tri-Met's bond covenants. The Executive Officer said he would recommend the Council support a set of state bills which would enable Tri-Met to save money when issuing bonds. Metro should also support an amendment which would limit Tri-Met's ability to place covenants on the bonds as they relate to Metro's ability to assume responsibility for operating Tri-Met, he said. He explained this amendment would be necessary because conditions of one of the applicable bond covenants required that if the appointment authority of the Tri-Met Board changed, the bonds would not be due and payable.

Regarding Resolution No. 85-546, adopting a Council position on proposed legislation to allow Metro to appoint citizen commissions, Executive Officer Gustafson said Metro could not delegate to any commission the power to budget, tax and adopt ordinances. Councilor Waker suggested the second "whereas" of the resolution would be inconsistent with that policy. Executive Officer Bonner requested staff provide new language to reflect Metro's intent.

#### 10. COMMITTEE REPORTS

Councilor Kirkpatrick reported the Intergovernmental Resource Committee (IRC) had held its first meeting, attendance and enthusiasm were high and participants asked good questions. She said the Committee would be meeting the next two Fridays to discuss the IRC budget and the Council was invited to attend these meetings.

Councilor Kirkpatrick said she and Councilor Waker had attended the National Association of Regional Councils (NARC) federal briefing in Washington, D.C., with Executive Officer Gustafson. During the visit, the President's budget was released. She reported the budget recommended eliminating such programs as revenue-sharing (which could effect the level of dues Metro collects from cities and counties), the Small Business Administration, Economic Development Administration, transit operating funds and Section 3 relating to transit. Councilor Kirkpatrick reported there was a strong effort to initiate a freeze on this proposed budget and much more discussion would result before any budget were finally adopted.

Councilor Kirkpatrick also reported a metro caucus is being formed and Executive Officer Gustafson had been instrumental in pushing for

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on January 31, 1985, and urged adoption of the Resolution as a start of the FY 1985-86 budget process.

Motion: Councilor Kirkpatrick moved for adoption of the Resolution and Councilor DeJardin seconded the motion.

Vote: A vote on the motion resulted in:

Ayes: Councilors Cooper, DeJardin, Gardner, Hansen, Kirkpatrick, Kelley, Myers, Oleson, Van Bergen and Waker

Absent: Councilors Kafoury and Bonner

The motion carried and the Resolution was adopted.

7.4 Consideration of Resolutions for the Purpose of Adopting Council Positions on Proposed Legislation

Deputy Presiding Officer Waker explained the purpose of adopting these resolution was to give directives to Metro's legislative representatives about positions of proposed legislation.

Resolution No. 85-543, for the Purpose of Adopting a Council Position on Proposed Legislation Extending Energy Tax Credits. Phillip Fell said the energy tax credit program had been important to Metro because: 1) about \$6 million dollars of energy tax credits had been used by the region's recycling firms; and 2) these tax credits were a major component in making energy recovery facilities financially feasible. HB 2053 would extend the energy tax credit program to 1991, he said.

Motion: Councilor DeJardin moved to adopt Resolution No. 85-543 and Councilor Hansen seconded the motion.

Vote: A vote on the motion resulted in:

Ayes: Councilors Cooper, DeJardin, Gardner, Hansen, Kirkpatrick, Kelley, Myers, Oleson, Van Bergen and Waker

Absent: Councilors Kafoury and Waker

The motion carried and the Resolution was adopted.