

BEFORE THE COUNCIL OF THE
METROPOLITAN SERVICE DISTRICT

FOR THE PURPOSE OF TRANSMITTING)	RESOLUTION NO. 88-996
METRO COUNCIL LEGISLATIVE PROPOSALS)	
FOR THE 1989 LEGISLATIVE SESSION)	Introduced by the
TO THE INTERIM TASK FORCE ON)	Intergovernmental Relations
REGIONAL METROPOLITAN GOVERNMENT)	Committee

WHEREAS, The Interim Task Force on Regional Metropolitan Government, established in November 1987 by the State and Metropolitan Service District, is completing its charge and will present its report and legislative recommendations to the 1989 State Legislature convening January 1989; and

WHEREAS, Said Task Force has requested the Council of the Metropolitan Service District generally to develop and provide proposed legislation for the 1989 State session, and specifically to provide advice on the issue of government structure; and

WHEREAS, The Council, in previous resolutions forwarded to the Task Force, established its support for legislation for:

- 1) Amending the Metro government structure (Resolution No. 88-980),
- 2) Providing Metro revenue raising authority (Resolution No. 88-973),
- 3) Removing legal impediments to the merger of Tri-Met with the District (Resolution No. 88-943),
- 4) Recommending a merger of the Boundary Commission with Metro but providing Commission authority over staff and limited appeals to the Metro Council (Resolution No. 88-934),
- 5) Allowing the Metro Council to reapportion itself and to use fully the Voters' Pamphlet for District measures (Resolution No. 88-916),

the concepts and specific bills attached hereto as Exhibits A through G; and

WHEREAS, The Council has developed additional legislative proposals for:


- 1) Amending ORS 701.015, relating to business licenses, to provide for language consistent with the actual administration of the business license program, and
- 2) Amending ORS 268.180 to clarify the Metro Council's contracting authority

as Exhibits H and I for Task Force consideration; now, therefore,

BE IT RESOLVED,

That the Council of the Metropolitan Service District respectfully transmits the legislative concepts and bills attached hereto as Exhibits A through I to complete its proposed legislation to the Interim Task Force on Regional Metropolitan Government and requests that this legislation be introduced during the 1989 Legislative session.

ADOPTED by the Council of the Metropolitan Service District this 27th day of October, 1988.



Mike Ragsdale, Presiding Officer

jpm a:\res996

EXHIBIT A

Legislative concept: Amend the State statute to increase the size of the Metro Council to 13 elected members and to provide for a Metro Executive Officer appointed by the Council; and to require that such amendment be subject to district voter approval.

a:\res996

EXHIBIT B

Bracketed matter is deleted;
underscored matter is new.

LOCAL GOV'T DUES/REMOVES THE "SUNSET" CLAUSE

A BILL FOR AN ACT

Relating to metropolitan service districts; amending ORS 268.513; and
declaring an emergency.

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

SECTION 1. ORS 268.513 is amended to read:

(1) The council shall consult with the advisory committee appointed under ORS 268.170 before determining whether it is necessary to charge the cities and counties within the district for the services and activities carried out under ORS 268.380 and 268.390. If the council determines that it is necessary to charge cities and counties within the district for any fiscal year, it shall determine the total amount to be charged and shall assess each city and county with the portion of the total amount as the population of the portion of the city or county within the district bears to the total population of the district provided, however, that the service charge shall not exceed the rate of 51 cents per capita [per year] for the fiscal year 1989-1990. In subsequent years, the limit shall be adjusted by an amount equal to 100 percent plus or minus the percentage rate of increase or decrease in the Consumer Price Index. If the adjusted limit results in

EXHIBIT B,

the purposes of this subsection the population of a county does not include the population of any city situated within the boundaries of that county. The population of each city and county shall be determined in the manner prescribed by the council.

(2) The council shall notify each city and county of its intent to assess and the amount it proposes to assess each city and county at least 120 days before the beginning of the fiscal year for which the charge will be made.

(3) The decision of the council to charge the cities and counties within the district, and the amount of the charge upon each, shall be binding upon those cities and counties. Cities and counties shall pay their charge on or before October 1 of the fiscal year for which the charge has been made.

(4) When the council determines that it is necessary to impose the service charges authorized under subsection (1) of this section for any fiscal year, each mass transit district organized under ORS chapter 267 and port located wholly or partly within the district shall also pay a service charge to the district for that fiscal year for the services and activities carried out under ORS 268.380 and 268.390. The charge for a mass transit district or port shall be the amount obtained by applying, for the population of the mass transit district or port within the boundaries of the district, a per capita charge that is 12-1/2 percent of the per capita rate established for cities and counties

for the same fiscal year. Subsections (2) and (3) of this section apply to charges assessed under this subsection.

[(5) This section shall not apply to a fiscal year that ends later than June 30, 1989.]

(5) As used in this section "Consumer Price Index" means the United States City Average for All Urban Consumers, All Items, Base Period 1982 through 1984 Equals 100, as compiled by the United States Department of Labor, Bureau of Labor Statistics.

SECTION 2. This Act being necessary for the immediate preservation of the public peace, health and safety, an emergency is declared to exist, and this Act takes effect on July 1, 1989.

DEC:gpwb

8/25/88

Bill2.Due

EXHIBIT C

EXCISE TAX

A BILL FOR AN ACT

Relating to metropolitan service districts; amending ORS 268.515

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

Section 1. Section 2 of this act is added to ORS Chapter 268

Section 2. (1) To carry out the powers, functions and duties described in this chapter or to study the potential exercise of all powers and functions specified in ORS 268.312, a district may by ordinance impose excise taxes on any person using the facilities, equipment, systems, functions, services or improvements owned, operated, franchised or provided by the district.

(2) The imposition of or increase in an excise tax shall not become effective until 90 days after adoption by the District.

DEC:gpwb

8/17/88

Bill13.exc

EXHIBIT D

Bracketed matter is deleted;
underscored matter is new.

COUNCIL AUTHORITY TO LEVY INCOME TAX

A BILL FOR AN ACT

Relating to Metropolitan Service Districts; amending ORS 268.505

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

Section 1. ORS 268.505 is amended to read:

(1) To carry out the purposes of this chapter, a district may by ordinance impose a tax:

(a) Upon the entire taxable income of every resident of the district subject to tax under ORS chapter 316 and upon the taxable income of every nonresident that is derived from sources within the district which income is subject to tax under ORS chapter 316; and

(b) On or measured by the net income of a mercantile, manufacturing, business, financial, centrally assessed, investment, insurance or other corporation or entity taxable as a corporation doing business, located, or having a place of

EXHIBIT D,

business or office within or having income derived from sources within the district which income is subject to tax under ORS chapter 317 or 318.

(2) The rate of the tax imposed by ordinance adopted under authority of subsection (1) of this section shall not exceed one percent. The tax may be imposed and collected as a surtax upon the state income or excise tax.

(3) Any ordinance adopted pursuant to subsection (1) of this section may require a nonresident, corporation or other entity taxable as a corporation having income from activity both within and without the district taxable by the State of Oregon to allocate and apportion such net income to the district in the manner required for allocation and apportionment of income under ORS 314.280 and 314.605 to 314.675.

(4) If a district adopts an ordinance under this section, the ordinance shall be consistent with any state law relating to the same subject and with rules and regulations of the Department of Revenue prescribed under ORS 305.620.

(5) Any ordinance adopted by the district under subsection (1) of this section shall [receive the approval of the electors of the district before taking effect.] not become effective until 90 days after adoption by the district.

EXHIBIT E

Legislative concept: Amending State statutes to remove any legal impediments to the merger of Tri-Met with Metro.

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EXHIBIT F

Legislative concept: Providing for legislation to be introduced to merge the Boundary Commission with Metro based on the assumptions described in Attachment A hereto.

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ATTACHMENT A

1. The Boundary Commission contains 12 members appointed by the Metro Executive Officer from lists of nominees submitted by Metro Councilors.
2. The Commission annually submits its budget to the Metro Executive Officer for inclusion in the proposed Metro budget and for review and adoption by the Metro Council. A separate Boundary Commission fund is used to budget and account for revenue and expenditures.
3. The Commission current revenue sources would continue: local government assessments authorized by statute, but the level determined by the Metro Council in the annual budget process; and filing fees authorized by statute but set by the Metro Council through adoption of the budget or at any other appropriate time.
4. The Commission hires its staff which is included in the Metro Pay and Classification Plans. The Commission continues to be housed in its existing location until its lease terminates, at which time review of office location will be examined by the Metro Council and the Boundary Commission.
5. Commission decisions continue to be appealable to the Court of Appeals with the exception of proposals for the incorporation of cities, such proposals being appealable to the Metro Council prior to judicial review.
6. The Commission uses Metro central services including fiscal management, legal, contracting, personnel, auditing, etc. The Commission is subject to the appropriate provisions of the Metro Personnel and Contract Codes. The Commission currently gets and pays for these services from various state agencies. The assumption here is that the Commission would receive and pay for these services from Metro.
7. The Commission should assume current Metro responsibilities for administration of the Urban Growth Boundary (approving additions to or deletions from the Boundary) according to criteria adopted by the Metro Council.

MEASURE SUMMARY

Requires one-half of councilors of metropolitan service district to be elected biennially.

Requires that metropolitan service district council, rather than Secretary of State, reapportion subdistricts within district after decennial census.

Requires reapportionment to be done by legislative enactment operative on 250th day before date of next primary election.

Provides procedures for recall of district councilor and filling vacancy in office of district councilor after reapportionment.

A BILL FOR AN ACT

1
2 Relating to the reapportionment of a metropolitan service district;
3 amending ORS 268.150.

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

5 SECTION 1. ORS 268.150 is amended to read:

6 268.150. (1) The governing body of a district shall be a
7 council consisting of 12 part-time councilors, each elected on a
8 nonpartisan basis from a single subdistrict within the boundaries
9 of the metropolitan service district. Each councilor shall be a
10 resident and elector of the subdistrict from which the councilor is
11 elected and shall not be an elected official of any other public
12 body. Each councilor shall be a resident of the subdistrict from
13 which the councilor is elected for not less than one year before
14 taking office. The term of office for a councilor shall be four
15 years beginning on the first Monday in January of the year next
16 following the election. Councilors shall be divided into two
17 classes so that one-half, as nearly as possible, of the number of
18 councilors shall be elected biennially. A vacancy in office shall
19 be filled by a majority of the remaining members of the council.
20 The councilor, before taking office, shall take an oath to support

1 the Constitution of the United States, and the Constitution and
2 laws of this state. Candidates for councilor positions shall be
3 nominated and elected at the primary and general elections as
4 provided in subsection [(3)] (5) of this section.

5 (2) The [Secretary of State] council shall by legislative
6 enactment reapportion the subdistricts after the data of each
7 United States decennial census are compiled and released. The
8 reapportionment shall provide for substantially equal population in
9 each subdistrict. Area within each subdistrict shall be
10 contiguous. In apportioning subdistricts the [Secretary of State]
11 council shall give consideration to existent precincts, maintaining
12 historic and traditional communities and counties as opposed to
13 following existent city or special district boundaries or the
14 political boundaries of state representative or state senate
15 election districts except when these political boundaries coincide
16 with natural boundaries. Any councilor whose term continues
17 through the primary election following reapportionment shall be
18 specifically assigned to a subdistrict. The reapportionment shall
19 be enacted by a vote of a majority of the members of the council
20 and shall be effective upon its enactment. The reapportionment
21 shall become operative on the 250th day before the date of the next
22 primary election.

23 (3) For the purposes of section 18, Article II, Oregon
24 Constitution, a councilor whose term continues through the next
25 primary election following a reapportionment is subject to recall
26 by the electors of the subdistrict to which the councilor is
27 assigned and not by the electors of the subdistrict existing before
28 the latest reapportionment.

1 (4) For the purposes of filling a vacancy in office under
2 subsection (1) of this section, the vacancy shall be deemed to have
3 occurred in the subdistrict to which the councilor is assigned and
4 not the subdistrict existing before the latest reapportionment.
5 This subsection shall apply only to a vacancy in office occurring
6 after the primary election next following a reapportionment and
7 before a person has been elected and qualified to fill the vacancy.

8 [(3)] (5) ORS chapters 249 and 254, relating to the nomination
9 and election of nonpartisan candidates for office, apply to the
10 nomination and election of councilors except as provided in
11 subsection (1) of this section and except that a candidate shall be
12 nominated from the subdistrict in which the candidate resides. The
13 number of signatures within the subdistrict required for a
14 nomination is that required under ORS 249.072 (2), but the
15 requirement that the petition contain signatures of persons
16 residing in a number of precincts shall not apply.

MEASURE SUMMARY

Requires Secretary of State to print metropolitan service district measure and ballot title, explanatory statement and arguments relating to measure in voters' pamphlet prepared for general or special election.

Requires Secretary of State to print district measure information in same manner as county measure information is printed.

A BILL FOR AN ACT

1
2 Relating to the voters' pamphlet; amending ORS 251.285.

3 Be It Enacted by the People of the State of Oregon:

4 SECTION 1. ORS 251.285 is amended to read:

5 251.285. (1) The Secretary of State shall have printed in the
6 voters' pamphlet prepared for a general or special election any
7 county measure or any measure of a metropolitan service district
8 organized under ORS chapter 268, and the ballot title, explanatory
9 statement and arguments relating to the measure, if the
10 requirements of this section are satisfied.

11 (2) The county or district measure, ballot title, explanatory
12 statement and arguments shall not be printed in the voters'
13 pamphlet unless:

14 (a) The ballot title is a concise and impartial statement of
15 the purpose of the measure;

16 (b) The explanatory statement is an impartial, simple and
17 understandable statement explaining the measure and its effect;

18 (c) The county or metropolitan service district adopts and
19 complies with an ordinance that provides a review procedure for a
20 ballot title or explanatory statement which is contested because it
21 does not comply with the requirements of paragraph (a) or (b) of
22 this subsection;

1 (d) The county or metropolitan service district adopts and
2 complies with an ordinance that provides for acceptance of
3 typewritten arguments relating to the measure to be printed on 29.8
4 square inches of the voters' pamphlet; and

5 (e) The county or metropolitan service district does not
6 require of a person filing an argument a payment of more than \$300,
7 or a petition containing more than a number of signatures equal to
8 1,000 electors eligible to vote on the measure or 10 percent of the
9 total of such electors, whichever is less.

10 (3) Any judicial review of a determination made under the
11 review procedures adopted under paragraph (c) of subsection (2) of
12 this section shall be first and finally in the circuit court of the
13 judicial district in which the county is located or, for a district
14 measure, in the circuit court for the most populous county situated
15 within the metropolitan service district.

16 (4) If the county or metropolitan service district has adopted
17 and complied with ordinances prescribed in subsection (2) of this
18 section, the decision to include the county or district measure,
19 ballot title, explanatory statement and arguments in the voters'
20 pamphlet shall be made by:

21 (a) The county governing body with regard to any county measure
22 or the council of the metropolitan service district with regard to
23 any district measure;

24 (b) The chief petitioners of the initiative or referendum with
25 regard to a county or district measure initiated or referred by the
26 people. The chief petitioners shall indicate their decision in a
27 statement signed by all of the chief petitioners and filed with the
28 county clerk or, for a district measure, with the executive officer
29 of the metropolitan service district; or

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1 (c) A political committee, as defined in ORS 260.005, that
2 opposes the county or district measure. The committee shall
3 indicate its decision in a statement signed by every committee
4 director, as defined in ORS 260.005, and filed with the county
5 clerk or, for a district measure, with the executive officer of the
6 metropolitan service district.

7 (5) The county or metropolitan service district shall file the
8 measure, ballot title, explanatory statement and arguments with the
9 Secretary of State not later than the 70th day before the election.
10 The county or district shall pay to the Secretary of State the cost
11 of including the county or district material in the pamphlet as
12 determined by the secretary. The Secretary of State shall not have
13 this material printed in the pamphlet unless:

14 (a) The time for filing a petition for judicial review of a
15 determination made under paragraph (c) of subsection (2) of this
16 section has passed; and

17 (b) The measure, title, statement and arguments properly filed
18 with the county or metropolitan service district, are delivered to
19 the secretary.

EXHIBIT H

A BILL FOR AN ACT

Relating to business licenses; amending ORS 701.015.

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

Section 1. ORS 701.015 is amended to read:

701.015 (1) [When an office of a builder who is registered under ORS 701.055 is located in a city within the boundaries of a metropolitan service district organized under ORS chapter 268 or when the builder derives gross receipts of \$100,000 or more from business conducted within the boundaries of a city during the calendar year for which the business license tax is owed, the builder is required to pay the business license tax, if any, imposed by the city.]

Any builder must pay directly to any city within the boundaries of a metropolitan service district any business license tax imposed by such a city if:

(a) The builder's principal place of business is within the city; or

(b) The builder's office is not within the city but the builder derives gross receipts of \$100,000 or more from business conducted within the boundaries of the city during the calendar year for which the business license tax is owed.

(2) [If a] Any builder [described in of this section], who conducts business during any year in any city [or jurisdiction] within the boundaries of the metropolitan service district other than a city to which the builder has paid a business license tax for that year, [the builder] may apply for a business license from the metropolitan service district.

(3) When a builder obtains a business license from the metropolitan service district under subsection (2) of this section, if a city within the boundaries of the metropolitan service district [and in which the builder does not have an office] other than a city to which the builder is required to directly pay any business license tax pursuant to subsection (1) of this section, demands payment of a business license tax by the builder, the city shall waive such payment upon presentation of proof by the builder that the builder has a business license issued by the metropolitan service district. Possession by the builder of a current business license issued by the metropolitan service district under subsection (2) of this section shall be proof sufficient to obtain the waiver described in this subsection.

(4) The metropolitan service district shall issue a business license to a builder [who is registered under ORS 701.055] when:

(a) The builder presents proof to the district that the builder has paid the business license tax imposed by each city within the boundaries of the district [and in which the builder has an office and] to which the builder must directly pay a business license tax pursuant to subsection (1) of this section; and

(b) The builder pays a license fee to the district. The license fee charged under this paragraph shall be twice the average business license tax charged builders [registered under ORS 701.055] by cities [and counties] located within the metropolitan service district plus an amount that is sufficient to reimburse the district for the administrative expenses of the district incurred in carrying out its duties under this section.

(5) The metropolitan service district shall distribute the business license fees collected by the district under this section, less administrative expenses, to the cities [and counties] that are located wholly or partly within the district and that collect a business license tax. In any year, each such city [and county] shall receive such share of the license fees as the dollar amount of residential building permits that it issued during the year bears to the total dollar amount of residential building permits that were issued during that year by all the cities [and counties] located wholly or partly within the district. Distribution of moneys under this subsection shall be made at least once in each year. The metropolitan service district shall shall determine the dollar amount of residential building permits issued by cities [and counties] within the district from statistics and other data published by the Department of Commerce.

(6) As used in this section:

(a) "Builder" means a builder who is registered under ORS 701.055 for residential work only.

[(a)](b) "Business license tax" means any fee paid by a person to a city or county for any form of license that is required by the city or county in order to conduct business in that city or county. The term does not include any franchise fee or privilege tax imposed by a city upon a public utility under ORS 221.420 or 221.450 or any provision of a city charter.

[(b)](c) "Conducting business" means to engage in any activity in pursuit of gain including activities carried on by a person through officers, agents and employees as well as activities carried on by a person on that person's own behalf.

[(c)](d) "Principal place of business" means the location in this state of the central administrative office of a person conducting business in this state.

GM/srs
0064D/544-5
09/19/88

EXHIBIT I

A BILL FOR AN ACT

Relating to metropolitan service districts; amending ORS 268.180 and declaring an emergency.

Be it Enacted by the People of the State of Oregon.

Section 1. ORS 268.180 is amended to read:

(1) District business shall be administered, and district rules and ordinances shall be enforced, by an executive officer.

(2) The executive officer shall be elected in the same manner provided under ORS 268.150, but the officer shall be elected from the district-at-large on a nonpartisan basis. The number of signatures within the district required for nomination is that required under ORS 249.072(2), but the requirement that the petition contain signatures of persons residing in a number of precincts shall not apply. The executive officer shall be a resident and elector of the district and shall not be an elected official of any other public body. The executive officer shall be a resident in the district for not less than one year before taking office. The term of office for an executive officer shall be four years beginning on the first Monday in January on the next year following the election. A vacancy in office shall be filled by appointment by a majority of the council. The executive officer, before taking office, shall take an oath to support the Constitution of the United States and the Constitution and laws of this state.

(3) The executive officer shall serve full time and shall not be employed by any other person or governmental body while serving the district. The executive officer shall not serve as a member of the council.

(4) The salary and employment benefits of the executive officer shall be set by the council upon the recommendation of a salary commission to be appointed by the council, but shall not be less than that of a district court judge of this state.

(5) The executive officer may employ or dismiss any personnel and contract with any

EXHIBIT I

person or governmental agency to assist in carrying out the duties and powers of the executive officer, subject to the personnel and contract ordinances adopted by the council. The council may by ordinance require that any contract or class of contracts be subject to prior approval by the council or a committee of the council.

Section 2. This Act being necessary for the immediate preservation of the public peace, health and safety, an emergency is declared to exist, and this Act takes effect on its passage.

DB/gl
268.180.amd



METRO

2000 S.W. First Avenue
Portland, OR 97201-5398
503/221-1646

Memorandum

Agenda Item No. 7.6

Meeting Date October 27, 1988

Date: October 17, 1988

To: Metro Council

From: Councilor Jim Gardner, Chair
Council Intergovernmental Relations Committee

Regarding: OCTOBER 11, 1988 INTERGOVERNMENTAL RELATIONS COMMITTEE REPORT ON OCTOBER 27, 1988 COUNCIL AGENDA ITEM NO. 7.6, RESOLUTION NO. 88-996, FOR THE PURPOSE OF TRANSMITTING METRO COUNCIL PROPOSED LEGISLATION (CONCEPTS & BILLS) TO THE INTERIM TASK FORCE ON REGIONAL METROPOLITAN GOVERNMENT

Committee Recommendation: At its October 11, 1988 meeting, the Intergovernmental Relations Committee voted unanimously to recommend Council adoption of Resolution No. 88-996. All Committee members were present -- Councilors Collier, DeJardin, Knowles, Waker and myself. Councilor Kirkpatrick also attended the meeting.

Issues & Committee Discussion: Attached is the October 11 staff report explaining the legislative concepts and specific bills and providing background to each. Council staff reviewed the resolution with the Committee, noting that of the seven legislative pieces proposed, five (Exhibits A through G) were previously approved by the Council through separate resolutions and the remaining two -- the Business License Program housekeeping language and the proposed amendment to clarify Council contracting authority -- were recommended by this Committee and the Finance Committee respectively. Where bills have not been drafted, the resolution's exhibits identify specific legislative concepts supported by the Council.

The Committee raised no issues regarding the two additional legislative proposals. Council staff noted that Council proposed legislation not directed to the Task Force -- specifically, Solid Waste bills -- will be compiled under a separate resolution which will be presented concurrently with Resolution No. 88-996 at the October 27 Council meeting.

jpm a:\igrlegis



METRO

2000 S.W. First Avenue
Portland, OR 97201-5398
503/221-1646

Memorandum

Date: October 11, 1988

To: Council Intergovernmental Relations Committee

From: Jessica Marlitt, Council Analyst *JPM*

Regarding: RESOLUTION NO. 88-996 FOR THE PURPOSE OF TRANSMITTING METRO COUNCIL PROPOSED LEGISLATION (CONCEPTS & BILLS) TO THE INTERIM TASK FORCE ON REGIONAL METROPOLITAN GOVERNMENT

SUMMARY

Attached is Resolution No. 88-996 transmitting the Council's proposed legislation to the Interim Task Force on Regional Metropolitan Government (the Otto Task Force) to submit to the 1989 State Legislative Session.

Resolution No. 88-996 highlights the legislative concepts and bills which the Council has passed to date and which have already been approved by the Council for submission to the Otto Task Force. The resolution also adds two new bills for Council passage to the Task Force:

- o For Metro Contracting, to amend the State statutes to clarify the Council's contracting authority (unanimously recommended by the Finance Committee for Council adoption in the legislative package, October 6 meeting);
- o For the Business License Program, "housekeeping" language to make the State statute language consistent with the actual program implementation (unanimously recommended by the Intergovernmental Relations Committee for Council adoption in the legislative package, September 27 meeting).

BACKGROUND

With the exception of the two bills bulleted above, all of the bills and legislative concepts transmitted in Resolution No. 88-996 have previously been discussed and approved by the Council.

For reference purposes, each legislative proposal's Council background is summarized below according to its exhibit placement in Resolution No. 88-996.

- 1) Exhibit A: Council Resolution No. 88-980, supporting the expansion of the Metro Council to 13 elected members and an appointed Executive Officer; discussed by the Intergovernmental Relations Committee at the September 13, 1988 meeting. Councilor

Waker's August 17, 1988 memo provides the supporting rationale for the resolution.

- 2) Exhibits B - D: Council Resolution No. 88-973, supporting legislation to provide certain Metro revenue raising authority; discussed by the Intergovernmental Relations Committee at the August 23, 1988 meeting. Councilor Ragsdale's August 17, 1988 memo and the Committee's August 24, 1988 Committee report provide supporting analyses and needed discussions for the legislation.
- 3) Exhibits E - F: Council Resolution Nos. 88-943 and 88-934, supporting legislation to remove any legal impediments to the merger of Tri-Met with Metro and recommending a merger of the Boundary Commission with Metro; both resolutions were discussed by the former Planning & Development Committee at its June 15, 1988 meeting. The Committee's report to the Council for the Council's June 23, 1988 meeting provides analyses and rationales for both resolutions.
- 4) Exhibit G: Council Resolution No. 88-916, allowing the Metro Council to reapportion itself and to use fully the Voter's Pamphlet for District measures; discussed by the former Planning & Development Committee at its May 10, 1988 meeting. The Committee report for the Council May 12, 1988 meeting provides analyses and rationales for this resolution.
- 5) Exhibit H: As noted above, no formal resolution yet adopted, but unanimously recommended by the Finance Committee October 6, 1988 for inclusion in the legislative package transmitted to the Otto Task Force. Council staff reports of September 26, 1988 and October 5, 1988 provide the background analyses and rationales for this resolution.
- 6) Exhibit I: As noted above, no formal resolution yet adopted, but unanimously recommended by the Intergovernmental Relations Committee September 27, 1988 for inclusion in the legislative package to go to the Otto Task Force. The Metro Government Relations Manager's September 22, 1988 staff report summarizes the "housekeeping" language changes and clearly identifies the changes' merits.

OTHER LEGISLATION

Resolution No. 88-996 does not include all of the legislation which Metro will submit to the 1989 Legislature, only the legislative concepts and bills which are most appropriately transmitted via the Otto Task Force.

Council Intergovernmental Affairs Committee
October 11, 1988
Page 3

The Solid Waste Committee will have legislation to present for Council approval, but not until the Council's first November meeting, at the earliest. At its October 4 meeting, the Committee determined that none of the potential five draft bills should go through the Otto Task Force. Representative Cease will transmit Council approved Solid Waste Committee bills through his Interim Committee on Environment and Hazardous Waste.

JPM
IGRRPT10.11



METRO

2000 S.W. First Avenue
Portland, OR 97201-5398
503/221-1646

Memorandum

Agenda Item Nos. 7.6, 7.7

Meeting Date Oct. 27, 1988

Date: October 17, 1988

To: Metro Council

From: Jessica Marlitt ^{jpm}, Council Analyst

Regarding: OCTOBER 27, 1988 COUNCIL AGENDA ITEM NO.'s 7.6 and 7.7 ---
METROPOLITAN SERVICE DISTRICT 1989 LEGISLATIVE PACKAGE, AS
FORWARDED VIA RESOLUTION NO.'s 88-996 & 88-1002

THE COUNCIL 1989 LEGISLATIVE PACKAGE

The Council's proposed legislative package for the 1989 Oregon State Legislature comes under two resolutions:

- 1) RESOLUTION NO. 88-996 transmits Council proposed legislative concepts and bills to the Interim Task Force on Regional Metropolitan Government (the "Otto Task Force"). The Council Intergovernmental Relations Committee reviewed these legislative proposals at its October 11 meeting (see attached Committee report) and determined they were appropriate for submission to the Otto Task Force.
- 2) RESOLUTION NO. 88-1002 supports Council proposed solid waste legislative concepts and bills. Representative Ron Cease has indicated that his Interim Committee on Environment and Hazardous Waste will introduce this legislation. The Council Solid Waste Committee will review these legislative proposals at its October 20 special meeting (Committee report to be distributed at the Council meeting).

At its meeting October 25, the Council Intergovernmental Relations Committee will begin addressing the Council's legislative follow-up process, in conjunction with Metro's Government Relations Manager, for the 1989 session.

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EXHIBIT A

Legislative concept: Amend the State statute to increase the size of the Metro Council to 13 elected members and to provide for a Metro Executive Officer appointed by the Council.

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EXHIBIT B

Bracketed matter is deleted;
underscored matter is new.

LOCAL GOV'T DUES/REMOVES THE "SUNSET" CLAUSE

A BILL FOR AN ACT

Relating to metropolitan service districts; amending ORS 268.513 and declaring an emergency.

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

SECTION 1. ORS 268.513 is amended to read:

(1) The council shall consult with the advisory committee appointed under ORS 268.170 before determining whether it is necessary to charge the cities and counties within the district for the services and activities carried out under ORS 268.380 and 268.390. If the council determines that it is necessary to charge cities and counties within the district for any fiscal year, it shall determine the total amount to be charged and shall assess each city and county with the portion of the total amount as the population of the portion of the city or county within the district bears to the total population of the district provided, however, that the service charge shall not exceed the rate of 51 cents per capita [per year] for the fiscal year 1989-1990. In subsequent years, the limit shall be adjusted by an amount equal to 100 percent plus or minus the percentage rate of increase or decrease in the Consumer Price Index as defined in ORS 327.075(4). For

EXHIBIT B,

the purposes of this subsection the population of a county does not include the population of any city situated within the boundaries of that county. The population of each city and county shall be determined in the manner prescribed by the council.

(2) The council shall notify each city and county of its intent to assess and the amount it proposes to assess each city and county at least 120 days before the beginning of the fiscal year for which the charge will be made.

(3) The decision of the council to charge the cities and counties within the district, and the amount of the charge upon each, shall be binding upon those cities and counties. Cities and counties shall pay their charge on or before October 1 of the fiscal year for which the charge has been made.

(4) When the council determines that it is necessary to impose the service charges authorized under subsection (1) of this section for any fiscal year, each mass transit district organized under ORS chapter 267 and port located wholly or partly within the district shall also pay a service charge to the district for that fiscal year for the services and activities carried out under ORS 268.380 and 268.390. The charge for a mass transit district or port shall be the amount obtained by applying, for the population of the mass transit district or port within the boundaries of the district, a per capita charge that is 12-1/2 percent of the per capita rate established for cities and counties

EXHIBIT B,

for the same fiscal year. Subsections (2) and (3) of this section apply to charges assessed under this subsection.

[(5) This section shall not apply to a fiscal year that ends later than June 30, 1989.]

(5)

SECTION 2. This Act being necessary for the immediate preservation of the public peace, health and safety, an emergency is declared to exist, and this Act takes effect on July 1, 1989.

DEC:gpwb

8/11/88

Bill2.Due

EXHIBIT C

EXCISE TAX

A BILL FOR AN ACT

Relating to metropolitan service districts; amending ORS 268.515

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

Section 1. Section 2 of this act is added to ORS Chapter 268

Section 2. (1) To carry out the powers, functions and duties described in this chapter or to study the potential exercise of all powers and functions specified in ORS 268.312, a district may by ordinance impose excise taxes on any person using the facilities, equipment, systems, functions, services or improvements owned, operated, franchised or provided by the district.

(2) The imposition of or increase in an excise tax shall not become effective until 90 days after adoption by the District.

DEC:gpwb

8/17/88

Bill3.exc

EXHIBIT D

Bracketed matter is deleted;
underscored matter is new.

COUNCIL AUTHORITY TO LEVY INCOME TAX

A BILL FOR AN ACT

Relating to Metropolitan Service Districts; amending ORS 268.505

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

Section 1. ORS 268.505 is amended to read:

(1) To carry out the purposes of this chapter, a district may by ordinance impose a tax:

(a) Upon the entire taxable income of every resident of the district subject to tax under ORS chapter 316 and upon the taxable income of every nonresident that is derived from sources within the district which income is subject to tax under ORS chapter 316; and

(b) On or measured by the net income of a mercantile, manufacturing, business, financial, centrally assessed, investment, insurance or other corporation or entity taxable as a corporation doing business, located, or having a place of

EXHIBIT D,

business or office within or having income derived from sources within the district which income is subject to tax under ORS chapter 317 or 318.

(2) The rate of the tax imposed by ordinance adopted under authority of subsection (1) of this section shall not exceed one percent. The tax may be imposed and collected as a surtax upon the state income or excise tax.

(3) Any ordinance adopted pursuant to subsection (1) of this section may require a nonresident, corporation or other entity taxable as a corporation having income from activity both within and without the district taxable by the State of Oregon to allocate and apportion such net income to the district in the manner required for allocation and apportionment of income under ORS 314.280 and 314.605 to 314.675.

(4) If a district adopts an ordinance under this section, the ordinance shall be consistent with any state law relating to the same subject and with rules and regulations of the Department of Revenue prescribed under ORS 305.620.

(5) Any ordinance adopted by the district under subsection (1) of this section shall [receive the approval of the electors of the district before taking effect.] not become effective until 90 days after adoption by the district.

EXHIBIT E

Legislative concept: Amending State statutes to remove any legal impediments to the merger of Tri-Met with Metro.

a:\res996

EXHIBIT F

Legislative concept: Providing for legislation to be introduced to merge the Boundary Commission with Metro based on the assumptions described in Attachment A hereto.

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ATTACHMENT A

1. The Boundary Commission contains 12 members appointed by the Metro Executive Officer from lists of nominees submitted by Metro Councilors.
2. The Commission annually submits its budget to the Metro Executive Officer for inclusion in the proposed Metro budget and for review and adoption by the Metro Council. A separate Boundary Commission fund is used to budget and account for revenue and expenditures.
3. The Commission current revenue sources would continue: local government assessments authorized by statute, but the level determined by the Metro Council in the annual budget process; and filing fees authorized by statute but set by the Metro Council through adoption of the budget or at any other appropriate time.
4. The Commission hires its staff which is included in the Metro Pay and Classification Plans. The Commission continues to be housed in its existing location until its lease terminates, at which time review of office location will be examined by the Metro Council and the Boundary Commission.
5. Commission decisions continue to be appealable to the Court of Appeals with the exception of proposals for the incorporation of cities, such proposals being appealable to the Metro Council prior to judicial review.
6. The Commission uses Metro central services including fiscal management, legal, contracting, personnel, auditing, etc. The Commission is subject to the appropriate provisions of the Metro Personnel and Contract Codes. The Commission currently gets and pays for these services from various state agencies. The assumption here is that the Commission would receive and pay for these services from Metro.
7. The Commission should assume current Metro responsibilities for administration of the Urban Growth Boundary (approving additions to or deletions from the Boundary) according to criteria adopted by the Metro Council.

EXHIBIT G

Legislative concept: Amending the State statutes to allow the Metro Council to reapportion itself and allow full use of the Voter's Pamphlet for District measures.

jpm a:\res996

EXHIBIT H

A BILL FOR AN ACT

Relating to business licenses; amending ORS 701.015.

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

Section 1. ORS 701.015 is amended to read:

701.015 (1) [When an office of a builder who is registered under ORS 701.055 is located in a city within the boundaries of a metropolitan service district organized under ORS chapter 268 or when the builder derives gross receipts of \$100,000 or more from business conducted within the boundaries of a city during the calendar year for which the business license tax is owed, the builder is required to pay the business license tax, if any, imposed by the city.]

Any builder must pay directly to any city within the boundaries of a metropolitan service district any business license tax imposed by such a city if:

(a) The builder's principal place of business is within the city; or

(b) The builder's office is not within the city but the builder derives gross receipts of \$100,000 or more from business conducted within the boundaries of the city during the calendar year for which the business license tax is owed.

(2) [If a] Any builder [described in of this section], who conducts business during any year in any city [or jurisdiction] within the boundaries of the metropolitan service district other than a city to which the builder has paid a business license tax for that year, [the builder] may apply for a business license from the metropolitan service district.

(3) When a builder obtains a business license from the metropolitan service district under subsection (2) of this section, if a city within the boundaries of the metropolitan service district [and in which the builder does not have an office] other than a city to which the builder is required to directly pay any business license tax pursuant to subsection (1) of this section, demands payment of a business license tax by the builder, the city shall waive such payment upon presentation of proof by the builder that the builder has a business license issued by the metropolitan service district. Possession by the builder of a current business license issued by the metropolitan service district under subsection (2) of this section shall be proof sufficient to obtain the waiver described in this subsection.

(4) The metropolitan service district shall issue a business license to a builder [who is registered under ORS 701.055] when:

(a) The builder presents proof to the district that the builder has paid the business license tax imposed by each city within the boundaries of the district [and in which the builder has an office and] to which the builder must directly pay a business license tax pursuant to subsection (1) of this section; and

(b) The builder pays a license fee to the district. The license fee charged under this paragraph shall be twice the average business license tax charged builders [registered under ORS 701.055] by cities [and counties] located within the metropolitan service district plus an amount that is sufficient to reimburse the district for the administrative expenses of the district incurred in carrying out its duties under this section.

(5) The metropolitan service district shall distribute the business license fees collected by the district under this section, less administrative expenses, to the cities [and counties] that are located wholly or partly within the district and that collect a business license tax. In any year, each such city [and county] shall receive such share of the license fees as the dollar amount of residential building permits that it issued during the year bears to the total dollar amount of residential building permits that were issued during that year by all the cities [and counties] located wholly or partly within the district. Distribution of moneys under this subsection shall be made at least once in each year. The metropolitan service district shall shall determine the dollar amount of residential building permits issued by cities [and counties] within the district from statistics and other data published by the Department of Commerce.

(6) As used in this section:

(a) "Builder" means a builder who is registered under ORS 701.055 for residential work only.

[(a)](b) "Business license tax" means any fee paid by a person to a city or county for any form of license that is required by the city or county in order to conduct business in that city or county. The term does not include any franchise fee or privilege tax imposed by a city upon a public utility under ORS 221.420 or 221.450 or any provision of a city charter.

[(b)](c) "Conducting business" means to engage in any activity in pursuit of gain including activities carried on by a person through officers, agents and employees as well as activities carried on by a person on that person's own behalf.

EXHIBIT I

A BILL FOR AN ACT

Relating to metropolitan service districts; amending ORS 268.180 and declaring an emergency.

Be it Enacted by the People of the State of Oregon.

Section 1. ORS 268.180 is amended to read:

(1) District business shall be administered, and district rules and ordinances shall be enforced, by an executive officer.

(2) The executive officer shall be elected in the same manner provided under ORS 268.150, but the officer shall be elected from the district-at-large on a nonpartisan basis. The number of signatures within the district required for nomination is that required under ORS 249.072(2), but the requirement that the petition contain signatures of persons residing in a number of precincts shall not apply. The executive officer shall be a resident and elector of the district and shall not be an elected official of any other public body. The executive officer shall be a resident in the district for not less than one year before taking office. The term of office for an executive officer shall be four years beginning on the first Monday in January on the next year following the election. A vacancy in office shall be filled by appointment by a majority of the council. The executive officer, before taking office, shall take an oath to support the Constitution of the United States and the Constitution and laws of this state.

(3) The executive officer shall serve full time and shall not be employed by any other person or governmental body while serving the district. The executive officer shall not serve as a member of the council.

(4) The salary and employment benefits of the executive officer shall be set by the council upon the recommendation of a salary commission to be appointed by the council, but shall not be less than that of a district court judge of this state.

(5) The executive officer may employ or dismiss any personnel and contract with any

[(c)](d) "Principal place of business" means the location in this state of the central administrative office of a person conducting business in this state.

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person or governmental agency to assist in carrying out the duties and powers of the executive officer, subject to the personnel and contract ordinances adopted by the council. The council may by ordinance require that any contract or class of contracts be subject to prior approval by the council or a committee of the council.

Section 2. This Act being necessary for the immediate preservation of the public peace, health and safety, an emergency is declared to exist, and this Act takes effect on its passage.

DB/gl
268.180.amd