

BEFORE THE COUNCIL OF THE  
METROPOLITAN SERVICE DISTRICT

TRANSMITTING HOUSEKEEPING	)	RESOLUTION NO. 90-1339
LEGISLATION TO THE OREGON STATE	)	
LEGISLATURE FOR INTRODUCTION TO	)	Introduced by the
THE 1991 LEGISLATIVE SESSION	)	Intergovernmental Relations
	)	Committee

WHEREAS, The 1991 session of the Oregon State Legislature will convene on January 14, 1991; and

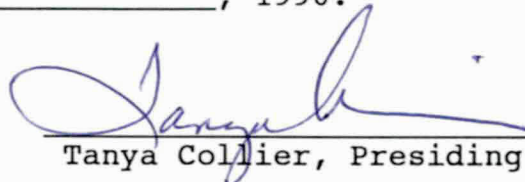
WHEREAS, The Council of the Metropolitan Service District finds a need to introduce to the Legislature four housekeeping bills to make technical amendments to current State statutes in order to clarify and improve provisions regarding the District; and

WHEREAS, The Council supports transmitting the four bills to the Legislature prior to its formal opening session to allow for appropriate assignment to and review by legislative committee(s); now, therefore,

BE IT RESOLVED,

The Council of the Metropolitan Service District respectfully transmits the four housekeeping bills attached hereto as Exhibits A through D for legislative consideration during the 1991 session.

ADOPTED by the Council of the Metropolitan Service District  
this 25th day of October, 1990.

  
Tanya Collier, Presiding Officer

LC 178-1  
1/5/90 (JB/dc)

# D R A F T

## SUMMARY

Provides that judicial review of ballot title or explanatory statement to be printed in voters' pamphlet for metropolitan service district measures shall be in circuit court for county in which district has its administrative office.

### A BILL FOR AN ACT

1  
2 Relating to 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 voters' pam-  
6 phlet prepared for a general or special election any county measure or any  
7 measure of a metropolitan service district organized under ORS chapter 268,  
8 and the ballot title, explanatory statement and arguments relating to the  
9 measure, if the requirements of this section are satisfied.

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

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

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

16 (c) The county or metropolitan service district adopts and complies with  
17 an ordinance that provides a review procedure for a ballot title or explana-  
18 tory statement which is contested because it does not comply with the re-  
19 quirements of paragraph (a) or (b) of this subsection;

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

1 and

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

6 (3) Any judicial review of a determination made under the review proce-  
7 dures adopted under paragraph (c) of subsection (2) of this section shall be  
8 first and finally in the circuit court of the judicial district in which the  
9 county is located or, for a district measure, in the circuit court [*for the most*  
10 *populous county situated within*] **of the judicial district in which the ad-**  
11 **ministrative office of the metropolitan service district is located.**

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

16 (a) The county governing body with regard to any county measure or the  
17 council of the metropolitan service district with regard to any district  
18 measure;

19 (b) The chief petitioners of the initiative or referendum with regard to a  
20 county or district measure initiated or referred by the people. The chief  
21 petitioners shall indicate their decision in a statement signed by all of the  
22 chief petitioners and filed with the county clerk or, for a district measure,  
23 with the executive officer of the metropolitan service district; or

24 (c) A political committee, as defined in ORS 260.005, that opposes the  
25 county or district measure. The committee shall indicate its decision in a  
26 statement signed by every committee director, as defined in ORS 260.005, and  
27 filed with the county clerk or, for a district measure, with the executive of-  
28 ficer of the metropolitan service district.

29 (5) The county or metropolitan service district shall file the measure,  
30 ballot title, explanatory statement and arguments with the Secretary of State  
31 not later than the 70th day before the election. The county or district shall

1 pay to the Secretary of State the cost of including the county or district  
2 material in the pamphlet as determined by the secretary. The Secretary of  
3 State shall not have this material printed in the pamphlet unless:

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

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

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LC 178-2  
1/5/90 (JB/dc)

# D R A F T

## SUMMARY

Continues beyond July 1, 1991, process for selection of members of boundary commission in Portland metropolitan area by executive officer of metropolitan service district.

Declares emergency, effective July 1, 1991.

## A BILL FOR AN ACT

1  
2 Relating to local government boundary commissions; creating new pro-  
3 visions; amending ORS 199.440; and declaring an emergency.

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

5 **SECTION 1.** ORS 199.440, as amended by section 12b, chapter 92, Oregon  
6 Laws 1989, and section 4, chapter 321, Oregon Laws 1989, is further amended  
7 to read:

8 199.440. (1) A boundary commission shall have seven members. However,  
9 if the population of the area subject to the jurisdiction of the commission  
10 exceeds 500,000 and if the area subject to its jurisdiction is wholly or partly  
11 situated within the boundaries of a metropolitan service district, the com-  
12 mission shall have a number of members that is equal to the number of  
13 councilors of the metropolitan service district.

14 **(2) Except as provided in subsection (3) of this section,** the Governor  
15 [*shall*] **may** appoint all members **of a commission** from a list of names ob-  
16 tained from cities, counties and districts within the area of jurisdiction of  
17 the boundary commission. The Governor shall prepare the list annually and  
18 keep it current so timely appointments will be made as vacancies occur. The  
19 Governor shall endeavor to appoint members from the various cities, coun-  
20 ties and districts so as to provide geographical diversity of representation  
21 on the commission.

22 **(3) When the area subject to the jurisdiction of a boundary com-**

1 mission is wholly or partly situated within the boundaries of a met-  
2 ropolitan service district organized under ORS chapter 268, the  
3 members of that boundary commission shall be appointed by the  
4 executive officer of the metropolitan service district. The executive  
5 officer shall appoint members of a boundary commission from a list  
6 of individuals nominated by the councilors of the district. Each coun-  
7 cilor shall nominate no fewer than three nor more than five individ-  
8 uals for appointment to the boundary commission. When first  
9 appointing all the members of a boundary commission, the executive  
10 officer shall appoint one individual from among those nominated by  
11 each councilor. Thereafter, as the term of a member of a boundary  
12 commission expires or as a vacancy occurs, the executive officer shall  
13 appoint an individual nominated by the councilor or a successor who  
14 nominated the boundary commission member whose term has expired  
15 or who vacated the office. The executive officer shall endeavor to ap-  
16 point members from various cities, counties and district so as to pro-  
17 vide geographical diversity of representation on the boundary  
18 commission.

19 [(2)] (4) To be qualified to serve as a member of a commission, a person  
20 must be a resident of the area subject to the jurisdiction of the commission.  
21 A person who is an elected or appointed officer or employee of a city, county  
22 or district may not serve as a member of a commission. No more than two  
23 members of a commission shall be engaged principally in the buying, selling  
24 or developing of real estate for profit as individuals, or receive more than  
25 half of their gross income as or be principally occupied as members of any  
26 partnership, or as officers or employees of any corporation, that is engaged  
27 principally in the buying, selling or developing of real estate for profit. No  
28 more than two members of a commission shall be engaged in the same kind  
29 of business, trade, occupation or profession.

30 [(3)] (5) A member shall be appointed to serve for a term of four years.  
31 A person shall not be eligible to serve for more than two consecutive terms,

1 exclusive of:

2 (a) Any service for the unexpired term of a predecessor in office.

3 (b) Any term less than four years served on the commission first ap-  
4 pointed.

5 [(4)] (6) A commission may declare the office of a member vacant for any  
6 cause set out by ORS 236.010 or for failure, without good reason, to attend  
7 two consecutive meetings of the commission. A vacancy shall be filled by the  
8 Governor or by the executive officer of a metropolitan service district,  
9 by appointment for the unexpired term. If the Governor or the executive  
10 officer has not filled a vacancy within 45 days after the vacancy occurs,  
11 then, and until such time as the vacancy is filled, the remaining members  
12 of a commission shall comprise and act as the full membership of the com-  
13 mission for purposes of ORS 199.445.

14 SECTION 2. The amendments to ORS 199.440 by section 1 of this Act are  
15 not intended to affect the provisions of sections 1 and 14, chapter 882,  
16 Oregon Laws 1987.

17 SECTION 3. This Act being necessary for the immediate preservation of  
18 the public peace, health and safety, an emergency is declared to exist, and  
19 this Act takes effect July 1, 1991.

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LC 178-3  
4/20/90 (JB/lc)

# D R A F T

## SUMMARY

Allows council of metropolitan service district instead of Secretary of State to reapportion and describe 13 subdistricts into which the district will be divided on January 1, 1993.

Repeals statutory legal description of boundaries of metropolitan service district.

Declares emergency, effective July 1, 1991.

## A BILL FOR AN ACT

1

2 Relating to metropolitan service districts; amending ORS 815.300 and section  
3 2, chapter 321, Oregon Laws 1989; repealing ORS 268.125; and declaring  
4 an emergency.

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

6 **SECTION 1.** Section 2, chapter 321, Oregon Laws 1989, is amended to  
7 read:

8 **Sec. 2. (1) Notwithstanding ORS 268.150 (2), the council of the met-**  
9 **ropolitan service district shall not reapportion the 12 subdistricts of**  
10 **the metropolitan service district following the 1990 federal decennial**  
11 **census. In lieu of such reapportionment, not later than [January 1,] the**  
12 **250th day before the date of the regular primary election in 1992, the**  
13 **[Secretary of State] council shall describe the 13 subdistricts into which the**  
14 **district will be divided on [January 1,] the first Monday in January 1993.**  
15 **When describing the 13 subdistricts under this section, the [Secretary of**  
16 **State] council shall satisfy the requirements of ORS 268.150 (2). The de-**  
17 **scription of 13 subdistricts under this subsection and the assignment**  
18 **of councilors to subdistricts under subsection (4) of this section shall**  
19 **be accomplished in one legislative enactment by the council.**

20 (2) Candidates for the office of councilor at the first regular primary  
21 election after *[the effective date of this Act]* **July 1, 1991**, shall be nominated



1 from the subdistricts described under subsection (1) of this section and shall  
2 be elected from such subdistricts.

3 (3) Notwithstanding subsections (1) and (2) of this section, a person  
4 serving as councilor of a metropolitan service district on [*the effective date*  
5 *of this Act*] **July 1, 1991**, shall continue to reside in and represent the sub-  
6 district to which the person was elected until the first Monday in January  
7 1993.

8 (4) [*Not later than February 1, 1992,*] Each councilor of a metropolitan  
9 service district whose term continues beyond the first Monday in January  
10 1993, shall be specifically assigned to a subdistrict described by the [*Secre-*  
11 *tary of State*] **council** under subsection (1) of this section for that portion  
12 of the councilor's term that extends beyond the first Monday in January  
13 1993. [*The council of the metropolitan service district shall make the assign-*  
14 *ments to subdistricts required by this subsection.*]

15 (5) **Except for a candidate seeking election for the unexpired term**  
16 **of a councilor who vacated the office**, each candidate for the office of  
17 councilor who is elected to that office at the regular general election in 1992  
18 shall hold office for a term of four years beginning on the first Monday in  
19 January 1993.

20 (6) On [*January 1,*] **the first Monday in January** 1993, the district shall  
21 be divided into the 13 subdistricts described by the [*Secretary of State*]  
22 **council** under subsection (1) of this section.

23 **SECTION 2.** ORS 815.300 is amended to read:

24 815.300. This section establishes exemptions from the requirements under  
25 ORS 815.295 to be equipped with a certified pollution control system. Ex-  
26 emptions established by this section are in addition to any exemptions es-  
27 tablished by ORS 801.026. The exemptions established in this section are also  
28 applicable to requirements for certification of pollution control equipment  
29 before registration under ORS 803.350 and 803.465. All of the following ve-  
30 hicles are exempt from the requirements under ORS 815.295:

31 (1) Any vehicle that is not a motor vehicle.

1 (2) Any vehicle unless the vehicle is registered within:

2 (a) The boundaries [*designated in ORS 268.125,*] of the metropolitan ser-  
3 vice district formed under ORS chapter 268 for the metropolitan area, as  
4 defined in ORS 268.020, which includes the City of Portland, Oregon.

5 (b) Boundaries designated by the Environmental Quality Commission un-  
6 der ORS 468.397.

7 (3) Any new motor vehicle or new motor vehicle engine when the regis-  
8 tration results from the initial retail sale thereof.

9 (4) Any motor vehicle with a model year that predates by more than 20  
10 years the year in which registration or renewal of registration is required.

11 (5) Motor vehicles that are registered as farm vehicles under ORS 805.300  
12 or apportioned farm vehicles under ORS 805.300.

13 (6) Special interest vehicles that are maintained as collectors' items and  
14 used for exhibitions, parades, club activities and similar uses but not used  
15 primarily for the transportation of persons or property.

16 (7) Fixed load vehicles.

17 (8) Vehicles that are proportionally registered under ORS 768.007 and  
18 768.009 in accordance with agreements established under ORS 768.005.

19 (9) Electric motor vehicles.

20 (10) First response rescue units operated by political subdivisions of this  
21 state that are not used to transport persons suffering from illness, injury or  
22 disability.

23 **SECTION 3.** ORS 268.125 is repealed.

24 **SECTION 4.** This Act being necessary for the immediate preservation of  
25 the public peace, health and safety, an emergency is declared to exist, and  
26 this Act takes effect July 1, 1991.

27

LC 1263  
8/23/90 (JB/lb)

# D R A F T

## SUMMARY

Expands scope of business licensing by metropolitan service district to include as contractors all contractors instead of contractors who only engage in residential work.

Increases from \$100,000 to \$125,000 gross receipts amount that subjects contractor to business license tax of city which is not contractor's principal place of business.

Repeals previous definition of "builder."

Declares emergency, effective July 1, 1991.

## A BILL FOR AN ACT

1

2 Relating to business licenses; creating new provisions; amending ORS  
3 701.015; repealing ORS 701.007; and declaring an emergency.

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

5 **SECTION 1.** It is the intent of the Legislative Assembly to reduce the  
6 number of city business licenses that construction contractors and landscape  
7 contractors are required to obtain in order to conduct business in the  
8 Portland metropolitan area. It is the purpose of this Act to enable con-  
9 struction contractors and landscape contractors to secure from the metro-  
10 politan service district one business license that will permit the conduct of  
11 business by such contractors in cities in which the contractors perform a  
12 limited amount of work and in which they do not have a principal place of  
13 business. Furthermore, it is also the intent of the Legislative Assembly that  
14 this Act apply only to contractors engaged in the building trades and crafts  
15 and to landscape contractors without regard to any subsequent expansion of  
16 the jurisdiction of the Construction Contractors Board over other trades and  
17 crafts. It is declared to be the policy of this state that, to the maximum ex-  
18 tent possible consistent with the requirements of this Act, the cities within  
19 the boundaries of the metropolitan service district be allowed to control the  
20 imposition of business license taxes and to maintain the level of revenues

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

1 obtained from those taxes. The amount and trends of revenue produced or  
2 distributed to each city is intended to reflect the construction business ac-  
3 tivity within the participating cities.

4 **SECTION 2.** ORS 701.015 is amended to read:

5 701.015. (1) A [*builder*] **contractor** or landscape contractor shall pay di-  
6 rectly to any city within the boundaries of a metropolitan service district  
7 any business license tax imposed by the city when:

8 (a) The principal place of business of the [*builder*] **contractor** or the  
9 landscape contractor is within the city; or

10 (b) The principal place of business of the [*builder*] **contractor** or the  
11 landscape contractor is not within the city but the [*builder*] **contractor** or  
12 landscape contractor derives gross receipts of [~~\$100,000~~] **\$125,000** or more  
13 from business conducted within the boundaries of the city during the calen-  
14 dar year for which the business license tax is owed.

15 (2) A [*builder*] **contractor** or landscape contractor who conducts business  
16 during any year in any city within the boundaries of the metropolitan service  
17 district other than a city to which the [*builder*] **contractor** or landscape  
18 contractor has paid a business license tax for that year may apply for a  
19 business license from the metropolitan service district.

20 (3) When a [*builder*] **contractor** or landscape contractor obtains a busi-  
21 ness license from the metropolitan service district under subsection (2) of  
22 this section, if a city within the boundaries of the metropolitan service dis-  
23 trict other than a city to which the [*builder*] **contractor** or landscape con-  
24 tractor is required to directly pay a business license tax under subsection (1)  
25 of this section demands payment of a business license tax by the [*builder*]  
26 **contractor** or landscape contractor, the city shall waive such payment upon  
27 presentation of proof by the [*builder*] **contractor** or landscape contractor  
28 that the [*builder*] **contractor** or landscape contractor has a business license  
29 issued by the metropolitan service district. Possession by the [*builder*] **con-**  
30 **tractor** or landscape contractor of a current business license issued by the  
31 metropolitan service district under subsection (2) of this section shall be

1 proof sufficient to obtain the waiver described in this subsection.

2 (4) The metropolitan service district shall issue a business license to a  
3 [builder] **contractor** or landscape contractor when:

4 (a) The [builder] **contractor** or landscape contractor presents proof to the  
5 district that the [builder] **contractor** or landscape contractor has paid the  
6 business license tax imposed by each city within the boundaries of the dis-  
7 trict to which the [builder] **contractor** or landscape contractor must directly  
8 pay a business license tax under subsection (1) of this section; and

9 (b) The [builder] **contractor** or landscape contractor pays a license fee  
10 to the district. The license fee charged under this paragraph shall be twice  
11 the average business license tax charged [builders] **contractors** by cities  
12 located within the metropolitan service district plus an amount that is suf-  
13 ficient to reimburse the district for the administrative expenses of the dis-  
14 trict incurred in carrying out its duties under this section.

15 (5) The metropolitan service district shall distribute the business license  
16 fees collected by the district under this section, less administrative expenses,  
17 to the cities that are located wholly or partly within the district and that  
18 collect a business license tax. In any year, each such city shall receive such  
19 share of the license fees as the number of residential building permits that  
20 it issued during that year bears to the total number of residential building  
21 permits that were issued during that year by all of the cities located wholly  
22 or partly within the district. Distribution of moneys under this subsection  
23 shall be made at least once in each year. The metropolitan service district  
24 shall determine the number of residential building permits issued by cities  
25 within the district from statistics and other data published by the [*Con-*  
26 *struction Contractors Board*] **State Housing Council**.

27 (6) As used in this section:

28 [(a) "Builder" means a person who is registered under ORS 701.055 while  
29 engaging in residential work only.]

30 [(b)] (a) "Business license tax" means any fee paid by a person to a city  
31 or county for any form of license that is required by the city or county in

1 order to conduct business in that city or county. The term does not include  
2 any franchise fee or privilege tax imposed by a city upon a public utility  
3 under ORS 221.420 or 221.450 or any provision of a city charter.

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

8 [(d)] (c) "Landscape contractor" means a person or business who is li-  
9 censed under ORS 671.510 to 671.710 as a landscape contractor.

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

13 **SECTION 3.** ORS 701.007 is repealed.

14 **SECTION 4.** This Act being necessary for the immediate preservation of  
15 the public peace, health and safety, an emergency is declared to exist, and  
16 this Act takes effect July 1, 1991.

17

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PROPOSED AMENDMENTS TO ORS 268.360  
LC 1568

ORS 268.360 is amended by substituting the following subsection (2) for the existing subsection.

"(2) Unless otherwise specified by the council in the ordinance, an ordinance shall become effective 90 days after its adoption unless vetoed by the executive officer. If an ordinance is vetoed by the executive officer and the veto is overridden by the council, the date of adoption shall be the date the veto is overridden. Except as provided in ORS 268.465 and 268.507, the council by a majority vote of its members may declare that an emergency exists in which case an ordinance may take effect immediately or in less than 90 days. The council by a majority vote of its members may prescribe that an ordinance take effective later than the 90th day after its adoption. If the council refers an ordinance to the electors, it shall become effective on the 30th day after its approval by a majority of the electors voting on the measure or at a later date specified in the ordinance. If a proper referendum petition is filed with the filing officer not later than the 90th day after adoption of the ordinance and prior to the effective date of the ordinance, the effective date of the ordinance shall be suspended. An ordinance referred by a proper referendum petition shall become inoperative and not take effect if a majority of the electors voting on the measure reject the ordinance."

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## COUNCIL STAFF REPORT

### RESOLUTION NO. 90-1339, TRANSMITTING HOUSEKEEPING LEGISLATION TO THE OREGON STATE LEGISLATURE FOR INTRODUCTION TO THE 1991 LEGISLATIVE SESSION

Date: October 16, 1990

Presented by: J. Marlitt

#### SUMMARY

Attached is Resolution No. 90-1339 transmitting proposed Metro housekeeping legislation to the State Legislature for the 1991 session.

Resolution No. 90-1339 requests legislative consideration of five bills drafted by the Metro Government Relations Manager to make the following technical adjustments:

- o provide for judicial review of Metro Voters' Pamphlet materials by the Circuit Court in which the District's administrative offices are located;
- o make permanent Metro's selection process for Boundary Commission members;
- o remove the detailed legal Metro boundary description from Metro's enabling legislation (ORS 268) and clarify Metro's authority to conduct reapportionment;
- o amend the Builder's Business License provisions; and
- o amend ORS 268 to have District ordinances become effective after 90 days unless otherwise provided and allow use of "emergency clause" provisions on certain ordinances.

#### BACKGROUND & EXPLANATION

The Intergovernmental Relations (IGR) Committee has previously reviewed all of the proposed housekeeping measures and unanimously supported their introduction to the 1991 Legislature.

At the August 28, 1990 IGR meeting, the Committee reviewed four of the proposed measures -- LC 178-1, LC 178-2, LC 178-3, and LC 1263 (Resolution 90-1339 Exhibits A through E respectively) -- and unanimously recommended they be grouped together under a single resolution for transmittal to the State as Metro housekeeping legislation.

On September 13, 1990, the Committee discussed the proposed fifth bill as first written by the Government Relations Manager -- LC 1568 (Exhibit F to the resolution) -- and unanimously supported sending it to State Legal Counsel for formal development as an LC Draft for subsequent submittal to the legislature. At that time, the Government Relations Manager indicated the bill could be interpreted as housekeeping legislation, but he was not certain if it would be appropriate to proceed in that vein. After further review, however, he has recommended the bill be included in Metro's housekeeping measure.

Each of the proposed housekeeping measures is summarized below, identified by its Exhibit placement in Resolution No. 90-1339:



EXHIBIT A - LC 178-1: Amends ORS 251.285 for judicial review of Metro explanatory statements in the Voters' Pamphlet. The amendment would provide for judicial review by the circuit court of the judicial district in which Metro's administrative offices are located (now Multnomah County). Current law provides for review by the circuit court of the most populous county in the District. The amendment's proposed language is consistent with provisions for judicial review of ballot titles of Metro measures.

EXHIBIT B - LC 178-2: Extends the Executive Officer's authority beyond July 1, 1991 to appoint the Boundary Commission members, consistent with the current process of using Councilor nominations and striving for geographical diversity and representation on the Commission.

EXHIBIT C - LC 178-3: Clarifies Metro Council authority to reapportion the service district into 13 subdistricts effective January 1, 1993. During the 1989 session, the Legislature adopted a bill increasing the Council to 13 members as of 1992, but the bill did not correctly incorporate provisions allowing the Council to reapportion itself instead of the Secretary of State. As a result, both the Council and the Secretary of State now are required to reapportion the Service District; proper conflict amendments were never enacted in 1989 to clarify District reapportionment responsibilities.

EXHIBIT D - LC 1263: Expands Metro's Business Licensing provisions to include all contractors instead of residential builders only and increases from \$100,000 to \$125,000 the gross receipts cap which subjects a contractor to pay business license taxes in cities which are not his/her principal place of business. The amendment does not change the geographical areas for which the licensing provisions apply.

EXHIBIT E - LC 1568: Amends ORS 268.360 of Metro's enabling statute to be consistent with general ORS provisions providing for local jurisdiction ordinances to become effective 90 days after their adoption, unless otherwise provided in an ordinance. Also allows for use of emergency adoption clause to enact ordinances (except revenue measures) immediately upon adoption or in less than 90 days if a majority of the Metro Council members so votes. The current statute language is broadly written and literally allows voters at any time after a Metro ordinance is adopted to file a referendum petition. Upon filing a petition, the ordinance would become "inoperative" until voted on by the District's electors. The proposed amendments would bring Metro ordinance adoption provisions in conformance with other local jurisdictions procedures as provided under State law.

## INTERGOVERNMENTAL RELATIONS COMMITTEE REPORT

### RESOLUTION NO. 90-1339, TRANSMITTING HOUSEKEEPING LEGISLATION TO THE OREGON STATE LEGISLATURE FOR INTRODUCTION TO THE 1991 LEGISLATIVE SESSION

Date: October 24, 1990

Presented by: Councilor Gardner

**COMMITTEE RECOMMENDATION:** At the October 23, 1990 Intergovernmental Relations Committee meeting, Councilors Bauer, Devlin, Hansen, Gardner, and McFarland voted unanimously to recommend Council adopt Resolution No. 90-1339, with four exhibits.

**COMMITTEE DISCUSSION/ISSUES:** Resolution No. 90-1339 requests legislative consideration of four bills drafted by the Metro Government Relations Manager to make the following technical adjustments:

- o provide for judicial review of Metro Voters' Pamphlet materials by the Circuit Court in which the District's administrative offices are located;
- o make permanent Metro's selection process for Boundary Commission members;
- o remove the detailed legal Metro boundary description from Metro's enabling legislation (ORS 268) and clarify Metro's authority to conduct reapportionment; and,
- o amend ORS 268 to have District ordinances become effective after 90 days unless otherwise provided and allow use of "emergency clause" provisions on certain ordinances.

#### BACKGROUND & EXPLANATION

At the August 28, 1990 IGR meeting, the Committee reviewed four measures -- LC 178-1, LC 178-2, LC 178-3, and LC 1263 -- and unanimously recommended they be grouped together under a single resolution for transmittal to the State as Metro housekeeping legislation.

On September 13, 1990, the Committee discussed a proposed fifth bill as first written by the Government Relations Manager -- LC 1568 -- and unanimously supported sending it to State Legal Counsel for formal development as an LC Draft for subsequent submittal to the legislature. At that time, the Government Relations Manager indicated the bill could be interpreted as house-keeping legislation, but he was not certain if it would be appropriate to proceed in that vein. After further review, however, he has recommended the bill be included in Metro's housekeeping measure.

At the October 23, 1990 IGR meeting, the Government Relations Manager informed the Committee that LC 1263 will be introduced by Sen. Otto through the Committee on Government Operations. The IGR Committee

accordingly severed LC 1263 from the District's house-keeping package, while also voicing its future support for LC 1263. This reduced the number of house-keeping bills from five to four. It will be appropriate for the Council to consider supporting LC 1263, along with other legislation, after it has been introduced by Sen. Otto.

EXHIBIT A - LC 178-1: Amends ORS 251.285 for judicial review of Metro explanatory statements in the Voters' Pamphlet. The amendment would provide for judicial review by the circuit court of the judicial district in which Metro's administrative offices are located (now Multnomah County). Current law provides for review by the circuit court of the most populous county in the District. The amendment's proposed language is consistent with provisions for judicial review of ballot titles of Metro measures.

EXHIBIT B - LC 178-2: Extends the Executive Officer's authority beyond July 1, 1991 to appoint the Boundary Commission members, consistent with the current process of using Councilor nominations and seeking geographical representation on the Commission.

EXHIBIT C - LC 178-3: Clarifies Metro Council authority to reapportion the District into 13 subdistricts effective January 1, 1993. During the 1989 session, the Legislature adopted a bill increasing the Council to 13 members as of 1992, but the bill did not correctly incorporate provisions allowing the Council to reapportion itself instead of the Secretary of State. Correction amendments were drafted but not enacted. As a result, both the Council and the Secretary of State now are required to reapportion the District.

EXHIBIT D - LC 1568: Amends ORS 268.360 of Metro's enabling statute to be consistent with general ORS provisions providing for local jurisdiction ordinances to become effective 90 days after their adoption, unless otherwise provided in an ordinance. Also allows for use of emergency adoption clause to enact ordinances (except revenue measures) immediately upon adoption or in less than 90 days if a majority of the Metro Council members so votes. The current statute language is broadly written and literally allows voters at any time after a Metro ordinance is adopted to file a referendum petition. Upon filing a petition, the ordinance would become "inoperative" until voted on by the District's electors. The proposed amendments would bring Metro ordinance adoption provisions in conformance with other local jurisdictions' procedures as provided under State law.

LC 1263 (REMOVED from the house-keeping package; see explanation above): would expand Metro's Business Licensing provisions to include all contractors instead of residential builders only and increase from \$100,000 to \$125,000 the gross receipts cap which subjects a contractor to pay business license taxes in cities which are not his/her principal place of business. The amendment does not change the geographical areas for which the licensing provisions apply.

BEFORE THE COUNCIL OF THE  
METROPOLITAN SERVICE DISTRICT

TRANSMITTING HOUSEKEEPING	)	RESOLUTION NO. 90-1339
LEGISLATION TO THE OREGON STATE	)	
LEGISLATURE FOR INTRODUCTION TO	)	Introduced by the
THE 1991 LEGISLATIVE SESSION	)	Intergovernmental Relations
	)	Committee

WHEREAS, The 1991 session of the Oregon State Legislature will convene on January 14, 1991; and

WHEREAS, The Council of the Metropolitan Service District finds a need to introduce to the Legislature four housekeeping bills to make technical amendments to current State statutes in order to clarify and improve provisions regarding the District; and

WHEREAS, The Council supports transmitting the four bills to the Legislature prior to its formal opening session to allow for appropriate assignment to and review by legislative committee(s); now, therefore,

BE IT RESOLVED,

The Council of the Metropolitan Service District respectfully transmits the four housekeeping bills attached hereto as Exhibits A through D for legislative consideration during the 1991 session.

ADOPTED by the Council of the Metropolitan Service District this \_\_\_\_\_ day of \_\_\_\_\_, 1990.

\_\_\_\_\_  
Tanya Collier, Presiding Officer

LC 178-1  
1/5/90 (JB/dc)

# D R A F T

## SUMMARY

Provides that judicial review of ballot title or explanatory statement to be printed in voters' pamphlet for metropolitan service district measures shall be in circuit court for county in which district has its administrative office.

## A BILL FOR AN ACT

1  
2 Relating to 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 voters' pam-  
6 phlet prepared for a general or special election any county measure or any  
7 measure of a metropolitan service district organized under ORS chapter 268,  
8 and the ballot title, explanatory statement and arguments relating to the  
9 measure, if the requirements of this section are satisfied.

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

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

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

16 (c) The county or metropolitan service district adopts and complies with  
17 an ordinance that provides a review procedure for a ballot title or explana-  
18 tory statement which is contested because it does not comply with the re-  
19 quirements of paragraph (a) or (b) of this subsection;

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

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

1 and

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

6 (3) Any judicial review of a determination made under the review proce-  
7 dures adopted under paragraph (c) of subsection (2) of this section shall be  
8 first and finally in the circuit court of the judicial district in which the  
9 county is located or, for a district measure, in the circuit court [*for the most*  
10 *populous county situated within*] **of the judicial district in which the ad-**  
11 **ministrative office of the metropolitan service district is located.**

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

16 (a) The county governing body with regard to any county measure or the  
17 council of the metropolitan service district with regard to any district  
18 measure;

19 (b) The chief petitioners of the initiative or referendum with regard to a  
20 county or district measure initiated or referred by the people. The chief  
21 petitioners shall indicate their decision in a statement signed by all of the  
22 chief petitioners and filed with the county clerk or, for a district measure,  
23 with the executive officer of the metropolitan service district; or

24 (c) A political committee, as defined in ORS 260.005, that opposes the  
25 county or district measure. The committee shall indicate its decision in a  
26 statement signed by every committee director, as defined in ORS 260.005, and  
27 filed with the county clerk or, for a district measure, with the executive of-  
28 ficer of the metropolitan service district.

29 (5) The county or metropolitan service district shall file the measure,  
30 ballot title, explanatory statement and arguments with the Secretary of State  
31 not later than the 70th day before the election. The county or district shall

1 pay to the Secretary of State the cost of including the county or district  
2 material in the pamphlet as determined by the secretary. The Secretary of  
3 State shall not have this material printed in the pamphlet unless:

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

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

8

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LC 178-2  
1/5/90 (JB/dc)

# D R A F T

## SUMMARY

Continues beyond July 1, 1991, process for selection of members of boundary commission in Portland metropolitan area by executive officer of metropolitan service district.

Declares emergency, effective July 1, 1991.

## A BILL FOR AN ACT

1  
2 Relating to local government boundary commissions; creating new pro-  
3 visions; amending ORS 199.440; and declaring an emergency.

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

5 **SECTION 1.** ORS 199.440, as amended by section 12b, chapter 92, Oregon  
6 Laws 1989, and section 4, chapter 321, Oregon Laws 1989, is further amended  
7 to read:

8 199.440. (1) A boundary commission shall have seven members. However,  
9 if the population of the area subject to the jurisdiction of the commission  
10 exceeds 500,000 and if the area subject to its jurisdiction is wholly or partly  
11 situated within the boundaries of a metropolitan service district, the com-  
12 mission shall have a number of members that is equal to the number of  
13 councilors of the metropolitan service district.

14 (2) Except as provided in subsection (3) of this section, the Governor  
15 [*shall*] may appoint all members of a commission from a list of names ob-  
16 tained from cities, counties and districts within the area of jurisdiction of  
17 the boundary commission. The Governor shall prepare the list annually and  
18 keep it current so timely appointments will be made as vacancies occur. The  
19 Governor shall endeavor to appoint members from the various cities, coun-  
20 ties and districts so as to provide geographical diversity of representation  
21 on the commission.

22 (3) When the area subject to the jurisdiction of a boundary com-



1 mission is wholly or partly situated within the boundaries of a met-  
2 ropolitan service district organized under ORS chapter 268, the  
3 members of that boundary commission shall be appointed by the  
4 executive officer of the metropolitan service district. The executive  
5 officer shall appoint members of a boundary commission from a list  
6 of individuals nominated by the councilors of the district. Each coun-  
7 cilor shall nominate no fewer than three nor more than five individ-  
8 uals for appointment to the boundary commission. When first  
9 appointing all the members of a boundary commission, the executive  
10 officer shall appoint one individual from among those nominated by  
11 each councilor. Thereafter, as the term of a member of a boundary  
12 commission expires or as a vacancy occurs, the executive officer shall  
13 appoint an individual nominated by the councilor or a successor who  
14 nominated the boundary commission member whose term has expired  
15 or who vacated the office. The executive officer shall endeavor to ap-  
16 point members from various cities, counties and district so as to pro-  
17 vide geographical diversity of representation on the boundary  
18 commission.

19 [(2)] (4) To be qualified to serve as a member of a commission, a person  
20 must be a resident of the area subject to the jurisdiction of the commission.  
21 A person who is an elected or appointed officer or employee of a city, county  
22 or district may not serve as a member of a commission. No more than two  
23 members of a commission shall be engaged principally in the buying, selling  
24 or developing of real estate for profit as individuals, or receive more than  
25 half of their gross income as or be principally occupied as members of any  
26 partnership, or as officers or employees of any corporation, that is engaged  
27 principally in the buying, selling or developing of real estate for profit. No  
28 more than two members of a commission shall be engaged in the same kind  
29 of business, trade, occupation or profession.

30 [(3)] (5) A member shall be appointed to serve for a term of four years.  
31 A person shall not be eligible to serve for more than two consecutive terms,

1 exclusive of:

2 (a) Any service for the unexpired term of a predecessor in office.

3 (b) Any term less than four years served on the commission first ap-  
4 pointed.

5 [(4)] (6) A commission may declare the office of a member vacant for any  
6 cause set out by ORS 236.010 or for failure, without good reason, to attend  
7 two consecutive meetings of the commission. A vacancy shall be filled by the  
8 Governor **or by the executive officer of a metropolitan service district,**  
9 by appointment for the unexpired term. If the Governor **or the executive**  
10 **officer** has not filled a vacancy within 45 days after the vacancy occurs,  
11 then, and until such time as the vacancy is filled, the remaining members  
12 of a commission shall comprise and act as the full membership of the com-  
13 mission for purposes of ORS 199.445.

14 **SECTION 2.** The amendments to ORS 199.440 by section 1 of this Act are  
15 not intended to affect the provisions of sections 1 and 14, chapter 882,  
16 Oregon Laws 1987.

17 **SECTION 3.** This Act being necessary for the immediate preservation of  
18 the public peace, health and safety, an emergency is declared to exist, and  
19 this Act takes effect July 1, 1991.

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# D R A F T

## SUMMARY

Allows council of metropolitan service district instead of Secretary of State to reapportion and describe 13 subdistricts into which the district will be divided on January 1, 1993.

Repeals statutory legal description of boundaries of metropolitan service district.

Declares emergency, effective July 1, 1991.

## A BILL FOR AN ACT

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Relating to metropolitan service districts; amending ORS 815.300 and section 2, chapter 321, Oregon Laws 1989; repealing ORS 268.125; and declaring an emergency.

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

**SECTION 1.** Section 2, chapter 321, Oregon Laws 1989, is amended to read:

**Sec. 2. (1) Notwithstanding ORS 268.150 (2), the council of the metropolitan service district shall not reapportion the 12 subdistricts of the metropolitan service district following the 1990 federal decennial census. In lieu of such reapportionment, not later than *[January 1,]* the 250th day before the date of the regular primary election in 1992, the *[Secretary of State]* council shall describe the 13 subdistricts into which the district will be divided on *[January 1,]* the first Monday in January 1993. When describing the 13 subdistricts under this section, the *[Secretary of State]* council shall satisfy the requirements of ORS 268.150 (2). The description of 13 subdistricts under this subsection and the assignment of councilors to subdistricts under subsection (4) of this section shall be accomplished in one legislative enactment by the council.**

**(2) Candidates for the office of councilor at the first regular primary election after *[the effective date of this Act]* July 1, 1991, shall be nominated**

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

1 from the subdistricts described under subsection (1) of this section and shall  
2 be elected from such subdistricts.

3 (3) Notwithstanding subsections (1) and (2) of this section, a person  
4 serving as councilor of a metropolitan service district on [*the effective date*  
5 *of this Act*] **July 1, 1991**, shall continue to reside in and represent the sub-  
6 district to which the person was elected until the first Monday in January  
7 1993.

8 (4) [*Not later than February 1, 1992,*] Each councilor of a metropolitan  
9 service district whose term continues beyond the first Monday in January  
10 1993, shall be specifically assigned to a subdistrict described by the [*Secre-*  
11 *tary of State*] **council** under subsection (1) of this section for that portion  
12 of the councilor's term that extends beyond the first Monday in January  
13 1993. [*The council of the metropolitan service district shall make the assign-*  
14 *ments to subdistricts required by this subsection.*]

15 (5) **Except for a candidate seeking election for the unexpired term**  
16 **of a councilor who vacated the office**, each candidate for the office of  
17 councilor who is elected to that office at the regular general election in 1992  
18 shall hold office for a term of four years beginning on the first Monday in  
19 January 1993.

20 (6) On [*January 1,*] **the first Monday in January 1993**, the district shall  
21 be divided into the 13 subdistricts described by the [*Secretary of State*]  
22 **council** under subsection (1) of this section.

23 **SECTION 2.** ORS 815.300 is amended to read:

24 815.300. This section establishes exemptions from the requirements under  
25 ORS 815.295 to be equipped with a certified pollution control system. Ex-  
26 emptions established by this section are in addition to any exemptions es-  
27 tablished by ORS 801.026. The exemptions established in this section are also  
28 applicable to requirements for certification of pollution control equipment  
29 before registration under ORS 803.350 and 803.465. All of the following ve-  
30 hicles are exempt from the requirements under ORS 815.295:

31 (1) Any vehicle that is not a motor vehicle.

1 (2) Any vehicle unless the vehicle is registered within:

2 (a) The boundaries [*designated in ORS 268.125,*] of the metropolitan ser-  
3 vice district formed under ORS chapter 268 for the metropolitan area, as  
4 defined in ORS 268.020, which includes the City of Portland, Oregon.

5 (b) Boundaries designated by the Environmental Quality Commission un-  
6 der ORS 468.397.

7 (3) Any new motor vehicle or new motor vehicle engine when the regis-  
8 tration results from the initial retail sale thereof.

9 (4) Any motor vehicle with a model year that predates by more than 20  
10 years the year in which registration or renewal of registration is required.

11 (5) Motor vehicles that are registered as farm vehicles under ORS 805.300  
12 or apportioned farm vehicles under ORS 805.300.

13 (6) Special interest vehicles that are maintained as collectors' items and  
14 used for exhibitions, parades, club activities and similar uses but not used  
15 primarily for the transportation of persons or property.

16 (7) Fixed load vehicles.

17 (8) Vehicles that are proportionally registered under ORS 768.007 and  
18 768.009 in accordance with agreements established under ORS 768.005.

19 (9) Electric motor vehicles.

20 (10) First response rescue units operated by political subdivisions of this  
21 state that are not used to transport persons suffering from illness, injury or  
22 disability.

23 **SECTION 3.** ORS 268.125 is repealed.

24 **SECTION 4.** This Act being necessary for the immediate preservation of  
25 the public peace, health and safety, an emergency is declared to exist, and  
26 this Act takes effect July 1, 1991.

27

PROPOSED AMENDMENTS TO ORS 268.360  
LC 1568

ORS 268.360 is amended by substituting the following subsection (2) for the existing subsection.

"(2) Unless otherwise specified by the council in the ordinance, an ordinance shall become effective 90 days after its adoption unless vetoed by the executive officer. If an ordinance is vetoed by the executive officer and the veto is overridden by the council, the date of adoption shall be the date the veto is overridden. Except as provided in ORS 268.465 and 268.507, the council by a majority vote of its members may declare that an emergency exists in which case an ordinance may take effect immediately or in less than 90 days. The council by a majority vote of its members may prescribe that an ordinance take effective later than the 90th day after its adoption. If the council refers an ordinance to the electors, it shall become effective on the 30th day after its approval by a majority of the electors voting on the measure or at a later date specified in the ordinance. If a proper referendum petition is filed with the filing officer not later than the 90th day after adoption of the ordinance and prior to the effective date of the ordinance, the effective date of the ordinance shall be suspended. An ordinance referred by a proper referendum petition shall become inoperative and not take effect if a majority of the electors voting on the measure reject the ordinance."

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