

NOT ADOPTED

BEFORE THE METRO COUNCIL

FOR THE PURPOSE OF PROVIDING) RESOLUTION NO. 93-1758
THE ASSESSMENT OF DUES TO LOCAL) Introduced by Governmental
GOVERNMENTS FOR FY 1993-94) Affairs Committee

WHEREAS, ORS 268.513 authorizes the Metro Council to "charge the cities and counties within the District for the services and activities carried out under ORS 268.380 and 268.390"; and

WHEREAS, Metro Ordinance 84-180 requires the Metro Council to seek the advice of the Local Government Advisory Committee regarding the assessment of dues as authorized by ORS 268.513; and

WHEREAS, The Joint Policy Advisory Committee on Transportation (JPACT) and the Regional Policy Advisory Committee (RPAC) were appointed as the Local Government Advisory Committees to review use of the local government dues by Resolution No. 90-1212 and this requirement has been fulfilled; now, therefore,

BE IT RESOLVED:

1. That the Metro Council intends to seek legislative authority to assess dues on a mandatory basis as a transition measure until Metro can replace the dues with other resources.
2. That the Metro Council intends to assess local governments at a rate of up to 43 cents per capita and amounts shown on Exhibit A attached hereto.
3. That the Metro Council further requests a recommendation from RPAC and JPACT regarding the specific work program and amount of the dues assessment during the budget process.
4. That notification of the assessment be sent to all

cities and counties within the Metro area, Tri-Met and the Port of Portland prior to March 2, 1993.

ADOPTED by the Metro Council this _____ day of February 1993.

Judy Wyers, Presiding Officer

STAFF REPORT

CONSIDERATION OF RESOLUTION NO. 93-1758 FOR THE PURPOSE
OF PROVIDING THE ASSESSMENT OF DUES TO LOCAL GOVERNMENTS
FOR FY 1993-94

Date: February 3, 1993

Presented by: Andrew Cotugno

FACTUAL BACKGROUND AND ANALYSIS

Assessment Authorization and Procedure

ORS 268.513 (Attachment A) authorizes the Metro Council to:

"charge the cities and counties within the District for the services and activities carried out under ORS 268.380 and 268.390."

This legislation expires June 30, 1993. While the recently passed Metro Charter does not provide for the dues, it does provide for alternate taxing powers that could be used for planning purposes. However, an extended period of time is required to adopt these sources, including consultation with a Charter-required "Tax Commission," adoption of a Metro ordinance, and a 90-day waiting period after adoption. In addition, it is necessary to better understand the cost implications of the planning requirements mandated by the Charter. As such, this is a source that will not be available in FY 93-94.

To levy the dues on a mandatory basis, the Legislature will need to reauthorize them. If this were to occur, notification of dues assessment would need to be adopted by the Metro Council by their February 25 meeting in order to meet the 120-day notification requirement in law.

In lieu of seeking legislative authority, Metro could request a voluntary dues contribution from local governments (plus Tri-Met and the Port of Portland).

Staff has consulted with TPAC, JPACT, RTAC and RPAC/MPAC concerning levying mandatory or voluntary dues. They were informed that Metro is willing to do either. Comments from RTAC and TPAC are attached.

Proposed FY 1993-94 Assessment

Exhibit A shows the population figures and proposed dues assessment schedule. The values are based upon the latest certified population figures from the Center for Population Research and Census at Portland State University. Each county's unincorporated population estimate is based upon data provided by

the Center for Population Research and Census using a formula devised by Metro staff.

The FY 92-93 dues assessment was approved at 43¢ which in FY 93-94 would be \$599,915. The Planning Department's proposed budget is based upon continuation of this 43¢ level.

Use of the dues assessment for the Planning Department at a 43¢ level generally falls into the following major categories:

1. Grant Match - \$164,040 - The dues plus ODOT and Tri-Met local match are used to leverage federal funding toward Transportation Planning. The program areas, which must be approved in the FY 94 Unified Work Program, include:

- Model Refinement/Survey & Research
- Local Technical Assistance
- Regional Transportation Plan Update
- Transportation Improvement Program
- Willamette River Bridge Study
- Demand Management
- Air Quality Plan
- Management and Coordination

2. Data Resource Center - \$275,875 - The Data Resource Center publishes periodic updates of historical and forecasted population and employment growth throughout the Portland metropolitan area. In addition, the Regional Land Information System (RLIS) is operational and provides land use-related data. Funding sources for the Data Resource Center include dues, transportation grants, solid waste fees and Metro's General Fund. In general, the dues share is approximately 21 percent of the Data Section budget. Revenues collected from data sales are used to reduce the dues share of this budget.
3. Region 2040/Urban Growth Management - \$160,000 - The Planning Department is sponsoring the Region 2040 program. In addition, associated projects relating to urban reserves and infill are underway. Other funding sources in the program include Metro General Fund, Tri-Met and ODOT.

EXECUTIVE OFFICER'S RECOMMENDATION

The Executive Officer recommends proceeding with voluntary dues in lieu of adoption of Resolution No. 93-1758.

KT:lmk
93-1758.RES
2-3-93

Proposed FY 94
Local Government Dues Assessment

The following are the programs proposed to be funded in next year's budget with local government dues at the 43¢ level:

Data Resource Center	
RLIS/Database Maintenance/Forecast	\$209,875
Local Government Data Services	66,000
Transportation Planning	
Surveys Monitoring and Model Refinement.	69,033
Local Government Technical Assistance.	11,097
RTP Update	18,116
TDM Program.	8,176
Willamette River Crossing Study.	45,500
Transportation Improvement Program	12,118
Land Use Planning	
Region 2040 - Phase II	125,000
Urban Reserves Designation	<u>35,000</u>
	<u>\$599,915</u>

ACC:lmk
2-3-93



METRO

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

Memorandum

DATE: February 12, 1993

TO: Metro Council Intergovernmental Affairs Committee

FROM: *AC* Andrew C. Cotugno, Planning Director

RE: Local Government Dues

At the February 10, 1993 RPAC meeting, a motion was approved with one dissenting vote, recommending that a resolution be acted on by Metro to:

1. Authorize collection of local government dues at a rate of \$0.43 per capita for a period of up to 2 years, provided:
 - a. That the Metro Council make every effort to find alternative funding sources as soon as possible. Council action should include expeditiously convening the Tax Study Committee as provided in Section 13 of Chapter III of the Metro Charter;
 - b. That if alternative revenue sources are found and secured within the two years, Metro will rebate and reimburse local government dues payers for that portion of the remaining fiscal year for which replacement funds are available;
2. Send notification and explanation of the dues and above provisions to local governments; and
3. File a request of the legislature to extend the dues for a period up to 2 years with a provision for rebate if substitute funds are collected mid-budget.

At the February 11, 1993 JPACT meeting, a motion was approved to:

1. Endorse assessment of local government dues at a rate of \$0.43 per capita for the program recommended.
2. That jurisdictions should urge their fellow jurisdictions to budget their proposed assessment and pay the dues on a voluntary basis.

Metro Council Intergovernmental Affairs Committee
February 12, 1993
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3. That Metro should notify local governments of the proposed voluntary assessment and seek confirmation that they plan to pay the assessment. In the event only partial payment of the dues is received, JPACT should review the budget and work plan and recommend charges.

ACC/bc

Proposed
FY 1993-94
Dues

EXHIBIT A

	Population Estimate 1992	Proposed FY 1993-94 @.43/	Population Estimate 1991	Actual FY 1992-93 @.43/
Clackamas County				
Gladstone	10930	\$4,699.90	10420	\$4,480.60
Happy Valley	1910	\$821.30	1650	\$709.50
Johnson City	620	\$266.60	610	\$262.30
Lake Oswego	31885	\$13,710.55	31545	\$13,564.35
Milwaukie	19550	\$8,406.50	19450	\$8,363.50
Oregon City	16810	\$7,228.30	16760	\$7,206.80
Rivergrove	295	\$126.85	295	\$126.85
West Linn	17645	\$7,587.35	17160	\$7,378.80
Wilsonville	9225	\$3,966.75	8755	\$3,764.65
Unincorporated In Metro	95303	\$40,980.29	91138	\$39,189.53
Multnomah County				
Fairview	2975	\$1,279.25	2590	\$1,113.70
Gresham	72210	\$31,050.30	71225	\$30,626.75
Maywood Park	780	\$335.40	780	\$335.40
Portland	458275	\$197,058.25	453065	\$194,817.95
Troutdale	8790	\$3,779.70	8195	\$3,523.85
Wood Village	2920	\$1,255.60	2930	\$1,259.90
Unincorporated In Metro	53423	\$22,971.89	53939	\$23,193.96
Washington County				
Beaverton	58785	\$25,277.55	57290	\$24,634.70
Cornelius	6425	\$2,762.75	6345	\$2,728.35
Durham	800	\$344.00	770	\$331.10
Forest Grove	14010	\$6,024.30	13830	\$5,946.90
Hillsboro	40350	\$17,350.50	39500	\$16,985.00
King City	2065	\$887.95	2060	\$885.80
Sherwood	3635	\$1,563.05	3305	\$1,421.15
Tigard	31265	\$13,443.95	30835	\$13,259.05
Tualatin	16640	\$7,155.20	16220	\$6,974.60
Unincorporated In Metro	134225	\$57,716.75	125563	\$53,992.26
Local Assessment		\$478,050.78		\$467,077.30
Port of Portland		\$59,756.35		\$58,384.66
Tri-Met		\$59,756.35		\$58,384.66
TOTAL ASSESSMENT		\$597,563.48		\$583,846.63

ATTACHMENT A

268.513 Service charge for planning functions of district. (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 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 coun-

ties. 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 begins on or after July 1, 1993.
[1977 c.665 §16; 1979 c.804 §10; 1981 c.353 §5; 1985 c.210 §1; 1989 c.327 §2]



METRO

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

Memorandum

Date: January 29, 1993
To: RPAC/MPAC
From: *K* Andrew C. Cotugno, Planning Director
Re: Metro Local Government Dues Assessment

At the January 28 meeting of RTAC, the following comments on the question of Metro's local government dues assessment were provided:

1. Metro should collect the dues; the services that are provided with the dues are essential and should be continued.
2. The members are more interested if this is viewed as a transition period (for a year or two) and if there is a commitment by Metro to secure a permanent replacement for the dues.
3. The members are concerned that everyone pays; if individual jurisdictions choose not to pay, an inequitable burden is placed on those that do pay.
4. The members expressed a general preference for mandatory dues as the means by which local governments agree with one another that they will shoulder the cost burden of regional planning equitably.

ACC:lmk



METRO

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

Memorandum

Date: February 1, 1993
To: JPACT
From: ^{AC} Andrew C. Cotugno, Planning Director
Re: Metro Local Government Dues Assessment

At the January 29 meeting of TPAC, the following comments on the question of Metro's local government dues assessment were provided:

1. Dues-paying jurisdictions have a general expectation that Metro will assess local government dues at a 43¢ level.
2. There is a recognized benefit to local governments from the planning activity funded through the dues.
3. There is a general sense that mandatory dues collection should remain until a stable Metro funding source is available for their replacement. Local government dues assessment is viewed as a transition funding source for the next several years.

ACC:lmk



METRO

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

Memorandum

Date: January 26, 1993

To: Andy Cotugno, Planning Director

From: Daniel B. Cooper, General Counsel 

Regarding: 1992 METRO CHARTER - LOCAL GOVERNMENT "DUES"
Our file: 6.§22

For fiscal years beginning on or before July 1, 1993, Metro has been authorized by ORS 268.513 to assess against local governments within the Metro boundary a service charge for the planning functions of the District. This charge is commonly known as the local government dues or "head tax." Section 5 of ORS 268.513 provides that the statutory authorization for the service charge does not apply to a fiscal year that begins on or after July 1, 1993. The sunset provision in this statute has been extended by previous sessions of the Legislature from time to time. In 1981, 1985, and 1989, the Legislature extended the expiration date of the statutory authorization an additional four years each time. I understand you have been asked whether Metro intends to request that the Legislature extend the authorization period for the service charge to local governments for an additional time period. In the context of that issue, the question has been raised whether any provision of the 1992 Metro Charter would act to prohibit Metro from collecting the dues even if the time period for the dues authorization was extended by the Legislature.

I understand your question to be different from the question of whether the Legislature could preempt any provision of the Metro Charter that purported to prohibit Metro from assessing the dues against local governments. Your question is based on the assumption that the provisions of ORS 268.513 are permissive and not mandatory, and therefore if the statutory authorization is simply extended for an additional time period, a provision of the Charter could validly prohibit Metro from collecting the dues.

The short answer to your question is that the Charter is silent on the question of the dues, and therefore the provisions of Sections 4, 5, 6, and 9 of the Charter allow Metro to exercise the authority granted by state law to assess and collect the service charge if such authorization were extended by the Legislature.

The reason that some confusion exists on this matter is because the Charter Committee during its final review and drafting process, before placing the Charter on the ballot in July of 1992, made a tentative decision to include language in the Charter that would have

Andy Cotugno
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prohibited Metro from collecting the dues. The minutes of the Charter Committee reflect that this action was taken at the close of the Charter Committee's meeting on July 18, 1992, as part of a motion that was designed to state a conceptual resolution of a set of issues with the understanding that the Committee would seek and develop specific and refined language. The motion provided:

"At-large, full-time elected executive officer. Part-time, elected by districts, council consisting of from seven to nine members. Presiding officer selected from among the council members. A deputy executive, appointed by the elected executive and confirmed by the council. At-large, full-time elected auditor, with some legitimate auditing credentials.

"Provide for an authorization to levy an excise tax not to exceed \$6 million, adjusted by the western cities index, and will be adjusted according to a formula to providing funding for planning, general government overhead, and a specified other category.

"The limitations will be subject to adjustment or change of the council upon the completion of the process of the review of local plans for compliance of the Regional Framework Plan. There would be an overall limitations on revenues which the government could raise by ordinance without a vote of the people, exclusive of the excise tax.

"The current local government head tax would be eliminated."

This motion was adopted by the 11 Charter Committee members present at the meeting on July 18.

At a subsequent meeting on July 21, 1992, the Committee received from its attorney, Timothy Sercombe, draft Charter language that would have put into effect portions of the concept motion adopted at the previous meeting. That draft language included a subsection that was entitled "Prohibition on Local Government Charges."

The Committee at the July 21 meeting considered a new conceptual motion for a different structure and finance proposal. That motion was for:

"A seven member council. The councilors would receive a compensation equal to one-third that of a district court judge. The presiding officer would receive compensation equal to two-thirds that of a district court judge. The executive officer would have a veto on taxes adopted by ordinance, the budget, and service and user fees. The council could override the veto with a two-thirds vote. A \$12.5 million spending limit. The charter would have the

instruction, although no dollar amount, to fully fund the planning responsibilities outlined in the charter."

That motion was then adopted by the Charter Committee on a vote of 10 to 4. The minutes then reflect the following discussion occurred.

"Bob Shoemaker said that he is not sure that eliminating the head tax from Metro is appropriate. He asked Metro staff to explain the situation.

Joe Egge said that Ray Phelps said earlier that there was a tentative deal made with respect to the head tax in relationship to the excise tax. He said that he would like to hear local government's perspective.

Ken Gervais, Metro staff, asked the Committee to not prohibit the continuation of the head tax. He said that the money now goes back to local governments in terms of technical assistance. A local government committee meets to discuss how that fund should be spent which creates an interaction between the regional government and the local governments. He said that the head tax will either go away on its own or the local governments will get rid of it through the legislature.

Mike McKeever, RGC staff, said that the RGC has not asked that it be eliminated. He suggested that, if it is authorized, the \$12.5 million under the lid could not solely be raised by the head tax.

Tim Sercombe said that the only authority on the government to put a charge on another government, against that government's will, comes from state law.

Charles Hales said that if, after Metro has a charter and has taxing authorities, Metro still wants to fight out local government dues in the legislature, let them.

Bob Shoemaker asked if the Committee lets the local government dues take care of itself when it sunsets, should it be eliminated from the conceptual proposal the Committee adopted at the last meeting.

Chair Myers said that it has not been incorporated into the finance article yet. If there is not a motion to include it, the charter will remain silent on the issue."

Andy Cotugno
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Thus, it is clear that the Charter Committee consciously reversed its decision to include language that would have prohibited the continuation of the dues and instead left that as an issue for Metro and local governments to deal with in the Legislature.

The final version of the Charter reflects this decision.

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GOVERNMENTAL AFFAIRS COMMITTEE REPORT

RESOLUTION NO. 93-1758, ASSESSING 1993-94 DUES TO LOCAL GOVERNMENTS

Date: February 22, 1993

Presented by: Councilor Gates

COMMITTEE RECOMMENDATION: At its February 18, 1993 meeting the Governmental Affairs Committee voted 5-0 to forward Resolution No. 93-1758 to Council with no recommendation. Voting were Councilors Gates, Gardner, Hansen, Moore, and Wyers.

COMMITTEE DISCUSSION/ISSUES: Planning Director Andy Cotugno presented the staff report. He said the resolution would assess mandatory local government dues, which would involve seeking legislation to authorize continuation of mandatory dues. He said Metro has consulted with four advisory committees, including the Joint Policy Advisory Committee on Transportation (JPACT), the Regional Policy Advisory Committee (RPAC), and two technical committees (Transportation Policy Alternatives Committee and Regional Technical Advisory Committee). Recommendations from those groups are not consistent, with some favoring continued mandatory dues and some supporting voluntary dues. Mr. Cotugno pointed out that the Executive Officer supports voluntary dues, and does not support adoption of Resolution No. 93-1758.

Councilor Monroe said he was at the JPACT meeting when this issue was discussed, and said it would be futile and counter-productive to proceed with this resolution. His conclusion from the JPACT meeting is that the vast majority of local governments will pay the voluntary dues, but with some expressing opposition to extending legislative authority for mandatory dues the chances of passing such legislation are nil.

Council Analyst Casey Short pointed out that the action requested for the resolution is to forward it to Council with no recommendation. He outlined three options for dealing with it: forward to Council with a recommendation for approval; forward to Council with no recommendation, implying that the committee does not support it but this is an issue for the full Council to decide; do not forward it to Council, which would eliminate the option of levying 1993-94 mandatory dues unless Council suspended the rules at its February 25 meeting to consider the item.

Councilor Gardner said he supported forwarding the resolution to Council with no recommendation. He attended both the RPAC and JPACT meetings at which this issue was discussed. There was support at RPAC for the reauthorization of mandatory dues, while at JPACT there was some opposition to such action. He said Metro needs some certainty regarding the amount of money it could expect, in order to be able to adopt an accurate budget. Councilor McLain also supported forwarding the resolution with no recommendation, in order to give the jurisdictions more time to discuss the issues among themselves.

Councilor Monroe expressed his concern that the Council consider the resolution assessing mandatory dues. He said that is not an option, and keeping the issue alive may harm Metro's relations with local governments. Councilors Gardner and McLain reported that Metro representatives had expressed at both JPACT and RPAC/MPAC that Metro would not seek reauthorization if there were opposition from local government.

Councilor Monroe said he wanted the record to state that the committee's intent in forwarding the resolution with no recommendation was to not pursue mandatory dues as long as there is any local government opposition. The committee agreed that such a statement in the record was appropriate.

Councilor Wyers said she would oppose the resolution at Council if it continued to include the direction that Metro seek legislative authority to assess dues on a mandatory basis.