

File-494

THE METROPOLITAN SERVICE DISTRICT

10 CHARGES AND ANSWERS

Compiled and Edited by
David Eccles
Commissioner
Multnomah County Oregon

1. CHARGE

Bill provides for no dissolution of the district.

ANSWER

True. However, the Legislature can effect dissolution. Or the Legislature can always add such a provision to the law. Moreover, the governing body can always act to make the district non-operational.

2. CHARGE

District has authority to levy an ad valorem tax of ½ of 1% of true cash value, which means an annual levy of \$28,432,000.

ANSWER

If the district had a sufficient tax base under the constitutional tax limitation, it could levy to this extent. This provision is simply intended to limit the amount allowed under the act. The authorization does not mean that a tax of this amount would ever be levied. The initial tax base would in any event be subject to voter approval.

3. CHARGE

The district may levy \$28.4 million of new taxes without consent of the people. Port of Portland and PUD's levy taxes without a tax base.

ANSWER

Neither charge is supported by law or fact. Prevailing legal opinion is that Article XI, Section II, of Oregon Constitution means that a newly-established taxing unit has no tax base until the voters establish one. The Attorney General issued a opinion to this effect 10/21/67. The Budget Manual for Municipal Operations states: "A new district does not have a tax base. The first tax base can only be established by vote. . . ." SB 494 prescribes the procedure for establishing a tax base, thus indicating again legislative intent.

The allegation that Port of Portland and PUD's levy without a tax has no foundation. There is no instance of a PUD levying taxes without a tax base. Port of Portland does have tax base and levies within it.

4. CHARGE

Voters may be placing a \$28 million additional levy upon themselves without realizing it.

ANSWER

This charge has no foundation. There can be no tax levy without voter approval. The 5 mill tax limit set by the Legislature certainly does not mean this will be levied now or later unless directed by the voters.

5. CHARGE

Portland taxpayers have only 1/7 of the governing body.

ANSWER

Multnomah County Commissioners are elected by exactly the same voters who vote for city officers, plus additional voters in other cities and the unincorporated areas. To say that county commissioners do not represent taxpayers of incorporated cities is a charge used only to confuse. Legislative intent was to create a wide body of elected officials and it was assumed the governing body would be representative of the entire district rather than narrow interest of any area. The increasing cohesiveness of the metropolitan area makes it a single community that demands regional approaches and regional-oriented government.

6. CHARGE

Portland taxpayers will foot 52% of the district taxes and will pay for improvements in outside areas.

ANSWER

This is not true. The law provides that differing tax rates may be assessed in different areas in order that improvements will be paid for by the benefited property and not through a general regional tax. The bill as initially written forbade general taxes for any capital purpose. Testimony of Portland's Transit Advisory Commission led to the elimination of this provision, but this does not alter the original intent of the bill to tax at differing rates in accordance with benefits provided.

7. CHARGE

Differing tax rates cannot constitutionally be charged.

ANSWER

The constitution was amended in 1917 to provide that "all taxation shall be uniform on the same class of subjects. . . ." The underlined language was added. The Oregon Supreme Court has indicated on numerous occasions that

taxes can apply differently provided the classification is reasonable. The varying extent of benefit and service is a reasonable basis for differentiation per Rankin vs. Yorna, 72 Ore. 224, 143, p. 894.

8. CHARGE

The County resolution does not state the purposes for which the district would be formed.

ANSWER

The Act states specifically what the purpose of the district is. The County resolution is required merely to state the purposes of the hearing, e.i. determination of boundaries and setting a date of election. It need not repeat the purposes contained in the act.

9. CHARGE

Before any proposal is submitted to the voters, functions to be performed should be specified. Otherwise, voters would be called upon to create a district having taxing power with no idea of what service to expect.

ANSWER

The proposal to create need not specify the functions because they are explicitly listed in Chapter 400. Until the district is formed and a governing body appointed, no exact time-table or specific tax-base can be predicted. The voters then have an opportunity to accept or reject a proposed tax base.

10. CHARGE

Taxpayers who have paid for interceptor systems and treatment plants will be required to pay for them again.

ANSWER

This charge is without merit and is used for the purpose of confusing the voters. If the district takes over any facilities, it is required to pay for them. Portland would be helping pay for the district's system and would use funds derived from the district and not from Portland taxpayers.