

**METRO  
CHARTER  
COMMITTEE**

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**AGENDA**

**DATE:** February 11, 1992  
**MEETING:** Finance Sub-Committee  
**DAY:** Tuesday  
**TIME:** 8:45 a.m.  
**PLACE:** Metro, Council Chamber, 2000 SW 1st Avenue, Portland

**8:45** Meeting called to order.

Discussion of revenue option issues not resolved at the previous subcommittee meeting.

**9:30** Consideration of a recommendation to be made to the full committee regarding the appropriate taxing power of the regional governing body.

**10:15** Meeting adjourned.

MINUTES OF THE FINANCE SUBCOMMITTEE  
OF THE METRO CHARTER COMMITTEE

February 11, 1992

Metro Council Chamber

Subcommittee Members Present: Bob Shoemaker (Chair), John Meek, Wes Myllenbeck

Subcommittee Members Absent: Jon Egge, Hardy Myers, Ray Phelps

Chair Shoemaker called the meeting to order at 9:00 a.m.

Wes Myllenbeck, referring to a document given to the subcommittee members, asked if it was clear what is meant by a general purpose tax.

Bob Shoemaker said it would include income tax, payroll tax, sales tax, property tax, taxes which are imposed on the populace at large. General purpose would mean that its use is general too. Special purpose taxes would be those that support a specific activity.

Wes Myllenbeck said that he considered a special purpose tax as a tax on something directly, such as an excise tax.

Bob Shoemaker suggested being specific on the purpose of the tax, as to whether it is imposed on the general populace or on a specific section of the populace. The application of that tax should be for a general or specific purpose.

John Meek suggested limiting it to just the source of the tax and allowing Metro the discretion of how those monies are used. There could be a general purpose tax, but all the revenue could go into a special fund. He said they should be careful to limit to where Metro would have the discretion to levy a general purpose tax.

Dan Cooper, Metro general counsel, said a better term might be 'broad-based tax,' which is spread throughout the general population, regardless of its purpose. What it's going for is one category of tax, as opposed to the more narrow tax on specific activities or smaller classes of individuals. So it would be either a broad-based or narrow-based tax. General purpose versus the special purpose is what the tax gets spent on.

Wes Myllenbeck said that adding more adjectives may tend to confuse the issue. He said he didn't disagree with the concept, but as few things as possible should be listed. But in deciding how a tax should be used, it should depend on the council's good judgement.

Dan Cooper said, for drafting purposes, if categories are used, as opposed to specific taxes, there will be arguments about intent. To avoid that, the charter should be very broad or very specific. By saying that any tax would require approval by the voters won't require the charter to be very specific. If there is to be a concept that some taxes have voter approval and others do not, and then describes whether they are in one category or the other, it will be important to have a tight definition. There should be as little ambiguity between the two categories as possible. One way of doing that is to tightly list with specific examples and leave the other in a broader category.

Wes Myllenbeck asked if, in the constitution, a property tax is the only tax that requires a vote. Or is income tax also included?

Dan Cooper said no. Property tax is the only one that is constitutionally required to be voted on. All others are subject to referendum. He said that at the last meeting there was discussion on excise taxes. The existing statutory authority for excise tax, which has the revenue limit in it, only authorizes the excise tax to be imposed on Metro facilities. There has to be some connection, either ownership or regulation over them. The city facilities--owned by the Portland--are eligible to be taxed, but Metro agreed with Portland that, if they imposed a tax on those facilities, they would dedicate the revenue to the entire MERC complex, and would not pull any in for general purposes at Metro. The council, though, has elected not to impose a tax on those city facilities. If the charter authorizes broad excise tax power on any activity, including private functions, then the charter would grant independent authority to Metro, separate from the existing statute. It would not be subject to the same 6% of gross revenues limitation that the statute creates, unless that was drafted into the charter as well. The charter needs to differentiate between the excise tax power contemplated and the existing statutory excise tax with a revenue cap. If there were a broad taxing authority, with unlimited excise taxing authority, the statutory restriction wouldn't necessarily apply. It is possible that someone could conclude that the Legislature intended the preemption, but it is unlikely that the court would reach that conclusion.

Bob Shoemaker asked about the distinction between the 6% excise tax allowed to be collected on Metro's gross revenues as opposed to the proportion collected on individual functions.

John Meek said that it applied to gross revenues in their broadest form. It would be any revenue collected by the district, including donations and bond revenue. There is no limit on the rate collected for individual functions.

Dan Cooper said that the excise taxes imposed are only on users of Metro facilities, rather than general, private activities. A 1% rate on, for example, hotel/motel receipts might produce more than 6% of Metro's revenues.

Wes Myllenbeck asked, if the charter said nothing about an excise tax, would the council be able to set a new limit.

Dan Cooper said that would be possible if the charter had a broad grant of authority for levying taxes. Then the council would have the full authority to impose an excise tax on any activity, unless there was state or federal legislation to protect an activity from a local tax.

Bob Shoemaker said the subcommittee needs to decide, within the excise taxing authority granted to Metro, if there is consensus to do that, should a gross revenue and rate limitation be set. The next excise tax question is whether to limit the excise taxes that Metro may impose--to Metro activities or to non-Metro activities within the area. That would include private movie theaters, for example. Another question the subcommittee needs to discuss is the distinction between prohibiting certain taxes without a charter amendment and allowing certain taxes only with voter approval. Is there a real difference between those two concepts? A charter can be amended by a vote of the people.

Janet Whitfield said the procedure for amending the charter still hasn't been determined.

Bob Shoemaker asked, assuming the charter may be amended by a referral from the Metro council to the voters, is that substantially different from saying that Metro will not impose certain taxes without voter approval.

Wes Myllenbeck said that amending the charter would open it up to other changes.

John Meek said it is easier to vote on an assumed tax that may be imposed on someone else. The charter will set guidelines and policy. There is a distinction between authorizing a tax that requires a vote and prohibiting it except by amendment in the charter.

Wes Myllenbeck said it would be less confusing to simply require a vote of the people.

John Meek said that a prohibition would lay a course of deliberation. There will be a charter committee, council approval and vote of the people. Prohibiting a tax in the charter will require a myriad of findings to prove it is justified.

Wes Myllenbeck said there needs to be some faith in the elected body to make a decent decision, given the circumstances they are faced with.

Chair Shoemaker adjourned the meeting at 9:45 a.m.

Respectfully submitted,

Janet Whitfield  
Committee Administrator

Reviewed by,

Kimi Iboshi  
Committee Clerk