

**METRO
CHARTER
COMMITTEE**

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February 27, 1992

TO: Finance Subcommittee

FROM: Bob Shoemaker

Ken Gervais of Metro has raised some legitimate concerns regarding Tri-Met's payroll tax (memo enclosed). I would like to avoid another meeting--but agree that we need to deal with this.

Let me propose the following:

- a. Permit adjustment of rate cap when areas are withdrawn from the district. I assume the statute (ORS 267.260, enclosed) provides a formula to protect against abuse. If not, the charter should.
- b. Do not permit extension of payroll tax to employees (except via referral to voters or charter amendment--however we decide that issue).
- c. Take our chances on this.

Please tell Janet whether you agree/disagree or wish a meeting. If there is any indication that my suggestions are not the wish of the committee, we shall reconvene.

2/27/92

To: Senator Shoemaker

Re: Comments on Finance Sub-committee draft.

First, congratulations on getting your committee to the point of decision in such a timely and orderly manner.

While Metro has taken no position on the work to date I would like to personally make a couple of observations. I should also qualify these by acknowledging that I am not an expert on this subject.

1. I would urge further investigation of the limitations you intend to impose on Metro's use of the payroll tax. Namely,
 - a. Tri Met now has a rate cap which can be adjusted when areas are withdrawn from the district, without this provision there might be more resistance to withdrawals. (perhaps a good thing?)
 - b. Tri-met presently has authority to extend its payroll tax to employees, how do you intend this to be handled in the Charter?
 - c. Inclusion of the Tri Met payroll tax could result in the whole Tri Met question becoming a focus for the Charter election.



residents of the affected area is less than or equal to 30 percent of the system-wide average weekday boarding rides per vehicle hour;

(b) The district board determines that direct service to the affected area is not planned for at least five years;

(c) The residents and businesses within the affected area have demonstrated that district fees and taxes have adversely affected employment, population or commercial activity within the affected area; and

(d) The district board has not received a petition signed by not less than 15 percent of the electors within the affected area seeking continuation of the district's jurisdiction over the affected area.

(4) Notwithstanding ORS 267.207 (3)(b), the district board may withdraw the affected area from the district when the conditions of subsection (3) of this section are not satisfied if the board considers such withdrawal to be in the best interests of the district and the affected area.

(5) Any decision of the district board relating to withdrawal of an affected area under ORS 267.250 to 267.263 may be reviewed by a circuit court under ORS 34.010 to 34.100. [1987 c.799 §5]

267.260 Withdrawal ordinance; effective date; increase in district taxes as result of withdrawal. (1) As used in this section, "withdrawal date" means the effective date of an ordinance approving withdrawal of an affected area under ORS 267.250 to 267.263.

(2) An ordinance approving the withdrawal of an affected area under ORS 267.250 to 267.263 shall take effect on the first day of January next following the date which is 30 days after the adoption of the ordinance.

(3) Commencing immediately upon the withdrawal date and notwithstanding any other provision of law, the rate of each tax imposed by the district shall automatically be increased to a rate equal to the rate determined by dividing the rate at which such tax was levied immediately prior to the withdrawal date by a fraction, not more than one, which is equal to the total revenue derived from such tax by the district for the calendar year preceding the year in which the withdrawal ordinance is adopted attributable to the area of the district other than the withdrawn affected area divided by the total revenue derived from such tax by the district for the same period.

(4) If the tax rates required under subsection (3) of this section do not produce tax revenues sufficient to enable the district to make the annual or semiannual payments,

when due, and otherwise satisfy the requirements of the bonded or other indebtedness of the district incurred prior to the withdrawal, the district may increase the rate of each tax to a rate that produces revenues sufficient to enable the district to make the annual or semiannual payments, when due, and otherwise satisfy the requirements of such indebtedness.

(5) The district board shall determine rates in accordance with the formula prescribed by subsection (3) of this section and adopt it as part of the ordinance approving the withdrawal of the affected area. Any such determination and adoption shall be final and conclusive unless it is shown to be arbitrary and capricious. [1987 c.799 §6]

267.263 Withdrawal of territory not subject to boundary commission review. Notwithstanding ORS 199.425, the alteration of the boundaries of a district under ORS 267.250 to 267.263 is not subject to the jurisdiction or review of a local government boundary commission. [1987 c.799 §7]

267.265 Use of moneys derived from withdrawal of territory from district. The savings derived from the cessation of service under an ordinance adopted under ORS 267.257 shall be used to improve service in the remaining portions of the district. Nothing in this section shall prevent the district from exercising its normal budgetary authority to adjust service levels. [1987 c.799 §8]

Note: 267.265 was enacted into law by the Legislative Assembly but was not added to or made a part of ORS chapter 267 or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

(Finances)

267.300 Authority of district to finance system. (1) Subject to restrictions in the Oregon Constitution, a district board may finance construction, acquisition, purchase, lease, operation and maintenance of a mass transit system and related facilities for the purposes authorized under ORS 267.010 to 267.390 by:

(a) Levy of ad valorem taxes under ORS 267.305.

(b) Service charges and user fees collected under ORS 267.320.

(c) Use of the revolving fund authorized under ORS 267.310.

(d) Sale of bonds under ORS 267.330 to 267.345.

(e) Levy of business license fees under ORS 267.360.

(f) Levy of a tax measured by net income under ORS 267.370.