

FINANCE SUBCOMMITTEE REPORT

To the Metro Charter Committee

Date: March 5, 1992

Finance Subcommittee Members:

Bob Shoemaker, Chair
Jon Egge
John Meek
Hardy Myers
Wes Myllenbeck
Ray Phelps

On February 24, 1992, the Finance Subcommittee adopted its recommendations for regional government financing powers to be made to the Charter Committee:

1. The regional governing body may continue to impose revenue-raising devices currently imposed by Metro.
2. The regional governing body may enact all revenue-raising devices currently permitted for Metro's use by Oregon statutes.
3. Imposition of the following types of taxes will require voter approval: personal income tax, business income tax, payroll tax other than as now imposed by Tri-Met, property tax and sales tax.
4. Any other revenue-raising or financing device may be authorized by council ordinance, with a 90-day delay to allow for referendum to the people.

The discussion that follows describes how the Finance Subcommittee arrived at these conclusions.

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After considering different types of revenue-raising devices, the Subcommittee examined a variety of revenue-raising options and discussed whether they were appropriate for use by this regional government. A list of the revenue options considered is attached.

Following that, the subcommittee studied Metro's current revenue raising practices and authority in order to determine what should be carried over by the charter.

REVENUE DEVICES NOW IMPOSED BY METRO ARE CONTINUED

A majority of the Subcommittee supported continuing the current revenue-raising devices now imposed by Metro, as follows:

AD VALOREM TAX

Property taxes are now imposed by Metro at an annual rate of 15 cents/\$1000 of property value. The revenue received may be used only for funding the Zoo and retiring bonds used to build the Convention Center.

All members of the Subcommittee would allow the regional government to continue to impose ad valorem taxes at the current authorized rate, with proceeds dedicated to the Zoo and to retiring Convention Center bonds.

Subcommittee conclusions:

Continue of the ad valorem tax at its current rate for its current purpose.

Unanimous support

EXCISE TAX ON METRO FUNCTIONS

Metro is allowed to impose an excise tax on people using Metro services, functions and facilities. This has been applied, for example, on Zoo admissions, Convention Center use, and solid waste services. Solid waste is the biggest provider, accounting for about 88 percent of Metro's excise tax revenues.

The total excise taxes that Metro may collect is limited by statute to 6 percent of gross revenues the district receives in any fiscal year. This is not a limit on the excise tax rate that may be charged for a service. Gross revenues include revenues from all sources other than the excise tax. Gross revenues include federal and state grants, taxes received from other sources, service and user charges, and includes revenues from Metro facilities--such as the Performing Arts Center--which are not hit with an excise tax. It is legally possible possible for excise tax rates to be much higher than 6 percent and to vary from function to function.

What is possible by statute, however, is restricted by Metro ordinance. The Council has established a 6-percent limit on any excise tax imposed by Metro. In FY 91-92, excise taxes were set across the board at 5.25 percent.

John Meek proposed that the charter do the same and provide a flat rate limit that may be imposed on individual functions. Jon Egge agreed, fearing that the regional government might find a high-paying "cash cow" and over use it.

Ray Phelps disagreed, saying there were political aspects to establishing certain rates. He said this was a management and political issue that should not be micro-managed in the charter.

Subcommittee conclusions:

Add a rate limitation.

Support: Egge, Meek

Against: Shoemaker, Myers, Myllenbeck, Phelps

PLANNING SERVICE CHARGES ON LOCAL GOVERNMENTS (PER CAPITA)

Metro imposes a charge on local governments for planning services the district provides. This charge (or "head tax") is levied against individual governments on a per capita basis, not to exceed 51 cents a year. The FY 91-92 charge was 43 cents.

The statutory authority for this tax sunsets July 1, 1993. A majority of the Subcommittee recommends permitting the continuance of the tax.

Subcommittee conclusions:

Continue use of tax.

Support: Shoemaker, Egge, Myers, Myllenbeck, Phelps
Against: Meek

SERVICE AND USER CHARGES

Metro is allowed to impose charges for the use of its services. Charges may be imposed annually at a higher amount than the current actual cost of delivering a certain service. The reason for doing this, according to Dan Cooper, Metro general counsel, is to develop reserves to fund future high-cost needs, such as St. Johns Landfill closure or building a roof for a facility. Frank Josselson, who attended several meetings of the Subcommittee, said that these extra charges, which he called "enterprise revenue," were not adequately identified for the public. Bob Shoemaker proposed that service charge "enterprise revenue" be identified in the annual financial audit. Hardy Myers agreed, but cautioned against the charter imposing very many procedural requirements.

Subcommittee conclusions:

Imposition of service and user charges should be continued with identification of enterprise revenue in each annual financial audit.

Unanimous support

By statute, Metro may use most service charges as general revenue to finance the district's various functions. However, service charges derived from solid waste disposal are specifically limited to solid waste functions (ORS 459.310). Frank Josselson proposed removing that limitation so that enterprise revenues derived from solid waste disposal could be applied to other Metro functions, such as planning. Dan Cooper stated that it would probably require a change in statute to remove the limitation. The Subcommittee took no position on this proposal.

John Meek proposed limiting service charges to the cost of the service for which the charge was made.

Subcommittee conclusions:

Limit amount of charge to cost of service for which charge is made.

Support: Meek
Against: Shoemaker, Myers, Myllenbeck, Phelps
Maybe: Egge

REVENUE BONDS

The district may issue revenue bonds to construct facilities and to carry out any of its functions. Voter approval is not required.

John Meek suggested that the charter limit the issuance of revenue bonds only for specific functions identified in the charter. The sale of revenue bonds to fund construction of the proposed new Metro headquarters would constitute a misuse, in his opinion. Metro would be creating a revenue stream by leasing space to its own departments. This would have the effect of using other Metro revenues to retire revenue bonds sold to construct Metro's headquarters. Dan Cooper said he believed

that financing the construction of general purpose projects in this way is commonly done by municipalities. The last session of the Legislature, in response to Ballot Measure 5, adopted specific authorization for governments to issue very broad-based revenue bonds backed by virtually anything but a pledge to raise additional ad valorem property taxes.

Subcommittee conclusions:

Continue authority without change.

Unanimous support

GENERAL OBLIGATION BONDS

Subject to voter approval, Metro may issue general obligation bonds to fund any of its functions. General obligation bonds, however, are subject to Ballot Measure 5 restrictions, such that any GO bond issue, that would be paid from property taxes in excess of an existing tax base or the \$10/\$1000 limit imposed on local governments as a whole, is limited to the funding of capital improvements and construction.

Subcommittee conclusions:

Continue authority

Unanimous support

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**REVENUE DEVICES NOW AUTHORIZED BUT NOT NOW USED BY METRO
ARE CONTINUED**

Metro has authority to impose certain taxes which the organization has not yet enacted. The subcommittee discussed whether the charter should continue to authorize the imposition of these revenue options. They are listed below.

AD VALOREM TAX, BEYOND CURRENT IMPOSITION

With voter approval, Metro is authorized to impose property taxes up to \$5/1000 property value. There was division among subcommittee members whether this authority should be continued beyond the current use. Except for property taxes to retire general obligation bonds, Ballot Measure 5 has limited the amount of ad valorem taxes that can be received by local governments at \$10/\$1000, an amount that must be divided among all jurisdictions in the region which tax a particular parcel of property.

John Meek argued for prohibiting Metro's use of ad valorem taxes, except to the extent they are currently used to fund the Zoo and retire general obligation bonds issued to build the Convention Center.

Wes Myllenbeck argued for maintaining Metro's current ad valorem taxing authority. He said that property taxes would have to be considered as a funding source if, in the future, the regional

government should get into human services, libraries or corrections functions.

Subcommittee conclusions:

Continue authority to impose ad valorem property taxes beyond the current rate, subject to voter approval and as otherwise limit by statute.

Support: Shoemaker, Myers, Myllenbeck, Phelps

Against: Egge, Meek

PERSONAL INCOME TAX

The district may impose a personal income tax on every resident and on non-residents who derive income within the district. Oregon statutes limit the rate to 1 percent. Voter approval is required.

Jon Egge and John Meek would prohibit this tax, thus requiring a charter amendment to permit it. Other members believe that requiring voter approval is sufficient protection and not substantially different from charter amendment.

Subcommittee conclusions:

Continue authority.

Support: Shoemaker, Myers, Myllenbeck, Phelps

Against: Egge, Meek

BUSINESS INCOME TAX

Metro may impose a business income tax on every business, limited to 1 percent of net income. Voter approval is required.

Jon Egge and John Meek indicated they would advocate prohibition of this tax.

Subcommittee conclusions:

Continue authority.

Support: Shoemaker, Myers, Myllenbeck, Phelps

Against: Egge, Meek

VEHICLE REGISTRATION FEE

Metro has the authority to impose a vehicle registration fee not to exceed the amount imposed by the state (currently \$30) and dedicated to highway and road use, as provided in the Oregon Constitution. Before the registration fee can be imposed, the district must get voter approval, as well as establish intergovernmental agreements with the local governments in the region.

Wes Myllenbeck indicated he supported enactment by council ordinance, rather than voter

approval as required by statute.

Subcommittee conclusions:

Continue authority.

Support: Shoemaker, Meek, Myers, Phelps
Against: Myllenbeck
Maybe: Egge

SPECIAL ASSESSMENTS

Metro may levy special assessments against property that is directly benefitted by infrastructure projects.

Subcommittee conclusions:

Continue authority.

Unanimous support

EXCISE TAX ON FUTURE METRO FUNCTIONS

Subcommittee conclusions:

Allow authority.

Unanimous support

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SPECIFIED TAXES TO BE PROHIBITED WITHOUT CHARTER AMENDMENT

The Subcommittee discussed whether to recommend that certain taxes be prohibited by the charter. That way, those taxes could only be imposed through charter amendment.

John Meek supported this point of view. He said, by requiring charter amendment, there would be more scrutiny and public involvement in the process of enacting certain taxes. The organization would have to build consensus by going through a charter amendment to authorize imposition of a particular tax and then referring the resulting tax ordinance out for a vote of the electorate.

Frank Josselson agreed. He said a prohibition on certain taxes would be preferable from a political point of view. It would give the voters the comfort of knowing that it is as difficult as possible for this government to impose a sales, income or property tax.

Wes Myllenbeck disagreed. He said that, right now, we don't know what events might trigger the need for a broad-based tax. Requiring an amendment to the charter is cumbersome and could open the charter to other proposed amendments as well.

The following taxes were proposed for prohibition:

PERSONAL INCOME TAX

Committee conclusions:

Do not prohibit.

Agree: Shoemaker, Myers, Myllenbeck, Phelps
Disagree: Egge, Meek

BUSINESS INCOME TAX

Committee conclusions:

Do not prohibit.

Agree: Shoemaker, Myers, Myllenbeck, Phelps
Disagree: Egge, Meek

PAYROLL TAX, USED FOR PURPOSES OTHER THAN FOR TRI-MET AT THE CURRENT RATE

Committee conclusions:

Do not prohibit.

Agree: Shoemaker, Myers, Myllenbeck, Phelps
Disagree: Egge, Meek

EXCISE TAX ON CONSTRUCTION

Committee conclusions:

Do not prohibit.

Agree: Shoemaker, Egge, Myers, Myllenbeck, Phelps
Disagree: Meek

AD VALOREM TAX, PROHIBITED BEYOND ZOO USE

Committee conclusions:

Do not prohibit.

Agree: Shoemaker, Myers, Myllenbeck, Phelps
Disagree: Egge, Meek

SALES TAX

Committee conclusions:

Do not prohibit.

Agree: Shoemaker, Myers, Myllenbeck, Phelps
Disagree: Egge, Meek

SPECIFIED TAXES WILL REQUIRE VOTER APPROVAL

In the first meeting of the Finance Subcommittee, Chair Shoemaker suggested that imposition of broad-based taxes should require a vote of the people. These are taxes derived from a wide range of the taxpayers and may be used to fund several functions, some of which may not have a revenue stream of their own.

Subcommittee members came to agree and recommended that imposition of the following taxes require approval by the voters:

PERSONAL INCOME TAX

Subcommittee conclusions:
Specify that it requires voter approval.
Unanimous support

BUSINESS INCOME TAX

Wes Myllenbeck stated that he would support enactment by council ordinance.

Subcommittee conclusions:
Specify that it requires voter approval.
Support: Shoemaker, Egge, Meek, Myers, Phelps
Against: Myllenbeck

PAYROLL TAX

Although Metro is not currently authorized to use this revenue-raising device, Tri-Met is. With the possibility of a future merger of the two organizations, thus combining taxing authorities, there was concern by subcommittee members that Metro might eventually increase the payroll tax and use it to fund other functions. Ray Phelps suggested that, if Metro does take over Tri-Met, whatever tax rate being charged at the time would be transferred with the organization. Jon Egge supported an additional restriction of requiring the payroll tax to be exclusively reserved for public transit purposes.

Following subcommittee consideration of the payroll tax, it was pointed out by Metro staff that it is possible for Tri-Met's payroll tax rate to increase beyond its statutory limit of .6 percent (.6 of 1 percent). Jurisdictions within Tri-Met's boundaries are allowed to withdraw from Tri-Met services and also may withdraw their funding of the operation. If that occurs ORS 267.260 allows Tri-Met to increase the rate of any tax currently collected to compensate for revenue formerly contributed by the withdrawing areas. The Subcommittee determined that Metro should maintain that capability. The whole committee should consider whether--if public transit is taken over by the regional government--any withdrawal from public transit should be allowed.

Metro staff also pointed out that Tri-Met is authorized to impose a payroll tax on employees.

The Subcommittee determined that this would not be appropriate for the new regional government.

Subcommittee conclusions:

Payroll tax, used for purposes other than for Tri-Met and at the current rate, will require voter approval. The one exception to this is to allow the organization to make up payroll tax revenues lost because of the withdrawal of a local jurisdiction from transit services.

Unanimous support

AD VALOREM TAX

Subcommittee conclusions:

Specify that it requires voter approval.

Unanimous support

SALES TAX

Subcommittee conclusions:

Specify that it requires voter approval.

Unanimous support

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**ALL OTHER TAXES MAY BE AUTHORIZED BY COUNCIL ORDINANCE
WITH A 90-DAY DELAY TO ALLOW FOR REFERENDUM**

A majority of the subcommittee voted to authorize Metro to enact any other tax by ordinance and that the charter should state that no tax ordinance could take effect within 90 days of passage to allow for referendum to the people.

Jon Egge said that many taxes may be more politically difficult to enact by ordinance than by a vote of the people. It is easy for elected officials to avoid political heat by simply referring a proposed tax to the voters. And it is easy for the voters to approve a "niche tax" which is not imposed on them. To counter this tendency, Jon Egge favors requiring council members to vote yes or no on the merits of any proposed tax which is not broad based.

In arriving at this recommendation, the subcommittee looked at several revenue options. Their conclusions on these follow.

SYSTEMS DEVELOPMENT CHARGE

Subcommittee conclusions:

Allow by ordinance.

Unanimous support

PER CAPITA TAXES ("HEAD TAX") ON GOVERNMENTS FOR SERVICES RENDERED

Such a tax could facilitate the transfer of local functions to the regional government since it offers a mechanism to pay for providing that function without also transferring to the regional government the local government's financing mechanism, often the property tax. Metro counsel advises that such an imposition probably would require statutory authority; although the constitutional amendment authorizing a home rule charter may be sufficient authority to enact such a tax, since it gives the regional government "jurisdiction over matters of metropolitan concern, as set forth in the charter of the district."

Subcommittee conclusions:

Allow by ordinance.

Support: Shoemaker, Egge, Myers, Myllenbeck, Phelps
Against: Meek

HOTEL/MOTEL TAX

John Meek proposed the prohibition of this tax. He argued that if it was used to fund the Convention Center or Center for the Performing Arts, it would be difficult to understand how a motel in Forest Grove, which would pay the tax, could benefit from increased attendance at these facilities.

Chair Shoemaker argued that the economy of the entire region depended upon substantial businesses locating here. The executives who decide on plant and office location are often influenced by the availability of entertainment (cultural and otherwise). Only if there is a healthy economy will there be clientele for a motel in Forest Grove.

Subcommittee conclusions:

Allow by ordinance.

Support: Shoemaker, Egge, Myers, Myllenbeck, Phelps
Against: Meek

RESTAURANT TAX

The Subcommittee considered this to be a tax applied to the retail level and not based on gross receipts.

Hardy Myers would require voter approval, since this is a sales tax.

Subcommittee conclusions:

Allow by ordinance.

Support: Shoemaker, Egge, Myllenbeck, Phelps
Against: Meek, Myers

ADMISSIONS TAX ON NON-METRO FUNCTIONS

Subcommittee conclusions:

Allow by ordinance.

Support: Shoemaker, Myers, Egge, Myllenbeck, Phelps
Against: Meek

REAL ESTATE TRANSFER TAX

Jon Egge distinguished this from a "niche" tax since most voters would regard a real estate transfer tax as a tax they might well have to pay some day.

Subcommittee conclusions:

Allow by ordinance.

Support: Shoemaker, Myers, Myllenbeck, Phelps
Against: Egge, Meek

TAX INCREMENT FINANCING

Tax increment financing is most commonly applied by urban renewal districts. Property tax revenues derived from the increase of property values within the area, as it is "renewed," are first used to pay for those infrastructure improvements which caused values to rise.

The Subcommittee also discussed the possibility of applying tax increment financing to other revenue devices, such as hotel/motel taxes. Here, increased revenues gathered due to improved conditions in any area could be reinvested to further improve the area.

Frank Josselson suggested that the regional government be given authority to establish urban renewal districts throughout the region as a way of directing the location of development. Bob Shoemaker agreed, and said if tax increment financing could be used regionwide, development might be accomplished more intelligently rather than opportunistically.

Subcommittee conclusions:

Allow by ordinance.

Unanimous support

BUSINESS LICENSE FEE

Subcommittee conclusions:

Allow by ordinance.

Consensus support

HEATING ENERGY TAX

Subcommittee conclusions:

Allow by ordinance.

Support: Shoemaker, Egge, Myers, Myllenbeck, Phelps
Against: Meek

FRANCHISE FEES

Metro currently has franchising authority, but only for solid waste facilities. Some committee members would like this authority increased so that the district could issue franchises on other activities.

Frank Josselson and Jon Egge specifically supported franchising off-street parking. Frank

Josselson said that a private company currently has a virtual monopoly on Portland's parking lots and that it is government's responsibility, when faced with a monopoly, to do two things: break it up or regulate it. He said that paid parking could be licensed and regulated, much as a franchise, to assure a reasonable rate of return for the operator. It would also enable government to impose a tax and to provide control over parking costs, which are closely related to transit.

In responding to subcommittee questions on franchises, Dan Cooper, Metro general counsel, said that what gives a local government the ability to create a franchise is usually that it has jurisdiction over an area--such as streets--which allows it to take compensation for the use of that area. It would be difficult to show that the regional government would have jurisdiction over parking lots. He said, however, that it might be possible for the regional government to use its functional planning power to deal with regulatory issues about the number of off-street parking lots and spaces within the downtown area.

Subcommittee conclusions:

Allow establishment of franchises by ordinance.

Unanimous support

EXCISE TAX ON CONSTRUCTION

Members of the subcommittee expressed interest in a construction excise tax used in Montgomery County, Md. It is a tax levied, not on a property's value, but on the amount of floor area in a building. Exemptions are made for multi-family housing. Frank Josselson said he would like to see this tax applied here and imposed with the intent of controlling development in the area. Well-located, appropriate construction would have a lower construction surcharge, he said. Poorly located construction would have a higher surcharge. This would provide an opportunity for the regional government to reinforce important planning concepts that are embodied in the regional framework plan.

Jon Egge said that a tax such as this could work well if development could be influenced beyond the urban growth boundary where the control over locating infrastructure is most needed. He said a construction excise tax would not be sufficient to redirect policy within the urban area.

Committee conclusions:

Allow by ordinance.

Support: Shoemaker, Myers, Myllenbeck, Phelps
Against: Egge, Meek

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Respectfully submitted,



Bob Shoemaker
Chair