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# School District Reorganization Act; Cigarette Tax Referendum

City Club of Portland (Portland, Or.)

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## Report On

# SCHOOL DISTRICT REORGANIZATION ACT

**PURPOSE:** Requiring State Board of Education to prepare criteria for development of school district reorganization program, for inclusion of all territory in Oregon in unified school districts.

Providing for appointment of state commissioner and state advisory committee, election of county committees in all counties except those where entire county is operating under county unit system, for the purpose of carrying out such state-wide program for reorganization, redistricting and unification of such districts.

Prescribing procedures for elections; for continuation of small schools; for division of assets; for serial tax levies; and for administration and government of such established unified districts.

320 Yes. I vote for the proposed law.

321 No. I vote against the proposed law.

To the Board of Governors of the City Club of Portland:

The bill under consideration, known as the SCHOOL DISTRICT REORGANIZATION ACT, was passed by the Forty-Sixth Legislature and signed by the Governor May 1, 1951; it has been referred to a vote of the people by the Oregon State Grange, and will appear on the ballot in the November general election in the above form:

### PURPOSE

The purpose of the bill, stated in brief terms, is to set up a procedure for the reorganization of the school districts of the state into larger, "unified" districts. "Unified school district" is defined by the bill as meaning a "school district which operates both elementary and secondary schools". The procedure established would operate in this manner:

1. The State Board of Education would prepare criteria for the development of a reorganization program, the criteria to include consideration of continuation of schools in rural areas, the geography of the state, size and assessed valuations, available buildings, school population, convenience of children attending school, economies of administration and transportation, needs and desires of rural communities, continued operation of small schools in isolated or sparsely settled areas, and any other matters deemed important.

2. Assisted by a State Advisory Committee for School District Reorganization, the State Board would operate in this matter chiefly through a Commissioner of School District Reorganization, appointed by the State Board.

3. Since the reorganization is contemplated at the county level, the Commissioner would work closely with the county committees formed to consider and draft reorganization plans, and would examine such plans to see if they conform with the State Board criteria.

4. Committees in each county would prepare the proposed reorganization plans. The committees are elected, and the bill makes careful provision for complete representation on the committee so that each zone in the county would have its voice in any intended reorganization. Each committee is required to hold advertised public hearings; to prepare a preliminary plan for submission to the State Board's Commissioner; and thereafter to prepare the final reorganization plan.

5. The plans are then submitted to the voters for approval or denial. If a majority of the voters in a proposed unified district approves the plan, the unified district will come into being; if a majority disapproves the plan, the status will remain quo ante.

In addition to this procedure, the bill contains sections providing for the transference of indebtedness and assets to the newly-created district, for the election of new school boards, for the creation of unified districts which may cross county boundary lines, and for other matters relating to the operation of the new districts.

### WHY REORGANIZATION?

This bill is an outgrowth of the report made by Dr. T. C. Holy and the Legislative Advisory Committee entitled "A Study of Public Elementary and Secondary Education in Oregon" under House Joint Resolution No. 27 enacted by the Forty-Fifth Legislature. The existing school district organization, which the bill is designed to correct, has been characterized as complex, inefficient, uneconomical and educationally damaging. As might be expected with a system which developed over the years, as new units were added to the old, there arose many types of districts, providing different types of public education.

To be specific, under the present district organization in Oregon, there exist the following types of district: the *common school* district, having the responsibility for elementary education only; the *union high school* district, having responsibility under a separate school board for the secondary education of two or more common school districts which are individually inadequate to provide it; the *rural* school district, essentially a budget control board created in 1947 to equalize the school tax levy throughout the county (except for first class districts and union high school districts of first class size); the *non-high school* district, which does not operate schools but contracts for the high-school education of its children with a neighboring high school; the *county unit* district, in which a county board of education is responsible for the elementary and secondary education throughout the county (five such in Oregon); the *county high-school* district, in which high-school education, but not elementary schooling, is provided on a county-wide basis (three such in Oregon); the *suspended* school district, which has a school board but does not operate schools, contracting instead with another district for the education of its children; the *abandoned* school district, which has ceased to function altogether. Districts are also classified first, second, or third class, according to size.

It can readily be perceived from this list that in many parts of Oregon the authority and responsibility for public school education from the first grade through high school devolve upon different boards of education, and that many areas of the state are in several school districts which have no legally defined relationship one to the other. It is not uncommon for the same property to be taxed, for school purposes, by three or more different school districts: elementary, union high and rural. (For example, the territory included in District No. 40, Lane County, is under the taxing authority of District No. 40, Union High No. 12, Union High No. 14J, and the rural school district.)

Sponsors of the bill under consideration hope that under the bill there will be created, throughout the state, unified school districts of a size to provide comprehensive planning for both elementary and secondary schooling of the children within the district. The type of reorganization contemplated under the bill would place all levels of education, elementary, high school and rural, under one school board. It is felt that this will produce greater administrative efficiency, and that, by providing one administrative body responsible to the people for all phases of local education, it will reduce the confusion and increase local interest in the local educational plans and plants.

The bill also contemplates one school tax for each reorganized district, as compared with the present system under which it is possible for a property owner to be taxed by four separate school districts.

Attempts have been made in the past to encourage reorganization. A bill passed in 1939 provided essentially the same features as S. B. 315, with one difference which proved frustrating of its purpose. This difference was that when a consolidation of districts was proposed, a negative vote in any one district would defeat the plan even though the vote were heavily affirmative in the area affected. Under S. B. 315, a majority vote of those affected would result in passage of the reorganization plan.

The 1939 bill was one of a series of efforts to bring about school district reorganization in Oregon. Since then there has been a definite trend toward consolidation: from 2015 school districts in 1939 the number has declined to 1006 in 1951. These have been voluntary consolidations, and have been motivated by two factors which encourage small districts to get together: the shortage of teachers, and the increased costs of school operation.

The bill under consideration would supplant haphazard consolidations (say proponents) with orderly plans for creating new districts which would meet the criteria set up by the State Board of Education; and such districts, formed upon sounder educational and economic bases, would be large enough and strong enough to provide a fuller educational experience for the school children of the state.

The trend toward larger and fewer school districts seems to be nationwide. Many states in recent years have adopted programs reducing the new number of districts, in some cases by 80% or more.

### THE ARGUMENT

Your committee, in its examination of the measure, interviewed Don Campbell, superintendent of schools in Park Rose; Cecil W. Posey, executive secretary of the Oregon Education Association; Elmer McClure and Ben Buisman of the Oregon State Grange; State Senator Robert D. Holmes of Gearhart; and Lester A. Wilcox, Assistant Superintendent of Public Instruction, State Department of Education. Mr. Buisman and Mr. Holmes were members of the Legislative Advisory Committee which aided in the preparation of the Holy report referred to above.

Your committee has been unable to find any organized or open opposition to the bill except that by the Oregon State Grange. Proponents of the bill declare that it is "without question basic to everything else". No claim is made that it will result in dollar savings to the taxpayer, but it is felt that reorganization will result in comprehensive planning and programming for better expenditure of the school dollar, in sounder administration, and in better education by a more competent staff.

The following organizations in Oregon are on record as favoring the passage of the bill: A. A. U. W., State and Portland chapters; League of Women Voters, State and Portland chapters; Oregon Congress, P.-T. A., State and Portland chapters; Farmer's Union; CIO State Industrial Union Council. All newspaper comment that your committee is aware of has been favorable. The only exception to the general chorus of approval, is, as noted above, the Oregon State Grange.

Your committee has accordingly examined the published objections of the Grange which were called to its attention, interviewed certain of its spokesmen, and has concluded that only two of the objections advanced are worthy of consideration. The other Grange statements and arguments, insofar as your committee is advised of them, are regarded by your committee as being factually unsound, conjectural or argumentative and confusing. (For example: the Grange states that S. B. 315 provides for the "employment of a State Commissioner of school reorganization to draw up a master plan to consolidate all existing school districts into a single unified school district". The bill does not so provide. The Grange states that the bill will "eventually cause many of our school buildings in rural areas to be abandoned, with children from those areas being transported long distances to large, centralized schools, most of which would probably be located in cities". This is pure conjecture not founded on fact. At the present time Oregon school population is increasing much faster than new school facilities are being constructed. The Grange further states: "Each of the 81 union high school districts would cease to function as such." This is argumentative. The 81 *high schools* would continue to function as part of a unified school district instead of as a part of a union high school district.)

The two major objections to the bill raised by the Grange are:

1. That the bill would mean the end of the rural school equalization fund.
2. That the bill would result in a loss of "local control over schools, particularly those in rural areas".

It is admitted that rural school equalization would cease if school districts were reorganized into unified districts under the provisions of this bill, because the rural school district would cease to exist. In 1947 the rural school district was created and with it the rural school board, not as an administrative board but as a budgetary board with power to review the budgets of school districts in the county which are in the rural school district. Districts not included are those of the first class and union high school districts having a school census equal to a district of the first class; this means that most towns of three thousand or more are not included in the rural school district. The rural school board examines budgets of the administrative districts within its jurisdiction and levies a tax to raise funds necessary to cover the budgets. It then prorates the funds to the individual districts. The effect of this device is that wealthier districts within the rural school district provide some of the funds to operate schools in poorer districts; in short, its main feature is equalization, with the omission, of course, as noted above. The Grange contends that this county-wide equalization will be lost under the proposed bill; and the Grange wishes not only to keep it but to extend it to include all districts in the county, i. e., the larger districts now excluded from budgetary control and review.

It is important to remember that a reorganization plan will be operative *only* if approved and accepted by a majority of the voters in the area. It was the opinion of most of the witnesses who appeared before the committee that if a plan is accepted throughout a county, it is probable that six to eight unified districts will be formed. There would be no rural school equalization because there would be no rural school districts; instead, each of the six or eight new unified districts would have "equalization" within its boundaries because each would be under both the budgetary and administrative control of a single board. If a reorganization plan for a county were entirely defeated by the voters of the county, there would be no change in the equalization of funds from the situation now obtaining. If a reorganization plan for a county were approved in some areas of the county and defeated in others, the areas which denied reorganization would continue to operate under the rural school board as at present, and would equalize their funds as they do now, while the reorganized districts would be removed from the budgetary control of the rural school board.

The Grange feels that the loss of equalization on a county-wide basis would penalize many present school districts seriously. This would be true only if the reorganization plan ultimately adopted did not make adequate provision for such situations. Proponents of the measure state that until reorganization plans are drawn, it is hardly possible to predict how adverse the effects will be, and point out that the State Board of Education and the Commissioner of Reorganization are charged with taking such situations into consideration when developing the reorganization program. Proponents also do not deny that some areas poor in assessed valuations for school purposes may not be aided by reorganization plans and may be injured by loss of equalization funds, but hold the hope that after reorganization of districts it will be possible to plan for equalization on a state-wide rather than a county-wide basis.

The Grange's advocacy of county-wide equalization, which means county-wide budgetary control, seems not compatible with the Grange's claim that the bill means the loss of local control. The Grange seems to use the term "control" to mean "administrative control" as distinct from budgetary control, and to use the term "local" in a narrow sense. Under the plan for reorganization, all control—administrative and budgetary—will be vested in the board of the unified district. How large—and thus how "local"—this district might be will vary from area to area; it is generally contemplated that each county might have six or eight unified districts. The proposed bill provides for zoning each district if desired for representational purposes, for parent committees to advise and consult with the board, and for full rural participation on the county committees dealing with reorganization plans. There accordingly seem to be sufficient safeguards in the bill to insure "local" control.

Proponents state, in fact, that the bill is designed to preserve local control. The report prepared by Dr. Holy and the Legislative Advisory Committee stresses the need to promote local control, and in its letter of transmittal the Legislative Committee states:

"The sections of the report on reorganization have very properly emphasized the need to provide a plan conducive to greater local control and participation. It has logically pointed out that in an effort to retain local control by the process of creating new boards and districts, such control has actually declined."

Proponents of the measure believe that maintaining strong districts under the direction of the people in the new unified school districts will preserve local control by limiting the need for state controls and regulations. The bill has been written so that plans for reorganization are made by the local people most concerned; no plan for reorganization is imposed upon a district by a state office or agency, and the Commissioner of Reorganization has no power to force reorganization. Your committee feels that it would not be possible to devise a more democratic plan for obtaining school district reorganization.

It is not held that this reorganization measure is a cure-all for the public education ills of Oregon. It is felt, however, that reorganization is a basic necessity; that without reorganization little progress can be made in the state toward providing sounder and more equal educational opportunities for the children of the state. It is of interest to note at this point that the representatives of the Grange admitted to your committee that reorganization is desirable, and that reorganization under this measure would accomplish educational and operational benefits.

## CONCLUSION

Your committee feels that it is important to remember that Senate Bill 315 is an enabling measure only, and that it is not a reorganization plan. In considering the bill, it is necessary to distinguish between criticism of this enabling measure and of a potential reorganization plan.

## RECOMMENDATION

Your committee accordingly feels that any objections to this measure are minor in comparison to the advantages and benefits it might obtain, and therefore strongly recommends that the City Club go on record as favoring the vote 320 X YES, I vote for the proposed law.

Respectfully submitted,

LOUIS BERELSON

ROGER W. OTTO

WALTER H. PENDERGRASS

BURTON M. SMITH

DR. J. H. ROSSMAN, *Chairman*

Approved May 27, 1952, by Dr. Martin Howard, Section Chairman, Education and Recreation, for transmission to the Board of Governors.

Received by the Board of Governors June 16, 1952, and ordered printed and submitted to the membership for discussion and action.



## REPORT ON CIGARETTE TAX REFERENDUM

**PURPOSE:** To provide revenue for state general fund by imposing tax of 1½ cents for each ten cigarettes or major fraction thereof, for privilege of selling, using, consuming, handling, possessing or distributing cigarettes by any person, on or after October 1, 1951.

Exempts cigarettes sold to United States to or by voluntary unincorporated organizations of armed forces thereof. Exempts use of 400 cigarettes or less, brought into state or in possession of any person.

Tax commission to administer act; collect tax; license wholesale dealers; control retailers; prescribe procedure for issuing stamps; enforce penalties and confiscate illegally possessed cigarettes.

YES. I VOTE FOR THE PROPOSED LAW.

NO. I VOTE AGAINST THE PROPOSED LAW.

To the Board of Governors,  
City Club of Portland:

Your committee appointed to study the Cigarette Tax Revenue Act, which will appear for approval or rejection in the 1952 general election, submits the following report.

This act was passed in the 46th assembly of the Oregon legislature. It is House Bill No. 747, Chapter 509, Oregon Laws 1951. It would have been effective October 1, 1951, if

it had not been for a referendum petition filed with the Secretary of State. This petition was proposed and circulated by the Central Labor Council of Portland and vicinity, A. F. of L.

The act provides for a tax of 1½c per 10 cigarettes sold at retail. Stamps are to be affixed to each package of cigarettes by the wholesale distributor. As compensation therefor the distributor receives a commission of not to exceed five per cent of the value of the stamps. The proceeds of the tax are to be paid into the general fund of the state.

Reasonably accurate estimates indicate that if the act becomes effective it will yield about \$10,000,000 per biennium.

At the outset it must be explained that there is a latent connection between this act and another one, otherwise unrelated. This connection does not appear in the ballot measure nor its title.

### CONNECTION WITH UNFAIR CIGARETTE SALES ACT

In the 46th assembly the Oregon legislature passed an act "relating to the licensing, regulation and control of the distribution of cigarettes." Section 16 of this act specifies that it be cited as the "Unfair Cigarette Sales Act." It is popularly known as the "Fair Trade Bill." It is Senate Bill No. 108, Chapter 540, Oregon Laws 1951. It provides for the licensing of cigarette distributors and dealers, and for the revocation of such licenses for proven sale of cigarettes below cost. It provides for injunction against, and penalties for, such sales below cost.

Section 17 of the above act reads as follows: "This act shall be operative on and after the date on which there becomes effective and operative any law of the state imposing a tax upon the sale of or the privilege of selling cigarettes." Therefore, for better or for worse, the two acts are connected, at least for the present. Anyone voting for the ballot measure will be offering to buy a "package" containing another law of which he may or may not approve. If the tax bill passes, the Unfair Cigarette Sales Act automatically becomes effective.

Section 17 of the Unfair Cigarettes Sales Act was apparently inserted as a political expedient designed to appease small cigarette dealers (not some of the large outlets) who might otherwise oppose the tax bill. These people sincerely believe that it is against public policy to sell cigarettes below cost, and that doing so constitutes an unfair trade practice. Some even believe that the very survival of small business is jeopardized by such practices.

At the same time the Unfair Cigarette Sales Act has aroused the opposition of some voters who know of the connection between the two bills. These people favor a cigarette tax but oppose any law tending to stifle or impair price competition. They regard such a law as a further encroachment upon free enterprise.

### ARGUMENTS FOR THE TAX

(1) However common their use, cigarettes are not a necessity. A tax upon them is a tax upon a luxury, or at least a non-essential, which the commodity can well stand. It can be avoided by abstaining from smoking cigarettes.

(2) Experience in other states having cigarette taxes, now 42 in number, indicates that it is a simple tax to administer and collect, and is not unduly burdensome. The revenue derived, unlike that from some other sources, has proved stable during periods of deflation.

(3) The tax, while it will not in itself solve the financial problems of the state, should reduce the total revenue requirements from other sources by some \$5,000,000 annually.

(4) Tourists and transients in Oregon, unlike those in states having sales taxes, contribute little if anything to general state revenue. Part of the receipts from the cigarette tax would come from these non-residents.

### ARGUMENTS AGAINST THE TAX

(1) Granting that cigarettes are a non-essential, they are a poor man's non-essential. Thus the tax is regressive, in that its incidence is proportionally heavier upon those less able to pay it.

(2) It is discriminatory in several other ways. If luxuries are to be taxed, other items

more accurately classified as luxuries should bear the burden. Cigarettes are already heavily taxed (\$4 per 1000) by the federal government. They now carry more than their share of the total tax load. If cigarettes are to be taxed, so should all other tobacco products. Even if it were proper for cigarettes only to be taxed, the rate should be on an ad valorem basis. It should not be fixed at the same arbitrary rate for all brands.

(3) The "financial crisis" facing the state government is exaggerated. For many bienniums we have been reported as facing a crisis, yet each has been met successfully. Furthermore, additional revenues tend to invite larger appropriations and additional services.

(4) There has been no increase in state income tax rates since 1939. These should be increased before new sources of revenue are sought.

(5) Three cents additional per package of 20 cigarettes may actually mean a still further increase of several cents. This is because of the "unholy alliance" between the ballot measure and the Unfair Cigarette Sales Act, previously discussed.

## DISCUSSION

Your committee has attempted to weigh all the above contentions. It has interviewed competent persons of varying opinions and has studied pertinent reports. It recognizes certain inequities in the measure, as there are in most tax laws.

The tax is mildly regressive. So are many others. Indeed it is probably advisable to have some regressive taxes on non-essentials. They tend to offset the effects of our steeply progressive forms, and to broaden the tax base.

Theoretically, if cigarettes are to be taxed all other tobacco products should be included. Nevertheless the experience of other states indicates that the principle of diminishing returns seems to apply to the taxing of cigars, loose tobacco, snuff, etc. The additional returns apparently do not warrant the additional administrative expense. Most states which originally taxed these commodities now exempt them. Many others have never included them in the first place.

While a good theoretical case can also be made for an ad valorem tax, it involves administrative complications. These have led most states, as well as the federal government, to adopt one rate for all cigarettes, regardless of the cost of manufacture.

The state's finances now appear to be better than predicted in the forecasts made early in the current biennium. This is due to the substantial increase in income tax collections in a period of prosperity. Nevertheless the income tax is not dependable. A deflation would sharply reduce the returns from it and could cause a really serious crisis. The dependable revenue from the cigarette tax would without doubt alleviate such a situation.

The public acceptance of the cigarette tax in other states, the simplicity of collection, and the revenues derived (\$430,000,000 in 40 states in the year ended June 30, 1951) indicate characteristics of what economists term a "good" tax. This impressed your committee more favorably than any other single consideration.

What might be termed the "marriage of convenience" between this measure and the Unfair Cigarette Sales Act is wrong in theory and principle. One should not be faced with the alternative of approving both laws or neither. On the other hand, it does not seem necessarily to follow that the bond can never be severed, and that one can never function without the other. It is entirely possible that the Unfair Cigarettes Sales Act may not be sustained by the courts, or that either or both acts may be amended or repealed.

However successful it may prove as an expedient to win votes for the ballot measure, your committee regards the connection between the ballot measure and Unfair Cigarette Sales Act as the principal defect of the former. The other alleged defects we regard as doubtful, relatively minor, or at least acceptable.



## CONCLUSION

We can never have a perfect tax proposal, acceptable to everyone. Your committee believes that the merits of the ballot measure outweigh its faults. Rather than wait until the indefinite future for possibly a more ideal proposal, an affirmative vote on this one is recommended.

## RECOMMENDATION

Your committee therefore unanimously recommends that the City Club go on record as favoring the passage of this measure and a vote of Yes, I vote for the proposed law.

Respectfully submitted,

LESLIE FINCH

F. A. GRIDLEY

WALTER MIESEN

JOHN W. WEST

ALFRED F. PARKER, *Chairman*

Approved June 25, 1952, by Frank Paris, *Section Chairman*, Taxation and Public Finance, for transmittal to the Board of Governors of the City Club.

Received by the Board of Governors June 30, 1952, and ordered printed and submitted to the membership for discussion and action.