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NEWSPAPER SECOND CLASS POSTAGE PAID AT PORTLAND, OREGON

City Club of Portland

BULLETIN

Portland, Oregon Vol. 55, No. 19

Benson Hotel, Mayfair Room **12:15 p.m.** **Friday, October 11, 1974**

Printed herein for presentation, discussion and action at the Friday membership luncheon meeting October 11, 1974:

REPORTS

ON

TAX BASE INCLUDES REVENUE SHARING MONEY

(State Measure No. 7)

The Committee: Henry S. Blauer, Dexter Fairbank, Richard Hayden, Inez M. Henneman, Harvey Karlin, Alex B. Pierce, Charles H. Habernigg, *Chairman.*

COMMUNITY DEVELOPMENT FUND BONDS

(State Measure No. 12)

The Committee: Richard A. Davis, Louis B. Livingston, Harvey L. Rice, Johannes G. Schouten, Nancy E. Stevens, Robert T. Jett, *Chairman.*

PUBLIC OFFICIALS' FINANCIAL ETHICS AND REPORTING

(State Measure No. 14 and Related Multnomah County Measure No. 14A and City of Portland Measure No. 14C)

The Committee: Dale Caldwell, Fred D. Fagg, Brooks R. Gunsul, Donald W. Lindstedt, Carl R. Neil, Peter H. Paulson, Norman Wapnick, Garry P. McMurry, *Chairman.*

"To inform its members and the community in public matters and to arouse in them a realization of the obligation of citizenship."

PROPOSED FOR MEMBERSHIP AND APPROVED BY THE BOARD OF GOVERNORS

If no objections are received by the Executive Secretary prior to October 25, 1974 the following applicants will be accepted for membership:

Francis B. Reeder, Former Dist. Dr. of U.S. Dept. of Labor's Wage & Hour Division. Proposed by James F. Cameron.

George M. Galloway, Acting Assistant Secretary of State. Proposed by Clay Myers.

F. Jay Lutz, Executive Director, Prepaid Legal Insurance, Inc. Proposed by Helen Riordan.

Walter Grebe, Attorney, Partner, Morrison, Bailey, Dunn, Cohen and Miller. Proposed by Tom Tongue.

Mary L. Gorman, Administrative Assistant, Portland Development Commission. Proposed by O. I. Norville.

ELECTED TO MEMBERSHIP

Elizabeth J. Fountain, Executive Vice President and Manager, Oregon Multiple Listing Service. Sponsored by Ross H. Coppock.

Ethel K. Lehman, Councilman, City of Vancouver. Sponsored by Raymond Rowe.

Carl V. Mason, Director, Multnomah County Adult Probation & Parole. Sponsored by Phyllis Pendergrass.

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James Helander, Chairman of the Board, Aero White, Inc. Sponsored by Douglas Pratt.

Ruth Buckman, Personnel Officer, Multnomah County Library. Sponsored by Evelyn Crowell.

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12

Philip Gerber, Systems Analyst, First National Bank of Oregon. Sponsored by Joseph W. Maylie.

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James Danner, Student. Sponsored by Treva Barker.

Lisa Shara, Affirmative Action Assistant, City of Portland. Sponsored by John Strawn.

Jack G. Hornor, Economist, BPA. Sponsored by Forrest Blood.

STATEMENT OF OWNERSHIP, MANAGEMENT AND CIRCULATION **(Act of August 12, 1970; Section 3685, Title 39, United States Code).**

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9. For optional completion by publishers mailing at the regular rates (Section 132, 121, Postal Service Manual) 39 U.S.C. 3626 provides in pertinent part: "No person who would have been entitled to mail matter under former section 4359 of this title shall mail such matter at the rates provided under this subsection unless he files annually with the Postal Service a written request for permission to mail matter at such rates." In accordance with the provision of this statute, I hereby request permission to mail the publication named in Item 1 at the reduced postage rates presently authorized by 39 U.S.C. 3626. (Signed) Marilyn L. Day, Editor.
10. For completion by nonprofit organizations authorized to mail at special rates **(Section 132.122. Postal Manual)** The purpose, function, and nonprofit status of this organization and the exempt status for Federal Income tax purposes have not changed during preceding 12 months.
11. Extent and nature of circulation.

	Average Number Copies Each Issue During Preceding 12 Months	**Actual Number of Copies of Single Issue Published Nearest to Filing Date**
A. Total Number Copies Printed **(Net Press Run)**	1700	1700
B. Paid Circulation		
1. Sales through dealers and carriers, street vendors and counter sales	0	0
2. Mail Subscriptions	1470	1470
C. Total paid circulation	1470	1470
D. Free Distribution by mail, carrier or other means		
1. Samples, complimentary, and other free copies	55	55
2. Copies distributed to news agents, but not sold	0	0
E. Total distribution **(Sum of C and D)**	1525	1525
F. Office Use, Left-over. Unaccounted, Spoiled After Printing	175	175
G. Total **Sum of E & F—should equal net press run shown in A)**	1700	1700

I certify that the statements made by me above are correct and complete. (Signed) Marilyn L. Day, Editor.

REPORT
ON
TAX BASE INCLUDES REVENUE SHARING MONEY
(State Measure No. 7)

Purpose: This constitutional amendment provides that if federal revenue sharing moneys received by a city or county permit a levy less than the lawful maximum tax base for a given year, the tax base shall not be reduced by that amount.[1]

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

I. INTRODUCTION

Measure No. 7 is designed to keep federal revenue sharing funds used by a city or county for property tax relief[2] from reducing its property tax base, and therefore the potential amount of the subsequent tax levies. At the present time any such funds received, if used continuously over a period of three years to reduce the yearly city or county property tax levy, have the effect of contracting the city or county tax base. The Oregon Constitution allows only actually levied property taxes to be counted as part of the tax base. Amounts expended, or amounts received from other sources, are irrelevant to the constitutional scheme. The Constitution limits the amount of tax which may be levied in a given year to the tax base plus six percent. Consequently, revenue sharing funds used for property tax relief now have the effect of reducing the amount of property tax which a city or county could lawfully levy in the future, unless the fiscal administrator is willing to press the issue by seeking a higher tax base from the voters at an election. This becomes important if revenue sharing funds should terminate, leaving program obligations built up in reliance upon them. Such a termination after 1976 is possible.

Measure No. 7 was referred to the voters by the Legislature after an extraordinarily cursory consideration. Although it is a proposed Constitutional amendment, and therefore would ordinarily warrant the most careful investigation, deliberation, and debate, it apparently did not receive much more than twenty minutes attention in committee discussions during the 1973 legislative session. It was voted upon by the full Legislature without debate. There does not appear to have been any deliberate pressure from any legislator or interest group. The measure was evidently perceived as a non-controversial mechanical correction to avoid what appeared to be an obvious tax base problem created for cities and counties by federal revenue sharing funds. The original sponsor or sponsors apparently thought they were responding to the needs of one or perhaps two counties, but no one seems to recall which county, if any, was the original reason for requesting the help of this measure. It seems that little or no effort was expended to determine how many cities and counties might benefit from the effects of the measure or whether the taxpayers of those counties might be potentially harmed.

Your Committee's more leisurely examination of how the measure would work reveals serious defects.

To date, Measure No. 7's public reception has been as uncontroversial as its legislative origin is obscure. Of all the interest organizations contacted (see Appendix A), only the League of Women Voters has undertaken a study of the Measure. The League of Oregon Cities and the Association of Oregon Counties had taken no position on this measure at the time of this writing. Republican and Democratic Party officials, the Portland Mayor's office, and the Portland City Attorney indicated they had not considered the matter.

[1] This statement is inaccurate in that it fails to state that the amendment will not apply to any city or county that has voted itself a new tax base after June 30, 1972.

[2] The number of units using such funds for property tax relief is small. Your Committee found only two. The amount of their revenue sharing funds used for property tax relief is also small.

II. ARGUMENTS ADVANCED IN FAVOR OF THE MEASURE

1. It will prevent administrators of cities and counties which use federal revenue sharing funds for tax relief, who may be unaware of the effect on their tax base, from being fiscally surprised and embarrassed at a later date.

2. The measure will make it easier for cities and counties to use federal revenue sharing funds for local tax relief.

3. As a corollary to the second argument, the measure is not mandatory. It simply gives cities and counties a greater flexibility in their spending.

III. ARGUMENTS ADVANCED IN OPPOSITION TO THE MEASURE

1. The number of cities and counties needing help from the measure is very small. Your Committee has found only two units which are presently using federal funds for property tax relief. If this measure is passed, it will save a few administrators an embarrassing election in which the voters would be asked to consent to substantial property tax increases once the subsidy of federal revenue sharing is abolished.

2. The amount of federal money now used or potentially usable for property tax relief is not likely to be large enough to create a seriously surprising "tax base contraction" once it is gone.

3. The measure undermines the purpose of the constitutional section it would amend. Presently the taxpayer can rest assured that, unless there is a reassessment or an election at which a new tax base is voted, he will never be asked to pay more to the tax unit in any one year than an additional six percent beyond the highest tax he has paid in three preceding years. Under Measure No. 7, however, the taxpayer is subjected to an expanding tax base which in effect sets him up for a sudden large increase in his property tax, without his vote.

4. The measure has a boomerang effect. As a result of the federal rules governing allocations of revenue sharing funds, any taxing unit which uses its funds to reduce its property taxes will reduce the amount of federal funds it is eligible to receive. (Explanation of the federal formula appears in the Discussion section.)

IV. DISCUSSION

Article XI of the Oregon Constitution provides that no taxing unit within the state may levy taxes in a given year in an amount greater than the unit's "tax base" for that year. The "tax base," then, determines the maximum amount of taxes which a taxing unit is permitted by law to levy.

The Constitution provides two methods of determining a taxing unit's tax base for a given year. The simplest method is approval of a new tax base by the vote of a majority of the unit's voters. The more customary method is to add six percent to the highest actual tax levy (exclusive of special levies) in any of the preceding three years to obtain a tax base for the upcoming year. The important feature of this method is that it keys the maximum amount which a unit is entitled to tax to the maximum amount it has in fact taxed in the three preceding years. Under this method, if a taxing unit levies the lawful maximum (i.e., its full tax base) each year, it can count on a steady six percent annual increase in the lawful maximum it is entitled to tax. However, if the unit should fail to levy its lawful maximum for the three-year period, in the fourth year its tax base will contract by the difference between the highest levy actually made in those three years and the levy which the unit otherwise would have been entitled by law to make. (See Appendix B, I.)

Normally, the fact that this method of computing tax base may result in a contraction of tax base is not considered unwise. Indeed, the contraction phenomenon is integral to the scheme since it prevents taxpayers (unless they approve by vote) from suddenly being faced with an enormous increase in taxes after several years of being taxed at less than maximum rates. Moreover, it is assumed that where a unit has deliberately reduced its levy for a three-year period (i.e., long enough to have produced a contraction of tax

base), it has also reduced its commitments commensurately, and thus the contraction of the tax base does not jeopardize the unit's ability to pay its obligations.

However, the phenomenon of tax base contraction is not so benign when a unit uses federal revenue sharing funds to maintain a high level of commitments while simultaneously reducing its tax levy. Federal revenue sharing funds are monies made available to state and local governments on a formula basis from an annual appropriation. The money is available to be used by the recipient unit with no "strings" attached. Thus, a recipient may use revenue sharing funds for capital expansion, new services and programs. Or it may also use them for tax relief, in which case federal funds, rather than property taxes, are being used to pay for pre-existing programs.

Under the present constitutional scheme, federal revenues used in lieu of taxes cannot themselves be counted for purposes of computing a unit's tax base for the following year. Thus where a unit uses federal revenues for tax relief, the effect on the future tax base is the same as though the unit had simply cut its taxes without substituting federal funds. (See Appendix B, II.)

The use of revenue sharing funds for local tax relief thus "sets up" the tax unit for potential fiscal embarrassment should federal revenue sharing funds one day cease. Since the present federal revenue sharing program authorization expires in 1976 and its chances of renewal are uncertain, there is some ground for concern.

Such concern is the basis of Measure No. 7. The measure seeks to eliminate the prospect of surprise to fiscal administrators by providing that to the extent federal revenue sharing funds are used to offset local taxes, the funds so used can be considered to be the same as levied "taxes" for purposes of computing the tax base for the following year. (See Appendix B, III.)

First, one must ask just exactly how urgent the need is to prevent such surprise. Apparently, only one Oregon county and one small city have so far used federal revenue sharing funds for tax relief. Moreover, the present federal revenue sharing program is due to terminate in fiscal 1976, and as previously noted, may not be renewed.

Your Committee questions how serious the problem really is. How much tax relief in absolute dollars, and relative to the local tax burden, could federal revenue sharing funds afford? And how much of that amount is likely to be committed to ongoing programs and serious, rather than one-shot, capital expansion? Remember, it is only ongoing commitments in excess of tax base which are a potential problem.

In a given year, under present constitutional limitations, the taxpayer can rest assured that, absent a re-assessment of his property or an election at which a new tax base or special levy is approved, he will never be asked to pay more than an additional six percent beyond the highest taxes he has paid in the preceding three years. Measure No. 7 would eliminate this assurance where taxes in the preceding three years have been low due to the availability of federal revenue sharing funds. It is possible that the resulting increase to the taxpayer could be substantial. (See Appendix B, IV.)

There is, moreover, a boomerang effect in Measure No. 7. Although it is nominally intended to aid counties and cities by enabling them, without fear of tax base contraction, to use revenue sharing funds for tax relief, use of the measure would actually reduce the eligibility of the unit for such funds. This is due to the method by which federal revenue entitlement is determined.

Each year Congress appropriates a sum for federal revenue sharing. This sum is divided among the states according to a statutory formula [31 USC § 1225 (1974 Supp)] and each state government is allowed to retain one-third of that amount. The remainder is allocated to "county areas" according to another formula [31 USC § 1227 (a) (1974 Supp)]. In turn, a portion of the amount allocated to the county area is distributed to the county government according to a formula, and the remainder is distributed to city and other local governments within that area according to another formula, with complex equations. (See Appendix B, V.) Analysis reveals that the size of the entitlement for that unit is directly related to the amount of taxes assessed by the local government unit.

Another persuasive objection to Measure No. 7 is that it evidently encourages the use

of federal revenues for local tax relief. Is this a desirable use of revenue sharing funds, when there is presently so much underfinancing of vital city services and programs for social development? Your Committee feels that it is not. If this money had been spent by the federal government, it would have gone to categorical grants-in-aid for specific projects, not tax relief. The legislative history of federal revenue sharing shows that it was intended that funds distributed through the program be put to the same general purposes, even though the final Act does not flatly prohibit diversion of funds to property tax relief.

An additional objection is that the measure has an exception whose actual or intended effect is most uncertain. By its terms the Measure does not apply to cities or counties which have voted themselves a new tax base after June 30, 1972.

It seems probable that the purpose of the exception is to ensure that, where citizens vote themselves a new tax base, they do so strictly on their willingness to pay the full amount of taxes for which the tax base provides. In the absence of this exception to Measure No. 7, voters might be lulled into voting themselves a very light tax base on the strength of assurances that their taxes would not go up because revenue sharing funds would be used to make up the difference. Then, if such funds were not forthcoming, the voters would suddenly find themselves hit with the necessity for voting taxes they had not really planned on paying.

While this rationale makes some sense (note, though, that its hidden premise is evidently that local governing units wish to foist higher tax bases on their citizens), it does not explain why the exception has *continuing* effect. As written, the exception provides that once a new tax base is voted that unit is cut off *for all time* from using revenue sharing funds for tax relief. Surely this is anomalous. Presumably the situation is foreseeable in which a city votes itself a higher tax base and then a few years later decides that it would appreciate some temporary relief from taxes without cutting its commitments or losing its tax base. If it is desirable to permit revenue sharing funds to be used for tax relief at all (as Measure No. 7 implies), why isn't it desirable in this instance, too?

The answer may be hurried draftsmanship. It also may be that Measure No. 7 is really only considered an interim relief measure for this immediate period of high taxes and inflation, so that any city or county willing to vote itself higher taxes at this juncture obviously does not need the interim benefits of the Measure. This answer was suggested by one of the draftsmen.

V. CONCLUSION

Measure No. 7 would have the effect of undermining the very purpose of the section it would amend. This may not have been intended, but it is the clear result. Its other defects, as noted, are so numerous and critical that cumulatively they overwhelm the rather feeble arguments in favor of the measure.

VI. RECOMMENDATION

Your Committee unanimously recommends that the City Club go on record as opposing this constitutional amendment, and urges a vote of "No" on State Ballot Measure No. 7.

Respectfully submitted,

Henry S. Blauer
Dexter Fairbank
Richard Hayden
Inez M. Henneman
Harvey Karlin
Alex B. Pierce
Charles H. Habernigg, *Chairman*

Approved by the Research Board September 26, 1974 for transmittal to the Board of Governors.

Received by the Board of Governors October 1, 1974 and ordered printed for presentation to the membership for discussion and action October 11, 1974.

APPENDIX A

Scope of Research

List of Organizations and Individuals contacted:
Mrs. Wanda Silverman, League of Women Voters
Gary Collson, League of Oregon Cities, Salem
Bill Penhollow, Association of Oregon Counties
Various Republican and Democratic Party officials
John Osburn, City Attorney, Portland
Jay Gould (helped draft Measure No. 7), Legislative Fiscal Office, Salem
Barbara Seymour (drafted Measure No. 7), Legislative Counsel Office, Salem
Keith Burns, Oregon State Senator
Steve Haas, Association of Oregon Industries, Salem
Representative Howard Cherry, Chairman, House Revenue Committee
Representative Philip D. Lang, Chairman, House Ways & Means Committee
Representative Stafford Hansell

Your Committee reviewed the following materials, among others:

Article XI, Section 11 of the Constitution of Oregon, and cases and materials pertinent to that section

Materials on Measure No. 7 prepared by the League of Women Voters

Voters Pamphlet materials

Legislative notices, minutes, and recorded tapes of all pertinent committee sessions, including the Ways & Means Committee, the Revenue Committee, and the House of Representatives Floor Sessions

State of Oregon City Revenue Sharing Report

Your Taxes, May, June 1974, No. 5-6

Revenue Sharing Advisory Service, July 1973, Section 731

Numerous other charts, statistical summaries, and similar miscellaneous materials concerning revenue sharing

APPENDIX B

I.

The following hypothetical example may make the above computations more comprehensible. To further simplify the concept, the "three-year" provision of the actual rule is disregarded; in the example, the tax base for the upcoming year is computed strictly on the basis of the previous year's levy rather than on the highest levy of the three preceding years:

In *Year One* we hypothesize that both Units A and B levy a $1,000,000 tax.

In *Year Two* the tax bases for A and B are thus:
for A: (1.06) (1,000,000) = $1,060,000
for B: (1.06) (1,000,000) = $1,060,000

Thus A and B are both entitled to levy $1,060,000 in *Year Two.* However, we hypothesize that, in fact:
A levies $1,060,000 (the full amount)
B levies 900,000.

In *Year Three* the tax tables for A and B are thus:
for A: (1.06) (1,060,000) = $1,123,600
for B: (1.06) (900,000) = 954,000.

The consequence: As a result of its refusal to tax the full amount in Year Two, B has fallen substantially behind A in the maximum amount it is entitled to tax in Year Three and, indeed (in this example), is not entitled to tax as much in Year Three as it was entitled to tax in Year Two (i.e., its tax base has "contracted").

II.

This is easily illustrated in the example above by supposing that the *reason* B chose to levy only $900,000 in Year Two was that it had federal revenues available to make up the difference between what it could have taxed and what it did tax. The tax base for Year Three would still be computed on the basis of what was actually *taxed* in Year Two (as opposed to what was actually *spent*) and thus B's tax base in Year Three would still be $954,000 as above.

This situation seems innocuous enough until it is recognized that though B may be taxing only $900,000, it is *spending* $1,100,000 and at least a portion of this expenditure in excess of $900,000 is likely to be in the form of a long-term program obligation as opposed to a one-shot capital expense. Let us suppose that, in fact, of the $200,000 in federal revenue sharing funds spent, $160,000, or exactly the amount by which federal funds were used to offset local taxes, is committed to such long-term programs along with the entire $900,000 of revenue from taxes. The federal funds have thus enabled B to obligate itself to $1,060,000 worth of long-term programs with a tax of only $900,000.

What happens in Year Three, then, if the federal government suddenly cuts off federal funds? Quite simply, B still has $1,060,000 worth of program obligations *but its tax base —the maximum it can tax—has now contracted to $954,000.* Unless B holds an election and persuades the voters to vote a new higher tax base, it cannot legally raise sufficient taxes to meet its obligations.

III.

To illustrate this, let us suppose that in the above example, Measure No. 7 had been in effect. A and B proceed as before in Years One and Two except that both A and B are in receipt of $200,000 in federal revenue sharing funds. Unit B is using $160,000 of its funds to make up the difference between its $900,000 levy and what it was entitled to

levy, while A is using all of its $200,000 to supplement its normal, full levy. Thus, to compute A and B's tax bases for Year Three:

for A: (1.06) (1,060,000) = $1,123,600.
for B: (1.06) (900,000 + 160,000) = $1,123,600.

Only so much of its federal funds as B uses to offset local taxes are counted in for purposes of determining tax base. Because A did not offset taxes at all, none of its $200,000 expenditure of federal funds is included in the computation.

Note that B's tax base is identical with A's despite B's having taxed less in the preceding year. The effect of Measure No. 7 is thus to preserve the unit's tax base as though it had levied up to the maximum tax allowable instead of using federal funds for an offset. Should revenue sharing funds suddenly cease, in the circumstances hypothesized above, B would have the tax base necessary to maintain its commitments.

IV.

To illustrate, compare Unit B in the preceding example as it would fare under the present scheme and under Measure No. 7. We will assume the receipt of revenue sharing funds in each year sufficient to give B tax relief in the amount indicated:

Under Present Scheme		*Under Measure No. 7*
Year Two:		
B—entitled to levy:	$1,060,000	$1,060,000
B—actually levies:	900,000	900,000
Taxes offset by federal funds	160,000	160,000
Year Three:		
B—entitled to levy		(1.06) (900,000 + 160,000):
(1.06) (900,000)	$ 954,000	$1,123,600
B—actually levies:	900,000	900,000
Taxes offset by:	54,000	223,600
Year Four:		
B—entitled to levy		(1.06) (900,000 + 223,600):
(1.06) (900,000):	$954,000	$1,191,016

Note that under the present scheme the increase in what B is entitled to levy in Year Four over what it in fact did levy in the preceding year is only 6%; but under Measure No. 7, the potential increase is more than 20%:

$$\frac{1{,}191{,}016}{900{,}000} = 1.212$$

V.

The formula according to which county governments receive their entitlement is:

$$\text{Entitlement} = (\text{total entitlement of county area}) \times \frac{\text{county government taxes}}{\text{total taxes on county area}}$$

The formula according to which cities receive their entitlement is:

$$\text{Entitlement} = (\text{total entitlement of county area}) \times \frac{(\text{population of city}) \times \dfrac{(\text{city taxes per capita income/city})}{(\text{city income per capita inc/area})}}{(\text{the sum of all of the above for each local government in area})}$$

REPORT
ON
COMMUNITY DEVELOPMENT FUND BONDS
(State Measure No. 12)

Purpose: Constitutional amendment permitting state bonding to assist cities and counties for Community Development Projects (housing, water supplies, streets, lighting, site preparation, etc.). The purpose of this measure is to assist local government in meeting match requirements in order to qualify for federal financing of Community Development projects. Total bonds cannot exceed 1% of value of taxable property in the state. Bonds are to be financed in manner specified by Legislature or otherwise by state property tax.

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

I. INTRODUCTION

State Measure No. 12 (SJR 10), if passed, would amend the Oregon Constitution by creating a new Article XI-I authorizing the State of Oregon to lend its credit and to incur indebtedness in an amount not to exceed, at any one time, one percent (1%) of the true cash value of all taxable property in the state. The proceeds from bonds to be issued by the state would be used to create a community development fund ("Community Development Fund") to be used for grants and loans to certain public and private corporations for the purposes of matching local and federal funds available for community development, such as housing, domestic and industrial water supplies, streets, lighting and site preparation. The funds also would be used to guarantee obligations of certain public and private corporations for the purpose of community development. No grant, loan or purchase of obligations under the measure is to exceed $100,000 and no guaranteed obligation under the measure is to exceed $90,000 or 90 percent of the project cost, whichever is less.

At current taxable property values (approximately $28.4 billion) the measure, if fully utilized, may be expected to generate a Community Development Fund of $284,000,000.

Upon passage, State Measure No. 12 would be implemented by Senate Bill 227 (Oregon Laws 1973, Chapter 354), a companion bill passed by the 1973 Legislative Assembly. Consequently, although the voters will be asked to approve or reject only SJR 10, the companion bill must be thoroughly analyzed and understood to understand the effect of State Measure No. 12.

Attached as Exhibit A is a list of persons interviewed by your Committee and a list of references reviewed by your Committee.

II. BACKGROUND AND SCOPE

A. Background. In June of 1972, Oregon Senate President John D. Burns formed the Senate Task Force on Economic Development to study various programs of economic incentives and make recommendations which might be applied in a coordinated state policy that would encourage industrial development in non-metropolitan areas of Oregon. The problem presented to the task force, comprised of five Senators and five private citizens from around the state, was stated by Senator Burns as follows: "Population imbalance between our rural areas and the central valley core, particularly the tri-county metropolitan area, is becoming an increasing threat to both Oregon's economy and its environment. Thus . . . the time has come for the legislature to put forth a realistic

package of incentives which will both induce business away from our heavily populated area and at the same time give our people in the rural areas an alternative to moving to the cities."

The task force verified that a considerable imbalance existed in the degree of economic health prevailing through the state and that much of rural Oregon was progressively becoming poorer compared to the Willamette Valley. The accelerating migration of businesses and young people from rural Oregon, as well as from out-of-state, to the Willamette Valley has created governmental problems such as zoning problems, overcrowded schools, inadequate transportation systems, inadequate water and sewer facilities, and numerous public safety and social service problems.

The task force also concluded that the State Legislature and the State government had done little to discourage the migration to the Willamette Valley and little to resolve the economic illnesses of much of the state. The Oregon Department of Economic Development had been woefully understaffed, underfinanced and underauthorized and thus had not had any effective influence in formulating programs of planning and economic development for the state.

The task force held public hearings in eleven different communities and heard testimony from more than 100 people. The task force compiled a list of observations and problems pertaining to economic development in non-metropolitan parts of the state and proposals for legislative action and recommendations, which lists are contained in the Task Force's report to the 57th Legislative Assembly.

Many of the legislative proposals recommended by the Senate task force were included in an economic development package sponsored by Senators Burns, Wingard and Jernstedt in the 1973 Legislative Assembly. The legislative package contained the following Senate Bills:

SB 224, which was enacted as Chapter 691, setting forth the Legislature's findings with respect to economic development in the state of Oregon, and creating the Economic Development Commission;

SB 225, which was enacted as Chapter 692, providing for the establishment of regional development institutes at appropriate state colleges under which students would be trained in various aspects of economic and community development planning;

SB 226, which died in committee, authorizing through amendment of ORS 449.672 an increase from $100 million to $200 million in the bonding authority of the Environmental Quality Commission for pollution control;

SB 227, which was enacted as Chapter 354, which is the companion bill to SJR 10;

SB 228, which was tabled in committee, amending ORS 293.726 and requiring the State Treasurer to make investments within this state whenever to do so would not result in a substantial sacrifice in investment yield; and

SB 240, which was enacted as Chapter 776, placing authority under the Oregon Public Utilities Commissioner to regulate intra-state air commerce.

B. State Bonding. SB 227 directs the Economic Development Commission ("EDC") with the approval of the State Treasurer, to issue and sell such general obligation bonds of the State of Oregon within the prescribed limits as in the judgment of the EDC shall be necessary for the purposes of State Measure No. 12. The prescribed limit is one percent of the true cash value of all taxable property in the state, which is a limit of approximately $284 million. The money realized from the sale of each issue of bonds shall be credited to a special fund in the State Treasury designated as the Community Development Fund. The EDC is authorized to use the fund for grants, loans, acquisitions of general obligation bonds and other obligations of certain public and private corporations, and guarantees of obligations of certain public and private corporations for purposes of matching federal and local funds for community development. The grants and loans are not to exceed $100,000 of each total project cost and the mortgage guarantees are not to exceed $90,000 or 90 percent of the project cost, whichever is less.

Eligible community development projects are those found by the EDC to meet standards which the act directs the EDC to adopt. Community development projects are defined as including, but not limited to, projects for housing, domestic and industrial water supplies, streets, lighting and industrial site preparation.

The act provides that the EDC in adopting criteria for the eligibility of community development projects for grants, loans and mortgage guarantees, shall give special recognition to the needs of rural areas and shall recognize that the ability to raise local matching funds to avail the applicant of federal matching funds for community development is not equally vested in all areas of the state.

In developing criteria, the EDC is to consider all relevant factors, including population density and impact, financial ability to repay loans, ability to supply other needed services for any community development project, the effect of the proposed project on the balanced economic and community development in affected areas, and environmental impact of the project.

In making any grant, loan or mortgage guarantee, the EDC is required to give consideration to the local and statewide benefit of the project to be funded, the cost of constructing and maintaining the project, public interest and need, the feasibility of the project, the applicant's readiness to start construction of the project, and the degree to which the project conforms to adopted criteria.

Under the act, grants, loans and mortgage guarantees are available to "municipal corporations," which are defined as any special service district, other local governmental entity or any *public or private* corporation organized to foster economic development on behalf of the community.

C. Source of Funds. The purpose of the measure is to provide matching funds for federal and local moneys for community development. Local moneys may be raised through gifts, taxation, revenue bonds and general obligation bonds, etc. In addition, certain funds are available from the federal government. In 1965, the U.S. Congress enacted the Public Works and Economic Development Act of 1965, creating the Economic Development Administration of the United States Department of Commerce. The act was designed to focus upon the economic needs of depressed areas and to provide the conditions that foster economic growth and stability. Under the EDA, there are four basic programs: a) Grants providing matching funds from 50% to 80% of certain public works and development facility projects, b) Loans up to 100% to assist in financing public works, and loans up to 65% for industrial and commercial expense, and guarantees of up to 90% of associated working capital loans, c) Technical assistance and research grants, and d) Loans and grants to redevelopment area centers and multi-county development districts. Last year the U.S. Congress provided approximately $270 million for the EDA program for the entire country. This year's budget is approximately $230 million. From 1961 to 1974, grants and loans within the State of Oregon have totaled approximately $46,500,000.

Similar programs are available from the Farmers Home Administration under the Rural Development Act of 1972.

In addition, the Small Business Administration under Section 502 of the Small Business Investment Act of 1958 is authorized to lend funds to local development companies for use in financing specific small firms. The SBA may lend up to $350,000, or more frequently, may guarantee bank loans up to 90 percent or $350,000, whichever is the lesser, for each small business that is to be assisted. Loans may be used to help a development company buy land, build factories, acquire machinery and equipment, expand or convert existing plants, etc.

III. ARGUMENTS ADVANCED IN SUPPORT OF THE MEASURE

1. Most small communities are not able to compete with the larger metropolitan areas in attracting industry because of inadequate utility systems. This measure will provide a new source through grants and loans for such purposes.

2. Although grants are available for community development purposes, particularly from the federal government, on a matching basis, many communities are unable to raise sufficient funds within the time limits required by interested businesses. This program will give communities the required flexibility to meet matching program requirements.

3. The flexibility of the measure allows the Economic Development Commission and the local communities to use the best possible financing vehicle for community development projects. The program allows for grants, loans, mortgage guarantees and repurchase of other obligations, including local revenue bonds or obligation bonds. The program will result in the lending of Oregon's AAA bond rating to local communities, thus reducing interest costs by more than one percent in most cases.

4. If industry can be persuaded to locate outside the Willamette Valley or if industry can be enticed away from that region to Eastern Oregon, the pressures upon the Willamette Valley and its governments will be decreased.

5. The Economic Development Commission has been woefully underfunded and has been unable to effectively control or influence the location of industry within the State of Oregon. This measure in the long run will result in a healthier, more diversified state economy.

6. Economic growth in rural Oregon will allow young adults the choice of remaining in the areas in which they were raised, alleviating disruptive traumatic experiences inherent in forced migration, and may allow certain displaced Oregonians the opportunity to escape "Oregon drizzle" and return to Eastern Oregon.

IV. ARGUMENTS ADVANCED AGAINST THE MEASURE

1. This measure does not define the term "all taxable property in the state," upon which the one percent bonding limitation is based. If this is interpreted to mean real property, the present bonding limitation would be approximately $284 million.

2. In the opinion of some experts in the fields of municipal bonding, a marked increase in the amount of outstanding State of Oregon general obligations and bonds might have an unfavorable impact on the future borrowing capacity of the state. The impact on the state's credit of an additional approximately $284 million bond issue must be viewed in relation to present and future total bond authorization. General obligation bond measures should be restricted to projects of necessity.

3. No limitation exists on how rapidly full indebtedness under the program may be incurred, and thus the possible, although remote, danger exists that the bonds could be issued in a single issue and the state's excellent bond rating could be affected adversely.

4. The measure would allow government officials to obtain funds for community development projects without referring the question to local voters, thus transferring control of these projects from local citizens to local and state officials.

5. Bonding is objectionable, and the state should finance its projects on a "pay as you go" policy.

6. The movement away from small towns and rural areas to the city is not caused so much by lack of economic opportunity as by changing life styles. In other words, some youths will continue to migrate to the cities despite the opportunity to "stay home on the farm." The en masse migration from the farm to the city due to economic causes is probably ending.

7. This measure would primarily benefit business and industry, and would not directly benefit the people. Under the act, grants, loans and mortgage guarantees may be made to private corporations as well as to public corporations.

8. No statewide energy study has been completed in the State of Oregon, and until such study has been completed, the state should not encourage industry to locate in any particular location in the state.

9. The measure would induce out-of-state industry to locate in Oregon and would increase the population of the state and the pressures on government services and systems.

10. The incentives in the bill will not influence solid companies to locate in areas in which they would not otherwise locate. The program is likely to attract only marginal companies looking for give-aways.

11. The relatively small limit of $100,000 for each project is a wedge in the door and eventually a constitutional amendment will be offered to increase the amount. Some interpret the $100,000 limitation to apply to phases of projects, rather than to the total costs of projects. Administration of the program under this interpretation may result in abuses.

12. Oregon's economic growth and diversity during the last decade has been satisfactory without questionable economic incentive programs.

13. State Measure No. 12 and SB 227 are overly broad. The term "community development project" as defined includes any conceivable project which might be termed a benefit to the community, extending from domestic water systems to community art programs to indirect grants to business.

14. The percentage of true cash value authorized, one percent (1%) of all taxable property in the state, is an excessive amount. The program should have been developed on a pilot program basis of approximately one-tenth the scale to prove the effectiveness of this program.

15. The program is not designed or required to be self-supporting. The balance required above revenues from the program is to be provided by the Legislative Assembly from other sources of revenues such as the General Fund or from annual levies upon taxable property within the State of Oregon in sufficient amount to retire the bonds.

16. The benefit to the majority of the population of the State of Oregon, particularly the tri-county area, is questionable. This bill is supposed to be primarily for the benefit of Eastern Oregon and the Coastal area, and not directly for the benefit of the Willamette Valley. Although the EDC is required to give "special recognition to the needs of rural areas," it may grant funds and loans to developed areas as well as undeveloped areas.

17. There is no restriction in the bill against one community enticing business away from another community.

18. The program gives too much discretion to the Economic Development Commission. Although the present EDC administration has expressed its intention to administer the program conservatively, present policy and personnel may change, resulting in reckless administration of the program.

19. Stimulated economic and population growth east of the Cascades, instead of reducing pressures in the Willamette Valley, may increase pressures if migration is primarily from out-of-state. The Willamette Valley will remain a principal source of goods and services consumed in the eastern region and thus growth east of the Cascades may cause growth west of the Cascades.

V. DISCUSSION

The Community Development Fund would be funded by selling state general obligation bonds up to one percent of the true cash value of all taxable property in the state. Exhibit B shows current constitutional bonding limits and actual outstanding bonded indebtedness as of August 31, 1974. Exhibit B also shows such information after issuance of a bond issue for veterans home loans scheduled to close on October 15, 1974 in the amount of $100,000,000. Passage of State Measure 12 would bring the state's total constitutional bonding limit to 17-3/16% of the true cash value of all taxable property. If

community development bonds were fully sold, actual outstanding indebtedness would amount to approximately 6¼ % of true cash value. Both the State Treasurer and private bond brokers advise that passage of this measure would not endanger Oregon's AAA bond rating, although some concern was expressed that the whole amount of the bond issue should not be issued at one time.

The community development bonds are intended to be retired from earnings derived from contracts, bonds, notes and other obligations acquired by the EDC under this program and from earnings on invested funds from the Community Development Fund. The program does not provide, however, that community development projects be self-sustaining. The EDC is authorized to make outright grants. The State, if necessary, would be obligated to levy general ad valorem taxes, or provide other revenue to meet bond payment requirements.

Your Committee does not disagree with the general thrust of the Senate Task Force's recommendations as set forth in their report to the 57th Legislative Assembly. Your Committee's primary concern with this measure is whether the measure is an appropriate remedy for an acknowledged problem. The measure is an idealistic one. Your Committee questions whether the measure, even if fully implemented, will have the desired effect. The hope that stimulated growth in Eastern Oregon and along the Coastal area will reduce certain pressures in the Willamette Valley may be just that—a hope. It is almost impossible to evaluate the effect of stimulated growth east of the Cascades upon inter-state and intra-state migration to and from the Willamette Valley. Stimulated growth in Eastern Oregon may induce some people to stay and may induce some valley residents to move eastward, diminishing growth rates in the valley. Assuming that these two propositions are correct, it is difficult to imagine that the results would be of sufficient magnitude to appreciably alter population pressures in the Willamette Valley.

Your Committee is particularly concerned that the measure gives the EDC extreme latitude in determining what constitutes a community development project. The program could be applied on a broad scale, funding every imaginable kind of project. Your Committee is of the belief that the program should have been limited to development of basic utility systems and industrial site preparation.

While in basic agreement with the goals of the program, your Committee believes that the program should have been created on a pilot program basis. If fully funded, the Community Development Fund would allow for up to 2,840 projects at $100,000 per loan or grant maximum. Realistically, the number of viable projects is probably extremely limited. Few businesses can succeed without basic necessities such as transportation, resources, markets and labor. Most rural communities lack these basic necessities and, even with economic development assistance for utility systems and industrial parks, will be unable to attract or maintain any significant industry. The EDC has expressed its intention to commence the program on a limited basis. Sponsors of the measure have indicated the initial number of projects for the first few years to be as few as ten projects per year. Since the program is limited to matching funds, there is some built-in protection in that other sources of money will have to be raised by the sponsor of any such project.

Before committing to a $284 million program the people should have some evidence that the program will be effective. A program limited to one-tenth the proposed size and limited to basic utility development and site preparation would have been more acceptable to your Committee.

In addition, your Committee would have liked to see some direction to the State Treasurer instructing him to issue the bonds in stages to prevent the possibility of a single issue of the $284 million.

Your Committee recommends that any such community development program be administered, if possible, on a self-sustaining basis. The program should not be administered to ameliorate conditions in crossroad communities which realistically cannot support industry of any size. The program should be administered to assist natural growth centers and communities with unique resources. Unfortunately, the program as presently drafted is not required to be administered in the manner recommended.

If the program is administered to prevent the demise of all or most of the existing crossroads communities, the result will be to attract marginal and unsuccessful businesses which will compound existing problems and doom the program, all at a great cost to the people of the State of Oregon.

VI. CONCLUSION AND RECOMMENDATION

Your Committee is generally in favor of the purposes of the Economic Development Fund program; however, your Committee has substantial reservations with respect to the latitude and magnitude of the program; and therefore, recommends that the City Club go on record in opposition to this constitutional amendment and urges a vote of "NO" on State Measure No. 12.

Respectfully submitted,

Richard A. Davis
Louis B. Livingston
Harvey L. Rice
Johannes G. Schouten
*Nancy E. Stevens
Robert T. Jett, *Chairman*

*Nancy Stevens was unable to attend your Committee's final discussion sessions due to travel engagements; however, prior to departure, she expressed her general approval of the program.

Approved by the Research Board September 26, 1974 for transmittal to the Board of Governors.

Received by the Board of Governors October 1, 1974 and ordered printed for presentation to the membership for discussion and action October 11, 1974.

APPENDIX A

Sources

Persons interviewed by the Committee or by individuals on the Committee:

Ralph Anticho, Oregon State Treasurer's Office

John D. Burns, Oregon State Senator

Zane Campbell, Chairman of Advisory Committee to Senate Task Force on Economic Development

Tom Current, Economic Development Administration, U.S. Department of Commerce

Stephen Kafoury, Oregon State Representative

Vera Katz, Oregon State Representative

Allan R. Mann, Deputy Director, State of Oregon Department of Economic Development

William Padgham, Vice President, First National Bank of Oregon, Bond Investment and Trading

Grant Perry, Senior Vice President, First National Bank of Oregon

James Redden, Oregon State Treasurer

Charles L. Sauvie, Economist, Portland General Electric

Fred I. Webber, Manager, Economic Development and Research, Portland General Electric

Edward J. Whelan, Director, State of Oregon Department of Economic Development

The Committee reviewed the following material:

Lawrence Halperin and Associates, *The Willamette Valley, Choices for the Future,* for Willamette Valley Environmental Protection and Development Planning Council, 1972

Report of the Senate Task Force on Economic Development to the 57th Legislative Assembly, December, 1972

U.S. Small Business Administration, Loans to Local Development Companies, 1972

U.S. Department of Commerce, Economic Development Administration, various pamphlets on economic development assistance, 1974

Arnold G. Holden and W. Bruce Shepard, *Migration and Oregon—1970: Patterns and Implications,* 1974

APPENDIX B

Magnitude of State Bonding

Constitutional Reference	Project Description	% of TCV Authorized	$ Amounts Actually Outstanding 8/31/74	% of TCV Actually Outstanding
Art. XI sec 7	Highways	1	$ 68,900,000	1/4 of 1
XI-A	Veterans' Home Loans	6	1,082,000,000	3-8/10
XI-D	Power Development	1-1/2	-0-	-0-
XI-E	Reforestation	3/16 of 1	6,750,000	1/40 of 1
XI-F(1)	Higher Education Self-Supporting Buildings	3/4 of 1	71,416,000	1/4 of 1
XI-F(a)	WW II Vets' Bonuses	5	-0-	-0-
XI-G	Higher Education Non-Self-Supporting	3/4 of 1	69,275,000	1/4 of 1
XI-H	Pollution Control	1	89,550,000	32/100 of 1
	TOTALS	16-3/16	$1,387,891,000	4-9/10
XI-A	Veterans' Home Loan Bond Issue (10/15/74)		$ 100,000,000	35/100 of 1
		16-3/16	$1,487,891,000	5-1/4
Theoretical Addition of SJR 10	Community Development Bonds	1	$ 284,000,000	1
		17-3/16	$1,771,191,000	6-1/4

REPORT

ON

PUBLIC OFFICIALS' FINANCIAL ETHICS AND REPORTING

(State Measure No. 14 and Related Multnomah County Measure No. 14A and City of Portland Measure No. 14C)

Purpose: Establishes rules of conduct regarding public officials' financial matters and conflict of interest. Requires certain paid and unpaid public officials and political candidates to publicly report sources of income exceeding $1,000 and certain debts relating to public officials' or candidates' governmental responsibilities. Creates Oregon Government Ethics Commission to administer act. Also amends lobbyist reporting statutes and transfers administration of lobbyist law from Secretary of State to Ethics Commission. Provides penalties.

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

I. INTRODUCTION

Your Committee was appointed to study and report on State Measure No. 14, referred to the voters of the State by the Special Session of the 1973 Legislature (HB 3304). Your Committee was also assigned to study and report on related measures to be voted on in each city and county of the State, also referred by the Special Session of the 1973 Legislature (SB 978).

State Measure No. 14 will appear on the November General Election ballot under the same title as this report, followed by the statement of purpose set forth above. The ballots of voters in each city and county of the State will also contain the following question submitted by SB 978:

> Shall the following public officials of this city be required to file statements of economic interest as provided in chapter 72, Oregon Laws 1974 (Enrolled House Bill 3304): Each person holding an elective city office; each member of a city planning, zoning or development commission; and each chief executive officer of the city who performs the duties of manager or a principal administrator of the city?
>
> Yes ______________
>
> No______________

This question will be Multnomah County Measure No. 14A and City of Portland Measure No. 14C.

II. SCOPE OF RESEARCH

Your Committee received oral and written testimony from the following persons:

State Sen. Wallace P. Carson, Jr. (R.-Marion)

William N. Cassella, Jr., Executive Director, National Municipal League

Easton Cross, Assistant to the Multnomah County Board of Commissioners

Lee Johnson, Attorney General of Oregon

William Moshofsky, Executive Vice President, Georgia-Pacific Corp.

John Mosser, Attorney and Member of the State Board of Higher Education

George Russill, Assistant to the Mayor, City of Portland

Blanche Schroeder, Issues Coordinator, Common Cause (Oregon)

Kim Skerritt, Former Member of the Staff of Governor's Select Committee on Conflict of Interest Legislation

*Todd Engdahl, Political Writer, *The Oregonian*

*P. D. Fleissner, Executive Director, Oregon Association of Hospitals

*Robert C. Shoemaker, Jr., Attorney and Member of the Multnomah County Planning Commission

*Daniel M. Uman, Director of the Multnomah County Division of Public Works

*These persons submitted written comments on their views.

III. EXPLANATION

Ballot Measure 14*, a state-wide measure, covers five basic areas:

A. ETHICS COMMISSION. The Act provides for an independent seven-member Oregon Government Ethics Commission to supervise and control matters involving the conduct of public officials, particularly with respect to personal financial gain from public office, conflicts of interest, the disclosure of their economic interests and their relationship with lobbyists. The members of the Commission serve for a period of four years. Three members are appointed by the Governor, and one each by the majority and minority parties of each house of the Legislature. Not more than four members of the Commission may belong to the same political party. The Commission is empowered to conduct investigations, render advisory opinions and determine what constitutes conflict of interest, enforce the provisions of the law, and impose civil penalties.

B. CODE OF ETHICS. Contained in the Act is a Code of Ethics for all public officials at all levels of government. The Act proclaims that no public official shall use his official position for personal pecuniary gain or economic benefit and proscribes the receipt of gifts or favors in excess of $100. The definition of gifts and favors *excludes* honoraria, expenses, campaign contributions, and gifts from relatives. The Act deals only with financial rewards and is not concerned with other interests, biases, prejudices or attitudes that may be benefited by or influence official decisions.

C. CONFLICT OF INTEREST. The term is defined as:

"Conflict of a private pecuniary interest of a public official with an official obligation or duty of the public official, but not:

(a) An interest or membership in a particular business, industry, occupation or other class required by law as a prerequisite to the holding by the person of the office or position.

(b) Any action in his official capacity which would affect to the same degree a class consisting of all inhabitants of the state, or a smaller class consisting of an industry, occupation or other group including one of which or in which the

*A complete text of HB 3304 is available in the City Club office.

person, or a member of his household or business with which he is associated is a member or is engaged."

A conflict of interest would not arise under the statutory definition where a public official, who is a member of a particular industry, occupation or other group such as a labor union member, teacher, attorney, architect, etc., would be considering a matter involving that industry or occupation as a whole. The Act attempts primarily to reach a conflict involving a public official and his personal pocketbook.

Where a conflict of interest exists as defined by the Measures and rules which may be promulgated by the Ethics Commission, *elected* public officials and members of Boards and Commissions are only required to make a public disclosure thereof before taking action on the matter, but are not required to disqualify themselves. *Appointed* public officials (except those on Boards or Commissions) must notify the appointing authority who is thereupon required to either appoint an alternate or himself dispose of the matter.

D. DISCLOSURE OF ECONOMIC INTEREST. A controversial portion of this legislation involves the disclosure of economic interest. Ballot Measure 14 in this regard applies only to the following categories of state public officials:

1. elected state officials;
2. any candidate for an elected State office;
3. the Deputy Attorneys General;
4. assistants in the Governor's office whose salary exceeds $20,000;
5. officers and employees of the Legislative Assembly;
6. persons employed on behalf of the Legislative Assembly or by the Governor to make professional or scientific inquiry of particular matters;
7. the Chancellor, Vice-Chancellors and assistants to the Chancellor of the State System of Higher Education;
8. various directors and department heads as provided in the Measure;
9. the members of twenty-seven listed Boards and Commissions.

The Measure also requires each candidate for the U.S. Senate and House of Representatives to file. (Incumbents are not mentioned.)

If companion referral measures affecting county and city governments are adopted at the November General Election, disclosure of the nature of assets will also be required of the following categories of city and county public officials:

1. Each person holding an elective city or county office;
2. Each member of a city or county planning, zoning or development commission;
3. Each chief executive officer of the city or county performing the duties of manager or a principal administrator of the city.

The statement of economic interest would be required of all of the above-defined public officials, his or her spouse and any children of either who reside with the public official, and cover economic interests existing during the prior calendar year. The Measure would require for those persons, during the calendar year, to disclose:

(1) the names of all business offices and directorships held,

(2) any assumed business names,

(3) the sources of employment which produced ten percent or more of the total annual household income,

(4) whether the major source of income (fifty percent or more) is received from a business activity which did, does, or could reasonably be expected to do business or have an economic interest with the agency in which the public official is a member or over which he has authority,

(5) a list of all real property owned within the geographical boundaries of the governmental agency of the public official, and

(6) sources of income, loans, or investment in excess of $1,000 if those sources during the preceding calendar year did business with or could reasonably be expected to do business with or have an economic interest in the governmental agency of the public official. Exempt from this requirement would be those professionals whose professional code of ethics would prohibit such disclosure.

Disclosure of *amounts* of income is *not* required.

The statements of economic interest are to be filed within thirty days after the appointment of a public official or the filing for state-wide primary election and annually thereafter under forms and procedures established by the Ethics Commission. Failure to file would deny a paid official his salary and bar an unpaid official from exercising his duties. Failure of a candidate to file would remove his name from the ballot.

E. LOBBYING DISCLOSURE ACT. Ballot Measure 14 amends the Lobbying Disclosure Act by transferring the administration of that Act from the Secretary of State to the Oregon Government Ethics Commission. It exempts persons who are not paid and who do not spend more than $50 per quarter, exclusive of travel, on lobbying activities from the requirements of the lobbying act. It eliminates the $10 registration fee and prohibits legislators from receiving campaign contributions during the legislative session and prohibits lobbyists from promising to make campaign contributions during the legislative session. The Act further requires lobbyists to report the name of any legislator who was involved in the business which the lobbyist represents or with whom the lobbyist shares any substantial economic interest.

IV. ARGUMENTS SUPPORTING AND OPPOSING MEASURE 14

The following summary of arguments attempts to highlight only the major arguments brought to your Committee's attention supporting and opposing this ballot Measure.

A. ARGUMENTS IN SUPPORT:

1. The people of the state have reason to know and should have the right to know the nature of the wealth of the state's candidates and incumbent office holders as well as their top employees.

2. The disclosure of pecuniary conflicts, before action by public officials, is essential to the maintenance of respect for our institutions of self government and those who hold the public trust at all levels of government.

3. The measures are better suited to the needs of the state than the sweeping measures adopted in numerous other states. Several "public interest" lobbying groups, principally COMMON CAUSE, have successfully campaigned in other states for "public official disclosure acts" which require virtually every elected and appointed official at all levels of service: state, county, city and service districts, to report the *amount* and source of their families' income subject to divestiture of office, fine and even civil damage liability for failure to comply. This Measure provides for limited financial disclosure by statewide elected officials, their top assistants, members of the Legislature and certain key employees of the Legislature. It *does not* require disclosure of *amounts* of income or asset value, but only requires that key decision makers of our state reveal the source of their income and the nature of their assets. It does not take a "meat ax" approach but attempts to focus light on relevant economic data.

4. The appointment of an Ethics Commission, comprised of four persons appointed by the majority and minority parties of each house of the Legislature plus three members appointed by the Governor, provides that only four members of the Commission shall be members of one political party. Additionally, members of the Commission cannot otherwise be subject to the Measure's provisions. (Thus members of the legislature or judiciary

cannot serve on the Ethics Commission.) The Commission will, therefore, be comprised of "lay citizens" interested in fair and impartial application of the code of ethics and financial disclosure of our elected leaders and top public employees and lobbyists.

5. The Ethics Commission serves as a safeguard against conflicts of pecuniary interests of virtually all state officials, including elected judges, district attorneys and most of the powerful boards, commissions and special service districts in the state. Its power to write advisory opinions and investigate charges also serves as a safeguard in furnishing an independent body to advise public servants, upon their request, of possible pecuniary conflicts and, by impartial investigation, will protect our public servants from unfounded attack or suspicion of improper conduct.

B. ARGUMENTS IN OPPOSITION:

1. There is no demonstrated need for financial disclosure of assets and sources of family income of our state's public servants, especially the hundreds of men and women who serve on the numerous state, county, city and special district boards and commissions. Recent events show that a responsible free press and judiciary, both of which Oregon enjoy, are ample protection for our democratic institutions against the rare violator of public trust.

2. Many people who serve, usually without pay, on numerous boards and commissions of our state and in our local governments will be rightfully reluctant to serve if their assets, liabilities and sources of family income are presumed to reflect adversely upon their integrity.

3. The Measure and its application to counties, cities and special districts is so loosely drawn and ambiguous that the Ethics Commission is given "Star Chamber" powers to impose virtually any rule, judge a person guilty, and impose a fine before the individual charged is even advised of a charge. The language of the Measure is so vague that years of time and thousands of dollars will be spent by the State in defending its constitutionality and its application to various individuals.

4. It has been estimated that $100,000 may be required each biennium to fund the Ethics Commission's administration of the conflicts of interest portion of this measure, the financial disclosure portion and the lobbyists' registration requirements of the law. That states with other problems adopt such legislation is no excuse for Oregonians to squander our resources on a new quasi-judicial bureaucracy to check out some rare suspicion of pecuniary conflict of interest.

5. These Measures deceptively appear to be a "cure all." Far from a *panacea* exposing all conflicts of interest they only cover *economic* conflicts and condone the far more prevalent conflicts arising from allegiance to pressure groups, economic interests and social and religious bias. Even in the area of pecuniary conflicts of interest the Measures seem to legitimatize honoraria, campaign contributions and gifts from members of a family, all of which might well create real pecuniary conflicts of interest.

V. DISCUSSION

The Committee considered each of the above arguments and many more, both in hearings and through review of written material. Measure 14 has defects. The Measure will require careful implementation by the Ethics Commission, probable legislative amendment based upon experience and possible court interpretation. For example, the defect referred to in Opposition argument no. 3 may be avoided by rules of procedure adopted by the Commission or application of the administrative review procedure of Oregon laws.

The Committee shares the opinion of opponents of this measure that our elected and appointed servants generally adhere to the highest standard of ethics and therefore do not believe that the Ethics Commission will abuse its power or grow into a politically motivated, arbitrary body.

The disclosure of the nature of selected state officials' assets and sources of income is not unduly burdensome. The requirement that our elected and appointed officials vote for the common good and not due to motivation for their own specific pecuniary benefit is essential to keeping Oregon clean. Ballot Measure 14 and companion referral ballot measures in county and city elections attempt to address the problem for Oregon in a better manner than other proposals that might be placed on the ballot and adopted by Oregonians.

Notwithstanding the defects of the Measure and the uncertainties attendant on its implementation by the Ethics Commission and its application by counties, cities and special service districts, the Committee unanimously agrees that some limited disclosure of economic interest and disclosure of conflict of pecuniary interest is an idea whose time has come.

VI. RECOMMENDATION

For the reasons stated above, your Committee unanimously recommends that:

The City Club membership support the passage of State Ballot Measure No. 14 and related city and county ballot measures to be submitted to the voters at the general election November 5, 1974.

Respectfully submitted,
Dale Caldwell
Fred D. Fagg
Brooks R. Gunsul
Donald W. Lindstedt
Carl R. Neil
Peter H. Paulson
Norman Wapnick
Garry P. McMurry, *Chairman*

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