

4-11-1980

# Constitutional Amendment Limits Uses of Gasoline and Highway User Taxes (State Measure No.1)

City Club of Portland (Portland, Or.)

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## Recommended Citation

City Club of Portland (Portland, Or.), "Constitutional Amendment Limits Uses of Gasoline and Highway User Taxes (State Measure No.1)" (1980). *City Club of Portland*. 341.  
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**REPORT ON**  
**CONSTITUTIONAL AMENDMENT LIMITS USES**  
**OF GASOLINE AND HIGHWAY USER TAXES**  
**(STATE MEASURE NO. 1)**

Purpose: "Proposed constitutional amendment would change present limits on use of gasoline and vehicle taxes and fees. These taxes are now available for highways, including their policing, and for parks and recreational and historic places. Change would limit tax use solely to highways, including rest areas but not policing. However, taxes on recreational vehicles could also be used for park and recreational areas, and taxes on commercial vehicles could also be used for weighmaster activities."

To the Board of Governors,  
City Club of Portland:

### **I. INTRODUCTION**

If approved, State Measure No. 1 (SJR 7), adopted by the 1979 Legislative Assembly and referred to the voters on the May 1980 ballot, would repeal a portion of Section 3, Article IX, of the Oregon Constitution which presently allows funding of State Parks and State Police from highway revenues, i.e., revenues derived from 1) vehicle registration and operator's fees, 2) motor vehicle fuel taxes, and 3) weight-mile taxes. The Measure would constitutionally limit the use of highway revenues to highway construction, maintenance, administrative and bonding costs.

Your Committee notes that the 1979 Legislative Assembly anticipated voter approval by funding State Police and State Parks from the General Fund rather than from highway revenues during the 1979-81 biennium.

### **II. BACKGROUND**

Oregon's highway finance structure has evolved over the last 75 years along with the increasing use of the automobile. The road system initially was supported in the late 1800s and early 1900s by "local property assessment, poll taxes, and forced labor."<sup>1</sup>

Road user taxes in Oregon began in 1913 with registration fees, followed by fuel taxes and taxes related to vehicle size and miles of travel. The evolution of these forms of taxation reflected the concept of "cost responsibility," which today is the basis of the division of motor vehicle taxes among various types of highway users.

Registration fees began in 1917 when trucks were charged a fee based on vehicle capacity. Changes to the fee structure over the years reflected the basic cost responsibility concept. Trucks, truck trailers and buses pay according to gross weight, with fees beginning at \$10 and graduating to \$130 for a 48,000 pound unit, and continuing to increase at a rate of \$5 for each 2,000 pounds thereafter.

In 1919, Oregon became the first state in the nation to charge a tax on gasoline, a true "user tax"—road users paid in direct proportion to the amount of use.

Oregon voters approved a dedicated road user tax for the State Highway Department (Highway Fund) in 1942 and have rejected proposals since then to use the fund for non-highway related purposes.

Registration fees and gasoline taxes, although viewed as a means of associating use with costs, did not entirely identify the cost responsibility of various sized vehicles. Following a 1945 study, the state charged its first third-structure tax, an incremental weight-

<sup>1</sup> Oregon State Department of Transportation, *Historical Overview of Motor Vehicle Taxation in Oregon*, December 22, 1977.

mile tax on commercial vehicles which became effective in 1947. The tax is based on the registered gross weight of the vehicle and the distance travelled. The weight-mile tax schedule has been adjusted by the legislature four times since 1947 as a result of cost responsibility studies conducted by the Oregon Department of Transportation. Although considered burdensome by some road users, the tax received the support of voters by a 2-1 margin in 1952.

Generally, all vehicles using Oregon roads are subject to road user taxes. Farm vehicles and publicly owned vehicles are among certain classes of vehicles that have been granted exemptions or options which have lowered their share of costs. An exemption for log trucks was eliminated by the 1979 Legislature.

The Oregon State Department of Transportation has published a history of vehicle taxation in Oregon which details the evolution of road user taxes.<sup>2</sup>

The gasoline tax contributes a significant amount to the Highway Fund. Since Oregon became the first state to enact a motor fuel tax on gasoline in 1919, the rate has been increased on six occasions:<sup>3</sup>

Year	Rate
1919	1¢
1921	2¢
1923	3¢
1929	4¢
1933	5¢
1949	6¢
1967	7¢ Current rate

In 1974, a task force appointed by Governor Tom McCall recommended a three-cent per gallon increase due to the rapidly rising cost of highway maintenance and construction. The 1975 and 1979 Legislatures proposed one-cent per gallon increases to Oregon voters, which in both instances were recommended by the City Club and rejected by the voters.<sup>4</sup>

Oregon's per-gallon tax rate is comparable to other western states, as shown below. However, this does not take into account the different tax structures (sales or gambling tax) or the availability of General Fund revenue for the highway systems in these states.<sup>5</sup>

Western States	Gasoline Tax Rate (7/1/79)
Arizona	8¢
California	7¢
Colorado	7¢
Idaho	9½¢
Montana	9¢
Nevada	6¢
New Mexico	7¢
Oregon	7¢
Utah	9¢
Washington	12¢
Wyoming	8¢

Only three states have a lower gasoline tax rate than Oregon (Texas @ 5¢; Nevada @ 6¢; and Oklahoma @ 6.58¢).<sup>6</sup> Oregon has one of the lowest gasoline tax rates and the lowest license tax rates of the 50 states, and has one of the highest tax rates on the trucking industry of any of the 50 states.

<sup>2</sup>Ibid.

<sup>3</sup>Oregon State Department of Transportation, *Motor Fuel Tax Rates*, November 5, 1979.

<sup>4</sup>Portland City Club report, *Increase Motor Fuel, Ton-Mile Taxes*, October 22, 1976.

<sup>5</sup>*Motor Fuel Tax Rates*, op. cit.

<sup>6</sup>Ibid.

Washington and Arizona tie a variable gasoline tax to the consumer price index. Unsuccessful attempts have been made by the Oregon Department of Transportation in the last two legislative sessions to adopt such a system.

Oregon statutes require that 20.07 percent of highway revenues be distributed to counties and 12.7 percent to cities on a per capita basis. Thus one effect of Measure 1 would be to limit the use of these funds by counties and cities to highway construction, maintenance, administration and bonding costs (ORS 366.525, 366.790, 366.800). According to the League of Oregon Cities and the Association of Oregon Counties, a number of counties and cities currently use some of these funds for local police, park and recreational functions. Passage of Measure 1, therefore, may reduce the amounts some counties and cities have available for police, park and recreational functions.

Approximate amounts of highway funds used for police and parks by some counties during the 1978-79 period were: Lane County, 2.3 million; Multnomah County, \$498,000; Marion County, \$232,000; Polk County, \$25,000; Hood River County, \$168,000; Washington County, \$25,000. During 1979-80, the amount used for police and parks in Multnomah County increased from \$498,000 to \$1 million.

Prior to the budgetary adjustments of the 1979 legislature, the Oregon State Police received 86 percent of its \$60 million 1977-79 biennial budget from the Highway Fund. The 1979 legislature budgeted \$59.5 million of the \$68.6 million 1979-81 State Police budget from the General Fund.

The Oregon State Parks and Recreation Division budget historically has been funded from several sources. The 1977-79 budget was funded in the following approximate amounts:<sup>7</sup>

Sources	Percentage of Budget	Amount
Highway Fund	5%	\$1.3 million
User Fees	20%	5.3 million
RV Revenues	35%	9.5 million
Federal aid	15%	4.0 million
General fund	25%	6.0 million

For the 1979-81 biennium, General Fund revenue will provide 33 percent or \$9.55 million of the State Parks and Recreation Division's budget.

### III. ARGUMENTS ADVANCED IN FAVOR OF THE MEASURE

The following arguments were compiled with no attempt made at this point by the Committee to assess the validity of any argument:

1. The passage of Measure 1 will make additional funds available for construction of any new highways, but more importantly, for maintenance of Oregon's deteriorating highway system.

2. The State park system will not have to compete for funds within a State Highway Fund which is experiencing revenue problems due to reduction in highway use and a pronounced increase in highway maintenance and construction costs caused primarily by increased petroleum costs.

3. The State Police and State Park system will be more responsive to the legislative process because they will be required to compete for General Fund revenues.

4. State Police and Parks should not be funded from the Highway Fund because these activities are not directly related to highway automobile use.

5. The additional funds made available for highway purposes by Measure 1 will avoid the use of General Fund revenues to support the highway system in the future.

### IV. ARGUMENTS ADVANCED IN OPPOSITION TO THE MEASURE

The following arguments were compiled with no attempt made at this point by the Committee to assess the validity of any argument:

<sup>7</sup>Materials distributed by the Oregon State Parks and Recreation Division.

1. Oregon has a tradition of a superior park system, which no longer will have a constitutionally guaranteed funding source if Measure 1 becomes law.

2. Passage of Measure 1 will result in the loss of revenue sources for city and county police, park and recreational functions.

3. There is no need for a constitutional amendment. The legislature has demonstrated this already by making the type of budgetary adjustments that would be required if the amendment is approved by the voters.

4. The General Fund already is overburdened and Measure 1 offers no guarantee that the General Fund will not be tapped in the future for construction and maintenance of highways.

5. The real need is for an increased gasoline tax to support highway construction and maintenance. Measure 1 allows the public to postpone the need for increased gasoline taxes.

6. Police functions and park and recreation functions are directly related to automobile use and there is no rational basis to separate their funding at this time.

7. Education and human services should not be required to compete for funding with automobile-related needs.

## V. DISCUSSION

In determining the need for Measure 1, the following factors were considered during the 1979 legislative session:

1. A recognized deterioration of the existing highway system in the state of Oregon, particularly the rural primary roads which are 20-30 years old and which were not designed to carry the heavy loads they now are required to carry;

2. A seven-cent per gallon gasoline tax which voters consistently have refused to increase since 1967;

3. Inflationary pressures, including a dramatic escalation in the price of gasoline, asphalt, and other petroleum products required for highway maintenance and construction;

4. Reduction in highway use causing a reduction in highway revenues;

5. The need for additional mass transit, including matching funds for a light rail system in the Portland metropolitan area;

6. A commitment to make tax refunds for homeowners, renters, and in fact, every taxpayer, because of "Proposition 13" fears.

The following actions were taken during the 1979 Legislative session:

1. \$15 million were appropriated for a light rail system in the Portland metropolitan area. These funds will be matched by \$143.29 million in federal funds;

2. Measure 1 was adopted and referred to the voters;

3. A two cent per gallon tax increase on gasoline was referred to the voters on the November 1980 ballot.

All witnesses appearing before the Committee agreed that the majority of voters apparently are unwilling to accept the increasing costs of maintaining and constructing highways through the use of appropriate user fees generated by the gasoline tax. Some of the witnesses believe the legislative and executive leaders of this state have not been sufficiently inspirational or courageous in explaining the need for increased highway user taxes to the voters in such a way that voters are willing to respond by increasing gasoline taxes.

In any event, faced with insufficient funds for the Department of Transportation from traditional sources, the legislature proposed Measure 1 in order to shift funding for two components of the Department, State Police and State Parks, from the Highway Fund to the General Fund. Without waiting for voter approval of this change, however, the legislature proceeded to shift the police and parks budgets to the General Fund for the current (1979-81) biennium.

According to the Oregon Department of Transportation, operating costs for the Department have doubled since 1974, due mainly to the inflationary effect of oil prices. Revenues from gasoline taxes have only increased approximately 40 percent over the same period, due partially to reduced consumption. Thus, Oregon's highway users have been allowed to avoid a pay-as-you-go responsibility for Oregon's highway system.

If the public is unwilling to support construction and maintenance of the highway system with increased highway revenues, the following options are available:

- 1) A disintegration of the highway system;
- 2) A reduction in use of the highway system with emphasis on alternative transportation systems;
- 3) Use of nonhighway funds (General Fund monies) to maintain the highway system over the short term.

## VI. CONCLUSIONS

Instead of a direct approach to the question, the legislature selected two highway programs which could compete successfully for General Fund revenues and shifted them from the Highway Fund to the General Fund. In conjunction with this action, the legislature submitted an obscure and unnecessary constitutional amendment to the voters designed to confirm (by inference) the legislature's interim solution for a highway system which cannot survive on user fees at present tax rates.

Measure 1, however, does present the question whether we as a society should allow the inflationary effects of our dependence upon the automobile and oil producing countries to panic the state legislature and the citizens of the state of Oregon into constitutionally guaranteeing earmarked highway revenue funds for construction and maintenance of highways at the expense of other societal interests.

The State Legislature and executive leaders have an obligation to ask the public to make some hard decisions in connection with continued support of the highway system. If we cannot afford to maintain the highways we have, we should look for alternate transportation systems, rather than force the remainder of society to suffer in competition with the automobile.

Since the budgetary changes authorized by Measure 1 already have been accomplished by the legislature, a constitutional amendment is unnecessary. Further, if Measure 1 is approved by the voters, an additional constitutional amendment would be necessary to alter this decision.

The legislature has not only failed to address the real problems of the highway system caused by inflation, but also has referred an unnecessary constitutional amendment to the voters of the state.

## VII. RECOMMENDATION

Your Committee recommends a NO vote on State Measure No. 1 in the May, 1980 primary election.

Respectfully submitted,  
Rex E. H. Armstrong  
Jerry A. Bennett  
Elsie Goldhammer  
Rev. H. W. Hamilton  
C. William Muter  
D. Richard Hammersley, *Chairman*

Approved for publication by the Research Board on March 6, 1980 and authorized by the Board of Governors for distribution to the membership for discussion and action on Friday, April 11, 1980.

**APPENDIX A****PERSONS INTERVIEWED**

The following persons were interviewed either by the Committee as a whole, or by individual Committee members:

Ted Achilles, State Representative District 7, and businessman  
 Ronald Chastain, Legislative Revenue Officer, Salem  
 H. Scott Coulter, State Highway Engineer  
 Lloyd Heninon, Manager, Financial Planning and Economics,  
 Oregon Department of Transportation  
 Vera Katz, State Representative District 8  
 Fred Klaboe, Director, Oregon Department of Transportation  
 Noel Klein, Senior Staff Associate, League of Oregon Cities  
 William Penhollow, Senior Executive Assistant, Association of Oregon Counties  
 David G. Talbot, Oregon State Parks Administrator  
 John C. Williams, Superintendent, Oregon State Department of Police

**APPENDIX B****BIBLIOGRAPHY**

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