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Report on

ANNUAL LEGISLATIVE SESSIONS

(Ballot Measure 3)

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The City Club membership will vote on this report on May 4, 1990. Until the membership vote, the City Club does not have an official position on this report. The outcome of the membership vote will be reported in the City Club Bulletin (Vol. 70, No. 51) dated May 18, 1990.

REPORT ON ANNUAL LEGISLATIVE SESSIONS (Ballot Measure 3)

To the Board of Governors,
City Club of Portland:

I. INTRODUCTION

The 1989 Oregon Legislature adopted and submitted to the voters House Joint Resolution 28 (Ballot Measure 3). This measure would amend the Oregon Constitution to require annual legislative sessions and would limit each session to a specific number of days. The measure as it will appear on the ballot is:

QUESTION: Shall state constitution require legislative assembly to meet annually instead of biennially and limit number of days in legislative session?

EXPLANATION: Amends Oregon Constitution. Requires legislature to meet annually instead of biennially. Changes commencement of session from second Monday of September to second Monday of January. Unless extended, limits length of session to 135 calendar days in odd-number years, 45 in even number years. On two-thirds vote of each house, allows extension for five calendar day intervals, except Sundays. Measures introduced and not passed in one session do not carry over to following session.

II. HISTORY AND BACKGROUND

Oregon's current system of government is different from most other states in several ways: (1) biennial legislative sessions with options to call special sessions (state legislatures in Texas, Kentucky, Arkansas, Montana, Nevada, and North Dakota also meet biennially); (2) an Emergency Board that exercises certain fiscal duties between legislative sessions; (3) a constitutional requirement for balanced biennial budgets; and (4) a system of citizen boards and commissions that direct many state agencies.

Ballot Measure 3 proposes annual legislative sessions and limits on the length of these sessions to 135 days in odd-numbered years and 45 days in even-numbered years. Current biennial and special sessions have no limits but have run an average of 175 days and special sessions 10 days since 1973. Special sessions of the legislature may be convened by the Governor or by written request of a majority of the members of each house.

The Emergency Board is a joint committee, composed of 17 members including the President of the Senate, the Speaker of the House and the Senate and House Chairs of the Ways and Means Committee. Most members have experience on the Ways and Means Committee. Authorized by a constitutional amendment in 1952, the Emergency Board addresses fiscal emergencies and new activities that occur between regular sessions and authorizes expenditures over a small portion of the state budget. Emergency Board decisions are not subject to the Governor's veto, nor to review by the full Legislature before implementation.

In its report on "Structure of the Oregon Legislative Assembly", published in 1981, the City Club of Portland recommended a total restructuring of the legislature. Recommendations included annual sessions and specified the topics to be addressed in the second session, limits on the length of sessions, an annual budget, and elimination of the Emergency Board. Ballot Measure 3, proposes annual sessions and limits on session length but does not propose annual budgets, elimination of the Emergency Board, or other restructuring proposed in the 1981 report.

III. ARGUMENTS

The following section is a side by side comparison of the arguments submitted to your Committee for and against the measure. We have grouped the arguments in five subset areas that will be expanded in more detail in the Discussion section.

ARGUMENTS IN FAVOR

1. CITIZEN LEGISLATURE

Annual sessions would help preserve the citizen legislature by limiting the total number of days the Legislature would be in session. The predictability of sessions would enable legislators to adequately maintain their professions outside of the Legislature with minimal, planned interruptions.

2. ANNUAL VS. BIENNIAL BUDGETS AND COSTS

Expense of operating annual sessions would be limited by mandatory adjournment after 45 and 135 days in alternating years, thereby limiting the total number of days the legislature is in session.

Annual sessions would allow the Legislature to respond more quickly if budget emergencies arise.

Biennial budgeting encourages agencies to pad budgets and then spend all allocated dollars.

ARGUMENTS AGAINST

1. CITIZEN LEGISLATURE

Annual sessions would erode the citizen legislature by requiring legislators to take time away from their professions every year. Legislators would be more removed from their constituency.

2. ANNUAL VS. BIENNIAL BUDGETS AND COSTS

Expense of operating annual sessions would increase because of the cost of starting up the additional session. The Legislature meets roughly 180 days during its biennial session anyway.

State agencies have a good record for projecting budgets for the biennium and the Emergency Board is adequate to deal with any emergencies. Other states and the federal government are increasingly discussing moving to biennial budgeting for better long-term planning.

More agency resources would be diverted to legislative testimony, monitoring and budgeting rather than to implementation of programs.

There would be increased pressure to raise legislative salaries because of the inconveniences legislators would face with annual sessions.

ARGUMENTS IN FAVOR

3. ADDRESSING COMPLEX PROBLEMS

Legislative activity is getting more complex and requires the kind of attention annual sessions could provide. Growth in Oregon will require more legislative activity, more often.

Sessions are likely to be limited because a two-thirds majority is required for extension.

4. THE EMERGENCY BOARD

Emergency Board is not representative of the entire legislature. It infringes on the principle of representative government. Annual sessions would limit the role of the Emergency Board.

5. POLITICAL IMPLICATIONS

Time limits on the legislature would enhance efficiency and help legislators focus on issues before adjournment. Getting two thirds of the legislature to extend a session beyond mandatory adjournment would be difficult.

Legislators would be held more accountable during the sessions because adjournment would directly precede elections every year.

Interim committees would become more relevant because they would be held accountable for their activities on a regular basis.

ARGUMENTS AGAINST

3. ADDRESSING COMPLEX PROBLEMS

The current level of legislative activity does not require annual sessions. Biennial sessions force the legislature to plan ahead.

Sessions are likely to be extended because the legislature is unlikely to stay within the limits defined by the measure. In addition, special sessions may be called without a two-thirds majority.

4. THE EMERGENCY BOARD

The Emergency Board does adequately represent the full legislature. It is composed of experienced legislators. The Emergency Board only deals with about five per cent of the budget anyway. The measure makes no stated changes to the Emergency Board.

5. POLITICAL IMPLICATIONS

Factions could exercise considerable control over ending the session.

Annual sessions make it more difficult for rural legislators to serve.

Annual sessions would interfere with the functioning of citizen boards and commissions.

The Governor would not have sufficient time to develop and evaluate programs and budgets.

The people have not initiated this measure. There is no public outcry for annual sessions.

IV. DISCUSSION

Our review of the Club's 1981 report and Measure 3 identified five significant subject areas: the desire to retain citizen-lawmakers; the relative benefits of annual vs. biennial budgets; the effectiveness of the legislative process to deal with complex issues; the role of Emergency Board; and political power balances between legislature, the executive branch, and among political factions within the legislature.

A. Citizen Legislature

Both proponents and opponents testified that there is value to maintaining a citizen legislature — i.e., a legislature whose members have another occupation besides legislator. Your Committee heard testimony from proponents of Measure 3 that it would be easier for citizens to serve in the legislature under annual sessions, while opponents claimed that it would be more difficult for citizens to

serve. Although it is difficult to determine the ultimate impact, your Committee was not convinced that limited annual sessions would make it easier for persons in other occupations to serve in the legislature.

B. Biennial Versus Annual Budgets

Although the proposed ballot measure does not dismantle biennial budgeting, your Committee heard testimony about the advantages and disadvantages of annual and biennial budgets. Some believe that annual sessions would lead to annual budgeting. Others contend that the effect of annual sessions on the budgeting process will be minimal unless there is a change in current requirements and practices such as the constitutional mandate to balance the state budget, biennial forecasting, the Emergency Board's budget allocation during the interim. In the event that annual sessions could lead to annual budgets, your Committee examined the relative value of annual and biennial budgets.

The 1981 City Club report recommended annual budgeting because of the difficulty in projecting and managing two-year budgets. As a result, the report stated that agencies overestimate revenue requirements. That analysis was predicated in part in an environment in which the role of the federal government was large and expected to get larger, requiring prompt state action to respond to federal revenue opportunities. Additionally, changes in federal budgeting practices, such as improvements in the two-step authorization/appropriation process and the start of the fiscal year in October, created an expectation that states would need to respond more quickly.

However, the significant reduction in federal aid to states and localities in the 1980s and the on-going federal budget deficit, has diminished the need to respond to federal initiatives. Moreover, some state budget administrators indicate that federal officials are looking at a biennial budget process as a model for the federal government.

Witnesses said that in recent years Oregon has gained national recognition for a well run government in part because of its biennial budgeting cycle. Professionals responsible for program planning find that biennial budgets are more conducive to setting and achieving long range goals. Also, the legislature adopted an expenditure limitation in the late 1970s that prevents state General Fund appropriations from increasing at a rate higher than the state's personal income growth. This limits the growth in state agency spending and encourages reasonable budgeting.

There is no evidence to suggest that annual sessions would lead to any savings in the expense of running the legislature. Several witnesses claimed that the efficiency of state agencies will be compromised as a result of the distractions of annual legislative sessions since agency personnel would be involved in legislative activities rather than focusing on implementing and managing programs. Furthermore, witnesses stated there is likely to be additional startup costs such as for staff for the second session.

C. Addressing Complex Issues

Proponents of the measure argued that annual sessions are needed to address more complex issues. Although your Committee received no testimony on what issues are too complex or what issues the legislature could more effectively address in annual sessions, there are certain issues that seem to defy adequate solutions: school finance, the property tax limitation and workers' compensation. These issues have been problems for years and in some cases decades.

The Washington Legislature moved from a biennial session to annual sessions in the early 1980s to gain more time to discuss complex problems that were not getting solved. The budget was increasing and the legislature was being called into session annually to deal with it. According to one witness, sessions are now better managed and legislators are staying on schedule. Despite this testimony, your Committee questions whether annual sessions in Washington actually improved management and scheduling. The Washington Legislature was unable to complete its work on the budget in its regular session this year and spent several weeks in special session. Your Committee was unable to contact or interview other witnesses knowledgeable about the Washington Legislature and the effect of changing from biennial to annual sessions.

Your Committee heard testimony that the solution to complex problems does not depend on session length. Some stated that lobbyists and elected officials argue over issues at every session whether annual or biennial. Other witnesses who were knowledgeable about Oregon and other states questioned whether the current size of the state and complexity of issues requires annual sessions. Your Committee did not find convincing evidence that annual sessions will significantly improve resolution of complex issues.

D. Emergency Board

The Emergency Board has been criticized as a mini-legislature whose power to allocate funds without action by the full legislature violates the principle of representative government. Although this measure does not eliminate the Emergency Board, proponents of the measure appear to be looking for a way to limit its power. However, the Emergency Board's authority can be curbed by the full legislature, with or without passage of this measure, if the legislature as a whole chooses to be more specific in its allocations of funds or in its instructions to the Emergency Board.

The preponderance of testimony indicates that the Emergency Board operates efficiently in performing the functions for which it was created. Those functions include taking care of emergencies that do not warrant calling a special session of the full Legislature and determining specific funding for programs established during the regular session, when exact costs are not known at the time of adjournment.

E. Political Implications

Proponents of the measure foresee increased legislative oversight of state programs. This would provide an opportunity to have more hearings to better understand agencies and their programs and to assess the performance of state agencies. Legislators who oppose annual sessions, some executive branch officials, and some media representatives indicate, however, that additional legislative oversight may hinder implementation of the legislature's policy decisions. They believe that additional legislative oversight will interfere with appropriate functions of administrative agencies and the boards and commissions which run them. Opponents regard such oversight as a negative result of annual sessions. Furthermore, they point out that more oversight requires agency attendance at legislative hearings that will modify agency workload and shift agency activity from the Governor's agenda to the legislative oversight committee's agenda. Your Committee perceives this as an intrusion in executive branch affairs that will make it more difficult to efficiently and effectively manage state programs. Your Committee was not persuaded that such a shift is necessary or desirable.

Proponents argue that time limits are easier to cope with than sessions of indefinite duration, but your Committee questions whether the legislative process will allow the time limits to be sustained. The possibility also arises that one-third of the membership of each house, plus one, could withhold action on key bills by refusing to vote to extend the session. That could result in more abuses than those attributed to the Emergency Board.

Your Committee heard no reports of public demand for changing the present system. Rather, the proposed change seems to be motivated by internal struggles within the Legislature. Legislators who are not on the Emergency Board believe the Emergency Board has too much power. The measure also gets support from people who perceive a need for a more powerful legislature and see annual sessions as a step toward it. Your Committee simply does not find objective substantiation for either the concern or the perception of need.

We recognize that a "don't fix it if it ain't broke" attitude can mean never making improvements unless existing models have fallen apart or failed. Good government can be made better. However, it is questionable whether this measure will in fact improve Oregon's government.

V. CONCLUSIONS

Your Committee did not find many of the arguments of either the proponents or the opponents persuasive. However, we found no pressing problems with biennial sessions that warrant a move to annual sessions. Annual sessions could lead to eliminating biennial budgeting, a valuable planning tool which should be retained. Annual sessions could also lead to legislative intrusion into the management of state agencies and could make it more difficult for state agency managers to effectively and efficiently manage state programs. The veto power of a one-third plus one minority for extending sessions invites disruptive political maneuvering. In addition, we found no public demand for changing to an annual legislative session.

VI. RECOMMENDATION

The Committee unanimously recommends a "No" vote on Ballot Measure #3.

Respectfully Submitted,
Barbara Fields
Jay Formick
John Gadon
Mary McCarthy
Steven Schell
B.J. Seymour
Charles Shattuck
Mary McWilliams, Chair

Approved by the Research Board on April 11, 1990 for transmittal to the Board of Governors. Approved by the Board of Governors on April 16, 1990 for publication and distribution to the membership and for presentation and vote on May 4, 1990.

APPENDIX A

PERSONS INTERVIEWED

Burns, Keith, Lobbyist

Edwards, Cecil, Senate Historian

Frederick, Karl, Lobbyist, Associated Oregon Industries

Greenfield, Mike, Administrator, Oregon Legislative Administration Committee

Haggard, Marko, Retired Professor of Political Science, Portland State University

Lehmann, Leslie, Vice President, Government and Public Affairs, Nerco, Inc.

McCoy, Bill, Oregon State Senator

McCracken, Sally, Member, Oregon State Scholarship Commission and former Volunteer Lobbyist

Ian McGowan, Lobbyist

Miller, Randy, Oregon State Representative and Chief Sponsor of HJR 28

Nelson, Terry, Executive Director, Oregon Common Cause

Parker, Greg, Information Officer for Oregon Department of Agriculture and former Reporter of legislature and state government for public radio

Perry, Diane, Administrator, Oregon Workers' Compensation Board,

Phillips, Paul, Oregon State Senator

Rogers, Terry Ann, Multnomah County Legal Aid Service Staff Attorney and Lobbyist for low-income people

Sadler, Russell, Syndicated Columnist

Saylor, Gene, Oregon State Representative

Simmons, Dan, Director, Oregon Department of General Services

Streisinger, Cory, Legal Counsel to Governor

Thompson, Wayne, Associate Editor, The Oregonian

Thorne, Mike, Oregon State Senator

Unger, Cheri, President, League of Women Voters, Portland Chapter

Van Natta, Fred, Lobbyist, Oregon Home Builders Association

Ward, Susan, State President, League of Women Voters

Yunker, Jon, Administrator, Budget and Management Division, State of Oregon

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