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Ballot Measure 80: Allow Use of Highway Fund for Policing

City Club of Portland (Portland, Or.)

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ballot measure

80:

allow use of highway fund for policing

published in the City Club of Portland *Bulletin*,
vol. 81, No. 46, April 14, 2000.

Your committee found:

City Club has long supported the use of highway tax and fee revenues for transportation-related services. The Club has also supported broadening how Highway Fund monies can be used to reflect the need for an integrated approach to transportation planning and services. State police and traffic-related local police services received Highway Fund support from 1913 to 1980. An easy case can be made that these services did-and do now-benefit highway and road system users. Since 1980, the Oregon State Police has suffered from inadequate and unstable funding. State and local road systems clearly also have significant unmet needs. Measure 80 does not require the state legislature or counties and cities to spend any of their Highway Fund allotment on police services-it merely gives them the option to do so. State and local officials should have the responsibility and authority to decide how to achieve the balance of transportation services that is right for each of their jurisdictions.

Your committee urges a YES vote on Measure 80.

The City Club membership will vote on this report on Friday, April 14, 2000. Until the membership vote, the City Club of Portland does not have an official position on this report. The outcome of this vote will be reported in the City Club *Bulletin* dated April 28, 2000.

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I. INTRODUCTION

Ballot Measure 80 will appear on the ballot as follows:

| | |
|-----------------------|--|
| Caption: | Amends Constitution: Authorizes Using Fuel Tax, Vehicle Fees for Increasing Highway Policing |
| Result of "Yes" Vote: | "Yes" vote authorizes using fuel tax, motor vehicle fees for increasing policing of highway system. |
| Result of "No" Vote: | "No" vote rejects allowing fuel tax, vehicle fee use for increasing policing of highway system. |
| Summary: | Amends Constitution. Currently constitution authorizes use of revenues from fuel tax and motor vehicle fees for: construction, reconstruction, improvement, repair, maintenance, operation, use of public highways, roads, streets, roadside rest areas; administration costs; highway bond retirement; certain parks and recreation costs. Measure authorizes additional use of such revenues to increase policing of public highways, roads, streets, roadside rest areas by sworn law enforcement officers. Requires that such use increase police agency budgets to provide service levels not previously authorized by budgets on measure's effective date. |

(The language of the caption, question, and summary was prepared by the Oregon Attorney General.)

Since 1942, City Club has studied and taken positions on a number of ballot measures related to Oregon's motor vehicle taxes and their use. Measure 80

again raises the question of which activities should be supported by the Oregon Highway Fund. Our committee reviewed relevant past City Club reports, interviewed proponents and opponents, and reviewed materials prepared by the Oregon State Police.

What Measure 80 does: Measure 80 was referred to voters by the 1999 Oregon Legislature (as Senate Joint Resolution 11). Measure 80 would amend the state constitution to allow the state legislature, county commissions and city councils to use some of their allotment of state motor vehicle tax revenues to support the policing of public highways, roads, streets and roadside rest areas. The measure does not change the total amount of highway funds received by any level of government. Measure 80 requires that any highway funds spent on policing may only be used to "increase the budgets for police agencies to provide levels of service not authorized by the budgets in effect on the effective date of this amendment."

Support for Measure 80 has come primarily from state and local law enforcement groups, while opposition has come primarily from the Association of Oregon Counties and the League of Oregon Cities.

II. BACKGROUND

For nearly a century, Oregonians have supported policies to limit the use of motor vehicle tax and fee revenues to programs and services related to the highway system. In Oregon, the definition of "highway-related uses" has expanded and contracted over the years.

From 1913 to 1942, Oregon statutes limited use of motor vehicle revenue to "construction, maintenance and policing of public highways." In 1925, the Oregon Legislature added as approved uses the 'acquisition, development and maintenance and publicizing of parks, recreational, scenic, and historic places."

By the end of the 1930s, Oregon's Highway Fund had become by far the largest single fund collected by the state. In Oregon and across the country, state legislatures found gas taxes easy to collect, with few citizen complaints. During this period, some state legislatures began to divert highway revenue to non-highway uses. In response, the American Automobile Association began a campaign, in states across the nation, to place limitations, in state constitutions, on the use of highway funds. In 1942, the Oregon Motor



Association was a major proponent of a measure, referred by the Oregon Legislature and approved by voters, which put into the Oregon Constitution the existing statutory limitations on the use of motor vehicle tax revenues.

In the decades following 1942, some groups tried to weaken or eliminate these restrictions. They saw highway tax revenues as a substantial revenue source that should be available to finance pressing needs or to finance a particular service or activity. In the 1970s, inflation and high oil prices drove up highway construction and repair costs at the same time that greater fuel efficiency and higher gasoline prices reduced gasoline consumption and thereby overall gas tax revenues. The mounting deterioration of existing roads, and the lack of funds to fix them, led to repeated calls for increased highway revenue. Some urged that the Highway Fund should be allowed to support an overall statewide transportation system that would include other transportation modes, including public transit as an alternative to automobile use.

In 1974 and 1976, Oregon voters rejected ballot measures that would have allowed highway revenues to be used for mass transit. In 1978, voters rejected a measure that would have raised the state gas tax. The measure also would have limited the portion of highway funds that could be used for parks and recreation sites to one percent of total revenue and limited funds for state police to eight percent of total revenue.

1980 State Measure 1: The 1979 Oregon Legislature referred Measure 1 to voters. The measure amended the state constitution and limited the use of gasoline and vehicle taxes and fees only to the funding of "highway construction, maintenance, administrative and bonding costs and the support of highway rest areas." The measure, in effect, prohibited the use of Highway Fund revenues for policing and parks. The measure did allow recreational vehicle taxes to be used for park and recreational areas and taxes on commercial vehicles to be used to support weigh master activities.

Prior to Measure 1, the Oregon State Police had received 86 percent of its \$60 million 1977/79 budget from the Highway Fund. In anticipation of the passage of 1980 Measure 1, the 1979 Oregon Legislature replaced much of the Oregon State Police's lost highway revenue with General Fund monies (\$59.5 million General Fund dollars out of a total Oregon State Police 1979/81 Budget of \$68.6 million).

Proponents of Measure 1 said it would free up additional funds for new highway construction and needed maintenance of existing roads. Some said the removal of police and parks out of the Highway Fund would avoid the need to begin to spend state General Fund dollars on the road system. They said the Oregon State Police and state parks would have an easier time than road projects getting General Fund support from the legislature. Others said state police and parks are not directly related to highways and should not be supported by the Highway Fund.

Opponents of 1980 Measure 1 said Oregon's superior state park system would lose its constitutionally guaranteed revenue source, and cities and counties would lose access to funds for local police and parks and recreation. They said a constitutional amendment was unnecessary because the legislature had shown it could choose to fund police and parks out of the General Fund instead of the Highway Fund. Others warned that the General Fund was overburdened already, and that police and parks would have a hard time competing in years ahead with other more compelling and visible programs. Others said that education and human services should not have to compete with auto-related needs. Some opponents said police and parks were directly related to automobile use and that no rational basis existed to exclude them. Some said that Measure 1 would simply allow the legislature to put off what was really needed—a gas tax increase to raise more revenue.

Voters passed 1980 Measure 1 by 64 percent to 36 percent. After nearly 70 years of support from the Highway Fund, Oregon State Police could no longer be funded with motor vehicle tax revenues. In 1992, voters rejected (by 35 percent to 65 percent) a state ballot measure that would have allowed highway-related police services again to be funded out of the Highway Fund.

Current Permitted Uses of Motor Vehicle Tax Revenue: Under the existing Oregon Constitution, motor fuel taxes, vehicle registration fees, and the weight mile tax on commercial trucks can only be used for "the construction, reconstruction, improvement, repair, maintenance, operation and use of public highways, roads, streets and roadside rest areas in this state...." The revenues may also be used for "the cost of administration and any refunds or credits authorized by law..." and "the retirement of bonds for which such revenues have been pledged." Vehicle registration fees on "campers, mobile homes, motor homes, travel trailers, snowmobiles, or like vehicles, may also be used for the acquisition, development, maintenance or care of parks or recreation areas." Similarly, vehicle registration fees on "vehicles used or held out for use for commercial purposes, may also be used for enforcement of



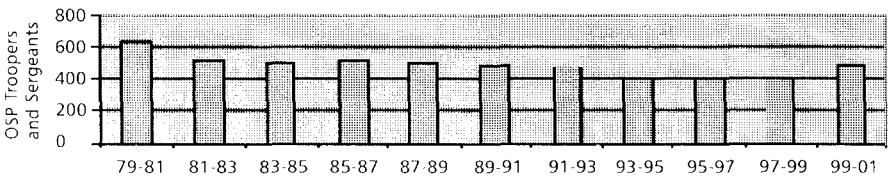
commercial vehicle weight, size, load, conformation and equipment regulation." (Section 3a, Article IX, Oregon Constitution)

Background on State Police:

The Oregon Legislature created the Oregon State Police (OSP) in 1931. Materials provided by the state police state that the purpose of the Oregon State Police is to "provide a uniform police presence and law enforcement services throughout the State, with a primary responsibility for transportation safety and response to emergency calls-for-service on Oregon's State and Interstate highways." Troopers are located throughout state and work out of 36 offices and worksites. Thirteen resident troopers are assigned from their homes. State police report that the primary measure of their program success is the reduction of traffic collisions and crime reductions on interstate and state highways. Oregon State Police also augment and support local law enforcement, enforce vehicle, criminal, and fish and wildlife laws, provide motor carrier truck enforcement, the patrol aircraft program, the Drug Recognition Expert program, and uniform motorcycle patrols. State police provide services on over 7,000 miles of roads in Oregon.

Changes Since 1980: Since the passage of 1980 Measure 1, patrol staff levels have dropped 38 percent between 1980 and 1999 (from 641 in 1980 to 399 uniform troopers and sergeants in 1999).

OSP Legislatively Authorized Road Strength (1979-2000)



Source: Oregon State Police

During that same period, the OSP reported that Oregon's population increased by over 23 percent, the number of registered vehicles increased by 45 percent, the number of licensed drivers in Oregon by 33 percent, and miles traveled on Oregon highways by over 64 percent. Truck traffic increased 21 percent between 1990 and 1996. Interestingly enough, since 1980, overall traffic crash fatalities and alcohol involved fatalities have declined.

Prior to 1980, OSP received approximately 85 percent of its budget from the state Highway Fund. During the late 1990s, state police funding dropped from a high of 2.58 percent of the General Fund in 1987-89 to 1.6 percent from 1995 to 1999. The 1999 Oregon Legislature responded to requests for additional state police by funding 100 new officers and referring Measure 80 to voters. The majority of the funding for the 100 new staff positions came from the state General Fund. A Federal government grant will pay for one-third of the salaries for the next three years.

Past Relevant City Club Positions

The City Club has consistently supported limiting the use of motor vehicle tax revenue to transportation-related services and programs. The Club, however, has supported a broad definition of the types of services and programs that should be eligible for state highway funds-including broad transportation system planning and mass transit.

- 1942, State Measure 3: The City Club supported putting the limitation on the use of highway revenue into the state constitution as precautionary measure to prevent diversion of highway funds away from roads, policing, and parks.
- 1972, State Measure 6: The City Club supported giving counties the authority to levy \$10 annual registration fee for roads, police, and parks.
- 1974, State Measure 2: The City Club supported the use of highway revenue for mass transit. The City Club report said that the use of specific revenue sources should not depend on narrow distinctions and that enlightened development of state transportation modes and systems should permit full consideration of the costs and benefits of all alternatives. The Club also supported giving the legislature the ability to allocate funds based upon contemporaneous transportation priorities to partially restore the legislature's power over the state budget.
- 1976, State Measure 4 and Tri-Met Measure 26-1: The City Club supported the use of highway revenue for mass transit and found that the "limitation of vehicle revenue to highway-related use is contrary to



the wisdom of a balanced transportation system in Oregon."

- 1976 State Measure 4, 1978 State Measure 5, 1980 State Measure 4, 1982 State Measure 4: The City Club supported each of these efforts to increase the gas tax.
- 1980 State Measure 1: The City Club opposed this measure, which removed police and parks from the Highway Fund. A City Club report noted that the legislature had selected two highway programs that could compete successfully for General Fund revenue and had already made budgetary provisions for their support. The report went on to say that "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."

III. ARGUMENTS PRO AND CON

A. Arguments Advanced by Proponents in Favor of Measure 80

- Current state police staffing levels are unacceptable to effectively address local community public safety needs, to respond to emergency calls and the service expectations of local partners, or to provide a consistent and visible uniform law enforcement presence on state and interstate roadways.
- Police presence is required to effectively change improper driver behavior or significantly and consistently impact crime.
- Measure 80 would not change the primary use of Highway Fund revenue for construction, improvement, reconstruction, repair.
- Measure 80 would allow, but not require, state and local governments to use highway funds for policing; it keeps decisions on how to use local funds at the local level.
- The 1980 measure that removed state police from the highway fund was driven by falling revenues, not by a strong conviction that state police services are not highway related.
- OSP's dependence on the General Fund has resulted in very unstable funding for state police since 1980.
- Measure 80 will provide additional funding for police services without increasing taxes.

B. Arguments Advanced by Opponents Against Measure 80

- In 1980 voters approved, by a large margin, the removal of state police and parks from the Highway Fund. In 1992, Oregon voters reaffirmed exclusion of state police from highway fund by an equally large margin.
- The state, counties, and cities all face significant unmet needs for existing road maintenance, repair, and additional road capacity to maintain current traffic flows.
- Measure 80 would divert needed highway revenues away from road projects and erode the ability to maintain and preserve Oregon's rapidly deteriorating roadways.
- Property tax limitations, federal timber harvest policies, and the failure of the legislature to pass road funding measures in recent years have dramatically reduced county revenue for roads
- Measure 80 would erode public safety rather than protect it by reducing already over-strained road funds that currently do not keep up with cost of road preservation and maintenance.
- Measure 80 would allow future legislatures to fund budget increases for policing out of the county and city share of Highway Fund revenue and risk a loss of local choice on expenditures
- Measure 80 would permit potential expenditures for a broad range of other law enforcement activities that may be associated with policing the highways.

IV. DISCUSSION

A. Is policing an appropriate use of motor vehicle tax revenues?

Oregon voters and the City Club have long supported limiting the use of motor vehicle tax revenues to highway-related projects and services. From 1913 to 1980, Oregonians considered police a highway-related service. The exclusion of police from highway funding in 1980 appears to have been more driven by a desire to free up highway funds for additional road projects and repair than a strong belief that police services are not highway related. While Measure 80 does not require legislative bodies at the state and local level to spend any of their highway funds on police, opponents of Measure 80 worry that public pressure for increased police service will begin to shift funding away from road projects. Measure 80 supporters believe that traffic enforcement is definitely part of the transportation equation, and should be



paid for by the users. One told us that adequate safeguards are in place to ensure that the funds only are used for traffic enforcement and not other non-traffic police services.

B. Competing Unmet Services Needs

Supporters and opponents of Measure 80 showed us evidence of unmet needs for both traffic-related police enforcement services and for road projects.

Need for police services: An Oregon State Police analysis identified a service gap of 416 additional uniform troopers. Closing this gap would bring the force to 815 positions. The OSP asked the 1999 Legislature to fund 220 new positions to be phased in over an 18-month period during 1999-01 biennium. OSP also requested 58 positions to be phased in to allow the state police to reassume transportation safety services to Portland's freeway system. In response, the Governor requested—and the legislature funded—75 road troopers to increase the force by 100 new troopers by June 2001.

An OSP representative said that in 1979, Portland Police came to OSP and said they wanted to police the highways in Portland themselves. He said that OSP agreed, but that Portland Police have not really been able to provide adequate coverage on these roads. Only a few officers of the 100 new staff funded by the 1999 legislature will be assigned to the Portland metropolitan area, but not enough to restore full service.

The state police also reported that patrol officers were unable to respond to over 8,000 calls for service in 1997 (state police referred over 9000 calls for service to other agencies-half of these because the state police had no patrol officer available to respond.) The state police reported a similar level of unanswered calls in 1998.

Measure 80 opponents suggested might be less expensive ways to provide police services. The Oregon State Police report that the agency has already done much to become more efficient cut costs, including: consolidation of offices, reductions in management positions, utilization of new technology, the use of non-sworn personnel and volunteers, the pursuit of federal funding, and the implementation of a new strategic plan.

Opponents further note that despite the increase in drivers and miles traveled, the number of fatalities has dropped since 1980, despite the drop in the number of state police. We also heard testimony that these declines in fatalities are likely the result of a number of factors, including increased seat belt use, safer cars, etc.

Washington County Sheriff Jim Spinden told our committee that Washington County and the rest of the metropolitan area sends more than its fair share of General Fund revenue to Salem, but gets very little state police presence compared to the rest of the state. He believes that the low state police presence is because of the perception that the metro area is well served by local police. He said this is not fair. He also believes the gas tax provides a more stable funding source for traffic enforcement than fighting for general fund dollars each legislative session.

Need for road preservation and system maintenance: Representatives of the Association of Oregon Counties (AOC) and the League of Oregon Cities (LOC) stated that "as Oregon's transportation system ages, the demands for improved safety, maintenance and preservation, coupled with significant population increases, means the need for roadway dollars is increasingly dramatically.

The AOC and LOC report that local governments face a shortfall of \$187 million (counties-\$132 mill; cities-\$55million) in the funds needed to preserve the existing road system for the 1999-01 biennium. They also report a shortfall of \$798 million (counties-\$528 million; cities-\$270 million) to preserve the existing system and to maintain current traffic flow.

AOC reported that 31 counties are "having to adjust to declining road revenues as federal forest revenues continue to fall." Since 1990, federal forest revenues statewide have dropped from \$123 million in FY1990 to \$64 million in FY 1999. AOC also reported that half of Oregon's 36 counties have fewer Highway Fund dollars today than they did in 1990.

The AOC and LOC were the two most active opponents of this measure as it progressed through the 1999 Oregon Legislature. An AOC representative said his organization recognizes that additional traffic policing is needed for the safety of the traveling public, but said that police services should not be funded at the expense of local road systems. He said that during the 1999 session the AOC and League of Oregon Cities jointly offered an amendment to the bill that would have limited funding for traffic policing to future

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increases in driver's license fees, vehicle transfer fees, or vehicle registration fees. This amendment would have allowed much more narrow access to the Highway Fund. He said the legislative committees rejected this alternative and instead referred Measure 80, which would open up all of the state Highway Fund as a potential source of funding for highway and traffic policing.

Henry Hewitt, chair of the Oregon Transportation Commission, told the committee that more and more highway revenue is being spent just to maintain and preserve Oregon's existing road system. Funding for new roads and related projects has steadily dropped from \$400 million in the 1993-95 biennium to \$100 million in the 1999-01 biennium. ODOT and local communities have identified over \$1 billion of current unfunded road modernization projects. Hewitt said the OTC has no position on Measure 80, but that he would not want to see police services funded at the expense of needed road system projects.

Is Measure 80 an Appropriate Constitutional Amendment?

The City Club's 1996 study, *The Initiative and Referendum in Oregon*, established the Club's position against addressing matters in the state constitution that should more properly be addressed in state statutes. The City Club opposed 1980 Measure 1 based primarily on the conclusion that the matter did not warrant a constitutional amendment. Given that the state constitution does not allow Highway Fund dollars to be used for police services, a change in this policy requires a constitutional change.

V. CONCLUSIONS

City Club has long supported the use of highway tax and fee revenues for transportation-related services. The Club has also supported broadening how Highway Fund monies can be used to reflect the need for an integrated approach to transportation planning and services. State police and traffic-related local police services received Highway Fund support from 1913 to 1980. An easy case can be made that these services did and do now-benefit highway and road system users. Since 1980, the Oregon State Police has suffered from inadequate and unstable funding. State and local road systems clearly also have significant unmet needs. Measure 80 does not require the state legislature or counties and cities to spend any of their

Highway Fund allotment on police services-it merely gives them the option to do so. State and local officials should have the responsibility and authority to decide how to achieve the balance of transportation services that is right for each of their jurisdictions. Our committee urges a YES vote on Measure 80.

VI. RECOMMENDATIONS

Your Committee recommends a YES vote on Measure 80.

Respectfully submitted,

Jeannie Burt
Jim Gorter
James D. Harris, Jr.
Marcus Simantel
Tom Stimmel
Jonathan Hart, vice chair
Jay Formick, chair

Jane Cease, research advisor
Paul Leistner, research director

VII. APPENDICES

A. WITNESS LIST

David Barenberg, senior staff associate, League of Oregon Cities
Henry Hewitt, chair, Oregon Transportation Commission
Bill Penhollow, assistance executive director, Association of Oregon Counties
Glen Rader, director, Citizens for Safe Streets, Roads and Highways
Bob Smith, captain, intergovernmental affairs coordinator, Oregon State Police
Jim Spinden, sheriff, Washington County

B. RESOURCE MATERIALS

Pray, C. P. "The State Police," The Oregon Motorist, October 1931.

Senate Joint Resolution 11, A-Engrossed, 70th Oregon Legislative Assembly-1999 Regular Session

Citizens for Safe Streets, Roads and Highways, "Summary of Measure 80"

Association of Oregon Counties:

"Resolution 99-F3: State Highway Trust Fund for Traffic Policing"

"Oregon's County Road System"

Association of Oregon Counties and League of Oregon Cities, "Vote "NO" on SJR 11.

Oregon State Police:

Testimony before the Oregon Legislature's Joint Ways and Means Subcommittee on Public Safety and Regulation, February 24, 1999.

Testimony to Senate Transportation Committee, March 31, 1999.

Legislative Testimony on HJR 59, April 23, 1999.

City Club Studies:

"Report of the Gas Taxes Use Committee," Bulletin, Vol. 23, No. 23, Oct. 16, 1942

"Constitutional Amendment Providing Equitable Taxing Method for Use of Highways," Bulletin, Vol. 33, No. 19, Oct. 17, 1952

"Referendum Petition Referring Motor Carrier Highway Transportation Tax Act," Bulletin, Vol. 33, No. 19, Oct. 17, 1952

"Enabling County-City Vehicle Registration Tax," Bulletin, Vol. 50, No. 53, May 19, 1972

"Highway Fund Use for Mass Transportation," Bulletin, Vol. 54, No. 52, May 17, 1974

"Authorizes Vehicle Tax Mass Transit Use," Bulletin, Vol. 56, No. 52, April 22, 1976

"Auto Registration Fee Credit for Transit," Bulletin, Vol. 56, No. 52, April 22, 1976

"Increase Motor Fuel, Ton-Mile Taxes," Bulletin, Vol. 57, No. 21, October 22, 1976

"Highway Repair Priority, Gas Tax Increase," Bulletin, Vol. 58, No. 53, Oct. 16, 1942

"Constitutional Amendment Limits Use of Gasoline and Highway User Taxes," Bulletin, Vol. 60, No. 47, April 11, 1980

"Increases Gas Tax From Seven to Nine Cents Per Gallon," Bulletin, Vol. 61, No. 16, Sept. 19, 1980

"Raises Taxes on Commercial Vehicles, Motor Vehicles Fuels for Roads," Bulletin, Vol. 62, No. 54, May 5, 1982.



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