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City Club Study on Ballot Measure 23: Oregon Comprehensive Health Care Finance Plan

City Club of Portland (Portland, Or.)

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Ballot Measure Studies

Oregon State Ballot Measure 23: Oregon Comprehensive Health Care Finance Plan

Committee Recommends "NO" on Measure 23

Your committee found that the goal of Measure 23 is laudable, but that the measure itself fails to provide adequate definition of, and limits on, the comprehensive health care finance plan it proposes to install. We as a committee share the concerns of Measure 23 proponents, but not their confidence in the measure's mechanism for paying the health care costs for all Oregonians. Your committee could not resolve nagging questions about the finances or legal implications of the measure.

These concerns led your committee to unanimously recommend a **NO** vote on Measure 23.

The City Club membership will vote on this report Friday, October 11, 2002. Until the membership vote, the City Club of Portland does not have an official position on this report. The outcome of the vote will be reported in the City Club *Bulletin* dated October 25, 2002.

City Club Study on *Ballot Measure 23*

I. INTRODUCTION

Ballot Measure 23 will appear on the ballot as follows:

Caption: CREATES HEALTH CARE FINANCE PLAN FOR MEDICALLY NECESSARY SERVICES; CREATES ADDITIONAL INCOME, PAYROLL TAXES.

Result of "Yes" Vote: "Yes" vote creates health care finance plan for medically necessary services, regardless of preexisting conditions; changes current workers' compensation system; creates additional income, payroll taxes.

Result of "No" Vote: "No" vote rejects creation of a health care finance plan; leaves current health insurance, workers' compensation systems unchanged; rejects creation of additional income, payroll taxes.

Summary: Creates Oregon Comprehensive Health Care Finance Plan to pay for medically necessary health service, regardless of preexisting conditions, from health care practitioner of participant's choice. Includes some services for injured workers. All residents eligible. Creates board to establish compensation schedules for services. Requires board, legislature to ensure that government payments for participants' health services go to plan's finance fund. Board to recover costs of provided services if covered by health benefits, insurance. Requires certain contributions by workers' compensation insurers, self-insureds. Plan also funded by: additional progressive income tax not to exceed 3.9% of total statewide personal income, 8% of individual's taxable income; additional employer payroll tax with maximum, minimum rates. Rates otherwise set by board. Authorizes certain tax credits, exemptions, other provisions.

Estimate of Financial Impact: The measure would require state expenditures of not less than $1.7 billion per year on a recurring basis. State tax revenues would increase by not less than $1.7 billion per year. The financial effect on local government expenditures cannot be determined. There is no financial effect on local government revenues.

The above language of the caption, question, and summary is verbatim from the Measure 23 Ballot Measure Statement on the web site of the Oregon Secretary of State (September 5, 2002).

City Club Study on *Ballot Measure 23*

Measure 23 asks Oregonians to approve a new statewide health care plan funded solely by tax revenue and managed by the State of Oregon. City Club created our committee to analyze Measure 23 and recommend a position to members and the community.

Committee members were screened to ensure that no person had an economic interest in the outcome of the study or has taken a public position on the subject of the measure. The study was conducted from August 20 - September 13, 2002. The committee interviewed proponents and opponents of the measure and other interested individuals, and reviewed relevant articles, reports, and other materials.

II. BACKGROUND

Ballot Measure 23 proposes to provide access to affordable, high-quality health care for every Oregon resident through a comprehensive plan paying for all medically necessary health services. The measure has its roots in the Oregon Health Action Campaign of the mid-1980s, with the current group forming in 1994 as a "grass roots" movement ultimately incorporating participants from Portland, Corvallis (Mid-valley) and Medford/Ashland.

Proposals similar to Measure 23 have been presented to the Oregon Legislature over three legislative sessions beginning in 1998. In at least one session, Senator Cliff Trow of Corvallis introduced the bill. The proposal was never reported out of committee. Unsatisfied with the Legislature's action, proponents of Measure 23 organized a true citizen initiative in which the qualifying signatures were gathered almost entirely through voluntary effort.

The plan created by Ballot Measure 23 would provide comprehensive health care to all Oregonians through a governmental agency led by a 15-member health care board. Five board members would be appointed by the Governor and two members would be elected from each of Oregon's five congressional districts.

All medically necessary services as determined by a health care

provider, would be available including medical, mental health, long-term care, vision, inpatient care and other services. Pharmaceuticals would be fully covered. Measure 23, also known as "the Plan" in this report, eliminates co-pays, deductibles and insurance premiums; and removes existing barriers to service. Under the Plan, Oregonians could not be denied services based on pre-existing conditions, job changes or retirement.

Services would be financed by both a progressive payroll tax and a progressive personal income tax as follows:

- Employers' payroll tax would be variable between three percent and 11.5 percent (3% - 11.5%). Total tax could not exceed 9.5 percent of total state payroll. This tax would be in addition to current business taxes.

- Personal income tax rates would be between zero and eight percent (0% - 8%). Total tax could not exceed 3.9 percent of total state income. People at or below 150 percent of the federal poverty level would be exempt. This tax would be in addition to current personal income taxes.

Proponents of the measure believe these new taxes would fully replace current insurance premium costs.

Currently no state provides universal health care. Hawaii has a mandatory employer-based system that is often used as an example of a state-sponsored health care program, but it is not truly universal. Thousands of Hawaiians live without health coverage. In addition, Hawaii's system began before current federal laws governing employer-provided health coverage were implemented and thus cannot realistically be used as a model for programs in other states. Vermont, California, Massachusetts and Illinois have studied proposals and groups are currently working toward universal care in other states.

Oregonians currently finance their health care in a variety of ways. Employed persons above certain income levels and working for companies above a certain size typically have employer-sponsored health insurance. Seniors have Medicare, and people with very low incomes have the Oregon Health Plan, which is financed in part

by Medicaid. However, a large number of Oregonians — primarily the working poor — have no health insurance. Presently, 423,000 Oregonians are caught in the middle. They earn too much to qualify for the Oregon Health Plan but not enough to afford private insurance. A 1988 City Club report, "Medical Indigency in Oregon," confirmed that most uninsured Oregonians were full-time or part-time workers.

III. ARGUMENTS PRO AND CON

A. Arguments Advanced By Proponents

The proponents contend the following:

☐ Many people are presently unhappy with their health care systems, thus necessitating a change of this magnitude.

☐ Universal health care would be provided for all Oregonians, including approximately 423,000 presently not covered.

☐ All medically necessary procedures would be covered.

☐ All licensed, certified and registered health care providers could be utilized.

☐ A state list of certified, registered and licensed health care providers already exists and therefore would not have to be researched or recreated.

☐ The current plethora of existing insurance plans and HMOs would be reduced to one health care administrator to be known as the Oregon Health Care Finance Board (referred to as the "Board" in this report).

☐ Administrative overhead would be capped at five percent (5%) of total costs (after the first two years). A significant factor in reaching this goal would be the reduction of paperwork that flows between hospitals, doctors' offices, labs, governmental agencies and the proposed Board.

☐ The Board's functions would include the ability to:

- control health care costs by setting limits on the amount paid for procedures;
- make exclusions on treatments and procedures if necessary;
- spread the risk across the state's entire population;
- employ a uniform billing procedure;
- cap administrative costs; and
- control costs by creating a priority list of treatments and procedures similar to the one employed by the Oregon Health Plan.

☐ The Board would have the power to adjust the personal income tax rates to meet revenue requirements, but could not exceed eight percent (8%) of total taxable personal income.

☐ The Plan would not change the current health care delivery system. Hospitals, doctors, labs, clinics, technicians, etc. would continue to provide health care services.

☐ The Plan would provide $40 million for retraining people who would lose their jobs with the passage of Measure 23 (e.g., employees of the insurance industry).

☐ The Plan would have a dedicated revenue source that would be insulated from legislative raids.

☐ Fraud and abuse would be easily detected and investigated. Medicare provides a successful example.

☐ Since the Oregon Comprehensive Health Care Finance Plan would be not-for-profit, substantial funds now paid by for-profit insurance companies to shareholders would instead be available for medical services

B. Arguments Advanced By Opponents

The opponents contend the following:

☐ The burden of a new payroll tax would destroy small business in Oregon.

☐ The Plan would cause huge increases in health care costs because it would cover any "medically necessary" treatment, including long-term care. It might even allow health care providers to declare facelifts and hair transplants medically necessary. Furthermore, the measure's language is not clear about the Board's ability to set limits on treatments covered.

☐ The Plan would offer a level of benefits that would be unsustainable. The measure's projected costs for virtually unlimited medical services are low and the projected tax revenue would fall short.

☐ The Plan would encourage over-utilization because, in the absence of gatekeepers, people would go to doctors far more than necessary.

☐ The proponents made inaccurate assumptions about current administrative costs and profit, as well as the potential for saving administrative costs.

☐ Twenty-one hundred (2,100) independent insurance agents with an estimated annual payroll of $350 million would immediately have no business and no jobs.

☐ Some wealthy individuals would move out of the state to avoid the additional income tax (e.g., Portland to Vancouver).

☐ Some large employers would leave the state to avoid the new payroll tax.

☐ If businesses close or leave the state, tax revenues would decrease and other state functions (e.g., schools) would suffer.

☐ People with serious illnesses might move to Oregon to receive health care.

☐ The new taxes would immediately halt the discussion of tax reform in Oregon because tax obligations would become so high that other forms of revenue could not be explored.

☐ The Board's power to raise revenue, distinct from the Legislature's, would have significant impact on the State's bond rating. The

Legislature currently has authority to sell bonds. Delegating similar power to the Board may be unconstitutional.

☐ The Plan creates a legal morass because federal law (ERISA) grants employers wide latitude to create, manage and change health plans. Oregon's authority to regulate employers in this area is limited.

☐ The Plan is dependent upon waivers from the federal government (e.g., Medicare and Medicaid) that cannot be guaranteed.

☐ Federal employees and retirees would be exempt from the Plan.

☐ The Plan opens a Pandora's box of litigation and could delay implementation of Measure 23 for years.

☐ The measure includes long-term directives for the Legislature; however, we have no assurance that future legislatures will honor these directives.

☐ The Plan would double tax rates for almost all individuals (from 9% to 17 %). This is not an even trade-off between what individuals currently pay for health care and what they would pay in new taxes.

☐ People in countries with national health care systems (e.g., Canada and United Kingdom) often don't like them for reasons that include long waiting periods for treatment.

☐ Highly paid specialists, such as neurologists and gastroenterologists, would leave Oregon for states where they could earn more money.

☐ Better ways exist to improve utilization and affordability of health care including subsidies to low-income working people and expansion of the Oregon Health Plan.

☐ Universal health care can only work on a national scale.

IV. DISCUSSION

Providing access to unlimited medical services for all Oregonians appears to be the primary goal of Measure 23. The committee regards this goal as admirable, particularly in light of the fact that more that 420,000 Oregonians do not have medical coverage. However, cost containment must be an overriding consideration and Measure 23 fails in this area.

Another apparent goal of the measure is the establishment of a state-operated, single-payer system that replaces all current health care payments (individual, employer and federal) with a new system of taxation. The committee considers a single-payer system just one of many possible models for providing universal health care. Expanding the Oregon Health Plan is another option.

Your committee considers the following to be the most problematic issues regarding Measure 23:

Litigation Issues

Many terms in Measure 23 are either overly broad or open to interpretation. For example,"medically necessary," "Oregon resident," "licensed practitioners," and "long-term care" are all problematic in their own ways. As a result, the measure is susceptible to lengthy litigation that would delay or prevent its implementation. Another legal uncertainty could arise from the employer taxation. Federal law (ERISA) grants employers wide latitude to create, manage, and change health plans. Oregon's authority to regulate employers in this area is limited.

Constitutional Issues

Empowering the Board with revenue bonding authority may be unconstitutional. Bonding is constitutionally a legislative function. The circumstances in which the Board may issue bonds is not specified in the measure, and under the new plan there would be no way to project direct indebtedness. This could negatively affect Oregon's credit rating.

Financial Considerations

Measure 23 appears to create a system prone to serious financial difficulties, such as:

- Oregon has no guarantee that the required federal waivers would be forthcoming.

- The consequences of the proposed new tax structure are unknown. The taxes, affecting both individuals and employers, are seen by many to be overly burdensome and unevenly applied.

- It is unknown whether the measure's cost and revenue estimates ($20.2 billion starting in 2005) are reasonable given the present state of Oregon's economy, as well as the recent trends in escalating health care costs. Demand for services could easily outstrip the anticipated budget, making the Plan far more costly than the proponents envision. (See Appendix A for a comparison of the proponents' analysis and data from the Oregon Department of Administrative Services (DAS) and the National Association of Retired Federal Employees.)

- The committee is not convinced that the savings in administrative costs will be as substantial as suggested by the proponents.

- Some financial claims appear to be unsupported by hard evidence. For example:
    - The proponents' statements that the top HMOs in Oregon currently spend "25% of total health expenditures [on] advertising, outrageous CEO salaries, shareholder profits and burdensome paperwork ..." and that this Plan would redirect most of these costs to providing health care.

    - The opponents' claim that the Plan would devastate Oregon's economy as a result of over-utilization of health care services, as well as an employer exodus from the state.

Structure and Role of the Board

Voters have no guarantee that the authority of the Board will be realized as intended by the bill and its proponents. Conflicting language in the bill makes it unclear whether the Board would have authority to limit services and thus control costs. Your committee is also uncertain that an administrative bureaucracy could be established within the administrative time and cost constraints of the bill. It is unlikely that the Oregon Legislature would refrain from amending the statute in order to gain control over the funds; something the Board could be powerless to prevent.

V. CONCLUSIONS

Having listened to impassioned pleas from both sides, the consensus of the committee is that all Oregonians should have access to health care as needed. We are just as firmly convinced that this particular measure, heart-felt as it is, is not a measure we can support. It is utopian in concept and is probably unworkable in practice. Its vague language invites perhaps unending litigation; its scope is absolutely enormous and without any assurance of cost restraints; its Board is granted vast powers; its assumption that the federal government will cooperate by granting necessary waivers is probably not justified. Clarity must be demanded when dealing with such important, new, large and costly concepts.

The committee feels strongly that Measure 23 can be a basis for continued work toward providing health care for all Oregonians. We, the citizens of Oregon must continue to focus attention on this vital issue of public policy.

VI. RECOMMENDATIONS

Your committee unanimously recommends a **NO** vote on Measure 23.

Your committee also recommends that City Club undertake a research study on the issue of ensuring accessible and affordable health care for all Oregonians.

Respectfully submitted,

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Lance Erz
Vern Faatz
Ann Holznagel
Leslie Morehead
Wynne Wakkila

Jay D. Formick, chair

Paul Millius, research advisor
Wade Fickler, research director

VII. APPENDICES

A. Data comparison from documents provided to committee

2005 Revenue Estimates

	Oregon Comprehensive Health Care Finance Plan ($ billions)	Oregon Dept of Admin Services; Legislative Fiscal Office ($ billions)	
GOVERNMENT PROGRAMS			
Medicare & Medicaid	7.629	Medicare not included; required federal waiver	
Medicaid Only		0.371	
TAXES			
Payroll Tax	7.050	6.100	Note: $1B difference
Personal Income Tax	4.957	4.700	Note: Compare to 2005 personal including tax estimate of $5.7B without M23 (DAS)
OTHER			
Workers Comp	0.217	assume no change	
Auto Insurance (medical payments only)	0.352	not included	
	20.205		

2005 Health Care Cost Estimates

	Oregon Comprehensive Health Care Finance Plan ($ billions)	Oregon Dept of Administrative Services; Legislative Fiscal Office ($ billions)	National Association of Retired Federal Employees ($ billions)
PERSONAL HEALTH CARE	18.607	10.405	18.5 (14.9 + 5.7%/yr)
ADDITIONAL UTILIZATION	1.939		67% probability of costing more than current system
ADMINISTRATIVE COSTS	1.112	possible decrease over current systems	possible decrease over current systems
SAVINGS	-2.008		
OTHER	0.555		
	20.205		

B. Witnesses

Peggy Anet, P.M. Consulting
John Partridge, Health Care for All Oregon
John Santa, Office for Oregon Health Plan Policy Research
Robert C. Shoemaker, Retired State Senator
Barney Speight, Kaiser Permanente
Max Wilkins, Health Care for All Oregon
J.L. Wilson, National Federation of Independent Businesses/Oregon

C. RESOURCE MATERIALS

Publications: (*in order by publication date*)

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"How Much Does Single Payer National Health Insurance Cost?" Physicians for a National Health Program (PNHP) Newsletter, October 1999.

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Universal Health Care Action Network, www.uhcan.org
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Connecticut Coalition for Universal Health Care, www.cthealth.server101.com
National Association of Retired Federal Employees, www.narfe-oregon-federation.peak.org