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REPORTS ON

FINANCING IMPROVEMENTS IN HOME RULE COUNTIES
(State Ballot Measure No. 11)
The Committee: ROBERT BOWIN, J. R. DEVERS, WILLIAM HAMMERBECK, GEORGE A. HAY, JR., ART LIND, JOHN L. SELL, and PAUL GERHARDT, Chairman.

STATE BONDS FOR HIGHER EDUCATION FACILITIES
(State Ballot Measure No. 6)
The Committee: NED BALL, DAN W. HOFFMAN, ROBERT KERR, CAREY MARTIN, JACK MEUSSDORFER, DON PLYMPTON, CLARENCE RICHEN and JOHN L. SEARCY, Chairman.

DAYLIGHT SAVING TIME
(State Ballot Measure No. 2)
The Committee: THOMAS P. DEERING, CARLETON G. MOREHOUSE, HAROLD H. RICE, KENNETH M. WINTERS and WILLIAM F. CALDWELL, Chairman.

FIXING COMMENCEMENT OF LEGISLATORS’ TERMS
(State Ballot Measure No. 1)

VOTER QUALIFICATION AMENDMENT
(State Ballot Measure No. 7)

ELECTIVE OFFICES: WHEN TO BECOME VACANT
(State Ballot Measure No. 10)
The Committee: VERNE DUSENBERY, MARKO HAGGARD, FRANK McMENAMIN, and JONATHAN U. NEWMAN, Chairman.
REPORT
ON
FINANCING IMPROVEMENTS IN
HOME RULE COUNTIES
(State Ballot Measure No. 11)

TO THE BOARD OF GOVERNORS,
THE CITY CLUB OF PORTLAND:

The undersigned Committee has studied the proposed amendment to section 10, Article VI of the Constitution of the State of Oregon relating to the financing of local improvements in Home Rule Counties.

Senate Joint Resolution No. 48 passed by the 1959 State Legislature referred this amendment to the voters to appear on the November, 1960, General Election ballot. The resolution, introduced by the Committee on Local Government, was passed by an unanimous vote in the Senate and a 55 to 1 vote in the House.

INTRODUCTION

Without a Home Rule Charter, a county must look to the State Legislature for authority for all of its acts.

At the General Election on November 4, 1958, the voters approved a Constitutional Amendment authorizing counties to adopt their own charters for the exercise of authority over matters of county concern. That amendment included a restriction on the financing of local improvements, which reads as follows:

"Local improvements or bonds therefor authorized under a county charter shall be financed only by taxes, assessments or charges imposed on benefited property."

The measure now to be voted on by the people modifies this sentence so as to make it read:

"Local improvements shall be financed only by taxes, assessments or charges imposed on benefited property unless otherwise provided by law or charter."

In effect, this suggested change is intended to authorize counties to incorporate in their charters provisions for financing local improvements by general obligation bonds or levies. In addition, it would empower the State Legislature to authorize counties to do the same thing in the absence of charter provisions.

INVESTIGATION

In investigating this matter, your Committee met with the following persons: John Mosser, former State Representative and author of the subject language in the existing Constitution; Chester W. Pecore, Deputy District Attorney of Multnomah County and author of a legal opinion defining the scope of "local improvements;" Kenneth Tollenaar, executive secretary of the Association of Oregon Counties; William Bade, manager of Oregon Tax Research; and Howard A. Rankin, member of the firm of Shuler, Sayre, Winfree & Rankin, municipal bond attorneys. In addition, the Committee studied an opinion of Robert Y. Thornton, Oregon Attorney General, dated May 1, 1959, relating to financing of local improvements by home rule counties, and an opinion of Charles E. Raymond, Multnomah County District Attorney, relating to the definition of "local improvements."

ANALYSIS

The restrictive financing provision now found in the County Home Rule constitutional amendment was not in the County Home Rule measure as originally proposed in the Legislature. This restriction was added because some representatives of certain areas expressed concern that they would be taxed for improvements in other areas. For
example, some city representatives did not want to be taxed for services they already provided, and representatives of rural areas frequently feared having to pay for something of no benefit to them.

However, after adoption by the voters of the constitutional provisions, doubts were expressed as to whether the limitation was unduly restrictive.

On April 8, 1959, the Multnomah County District Attorney, by letter opinion, advised the Board of County Commissioners that any improvement not actually beneficial to the land in all of the various parts of the county would constitute a local improvement. He opined that only a county courthouse, hospital or cemetery would not be a local improvement in Multnomah County. (This restrictive interpretation was questioned by other counsel, who assert that such things as fire protection, trunk sewers and water mains are not “local improvements.”) On May 1, 1959, the Oregon Attorney General ruled that whereas the State Legislature could establish machinery for county-wide assessments for essentially local improvements in non-home rule counties, it could not do so in home rule counties.

In Oregon, cities have customarily paid for local improvements by the issuance of Bancroft bonds. These are general obligation bonds of the municipality, but payable in the first instance from assessments against the property benefited by the improvement. It is the opinion of competent bond counsel that under the present constitutional restriction, a County Charter could not provide for the issuance of Bancroft-type bonds. Only assessment bonds, being a charge on only the benefited property, could be authorized, and these are expensive and difficult to sell. The adoption of the proposed amendment would remove this limitation.

The proposed amendment is merely an enabling act; a county charter or the state legislature would have to expressly authorize assessments on other than benefited property before such assessments could be levied.

Opinions differ as to whether the limitation in the constitution as now written would facilitate the adoption of home rule charters by the voters. One witness felt the restriction would be a favorable sales point, while another felt that it would be an inhibiting factor, especially when viewed with the Multnomah County District Attorney’s opinion. One witness felt that the proposed change would open the door wide for general taxation of improvements essentially local in nature, and that the present restriction served as a good check on county legislative bodies.

CONCLUSION

The present constitutional restriction on the financing of local improvements in counties appears unduly restrictive. Its retention will require extensive litigation to determine the scope of the phrase “local improvement,” and will make the installment financing of these improvements additionally expensive. Since the proposed modification would put the matter up to either each county adopting a charter or the state legislature, adequate flexibility and checks appear to be present.

RECOMMENDATION

Your Committee unanimously recommends that the City Club go on record as approving the proposed amendment relating to financing of local improvements in home rule counties, and urges a vote of No. 11 “Yes”.

Respectfully submitted,

Robert Bowin
J. R. Devers
William Hammerbeck
George A. Hay, Jr.
Art Lind
John I. Sell
Paul Gerhardt, Chairman.

Approved August 11, 1960 by the Research Board for transmittal to the Board of Governors.

Received by the Board of Governors August 29, 1960 and ordered printed and submitted to the membership for discussion and action.
REPORT
ON
STATE BONDS FOR
HIGHER EDUCATION FACILITIES
(State Ballot Measure No. 6)

Purpose: To amend Constitution to permit the state to increase its bonded indebtedness to construct additional self-liquidating higher education facilities.

TO THE BOARD OF GOVERNORS,
THE CITY CLUB OF PORTLAND:

ASSIGNMENT

This Committee was asked to study and make a report on Measure No. 6 appearing on the ballot at the general election in November, 1960. This legislation is sponsored by the State Board of Higher Education and was introduced in the legislature by the Joint Committee on Ways and Means as House Joint Resolution No. 12, in February of 1959. This resolution refers the matter to the voters for their decision.

The measure is intended to increase the amount of money which the Legislature could authorize the Oregon State System of Higher Education to borrow for use in building self-liquidating college facilities. It would establish the bond limit on the basis of true cash value instead of the assessed value of taxable property in the state.

At present the Constitution empowers the State of Oregon to loan the credit of the state in an amount not to exceed 3/4 of 1 per cent of the assessed value of all taxable property in the state for the purpose of providing funds with which to finance the construction of self-liquidating facilities for higher education schools and colleges of the state and to purchase sites therefor.

The proposed amendment to the Constitution appearing as Ballot Measure No. 6 would increase the amount which the state may borrow for such purposes to a figure not exceeding at any one time 3/4 of 1 per cent of the true cash value of all taxable property in the state.

It should be understood that this is an enabling act. Each specific project requiring actual issuance of bonds would be recommended by the State Board of Higher Education and approved by the Legislature.

SOURCES OF INFORMATION

The Committee conducted interviews with the following: 1) Alfred Corbett, Chairman of the Ways and Means Committee of the Oregon State Senate; 2) A committee from the Oregon State System of Higher Education including Mrs. Wickes Shaw, Director of Information, Oregon State System of Higher Education, Miss Jean Wood, Assistant to Mrs. Shaw, H. A. Bork, Comptroller of the System of Higher Education and Dr. E. Dean Anderson, Assistant to the President of Portland State College; 3) William Bade of Oregon Tax Research.

In addition to these we contacted the Oregon State Tax Commission, securing information from that source, and also studied information put out by the citizen’s group called “Colleges for Oregon’s Future.”

BACKGROUND AND SCOPE OF STUDY

Self-liquidating facilities include buildings such as dormitories, housing facilities, student and athletic centers and other similar structures which are paid for out of fees, rentals, gifts and concessions.

There appears to be a very definite and growing need for additional facilities in our state-operated colleges and schools of higher education. The State System of Higher Education estimates that 40 per cent of our high school graduates now are going on to col-
The University of Oregon is already so overcrowded that only freshmen will be permitted to live in college dormitories this fall. There is no room for any upperclassmen, and many students at the University and at other colleges will be forced to leave school unless emergency quarters can be found for them. The Oregon State Board of Higher Education has prepared an estimate of the self-liquidating student-facility buildings needed during the ten-year period from 1959 to 1969. The cost of building such facilities is shown on a biennial basis below, together with the bond issue required for financing such costs after applying balances available from the operation of self-liquidating facilities:

<table>
<thead>
<tr>
<th>Biennium</th>
<th>Total Costs</th>
<th>Sources of Funds</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Balances</td>
<td>Borrowings</td>
</tr>
<tr>
<td>1959-1961</td>
<td>$ 9,405,000</td>
<td>$ 355,000</td>
</tr>
<tr>
<td></td>
<td></td>
<td>$ 9,050,000</td>
</tr>
<tr>
<td>1961-1963</td>
<td>7,887,915</td>
<td>387,915</td>
</tr>
<tr>
<td></td>
<td></td>
<td>7,500,000</td>
</tr>
<tr>
<td>1963-1965</td>
<td>8,164,000</td>
<td>414,000</td>
</tr>
<tr>
<td></td>
<td></td>
<td>7,750,000</td>
</tr>
<tr>
<td>1965-1967</td>
<td>8,618,000</td>
<td>418,000</td>
</tr>
<tr>
<td></td>
<td></td>
<td>8,200,000</td>
</tr>
<tr>
<td>1967-1969</td>
<td>8,776,000</td>
<td>426,000</td>
</tr>
<tr>
<td></td>
<td></td>
<td>8,350,000</td>
</tr>
<tr>
<td>Total 10-year period:</td>
<td><strong>$42,850,915</strong></td>
<td><strong>$2,000,915</strong></td>
</tr>
<tr>
<td></td>
<td></td>
<td><strong>$40,850,000</strong></td>
</tr>
</tbody>
</table>

As shown, the need for additional borrowing under the self-liquidating program is $40,850,000.

Under the law, the Oregon State Tax Commission determines the true cash value of the taxable property of the state, and it has given the following valuations of the state as of January 1, 1960, subject to minor revisions:

- Assessed Value $2,662,054,587
- True Cash Value $9,526,782,027

These figures, when multiplied by the factors provided under the existing law, provide for borrowing to finance self-liquidating facilities in the amount of $19,965,409. The true cash value, as proposed under Ballot Measure No. 6, when multiplied by the same factors, would provide for a borrowing limit of $71,450,865. At the present time there are outstanding higher education bonds for this purpose in the amount of $23,858,000. The apparent discrepancy between current bonded indebtedness of over twenty-three million and the borrowing limits of under twenty million dollars is traceable to fluctuations in assessed valuation on which the limit is based. Most particularly in 1958 when Multnomah County assessed at 100 per cent ratio, the bonding limits soared for a short period, and some agencies took advantage of the added bonding amounts. If the proposed measure passes, the maximum possible increase in bonding limits, with $23,858,000 now outstanding, would be $47,592,865.

Revenue-producing buildings have been financed in this way by our State Board of Higher Education for many years, including a major depression and two major wars. It has never been necessary to revert to tax sources for the payment of such indebtedness. The Board always has adhered to a strict policy of having enough reserve on hand for at least two years' principal and interest payments.

Revenue bonds could possibly be issued without the pledge of the state back of them, but the resulting higher interest rate would make the cost excessive. The State of Oregon enjoys a very high credit rating, with state bonds rated AA, which gives it one of the lowest available interest rates.

ARGUMENTS IN FAVOR OF THE MEASURE

Proponents of the measure claim that:

1. Additional facilities and buildings now are badly needed at our colleges and schools of higher education, and the need will be greater during the next ten-year period when the enrollment will increase an estimated 67 per cent.

2. Unless these facilities are built under the self-liquidating program suggested, there will be a continuous demand to finance them as part of the current budget. This
would result in a tax increase, as there is no foreseeable room in the state budget for these items without increasing taxes.

3. If these facilities are built under this self-liquidating plan, they will be paid for by the users as the debt matures.

4. Since this is an enabling act, the Legislature retains normal fiscal control, in that each individual project will require Legislative approval.

**ARGUMENTS AGAINST THE MEASURE**

We were unable to find any opposition to the measure. It was supported by both houses of the Legislature by an unanimous vote. Many organizations have endorsed the measure, including the Oregon Congress of Parents and Teachers, Oregon State Division of the American Association of University Women, the Oregon State Grange, and many other organizations and individuals of the state.

**CONCLUSIONS AND RECOMMENDATIONS**

Your Committee is convinced that the additional facilities are needed, that the method of financing has been successfully used for many years, and that this measure provides a bonding limit sufficient to meet the needs, with no additional tax costs.

Therefore, your Committee unanimously recommends that the City Club go on record in favor of this measure, and urges a vote of No. 6 “Yes”.

Respectfully submitted,

Ned Ball
Dan W. Hoffman
Robert Kerr
Carey Martin
Jack Meussdorffer
Don Plympton
Clarence Richen
John L. Searcy, Chairman.

Approved by the Research Board September 1, 1960 for transmittal to the Board of Governors.

Received by the Board of Governors September 12, 1960, and ordered printed and submitted to the membership for discussion and action.
REPORT ON
DAYLIGHT SAVING TIME
(State Ballot Measure No. 2)

Purpose: To establish daylight saving time in all parts of Oregon within the Pacific time zone from last Sunday in April until last Sunday in September.

TO THE BOARD OF GOVERNORS,
THE CITY CLUB OF PORTLAND:

ASSIGNMENT

Your Committee was asked to determine what benefits, if any, would accrue to the citizens of Oregon through adoption of summer Daylight Saving Time (DST). Facets studied involved economic, personal, political, and public welfare.

BACKGROUND

World standard time zones reckoned from Greenwich, England, were recognized by the United States government in 1884. Prior to this, in 1883, the railroads of the United States adopted the Greenwich zoning, with states and municipalities adopting one of these railroad standards for its own use. A great deal of irregularity resulted since choice of a zone was determined more by convenience of commerce and the influence of the railroads, rather than by theoretical zone boundaries. In 1918, the United States Congress passed an “Act to save daylight and provide standard time for the United States.” Administration of this act devolved upon the Interstate Commerce Commission, with directives to define zone limits with regard for junction and division points of common carriers (railroads, at that time) . . . “and such order may be modified from time to time.”

The following excerpts from the 73rd Annual Report of the ICC give the reasoning for the actual location of the time zones and the changes that have occurred since first established:

“In originally determining the limits of the four zones in the United States proper, we stated as one of our guiding principles the placing of the boundary lines as close as practicable to the median line (the meridian midway between the time meridians) so as to give to each point an area of standard of time closest to local sun time, with a maximum difference of about 30 minutes either way.

“It must be remembered that the policy of placing the lines as close as practicable to the median lines was adopted when the act provided for uniform national daylight saving for 7 months of the year. While a normal standard of time considerably more than 30 minutes faster than sun time might have been preferred to a slower standard, the original decision was, no doubt, influenced by the fact that the faster standard, when advanced by 1 hour from the last Sunday of March to the last Sunday in October, might have resulted in inconvenience and hardship for points in the western parts of each of the zones. Had there been no provision for daylight saving in the law, the original lines might well have been placed generally farther west.

“Largely due to the opposition of the farming and rural areas to ‘fast time’, national daylight saving time lasted only two seasons and was repealed over President Wilson’s veto. Almost immediately the westward pressure on the boundary lines began, and in the next 5 years we made westward extensions of the eastern zone to embrace Detroit, Mich., Toledo, Columbus, and other points in north central Ohio, of the central zone to include western Oklahoma and Texas, and of the mountain zone to embrace western Montana, southern Idaho, and eastern Oregon. The adjustments in the eastern industrialized areas were relatively minor involving an extension of less than 1” in longitude to a maximum of about 35 minutes faster than sun time.
"On the other hand, the changes brought about in the western states of Oklahoma, Texas, Montana, and Idaho, certainly not highly industrialized, were major extensions, as much as 5 degrees in longitude and 20 minutes in time, thus extending the central zone, which already extended relatively farther west than the other zones, to embrace points where the central standard provides a time as much as 66 minutes faster than local sun time, and extending the mountain zone to embrace points where the mountain standard provides a time as much as 49 minutes faster than local sun time. The change in Montana was made after a hearing, but the extreme extensions in Oklahoma, Texas, and Idaho were at first denied because we did not conceive it within our discretion to extend the zone boundaries so far beyond the median lines. Within a year after the southwestern extension was denied, the Standard Time Act was amended by Congress specifically extending the central zone as requested, and 2 years later the act was further amended to require that southern Idaho be included in the mountain zone.

"After repeal of national daylight saving, individual eastern and midwestern municipalities, led by Boston, New York, and Chicago, continued daylight saving on a local basis, but for a shortened period. This action is readily understood when it is realized that, during national daylight saving time, the residents of these three cities had experienced the benefits of the faster time during the warmer months. For them, eastern standard time is from 4 to 20 minutes slower than local sun time, as compared with such points as Wichita, Kansas, with a standard time 29 minutes faster than sun time, Boise, Idaho, 44 minutes faster, or the extreme, El Paso, 66 minutes faster. Even during the daylight saving period, the three eastern points have a time which is only 40 to 56 minutes faster than local sun time."

When, during World War II, national DST was established, some areas along the western edges of the time zones left their clocks one hour slow because the difference between sun time and clock time was too great.

At present all or parts of 27 states are embracing DST. It is state-wide in 17 states, eleven of which require it by law. Roughly one-half of the U.S. population is operating under it.

In 1949 the Oregon Legislature enacted legislation fixing standard time for Oregon and giving the Governor the option of declaring DST if he felt it was in the best interests of the people. Before this law could become effective, an initiative petition forced the issue to a vote of the people in 1950, and the original legislation was sustained. Gubernatorial proclamation of DST was followed by another initiative petition in 1952 to repeal the option of the governor and establish uniform (standard) time. This was adopted by the people of Oregon and exists to this day.

In the 1959 legislature, an attempt was made to enact DST for two years, the object being to further the chances of successful state-wide Centennial celebrations. Discussion and public hearings in the Planning and Development Committee of the Oregon House of Representatives resulted in a referral to the people of Oregon. It is this referral, without the two year limitation, which we are considering in this report.

ARGUMENTS FOR

Business organizations expressing themselves through interviews, public hearings, or written statements to your Committee have used reasons both personal and economic in favoring DST.

The radio and television industry asserts DST in Oregon can almost eliminate program scrambles and subsequent loss of sponsors. A spokesman in the local television industry gave a conservative estimate for his station of an $85,000 loss because of Oregon's standard time.

In the transportation industry, the Oregon Trucking Association feels interstate freight drivers would benefit and it would put the local operation in step with California and eastern shipping points. Railroad management did not express a viewpoint on DST,
being more concerned with uniformity of time be it standard or daylight. The airlines want uniform time too, but have come out definitely in favor of DST.

Among those concerned with the financial markets and out-of-state sales, the argument advanced most often was that Oregon, being on standard time, fell a full four hours behind the eastern zone with DST. This limits the working day an additional hour and results in inefficiency. Also subscribing to this view were insurance and lumber brokers.

Organizations representing the laboring and retail business groups are endorsing DST primarily because of the extra hour of leisure daylight time. These groups include AFL-CIO, Retail Trade Association and individuals within both the logging and white collar categories. The loggers themselves indicated the earlier working hours during DST could help reduce the forest fire hazard.

It was asserted that business would be stimulated by the additional hour of daylight time in the case of both the Oregon Marine Trades Association (recreational boating) and the municipal and private golf courses. Greater utilization of public recreation equipment would be made, according to the Portland Public Parks Director.

Newspaper records indicate that individuals representing religious, legal and welfare groups are supporting DST because it reduces the hours of evening darkness and therefore presumably helps combat juvenile delinquency. The Oregon Citizens Committee for Daylight Saving Time is being actively and financially supported by individuals representing the wholesale lumber brokers, investment bankers, broadcasters and retail merchants.

**ARGUMENTS AGAINST**

Perhaps the oldest organized opposition in the fight against adoption of DST has been the farmers. The Oregon State Grange, representing 35,000 farmers and their families, has again officially resolved to oppose DST. It asserts that most farm operations are based on weather conditions. The farmer arranges neither his working time nor his leisure time by the clock, and he sees little advantage, some inconvenience, and occasional hardship in DST. Hardships are created when local businesses serving farmers close their doors by DST, thus shortening the business period available for the farmer who is of necessity operating on sun time.

A spokesman for the Oregon Farm Bureau Federation, representing 15,000 members, expressed a similar opinion. He also noted that use of DST shortens the workday by one hour for growers employing itinerant workers. This is because picking starts in the morning as soon as weather permits and must stop in time to allow the workers to transact business with local merchants.

The Oregon Theater Owners Association spoke out against DST because of the reduced attendance experienced under DST both in Oregon and elsewhere. In 1952, because of DST, Oregon outdoor theaters were said to have suffered a 35 per cent to 40 per cent dollar gross cutback. Indoor theaters fared similarly with a loss of 25 to 30 per cent during the DST season. This revenue loss is particularly hard-hitting for outdoor theaters since the bulk of their yearly business is done during the summer months. Thirty per cent of the theater business is done by outdoor establishments, and 70 per cent by indoor.

Indoor recreation operations as diverse as bowling alleys, bars and taverns can also be expected to feel the difference with DST.

Some railway brotherhoods have expressed a dislike for DST in that railroad operating personnel being on standard time would be out of step with the non-operating personnel who would be adhering to local DST.

**SUPPLEMENTAL INFORMATION**

The American Medical Association declined to comment on any relationship between DST and health. The National Safety Council could furnish no data relating traffic safety with DST. The Northwest Natural Gas Company stated that DST had no effect on gas consumption. A spokesman for a local electric utility stated that no evidence could be found linking DST with power consumption.
DISCUSSION

Portland itself is located west of the Pacific time zone center and standard time is some eleven minutes faster than sun time. Also, its location near the 45 degrees latitude accounts for a later sunset and a longer twilight than areas further south during the summer months. Civil twilight is defined as “the interval in the evening until the time the center of the sun is 6 degrees below the horizon. Civil twilight is intended to cover the somewhat indefinite period after sunset during which the natural illumination usually remains sufficient for ordinary outdoor operations to be carried on; but actually the illumination during the interval when the sun is less than 6 degrees below the horizon varies greatly according to weather conditions, especially cloudiness and haze, and local surroundings.”1 On June 15th, for example, the sun sets in Los Angeles at 7:04 p.m. standard time and civil twilight last for 30 minutes. Sunset in Portland is at 7:59 p.m. with a 37 minute civil twilight following.2 Thus on June 15th, Portland would have one hour and two minutes more “daylight” (including civil twilight) than Los Angeles. The average figure for the period from April 15th to September 15th for Portland’s additional “daylight” is 45 minutes more than Los Angeles. The material factor in this additional “daylight” is the later sunset. However, since the usefulness of civil twilight depends on weather conditions, a comparison between Portland and Los Angeles shows that Portland has sunshine 43 per cent of the possible time in June compared to 69 per cent for Los Angeles.3 For the period of April through September, the figures are 55 per cent and 74 per cent respectively; for the year, 44 per cent and 74 per cent, respectively.3 Hence, Los Angeles is more likely to have a usable civil twilight than Portland. This would have the effect of offsetting, somewhat, the earlier sunset.

Economic losses attributed to the lack of DST are perhaps in some cases overestimated. Television advertising volume and the viewing audience does drop off during the summer months, and the trigger may be the advent of DST program re-scheduling, but no evidence could be found that the advertising dollar is automatically shifted to other media. Local newspapers, for example, also experience a summer advertising slump in general classifications.

Certainly inefficiencies in many businesses occur because of Oregon’s non-DST stand, but these are almost impossible to evaluate economically. It is apparent that a less distorted time relationship with out-of-state markets would be more desirable.

Businesses catering to indoor recreation would undoubtedly suffer somewhat and in some marginal cases be forced to cease operations. Little tax revenue would be lost to the state since the spender’s recreation dollar would probably be channeled into increasing business in the areas devoted to outdoor activity.

Farmers, while presenting a united front against daylight time would not as a whole suffer under DST. The Grange has indicated that 90 per cent of the farm produce is processed or packed and routed to markets outside Oregon. Processing plants during harvest are geared to accommodate the farmer regardless of clock time. This leaves the farmers growing the 10 per cent of the produce re-scheduling their activities to conform to DST market hours.

Incidentally, the Grange indicates that during World War II DST, farmers generally ignored the fast time except during the summer months and that the “back country” observed no time change whatsoever.

If DST results in a smaller number of itinerant labor hours during harvest, the farmer could be forced to increase his basic harvesting wage to attract more workers. This would probably increase the price to the consumer. However, no estimate of cost was given by the farm groups, and no definite assertion that a wage increase was necessary.

No statistics were discovered relating juvenile delinquency to DST. However, studies have shown that adequate street lighting does reduce the crime rate. Fewer hours of evening darkness could conceivably have an effect on juvenile delinquency.

Fifty-five per cent of the population in Oregon resides inside incorporated cities.

1. Tables of Sunrise, Sunset, and Twilight — U.S. Naval Observatory, Washington, D.C.
2. Computed from 1.
This figure does not include the suburban sections which are closely tied to the urban centers. Undoubtedly, additional daylight hours would allow these people more personal participation in outdoor activities. Reasons given for the desirability of this participation were numerous, each one justified on a purely personal basis.

CONCLUSIONS

Your Committee feels on the basis of its investigation that economic losses in some areas would be offset by gains in other areas, and the over-all economic picture would not change perceptibly under daylight saving time.

There being no factual economic basis on which to judge either the cost of inefficiency in business under standard time, or the inconvenience in farming under DST, no price can be set on either case.

Outside recreational activities are often restricted by inclement weather prevailing much of the time in Oregon. An extra hour daily during the best weather in Oregon would allow the extension of this all-too-short recreation time. Your Committee feels that the people of Oregon should have available this extra hour of daylight for whatever recreational purpose they choose, since no great hardships will devolve upon the majority of citizens.

RECOMMENDATION

Therefore, on the basis of its examination of the proposed act, your Committee recommends that the City Club go on record as favoring the passage of the proposed act and that the vote be No. 2 “Yes”.

Respectfully submitted,

Thomas P. Deering
Carleton G. Morehouse
Harold H. Rice
Kenneth M. Winters
William F. Caldwell, Chairman

Approved September 22, 1960, by the Research Board for transmittal to the Board of Governors.

Received by the Board of Governors September 26, 1960 and ordered printed and submitted to the membership for discussion and action.
REPORTS ON
FIXING COMMENCEMENT OF LEGISLATORS' TERMS
(State Ballot Measure No. 1)

VOTER QUALIFICATION AMENDMENT
(State Ballot Measure No. 7)

ELECTIVE OFFICES: WHEN TO BECOME VACANT
(State Ballot Measure No. 10)

TO THE BOARD OF GOVERNORS,
THE CITY CLUB OF PORTLAND:

Your Committee has studied three proposed Constitutional amendments submitted by the Legislative Assembly to the people of this state for their approval or rejection at the general election on November 8, 1960. These proposals are:

Measure No. 1 (SJR No. 28) which will amend Article IV, Section 4 of the Oregon Constitution to change the date of commencement of terms of Oregon legislators from the first Monday to the second Monday in January; will permit the legislature to appoint by law a different commencing day; and will extend the terms of present legislators from the first Monday to the second Monday in January, 1961.

Measure No. 7 (HJR No. 26) which will amend Article II, Section 2 of the Constitution to authorize the legislature by law

"to permit a person who has resided in this state less than six months immediately preceding the election, but who is otherwise qualified under this subsection, to vote in the election for candidates for nomination or election for president or vice president of the United States or elector of president or vice president of the United States."

The amendment will also provide that a person may vote who is otherwise qualified but is unable to read or write because of physical disability.

Measure No. 10 (SJR No. 41) which will add Section 9 to Article XV of the Oregon Constitution as follows:

"The Legislative Assembly may provide that any elective public office becomes vacant, under such conditions or circumstances as the Legislative Assembly may specify, whenever a person holding the office is elected to another public office more than 90 days prior to the expiration of the term of the office he is holding. For the purposes of this section, a person elected is considered to be elected as of the date the election is held."

SOURCES

The bulk of the Committee’s investigation concerned Measure No. 10 relating to vacancy in elective public office. We obtained the views of Governor Hatfield; Secretary of State Appling; Representative Robert Duncan, Speaker of the House; and Representatives George Layman and Shirley Field; Professor Hans Linde of the University of Oregon Law School; M. J. Gleason, Multnomah County Commissioner; Miss Marion Rushing, Chief Deputy City Attorney of Portland, and others. We met on separate occasions with Senator Walter Pearson, President of the Senate; Senators Alfred Corbett, Jean Lewis and Monroe Sweetland, and with Professor Charles E. McKinley, Professor Emeritus of American Institutions at Reed College.
In connection with the other two measures before your Committee, Measure No. 1 and Measure No. 7, your Committee received the views of Senators and Representatives named above, particularly those of Senator Corbett and Representative Layman, sponsors, respectively, of these measures, and of Professor McKinley. With particular reference to Measure No. 7 concerning voter qualification your Committee met with Mr. John Weldon, Registrar of Multnomah County, and received the written views of the County Clerks of Jackson, Benton, Clackamas, Marion and Malheur Counties, and of Jack F. Thompson, State Director of Elections.

Your Committee has reviewed the Constitution and laws of the State of Oregon; the Oregon Senate and House Journal, 1959 Session; the minutes of the Senate Committee on State and Federal affairs, 1959 Session; various items of legislation introduced at the 1959 Session; and information from the Council of State Governments, Chicago, Illinois.

We will discuss the proposals separately.

No. 1 — FIXING COMMENCEMENT OF LEGISLATORS' TERMS

Purpose: To amend the Constitution to make legislators' terms of office start at the same time as the regular legislative session.

Arguments for the Proposal

1. The amendment will make the date of commencement of the terms of legislators coincide with the date fixed by statute for commencement of the biennial session and eliminate the present one week gap between the end of legislative terms and the commencement of the new legislative session.

2. Elimination of the gap will help to assure that in the event of vacancy in the office of governor, succession to that office will follow the pattern prescribed by Article V, Section 8 of the Constitution.

3. The amendment will permit the Legislative Assembly, by statute, to change the date of commencement of the term to coincide with any future change the legislature may make in the date of commencement of the biennial session.

Arguments Against the Proposal

1. The amendment may conflict with Article II, Section 14 of the Oregon Constitution which provides that all officers, except the governor, shall assume the duties of their respective offices on the first Monday in January following their election.

2. The amendment does not completely eliminate the possibility of a gap between the date of the end of legislators and the commencement of the biennial session.

DISCUSSION

The Constitution in Article II, Section 10 allows the Legislature to fix by law the date of beginning of the legislative session, and the Legislature has provided by law that the session shall begin on the second Monday in January. Article IV, Section 4, however, provides that the terms of legislators commence on the first Monday in January. Since Article XV, Section 1 has been construed to mean that legislators do not serve until their successors are elected and qualified, the terms of legislators presently end on the first Monday in January. Thus, there is a gap every two years for a period of one week, between the first and second Mondays in January, when, except for holdover Senators, there are no legislators in office.

This gap bears upon the problem of succession to the office of governor in the event of a vacancy in that office. Article V, Section 8 provides that in the event of such vacancy, the President of the Senate, Speaker of the House, Secretary of State, and State Treasurer, in that order, succeed to the vacant office to serve until the next general biennial election. During the one-week gap in January there may be no President of the Senate and certainly will be no Speaker of the House, so that any vacancy then occurring in the governor’s office could be filled only by the Secretary of State, or State Treasurer.

The people in the Constitution have spelled out their preference as to the order of succession. Their will should not be frustrated by a technical disparity of dates between

* State ex-rel. Stadler v. Patterson, 197 Or. 1.
commencement of terms and biennial sessions. The Legislature has the power to eliminate this gap by amending ORS 171.010 to provide that the legislative session shall commence on the first Monday in January. But this could be New Year’s Day, and this solution is unsatisfactory. The only other alternative is to change the date of commencement of terms, as the proposed Constitutional amendment does.

The proposed amendment, which passed both House and Senate without a single vote in opposition, will substantially accomplish its purpose to eliminate the one-week gap. It is generally accepted that in construing constitutional provisions, the specific governs the general, and the most recent clause controls over earlier clauses. We do not believe, therefore, that a court will consider seriously the alleged conflict between Article II, Section 14 and Article IV, Section 4, as the former section is a general and earlier one covering all offices except that of governors, whereas the latter section will be the most recent and will deal specifically with the terms of legislators and should be held to control.

Even if the amendment is adopted, however, the possibility of a gap may exist at some time in the future. Assuming the Legislature in 1961 fixed the third Monday in January, 1963 for the beginning of both the biennial session and of the legislative terms, nonetheless, terms of legislators, without a further constitutional amendment, will expire on the second Monday in January 1963. We believe, however, it is wiser to eliminate the present repetitive gap than to oppose this amendment because the Legislature may create another non-repetitive gap.

CONCLUSION

In our opinion, Ballot Measure No. 1 is a necessary “housekeeping” measure to eliminate the gap between the commencement of the biennial session and the beginning of legislative terms.

RECOMMENDATION

Your Committee unanimously recommends that the City Club go on record in favor of State Ballot Measure No. 1, and urges a vote of “yes” thereon.

No. 7 — VOTER QUALIFICATION AMENDMENT

Purpose: Amends Constitution to permit voters otherwise qualified to vote for United States President although they do not meet requirement of six months residence in the state.

Arguments for the Proposal

1. Our population is increasingly mobile and this mobility should not restrict the opportunity to vote for offices of a national character.

2. Residency in a particular state for a sustained period has no significant correlation with informed voting in primary and general elections for President and Vice President of the United States. The issues presented are national, and the voter, if he is aware of them at all, is aware of them regardless of his length of residency in any particular state.

3. The provision to permit a person to vote who, except for physical disability, is able to read and write gives constitutional sanction to legislation which already gives this permission.

Arguments Against the Proposal

1. The amendment will make the administration of our election laws more complicated.

2. As elections for President and Vice President inevitably involve local issues which concern particular states there may be some correlation between residency and intelligent voting.

DISCUSSION

Though Measure No. 7 if enacted would completely rewrite Article II, Section 2 of the Constitution, the only substantive changes are with regard to residency and physical disability. The resolution submitting the measure to the people passed both houses of the Legislature without a single vote in opposition.
Article II, Section 2 now provides that no one may vote in any election in Oregon unless he has resided in Oregon for six months immediately preceding the election. Measure No. 7 will allow the Legislature to reduce the six months period of residency for voting in primary and general elections for President and Vice President. Thus, the Legislature may enact laws allowing persons recently moved to the state to vote a limited ballot for President and Vice President only.

We have found compelling the argument that residency requirements for voting for national officers such as President and Vice President should be eased. Because our population is increasingly mobile, many people are disenfranchised simply because of the residency requirement. Though candidates for President and Vice President try to build their majorities on a variety of local issues with which the voter may not be familiar unless he has resided in the state for a sustained period, elections today for President and Vice President primarily concern national issues with which the voter is familiar — if he is familiar with issues at all — regardless of residency. The proposition that a voter must live in a state a certain length of time to vote intelligently may apply significantly to state or local elections, but there is no necessary correlation between intelligent voting for national offices and residency in any particular state.

Other states have already reduced residency requirements for voting for President and Vice President. In Wisconsin there is no residency requirement for voting for President and Vice President though the usual residency requirement is one year. In California, Mississippi and Ohio, the residency requirement has been reduced for voting for President and Vice President from the usual one-year period to 54 days in California and 60 days in the other two states.

The problem of administering such a law will not be difficult. The county clerk can issue a special registration certificate authorizing the person who, except for the six months’ residency requirement is otherwise qualified, to vote a limited ballot. The ballot can be marked “Presidential Only” by the election Board Chairman, and votes on the ballot can be counted only for President and Vice President.

Voting limited ballots is not new in Oregon. If an elector changes his residence from one precinct to another precinct within the same county and does not re-register in the latter precinct, he can vote in the former precinct only for offices and measures to be voted for in the state at large, or in the Congressional district.

The Legislature of course must enact a statute to put this Constitutional provision into effect. Such an act — similar, perhaps, to Senate Bill 494 introduced but not enacted in the last Legislature — can easily detail the procedure for effecting this provision. We see no reasonable likelihood that the limited privilege of voting to be given by this amendment will be successfully abused.

The change to be made by the proposed amendment, with respect to physical disability merely gives Constitutional sanction to legislation already in effect, which permits persons to vote who, except for physical disability, are able to read and write and are otherwise qualified.

CONCLUSION

In our opinion the proposed amendment should be adopted by the people.

RECOMMENDATION

Your Committee unanimously recommends that the City Club go on record in favor of State Ballot Measure No. 7 and urges a vote of "yes" thereon.

No. 10 — ELECTIVE OFFICES: WHEN TO BECOME VACANT

Purpose: To amend Constitution to permit Legislature to provide that an elective office becomes vacant whenever the public official is elected to another office.

Arguments for the Proposal

1. If the Secretary of State or State Treasurer is elected Governor, the outgoing governor should by appointment fill the vacancy created by his defeat so that the new governor cannot gain additional executive power by filling by appointment the office which he has just vacated.
2. The time when an elective office becomes vacant if the office holder is elected to another public office should be certain, so that there can be no doubt as to who can appoint the successor and to permit an orderly accounting and transfer of records of office.

Arguments Against the Proposal

1. A governor-elect who, at the time of election was Secretary of State or State Treasurer, should by appointment fill the vacancy created by the election, so that the outgoing governor cannot by appointment fill such office and restrict effective exercise of executive authority.

2. The proposed amendment, if made operative, will make more difficult the public's job to assess responsibility for the government's success or failure.

3. The amendment which may be construed to create an immediate vacancy as of the date of election to another office, will aggravate the problem of orderly transition.

4. The amendment is ambiguous and may result in litigation concerning its meaning and effect.

DISCUSSION

The proposal grows out of the controversy over the succession to office of Secretary of State after the election in November 1958 of Governor Hatfield. Governor Holmes, whom Hatfield had defeated in the gubernatorial race, claimed the right to appoint Hatfield's successor as Secretary of State for the two-year balance of the four-year term. Holmes claimed that Hatfield must resign as Secretary of State before he could become governor so that Holmes could appoint a successor as Secretary of State. Hatfield, on the other hand, tendered his resignation to take effect upon becoming governor so that he could by his succession to the governorship create a vacancy in the office of Secretary of State which could be filled by his appointment. The Oregon Supreme Court in State ex rel O'Hara v. Appling, 215 Or. 303 held that in fact no formal resignation by Hatfield was necessary, that by virtue of assuming the office of governor, Hatfield vacated "instantaneously" the office of Secretary of State, and that Hatfield, as Governor, could appoint a successor Secretary of State.

If the proposed constitutional amendment had been in effect at that time, Holmes could validly have appointed O'Hara to fill the Secretary of State's office.

The proposed amendment was introduced by the Senate State and Federal Affairs Committee at the request of Senator Walter J. Pearson, President of the Senate. It was prepared in the Legislative Counsel's office. The proposed amendment passed the Senate 24 to 2 and the House 41 to 17, in each instance without extended consideration. Only in the House was there a clear division along party lines, all seventeen "no" votes being cast by Republicans.

The proposed amendment, which applies to all elective public offices, will empower the Legislature under the limitations set, to fix by law the date of vacancy of constitutional offices such as Governor, Secretary of State, State Treasurer, Supreme Court Judges, County Clerks, County Sheriffs, County Treasurers, and State Legislators. The Legislature already has this power under Article XV, Section 2, over nonconstitutional offices.

In terms of the importance of the proposed amendment to the state as a whole, the question here is who should fill a vacancy in the office of Secretary of State or State Treasurer in the event either is elected Governor. Central to this question is the existence of the State Board of Control, which consists of the Governor, Secretary of State and State Treasurer, and which still has important executive functions, particularly in the administration of state institutions.

The Committee believes that it is better public policy for the Governor-elect, rather than the outgoing Governor, to fill the vacancy in the office of Secretary of State or State Treasurer created by his election. If the outgoing Governor can appoint a member of
the Board of Control he can effectively place an opponent of the Governor in a position of strength to influence administration policy, and also can create a potential opposition candidate to the Governor. The history of our state bears out both these statements and, indeed, regardless of the party labels worn by the Board of Control member. We believe our opinion is valid so long as Oregon retains the Board of Control with its present membership and powers and the Secretary of State and State Treasurer can use their offices as stepping stones to the governorship.

Generally the people of Oregon are committed to a system of checks and balances, illustrated by the separation of powers between executive, legislative and judicial branches of government. But we have placed so many restraints on majority rule that they may prevent not only a tyranny of the majority but also effective expression on a state level of any will of the majority. Illustrations of such restraints are bicameral legislatures, staggered terms of legislators, legislative districting, gubernatorial elections in non-presidential years, judicial review, legislative budgeting through fiscal officers, and legislative confirmation of executive appointments. Such restraints reduce the ability of the people to assess responsibility upon, and hold accountable, the Governor for the success or failure of a governmental program. To give the outgoing Governor power to fill a vacancy on the Board of Control created by his defeat will create another device by which the will of the majority may be blocked. We think there are already adequate restraints on majority will.

Furthermore, we interpret Measure No. 10 to mean that if the Legislature makes provision for vacancies under it, the date of vacancy must be election day. Certainly any legislation which establishes the date of vacancy as other than the date of election will be subject to serious question. If we are correct, the amendment, if put into effect by legislative enactment, will sacrifice the usual time after election and before January for preparations to transfer office and will substitute an instantaneous vacancy. We cannot expect that the incumbent at the height of an election campaign will prepare for transfer of his present office to a successor on the unknown contingency of his success in the election. And if the outcome of an election should be in doubt for any period, who could exercise the powers of the office with legality? Will the successful candidate for this elective office immediately cease to draw salary in his present office, with all the hardship this might entail? Even if we believed, contrary to our present thinking, that the outgoing Governor should fill the vacancy created by his defeat, we doubt that this will justify the sacrifice in orderly procedure required by this amendment.

Though it has been stated that this amendment will clarify the time when a vacancy occurs, we believe the decision in *State ex rel O'Hara v. Appling* clarifies that question so far as are concerned vacancies in the office of Secretary of State and State Treasurer. As indicated, these are the critical offices.

Though this legislation as indicated grew out of a controversy over positions on the Board of Control, the proposal also affects county and may affect municipal offices. We are concerned that the amendment gives the Legislature powers which may conflict with the 1958 County Home Rule amendment, which permits a county in its charter to determine the duration of county offices, and with city charters granting home rule.

**CONCLUSION**

The proposed constitutional amendment is an unwise solution to the problem of vacancy in elective public office. We disagree with the philosophy that it is better to have the outgoing Governor fill the vacancy on the Board of Control created by the election. At best the proposal creates ambiguities which will lead to litigation, and at worst it obliges the Legislature, if it does pass legislation to make operative the constitutional amendment, to set a date of vacancy as of the election day, which will cause greater difficulties than we now have in the orderly transfer of offices. Finally, a fundamental problem in our state government is the fracturing of executive responsibility between various members of the Board of Control who are or may become political opponents. This proposal will accentuate these deficiencies by writing into the Constitution an additional provision to facilitate placing political opponents on the Board of Control. We believe it is more in the public interest to give the incoming governor a greater opportunity to achieve a co-ordinated executive program during his administration. This will also enable the people more easily to assess responsibility for success or failure of the programs for which they voted.
RECOMMENDATION

Your Committee unanimously recommends that the City Club go on record against State Ballot Measure No. 10 and urges a vote of "no" thereon.

Respectfully submitted,

Verne Dusenbery
Marko Haggard
Frank McMenamin
Jonathan U. Newman, Chairman.

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