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Report on Prohibits Property Tax for School Operation (State Measure No. 9)

City Club of Portland (Portland, Or.)

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REPORT
ON
PROHIBITS PROPERTY TAX FOR
SCHOOL OPERATION
(State Measure No. 9)

Purpose: Constitutional amendment prohibiting the levy of property taxes to pay the operating expenses of elementary schools, high schools and community colleges.

To the Board of Governors,
The City Club of Portland:

I. INTRODUCTION

State Measure No. 9 is a proposed constitutional amendment placed upon the ballot by an initiative petition sponsored by the Oregon Farm Bureau Federation. It will be voted upon at the General Election on November 7, 1972.

This measure would add a new section to Article VII of the Constitution of the State of Oregon, reading as follows:

Section 7. (1) Notwithstanding Article XI, section 11 of this Constitution, no ad valorem tax against property shall be levied for the purpose of paying the operating costs of a common or union high school or community college, as defined by law.

(2) If approved by a majority of the legal voters of the district, a taxing unit operating a common or union high school may levy an ad valorem tax against property for the purpose of paying bonded indebtedness or the interest thereon or for the purpose of paying capital construction costs, as defined by law. The taxing unit may continue to levy any ad valorem tax against property imposed for the payment of bonded indebtedness or the interest thereon or for the purpose of paying capital construction costs if the levy was approved by the legal voters of the taxing unit prior to the effective date of this amendment.

(3) The Legislative Assembly shall and the people may provide any legislation that may be necessary to carry out the provisions of this section, including but not limited to providing funds necessary to meet the operating costs of taxing units operating common or union high schools or community colleges.

Your Committee recognizes that this measure has certain problems of interpretation which could vary its effect to some degree. (For instance, the term "operating expenses" may be subject to various interpretations.) However, such latitude for interpretation seems to your Committee sufficiently small in relation to the effect of the provision as a whole that questions of interpretation are not covered herein.

Also, your Committee has not attempted to propose an alternate means of financing the operating expenses of the schools affected by this measure. Such a task is currently being undertaken by other groups with resources far beyond that of this Committee, and it is not strictly necessary to make such a proposal for purposes of evaluating this ballot measure.

1The term “common schools” refers to public grade schools. Oregon Constitution, Article VIII, Section 3 and ORS 330.005.
II. BACKGROUND

Property taxes, as well as the cost of education, have risen substantially in recent years in Oregon. Because of this, we are now experiencing what some witnesses characterized as a taxpayers' revolt. This has been evidenced by the rejection of many budgets of Oregon school districts. It was also evidenced in 1968 by a proposed constitutional amendment which was placed on the November ballot of that year by an initiative petition. That ballot measure would have limited property taxes for all purposes to 1 1/2 percent of true cash value. The 1 1/2 percent measure, like Measure No. 9, did not provide any alternate means of financing. It was soundly defeated at the polls.2

The schools of Oregon rely very heavily on property taxes to finance their operating expenses. The relative amount of State school support has been declining. It is now down to approximately 22 percent, which places Oregon in the lowest quartile of all of the states in the percentage of state support for public education. Almost all of the remaining costs of operating Oregon schools come from the property tax. Over 60 percent of the property tax collected in Oregon goes to pay the operating costs of Oregon schools. Approximately one-third of the Oregon property tax is paid by homeowners, including homes on farms, with the remaining two-thirds levied on businesses and farmland.

III. ARGUMENTS IN FAVOR OF THE MEASURE

Arguments presented to your Committee in favor of Ballot Measure No. 9 included:

1. Property taxes do not directly relate to the taxpayer's ability to pay or the benefits received. They are regressive and should not be used to finance school operating costs. Farmers and homeowners are unduly burdened by property taxes.

2. Elimination of local financing of schools and corresponding replacement with state support is an approach toward obtaining for all children a more nearly equal opportunity for an education. At present, there are great variations between local districts in funds available for education.

3. At present almost all schools' operating budgets depend upon local voter approval. If Measure No. 9 passes, school boards and administrators will be able to concentrate on the educational program rather than devoting their energies to finding means of extracting money from reluctant property owners.

4. Historically the voters of Oregon have demonstrated they will not approve measures calling for a tax increase. Measure No. 9 provides the opportunity to eliminate one form of tax prior to consideration of another. Thus, the voters are given some assurance of replacement of a tax instead of merely adding another form of taxation to the system.

5. Property taxes tend to discourage improvement of property in that assessed values may be increased.

6. Measure No. 9 would force the Legislature to take positive action on tax reform. Alternate sources of revenues acceptable to the citizens would have to be developed if the schools are to operate in fiscal 1973-74.

IV. ARGUMENTS AGAINST THE MEASURE

Arguments presented to your Committee against Ballot Measure No. 9:

1. The Legislature should not be foreclosed from relying upon the property tax to some degree in formulating a fair tax plan to pay the cost of public education. Property taxes are a dependable and predictable means of raising revenue for financing public education.

2. Total state financing of our schools, which the passage of Measure No. 9 would probably bring about, would lessen local control over the schools.

2The measure was defeated by a vote of 503,443 no; 276,451 yes.
3. Measure No. 9 does not provide an alternative method of raising the approximately $370,000,000 of property tax revenue which the schools would lose in the 1973-74 school year if this measure passes.

4. There is no guarantee that the Legislature could devise a tax scheme which the people would accept to raise these lost funds in the short time available before the 1973-74 school year commences.

5. Even if a new tax scheme is passed by the Legislature and survives a referendum it might not generate revenue fast enough to keep Oregon's schools open during the 1973-74 school year.

6. The Legislature will not be as likely to formulate a well-thought-out tax scheme as it would under more normal circumstances, if it is forced to draft a new tax program under the threat that Oregon's schools will not open for the 1973-74 tax year unless a new tax program is adopted which will withstand the referendum.

7. Required alternative taxes may be less fair than property taxes.

V. DISCUSSION

Your Committee recognizes that the present form of the property tax may not be the most ideal method of financing public education. It is recognized that certain citizens of Oregon may be currently paying a disproportionate share of the education bill. Any complete evaluation of either of these statements goes beyond the scope and resources of this research committee.

Although a case can be made for property tax reform, it would be very unwise to adopt a constitutional amendment absolutely prohibiting the use of property taxes for school operating costs. The Committee feels that it is important to look at the entire tax structure of the state to determine its overall fairness as opposed to isolating one single tax within the system. This type of review is precluded by a constitutional prohibition such as the one proposed by Measure No. 9.

Also, as the nature of Oregon's economy changes over the years, changes in the total tax system must be made. A constitutional provision totally eliminating the use of one method of taxation for any necessary public function greatly increases the difficulty of making future changes in Oregon's total tax structure. The argument is made that this would be particularly unwise with respect to a traditional, predictable, readily collectible tax such as the property tax. It should also be noted that the measure in question not only would eliminate local property taxes as now used for school operating costs but would also prohibit the use of state, uniformly-levied property taxes as an alternative.

Measure No. 9 would not only grant property tax relief to homeowners (including homes on farms) but would also grant such relief to owners of agricultural land and Oregon's business community which currently pays approximately two-thirds of Oregon's property taxes. If the measure passes and Oregon is to keep its schools open for the 1973-74 school year, an almost total overhaul of Oregon's tax system would have to take place in a few months.

If Measure No. 9 passes it will take effect 30 days after election day. Since the taxes for the 1972-73 school year have already been levied, the passage of Measure No. 9 would not affect the current school year. However, no property taxes could be levied for the 1973-74 school year, and this means that the schools would be deprived of approximately $370,000,000 with which to operate for that school year.

The Oregon Constitution reserves to the people the opportunity to veto tax measures by referring them to a vote of the people. Oregon Constitution, Article IV, Section 1.

Oregon Constitution, Article IV, Section 1.
Since Measure No. 9 proposes to take away the property tax as a means of funding Oregon's schools, it appears that a primary consideration is the finding of an alternative source of revenue. While your Committee has not attempted to evaluate any of the various proposed alternatives, the estimated effect of some of these alternatives should be noted. For example, to replace the $370,000,000 of revenue estimated to be raised by property taxes for school support in fiscal 1973-74, it would be necessary either to impose a General Sales Tax of 10 percent or to more than double the present Personal Income and Corporate Excise Tax rate.

The Legislature, which meets next in January of 1973, would have little time to come up with an alternative tax system. Any such tax system can be referred to the voters within 90 days of the end of the legislative session. This referendum election could occur during the late spring or summer of 1973. Most witnesses interviewed feel that such a referral is almost certain to occur if Measure No. 9 passes.

Even if any tax plan which the Legislature may propose survives such a referral, so little time would then exist before the start of the next school year that a question exists whether any tax scheme could raise enough money in time to allow the schools to operate for the 1973-74 school year. This is a question of cash flow, and the answers vary substantially depending upon which alternative sources of revenue are chosen.

If the Legislature's tax plan did not win the approval of the voters at a referral election, there seems to be little question but that the schools of Oregon could not operate for the 1973-74 school year.

It should be noted that the voters of Oregon have consistently voted down new tax proposals. Proponents of the measure indicate that this would not occur if Measure No. 9 passes, because the people would be guaranteed that property taxes would be reduced. Your Committee cannot determine whether this assertion is accurate.

It should be noted, however, that several courts have held that "local" property taxes—that is, property taxes which generate varying amounts of money for schools, depending upon the area in which one lives—are unconstitutional. While the courts are still struggling with this question and no final word has yet been received, these cases do not go so far as Measure No. 9 in that they do not prohibit the use of the property tax for financing public education but rather indicate that local property taxes which cause substantial disparities among individual school districts in the amounts of revenue available for the pupil are unconstitutional.

The issue of the loss of local control is also present in the consideration of this measure, although the litigation which is currently attacking local property taxes may decide that issue without regard to Measure No. 9.

The Committee is impressed with the overwhelming feeling throughout the state that some type of property tax relief is mandatory. There are currently in process plans for alternative ways to finance Oregon schools. Governor McCall has prepared a tax reform package which will be presented to the next Oregon Legislature. Also, the Legislative Tax Interim Committee is working on proposals for property tax relief.

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5Oregon Constitution, Article IV, Section 1.
7See Footnote 4.
8Ibid.
VI. CONCLUSION

Your Committee is unanimous in its conclusion that, while property tax reform is desirable, State Measure No. 9 is not the way to go about the task. The measure does not guarantee that an equitable form of tax relief to property owners will occur, and it would remove a basic form of taxation from the Legislature's consideration in formulating a just tax program.

Also, it would put Oregon schools in jeopardy in that it, in effect, decrees that schools cannot open during the 1973-74 school year unless the Legislature, within a matter of a few months, can agree upon a tax program which the Oregon voters will accept. While proponents of the measure indicate that any such failure would be the fault of the Legislature and of the people, your Committee views this as too simplistic a view of the problem. While any such failure might be that of the Legislature or of the people, to precipitate a crisis atmosphere wherein the people and the Legislature would be forced to make decisions of great importance under the sort of pressure that Measure No. 9 creates is irresponsible.

While the majority of the Committee feels that the lack of time given the Legislature and the Oregon voters to replace the revenue loss created by Measure No. 9 is a major consideration in recommending a “no” vote, a minority is less disturbed by this “crisis timing” argument. In 1968 the City Club Committee assigned to study the ballot measure that would have placed a 1½ percent limitation on property taxes concurred that the “administrative and fiscal problems created are, alone, sufficient basis for recommending opposition to it.” The minority does not feel a similar “cop out” should be used again in 1972. Its opposition to this measure is based primarily upon the inherent unsoundness of a constitutional prohibition against any sort of property taxes for any portion of school operating costs.

VII. RECOMMENDATION

Your Committee, therefore, recommends that the City Club of Portland go on record in favor of a “no” vote on State Measure No. 9.

Respectfully submitted,
Howard L. Cherry, M.D.
Harry L. Demorest
Jerrold J. Isom
Thomas P. Joseph, Jr.
Paul F. Mielly
Michael H. Schmeer, and
Thomas L. Gallagher, Jr., Chairman

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APPENDIX A

BIBLIOGRAPHY

Capital Journal—various articles.
Letter, Dr. Amos DeBernardis, President of Portland Community College, to the Committee.
Letter, Legislative Tax Interim Committee, to the Honorable Lee Johnson, Attorney General, requesting legal opinion.
Medford Mail Tribune—various articles.
Oregon Farm Bureau Federation, prepared material presented by Waldron A. Johnson.
Oregon Journal—various articles.
Oregon Statesman—various articles.
Oregonian—various articles.
Eugene Register-Guard—various articles including letter from Norman R. Evonuk, President of Lane County Farm Bureau.

APPENDIX B

PERSONS INTERVIEWED BY THE COMMITTEE

Annala, George J., Manager, Oregon Tax Research.
Bade, William E., Fiscal Officer and Assistant to the Superintendent, School District No. 1.
Carlson, Waldo, Department of Revenue, State of Oregon.
Dudley, Chris, Legislative and Field Representative, Oregon School Boards Association.
Hakanson, Dr. John, President, Clackamas Community College.
Johnson, Waldron A., 2nd Vice President, Oregon Farm Bureau Federation and Sponsor of petition for State Measure No. 9.
Oleson, Bob, Administrative Assistant, Office of the Superintendent of Public Instruction, Oregon Board of Education.
Sommerville, Thomas, Superintendent, Multnomah County Intermediate Education District.
Thomas, Lloyd, Coordinator, Finance and Statistics Services, Oregon Board of Education.