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Report on Irrigation, Water Development, and Community Water Supply Bonds (State Measure No.4) (SJR38)

City Club of Portland (Portland, Or.)

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REPORT
ON
IRRIGATION, WATER DEVELOPMENT, AND COMMUNITY WATER SUPPLY BONDS
(State Measure No. 4)
(SJR 38)

Purpose: This constitutional amendment authorizes the state to issue, sell and refinance bonds, up to one and one-half percent of true cash value of all property in the state to create the Water Development Fund. Proceeds would finance loans for construction of municipal and private irrigation and water development projects, and for their operation and maintenance when necessary for state security. The bonds would be funded as the Legislature may provide, or by statewide ad valorem taxes.

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

I. INTRODUCTION

State Measure No. 4 (SJR 38), if passed, would amend the Oregon Constitution by creating a new Article (XI-I) authorizing the State of Oregon to lend its credit to sell state bonds in the amount of 1½ percent of the true cash value of all property in the state. The proceeds from the bonds will be used to create a Water Development Fund ("Water Bank"). At current taxable property values, approximately $24.9 billion, the measure, if fully utilized, may be expected to generate a Water Bank of $374 million.

Water Bank funds may be used for the construction, operation, and maintenance of irrigation projects and community water supply systems.

Upon passage, State Measure 4 will be implemented by SB 861 (Ore. Laws, Chapter 701), a companion bill passed by the 1973 Legislative Assembly. The two measures intertwine, each appearing to provide desirable safeguards absent from the other. Thus, although the voters will be asked to approve or reject only SJR 38, we have analyzed the two measures as companions, being unable to divorce them realistically.

II. HISTORY AND SCOPE

A. GENERAL HISTORY:

The Water Bank concept was rejected by the voters in 1972 although recommended for adoption by the City Club in its report of May 12, 1972. The current measure is substantially the same but distinguishable in several key areas:

1. The fund limit has been raised from 1 percent to 1½ percent,
2. Corporate eligibility for loans has been changed from corporations "created and existing in Oregon" to those "subject to the laws" of Oregon,
3. Community water supply systems have been added as beneficiaries.

1This statement of purpose, taken from the ballot, is deficient in that it does not mention community water supply systems.

2Additionally, but in a minor way, funds may be expended to acquire easements and rights-of-way for certain water development projects authorized by federal law. By implementing statute this amount is limited to two specified federal programs concerning watershed protection and small reclamation projects and may not exceed a total expenditure of $5 million.
B. ELIGIBILITY FOR FUNDS:

1. Irrigation Projects

Of the funds authorized for the Water Bank, one-half (approximately $187 million) would be available for irrigation projects under SB 861. An irrigator as defined in the Act may apply to the State Engineer for a loan from the Water Bank setting forth plans and specifications for the proposed project. The application must also contain an evaluation of the agricultural potential of the land by any competent state agency. Projects may include such secondary uses as water recreation, wildlife conservation, municipal and industrial water supply, and water quality enhancement. The applicant must disclose whether any non-Water Bank funds are available or have been sought for the project. The State Engineer may approve the application if he finds that the project is feasible and a reasonable risk, that the irrigator is credit-worthy, that there is a need for the project, and that it will not interfere with any comprehensive development which would better maximize the area's resource potential. The Governor may approve or reject the application.

Once granted, the loan becomes a first lien against the irrigator's real property and bears interest at a rate set by the State Engineer (covering Water Bank bond costs and administrative expenses). The term of the loan may not exceed the useful life of the project or 32 years, whichever is less; payments may be deferred for the first two years.

SB 861 restricts irrigation projects to lands in Oregon whereas SJR 38 apparently permits projects on any land owned by an Oregon resident.

An irrigator must be an Oregon resident. "Resident," in SJR 38, includes any corporation subject to the laws of the state. SB 861 imposes the further restriction that eligible corporations derive their principal income from farming.

2. Community Water Supply Systems

The remaining one-half of Water Bank funds will be administered by the Health Division of the Department of Human Resources subject to approval by the Governor. An eligible community water supply system must provide water for drinking, culinary, or household uses. Representatives of the Health Division assume that eligibility is restricted to municipalities, a reasonable inference from the language of SJR 38, but subject to question because of definitions in SB 861.

3. Federal Water Development Projects

Undefined in SJR 38, water development projects are restricted in SB 861 to those authorized by two specific federal acts: the Watershed Protection and Flood Prevention Act ("PL 566") and the Small Reclamation Projects Act of 1956 ("PL 984"). Five million dollars of Water Bank money, from the portion allocated to irrigation projects, may be advanced as interim financing for the acquisition of easements and rights-of-way pending subsequent federal funding.

C. STATE BONDING:

The Water Bank will be funded by selling state general obligation bonds up to 1½ percent of the true cash value of all taxable property in the state. Exhibit B shows current constitutional bonding limits and actual outstanding bonded indebtedness of the state as of April 4, 1974. Passage of SJR 38 would bring the state's total constitutional bonding limit to 15-11/16 percent of the true cash value of all taxable property. If Water Bank bonds were fully sold, actual outstanding indebtedness would amount to 6.7 percent of true cash value. Both the State Treasurer and private bond brokers advise that passage of SJR 38 would not endanger Oregon's AAA bond rating.

Water Bank funds may be lent to irrigators or used to purchase bonds or other obligations of municipalities for community water supply systems. Refunding bonds are authorized but total Water Bank indebtedness may not exceed the 1½ percent limitation.

The Water Bank bonds are intended to be paid off from irrigation loan and municipal bond repayments to the Water Bank. Further security is provided in
that the state, if necessary, would be obligated to levy general ad valorem taxes, or provide other revenue to meet bond payment requirements.

D. LEGAL CONSIDERATIONS:

Funds for irrigation are limited to Oregon "residents," a term that is defined broadly to include any corporation "or other body subject to the laws of the State of Oregon." A non-Oregon corporation qualified by the Corporation Commissioner to do business in the state probably qualifies. SB 861, however, restricts loans to corporations whose principal income is from farming but there is some question whether the Legislature may add restrictions not stated in the constitutional provision. The rationale is that it may do so because SJR 38 is not self-executing. A definitive decision will no doubt require litigation.

A similar issue arises as to the situs of lands to be irrigated. SJR 38 purports to provide funds for irrigation projects "to and upon lands owned by residents," without regard to boundary. SB 861 requires that a qualifying project be "a complete undertaking in this state."

It is not clear whether private water supply systems would benefit from the Water Bank. The State Health Division contemplates only municipal projects, a conclusion supported by SJR 38 language restricting Water Bank funds to the acquisition of municipal water supply obligations. Such obligations, however, may be issued for the purpose of planning, acquiring, constructing, altering, or improving "community water supply systems as defined by state law." Under SB 861, common water supply means "a source of water and distribution system whether publicly or privately owned which serves more than . . . three . . . users . . ." Thus it appears that private systems may be found to be indirect beneficiaries.

III. BACKGROUND DATA

A. AGRICULTURE AND IRRIGATION:

Oregon now irrigates about 1¾ million acres. Although it is difficult to obtain accurate and current figures, it appears that our mid-Columbia counties are developing newly irrigated land at a rate of about 30,000 acres per year. Total "irrigable acreage" (any soil suitable for growing crops, disregarding climate or growing season) in Oregon is 16.5 million.

It has been estimated that $187 million initially available under the bill could develop 250,000 acres for irrigation. Total business generated from construction is estimated at $300 million. The new acreage could generate an additional $35 million per year in agricultural income. A multiplier effect of 2 (suggested by one agricultural economist) would indicate an increase in general economic activity in the state of $70 million per year.

Oregon's cash marketings of all farm products in 1971, the last available figures, totaled $561,900,000. This was 5½ percent of Oregon's gross state product in 1971.

Obvious objectives for increasing irrigated agriculture are (1) to increase crop production, (2) to stabilize production by minimizing the effects of fluctuations in precipitation, and (3) to broaden the choice of crops that can be grown. A striking example is evident along the Columbia River in Eastern Oregon where present dry land is limited to growing small grains on an "every other year" basis or is not productive at all. In general, irrigation farming generates a higher level of economic activity in an area because of the greater input requirements for equipment, fertilizers, and other materials and the handling and processing needs based on increased production. A study made by Washington State University in 1966, surveying lands similar to our mid-Columbia area, found that the overall economic growth generated by irrigated land exceeded that of non-irrigated land by a ratio of 17 to 1.

Although public attention has focused on irrigation development now occurring in the mid-Columbia area, the potential use of the Water Bank is much broader.

Existing irrigation districts throughout Oregon might use it to rebuild and improve present facilities. The Willamette Valley, with 275,000 acres already under irrigation (15 percent of the state's total), offers a substantial opportunity for increased irrigation. Many existing reservoirs in the Willamette system contain unused water dedicated to irrigation. Nevertheless, it appears likely the most immediate large scale use would be to tap the Columbia River for new irrigation development on adjoining dry land areas.

Historically, the federal government has played a significant role in irrigation development in the West. However, federal policy is changing; the thrust of new water development projects centers more on municipal and industrial water supply and less on irrigation. The Water Resources Council (consisting of heads of federal agencies concerned with water projects) has issued new guidelines which in essence make it mandatory that about one-half of currently proposed projects be discontinued as economically unjustified. The National Water Commission in 1973 recommended that future water legislation require full repayment of costs of any project designed to increase food and fibre.

This reduced participation in financing does not mean that the federal government is discouraging agricultural production. Secretary of Agriculture Earl Butz is urging U.S. farmers to all-out production and appears confident that a strong demand will continue. Federal land retirement programs, production control measures, and price support mechanisms are not now major influences on crop production.

If new irrigation development is needed, or desired, funds will probably have to be generated from private venture capital or a measure similar to SJR 38. Oregon's banks cannot match the anticipated interest charge under SJR 38 nor the long-term (30-year) pay-off. Bank lending naturally flows to lower risk projects.

**B. WATER SUPPLY SYSTEMS:**

Three out of four Oregonians get their water from one of the 510 community water supply operations classified by the Health Division as class-one systems. The Health Division estimates that 186 of these are deficient in water supply and will require extensive expenditures to continue adequate service. "Adequate service" refers to consistently high water quality as well as sufficient quantity. There are recent trends of increased enforcement by public health officials and establishment of more restrictive standards by regulatory agencies.

In addition, there are about 1,200 smaller systems serving four to nine customers each which require upgrading of water quality to meet existing standards set by the Health Division. It is expected that a considerable number of these will be merged with other systems or consolidated under the umbrella of a county service district.

The Administrator of the Health Division of the Department of Human Resources has tabulated a need approximating $160 million to construct, rehabilitate, and upgrade Oregon's potable water. Portland, alone, requires over $100 million; Lincoln and Tillamook Counties require $33 million.

Current financing is accomplished by municipal bonding or, in the case of cities under 10,000 population, by federal grants or loans, primarily from the Farmers Home Administration.

**IV. ARGUMENTS ADVANCED IN FAVOR OF THE MEASURE**

1. Water Bank bonds are essentially self-liquidating. There is little likelihood that general revenues or statewide taxation would be necessary to pay them off.

2. Irrigation of new land will provide new jobs in farming areas and diversify population growth in the state.

3. Irrigation permits diversification of agricultural production thereby tending to stabilize farm income and enhance Oregon's self-sufficiency.

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²Ore. Laws 1974 (Special Session) Chapter 39.
4. One of Oregon's greatest resources is her water. This measure will help get it to the land at the right time where it can produce crops, jobs, and dollars for the benefit of all residents.

5. Irrigated agriculture can generate and sustain a higher economic level of activity in the state.

6. There is now a strong worldwide demand for farm products and a likelihood it will continue and increase.

7. Neighbor states (California, Idaho, Utah)—either by state projects, tax credit, or general fund appropriations—have encouraged irrigation; we should not lag behind.

8. Federal irrigation projects are waning and private capital gravitates to projects of relatively short-term payback. An infusion of state funds will permit development of acreage which would not otherwise be brought under irrigation.

9. Oregon's municipalities have a reported immediate need in the magnitude of $160 million to meet current public health standards. Water Bank funds could provide the necessary financing.

10. The Water Bank would be of especial assistance to Oregon communities experiencing seasonal population swings. Their permanent population bases do not permit adequate self-bonding for peak water needs.

V. ARGUMENTS ADVANCED AGAINST THE MEASURE

1. It has not been proved that irrigation in Oregon will languish without state assistance. Current experience shows significant development with private capital as market demand brings once-marginal acreage into production.

2. So-called self-liquidating projects require steady and certain income, in this case farm income over as much as a 30-year period. Farm income has a history of wide fluctuation. The ultimate obligor is the state taxpayer, not the irrigator.

3. In the 1972 version of this measure, Water Bank loans were contingent on a finding that "funds are not otherwise reasonably available" to the irrigator. Omission of a like phrase from SJR 38 is a serious defect which virtually assures the substitution of state for private capital in irrigation projects.

4. An irrigation thrust of the magnitude presented by SJR 38 requires careful coordination with existing state agencies to insure harmonious development of land use objectives. A Water Bank should not be created without specific provision for such coordination, perhaps by granting review authority to the newly created Land Conservation and Development Commission.

5. The large cities, which may use up the majority of water supply funds, can already obtain financing at approximately the same rate as under the proposed measure. Small town water supply systems can be partially financed by existing federal programs. The private water systems, which are most in need of upgrading, are not clearly designated as beneficiaries in this measure.

VI. DISCUSSION

Development of water supply, particularly in the Western states, has long been a favored method of inducing population shifts and economic growth. However, notwithstanding the many benefits which accrue from man's control of natural water flow, there is deepening concern with the decision-making processes and cost accounting methods traditionally used to justify water control projects. Currently, federal irrigation projects are heavily subsidized by (1) interest-free, long-term loans, (2) payment of irrigation costs by electric power revenues from the sale of municipal and industrial water, and (3) allocation, to an unwarranted extent, of joint costs of multiple-purpose projects to non-irrigation features. The National Water Commission of 1973 recommends an end to such subsidies:

"In many cases, the combined social costs of producing subsidized products (i.e. the price paid by the consumers plus the subsidy paid by
taxpayers) exceeds the costs which would otherwise prevail in the absence of the subsidy.”

Most striking is the Commission’s conclusion that there appears to be adequate productive capacity in the nation’s agriculture to meet food and fiber demand until the year 2000. To the extent that this conclusion may not reflect current popular opinion, we note that irrigation can receive public assistance even without SJR 38 because of the legislation (HB 3297) passed by the 1974 Special Session which permits Port Districts to distribute water for irrigation purposes.

However, SJR 38 should not be approved or rejected on the merits of irrigation per se. There is no doubt that irrigated agricultural land is more productive than non-irrigated land and produces corresponding economic and social benefits. The question is whether SJR 38 and its companion bill will facilitate development of lands which should, but would not otherwise, be brought under irrigation. A majority of your Committee is convinced as follows:

1. New lands are now being irrigated where justified by market demand;
2. No definite examples have been demonstrated of irrigation developments being withheld for lack of financing such as the Water Bank would make available;
3. SJR 38 in fact represents a subsidized financing of irrigation;
4. In spite of the intention to make Water Bank bonds self-liquidating, the contingent obligation imposed upon the state taxpayers would add to their already heavy property tax exposure.

Several interviewees urged passage of SJR 38 as an indirect method of inducing population growth away from the Willamette Valley and into north central Oregon. No doubt this would occur, although how extensively or effectively we are in no position to assess. That it should be thoroughly assessed—perhaps by the newly created Land Conservation and Development Commission or the Economic Development Commission, or both—seems clear. We are hesitant to approve SJR 38 in the absence of public hearings and extended debate on such an issue.

Construction, rehabilitation, and up-grading of community water supply systems is needed in the state. Because protection of health is a generally more acceptable governmental function than supplying risk capital for private ventures, this aspect of SJR 38 is more difficult to reject. Nonetheless, the question remains whether present financing of water systems is generally adequate without state intervention. We conclude that it is. Bond experts tell us that the large cities of the state, especially Portland, have a bonding capability as good as the state’s. Towns under 10,000 population have been aided in the past by the Farmers Home Administration and that program remains viable. Private systems are historically under-funded but there is grave doubt whether Water Bank funds may be made available to them in any case.

Lincoln and Tillamook Counties have severe water problems, primarily because they are areas with small winter populations attempting to supply the needs of summer visitors. Bonding themselves to the limit, they do not have the population or property valuation to sustain a water system with the peak demand generated by summer tourists. State aid is no doubt required, assuming it is wise to sustain (or encourage) the tourist industry in those areas.

VII. CONCLUSIONS

1. In the midst of an energy crisis and soaring food prices, it is difficult to assess the need for new irrigated croplands objectively. On balance we are persuaded, as is the National Water Commission, that America now possesses ample irrigated acreage and that new fields will not materially alter our balance of payments nor lower food prices domestically.

2. Although less dramatic than federal reclamation projects, SJR 38 does constitute a subsidy to farming in the form of guaranteed lower interest rates for agricultural development. If such a subsidy is warranted at all it should be expressed as part of a comprehensive statewide plan for development after the most thorough governmental and public review. Such a plan does not now exist.
3. In general, community water systems are presently able to obtain adequate funds. Specific exceptions—as shown by the water needs of Lincoln and Tillamook Counties—should be debated on their merits and state relief granted, if so decided. The central coast problem, however acute, should not be lumped with Portland water needs or irrigation development.

VIII. RECOMMENDATION

A majority of your Committee recommends a “No” vote on State Measure No. 4.

Respectfully submitted,
Leonard Bennett
Talbert D. Sehorn
John Wiley Gould, Chairman

IX. MINORITY STATEMENT

I favor passage of State Measure No. 4.

It is my belief that if the job of producing high water standards and additional food and fiber is to be done, it starts right here in Oregon because of our people and our resources. Sound inducements are required. We can’t look to the federal government. Private commercial loaning sources are not available to meet the goals and projects of this measure.

If the measure passes, work projects will not come on the line until 1975. Any shortcomings in SB 861 can be corrected by the Legislature under the aegis of “implementing legislation.”

Oregon’s Administrative Procedures Act defines how rules and regulations will be set up among the concerned state agencies in administering the act. SB 861 requires correlation among the Governor, State Engineer, Health Division and State Treasurer. I project faith in the ability of our state agencies to administer the program wisely in ratio to needs and economic returns to the State. A primary reason today for the difference between our potential bonding capacity and bonds sold and outstanding as announced in the report is that every agency involved has to prove the need for money.

X. RECOMMENDATION

I recommend a “Yes” vote on State Measure No. 4.

Respectfully submitted,
Frank T. Kreutz

Approved by the Research Board April 11, 1974 for transmittal to the Board of Governors.
Received by the Board of Governors April 15, 1974 and ordered printed for presentation to the membership for discussion and action May 17, 1974.
EXHIBIT A

SENATE JOINT RESOLUTION 38

Be It Resolved by the Legislative Assembly of the State of Oregon:

Paragraph 1. The Constitution of the State of Oregon is amended by creating a new Article to be known as Article XI-I and to read:

ARTICLE XI-I

SECTION 1. Notwithstanding the limits contained in section 7 and 8, Article XI of this Constitution, the credit of the State of Oregon may be loaned and indebtedness incurred in an amount not to exceed one and one-half percent of the true cash value of all the property in the state for the purpose of creating a fund to be known as the Water Development Fund. Such Fund shall be used:

(1) To provide funds to be advanced for the construction, operation and maintenance of irrigation projects and water development projects to and upon lands owned by residents of the State of Oregon. As used in this subsection, "residents" includes both natural persons and any corporation or cooperative, either for profit or nonprofit, or municipal or quasi-municipal, or other body created and existing under the laws of the State of Oregon.

(2) To provide funds to be advanced for the acquisition, by purchase, loan or otherwise, of bonds, notes or other obligations of any municipal corporation, city or county of the State of Oregon, or combinations thereof, issued or made for the planning, acquisition, construction, alteration or improvement of facilities for community water supply systems, as defined by law, in this state.

SECTION 2. Bonds of the State of Oregon containing a direct promise on behalf of the state to pay the face value thereof, with the interest therein provided for, may be issued to an amount authorized by section 1 of this Article for the purpose of creating such a fund. The bonds shall be a direct obligation of the state and shall be in such form and shall run for such periods of time and bear such rates of interest as provided by statute.

SECTION 3. Notwithstanding the limitation contained in section 10, Article XI of this Constitution, municipal corporations, cities or counties of the State of Oregon, or combinations thereof, may receive funds referred to in subsection (1) of section 1 of this Article through disposition to the state, by sale, loan or otherwise, of bonds, notes or other obligations issued or made for the purpose set forth in subsection (1) of section 1 of this Article.

SECTION 4. Refunding bonds may be issued and sold to refund any bonds issued under authority of sections 1 and 2 of this Article. There may be issued and outstanding at any time bonds aggregating the amount authorized by section 1 of this Article but at no time shall the total of all bonds outstanding, including refunding bonds, exceed the amount so authorized.

SECTION 5. Ad valorem taxes shall be levied annually upon all the taxable property in the State of Oregon in sufficient amount to provide for the payment of principal and interest of the bonds issued pursuant to this Article. The Legislative Assembly may provide other revenues to supplement or replace, in whole or in part, such tax levies.

SECTION 6. The Legislative Assembly shall enact legislation to carry out the provisions of this Article. This Article supersedes any conflicting provision of a county or city charter or act of incorporation.

Paragraph 2. The amendment proposed by this resolution shall be submitted to the people for their approval or rejection at a special election held throughout the state on the same date as the next regular statewide primary election.
### EXHIBIT B

**MAGNITUDE OF STATE BONDING**

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<td>$1,662,357,000</td>
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EXHIBIT C

SOURCES


S. 433, 93rd Congress, 1st Session, An act to assure the public is provided with an adequate quantity of safe drinking water (1973).

EXHIBIT D

PERSONS INTERVIEWED BY OR IN CORRESPONDENCE WITH THE COMMITTEE

George Annala, Manager, Oregon Tax Research
Norm Bradley, U.S. National Bank, Portland
Gary W. Carlson, Senior Staff Associate, League of Oregon Cities, Salem
Chapin D. Clark, Professor, University of Oregon School of Law, Eugene
Leo G. Farr, Manager, Public Health Engineer, Oregon State Division of Health, Portland
Ray Foleen, Acting Administrator, Bonneville Power Administration
Kenneth Jernstedt, Member, Oregon State Senate (Dist. 28)
Lee Johnson, Oregon Attorney General, Salem
Roy Johnson, Blyth, Eastman, Dillon & Co.
Hans A. Linde, Professor, University of Oregon School of Law, Eugene
Irvin Mann, Jr., Director, Oregon Department of Agriculture, Salem
Don McKinnis, Research Coordinator, Oregon Department of Agriculture, Salem
Norman H. Moon, Assistant Regional Director, U.S. Bureau of Reclamation, Boise, Idaho
David Nelson, Executive Vice President, Oregon Farm Bureau Federation
James A. Redden, State Treasurer, Salem
Steven R. Schell, Vice Chairman, Oregon Land Conservation and Development Commission
Robert Straub, Former State Treasurer, State of Oregon
Chris Wheeler, State Engineer, Salem
Edward J. Whelan, Director, Oregon Department of Economic Development, Portland
Jean B. Wyckoff, Extension Economics Coordinator, OSU Extension Service, Corvallis