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Report on Constitutional Real Property Tax Limit Preserving 85% District's 1977 Revenue (State Measure No. 6)

City Club of Portland (Portland, Or.)

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REPORT ON
CONSTITUTIONAL REAL PROPERTY TAX LIMIT PRESERVING 85%
DISTRICT'S 1977 REVENUE
(STATE MEASURE NO. 6)

Purpose: "Constitutional Amendment limits annual real property tax to 1% of 1977 true cash value, plus amount necessary to provide 85% (100% for emergency services) 1977-1978 district's revenue. Taxable values, district revenues may increase 2% annually. Tax for existing bonded indebtedness not affected. Preserves HARRP. Requires equivalent renter relief. State ad valorem, all sales, transaction taxes on real property prohibited; tax increases require two-thirds legislative or popular vote. Levies outside 6% limitation require two-thirds popular vote."

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

I. ASSIGNMENT AND SCOPE OF RESEARCH

In July 1980 your Committee was appointed to study and report on a proposed constitutional amendment placed by initiative petition on the November 4, 1980 general election ballot as State Measure No. 6. Your Committee was asked to continue the work of the two previous City Club Committees that examined and reported on State Measures Nos. 6 and 11 (the property tax initiative and the legislature's alternative) on the November 1978 general election ballot and the continuation of the 1979 legislative tax relief plan that appeared as State Measure No. 5 in the May 1980 primary election.

On October 20, 1978, the City Club Committee presented its report to the City Club recommending that the members vote no on Measure 6 and yes on Measure 11. (See City Club Bulletin Vol. 59, No. 22, page 89.) Both measures were defeated by the voters in November 1978.

On April 18, 1980 another City Club Committee presented its report recommending a yes vote on the legislative tax relief plan. This measure was approved by the voters in the May 1980 primary election.

Your present Committee contains members from each of these two previous City Club committees. Your Committee relied on the prior committees' extensive research and analysis of the history and background of the Oregon tax system as it has developed and as it presently exists. Any serious study of Measure 6 should refer to the previous comprehensive reports.

II. BACKGROUND AND BRIEF DESCRIPTION OF STATE MEASURE NO. 6

Following adoption by the 1979 legislature of its tax relief act, a number of initiative petitions were proposed to further reduce property taxes. The only initiative to obtain the required number of signatures to appear on the ballot was most often referred to as the "cleaned up" version of the 1978 Measure 6.

This year's Measure 6 would roll back all property values to their July 1, 1977 assessed values and define that value as the true cash value. It would then limit the annual increase of that value to 2 percent.
over the previous year. This value would not be reassessed upon change of ownership. In addition, new construction would be valued as it would have been valued in 1977.

The Measure would then limit annual real property taxes to 1 percent of the true cash value of the property. However, despite this limitation the total revenue of any taxing unit which provides only essential services (defined as "emergency services, including police, sheriff, fire, ambulance, and paramedic services") could not be reduced to an amount less than that unit's total revenue for the tax year beginning July 1, 1977. For all other taxing units, the 1 percent limitation could not reduce the total revenue of that unit to less than 85 percent of that unit's total revenue for the tax year beginning July 1, 1977. To insure these budget levels, the 1 percent limitation may be exceeded. This minimum revenue would be allowed to increase 2 percent each year.

The Measure would continue the Homeowners And Renters Relief Program (HARRP) and also provide that the legislature insure additional relief to renters equivalent to that of homeowners.

Measure 6 also requires that any tax increases by the State of Oregon be approved by two-thirds of both the House and the Senate, or two-thirds of the popular vote. For all other governmental subdivisions, a two-thirds vote by those voting on the question would be required to approve any "special taxes or special assessments upon residents or property."

It expressly prohibits the State from imposing an ad valorem tax on real property or any sales or transaction tax on any sales of real property. Finally, local governments could not levy "special" ad valorem taxes on real property or sales or transaction taxes on sales of real property.

ARGUMENTS ADVANCED IN FAVOR OF MEASURE NO. 6

The following arguments were advanced by proponents of Measure No. 6.

1. Measure 6 should pass because it will benefit taxpayers and property owners:
   a) Measure 6 will reduce property taxes for both residential and business property.
   b) Measure 6 will require that renters receive tax relief equal to that provided homeowners.
   c) The Measure will include all mobile homes under the definition of real property and thereby require mobile home owners to pay their share of the property tax.

2. Measure 6 should pass because it will tell local, state and federal government that voters want less, more efficient government. Measure 6 will:
   a) Reduce revenues to government and force local governments to spend money only on necessary services.
   b) Make it harder for government to pass new taxes by requiring that new taxes receive two-thirds legislature or voter approval.
   c) Limit local government bonded indebtedness by limiting the total true cash value of real property.
d) Prevent the State from incurring further general obligation bonded indebtedness.

3. Measure 6 should pass because it will improve Oregon's economy. The Measure will:
   a) Encourage new residential construction. Purchasers of new homes will be encouraged to buy because property taxes will be reduced.
   b) Reduce the tax burden on the general public by encouraging user fees and service fees that will require those who directly benefit from services to pay for them.
   c) Ease the burden of government regulation on business by reducing the size of government.
   d) Dampen the inflationary spiral by controlling state and local government spending.

4. Measure 6 should pass because the public will have better control of government:
   a) Tax relief will be guaranteed in the Oregon constitution and removed from the whim of the legislature.
   b) More people will turn out to vote because the Measure requires a two-thirds majority vote for passage of any new tax measure. Government will have to convince a greater majority of voters that a tax proposal is essential.

ARGUMENTS ADVANCED AGAINST MEASURE NO. 6

The following arguments were advanced by opponents of Measure No. 6.

1. Measure 6 does not serve the public interest:
   a) Necessary local government programs and levels of service would be drastically curtailed or eliminated by the severe shortfall of revenue resulting from Measure 6.
   b) If Measure 6 passes, State bonding programs, already approved by Oregon voters, would be prevented from issuing any new general obligation bonds. These programs include the Veterans' Home and Farm Loan Program, pollution control, university capital construction, highways, State power development, irrigation and water projects, elderly multi-family housing, small-scale energy projects, and forestry programs.
   c) Because the Measure fails to include public education as an "essential service", local schools will suffer. It is doubtful the State could make up the loss in local property tax revenue that now supports local schools. There is no surplus in the State General Fund.
   d) The Measure provides rental relief to "natural persons" without distinguishing between business property and residential property. An unincorporated individual doing business would receive relief on his lease while the individual who has incorporated would not.

2. Measure 6 will cost Oregonians more in the long run:
   a) Taxpayers who itemize deductions may pay more state and federal income tax because the amount of property tax which can be deducted will decrease.
   b) Measure 6 will retard new residential construction by slowing the development of schools and other local services in new residential areas, by forcing increases in front-end development costs and user fees, and by curtailing, if not eliminating, the Veterans' Home and Farm Loan Program.
c) User fees and other assessments will proliferate to make up for lost property tax revenue.

d) Although Measure 6 rolls back all property to 1977 values, it makes no provision for correcting inaccurate 1977 assessments; some property owners will end up paying more tax than others. The Measure does not allow differentiation in individual properties after 1977, limiting all properties to a 2 percent annual increase.

e) Measure 6 creates severe mechanical problems that make the measure difficult, if not impossible to administer. Some of its provisions are vulnerable to legal challenges which may render it inoperative or ineffective for years. For example, the Measure requires property taxes collected by the counties to be apportioned according to law to the districts within the counties. However, no such apportionment law exists. The costs of litigating these questions will be paid for by individuals and taxpayers.

3. Local control will be eroded if Measure 6 passes:

   a) A minority will be allowed to thwart the will of the majority because Measure 6 requires a two-thirds popular vote (rather than a simple majority) to approve any new taxes in excess of those allowed by this Measure.

   b) If the State of Oregon supplies replacement funding for lost property tax revenues, it would assume more and more control of local governments and institutions.

   c) Local communities will be prevented from making major public improvements because the general obligation bonding capacity of local governments will be severely curtailed by the rollback in property valuation and the 2 percent annual increase limitations of Measure 6.

   d) Complicated tax laws should be in the statutes so that legislators, acting on behalf of their constituents, can act quickly to correct problems and inequities. Measure 6 is a constitutional amendment and it will take another statewide vote of the people to change it.

V. DISCUSSION AND EVALUATION OF MEASURE 6

A. General Effects

One of the most severe criticisms leveled at the 1978 Measure 6 (the 1-1/2 percent limitation) was that it allowed one home to retain a reduced property value while the neighboring property would be valued at full market value upon change of ownership. Opponents of the measure alleged this provision raised constitutional questions regarding uniformity of taxation.

The 1980 Measure 6 provides that all properties will retain reduced valuations without respect to change of ownership. This would be accomplished by rolling back all property values to those shown on the July 1, 1977 assessment and limiting the increase in true cash value to 2 percent per year. This change, along with a reduction in the maximum tax rate from 1-1/2 percent to 1 percent of this rolled back value would result in an even greater reduction in revenues available for local governmental units than would have resulted from the 1978 Measure 6.

B. Revenue Reductions

The admitted purpose of the proponents of Measure 6 is to severely cut back local government. Ray Phillips, president of the Oregon Taxpayer's Union (organized to promote Measure 6), told your Committee that the pro-
visions of this Measure were drafted without benefit of any analysis of its impact. Your Committee's report was drafted before Oregon Tax Research or the Legislative Revenue Office could publish their impact statements. However, your Committee was provided figures prepared by the Multnomah County Tax Supervising and Conservation Commission demonstrating the effect this Measure would have had it had been effective for the 1979-1980 tax and fiscal year in Multnomah County. (See Appendix D)

For all of Multnomah County, the amount of tax levied for the 1979-1980 year would have been 55 percent less than the amount actually levied had this Measure been in effect (i.e., 1 percent of 1977 valuations). The City of Portland levied $55.6 million in that tax year. Under Measure 6, it would have been limited to $17.8 million. Not only is this a drastic reduction in governmental revenues, but the Measure also creates other problems that your Committee concluded are not in the best interests of state or local government.

C. Impact on State General Obligation Bonding Programs

All future State bonding programs which rely on general obligation bonds would be terminated. General obligation bonds, as opposed to revenue bonds, are guaranteed or secured by the value of real property in the state. The bonds depend on this guarantee for their marketability. Measure 6 provides specifically that no ad valorem tax on real property could be imposed by the State. Among the state bonding programs that would be eliminated by this result are the Veterans' Home Loan Program, pollution control, University capital construction, highways, state power development, irrigation and water projects, elderly multi-family housing, small scale energy projects, and forestry programs. Although existing bonded indebtedness under these programs would not be affected, no new bonds could be issued by the State.

Your Committee believes this is a consequence of such major impact that it should not be the indirect result of a Measure directed at a different point. If these programs are to be so affected, the voters, who already have approved these programs, should be directly faced with this decision.

D. Impact on Local Government Bonding Capacity

Local taxing units would be allowed to incur bonded indebtedness. However, the level of such bonded indebtedness is currently limited by statute to a percentage of true cash value. Because Measure 6 would include such bonding within the 1 percent limitation, and because true cash values of real property would be rolled back, the allowed level of bonding for these taxing units would be severely reduced. As with State bonding, this effect is a question the voters should be presented with directly.

E. Effect on Budgets and Services

Measure 6 distinguishes between revenues for so-called essential services and those for all other services. "Essential services" are defined to include only police, sheriff, fire, ambulance and paramedic services. The Measure provides that those taxing units which provide only essential services shall not have their budgets reduced below the total revenues received by that unit for the tax year beginning July 1, 1977. That figure would be limited to a 2 percent annual increase.
Multnomah County has only 7 taxing units which fit this category, all of which provide only fire protection services. All other units in Multnomah County would be guaranteed only 85 percent of their total revenue for the tax year beginning July 1, 1977, increased annually by 2 percent. However, the Measure goes on to provide that the budgets of essential services within those taxing units could not be reduced below their budgets for the 1977-1978 tax year until the total of all other budgets within that unit were reduced to two-thirds of their 1977-78 levels. For example, the Portland Police Department would be an "essential service" within the City of Portland taxing unit. Before the police budget could be cut below its 1977-1978 level, the total budgets of all other "non-essential" services performed by the City of Portland would have to be reduced to two-thirds of the 1977-1978 levels. In addition, there are some special funds which are restricted to certain services. Because these funds cannot be transferred within the taxing unit's total budget, the formula just described may not work at all.

Besides significantly reducing available revenues, the Measure further complicates the budget process by providing that despite the 1 percent limitation, a taxing unit's total revenues could not be reduced below 85 percent of that unit's total revenue for the tax year beginning July 1, 1977. However, total revenue is defined broadly to include all revenue from any source. A significant percentage of many taxing units' revenues are transfer funds designed for other districts or federal projects. For example, Multnomah County will receive $160 million in revenues for the 1980-1981 tax year, but collect only $42.6 million from property taxes. With federal programs changing annually and the amount of transfer funds varying, gearing a county or city's revenue towards 85 percent of the 1977 revenues, therefore, may not have a logical relationship to the necessary budget.

F. Effect on Education

This Measure would also severely restrict education budgets. Although Ray Phillips told your Committee that he felt education was an essential service, the Measure provides otherwise. The Measure would have a drastic effect on school budgets. For example, for the 1979-80 tax year, School District No. 1 (Portland) levied $85 million. If Measure 6 had been in effect School District No. 1 would have been allowed to levy only $42 million (i.e., 1 percent of 1977 valuations). It cannot be assumed, or even expected, that the State would be able to make up this difference.

G. No Procedure to Apportion Revenues

Further complicating the process by which local governments would have to deal with reduced revenues under Measure 6 is the lack of a current procedure to apportion reduced revenues among the various taxing units. After collection by the county the Measure directs that the reduced revenues be "apportioned according to law to the districts within the counties." There is no such apportionment law. Moreover, the 1 percent limitation applies to a consolidated levy, not to the amount of revenue or budget for a particular taxing unit; so, no particular unit would be limited to 1 percent. Thus, the legislature would be required to sort out which local taxing units would be funded and in what percentages. This apportionment process would be made more difficult because many taxing units overlap county boundaries.
H. Effect on Voters' Ability to Fund Further Governmental Services

It appears that many of the problems created by Measure 6 would worsen with time. With all property reduced to 1977 values, including new development and construction, the 2 percent annual increase limitation would act to increase annually the gap between expenses and revenues available to local government. If a majority of the voters in a taxing unit wanted additional government services and were willing to pay for them, they could be thwarted by a minority of one-third because Measure 6 requires a two-thirds majority vote for imposition of any additional taxes. The Committee could find no persuasive justification for such a requirement. It is designed to make it harder to impose new taxes, which it certainly will do. However, your Committee believes that this should remain a choice to be made by a simple majority of those who vote.

SUMMARY OF CONCLUSIONS

Even assuming there is waste in government, your Committee believes that this Measure goes well beyond any responsible effort to trim government excess.

The City Club and Oregon voters rejected the 1-1/2 percent property tax limitation in 1978 known as Measure 6. The City Club endorsed the 1979 legislature's present property tax relief measure and Oregon voters approved its continuation by a 9 to 1 margin at the May 20, 1980 primary election. Your Committee believes that this year's Measure, rather than being a "cleaned up" version of the previous Measure 6, goes well beyond the desires of Oregon voters for responsible tax reform.

While State Measure No. 6 contains many ambiguous and confusing provisions, any of which could result in legal and administrative problems, this report has discussed those problems your Committee believes are most severe. The restrictions on local government proposed by Measure 6 are not the result of considered analysis of the needs for local government services, but are merely an attempt to indiscriminately slash those services. Your Committee concludes that reductions in government services, if desirable, should be accomplished in a more responsible fashion.

VII. RECOMMENDATION

Your Committee recommends a NO vote on State Measure 6 at the November 4, 1980 general election.

Respectfully submitted,

M. Alexis Dow
M. David Hooff
Lloyd T. Keefe
Dianne A. Parker
Rodney E. Lewis, Jr., Chairman

Approved by the Research Board September 9, 1980 for publication and distribution to the membership for discussion and vote on October 3, 1980.
APPENDIX A
PERSONS INTERVIEWED

Brenda Babcock, Fair Tax Relief Committee
Earl Blumenauer, Multnomah County Commissioner
Gilbert Gutjahr, Administrative Officer, Multnomah County Tax Supervising
and Conservation Commission
Ray Phillips, Oregon Taxpayer's Union
Felicia Trader, Budget Director, Multnomah County

APPENDIX B
BIBLIOGRAPHY

Candidate's Statements for Voter's Pamphlet
Against Measure 6: Governor Victor Atiyeh; State Treasurer Clay Myers;
Fair Tax Relief Committee; Kenneth Knutson, President, Oregon
School Boards Association; John Paola, President, Oregon Fire
Chiefs Association; Roy Holladay, President, Oregon Association,
Chiefs of Police; The American Legion
For Measure 6: Libertarian Party of Oregon; Oregon Taxpayer's Union;
Women's Legislative Council; Don McIntire; Henry D. Moreland

City Club of Portland Report on State Measure No. 6 and State Measure

City Club of Portland Review of Property Taxation in Oregon and Report on
State Measure No. 5 (Volume 60, No. 48, April 14, 1980).

Secretary of State Financial Impact Statement

Tax Supervising and Conservation Commission. Special Report Ballot Measure
No. 6 - 1% Property Tax Limitation (August 15, 1980).

Various newspaper articles and editorials.
The Constitution of the State of Oregon is amended by creating a new Article to be known as Article IXa and to read:

SECTION 1.
(a) "True Cash Value" shall mean the respective County Assessor's valuation of real property as shown on the tax statement for the tax year beginning July 1, 1977, under the heading "Full cash value" or its equivalent terminology.
(b) "Real Property" shall include mobile (sic) homes used as private residences even if placed upon rented or leased space.
(c) "Total Revenue" means a district's total revenue from whatever sources derived, including but not limited to property and other taxes, fees and licenses, grants, state and federal revenue sharing and cost-sharing contracts.
(d) "Essential Services" means emergency services, including police, sheriff, fire, ambulance, and paramedic services.
(e) "Other Services" means any service, budget, program or other benefit not specifically an essential service as defined in Section 1(d) above.

SECTION 2.
(a) The maximum amount of all ad valorem taxes levied against any real property shall not exceed one percent (1%) per annum of the true cash value of such property, except as provided in Section 4.
(b) The tax provided in paragraph 2(a) above shall be collected by the counties and apportioned according to law to the districts within the counties.
(c) The one percent (1%) limitation on ad valorem taxes shall not apply to ad valorem taxes of special assessments levied to pay the interest and redemption charges on any indebtedness incurred, whether or not approved by the voters, prior to or concurrent with passage of this Article.

SECTION 3.
(a) The true cash value of real property may increase in any one year by not more than two percent (2%) over the prior year's valuation, provided, however, that no event may increase in the true cash value exceed the inflationary rate as measured by the Consumer Price Index.
(b) All property undergoing sale or purchase, change of ownership, or new construction subsequent to the tax year beginning July 1, 1977, shall carry the true cash value it had or would have had, in the case of newly constructed property, on the tax statement for the tax year beginning July 1, 1977, subject to increase as provided in paragraph 3(a) above.

SECTION 4.
(a) For this Article's first effective year, Sections 2(a) and 3(a) of this Article shall not reduce the total revenue of any district which provides only essential services to an amount less than that district's total revenue for the tax year beginning July 1, 1977. For each effective year thereafter, Sections 2(a) and 3(a) of this Article shall not reduce the total revenue of such a district to an amount less than set forth in the foregoing sentence plus for each successive effective year, two percent (2%) of that district's total revenue for the tax year beginning July 1, 1977.

(b) For this Article's first effective year, Sections 2(a) and 3(a) of this Article shall not reduce the total revenue of any other district to an amount less than eighty-five percent (85%) of that district's total revenue for the tax year beginning July 1, 1977. For each effective year thereafter, Sections 2(a) and 3(a) of this Article shall not reduce the total revenue of such a district to an amount less than that set forth in the foregoing sentence plus, for each successive effective year, two percent (2%) of that district's total revenue for the tax year beginning July 1, 1977.

(c) The one percent (1%) limitation contained in Section 2(a) of this Article shall be overriden to the extent necessary to accomplish the purposes of this Section.

SECTION 5.
(a) In the case of a district which provides essential and other services, for the first effective year this Article, Sections 2(a) and 3(a) of this Article shall not reduce the budgets of essential services below their amounts for the tax year beginning July 1, 1977, until the total of all other budgets is reduced to two-thirds (66-2/3%) of its amount for the tax year beginning July 1, 1977. Sections 2(a) and 3(a) of this Article, for each effective year thereafter, shall not reduce the budgets of essential services below their amounts for the tax year beginning July 1, 1977, until the total of all other budgets is reduced to the amount set forth in the foregoing sentence plus, for each successive effective year, two percent (2%) of the total of all other budgets for the tax year beginning July 1, 1977.

(b) The foregoing paragraph, 5(a) shall not be construed to prevent reduction of the budgets of essential services through contracts between governmental and private entities for the provision of essential or other services.

SECTION 6.
(a) The Legislative Assembly shall insure by law that participants in the Homeowners' and Renters' Relief Program, ORS 310.630, et seq., or such other equiva-
lent provision as may exist on the date of passage of this Article, incur no reduced benefits as a result of Section 2(a) and 3(a) of this Article.

(b) In addition to the foregoing paragraph, 6(a), the Legislative Assembly shall insure by law that natural persons who rent or lease real property receive individual relief equivalent to that provided homeowners by Section 2(a) and 3(a) of this Article.

(c) The purposes of paragraph 6(a) and 6(b) of this Section may be accomplished by the refunding of State personal income tax receipts. In such events, refunds shall be estimated to accomplish the purposes of paragraph 6(a) and 6(b) and shall be administered through the existing Homeowners' and Renters' Relief Program, ORS 310.630, et seq., or other equivalent provision, provided however, that nothing in this Section shall be construed to incorporate the Homeowners' and Renters' Relief program, ORS 310.630, et seq., or other equivalent provision, into the Constitution.

SECTION 7.

From and after passage of this Article, any changes in Oregon State taxes for the purposes of increasing revenues collected pursuant thereto whether by increased rates of taxation or changes in methods of computation, shall be enacted by either:

(a) an act passed by not less than two-thirds of all members elected to each of the two houses of the Oregon legislative Assembly, or

(b) a vote of two-thirds of the legal voters of the State voting on the question, or, if the proposed change shall affect only a portion or district of the State, by a vote of two-thirds of the legal voters of the portion or the district voting on the question,

(c) however, neither an ad valorem tax on real property nor any sales or transaction tax on any sale of real property may be imposed.

SECTION 8.

(a) From and after passage of this Article, cities, counties, special districts, municipal corporations, quasi-municipal corporations, and other political and governmental subdivisions may impose special taxes or special assessments upon residents or property within such district, only upon a two-thirds vote of the legal voters of the district voting on the question, or in the case of a proposed special tax or special assessment taxed or assessed against only a portion voting on the question, provided however, that neither any special ad valorem tax on real property nor any sales or transaction tax on any sale of real property may be imposed.

(b) The phrase "two-thirds of the legal voters of the taxing unit voting on the question" shall be substituted for the phrase "a majority of the legal voters of the taxing unit voting on the question" wherever it appears in Article XI, Section 11 of this Constitution.

SECTION 9.

This Article shall take effect for the tax year beginning July 1 following the passage of this Constitutional Amendment, except Section 7 and 8 which shall become effective upon passage of this Article.

SECTION 10.

If any section, portion, clause or phrase of this Article is for any reason held to be invalid or unconstitutional, the remaining sections, portions, clauses and phrases shall not be affected but shall remain in full force and effect.

SECTION 11.

In case of conflict between this Initiative and any Initiative or Referendum submitted to the vote of the people of the State of Oregon subsequent to this Initiative's filing with the Secretary of State and prior to or concurrent with this Initiative's submission to the vote of the people, only the Initiative or Referendum receiving a majority of vote and the highest number of affirmative votes shall become part of the Constitution.
## APPENDIX D

### ESTIMATES FOR LEVY CODE 001 - BALLOT MEASURE 6

#### 1979-1980 TAX & FISCAL YEAR

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\[\text{Total} \quad $9.06 \quad $10.74 \quad $20.46\]

\(^1\) - Without debt and Section 4

\(^2\) - With debt and with Section 4