

W. G. A.

Memorandum Date: August 22, 2008
Order Date: August 27, 2008

TO: Board of County Commissioners
DEPARTMENT: Administration, Intergovernmental Relations
PRESENTED BY: Alex Cuyler, Intergovernmental Relations Manager
AGENDA ITEM TITLE: Legislative Concept Development – Dissolution of County Service District

I. MOTION

Move to direct County Administrator to oversee appropriate staff involvement in a project intended to result in draft legislation and bill sponsorship that would provide Lane County with an additional option related to the dissolution of the Metropolitan Wastewater Service District (MWSD).

II. AGENDA ITEM SUMMARY

As part of the lead up to the 2009 Legislature, the Board is being asked to consider requesting a legislative change related to the dissolution of county service districts, such as the Metropolitan Wastewater Service District, without an election. Option 1 below entails a change to Oregon Revised Statutes that would allow dissolution of a county service district without an election if the county service district had fulfilled its original purpose and was no longer needed, and dissolution was found to be in the public's interest.

III. BACKGROUND/IMPLICATIONS OF ACTION

A. Board Action and Other History

- On May 28, 2008, the Board of County Commissioners discussed options relating to the future of the MWSD. This item came forward due to a number of considerations, one of which was the dissolution of the Lane County Boundary Commission. As a result of that body being abolished, Lane County sought agreements with the cities of Eugene and Springfield to process district annexations at the same time as annexations to the cities. State law requires public hearings relating to annexations to a district and Eugene raised concerns about the expense of those hearings. The Board discussed the various options related to the future of the MWSD, especially given that its initial purpose for being established has been fulfilled. Among the options discussed, the Board asked that the Legislative Committee examine options related to dissolution of the MWSD. Current state law requires an election be held to dissolve the MWSD, and staff estimated the expense of such an election to be \$55,000-\$85,000.
- On July 9, the Board of County Commissioners ordered that further changes to the boundary of the MWSD be suspended, per Order No. 08-7-9-1. The Board further directed staff to take steps to develop and maintain maps that accurately portray the boundary of the MWSD, such that the option for a future election involving dissolution of the District could be maintained.

B. Policy Issues

Compliance with Oregon Revised Statutes pertaining to the dissolution of districts (ORS 451 and 198).

C. Board Goals

Resource Planning and Allocation

C1(a) The County will continually review its mission, vision, and guiding principles for future service delivery.

D. Financial and/or Resource Considerations

- The July 9, 2008 Board Order freezing the district boundary was developed in an effort to save residents money for fees associated with public hearings related to processing annexations. However, it also likely added some complexities to future elections relating to the MWSD in that the boundaries of the MWSD will no longer be co-terminus with the boundaries of Eugene and Springfield.
- State law requires an election for the dissolution of districts, with some exceptions that do not apply to the MWSD. Elections in this particular case are likely to range in cost from \$55,000-\$85,000.
- The undertaking of a legislative change to allow for dissolution without an election will require human resources which the County already has in place, but will entail certain commitments within the realm of the legislative session for the Board, for instance hearing testimony and travel time.

E. Analysis

The Board and Legislative Committee have both expressed interest in maintaining the MWSD for purposes of changing the nature of the District such that it is preserved for future use as a tool to fund other kinds of public services allowed by state statute. This “change of mission” is not currently allowable under state law. A new district may be formed for a variety of functions, but each function (outlined in ORS 198.010) has a unique suite of statutes and rules that establish the governance framework surrounding each district type.

Staff suggest that it is highly unlikely that a bill to allow a district to change from one function to another, without an election, would be sponsored, much less gain traction as a successful measure.

That said, a district formed for wastewater services may be changed to provide drainage services, and the Board may consider the usefulness of such a district given the issues related to stormwater management.

Staff has reviewed options for legislative change that would allow dissolution of a county service district without an election, and this option does appear to be doable, in that the legislative language change is minimal, and almost wholly contained within ORS 198.940 (dissolution of a district without election).

F. Alternatives/Options

1.) Direct the County Administrator to develop draft legislative language to allow dissolution of a county service district without an election if the district is no longer needed to serve the purpose for which it was formed.

2.) Direct the County Administrator to develop draft legislative language to allow a county service district (or the MWSD specifically) to alter its purposes and functions to other than what it was established for, without requiring an election.

3.) Do nothing

IV. RECOMMENDATION

Staff recommends option 1.

V. TIMING/IMPLEMENTATION

The Legislative Session begins in January, 2009, and staff would begin to seek a sponsor for such a bill immediately.

VI. FOLLOW-UP

Staff will continue to update the Legislative Committee regarding the plausibility of a successful effort to amend ORS 198.

VII. ATTACHMENTS

Draft concept, developed by Alex Cuyler and Andy Clark

198.940 Dissolution without election. The election required by ORS 198.935 shall be dispensed with and the county board shall declare the district dissolved and proceed in accordance with ORS 198.945, if the county board finds that:

- (1) Dissolution is in the interest of the people of the county; and
 - (a) The territory within the affected district is uninhabited; or
 - (b) The district has failed regularly to elect district board members in accordance with the principal Act of the district; or
 - (c) For a county service district, the district is no longer needed to serve the purpose for which it was formed.
- (2) For a county service district formed subject to dissolution, a plan of liquidation and dissolution shall be undertaken, ~~dissolution is required due to an absence of public need for continuation of the district,~~ as provided in ORS 451.620.

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Memorandum Date: August 22, 2008
Order Date: August 27, 2008

TO: Board of County Commissioners
DEPARTMENT: Administration, Intergovernmental Relations
PRESENTED BY: Alex Cuyler, Intergovernmental Relations Manager
AGENDA ITEM TITLE: **Resolution No.** / In the matter of Establishing a Board of County Commissioner Position with regard to the General Election Ballot Measures

I. MOTION

N/A

II. AGENDA ITEM SUMMARY

The Lane County Board of County Commissioners may, by State law, take a position either for or against ballot measures which have qualified for statewide election. This agenda item summarizes the options available to the Board within the confines of Oregon Revised Statutes, and applicable administrative rules, to take such positions.

III. BACKGROUND/IMPLICATIONS OF ACTION

A. Board Action and Other History

- On August 4, 2008 Oregon's Secretary of State officially qualified a total of twelve ballot measures to be voted upon during the November 4, 2008 general election.
- On August 7 the Legislative Committee received a handout on describing the ballot measures (Attachment A). Commissioners Sorenson and Dwyer discussed their position on the items, and asked that this item come before the full Board for an official position on the measures.

B. Policy Issues

Compliance with Oregon Elections Law

C. Board Goals

D. Financial and/or Resource Considerations

The outcome of the general election with regard to ballot measures may have implications for Lane County's annual budget development, and to the services provided by County departments.

E. Analysis

Oregon's Initiative process can be used to implement statutory enactments or constitutional amendments. Petitions are required to place measures onto the ballot and require signatures of six percent and eight percent of registered voters, respectfully. Any person, acting individually or on behalf of an organization, may become a chief petitioner of an initiative

petition. The chief petitioners are the individuals who sponsor the initiative. An initiative may have up to three chief petitioners.

State law is extremely particular about how public employees may speak about ballot measures. Employees must ensure impartiality by being equitable, fair, unbiased, and dispassionate. In effect, employees may not take a position on ballot measures in their role as a public servant. In addition public resources cannot be spent in development of campaigns or materials either in support or opposition of ballot measures.

Elected officials are exempted from these requirements and may speak for or against ballot measures in their roles.

County Counsel has prepared a variety of materials to guide public employees, as has the Secretary of State's office. Staff is well informed about political activities during work time.

F. Alternatives/Options

In order for the Board to take a position on the measures, the Board could assign a member to complete a resolution and bring it forward for further discussion vote.

IV. RECOMMENDATION

Assign a member to draft a resolution such that it can be voted upon at a later meeting.

V. TIMING/IMPLEMENTATION

The General Election is scheduled for November 4, 2008.

VI. FOLLOW-UP

Staff ability to assist in follow up is limited due to considerations related to election law.

VII. ATTACHMENTS

Handout provided to the Lane County Legislative Committee (August 7, 2008 meeting)

Full descriptions of each measure, including financial estimate statements, may be found at the Oregon Secretary of State's website:

<http://www.sos.state.or.us/elections/nov42008/meas.html>

Oregon Initiatives November, 2008

Background

Oregon has a referendum process whereby any Act or part of an Act can be subject to voter review (unless it has an emergency clause) at the next regularly scheduled General Election. Petitions are typically circulated with a requirement that 4 percent of registered voters (voting during the general election preceding the filing of the petition and based on the number of votes cast for Governor) are required to qualify for the ballot (55,179 verified signatures). Both houses of the legislature must vote to refer a statute or constitutional amendment for a popular vote. Such referrals cannot be vetoed by the governor.

Oregon's Initiative process can be used to implement statutory enactments or constitutional amendments. Petitions are required to place measures onto the ballot and require signatures of six percent and eight percent of registered voters, respectfully. Any person, acting individually or on behalf of an organization, may become a chief petitioner of an initiative petition. The chief petitioners are the individuals who sponsor the initiative. An initiative may have up to three chief petitioners.

The Secretary of State's Office certifies each measure, and is required to do so by August 2. Since 1902, Oregonians have passed 118 of the 340 initiative measures on the ballot and 21 of the 62 referenda on the ballot. During the same period, the legislature has referred 407 measures to the people, of which 233 have passed.

November Election

There are currently eight citizen initiatives that have qualified for the November general election and four referrals.

Citizen Initiatives:

Tax deductions, Measure 59:

Would make federal taxes deductible from Oregon income taxes. Sponsor: Bill Sizemore

Classroom English, Measure 58:

Would limit amount of time students learning English can be taught in a language other than English. Sponsor: Bill Sizemore

Building permits, Measure 63:

Would allow property improvements of \$35,000 or less without a building permit. Sponsor: Bill Sizemore

Union curbs, Measure 64:

Would prohibit use of "public resources," such as public employees' time or money, for political purposes. Sponsor: Bill Sizemore

Mandatory prison, Measure 57:

Would impose mandatory minimum sentences for drug offenses and property crimes. Sponsor: Kevin Mannix

Lottery money, Measure 62:

Would mandate 15 percent of Oregon Lottery proceeds go to public safety instead of education, parks and other programs. Sponsor: Kevin Mannix

Open primaries, Measure 65:

Would replace partisan primaries with a single primary open to all candidates and all voters, regardless of party. Sponsors: Phil Keisling and Norma Paulus

Teacher compensation, Measure 60:

Would require that public school teachers be evaluated on the basis of classroom performance, which it does not define, and would eliminate seniority as a factor in determining teachers' salaries and job security. Sponsor: Bill Sizemore

Measures referred by the Legislature:

School elections, Measure 54:

Would standardize voting eligibility for school board elections with other state and local elections.

Redistricting, Measure #55

Would change date for implementing redistricting plans.

Double majority, Measure 56:

Would exempt May and November property tax elections from 50 percent turnout requirement.

Mandatory prison, Measure 57:

Would impose mandatory minimum sentences for certain repeat drug offenses and property crimes and would include drug treatment for drug offenders.

Public Employees Take Note

State law is extremely particular about how public employees speak about ballot measures. You'll want to ensure impartiality, by being equitable, fair, unbiased, and dispassionate. This applies to how you speak to co-workers and to the public about the measure.

For instance, you very likely cannot state that the measure will eliminate half of the funding the County receives from building permits, though you might be able to indicate that in a previous year, there were x number of projects that were valued under \$35,000.

If you find yourself in a meeting where measures are to be discussed, in some cases you may want to excuse yourself. Be cautious about going to any meeting in which it is clear that the topic will be discussed as part of a campaign to support or oppose.

In your role, you may get asked to present something to a community group on the issue. It is advisable that you get the meeting facilitator to state you are only able to provide impartial and unbiased information. Even then, be very careful about eye rolling, exceedingly sarcastic language, or anything that suggests you promote or oppose.

Elected officials are exempted from these requirements and may speak for or against ballot measures in their roles.

County Counsel has prepared a variety of materials to guide employees, as has the Secretary of State's office. Prior to printing any informational pieces regarding ballot measures, it is suggested that the item be reviewed by County Counsel staff.