

The Oregonian

City Council Considers Making 'Imperfect' Arts Tax Even Worse: Editorial

The Oregonian Editorial Board
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The bad news for arts tax scofflaws is that the city sees a path forward for tracking down more of them to pay the reviled \$35-a-person arts tax. The worse news, however, is for the rest of us. To increase revenues, the city may gut one of the primary accountability metrics used to sell Portland voters on adopting the tax in the first place.

On Thursday, city commissioners will hear testimony about a proposal to nix a requirement built into the 2012 arts-tax ballot measure that capped the cost to administer the program at 5 percent of revenue collected. The cap, highlighted as a way to hold the program accountable, has been an inconvenient reminder of just how poorly conceived, designed and executed this tax has been. The city has blown past the cap each year, spending 7.7 percent on collections efforts and other expenses.

And city officials want the freedom to spend even more. While the tax has brought in enough money to fund arts teachers in Portland elementary schools as designed, it has fallen short of delivering the millions for area arts organizations that backers also hoped for. Because more collections would yield greater funds for arts groups, the city revenue department is recommending that City Council ditch the cap and decide for itself how much is reasonable to spend on administering and collecting the tax.

That's a bad call. Commissioners should recognize that swapping out the voter-approved 5 percent cap with a "trust us" metric only erodes Portlanders' faith in city government. Getting rid of the cap only sends the message that promises of accountability last only as long as they're convenient.

City Commissioner Nick Fish, who is sponsoring the proposal with Mayor Ted Wheeler and City Commissioner Chloe Eudaly, admits the "imperfect" nature of the arts tax. But he argues that nixing the cap is a fair deal for Portlanders. By spending a little more money to go after scofflaws, the city will fulfill voters' intent that "everyone pays their fair share," and that the proceeds benefit the arts, he told The Oregonian/OregonLive Editorial Board.

There are a few problems with that view, however. The council has already carved out exemptions for certain groups of people, including retirees who receive public pension payments but don't earn other income of \$1,000 or more. Are they among the "everyone" paying their fair share?

In addition, the plain language of the ballot measure suggests a different interpretation of "voters' intent." The measure states that revenue will be used for arts and music teachers at K-5 schools where Portland students attend. It then directs "remaining funds" to be used for grants to nonprofit arts organizations, other nonprofits and schools. And finally, the ballot notes accountability measures including the clear statement that "administrative costs are capped."

In other words, the ballot measure doesn't promise a single penny to arts organizations but only includes a vague commitment that "remaining funds" will go to arts groups. At the same time, there's nothing vague about the accountability measures. The ballot measure unequivocally promises that administrative costs are capped.

Yet, city leaders believe that they should ignore the explicit accountability pledge in favor of the aspirational goal of delivering more money to arts groups?

There's an easy way to get confirmation of that theory. They could put it on the ballot, although that's unfortunately unlikely. The one commissioner who has raised the idea, City Commissioner Dan Saltzman, is not running for re-election and told The Oregonian/OregonLive Editorial Board he doesn't envision pushing for a referral in his remaining months in office.

Regardless of what happens with the arts tax, Portland leaders and voters alike should take a few lessons from how this tax evolved and note the many ways our current policy diverges from promises the city made.

City leaders should publicly commit to review the discussion and internal communications from 2011 and 2012 to see where the city went wrong in fashioning the ballot measure, both with regards to who should pay it and how much it would cost. As Revenue Director Thomas Lannom noted last year, the 5 percent cap "polled very well in 2012 as a number to shoot for. But it was never realistic." His comments raise the question of who pushed the 5 percent cap forward and whether that was based on data or marketing. Voters deserve to know if city leaders intentionally sold them a bill of goods on what they could deliver.

It's also a reminder to Portlanders to look past campaign rhetoric and consider critically whether the city is equipped to administer whatever new tax, program or responsibility it asks voters to approve. In this case, city officials weren't. They had no existing system for collecting an income tax, expenses have far exceeded what leaders said they would, revenue has been less than expected and taxpayer compliance, in its best year, has been under 75 percent.

Despite its best intentions, the arts tax was never a good idea. City commissioners should leave bad enough alone and refrain from making it worse.

Willamette Week

Oregon Lawmakers Failed to Close the Loophole That Allows Rampant Car Theft in Portland

*By Katie Shepherd
March 6, 2018*

Nearly everyone who worked on the legislation is eager to blame someone else.

Josh Leslie knows how expensive auto theft can be.

He paid \$405 to get his 1997 Subaru Legacy out of a towing lot last year after it was stolen from the street in front of his St. Johns home.

Leslie says he was disappointed when he heard that lawmakers last week had once again abandoned legislation intended to drive down the skyrocketing number of motor vehicle thefts in Portland—blaming their failure on excessive prison costs.

Leslie, still smarting from forking over cash to retrieve his car, doesn't buy that explanation.

"Cost doesn't seem like a good reason to not have good public policy," he says. "It's one of those things where somebody is paying for it—and I'd rather pay for it as a taxpayer than as an individual."

Legislators had a chance to pass a bill in the session that ended March 3 that would have made it easier to prosecute motor vehicle thefts, addressing one of the biggest crime problems in the state. Instead, they left Salem a week early.

The bill's failure is puzzling, given that not a single legislator spoke out against it and two of the state's most diametrically opposed lobbying groups—the Oregon District Attorneys and Criminal Defense Lawyers associations—both agreed it should pass.

As WW reported in November, Portland's auto-theft rate is the third-highest per capita among major U.S. cities ("Car Jack City," WW, Nov. 29, 2017). That's in large part because of an Oregon Court of Appeals ruling that makes it difficult to convict defendants caught behind the wheel of a purloined car unless they confess to stealing it.

Lawmakers crafted a bill that would close the loophole—then left Salem without bringing it to the floor.

Nearly everyone who worked on the legislation is eager to blame someone else.

"This bill was a priority for me this session," claims House Majority Leader Jennifer Williamson (D-Portland), who sponsored the bill. "We've been working on this really since the end of last session."

In 2017, a very similar bill died in committee because of a multimillion-dollar fiscal impact statement. The statement estimated the costs of incarcerating and supervising new prison inmates created by the bill.

Williamson, who also chairs the House Rules Committee, held a public hearing last month where several public officials testified in favor of the bill, including Portland Mayor Ted Wheeler, and no one spoke against it. But the majority leader never scheduled a vote on it in her committee, which means it died there.

Williamson blames prosecutors, saying the Oregon District Attorneys Association wouldn't compromise on two changes that would have reduced the estimated cost of the bill.

She suggested the bill either reduce the minimum sentencing guidelines for motor vehicle theft or create a new crime classified as a misdemeanor that would not carry any prison time. She says she was frustrated prosecutors wouldn't give more ground.

But prosecutors had already given up a lot.

Ryan Lufkin, a Multnomah County deputy district attorney, worked with the Department of Justice and the Oregon Criminal Defense Lawyers Association to craft the wording of House Bill 4161. He compromised this time around, allowing his opponents to soften the bill's language and require prosecutors to prove that suspected thieves were "aware of and consciously disregard[ed] a substantial and unjustifiable risk" that they were driving a stolen car.

"We are surprised, frustrated and disappointed that HB 4161 did not pass this session," Lufkin says, "particularly because we worked hard with our partners to craft a bill that ultimately was without any opposition in the rules committee hearing."

Lufkin contested the estimated costs of the bill from the beginning. He testified in a public hearing that the Criminal Justice Commission's analysis of how many additional prison beds would be needed was skewed. The CJC used 2017's record-high arrest rates to project future arrest rates—but Lufkin told the Legislature the bill would start driving down motor vehicle theft if it passed and would reduce those numbers.

Ken Sanchagrin, who put together the CJC numbers, admits the estimate is only a guess.

"Instead of making assumptions of where [arrest rates] would go in the future, we decided to keep it flat," he says. "The bill may actually drive it down, but we can't quantify that."

Williamson didn't fault just prosecutors in general for the bill's failure—she named one in particular.

She pins the blame on Clackamas County District Attorney John Foote, who is locked in an unrelated court battle with the Legislature over sentencing reforms.

Foote filed a lawsuit last month challenging a bill that would reduce prison sentences for some property crimes, alleging the Legislature did not have the required two-thirds majority to change voter-approved criminal sentencing measures.

Williamson says if Foote prevails, prison costs will rise significantly.

"I think John Foote's lawsuit directly resulted in our inability to address this issue, because we are so uncertain with our corrections budget," Williamson says.

Foote replies that Oregon's prison population is decreasing, compared to its overall population. He points to the spring forecast of the prison population in the next 10 years that projected 4 percent growth in the number of prisoners despite Oregon's population growing 12 percent.

"Rep. Williamson apparently thinks it's good public policy to save money by not holding serious repeat property criminals responsible for their behavior," Foote says. "I happen to think holding serious criminals accountable is part of the basic services government can provide to its citizens."

Williamson says she'll reintroduce the bill in 2019.

Meanwhile, Portland police figures show 2018 is already on track to see as many motor vehicle thefts as last year if not more.

Where Will Portland Drivers Get Tolled on the Interstate? Highway Officials Have Five Options.

*By Rachel Monahan
March 6, 2018*

City officials like the biggest one.

Portland-area drivers could soon see tolls along much of Interstates 5 and 205, if city officials have their way.

Last summer, the Oregon Legislature approved a plan to begin tolling on Portland-area highways, seeking to reduce traffic jams during rush hours and raise money for road construction.

What lawmakers didn't decide: the location of tolls, the amount to be charged or which hours the tolling would be in effect.

But an Oregon Department of Transportation committee tasked with making a recommendation by this summer is reviewing five concrete options for which roads would be tolled.

And the city of Portland has weighed in, saying it favors a plan that would implement tolls along all of I-5 and I-205 from the Washington state line down to the junction of the two highways south of Tualatin.

The city likes the most extensive tolls because such a plan would be least likely to encourage drivers to cheat the tolls by briefly hopping off the highways in favor of local streets.

And it won't require construction of new highway bridges or lanes, making it cheaper.

"It has the greatest potential to relieve congestion at the lowest cost to taxpayers," says Brendan Finn, chief of staff to City Commissioner Dan Saltzman.

There's one potential downside to several of these options: They would require the sign-off of the Trump administration—which is expected to take at least a year.

Here are the five options the ODOT committee can choose from:

Option 1: Priced lanes on a northern segment of I-5.

Option 2: Toll all lanes on I-5.

Option 3: Toll all lanes on I-5 and I-205. (The city's favorite!)

Option 4: Add a priced lane on I-205.

Option 5: Toll both directions on the Abernethy Bridge.

Three Candidates for Portland City Council Juggle Campaigning With Their Day Jobs

By Rachel Monahan

March 7, 2018

One case raises questions about the mayor's help.

Last week, Portland City Council candidate Jo Ann Hardesty stepped aside from her role as president of the NAACP of Portland.

Her decision came after WW raised questions about the NAACP's policy that requires officers to resign at least temporarily when seeking elected office. (Hardesty entered the race in August.)

Hardesty isn't the only candidate in the race juggling other duties and an election campaign.

One of her opponents in the race to replace City Commissioner Dan Saltzman already faced a lawsuit over her decision not to resign her post. A third candidate's run raises questions for her boss, Mayor Ted Wheeler.

Here's a comparison.

Jo Ann Hardesty

Job: President of the NAACP of Portland

Salary: Hardesty is an unpaid volunteer.

NAACP rules require elected officers seeking public office to resign their role with the civil rights organization—at least for the duration of the campaign.

The NAACP is heavily involved in politics but attempts to distance itself from partisan campaigns or particular candidates.

When WW asked about the conflict last week, Hardesty initially denied she was violating policy and then agreed she'd "step back" from her volunteer post.

"This is people looking for dirt," Hardesty told WW. "Just to make this a non-issue, I will step back and ask the [vice president] to facilitate the next few meetings."

Loretta Smith

Job: Multnomah County commissioner

Salary: \$103,000

Since December, Smith has faced a series of questions whether seeking endorsements, fundraising and other campaign activities violated the county charter's prohibition on officially seeking office before the final year

of her term.

Smith now faces a lawsuit by good-government activist Seth Woolley over her failure to resign. He says either the county or the state should force her resignation. The lawsuit is expected to get a hearing in six weeks.

Smith maintains that the county charter only required her resignation if she had officially filed for office before January, and she says she sought county legal advice before running.

Andrea Valderrama

Job: Senior policy adviser to Mayor Ted Wheeler

Salary: \$74,588

Unlike her opponents, there's no question Valderrama followed the rules of her job.

She hasn't worked Fridays since the last week of October and has shifted her schedule to work longer days during the first part of the week. She takes vacation time for the four remaining hours of her work week on Friday.

But there's been no pretense she's continuing to carry the same responsibilities: She requested no late nights and no early mornings, and she off-loaded some responsibilities, according to the Oct. 12 memo in which she documented her request for a flexible schedule.

Valderrama shifted out of a role advising the mayor on most housing policies—including keeping eye on the \$258 million affordable housing bond passed by voters last November. She continues to do work related to the city's Office of Equity and Human Rights.

Her flexible schedule may raise more questions about her boss's decision to effectively support her run.

Wheeler does not plan to endorse any candidate in the race, says spokesman Michael Cox, and is following city human resources rules.

The Daily Journal of Commerce

Landowners to Appeal City's Denial of Subdivision Plans

By Chuck Slothower

March 6, 2018

The local family proposing to build a 21-home subdivision in the Southwest Portland hills will appeal the City Council's decision last month that halted the development.

Stephen Griffith, one of four brothers who own the land behind Riverview Abbey Mausoleum Co. on Taylors Ferry Road, said the family will file an appeal with the Oregon Land Use Board of Appeals.

“It is our hope that LUBA will recognize the fact that our development plan complies with the law,” Griffith stated in an email message. “Portland needs more housing options. We desire to fulfill my grandfather’s dream of building on the property that he had the foresight to purchase many years ago.”

On Feb. 7, the City Council upheld an appeal by the South Burlingame Neighborhood Association. The group had challenged development plans for the Macadam Ridge subdivision, citing landslide hazards and environmental overlay rules. Commissioners said they were also concerned about tree removal and disruption of a wildlife corridor.

The Neighborhood Association delivered to the council a three-hour presentation with coordinated testimony from more than 30 neighbors.

The council overturned a favorable decision by hearings officer Melvin Oden-Orr “based on an emotional appeal by the Neighborhood Association,” Griffith stated.

The 14-acre property, purchased by Willard Griffith in 1945, is a rare undeveloped plot of land within Portland’s urban growth boundary. Stephen Griffith said the family intends to establish a preliminary plat and sell the property to a homebuilder. Each new home would be about 3,500 square feet and cost approximately \$750,000.

At the February council meeting, Mayor Ted Wheeler said some development on the land is inevitable.

“It is my view that this is a complex site, for obvious reasons – it has all of the overlay issues – but ultimately it is a developable site, and it is my belief it will be developed,” he said. “So now the question is: How do we shape that development and how do we take that from here?”

Griffith said the family has spent hundreds of thousands of dollars during the past four years to develop the property.

“It’s so extremely costly,” he said. “Between us and development partners, it’s close to a million dollars now.”

Starting over in the city’s approval process would only add to the costs, according to Griffith.

“It’s basically cheaper to appeal than to start a new application,” he said.

Griffith said he expects to hear a decision from LUBA in about 70 days.