


From the Desk of
Sen. Richard Devlin




SB 123-A: An Excellent Intent in an Unfortunate Climate

The sponsors of a bill before the Senate today have a wonderful idea: create a special district to serve the unmet needs of Oregon's children, from birth to age 18, especially focusing on those in poverty. This bill would enable a region to establish a Children's District with the authority to impose a new property tax amount to fund such programs in support of our kids as after-school programs, summer programs, and activities in arts, music, recreation, health, technology, and skill development.

Because of a long-term decline in the dollars our public schools have had to work with – declining from 44 percent share of the General Fund to 38 percent in just a few biennia – good people with creative ideas have stepped forward to help. In Portland, a children's levy was passed that provides just these kinds of supports. Were SB 123-A passed, even more students might be able to have programs such as the SUN program, or summer enrichments to stave off the "summer slide" phenomenon. We therefore applaud the innovative thinking of the more than 130 groups forming the Washington County Kids Fund, which devised this proposal.

Ever since the passage of the property-tax-limiting Ballot Measure 5 (1990), however, such workarounds have been generally challenged. (So far, Portland Children's Levy is the exception). SB 123 has drawn a recent Legislative Counsel opinion on these challenges and how they might suggest the fate of such districts in the future. Our worry does not end with the concern that the levies may be challenged; our fear is that the already-dwindling property tax and local-option levy pots schools rely on could be reduced.

While the LC opinion makes clear that each levy would be judged on a case-by-case basis, depending on what each aims to fund, the risk to school resources is real. As LRO wrote in its Revenue Impact Statement:

"Depending upon the use of the funds derived from the imposition of the Children's Special District property tax, property taxes imposed by other taxing districts (both education and non-education districts) could be reduced due to Constitutional property tax rate limits."

As the LC Opinion explains, "It's all about the purpose to which the item of tax is dedicated, and not on the kind of taxing district levying the tax." Our friends who have advocated for this legislation have not been shy in saying that welcome relief from this property taxing method is meant to support school and recreational services for kids, and not the for general public (a key distinction in the definition of "educational services" under law that would be exempt from Measure 5).

Because such a levy could indeed be subject to the \$5 school cap in education property taxation, as LC notes, "they would compete with school districts for revenues." The taxes would force compression if so, affecting school district local option levies first, and then, the school permanent property tax rate. In these fiscally constrained times, when districts are contemplating the possibility of as much as a \$600 million cut to the State School Fund, we feel obligated to express our concern that this well-intentioned proposal could in fact make our funding system worse and inadvertently spread the loss of revenues across the state, not just in the subject region. Were the levy challenged, the LC opinion of April 9, 2017 reflects the very strong likelihood that the courts would find these resources as "educational services" because the members of the general public would not avail themselves of them (*Urhausen v. City of Eugene*).

For these reasons, we ask that this body support a State School Fund budget of \$8.4 billion instead of passing this alternative to educational funding sufficiency.