

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26

IN THE CIRCUIT COURT OF THE STATE OF OREGON
FOR THE COUNTY OF MULTNOMAH

MEL RADER,

Petitioner,

vs.

MULTNOMAH COUNTY BOARD OF
COMMISSIONERS, as the Governing Body of
the COUNTY OF MULTNOMAH, OREGON,

Respondent.

No.

PETITION FOR REVIEW OF
BALLOT TITLE AND
EXPLANATORY STATEMENT

NOT SUBJECT TO MANDATORY
ARBITRATION

FEE AUTHORITY: ORS 21.135

NATURE OF ACTION

1.

This is a Petition to Review the Ballot Title prepared by Multnomah County Attorney Jenny Madkour, for an initiative designated by Multnomah County as "MultCoInit-03." This initiative seeks to impose an excise tax on the distribution of sugary drinks in Multnomah County, with revenues used exclusively to support programs designed to improve the health and education of Multnomah County children, particularly those in low income communities and communities of color. This Petition for Review is brought pursuant to ORS 250.195.

PARTIES

2.

Petitioner, Mel Rader, is the Chief Petitioner for MultCoInit-03 and is an elector living in Multnomah County. He therefore has standing to file this Petition for Review. ORS 250.195.

//

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26

3.

Respondent, Multnomah County Board of Commissioners, is the county governing body, and therefore properly designated as a Respondent pursuant to ORS 250.175.

FACTS

4.

On or about June 7, 2016, Petitioner Mel Rader filed a prospective initiative petition with the Multnomah County Elections Division, designated as MultCoInit-03. A true and correct copy of that initiative, as published on the Multnomah County Elections Division website is attached as Ex. A to this petition.

5.

On June 17, 2016, Respondent filed a Ballot Title and Explanatory Statement for MultCoInit-03 with Tim Scott, the Director of Elections for Multnomah County. A true and correct copy of that Ballot Title and Explanatory Statement is attached as Exhibit B to this petition.

6.

This Petition for Review is filed within seven days after the ballot title was filed with the Director of Elections and is therefore timely pursuant to ORS 250.195 and Multnomah County Code §5.101.

7.

The ballot title summary prepared by Respondent does not comply with the requirements of ORS 250.035(1)(c). For example, it fails to tell voters that the citizen Advisory Committee makes funding recommendations to the County Board of Commissioners. It also does not identify two key accountability provisions in the initiative: (1) the requirement for performance audits every other year, and (2) the limitation on how much of the fund can be spent on administrative expenses.

//

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26

8.

The Explanatory Statement prepared by Respondent does not comply with the requirements of Multnomah County Code §5.101(2) and ORS 251.345. It inaccurately describes the proposal’s cap on administrative expenses as applying to tax collection process itself. However, under Section 8.3 of the measure, the 5% limitation only applies to expenses associated with administering the fund, which is comprised of net proceeds from the tax. Section 8.1. In addition, by using the acronym SSBB, the Explanatory Statement is not simple and understandable.

9.

Petitioner seeks the following alternative Ballot Title and Summary:

CAPTION: Taxes sugary drink distribution, dedicates revenue to children’s health, education.

QUESTION: Should Distributors pay excise tax of \$0.01 per ounce on sugary drinks with revenues used exclusively for children’s health and education?

SUMMARY: Imposes excise tax of \$0.01 per fluid ounce on the distribution of sugary drinks (and products used to make them) within Multnomah County. “Sugary drinks” defined as nonalcoholic beverages containing one or more Added Caloric Sweeteners and more than 2 calories per ounce of beverage. Exempts milk, milk alternatives, natural fruit and/or vegetable juices, products intended as supplemental meal or meal replacements. Defines “Distribution” as transfer from one business entity to another; excludes retail sales to consumers; applies only to first non-exempt Distribution within Multnomah County.

Requires net proceeds from tax to be placed in “Children’s Health and Education Fund” and used to fund programs primarily serving children in low income communities and communities of color that promote physical exercise, health, nutrition and early childhood education initiatives. Administrative expenses of fund cannot exceed five percent.

Creates citizen’s advisory committee to advise Board of County Commissioners on effectiveness of tax on distribution and consumption of sugary drinks and to make funding recommendations.

1 Requires performance audit of fund every other year.

2 10.

3 Petitioner seeks the following alternative Explanatory Statement:

4 **EXPLANATORY STATEMENT**

5 This Measure would create a Multnomah County
6 Ordinance that imposes an excise tax of \$0.01 per fluid ounce
7 on the Distribution of "Sugary Drinks" (and products used to
8 make them), which include but are not limited to beverages
9 commonly referred to as soda, pop, cola, soft drinks, sports
10 drinks, energy drinks, sweetened iced teas or sweetened coffee
11 drinks.

12 "Sugary drinks" do not include Milk, Milk alternatives,
13 fruit juice, vegetable juice, infant formula, beverages for
14 Medical Use, or any product designed as supplemental or meal
15 replacement and which contains proteins, carbohydrates,
16 vitamins and minerals.

17 A Distributor is defined as a Business Entity doing
18 business in Multnomah County and that transfers title of
19 Sugary Drinks to another Business Entity in Multnomah
20 County, and includes a business entity that transports Sugary
21 Drinks purchased outside the County for the purposes of retail
22 sale within the County. The County's jurisdiction over
23 Distributors extends to all persons doing business in
24 Multnomah County as defined in the Multnomah County
25 Business Income Tax Code.

26 Retail sales of Sugary Drinks to a consumer are not
subject to the tax.

The tax is levied upon the first non-exempt distribution
of Sugary Drinks. Distribution of Sugary Drinks may not be
taxed more than once in the chain of commerce of Distributors
subject to the jurisdiction of the County.

The following Distributors are exempt from the tax:
Distributors not legally subject to taxation by the County;
distribution to a Retailer of sugar or other sweeteners sold by a
Retailer such as a grocery store; and Distribution of small-batch
nonalcoholic surgary drinks produced in the County by a
manufacturer licensed pursuant to ORS 635.027.

Provides for administration of the tax by County or by
contract with a State agency.

26 //

1 Proceeds from the tax (after deducting costs of
2 administration and collection) are placed in "Children's Health
3 and Education Fund" and may only be used to fund programs
4 primarily serving children in low income communities and
5 communities of color that increase physical fitness; improve
6 nutrition, dental health; reduce health disparities, support early
7 childhood education. Requires a performance audit of the Fund
8 every other year.

9 Establishes "The Children's Health and Education Fund
10 Advisory Committee" comprised of 15 members. Provides for
11 appointment of Committee members by the County Board of
12 Commissioners based upon recommendations of Regional
13 Health Equity Coalition, All Hand Raised, Multnomah County
14 Youth Commission, Oregon Hunger-Relief Task Force, and
15 Multnomah County Health Department. The Advisory
16 Committee (1) advises the County on the effectiveness of the
17 excise tax in reducing Distribution and consumption of Sugary
18 Drinks and (2) makes funding recommendations to the Board
19 of county Commissioners.

20 Requires County Auditor to conduct performance audit
21 every other year.

22 Specifies an operative date for Ordinance of 1/1/2017,
23 and an operative date for imposition and collection of tax of
24 1/1/2018.10.

25 PRAYER FOR RELIEF

26 11.

As relief, Petitioner requests that the Court issue a judgment revising the Ballot Title
and Explanatory Statement as set forth above, in order to comply with the requirements set
out in ORS 250.035(1) and Multnomah County Code §5.101.

Dated June 28, 2016.

s/Margaret S. Olney
Margaret S. Olney, OSB 881359
olneym@bennetthartman.com
Of Attorneys for Petitioner
Phone: (503) 227-4600

**Multnomah County Children's Health and Education Fund
Paid For with a Distribution Tax on Sugary Drinks**

The people of Multnomah County, exercising their right to enact laws by citizen initiative, enact the following Ordinance to be made part of the Multnomah County Code.

Section 1. Findings

1. Rates of diabetes, heart disease, and tooth decay are high in Multnomah County. Children, low income communities and communities of color have been disproportionately affected.
2. While there is no single cause for the rise in these diseases, there is overwhelming evidence of the link between the consumption of sugary drinks and soda and the incidence of diabetes, heart disease, tooth decay and other health problems.
3. In addition to the human cost to those who suffer from these diseases, there is a public health and economic cost to the County associated with these diseases.

Section 2. Policy and Purpose of Tax

1. Based on the findings set forth above, the purpose of this Ordinance is to diminish the human and economic costs of diseases associated with the consumption of sugary drinks.
2. This ordinance imposes an excise tax on the privilege of conducting businesses that distribute sugary drinks and products used to make them. It is not a sales tax.
3. Certain drinks containing added sugar are exempted, including infant formula, milk products and natural fruit and vegetable juices.
4. Revenues collected through this tax on sugary drinks will be placed in a special fund to be designated as "The Children's Health and Education Fund." The money in this fund will be used to fund programs primarily serving children in low income communities and communities of color in Multnomah County that improve nutrition and access to healthy foods, increase physical activity and fitness, support early childhood education initiatives and improve children's general health and academic achievement. No more than 5% of the fund can be spent on administrative expenses associated with administering the fund. The fund shall be subject to an audit every other year.
5. This Ordinance creates a "Children's Health and Education Fund Advisory Committee" made up of experts and community members to (1) advise the County on the effectiveness of this excise tax in discouraging the distribution and consumption of sugary drinks, and (2) make recommendations regarding the funding of programs designed to improve children's health and education.

Section 3. Definitions

Unless otherwise defined in this section, terms that are defined in Chapter 12 of the Multnomah County Code shall have the meanings provided therein.

RECEIVED
JUN 16 PM 4:30
JIM SCOTT
DIRECTOR OF ELECTIONS



Notice of Multnomah Co Initiative Ballot Title & Explanatory Statement - MultColnit-03

NOTICE OF BALLOT TITLE AND EXPLANATORY STATEMENT – MultColnit-03

NOTICE IS HEREBY GIVEN that a ballot title and explanatory statement for a Multnomah County Initiative Petition has been filed with the Multnomah County Director of Elections. The initiative petition complies with constitutional requirements. Any registered voter in Multnomah County dissatisfied with the ballot title and explanatory statement may file a petition with the Multnomah County Circuit Court for review on or before 5:00 PM, June 28, 2016. Any person filing a challenge must also file a copy of the challenge with the Director of Elections, 1040 SE Morrison St., Portland, by the end of the next business day after the petition is filed with the Circuit Court.

CAPTION: Taxes sugary drink distribution, dedicates revenue to children’s health, education.

QUESTION: Should Distributors pay excise tax of \$0.01 per ounce on sugary drinks with revenues used exclusively for children’s health and education?

SUMMARY: Creates a Multnomah County Ordinance that imposes an excise tax of \$0.01 per fluid ounce on businesses that distribute in Multnomah County Sugar Sweetened Beverage Products and products used to make them. Defines Distribution as transfer from one business entity to another; excludes retail sales to consumers; applies only to first non-exempt Distribution within Multnomah County. Sugar Sweetened Beverage Products defined as nonalcoholic beverages containing one or more Added Caloric Sweeteners and more than 2 calories per ounce of beverage. Exempts milk, milk alternatives, natural fruit and/or vegetable juices; products intended as supplemental meal or meal replacements. Creates “The Children’s Health and Education Fund”, requires revenues from tax to be placed in Fund and used to fund programs primarily serving children in low income communities and communities of color that promote physical exercise, health, nutrition, early childhood education initiatives. Requires Tax to be collected, enforced and administered by County Tax Administrator. Creates Children’s Health Fund Advisory Committee; advises Board of County Commissioners on effectiveness of tax on distribution and consumption of Sugar Sweetened Beverage Products.

EXPLANATORY STATEMENT

This Measure would create a Multnomah County Ordinance that imposes an excise tax of \$0.01 per fluid ounce on Distributors of Sugar-Sweetened Beverage Products (SSBP), which include but are not limited to beverages commonly referred to as soda, pop, cola, soft drinks, sports drinks, energy drinks, sweetened iced teas or sweetened coffee drinks.

SSBP does not include Milk, Milk alternatives, fruit juice, vegetable juice, infant formula, beverages for Medical Use, or any product designed as supplemental or meal replacement and which contains proteins, carbohydrates, vitamins and minerals.

A Distributor is defined as a Business Entity doing business in Multnomah County and that transfers title of SSBP to another Business Entity in Multnomah County, and includes a business entity that transports SSBP purchased outside the County for the purposes of retail sale within the County. The County's jurisdiction over Distributors extends to all persons doing business in Multnomah County as defined in the Multnomah County Business Income Tax Code.

Retail sales of SSBP to a consumer are not subject to the tax.

The tax is levied upon the first non-exempt distribution of SSBP. Distribution of SSBP may not be taxed more than once in the chain of commerce of Distributors subject to the jurisdiction of the County.

The following Distributors are exempt from the tax: Distributors not legally subject to taxation by the County; distribution to a Retailer of sugar or other sweeteners sold by a Retailer such as a grocery store; and Distribution of small-batch nonalcoholic SSBP produced in the County by a manufacturer licensed pursuant to ORS 635.027.

Provides for administration of the tax by County or by contract with a State agency, limits amount spent on administration to 5% of proceeds.

Proceeds from the tax are dedicated to "Children's Health and Education Fund" for programs primarily serving children in low income communities and communities of color that increase physical fitness; improve nutrition, dental health; reduce health disparities, support early childhood education. Requires a performance audit of the Fund every other year.

Establishes The Children's Health and Education Fund Advisory Committee comprised of 15 members. Provides for appointment of Committee members by the County Board of Commissioners based upon recommendations of Regional Health Equity Coalition, All Hand Raised, Multnomah County Youth Commission, Oregon Hunger-Relief Task Force, and Multnomah County Health Department. Requires Advisory Committee to advise County on the effectiveness of the excise tax in reducing Distribution and consumption of SSBP, the impact on beverage prices, on consumer purchasing, and on health outcomes, and to make recommendations regarding funding of programs.

Requires County Auditor to conduct performance audit every other year.

Specifies an operative date for Ordinance of 1/1/2017, and an operative date for imposition and collection of tax of 1/1/2018.

Tim Scott,
Multnomah County Director of Elections

1. "Added Caloric Sweetener" means any substance or combination of substances that meets all of the following four criteria:
 - a. is suitable for human consumption;
 - b. adds calories to the diet if consumed;
 - c. is perceived as sweet when consumed; and
 - d. is used for making, mixing, or compounding sugar-sweetened beverages by combining the substance or substances with one or more other ingredients including, without limitation, water, ice, powder, coffee, tea, fruit juice, vegetable juice, or carbonation or other gas.

An Added Caloric Sweetener may take any form, including but not limited to a liquid, syrup, or powder, whether or not frozen. "Added Caloric Sweetener" includes, without limitation, sucrose, fructose, glucose, other sugars, high fructose corn syrup, and flavored syrups.

2. "Alcoholic beverage" shall have the same meaning as set forth in ORS 471.001.
3. "Beverage for Medical Use" means a beverage suitable for human consumption and manufactured for use as an oral nutritional therapy for persons who cannot absorb or metabolize dietary nutrients from food or beverages, or for use as an oral rehydration electrolyte solution for infants and children formulated to prevent or treat dehydration due to illness. "Beverage for Medical Use" shall not include drinks commonly referred to as "sports drinks" or any other common names that are derivations thereof.
4. "Business entity" includes, but is not limited to an individual, a natural person, proprietorship, partnership, limited partnership, family limited partnerships, joint venture (including tenants-in-common arrangements), association, cooperative, trust, estate, corporation, personal holding company, limited liability company, limited liability partnership or any other form of organization for doing business. This definition is intended to track the term "person" as used in Multnomah County Code, Chapter 12.
5. "County" means Multnomah County, Oregon.
6. "Tax Administrator" means the Chief Financial Officer of the County or his or her designees.
7. "Consumer" means an individual who purchases a sugar-sweetened beverage product in the County for a purpose other than resale or use in the ordinary course of business.
8. "Distribution" or "Distribute" means the transfer of title or possession (1) from one Business Entity to another for consideration or (2) within a single Business Entity, such as by a wholesale or warehousing unit to a Retailer, or between two or more employees or contractors. "Distribution" or "Distribute" shall not mean the retail sale to a Consumer.
9. "Distributor" means any Business Entity that distributes Sugar-Sweetened Beverage Products in the County. A business entity that transports Sugar-Sweetened Beverage Products purchased outside the County for the purposes of retail sale within the County shall be deemed a Distributor.
10. "Milk" means natural liquid milk, natural milk concentrate (whether or not reconstituted) or dehydrated natural milk (whether or not reconstituted), regardless of

- animal source or butterfat content. For purposes of this definition, "Milk" includes flavored milk drinks containing no more than 40 grams of total sugar (naturally-occurring and from added Caloric Sweetener) per 12 ounces (3.3 grams of total sugar per ounce).
11. "Milk alternatives" include but are not limited to non-dairy creamers or beverages primarily consisting of plant-based ingredients (e.g. soy, rice, or almond milk products), regardless of sugar content.
 12. "Retailer" means any Business Entity that sells Sugar-Sweetened Beverage Products to a Consumer.
 13. "Sugar-Sweetened Beverage" means any nonalcoholic beverage intended for human consumption that has one or more Added Caloric Sweeteners and contains more than 2 calories per ounce of beverage.
 14. "Sugar-Sweetened Beverage" includes, but is not limited to, all added caloric drinks and beverages commonly referred to as "soda," "pop," "cola," "soft drinks," "sports drinks," "energy drinks," "sweetened ice teas," "sweetened coffee drinks" or any other common names that are derivations thereof.
 15. "Sugar-Sweetened Beverage" shall not include any of the following:
 - a. Milk
 - b. Milk Alternatives
 - c. Any beverage that contains only 100 percent natural fruit juice, natural vegetable juice, or combined natural fruit juice and natural vegetable juice, including natural fruit or vegetable juices diluted with water or carbonated water, so long as there is no other Added Caloric Sweetener.
 - d. Any product commonly known as "infant formula" or "baby formula," or any product whose purpose is infant rehydration.
 - e. Beverages for Medical Use
 - f. Any product designed as supplemental, meal replacement, or sole-source nutrition that includes proteins, carbohydrates, and multiple vitamins and minerals
 16. "Sugar-Sweetened Beverage Product" means a Sugar-Sweetened Beverage or Added Caloric Sweetener.
 17. "Sugary Drink" means "Sugar-Sweetened Beverage Product."

Section 4. Excise Tax on Distribution of Sugary Drinks Imposed

1. The County hereby imposes an excise tax of one cent (\$0.01) per fluid ounce on the privilege of distributing Sugar-Sweetened Beverage Products in Multnomah County.
2. The County's jurisdiction over Distributors doing business in Multnomah County shall extend to all persons doing business in the county, as defined in Chapter 12 of the Multnomah County Code, subject to the exemptions set forth in that Chapter 12, §12.400.
3. For the purposes of this Chapter, the volume, in ounces, of a Sugar-Sweetened Beverage Product shall be calculated as follows:

- a. For a Sugar-Sweetened Beverage, the volume, in fluid ounces, of Sugar-Sweetened Beverages distributed to any Business in the County.
 - b. For Added Caloric Sweeteners, the largest volume, in fluid ounces, of Sugar-Sweetened Beverages that could be produced from the Added Caloric Sweeteners based on the manufacturer's instructions or, if the Distributor uses the Added Caloric Sweeteners to produce a Sugar-Sweetened Beverage, the regular practice of the Distributor. For Added Caloric Sweeteners that may be used to flavor coffee, milk and other drinks, the tax shall be calculated assuming that the Added Caloric Sweetener is combined with carbonated water to make a soda drink (e.g. "Italian sodas.")
4. The tax shall be paid upon the first non-exempt distribution of a Sugar-Sweetened Beverage Product in the County. To the extent that there is a chain of Distribution within Multnomah County involving more than one Distributor, the tax shall be levied on the first Distributor subject to the jurisdiction of the County. To the extent the tax is not paid as set forth above for any reason, it shall be payable on subsequent Distributions and by subsequent Distributors, provided that the Distribution of Sugar-Sweetened Beverage Products may not be taxed more than once in the chain of commerce.

Section 5. Exemptions

The tax imposed by this Chapter shall not apply:

1. To any Distributor that is not subject to taxation by the County under the laws of the United States or the State of Oregon;
2. To any Distribution of Added Caloric Sweeteners to a Retailer intended for sale for later use by Consumers (e.g. bags of sugar or other sweeteners in a grocery store).
3. To any Distribution of small-batch nonalcoholic Sugar-Sweetened Beverages produced in Multnomah County by a manufacturer licensed pursuant to ORS 635.027. The County shall determine the volume of production that qualifies for this small-batch exemption.

Section 6. Duties, Responsibilities and Authority of the Tax Administrator

1. It shall be the duty of the Tax Administrator or his or her designee to collect and receive all taxes imposed by this Chapter, and to keep an accurate record thereof.
2. The Board of County Commissioners and the Tax Administrator may prescribe, adopt, and enforce ordinances, rules and regulations relating to the administration and enforcement of this Sugary Drink Tax. Such rules and regulations may include, but are not limited to, the following:
 - a. The determination of whether and how a Distributor must register with the County;
 - b. Reporting requirements for Distributors and Retailers;
 - c. The schedule for payment of the tax;

- d. The process for determining deficiencies and refunds;
 - e. Enforcement procedures, including provisions authorizing the imposition of penalties and other sanctions for noncompliance; and
 - f. The procedures for challenging a determination relating to the amount of taxes owed.
3. Whenever any tax under this Chapter has been paid more than once or has been erroneously or illegally collected or received by the County, it may be refunded to the payer.
 4. The Tax Administrator shall annually verify that the taxes owed under this Chapter have been properly applied, exempted, collected, and remitted.

Section 7. Collection

1. The amount of any tax, penalty, and interest imposed under the provisions of this Chapter shall be deemed a debt to the County. Any Distributor owing money under the provisions of this Chapter shall be liable in an action brought in the name of the County for the recovery of such amount.
2. The Multnomah County Board of Commissioners may, but is not required to, contract with other public agencies, including the Oregon Department of Revenue (as authorized by ORS 306.620) or the Oregon Liquor Control Commission, to administer and collect the taxes owed under this Chapter. If the County Commissioners exercise this option, the duties and responsibilities of the Tax Administrator shall be given, as appropriate, to the contracted public agency, which may delegate such duties and responsibilities as necessary and as authorized by law.

Section 8. The Children's Health Fund

1. The proceeds from this tax on sugary drinks, after deducting the reasonable costs of administering and collecting the tax, shall be placed in a special fund to be designated as the "Children's Health and Education Fund."
2. Money in the Children's Health and Education Fund shall be dedicated to the funding of programs primarily serving children in low income communities and communities of color that:
 - a. Increase physical activity and physical fitness of children in Multnomah County;
 - b. Improve the nutrition of children in Multnomah County;
 - c. Improve the dental health of children in Multnomah County;
 - d. Reduce health disparities of children in Multnomah County;
 - e. Support early childhood education initiatives.
3. No more than 5% of the fund may be spent on expenses associated with administering the fund.
4. The fund shall be subject to a performance audit every other year.

Section 9. The Children's Health and Education Fund Advisory Committee

1. There shall be established the Children's Health Fund Advisory Committee ("Committee") to (1) advise the County on the effectiveness of this sugary drink tax in discouraging the distribution and consumption of sugar-sweetened beverages, and (2) make recommendations regarding the funding of programs designed to improve children's health in Multnomah County.
2. The Committee shall be made up of 15 members who are residents of Multnomah County. Members will be recruited and recommended by the designated organizations and appointed by the Board of County Commissioners. In the event a designated organization ceases to exist or changes mission, the Board of County Commissioners may either designate a different organization with a similar mission to make recommendations or directly appoint members who will fill the role for the designated vacant seat.
3. The Board shall appoint members of the Committee based on the recommendations from the following designated organizations:
 - a. The Regional Health Equity Coalition (RHEC) will recommend members for seats one through five. RHEC-recommended committee members shall be community members who represent and have expertise working in underserved communities that are heavily impacted by diabetes, heart disease, dental decay or other chronic diseases linked to soda consumption. At least two appointees shall be individuals who are involved in the Multnomah County Community Health Improvement Plan (often referred to as "the Multnomah County CHIP").
 - b. All Hands Raised will recommend three individuals with expertise in school health for seats six through nine. Seat six will be an individual with a focus on early childhood education; seats seven and eight will be individuals with a focus on K-12 education. At least two of these three members will have primary worksites east of I-205.
 - c. The Multnomah County Youth Commission will recommend members for seats nine and ten who are 18 years of age or younger at the commencement of the initial term and at the commencement of any succeeding term.
 - d. The Oregon Hunger-Relief Task Force shall recommend an individual with expertise in hunger, food security and nutrition for seat eleven.
 - e. The Multnomah County Health Department shall recommend members to fill seats twelve through fifteen. Seats twelve and thirteen shall be county or state public health department staff with expertise in nutrition, physical activity, and/or dental health. Seats fourteen and fifteen shall be other individuals with expertise researching or evaluating public health programs related to diabetes, heart disease, and sugary drink consumption, community-based youth food and nutrition programs, school-based food and nutrition programs, or early childhood nutrition.
4. Members shall serve two-year terms. The County Chair shall have discretion to stagger terms of appointment as necessary to ensure rotating terms and continuity. No member may serve more than two consecutive two-year terms.

5. Members of the Committee shall serve without pay, but may be reimbursed for actual expenses.
6. The Committee shall:
 - a. Evaluate and analyze the impact of the tax on beverage prices, consumer purchasing behavior and health outcomes.
 - b. Align the Children's Health and Education Fund investments with the Multnomah County Community Health Improvement Plan.
 - c. Make funding recommendations to the County Board of Commissioners, consistent with the priorities required by this measure and the Committee's strategic plan, based on a transparent grant application and review process.
 - d. Monitor performance of programs receiving funds from the Children's Health Fund. This includes identifying key data, as well as outcome goals to ensure accountability and effectiveness of funded programs in improving children's health.

Section 10. Performance Audit

The Multnomah County Auditor shall conduct a performance audit every other year. The results of the audit shall be made publicly available on the Multnomah County website as well as any website for the Children's Health Fund.

Section 11. Operative Date

This ordinance shall become operative on January 1, 2017, except the County will not impose or collect the tax until January 1, 2018.

Section 12. Severability

If any part, section or provision of this Ordinance, or tax imposed pursuant to this Ordinance is found unconstitutional, illegal or invalid, such a finding will affect only that part, section or provision of the Ordinance and the remaining parts, sections or provisions shall remain in full force and effect.