



## TESTIMONY

CRAIG HONEYMAN, LEAGUE OF OREGON CITIES

SENATE FINANCE AND REVENUE COMMITTEE

MARCH 30, 2011

### SB 751

Good afternoon. My name is Craig Honeyman, Legislative Director, League of Oregon Cities, representing all 242 cities in the State of Oregon. I appear today in opposition to SB 751 and wish to highlight the following reasons why:

**SB 751 is ambiguous.** After speaking to representatives of various cities, organizations, and agencies about this bill, almost every representative had a different interpretation of the purpose, intent, and effect of the bill. That said, even if the idea behind the bill is a good one, the fact that a reading of the bill results in such a spectrum of interpretation is a clear indication that as is the bill is not ready to move forward.

**SB 751 is inequitable.** The fact that this bill would carve out an exception to central assessment opens the door to uniformity and equal protection violation claims. Specifically, under the Oregon and U.S. Constitutions, there are certain equal protections and uniformity principles that must be followed. Without adequate vetting, the bill as is has the potential of opening the state up to lawsuits. These lawsuits tie up revenue that would fund the services that local governments provide--the same services that already face budget reductions and uncertain future funding. At the very least, before moving forward, SB 751 should be closely reviewed for constitutional soundness.

- Oregon Constitution:
  - Article I, Section 32--Uniformity of Taxation
  - Article IX, Section 1--Assessment and Taxation, Uniformity of Rules
- U.S. Constitution:
  - Fourteenth Amendment--the Equal Protection Clause

**The retroactive provision in SB 751 is unacceptable.** Section 3 of SB 751 makes the bill applicable to property tax years beginning on or after July 1, 2009. This means that the Department of Revenue would have to go back and reassess all central assessment for tax years 2009, 2010, 2011, and possibly rework assessments already in process for 2012. Then, the assessments would need to be reviewed under the exception to central assessment created by SB 751. In some cases that means that revenue collected and already spent would have to be paid back by local governments to exempted companies for as much as three years worth of revenue. Then, the Department of Revenue would need to remove the exempted companies from the central assessment roll and transfer them to a local assessment roll. This transfer would result in up to one year of non-assessment, i.e. no revenue going to local governments from these exempted companies. The fiscal impact of SB 751 is unknown; however, based on the scenario that I've just provided, it is likely that the impact would be substantial for all levels of government.

**The bill flies in the face of established legislative support of central assessment.** The Oregon Legislature established the system of central assessment in order to accurately assess the value of property that, because of its capacity to operate as a network over a large geographic area, cannot accurately be valued on a county by county basis. As recently as 2009, the Oregon Legislature continued to demonstrate its full support of central assessment by stating that:

“The Legislative Assembly finds that central assessment by the Department of Revenue of business property that has inherent value due to the capacity of the property to be operated as a network over a large geographic area is a fair, equitable and efficient way to determine value for property tax purposes and to apportion that value among local taxing districts.”

Or Laws 2009, Chapter 128, Section 1(1).

**SB 751 is ill-timed.** Currently, there is a case before the Oregon Tax Court that appeals the Department of Revenue's central assessment of Comcast. The League of Oregon Cities and the Association of Oregon Counties filed a joint amicus brief in that case that supports the central assessment. The Tax Court's decision should be issued soon and is expected to provide further guidance on central assessment as applied to new communication technology. Should the case be decided in Comcast's favor, local government will have to refund all revenue associated with the central assessment plus 12% interest. Over a period of months the Tax Court has received several briefs from both sides of the appeal including legal arguments for and against central assessment. Thus, we encourage this committee to not move SB 751 forward. Rather, we ask that the committee wait and see how the Tax Court interprets the central assessment statutes in light of the high-level information submitted to it in this case.