



June 10th, 2011

To: Senator Ginny Burdick, Co-Chair
Representative Jules Bailey, Co-Chair
Representative Vicki Berger, Co-Chair
Members of the Joint Committee on Tax Credits

From: Chris Fick, Intergovernmental Relations Associate

RE: HB 3671-1

Thank you for the opportunity to comment on HB 3671-1. While we have several concerns with the language included in this draft bill, the League is supportive of the concepts included in this draft, and we want to acknowledge the work that this committee has done under tight timelines and with little money to focus, extend and improve a host of important expiring tax credit programs.

Our primary concerns involve the conservation and transportation tax credit programs. Our recommendations are as follows:

- Ensure that the pass-through mechanism remains in statute for both the conservation and transportation tax credit programs. The pass-through enables cities and other non-profit entities to receive tax credits for their investments and transfer those credits to entities with tax liabilities. It is our understanding that maintaining the pass-through option is the intent of this committee, but that the language was omitted accidentally. We hope that is the case. Over the last five years, 56 cities have made use of the BETC program to invest in high efficiency lighting, HVAC system upgrades, transit systems, hybrid vehicle fleets, and efficiency upgrades at wastewater treatment plants. These investments have enabled cities to conserve precious taxpayer dollars that previously went to fund energy, heating and transportation expenses. We strongly urge this committee to retain the pass-through option.
- Eliminate the requirement that transportation applicants demonstrate that a project is “economically viable” (Section 52 (3)(c)). Mass transit systems are rarely independently economically viable, but the broad-based benefits of the program, in terms of reduced congestion and pollution, decreased reliance on foreign oil and workforce benefits, make these transportation programs worthy of public subsidies. Moreover, economic viability would be difficult for applicants to demonstrate and for the Oregon Department of Energy (ODOE) to accurately assess. For these reasons, we believe this language should be removed.

- Reconsider the reduction of credits allowed when the combined incentives, loans and grants exceed 75 percent of the total transportation costs (Section 47(4)). While other investor-owned BETC projects may have taken advantage of multiple incentives for primarily private gains, the benefits of transit systems accrue to the general public and are far reaching. The 75 percent cap would likely result in a reduction in one-to-one federal matching funds for numerous transportation systems, including the City of Corvallis’.
- Expand on the definition of “transportation services contract” (Section 50(4)) so that it includes core expenses that were previously eligible for credits, such as the repair of vehicles, fuel, personnel and administrative expenses. The current definition of a “contract entered into by a transportation provider that is related to a transportation project” would prohibit the aforementioned expenses from eligibility. This change, combined with the reduction in reimbursement rates, would hit many transportation providers hard in the short-term.
- Reassess the elimination of cogeneration facilities as eligible projects for the conservation BETC (Section 33(2)(a)). While few entities have used the BETC for cogeneration facilities over the past few years, cities have and are currently considering building such facilities at municipal wastewater treatment plants, where there is great promise in converting methane and biogas into energy. For example, the cities of Pendleton and Gresham are currently applying for a BETC for cogeneration, and would be unable to do so under the proposed legislation. *(Note: Both cities may be applying for tax credits under the renewable BETC, but ODOE was unable to answer questions about both projects because of the State’s furlough day)*
- Consider requiring ODOE to take into account the administrative fees paid by entities that received pre-certification prior to the May 12, 2011 deadline, but will be unable to meet the final certification deadline of July 1, 2011, and intend to reapply under the new BETC program. The City of Corvallis, for example, paid \$16,000 to ODOE with its pre-certification application, but will not meet the deadlines proposed in HB 3671. Since the application the city will submit will largely be identical to the one already submitted, and since ODOE will not be required to complete all of the work associated with the City’s earlier application, a percentage reduction in fees seems appropriate for those reapplying.

Again, thank you for the opportunity to comment on HB 3671-1. I can be reached anytime this weekend to discuss these recommendations further. I can be reached by phone at 443-564-3402, or by email at cfick@orcities.org. I will be checking email regularly.

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