

VIA E-MAIL

MEMORANDUM

To: Honorable Sen. Ginny Burdick and Rep. Jules Bailey, Co-Chairs Joint Committee on Tax Credits

From: Drew Hagedorn for the Oregon Transit Association

Date: June 10, 2011

Subject: Comments Concerning House Bill 3671 -1 Amendments

Co-Chairs Burdick and Bailey:

Thank you for the opportunity to comment concerning the -1 amendments to House Bill 3671. On behalf of the Oregon Transit Association, I register the following suggestions for your consideration.¹

1. Page 1, Section 1, (b): This section requires applications for pre-certification to be filed prior to May 12, 2011. This provision will not allow providers to apply for projects such as LTD's Student Transit Pass Program for next year that were previously eligible and assumed to be moving forward under the current sunset provision. LTD has developed the budget for next fiscal year on the decision of the 2009 Oregon Legislature that the student pass provision of the BETC legislation would sunset June, 2012. Consequently, not only has LTD included this revenue in its budget, but all of the qualifying school districts and students are assuming the pass program is valid thru July, 2012. A change of that date to June 30, 2011 allows for the next year's program as budgeted and planned.
2. There is no pass-through option identified for how these tax credits will be sold to private businesses to generate income for transit. We strongly recommend inclusion of language incorporating a pass-through provision.
3. Page 32, Lines 1-10: It is not clear whether the decreasing tax credit is a gross or net number. Right now the tax credit is 35% with 9.5% sold to a private business with a state tax obligation and the remaining 25.5% passed thru to the transit provider. If on Line 1 of Page 32 the total tax credit is 25% and 9.5% continues to be sold to a private business, the net gain to the transit provider is 15.5%. If in the last year of this program the tax credit is 10% there is no gain to the transit provider when the credit is sold to the private business. We recommend clarifying that the amounts are net.
4. Page 31, Section 47, (a): We would suggest clarifying whether currently pre-certified projects are subject to the existing credit amount of 35% or the proposed January 1, 2011 rate of 25%. Assuming the July 1, 2011 pre-certification deadline remains, an addition of "Any projects with applications for pre-certification received after July 1, 2011 for tax years beginning....." would allow for the current credit rate of 35% with the pass-through amount of 25.5% to apply to our current projects, i.e. grandfather in all projects filed prior to July 1, 2011 on the assurance of the 2009 legislature that this portion of BETC was going to sunset July 1, 2012.
5. While a maximum of \$10 million statewide per year has been placed on the funds available, there is no provision for how these funds will be apportioned. In the absence of language addressing apportionment, a "First come-First served" approach is the probable default. We would suggest

¹ NOTE: In an effort to demonstrate the need for our suggested revisions, we threaded specific examples throughout this document from Lane Transit District (LTD) that, in most cases, equally apply to our broader membership.

language directing ODOE, working with ODOT and *in consultation with transit providers*, to develop a strategy for the distribution of the tax credits so all qualifying transit providers have access to this revenue stream.

6. Page 34, line 4: The definition of "Transportation services contract" is unclear. Does this require an actual contract with a third party provider, like a local private non-profit, or is it any legal operational cost of a transportation provider, i.e. fuel, parts, labor costs, etc.? Any contract or legal operational cost would seem to be the simplest to administer, but then the apportionment formula becomes critically important. We would suggest clarifying language to address this issue.
7. Page 34, Section 50, (3): Transportation provider is defined as "a public, private or nonprofit entity". The only qualifying provision is that they have a transportation services contract serving members of the public. This is extremely vague and leaves the door open to any "person" (as stated on Page 34, Section 51, (1)) to submit applications under these new provisions even if they were not a generally accepted transit or transportation provider. As an example, would the Amtrak bus service between Eugene and Portland qualify for this tax credit?

Thank you very much for your time and effort considering OTA's policy concerns with the -1 amendments.

We look forward to working with you during the interim to identify a dedicated source of funding for transit. This issue will become increasingly important as the Transportation Conservation Program is phased out pursuant to these amendments.

Again, thank you for your public service and your attention to transit's vital role in Oregon communities.²

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