



MEASURE: HB 4090
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SUBMITTED BY: Linda Ludwig

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To: House Committee on Agriculture and Natural Resources

From: Linda Ludwig, Deputy Legislative Director, LOC

RE: -3, -4, -6 Amendments, HB 4090

Thank you very much for the opportunity to testify on the proposed amendments being considered for HB 4090. Our position is one of statewide perspective, i.e. how the amendments would affect 242 cities and the approximately 900 special districts in the state. We oppose them because of the consequences to all cities and districts, statewide, and the individual nature of each of these situations.

Overall, the proposed amendments are inconsistent with overall statutory regime that guides a city when removing a portion of a district from within the city boundary. They are also inconsistent with the statutory regime that guides "who votes" when a city requests that a district provide services inside city limits. Current applicable statutes provide a comprehensive and consistent body of law in this area, although we do note as with many subjects, the guidance is not contained within one area or even one chapter of law.

The amendments were drafted because of a specific situation between two fire districts and there have been comments from committee members that this is primarily a district to district fight. I need to note that the relationship between districts and districts in policy, practice and law becomes substantially different when districts are *inside city limits*.

Statutes support a city's legitimate interest in determining how many special districts provide the same service *in their city* for several reasons:

- There are administrative and cost efficiencies in having one provider- this more often than not results in property tax relief to city property owners;
- There are regulatory issues that increase with having more than one provider, such as differing Fire Marshall standards within the same city that directly affect building code requirements;
- There are benefits to residents when ensuring a consistent level of service throughout the community.

For example, upon incorporation, statutes are abundantly clear¹ and expressly state that cities may provide services inside their boundaries thru special districts.

To make the changes proposed in the -3 amendment Section 6 (ORS 222.520) that governs when a city removes a portion of a district from within existing city limits would be inconsistent with other parts of the

¹ ORS 221.034(A) Indicate that the proposed city must plan for and provide urban services in a cost-effective manner at the minimum level adequate to meet current needs and projected growth; (B),(C),(d) If..required to complete a public facility plan and a transportation systems plan, the proposed city must demonstrate the ability to provide urban services to meet current needs and projected growth. The proposed city may meet this requirement, in whole or in part, by establishing an agreement in principle with a city or a district, as defined in ORS 195.060, to provide the urban services.

statute. And as this issue has been brought to the courts by Marion County FD1, it would be premature for the Legislature to decide – let the court weigh in on this issue.

A last comment that I would note regarding district to district issues that are **outside city limits**, statutes provide very little guidance regarding district to district annexation procedures, particularly in the absence of valid urban service agreements, with the exception of mergers and consolidations.

Changing the voting requirements -3, (Section 7 (7)) to meet the proponent's objectives would have negative outcomes in other specific instances. The current standard requires the entire special district to vote to provide services, unless it is subject to a complete exemption; it also requires the entire city to vote to have the district provide services. The election is successful if both votes are affirmative. We believe this is the fairest voting construct to maintain as more often than not, a city contributes additional funds that subsidize services. An example of this would be the historical contributions that the City of Keizer contributed to the Keizer Fire District- approximately 20% of the city's annual transient lodging tax collections are appropriated to the district. These funds are ultimately paid from city revenues affecting city residents, citywide. Those residents deserve the opportunity to vote because of the implication of continued subsidy; both the -3 and the -4 amendments would deny those city residents an opportunity to vote.

Of significant importance and noted in Robert Blackmore's testimony are concerns with the amendment from a special district perspective that the amendment would "also force cities to maintain their own (*fire*) departments, when cities might be better served through special districts and cooperative agreements. This limitation would prohibit cities from lowering taxes for its citizens through cooperative service agreements and annexations into other service districts that might better serve its citizens at lower cost." A more myopic viewpoint might be expressed by other representatives of special districts, but by and large, the trend this past decade is for cities to relinquish providing services and have special districts provide them – rather than cities continuing to do so or eliminating district service territory.

I would note that as general purpose units of government, cities are responsible for the health, safety and welfare of its residents – the City of Keizer's actions have illustrated their shouldering of this responsibility by ensuring that their residents have continuity of service by making the removal of territory conditional on an affirmative vote by the district and by the residents of the city. That election is scheduled for March 13th, and should not be interrupted by legislative action.

Lastly, a question I would like to leave you with one that was raised by one of our members yesterday: Why would it not in resident's best interest to have a consistent, uniform level of service; to have the same district provide fire services, and have the same Fire Marshall? Why would the Legislature want to intervene in that outcome?