



P.O. Box 928 • Salem, Oregon 97308  
(503) 588-6550 • (800) 452-0338 • Fax: (503) 399-4863  
[www.orcities.org](http://www.orcities.org)

February 19, 2013

To: Rep. Brian Clem, Chair  
Rep. Kevin Cameron, Vice Chair  
Rep. Lew Frederick, Vice Chair  
Members of the House Committee on Land Use

From: Erin Doyle, Intergovernmental Relations Associate

Re: HB 2028 – Annexation for Extraterritorial Services

The League of Oregon Cities is an association of all 242 cities in Oregon. Oregon's cities are home to seventy percent of all Oregonians and within the next seven years are projected to be home to seventy six percent of all Oregonians.

As the committee has heard in prior hearings, Oregon has a proud history of the efficient development of urban areas based on fundamental goals and values of efficient use of land and planned urbanization. Part of this process includes extending services to land owners outside of a city's current territory, many of which are traditional urban services of water, sewer, public safety, fire, parks and recreation, and transportation. In order to abide by the spirit of the land use system set out in law, such urban services should only be provided if there is an intention to incorporate or annex an area into a city, regardless of why a service is provided in an area.

If an area within an urban growth boundary is growing to urban levels of density, it will effect the growth and development of a city. It is our understanding that the intention of this legislation is not to affect the ability of cities to require annexation consents when they are using traditional services as defined in ORS 195.065, but instead to address the concerns of specific land owners trying to obtain building permits. However, the language within this legislation broadly discusses "extraterritorial service" but does not limit the definition to these individual situations.

We would be willing to work to modify the legislation to insure that any changes to the current annexation process narrowly address these particularized circumstances without effecting how a city or local government ensures that urbanizing lands are being developed in a manner that is consistent both with state land use goals and with local

expectations of service levels. At this time, however, the legislation is too broad and removes a city's ability to insure that services are provided responsibly and fairly.

In addition, this legislation proposes to void all existing annexation consents related to services provided based on an intergovernmental agreement. We believe that this is a violation of the contracts provisions of the Constitution. The Contract Clause prohibits states from enacting any law that retroactively impairs contract rights, unless the law is a reasonable and narrowly tailored means of promoting an important and legitimate public interest. Under current statutes, local governments can enter into consent-to-annex contracts before providing extraterritorial services to landowners. Section 3 and Section 6 retroactively void a class of those statutorily-authorized contracts. This unilateral change, if permitted, would allow landowners to withhold consent to annexation without contractual liability to the local governments who are providing the landowners with extraterritorial services – a result directly within the prohibition of the Contract Clause.

Overall, we believe that this bill will prevent cities from providing services to landowners outside city limits because of the potential increase in costs and services without the expectation that the property will eventually become part of the city. Cities use intergovernmental agreements to manage relationships with our partners in the county and in special districts and to create expectations of the service provided to areas that are urbanizing around a city's boundaries. This legislation would interfere with good planning practices that are developed by all local entities to ensure that as densities increase and urban areas grow that the public health and safety are not impaired because of disagreements about service provisions.

Thank you for the opportunity to testify on this bill and we look forward to working with you to determine how to better address your concerns related to extraterritorial services.