Testimony of Leonard J. Goodwin
Before
House Revenue Committee
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Good morning, Chair Barnhart and members of the Committee. My name is Leonard Goodwin, and I am the Development and Public Works Director for the City of Springfield, and a member of the League of Oregon Cities Television, Cable and Broadband Committee. Thank you for the opportunity to speak to you today to discuss House Bill 2455.

When this bill was introduced at the request of Comcast, I was both gratified to see a leader in the telecommunications industry step forward to address one of the curious anomalies in the state plan for regulating the manner in which local governments exercise their home rule authority with respect to management of public right of way, and concerned that the manner in which Comcast chose to resolve the anomaly was unnecessarily complex and, in fact, retains an unfortunate preemption of local authority.

That concern would have presented me with a challenge were I to consider supporting that version of the bill. I am extremely pleased, however, to see that Comcast has been willing to consider an alternative approach to achieve the same result. That new approach, reflected in the -1 amendments, is considerably more straightforward and simple, and, at the same time, undoes the unfortunate preemption of local home rule authority. I am pleased to support, on behalf of the city, the approach reflected in the -1 amendments, and urge the Committee to adopt those amendments and send the amended bill to the floor with a "do pass" recommendation.

The -1 amendments simply repeal the provisions in ORS 221.505, 510, and 515, originally enacted in 1989, a completely different era in the field of telecommunications, in essence removing the preemption in those provisions which singled out a very narrow group of communications providers for special treatment and a special preemption of local authority. Once repealed, those carriers, the incumbent local exchange carriers, who were the "carriers of last resort" in the bygone days when telephony was the sole method of personal communication (before the internet, before cell phones), will stand on the same footing as every other provider of service, whether they be the competitive local exchanges carriers who have proliferated since the passage of the federal 1996 Telecommunications Act, or the even new class of providers, like Comcast, who provide service using the protocols of the internet.

This simple approach to leveling the playing field among all wireline providers is, I believe, clearly preferable to the much more complex approach in the bill as introduced, which was fraught with complex questions and uncertainties.

For example, the bill as introduced contained yet another defined term for telecommunications service providers, attempting to consolidate slight different versions in ORS 133.721 and two definitions in ORS 759.005, designed to cover different aspects of the industry, plus adds yet another definition to cover voice over internet protocol telephony. This multiplicity of definitions results from the Legislative Assembly's desire to keep up with the rapidly changing nature of the technology, a task that is unnecessary in this context if the Legislative Assembly simply removes the existing preemption. This challenge is compounded by the fact that new services and technologies appear virtually on a daily basis. Services such as security monitoring, business connectivity by secure internet service, connectivity by wireline between cellular towers and switches in the public telephone switched network are among the recent services. Since the introduced version,, in amendments to 221.510, defines "service" "in its broadest sense, yet in amending section 221.515(3)(a) refers to service as "telecommunications service as telecommunications service and interconnected voice of Internet protocol services, it is not clear whether such services would, or would not, be within the definitions.

It creates a new definition of "gross revenues" which may be different from the definition that already exists in ORS 221.450. AS introduce, the bill would raise a question as to the status of existing franchises which, in many cases, specify the rate contained in current law. Would these contracts be impaired by the change in the basis contain in the statute or would they continue in effect until their expiration dates?

By contrast, the -1 amendments are not self-implementing. They simply remove a barrier to local action. In most cases, local jurisdictions would need to act affirmatively to modify their fee and tax mechanisms. There are only a handful of jurisdictions that, like Springfield, have already modified their codes to simplify their practices by adopting a single right of way use fee that applies to all. These jurisdictions are presently barred from collecting that fee from the incumbent local exchange carriers, and passage of the bill would allow them to enforce their existing ordinances uniformly.

Thank you, again, for the opportunity to speak today. I will be happy to try and answer any questions you might have.