



**OREGON JUDICIAL DEPARTMENT**  
**Office of the State Court Administrator**

February 12, 2014  
**(SENT BY EMAIL)**

The Honorable Arnie Roblan, Chair  
Senate Committee on Rural Communities and Economic Development  
900 Court Street NE  
Salem, OR 97301

Re: SB 1578

Dear Chair Roblan and Members of the Committee:

The Oregon Judicial Department has identified an issue with SB 1578 that we would like to bring to your attention. The bill establishes an expedited industrial siting process for cities and counties with high unemployment. A city or county may adopt an ordinance to allow expedited siting. A city or county with such an ordinance may approve an application to build certain facilities notwithstanding statewide land use requirements.

A person adversely affected by the decision on the application may seek judicial review in circuit court by way of a writ of review under ORS 34.010 to 34.100. Section 6 of the bill amends ORS 34.100 to require the circuit court to give priority to those proceedings over "all other matters before the circuit court."

We fully understand and appreciate the need to increase business activity across Oregon and especially in our most economically distressed communities. We believe, however, that the wording added to ORS 34.100 will have significant, unintended consequences and that different wording can help you achieve your goal without these consequences.

Pursuant to Section 6, a court is required to make the writ of review the number one priority over all other matters on its docket, including all cases that already must be expedited to meet federal constitutional, state constitutional, and state statutory mandates. For instance, the writ of review would take priority over an urgently needed Family Abuse Prevention Act proceeding, a family law proceeding involving deployed military parents, an elder abuse proceeding, a juvenile dependency shelter care hearing, a mental illness commitment hearing, or a criminal matter facing speedy trial issues.

There are other approaches used in statute that you can use to tell the courts that these writ of review proceedings must proceed as soon as possible. Since this bill deals with land use issues, we recommend the model used in ORS 197.651(11), which requires the court to act "with the greatest possible expediency." This wording is a clear message to the court to move the matter quickly, but it also allows the court to accommodate other priority matters that are on

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its docket. A second model, which is used in ORS 105.149(1)(a) (forcible entry and detainer proceeding), requires a hearing "as soon as practicable." A third model, which is used in ORS 109.797(3) (expedited child custody enforcement), requires a hearing "as soon as reasonably possible."

We believe that a careful choice of words in Section 6 can help you achieve your goals while giving the circuit courts the flexibility they need to manage the many time sensitive public safety and child welfare cases that they process daily.

Thank you for taking the time to consider our comments.

Sincerely,

A handwritten signature in black ink, appearing to read "Bruce C. Miller", with a horizontal line extending to the right.

Bruce C. Miller  
Senior Staff Counsel

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