



Oregon

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To: The Honorable Senator Lee Beyer, Chair
Senate Committee on Business and Transportation

From: Matthew Crall, Planning Services Division Manager
Department of Land Conservation and Development

Regarding: Senate Bill 120

SB 120 proposes to change criteria for determining whether a proposed transportation project meets “vehicle mobility standards” in land use and ODOT rules. This bill is unnecessary since the intent of this bill is to simply restate current requirements in state rule. However, the bill is drafted in a manner that will create confusion and will not achieve what was intended. This department and ODOT have met with a representative of the sponsors and have indicated our concerns. We have heard that the sponsor may propose clarifying amendments but, we have not yet seen any amendments from legislative counsel.

Background: If a proposed change to local planning and zoning would cause transportation impacts that would be inconsistent with adopted transportation plans or performance standards for congestion or safety, then state rules require that these impacts be mitigated. The rules allow such mitigation to occur anywhere along a transportation corridor provided the mitigation is effective, and regardless of whether the mitigation is proposed to occur in the same jurisdiction as the proposed land use change. In 2011, LCDC adopted amendments (in response to SB 795) that make this flexibility explicit by giving local governments another option:

“Providing improvements ...at other locations, if ... the system-wide benefits are sufficient to balance the significant effect, even though the improvements would not result in consistency for all performance standards.” (OAR 660-012-0060(2)(e))

Because “other locations” is not limited any way, this provision would allow a local government to accept mitigation at locations outside its boundaries. DLCDC understands that the sponsors believe that current rules allow mitigation only in the same jurisdiction as the proposed land use change. That interpretation is erroneous; current rules do not impose such a limit.

The Oregon Transportation Commission has adopted the Oregon Highway Plan (OHP), which includes performance targets for state highways. These targets are important when ODOT and local governments evaluate impacts to transportation facilities that may be caused by proposed amendments to local comprehensive plans and zoning. Such amendments must mitigate impacts.

The OHP was amended in 2011 (in response to SB 795) to allow alternative performance targets for state highways in order to provide a broader range of alternatives. Under current rules, performance targets may be set to measure performance along an entire corridor, rather than in a particular jurisdiction.¹

To summarize, this bill is confusing and as such may cause unintended consequences. For example, LCDC does not currently review local government proposals for transportation projects, but the bill would require LCDC to authorize a local government to undertake a transportation project. It is not clear under what circumstances this review would be required nor is it clear which procedures and standards would apply. Finally, current state rules already provide a wide range of latitude to deal with transportation and land use impacts.

Thank you for considering this testimony. If you have questions, please contact Bob Rindy, DLCD Legislative Coordinator, 503-934-0008, bob.rindy@state.or.us, or Matt Crall, DLCD Planning Services Division Manager, 503-934-0046, matthew.crall@state.or.us.

Copy: Greg Macpherson, LCDC Chair

¹ LCDC does not adopt performance standards for transportation facilities. Performance standards for other transportation facilities besides state highways are adopted by local governments.