

The Association of Oregon Counties Opposes SB 359

To: Senate Judiciary Committee

From: Mark Nystrom, Policy Manager, Association of Oregon Counties

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The Association of Oregon Counties opposes SB 359 and the limits put on land use appeal fees. The state-wide land use system is set up to be implemented locally, and with 36 counties, there is great variation around the state. However, one issue is consistent from county to county – they go through great lengths to ensure that Goal 1 is met and that there is robust citizen involvement. Ensuring active citizen involvement can be expensive and every county has different demands on its general fund dollars.

Land use appeals are handled differently in every county. Some counties use volunteer citizen boards while others choose to use independent land use appeals officers. These officers provide an unbiased opinion from an expert in the field, but can cost the county greatly. Each county has made the decision for itself in how they handle the appeals in accordance with Oregon state land use laws and this bill would limit a county's ability to do so.

Some counties have the ability to pay for the majority of the cost of appeals out of their general fund while others need to have a fee-based system to cover the costs. SB 359 would eliminate choices for counties that have chosen to use fees to cover the expenses of the appeal. The \$1,000 limit would barely cover the cost of a land use attorney for a day's work. With complicated appeals, the county's expenses can run over \$5,000. SB 359 would force counties to either give up their current process, use general fund dollars to cover the extra costs, raise fees for other services, or pass the appeals on to LUBA and lose local control. None of these options is acceptable to Oregon Counties.

- Forcing counties to give up their current process flies in the face of local decision making and local control. The state chose to give the counties this option and SB 359 would take that away.
- Shifting funds from general fund only serves to short other programs at a time when many counties are in fiscal distress and only have discretion over a small fraction of their spending. When there is talk about closing jails, underfunded mental and public health programs and losing sheriff's deputies, this adds to the ongoing burden of county budgets.
- Land use appeal expenses need to be covered somehow. If not from appeal fees or general funds, then the county will need to turn to raising other fees to cover these costs. This decision is not equitable nor is it politically feasible for county commissioners.

- Passing the appeal to LUBA again denies the county the right for local control. In addition, the fees that LUBA charges for an appeal does not cover the state's cost; therefore SB 359 will shift more costs to the state. Counties will not choose this option because they lose control over local decision making, but will still bear costs in defending the earlier land use decision. This is not an acceptable solution.

The Association of Oregon Counties recognizes the goals of SB 359. Counties believe that all citizens should have access to the land use system and financial constraint should not be a limiting factor. However, SB 359 does not provide a workable solution to this problem, it simply shifts the cost to local governments that are already struggling financially. Looking at other options such as state-funded low income assistance for those filling appeals would be much more equitable for all. These and other options should be put on the table and AOC will commit to working with SB 359 advocates to find a workable solution.

Please contact AOC Policy Manager Mark Nystrom with any questions.