

**Testimony by Wilsonville Mayor Tim Knapp
in Opposition to HB 3322:**

**Proposed New Public-Contracting Requirements
Provide No Tax-Payer Protections, Increase Costs**



For Public Hearing Scheduled on March 24, 2015, Before the
House Committee On Consumer Protection and Government Effectiveness

To Chair Fagen, Vice-Chairs Buehler and Rayfield, and Members of the Committee:

The City of Wilsonville opposes HB 3322 as introduced. The bill as proposed increases government costs without public benefit, can harm already-funded capital projects, fiscally impacts city utilities and ratepayers, presents unnecessary obstacles to innovative public contracting and is unnecessary because of current practices and is overly broad.

HB 3322 Increases Government Costs Without Benefit

Like most Oregon cities, the majority of major public capital projects—often infrastructure improvements related to water/water utilities and road/sidewalk projects—in the City of Wilsonville are contracted out to private-sector firms for construction. Major projects like road and intersection construction and large sewer projects are performed by companies with specialization in a given field.

HB 3322 provides for a complicated and time-consuming process to provide a range of essential government services without a benefit to the tax-paying public. The additional required studies and documentation proposed by HB 3322 replicate in part prior steps in the capitol-projects planning process and also add-on new costs for administering after completion of the planning process.

HB 3322 Can Harm Already-Funded Capitol Projects

Many public major capital-improvement projects are funded with a mix of sources that may include federal and state funds and city-bonded proceeds. For projects that are already underway, HB 3322 portends to create new administrative and operational costs that can directly impact major capitol-project budgets, and thereby directly impinge on crucial financing arrangements with federal and/or state agencies and bond-holders. HB 3322 creates new costs that could harm projects with external financing arrangements.

HB 3322 Fiscally Impacts City Utilities and Ratepayers

As a municipality that provides water and wastewater utility services, the City of Wilsonville is concerned that HB 3322 would lead to an increase in rates to city utility

customers to recoup new administrative costs related to capital projects. As written, HB 3322 would create significant administrative costs to city utilities.

HB 3322 Presents Unnecessary Obstacles to Innovative Public Contracting

The City of Wilsonville decided in 2009 to pursue the Design, Build and Operate (DBO) contract-procurement process for a complete rebuild/renovation of our existing wastewater treatment plant, including contracting out the plant operations for a period of 15 years. Prior to going to the DBO model, the City undertook extensive public review of the costs and options for upgrading and operating the City's wastewater treatment facility. After a thorough public-vetting process that included open-house events and public hearings, the City found substantial long-term costs-savings for ratepayers during all phases of the proposed DBO contracting process.

A DBO contract provides stronger continuity throughout the process with little chance of disconnect or miscommunication among the three components. One firm designs, builds and operates the plant; if anything goes wrong, no outside party can be blamed.

A DBO contract provides life-cycle cost-savings in equipment, design, construction and maintenance of the plant. Operational considerations and anticipated maintenance costs are dealt with early-on in the DBO contracting process. The DBO firm assumes risks involved with not meeting EPA or DEQ permitting, performance or regulation standards. In total, a DBO contract can provide a municipality and ratepayers with substantial public benefit that provides the public with greater certainty for construction, operations and long-term maintenance costs.

Attempting to meet the proposed requirement of HB 3322 "to demonstrate that procurement will result in contracting agency incurring at least 10 percent less in costs than contracting agency would incur in performing services with contracting agency's own personnel and resources" with a major-capitol project like a wastewater treatment DBO is impractical and impossible since the DBO process is so extensive in scope and time, combining capital-improvement construction and operations/maintenance into one public product — one that is designed to provide the public with the benefit of certainty of rates. The City does not provide the full breadth of DBO services in an integrative fashion and therefore cannot compare DBO costs with the "agency's own personnel and resources" since the City does not possess the requisite personnel and resources that are provided by the DBO contractor.

HB 3322 Is Unnecessary Because of Current Practices

HB 3321 is unnecessary because city utilities and municipalities already publicly notice public service contracts offerings and as noted in the bill, public contract information is subject to public records law and related public meetings law as required.

HB 3322 Is Overly Broad

HB 3321 is overly broad in new and unnecessarily burdensome administrative procedures, to the point that it hinders the public-contracting process by adding additional time to the process, which will result in delays and increased cost.

The City of Wilsonville respectfully urges a “Do Not Pass” vote on HB 3322 by the House Committee On Consumer Protection and Government Effectiveness. Thank you for your time and consideration.

Sincerely,



Tim Knapp, Mayor
City of Wilsonville