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Sent: Sunday, April 05, 2015 9:53 PM
To: Sen Edwards C
Cc: Sen Johnson; Sen Prozanski; Rep Clem; Reiley Beth
Subject: SB 716

Senator Chris Edwards,
Chair, Senate Committee on Environment and Natural Resources
Salem, Oregon

RE Senate Bill 716

Dear Senator Edwards:

This is to respectfully urge you to vote "No" on SB 716 in committee because SB 716 would inappropriately turn the Legislature into a "Super Variance Board" for land use decision-making, because SB 716 is arbitrary, and because SB 716 likely ultimately will produce unfair results.

Suppose the DEQ denied an application for a waste discharge permit by a new manufacturing plant on the banks of the Mary's River in Benton County because DEQ found that the proposed plant's effluent would violate state water pollution control laws. Suppose further that a member of the Senate strongly supportive of the plant introduces a bill that allows DEQ, notwithstanding existing state law, to authorize such a plant on the Mary's River, on the condition DEQ withdraws stretches of the Luckiamute and Willamette rivers in Benton County from eligibility for such plants in the future. The bill introduced by the senator supportive of the plant does not amend the state water pollution control laws that, in DEQ's view, compelled DEQ to deny the application, thereby denying similar treatment in the future to competing businesses. Such a bill would not be taken seriously. But that is basically the kind of bill SB 716 is.

Likely a governor interested in even-handed, orderly, predictable administration of state law would consider vetoing such a "super variance" approach.

SB 716 would turn the legislature into a Super Planning Commission. Once it starts, where does it stop? To whom in a similar position can "No" be said, after the door has been opened -- not to change the law, but to ignore it and grant variances?

Cities, counties, METRO, LCDC -- within the framework of law set by the Oregon legislature, and exercising the discretion allowed by state law -- applied the various factors set by law to determine urban reserves, rural reserves and industrial land supply in the Portland region, a region with over 40% of Oregon's population, and a region which strongly supports Oregon's land use law.

SB 716 does not address, let alone amend, the state laws which determine industrial land supply and urban and rural reserves. Those factors relate to adequacy of land supply in particular 10-year, 20-year or 50-year time frames, as well as locational factors such as agricultural soil type, infrastructure plans, and stability of commercial farm areas. If a majority of legislators in any session believe local or state agencies are administering state laws in ways that are not in the state's interest, changing those laws -- including any or all of the above factors -- is obviously an appropriate exercise of legislative power. But SB 716 does not change the law. Rather SB 716 ends runs existing law and simply allows three of the state's county's to add one large-lot industrial parcel, 150-500 acres in size, regardless how such additional acreage would relate to existing law, or, how the fact of that additional acreage which does not comply with existing law would affect future proposals to increase industrial land supply -- which future proposals would have to comply with existing law. Such a circumstance would work an almost discriminatory unfairness on future industrial land applicants.

The harm to public confidence in the evenhanded administration of the land use law caused by arbitrary and discriminatory end runs of the law proposed by SB 716 would be compounded in the public mind in the event a record can be made that those likely to benefit from an arbitrary legislative variance have made significant campaign contributions to legislative candidates.

Thank you for your consideration.

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