

Date: February 28, 2017
To: Senate Finance & Revenue Committee
From: The Association of Oregon Counties
Subject: Senate Bill 123

Please add to the records of the Senate Finance & Revenue Committee these comments related to Senate Bill 123, which is on the committee's agenda for public hearing on February 28, 2017.

AOC opposes Senate Bill 123

SB 123 would authorize formation under ORS 198.010 of a new type of special district called a "children's special district". The district would provide services outside of school hours to students in kindergarten to grade 12, and broadly defines these services to include education, civics, culture, arts, music, physical recreation, health, well-being, technology, and development of skills. An elected five-member district board shall govern with various powers, including levying property taxes.

The children's special district has extraordinarily broad authority, with an open range of potential programs, all appearing very similar to those that could be provided by a school district. Could the goals of this concept be achieved by working with the local school district board to broaden its curriculum?

Several of these functions could also be more appropriately provided by a park and recreation district or a library district or a health district, already authorized by ORS 198.010.

The new district, under Measure 5 (1990), could well cause compression to levies of overlapping local taxing districts, both school districts and local governments. ORS 310.155 provides:

- (1) For purposes of ORS 310.150, **taxes are levied or imposed to fund the public school system** if the **taxes** will be used **exclusively for educational services, including support services, provided by any unit of government**, at any level from prekindergarten through post-graduate training.
- (2) As used in this section:
 - (a)(A) **"Educational services" includes:**
 - (i) Establishment and maintenance of preschools, kindergartens, elementary schools, high schools, community colleges and the public universities listed in ORS 352.002.
 - (ii) **Establishment and maintenance of** career schools, adult education programs, **evening school programs** and schools or facilities for persons with physical, mental or emotional disabilities.
 - (B) **"Educational services" does not include community recreation programs, civic activities, public libraries, programs for custody or care of children or community welfare activities if those programs or activities are provided to the general public and not for the benefit of students or other participants in the programs and activities described in subparagraph (A) of this paragraph.**

(b) **“Support services”** includes clerical, administrative, professional and managerial services, property maintenance, transportation, counseling, training and other services customarily **performed in connection with the delivery of educational services.** [*Emphasis added*].

In other words, the educational and civic activities, libraries, and community recreation programs provided by a children’s special district **are** educational services, because they would be operated for the benefit of the participants in the outside-of-school-hours programs. As such, levy proceeds would be categorized as educational under the Measure 5 rate limit. Moreover, the support services performed in connection with delivery of these educational services would also fall under the Measure 5 rate limit for education.

The Oregon Supreme Court held that limiting categorization of mixed use levy proceeds to only the education or general government category violates requirements of Section 11b, Article XI of the Oregon Constitution. Urhausen v. City of Eugene, 341 OR 246 (2006).

Thus, the bill would raise the question of which exact portions of taxes levied by a children’s special district must be categorized under Measure 5 rate-limits as education or as general government. Not simply a headache for county assessors, but a dispute that could lead to litigation.

In FY 15-16 losses to compression plagued schools particularly: \$84.8 million out of the \$156 million total revenue for public services lost to compression.

AOC praises the intent of SB 123, but the services it would provide would be better done by existing districts.