



# Oregon Communities For A Voice In Annexations

Promoting & Protecting Citizen Involvement in Land Use Issues

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February 28, 2017

To: The Honorable Brian Clem, Chairman, and members  
House Committee on Agriculture & Natural Resources

**Re: HB 2040, Testimony of OCVA**

Dear Chairman Clem & Committee Members:

We have not been able to get clarification on our question to staff regarding Section 2(3)(b) of this bill as of this writing. Accordingly, we are not able to support HB 2040 even though it contains language we have wanted for years. That language is a modified rewrite of our HB 2938 that passed the House 59:1 in 2015 only to be sabotaged in the other chamber.

Section 3b appears to give cities a way around the prohibition against forced "hostage" annexation contained in the bill. **As we interpret Section 2(3)(b), if "consent to annex" in exchange for the provision of the referenced service(s) is a requirement of a city's comprehensive plan, IGA or other local agreement, the city will be allowed to ignore the foregoing prohibition.** If we are correct in our interpretation, then this negates the entire purpose of the bill and we could not support it.

**In our opinion, the Sections 2(3)(a) and 2(3)(b) qualifiers should be removed.** This would result in a straightforward, well-understood partial remedy for the abuse of "hostage" annexations.

In summary, our arguments for the above-referenced remedy are fourfold:

1. **Lack of Necessity For Annexation:** We have never seen or heard any legitimate reason why a city needs to require consent to annexation in exchange for providing a county service extraterritorially (such as building permits) as a proxy for the county;
2. **Legal Basis:** On January 9, 2006, Legislative Counsel issued an opinion that states, "**A city may require consent to annexation only for delivering its own services, not for acting as an agent of the appropriate service provider.**" Obviously that word has not gotten out to Oregon cities;
3. **Fairness:** Why should citizens be forced to have their property taxes as much as doubled and face \$thousands in assessments simply for obtaining a simple service such as a building permit? **PLEASE PUT YOURSELVES IN THE POSITION OF THAT CITIZEN: HOW WOULD YOU FEEL?**

4. **History:** HB 2938 in 2015 passed the House 59:1 because it was a fair, legal, common sense measure that was subsequently treated extremely unfairly in the other chamber. HB 2040, being a similar measure if amended as suggested, is also fair, legally-defensible and corrects what we consider to be an unwarranted abuse of cities' authority.

We would also ask that you consider inserting the word "*new*" before "*water*" in Section 3c to prevent another "Lincoln City" event and that "*new*" apply to all the specifically-named services listed in that section. That city had been providing water service extraterritorially **for nearly 3 decades** (and, as we were told, charging double the in-city rate) before demanding annexation in exchange for continuation of that service. We do not think that was or is fair, as long as the city is being compensated for the services provided.

Thank you again for your consideration. For any member not familiar with the HB 2938 – SB 1573 connection I'll be happy to elaborate.

Respectfully,

*Jerry J. Ritter*

Secretary & Legislative Affairs Representative  
OCVA