



**Testimony by Wilsonville Mayor Tim Knapp Opposing SB 840:
*Proposed Legislation Harms Local Taxpayers by Subsidizing Utilities,
Jeopardizes Local Government Finances and Public Services***

Scheduled for public hearing on March 8, 2017, before the
Senate Committee on Finance and Revenue

Chair Hass, Vice-Chair Boquist and Members of the Committee:

On behalf of the City of Wilsonville City Council, I am testifying in opposition to SB 840 that threatens city authority to manage and receive fair and just compensation for use of municipal public rights-of-way, which provide a major revenue source for local governments.

SB 840 represents an untested and total re-write of Oregon law relating to how cities manage and derive revenues from their public rights-of-way and is bound to inflict unintentional consequences detrimental to our constituents and local economies. SB 840 contradicts cities home-rule authority that has been consistently upheld in the courts as a guarantee of the Oregon Constitution.

SB 840 would restrict franchise fees charged by cities or other governments to a misdirected “cost recovery” standard that does not recognize the actual costs, including lost opportunity costs, and the value of fully assembled, integrated public rights-of-way. Public resources were used over time to acquire and manage public rights-of-way based on an expected rate-of-return that SB 840 up-ends. SB 840 discourages governments to expend precious public funds on acquiring rights-of-way that allows others to use at a subsidized rate.

The public owns and maintains the resource of rights-of-way, maintaining not only pavement and grass on top, but also maintaining standards and locational maps for what goes below ground so incompatible uses are separated and various companies or sectors don't unjustly monopolize the public right-of-way, thereby pushing out a competitor or needed service. Additionally, fully assembled bits of property that constitute the public rights-of-way are of considerable value that would be costly and time-consuming for each utility to acquire.

The City of Wilsonville charges standard franchise fees to all utilities—private or public—on a non-discriminatory basis. The City’s franchise fees are applied in an equitable fashion to municipal-owned utilities, including city water and waste-water utility services.

This attempt to write new law could significantly affect the relationships cities have with utility service providers while profoundly impacting local-government revenues used to provide important public services to Oregon communities. Occupancy of municipal right-of-way by another entity—public or private—should be considered a standard cost of doing business built into financial projections as one of many costs. SB 840 presents a rhetorical question: Why should such entities be able to use and profit from local right-of-way for free or a reduced rate when they had no participation in the acquisition or management of the valuable public right-of-way asset?

Both public- and private-sector entities are “consuming” a public good in the form of using a public right-of-way, and there are both real and societal costs and value that the franchise fees attempt to encapsulate.

The City of Wilsonville respectfully urges a DO NOT PASS vote on SB 840. Thank you for your time and consideration.

Sincerely,

A handwritten signature in blue ink that reads "Tim Knapp". The signature is written in a cursive, flowing style.

Tim Knapp, Mayor
City of Wilsonville