



TO: Senate Committee on Finance & Revenue
FROM: Cory Crebbin
Public Works, City of Medford
DATE: March 8, 2017
RE: SB 202 & SB 840 Opposition

First and foremost, we believe that the Oregon Constitution home-rule language and Medford's Charter allow the City to make decisions and determinations regarding municipally owned rights-of-way.

Medford's Charter

Section 4. POWERS OF THE CITY. The city shall have all powers which the constitutions, statutes, and common law of the United States and of this state expressly or impliedly grant or allow municipalities, as fully as though this charter specifically enumerated each of those powers.

Section 32. CONTRACTS AND FRANCHISES. The city shall not be bound by any deed or by any contract, unless the contract or deed has been authorized or ratified by ordinance of the council, or, where within the province of the board of water commissioners, by resolution of the board of water commissioners. Except leases of real property and the covenants and undertakings therein, no contract or franchise shall be entered into by the city binding it for a longer period than ten years; provided, that the city shall have authority to enter into contracts not exceeding twenty (20) years in duration with other municipal or quasi-municipal corporations for the construction, operation, or maintenance of public systems and facilities for domestic water supply or sewage collection or treatment or other public utilities to serve areas outside the city. The city shall not enter into any lease, as lessor or lessee, for a period longer than fifty years. No franchise shall grant any exclusive right or rights. This section shall not be construed to prevent the issuance of bonds of the city otherwise authorized for a longer period than ten years if, in the opinion of the council, such longer term will be for the best interests of the city, but no bonds of the city shall be issued for a longer period than thirty years.

Second, this is a local issue and should be handled locally. Rights-of-way often are one of a local government's largest property holdings and one of its most valuable and commonly used public assets. As a result, rights-of-way play a central role in our city. Medford manages the public asset to the benefit of our citizens and we receive just and reasonable compensation for doing so with the citizens being the beneficiary.

Third, some specific thoughts to each bill:

SB 202 - Prohibits city from imposing charge on other public bodies for use of city's rights-of-way that exceed city's actual, direct costs. The bill limits the costs to 'administrative' costs, yet the impacts of utilities on pavements is way more than paperwork. For instance, extensive research demonstrates that utility trenches reduce the pavement life by about 40%. That **impact** is a large cost this bill does not address. Cities need to be able to compute the Net Present Value of the pavement life reduction and charge that in addition to the right-of-way permit fees and other administrative costs.

As further illustration of the example, consider a utility that trenches in a line a block long. The right-of-way permit fee is currently \$48. If that pavement had 10 years of remaining life, after trenching it only has 6 years of remaining life. If an overlay of that block will cost \$100,000, then the overlay expense, based on net present value, goes up by \$11,618 (assuming 4% rate of return). That is a real impact

SB 840 - Caps franchise agreement payments and privilege taxes imposed on utilities for purpose of occupying streets, highways and other public property within cities at five percent of gross revenue earned by utility within city. The cap set forth in the bill is 5%, but the City of Medford's current agreement with Pacific Power is 7%. That price was negotiated based on particular needs, geography and material provisions. There is a contract between the parties and the State should not have the power to nullify in an effort to establish a one-size fits all solution.

The City of Medford urges you to allow us to continue managing our rights-of-way as we believe is best for our citizens