

March 8, 2017

MMC

**Metropolitan
Mayors
Consortium**

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City of Beaverton

Mayor Brian Hodson

City of Canby

Mayor Jeffrey Dalin

City of Cornelius

Mayor Gery Schirado

City of Durham

Mayor Ted Tosterud

City of Fairview

Mayor Peter Truax

City of Forest Grove

Mayor Tammy Stempel

City of Gladstone

Mayor Shane Bemis

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Mayor Lori DeRemer

City of Happy Valley

Mayor Steve Callaway

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Mayor Ken Gibson

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Mayor Kent Studebaker

City of Lake Oswego

Mayor Mark Hardie

City of Maywood Park

Mayor Mark Gamba

City of Milwaukie

Mayor David Hatcher

City of North Plains

Mayor Dan Holladay

City of Oregon City

Mayor Ted Wheeler

City of Portland

Mayor Heather Kibbey

City of Rivergrove

Mayor Krisanna Clark

City of Sherwood

Mayor John Cook

City of Tigard

Mayor Casey Ryan

City of Troutdale

Mayor Lou Ogden

City of Tualatin

Mayor Russ Axelrod

City of West Linn

Mayor Tim Knapp

City of Wilsonville

Mayor Timothy Clark

City of Wood Village

Chair Mark Hass

Senate Committee on Finance and Revenue

900 Court Street NE, Salem, OR 97301

Re: Opposition to SB 202 & SB 840

Dear Chair Hass, Vice-Chair Boquist and members of the Committee,

The Metropolitan Mayors Consortium, representing the mayors of twenty five cities in the Portland Metropolitan area, opposes SB 202 and SB 840. The public right-of-way is one of the most important assets owned by many cities, and protecting and maintaining this critical public asset demands considerable time and resources. Furthermore, charging utilities for the use of this public asset represents one of the most important ways that local governments fund police and fire service. The Metropolitan Mayors Consortium strongly urges the Legislative Assembly to unequivocally oppose, all actions intended to further constrict or preempt local authority to impose right-of-way fees on utility providers both public and private.

SB 202 and SB 840 deprive public assets of critical resources

Fees assessed to utility providers for the use of the public right-of-way are a critical source of local funding. Across the state, these fees are the second largest source of revenue for cities, second only to property taxes. At present levels, franchise fee revenues continue to fall well short of the true costs of managing the right-of-way. Coupled with frozen tax rates, limiting this resource could have severe implications for the critical public services that cities provide. Metro-area cities spend large portions of their general fund revenues on Police, Fire and Emergency Services, and a significant reduction in revenue from right-of-way fees could directly threaten the safety and quality of life of many Metro-area residents.

In addition, the language in both bills related to “administrative costs” dramatically undervalues the true cost of having this infrastructure in the right-of-way. With high-voltage electric lines, large natural gas mainlines, and the public’s drinking water traveling through miles of right-of-way, cities must be equipped to protect those critical assets from human-caused or natural disasters. Crippling public safety services by dramatically reducing and limiting right-of-way revenue streams would immediately threaten the ability of local governments to protect these common resources and respond in emergency situations.

SB 202 and SB 840 violate home rule authority

As articulated in ORS 221.415(1), the Legislative Assembly reaffirms the authority of cities to regulate the use of municipally owned rights-of-way and to impose charges for the use of such rights-of-way. Contrary to the spirit of this statute, SB 202 and SB 840 seek to prohibit cities from collecting reasonable fees from arbitrarily-identified system users providing utility services. Rather than affirming home rule authority these bills erode that basic portion of governance in Oregon.

SB 202 and SB 840 set a dangerous precedent

State statutes limit the amount cities may charge most utility companies; further restricting fees chargeable to public service providers beyond the limitations in place for private sector service providers sets a dangerous precedent with significant revenue and policy impacts for public safety service delivery across the state. Allowing public providers to circumvent system contributions is *de facto* implied consent to the unilateral privatization of public property. From transportation maintenance fees at the household level to right-of-way fees at the company level, state statutes permit cities to impose reasonable fees on all system users. If households and private providers are expected to contribute to right-of-way management, public providers should be held to the same standard.

SB 202 and SB 840 compromise public safety and local governance

SB 202 and SB 840 run contrary to current legislative practices, violate home rule authority and deprive cities of resources needed to provide critical services. Furthermore, these bills perpetuate ambiguous and inconsistent standards for public bodies. For these reasons, the Metropolitan Mayors Consortium urges the Senate Committee on Finance and Revenue to oppose SB 202 and SB 840. Thank you for your consideration.

Sincerely,

The Metropolitan Mayors Consortium