



CITY MANAGER'S OFFICE

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March 7, 2017

Chair Mark Hass
Vice-Chair Brian Boquist
Senate Committee on Finance and Revenue
Oregon State Capitol
900 Court Street NE
Salem, Oregon 97301

SUBJECT: Testimony of the City of Salem in Opposition of Senate Bill 202 and Senate Bill 840

Dear Chair Hass, Vice-Chair Boquist, and Committee Members,

Thank you for the opportunity to provide comments regarding SB 202 and SB 840 addressing a city's authority to manage its public rights-of-way. The City of Salem strongly opposes both bills. These bills threaten city authority to manage the public rights-of-way and to receive fair and reasonable compensation for this use.

Regarding SB 202, the City of Salem opposes legislation that limits a city's ability to charge other government agencies for the use of the public rights-of-way to no more than cost recovery. The agreements between cities and other government agencies for the use of the public rights-of-way are local issues and should be dealt with and negotiated at a local level. The City of Salem has a history of success in this area.

In 2003, the City of Salem negotiated an agreement with the State of Oregon for the use and occupation of the public rights-of-way for the State's own Salem Metropolitan Area Network, (the State MAN). For over 13 years, the City and State have enjoyed a mutually beneficial relationship which is only maintained through the City's authority to manage its public rights-of-way and to receive fair and reasonable compensation for this use.

The City is also currently negotiating an agreement with the Salem-Keizer School District for use of the public rights-of-way for a project that will connect 65 schools and administrative buildings to a single district-owned network. The City is able to successfully negotiate this unique agreement by retaining its authority to manage the public rights-of-way in Salem.

Furthermore, the City is a model of fair and equitable treatment of all users of the public's rights of way. In 1990, the City established a water and sewer utility franchise fee charging the City's *own* utility for the use of and operation in the public rights-of-way.

Regarding SB 840, again, the City of Salem opposes attempts to pre-empt or dilute the City's home-rule authority to manage the public rights-of-way and to determine and collect just and reasonable compensation on behalf of the public for this use.

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The public rights-of-way are one of the City's most valuable assets. As has been consistently held up in Oregon courts, cities should retain the right and authority to manage those assets for the benefit of individual communities. SB 840 seeks to undermine this authority in several ways, including, but not limited to:

1. Limiting cities' ability to determine the party responsible for relocation of facilities in the public rights-of-way;
2. Restricting cities from assessing permit fees for construction and repairs of a facility of the utility;
3. Capping franchise fees and limiting cities' ability to negotiate fair and reasonable compensation for use of the public rights-of-way;
4. Seeking to pre-empt existing agreements negotiated in good faith by both cities and utilities; and
5. Directly repealing the "independent basis of legislative authority granted to cities in this state by municipal charters," as provided for in ORS 221.415.

Franchise fees are the City of Salem's second largest external revenue source for the City's General Fund, after property taxes. Property taxes alone only cover 52 percent of the City's General Fund budget (2017), which is insufficient to cover the cost of providing Police and Fire services. Franchise fees are a necessary part of the equation as Salem struggles to provide the services our community relies on.

Every city in Oregon is unique. Cities need the flexibility to manage public rights-of-way in a manner that is most beneficial to each community.

Sincerely,

A handwritten signature in black ink that reads "Brad Nanke". The signature is fluid and cursive, with a large initial "B" and "N".

Brad Nanke
Salem City Council, Ward 3

Cc Mayor Chuck Bennett