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April 4, 2017

Rep. Paul Holvey, Chair
Members of the Committee
House Committee on Business and Labor
900 Court Street NE
Salem, OR 97301

Dear Chair Holvey and Members of the Committee,

RE: House Bill 3203 – Opposition (In current form)

I write this letter today in opposition to HB 3203 in its current form and encourage the Committee to seriously review and consider the intent and impact of this proposed legislation and its impact on underground public utilities: water, wastewater and storm water.

It is critical for public agencies to have a trained, experienced work force to handle routine operations and maintenance as well as the ability and practice to handle larger main replacements efficiently and effectively. We all recognize that, in a state of emergency, the availability of any workforce, public or private, is going to be severely taxed. It is therefore incumbent on us to ensure that highly trained workforces on both sides of the public/private equation are versed in addressing critical infrastructure specifically public water supplies upon whom all safety sectors will depend.

The proposed bill, in its current form, is problematic and would dramatically reduce and effectively eliminate water utilities, and by extension all underground utilities, the ability to self-perform work for all but the smallest projects (e.g., those that have a total, fully-loaded cost that is unquestionably less than \$125k).

Care and reflection must be taken when comparing public and private, for profit, entities. Water utilities operate with elected boards who are charged by their constituents to provide the highest level of service, in the most financially responsible manner. As such, most if not all boards understand that their responsibility must be to provide the greatest returns on investments at the lowest, most responsible price. Complaints with regards to effective and least cost service provision is already available to any party aggrieved of a chance to obtain contracts without legislating restraints or hurdles that result in potential harm to the public interest and safety. Board meetings are published and open for any comment, positive and negative, from constituents and the public.

Related specifically to the bill, one of the biggest challenges is the long lead time required for identification and planning of these projects leading up to budgeting, funding and acting. In the meantime analyses are affected by inflation labor contracts bidding environments, etc. .

Typically, a project from conception won't be built more than 18 months after the date when the list is submitted to the Secretary of State. From that perspective, the proposed process and schedule isn't practical for publicly-funded improvements ... regardless of who performs the work. The requirement for identification and a detailed analysis of all capital projects is challenging and results in very little public benefit. The requirement to submit a list of projects 30-days before the budget is adopted also ignores "periodic updates" to a project list as the year and circumstances occur especially for utilities with biennial budgets.

If continued review of this bill goes forward, a couple of changes would be proposed:

- 1) The addition of "potable water" to the exclusion for electric power in paragraph 5 on page 4. This proposed addition is based on the public health and public safety significance of water service.
- 2) Including an exclusion for routine maintenance and repair projects (like the exclusion for paving maintenance projects) to prevent the risk that routine maintenance projects (e.g., valve and hydrant replacement) would be interpreted as being covered by the proposed procedures.
- 3) Consider increasing the \$125,000 limit to \$250,000 or, at a minimum, index the current value since inception and into the future by a recognized and established index. (As examples, Engineering News Record or Consumer Price Index-Urban Area).

Finally, the proposed constraints on the ability to self-perform work will result in greater difficulty, increased costs, increased public disruption and increased risks to public health and safety because the proposed bill will degrade public agencies' ability to retain trained labor and equipment needed to conduct emergency repairs for water main breaks and unplanned service interruptions.

Public agencies are 24 hours per day/7 days per week, own their work in perpetuity and are directly answerable to the public. Public utilities recognize the need for maximizing investments. Public agencies realize and value the relationships they have with private contractors and the need to have a robust contractor community available whether for contracting jobs or under emergency circumstances.

Thank you for your time and opportunity to contribute to this legislative process!

Sincerely,



Brian R. Stahl, General Manager
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