



To: Chair Holvey & Members of the House Business & Labor Committee
From: Tracy Rutten, League of Oregon Cities
Date: April 5, 2017
RE: Opposition to HB 3203 and the -1 amendments

Thank you for the opportunity to submit testimony in opposition to HB 3203 and the proposed -1 amendments. The League of Oregon Cities opposes this bill as we believe it will create additional administrative work and associated costs while decreasing our flexibility to make the most economically sound contracting decisions.

It is our interpretation that HB 3203 and the -1 amendments alter a current accountability mechanism in a manner that will make it more likely that a municipality would be required to contract out for work on public improvement projects – even if the actual costs realized in the context of the project are higher and result in additional cost for the citizens and taxpayers. Least cost requirements should be about actual costs. However, HB 3203 manipulates the current least-cost requirements in a manner that would artificially assume costs that a municipality does not actually incur. For example, the bill would require a cost comparison that would apply the costs of warranties on local governments when they are not required to have a warranty. Past versions of this legislation introduced in previous sessions would have required municipalities to assume the costs associated with a surety bond when, once again, local governments are not required to have one. Requiring local governments to add theoretical costs on their side of the cost analysis equation when they don't actually realize those costs is a significant policy shift and one that we very much oppose.

It is incredibly important to note that this bill applies to all public improvement work. That means any construction, reconstruction or major renovation of real property. This bill is not limited to road maintenance projects. It could impact parks, public buildings and other facilities, as well as utilities such as drinking water, stormwater and sewer systems.

Current statute, ORS 279C.305, reads that it **“is the policy of the State of Oregon that contracting agencies shall make every effort to construct public improvements at the least cost to the contracting agency.”** In addition, the current statute requires contracting agencies to demonstrate how self-performance of public improvement work in an amount over \$125,000 conforms to that least-cost policy. HB 3203 would significantly shift this policy in a manner that would make it more cumbersome to self-perform critical work and to maintain highly trained and qualified staff who have the skills to make necessary improvements and emergency repairs to our infrastructure. If you limit self-performance for non-emergency public improvement work, we have concerns that we will not be able to maintain the staff we need to do emergency work should we need it.

The bill is incredibly prescriptive in requiring a detailed cost comparison that again, appears to place costs on the government side of the analysis that the government may not actually incur. In addition, the bill proposes a change that would eliminate the current threshold if more than 2-inches of pavement needs to be resurfaced. The result is that we would be subject to additional administrative hurdles to perform work in-house, starting at dollar \$1. In other words, the bill would require us to demonstrate least-cost anytime we need to dig down more than 2 inches to get to a sewer or drinking water line regardless of the cost. In previous public testimony, the proponents of the bill have talked a lot about roads and road maintenance but this bill has far broader impacts to essential services, including to public health and public safety for which we are responsible.

Costs between public and private entities will never be an apples-to-apples comparison. For this reason, the least cost comparison should continue to represent the actual taxpayer dollars spent. Private contractors have a for-profit interest and we have a public interest to protect taxpayers and provide services that our citizens require from us. We are different but we all have a stake in wanting to provide quality work.

Finally, we do want to use this opportunity to express concerns that the threshold for providing a least-cost analysis has not changed for decades (since 1997). A \$125,000 threshold is incredibly low and there should be consideration of increasing the threshold to account for inflation over the years.

Thank you again for the opportunity to provide this testimony. Please contact me at trutten@orcities.org if you have any questions or would like additional information.