



**Testimony Before the Joint Carbon Committee
Relating to HB 2020 -31 amendments**

Submitted by Tracy Rutten and Jim McCauley League of Oregon Cities

Co-Chairs Dembrow and Power, and Co-Vice Chairs Bentz and Brock Smith the followed testimony was offered during the Joint Committee on Transportation earlier this week in reference to the -31 amendments on HB 2020. These comments are made on behalf of Oregon's 241 cities.

The League of Oregon Cities (LOC) takes the issue of carbon reduction, climate change and adaptation seriously. In advance of the 2019 session the LOC intergovernmental relations team worked within the policy committee structure at the LOC to develop a framework for cities to submit comments into the process.

In January, the LOC Board of Directors provided further direction to LOC staff, which resulted in the finalization of the comments included below. We've submitted three additional elements for the formal record, so they can be represented in this Joint Committee. These documents include testimony provided to the Joint Carbon Committee and a set of Climate Action principles that reflect direction from the LOC Board.

For today's hearing I will focus our attention on the following elements of the -31 amendments, specifically Sections 31-39.

Section 31 – This section establishes a separate account within the State Highway Fund known as the Transportation Decarbonization Investment Account (TDIA).

Concerns:

The LOC is uncertain as to why this section uses the word “may” vs. “shall”. We believe it is important to be clear as to how the funds shall be spent. If the purpose is to provide OTC a margin to work within that may be acceptable, but if there is another purpose for the use of funds, we believe that purpose and intent needs to be explained and made clear throughout this section.

Requested modification:

Establish a hard 50/50 split between ODOT projects and those funds within the grant program. Suggested language would indicate that 50 percent “shall” be expended for the purposes outlined in subsections 4 (a) and (b).

Section 31 (5) – This section caps technical assistance expenditures to no more than one percent of the funds collected each biennium.

Concerns:

The -31 amendment is silent on whether technical assistance includes grant writing, but my read of the section is that technical assistance is limited to recipients of grants and would not include assistance for grant writing. This gets to the root of the League's concern; many cities simply lack

grant writing expertise to apply for grants funds. Another legislative concept heard in House Economic and Community Develop, HB 3110 recognizes this limitation and is making a request for additional capacity building grant writing resources in smaller communities in Oregon.

Requested modification

The LOC requests that if a pool of technical assistance funds is made available, consider a regional allocation for communities for the intended purpose of writing grants. At the very least, this change provides smaller communities outside of the urban core with some opportunities to access the 50 percent of funds deposited into the TDIA.

Section 32. – Establishes the guidelines in the grant program for the 50 percent of the revenue deposited in the TDIA.

Concerns:

There is slight recognition for the OTC to consider geographic equity and the LOC is concerned that without additional, stronger direction to balance grant funding across Oregon the process could limit the ability for any community outside of an urban center to compete for the revenue.

Requested modification-

Add an award guideline for OTC to provide geographic equity. The LOC suggests the use of the existing Portland metro MPO for the tri-county region as a geographic region and the use the Area Commissions on Transportation (ACT) regional structure for the remaining areas of Oregon. In other words, structure the grant program so that each region receives some proportional allocation to share in the grant funds being generated from their respective region.

There is no detail on what the matching requirement is. As written, it could be 10%, 20%, 50% or some other local match standard. If there is one thing that that HB 2017 transportation package taught us it was that fact that very few communities have any capacity to find a local match. The LOC sponsored a pre-session filling to address this issue with SB 561, which would reduce the cash match requirement for projects related to “safe routes to school”. Under this scenario and others not connected to safe routes, there limited ability for many communities to identify a match.

We recommend this requirement be eliminated. I’m am unaware of any community with access funds that could be used for matching the grant program described in the -31 amendment. It would force a local community to take its annual revenue provided by HB 2017 as a matching grant and result in decreasing their ability to deal with maintenance goals, or other immediate needs. I suspect if this matching program remains in the bill many communities would decide to not even consider projects under HB 2020.

Sections 34, 38, and 39 - Public Contracting Requirements.

Concerns:

Section 34. – Procurement Preferences.

Section 34 (1) sets a \$50,000 project cost trigger to receive funds from the TDIA. This establishes an incredibly low trigger point for qualifying use of TDIA revenue and would likely cover most projects funded under HB 2020.

Requested modification- Either eliminate or consider a substantially higher project cost bar. the project guideline standards. This alone will add costs associated with the project and reduce the scale and scope of the projects.

Section 38 – Procurement preference for products

Section 38 (2) assigns a 10 percent premium for purchasing products that originate from manufactures with a carbon pricing program.

Requested modification –

Remove reference to this section as well, because of the additional costs associated with projects to satisfy purchasing preference.

Section 39 3(d) – Buy America.

Section 39 1(c) requires that an apprenticeship program become part of the standard for awarding contracts. This is not functionally possible for projects awarded in close proximity to urban areas of Oregon, thus reducing the ability for projects to be awarded in regions that don't have companies with apprenticeship programs.

Section 39 3(d) requires that certain construction projects funded by certain construction materials (iron, steel and manufactured products) that become part of the “permanent structure” be produced in the United States.

Section 39 3(d)(A) provides an exemption, but a 25 percent cost threshold simply builds in a 25 percent bump for virtually any project under HB 2020.

Requested modification-

We support the application of prevailing wage rates to public projects and would support prevailing wage for public projects associated with the use of these funds, but we are concerned with the broad application of these requirements.

Our request is simple, remove the public contracting requirements that create additional cost for projects. From the LOC's perspective, by maintaining these elements in the program you are effectively reducing or limiting the scale and scope of an effective program.

These funds are intended to help Oregon become more resilient and to expedite our ability to adapt to climate change. We are already behind in these efforts. Reducing our purchasing power for adaptation/mitigation by 25 percent seems counter to what this legislation is trying to achieve.

There is an over-arching concern by the LOC about a needed conversation regarding HB 2020 and its impact on future funding of Oregon's transportation infrastructure. Having been through the process for developing a transportation investment package in 2009 and in 2017 its clear in my mind that implementation of HB 2020 adds a risk to future funding of the basic annual needs of road infrastructure in communities across Oregon.

What's needed as part of this conversation is an answer to; *“what's next for transportation funding”*. Think about this in relation to the shift to more electric vehicles and more transit, which are good outcomes of this process, but we also must consider the impact a to a declining revenue source from the gas tax, which is the key funding instrument for HB 2017.

I don't have an answer for the “what next” question, but I do believe that as part of the conversation, the legislature must consider a potential shift away-from the gas tax for future transportation packages given the expected rise of gas tax as a result of HB 2020.