

**Testimony of Council President Lynn Peterson  
In Opposition to Senate Bill 413  
Joint Committee on Transportation  
April 10, 2019**



As you know, Metro is the elected regional government of the greater Portland metropolitan area. Among our primary responsibilities is land use and transportation planning to manage the growth of our region. We are charged with developing and maintaining a 20-year regional transportation plan, and with ensuring the plan is coordinated with local and regional land use plans. The region's transportation planning process involves extensive coordination with cities, counties, the Port of Portland, TriMet, ODOT and DEQ, as well as opportunities for input from the public at large.

Metro's transportation planning role flows from both federal and state law. Our regional transportation plans and strategies must comply with federal air quality protections and also with state legislation that requires our region to reduce greenhouse gas emissions from cars and light trucks.

Before each legislative session, as part of its legislative agenda, the Metro Council adopts a set of principles to guide our response to moving issues. One of those principles is that "Land use and transportation planning should be coordinated so land uses do not undermine the efficiency and reliability of the transportation system and transportation investments do not lead to unintended or inefficient land uses."

**Senate Bill 413, which would authorize the creation of districts for the financing, construction and operation of limited access public highways, directly conflicts with all of these principles and responsibilities.** While the creation of such districts might seem like an innovative idea in the abstract, the bill before you today is fatally flawed.

I'd like to address two broad categories of problems with the bill. The first has to do with need and feasibility.

The bill's requestor, former Rep. Rich Vial, has been quoted in the media that his goal is the development of a tolled bypass around the Portland region that he has estimated would cost \$12 billion to \$20 billion. Yet to our knowledge, no work has been done to assess the economic viability or market feasibility of such a facility, including whether it would be possible to finance its construction, operation, and maintenance with tolls. What is the level of passenger and freight travel that would be anticipated to use such a facility? How high would the tolls have to be to cover its life-cycle costs? Are potential users willing to pay that price? Are there private entities who see value in owning or operating it? At a minimum, it seems that answers to these questions should be obtained before the Legislature authorizes the creation of an expensive new single-purpose government agency.

The second and more important category of problems with the bill has to do with accountability and coordination.

A "limited-access public highway project district," as proposed in SB 413, would operate entirely outside the existing transportation planning process. It would have extremely broad authority to ignore crucial substantive and procedural protections that exist to ensure that public decisions are consistent and do not have unintended consequences. For example:

- Even though the purpose of a limited-access public highway project district apparently is to establish tollways, SB 413 exempts such a district from the entire chapter of the Oregon Revised Statutes that governs tollways (page 4, lines 2-4).
- Once the district is created, a county has no discretion to reject a project (page 4, lines 22-25).
- A district may build a limited-access highway through a rural reserve – land that has been protected from urbanization to preserve high-quality farm and forest land and important natural features (page 4, lines 26-33). This completely violates the very essence of rural reserves, which were created after years of negotiation and compromise, and in the case of Washington County, ultimately designated through a major compromise engineered by the Legislature itself.
- Despite Metro’s responsibility for regional land use and transportation planning, Metro is specifically excluded from reviewing or approving a limited-access highway, including a highway through rural reserves that have been created by agreement between Metro and a county (page 4, line 43-page 5, line 1).
- This lack of coordination and review makes possible the construction of a highway that could put our region out of compliance with federal air quality requirements, without any consultation with the region. This in turn would undermine the ability of industry to expand in the region by eliminating what is known as the industrial growth allowance – a provision that depends on keeping transportation-related air pollution below federal limits.<sup>1</sup>
- Finally, this unaccountable district could build a highway that would undermine our region’s ability to carry out its responsibilities under the 2009 Jobs and Transportation Act to reduce carbon emissions from the transportation system to achieve state-mandated targets.

Senate Bill 413 is an ill-considered and quixotic distraction at a time when stakeholders from the public, private and community sectors in our region are working hard to develop a major transportation ballot measure for the voters to consider in 2020. On behalf of the Metro Council, I urge you not to move it forward.

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<sup>1</sup> The industrial growth allowance is explained in a separate document, “Air Quality and Economic Development,” which is attached as the next page of this testimony.

## **Air Quality and Economic Development: The Portland Region's Story**

For twenty-five years, the Portland region has used the federal Congestion Mitigation and Air Quality Improvement (CMAQ) program to reduce the amount of air pollutants emitted by the transportation sector in order to allow for industrial growth in our region. The CMAQ program provides funding to areas that fail to meet federal ambient air quality standards, known as “non-attainment” areas, as well as areas that have moved from non-attainment into attainment but have the potential to revert back. The goal of the program is to decrease air pollution emissions from the transportation sector.

The Portland metropolitan region received a non-attainment designation from the U.S. Environmental Protection Agency (EPA) in 1991. This designation meant that our region failed to meet federal air quality standards, and we were required to develop a plan to curb emissions of air pollution from all sources in order to reduce the risk to human health. As part of an air quality improvement plan, each source – e.g., transportation, industry, etc. – is given an “emissions budget” to adhere to that is monitored by the Oregon Department of Environmental Quality (DEQ) and EPA.

**In our air quality plan, the Portland metropolitan region implemented strict emissions budgets from transportation sources in order to provide greater opportunity for industrial expansion.** By taking on these stricter emissions allowances, the transportation sector provided an offset to allow industries within the region to expand without having to implement the most stringent and costly air pollution control technologies. This offset is called the industrial growth allowance. Our region's commitment to longer-term transportation-related air pollution reduction measures allowed EPA and DEQ to approve industrial growth allowances, even when we were under the strictest regulatory controls.

**Although the region is now in attainment, our state and federal commitments continue to require aggressive transportation air quality measures, partially to maintain the industrial growth allowance while meeting federal standards.** In order to protect the industrial growth allowance in the future, the region has continued to take on strict emissions budgets for the transportation sector and adopted long-term transportation control measures (TCMs) which commit us to increasing transit service, building out the bicycle network, and focusing pedestrian infrastructure in growth centers, among other commitments. Under the current plan, even more transportation measures will be required if the amount of travel per person in the region measurably increases for two consecutive years. **Failing to meet our federal targets could mean losing the industrial growth allowance.**

Since 1991, the Portland region has grown from 1 million to 1.8 million people and added over 977,000 jobs. Even in the face of this growth, the region has continued to meet federal air quality standards. This is an accomplishment many other places, including Seattle, San Francisco, Los Angeles, Denver, and Sacramento, have not achieved. **The ability to offset economic and population growth through a strong focus on transportation-related air pollution reduction measures has helped our region improve our air quality while simultaneously growing our economy.** We have continued to plan for even more aggressive transportation measures in order to allow for economic development in the future.