

May 8, 2019

**VIA EMAIL**

Honorable Senator Michael Dembrow  
Chair, Senate Committee on Environment  
and Natural Resources  
900 Court St. NE S-407  
Salem, Oregon 97301

RE: HB 2790 A

Dear Senator Dembrow:

I am writing to urge your committee to adopt common sense amendments to HB 2790 A.

Under current law, outdoor mass gatherings with 3,000 or fewer attendees and which are not anticipated to extend beyond five days (120 hours) are not required to obtain a conditional use or other land use permit. Provided that events of this nature are able to meet stringent health, safety and transportation standards, counties are required to issue a permit for these events. See, ORS 433.750(1)(“The governing body . . . shall issue a permit upon application when the organizer demonstrates compliance with or the ability to comply with the health and safety rules governing outdoor mass gatherings[.]”) Events larger than 3,000 attendees and which exceed 120 hours are required to meet additional, discretionary criteria. See ORS 433.763.

The five-day event period includes the event itself, as well as set up and take down. Taking into account set up and take down, the events typically occur over a two- or three-day period. There is simply no justification to require smaller events to seek a conditional use or other land use permit.

As drafted, HB 2790 A, Section 3 grants counties the discretion to “decide that a land use permit is required.” The bill does not explain when counties may make that election, adding significant confusion to an already opaque approval process. Section 3 also conflicts with ORS 197.015(10)(d), which expressly states that local decisions approving events of fewer than 3,000 attendees are not “land use decisions.” Allowing counties to apply land use standards to small events, but retaining review in the circuit courts makes little sense and will add needless confusion to the permit process. Based on testimony submitted in support of HB 2790 A, the legislation is intended to address underlying confusion in the application of the outdoor mass gathering statute. As drafted, HB 2790 A only adds confusion and complexity.

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Much of the testimony provided to your committee incorrectly suggests that the amendments apply only to events with over 3,000 attendees. This is incorrect. Section 3 of the bill expressly allows counties to decide that a land use permit is required. Because counties can define outdoor mass gatherings independent of the statute, this bill clearly applies to smaller events in counties which have elected to apply their own mass gathering definitions.

If the goal of HB 2790 A is to put additional safeguards on large outdoor mass gatherings, the bill should be tailored specifically to large events and the existing statutory scheme for smaller events should be retained.

Attached to this letter are two separate amendments to HB 2790 A, both of which would maintain the status quo for events five (5) days or less with fewer than 3,000 attendees.

I urge your committee to either reject HB 2790 A outright or adopt reasonable amendments which maintain the status quo for smaller events.

Very truly yours,

/s/ Steven P. Hultberg

cc: Sen. Floyd Prozanski  
encl.

1 On page 4 of the A-Engrossed bill, add the following section:

2 **SECTION 5.** ORS 433.765 is amended to read:

3 Ordinances or regulations of a county enacted under a county charter adopted pursuant to section 10,  
4 Article VI, Oregon Constitution, and not inconsistent with ORS 433.735 to 433.770 and 433.990 (7) or  
5 any rules adopted under ORS 433.735 to 433.770 and 433.990 (7), are not superseded by ORS 433.735  
6 to 433.770 and 433.990 (7) or such rules. Nothing in ORS 433.735 to 433.770 and 433.990 (7) or any  
7 rules adopted under ORS 433.735 to 433.770 and 433.990 (7) precludes the right of a county to enact  
8 ordinances or regulations under a county charter if such ordinances or regulations are not inconsistent  
9 with ORS 433.735 to 433.770 and 433.990 (7) or any rules adopted under ORS 433.735 to 433.770 and  
10 433.990 (7). **A county may not adopt ordinances or regulations under a county charter which require a**  
11 **land use permit for any gathering of fewer than 3,000 persons that is not anticipated to continue for**  
12 **more than 120 hours in any three-month period.**

1 On page 1 of the A-Engrossed bill, delete lines 7 through 12 and insert:

2 **“433.763. (1) An application for an outdoor mass gathering of more than 3,000 persons for which the**  
3 **county decides that a land use permit is required, or for any gathering of more than 3,000 persons any**  
4 **part of which is held outdoors and** which continues or can reasonably be expected to continue for  
5 *[more than 120 hours within any three-month period and any part of which is held in open spaces]* **a**  
6 **period exceeding that allowable for an outdoor mass gathering, shall be allowed by a county [planning**  
7 *commission] if [all of the following occur]:*

8 On page 3 of the A-Engrossed bill, line 15, delete “Unless a county decides that a land use permit is  
9 required,”.