



May 8, 2019

Representative Paul Holvey
House Committee on Rules
900 Court Street NE, H-277
Salem, OR 97301

RE: Eugene Supports HB 3431-1

Dear Chair Holvey and Members of the Committee:

The City of Eugene supports House Bill 3431 base bill and the -1 amendment. This bill and amendments rectify the unintended consequences from HB 3523 from the 2017 legislative session.

HB 3523 mandates preferential treatment for a specific class of persons when 'political subdivisions' as defined in ORS 174.116 are issuing contracts for a 'Vending Facility' at public buildings or property. The definition of 'Vending Facility' in ORS 346.510 includes:

(6) "Vending facility" means:

- (a) Shelters, counters, shelving, display and wall cases, refrigerating apparatus and other appropriate auxiliary equipment that are necessary or customarily used for the vending of articles, including an established mix of healthy vending items approved by the Commission for the Blind and the agency, department or political subdivision charged with maintaining the public building or property where the vending facility is located;
- (b) Manual or coin-operated vending machines or similar devices for vending articles, including machines or devices that accept electronic payment; or
- (c) Cafeterias or snack bars for the dispensing of food stuffs and beverages.

This broad scope of buildings and services seems to be an over reach of authority and, while many local governments are supportive of the efforts of the Commission for the Blind and intent of HB 3523, the impacts to local governments are substantial.

The City supports HB 3431 as amended based on:

1. It seems that the intent of HB3253 was to apply to more traditional public service buildings, such as a city hall, and that including all types of public facilities, specifically those that depend heavily on enterprise related revenues (e.g. commercial airports, recreation facilities, or entertainment venues) reduces the ability for those funds and services to be solvent. HB 3253 could impact the following concessionaire contracts within the City's operation:

- a. Hult Center for the Performing Arts Concessions and Catering,
- b. Novella Café at the Eugene Public Library,
- c. 'Snack Shack' services at Amazon Pool and assorted Ball Fields across the City,
- d. Emerald City News and Gifts Concessions at the Eugene Airport,
- e. Downstairs restaurant and upstairs café at Eugene Airport.

Clearly, this list of impacted facilities/services is beyond the scope of the initial intent of HB 3253. We became aware of the impacts of HB 3253 when the Eugene Airport renewed our agreement for vending services through the Emerald City News and Gifts Concessions in 2018. We expect to see impact to services or revenue when the contracts for the above concessions are up for renewal.

2. The City has an existing [Equity in Contracting program](#) that covers suppliers certified by the Certification Office of Business Inclusion and Diversity (COBID), which certifies suppliers as women business enterprise, minority business enterprise, service disabled veteran, emerging small business and disadvantaged business enterprise. The program tracks utilization of suppliers each of these certifications. When we renew contracts for any service, we ensure that, at a minimum, one supplier from the COBID directory is approached to provide an offer to the City. Our program is required to remain race and gender neutral, so the language is typically focused on "reducing barriers to state certified COBID suppliers" without calling out specific certifications; but HB3253 reduces the parity in our contracting equity efforts and establishes one class of persons as more advantaged than another. HB 3431 and the -1 amendment would ensure our equity efforts are fairly applied across our enterprise related contracts.
3. In the situation where the public facility receives federal funds and must comply with federal regulations (e.g. commercial airports), the lack of the payment of a percentage of vending sales revenue to the airport may be perceived to conflict with Federal Aviation Administration Grant Assurances regarding Self Sustainability and Use of Airport Revenue.

In February 2019, the airport's Emerald City News and Gifts concessionaire, Aviano, Inc., entered into a contract with the Oregon Commission for the Blind, paying the agency 10% of all vending sales. This contract follows current state law which requires vending contracts in public buildings to be managed by the Oregon Commission for the Blind and/or its client contractors. Instead of an Oregon Commission for the Blind contractor stocking the vending machines, mainly because Aviano wanted to maintain the same level of service established at EUG for more than 17 years, the concessionaire still manages the vending machines and cuts the Commission a check each month.

HB 3431-1 language clarifying that a public building does not include "a commercial airport owned and operated by a city" will remedy this potential conflict between state law and Federal grant assurances for the Eugene Airport and other commercial service airports in the state of Oregon.

Please support HB 3431 and the -1 amendment. Thank you for your time and service to Oregon.

Sincerely,
submitted electronically

Ethan Nelson
Intergovernmental Relations Manager