

Testimony of Randy Tucker, Legislative Affairs Manager

In Support of House Bill 3431

House Committee on Rules

May 8, 2019



Metro

Metro is the regional government of the Portland metropolitan area. One of our major areas of responsibility is the ownership and operation of visitor venues for the cultural and economic benefit of our residents. We own and operate the Oregon Convention Center, the Oregon Zoo, and the Portland Expo Center. We also operate the Portland's Centers for the Arts on behalf of the City of Portland.

These venues, which host 3.7 million visitors annually, represent hundreds of millions of dollars in public investment, support over 7,000 jobs, and are responsible for more than \$750 million in regional economic impact each year.

Legislation passed in 2017 (HB 3253) has put the viability of these venues as community assets and economic drivers at risk. It's not an overstatement to say that the statute represents an existential threat to these venues. **We urge you to pass HB 3431 to ensure that these facilities can continue to provide economic and cultural benefits to residents of our region and state.**

The 2017 statute gave blind vendors "priority" (i.e., a right of first refusal) to operate all "vending facilities" in or on any public buildings or property, except for "cafeterias," where they maintain a "preference." As we have recently learned, the term "vending facilities" is interpreted extremely broadly, to cover any food sold in any public building. Moreover – and this is critical to understand – blind vendors are not required to pay any rent or utility costs or share any revenues from those vending operations with the public owner of the building or property.

We believe the Legislature understood the 2017 bill to apply to government buildings where people meet with their elected representatives, like this Capitol building or a city hall or the Metro Regional Center, or receive public services, like the DMV or a county health department or the state office building in Portland a couple of blocks from Metro.

Unlike these buildings, which are fully taxpayer funded, Metro's visitor venues are enterprise operations that rely on their revenues to support their operations. In the case of the Oregon Convention Center, for instance, food and beverage sales represent more than half of overall revenues. Of the \$27.2 million in annual food and beverage revenue from the venues, Metro keeps about \$4.4 million. This revenue makes it possible to keep entrance fees, space rental prices and ticket service charges low for patrons and clients.

Here is a breakdown of revenues from Metro's visitor venues:

| | Annual Attendees | FY 2018 Operating Revenue | Food & Beverage Revenue | Percentage of Operating Revenue |
|---------------------|------------------|---------------------------|-------------------------|---------------------------------|
| <i>Zoo</i> | 1,700,000 | \$ 28,760,000 | \$ 7,800,000 | 27% |
| <i>OCC</i> | 600,000 | \$ 26,500,000 | \$ 13,500,000 | 51% |
| <i>Portland's</i> | 900,000 | \$ 17,400,000 | \$ 3,500,000 | 20% |
| <i>Expo</i> | 500,000 | \$ 7,000,000 | \$ 2,400,000 | 34% |
| Grand Total: | 3,700,000 | \$ 79,660,000 | \$ 27,200,000 | 34% |

Metro selects its food and beverage contractor through a competitive procurement process, and heavily negotiates a payment structure that best serves the public interest. However, the current statute offering a right of first refusal to blind vendors precludes Metro from engaging in a competitive solicitation process for a food and beverage operator, and (as noted above) prohibits the venues from taking commissions, fees, and revenue earned from sales. If the Metro visitor venues are unable to capitalize on these critical food and beverage revenue streams, such venues will no longer be financially viable.

We are unaware of any evidence that the Legislature was thinking of these buildings when it passed HB 3253. We first learned about the application of HB 3253 to our visitor venues when we issued a request for proposals for the food and beverage contract for our four venues, and the Oregon Commission for the Blind protested the RFP earlier this year. Only then did we and several other local governments become aware of the breadth of applicability of HB 3253.

Since that time, we have had several productive conversations with the Commission for the Blind and with Randy Hauth, chair of the blind vendors group, the Business Enterprise Consumer Committee (BECC). As a result of these conversations, we have made changes to the bill (embodied in the -1 amendment), requested further changes relating to vending machines, and sent a Statement of Intent to Mr. Hauth memorializing our commitment, if HB 3431 passes, to collaborate on ways to provide additional business opportunities for blind vendors in our visitor venues. I can provide a more detailed account of our ongoing conversations with the Commission and the BECC upon request.

As introduced, HB 3431 removes from the definition of “public building” or “property” a number of facility types that rely on enterprise revenues to support their operations. The -1 amendment tightens up the bill in a couple of key ways:

- Limits the exemption to facilities owned by local governments; state-owned facilities continue to be covered.
- Eliminates the open-ended language at the end that included “any other venue or attraction dedicated to tourism, travel, hospitality or entertainment,” thereby limiting the exemption to only the specific types of facilities listed.

We are also working on an amendment that would continue to require a priority for persons who are blind when the facilities covered by HB 3431 contract out for vending machines.

Many other states exempt publicly owned facilities similar to those covered in HB 3431, as well as others like libraries, hospitals and fairgrounds. See <https://www.cga.ct.gov/2006/rpt/2006-R-0310.htm>.

Thank you for your consideration of these comments. We urge you to support HB 3431.