

Requested by Representative LIVELY

**PROPOSED AMENDMENTS TO  
HOUSE BILL 3040**

1 In line 2 of the printed bill, after “charges;” delete the rest of the line  
2 and insert “creating new provisions; amending ORS 223.299; and declaring  
3 an emergency.”.

4 Delete lines 4 through 11 and insert:

5 **“SECTION 1. (1)(a) The Housing and Community Services Depart-**  
6 **ment shall conduct a study of system development charges, and their**  
7 **relation to other cost and feasibility drivers, to determine best prac-**  
8 **tices for fostering the development of affordable housing.**

9 **“(b) The Housing and Community Services Department may study:**

10 **“(A) Other cost drivers as they relate to system development**  
11 **charges, including, but not limited to, infrastructure needs, the impact**  
12 **of the land use planning system, the costs of materials and labor and**  
13 **regional economic conditions;**

14 **“(B) How the effects of Ballot Measures 5 and 50 on ad valorem**  
15 **property tax rates affects rate setting for system development charges;**  
16 **and**

17 **“(C) How manufactured housing should be assessed for purposes of**  
18 **system development charges.**

19 **“(c) The Housing and Community Services Department may con-**  
20 **tract with a third party to complete the study, or any portion of the**  
21 **study.**

1       “(2) As part of the study, the department shall develop recommen-  
2       dations, which may include recommendations for legislation, regard-  
3       ing, without limitation:

4       “(a) Increasing system development charge fee transparency;

5       “(b) Ensuring that the structure and timing of system development  
6       charge fee payments foster the development of housing at all levels  
7       of affordability;

8       “(c) The methodology for setting system development charge fees,  
9       including whether the analysis and formula used accurately capture  
10      capacity impacts;

11      “(d) The ability to use, and the effectiveness of using, credits for  
12      system development charges, including, but not limited to, the length  
13      of time a credit is effective, the types of capital improvements that  
14      generate credits, the impartial adjudication of credit denials, the  
15      system-wide transferability of credits and the sale of credits in a pri-  
16      vate market;

17      “(e) The viability of alternative funding measures for capital im-  
18      provements as defined in ORS 223.299; and

19      “(f) The benefit of using system development charge fee revenue to  
20      fund construction by private parties of public infrastructure related  
21      to housing, commercial and industrial development.

22      “(3) The department shall submit, in the manner provided in ORS  
23      192.245, a report, including the recommendations made under sub-  
24      section (2) of this section, to the interim legislative committees related  
25      to housing and economic recovery and prosperity no later than De-  
26      cember 31, 2021.

27      “SECTION 2. Section 1 of this 2021 Act is repealed on January 2,  
28      2023.

29      “SECTION 3. ORS 223.299 is amended to read:

30      “223.299. As used in ORS 223.297 to 223.314:

1 “(1)(a) ‘Capital improvement’ means facilities or assets used for the fol-  
2 lowing:

3 “(A) Water supply, treatment and distribution;

4 “(B) Waste water collection, transmission, treatment and disposal;

5 “(C) Drainage and flood control;

6 “(D) Transportation; or

7 “(E) Parks and recreation.

8 “(b) ‘Capital improvement’ does not include costs of the operation or  
9 routine maintenance of capital improvements.

10 “(2) ‘Improvement fee’ means a fee for costs associated with capital im-  
11 provements to be constructed.

12 “(3) ‘Reimbursement fee’ means a fee for costs associated with capital  
13 improvements already constructed, or under construction when the fee is  
14 established, for which the local government determines that capacity exists.

15 “(4)(a) ‘System development charge’ means a reimbursement fee, an im-  
16 provement fee or a combination [*thereof*] **of a reimbursement fee and an**  
17 **improvement fee that is:**

18 “(A) **For local governments with a population of 25,000 or more,**  
19 **assessed at the time of issuance of a building permit and collected at**  
20 **the time a certificate of occupancy is issued for all housing, industrial**  
21 **and commercial development; and**

22 “(B) **For local governments with a population of less than 25,000,**  
23 assessed or collected at the time of increased usage of a capital improvement  
24 or issuance of a development permit, building permit or connection to the  
25 capital improvement.

26 “(b) ‘System development charge’ includes that portion of a sewer or wa-  
27 ter system connection charge that is greater than the amount necessary to  
28 reimburse the local government for its average cost of inspecting and in-  
29 stallings connections with water and sewer facilities.

30 “[*b*] (c) ‘System development charge’ does not include any fees assessed

1 or collected as part of a local improvement district or a charge in lieu of a  
2 local improvement district assessment, or the cost of complying with re-  
3 quirements or conditions imposed upon a land use decision, expedited land  
4 division or limited land use decision.

5 **“SECTION 4. The amendments to ORS 223.299 by section 3 of this**  
6 **2021 Act apply to system development charges established on or after**  
7 **the effective date of this 2021 Act.**

8 **“SECTION 5. This 2021 Act being necessary for the immediate**  
9 **preservation of the public peace, health and safety, an emergency is**  
10 **declared to exist, and this 2021 Act takes effect on its passage.”.**

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