

Support House Bill 3049 - County ROW Permit Fee Authority

Allows counties to recover costs associated with administering and issuing permits for utility work in the county right of way

Background:

Oregon counties are responsible for the largest share of Oregon's public road system, with over 32,000 road miles under county jurisdiction - 41 percent of the system. Counties rely on statutorily guaranteed 30 percent of State Highway Fund allocations to manage their public right of way and provide essential public works services that ensure a safe and reliable multimodal transportation system to connect people and support our economy.

Over the past two decades, dwindling federal funds and timber receipts, increasing deferred maintenance, a trending decrease in gas tax revenues to the State Highway Fund, and limited local funding options have forced severe cuts to county road department budgets.

Problem:

1) Permitting Costs

ORS 758.010 currently precludes counties from recovering any costs related to permitting and inspecting work done by utilities in the county road right of way. Counties must therefore use limited State Highway Fund dollars to perform this work.

2) Relocation Delay Costs

County road departments also face costly delays during public works projects that require utilities to relocate facilities from the county right of way. Statute requires counties to coordinate with impacted utilities and allows counties to request that a utility relocate to accommodate construction, but utilities are not required to do the work of physically relocating. This leaves counties to find appropriate contractors and manage the work of moving the utility's facility. Utilities are responsible for actual relocation costs, but counties currently have no means to recover the significant additional costs incurred due to delay.

The State Highway Fund dollars that counties must currently spend on permitting, delays, and seeking reimbursement could be better spent on additional road, bridge, sidewalk, and bikeway maintenance, which supports our local economies, and keeps people safe. HB 3049 proposes two statutory changes to address this.

Proposal:

- 1) Provide permissive authority for counties to charge cost-recovery fee for the "administration and issuance" of a permit for utility use of the county right of way, and
- 2) Increase available remedies to counties when utilities delay or refuse to relocate their facilities from the right of way during a public works project by expressly allowing for liquidated damages.

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