SDAO Special Districts Association of Oregon

May 14, 2013

Chair Roblan & Members of the
Senate Rural Communities and Economic Development Committee
Oregon State Capitol
900 Court Street NE
Salem, OR 97301

Chair Roblan and Members of the Committee:

The Special Districts Association of Oregon (SDAO) represents approximately 950 single service local government districts across the State of Oregon that provide municipal drinking water, sanitary sewer service, fire protection, parks and recreation, and libraries to name a few. Districts are generally formed by the citizens they serve and are run by elected officials who generously serve without compensation.

HB 2618 addresses several fundamental issues: Should taxpayers of a special district have their property removed from the district of their choice, by a city, when the city itself does not provide the service? Or, should a city have the authority to remove territory from one special district and transfer it to another special district without the support of the affected property owners? Should the district that is having its territory removed by a third party, and given to another district be precluded from having any say or input to the decision?

The Special Districts Association of Oregon believes the answer is no, no and no. For those reasons and others SDAO strongly supports HB 2618.

In 1949 when ORS 222.520 was first put into statute it has been understood that the purpose of this statute was to set the ground rules when a city could withdraw service territory from a special service district. Specifically, that understanding has been that cities can only withdraw territory of a district when two conditions are met: 1) when a city annexes into the territory of a district and the city provides the specific service that is being withdrawn or; 2) when a city incorporates within the territory of a district and the city will provide the service that is being withdrawn.

The need for this bill goes back to 2011 based on a creative interpretation of the statute. The City of Keizer attempted to withdraw territory from one district servicing a small portion of the city and effectively give that "withdrawn" territory to another district serving the rest of the city. Had the city been responsible for the provision of the service being withdrawn (in this case fire services) the city would have acted properly under the authority of ORS 222.520. However, because the city did not provide the service being withdrawn the Marion County Circuit Court found that the city had acted improperly.

Simply put, HB 2618 codifies the court's decision by clarifying what has been commonly understood for many decades – that for a city to withdraw territory from a district that city must also be responsible for providing the service that is being withdrawn.

Because the court's ruling was not appealed it only applies in Marion County. Our concern is that this could occur again thereby costing taxpayers and local governments precious resources in litigation expenses.

Furthermore, left unchanged, the specter of a city effectively changing the service territories of other separately elected and legitimate local governments like water and sanitary sewer providers, libraries and the like remains. The consequences to the citizens left behind in the remaining district could be catastrophic – potentially resulting in the inability of a district to continue to provide needed services.

Finally, this case should have never happened in the first place had an urban services agreement been in place. In 1993 the Legislature passed SB 122, which created the requirements in ORS 195 for urban service agreements between cities, counties and districts to resolve service area disagreements. ORS 195 sets out in detail the content of urban service agreements, and the process that cities, counties and district are supposed to use.

Thank you for your consideration and SDAO urges your support of HB 2618.

Sincerely,

Mark Landauer
Special Districts Association of Oregon