Tualatin Valley Water District

Delivering the Best Water ⟡ Service ⟡ Value

February 13, 2019

The Honorable Representative Keny-Guyer
Chair, House Committee on Human Service and Housing
900 Court St. NE, H-272
Salem, OR 97301

RE: House Bill 2001

Dear Representative Keny-Guyer and Committee Members,

On behalf of the Tualatin Valley Water District, (TVWD) a municipal water provider serving over 200,000 people in Washington County, and in conjunction with the Oregon Water Utility Council (OWUC), we are submitting this letter as written testimony on House Bill 2001. OWUC has submitted its own written testimony which we endorse. Like other municipal water providers, part of TVWD's mission is to promote and monitor legislation, public policies, and regulations that will ensure TVWD water system users are provided with drinking water of the highest quality, at sufficient quantities, and at a reasonable cost.

Water providers in Oregon face a diverse set of challenges, including population growth with subsequent increases in water demand, uncertain effects of climate disruption, aging infrastructure, and new and evolving water quality regulations. Water providers are balancing these challenges while meeting higher customer expectations for quality and service. **It is because of these expectations that TVWD is providing written testimony on House Bill 2001, which if passed, has the potential to greatly reduce our ability to meet growing water demands and infrastructure needs. Outlined below are several key points TVWD is asking the Committee to consider:**

- House Bill (HB) 2001, as currently written, would require cities with populations greater than 10,000 and counties with population greater than 15,000 to allow middle housing in lands zoned for single dwelling within urban growth boundaries. Subsequently, HB 2001 would prohibit local governments (e.g., water providers) from requiring system development charges to be paid by middle housing developers before occupancy permit is issued.

- For reference, a system development charge (SDC) is a one-time charge paid by a new water system customer (i.e., the developer) to the water provider at the time when the new customer requests permission to connect to the system. It can also be assessed to existing customers requiring increased water system capacity.

- As a consequence, the water system would need to determine who is moving into the home or unit and collect that money *after* the infrastructure has been built and paid for. When the higher density development involves hundreds of new homes or units,

that means working with each individual home owner after construction rather than one developer prior to the necessary construction of the water system infrastructure.

- Water providers invest in capital-related facilities such as water mains, reservoirs, pump stations, and treatment facilities. Typically, these facilities are constructed in advance of new development. An SDC is intended to recover a share of the costs of both existing and planned water system infrastructure that will provide water system capacity to serve new customers over many years.

- Once implemented, water SDCs must be spent on water utility improvements only. Oregon Revised Statute (ORS) 223.297 through 223.314 defines SDCs and specifies how SDCs are calculated, applied, expended, and accounted for.

- Currently, the only mechanism to make sure SDCs are collected before occupancy is to withhold establishment of water service until the charges are paid. That usually occurs when the developer comes to the water provider to purchase an appropriately sized meter and pay the SDC. The connection to the water system is then made and water from the system is used as part of the construction project. This largely provides the water provider some level of certainty so that accurate planning of infrastructure and services can be accomplished. The lack of adequate and accurate planning is likely to result in increased cost of service and future SDCs, adding more to an already burdened housing market.

- Under HB 2001, the collection of SDCs is made considerably more risky and problematic for public water systems. In order for a water provider to be assured that the SDC would be paid at the time of the occupancy permit issuance, the developer would need to execute an encumbrance binding on the property because at this point the actual connection would have been made. A recorded instrument would assure that payment of the SDC is made. The recorded instrument would prevent transfer of the obligation to the ultimate occupant because the developer would have to clear it prior to escrow. But a recorded instrument to secure the SDC could very well be prohibited by construction loan financing, even if that financing is in the first priority position. If accomplished, the water provider would need to engage in continued monitoring and communication with the local Building Official who issues the occupancy permit.

- Deferring the SDC beyond occupancy permit or by failure to collect for whatever reason would not make the SDC go away; it would simply shift the cost burden from developer to prospective home owners. Similar encumbrance documents with the new owner would need to be in place, creating the same issues as with the developer. As noted above, the cost of water infrastructure is increasing across the state with population growth. If water providers do not charge the developer, then the property owners – who are supposed to be benefitting from more affordable housing – will be directly burdened with these costs.

TVWD is concerned about the adoption of HB 2001 and the unintended consequences on the citizens it's proposed to help. We are encouraging the Chair and members of this Committee to strongly consider the entire impact of the proposed rule and consider whether adoption or significant modifications can achieve a fair and equitable solution for all Oregonians. We look forward to more dialogue about this matter and would be happy to assist the Committee with our technical expertise.

Sincerely,

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