March 18, 2019

To: Chair Lively, Vice-Chair Bonham, Vice-Chair Fahey, Members of the House Committee on Economic Development
From: Wendy Johnson, League of Oregon Cities
Re: HB 2174 with -1 amendment

The League of Oregon Cities (LOC) supports HB 2174 with the -1 amendment. This bill provides policy reforms and technical clarifications to both the urban renewal process and the substantive requirements. The bill is a product of a very deliberative and inclusive interim work group. The LOC participated on the work group.

My testimony outlines the changes made with the bill and the -1 amendment.

These are the key policy changes that the bill provides:

1. For inclusion in an urban renewal plan, the bill would require concurrence of each "public building project" by at least 3 of the 4 taxing districts that are estimated to forgo the most property tax revenues with tax increment financing. The bill defines what is and what isn't a public building. Present law requires taxing districts to "consult and confer" with affected taxing districts regarding urban renewal plans and provide an explanation of how a public building called for in a plan serves or benefits the urban renewal area. The bill improves the information provided to taxing districts at both formation of a plan and through the life of the plan (revised annual report requirements) – making the consult and confer requirement more meaningful to other taxing districts affected. Specifically, the bill imposes time lines to ensure taxing districts have adequate time to review plans, requires actual meetings and discussion if requested, and requires taxing district concurrence for defined "public building projects." (Section 1 definitions and Section 5 requirements)

2. The bill defines "reduced rate plan" and "standard rate plan" in the ORS. These terms of art are used in the Department of Revenue's administrative rules (see OAR 150-457-0400) and are often used by assessors and urban renewal practitioners, but they have not been in statute. This is a complex area of law, but the intent of the bill is 1) clear up the terms and 2) make it easier going forward as new plans are created or older plans are amended. Ideally, the policy would be to provide that going forward, general obligation (GO) bonds would NOT be included in the consolidated rates of all new or amended urban renewal plans.

Presently, both reduced rate and standard rate plans include some general obligation bonds in the consolidated tax rate used to collect tax increment financing. For reduced rate plans, these GO bonds are limited to those approved by voters on or before October 6, 2001. However, due to bonds being refinanced over time, many of these bonds still exist, and some have scheduled payments that extend for many more years. Keeping track of these bonds is challenging, especially when adopting new urban renewal plans. Additionally, when GO bonds are included in the consolidated rate, it results in a small increase in tax rates, which is both difficult to explain, and a source of public opposition to the use of urban renewal. (Section 1 definitions and Section 8 requirements)

3. The bill improves the urban renewal agency annual statement content requirements to improve transparency. The bill also requires distribution of the statements to the affecting taxing districts and makes urban renewal agency representatives available each year to consult affected taxing districts and answer questions. (Section 10)

Below is a section by section analysis of the bill:

Section 1: ORS 457.010 provides the key definitions for ORS Chapter 457, the urban renewal chapter of the ORS. The bill adds 4 new terms (public building, public building project, reduced rate plan, and standard rate) and defines each of them.

(11)(a) "Public building" is intentionally narrowly defined because the bill requires that new public building projects will require the approval of other taxing districts to be included in an urban renewal plan. The new definition focuses on buildings that are viewed as major buildings that are integral to delivering traditional public services. These buildings (e.g. police stations, fire stations, city halls, and public libraries) were singled out as they can be built through traditional bond financing and are not often viewed as integral to economic development. (The definition came largely from ORS 166.360 which is used in the context of weapons prohibited in a "public building".) The definition also includes the adjacent grounds to these specific buildings in **(11) (a)(B)**.

In **(11)(a)(C),** the definition includes a portion of any other building owned and prepared for occupation or occupied by an agency of the state or a municipal corporation. By referencing occupation, the intent is to cover buildings where state or municipal staff have their office and thus "occupy" the building.

Lastly, public building is defined to include certain public art of the type listed in **(11)(a)(D)** which covers independent statues, sculptures, clock towers and bell towers. We do not intend to include in the definition art that is incorporated into the design of a project, for example the design of a bridge or a building.

(11)(b) provides the **exclusions to "public building".** Note that if a building could fall under the "public building" definition but it also falls under an exclusion, the exclusions to the definition are to be given precedence according to Legislative Counsel form and style drafting practices and principles.

Buildings excluded include those that are typically planned to go back on the tax rolls through redevelopment, sale or lease. See **(11)(b)(A) and (B)**. Note that the focus of the determination is the "intent" of the projects in the plan. There was acknowledgement that projects may change over time, but the intent at the time controls for the definition determination.

All transportation and water/waste water infrastructure buildings in the urban renewal area are specifically excluded from the definition of "public buildings" in the bill. See **(11)(b)(C) to (D).** This was a deliberate policy choice because infrastructure is critical to urban renewal and redevelopment. Without adequate infrastructure, urban renewal simply cannot occur and be successful. That is, both residential housing and businesses require adequate infrastructure for growth to occur. The cost of infrastructure has gone up considerably in recent years, and both federal and state funding has been very limited. Thus, for some communities, using urban renewal funds is critical for advancing key urban renewal projects; TIF can provide an essential piece of a funding package for a water/wastewater project. It is, however, recognized by economic development staff and urban renewal practitioners that the general best practice is to limit urban renewal tax increment funding of such projects proportionately. If a water/wastewater project will benefit both the urban renewal area and an area outside the urban renewal area, then the costs ideally would be born in proportion. Some communities have formally implemented this policy. However, trying to legislate best practices when factual circumstances vary so much by community proved both too complex and impractical. As a compromise, the Oregon Economic Development Association (OEDA) agreed to include the best practices proportionality concept in the updated urban renewal guide and the LOC agreed to monitor how urban renewal tax increment funding is allocated to such water/wastewater projects via survey in the years ahead. There is a commitment amongst stakeholders to not abuse this provision and continued flexibility. It is hoped that other reforms within this bill will result in better communications with taxing districts regarding urban renewal projects, so we do not have conflict on such projects.

Two other types of buildings are also specifically excluded from the definition of public buildings in the bill— "tourism-related facilities" and "park and recreation facilities." See **(11)(b)(E) and (F).**

Paragraph (12) defines **"public building project"** simply as an urban renewal project that includes a public building. This is a straight forward definition that is used throughout the bill.

Paragraph (13) and (14) define "reduced rate plan" and "standard rate plan" respectively. These terms parallel the definitions in administrative rule, OAR 150-457-0420(1)(k) and (m) and are defined so that they can be used in other sections of the bill with respect to determining the division of property taxes.

Section 2: This section revises ORS 457.085 by making some LC form and style changes. The -1 amendment clarifies how property that is added to an urban renewal area is to be calculated for purposes of determining whether the additions have triggered a substantial amendment. Present law provides that there is a substantial amendment if added land totals more than 1% of the existing area of the urban renewal area. However, it has not been clear if each time land is added the 1% determination is to be or if the additions of land are to be calculated cumulatively to reach 1%. The -1 provides that going forward the determination for triggering a substantial amendment is to be a cumulative one. (This is a revision of **(2)(i)(A).**)

This statute currently contains both urban renewal plan content requirements and urban renewal report requirements. The bill would revise this statute to focus only on the plan requirements; the report provisions in **paragraph (3)** would be deleted and moved to section 4 of the bill to be given their own statute.

Paragraphs (4), (5) and (6) are moved to Section 5 which would provide a new section of law that focuses on notice requirements, delivery of the urban renewal plan and report requirements, and consult and concur requirements. Thus, this section would focus on communications with other taxing districts and the public.

Section 3 and 4: Section 3 puts new Section 4 into the urban renewal statute series. Section 4 provides the urban renewal report requirements. The provisions are taken from existing law and are simply moved from Section 2 (ORS 457.085) to this new section.

Section 5: This section of the bill would lay out who to communicate with (planning commission, governing board of municipality, and overlapping affected taxing districts), how to communicate (trackable delivery), the existing consult and concur requirements, and the new concurrence requirements for public building projects. Much of the section comes from existing law (Section 2 of the bill). The -1 amendment would revise and clarify this section.

The new requirement provided by this section is that taxing districts would be forwarded proposed urban renewal plans. The four taxing districts that are estimated to forgo the most property tax revenue by a plan are given an opportunity to weigh in on any public building projects in the plan, and the governing bodies of those taxing districts may vote to determine whether a public building project should be included in the proposed plan. Taxing districts have 45 days to respond. If the taxing district does respond in a timely manner, the taxing district shall be deemed to have concurred in inclusion of all public building projects included in the proposed plan. Otherwise, at least 3 of the 4 taxing districts must vote to concur in inclusion of a public building project for the project to be included in the plan.

This new concurrence requirement for public building projects applies to new plans (that are approved after the effective date of the bill). The new requirement also applies to existing approved urban renewal plans in two very limited circumstances. See Section 5(4) as amended by the -1 amendment. First, when a public building project is added to an existing urban renewal plan the requirement will apply (i.e. the project was not included in the plan before the effective date). Note that this provision is intended to cover only true additions to a plan. The law does not require specificity or details regarding urban renewal projects in an urban renewal plan. Thus, if a project can be found in the existing plan even though, for example, the location in the urban renewal area is not detailed, it should be deemed to have been included. For example, a police station that was mentioned and approved as a project need not go back for concurrence when the location is finalized. Second, if a public building project is included in a plan that existed before the effective date of the bill, but the scope of the work on the project is to change significantly and the cost is to be born by tax increment financing (i.e. from the taxing districts through the division of property taxes), then the new concurrence provisions would apply. The work group did not want urban renewal agencies to circumvent the new law through the amendment process, but at the same time, projects that have been included and approved should not have to go back for concurrence. There was recognition that budgets and construction costs will change over time, especially since urban renewal plans can last 20 years or more. For example, with the present building boom, construction costs have gone up often more than 10% a year. Such project cost changes will not trigger the new concurrence requirement as they are expected, but significant changes in the project scope will trigger concurrence requirements. For example, an approved library addition that goes up in construction costs will not trigger concurrence, but an approved library addition that changes from a one room addition to an entire new floor addition would be viewed as a significant change in scope.

Section 6: This section simply makes conforming changes as well as LC form and style changes.

Section 7: Notices on urban renewal plans, substantial amendments, and changes to a plan will continue to require a statement that the plan may affect property tax rates. However, the bill will provide that such a statement is only required on those plans that will actually affect property taxes by listing the types that do.

Section 8: This section amends ORS 457.445 and specifically the provision that addresses how the consolidated property tax billing rate is calculated. The goal is to make calculations easier and fairer going forward as new plans are created or older plans are amended after the bill's effective date. Ideally, the bill would capture a policy that provides that going forward, general obligation (GO) bonds would NOT be included in the consolidated rates of all new or amended urban renewal plans.

More work and eventually a bill amendment will be needed on this section. We are working with the Department of Revenue and the county assessors to get it right. It's a complex area of law with lots of old dates and options that overlap and cause calculation and drafting challenges.

Section 9: This section amends ORS 457.220 to clarify how the cap on adding land to an urban renewal by amendment is determined. The bill provides that the 20% cap is to be calculated without considering subsequent reductions of land area.

Section 10: This section requires that additional information be included in each urban renewal agency's annual statements (often referred to as an annual report that includes the financial statements) that must be prepared no later than January 31 of year. The bill addition is to require an update on the maximum indebtedness for each urban renewal area, including the amount of indebtedness incurred during the preceding fiscal. Such progress reports are important to the public and the overlapping taxing districts, and they will improve overall transparency.

In addition, this section improves the annual report process by 1) requiring distribution of the annual statements to each taxing district that is affected by an urban renewal plan of the agency; and 2) requiring a representative of each agency to be made available to consult with and ask questions. Improving communications with overlapping taxing jurisdictions throughout the life of an urban renewal plan is an important goal of this legislation and putting in these new provisions will help us get there.

Section 11: This section moves a few urban renewal statutes that weren't in the series into the ORS urban renewal series.

Section 12: This section makes the bill effective 91 days after sine die of session; this is the soonest a bill that effects taxes can become effective.

Conclusion:

The League of Oregon Cities requests your support of HB 2174 with the -1 amendment. We would also request a subsequent referral to the House Revenue Committee to an address a technical issue with Section 8 involving the county assessors and division of tax calculations.