
TO: Joint Committee on Transportation
FROM: Taylor Steenblock, Multnomah County Government Relations
RE: HB 3049 Follow-Up
DATE: March 11, 2021

Co-chairs McLain and Beyer and members of the committee:

Thank you for the robust conversation earlier today about HB 3049. We have high hopes that we will be able to work with stakeholders and find a sustainable solution for county permitting costs relating to right of way access for utilities. Below are several follow-up points that address the conversation today. We hope they are helpful in answering the committee's questions and addressing the committee's concerns.

1. HB 3049 does not allow counties to charge per-mile or per-foot fees for ROW.
 - a. HB 3049 only permits counties to charge for "administration and issuance of a permit." That means counties can *only* assess what it costs for the county to review and issue the permit.
 - b. Per-mile fees refers to what is often negotiated in franchise agreements, or what cities may have adopted through what is referred to as Right of Way Ordinances. HB 3049 does not authorize this type of fee or fee structure.
2. HB 3049 does not result in "double-dipping."
 - a. County property taxes fund counties general funds. They do not fund roads and right of way. Roads and right of way are funded through an allocation of state highway funds, and locally imposed vehicle registration fees and gas taxes.
 - b. HB 3049 basically allows for administrative cost recovery - the cost of administering right of way permits.
 - c. Property taxes are aimed at all and benefit the entire jurisdiction. Permit fees only benefit the user (in this case the utilities), thus, are only applicable to the user. Consequently, these are different sources of revenue and thus, no issue of double dipping.
3. Counties are prohibited from using property tax revenue for county roads in ORS 368.705(3):
 - a. "County funds derived from any ad valorem tax levy may not be used or expended by the county governing body upon any roads or bridges except: (a) Funds derived from a levy within the permanent rate limit of section 11 (3), Article XI of the Oregon Constitution, or the statutory rate as provided in ORS 310.236 (4) or 310.237, if a voter-approved county serial levy dedicated to road improvements was used in determining the rate limit; or (b) Local option taxes levied under ORS 280.040 to 280.145."

- b. Washington and Yamhill are the only counties that have a road levy included within the county permanent rate limit per ORS368.705(3)a, they were in place before Measure 50 was passed in 1997 and rolled into the permanent rate as a result.
- 4. HB 3049 supports rural communities and is flexible to meet their needs.
 - a. Some opponents have argued that HB 3049 is “anti-rural” because it will discourage utility growth and development in rural areas because HB 3049 will be cost prohibitive. This is not correct. As mentioned in #1 above, the fee is not applied on a per-mile basis.
 - b. HB 3049 actually helps rural counties by funding the administration of right of way permits, but only if rural counties choose to implement the authority in HB 3049. If a county board determines that implementing HB 3049 would harm utility growth and development, the county can choose not to implement it.
- 5. HB 3049 does not cause delays for utilities.
 - a. For counties that already require right of way permits, charging for the permit would not cause delays.
 - b. Again, if this is a concern for counties, counties can choose not to implement HB 3049.
 - c. Regarding emergencies, many counties have emergency provisions built into their permitting process that meet the needs of that county and the utility provider as well as the type of emergency. This can continue to occur.

We intend to continue these conversations and welcome any additional questions that come up. Thank you for your time.

Sincerely,

Taylor Steenblock
Multnomah County Government Relations