



March 16, 2021

Representative John Lively, Chairperson
House Committee on Economic Recovery and Prosperity
900 Court Street NE
Salem, OR 97301

RE: City of Eugene OPPOSES HB 3040 -1 amendment

The City of Eugene Opposes HB 3040 and the -1 amendment as being unrealistic to implement, will not positively impact housing affordability, and will negatively impact a local government's ability to deliver critical infrastructure for the benefit of a handful of private development interests. We also request that you schedule a second Public Hearing to complete the scheduled testimony on the -1 amendment.

As you heard during the public hearing today from our local government colleagues, System Development Charges, or SDCs, are the cornerstone funding mechanism which we utilize to support the critical infrastructure needs of our communities. This includes sewer and stormwater systems, the parks in which we recreate, and the roads which carry our first responders, daily commuters, and our economic activity. SDCs fund this infrastructure and support the existing systems as well as the more resilient, sustainable, and equitable future systems which our communities are preparing for. We implement our climate planning efforts, our multi-modal transportation systems, our transit future, our sustainable wastewater and energy capture, our clean water vision, and providing equitable access to parks and recreation facilities through our local infrastructure plans. These are all supported by SDCs and we utilize these funds to leverage investment from federal and state resources. Without SDCs communities like Eugene would struggle to provide the infrastructure which our community requires.

Section One

Because of this critical use of SDCs, we must always take the development and implementation of this revenue source seriously. What is the problem that the legislature is looking to solve with this Bill? The first sentence of Section One is to conduct a study to foster the development of affordable housing. The issue of affordable housing is important and complex. One of the areas of common agreement is that we need appropriate infrastructure to support that housing and ensure that public health and critical infrastructure are supported. We support such a study, but let's make sure that the list of items being reviewed are within the realm of having impact on affordable housing. We respectfully request that if there is a workgroup to study SDC's that local governments are an equitable partner in the development of the work plan for that study.

Section Four

Section Four of the amendment mandates that a local government must provide an SDC payment deferral plan, either to when a Certificate of Occupancy (C of O) is issued or, in the case of a single-family home, at the time of sale. Many local governments already offer deferrals as an incentive or provide other options, such as billing later by contracting with the city, which Eugene already offers. Local governments are not involved in private property transactions and this requirement would result in an excessive burden on local governments to track real estate transactions to ensure that the public fees, which a project owes, are paid. Additionally, it is unclear how payment deferral for commercial and industrial developments assists with affordable housing. Finally, from a technical process perspective, we would need to rebuild parts our electronic permit system and rewrite existing City Code and Rules. Below are specific issues that need to be addressed for the proposed language in Section Four to make any sense for local governments:

- The current system works and is efficient to administer, even for programs (like Eugene's) that are complex to begin with. The administrative burden gets even bigger for smaller jurisdiction or counties that have to manage permitted sites with less staff and possibly from large distances away from their administrative centers. To put this in perspective Eugene has nine full time staff where a roughly 30% of their work is dedicated to SDC's.
- Significant changes would be required to our permit system. Currently everything is programmed so no permits are issued if any fees are owed (including SDCs). It would be a major change to exclude SDCs from this process. Our technical staff estimate 60 days to program and several weeks for testing. It wouldn't be possible to begin to design and implement for about 12 months as our permitting system is currently being redesigned to another platform, and we've locked out any changes until that process is complete. If HB 3040 were to be passed, we request implementation be delayed, preferably 18 – 24 months, so we can build it into our eBuild system. The cost estimate to reprogram the current system is approximately \$10,000 but could be higher depending on timing.
- Because SDCs are currently collected at time of permit issuance, delaying that to the C of O would create another processes needed at C of O issuance to collect those fees, we estimate needing to add at least .25 FTE to accommodate this additional step, on-going (roughly \$25,000 per year including benefits). We would also need a major re-write to our codes and SDC methodologies. Everything is currently written at the time of permit for all systems. Calculation, payment, appeals, financing, incentives, etc. We would need to create an entirely new system and process, our estimate for that code process is .4 FTE for 5-6 months (~\$25,000) for staff time, this does not include city attorney or leadership time (City Engineer, PW Director, City Manager, City Council meetings).
- Addressing Temporary Certificates of Occupancy (TCO), which we issue regularly. We can do this if the building is technically safe, but not all the requirements have been met (i.e., landscape improvements). Examples: we issued Kidsports a TCO last summer to allow them to hold summer camps; a multi-family student housing project is substantially complete, and school starts, a homeowner moves cross-country and is waiting to get into a home and the sidewalk isn't complete. If SDCs are delayed until occupancy and that includes TCOs, we would be holding up these TCOs for SDC payments. The original permit holder (developer/contractor) may be

completely disassociated from the project and we're now trying to resolve payment before issuing the TCO.

- Many projects take 1-2 years to complete after permitting, which results in a 1-2 year delay in acquiring the revenue needed for capital projects to serve the development. That puts the City back a full Capital Improvement Program (CIP) cycle. Also, a 1-2 year delay in paying back any debt service (more interest for the City to pay and more of an impact to long term SDC rates) that may have been incurred to fund previous capital projects. In the meantime, all the City's systems are being used to construct the project along the way. The investment has already been made, at least for the reimbursement fee. Public projects are frequently financed. Developers primary argument is not financing the fee and paying interest. Cities often finance at least a portion of capital improvements, so debt service and interest are a reality on the public side also. Eugene does a good job of being fiscally conservative and avoiding debt; but other cities don't have that luxury and must finance, usually amortized over a much longer period compared to construction loan.
- The time value of money is also important to us. Construction often inflates 2-4% per year in a good economy. 1-2 year delay means we can't do as much with that same amount of money. Projects are locked into the SDC rates at the time they apply so indexing doesn't catch that. Either a developer has to finance more up front, or the City gets delayed and pays more on the back end. Obviously, cities would prefer the developer pay since they are creating the additional impact/demand that SDC are collected to address.
- Eugene allows for a variety of SDC reductions, incentives and credits. A significant number of them have caps and they are all tied to the time of paying the SDC. This means that if a cap is met, we would not only have to collect SDC's at the end but there is a high likelihood that we would have to increase the amount they owe us because the cap had been bet while they were building. It can be in the range of hundreds of thousands of dollars. One of our caps was met earlier in 2021 and our staff needed to notify 30-40 permits that that their SDC's are about to increase through no fault of their own. This is already a significant administrative burden as the caps change every fiscal year. Adding the timing of SDC payment at the end of the project would create an unbearable and unequitable system.
- The City never wants to be in the position where they are preventing a family from occupying their house. It paints the agency in a very dim light and quickly becomes a very political issue. Fees up front prevent this from happening. Fees up front also keeps the builder with some "skin" in the game because they are typically coordinating the review/permit/fees up front. They don't get paid until they start building. If payment of SDC is the last thing on the list.... the builder has less of an incentive to represent their client and be part of the process. Furthermore, it's not an issue that is readily apparent on the site. It will be viewed as a hidden administrative requirement or "tax". Public agencies don't like issues (especially fees) to sneak up on people at the end of a project when they think the finish line is in sight. Fees up front don't have that problem. Everything they need to have a clear path to occupancy is laid out up front and in their hand when a permit is issued. We frequently hear from developers/builder/consultants that late changes or "surprises" are at the top of their list of government irritants.

- Projects always go over budget. We do not want a builder or homeowner to get in over their heads and then still be responsible for 10k-15k worth of fees at the end. There is less chance with an experienced builder but a common issue with people that want to be their own general contractors. People don't like choosing between better appliances and paying fees. It's more of a planned and informed decision when made up front. We feel that is the best time to see the entire picture and make informed choices.

Section Six

Lastly, related to the requirements outlined in Section Six, regarding a disclosure statement, again, it is not clear to us how these are related to affordable housing. As you know, there is existing prescriptive state statute that directs the process for a local government to create and implement SDCs. We are required to hold public hearings and advertise when our City Council deliberates on and adjusts our local SDCs. The adopted ordinances with methodology and projects lists are publicly available. We provide information through our permit systems to deliver accurate and transparent costs to anyone seeking a development permit. We make all of our SDC methodologies and information available on our easy to search website (<https://www.eugene-or.gov/2247/Systems-Development-Charges>). It is because of this history and accountability to the public that we question the purpose of the items included in the -1 amendment related to transparency.

I hope this gives you some insight into the challenges of this bill and why it is not implementable, nor beneficial to housing affordability, nor the ability of local governments to provide critical infrastructure to our communities. Reducing funding for infrastructure by constraining and increasing the cost of local government implementation of SDCs—a critical and necessary element of equitable and adequate capital funding—is not a viable or logical option. In the end, shifting the infrastructure cost burden from development fees to user fees at a time when utility services and other costs of living continue to rise makes it harder for people to afford to pay their bills, which is also an issue of housing affordability.

We also were surprised that the -1 amendment was released late on Friday, March 13 with the hearing scheduled for early March 16th. This created a burden for many of the opponents to coordinate testimony with leadership and elected officials. While we recognize the Legislature is working through multiple bills, we find the lack of engagement with the main impacted party of this bill (local governments) to follow through on the principles of transparency and equity which this bill and the Legislature as a body espouse. We coordinated with our City Engineer to provide testimony and she was unable to weigh in during the Public Hearing due to time constraints, with no extension of the public hearing being offered by the Chair. We request that an additional hearing be scheduled on the -1 amendment.

The City of Eugene asks you to Oppose HB 3040 and the -1 amendment. Thank you for your service to our state and communities.

Sincerely,

submitted electronically

Ethan Nelson
Intergovernmental Relations Manager