SDAO Special Districts Association of Oregon

TO: Members of the House Committee on Business and Labor

FROM: Frank Stratton, Special Districts Association of Oregon

DATE: January 30, 2023

RE: **Testimony in Support of House Bill 2056**

INTRODUCTION

Good morning, Mr. Chair and members of the committee. For the record, my name is Frank Stratton and I am the executive director of the Special Districts Association of Oregon. SDAO's membership consists of over 960 special service districts who provide services ranging from water, wastewater, park and recreation, fire, irrigation, transportation, and many others.

HB 2056 proposes a clarifying change to legislation proposed by our association and unanimously adopted by the legislature in 2005 related to public body minimum self-insured requirements (ORS 30.282). A strict reading of the statute prevents reserves from liability and workers compensation public body self-insured programs interchangeably. HB 2056 proposes to clarify that reserves are the public entities' funds and can be used for the benefit of the program's public bodies.

BACKGROUND

In the early 1980's public entities nationwide experienced an insurance availability crisis. Most local governments were unable to obtain liability and property insurance. As a result, most states, including Oregon, passed legislation to allow local governments to join together by intergovernmental agreement to create self-insurance programs. In 1985 the Special Districts Association of Oregon (SDAO) established a self-insurance Trust, Special Districts Insurance Services Trust (SDIS), to provide Oregon's special districts with liability and property insurance coverage. Today SDIS, on behalf of its 960-member special districts, manages self-insured programs for liability, property, cyber, workers' compensation, and employee benefits.

Minimum financial requirements for the creation and operation of public entity self-insured property and liability programs were nonexistent in statute until 2005 when SDAO and SDIS sponsored, and the legislature unanimously passed SB 837 (2005). The bill outlined minimum requirements for the creation and operation of public entity self-insured property and liability programs. This legislation was intended to strengthen existing programs and to prevent

opportunistic insurance consultants who attempted to take advantage of a lack of statutory guidelines and financial controls. Recently we discovered an unintended consequence of the reserve language contained in SB 837 (2005) that we propose to remedy in HB 2056 (2023).

PROBLEM

ORS 30.282 (6) outlines the financial and structural requirements for the creation and operation of public entity self-insured liability and property programs. One of the subsections, section 30.282 (6)(c), states that "Program contributions and reserves must be held in separate accounts and used for the **exclusive** benefit of the program."

A recent legal review of section 30.282 (6)(c) has brought to light that this language is more restrictive than was originally contemplated when we passed SB 837 (2005).

1. Over the past ten years, SDIS has returned over $10 million dollars in dividends to members who participate in its liability and property program. An argument can be made that this is not allowed because funds returned to the participating special districts are not used for the "**exclusive"** benefit of the program."

2. SDIS has been able to leverage the surplus earnings of its liability and property program to provide capital to expand into other areas. For instance, SDIS would not have been able to start its self-insured health and dental program, without the financial security of the surplus from its liability and property program. The health and dental program have been highly successful in stabilizing rates for special districts. In the first year alone, members premiums decreased by 18%; rural fire protection districts in the program have not had a rate increase in three years. This would not have been possible if a strict interpretation of Section 30.282 (6)(c) was followed.

3. Stability of insurance or self-insurance is all about diversity of risk and the law of large numbers. The more lines of coverage you have, the greater the stability, because a bad year in one line of coverage, is often offset by a good year in another. A strict interpretation of Section 30.282 (6)(c) takes away our most crucial tool for keeping rates stable overall for participating special districts.

SOLUTION

HB 2056's (2023) proposed statutory change would amend ORS 30.282 (6)(c) to read "Program contributions and reserves must be held in separate accounts and used for the exclusive benefit of the program, **the contributing public bodies, or any other program of self-insurance for which at least one of the contributing public bodies is a member.**

This proposed statutory change will not lessen the overall requirements of ORS 30.282 (6) which still requires a high level of financial due diligence including:

- Conducting an annual independent audit
- Retaining a minimum level of surplus for financial security
- Obtaining adequate excess or reinsurance to protect against catastrophic claims
- Collecting a minimum level of contributions (premiums) from members to provide a critical mass for rate stability.
- Setting claim reserves based on proper actuarial calculations and review.

We believe this change will continue to provide SDIS and other self-insured public entity programs with the ability to return surplus funds to members, provide rate stability across the board, and free up surplus funds to be used for starting or strengthening other self-insurance programs.

Thank you for the opportunity to testify in support of HB 2056 I would be happy to answer any questions the committee has.