



WASHINGTON COUNTY

OREGON

March 16, 2021

House Committee on Economic Recovery and Prosperity

VIA OLIS

Chair Lively, Vice-Chairs Cate and Kropf, Members of the Committee:

On behalf of Washington County and Clean Water Services, we respectfully request that you do not adopt the -1 to HB 3040. We have significant concerns that the changes to the System Development Charges (SDCs) statutes would create significant risks and hardship for entities to collect and administer SDCs.

As you know, SDCs pay for the capital improvement projects that increase or increased capacity of the system to meet increased needs based on new development. Local governments do not have many tools in the toolbox to pay for infrastructure projects. Property taxes have been limited and set by constitution reform. Federal and state investments in new infrastructure have dwindled. SDCs were created to help finance the need to expand the capacity in order to prevent systemic failures of infrastructure. In fact, Clean Water Services was a special district formed when the waste water and storm water infrastructure failed to have the capacity needed to meet the growing population in Washington County. This lead to a moratorium on development until the capacity was there to insure that residents and businesses could be safely served by the infrastructure.

Since Measures 5 and 50 have limited the amount and increase on property taxes and established that new housing is not assessed at its real market value – instead it is tied to what the property might have been worth in the 1990s based on a county wide formula – new development also does not often provide property tax revenue that covers the costs to serve it.

All of these limitations lead local governments to look for solutions, because we cannot stop growth and development. SDCs have become that tool. But they are not created or set in private. The process of establishing the rates and adopting the methodology is done in public. The development community and others can involve themselves in the SDC process and are often providing advise to local governments as they develop their recommendations to their elected officials. SDC rates are set based on the cost to build the infrastructure that is identified in an adopted capital improvement plan, the cost to evaluate the methodology and cover administrative costs to run the SDC programs. These costs are unique to the local jurisdictions needs and the projects that are necessary to create the capacity that development demands, and where the development occurs. For example, in Washington County the necessary transportation capital improvements in the areas that have been developed had very

challenging terrain, leading to large, costly projects just to connect new development without overwhelming the transportation system. Not every city or county will have to address these complex issues or balance the variety of issues that the county needed to do with the methodologies to establish our SDC rates.

The means and methods for assessing SDCs is an important piece of insuring that they cover the intended development costs. Changes to the requirements or timing has administrative and methodology implications. Moreover, SDCs must be managed to ensure that the revenues are collected to make sure that we can meet our bond obligations. As a result of this need, we believe that changes suggested in the -1 amendment leave the County with a significantly higher administrative burden. In addition, both Clean Water Services and the County will take on increased risks that delayed payments, which influences the ability to bond against future fees as well as the risk that fewer fees will be paid.

In Washington County, we have a robust development market. We are rapidly growing both for housing development and industrial. The County is only a part of the land that is undergoing development and redevelopment. However, our Land Use and Transportation department works as the collecting agency for a number taxing districts when construction is completed in the unincorporated areas as well as for some of our smaller communities. Therefore the county must track the process and jurisdictions that could be charging SDCs for any project where we are the building permitting processor. At the rate of development within the county, we have significant administrative coordination we must do with our partner jurisdictions.

In addition to these general concerns we have the following specific issues with the concepts proposed in the bill.

Study

We support the idea of a study of SDCs. However, the study needs to be a comprehensive look not just at the things listed within section one. Instead, there needs to be a more thorough look at infrastructure financing options and should include the state agency that has experience with infrastructure financing as well as commercial and industrial development – Business Oregon. To truly understand the impacts on methodological and process changes, all of those issues need to be explored. Therefore, we would recommend that a more robust study be called for to dig deeper into how we can partner local government and state opportunities to assist with infrastructure development.

In addition, the bill asked for impacts to affordable housing, but does not clarify if the intent is to only study impacts on regulated affordable housing or housing affordability. This is an important distinction. One that is needed throughout the bill.

Mandatory Delayed Payment

The primary issue that arises with delayed payment is the risk is shifted from the banks to the local government. Delaying payment to the certificate of occupancy does not make sense

because the issuance of the certificate of occupancy is not a discretionary moment for our building officials. There is no authority to withhold the certificate based on failure to pay outstanding fees. While some deferrals may work this way, the local government has made a choice and has to coordinate with other districts to ensure payments are made to all entities. This is especially challenging for Clean Water Services which is not the entity collecting the SDCs and provides services and charges SDCs in partnership with all the local jurisdictions providing building inspection services.

Delaying payment for single family homes to closing cannot be effective for any local government because there is no part for the local government in that private transaction processes. It would be impossible for a local government to know that a closing was occurring. Also, the bill precludes assessment of the fee until closing, which means that the costs would not be known until closing.

Standardization of the methodologies, as recommended by some developers will not assist with the risk of not getting the SDCs paid. As was seen in the last recession, projects fail after they are started, and if the SDCs are not paid upfront, there is no ability for the local government to recoup any costs associated with development. Housing development is needed across the state, but the recommendation in the -1 to allow for the delay of these payments for all developers places a greater risk on local government which becomes a liability to current residents and ratepayers. Eventually, the infrastructure that is built to address capacity increases must be paid for. And if the SDCs are not paid, local government must cover the costs and forego other expenditures from the general fund, which are also essential services.

Reporting Requirements

Finally, the requirement for a transaction-based webpage would be an administrative burden on the county. We are the agency that collects the SDCs, but we collect them not just for ourselves. It is unclear who would therefore be responsible for the reporting. We wouldn't know the projects of other local governments that would relate to a particular development. And we would have to change our reporting to the other local jurisdictions about individual collections. In all, increased administrative costs would likely trickle into the methodology to make sure that SDC costs are covered.

Conclusion

Both Washington County and Clean Water Services rely on SDCs to have development pay for development. This was the intent of SDC statutes – to have development pay for itself. Before any changes are made, we need to have a robust study of other ways to pay for infrastructure in ways that do not require local governments to bear the financial risk. Washington County and Clean Water Services work to provide fiscally responsible policies that protect our residents and provide them with the services they expect from each entity. Therefore, we request the next proposed amendment creates a more robust study and leaves the other provisions of the bill out. A comprehensive study will help identify any real issues and may provide an

opportunity to truly address the need of infrastructure in order to develop. Because if the county or Clean Water Services cannot find the revenues to continue to address capacity concerns, eventually the systems they build will run out of capacity, and no development will be possible. The general funds of counties provide not only for building and planning, but public health and safety, courthouses, assistance to our most vulnerable community members, and other vital services. The general funds of Clean Water Services keep them compliant with the regulatory structures that keep our water basin clean and our public healthy.

We are willing to continue with conversations moving into the future, but the amendment that was offered in the -1 does not reflect consensus or a workable solution to address any anecdotal stories about SDC concerns.

Thank you for your consideration of these deep and difficult issues.

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