

W. G. B.

Memorandum Date: January 17, 2011
Meeting Date: January 19, 2011

TO: Board of County Commissioners
DEPARTMENT: Administration, Intergovernmental Relations
PRESENTED BY: Alex Cuyler, Intergovernmental Relations Manager
AGENDA ITEM TITLE: Legislative Concept Confirmation – Priorities for February, 2011

I. MOTION (S)

- A.) Move to confirm the legislative priorities adopted by the previous Board of County Commissioners on 8/25/10.
- B.) Add additional legislative committee recommendation: elimination of 1/1/2014 sunset for provision allowing federal forest revenue to be utilized for sheriff patrol (in addition to road fund).

II. AGENDA ITEM SUMMARY

- A.) As part of the lead up to the 76th Oregon Legislature Special Session, the Board is being asked to confirm the legislative concepts that have been previously developed by the Intergovernmental Relations Manager and the Legislative Committee.
- B.) Report back on progress made to date with legislative priorities.
- C.) Discussion regarding recommendations of the legislative committee from 1/14/2011.

III. BACKGROUND/IMPLICATIONS OF ACTION

A. Board Action and Other History

- The Board of County Commissioners provided direction to the Intergovernmental Relations Manager during their regularly scheduled meeting on 8/25/10 to pursue the drafting and introduction of legislation in advance of the 2011 Legislature.
- The Board of County Commissioners adopted a motion during their 1/5/11 meeting to re-design the Legislative Committee such that two Board members were seated as regular members of the Legislative Committee.

B. Policy Issues

Each of the items discussed within this document are submitted with the underlying policy assumption that passage of such measures will either result in a direct increase in revenue or will reduce expenses or will reduce risk exposure to Lane County Departments and Divisions.

C. Board Goals

Active involvement with legislative issues

D. Financial and/or Resource Considerations

- The undertaking of any legislative change will require human resources which the County already has in place, and will entail potential commitments within the realm of the legislative session for the Board, for instance hearing testimony and travel time.
- The County's membership with the Association of Oregon Counties and the Association of O&C Counties enables Lane County to enlist additional resources in Salem, subject to approval from the respective legislative procedures adopted by those organizations.

E. Analysis

Item A.) Improving Justice Court Collections:

Status: This priority was introduced as HB 2653 through the work of Lane County <http://www.leg.state.or.us/11reg/measpdf/hb2600.dir/hb2653.intro.pdf>

The State Department of Revenue operates the Other Agency Account Unit which acts as the state's collection unit per ORS 293.250. Justice Courts currently may take advantage of a limited collection program within that unit to recover fine revenue by deducting it from Oregon tax returns (offset program), but are unable to participate in a more aggressive effort (full service program) that involves expanded collect efforts in collaboration with the Oregon Employment Department. The proposed statutory change would allow Justice Courts to gain access to the full service program, and would result in an increase in the percentage of fines collected. Collection of past due fines burdens Justice Courts throughout Oregon. Lane County has an accumulated balance exceeding \$15 million. A single collection could provide a recovery between \$150 and several thousand dollars. This concept is one of the recommendations of the Government Efficiencies Task Force (chaired by Nancy Nathanson, HB 2920, 2009).

Likely Supporters: Association of Oregon Counties, Oregon Justices of the Peace Association

Likely Opponents: Oregon Collectors Association

Item B. Public purpose charge

Status: This priority is likely a multi-session effort, and while discussions have occurred with select lawmakers about this issue, there is not a bill that will be introduced on behalf of Lane County during this session.

The Public Purpose Charge (PPC, established by SB1149, 2001) should be expanded to all electric utilities in Oregon. This would result in expanded and more uniform renewable energy services across Lane County. Under existing law, the vast majority of PPC funds are required to be spent within the utility service areas they came from. Since public utilities are not subject to the PPC, Lane County residents are not able to take advantage of the benefits they provide.

Monetary benefits to renewable energy programs in Lane County would include:

- \$6.4 million for grants, rebates, and other programs administered by the Energy Trust of Oregon.
- \$837,000 for energy audits and conservation/renewable upgrades for Lane County schools.
- \$1 million for weatherization programs for low-income residents of Lane County that could help weatherize approximately 390 homes.

Applying the PPC charge to public utilities would effectively raise customer rates by 3%. This concept should include provisions such that accumulated funds would be used to improve Property Assisted Clean Energy (PACE) funding.

Likely Supporters: Oregon Solar Energy Industries Association, Investor owned utilities(?)

Likely Opponents: Oregon Municipal Electric Utilities Association, Oregon People's Utility District Association

Item C. Elimination of the local cigarette tax pre-emption

Status: This priority was introduced as HB 2385 primarily through the work of Multnomah County.

<http://www.leg.state.or.us/11reg/measpdf/hb2300.dir/hb2385.intro.pdf>

Current state law forbids cities and counties from implementing their own tobacco taxes. This issue has resulted in draft legislation in each of the past two legislative sessions. For Lane County, a cigarette tax of fifty-cents per pack could increase revenue by \$8.5 million. It is well documented that a reduction in smoking caused by a price increase will save lives, decrease medical expenses and increase productivity. Lane County should work with other Oregon counties (Multnomah in particular) to introduce legislation that would allow counties to tax tobacco products as they see fit.

Likely Supporters: Association of Oregon Counties, League of Oregon Cities, American Cancer Society, Tobacco-Free Coalition of Oregon

Likely Opponents: The opposition to this may be internal, eg, that the Legislature itself may pursue efforts at increasing the state tobacco tax

Item D. Election Costs. State and cities are exempted from reimbursing counties for certain elections.

Status: This concept was not advanced during the 2010 legislature due to the fiscal impact (est \$5M) to the State. Given the financial uncertainty expected for the 2011-13 biennium there is not a bill that will be introduced on behalf of Lane County during this session.

One of Lane County's priorities in 2009 concerned the costs associated with printing ballots and for elections, generally. Lane County typically has ballots that require extra postage due to overweight ballots. Extra weight comes from overly long ballots, which occur when there are a number of state and local measures crowding onto the general election. This is at least partially due to the fact that cities and districts do not pay their apportioned costs of general elections. ORS 246.179 requires that counties pick up all those costs. At the least, counties should be able to charge cities and districts their fair share of apportioned costs for the general election, as is the practice for other elections. HB 3240 (2009) included this provision, but died in Ways and Means (this issue has an estimated cost of \$5 million to Oregon). It is one of the recommendations of the Governor's Task Force on Federal Forest Payments and County Services.

Likely Supporters: Association of County Clerks (AOC), Special Districts Association
Likely Opponents: League of Oregon Cities,

Item E. Precinct Committee People removed from ballot (in most cases).

Currently, the County Clerks have responsibility for conducting elections for precinct people for both the Democratic and Republican parties for approximately 15,000 positions. As ballots become more and more crowded, the space requirements for these positions is simply not worth it as they are typically uncontested positions. This legislative concept is a priority for the Association of County Clerks, and is a recommendation from the Task Force on Effective and Cost-Efficient Service Provision.

Status: This priority was introduced as HB 2492 primarily through the work of the Oregon Association of County Clerks.

<http://www.leg.state.or.us/11reg/measpdf/hb2400.dir/hb2492.intro.pdf>

Item F. Urban Renewal Districts. Clarification on assessor notice and calculation of maximum indebtedness.

Status: The assessor notification portion of this priority is being drafted by Legislative Counsel as of 1/14, primarily through the work of Lane County.

Procedurally, ORS 457.450(2) requires urban renewal districts to notify the assessor when they have collected enough money to pay off the principal and interest on the urban renewal district's indebtedness. In reviewing this statute, there is no timeframe surrounding how soon the urban renewal district must contact the assessor. Additionally, ORS 457.450(3) requires that urban renewal districts turn over any moneys remaining unexpended after payment of all the principal and interest on the indebtedness. Again, there is no timeframe surrounding that requirement. The statute seems to imply the actions should be commenced sooner rather than later, but a specific timeframe would eliminate confusion on all sides, and give some certainty to those taxing districts impacted by urban renewal districts.

A second procedural issue concerns the methodology (prescribed in ORS 457.220 (4)) for calculating the maximum indebtedness a URD may adopt through a plan amendment. There is a legislative counsel opinion on this issue as a result of the passage of HB 3056 (2009), but those opinions are non-binding. Without clear guidance, urban renewal districts are still free to adjust how they calculate the maximum indebtedness. It is in everyone's best interest to have one methodology that is clearly understood. Statutory changes to reflect the recommended methodology would eliminate conflict and the need for lawsuits to further clarify the current statutes.

Note that when HB 3056 was being negotiated, a number of parties agreed to not initiate new URD legislation until after January, 1, 2017 and to oppose URD legislation proposed by a third party until that time period, with some exceptions.

Item G. Transfer of development rights. Improved methodologies are needed.

Status: This priority was introduced as HB 2132 through the efforts of the Department of Land Conservation and Development.

<http://www.leg.state.or.us/11reg/measpdf/hb2100.dir/hb2132.intro.pdf>

In 2009 the Oregon Legislature passed two bills (SB 763 and HB 2228) that created a pilot program for transferring development rights between properties. A TDR program is a market based incentive program that allows property owners to sell development rights on their own property to other property owners whose development rights are more restrictive. Generally, this process takes place between rural farm or forestland areas (sending properties) and urban or underdeveloped areas (receiving properties). Unfortunately, the enabling legislation neglected to take a number of factors into consideration and the new TDR program in its current form is not viable in the vast majority of cases.

There are five main problems with Oregon's pilot TDR program:

1. The ratio of sending to receiving credits is currently 1:1 in most cases. This is not high enough to produce an incentive for the senders. Almost all other jurisdictions have at least a 2:1 or 3:1 ratio.
2. Limitations on the amount of dwelling units in sending areas (4 per square mile) are too restrictive, making it harder to find eligible properties.
3. The requirement that the majority of property owners in a sending area consent to being part of the program is unworkable for small, scattered properties.
4. The public access requirement for sending areas is unrealistic for smaller properties.
5. Clarification on a county's ability to impose deed restrictions is needed.

The Oregon Department of Land Conservation and Development has submitted a legislative concept to legislative counsel titled "Amendment to Transfer of Development Rights Pilot Program". It may or may not be in line with the County's thinking on this issue.

Item H. A&T fee increase for transfer title on manufactured structures.

Status: This priority was drafted into LC 2747 and will be introduced as a House Revenue Committee bill in February.

Under Oregon Law, structures not attached to land, such as manufactured homes, have an ownership document that is similar to a vehicle title, and which prior to 2005 was in fact issued by the Department of Motor Vehicles. In an effort to streamline to procedures related to issuing this document, the Legislature provided that counties are an agent of the Department of Consumer and Business Services and established a fee of \$55 to issue such a document. DCBS developed IGA's with each of Oregon's 36 counties to share the revenue, based on a per document split of \$30 to county, \$25 to Oregon. This was intended to cover the costs for the counties. During the 2009 session, the DMV raised the vehicle title fee to \$77. It has been suggested (through a proposal to the Lane Save-it Committee) that the manufactured home title also be raised to \$77, and to statutorily link the fees between vehicle titles and manufactured homes, or to at least index the manufactured home title fee to inflation.

Likely Supporters: Oregon State Association of County Assessors (AOC)

Likely Opponents: Oregon Manufactured Housing Association

Item I. Enabling law libraries to contract services with other providers.

Status: This priority was introduced as HB 2367 through the efforts of Lane County.
<http://www.leg.state.or.us/11reg/measpdf/hb2300.dir/hb2367.intro.pdf>

ORS 9.820 allows any county with a population over 400,000 to contract with a law library association or corporation owning and maintaining a law library for the use of the library by the judges, commissioners, DA and members of the bar. Law libraries receive funding allocated through fees associated with fines and court filings, and that funding is regularly scrutinized by the Legislature. With the availability of a comprehensive law library at the University of Oregon, amending the law such that Lane County could also have the option of contracting for this service is something that County Counsel has suggested could be a cost savings.

Item J. Public notice requirements for names (eliminate) and salaries to be posted in a public place.

Status: This priority was drafted as LC 1825 and Lane County is currently seeking sponsors to introduce this bill by the 2/17 filing deadline.

ORS 294.250 provides that county's must publish certain information related to expenditures. Part of it requires that counties "publish the names and gross monthly salary of all regular officers and employees". "Gross monthly salary" is a term that remains problematic for finance and HR staff and would be far easier to provide information on "monthly base pay". Additionally, this effort will involve removing the the requirement to post the actual name of the employee. Rather, the position name should be sufficient.

Likely Opponents: Oregon Newspaper Publishers Association

Item K. Support for the County Services Planning Council.

Status: This priority was introduced as HB 2475, primarily through the work of the Association of Oregon Counties.
<http://www.leg.state.or.us/11reg/measpdf/hb2400.dir/hb2475.intro.pdf>

The Interim Task Force on Effective and Cost-Efficient Service Provision (GETF) is forwarding a number of recommendations to the 76th Legislature. One of their recommendations will be to continue the work of the County Services Planning Council (CSPC) to encourage and coordinate effective fiscal planning for counties to prepare for and manage through the phase-out of federal forest payments (including keeping the recommendations from the Governor's Task Force on Federal Forest Payment and County Services, January, 2009 refreshed). The County Service Planning Council Subcommittee made an additional recommendation having to do with refining the procedures under SB 77 (2009) to declare a public safety services emergency in a fiscally distressed county.

Item L. (New Legislative Priority) Elimination of the sunset established by the 2007 legislature (through SB808) that would limit Lane County's ability to utilize federal forest revenues for Sheriff patrol purposes.

ORS294 and ORS 310 contain a note that allows federal forest revenue received by Lane and Douglas County to be used for sheriff patrol, in addition to road fund purposes. The bill that produced these notes, SB 808 (2007) contained a provision that it would sunset on January 1, 2014. The Sheriff's Office has utilized this revenue in cooperation with the Public Works Department and under direction from the Board during budget deliberations for several years. It has allowed for some additional revenues to be directed to the general fund.

Status: This is outlined in SB 443, introduced by Senator Floyd Prozanski, primarily through the work of Douglas County.

<http://www.leg.state.or.us/11reg/measpdf/sb0400.dir/sb0443.intro.pdf>

F. Alternatives/Options

- 1.) Move to adopt Item L as a new Legislative Priority for Lane County, and confirm the previously adopted items as Legislative Priorities.
- 2.) Do nothing

IV. RECOMMENDATION

Staff recommends option 1.

V. TIMING/IMPLEMENTATION

The Legislative Session begins in February, 2011.

VI. FOLLOW-UP

Staff will continue to work with the Legislative Committee regarding the developments for each of the priorities, and will meet with the Board of County Commissioners regularly during the legislative session.

VII. LEGISLATIVE COMMITTEE REPORT (1/14/11)

The Legislative Committee met on January 14 at the Board of Commissioners Conference Room. Elected officials included Commissioner Stewart, Commissioner Bozievich, and Assessor Spickard. Staff included Alex Cuyler, Ben Nussbaum, Karen Gaffney, Marsha Miller, Liane Richardson, Stephen Vorhes, and Madilyn Zike.

The agenda included

- Federal work, including the United Front trip update and discussions about the National Association of Counties legislative and annual conferences.
- State work, including a discussion of operating principles, legislative priorities, and staff recommendations regarding bills introduced to the 76th Legislature on January 10.

Federal Work

The Intergovernmental Relations Manager was directed to pursue development of a NaCo resolution to be submitted in accordance with NaCo guidelines for the March Legislative Conference that would address the desire to have federal law establish that the Bureau of

Land Management would qualify for funding available by the Federal Highway Administration for improvements to roadways that currently only provide access to National Forest Lands.

The Intergovernmental Relations Manager was further directed to pursue options such that Lane County may participate as an official sponsor for the 2011 NaCo annual conference to be held in Portland. It was recommended that he contact the Director of AOC to develop a standard request for Oregon county participation.

State Work

The Committee reviewed the document titled "Operating Principles: Lane County Legislative Advocacy" and asked the Intergovernmental Relations Manager to highlight wording that outlines when a measure may be lobbied by staff. They further sought language that would ensure that individual staff and Commissioners may lobby on any measure, but if that their testimony is contrary to a memorialized position by the Board, they must also provide that information. The document is attached on the next page.

The Committee reviewed the progress of the previously adopted Legislative Priorities. It recommended that SB 443 be included as a priority. It made no recommendation regarding the pursuit at this time of priorities around:

- Quarry land notifications and public comment
- Junction City Hospital siting and funding
- Resolutions/memorials to Congress regarding Biomass or Secure Rural Schools

These items will continue to be discussed dependent on how things evolve during the session.

The Committee briefly discussed the format for staff review of legislative measures. It asked for additional detail beyond what was provided for this meeting.

Operating Principles: Lane County Legislative Advocacy
January 19, 2011

Mission Statement: The Lane County Legislative Committee serves to make recommendations to the Board of County Commissioners on specific legislative measures.

Membership: The Lane County Legislative Committee consists of two County Commissioners appointed by the Board of County Commissioners during their first meeting of the calendar year, all Department Directors, and the Intergovernmental Relations Manager. Department Directors may invite select staff from their departments to develop information on specific legislative measures.

Schedule and Frequency: As necessary, and as close to Board of County Commissioners meetings as possible to ensure pertinence. Special meetings may be called as emergency business.

Measure Evaluation Selection: Any member of the Legislative Committee or the Board of County Commissioner may request that a measure be selected for staff evaluation and recommendation to the Board of County Commissioners such that a formal position of the Board might be established. Measures are selected deemed by their relationship to a previous issue discussed by the Board of County Commissioners and/or the direct impact to local government operations.

Procedure: Upon selection of a particular measure, a staff assignment will be made by the Intergovernmental Relations Manager. The assignment will consist of a bill summary, analysis, and recommendation.

- The summary will include a brief summary statement, the "relating to" clause, and the sponsors of the bill.
- The analysis will include a discussion of how the bill may affect Lane County government and/or its citizens, including any financial considerations that can be established, a determination of the origins of the bill, and identification of stakeholders, both pro and con.
- Recommendations are:
 - Neutral/Ignore: There is no direct impact to Lane County if it passes or doesn't pass.
 - Support: To uphold or defend as valid or right. Actively engage to ensure passage.
 - Oppose: Offer resistance to the bill such that it fails in committee or in a chamber.
 - Oppose unless amended/Support if amended: A specific amendment is necessary and should be pursued. Amendment concept or language must receive Board support.
 - Monitor: To stay engaged and actively involved in the process of a bill, with regular reports back on real or possible amendments and other developments.
- The Intergovernmental Relations Manager will bring select bills to the Board of County Commissioners on a regular basis in order to confirm or adjust the staff recommendations. **No bills may be actively lobbied by staff without a position being memorialized by a Board Order.**
- Bills will be tracked on an Access database and a post session report will be developed.

Staff and Board Testimony: Testimony is an important element within the legislative process and may take a verbal or written format. It may only be submitted after the Board of County Commissioners has memorialized a position on selected legislation. Staff and Board members may testify on legislative issues contrary to the Board adopted position on that legislation if they are clear that they are doing so as individuals or as a member of a professional organization and make clear the Board's adopted position on the legislation.

Collaboration: Lane County will attempt to maximize collaboration with regards to legislative advocacy by pairing with the Association of Oregon Counties, the Association of O and C Counties, other individual counties, and cities and districts within Lane County.