

Central Oregon Intergovernmental Council Regional Transit Funding Proposal
December 13, 2016

The Goal:

Pass legislation in 2017 allowing intergovernmental entities, with the consent of affected local jurisdictions, to levy property taxes for transit services that are tailored to the needs of individual communities.

This proposal stands in contrast to the transit district model, in which a single property tax rate for the entire district is established by a single levy. In rural regions of the state such as Central Oregon, where the need exists to provide transit service both within and between diverse communities, the transit district model presents significant challenges. The ability to levy different rates in accordance with each community's needs and at their discretion presents a more suitable path forward.

This proposal applies to intergovernmental agencies organized under ORS 190 that are eligible to receive transit operation funding from the Federal Transit Administration. At present, only the Central Oregon Intergovernmental Council (COIC) qualifies, but the model could be applied elsewhere in the future. This proposal is for non-rail transit only.

The Problem:

COIC provides regional transit service in Deschutes, Jefferson, and Crook Counties via Cascades East Transit. Under current state law, COIC can ask voters within its jurisdiction to fund certain transit needs such as capital expenses, buses, etc. via property tax-backed bonds. State law is unclear, however, as to whether COIC can ask voters to fund transit operations via property tax levies.

Furthermore, state law provides no guidance for how such votes could/should be structured. The purpose of this legislation is to a) clearly enable COIC to ask voters to consider funding dedicated transit operations via property tax levies, and b) enable local governments to act on their own timeframe and in accord with their local priorities.

How It Would Work:

The legislation would apply only to qualifying intergovernmental agencies. As mentioned above, only COIC presently qualifies, although it could apply to other entities in the future. Should legislation pass, and before a property tax levy for transit operations could be issued, all of the following requirements must be satisfied:

- 1) The governing board of COIC, in consultation with affected local jurisdictions, must adopt a "pre-resolution" establishing terms for a property-tax proposal (either a permanent rate or local option levy) within specific jurisdictions.
- 2) The governing bodies of all affected jurisdictions must pass resolutions consenting to COIC's pre-resolution.
- 3) COIC must formally propose a ballot measure per the agreed-upon terms.
- 4) Voters must support the ballot measure.

Again, unless all of these terms are satisfied, there can be no tax.

One benefit of this model, as opposed to a transit district, is that it allows each community to work with COIC to craft its own proposal. For example, a city council may be supportive of a property tax levy for transit operations, but desire to pass a fire levy first and then reconsider transit afterwards. This model ensures the council has discretion to do so, as well as to set its rate, specify the service area, etc. The transit district model does not allow this sort of flexibility.

All locally-elected governments within the Cascades East service area support this proposal – most generally, because it preserves their local control. In some cases, it allows cities to clearly embrace the prospect of additional transit funding. In others, it allows them to clearly reject it. In yet others, it allows them to keep their options open for future consideration and to pursue funding if and when they feel the time is right.

Example Community Perspectives:

City of Bend: Desires to expand local bus service to meet growing needs while maintaining regional connections to nearby communities. At present, Bend uses general funds (roughly \$1.45 million per year) via contract with COIC to provide local bus service within the larger, regional CET system. However, demand for limited general fund dollars is increasing and subject to uncertainties as the city grows and evolves. The city's general fund lacks both the capacity and stability needed to address the city's transit needs. The City of Bend strongly supports this proposal.

Jefferson County: Supports this proposal as the ideal solution to assist the development of a Central Oregon transit system that gives each community the ability to financially support its transit needs within a single taxing district. The ability to regionalize a transit system under one government body will save taxpayer funds, avoid the duplication of administrative costs, and promote a coordinated effort.

City of Sisters: Recognizes and welcomes the benefits associated with this concept to protect the current system from fragmenting into multiple transit districts, for creating economies of scale, for assuring the development of each city's transit plan in concert with its development plans, and allowing each city to determine its own path forward.

City of La Pine: Is supportive of a structure that allows communities the opportunity to develop transit funding while retaining regional services via CET under COIC governance. This change will benefit Central Oregon regionally while maintaining control at the local level to expand transit funding when each community sees fit.

Why Are We Pursuing This Now?

Without the legal certainty this proposal would provide, it's very difficult for COIC to ask those it serves to consider supporting transit operations via property tax levies. Current law doesn't clearly prevent COIC from proposing levies. And it doesn't appear the Legislature ever intended to be limiting in this regard. But without further statutory clarification, it's unlikely that property tax levies can be seriously considered as a means of supporting dedicated transit operations.

The process of developing local support would require years of outreach and education, community-level discussions, thorough vetting of policy alternatives, and other steps

necessary to develop confidence with voters. This would likely be a multi-year process, and it's not expected that any levies would appear on ballots for at least several years.

About COIC and Cascades East:

Central Oregon Intergovernmental Council (COIC) is a council of governments organized under ORS 190 by the three counties and eight cities of Central Oregon.

COIC is governed by a 19-member board, made up of an elected official appointed by each of the member governments and appointed members representing business, chambers of commerce, education, workforce development, and the economic interests of the area. The Confederated Tribe of Warm Springs is an Ex Officio member.

Since 1972, COIC has served Central Oregon, working together with our community partners to create and sustain a healthy regional economy. COIC has evolved into the diverse organization it is today by changing as Central Oregon changes. COIC supports the region in policy making, program planning, and delivery.

COIC is a designated recipient of funds from USDOT-Federal Transit Administration.

D R A F T

SUMMARY

Authorizes certain intergovernmental entities created to operate, maintain, repair and modernize transportation facilities to impose property taxes in support of those purposes, or issue general obligation bonds supported by property tax revenues, if entity obtains approval of governing bodies of affected cities and counties in entity territory. Grants intergovernmental entity status as transportation district for purposes of transportation district and special district laws, with exceptions. Permits intergovernmental entity to divide territory of entity into zones in which different tax rates are to be imposed, if different tax rates are based upon qualitative differences in services provided by entity.

Requires intergovernmental entity to obtain voter approval of measures authorizing bond issuance, imposing taxes or establishing tax zones within entity territory.

Takes effect on 91st day following adjournment sine die.

A BILL FOR AN ACT

1
2 Relating to intergovernmental entity funding of transit operations; creating
3 new provisions; amending ORS 190.083; and prescribing an effective date.

4 **Be It Enacted by the People of the State of Oregon:**

5 **SECTION 1.** ORS 190.083 is amended to read:

6 190.083. (1) Before a county enters into an intergovernmental agreement
7 creating an intergovernmental entity to operate, maintain, repair and mod-
8 ernize transportation facilities, the county shall obtain approval of the terms
9 and conditions of the agreement from the governing bodies of a majority of
10 the cities within the county.

11 (2) Subject to the provisions of this section, an intergovernmental entity
12 created to operate, maintain, repair and modernize transportation facilities
13 may issue general obligation bonds and assess, levy and collect taxes in

NOTE: Matter in boldfaced type in an amended section is new; matter *[italic and bracketed]* is existing law to be omitted.
New sections are in boldfaced type.

1 support of the purposes of the entity.

2 (3)(a) To carry out the purposes of an intergovernmental agreement under
3 this section, and when authorized at an election described in paragraph (b)
4 of this subsection, an intergovernmental entity created to operate, maintain,
5 repair and modernize transportation facilities may borrow moneys and sell
6 and dispose of general obligation bonds. Approval requires an affirmative
7 vote of a majority of the electors within the intergovernmental entity voting
8 in the election.

9 (b) If the bonds are not subject to the limitations under [*section 11 or*
10 *11b,*] Article XI, **section 11 or 11b**, of the Oregon Constitution:

11 (A) The proposition submitted to the electors shall provide that the
12 intergovernmental entity shall assess, levy and collect taxes each year on the
13 assessed value of all taxable property within the intergovernmental entity
14 for the purposes of paying the principal and interest on the general obli-
15 gation bonds;

16 (B) The election must comply with the voter participation requirements
17 of [*section 11 (8),*] Article XI, **section 11 (8)**, of the Oregon Constitution; and

18 (C) Outstanding bonds may never exceed in the aggregate two percent of
19 the real market value of all taxable property within the entity.

20 (4) The governing body of an intergovernmental entity created to operate,
21 maintain, repair and modernize transportation facilities shall issue the bonds
22 from time to time as authorized by the electors of the entity. The governing
23 body shall issue the bonds according to the applicable provisions of ORS
24 chapter 287A.

25 (5) The electors of an intergovernmental entity created to operate, main-
26 tain, repair and modernize transportation facilities may establish a perma-
27 nent rate limit for ad valorem property taxes for the entity pursuant to
28 [*section 11 (3)(c),*] Article XI, **section 11 (3)(c)**, of the Oregon Constitution.

29 (6) An intergovernmental entity created to operate, maintain, repair and
30 modernize transportation facilities may exercise the powers necessary to
31 carry out the purposes of the intergovernmental agreement, including but

1 not limited to the authority to enter into agreements and to expend tax
2 proceeds and other revenues the entity receives.

3 (7) An intergovernmental entity created to operate, maintain, repair and
4 modernize transportation facilities is not a district as defined in ORS 198.010
5 and is not subject to the provisions of ORS chapter 451.

6 (8) An intergovernmental entity described in this section is subject to
7 ORS 294.305 to 294.565 for each fiscal year or budget period in which the
8 entity proposes to impose or imposes ad valorem property taxes.

9 (9) **An intergovernmental entity that qualifies as a designated re-**
10 **recipient of funding for transit operations from the Federal Transit Ad-**
11 **ministration may utilize the procedures established under section 2 of**
12 **this 2017 Act in addition to this section.**

13 **SECTION 2. (1) Subject to the provisions of this section, an inter-**
14 **governmental entity created to operate, maintain, repair and mod-**
15 **ernize transportation facilities and that qualifies as a designated**
16 **recipient of funding for transit operations from the Federal Transit**
17 **Administration may issue general obligation bonds and assess, levy**
18 **and collect ad valorem property taxes, including operating taxes and**
19 **local option taxes, in support of the purposes of the entity. Taxes au-**
20 **thorized as prescribed in this section may be imposed throughout the**
21 **territory of the units of local government that make up the entity, or**
22 **only in tax zones within the territory that are established as pre-**
23 **scribed in this section.**

24 (2) In order to utilize the powers and authorities granted under this
25 section, the intergovernmental agreement entered into under ORS
26 190.010 that created the intergovernmental entity, or as amended, must
27 provide for a board of directors of the entity and the method of se-
28 lecting board members. The board of directors shall serve as the
29 entity's governing body.

30 (3) An intergovernmental entity described in subsection (1) of this
31 section shall be considered a transportation district under ORS 267.510

1 to 267.650, except that ORS 267.515 (1), 267.520, 267.530, 267.540 and
2 267.620 do not apply to the entity.

3 (4) An intergovernmental entity described in subsection (1) of this
4 section may undertake any of the following actions only by using the
5 procedures and obtaining the approvals described in subsection (5) of
6 this section:

7 (a) Issue general obligation bonds not subject to limitation under
8 Article XI, section 11 or 11b, of the Oregon Constitution;

9 (b) Establish a permanent rate limit for operating taxes within the
10 meaning of Article XI, section 11 (3), of the Oregon Constitution;

11 (c) Impose local option taxes under ORS 280.040 to 280.145; or

12 (d) Divide the territory of the entity into zones for the purpose of
13 imposing and levying ad valorem property taxes at different rates in
14 each zone based upon qualitative differences in services provided by
15 the entity in each zone.

16 (5) In order to undertake any of the actions described in subsection
17 (4) of this section, the following steps must be completed in the fol-
18 lowing order:

19 (a) The board of directors of the intergovernmental entity, after
20 consultation with the governing bodies of all affected cities and coun-
21 ties, must approve a preliminary resolution that sets forth with
22 particularity the financial or geographic specifics of the measure
23 sought to be approved, including but not limited to:

24 (A) The amount of bonds to be issued, purposes for which bond
25 proceeds may be spent and amount of ad valorem property taxes
26 pledged per \$1,000 of real market value for repayment of the bonds;

27 (B) The permanent rate limit for operating taxes being proposed;

28 (C) The amount, rate and duration of any local option taxes being
29 proposed;

30 (D) The boundaries of any proposed zones in which different tax
31 rates are to be imposed and the qualitative differences in the level of

1 services provided that justifies the zones; and

2 (E) Any other information otherwise required by law or that the
3 board determines to include in the preliminary resolution.

4 (b) The governing body of each city and county wholly or partially
5 within the territory of the entity must, within one year, approve or
6 reject the preliminary resolution by order or resolution of the city or
7 county governing body, except that:

8 (A) In the case of a preliminary resolution that establishes proposed
9 tax zones, a city or county that lacks territory within those zones need
10 not act on the preliminary resolution and approval by their governing
11 bodies may not be sought; and

12 (B) The approval of the governing body of a county need not be
13 obtained and may not be sought if the only territory of the county
14 within the proposed zone is also only within the boundaries of cities
15 that have granted approval under this subsection.

16 (c) If the governing body of every city and county required to con-
17 sider the question under paragraph (b) of this subsection approves the
18 preliminary resolution, the board of directors of the entity, within 120
19 days of the last required governing body approval under paragraph (b)
20 of this subsection, shall consider a final resolution that refers to vot-
21 ers one or more ballot measures that reflect the contents of the re-
22 solutions approved under paragraphs (a) and (b) of this subsection.

23 (d) Each ballot measure referred to voters as described in paragraph
24 (c) of this subsection must be approved by voters in the same manner
25 provided by law for approval of general obligation bonds, a permanent
26 rate limit for operating taxes, or local option taxes, except that if the
27 final resolution includes dividing the territory of the entity into zones,
28 the ballot measure must be approved by a majority of voters in each
29 zone in which taxes are to be imposed.

30 (6) If the voters approve a ballot measure in accordance with sub-
31 section (5)(d) of this section:

1 (a) Any tax revenues collected thereafter may be expended only for
2 the purposes specified in the measure; and

3 (b) In the case of a measure establishing tax zones within the ter-
4 ritory of the intergovernmental entity, the tax revenues collected from
5 each zone must be expended within the geographic area of the re-
6 spective zone.

7 (7) Following the approval of a ballot measure described in sub-
8 section (5)(d) of this section that authorizes ad valorem taxes of the
9 intergovernmental entity to be imposed within the territory of one or
10 more cities or counties, if the boundaries of an affected city or county
11 change, the area in which taxes are to be imposed shall also be ad-
12 justed to reflect the boundary change.

13 SECTION 3. (1) The board of directors of an intergovernmental en-
14 tity that was in existence on the day before the effective date of this
15 2017 Act and that otherwise meets the requirements of section 2 (1)
16 of this 2017 Act shall be deemed to satisfy the requirements of section
17 2 (2) of this 2017 Act.

18 (2) This section is repealed on January 2, 2029.

19 SECTION 4. This 2017 Act takes effect on the 91st day after the date
20 on which the 2017 regular session of the Seventy-ninth Legislative
21 Assembly adjourns sine die.

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