

Hugo Neighborhood Association & Historical Society

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August 24, 2013 Email Attachment

Nathan Rix, Strategic Initiatives Project Manager
Office of the Chief Operating Officer
Department of Administrative Services
State of Oregon
o: 503-373-1109 | c: 503.302.5212
Email: nathan.rix@state.or.us



Subject: Oregon House Bill (HB) 3453 (2013) Clarification Questions

Dear Mr. Rix:

Thank you for your August 16, 2013 clarification email which responded to our August 16, 2013 HB 3453 (2013) clarification questions. Your response was informative. We are especially interested in your reference to OLIS (<http://olis.leg.state.or.us>) when access to that web page is available to us. What does OLIS mean?

Your following response was honest and worrisome. *"I do not know of publications that define the criteria for PSFE or MALPSS for HB 3453, but I suspect that these could be defined within an Intergovernmental Agreement (ORS 190)."* We also do not know of any publications that define the standards or criteria of a PSFE or MALPSS for HB 3453. We agree that these processes could be defined within an IA. However, the problem and potentially extreme controversy is that the Governor will, if he does, proclaim a public safety fiscal emergency (PSFE) before he enters into a written intergovernmental agreement (IA) (if he enters into an IA). True? As we understand it the Governor may proclaim a PSFE for Josephine County without any written authorization from a majority of the Josephine County Board of County Commissioners (BCC). He only needs the BCC' authorization if he enters into an IA with a unit of local government. True?

HB 3453 SECTION 2(1) If the Governor determines that **fiscal conditions** exist, or are imminent in one or more counties that **compromise the ability** of the affected counties to provide a **minimally adequate level of public safety services**, the Governor may proclaim a **public safety fiscal emergency**.

HB 3453 SECTION 3(1) Whenever the Governor has proclaimed a **public safety fiscal emergency** pursuant to section 2, he may, on behalf of a unit of local government **after obtaining written authorization signed by a majority of the governing body of the local government**, enter into a written intergovernmental agreement for the **performance of functions and activities related to public safety** with a unit of local government that is party to the agreement or its officers or agencies have authority to perform.

The “do not know response” brought home the fact that you do not appear to be representing the Governor for process clarification questions about HB 3453, Section 2(1) which have a direct and significant impact for how he may proclaim a PSFE. We hope to continue to work with you, but to be informed citizens we need answers from the Governor, or his representative, that knows the answers to clarification questions for HB 3453 processes prior to when Josephine County is in fact legally involved (i.e., it appears to us that under HB 3453 SECTION 2(1) the Governor can proclaim a PSFE without any involvement by a county).

HB 3453 SECTION 2(1) If the Governor determines that **fiscal conditions** exist, or are imminent in one or more counties that **compromise the ability** of the affected counties to provide a **minimally adequate level of public safety services**, the Governor may proclaim a **public safety fiscal emergency**.

This discussion also brings up a point in Section III.G.1 on “adequate information and analysis” of our scope of work that you received as Attachment 5 to our August 16, 2013 email (August 15, 2013 *Justice System & Public Safety Services Issue Scope Of Work*).

III.G.3 Adequate Information & Analysis

- a) Information Is Understood Or Not (e.g., defined services, identifies which PSS will be funded and how much, etc.)
- b) Supporting Arguments Are Made Or Not
- c) Standard(s) of Review
- d) Applicable Evidence/Facts
- e) Primary References and Sources of Information
- f) Compliance With Standards Or Not

We believe Section 2(1) is the heart of HB 3453, and the section most in need of support to make it understandable and supportable by the public. It appears to be without any factual information, explanation, or supporting materials. Expanding on our clarification questions for a PSFE and MALPSS, we need to understand all the following issue topics for Section 2(1).

- *Fiscal Conditions*
- *Compromise the Ability*
- *Minimally Adequate Level of Public Safety Services*
- *Public Safety Fiscal Emergency.*
- *Performance of Functions and Activities Related to Public Safety*

A close reading of Section 2(1) finds us at a loss in understanding what these Section 2(1) topics mean or how they will be used if implemented. Hopefully we are missing some key information. At this point our key conclusions follow (Attachments 1 - 2).

HB 2453, Section 2(1) Is not understandable.

HB 2453, Section 2(1) Has no supporting arguments.

HB 2453, Section 2(1) Has no standards of review.

HB 2453, Section 2(1) Provides no evidence/facts.

HB 2453, Section 2(1) Has no references or sources of explanatory information.

Our tentative conclusion of Section 2(1) is that it is not in compliance with Section III.G.1 on “Adequate Information” standards. See Senate Bill 77 (2009), House Bill 4176 (2012), ORS 203.095, and OAR 213-070-000 (2011) for examples of bill and laws in compliance. For us adequate information is not whether we support or oppose any bills analyzed. It is about whether we think we understand the bills and law for the purposes of an informed citizenry and informed decision-making (Attachment 2).

There can be real trust of government issues revolving around Section 2(1), depending on how the Governor and the local government implement a PSFE. Trust will be a significant problem if a PSFE is declared at the declaration information level of Section 2(1) without understanding why the PSFE was declared. A bare opinion, even a Governor’s opinion, is questionable.

As we stated in our August 16, 2013 email, the mission of the Hugo Justice System Exploratory Committee is to independently research the JO CO JS&PSS issue and publicly provide its analysis through web page publications. Objectives not proposed for the Committee are for it to conclude there is a right or wrong answer or to recommend how the citizens should vote on any new ballot pertaining to the issue. Its mission is limited to educating the public the best it can through web publishing.

We think it is obvious from our mission statement, but it has occurred to us that we have not explicitly stated how we will utilize any written clarification information from you. We will web publish your responses on our web site to promote the purposes of an informed citizenry and informed decision-making.

Thanks again for being our information contact for HB 3453.

Sincerely,

Mike :)

/s/ Michael L. Walker

Michael L. Walker, Chair

Hugo Justice System Exploratory Committee

Web Page: <http://www.hugoneighborhood.org/justicesystemexploratorycommittee.htm>

Appendix A. August 16, 2013 Email from Nathan Rix, State of Oregon, to Mike Walker, Hugo Justice System Exploratory Committee

From: "RIX Nathan * COO" <nathan.rix@state.or.us>

To: <hugo@jeffnet.org>

Subject: HB 3453 Inquiry; Date: Tuesday, August 16

Dear Mike Walker and the Hugo Justice System Exploratory Committee,

Thank you for your request. I appreciate your interest in public safety in Josephine County. Please allow me to do my best to briefly answer your questions, as I understand them.

· To date, HB 3453 does not have a dedicated description on the Governor's web page. The Governor signed the bill into law on 8/14, two days ago. The best public source of information about the bill is readily available through OLIS (<http://olis.leg.state.or.us>). There were public hearings on the bill on 6/3 and multiple work sessions in the Oregon House. The meeting materials are a good source for understanding the advocacy perspectives and the perspectives of legislators who gave testimony on the bill.

· I do not know of publications that define the criteria for PSFE or MALPSS for HB 3453, but I suspect that these could be defined within an Intergovernmental Agreement (ORS 190).

· I believe your best source for information about an Intergovernmental Agreement (IGA) is the ORS 190 chapter law, which details how an IGA could be applied. The advantage of using IGAs are that the parties involved define its contents. This ODOT site has many examples of IGAs. I hope they help you get a sense of how flexible they are to create intergovernmental cooperation (<http://www.oregon.gov/ODOT/CS/OPO/pages/iga/iga.aspx>).

· The officer designated in an IGA is determined within the IGA itself.

Also, HB 2206 and SB 173 are two other bills that passed this session to assist fiscally distressed counties.

If you have further questions, please feel free to call me or reply to this email.

Thanks,

Nathan Rix
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State of Oregon
o: 503-373-1109 | c: 503.302.5212

Attachments

- Attach. 1. Hugo Justice System Exploratory Committee, Hugo Neighborhood Association & Historical Society. Draft July 9, 2013. *Enrolled Oregon House Bill 3453*. Brochure III.E.1.7.3.1 (1 of 2), Justice System & Public Safety Services Series. Hugo, OR.
- Attach. 2. Hugo Justice System Exploratory Committee, Hugo Neighborhood Association & Historical Society. Draft July 9, 2013. *Adequate Information Analysis: Enrolled Oregon House Bill 3453*. Brochure III.G.4: Br III.E.1.7.3.1 (1 of 2), Justice System & Public Safety Services Series. Hugo, OR.

Email copies:

- HNA&HS Officers
- Hugo Justice System Exploratory Committee
- Hugo Land Use Committee
- North Valley Community Watch
- Interested Citizens
- Josephine County Board of County Commissioners
- Gil Gilbertson, Josephine County Sheriff

Hard copy:

- Governor of Oregon