

## IMPACT STATEMENT

**Legislation title:** Authorize the City Attorney to appear as *amicus curiae* on behalf of the City of Portland in the case of *Oregon Natural Resources Council Fund v. Port of Portland*, seeking clarity from the Oregon Supreme Court as to state free speech requirements when municipalities are operating in a proprietary capacity administering municipal property. (Resolution)

**Contact name:** Denis Vannier  
**Contact phone:** 823-3067  
**Presenter name:** On Consent Agenda

**Purpose of proposed legislation and background information:**

The City Attorney's office requests authorization to appear on behalf of the City of Portland as *amicus curiae* in *Oregon Natural Resources Council Fund v. Port of Portland*. The Port of Portland ("Port") intends to petition the Oregon Supreme Court to review a recent Oregon Court of Appeals decision to provide clarity as to how the free speech provisions of Article I, Section 8 of the Oregon Constitution apply to municipal entities operating in a proprietary capacity. The case concerns a Port policy prohibiting religious and political advertising at the Portland International Airport, which the Port owns and administers. The stated reasons for the policy included: maintaining the facility's political and religious neutrality, promoting the comfort of the traveling public, protecting the Airport's commercial advertising revenue, and ensuring compliance with the U.S. Constitution's Establishment Clause prohibition on government advancement of religion. On June 28, 2017, the Court of Appeals held that the Port's policy violated Article I, Section 8. The Port will seek review from the Oregon Supreme Court. The Port's counsel asked the City to file an amicus brief in support of the petition for review and one on the merits, if the court accepts the case. The City's briefs would address the concerns of cities which seek to maintain municipal properties that are neutral, welcoming spaces for the public and also compliant with federal and state constitutional free speech provisions as well as the U.S. Constitution's Establishment Clause. The outcome of this case could have implications for many municipal proprietary activities such as the selection and display of art in and on municipal buildings; the sale of advertising to be displayed on municipal property; the use of municipal buildings; and the control of access to and content of proprietary municipal websites and other communications media.

**Financial and budgetary impacts:**

- None

**Community impacts and community involvement:**

- Because of the time-sensitive nature of this request, direct community involvement in the drafting of this Resolution was not feasible.

**Budgetary Impact Worksheet**

**Does this action change appropriations?**

**YES:** Please complete the information below.

**NO:** Skip this section

Fund	Fund Center	Commitment Item	Functional Area	Funded Program	Grant	Sponsored Program	Amount