



Oregon

John A. Kitzhaber, M.D., Governor

Department of Land Conservation and Development

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May 10, 2013

TO: Land Conservation and Development Commission

FROM: Bob Rindy, Senior Policy Analyst
Michael Morrissey, Policy Analyst

SUBJECT: **Agenda Item 5, May 23, 2013, LCDC Meeting**

Legislative Update

Under this item, the department will brief the commission on legislation in the 2013 session, including legislation affecting land use, action on the department's legislative concepts concerning population forecasting and the urban growth boundary process and other legislative matters of interest to the commission.

For additional information regarding this item, please contact Bob Rindy at 503-373-0050 ext. 229, or by email at bob.rindy@state.or.us; or Michael Morrissey at 503-373-0050 ext. 320, or by email at michael.morrissey@state.or.us.

I. SUMMARY

The department has been tracking approximately 150 bills that relate to land use policy and/or affect the department and the land use program. However, due to a legislatively imposed deadline for bills to be passed out of their committee of origin by April 18, the number of "live" bills was substantially reduced just prior to this report. The bills DLCD is tracking due to land use program impacts, and that are still "alive," are listed in Attachment A. The next legislative deadline is May 20, at which point measures must be scheduled for work session in their second chamber. All committees must close by May 31. Of course, there are many exceptions to these rules, including bills in various joint committees or rules committees.

II. DEPARTMENT LEGISLATION

DLCD submitted four bills to the legislature in conjunction with the Governor's office. These were a result of work by interim committees established by the department (Population Forecasting) and/or by the Governor's office (Design Team and the Urban Growth Advisory Committee (UGAC)). These bills are HB 2253 regarding population forecasting, HB 2254 regarding the UGB process, HB 2255 regarding employment land and HB 2256 regarding public facilities planning. As a result of a UGAC decision in February, it was determined that the

content of HB 2256 should be included in HB 2254. As such, HB 2256 was not advanced during the hearings.

The House Land Use Committee held a hearing on HB 2253, HB 2254, and HB 2255 on March 7. It was indicated to the committee that these bills as “introduced” in the session in late January are “not the bills we want.” The bills had been initially drafted based on concepts under consideration by the Design Team and UGAC last fall when materials were submitted to Legislative Counsel; the concepts evolved a great deal since then. A set of amendments were drafted in February and March for each of the bills in order to represent the concepts actually proposed by the committees.

On April 4 the House Land Use Committee held a second public hearing on the DLCD Legislation, largely focusing on the proposed amendments to the bills (in order to represent “the bills we want”). Substantial support, and no opposition, (from the entire spectrum of stakeholders) was expressed regarding HB 2253 and HB 2254. Both bills were subsequently moved (with a unanimous “do pass” recommendation) out of committee to Ways and Means. There are fiscal impacts to the department for these bills but funding is proposed to be provided under two Policy Option Packages (POPs) for the department in the Governor’s recommended 2013-2015 budget.

In contrast, the employment lands bills (HB 2255) received substantial opposition from several interests (including 1000 Friends of Oregon). That bill did not move by the April 15 deadline and is therefore dead. At the last minute there was an attempt to stuff the bill into a senate bill (SB 250) but that bill is also dead. The department expects that there may be a continuing conversation about large industrial sites and streamlining of industrial permits around a couple of bills that are still alive, but it is unlikely that the industrial concepts in HB 2255 will be enacted.

III. LEGISLATION ALIVE AS OF THE DATE OF THIS REPORT

A large number of land use bills have been heard by committees on a variety of topics. However, only a limited number are still live this session, described below:

Passed and sent to floor:

- HB 2028 – so called “hostage annexations”
- HB 2106 – EFSC siting standards
- HB 2393 – slaughter of chickens on EFU
- HB 2441 – forest-related agricultural buildings
- HB 2617 – separate majority vote for annexations >100 acres
- HB 2618 – City withdraw annexation area only if servicing
- HB 2746 – EFU replacement dwellings
- HB 2820 – solar siting
- HB 2839 – M49 exemption for land rezoned industrial
- HB 3067 – Area 93 of Bonny Slope moved to Wash Co
- HB 3096 – Sunriver waste/water facilities

- HB 3125 – smaller parcels for forest use
- SB 77 – consolidated LUBA appeals
- SB 462 – composting limits on EFU
- SB 580 – Ocean Resources advisory committee
- SB 605 – Ocean resources fund
- SB 606 – wave energy
- SB 713 – firearms training in EFU
- SB 737 – Ocean Science Fund
- SB 841 – Wineries

Recommended to pass & referred to Ways and Means:

- HB 2202 – no mining on good Willamette Valley soil
- HB 2253 – population forecasting (DLCD Bill)
- HB 2254 – streamline UGB (DLCD Bill)
- HB 3040 – landfills limits and non-farm uses interim study
- HB 3098 – youth camps in eastern Oregon EFU (Younglife)
- SB 251 – expedited permits for regional priorities
- SB 810 – Umatilla Chemical Depot interchange study

Passed w/o recommendation re passage & referred to another committee:

- HB 2200 – “use of land” relating clause – to Rules
- HB 2284 – industrial lands loans – to HTED
- HB 2285 – industrial lands grants – to HTED
- HB 3087 – limit local appeal fees – to Judiciary
- HB 3267 – allows three 1000-acre industrial sites in Malheur Co – to Rules
- HB 3439 – Lavender processing on EFU - to Rules
- SB 253 – large industrial sites readiness – to Joint Tax Credits committee
- SB 743 – Annexation within 200 feet – to rules
- SB 845 – Exempts specific large industrial property from Goals – To Rules

The department will present an oral report to the commission on legislation and will discuss some of the bills listed above at that time.

ATTACHMENTS

- A. Bill Tracking Report
- B. HB 2253 and HB 2254 A engrossed
- C. HB 2255 with proposed amendments (bill is dead)

DLCD Tracking Report

Report Date: Wed, May 8, 2013

Bill #	Relating To Clause	Summary	At the Request of	Bill Location	Bill Assigned to Committee	Prty	Next Hearing	Last Three Actions
HB2106A	Relating to the siting of facilities; declaring an emergency.	Modifies provisions related to Energy Facility Siting Councils adoption of standards related to siting, construction, operation and retirement of facilities. Declares emergency, effective on passage.		In Senate Committee	Business and Transportation	2	No hearings scheduled at this time.	05/07/13 - Referred to Business and Transportation. 04/30/13 - First reading. Referred to Presidents desk. 04/29/13 - Third reading. Carried by Huffman. Passed.
HB2202A	Relating to mining on land zoned for exclusive farm use.	Prohibits conditional approval of mining permits for mining of tracts of land in Willamette Valley that are zoned for exclusive farm use and include five acres or more composed of Class I and Class II soils. Creates exceptions.	Oregon Farm Bureau	In House Committee	Ways and Means	1	No hearings scheduled at this time.	04/25/13 - Referred to Ways and Means by order of Speaker. 04/25/13 - Recommendation: Do pass with amendments, be printed A-Engrossed, and be referred to Ways and Means. 04/18/13 - Work Session held.
HB2253A	Relating to population forecasts for land use planning; declaring an emergency.	Requires Portland State University Population Research Center to issue population forecasts for land use planning that are currently produced by counties. Declares emergency, effective July 1, 2013.	Governor John A. Kitzhaber, M.D., for Department of Land Conservation and Development	In House Committee	Ways and Means	1	No hearings scheduled at this time.	05/01/13 - Public Hearing held. 04/19/13 - Assigned to Subcommittee On Natural Resources. 04/16/13 - Referred to Ways and Means by order of Speaker.
HB2254A	Relating to the urban growth boundary; declaring an emergency.	Creates option for cities outside Metro to project need, based on population growth, for inclusion of land within urban growth boundary. Establishes priority for selection of land for inclusion. Declares emergency, effective on passage.	Governor John A. Kitzhaber, M.D., for Department of Land Conservation and Development	In House Committee	Ways and Means	1	No hearings scheduled at this time.	04/16/13 - Referred to Ways and Means by order of Speaker. 04/16/13 - Recommendation: Do pass with amendments

HB2393A	Relating to processing poultry in areas zoned for exclusive farm use.	Allows slaughtering, processing and selling up to 1,000 poultry as outright permitted nonfarm use, subject to specified limits, in areas zoned for exclusive farm use.		In Senate Committee Awaiting transfer to Desk	Rural Communities and Economic Development	1	No hearings scheduled at this time.	05/07/13 - Public Hearing and Work Session held. 02/25/13 - Referred to Rural Communities and Economic Development.
HB2441A	Relating to use of agricultural building.	Authorizes person to use agricultural building on land zoned for forest use or mixed farm and forest use. Authorizes forestry-related use of agricultural building that is not subject to state structural specialty c	Oregon Small Woodlands Association	Governors Office - Awaiting Signature		1	No hearings scheduled at this time.	05/06/13 - President signed. 05/06/13 - Speaker signed. 04/30/13 - Third reading. Carried by Baertschiger. Passed.
HB2657A	Relating to rezoning of industrial land.	Establishes requirements to be met by applicant before local government can <i>consider</i>] approve application to rezone for nonindustrial use land that is planned and zoned for industrial use.		In Senate Committee	Business and Transportation	2	No hearings scheduled at this time.	05/07/13 - Referred to Business and Transportation. 04/30/13 - First reading. Referred to Presidents desk. 04/29/13 - Third reading. Carried by Doherty. Passed.
HB2694A	Relating to energy resources in Oregons territorial sea; declaring an emergency.	Provides that persons authorized by public body to develop energy resources in Oregons territorial sea shall share geological and geophysical data with Oregon territorial sea mapping project. Declares emergency, effective on passage.		Senate Desk - Awaiting Third Reading		2	No hearings scheduled at this time.	05/07/13 - Taken from 05-07 Calendar and placed on 05-08 Calendar on voice vote. 05/06/13 - Second reading. 05/06/13 - Recommendation: Do pass the A-Eng. bill.
HB2704A	Relating to transmission lines.	Establishes requirements by which person applying to establish associated transmission line in area zoned for exclusive farm use may demonstrate that associated transmission line is necessary for public service.		In Senate Committee	Business and Transportation	2	Date: Thu, May 09, 2013 Time: 3:00 PM Loc: HR B Com: Business and Transportation (S)	05/09/13 - Public Hearing and Possible Work Session scheduled. 04/25/13 - Referred to Business and Transportation. 04/18/13 - First reading.

HB2746A	Relating to dwellings on tract of land zoned for exclusive farm use.	Modifies provisions authorizing alteration, restoration or replacement of dwelling on tract of land zoned for exclusive farm use.		In Senate Committee	Rural Communities and Economic Development	1	No hearings scheduled at this time.	05/03/13 - Referred to Rural Communities and Economic Development. 05/02/13 - First reading. Referred to Presidents desk. 05/01/13 - Third reading. Carried by Unger. Passed.
HB2820B	Relating to solar energy; declaring an emergency.	Modifies definition of energy facility for purposes of site certificates issued by Energy Facility Siting Council. Declares emergency, effective on passage.		In Senate Committee	Environment and Natural Resources	1	No hearings scheduled at this time.	05/07/13 - Referred to Environment and Natural Resources. 04/30/13 - First reading. Referred to Presidents desk. 04/29/13 - Third reading. Carried by Clem. Passed.
HB2839A	Relating to just compensation for changes to industrial zoning.	Exempts from entitlement to just compensation land within, or to be included within, urban growth boundary that is rezoned to industrial zoning classification that allows industrial uses].	1000 Friends of Oregon	In Senate Committee	Business and Transportation	1	No hearings scheduled at this time.	05/01/13 - Referred to Business and Transportation. 04/24/13 - First reading. Referred to Presidents desk. 04/23/13 - Third reading. Carried by Clem. Passed.
HB3040A	Relating to nonfarm uses on land zoned for exclusive farm use; declaring an emergency.	Prohibits specified nonfarm uses on land zoned for exclusive farm use. Directs State Department of Agriculture and Department of Land Conservation and Development to analyze and report on use of land zoned for exclusive farm use. Directs Department of Land Conservation and Development to convene work group to review report and make recommendations to interim legislative committees by January 1, 2015. Declares emergency, effective on passage.		In House Committee	Ways and Means	1	No hearings scheduled at this time.	05/07/13 - Assigned to Subcommittee On Natural Resources. 04/29/13 - Referred to Ways and Means by order of Speaker. 04/29/13 - Recommendation: Do pass with amendments, be printed A-Engrossed, and be referred to Ways and Means.

HB3098A	Relating to youth camp expansion; declaring an emergency.	Authorizes owners of Young Life - Washington Family Ranch to develop approximately 4,000-acre expansion area. Exempts development from statewide land use planning goals and provisions of acknowledged comprehensive plans] Authorizes establishment of youth camp on certain lands zoned for exclusive farm use in eastern Oregon. Requires Land Conservation and Development Commission to adopt rules necessary for implementation of Act. Declares emergency, effective on passage.	In House Committee	Ways and Means	1	No hearings scheduled at this time.	04/25/13 - Referred to Ways and Means by order of Speaker. 04/25/13 - Recommendation: Do pass with amendments, be printed A-Engrossed, and be referred to Ways and Means. 04/18/13 - Public Hearing and Work Session held.
HB3125A	Relating to minimum size of unit of land.	Eliminates provision prohibiting, because dwelling is involved, creation of parcel smaller than minimum lot or parcel size standard to facilitate forest practice. Rearranges other provisions that do not read in to eliminate ambiguity and to improve clarity and readability.	Governors Office - Awaiting Signature		2	No hearings scheduled at this time.	05/06/13 - President signed. 05/06/13 - Speaker signed. 05/02/13 - Third reading. Carried by Close. Passed.
HB3242	Relating to renewable energy; declaring an emergency.	Provides that Director of Department of State Lands may adopt rules for authorization of certain renewable energy facilities or devices within Oregon's territorial sea. Provides that Department of State Lands may grant certain leases, easements and rights of way for facilities or devices. Declares emergency, effective on passage.	In House Committee	Energy and Environment	2	No hearings scheduled at this time.	04/18/13 - Informational Meeting scheduled. 03/04/13 - Referred to Energy and Environment with subsequent referral to Land Use. 02/25/13 - First reading. Referred to Speakers desk.
HB3267A	Relating to industrial use of land in Malheur County.	Authorizes governing body of Malheur County to plan and zone up to five] three sites, containing 1,000 or fewer acres each, for industrial use. Sunsets authority December 31, 2020.	In House Committee	Rules	1	No hearings scheduled at this time.	04/24/13 - Referred to Rules by order of Speaker. 04/24/13 - Without recommendation as to passage, with amendments, be printed A-Engrossed, and be referred to

HB3360A	Relating to information technology expertise needed by state agencies; declaring an emergency.	Establishes Office of Shared Information Technology Services within Oregon Department of Administrative Services. Specifies duties and powers of office. Requires state agencies to submit plans to develop or acquire information technology services, materials or equipment to office for approval. Declares emergency, effective on passage.		In House Committee	Ways and Means	2	No hearings scheduled at this time.	04/19/13 - Referred to Ways and Means by prior reference. 04/19/13 - Recommendation: Do pass with amendments, be printed A-Engrossed, and be referred to Ways and Means by prior reference. 04/16/13 - Work Session held.
HB3439A	Relating to wholesale distribution of agricultural crops on land zoned for exclusive farm use.	Authorizes wholesale distribution of agricultural crops, produced on or off farm operator's property, that is integrated with farm use in one or more buildings that existed on or before May 19, 1970.	The Oregon Lavender Farm	In House Committee	Rules	1	No hearings scheduled at this time.	04/18/13 - Referred to Rules by order of Speaker. 04/18/13 - Without recommendation as to passage, with amendments, be printed A-Engrossed, and be referred to Rules. 04/11/13 - Work Session held.
SB77A	Relating to appellate review of land use decisions; declaring an emergency.	Requires appellate review of quasi-judicial land use decisions and limited land use decisions directly related to and made in response to land use application to be conducted in single proceeding in which Land Use Board of Appeals has joined all appeals. Requires board to track and report on website data related to land use reviews and results of reviews. Declares emergency, effective on passage.	Senate Interim Committee on Judiciary	In House Committee	Land Use	2	Date: Thu, May 09, 2013 Time: 3:00 PM Loc: HR E Com: Land Use (H)	05/09/13 - Public Hearing and Work Session scheduled. 05/03/13 - Referred to Land Use. 05/02/13 - First reading. Referred to Speakers desk.
SB246A	Relating to the Oregon Industrial Site Readiness Program; appropriating money; prescribing	Requires Oregon Business Development Department to establish and administer Oregon Industrial Site Readiness Program to enter into tax reimbursement arrangements with, or to make	Senate Interim Committee on Business, Transportation and Economic Development	In Senate Committee	Ways and Means	2	No hearings scheduled at this time.	04/30/13 - Assigned to Subcommittee On Transportation and Economic Development. 04/22/13 - Referred to

an effective date. loans to, qualified project sponsors for development of certified *state and*] regionally significant industrial sites. Establishes Oregon Industrial Site Readiness Program Fund. Continuously appropriates moneys in fund to Oregon Business Development Department. Takes effect on 91st day following adjournment sine die.

Ways and Means by prior reference. 04/22/13 - Recommendation: Do pass with amendments and be referred to Ways and Means by prior reference. (Printed A-Eng.)

SB251A	Relating to review of land development proposals requiring multiple permits.	Authorizes Governor to convene meeting of federal, state and local permitting authorities to streamline or expedite approval process for proposed land development that addresses significant regional priorities.	Senate Interim Committee on Business, Transportation and Economic Development	In Senate Committee	Ways and Means	2 1	No hearings scheduled at this time.	04/11/13 - Referred to Ways and Means by order of the President. 04/11/13 - Recommendation: Do pass with amendments and be referred to Ways and Means. (Printed A-Eng) 04/04/13 - Work Session held.
SB253A	Relating to development of large industrial sites; appropriating money; declaring an emergency.	Requires Oregon Business Development Department to establish and administer Oregon Industrial Site Readiness Assessment Program providing grants to perform due diligence assessments of <i>large</i>] regionally significant industrial sites, to create detailed development plans to <i>make large industrial sites market-ready</i>] move sites to state of market-readiness and to conduct regional industrial <i>site</i>] land inventories. Establishes Oregon Industrial Site Readiness Assessment Program Fund. Continuously appropriates moneys in fund to Oregon Business Development Department. Allocates moneys from Administrative Services Economic Development Fund to department. Directs department to report to Legislative Assembly during 2015 regular session. Declares emergency, effective on passage.	Senate Interim Committee on Business, Transportation and Economic Development	In Senate Committee	Ways and Means	2	No hearings scheduled at this time.	04/30/13 - Assigned to Subcommittee On Transportation and Economic Development. 04/22/13 - Referred to Ways and Means by prior reference. 04/22/13 - Recommendation: Do pass with amendments and be referred to Ways and Means by prior reference. (Printed A-Eng.)

SB401A	Relating to scenic waterways; declaring an emergency.	<i>Designates certain rivers and creeks as scenic waterways.] Prohibits mining using motorized equipment in scenic waterways. Requires State Parks and Recreation Department to undertake study of certain waterways for consideration as scenic waterways. Requires department to report to Governor and Legislative Assembly. Declares emergency, effective on passage.</i>	In Senate Committee	Ways and Means	2	No hearings scheduled at this time.	04/22/13 - Referred to Ways and Means by order of the President. 04/22/13 - Recommendation: Do pass with amendments and be referred to Ways and Means. (Printed A-Eng) 04/17/13 - Work Session held.
SB408A	Relating to highway access management.	Establishes presumption that certain existing unpermitted approach have Department of Transportation's written permission. Provides that written permission qualifies as approach permit. Requires property owner that has approach permit to be responsible for cost and performance of maintaining approach road. Provides requirements for development of facility plans. Directs department to develop access management strategy for each highway modernization or improvement project. Defines access management strategy.	In House Committee	Transportation and Economic Development	2	No hearings scheduled at this time.	04/24/13 - Public Hearing held. 03/13/13 - Referred to Transportation and Economic Development. 03/12/13 - First reading. Referred to Speakers desk.
SB465A	Relating to disclosure of flood damage to residential improvements; declaring an emergency.	Allows local government with land use jurisdiction over residential <i>improvements]</i> structures substantially damaged by flooding to cause to be recorded, in office of county clerk, official designation of substantial damage. Requires local government to cause to be recorded notice voiding official designation of substantial damage when structures have been brought into compliance with ordinances. Declares emergency, effective on passage.	In House Committee	Land Use	2	Date: Thu, May 09, 2013 Time: 3:00 PM Loc: HR E Com: Land Use (H)	05/09/13 - Public Hearing and Work Session scheduled. 04/09/13 - Referred to Land Use. 04/02/13 - First reading. Referred to Speakers desk.

SB580A	Relating to ocean resources; and declaring an emergency.	Prescribes duties for specified scientific and technical advisory committee and gives committee authority to <i>select members</i>] nominate candidates for membership . Declares emergency, effective on passage.	Senate Presidents Desk - Awaiting Signature	2	No hearings scheduled at this time.	05/06/13 - Third reading. Carried by Boone. Passed. 05/02/13 - Rules suspended. Carried over to May 6, 2013 Calendar. 05/01/13 - Rules suspended. Carried over to May 2, 2013 Calendar.	
SB605A	Relating to ocean resources; declaring an emergency.	Clarifies that Land Conservation and Development Commission must make findings on Territorial Sea Plan and amendments to Territorial Sea Plan or Oregon Ocean Resources Management Plan recommended by Ocean Policy Advisory Council. Requires council to include commission's revisions in subsequent recommendations when commission does not make required findings. Sets time limit of 155 days for council to return subsequent recommendations to commission with potential for extension upon mutual agreement. Declares emergency, effective on passage.	In House Committee	Energy and Environment	2	Date: Thu, May 09, 2013 Time: 3:00 PM Loc: HR D Com: Energy and Environment (H)	05/09/13 - Public Hearing and Possible Work Session scheduled. 04/23/13 - Referred to Energy and Environment. 04/16/13 - First reading. Referred to Speakers desk.
SB606A	Relating to wave energy; declaring an emergency.	Requires owners or operators of wave energy facilities and devices to demonstrate evidence of financial assurance for costs of closure and post-closure maintenance of facilities or devices. Requires cost estimates to be prepared by qualified person. Requires owners or operators of wave energy facilities and devices to provide decommissioning plan for facility or device prior to authorization of facility or device. Sets requirements. Declares emergency, effective on passage.	In House Committee	Energy and Environment	2	Date: Thu, May 09, 2013 Time: 3:00 PM Loc: HR D Com: Energy and Environment (H)	05/09/13 - Public Hearing and Possible Work Session scheduled. 05/01/13 - Referred to Energy and Environment. 04/30/13 - First reading. Referred to Speakers desk.

SB713A	Relating to firearms training facilities.	Permits firearms training facilities in specified exclusive farm use zones.	Oregon Association of Shooting Ranges	In Senate Committee	Rules	1	No hearings scheduled at this time.	05/07/13 - Referred to Rules by order of the President. 05/07/13 - Recommendation: Do Pass with amendments. (Printed A-Eng.) 04/18/13 - Work Session held.
SB737A	Relating to ocean resources; appropriating money; declaring an emergency.	Establishes Oregon Ocean Science Trust and specifies duties of trust. Directs State Land Board to appoint members of trust. Directs Department of State Lands to provide clerical, technical and management personnel as needed to serve trust and directs other agencies to provide assistance to trust on priority marine science needs of state. Declares emergency, effective on passage.		In Senate Committee	Ways and Means	1	No hearings scheduled at this time.	04/23/13 - Referred to Ways and Means by prior reference. 04/23/13 - Recommendation: Do pass with amendments and be referred to Ways and Means by prior reference. (Printed A-Eng.) 04/18/13 - Work Session held.
SB841A	Relating to wineries on land zoned for resource uses; declaring an emergency.	Allows winery to be sited on land zoned for mixed farm and forest use. Modifies provisions authorizing uses of winery on land zoned for exclusive farm use, including agri-tourism and other commercial events. Permits local government to authorize siting of winery on land zoned for exclusive farm use if certain conditions are met. Declares emergency, effective on passage.	Oregon Winegrowers Association, Southern Oregon Winery Association, Winegrowers Association of Central Oregon, Willamette Valley Wineries Association	In House Committee	Land Use	1	No hearings scheduled at this time.	05/01/13 - Referred to Land Use. 04/29/13 - First reading. Referred to Speakers desk. 04/25/13 - Third reading. Carried by Roblan. Passed.
SB845	Relating to economic development; declaring an emergency.	Authorizes Governor and Director of the Department of Land Conservation and Development to exempt certain land use decisions from appeal by contract with member of traded sector industry that agrees to acquire and develop large-site industrial use employing at least 500 full-time employees. Declares emergency,		In Senate Committee	Rules	1	No hearings scheduled at this time.	04/24/13 - Referred to Rules by order of the President. 04/24/13 - Recommendation: Without recommendation as to passage and be referred to Rules.

SB5530	Relating to the financial administration of the Department of Land Conservation and Development; appropriating money; declaring an emergency.	Appropriates moneys from General Fund to Department of Land Conservation and Development for certain biennial expenses. Limits certain biennial expenditures from fees, moneys or other revenues, including Miscellaneous Receipts, but excluding lottery funds and federal funds, collected or received by department. Limits biennial expenditures by department from federal funds. Declares emergency, effective July 1, 2013.	Oregon Department of Administrative Services	In Senate Committee	Ways and Means	1	No hearings scheduled at this time.	05/01/13 - Public Hearing held. 03/14/13 - Public Hearing held. 03/13/13 - Public Hearing held.
SJR22	Proposing amendment to Oregon Constitution relating to legislative review of administrative rules.	Proposes amendment to Oregon Constitution to establish procedure for requiring legislative review of administrative rules. Refers proposed amendment to people for their approval or rejection at next regular general election.		In Senate Committee	Rules	1	No hearings scheduled at this time.	01/16/13 - Referred to Rules. 01/14/13 - Introduction and first reading. Referred to Presidents desk.

A-Engrossed
House Bill 2253

Ordered by the House April 16
Including House Amendments dated April 16

Introduced and printed pursuant to House Rule 12.00. Pre-session filed (at the request of Governor John A. Kitzhaber, M.D., for Department of Land Conservation and Development)

SUMMARY

The following summary is not prepared by the sponsors of the measure and is not a part of the body thereof subject to consideration by the Legislative Assembly. It is an editor's brief statement of the essential features of the measure.

Requires Portland State University Population Research Center to issue population forecasts for land use planning that are currently produced by counties.
Declares emergency, effective July 1, 2013.

A BILL FOR AN ACT

1
2 Relating to population forecasts for land use planning; creating new provisions; amending ORS
3 195.036 and 197.639; repealing ORS 195.034; and declaring an emergency.

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

5 **SECTION 1. Section 2 of this 2013 Act is added to and made a part of ORS chapter 195.**

6 **SECTION 2. (1) As used in this section, "affected local government" means:**

7 (a) A city or county for which the Portland State University Population Research Center
8 is preparing a population forecast;

9 (b) A county that contains all or part of a city or an urban growth boundary for which
10 the center is preparing a population forecast; and

11 (c) A local service district, as defined in ORS 174.116, that includes territory within the
12 area subject to the population forecast.

13 (2) For the purpose of land use planning, the center shall issue a population forecast for:

14 (a) Each county except Multnomah, Clackamas and Washington Counties;

15 (b) The portions of Multnomah, Clackamas and Washington Counties that are not within
16 Metro; and

17 (c) The area within each urban growth boundary other than the urban growth boundary
18 of Metro.

19 (3) A local government with land use jurisdiction over land for which the center issues
20 population forecasts under subsection (2) of this section shall apply the current final popu-
21 lation forecast when changing the comprehensive plan or a land use regulation of the local
22 government.

23 (4) The center shall issue population forecasts for each area described in subsection (2)
24 of this section not less than once every four years on a schedule established by rule of the
25 State Board of Higher Education adopted in consultation with the Department of Land Con-
26 servation and Development.

27 (5) When issuing a population forecast, the center shall:

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 (a) Consider and, if appropriate, incorporate available local data and information about
2 local conditions received from representatives of local governments and members of the
3 public;

4 (b) Cause, directly or with the assistance of the Department of Land Conservation and
5 Development, the issuance of notice to all affected local governments and to members of the
6 public that have provided a written request for notice to the center; and

7 (c) Post the methodology and supporting data used to make the population forecast on
8 a publicly available website when the center causes notice to be issued as described in para-
9 graph (b) of this subsection.

10 (6) A population forecast must forecast population for a 50-year period including:

11 (a) Forecasts for intervals, within the 50-year period, that are established by rule of the
12 State Board of Higher Education adopted in consultation with the Department of Land Con-
13 servation and Development; and

14 (b) Population cohorts as provided by rule of the board adopted in consultation with the
15 department.

16 (7) Within 45 days after the center issues a proposed population forecast under this sec-
17 tion, a member of the public or an affected local government may file objections with the
18 center. An objection must be supported by the inclusion of data or information that supports
19 the objection. If the center:

20 (a) Does not receive an objection within the 45-day period, the proposed population fore-
21 cast becomes final.

22 (b) Receives an objection within the 45-day period, the center shall review the objections
23 filed, make changes to the proposed population forecast, if necessary in the discretion of the
24 center, and issue a final population forecast.

25 (8) Periodically, the Department of Land Conservation and Development may require the
26 center to submit its forecasting methodology and local data collection practices for review
27 by an advisory committee established by the department and composed of experts in the field
28 of population forecasting, representatives of cities and counties and members of the public.

29 (9) The issuance of a final population forecast under this section is:

30 (a) Not a land use decision; and

31 (b) A final decision not subject to further review or appeal.

32 (10) The Land Conservation and Development Commission, in consultation with the State
33 Board of Higher Education, shall adopt rules to implement the population forecasting pro-
34 gram required by this section.

35 (11) Each biennium, the commission shall allocate, from the grant funding described in
36 ORS 197.639 (5), an amount of moneys that the Land Conservation and Development Com-
37 mission, in consultation with the State Board of Higher Education, determines is sufficient
38 to operate the population forecasting program required by this section.

39 **SECTION 3.** (1) The first complete set of final population forecasts required by section 2
40 of this 2013 Act must be issued and made available for use within four years after the ef-
41 fective date of this 2013 Act.

42 (2) The Portland State University Population Research Center shall phase in production
43 of the first set of population forecasts required by section 2 of this 2013 Act and shall make
44 each population forecast available for use as produced.

45 (3) Notwithstanding the amendments to ORS 195.036 by section 4 of this 2013 Act and the

1 **repeal of ORS 195.034 by section 6 of this 2013 Act:**

2 (a) **A local government for which the center is to issue population forecasts under section**
3 **2 (2) of this 2013 Act that initiates a periodic review, or any other legislative review of its**
4 **comprehensive plan that concerns the urban growth boundary, on or before the date the**
5 **center issues a final population forecast for the urban growth boundary may continue its**
6 **review under a population forecast that satisfies the requirements of ORS 195.034 and**
7 **195.036, as those sections were in effect immediately before the effective date of this 2013**
8 **Act.**

9 (b) **The Land Conservation and Development Commission shall adopt rules to regulate the**
10 **transition from the application of population forecasts produced under ORS 195.034 and**
11 **195.036, as those sections were in effect immediately before the effective date of this 2013**
12 **Act, to the application of population forecasts produced under section 2 of this 2013 Act and**
13 **ORS 195.036, as amended by section 4 of this 2013 Act.**

14 **SECTION 4.** ORS 195.036 is amended to read:

15 195.036. *[The coordinating body under ORS 195.025 (1) shall establish and maintain a population*
16 *forecast for the entire area within its boundary for use in maintaining and updating comprehensive*
17 *plans, and shall coordinate the forecast with the local governments within its boundary.]* **Metro, in**
18 **coordination with local governments within its boundary, shall issue a population forecast**
19 **for the entire area within its boundary to be applied by Metro and local governments within**
20 **the boundary of Metro as a basis for changes to comprehensive plans and land use regu-**
21 **lations.**

22 **SECTION 5.** ORS 197.639 is amended to read:

23 197.639. (1) In addition to coordination between state agencies and local government established
24 in certified state agency coordination programs, the Department of Land Conservation and Devel-
25 opment may establish one or more state assistance teams made up of representatives of various
26 agencies and local governments, utilize the Economic Revitalization Team established under ORS
27 284.555 or institute an alternative process for coordinating agency participation in the periodic re-
28 view of comprehensive plans.

29 (2) The Economic Revitalization Team may work with a city to create a voluntary comprehen-
30 sive plan review that focuses on the unique vision of the city, instead of conducting a standard pe-
31 riodic review, if the team identifies a city that the team determines can benefit from a customized
32 voluntary comprehensive plan review.

33 (3) The department may develop model ordinance provisions to assist local governments in the
34 periodic review plan update process and in complying with new statutory requirements or new land
35 use planning goal or rule requirements adopted by the Land Conservation and Development Com-
36 mission outside the periodic review process.

37 (4) A local government may arrange with the department for the provision of periodic review
38 planning services and those services may be paid with grant program funds **allocated under sub-**
39 **section (5) of this section.**

40 (5) The commission shall establish an advisory committee composed, at a minimum, of repre-
41 sentatives from the League of Oregon Cities, the Association of Oregon Counties, metropolitan ser-
42 vice districts, the Special Districts Association of Oregon, land use planning public interest groups
43 and developer interest groups. The advisory committee shall advise the commission and the depart-
44 ment on the allocation of grants and technical assistance funding from General Fund sources and
45 other issues assigned by the commission.

1 **(6) The population forecasting program operated by the Portland State University Popu-**
2 **lation Research Center pursuant to section 2 of this 2013 Act is the highest priority for the**
3 **allocation of grant funding under subsection (5) of this section.**

4 **SECTION 6.** **ORS 195.034 is repealed.**

5 **SECTION 7.** **This 2013 Act being necessary for the immediate preservation of the public**
6 **peace, health and safety, an emergency is declared to exist, and this 2013 Act takes effect**
7 **July 1, 2013.**

8

A-Engrossed
House Bill 2254

Ordered by the House April 16
Including House Amendments dated April 16

Introduced and printed pursuant to House Rule 12.00. Pre-session filed (at the request of Governor John A. Kitzhaber, M.D., for Department of Land Conservation and Development)

SUMMARY

The following summary is not prepared by the sponsors of the measure and is not a part of the body thereof subject to consideration by the Legislative Assembly. It is an editor's brief statement of the essential features of the measure.

Creates option for cities [*with population of less than 10,000*] **outside Metro** to project need, based on population growth, for inclusion of land within urban growth boundary. Establishes priority for selection of land for inclusion.

Declares emergency, effective on passage.

A BILL FOR AN ACT

1
2 Relating to the urban growth boundary; creating new provisions; amending ORS 197.015 and 197.298;
3 and declaring an emergency.

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

5 **SECTION 1. As used in sections 1 to 8 of this 2013 Act:**

6 (1) **"Buildable lands" means land in urban or urbanizable areas that are suitable for ur-**
7 **ban uses.**

8 (2) **"Serviceable" means, with respect to land, that:**

9 (a) **Adequate sewer, water and transportation capacity for planned urban development is**
10 **available or can be either provided or made subject to committed financing; or**

11 (b) **Committed financing can be in place to provide adequate sewer, water and transpor-**
12 **tation capacity for planned urban development.**

13 **SECTION 2. The purpose of sections 1 to 8 of this 2013 Act is to direct the Land Con-**
14 **servation and Development Commission to develop and adopt simplified methods for a city**
15 **that is outside Metro to evaluate or amend the urban growth boundary of the city. The**
16 **commission should design the methods to:**

17 (1) **Become, as a result of reduced costs, complexity and time, the methods that are used**
18 **by most cities with growing populations to manage the urban growth boundaries of the cities;**

19 (2) **Encourage, to the extent practicable given market conditions, the development of**
20 **urban areas in which individuals desire to live and work and that are increasingly efficient**
21 **in terms of land uses and in terms of public facilities and services;**

22 (3) **Encourage the conservation of important farm and forest lands, particularly lands**
23 **that are needed to sustain agricultural and forest products industries;**

24 (4) **Encourage cities to increase the development capacity within the urban growth**
25 **boundaries of the cities;**

26 (5) **Encourage the provision of an adequate supply of serviceable land that is planned for**

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 needed urban residential and industrial development; and

2 (6) Assist residents in understanding the major local government decisions that are likely
3 to determine the form of a city's growth.

4 **SECTION 3.** (1) In addition to and not in lieu of the method prescribed in ORS 197.295 to
5 197.314 and the statewide land use planning goals, the Land Conservation and Development
6 Commission shall adopt by rule methods by which a city that is outside Metro may evaluate
7 or amend the urban growth boundary of the city.

8 (2) A city outside Metro may use the methods adopted pursuant to:

9 (a) Section 4 of this 2013 Act if the city has a population of less than 10,000.

10 (b) Section 5 of this 2013 Act if the city has a population of 10,000 or more.

11 (3) A city that elects to include land within the urban growth boundary of the city under
12 a method established pursuant to section 4 or 5 of this 2013 Act:

13 (a) May use the method again when:

14 (A) The population of the city has grown by at least 50 percent of the amount of growth
15 forecast to occur in conjunction with the previous use of the method by the city; or

16 (B) At least one-half of the lands identified as buildable lands during the previous use of
17 the method by the city have been developed.

18 (b) Shall evaluate whether the city needs to include within the urban growth boundary
19 additional land for residential or employment uses before the population of the city has
20 grown by 100 percent of the population growth forecast to occur in conjunction with the
21 previous use of the method by the city.

22 (4) A city that elects to use a method established pursuant to section 4 or 5 of this 2013
23 Act shall notify the Department of Land Conservation and Development of the election in the
24 manner required by ORS 197.610 for notice of a post-acknowledgment plan amendment. The
25 city may revoke the election until the city makes a final decision whether to amend the ur-
26 ban growth boundary of the city. A city that has initiated, but not completed, an amendment
27 of its urban growth boundary before January 1, 2014, may withdraw the proposed amendment
28 and use a method established pursuant to section 4 or 5 of this 2013 Act by filing notice of
29 the election with the department in the manner required by ORS 197.610 and 197.615 for no-
30 tice of a post-acknowledgment plan amendment.

31 (5) Beginning on or before January 1, 2023, the commission shall:

32 (a) Evaluate, every five years, the impact of the implementation of sections 4 (2) and 5
33 (2) of this 2013 Act on the population per square mile, livability in the area, the provision and
34 cost of urban facilities and services, the rate of conversion of agriculture and forest lands
35 and other considerations;

36 (b) Consider changes to the statewide land use planning goals or rules to address adverse
37 outcomes; and

38 (c) Make recommendations to the Legislative Assembly, as necessary, for statutory
39 changes.

40 **SECTION 4.** (1) In addition to and not in lieu of the method prescribed in ORS 197.295 to
41 197.314 and the statewide land use planning goals, the Land Conservation and Development
42 Commission shall adopt a method by which a city outside Metro that has a population of less
43 than 10,000 may evaluate or amend its urban growth boundary.

44 (2) The commission shall design the method so that:

45 (a) A city using the method:

1 (A) Will have within its boundaries sufficient buildable lands and other development ca-
2 pacity, including land and capacity for needed housing and employment opportunities, to
3 meet the growth in population and employment forecast to occur over a 14-year period.

4 (B) Will not become less efficient in its use of land as a result of a change to the urban
5 growth boundary.

6 (b) The urban population per square mile will continue, subject to market conditions, to
7 increase over time on a statewide basis and in major regions of the state, including that
8 portion of the Willamette Valley outside of Metro.

9 (c) The rate of conversion of agricultural and forest lands to urban uses does not in-
10 crease over time in any major region of the state.

11 (3) Under the method adopted by the commission:

12 (a) A city's determination of the amount of buildable lands needed for housing, employ-
13 ment and other urban uses must be based on the population and employment growth forecast
14 to occur over a 14-year period.

15 (b) A city's determination of the supply and development capacity of lands within its ur-
16 ban growth boundary must be based on:

17 (A) A simple inventory of vacant and partially vacant buildable lands within the urban
18 growth boundary;

19 (B) The comprehensive plan designation and the zoning of the portion of the buildable
20 lands that is urban; and

21 (C) Simple factors established by the commission for forecasting:

22 (i) The development and redevelopment capacity of urbanizable lands within the urban
23 growth boundary; and

24 (ii) The redevelopment capacity of developed urban lands within the urban growth
25 boundary.

26 (c) A city's determination of the supply and development capacity of lands the city pro-
27 poses to include within the urban growth boundary must be based on:

28 (A) A simple inventory of vacant and partially vacant lands; and

29 (B) Simple factors established by the commission for forecasting the development and
30 redevelopment capacity of the lands.

31 (d) A city shall demonstrate that lands included within the urban growth boundary:

32 (A) Include sufficient serviceable land for at least a seven-year period.

33 (B) Can all be serviceable over a 14-year period.

34 (e) Lands included within the urban growth boundary:

35 (A) Must be planned and zoned for categories of land uses in amounts that are roughly
36 proportional to the land need determined for each category of use;

37 (B) Must be planned and zoned for an intensity of use that is generally consistent with
38 the estimates that were used to determine the amount of land needed;

39 (C) Must be planned and zoned to meet the requirements for needed housing, and those
40 requirements must be specified by rule of the commission in a manner that is as objective
41 as practicable; and

42 (D) May be either:

43 (i) Planned and zoned, or otherwise conditioned, to avoid significantly affecting a state
44 highway, a state highway interchange or a freight route designated in the Oregon Highway
45 Plan; or

1 (ii) Allowed to significantly affect a state highway, a state highway interchange or a
2 freight route designated in the Oregon Highway Plan subject to mitigation, consistent with
3 rules of the commission, if the lands are planned and zoned for compact urban development
4 or industrial uses.

5 (4) For purposes of subsection (3)(a) of this section, population growth must be forecast
6 as provided in ORS 195.034 or 195.036. Employment growth must be forecast based on the
7 population growth forecast for the city or the employment growth forecast issued by the
8 Employment Department for the county or region. The commission shall establish factors,
9 by rule, for converting the forecasted population and employment growth into forecasts of
10 land need for housing, employment and other categories of uses. The factors must:

11 (a) Be based on an empirical evaluation of the relation between population and employ-
12 ment growth and the rate and trends of land utilization in the recent past in the applicable
13 major region of the state;

14 (b) Reflect consideration by the commission of any significant changes occurring or ex-
15 pected to occur in the markets for urban land uses in that major region of the state;

16 (c) Be designed to encourage an increase in the land use efficiency of a city, subject to
17 market conditions; and

18 (d) Provide a range of policy choices for a city about the form of its future growth.

19 (5) For purposes of subsection (3)(b) of this section, the commission shall establish fac-
20 tors for supply and development capacity that are:

21 (a) Based on an empirical evaluation of the population and employment growth that has
22 occurred on similarly situated lands through development and redevelopment;

23 (b) Based on consideration by the commission of any significant changes occurring or
24 expected to occur in the markets for urban land uses in that major region of the state;

25 (c) Designed to encourage an increase in the land use efficiency of the city, subject to
26 market conditions; and

27 (d) Designed to provide a range of policy choices for a city about the form of its future
28 growth.

29 (6) For purposes of subsection (3)(c) of this section, the commission shall establish fac-
30 tors that are:

31 (a) Based on an empirical evaluation of the population and employment growth that has
32 occurred on similarly situated lands through development and redevelopment;

33 (b) Based on consideration by the commission of any significant changes occurring or
34 expected to occur in the markets for urban land uses in each major region of the state;

35 (c) Designed to encourage an increase in the land use efficiency of the city, subject to
36 market conditions; and

37 (d) Designed to provide a range of policy choices for a city about the form of its future
38 growth.

39 (7) For lands that are included within an urban growth boundary pursuant to this section
40 and not made serviceable within 20 years after the date of their inclusion, the commission
41 may provide by rule that:

42 (a) The lands must be removed from within the urban growth boundary the next time the
43 city evaluates the urban growth boundary; or

44 (b) The planned development capacity of the lands must be reduced if there are signif-
45 icant increases in the cost of making the lands serviceable.

1 (8) When lands included within the urban growth boundary pursuant to this section are
2 planned and zoned for industrial or residential uses, the lands must remain planned and
3 zoned for the use unless a rule of the commission allows a change in planning and zoning
4 based on a significant change in circumstance.

5 **SECTION 5.** (1) In addition to and not in lieu of the method prescribed in ORS 197.295 to
6 197.314 and the statewide land use planning goals, the Land Conservation and Development
7 Commission shall adopt a method by which a city outside Metro that has a population of
8 10,000 or more may evaluate or amend its urban growth boundary.

9 (2) The commission shall design the method so that:

10 (a) A city using the method:

11 (A) Will have within its boundaries sufficient buildable lands and other development ca-
12 pacity, including land and capacity for needed housing and employment opportunities, to
13 meet the growth in population and employment forecast to occur over a 14-year period.

14 (B) Will not become less efficient in its use of land as a result of a change to the urban
15 growth boundary.

16 (b) The urban population per square mile will continue to increase over time on a state-
17 wide basis and in major regions of the state, including that portion of the Willamette Valley
18 outside of Metro.

19 (c) The rate of conversion of agricultural and forest lands to urban uses does not in-
20 crease over time in any major region of the state.

21 (3) Under the method adopted by the commission:

22 (a) A city's determination of the amount of buildable lands needed for housing, employ-
23 ment and other urban uses must be based on the population and employment growth forecast
24 to occur over a 14-year period.

25 (b) A city's determination of the supply and development capacity of lands within its ur-
26 ban growth boundary must be based on:

27 (A) An inventory of vacant and partially vacant buildable lands within the urban growth
28 boundary;

29 (B) The comprehensive plan designation and the zoning of the portion of the buildable
30 lands that is urban; and

31 (C) Factors established by the commission for forecasting:

32 (i) The development and redevelopment capacity of urbanizable lands within the urban
33 growth boundary; and

34 (ii) The redevelopment capacity of developed urban lands within the urban growth
35 boundary.

36 (c) A city shall consider a range or combination of measures identified by rule of the
37 commission to accommodate future need for land within the urban growth boundary and
38 implement at least one measure or satisfy an alternate performance standard established by
39 the commission. The commission shall design the alternate performance standard so that the
40 standard is satisfied when the city:

41 (A) Has a development code that contains specified provisions designed to encourage the
42 development of needed housing; and

43 (B) Demonstrates that, during the preceding planning period, the city:

44 (i) If located in the Willamette Valley, exceeded the median rate of redevelopment and
45 infill for cities with a population of 10,000 or more in the Willamette Valley that are outside

1 of the boundaries of Metro by an amount set by commission rule; and

2 (ii) If located outside of the Willamette Valley, exceeded the median rate of redevelop-
3 ment and infill for cities with a population of 10,000 or more that are outside the Willamette
4 Valley by an amount set by commission rule.

5 (d) A city shall demonstrate that lands included within the urban growth boundary:

6 (A) Include sufficient serviceable land for at least a seven-year period.

7 (B) Can all be serviceable over a 14-year period.

8 (e) Lands included within the urban growth boundary:

9 (A) Must be planned and zoned for categories of land uses in amounts that are roughly
10 proportional to the land need determined for each category of use;

11 (B) Must be planned and zoned for an intensity of use that is generally consistent with
12 the estimates that were used to determine the amount of land needed;

13 (C) Must be planned and zoned to meet the requirements for needed housing, and those
14 requirements must be specified by rule of the commission in a manner that is as objective
15 as practicable; and

16 (D) May be either:

17 (i) Planned and zoned, or otherwise conditioned, to avoid significantly affecting a state
18 highway, a state highway interchange or a freight route designated in the Oregon Highway
19 Plan; or

20 (ii) Allowed to significantly affect a state highway, a state highway interchange or a
21 freight route designated in the Oregon Highway Plan subject to mitigation, consistent with
22 rules of the commission, if the lands are planned and zoned for compact urban development
23 or industrial uses.

24 (4) For purposes of subsection (3)(a) of this section, population growth must be forecast
25 as provided in ORS 195.034 or 195.036. Employment growth must be forecast based on the
26 population growth forecast for the city or the employment growth forecast issued by the
27 Employment Department for the county or region. The commission shall establish factors,
28 by rule, for converting the forecasted population and employment growth into forecasts of
29 land need for housing, employment and other categories of uses. The factors must:

30 (a) Be based on an empirical evaluation of the relation between population and employ-
31 ment growth and the rate and trends of land utilization in the recent past in the applicable
32 major region of the state;

33 (b) Reflect consideration by the commission of any significant changes occurring or ex-
34 pected to occur in the markets for urban land uses in that major region of the state;

35 (c) Be designed to encourage an increase in the land use efficiency of a city, subject to
36 market conditions; and

37 (d) Provide a range of policy choices for a city about the form of its future growth.

38 (5) For purposes of subsection (3)(b) of this section, the commission shall establish fac-
39 tors for supply and development capacity that are:

40 (a) Based on an empirical evaluation of the population and employment growth that has
41 occurred on similarly situated lands through development and redevelopment;

42 (b) Based on consideration by the commission of any significant changes occurring or
43 expected to occur in the markets for urban land uses in that major region of the state;

44 (c) Designed to encourage an increase in the land use efficiency of the city, subject to
45 market conditions; and

1 (d) Designed to provide a range of policy choices for a city about the form of its future
2 growth.

3 (6) For purposes of subsection (3)(c) of this section, the commission shall establish fac-
4 tors that are:

5 (a) Based on an empirical evaluation of the population and employment growth that has
6 occurred on similarly situated lands through development and redevelopment;

7 (b) Based on consideration by the commission of any significant changes occurring or
8 expected to occur in the markets for urban land uses in each major region of the state;

9 (c) Designed to encourage an increase in the land use efficiency of the city, subject to
10 market conditions; and

11 (d) Designed to provide a range of policy choices for a city about the form of its future
12 growth.

13 (7) For lands that are included within an urban growth boundary pursuant to this section
14 and not made serviceable within 20 years after the date of their inclusion, the commission
15 may provide by rule that:

16 (a) The lands must be removed from within the urban growth boundary the next time the
17 city evaluates the urban growth boundary; or

18 (b) The planned development capacity of the lands must be reduced if there are signif-
19 icant increases in the cost of making the lands serviceable.

20 (8) When lands included within the urban growth boundary pursuant to this section are
21 planned and zoned for industrial or residential uses, the lands must remain planned and
22 zoned for the use unless a rule of the commission allows a change in planning and zoning
23 based on a significant change in circumstance.

24 **SECTION 6. (1) As used in this section, "district" means:**

25 (a) A domestic water supply district organized under ORS chapter 264.

26 (b) A parks and recreation district organized under ORS chapter 266.

27 (c) A sanitary district organized under ORS 450.005 to 450.245.

28 (d) A rural fire protection district organized under ORS chapter 478.

29 (2) When a city evaluates or amends the urban growth boundary of the city under section
30 5 of this 2013 Act, the city shall notify:

31 (a) Each district that has territory within the study area established under section 7 of
32 this 2013 Act.

33 (b) Each county that has land use jurisdiction over any portion of the study area.

34 (3) The notification must:

35 (a) Include a map showing the study area; and

36 (b) State that, in order to execute or amend an urban services agreement concerning the
37 study area, the district shall respond to the notice within 60 days of the date the notice is
38 mailed if the district enters into or amends an urban services agreement concerning the
39 study area.

40 (4) An urban services agreement executed under this section must satisfy the require-
41 ments of ORS 195.065 (1)(a) to (f). When a city and a district execute an urban services
42 agreement pursuant to this section, the city and the district are not required to participate
43 in the negotiation of an urban service agreement under ORS 195.065 to 195.085.

44 (5) Before executing the urban service agreement, the city and the district shall consult
45 with community planning organizations that are recognized by the governing body of the city

1 and whose boundaries include territory in the study area that may be affected by the urban
2 service agreement.

3 (6) If the special district chooses not to negotiate an urban service agreement or does
4 not respond to the notice within 60 days, the city may withdraw from the service territory
5 of the district any portion of the study area that is included within the urban growth
6 boundary of the city and annexed to the city.

7 (7) If the district responds in writing to the notice within 60 days and requests to execute
8 an urban service agreement for the study area with the city, the city and the district shall
9 meet to develop the agreement within 60 days after the district responds.

10 (8) If the city and district are unable to develop the agreement within 180 days after the
11 date of the first meeting, the city or the district may require mediation. If mediation is re-
12 quired, the city and the district shall each designate an individual to work with the city and
13 the district to develop an agreement. The city and the district are each responsible for the
14 costs of the mediator it selects.

15 (9) If the city and the district are unable to develop the agreement after an additional
16 180 days, the city or the district may require arbitration. The mediators selected under
17 subsection (8) of this section shall jointly select a third individual, and the three individuals
18 shall constitute an arbitration panel to develop the urban services agreement. If the
19 mediators are unable to agree on the third individual, the Director of the Department of
20 Land Conservation and Development shall select an individual from a list of qualified
21 arbitrators provided by the Land Conservation and Development Commission. The city and
22 the district shall bear the cost of the third individual equally. The arbitration panel:

23 (a) Shall consider the provisions of ORS 222.460, 222.465, 222.510 to 222.570, 222.575 and
24 222.580; and

25 (b) May not:

26 (A) Require the city or the district to pay the other party as part of the urban services
27 agreement unless:

28 (i) The urban services agreement requires a transfer of physical assets, in which case the
29 agreement may require the payment of fair market value for the assets; or

30 (ii) A party has offered a payment as part of prior negotiations and the arbitrators in-
31 corporate all or a portion of the negotiated payment in the agreement;

32 (B) Prevent a city from including land within the urban growth boundary of the city; or

33 (C) Prohibit a city from annexing territory that is within the urban growth boundary of
34 the city.

35 (10) A city may not withdraw territory from the service territory of a district:

36 (a) Unless the district does not respond to the notice required by subsection (2) of this
37 section; or

38 (b) Until the city and the district develop an urban services agreement under this section.

39 (11) Decisions related to the execution of an urban service agreement under this section
40 are not land use decisions subject to the jurisdiction of the Land Use Board of Appeals.

41 **SECTION 7.** (1) Notwithstanding the priority in ORS 197.298 for inclusion of land within
42 an urban growth boundary, a city outside of Metro shall comply with this section when de-
43 termining which lands to include within the urban growth boundary of the city pursuant to
44 ORS 197.295 to 197.314 or section 4 or 5 of this 2013 Act.

45 (2) The Land Conservation and Development Commission shall provide, by rule, that:

1 (a) When evaluating lands for inclusion within the urban growth boundary, the city shall
2 establish a study area that includes all land that is contiguous to the urban growth boundary
3 and within a distance specified by commission.

4 (b) The city shall evaluate all land in the study area for inclusion in the urban growth
5 boundary as provided in subsection (4) of this section, except for land excluded from the
6 study area because:

7 (A) It is impracticable, as provided in subsection (3) of this section, to provide necessary
8 public facilities or services to the land.

9 (B) The land is subject to significant development hazards, including a risk of land slides,
10 a risk of flooding because the land is within the 100-year floodplain or is subject to inundation
11 during storm surges or tsunamis, and other risks determined by the commission.

12 (C) The long-term preservation of significant scenic, natural, cultural or recreational
13 resources requires limiting or prohibiting urban development of the land that contains the
14 resources.

15 (D) The land is owned by the federal government and managed primarily for rural uses.

16 (c) When evaluating the priority of land for inclusion under paragraph (b) of this sub-
17 section:

18 (A) The city shall evaluate the land within the study area that is designated as an urban
19 reserve under ORS 195.145 in an acknowledged comprehensive plan, land that is subject to
20 an acknowledged exception under ORS 197.732 or land that is nonresource land and select
21 as much of the land as necessary to satisfy the need for land using criteria established by
22 the commission and criteria in an acknowledged comprehensive plan and land use regu-
23 lations.

24 (B) If the amount of land appropriate for selection under subparagraph (A) of this para-
25 graph is not sufficient to satisfy the need for land, the city shall evaluate the land within the
26 study area that is designated as marginal land under ORS 197.247 (1991 Edition) in the ac-
27 knowledged comprehensive plan and select as much of the land as necessary to satisfy the
28 need for land using criteria established by the commission and criteria in an acknowledged
29 comprehensive plan and land use regulations.

30 (C) If the amount of land appropriate for selection under subparagraphs (A) and (B) of
31 this paragraph is not sufficient to satisfy the amount of land needed, the city shall evaluate
32 land within the study area that is designated for agriculture or forest uses in the acknowl-
33 edged comprehensive plan that is not predominantly high-value farmland, as defined in ORS
34 195.300, or does not consist predominantly of prime or unique soils, as determined by the
35 United States Department of Agriculture Natural Resources Conservation Service, and select
36 as much of that land as necessary to satisfy the need for land:

37 (i) Using criteria established by the commission and criteria in an acknowledged com-
38 prehensive plan and land use regulations; and

39 (ii) Using the predominant capability classification system or the predominant cubic site
40 class, as appropriate for the acknowledged comprehensive plan designation, to select lower
41 capability or cubic site class lands first.

42 (D) If amount of land appropriate for selection under subparagraphs (A) to (C) of this
43 paragraph is not sufficient to satisfy the need for land, the city shall evaluate land within
44 the study area that is designated as agricultural land in an acknowledged comprehensive plan
45 and is predominantly high value farmland and select as much of that land as necessary to

1 satisfy the need for land. A local government may not select land that is predominantly made
2 up of prime or unique farm soils, as defined by the United States Department of Agriculture
3 Natural Resources Conservation Service, unless there is an insufficient amount of other land
4 to satisfy its land need.

5 (3) For purposes of subsection (2)(b)(A) of this section, the commission shall determine
6 impracticability by rule, considering the likely amount of development that could occur on
7 the lands within the planning period, the likely cost of facilities and services, physical,
8 topographical or other impediments to service provision and whether urban development has
9 occurred on similarly situated lands such that it is likely that the lands will be developed at
10 an urban level during the planning period. When impracticability is primarily a result of ex-
11 isting development patterns, the rules of the commission shall require that the lands be in-
12 cluded within the study area, but may allow the development capacity forecast for the lands
13 to be specified at a lower level over the planning period. The rules of the commission must
14 be based on an evaluation of how similarly situated lands have, or have not, developed over
15 time.

16 (4) For purposes of subsection (2)(b)(C) of this section, the commission by rule shall de-
17 termine the circumstances in which and the resources to which this exclusion will apply.

18 (5) Notwithstanding subsection (2)(c)(D) of this section, the rules must allow land that
19 would otherwise be excluded from an urban growth boundary to be included if:

20 (a) The land contains a small amount of resource land that is not important to the
21 commercial agricultural enterprise in the area and the land must be included to connect a
22 nearby and significantly larger area of land of higher priority for inclusion within the urban
23 growth boundary; or

24 (b) The land contains a small amount of resource land that is not predominantly high-
25 value farmland or predominantly made up of prime or unique farm soils and the land is
26 completely surrounded by land of higher priority for inclusion into the urban growth bound-
27 ary.

28 (6) When the primary purpose for expansion of the urban growth boundary is to accom-
29 modate a particular industry use that requires specific site characteristics, or to accommo-
30 date a public facility that requires specific site characteristics and the site characteristics
31 may be found in only a small number of locations, the city may limit the study area to land
32 that has, or could be improved to provide, the required site characteristics. Lands included
33 within an urban growth boundary for a particular industrial use, or a particular public fa-
34 cility, must remain planned and zoned for the intended use:

35 (a) Except as allowed by rule of the commission that is based on a significant change in
36 circumstance or the passage of time; or

37 (b) Unless the city removes the land from within the urban growth boundary.

38 (7) Notwithstanding any other provision of this section, the commission may adopt rules
39 that specify circumstances under which a city may exchange land within the urban growth
40 boundary of the city for land that is outside of the urban growth boundary and that is de-
41 signed to avoid adverse effects of an exchange on agricultural or forest operations in the
42 surrounding area.

43 **SECTION 8.** (1) Notwithstanding ORS 197.626, when a city evaluates or amends the urban
44 growth boundary of the city pursuant to section 4 or 5 of this 2013 Act, the Land Use Board
45 of Appeals has jurisdiction for review of a final decision of the city.

1 **(2) The board shall review the final decision of the city under sections 1 to 8 of this 2013**
2 **Act as provided in ORS 197.805 to 197.855, except that:**

3 **(a) In circumstances in which the Land Conservation and Development Commission has**
4 **specified by rule a number or a range of numbers that the city may use:**

5 **(A) The city is not required to adopt findings to support the use of the number or a**
6 **number within the range of numbers; and**

7 **(B) The board's review of the number may determine only that the city has used a**
8 **number that is allowed by the rule.**

9 **(b) The board shall affirm an interpretation by a local government of its comprehensive**
10 **plan or land use regulations unless that interpretation is clearly erroneous.**

11 **(3) Notwithstanding ORS 197.628 and 197.629, when a city evaluates or amends the urban**
12 **growth boundary of the city pursuant to section 4 or 5 of this 2013 Act, the city is not re-**
13 **quired to commence or complete periodic review. The commission shall, by rule, specify al-**
14 **ternate means to ensure that the comprehensive plan and land use regulations of the city**
15 **comply with the statewide land use planning goals and are updated over time to reflect**
16 **changing conditions and needs.**

17 **SECTION 9.** If House Bill 2253 becomes law, section 4 of this 2013 Act is amended to read:

18 **Sec. 4.** (1) In addition to and not in lieu of the method prescribed in ORS 197.295 to 197.314 and
19 the statewide land use planning goals, the Land Conservation and Development Commission shall
20 adopt a method by which a city outside Metro that has a population of less than 10,000 may evaluate
21 or amend its urban growth boundary.

22 (2) The commission shall design the method so that:

23 (a) A city using the method:

24 (A) Will have within its boundaries sufficient buildable lands and other development capacity,
25 including land and capacity for needed housing and employment opportunities, to meet the growth
26 in population and employment forecast to occur over a 14-year period.

27 (B) Will not become less efficient in its use of land as a result of a change to the urban growth
28 boundary.

29 (b) The urban population per square mile will continue, subject to market conditions, to increase
30 over time on a statewide basis and in major regions of the state, including that portion of the
31 Willamette Valley outside of Metro.

32 (c) The rate of conversion of agricultural and forest lands to urban uses does not increase over
33 time in any major region of the state.

34 (3) Under the method adopted by the commission:

35 (a) A city's determination of the amount of buildable lands needed for housing, employment and
36 other urban uses must be based on the population and employment growth forecast to occur over
37 a 14-year period.

38 (b) A city's determination of the supply and development capacity of lands within its urban
39 growth boundary must be based on:

40 (A) A simple inventory of vacant and partially vacant buildable lands within the urban growth
41 boundary;

42 (B) The comprehensive plan designation and the zoning of the portion of the buildable lands that
43 is urban; and

44 (C) Simple factors established by the commission for forecasting:

45 (i) The development and redevelopment capacity of urbanizable lands within the urban growth

1 boundary; and

2 (ii) The redevelopment capacity of developed urban lands within the urban growth boundary.

3 (c) A city's determination of the supply and development capacity of lands the city proposes to
4 include within the urban growth boundary must be based on:

5 (A) A simple inventory of vacant and partially vacant lands; and

6 (B) Simple factors established by the commission for forecasting the development and redevelop-
7 opment capacity of the lands.

8 (d) A city shall demonstrate that lands included within the urban growth boundary:

9 (A) Include sufficient serviceable land for at least a seven-year period.

10 (B) Can all be serviceable over a 14-year period.

11 (e) Lands included within the urban growth boundary:

12 (A) Must be planned and zoned for categories of land uses in amounts that are roughly propor-
13 tional to the land need determined for each category of use;

14 (B) Must be planned and zoned for an intensity of use that is generally consistent with the es-
15 timates that were used to determine the amount of land needed;

16 (C) Must be planned and zoned to meet the requirements for needed housing, and those re-
17 quirements must be specified by rule of the commission in a manner that is as objective as practi-
18 cable; and

19 (D) May be either:

20 (i) Planned and zoned, or otherwise conditioned, to avoid significantly affecting a state highway,
21 a state highway interchange or a freight route designated in the Oregon Highway Plan; or

22 (ii) Allowed to significantly affect a state highway, a state highway interchange or a freight
23 route designated in the Oregon Highway Plan subject to mitigation, consistent with rules of the
24 commission, if the lands are planned and zoned for compact urban development or industrial uses.

25 (4) For purposes of subsection (3)(a) of this section, population growth must be forecast as pro-
26 vided in [ORS 195.034 or 195.036] **section 2, chapter _____, Oregon Laws 2013 (Enrolled House**
27 **Bill 2253)**. Employment growth must be forecast based on the population growth forecast for the city
28 or the employment growth forecast issued by the Employment Department for the county or region.
29 The commission shall establish factors, by rule, for converting the forecasted population and em-
30 ployment growth into forecasts of land need for housing, employment and other categories of uses.
31 The factors must:

32 (a) Be based on an empirical evaluation of the relation between population and employment
33 growth and the rate and trends of land utilization in the recent past in the applicable major region
34 of the state;

35 (b) Reflect consideration by the commission of any significant changes occurring or expected to
36 occur in the markets for urban land uses in that major region of the state;

37 (c) Be designed to encourage an increase in the land use efficiency of a city, subject to market
38 conditions; and

39 (d) Provide a range of policy choices for a city about the form of its future growth.

40 (5) For purposes of subsection (3)(b) of this section, the commission shall establish factors for
41 supply and development capacity that are:

42 (a) Based on an empirical evaluation of the population and employment growth that has oc-
43 curred on similarly situated lands through development and redevelopment;

44 (b) Based on consideration by the commission of any significant changes occurring or expected
45 to occur in the markets for urban land uses in that major region of the state;

1 (c) Designed to encourage an increase in the land use efficiency of the city, subject to market
2 conditions; and

3 (d) Designed to provide a range of policy choices for a city about the form of its future growth.

4 (6) For purposes of subsection (3)(c) of this section, the commission shall establish factors that
5 are:

6 (a) Based on an empirical evaluation of the population and employment growth that has oc-
7 curred on similarly situated lands through development and redevelopment;

8 (b) Based on consideration by the commission of any significant changes occurring or expected
9 to occur in the markets for urban land uses in each major region of the state;

10 (c) Designed to encourage an increase in the land use efficiency of the city, subject to market
11 conditions; and

12 (d) Designed to provide a range of policy choices for a city about the form of its future growth.

13 (7) For lands that are included within an urban growth boundary pursuant to this section and
14 not made serviceable within 20 years after the date of their inclusion, the commission may provide
15 by rule that:

16 (a) The lands must be removed from within the urban growth boundary the next time the city
17 evaluates the urban growth boundary; or

18 (b) The planned development capacity of the lands must be reduced if there are significant in-
19 creases in the cost of making the lands serviceable.

20 (8) When lands included within the urban growth boundary pursuant to this section are planned
21 and zoned for industrial or residential uses, the lands must remain planned and zoned for the use
22 unless a rule of the commission allows a change in planning and zoning based on a significant
23 change in circumstance.

24 **SECTION 10.** If House Bill 2253 becomes law, section 5 of this 2013 Act is amended to read:

25 **Sec. 5.** (1) In addition to and not in lieu of the method prescribed in ORS 197.295 to 197.314 and
26 the statewide land use planning goals, the Land Conservation and Development Commission shall
27 adopt a method by which a city outside Metro that has a population of 10,000 or more may evaluate
28 or amend its urban growth boundary.

29 (2) The commission shall design the method so that:

30 (a) A city using the method:

31 (A) Will have within its boundaries sufficient buildable lands and other development capacity,
32 including land and capacity for needed housing and employment opportunities, to meet the growth
33 in population and employment forecast to occur over a 14-year period.

34 (B) Will not become less efficient in its use of land as a result of a change to the urban growth
35 boundary.

36 (b) The urban population per square mile will continue to increase over time on a statewide
37 basis and in major regions of the state, including that portion of the Willamette Valley outside of
38 Metro.

39 (c) The rate of conversion of agricultural and forest lands to urban uses does not increase over
40 time in any major region of the state.

41 (3) Under the method adopted by the commission:

42 (a) A city's determination of the amount of buildable lands needed for housing, employment and
43 other urban uses must be based on the population and employment growth forecast to occur over
44 a 14-year period.

45 (b) A city's determination of the supply and development capacity of lands within its urban

1 growth boundary must be based on:

2 (A) An inventory of vacant and partially vacant buildable lands within the urban growth
3 boundary;

4 (B) The comprehensive plan designation and the zoning of the portion of the buildable lands that
5 is urban; and

6 (C) Factors established by the commission for forecasting:

7 (i) The development and redevelopment capacity of urbanizable lands within the urban growth
8 boundary; and

9 (ii) The redevelopment capacity of developed urban lands within the urban growth boundary.

10 (c) A city shall consider a range or combination of measures identified by rule of the commission
11 to accommodate future need for land within the urban growth boundary and implement at least one
12 measure or satisfy an alternate performance standard established by the commission. The commis-
13 sion shall design the alternate performance standard so that the standard is satisfied when the city:

14 (A) Has a development code that contains specified provisions designed to encourage the de-
15 velopment of needed housing; and

16 (B) Demonstrates that, during the preceding planning period, the city:

17 (i) If located in the Willamette Valley, exceeded the median rate of redevelopment and infill for
18 cities with a population of 10,000 or more in the Willamette Valley that are outside of the bounda-
19 ries of Metro by an amount set by commission rule; and

20 (ii) If located outside of the Willamette Valley, exceeded the median rate of redevelopment and
21 infill for cities with a population of 10,000 or more that are outside the Willamette Valley by an
22 amount set by commission rule.

23 (d) A city shall demonstrate that lands included within the urban growth boundary:

24 (A) Include sufficient serviceable land for at least a seven-year period.

25 (B) Can all be serviceable over a 14-year period.

26 (e) Lands included within the urban growth boundary:

27 (A) Must be planned and zoned for categories of land uses in amounts that are roughly propor-
28 tional to the land need determined for each category of use;

29 (B) Must be planned and zoned for an intensity of use that is generally consistent with the es-
30 timates that were used to determine the amount of land needed;

31 (C) Must be planned and zoned to meet the requirements for needed housing, and those re-
32 quirements must be specified by rule of the commission in a manner that is as objective as practi-
33 cable; and

34 (D) May be either:

35 (i) Planned and zoned, or otherwise conditioned, to avoid significantly affecting a state highway,
36 a state highway interchange or a freight route designated in the Oregon Highway Plan; or

37 (ii) Allowed to significantly affect a state highway, a state highway interchange or a freight
38 route designated in the Oregon Highway Plan subject to mitigation, consistent with rules of the
39 commission, if the lands are planned and zoned for compact urban development or industrial uses.

40 (4) For purposes of subsection (3)(a) of this section, population growth must be forecast as pro-
41 vided in [ORS 195.034 or 195.036] **section 2, chapter _____, Oregon Laws 2013 (Enrolled House**
42 **Bill 2253)**. Employment growth must be forecast based on the population growth forecast for the city
43 or the employment growth forecast issued by the Employment Department for the county or region.
44 The commission shall establish factors, by rule, for converting the forecasted population and em-
45 ployment growth into forecasts of land need for housing, employment and other categories of uses.

1 The factors must:

2 (a) Be based on an empirical evaluation of the relation between population and employment
3 growth and the rate and trends of land utilization in the recent past in the applicable major region
4 of the state;

5 (b) Reflect consideration by the commission of any significant changes occurring or expected to
6 occur in the markets for urban land uses in that major region of the state;

7 (c) Be designed to encourage an increase in the land use efficiency of a city, subject to market
8 conditions; and

9 (d) Provide a range of policy choices for a city about the form of its future growth.

10 (5) For purposes of subsection (3)(b) of this section, the commission shall establish factors for
11 supply and development capacity that are:

12 (a) Based on an empirical evaluation of the population and employment growth that has oc-
13 curred on similarly situated lands through development and redevelopment;

14 (b) Based on consideration by the commission of any significant changes occurring or expected
15 to occur in the markets for urban land uses in that major region of the state;

16 (c) Designed to encourage an increase in the land use efficiency of the city, subject to market
17 conditions; and

18 (d) Designed to provide a range of policy choices for a city about the form of its future growth.

19 (6) For purposes of subsection (3)(c) of this section, the commission shall establish factors that
20 are:

21 (a) Based on an empirical evaluation of the population and employment growth that has oc-
22 curred on similarly situated lands through development and redevelopment;

23 (b) Based on consideration by the commission of any significant changes occurring or expected
24 to occur in the markets for urban land uses in each major region of the state;

25 (c) Designed to encourage an increase in the land use efficiency of the city, subject to market
26 conditions; and

27 (d) Designed to provide a range of policy choices for a city about the form of its future growth.

28 (7) For lands that are included within an urban growth boundary pursuant to this section and
29 not made serviceable within 20 years after the date of their inclusion, the commission may provide
30 by rule that:

31 (a) The lands must be removed from within the urban growth boundary the next time the city
32 evaluates the urban growth boundary; or

33 (b) The planned development capacity of the lands must be reduced if there are significant in-
34 creases in the cost of making the lands serviceable.

35 (8) When lands included within the urban growth boundary pursuant to this section are planned
36 and zoned for industrial or residential uses, the lands must remain planned and zoned for the use
37 unless a rule of the commission allows a change in planning and zoning based on a significant
38 change in circumstance.

39 **SECTION 11.** ORS 197.015 is amended to read:

40 197.015. As used in ORS chapters 195, 196 and 197 **and sections 1 to 8 of this 2013 Act**, unless
41 the context requires otherwise:

42 (1) "Acknowledgment" means a commission order that certifies that a comprehensive plan and
43 land use regulations, land use regulation or plan or regulation amendment complies with the goals
44 or certifies that Metro land use planning goals and objectives, Metro regional framework plan,
45 amendments to Metro planning goals and objectives or amendments to the Metro regional frame-

1 work plan comply with the goals.

2 (2) "Board" means the Land Use Board of Appeals.

3 (3) "Carport" means a stationary structure consisting of a roof with its supports and not more
4 than one wall, or storage cabinet substituting for a wall, and used for sheltering a motor vehicle.

5 (4) "Commission" means the Land Conservation and Development Commission.

6 (5) "Comprehensive plan" means a generalized, coordinated land use map and policy statement
7 of the governing body of a local government that interrelates all functional and natural systems and
8 activities relating to the use of lands, including but not limited to sewer and water systems, trans-
9 portation systems, educational facilities, recreational facilities, and natural resources and air and
10 water quality management programs. "Comprehensive" means all-inclusive, both in terms of the
11 geographic area covered and functional and natural activities and systems occurring in the area
12 covered by the plan. "General nature" means a summary of policies and proposals in broad catego-
13 ries and does not necessarily indicate specific locations of any area, activity or use. A plan is "co-
14 ordinated" when the needs of all levels of governments, semipublic and private agencies and the
15 citizens of Oregon have been considered and accommodated as much as possible. "Land" includes
16 water, both surface and subsurface, and the air.

17 (6) "Department" means the Department of Land Conservation and Development.

18 (7) "Director" means the Director of the Department of Land Conservation and Development.

19 (8) "Goals" means the mandatory statewide land use planning standards adopted by the com-
20 mission pursuant to ORS chapters 195, 196 and 197.

21 (9) "Guidelines" means suggested approaches designed to aid cities and counties in preparation,
22 adoption and implementation of comprehensive plans in compliance with goals and to aid state
23 agencies and special districts in the preparation, adoption and implementation of plans, programs
24 and regulations in compliance with goals. Guidelines shall be advisory and shall not limit state
25 agencies, cities, counties and special districts to a single approach.

26 (10) "Land use decision":

27 (a) Includes:

28 (A) A final decision or determination made by a local government or special district that con-
29 cerns the adoption, amendment or application of:

30 (i) The goals;

31 (ii) A comprehensive plan provision;

32 (iii) A land use regulation; or

33 (iv) A new land use regulation;

34 (B) A final decision or determination of a state agency other than the commission with respect
35 to which the agency is required to apply the goals; or

36 (C) A decision of a county planning commission made under ORS 433.763;

37 (b) Does not include a decision of a local government:

38 (A) That is made under land use standards that do not require interpretation or the exercise
39 of policy or legal judgment;

40 (B) That approves or denies a building permit issued under clear and objective land use stan-
41 dards;

42 (C) That is a limited land use decision;

43 (D) That determines final engineering design, construction, operation, maintenance, repair or
44 preservation of a transportation facility that is otherwise authorized by and consistent with the
45 comprehensive plan and land use regulations;

1 (E) That is an expedited land division as described in ORS 197.360;

2 (F) That approves, pursuant to ORS 480.450 (7), the siting, installation, maintenance or removal
3 of a liquefied petroleum gas container or receptacle regulated exclusively by the State Fire Marshal
4 under ORS 480.410 to 480.460;

5 (G) That approves or denies approval of a final subdivision or partition plat or that determines
6 whether a final subdivision or partition plat substantially conforms to the tentative subdivision or
7 partition plan; or

8 (H) That a proposed state agency action subject to ORS 197.180 (1) is compatible with the ac-
9 knowledged comprehensive plan and land use regulations implementing the plan, if:

10 (i) The local government has already made a land use decision authorizing a use or activity that
11 encompasses the proposed state agency action;

12 (ii) The use or activity that would be authorized, funded or undertaken by the proposed state
13 agency action is allowed without review under the acknowledged comprehensive plan and land use
14 regulations implementing the plan; or

15 (iii) The use or activity that would be authorized, funded or undertaken by the proposed state
16 agency action requires a future land use review under the acknowledged comprehensive plan and
17 land use regulations implementing the plan;

18 (c) Does not include a decision by a school district to close a school;

19 (d) Does not include, except as provided in ORS 215.213 (13)(c) or 215.283 (6)(c), authorization
20 of an outdoor mass gathering as defined in ORS 433.735, or other gathering of fewer than 3,000
21 persons that is not anticipated to continue for more than 120 hours in any three-month period; and

22 (e) Does not include:

23 (A) A writ of mandamus issued by a circuit court in accordance with ORS 215.429 or 227.179;

24 (B) Any local decision or action taken on an application subject to ORS 215.427 or 227.178 after
25 a petition for a writ of mandamus has been filed under ORS 215.429 or 227.179; or

26 (C) A state agency action subject to ORS 197.180 (1), if:

27 (i) The local government with land use jurisdiction over a use or activity that would be au-
28 thorized, funded or undertaken by the state agency as a result of the state agency action has already
29 made a land use decision approving the use or activity; or

30 (ii) A use or activity that would be authorized, funded or undertaken by the state agency as a
31 result of the state agency action is allowed without review under the acknowledged comprehensive
32 plan and land use regulations implementing the plan.

33 (11) "Land use regulation" means any local government zoning ordinance, land division ordi-
34 nance adopted under ORS 92.044 or 92.046 or similar general ordinance establishing standards for
35 implementing a comprehensive plan.

36 (12) "Limited land use decision":

37 (a) Means a final decision or determination made by a local government pertaining to a site
38 within an urban growth boundary that concerns:

39 (A) The approval or denial of a tentative subdivision or partition plan, as described in ORS
40 92.040 (1).

41 (B) The approval or denial of an application based on discretionary standards designed to reg-
42 ulate the physical characteristics of a use permitted outright, including but not limited to site re-
43 view and design review.

44 (b) Does not mean a final decision made by a local government pertaining to a site within an
45 urban growth boundary that concerns approval or denial of a final subdivision or partition plat or

1 that determines whether a final subdivision or partition plat substantially conforms to the tentative
2 subdivision or partition plan.

3 (13) "Local government" means any city, county or metropolitan service district formed under
4 ORS chapter 268 or an association of local governments performing land use planning functions
5 under ORS 195.025.

6 (14) "Metro" means a metropolitan service district organized under ORS chapter 268.

7 (15) "Metro planning goals and objectives" means the land use goals and objectives that a met-
8 ropolitan service district may adopt under ORS 268.380 (1)(a). The goals and objectives do not con-
9 stitute a comprehensive plan.

10 (16) "Metro regional framework plan" means the regional framework plan required by the 1992
11 Metro Charter or its separate components. Neither the regional framework plan nor its individual
12 components constitute a comprehensive plan.

13 (17) "New land use regulation" means a land use regulation other than an amendment to an
14 acknowledged land use regulation adopted by a local government that already has a comprehensive
15 plan and land regulations acknowledged under ORS 197.251.

16 (18) "Person" means any individual, partnership, corporation, association, governmental subdivi-
17 sion or agency or public or private organization of any kind. The Land Conservation and Devel-
18 opment Commission or its designee is considered a person for purposes of appeal under ORS
19 chapters 195 and 197.

20 (19) "Special district" means any unit of local government, other than a city, county, metropol-
21 itan service district formed under ORS chapter 268 or an association of local governments per-
22 forming land use planning functions under ORS 195.025, authorized and regulated by statute and
23 includes but is not limited to water control districts, domestic water associations and water coop-
24 eratives, irrigation districts, port districts, regional air quality control authorities, fire districts,
25 school districts, hospital districts, mass transit districts and sanitary districts.

26 (20) "Urban unincorporated community" means an area designated in a county's acknowledged
27 comprehensive plan as an urban unincorporated community after December 5, 1994.

28 (21) "Voluntary association of local governments" means a regional planning agency in this
29 state officially designated by the Governor pursuant to the federal Office of Management and Budget
30 Circular A-95 as a regional clearinghouse.

31 (22) "Wetlands" means those areas that are inundated or saturated by surface or ground water
32 at a frequency and duration that are sufficient to support, and that under normal circumstances do
33 support, a prevalence of vegetation typically adapted for life in saturated soil conditions.

34 **SECTION 12.** ORS 197.298 is amended to read:

35 197.298. (1) In addition to any requirements established by rule addressing urbanization, land
36 may not be included within an urban growth boundary **of Metro** except under the following priori-
37 ties:

38 (a) First priority is land that is designated urban reserve land under ORS 195.145, rule or met-
39 ropolitan service district action plan.

40 (b) If land under paragraph (a) of this subsection is inadequate to accommodate the amount of
41 land needed, second priority is land adjacent to an urban growth boundary that is identified in an
42 acknowledged comprehensive plan as an exception area or nonresource land. Second priority may
43 include resource land that is completely surrounded by exception areas unless such resource land
44 is high-value farmland as described in ORS 215.710.

45 (c) If land under paragraphs (a) and (b) of this subsection is inadequate to accommodate the

1 amount of land needed, third priority is land designated as marginal land pursuant to ORS 197.247
2 (1991 Edition).

3 (d) If land under paragraphs (a) to (c) of this subsection is inadequate to accommodate the
4 amount of land needed, fourth priority is land designated in an acknowledged comprehensive plan
5 for agriculture or forestry, or both.

6 (2) Higher priority shall be given to land of lower capability as measured by the capability
7 classification system or by cubic foot site class, whichever is appropriate for the current use.

8 (3) Land of lower priority under subsection (1) of this section may be included in an urban
9 growth boundary if land of higher priority is found to be inadequate to accommodate the amount
10 of land estimated in subsection (1) of this section for one or more of the following reasons:

11 (a) Specific types of identified land needs cannot be reasonably accommodated on higher priority
12 lands;

13 (b) Future urban services could not reasonably be provided to the higher priority lands due to
14 topographical or other physical constraints; or

15 (c) Maximum efficiency of land uses within a proposed urban growth boundary requires inclusion
16 of lower priority lands in order to include or to provide services to higher priority lands.

17 (4) **When a city includes land within the urban growth boundary of the city pursuant to
18 ORS 197.295 to 197.314, the city shall prioritize lands for inclusion as provided in section 7
19 of this 2013 Act.**

20 **SECTION 13. (1) Sections 1 to 8 of this 2013 Act and the amendments to ORS 197.015 and
21 197.298 by sections 11 and 12 of this 2013 Act become operative January 1, 2016.**

22 (2) **Notwithstanding subsection (1) of this section, the Land Development and Conserva-
23 tion Commission shall adopt rules before the operative date specified in subsection (1) of this
24 section that are necessary to implement this 2013 Act.**

25 **SECTION 14. If House Bill 2253 becomes law, section 13 of this 2013 Act is amended to read:**

26 **Sec. 13.** (1) Sections 1 to 8 of this 2013 Act and the amendments to ORS 197.015 and 197.298
27 **and sections 4 and 5 of this 2013 Act** by sections 9, 10, 11 and 12 of this 2013 Act become oper-
28 ative January 1, 2016.

29 (2) **Notwithstanding subsection (1) of this section, the Land Development and Conservation
30 Commission shall adopt rules before the operative date specified in subsection (1) of this section that
31 are necessary to implement this 2013 Act.**

32 **SECTION 15. This 2013 Act being necessary for the immediate preservation of the public
33 peace, health and safety, an emergency is declared to exist, and this 2013 Act takes effect
34 on its passage.**

House Bill 2255

Introduced and printed pursuant to House Rule 12.00. Pre-session filed (at the request of Governor John A. Kitzhaber, M.D., for Department of Land Conservation and Development)

SUMMARY

The following summary is not prepared by the sponsors of the measure and is not a part of the body thereof subject to consideration by the Legislative Assembly. It is an editor's brief statement of the essential features of the measure **as introduced**.

Modifies planning period for inclusion of land within urban growth boundary from 20 years to 15 years.

Creates option, for purpose of inclusion of land within urban growth boundary, for projecting number of new jobs and demand for land to meet employment needs.

Establishes process for designating industrial reserves separate from processes to designate other urban reserves.

Authorizes Economic Recovery Review Council to receive and process applications from local governments for expedited project review of specified traded sector development that has siting needs that cannot be met in urban areas of county in which siting is proposed.

Modifies sunset provision for council.

A BILL FOR AN ACT

1
2 Relating to land use planning for employment uses; creating new provisions; and amending ORS
3 195.034, 195.145, 197.296, 197.299 and 197.304 and sections 12 and 13, chapter 564, Oregon Laws
4 2011.

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

6 **SECTION 1. Section 2 of this 2013 Act is added to and made a part of ORS chapter 197.**

7 **SECTION 2. (1) For purposes of a periodic review pursuant to ORS 197.628 to 197.651 or**
8 **any other legislative review of a comprehensive plan or regional framework plan that con-**
9 **cerns the urban growth boundary and requires the application of a statewide land use plan-**
10 **ning goal relating to urbanization, a local government may estimate the amount of land to**
11 **be included within the urban growth boundary to accommodate the net growth in jobs for**
12 **all types of employment in the urban area:**

13 (a) **By projecting that the number of jobs in the urban area will grow, during a 15-year**
14 **planning period, at a rate equal to either:**

15 (A) **The rate of growth forecast for nonfarm payroll in the most recent 10-year forecast**
16 **published by the Employment Department, annualized for the appropriate county or region;**
17 **or**

18 (B) **The rate of population growth forecast for the urban area in the adopted coordinated**
19 **15-year population forecast required by ORS 195.036 or the extended population forecast al-**
20 **lowed by ORS 195.034, annualized for the urban area; and**

21 (b) **By converting the projected growth in jobs into demand for land for employment**
22 **purposes, utilizing standard ranges for ratios of land per employee based on community size**
23 **established by rule of the Land Conservation and Development Commission.**

24 (2) **When a local government uses the method in this section to estimate the need for**
25 **land for employment uses, in evaluating the adequacy of the existing land supply the local**
26 **government shall review its acknowledged comprehensive plan and land use regulations im-**

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 plementing the plan to identify and, as appropriate, to remove barriers to efficient land
2 utilization before concluding that the urban growth boundary must be expanded.

3 (3) The commission may adopt rules to implement this section, including rules to:

4 (a) Limit the retail use of land that is planned and zoned for employment uses and lo-
5 cated at or near interchanges to state highways in large or rapidly growing urban areas.

6 (b) Limit the availability of parking for motor vehicles at or near interchanges to state
7 highways in large or rapidly growing urban areas.

8 **SECTION 3.** Section 4 of this 2013 Act is added to and made a part of ORS 195.137 to
9 195.145.

10 **SECTION 4.** (1) As used in this section, “industrial reserve” means land that will provide
11 for:

12 (a) Future expansion over a long-term period to provide adequate opportunities for a
13 variety of vital economic activities; and

14 (b) The cost-effective provision of public facilities and services within the area when the
15 lands are included within the urban growth boundary.

16 (2) Two or more local governments may enter into an intergovernmental agreement
17 pursuant to ORS 190.003 to 190.130, 195.025 or 197.652 to 197.658 to designate industrial re-
18 serves pursuant to this section.

19 (3) Land designated as an industrial reserve must be outside an urban growth boundary.

20 (4) Designation and protection of industrial reserves:

21 (a) Is not a basis for a claim for compensation under ORS 195.305 unless the designation
22 and protection of industrial reserves imposes a new restriction on the use of private real
23 property.

24 (b) Does not impair the rights and immunities provided under ORS 30.930 to 30.947.

25 (5) Notwithstanding the requirement that two or more local governments designate an
26 industrial reserve, the Land Conservation and Development Commission may require a local
27 government to designate an industrial reserve pursuant to this section:

28 (a) During its periodic review in accordance with the conditions for periodic review under
29 ORS 197.628.

30 (b) Outside of its periodic review if:

31 (A) The local government is located inside a primary metropolitan statistical area or a
32 metropolitan statistical area as designated by the United States Census Bureau on November
33 4, 1993; and

34 (B) The local government was required to designate an urban reserve by rule prior to
35 November 4, 1993.

36 (6) In carrying out subsection (5) of this section:

37 (a) When an industrial reserve is established within an urban reserve, neither the com-
38 mission nor any local government may prohibit the siting on a legal parcel of a single family
39 dwelling that would otherwise have been allowed under law existing prior to designation of
40 the industrial reserve.

41 (b) The commission shall provide to local governments a list of options, rather than
42 prescribing a single planning technique, to ensure the efficient transition, if appropriate,
43 from rural to industrial use in the industrial reserve.

44 (7) If local governments designate an industrial reserve, the local governments shall plan
45 to accommodate the projected need for industrial land for at least 20 years, and not more

1 than 25 years, after the 15-year period for which the local governments have demonstrated
 2 a buildable land supply in the most recent inventory, analysis and determination performed
 3 under ORS 197.296.

4 (8) Local governments shall base the designation of industrial reserves under this section
 5 upon consideration of factors including, but not limited to, whether land proposed for desig-
 6 nation as industrial reserves, alone or in conjunction with land inside the urban growth
 7 boundary:

8 (a) Can be developed for industrial uses in a way that makes efficient use of existing and
 9 future public infrastructure investments;

10 (b) Includes sufficient development capacity to support a variety of vital economic ac-
 11 tivities;

12 (c) Can be served by transportation infrastructure and other necessary public facilities
 13 and services efficiently and cost-effectively by appropriate and financially capable service
 14 providers; and

15 (d) Can be designed to preserve and enhance natural ecological systems.

16 (9) A county may adopt an exception under ORS 197.732 to a statewide land use planning
 17 goal to allow the establishment of a transportation facility in an area designated as industrial
 18 reserve under this section.

19 (10) The commission shall adopt by goal or by rule a process and criteria for designating
 20 industrial reserves pursuant to this section.

21 **SECTION 5.** (1) As used in this section:

22 (a) "Discretionary local permit" includes local land use permits and licenses.

23 (b) "Discretionary state permit" does not include a permit or license issued by a state
 24 permitting agency pursuant to a federally delegated program.

25 (c) "Economic opportunity project" means a traded sector industrial use of land that
 26 cannot readily be anticipated and replanned because the industrial use:

27 (A) Presents a unique and vital economic opportunity for employment of substantial re-
 28 gional or state impact on employment; and

29 (B) Requires a large amount of land or has unique locational needs that cannot be met
 30 within any city or urban growth boundary in the county.

31 (d) "State permitting agency" means the Department of Environmental Quality, the De-
 32 partment of State Lands or the Department of Transportation.

33 (2) When a county has an opportunity to allow the siting and development of an economic
 34 opportunity project that cannot be accommodated on land within any city or urban growth
 35 boundary in the county, the county and one or more cities in the county jointly may file an
 36 application with the Economic Recovery Review Council, established under section 3, chapter
 37 564, Oregon Laws 2011, for expedited project review.

38 (3) The council may expedite the siting and development of the project through an exp-
 39 dited project review process if:

40 (a) The site requirements of the project cannot be met by a site within any city or urban
 41 growth boundary in the county containing the proposed site;

42 (b) Adequate workforce is available to meet the projected need of the project within
 43 _____ distance of the proposed site;

44 (c) Agreements are in place to fund public infrastructure and services required to serve
 45 the project; and

1 **(d) Development of the project:**

2 **(A) Does not require completion of an environmental impact statement, either because**
3 **the development falls within a categorical exclusion from the requirement or because an**
4 **environmental assessment results in a finding of no significant impact; and**

5 **(B) Does not require major transportation improvements.**

6 **(4) If the county and one or more cities file a complete application within the time**
7 **specified by the council, the council shall:**

8 **(a) Provide notice of the application in the manner required by ORS 197.763 for a land**
9 **use decision or in the manner required for a conditional use permit in the applicable ac-**
10 **knowledged land use regulations of the local government within whose land use jurisdiction**
11 **the project would be sited and developed, whichever results in broader notice;**

12 **(b) Provide for a public hearing on the proposal to site and develop the project in the land**
13 **use jurisdiction in which the siting would occur;**

14 **(c) Consider recommendations of the applying county and cities and of state permitting**
15 **agencies that would otherwise have jurisdiction to review the discretionary local permits and**
16 **discretionary state permits for siting and development of the project in determining whether**
17 **the project complies with applicable standards and criteria and in determining whether to**
18 **impose conditions of approval for the project; and**

19 **(d) Apply the standards and criteria for each discretionary local permit and discretionary**
20 **state permit required for the construction and operation of the project and determine, within**
21 **120 days after the date a complete application is filed and based on the record and the ap-**
22 **licable law, whether the project complies with the applicable standards and criteria.**

23 **(5) The council has jurisdiction to approve discretionary local permits and discretionary**
24 **state permits. The council may not waive standards and criteria that apply to issuance of a**
25 **discretionary local permit or a discretionary state permit. If the council determines that the**
26 **proposed project complies with the applicable standards and criteria, the council shall issue**
27 **a project certificate approving the siting and development of the project. In addition to other**
28 **conditions reasonably necessary to ensure that the project complies with applicable stan-**
29 **dards and criteria, the council may impose a condition requiring commencement of con-**
30 **struction by a date calculated to ensure that a particular site is developed for the project**
31 **within a specific time period. If the council determines that the project does not, or cannot,**
32 **comply with applicable standards and criteria, the council shall issue a final order denying**
33 **the application and explaining why the application was not approved.**

34 **(6) A state permitting agency or a local government may recommend conditions of ap-**
35 **proval reasonably necessary to ensure that the construction and operation of the project**
36 **complies with applicable standards and criteria.**

37 **(7) Expedited project review is not subject to ORS 183.413 to 183.470.**

38 **(8) Issuance of a project certificate:**

39 **(a) Binds public bodies, as defined in ORS 174.109, in regard to approval of construction**
40 **and operation of the project.**

41 **(b) Satisfies requirements imposed on a state permitting agency by ORS 197.180 and ad-**
42 **ministrative rules implementing ORS 197.180.**

43 **(c) Authorizes the local government with land use jurisdiction over the approved site to**
44 **include the site within the local government's acknowledged urban growth boundary,**
45 **notwithstanding any contrary requirement of ORS 197.295 to 197.314 or 197.610 to 197.625 or**

1 a statewide land use planning goal relating to urbanization.

2 (d) Authorizes the local government to submit the change to its acknowledged compre-
 3 hensive plan and land use regulations in the manner required by ORS 197.610 to 197.625 and,
 4 for purposes of acknowledgement, limits the scope of commission review to confirmation
 5 that the changes are consistent with the project certificate.

6 (9) After the council issues a project certificate, state permitting agencies and local
 7 governments shall:

8 (a) Issue discretionary local permits and discretionary state permits as required in the
 9 project certificate; and

10 (b) Exercise enforcement authority over the permits, including conditions imposed in the
 11 project certificate.

12 (10) The council shall charge the potential developer, through the applicant, a fee calcu-
 13 lated to recover the costs reasonably incurred to conduct expedited project review, including
 14 the costs incurred by state permitting agencies and local governments that make recom-
 15 mendations to the council concerning whether the proposed siting complies with applicable
 16 standards and criteria. If the fee charged by the council includes costs incurred by a state
 17 permitting agency or a local government, the council shall pay or reimburse the state per-
 18 mitting agency or the local government in the manner provided by ORS 469.360. The council
 19 may require the potential developer, through the applicant, to pay all or a portion of the fee
 20 before initiation of the expedited project review and may require progress payments as the
 21 review proceeds. The fee required by this section is in lieu of any fee or fees otherwise re-
 22 quired for review of a discretionary local permit or a discretionary state permit addressed
 23 in the project certificate. The council shall deposit moneys received under this section in the
 24 Economic Recovery Review Council Fund established under section 5, chapter 564, Oregon
 25 Laws 2011.

26 (11) The Land Use Board of Appeals does not have jurisdiction to consider decisions, as-
 27 pects of decisions or actions taken under this section.

28 (12) A person who participates in the proceedings before the council may appeal a final
 29 order of the council to the Court of Appeals. The appeal shall proceed in the manner provided
 30 by ORS 197.850, 197.855 and 197.860. However, notwithstanding ORS 197.850 (9) or any other
 31 provision of law, the court shall reverse or remand the decision only if the court finds that:

32 (a) The council's determination that the proposed siting qualifies as an economic oppor-
 33 tunity project was clearly in error;

34 (b) There is a basis to vacate the decision as described in ORS 36.705 (1)(a) to (d) or a
 35 basis for modification or correction of an award as described in ORS 36.710; or

36 (c) The decision was unconstitutional.

37 **SECTION 6.** Section 12, chapter 564, Oregon Laws 2011, is amended to read:

38 **Sec. 12.** (1) On the date of the repeal of sections 1 to 5, chapter 564, Oregon Laws 2011,
 39 specified in section 13, chapter 564, Oregon Laws 2011 [*of this 2011 Act*]:

40 (a) The Economic Recovery Review Council established under section 3, chapter 564, Oregon
 41 Laws 2011, [*of this 2011 Act*] is abolished and the tenure of office of the members of the council, the
 42 program manager for the council and all employees ceases.

43 (b) The Economic Recovery Review Council Fund established under section 5, chapter 564,
 44 Oregon Laws 2011, [*of this 2011 Act*] is abolished. The Economic Recovery Review Council shall
 45 transfer the unexpended balance of moneys in the fund to the General Fund.

1 (2) The members of the council shall allocate and deliver to the respective state agencies whose
 2 directors served as members of the council all records and property within the jurisdiction of the
 3 council, and the state agencies whose directors served on the council shall take possession of the
 4 records and property. The Governor shall resolve any dispute relating to the allocation and delivery
 5 of records and property under this section and the Governor's decision is final.

6 (3) The abolishment of the council does not relieve a person of a liability, duty or obligation
 7 accruing under or with respect to the duties, functions and powers of the council abolished by this
 8 section. The Oregon Department of Administrative Services may undertake the collection or
 9 enforcement of any such liability, duty or obligation.

10 (4) The rights and obligations of the council legally incurred under contracts, leases and busi-
 11 ness transactions executed, entered into or begun before the date **of the repeal of sections 1 to**
 12 **5, chapter 564, Oregon Laws 2011**, specified in section 13, **chapter 564, Oregon Laws 2011**, [*of*
 13 *this 2011 Act*] are transferred to the Oregon Department of Administrative Services. For the pur-
 14 pose of succession to these rights and obligations, the department is a continuation of the council
 15 and not a new authority.

16 (5) Notwithstanding the repeal of sections 1 to 5, **chapter 564, Oregon Laws 2011**, [*of this 2011*
 17 *Act*] by section 13, **chapter 564, Oregon Laws 2011** [*of this 2011 Act*], members of the council may
 18 take action under this section that are necessary to wind down the operations of the council before,
 19 on or after the date of the repeal of sections 1 to 5, **chapter 564, Oregon Laws 2011** [*of this 2011*
 20 *Act*].

21 **SECTION 7.** Section 13, chapter 564, Oregon Laws 2011, is amended to read:

22 **Sec. 13.** Sections 1 to 5 [*of this 2011 Act*], **chapter 564, Oregon Laws 2011**, and **section 4 of**
 23 **this 2013 Act** are repealed on **the later of the following dates:**

24 (1) **The date specified in ORS 197.723 (1) by which the Economic Recovery Review Council**
 25 **must designate regionally significant industrial areas; or**

26 (2) January 2 of the first even-numbered year after the Employment Department notifies the
 27 Economic Recovery Review Council and the Office of the Legislative Counsel that the annual av-
 28 erage unemployment rate for the most recent calendar year in Oregon is less than six percent.

29 **SECTION 8.** ORS 195.034 is amended to read:

30 195.034. (1) If the coordinating body under ORS 195.025 (1) has adopted, within 10 years before
 31 a city initiates an evaluation or amendment of the city's urban growth boundary, a population
 32 forecast as required by ORS 195.036 that no longer provides a [20-year] **15-year** forecast for an ur-
 33 ban area, a city may propose a revised [20-year] **15-year** forecast for its urban area by extending the
 34 coordinating body's current urban area forecast to a [20-year] **15-year** period using the same growth
 35 trend for the urban area assumed in the coordinating body's current adopted forecast.

36 (2) If the coordinating body has not adopted a forecast as required by ORS 195.036 or if the
 37 current forecast was adopted more than 10 years before the city initiates an evaluation or amend-
 38 ment of the city's urban growth boundary, a city may propose a [20-year] **15-year** forecast for its
 39 urban area by:

40 (a) Basing the proposed forecast on the population forecast prepared by the [*Office of Economic*
 41 *Analysis*] **Bureau of Economic Analysis of the United States Department of Commerce** for the
 42 county for a [20-year] **15-year** period that commences when the city initiates the evaluation or
 43 amendment of the city's urban growth boundary; and

44 (b) Assuming that the urban area's share for the forecasted county population determined in
 45 paragraph (a) of this subsection will be the same as the urban area's current share of the county

1 population based on the most recent certified population estimates from Portland State University
 2 and the most recent data for the urban area published by the United States Census Bureau.

3 (3)(a) If the coordinating body does not take action on the city’s proposed forecast for the urban
 4 area under subsection (1) or (2) of this section within six months after the city’s written request for
 5 adoption of the forecast, the city may adopt the extended forecast if:

6 (A) The city provides notice to the other local governments in the county; and

7 (B) The city includes the adopted forecast in the comprehensive plan, or a document included
 8 in the plan by reference, in compliance with the applicable requirements of ORS 197.610 to 197.651.

9 (b) If the extended forecast is adopted under paragraph (a) of this subsection consistent with the
 10 requirements of subsection (1) or (2) of this section:

11 (A) The forecast is deemed to satisfy the requirements of a statewide land use planning goal
 12 relating to urbanization to establish a coordinated [20-year] **15-year** population forecast for the ur-
 13 ban area; and

14 (B) The city may rely on the population forecast as an appropriate basis upon which the city
 15 and county may conduct the evaluation or amendment of the city’s urban growth boundary.

16 (4) The process for establishing a population forecast provided in this section is in addition to
 17 and not in lieu of a process established by goal and rule of the Land Conservation and Development
 18 Commission.

19 **SECTION 9.** ORS 195.145 is amended to read:

20 195.145. (1) To ensure that the supply of land available for urbanization is maintained:

21 (a) Local governments may cooperatively designate lands outside urban growth boundaries as
 22 urban reserves subject to ORS 197.610 to 197.625 and 197.626.

23 (b) Alternatively, a metropolitan service district established under ORS chapter 268 and a
 24 county may enter into a written agreement pursuant to ORS 190.003 to 190.130, 195.025 or 197.652
 25 to 197.658 to designate urban reserves. A process and criteria developed pursuant to this paragraph
 26 are an alternative to a process or criteria adopted pursuant to paragraph (a) of this subsection.

27 (2)(a) The Land Conservation and Development Commission may require a local government to
 28 designate an urban reserve pursuant to subsection (1)(a) of this section during its periodic review
 29 in accordance with the conditions for periodic review under ORS 197.628.

30 (b) Notwithstanding paragraph (a) of this subsection, the commission may require a local gov-
 31 ernment to designate an urban reserve pursuant to subsection (1)(a) of this section outside of its
 32 periodic review if:

33 (A) The local government is located inside a primary metropolitan statistical area or a metro-
 34 politan statistical area as designated by the [Federal] **United States** Census Bureau [upon] **on** No-
 35 vember 4, 1993; and

36 (B) The local government [has been] **was** required to designate an urban reserve by rule prior
 37 to November 4, 1993.

38 (3) In carrying out subsections (1) and (2) of this section:

39 (a) Within an urban reserve, neither the commission nor any local government [shall] **may** pro-
 40 hibit the siting on a legal parcel of a single family dwelling that would otherwise have been allowed
 41 under law existing prior to designation as an urban reserve.

42 (b) The commission shall provide to local governments a list of options, rather than prescribing
 43 a single planning technique, to ensure the efficient transition from rural to urban use in urban re-
 44 serves.

45 (4) Urban reserves designated by a metropolitan service district and a county pursuant to sub-

1 section (1)(b) of this section must be planned to accommodate population and employment growth for
 2 at least 20 years, and not more than 30 years, after the [20-year] **15-year** period for which the dis-
 3 trict has demonstrated a buildable land supply in the most recent inventory, **analysis and** determi-
 4 nation [and analysis] performed under ORS 197.296.

5 (5) A district and a county shall base the designation of urban reserves under subsection (1)(b)
 6 of this section upon consideration of factors including, but not limited to, whether land proposed for
 7 designation as urban reserves, alone or in conjunction with land inside the urban growth boundary:

8 (a) Can be developed at urban densities in a way that makes efficient use of existing and future
 9 public infrastructure investments;

10 (b) Includes sufficient development capacity to support a healthy urban economy;

11 (c) Can be served by public schools and other urban-level public facilities and services efficiently
 12 and cost-effectively by appropriate and financially capable service providers;

13 (d) Can be designed to be walkable and served by a well-connected system of streets by appro-
 14 priate service providers;

15 (e) Can be designed to preserve and enhance natural ecological systems; and

16 (f) Includes sufficient land suitable for a range of housing types.

17 (6) A county may [take] **adopt** an exception under ORS 197.732 to a statewide land use planning
 18 goal to allow the establishment of a transportation facility in an area designated as urban reserve
 19 under subsection (1)(b) of this section.

20 (7) The commission shall adopt by goal or by rule a process and criteria for designating urban
 21 reserves pursuant to subsection (1)(b) of this section.

22 **SECTION 10.** ORS 197.296 is amended to read:

23 197.296. (1)(a) The provisions of this section apply to metropolitan service district regional
 24 framework plans and local government comprehensive plans for lands within the urban growth
 25 boundary of a city that is located outside of a metropolitan service district and has a population of
 26 25,000 or more.

27 (b) The Land Conservation and Development Commission may establish a set of factors under
 28 which additional cities are subject to the provisions of this section. In establishing the set of factors
 29 required under this paragraph, the commission shall consider the size of the city, the rate of popu-
 30 lation growth of the city or the proximity of the city to another city with a population of 25,000 or
 31 more or to a metropolitan service district.

32 (2) At periodic review pursuant to ORS 197.628 to 197.651 or at any other legislative review of
 33 the comprehensive plan or regional plan that concerns the urban growth boundary and requires the
 34 application of a statewide planning goal relating to buildable lands for residential use, a local gov-
 35 ernment shall demonstrate that its comprehensive plan or regional plan provides sufficient buildable
 36 lands within the urban growth boundary established pursuant to statewide planning goals to ac-
 37 commodate estimated housing needs for [20 years. The 20-year period shall commence] **15 years. The**
 38 **15-year period commences** on the date initially scheduled for completion of the periodic or legis-
 39 lative review.

40 (3) In performing the duties under subsection (2) of this section, a local government shall:

41 (a) Inventory the supply of buildable lands within the urban growth boundary and determine the
 42 housing capacity of the buildable lands; and

43 (b) Conduct an analysis of housing need by type and density range, in accordance with ORS
 44 197.303 and statewide planning goals and rules relating to housing, to determine the number of units
 45 and amount of land needed for each needed housing type for the next [20] **15** years.

1 (4)(a) For the purpose of the inventory described in subsection (3)(a) of this section, “buildable
2 lands” includes:

3 (A) Vacant lands planned or zoned for residential use;

4 (B) Partially vacant lands planned or zoned for residential use;

5 (C) Lands that may be used for a mix of residential and employment uses under the existing
6 planning or zoning; and

7 (D) Lands that may be used for residential infill or redevelopment.

8 (b) For the purpose of the inventory and determination of housing capacity described in sub-
9 section (3)(a) of this section, the local government must demonstrate consideration of:

10 (A) The extent that residential development is prohibited or restricted by local regulation and
11 ordinance, state law and rule or federal statute and regulation;

12 (B) A written long term contract or easement for radio, telecommunications or electrical facili-
13 ties, if the written contract or easement is provided to the local government; and

14 (C) The presence of a single family dwelling or other structure on a lot or parcel.

15 (c) Except for land that may be used for residential infill or redevelopment, a local government
16 shall create a map or document that may be used to verify and identify specific lots or parcels that
17 have been determined to be buildable lands.

18 (5)(a) Except as provided in paragraphs (b) and (c) of this subsection, the determination of
19 housing capacity and need pursuant to subsection (3) of this section must be based on data relating
20 to land within the urban growth boundary that has been collected since the last periodic review or
21 five years, whichever is greater. The data shall include:

22 (A) The number, density and average mix of housing types of urban residential development that
23 have actually occurred;

24 (B) Trends in density and average mix of housing types of urban residential development;

25 (C) Demographic and population trends;

26 (D) Economic trends and cycles; and

27 (E) The number, density and average mix of housing types that have occurred on the buildable
28 lands described in subsection (4)(a) of this section.

29 (b) A local government shall make the determination described in paragraph (a) of this sub-
30 section using a shorter time period than the time period described in paragraph (a) of this subsection
31 if the local government finds that the shorter time period will provide more accurate and reliable
32 data related to housing capacity and need. The shorter time period may not be less than three years.

33 (c) A local government shall use data from a wider geographic area or use a time period for
34 economic cycles and trends longer than the time period described in paragraph (a) of this subsection
35 if the analysis of a wider geographic area or the use of a longer time period will provide more ac-
36 curate, complete and reliable data relating to trends affecting housing need than an analysis per-
37 formed pursuant to paragraph (a) of this subsection. The local government must clearly describe the
38 geographic area, time frame and source of data used in a determination performed under this para-
39 graph.

40 (6) If the housing need determined pursuant to subsection (3)(b) of this section is greater than
41 the housing capacity determined pursuant to subsection (3)(a) of this section, the local government
42 shall take one or more of the following actions to accommodate the additional housing need:

43 (a) Amend its urban growth boundary to include sufficient buildable lands to accommodate
44 housing needs for the next [20] 15 years. As part of this process, the local government shall consider
45 the effects of measures taken pursuant to paragraph (b) of this subsection. The amendment shall

1 include sufficient land reasonably necessary to accommodate the siting of new public school facili-
2 ties. The need and inclusion of lands for new public school facilities shall be a coordinated process
3 between the affected public school districts and the local government that has the authority to ap-
4 prove the urban growth boundary;

5 (b) Amend its comprehensive plan, regional plan, functional plan or land use regulations to in-
6 clude new measures that demonstrably increase the likelihood that residential development will oc-
7 cur at densities sufficient to accommodate housing needs for the next [20] **15** years without
8 expansion of the urban growth boundary. A local government or metropolitan service district that
9 takes this action shall monitor and record the level of development activity and development density
10 by housing type following the date of the adoption of the new measures; or

11 (c) Adopt a combination of the actions described in paragraphs (a) and (b) of this subsection.

12 (7) Using the analysis conducted under subsection (3)(b) of this section, the local government
13 shall determine the overall average density and overall mix of housing types at which residential
14 development of needed housing types must occur in order to meet housing needs over the next [20]
15 **15** years. If that density is greater than the actual density of development determined under sub-
16 section (5)(a)(A) of this section, or if that mix is different from the actual mix of housing types de-
17 termined under subsection (5)(a)(A) of this section, the local government, as part of its periodic
18 review, shall adopt measures that demonstrably increase the likelihood that residential development
19 will occur at the housing types and density and at the mix of housing types required to meet housing
20 needs over the next [20] **15** years.

21 (8)(a) A local government outside a metropolitan service district that takes any actions under
22 subsection (6) or (7) of this section shall demonstrate that the comprehensive plan and land use
23 regulations comply with goals and rules adopted by the commission and implement ORS 197.295 to
24 197.314.

25 (b) The local government shall determine the density and mix of housing types anticipated as a
26 result of actions taken under subsections (6) and (7) of this section and monitor and record the ac-
27 tual density and mix of housing types achieved. The local government shall compare actual and
28 anticipated density and mix. The local government shall submit its comparison to the commission
29 at the next periodic review or at the next legislative review of its urban growth boundary, which-
30 ever comes first.

31 (9) In establishing that actions and measures adopted under subsections (6) or (7) of this section
32 demonstrably increase the likelihood of higher density residential development, the local government
33 shall at a minimum ensure that land zoned for needed housing is in locations appropriate for the
34 housing types identified under subsection (3) of this section and is zoned at density ranges that are
35 likely to be achieved by the housing market using the analysis in subsection (3) of this section.
36 Actions or measures, or both, may include but are not limited to:

37 (a) Increases in the permitted density on existing residential land;

38 (b) Financial incentives for higher density housing;

39 (c) Provisions permitting additional density beyond that generally allowed in the zoning district
40 in exchange for amenities and features provided by the developer;

41 (d) Removal or easing of approval standards or procedures;

42 (e) Minimum density ranges;

43 (f) Redevelopment and infill strategies;

44 (g) Authorization of housing types not previously allowed by the plan or regulations;

45 (h) Adoption of an average residential density standard; and

1 (i) Rezoning or redesignation of nonresidential land.

2 **SECTION 11.** ORS 197.299 is amended to read:

3 197.299. (1) A metropolitan service district organized under ORS chapter 268 shall complete the
4 inventory, determination and analysis required under ORS 197.296 (3) not later than five years after
5 completion of the previous inventory, determination and analysis.

6 (2)(a) The metropolitan service district shall take such action as necessary under ORS 197.296
7 (6)(a) to accommodate one-half of a [20-year] **15-year** buildable land supply determined under ORS
8 197.296 (3) within one year of completing the analysis.

9 (b) The metropolitan service district shall take all final action under ORS 197.296 (6)(a) neces-
10 sary to accommodate a [20-year] **15-year** buildable land supply determined under ORS 197.296 (3)
11 within two years of completing the analysis.

12 (c) The metropolitan service district shall take action under ORS 197.296 (6)(b), within one year
13 after the analysis required under ORS 197.296 (3)(b) is completed, to provide sufficient buildable land
14 within the urban growth boundary to accommodate the estimated housing needs for [20] **15** years
15 from the time the actions are completed. The metropolitan service district shall consider and adopt
16 new measures that the governing body deems appropriate under ORS 197.296 (6)(b).

17 (3) The Land Conservation and Development Commission may grant an extension to the time
18 limits of subsection (2) of this section if the Director of the Department of Land Conservation and
19 Development determines that the metropolitan service district has provided good cause for failing
20 to meet the time limits.

21 (4)(a) The metropolitan service district shall establish a process to expand the urban growth
22 boundary to accommodate a need for land for a public school that cannot reasonably be accommo-
23 dated within the existing urban growth boundary. The metropolitan service district shall design the
24 process to:

25 (A) Accommodate a need that must be accommodated between periodic analyses of urban growth
26 boundary capacity required by subsection (1) of this section; and

27 (B) Provide for a final decision on a proposal to expand the urban growth boundary within four
28 months after submission of a complete application by a large school district as defined in ORS
29 195.110.

30 (b) At the request of a large school district, the metropolitan service district shall assist the
31 large school district to identify school sites required by the school facility planning process de-
32 scribed in ORS 195.110. A need for a public school is a specific type of identified land need under
33 ORS 197.298 (3).

34 **SECTION 12.** ORS 197.304 is amended to read:

35 197.304. (1) Notwithstanding an intergovernmental agreement pursuant to ORS 190.003 to
36 190.130 or acknowledged comprehensive plan provisions to the contrary, a city within Lane County
37 that has a population of 50,000 or more within its boundaries shall meet its obligation under ORS
38 197.295 to 197.314 separately from any other city within Lane County. The city shall, separately
39 from any other city:

40 (a) Establish an urban growth boundary, (a) consistent with the jurisdictional area of responsibility
41 specified in the acknowledged comprehensive plan; and

42 (b) Demonstrate, as required by ORS 197.296, that its comprehensive plan provides sufficient
43 buildable lands within an urban growth boundary established pursuant to statewide planning goals
44 to accommodate estimated housing needs for [20] **15** years.

45 (2) Except as provided in subsection (1) of this section, this section does not alter or affect an

1 intergovernmental agreement pursuant to ORS 190.003 to 190.130 or acknowledged comprehensive
2 plan provisions adopted by Lane County or local governments in Lane County.
3 _____