

A-Engrossed House Bill 4095

Ordered by the House February 10
Including House Amendments dated February 10

Sponsored by Representatives GARRARD, ESQUIVEL; Representatives CAMERON, HANNA, HICKS, KRIEGER, LINDSAY, PARRISH, SCHAUFLE, SHEEHAN, G SMITH, SPRENGER, THATCHER, WAND, WHISNANT, WINGARD, Senators ATKINSON, JOHNSON, WHITSETT (Presession filed.)

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.

Allows Jackson, Josephine and Douglas Counties to enter into intergovernmental agreement. Allows counties that are parties to agreement to petition Land Conservation and Development Commission to establish [*regional definitions for "agricultural land" or "forestland," or both, for purpose of regional planning under statewide land use planning system*] **definitions of terms "agricultural land" and "forestland" for purposes of land use planning in those counties. Requires commission to consider specified factors in adopting and applying definitions. Requires Department of Land Conservation and Development to report to Legislative Assembly no later than date of convening of 2015 regular session on actions taken by counties and department.**

[Appropriates moneys to Department of Land Conservation and Development to make grants to counties that agree to petition commission for regional definitions.]

[Appropriates moneys to Department of Land Conservation and Development to meet costs of department, State Department of Agriculture, State Forestry Department and Water Resources Department to review petition and establish regional definitions.]

[Declares emergency, effective on passage.]

Establishes Regional Resource Land Program Fund and continuously appropriates moneys in fund to department to carry out provisions of Act.

Appropriates, for biennium beginning July 1, 2011, moneys to department for deposit in fund.

Limits biennial expenditures from fees, moneys or other revenues, including Miscellaneous Receipts, but excluding lottery funds and federal funds, deposited in fund.

A BILL FOR AN ACT

1
2 Relating to regionalized land use planning; appropriating money; and limiting expenditures.

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

4 **SECTION 1. Sections 2 and 3 of this 2012 Act are added to and made a part of ORS**
5 **chapter 195.**

6 **SECTION 2. (1) Jackson, Josephine or Douglas County may enter into an intergovern-**
7 **mental agreement under ORS 190.030 to 190.130. At least two of the counties must be parties**
8 **to the intergovernmental agreement. The parties to the intergovernmental agreement jointly**
9 **may:**

10 (a) **Petition the Land Conservation and Development Commission to establish, by rule,**
11 **definitions of the terms "agricultural land" and "forestland" for purposes of land use plan-**
12 **ning in the counties; and**

13 (b) **Apply to the Department of Land Conservation and Development for grant funds**
14 **necessary to fund actions taken under section 3 of this 2012 Act.**

15 **(2) A petition filed with the commission pursuant to this section must:**

16 (a) **Provide information that allows the commission to address the considerations in**

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

1 section 3 of this 2012 Act and other information the petitioners deem necessary for the
2 commission to consider; and

3 (b) Meet, or incorporate an attached petition that meets, the requirements of ORS
4 183.390 for requesting promulgation, amendment or repeal of a rule.

5 (3) Upon receipt of an application for grant funds under this section, the department may
6 grant up to \$350,000 to the counties that are parties to the intergovernmental agreement.

7 (4) The act of entering into an intergovernmental agreement pursuant to subsection (1)
8 of this section and actions taken by the counties to submit the petition described in this
9 section are not land use decisions.

10 **SECTION 3.** (1) If the Land Conservation and Development Commission finds that the
11 petition submitted under section 2 of this 2012 Act is sufficient to initiate rulemaking pro-
12 ceedings in accordance with ORS 183.335:

13 (a) The commission shall accept the petition and initiate rulemaking proceedings to
14 consider adoption of a regional definition of “agricultural land” and “forestland”; and

15 (b) The Department of Land Conservation and Development, after coordinating with the
16 State Department of Agriculture, the State Forestry Department, the Water Resources De-
17 partment, the State Department of Fish and Wildlife, the Department of Transportation and
18 the cities and counties in the proposed region, shall evaluate the petition pursuant to this
19 section.

20 (2) The commission shall base its decision on the proposed regional definitions on:

21 (a) The characteristics of the land in the proposed region;

22 (b) Commercial farming and forest practices in the proposed region;

23 (c) The legislative policies described in ORS 215.243, 215.700 and 527.630; and

24 (d) Consideration of:

25 (A) The capability and suitability of the soils in the proposed region for farming or
26 forestry;

27 (B) The long-term viability of farm and forest operations in the region;

28 (C) The availability of water to sustain current and anticipated land uses in the proposed
29 region;

30 (D) The land use patterns of commercial farming and forestry in the proposed region and
31 in nearby lands, including the parcelization, tenure and ownership patterns of resource land
32 and the location of resource land in relation to land employed for nonfarm and nonforest
33 uses; and

34 (E) The sufficiency and stability of the farm and forest infrastructure in the proposed
35 region.

36 (3) The commission shall base its decision on the area to which the regional definitions
37 apply on:

38 (a) The need to address similar or related lands as one region; and

39 (b) The need to address similar or related farming practices and products or forest
40 practices and products in the region in a consistent manner.

41 (4) In preparing rules authorized by this section, the commission:

42 (a) Shall hold at least one public hearing in each county of which all or a portion would
43 be included in the designated region.

44 (b) Is not bound by the requirements of ORS 197.235 (1)(a), which apply to preparation
45 of goals and guidelines.

1 (5) If the commission adopts rules establishing regional definitions of “agricultural
2 land” and “forestland” under this section, a county, all or a portion of which is in the des-
3 ignated region, may elect to:

4 (a) Review and amend its comprehensive plan map designations and zoning map desig-
5 nations for land in the designated region that is planned for farm use, forest use or mixed
6 farm and forest use; and

7 (b) Redesignate as nonresource land the land that does not satisfy the definition of “ag-
8 ricultural land” or “forestland.”

9 (6) A county that elects under subsection (5) of this section to review and amend its
10 comprehensive plan map designations and zoning map designations:

11 (a) Shall prepare the comprehensive plan map designations and zoning map designations
12 using the procedures in ORS 215.788 (2).

13 (b) Shall provide an opportunity for review of all land within the portion of the region
14 subject to the rule that is planned for farm use, forest use or mixed farm and forest use.

15 (c) Shall plan and zone land reviewed under this subsection:

16 (A) For farm use if the land meets the regional definition of “agricultural land”;

17 (B) For forest use if the land meets the regional definition of “forestland”;

18 (C) For farm use, forest use or mixed farm and forest use if the land meets both defi-
19 nitions; and

20 (D) For rural nonresource use if the land does not meet either definition.

21 (d) May consider the current land use pattern on nearby lands in determining whether
22 land meets the definition of “agricultural land” or “forestland.”

23 (e) Shall plan and zone land for rural nonresource use in compliance with the require-
24 ments of ORS 215.791 and administrative rules implementing ORS 215.791.

25 (f) Shall submit the adopted comprehensive plan map and zoning map designations to the
26 Department of Land Conservation and Development under ORS 215.794.

27 **SECTION 4.** Not later than the date of the convening of the 2015 regular session of the
28 Legislative Assembly as specified in ORS 171.010, the Department of Land Conservation and
29 Development shall report to the Legislative Assembly on the status and results of actions
30 taken by the counties and the department under sections 2 and 3 of this 2012 Act.

31 **SECTION 5.** The Regional Resource Land Program Fund is established in the State
32 Treasury separate and distinct from the General Fund. The Regional Resource Land Program
33 Fund consists of moneys appropriated for deposit into the fund. Moneys in the fund are
34 continuously appropriated to the Department of Land Conservation and Development to
35 carry out the provisions of sections 2 to 4 of this 2012 Act.

36 **SECTION 6.** (1) In addition to and not in lieu of any other appropriation, there is appro-
37 priated to the Department of Land Conservation and Development, for the biennium begin-
38 ning July 1, 2011, out of the General Fund, the amount of \$600,000 for deposit in the Regional
39 Resource Land Program Fund established in section 5 of this 2012 Act.

40 (2) On June 30, 2013, the State Treasurer shall deposit the appropriated moneys into the
41 fund. The appropriation is available continuously until expended as follows:

42 (a) The department shall grant \$350,000 to those of the counties that enter into an
43 intergovernmental agreement under section 1 of this 2012 Act and submit a petition to the
44 Land Conservation and Development Commission under section 2 of this 2012 Act, for the
45 purpose of defraying all or part of the costs to the counties to take action under sections 2

1 and 3 of this 2012 Act; and

2 (b) The Department of Land Conservation and Development may use up to \$250,000 to
3 defray costs of the department, the State Department of Agriculture, the State Forestry
4 Department and the Water Resources Department to carry out the requirements of sections
5 3 and 4 of this 2012 Act.

6 SECTION 7. Notwithstanding any other law limiting expenditures, the amount of \$1 is
7 established for the biennium beginning July 1, 2011, as the maximum limit for payment of
8 expenses from fees, moneys or other revenues, including Miscellaneous Receipts, but ex-
9 cluding lottery funds and federal funds, deposited into the Regional Resource Land Program
10 Fund established in section 5 of this 2012 Act.

11 SECTION 8. Section 3 of this 2012 Act becomes operative on July 1, 2013.
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