

Joint Committee on Ways and Means

Carrier – House: Rep. Macpherson
Carrier – Senate: Sen. Schrader/
Sen. Prozanski

Revenue: No revenue impact

Fiscal: Fiscal statement issued

Action: Do Pass the A-Engrossed Measure as Amended and Be Printed B-Engrossed

Vote: 13 – 8 – 0

House – Yeas: D. Edwards, Galizio, Nathanson, Nolan, Shields
– Nays: Garrard, Hanna, Jenson, Morgan
– Exc:

Senate – Yeas: Bates, Carter, Devlin, Gordly, Johnson, Schrader, Verger, Westlund
– Nays: Morse, Nelson, Whitsett, Winters
– Exc:

Prepared By: Susie Jordan, Legislative Fiscal Office

Meeting Date: 5/1/07

WHAT THE MEASURE DOES: Refers for voter approval changes to the implementation of Measure 37 (2004) Modifies process for compensation of landowners for lost value due to land use regulations created in Ballot Measure 37. Allows persons who have already submitted a claim for compensation on land entirely outside an urban growth boundary and city limits to select one of three pathways: (1) The unconditional path, or “express lane”, which allows the claimant to establish up to three home sites on the property; (2) The conditional pathway allows the claimant to establish between four and ten home sites on the property; or (3) The vested rights pathway, which allows the claimant to continue to pursue their claim under Ballot Measure 37 if they have a vested right as of the effective date of the measure. It specifies requirements for the express lane and conditional pathways.

The measure establishes timelines for electing which pathway to pursue and for the processing of claims. Provides for transferability of development rights granted through the express and conditional pathways and specifies that development must be carried out within 10 years following transfer of property to new owner. It revises Ballot Measure 37 process for claims against future land use regulations. Restricts claims under Ballot Measure 37 to regulations affecting home sites, farm or forest practices. It limits relief under Ballot Measure 37 to development rights for home sites for dwellings or monetary compensation.

The measure creates position of Compensation and Conservation Ombudsman, to be appointed by Land Conservation and Development Commission, to assist landowners with submission of claims. It clarifies other provisions within Ballot Measure 37. Declares an emergency and takes effect upon passage.

Refers measure to voters for approval or rejection.

ISSUES DISCUSSED:

- Fiscal Impact of referring to voters

EFFECT OF COMMITTEE AMENDMENT:

- Substitutes the definition for “fair market value” with the preferred definition per an Oregon Supreme Court decision and ODOT right-of-way manual.
- Changes definition of “high-value farmland” to include viticulture area elevations above between 1,000 feet and 3,000 feet.
- Provides exceptions for forest practices and farm lands.
- Corrects a cross-reference for claims for new land use regulations and residential zones.
- Provides a threshold for forest practices.
- Clarifies that decisions under the Act are not “land use decisions” appealable to LUBA
- Defines requirements for what appraisers may carry out the appraisals required by the Act.

- Deletes section establishing an expenditure limitation for the Department of Land Conservation and Development.
- Identifies date provided in House Bill 2083 for special election

BACKGROUND: Oregon's land use planning system was created by the Legislative Assembly with the passage of Senate Bill 100 in 1973. In 2004, voters passed Ballot Measure 37 (now ORS 197.352) which requires compensation to landowners whose property values are negatively impacted by land use laws or regulations and who file claims with the appropriate governmental unit. The choice for the governmental unit is to pay the claimant an amount equal to the loss in value due to the land use law; or to not apply the restricting law, referred to as the "waiver system". Claims arising from land use laws enacted prior to December 2, 2004 must be filed by December 2, 2006. The Supreme Court upheld the legality of Measure 37 in March 2006 in what is referred to as the "McPherson" case.