

Joint Committee on Ways and Means

Carriers – Senate: Sen. Schrader/  
Sen. Prozanski

Revenue: No revenue impact

Fiscal: Fiscal statement issued

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Action: Do Pass with Amendments to the B-Engrossed Measure and Be Printed C-Engrossed

Vote: 13 – 7 – 1

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

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

Prepared By: Susie Jordan, Legislative Fiscal Office

Meeting Date: 6/1/07

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**WHAT THE MEASURE DOES:** Refers for voter approval changes to the implementation of Measure 37 (2004). Modifies the 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:**

- Options to File a Claim
- Requirement of future land use legislation to expressly determine exemptions from Measure 37 claims
- Requirement that highest levels of qualified appraiser provide property appraisals
- Allowance for proportional compensation or waiver relief
- Elements of Measure 37 that are unclear or silent requiring clarification

**EFFECT OF COMMITTEE AMENDMENT:** Adds METRO to the definition of “Public entity.” Eliminates the 10% and 25% thresholds for compensation or waiver relief and replaces it with relief as necessary to offset any reduction in value. Changes the cut-off date for new retrospective claims from May 15 to sine die and clarifies that new land use regulations enacted after January 1, 2007 are subject to prospective claims going forward. Adds a compensation alternative for prospective claims filed with the state. Expands provision to ensure that surviving spouses qualify as claimants. Expands scope of Measure 37 going forward to include statutes, in addition to regulations, that affect forest and farm practices. Changes public health and safety to human health and safety in the listed exceptions to Measure 37 for farm and forest practices. Adds a severability clause. Clarifies waiver to land use regulation is applied to the extent necessary to offset the reduction in the fair market value of the property. For lawsuits over claims, establishes as

preference for venue the county in which the property is located; allows motion to transfer the venue to any other county with jurisdiction under ORS 183.484. Clarifies that there is no “re-filing”. Instead, the state notifies all claimants that may be eligible of their new options and allows them to choose how to proceed, including opting for the express lane for three homes and/or amending their claims; removes any new fees for those who have already filed claims. Expands existing authorization for local governments to implement/administer “transferable development rights” (TDR) programs between jurisdictions that choose to set up such programs, e.g. so that two cooperating counties can decide to purchase development rights available under this measure from a land owner in one county and move those development rights to another county. Revises the definition of irrigated land in high-value farmland to specify that the land must be exclusive farm use or farm/forest use and within an irrigation district as of sine die. Expands the \$5,000 credit for appraisal costs to other cost associated with filing and pursuing a claim.

**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.