

2007 Regular Legislative Session
FISCAL ANALYSIS OF PROPOSED LEGISLATION
Prepared by the Oregon Legislative Fiscal Office

MEASURE NUMBER: HB 3337

STATUS: A-Engrossed

SUBJECT: Adjusts Urban Growth Boundary and requires cities in Lane County with populations above 50,000 to complete residential Buildable Lands Inventory pursuant to ORS 197.296 (3)

GOVERNMENT UNIT AFFECTED: Department of Land Conservation and Development and Local Government

PREPARED BY: Dawn Farr

REVIEWED BY: Susie Jordan

DATE: May 22, 2007

<REVISED>

EXPENDITURES: See Comments.

EFFECTIVE DATE: January 1, 2008.

GOVERNOR'S BUDGET: This bill is not anticipated by the Governor's recommended budget.

LOCAL GOVERNMENT MANDATE: This bill may affect local governments' service levels or shared revenues sufficient to trigger Section 15, Article XI of the Oregon Constitution.

COMMENTS: The bill requires that cities in Lane County with a population of 50,000 or more meet its obligations under ORS 197.295 to 197.314 separately from any other city; establishes an urban growth boundary (UGB) consistent with the jurisdictional area of responsibility specified in the comprehensive plan; and, requires cities to demonstrate that the UGB contains sufficient buildable lands to accommodate housing needs for 20 years. Cities shall complete the inventory, analysis and determination required under ORS 197.296 (3) within two years after the effective date of the act.

The information that follows was provided after the Fiscal Impact Statement was issued on the A-Engrossed bill.

The bill impacts two cities in Lane County, Eugene and Springfield. Passage of the bill would require both cities to complete a residential Buildable Lands Inventory (BLI) by January 1, 2010. The city of Springfield indicates that completing the BLI would cost \$35,000, and compliance with the 20 year buildable land supply requirement will require an expansion of the UGB at an additional cost of approximately \$15,000. The city of Eugene indicates that to perform just the residential BLI and to ensure compliance with the 20 year supply requirement, it would cost between \$85,000 and \$135,000. The city of Eugene further asserts that, given the age of the previous BLI, they need to concurrently update the commercial and industrial land inventories so that the best assessment can be made on how to meet the 20 year buildable land supply requirement. The city of Eugene estimates that a comprehensive BLI would cost approximately \$200,000. The Department of Land Conservation and Development (DLCD) provided some periodic review grant history data that suggests that these quotes are within a reasonable range of expense for the relative size of the two cities.

DLCD has raised two additional issues related to completion of the BLI that could impact costs, however, potential impacts are not known at this time. The first issue is that about 50% of all approved UGB expansions are legally challenged and end up in the Court of Appeals leading to unanticipated legal

expenses. Secondly, the 20 year buildable land supply estimates are calculated based on population data provided by the County. Lane County does a regional population study. The county indicates that they are able to provide standard population trend analysis in a disaggregated format for Springfield and Eugene. This level of analysis can be provided with minimal impact to the County; however, if additional analysis is required there could potentially be a fiscal impact to the County.

In addition to the BLI requirement, the bill establishes the Interstate 5 corridor as the UGB between Eugene and Springfield. In the current comprehensive plan, Lane County, Eugene and Springfield all share a common UGB. Changing the UGB impacts various elements within the comprehensive plan. While the bill does not require that the regional comprehensive plan be reviewed and modified, both cities and DLCD have indicated that the regional plan should be updated based on this change in UGB. Costs to modify the comprehensive plan are indeterminate as the nature of the updates and the methodology to be used are not known at this time. At one end of the update continuum are changes to clarify language; at the other end are integrative updates that could potentially restructure specific sections or the entire plan. Comprehensive plan updates need to meet the approval of Eugene, Springfield and Lane County prior to being submitted to the Land Conservation and Development Commission for approval.

Eugene has raised concerns that the bill may trigger an unfunded mandate. In consultation with the office of Legislative Counsel, the Legislative Fiscal Office (LFO) has reviewed this issue. ORS 197.295 to 197.314 imposes a requirement on local governments to plan for buildable lands by establishing and maintaining an urban growth boundary. Some sections of this statutory series were enacted as early as 1981, others in 1995. If it were to be determined that the requirement to establish and maintain UGBs constitutes a program as defined in Section 15, it could be argued that it is an existing program as enacted by legislation prior to January 1, 1997. In that case, Section 15, Article XI would not apply to HB 3337 because of the specific exemption in subsection (7)(c) for pre-existing programs. Further, although HB 3337 would require certain local governments to incur costs to modify their UGBs based on the measure's requirements, the level of service is unchanged.

However, if there were a different interpretation of the applicability of Section 15, Article XI of the Oregon Constitution, the constitution provides that if a measure is enacted by three-fifths vote of each house, the Assembly is relieved of the requirement to appropriate reimbursement for the local governments' additional expenditures, and the local government must comply.

Notwithstanding the foregoing analysis, LFO is not rendering an opinion on whether Section 15, Article XI of the Oregon Constitution applies to HB 3337.

DLCD indicates that while the bill is setting new precedent, they expect to be able to provide their usual services to both cities within existing resources.