

A-Engrossed
Senate Bill 1011

Ordered by the Senate May 7
Including Senate Amendments dated May 7

Sponsored by COMMITTEE ON JUDICIARY

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.

Authorizes counties and metropolitan service districts to designate rural reserves not included in urban growth boundaries or rural communities. [*Modifies*] **Provides alternative** process for designating urban reserves.

Declares emergency, effective on passage.

A BILL FOR AN ACT

1
2 Relating to land reserves; creating new provisions; amending ORS 195.145, 197.626 and 221.034; and
3 declaring an emergency.

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

5 **SECTION 1. As used in sections 1 to 4 of this 2007 Act:**

6 (1) "Rural reserve" means land reserved to provide long-term protection for agriculture,
7 forestry or important natural landscape features that limit urban development or help define
8 appropriate natural boundaries of urbanization, including plant, fish and wildlife habitat,
9 steep slopes and floodplains.

10 (2) "Urban reserve" means lands outside an urban growth boundary that will provide for:

11 (a) Future expansion over a long-term period; and

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

14 **SECTION 2. The Legislative Assembly finds that:**

15 (1) Long-range planning for population and employment growth by local governments can
16 offer greater certainty for:

17 (a) The agricultural and forest industries, by offering long-term protection of large blocks
18 of land with the characteristics necessary to maintain their viability; and

19 (b) Commerce, other industries, other private landowners and providers of public ser-
20 vices, by determining the more and less likely locations of future expansion of urban growth
21 boundaries and urban development.

22 (2) State planning laws must support and facilitate long-range planning to provide this
23 greater certainty.

24 **SECTION 3. (1) A county and a metropolitan service district established under ORS**
25 **chapter 268 may enter into an intergovernmental agreement pursuant to ORS 190.003 to**
26 **190.130, 195.025 or 197.652 to 197.658 to designate rural reserves pursuant to this section and**
27 **urban reserves pursuant to ORS 195.145 (1)(b).**

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 **(2) Land designated as a rural reserve:**

2 **(a) Must be outside an urban growth boundary.**

3 **(b) May not be designated as an urban reserve during the 20-year period for which the**
4 **metropolitan service district has demonstrated a buildable land supply in the most recent**
5 **inventory, determination and analysis performed under ORS 197.296 and the additional urban**
6 **reserve planning period established pursuant to ORS 195.145 (4).**

7 **(c) May not be included within an urban growth boundary during the period of time de-**
8 **scribed in paragraph (b) of this subsection.**

9 **(3) When designating a rural reserve under this section to provide long-term protection**
10 **to the agricultural industry, a county and a metropolitan service district shall base the des-**
11 **ignation on consideration of factors including, but not limited to, whether land proposed for**
12 **designation as a rural reserve:**

13 **(a) Is situated in an area that is otherwise potentially subject to urbanization during the**
14 **period described in subsection (2)(b) of this section, as indicated by proximity to the urban**
15 **growth boundary and to properties with fair market values that significantly exceed agri-**
16 **cultural values;**

17 **(b) Is capable of sustaining long-term agricultural operations;**

18 **(c) Has a suitable inventory of soils and available water where needed to be capable of**
19 **sustaining long-term agricultural operations; and**

20 **(d) Is suitable to sustain long-term agricultural operations, taking into account:**

21 **(A) The existence of a large block of agricultural or other resource land with a concen-**
22 **tration or cluster of farms;**

23 **(B) The adjacent land use pattern, including its location in relation to adjacent nonfarm**
24 **uses and the existence of buffers between agricultural operations and nonfarm uses;**

25 **(C) The agricultural land use pattern, including parcelization, tenure and ownership pat-**
26 **terns; and**

27 **(D) The sufficiency of agricultural infrastructure in the area.**

28 **(4) The Land Conservation and Development Commission shall, after consultation with**
29 **the State Department of Agriculture, adopt by goal or by rule a process and criteria for**
30 **designating rural reserves pursuant to this section.**

31 **SECTION 4. (1) A county and a metropolitan service district must consider designating**
32 **and establishing rural reserves pursuant to section 3 of this 2007 Act and urban reserves**
33 **pursuant to ORS 195.145 (1)(b) simultaneously.**

34 **(2) An agreement between a county and a district to establish rural reserves pursuant**
35 **to section 3 of this 2007 Act and urban reserves pursuant to ORS 195.145 (1)(b) must provide**
36 **for a coordinated and concurrent process for adoption by the county of comprehensive plan**
37 **provisions and by the district of regional framework plan provisions to implement the**
38 **agreement. A district may not designate urban reserves pursuant to ORS 195.145 (1)(b) in a**
39 **county until the county and the district have entered into an agreement pursuant to ORS**
40 **195.145 (1)(b) that identifies the land to be designated by the district in the district's regional**
41 **framework plan as urban reserves. A county may not designate rural reserves pursuant to**
42 **section 3 of this 2007 Act until the county and the district have entered into an agreement**
43 **pursuant to section 3 of this 2007 Act that identifies the land to be designated as rural re-**
44 **serves by the county in the county's comprehensive plan.**

45 **(3) Designation and protection of rural reserves pursuant to section 3 of this 2007 Act**

1 **or urban reserves pursuant to ORS 195.145 (1)(b):**

2 **(a) Is not a basis for a claim for compensation under ORS 197.352 unless the designation**
3 **and protection of rural reserves or urban reserves imposes a new restriction on the use of**
4 **private real property.**

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

6 **SECTION 5. (1) Sections 1 to 4 of this 2007 Act are added to and made a part of ORS**
7 **chapter 195.**

8 **(2) ORS 195.145 is added to and made a part of sections 1 to 4 of this 2007 Act.**

9 **SECTION 6.** ORS 195.145 is amended to read:

10 195.145. (1) To ensure that the supply of land available for urbanization is maintained, **subject**
11 **to ORS 197.610 to 197.625:**

12 **(a) Local governments may cooperatively designate lands outside urban growth boundaries as**
13 **urban [reserve areas, subject to ORS 197.610 to 197.625] reserves.**

14 **(b) Alternatively, a metropolitan service district established under ORS chapter 268 and**
15 **a county may enter into a written agreement pursuant to ORS 190.003 to 190.130, 195.025 or**
16 **197.652 to 197.658 to designate urban reserves. A process and criteria developed pursuant to**
17 **this paragraph are an alternative to a process or criteria adopted pursuant to paragraph (a)**
18 **of this subsection.**

19 (2)(a) The Land Conservation and Development Commission may require a local government to
20 designate an urban reserve [area] **pursuant to subsection (1)(a) of this section** during its periodic
21 review in accordance with the conditions for periodic review under ORS 197.628.

22 (b) Notwithstanding paragraph (a) of this subsection, the commission may require a local gov-
23 ernment to designate an urban reserve [area] **pursuant to subsection (1)(a) of this section** outside
24 of its periodic review if:

25 (A) The local government is located inside a Primary Metropolitan Statistical Area or a Met-
26 ropolitan Statistical Area as designated by the Federal Census Bureau upon November 4, 1993; and

27 (B) The local government has been required to designate an urban reserve [area] by rule prior
28 to November 4, 1993.

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

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

33 (b) The commission shall provide to local governments a list of options, rather than prescribing
34 a single planning technique, to ensure the efficient transition from rural to urban use in urban re-
35 serve [areas].

36 [(4) For purposes of this section, "urban reserve area" means lands outside an urban growth
37 boundary that will provide for:]

38 [(a) Future expansion over a long-term period; and]

39 [(b) The cost-effective provision of public facilities and service within the area when the lands are
40 included within the urban growth boundary].

41 **(4) Urban reserves designated by a metropolitan service district and a county pursuant**
42 **to subsection (1)(b) of this section must be planned to accommodate population and employ-**
43 **ment growth for at least 20 years after the 20-year period for which the district has dem-**
44 **onstrated a buildable land supply in the most recent inventory, determination and analysis**
45 **performed under ORS 197.296.**

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

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

7 **(b) Includes sufficient development capacity to support a healthy economy;**

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

10 **(d) Can be designed to be walkable and served by a well-connected system of streets by**
11 **appropriate service providers; and**

12 **(e) Can be designed to preserve and enhance natural ecological systems.**

13 **(6) The commission shall adopt by goal or by rule a process and criteria for designating**
14 **urban reserves pursuant to subsection (1)(b) of this section.**

15 **SECTION 7.** ORS 197.626 is amended to read:

16 197.626. A metropolitan service district that amends its urban growth boundary to include more
17 than 100 acres, or a city with a population of 2,500 or more within its urban growth boundary that
18 amends the urban growth boundary to include more than 50 acres or that designates urban reserve
19 *[areas]* under ORS 195.145, shall submit the amendment or designation to the Land Conservation and
20 Development Commission in the manner provided for periodic review under ORS 197.628 to 197.650.

21 **SECTION 8.** ORS 221.034 is amended to read:

22 221.034. (1) As used in this section:

23 (a) “Neighboring city” means a city that has any part of its territory situated within three miles
24 of the area proposed to be incorporated.

25 (b) “Rural unincorporated community” means a settlement with a boundary identified in an ac-
26 knowledged comprehensive plan of a county and that:

27 (A) Is made up primarily of lands subject to an exception to statewide planning goals related to
28 agricultural lands or forestlands;

29 (B) Either was identified in the acknowledged comprehensive plan of a county as a “rural com-
30 munity,” “service center,” “rural center,” “resort community” or similar term before October 28,
31 1994, or is listed in the Department of Land Conservation and Development’s “Survey of Oregon
32 Unincorporated Communities” (January 30, 1997);

33 (C) Lies outside the urban growth boundary of a city or a metropolitan service district; and

34 (D) Is not incorporated as a city.

35 (c) “Urban reserve *[area]*” has the meaning given that term in *[ORS 195.145]* **section 1 of this**
36 **2007 Act.**

37 (d) “Urban services” has the meaning given that term in ORS 195.065.

38 (2) When any of the area proposed to be incorporated as a city lies within an urbanized area,
39 but outside the urban growth boundary of a city or a metropolitan service district:

40 (a) The area proposed to be incorporated must also be located entirely within a designated rural
41 unincorporated community and contiguous lands subject to an exception to statewide planning goals
42 related to agricultural lands or forestlands.

43 (b) The petition required by ORS 221.031 must be accompanied by an affidavit, signed by a chief
44 petitioner, stating that:

45 (A) Ten percent of the electors registered within the area proposed for incorporation favor the

1 incorporation; and

2 (B) The chief petitioners have engaged the neighboring cities in discussions concerning the ef-
3 fects of the proposed incorporation, including discussions specifically relating to how those cities
4 and the proposed city will allow for expansion of urban growth boundaries and, where applicable,
5 for creation or expansion of urban [*reserve areas*] **reserves**.

6 (c) The economic feasibility statement required by ORS 221.035 must:

7 (A) Indicate that the proposed city must plan for and provide urban services in a cost-effective
8 manner at the minimum level adequate to meet current needs and projected growth;

9 (B) Contain a proposed permanent rate limit for operating taxes to provide revenues for urban
10 services; and

11 (C) Indicate that the proposed city must plan for residential development at or above the same
12 urban density planned for an existing city, within the county, that has a similar geographic area
13 within the existing city's urban growth boundary or, for a proposed city within three miles of Met-
14 ro's boundary, a minimum urban residential density in accordance with a statewide planning goal
15 and rules pertaining to needed housing for cities within Metro's urban growth boundary.

16 (d) If the proposed city will be required to complete a public facility plan and a transportation
17 systems plan, the proposed city must demonstrate the ability to provide urban services to meet
18 current needs and projected growth. The proposed city may meet this requirement, in whole or in
19 part, by establishing an agreement in principle with a city or a district, as defined in ORS 195.060,
20 to provide the urban services.

21 (3) If the governing body of a neighboring city determines that the proposed incorporation ad-
22 versely affects that city, the governing body may ask the county court with which the petition for
23 incorporation was filed to reject the petition and terminate the incorporation proceedings. The ob-
24 jections by the city to the incorporation shall be heard and considered by the county court at a
25 public hearing held under ORS 221.040.

26 (4) If, at the hearing held under ORS 221.040, the county court finds that any of the require-
27 ments of subsection (2) of this section are not met or that the proposed incorporation will adversely
28 affect a neighboring city, the county court shall provide by order for the termination of the incor-
29 poration proceedings. The order shall contain the findings of the county court relating to the pro-
30 posed incorporation and the reasons for terminating the incorporation proceedings.

31 (5) In the manner provided in ORS 197.830 to 197.845, the Land Use Board of Appeals shall re-
32 view, upon the petition of a party to the incorporation proceedings, the order of the county court
33 under subsection (4) of this section.

34 **SECTION 9. The Land Conservation and Development Commission shall adopt the goals**
35 **or rules required by section 3 of this 2007 Act and by the amendments to ORS 195.145 by**
36 **section 6 of this 2007 Act not later than January 31, 2008.**

37 **SECTION 10. This 2007 Act being necessary for the immediate preservation of the public**
38 **peace, health and safety, an emergency is declared to exist, and this 2007 Act takes effect**
39 **on its passage.**

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