

## HOUSE AMENDMENTS TO A-ENGROSSED SENATE BILL 1011

By COMMITTEE ON ENERGY AND THE ENVIRONMENT

June 1

- 1 On page 2 of the printed A-engrossed bill, delete lines 3 through 6 and insert:  
2 “(b) May not be designated as an urban reserve during the urban reserve planning period de-  
3 scribed in ORS 195.145 (4).”
- 4 Delete lines 18 and 19 and insert:  
5 “(c) Has suitable soils and available water where needed to sustain long-term agricultural op-  
6 erations; and”.
- 7 Delete lines 31 through 33 and insert:  
8 “**SECTION 4.** (1) A county and a metropolitan service district must consider simultaneously the  
9 designation and establishment of:
- 10 “(a) Rural reserves pursuant to section 3 of this 2007 Act; and  
11 “(b) Urban reserves pursuant to ORS 195.145 (1)(b).”
- 12 In line 34, before “district” insert “metropolitan service”.  
13 After line 44, insert:  
14 “(3) A county and a metropolitan service district may not enter into an intergovernmental  
15 agreement to designate urban reserves in the county pursuant to ORS 195.145 (1)(b) unless the  
16 county and the district also agree to designate rural reserves in the county.”.
- 17 In line 45, delete “(3)” and insert “(4)”.
- 18 On page 3, line 10, delete “, subject”.
- 19 In line 11, delete “to ORS 197.610 to 197.625”.
- 20 Delete line 13 and insert “urban reserves subject to ORS 197.610 to 197.625”.
- 21 In line 43, after “years” insert “, and not more than 30 years.”.
- 22 On page 4, line 7, after “healthy” insert “urban”.
- 23 In line 11, delete “and”.
- 24 In line 12, delete the period and insert “; and  
25 “(f) Includes sufficient land suitable for a range of housing types.”.
- 26 In line 17, after the first “or” insert “that amends the district’s regional framework plan or land  
27 use regulations implementing the plan to establish urban reserves designated under ORS 197.145  
28 (1)(b).”.
- 29 In line 19, after the comma insert “or a county that amends the county’s comprehensive plan  
30 or land use regulations implementing the plan to establish rural reserves designated under section  
31 3 of this 2007 Act.”.
- 32 On page 5, after line 33, insert:  
33 “**SECTION 9.** (1) **Notwithstanding ORS 197.650, a Land Conservation and Development**  
34 **Commission order concerning the designation of urban reserves under ORS 195.145 (1)(b) or**  
35 **rural reserves under section 3 of this 2007 Act may be appealed to the Court of Appeals by**

1 the persons described in ORS 197.650.

2 “(2) Judicial review of orders described in subsection (1) of this section is as provided in  
3 this section.

4 “(3) Jurisdiction for judicial review is conferred upon the Court of Appeals. A proceeding  
5 for judicial review may be instituted by filing a petition in the Court of Appeals. The petition  
6 must be filed within 21 days after the date the commission delivered or mailed the order upon  
7 which the petition is based.

8 “(4) The filing of the petition, as set forth in subsection (3) of this section, and service  
9 of a petition on the persons who submitted oral or written testimony in the proceeding be-  
10 fore the commission are jurisdictional and may not be waived or extended.

11 “(5) The petition must state the nature of the order the petitioner seeks to have re-  
12 viewed. Copies of the petition must be served by registered or certified mail upon the com-  
13 mission and the persons who submitted oral or written testimony in the proceeding before  
14 the commission.

15 “(6) Within 21 days after service of the petition, the commission shall transmit to the  
16 Court of Appeals the original or a certified copy of the entire record of the proceeding under  
17 review. However, by stipulation of the parties to the review proceeding, the record may be  
18 shortened. The Court of Appeals may tax a party that unreasonably refuses to stipulate to  
19 limit the record for the additional costs. The Court of Appeals may require or permit sub-  
20 sequent corrections or additions to the record. Except as specifically provided in this sub-  
21 section, the Court of Appeals may not tax the cost of the record to the petitioner or an  
22 intervening party. However, the Court of Appeals may tax the costs to a party that files a  
23 frivolous petition for judicial review.

24 “(7) Petitions and briefs must be filed within time periods and in a manner established  
25 by the Court of Appeals by rule.

26 “(8) The Court of Appeals shall:

27 “(a) Hear oral argument within 49 days of the date of transmittal of the record unless  
28 the Court of Appeals determines that the ends of justice served by holding oral argument  
29 on a later day outweigh the best interests of the public and the parties. However, the Court  
30 of Appeals may not hold oral argument more than 49 days after the date of transmittal of  
31 the record because of general congestion of the court calendar or lack of diligent preparation  
32 or attention to the case by a member of the court or a party.

33 “(b) Set forth in writing and provide to the parties a determination to hear oral argument  
34 more than 49 days from the date the record is transmitted, together with the reasons for the  
35 determination. The Court of Appeals shall schedule oral argument as soon as is practicable.

36 “(c) Consider, in making a determination under paragraph (b) of this subsection:

37 “(A) Whether the case is so unusual or complex, due to the number of parties or the  
38 existence of novel questions of law, that 49 days is an unreasonable amount of time for the  
39 parties to brief the case and for the Court of Appeals to prepare for oral argument; and

40 “(B) Whether the failure to hold oral argument at a later date likely would result in a  
41 miscarriage of justice.

42 “(9) The court:

43 “(a) Shall limit judicial review of an order reviewed under this section to the record.

44 “(b) May not substitute its judgment for that of the Land Conservation and Development  
45 Commission as to an issue of fact.

1       “(10) The Court of Appeals may affirm, reverse or remand an order reviewed under this  
2 section. The Court of Appeals shall reverse or remand the order only if the court finds the  
3 order is:

4       “(a) Unlawful in substance or procedure. However, error in procedure is not cause for  
5 reversal or remand unless the Court of Appeals determines that substantial rights of the  
6 petitioner were prejudiced.

7       “(b) Unconstitutional.

8       “(c) Not supported by substantial evidence in the whole record as to facts found by the  
9 commission.

10       “(11) The Court of Appeals shall issue a final order on the petition for judicial review with  
11 the greatest possible expediency.

12       “(12) If the order of the commission is remanded by the Court of Appeals or the Supreme  
13 Court, the commission shall respond to the court’s appellate judgment within 30 days.

14       “SECTION 10. Notwithstanding ORS 195.145 (4), if urban reserves are designated by a  
15 metropolitan service district and a county pursuant to ORS 195.145 (1)(b) on or before De-  
16 cember 31, 2009, the urban reserves must be planned to accommodate population and em-  
17 ployment growth for at least 20 years, and not more than 30 years, after the 20-year period  
18 for which the district has demonstrated a buildable land supply in the next inventory, de-  
19 termination and analysis required under ORS 197.299 on or after the effective date of this  
20 2007 Act.”.

21       In line 34, delete “9” and insert “11”.

22       In line 37, delete “10” and insert “12”.

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