

Senate Bill 1011

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 **as introduced**.

Authorizes counties and metropolitan service districts to create process to designate rural reserves not included in urban growth boundaries or rural communities. Modifies 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, 197.298, 197.626 and
3 221.034; and declaring an emergency.

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

SECTION 1. As used in sections 1 to 3 of this 2007 Act:

6 (1) **"Rural community" means an unincorporated community that consists primarily of
7 permanent residential dwellings but also has at least two other commercial, industrial or
8 public land uses, including but not limited to schools, churches, grange halls or post offices,
9 that benefit the community, the surrounding rural area or persons traveling through the
10 community.**

11 (2) **"Rural reserve" means land reserved to provide long-term protection for agriculture,
12 forestry, wildlife habitat and landscape features that limit urban development, including
13 steep slopes and floodplains, or that help define appropriate natural boundaries of
14 urbanization.**

SECTION 2. The Legislative Assembly finds that:

16 (1) **Long-range planning for population and employment growth by cities, counties and
17 regional governments can offer greater certainty for the agriculture and forestry industries,
18 providers of public services and others in the private sector by determining the likely lo-
19 cations of future expansion of urban growth boundaries and of other locations where urban
20 development is unlikely.**

21 (2) **State planning laws should provide greater encouragement for long-range planning to
22 provide this greater certainty.**

23 **SECTION 3. (1) A metropolitan service district established under ORS chapter 268 and a
24 county that has a portion of its territory in the district or within 10 miles of the district
25 may:**

26 (a) **Designate rural reserves pursuant to sections 1 to 3 of this 2007 Act; and**

27 (b) **Enter into intergovernmental agreements pursuant to ORS 190.003 to 190.130, 195.025
28 or 197.652 to 197.658 to protect the rural reserves from urbanization.**

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

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

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 (b) May not be included within the boundaries of a rural community.

2 (c) May not be designated as an urban reserve during the 20 years after the 20-year pe-
 3 riod for which the metropolitan service district has demonstrated a buildable land supply in
 4 the most recent inventory, determination and analysis performed under ORS 197.296.

5 (3) The Land Conservation and Development Commission shall adopt by goal or by rule
 6 a process and criteria for designating rural reserves pursuant to sections 1 to 3 of this 2007
 7 Act.

8 **SECTION 4.** Sections 1 to 3 of this 2007 Act are added to and made a part of ORS chapter
 9 195.

10 **SECTION 5.** ORS 195.145 is amended to read:

11 195.145. (1) As used in this section, “urban reserve” means lands outside an urban growth
 12 boundary that will provide for:

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

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

16 [(1)] (2) To ensure that the supply of land available for urbanization is maintained, **subject to**
 17 **ORS 197.610 to 197.625:**

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

20 (b) **A metropolitan service district established under ORS chapter 268 and a county that**
 21 **has a portion of its territory in the district or within 10 miles of the district may enter into**
 22 **written agreements pursuant to ORS 190.003 to 190.130, 195.025 or 197.652 to 197.658 to des-**
 23 **ignate urban reserves.**

24 [(2)(a)] (3)(a) The Land Conservation and Development Commission may require a local gov-
 25 ernment to designate an urban reserve [*area*] during its periodic review in accordance with the
 26 conditions for periodic review under ORS 197.628.

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

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

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

33 [(3)] (4) In carrying out subsections [(1) and] (2) **and (3)** of this section:

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

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

40 [(4) For purposes of this section, “urban reserve area” means lands outside an urban growth
 41 boundary that will provide for:]

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

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

45 (5) **Urban reserves designated by a metropolitan service district and a county pursuant**

1 to this section must be planned to accommodate population and employment growth for at
 2 least 20 years after the 20-year period for which the district has demonstrated a buildable
 3 land supply in the most recent inventory, determination and analysis performed under ORS
 4 197.296.

5 (6) Designation of urban reserves must be based on a determination that the urban re-
 6 serve can, alone or in conjunction with land inside the urban growth boundary, provide the
 7 characteristics of a sustainable and complete community, as determined by goal or rule, and
 8 other factors the commission deems appropriate.

9 (7) The commission shall adopt by goal or by rule a process and criteria for designating
 10 urban reserves pursuant to this section that may include priorities consistent with this
 11 section.

12 **SECTION 6.** ORS 197.298 is amended to read:

13 197.298. (1) In addition to any requirements established by rule addressing urbanization, land
 14 may not be included within an urban growth boundary except under the following priorities:

15 (a) First priority is land that is designated **an** urban reserve [*land*] under ORS 195.145, rule or
 16 metropolitan service district action plan.

17 (b) If land under paragraph (a) of this subsection is inadequate to accommodate the amount of
 18 land needed, second priority is land adjacent to an urban growth boundary that is identified in an
 19 acknowledged comprehensive plan as an exception area or nonresource land. Second priority may
 20 include resource land that is completely surrounded by exception areas unless such resource land
 21 is high-value farmland as described in ORS 215.710.

22 (c) If land under paragraphs (a) and (b) of this subsection is inadequate to accommodate the
 23 amount of land needed, third priority is land designated as marginal land pursuant to ORS 197.247
 24 (1991 Edition).

25 (d) If land under paragraphs (a) to (c) of this subsection is inadequate to accommodate the
 26 amount of land needed, fourth priority is land designated in an acknowledged comprehensive plan
 27 for agriculture or forestry, or both.

28 **(e) If land under paragraphs (a) to (d) of this subsection is inadequate to accommodate**
 29 **the amount of land needed, fifth priority is land designated as a rural reserve, as defined in**
 30 **section 1 of this 2007 Act.**

31 (2) Higher priority shall be given to land of lower capability as measured by the capability
 32 classification system or by cubic foot site class, whichever is appropriate for the current use.

33 (3) Land of lower priority under subsection (1) of this section may be included in an urban
 34 growth boundary if land of higher priority is found to be inadequate to accommodate the amount
 35 of land estimated in subsection (1) of this section for one or more of the following reasons:

36 (a) Specific types of identified land needs cannot be reasonably accommodated on higher priority
 37 lands;

38 (b) Future urban services could not reasonably be provided to the higher priority lands due to
 39 topographical or other physical constraints; or

40 (c) Maximum efficiency of land uses within a proposed urban growth boundary requires inclusion
 41 of lower priority lands in order to include or to provide services to higher priority lands.

42 **SECTION 7. (1) The Land Conservation and Development Commission shall adopt the**
 43 **goals or rules required by sections 3 and 5 of this 2007 Act not later than January 31, 2008.**

44 **(2) On or after the effective date of this 2007 Act, a metropolitan service district estab-**
 45 **lished under ORS chapter 268 and a county may not designate urban reserves under ORS**

1 **195.145 until the district and the county have designated rural reserves in the county pur-**
 2 **suant to sections 1 to 3 of this 2007 Act.**

3 **SECTION 8.** ORS 197.626 is amended to read:

4 197.626. A metropolitan service district that amends its urban growth boundary to include more
 5 than 100 acres, or a city with a population of 2,500 or more within its urban growth boundary that
 6 amends the urban growth boundary to include more than 50 acres or that designates urban [*reserve*
 7 *areas*] **reserves** under ORS 195.145, shall submit the amendment or designation to the Land Con-
 8 servation and Development Commission in the manner provided for periodic review under ORS
 9 197.628 to 197.650.

10 **SECTION 9.** ORS 221.034 is amended to read:

11 221.034. (1) As used in this section:

12 (a) "Neighboring city" means a city that has any part of its territory situated within three miles
 13 of the area proposed to be incorporated.

14 (b) "Rural unincorporated community" means a settlement with a boundary identified in an ac-
 15 knowledged comprehensive plan of a county and that:

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

18 (B) Either was identified in the acknowledged comprehensive plan of a county as a "rural com-
 19 munity," "service center," "rural center," "resort community" or similar term before October 28,
 20 1994, or is listed in the Department of Land Conservation and Development's "Survey of Oregon
 21 Unincorporated Communities" (January 30, 1997);

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

23 (D) Is not incorporated as a city.

24 (c) "Urban [*reserve area*] **reserve**" has the meaning given that term in ORS 195.145.

25 (d) "Urban services" has the meaning given that term in ORS 195.065.

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

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

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

33 (A) Ten percent of the electors registered within the area proposed for incorporation favor the
 34 incorporation; and

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

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

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

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

44 (C) Indicate that the proposed city must plan for residential development at or above the same
 45 urban density planned for an existing city, within the county, that has a similar geographic area

1 within the existing city's urban growth boundary or, for a proposed city within three miles of Metro's boundary, a minimum urban residential density in accordance with a statewide planning goal
2 and rules pertaining to needed housing for cities within Metro's urban growth boundary.
3

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

9 (3) If the governing body of a neighboring city determines that the proposed incorporation adversely affects that city, the governing body may ask the county court with which the petition for
10 incorporation was filed to reject the petition and terminate the incorporation proceedings. The objections by the city to the incorporation shall be heard and considered by the county court at a
11 public hearing held under ORS 221.040.
12

13 (4) If, at the hearing held under ORS 221.040, the county court finds that any of the requirements of subsection (2) of this section are not met or that the proposed incorporation will adversely
14 affect a neighboring city, the county court shall provide by order for the termination of the incorporation proceedings. The order shall contain the findings of the county court relating to the proposed
15 incorporation and the reasons for terminating the incorporation proceedings.
16

17 (5) In the manner provided in ORS 197.830 to 197.845, the Land Use Board of Appeals shall review, upon the petition of a party to the incorporation proceedings, the order of the county court
18 under subsection (4) of this section.
19

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