

Senate Bill 722

Sponsored by Senator STARR, Representatives D EDWARDS, RILEY

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**.

Modifies standard for review by metropolitan service district of comprehensive plans and land use regulations of cities and counties within district to determine whether comprehensive plans and land use regulations substantially comply with regional framework plan and functional plans. Establishes requirements for enforcement process. Authorizes imposition by district of enforcement remedies.

A BILL FOR AN ACT

1
2 Relating to land use planning within metropolitan service district; creating new provisions; and
3 amending ORS 197.319, 197.320 and 268.390.

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

5 **SECTION 1.** ORS 268.390 is amended to read:

6 268.390. (1) A district may define and apply a planning procedure *[which]* **that** identifies and
7 designates areas and activities having significant impact upon the orderly and responsible develop-
8 ment of the metropolitan area, including, but not limited to, impact on:

9 (a) Air quality;

10 (b) Water quality; and

11 (c) Transportation.

12 (2) A district may prepare and adopt functional plans for those areas designated under sub-
13 section (1) of this section to control metropolitan area impact on air and water quality, transporta-
14 tion and other aspects of metropolitan area development the district may identify.

15 (3) A district shall adopt an urban growth boundary for the district in compliance with appli-
16 cable goals adopted under ORS chapters 195, 196 and 197.

17 (4) A district may review the comprehensive plans *[in effect on January 1, 1979, or*
18 *subsequently]* adopted by the cities and counties within the district *[which]* **that** affect areas desig-
19 nated by the district under subsection (1) of this section or the urban growth boundary adopted
20 under subsection (3) of this section and recommend or require cities and counties, as it considers
21 necessary, to make changes in any plan to *[assure]* **ensure** that the plan and any actions taken un-
22 der *[it conform to]* **the plan substantially comply with** the district's functional plans adopted under
23 subsection (2) of this section and its urban growth boundary adopted under subsection (3) of this
24 section.

25 (5) Pursuant to a regional framework plan, a district may adopt implementing ordinances that:

26 (a) Require local comprehensive plans and implementing regulations to **substantially** comply
27 with the regional framework plan within two years after compliance acknowledgment.

28 (b) Require adjudication and determination by the district of the consistency of local compre-
29 hensive plans with the regional framework plan.

30 (c) Require each city and county within the jurisdiction of the district and making land use de-

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 cisions concerning lands within the land use jurisdiction of the district to make those decisions
 2 consistent with the regional framework plan. The obligation to apply the regional framework plan
 3 to land use decisions shall not begin until one year after the regional framework plan is acknowl-
 4 edged as complying with the statewide planning goals adopted under ORS chapters 195, 196 and 197.

5 (d) Require changes in local land use standards and procedures if the district determines that
 6 changes are necessary to remedy a pattern or practice of decision-making inconsistent with the re-
 7 gional framework plan.

8 **(6) A process established by the district to enforce the requirements of this section must**
 9 **provide:**

10 (a) **Notice of noncompliance to the city or county.**

11 (b) **Opportunity for the city or county to be heard.**

12 (c) **Entry of an order by the district explaining its findings, conclusions and enforcement**
 13 **remedies, if any.**

14 **(7) Enforcement remedies ordered under subsection (6) of this section may include, but**
 15 **are not limited to:**

16 (a) **Direct application of specified requirements of functional plans to land use decisions**
 17 **by the city or county;**

18 (b) **Withholding by the district of discretionary funds from the city or county; and**

19 (c) **Requesting an enforcement action pursuant to ORS 197.319 to 197.335 and withholding**
 20 **moneys pursuant to an enforcement order resulting from the enforcement action.**

21 **(8) An order issued under subsection (6) of this section:**

22 (a) **Must provide for relief from enforcement remedies upon action by the city or county**
 23 **that brings the comprehensive plan and implementing regulations into substantial compli-**
 24 **ance with the requirement.**

25 (b) **Is subject to review under ORS 197.830 to 197.845 as a land use decision.**

26 [(6)] **(9) The regional framework plan, ordinances that implement the regional framework plan**
 27 **and any determination by the district of consistency with the regional framework plan are subject**
 28 **to review under ORS 197.274.**

29 **SECTION 2.** ORS 197.319 is amended to read:

30 197.319. (1) Before a person may request adoption of an enforcement order under ORS 197.320,
 31 the person shall:

32 (a) Present the reasons, in writing, for such an order to the affected local government; and

33 (b) Request:

34 (A) Revisions to the local comprehensive plan, land use regulations, special district cooperative
 35 or urban service agreement or decision-making process which is the basis for the order; or

36 (B) That an action be taken regarding the local comprehensive plan, land use regulations, spe-
 37 cial district agreement or decision-making process that is the basis for the order.

38 (2)(a) The local government or special district shall issue a written response to the request
 39 within 60 days of the date the request is mailed to the local government or special district.

40 (b) The requestor and the local government or special district may enter into mediation to re-
 41 solve issues in the request. The Department of Land Conservation and Development shall provide
 42 mediation services when jointly requested by the local government or special district and the
 43 requestor.

44 (c) If the local government or special district does not act in a manner which the requestor
 45 believes is adequate to address the issues raised in the request within the time period provided in

1 paragraph (a) of this subsection, a petition may be presented to the Land Conservation and Development Commission under ORS 197.324.

3 **(3) A metropolitan service district may request an enforcement order under ORS 197.320**
 4 **(12) without first complying with subsections (1) and (2) of this section.**

5 **SECTION 3.** ORS 197.320 is amended to read:

6 197.320. The Land Conservation and Development Commission shall issue an order requiring a
 7 local government, state agency or special district to take action necessary to bring its comprehensive
 8 plan, land use regulation, limited land use decisions or other land use decisions into compliance
 9 with the goals, acknowledged comprehensive plan provisions or land use regulations if the commission
 10 has good cause to believe:

11 (1) A comprehensive plan or land use regulation adopted by a local government not on a compliance
 12 schedule is not in compliance with the goals by the date set in ORS 197.245 or 197.250 for
 13 such compliance;

14 (2) A plan, program, rule or regulation affecting land use adopted by a state agency or special
 15 district is not in compliance with the goals by the date set in ORS 197.245 or 197.250 for such
 16 compliance;

17 (3) A local government is not making satisfactory progress toward performance of its compliance
 18 schedule;

19 (4) A state agency is not making satisfactory progress in carrying out its coordination agreement or the
 20 requirements of ORS 197.180;

21 (5) A local government has no comprehensive plan or land use regulation and is not on a compliance
 22 schedule directed to developing the plan or regulation;

23 (6) A local government has engaged in a pattern or practice of decision making that violates
 24 an acknowledged comprehensive plan or land use regulation. In making its determination under this
 25 subsection, the commission shall determine whether there is evidence in the record to support the
 26 decisions made. The commission shall not judge the issue solely upon adequacy of the findings in
 27 support of the decisions;

28 (7) A local government has failed to comply with a commission order entered under ORS 197.644;

29 (8) A special district has engaged in a pattern or practice of decision-making that violates an
 30 acknowledged comprehensive plan or cooperative agreement adopted pursuant to ORS 197.020;

31 (9) A special district is not making satisfactory progress toward performance of its obligations
 32 under ORS chapters 195 and 197;

33 (10) A local government is applying approval standards, special conditions on approval of specific
 34 development proposals or procedures for approval that do not comply with ORS 197.307 (6); or

35 (11) A local government is not making satisfactory progress toward meeting its obligations under
 36 ORS 195.065.

37 **(12) A local government within the jurisdiction of a metropolitan service district has**
 38 **failed to make changes to the comprehensive plan or land use regulations to comply with the**
 39 **regional framework plan of the district or has engaged in a pattern or practice of decision-**
 40 **making that violates a requirement of the regional framework plan.**

41 **SECTION 4.** The amendments to ORS 197.319, 197.320 and 268.390 by sections 1 to 3 of this
 42 **2007 Act apply to a regional framework plan and functional plans of a metropolitan service**
 43 **district that are in effect on the effective date of this 2007 Act and to changes in the regional**
 44 **framework plan or functional plans that take effect on or after the effective date of this 2007**
 45 **Act.**

