

House Bill 2226

Ordered printed by the Speaker pursuant to House Rule 12.00A (5). Pre-session filed (at the request of Governor Theodore R. Kulongoski for Department of Land Conservation and Development)

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**.

Restricts siting of destination resort in Metolius River Basin.
Prevents claim for compensation for regulations restricting residential use of private real property based on restriction on siting of destination resort in Metolius River Basin.
Declares emergency, effective on passage.

A BILL FOR AN ACT

1
2 Relating to destination resorts within 10 miles of Metolius River Basin; and declaring an emergency.

3 Whereas the Metolius River Basin is a subbasin of the Deschutes River Basin; and

4 Whereas the Metolius River Basin is an invaluable and highly sensitive natural area that is
5 ecologically and scientifically significant because of the unique hydrogeologic characteristics,
6 wetlands and ground water resources of the basin; and

7 Whereas the Metolius River was added to the National Wild and Scenic Rivers System in the
8 Omnibus Oregon Wild and Scenic Rivers Act of 1988 because the federal government determined the
9 river to be remarkable in all areas of evaluation; and

10 Whereas the Metolius River Basin has unique hydrological and geological features that cannot
11 be protected adequately through current mitigation practices and the pumping of ground water will
12 likely result in diminished discharges at the principal spring complexes at the head of the Metolius
13 River; and

14 Whereas the Metolius River and its tributaries are home to sensitive or threatened species of
15 fish, including redband trout and bull trout, and the Metolius River Basin is critical habitat for the
16 restoration of anadromous fish populations, including spring chinook, sockeye and summer steelhead;
17 and

18 Whereas the Metolius River Basin contains highly sensitive range for wintering deer and elk;
19 and

20 Whereas the Metolius River Basin holds significant cultural, economic, religious and historical
21 value for Native American tribes; and

22 Whereas the Metolius River Basin features outstanding scenic views and sites; and

23 Whereas the United States Forest Service, in recognition of the unique values of the region's
24 natural resources and spiritual values, designated 86,000 acres of the Metolius River Basin as the
25 Metolius Conservation Area in the Deschutes National Forest Land and Resource Management Plan
26 of 1990, ensuring that the area must be managed subject to heightened standards of protection; and

27 Whereas protections against destination resort development in similar significant, noteworthy
28 and nationally recognized areas have been codified and those protections should be extended to in-
29 clude the Metolius River Basin; and

30 Whereas the protection of the natural resources, wildlife habitat and historical, cultural and

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 scenic values of the Metolius River Basin from urban and similar forms of development is a matter
 2 of utmost importance and concern to Oregonians; now, therefore,

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

4 **SECTION 1.** (1) Notwithstanding the map of lands eligible for destination resort siting
 5 adopted pursuant to ORS 197.455 (2) by Jefferson County on or after September 1, 2006, a
 6 county may not approve siting a destination resort in the Metolius River Basin, a subbasin
 7 of the Deschutes River Basin, unless the land is owned by a federally recognized Indian tribe
 8 in this state.

9 (2) Notwithstanding ORS 195.305, the restriction on siting a destination resort in the
 10 Metolius River Basin under this section is not a legal basis for claiming compensation under
 11 ORS 195.300 to 195.336 for regulations restricting the residential use of private real property.

12 **SECTION 2.** (1) Before a county amends the map of lands eligible for destination resort
 13 siting in its acknowledged comprehensive plan, pursuant to ORS 197.455 (2), to authorize
 14 siting of a destination resort within 10 miles of the Metolius River Basin, the county shall
 15 consider imposing a condition that the owner of the land:

16 (a) Acquire, pursuant to ORS 94.531, a severable development interest, from land within
 17 the Metolius River Basin that is mapped as eligible but on which destination resort siting is
 18 restricted by section 1 of this 2009 Act, that reflects the fair market value of the lands before
 19 the effective date of this 2009 Act; and

20 (b) Transfer the development credit to the land within 10 miles of the Metolius River
 21 Basin proposed to be mapped as eligible for destination resort siting.

22 (2) Before a county approves a permit application to site a destination resort on land
 23 within 10 miles of the Metolius River Basin, the county shall consider imposing a condition
 24 that the owner of the land:

25 (a) Acquire, pursuant to ORS 94.531, a severable development interest, from land within
 26 the Metolius River Basin that is mapped as eligible but on which destination resort siting is
 27 prohibited by section 1 of this 2009 Act, that reflects the fair market value of the lands be-
 28 fore the effective date of this 2009 Act; and

29 (b) Transfer the development credit to the land within 10 miles of the Metolius River
 30 Basin considered for approval as the site a destination resort.

31 (3) The county shall impose the condition described in subsection (1) or (2) of this section
 32 if the county determines that the condition does not prevent development of the destination
 33 resort.

34 (4) For purposes of this section, a development credit may be transferred between land
 35 in different counties.

36 **SECTION 3.** Section 1 of this 2009 Act applies to an application for approval of a desti-
 37 nation resort that was first submitted on or after September 1, 2006.

38 **SECTION 4.** This 2009 Act being necessary for the immediate preservation of the public
 39 peace, health and safety, an emergency is declared to exist, and this 2009 Act takes effect
 40 on its passage.

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