

HOUSE AMENDMENTS TO HOUSE BILL 3153

By COMMITTEE ON SUSTAINABILITY AND ECONOMIC DEVELOPMENT

May 5

1 On page 1 of the printed bill, line 2, before the period insert “; creating new provisions; and
2 amending ORS 215.246 and 215.275”.

3 Delete lines 4 through 27.

4 On page 2, delete lines 1 through 11 and insert:

5 “**SECTION 1.** ORS 215.275 is amended to read:

6 “215.275. (1) A utility facility established under ORS 215.213 (1)(d) or 215.283 (1)(d) is necessary
7 for public service if the facility must be sited in an exclusive farm use zone in order to provide the
8 service.

9 “(2) To demonstrate that a utility facility is necessary, an applicant for approval under ORS
10 215.213 (1)(d) or 215.283 (1)(d) must show that reasonable alternatives have been considered and that
11 the facility must be sited in an exclusive farm use zone due to one or more of the following factors:

12 “(a) Technical and engineering feasibility;

13 “(b) The proposed facility is locationally dependent. A utility facility is locationally dependent
14 if it must cross land in one or more areas zoned for exclusive farm use in order to achieve a rea-
15 sonably direct route or to meet unique geographical needs that cannot be satisfied on other lands;

16 “(c) Lack of available urban and nonresource lands;

17 “(d) Availability of existing rights of way;

18 “(e) Public health and safety; and

19 “(f) Other requirements of state or federal agencies.

20 “(3) Costs associated with any of the factors listed in subsection (2) of this section may be
21 considered, but cost alone may not be the only consideration in determining that a utility facility
22 is necessary for public service. Land costs shall not be included when considering alternative lo-
23 cations for substantially similar utility facilities. The Land Conservation and Development Commis-
24 sion shall determine by rule how land costs may be considered when evaluating the siting of utility
25 facilities that are not substantially similar.

26 “(4) **If the criteria in subsections (2) and (3) of this section are met, a utility provider**
27 **shall make a reasonable effort, in consultation with the owner of high-value farmland, as**
28 **defined in ORS 195.300, to locate utility transmission and distribution lines so that the lines**
29 **have the least practical impact on the farming operation.**

30 “[4] (5) The owner of a utility facility approved under ORS 215.213 (1)(d) or 215.283 (1)(d) shall
31 be responsible for restoring, as nearly as possible, to its former condition any agricultural land and
32 associated improvements that are damaged or otherwise disturbed by the siting, maintenance, repair
33 or reconstruction of the facility. Nothing in this section shall prevent the owner of the utility fa-
34 cility from requiring a bond or other security from a contractor or otherwise imposing on a con-
35 tractor the responsibility for restoration.

1 “[(5)] (6) The governing body of the county or its designee shall impose clear and objective
2 conditions on an application for utility facility siting under ORS 215.213 (1)(d) or 215.283 (1)(d) to
3 mitigate and minimize the impacts of the proposed facility, if any, on surrounding lands devoted to
4 farm use in order to prevent a significant change in accepted farm practices or a significant increase
5 in the cost of farm practices on the surrounding farmlands.

6 “[(6)] (7) The provisions of subsections (2) to [(5)] (6) of this section do not apply to interstate
7 natural gas pipelines and associated facilities authorized by and subject to regulation by the Federal
8 Energy Regulatory Commission.

9 “**SECTION 2.** ORS 215.246 is amended to read:

10 “215.246. (1) The uses allowed under ORS 215.213 (1)(bb) and 215.283 (1)(y):

11 “(a) Require a determination by the Department of Environmental Quality, in conjunction with
12 the department’s review of a license, permit or approval, that the application rates and site man-
13 agement practices for the land application of reclaimed water, agricultural or industrial process
14 water or biosolids ensure continued agricultural, horticultural or silvicultural production and do not
15 reduce the productivity of the tract.

16 “(b) Are not subject to other provisions of ORS 215.213 or 215.283 or to the provisions of ORS
17 215.275 or 215.296.

18 “(2) The use of a tract of land on which the land application of reclaimed water, agricultural
19 or industrial process water or biosolids has occurred under this section may not be changed to allow
20 a different use unless:

21 “(a) The tract is included within an acknowledged urban growth boundary;

22 “(b) The tract is rezoned to a zone other than an exclusive farm use zone;

23 “(c) The different use of the tract is a farm use as defined in ORS 215.203; or

24 “(d) The different use of the tract is a use allowed under:

25 “(A) ORS 215.213 (1)(c), (e) to (g), (k), (m) to (q), (s) to (u), (x), (z) or (aa);

26 “(B) ORS 215.213 (2)(a) to (c), (i), (m) or (p) to (r);

27 “(C) ORS 215.283 (1)(c), (e), (f), (k) to (o), (q) to (s), (u), (w) or (x); or

28 “(D) ORS 215.283 (2)(a), (j), (L) or (p) to (s).

29 “(3) When a state agency or a local government makes a land use decision relating to the land
30 application of reclaimed water, agricultural or industrial process water or biosolids under a license,
31 permit or approval by the Department of Environmental Quality, the applicant shall explain in
32 writing how alternatives identified in public comments on the land use decision were considered and,
33 if the alternatives are not used, explain in writing the reasons for not using the alternatives. The
34 applicant must consider only those alternatives that are identified with sufficient specificity to af-
35 ford the applicant an adequate opportunity to consider the alternatives. A land use decision relating
36 to the land application of reclaimed water, agricultural or industrial process water or biosolids may
37 not be reversed or remanded under this subsection unless the applicant failed to consider identified
38 alternatives or to explain in writing the reasons for not using the alternatives.

39 “(4) The uses allowed under this section include:

40 “(a) The treatment of reclaimed water, agricultural or industrial process water or biosolids that
41 occurs as a result of the land application;

42 “(b) The establishment and use of facilities, including buildings, equipment, aerated and
43 nonaerated water impoundments, pumps and other irrigation equipment, that are accessory to and
44 reasonably necessary for the land application to occur on the subject tract;

45 “(c) The establishment and use of facilities, including buildings and equipment, that are not on

1 the tract on which the land application occurs for the transport of reclaimed water, agricultural or
2 industrial process water or biosolids to the tract on which the land application occurs if the facili-
3 ties are located within:

4 “(A) A public right of way; or

5 “(B) Other land if the landowner provides written consent and the owner of the facility complies
6 with ORS 215.275 [(4)] (5); and

7 “(d) The transport by vehicle of reclaimed water or agricultural or industrial process water to
8 a tract on which the water will be applied to land.

9 “(5) Uses not allowed under this section include:

10 “(a) The establishment and use of facilities, including buildings or equipment, for the treatment
11 of reclaimed water, agricultural or industrial process water or biosolids other than those treatment
12 facilities related to the treatment that occurs as a result of the land application; or

13 “(b) The establishment and use of utility facility service lines allowed under ORS 215.213 (1)(aa)
14 or 215.283 (1)(x).”

15 In line 12, delete “2” and insert “3”.

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