

House Bill 3153

Sponsored by Representative CLEM; Representative BOONE

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**.

Prohibits establishment of utility facility in area zoned for farm use, forest use or mixed farm and forest use if majority of utility service provided by utility facility will be used within urban growth boundary.

Authorizes owner of land in area zoned for farm use, forest use or mixed farm and forest use to refuse to grant utility easement. Requires owner to agree to five-year license, including mitigation agreement, for utility facility with inflation-adjusted annual license fee and mitigation costs provided to owner.

Directs State Department of Agriculture or State Forestry Department to oversee mitigation agreement and activities.

A BILL FOR AN ACT

1
2 Relating to utility facilities.

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

4 **SECTION 1. (1) Notwithstanding ORS 215.275 (1), a utility facility may not be located in**
5 **an area zoned for farm use, forest use or mixed farm and forest use if the majority of utility**
6 **service provided by the utility facility will be used within an urban growth boundary.**

7 **(2) An owner of land in an area zoned for farm use, forest use or mixed farm and forest**
8 **use is not required to grant a utility easement across the landowner's land to a utility pro-**
9 **vider for the siting of a utility facility on the land if the utility facility can be located in or**
10 **accessed from a road right of way.**

11 **(3) If the owner of land in an area zoned for farm use, forest use or mixed farm and**
12 **forest use refuses to grant a utility easement across the landowner's land, the utility pro-**
13 **vider shall attempt to avoid use of the owner's land and make its best effort to place the**
14 **utility facility in a road right of way.**

15 **(4) If a necessary utility facility cannot be placed in a road right of way and the owner**
16 **of land in an area zoned for farm use, forest use or mixed farm and forest use refuses to**
17 **grant a utility easement, the owner may be required to grant a five-year license to a utility**
18 **provider for the siting of a utility facility that must cross the owner's land. A license granted**
19 **under this subsection must:**

20 **(a) Relate to land on the periphery of the owner's land adjacent to the road right of way.**

21 **(b) Provide for an annual license fee:**

22 **(A) That is adjusted annually for inflation; and**

23 **(B) If a portion of the utility service from the utility facility is used within an urban**
24 **growth boundary, that is based on commercial or industrial rental rates for land within the**
25 **urban growth boundary.**

26 **(c) Include an agreement for mitigation of effects of the siting of a utility facility on the**
27 **land subject to the license.**

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 (d) Provide for an annual payment covering the costs of mitigation, including but not
2 limited to the costs of changed management practices and the loss or loss of value of agri-
3 cultural crops, forest products or livestock. The payment is in addition to the annual license
4 fee.

5 (5) For land subject to a mitigation agreement as part of a license granted under this
6 section:

7 (a) The State Department of Agriculture shall review the mitigation agreement and
8 oversee mitigation activities affecting the land if the land is in an area zoned for farm use
9 or mixed farm and forest use.

10 (b) The State Forestry Department shall review the mitigation agreement and oversee
11 mitigation activities affecting the land if the land is in an area zoned for forest use.

12 SECTION 2. Section 1 of this 2009 Act applies to a utility facility established on or after
13 the effective date of this 2009 Act.
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