

Senate Bill 715

Sponsored by Senator STARR; Senators BOQUIST, FERRIOLI, GEORGE, GIROD, MORSE, TELFER, WINTERS

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**.

Requires local government to demonstrate adequacy of 20-year supply of buildable lands for each discrete portion of local government's urban growth boundary.

A BILL FOR AN ACT

1
2 Relating to regional analysis of urban growth boundary; amending ORS 197.296, 197.299, 197.302,
3 197.304 and 197.766.

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

5 **SECTION 1.** ORS 197.296 is amended to read:

6 197.296. (1)(a) The provisions of this section apply to metropolitan service district regional
7 framework plans and local government comprehensive plans for lands within the urban growth
8 boundary of a city that is located outside of a metropolitan service district and has a population of
9 25,000 or more.

10 (b) The Land Conservation and Development Commission may establish a set of factors under
11 which additional cities are subject to the provisions of this section. In establishing the set of factors
12 required under this paragraph, the commission shall consider the size of the city, the rate of popu-
13 lation growth of the city or the proximity of the city to another city with a population of 25,000 or
14 more or to a metropolitan service district.

15 (2) At periodic review pursuant to ORS 197.628 to 197.650 or at any other legislative review of
16 the comprehensive plan or regional plan that concerns the urban growth boundary and requires the
17 application of a statewide planning goal relating to buildable lands for residential use, a local gov-
18 ernment shall demonstrate that its comprehensive plan or regional plan provides sufficient buildable
19 lands within the urban growth boundary established pursuant to statewide planning goals to ac-
20 commodate estimated housing needs for 20 years. **If a portion of the urban growth boundary is**
21 **surrounded by land outside of the urban growth boundary, the local government shall dem-**
22 **onstrate that its comprehensive plan or regional plan provides sufficient buildable lands**
23 **within each discrete portion of the urban growth boundary.** The 20-year period shall commence
24 on the date initially scheduled for completion of the periodic or legislative review.

25 (3) In performing the duties under subsection (2) of this section, a local government shall:

26 (a) Inventory the supply of buildable lands within the urban growth boundary, **and, if applica-**
27 **ble, within each discrete portion of the urban growth boundary,** and determine the housing
28 capacity of the buildable lands; and

29 (b) Conduct an analysis of housing need by type and density range, in accordance with ORS
30 197.303 and statewide planning goals and rules relating to housing, to determine the number of units
31 and amount of land needed for each needed housing type for the next 20 years.

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 (4)(a) For the purpose of the inventory described in subsection (3)(a) of this section, “buildable
2 lands” includes:

3 (A) Vacant lands planned or zoned for residential use;

4 (B) Partially vacant lands planned or zoned for residential use;

5 (C) Lands that may be used for a mix of residential and employment uses under the existing
6 planning or zoning; and

7 (D) Lands that may be used for residential infill or redevelopment.

8 (b) For the purpose of the inventory and determination of housing capacity described in sub-
9 section (3)(a) of this section, the local government must demonstrate consideration of:

10 (A) The extent that residential development is prohibited or restricted by local regulation and
11 ordinance, state law and rule or federal statute and regulation;

12 (B) A written long term contract or easement for radio, telecommunications or electrical facili-
13 ties, if the written contract or easement is provided to the local government; and

14 (C) The presence of a single family dwelling or other structure on a lot or parcel.

15 (c) Except for land that may be used for residential infill or redevelopment, a local government
16 shall create a map or document that may be used to verify and identify specific lots or parcels that
17 have been determined to be buildable lands.

18 (5)(a) Except as provided in paragraphs (b) and (c) of this subsection, the determination of
19 housing capacity and need pursuant to subsection (3) of this section must be based on data relating
20 to land within the urban growth boundary that has been collected since the last periodic review or
21 five years, whichever is greater. The data shall include:

22 (A) The number, density and average mix of housing types of urban residential development that
23 have actually occurred;

24 (B) Trends in density and average mix of housing types of urban residential development;

25 (C) Demographic and population trends;

26 (D) Economic trends and cycles; and

27 (E) The number, density and average mix of housing types that have occurred on the buildable
28 lands described in subsection (4)(a) of this section.

29 (b) A local government shall make the determination described in paragraph (a) of this sub-
30 section using a shorter time period than the time period described in paragraph (a) of this subsection
31 if the local government finds that the shorter time period will provide more accurate and reliable
32 data related to housing capacity and need. The shorter time period may not be less than three years.

33 (c) A local government shall use data from a wider geographic area or use a time period for
34 economic cycles and trends longer than the time period described in paragraph (a) of this subsection
35 if the analysis of a wider geographic area or the use of a longer time period will provide more ac-
36 curate, complete and reliable data relating to trends affecting housing need than an analysis per-
37 formed pursuant to paragraph (a) of this subsection. The local government must clearly describe the
38 geographic area, time frame and source of data used in a determination performed under this para-
39 graph.

40 (6) If the housing need determined pursuant to subsection (3)(b) of this section is greater than
41 the housing capacity determined pursuant to subsection (3)(a) of this section, the local government
42 shall take one or more of the following actions to accommodate the additional housing need:

43 (a) Amend its urban growth boundary, **or each discrete portion of the urban growth**
44 **boundary**, to include sufficient buildable lands to accommodate housing needs for the next 20 years.
45 As part of this process, the local government shall consider the effects of measures taken pursuant

1 to paragraph (b) of this subsection. The amendment shall include sufficient land reasonably neces-
2 sary to accommodate the siting of new public school facilities. The need and inclusion of lands for
3 new public school facilities shall be a coordinated process between the affected public school dis-
4 tricts and the local government that has the authority to approve the urban growth boundary, **or**
5 **the discrete portion of the urban growth boundary;**

6 (b) Amend its comprehensive plan, regional plan, functional plan or land use regulations to in-
7 clude new measures that demonstrably increase the likelihood that residential development will oc-
8 cur at densities sufficient to accommodate housing needs for the next 20 years without expansion
9 of the urban growth boundary, **or the discrete portion of the urban growth boundary.** A local
10 government or metropolitan service district that takes this action shall monitor and record the level
11 of development activity and development density by housing type following the date of the adoption
12 of the new measures; or

13 (c) Adopt a combination of the actions described in paragraphs (a) and (b) of this subsection.

14 (7) Using the analysis conducted under subsection (3)(b) of this section, the local government
15 shall determine the overall average density and overall mix of housing types at which residential
16 development of needed housing types must occur in order to meet housing needs over the next 20
17 years. If that density is greater than the actual density of development determined under subsection
18 (5)(a)(A) of this section, or if that mix is different from the actual mix of housing types determined
19 under subsection (5)(a)(A) of this section, the local government, as part of its periodic review, shall
20 adopt measures that demonstrably increase the likelihood that residential development will occur
21 at the housing types and density and at the mix of housing types required to meet housing needs
22 over the next 20 years.

23 (8)(a) A local government outside a metropolitan service district that takes any actions under
24 subsection (6) or (7) of this section shall demonstrate that the comprehensive plan and land use
25 regulations comply with goals and rules adopted by the commission and implement ORS 197.295 to
26 197.314.

27 (b) The local government shall determine the density and mix of housing types anticipated as a
28 result of actions taken under subsections (6) and (7) of this section and monitor and record the ac-
29 tual density and mix of housing types achieved. The local government shall compare actual and
30 anticipated density and mix. The local government shall submit its comparison to the commission
31 at the **first of either the** next periodic review or *[at]* the next legislative review of its urban growth
32 boundary, **or the discrete portion of the urban growth boundary**, *whichever comes first*.

33 (9) In establishing that actions and measures adopted under subsections (6) or (7) of this section
34 demonstrably increase the likelihood of higher density residential development, the local government
35 shall at a minimum ensure that land zoned for needed housing is in locations appropriate for the
36 housing types identified under subsection (3) of this section and is zoned at density ranges that are
37 likely to be achieved by the housing market using the analysis in subsection (3) of this section.
38 Actions or measures, or both, may include but are not limited to:

39 (a) Increases in the permitted density on existing residential land;

40 (b) Financial incentives for higher density housing;

41 (c) Provisions permitting additional density beyond that generally allowed in the zoning district
42 in exchange for amenities and features provided by the developer;

43 (d) Removal or easing of approval standards or procedures;

44 (e) Minimum density ranges;

45 (f) Redevelopment and infill strategies;

1 (g) Authorization of housing types not previously allowed by the plan or regulations;

2 (h) Adoption of an average residential density standard; and

3 (i) Rezoning or redesignation of nonresidential land.

4 **SECTION 2.** ORS 197.299 is amended to read:

5 197.299. (1) A metropolitan service district organized under ORS chapter 268 shall complete the
6 inventory, determination and analysis required under ORS 197.296 (3) not later than five years after
7 completion of the previous inventory, determination and analysis.

8 (2)(a) The metropolitan service district shall take such action as necessary under ORS 197.296
9 (6)(a) to accommodate one-half of a 20-year buildable land supply determined under ORS 197.296 (3)
10 within one year of completing the analysis.

11 (b) The metropolitan service district shall take all final action under ORS 197.296 (6)(a) neces-
12 sary to accommodate a 20-year buildable land supply determined under ORS 197.296 (3) within two
13 years of completing the analysis.

14 (c) The metropolitan service district shall take action under ORS 197.296 (6)(b), within one year
15 after the analysis required under ORS 197.296 (3)(b) is completed, to provide sufficient buildable land
16 within the urban growth boundary, **or each discrete portion of the urban growth boundary**, to
17 accommodate the estimated housing needs for 20 years from the time the actions are completed. The
18 metropolitan service district shall consider and adopt new measures that the governing body deems
19 appropriate under ORS 197.296 (6)(b).

20 (3) The Land Conservation and Development Commission may grant an extension to the time
21 limits of subsection (2) of this section if the Director of the Department of Land Conservation and
22 Development determines that the metropolitan service district has provided good cause for failing
23 to meet the time limits.

24 (4)(a) The metropolitan service district shall establish a process to expand the urban growth
25 boundary, **or each discrete portion of the urban growth boundary**, to accommodate a need for
26 land for a public school that cannot reasonably be accommodated within the existing urban growth
27 boundary, **or the existing discrete portion of the urban growth boundary**. The metropolitan
28 service district shall design the process to:

29 (A) Accommodate a need that must be accommodated between periodic analyses of urban growth
30 boundary capacity, **or periodic analyses of the capacity of each discrete portion of the urban**
31 **growth boundary**, required by subsection (1) of this section; and

32 (B) Provide for a final decision on a proposal to expand the urban growth boundary, **or the**
33 **discrete portion of the urban growth boundary**, within four months after submission of a com-
34 plete application by a large school district as defined in ORS 195.110.

35 (b) At the request of a large school district, the metropolitan service district shall assist the
36 large school district to identify school sites required by the school facility planning process de-
37 scribed in ORS 195.110. A need for a public school is a specific type of identified land need under
38 ORS 197.298 (3).

39 **SECTION 3.** ORS 197.302 is amended to read:

40 197.302. (1) After gathering and compiling information on the performance measures as described
41 in ORS 197.301 but prior to submitting the information to the Department of Land Conservation and
42 Development, a metropolitan service district shall determine if actions taken under ORS 197.296 (6)
43 have established the buildable land supply and housing densities necessary to accommodate esti-
44 mated housing needs determined under ORS 197.296 (3). If the metropolitan service district deter-
45 mines that the actions undertaken will not accommodate estimated need, the district shall develop

1 a corrective action plan, including a schedule for implementation. The district shall submit the plan
 2 to the department along with the report on performance measures required under ORS 197.301.
 3 Corrective action under this section may include amendment of the urban growth boundary, **dis-**
 4 **crete portion of the urban growth boundary**, comprehensive plan, regional framework plan,
 5 functional plan or land use regulations as described in ORS 197.296.

6 (2) Within two years of submitting a corrective action plan to the department, the metropolitan
 7 service district shall demonstrate by reference to the performance measures described in ORS
 8 197.301 that implementation of the plan has resulted in the buildable land supply and housing den-
 9 sity within the urban growth boundary necessary to accommodate the estimated housing needs for
 10 each housing type as determined under ORS 197.296 (3).

11 (3) The failure of the metropolitan service district to demonstrate the buildable land supply and
 12 housing density necessary to accommodate housing needs as required under this section and ORS
 13 197.296 may be the basis for initiation of enforcement action pursuant to ORS 197.319 to 197.335.

14 **SECTION 4.** ORS 197.304 is amended to read:

15 197.304. (1) Notwithstanding an intergovernmental agreement pursuant to ORS 190.003 to
 16 190.130 or acknowledged comprehensive plan provisions to the contrary, a city within Lane County
 17 that has a population of 50,000 or more within its boundaries shall meet its obligation under ORS
 18 197.295 to 197.314 separately from any other city within Lane County. The city shall, separately
 19 from any other city:

20 (a) Establish an urban growth boundary, (a) consistent with the jurisdictional area of responsibility
 21 specified in the acknowledged comprehensive plan; and

22 (b) Demonstrate, as required by ORS 197.296, that its comprehensive plan provides sufficient
 23 buildable lands within an urban growth boundary, **or a discrete portion of the urban growth**
 24 **boundary**, established pursuant to statewide planning goals to accommodate estimated housing
 25 needs for 20 years.

26 (2) Except as provided in subsection (1) of this section, this section does not alter or affect an
 27 intergovernmental agreement pursuant to ORS 190.003 to 190.130 or acknowledged comprehensive
 28 plan provisions adopted by Lane County or local governments in Lane County.

29 **SECTION 5.** ORS 197.766 is amended to read:

30 197.766. (1) A decision of a local government to expand an urban growth boundary, **or a dis-**
 31 **crete portion of the urban growth boundary**, shall comply with the provisions of ORS 197.296.

32 (2) A decision of a local government under ORS 197.764 (1) is a land use decision.
 33