

House Bill 2370

Sponsored by Representative NATHANSON; Representatives BARKER, DEMBROW, DOHERTY, GELSER, HOYLE, HUNT, KOTEK, J SMITH (Pre-session filed.)

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 political subdivision to give Department of Transportation at least 30 days' notice of intent to sell or transfer real property near rail infrastructure.

A BILL FOR AN ACT

1
2 Relating to public real property near rail infrastructure; creating new provisions; and amending ORS
3 271.310.

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

5 **SECTION 1.** ORS 271.310 is amended to read:

6 271.310. (1) Except as provided in subsection (2) of this section **and subject to subsection (3)**
7 **of this section**, whenever any political subdivision possesses or controls real property not needed
8 for public use, or whenever the public interest may be furthered, a political subdivision may sell,
9 exchange, convey or lease for any period not exceeding 99 years all or any part of [*their*] **the poli-**
10 **tical subdivision's** interest in the property to a governmental body or private individual or corpo-
11 ration. The consideration for the transfer or lease may be cash or real property, or both.

12 (2) If the ownership, right or title of the political subdivision to any real property set apart by
13 deed, will or otherwise for a burial ground or cemetery, or for the purpose of interring the remains
14 of deceased persons, is limited or qualified or the use of [*such*] **the** real property is restricted,
15 whether by dedication or otherwise, the political subdivision may, after the county court or gov-
16 erning body thereof has first declared by resolution that [*such*] **the** real property is not needed for
17 public use, or that the sale, exchange, conveyance or lease [*thereof*] **of the real property** will fur-
18 ther the public interest, file a complaint in the circuit court for the county in which [*such*] **the** real
19 property is located against all persons claiming any right, title or interest in [*such*] **the** real prop-
20 erty, whether the interest be contingent, conditional or otherwise, for authority to sell, exchange,
21 convey or lease all or any part of [*such*] **the** real property. The resolution is prima facie evidence
22 that [*such*] **the** real property is not needed for public use, or that the sale, exchange, conveyance
23 or lease will further the public interest. The action shall be commenced and prosecuted to final
24 determination in the same manner as an action not triable by right to a jury. The complaint shall
25 contain a description of [*such*] **the** real property, a statement of the nature of the restriction, qual-
26 ification or limitations, and a statement that the defendants claim some interest therein. The court
27 shall make such judgment as it shall deem proper, taking into consideration the limitation, quali-
28 fications or restrictions, the resolution, and all other matters pertinent thereto. Neither costs nor
29 disbursements may be recovered against any defendant.

30 **(3)(a) At least 30 days before offering real property for sale, exchange, conveyance or**
31 **lease, a political subdivision shall notify the Department of Transportation of its intent to**

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 sell, exchange, convey or lease the real property if the real property is within 100 feet of a
 2 railroad right of way or is within 500 feet of an at-grade rail crossing.

3 (b) If, within 30 days after the notice required under paragraph (a) of this subsection is
 4 provided, the department notifies the political subdivision that the department is interested
 5 in obtaining the real property to facilitate the current delivery or future expansion of rail
 6 service, the political subdivision shall give the department the first opportunity to obtain the
 7 real property.

8 (c) The department may share the notice with private providers of rail service that might
 9 be interested in obtaining the real property to facilitate the current delivery or future ex-
 10 pansion of rail service. However, a private provider of rail service may not obtain or enter
 11 into negotiations to obtain the real property before the political subdivision makes the
 12 property available to the general public.

13 (d) The department shall adopt rules to carry out the provisions of this subsection.

14 [(3)] (4) Unless the governing body of a political subdivision determines under subsection (1) of
 15 this section that the public interest may be furthered, real property needed for public use by any
 16 political subdivision owning or controlling the property [*shall*] **may** not be sold, exchanged, [*leased*
 17 *or conveyed*] **conveyed or leased** under the authority of ORS 271.300 to 271.360, except that it may
 18 be exchanged for property [*which*] **that** is of equal or superior useful value for public use. Any such
 19 property not immediately needed for public use may be leased if, in the discretion of the governing
 20 body having control of the property, [*it*] **the property** will not be needed for public use within the
 21 period of the lease.

22 [(4)] (5) The authority to lease property granted by this section includes authority to lease
 23 property not owned or controlled by the political subdivision at the time of entering into the lease.
 24 [*Such*] **A lease under this subsection** shall be conditioned upon the subsequent acquisition of the
 25 interest covered by the lease.

26 **SECTION 2. The amendments to ORS 271.310 by section 1 of this 2011 Act apply to real**
 27 **property first offered for sale, exchange, conveyance or lease on or after the effective date**
 28 **of this 2011 Act.**

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