

House Bill 4095

Sponsored by Representatives GARRARD, ESQUIVEL; Representatives CAMERON, HANNA, HICKS, KRIEGER, LINDSAY, PARRISH, SHEEHAN, G SMITH, SPRENGER, THATCHER, WAND, WHISNANT, WINGARD, Senators ATKINSON, JOHNSON, WHITSETT (Presession 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**.

Allows Jackson, Josephine and Douglas Counties to enter into intergovernmental agreement. Allows counties that are parties to agreement to petition Land Conservation and Development Commission to establish regional definitions for "agricultural land" or "forestland," or both, for purpose of regional planning under statewide land use planning system.

Appropriates moneys to Department of Land Conservation and Development to make grants to counties that agree to petition commission for regional definitions.

Appropriates moneys to Department of Land Conservation and Development to meet costs of department, State Department of Agriculture, State Forestry Department and Water Resources Department to review petition and establish regional definitions.

Declares emergency, effective on passage.

A BILL FOR AN ACT

1
2 Relating to regionalized land use planning; appropriating money; and declaring an emergency.

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

4 **SECTION 1. Section 2 of this 2012 Act is added to and made a part of ORS chapter 195.**

5 **SECTION 2. (1) Jackson, Josephine and Douglas Counties may enter into an intergov-**
6 **ernmental agreement under ORS 190.003 to 190.130 in which the counties agree to use the**
7 **characteristics of land in the region, commercial farming or forest practices, statutory pol-**
8 **icies and other factors described in subsection (7) of this section to identify:**

9 (a) All or a portion of the counties as the area proposed to be a region for purposes of
10 consideration by the Land Conservation and Development Commission under subsection (5)
11 of this section.

12 (b) Land in the proposed region that the counties find to be well suited to agricultural
13 production or forest production.

14 (c) Land in the proposed region that is designated as agricultural land or forestland but
15 that the counties find is not well suited to agricultural production or forest production.

16 (2) If at least two of the three counties enter into the intergovernmental agreement de-
17 scribed in subsection (1) of this section, the counties that are parties to the agreement
18 jointly may petition the Land Conservation and Development Commission to establish, by
19 rule, a definition of the term "agricultural land" or the term "forestland," or both, for pur-
20 poses of land use planning in the region designated by the commission under subsection (5)
21 of this section.

22 (3) The act of entering into an intergovernmental agreement pursuant to subsection (1)
23 of this section and actions taken by the counties to identify a region or resource land pur-
24 suant to the intergovernmental agreement are not land use decisions.

25 (4) If the counties that are parties to the intergovernmental agreement file a petition

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 with the commission, the petition must:

2 (a) Provide information that allows the commission to address the considerations in
 3 subsection (5) of this section and other information the petitioners deem necessary for the
 4 commission to consider; and

5 (b) Meet, or incorporate an attached petition that meets, the requirements of ORS
 6 183.390 for requesting promulgation, amendment or repeal of a rule.

7 (5) If the commission finds that the petition submitted under this section is sufficient to
 8 initiate rulemaking proceedings in accordance with ORS 183.335, the commission shall accept
 9 the petition and:

10 (a) Shall take action under this section in coordination with the State Department of
 11 Agriculture, the State Forestry Department, the Water Resources Department and the cities
 12 and counties in the proposed region; and

13 (b) May establish definitions pursuant to subsection (2) of this section and designate the
 14 region to which a definition applies, taking into consideration:

15 (A) The information provided in the petition;

16 (B) The need to address similar or related lands as a region; and

17 (C) The need to address similar or related commercial farming or forest practices and
 18 products in the region in a consistent manner.

19 (6) The commission shall hold at least one public hearing in each county of which all or
 20 a portion would be included in the designated region.

21 (7) The commission shall base a definition established under this section on the charac-
 22 teristics of the land in the designated region, commercial farming or forest practices in the
 23 designated region, ORS 215.243, 215.700 and 527.630 and consideration of the following factors:

24 (a) The capability and suitability of the soils in the region for farming or forestry;

25 (b) The long-term viability of farm or forest operations in the region;

26 (c) The availability of water to sustain current or anticipated land uses in the region; and

27 (d) The land use patterns of commercial farming or forestry in the region and in nearby
 28 lands, including the parcelization, tenure and ownership patterns of resource land and the
 29 location of resource land in relation to land employed for nonfarm and nonforest uses.

30 (8) If the commission establishes a definition applicable to a designated region under this
 31 section, a county, all or a portion of which is in the designated region, may elect to:

32 (a) Review and amend its comprehensive plan map designations and zoning map desig-
 33 nations for land in the designated region that is planned for farm use, forest use or mixed
 34 farm and forest use; and

35 (b) Redesignate as other rural land the agricultural land or forestland that does not
 36 satisfy the definition of “agricultural land” or “forestland.”

37 (9) A county that elects under subsection (8) of this section to review and amend its
 38 comprehensive plan map designations and zoning map designations:

39 (a) Shall prepare the comprehensive plan map designations and zoning map designations
 40 using the procedures in ORS 215.788 (2).

41 (b) Shall provide an opportunity for all land planned for farm use, forest use or mixed
 42 farm and forest use to be included in the review.

43 (c) Shall plan and zone land reviewed under this subsection:

44 (A) For farm use if the land meets the regional definition of “agricultural land”;

45 (B) For forest use if the land meets the regional definition of “forestland”;

1 (C) For farm use, forest use or mixed farm and forest use if the land meets both defi-
2 nitions; and

3 (D) For rural nonresource use, consistent with the process described in ORS 215.794, if
4 the land does not meet either definition.

5 (d) May consider the current land use pattern on nearby lands in determining whether
6 land meets the appropriate definition.

7 (e) May consider a full range of rural uses that enhance the economy of the rural area.

8 (f) Shall comply with the requirements of ORS 215.791.

9 (g) Shall submit the adopted comprehensive plan and zoning map designations to the
10 Department of Land Conservation and Development under ORS 215.794.

11 **SECTION 3.** In addition to and not in lieu of any other appropriation, there is appropri-
12 ated to the Department of Land Conservation and Development, for the biennium beginning
13 July 1, 2011, out of the General Fund, the amount of \$350,000, which may be distributed in
14 the form of grants to Jackson, Josephine and Douglas Counties, or to those of the three
15 counties that are parties to the intergovernmental agreement described in section 2 of this
16 2012 Act, to assist the counties to take action under section 2 of this 2012 Act.

17 **SECTION 4.** In addition to and not in lieu of any other appropriation, there is appropri-
18 ated to the Department of Land Conservation and Development, for the biennium beginning
19 July 1, 2011, out of the General Fund, the amount of \$250,000, which may be expended to as-
20 sist the department, the State Department of Agriculture, the State Forestry Department
21 and the Water Resources Department to carry out the requirements of section 2 of this 2012
22 Act.

23 **SECTION 5.** (1) The Department of Land Conservation and Development shall:

24 (a) Make moneys appropriated to the department by section 3 of this 2012 Act available
25 as grants to Jackson, Josephine and Douglas Counties, or to those of the three counties that
26 are parties to the intergovernmental agreement described in section 2 of this 2012 Act, in a
27 manner that supports the work of the counties under section 2 of this 2012 Act; and

28 (b) Not later than the date of the convening of the 2014 regular session of the Legislative
29 Assembly as specified in ORS 171.010, report to the Legislative Assembly on the status and
30 results of actions taken by the counties and the department under section 2 of this 2012 Act.

31 (2) Upon entering into an intergovernmental agreement pursuant to section 2 of this 2012
32 Act, the counties that are parties to the agreement may apply to the department for grant
33 funds necessary to take action under section 2 of this 2012 Act.

34 **SECTION 6.** This 2012 Act being necessary for the immediate preservation of the public
35 peace, health and safety, an emergency is declared to exist, and this 2012 Act takes effect
36 on its passage.