



P.O. Box 928 • Salem, Oregon 97308
(503) 588-6550 • (800) 452-0338 • Fax: (503) 399-4863
www.orcities.org

March 7, 2013

To: Rep. Brian Clem, Chair
Rep. Kevin Cameron, Vice Chair
Rep. Lew Frederick, Vice Chair
Members of the House Committee on Land Use

From: Erin Doyle, Intergovernmental Relations Associate

Re: HB 2254 & 2255 – Urban Growth Boundary Streamlining

As stated earlier today the League of Oregon Cities members elected to make reform of the current urban growth boundary system a top priority for the League. In working with the governor's task force to improve the system, we have worked with all of the stakeholders in the current land use system to craft a balance solution that addresses the concerns and needs of each in a balanced manner. When an urban growth boundary expands more persons than the local city government is effected; it affects the residents, county, developers, landowners around the city, industries looking to develop in Oregon, farmers, and forest industry. In working together with all stakeholders, we have created a solution that will help cities to responsibly and efficiently examine their individual land need to determine the right level of expected physical growth that reflects the need to accommodate people in an urban environment but also allows each city to maintain its own character and local decision making.

Under the current system fewer and fewer cities are able easily adjust their urban growth boundary (UGB) in a timely and fiscally sound manner. In a survey completed in 2012 of our members, of the 31 cities reporting that they work working on or had completed a UGB expansion, the conservative cost to complete for all of the cities was over \$15 million, which only included 19 cities estimates. Costs to cities included planning staff, attorney time, population forecasting costs, consultant costs, and inventory of current lands. This figure does not account for the amount spent by private party partners who want to develop potential areas just outside the UGB and want to assist the city with its expansion process.

Not only is the cost high for these cities, the time for completion averaged over four years, with some cities still working on expansions over a decade after beginning the process. In some cases, the city took a long time to develop their plans, sought and

received all of the necessary approvals from their county and the state, but had their plan overturned on appeal to the Land Use Board of Appeals or the Court of Appeals. Therefore, the city has expended significant amounts of money and time but has not been able to change its UGB to accommodate the expected growth in its population.

It is clear to those cities that have recently undertaken this task that there is a broken, slow, and expensive system that is badly in need of reform. The governor's taskforce has put together proposals that will replace HB 2254 and HB 2255's current language to create a streamlined, fair system that will allow cities to fulfill their role as the growth centers that provide the majority of Oregonians with their homes in a way that efficiently uses the lands and provides the essential services that cities supply its residents.

HB 2254

The primary revisions to the current urban growth boundary expansion system are reflected in our negotiated draft that will replace the current HB 2254 language. The new concept will not just streamline the system for smaller cities but also allows for streamlining for larger cities. The process for small cities (those under 10,000) allows for a more objective analysis of land need, current land inventories, and the amount of land that is necessary to add to accommodate further growth which will maintain urban densities and increase land use efficiencies. Larger cities (those 10,000 and above) will be required to do more to insure that they are not just expanding but also efficiently redeveloping within their current limits.

Included in the proposed legislation will be a component related to urban service agreements for those large cities that will assist special district and cities in completing these agreements to reduce much of the disagreements when a city annexes into a district's service territory. This will help create assurances that cities will be able to complete these agreements whenever they expand their UGB.

The important part of this proposal is that entering this new streamlined system is optional for cities and leaves the current system in place for cities who do not want to enter the new system. There is flexibility for cities to maintain their individual characteristics and to grow in a way that the citizens and residents of the city believe in.

Adjusting the system also increases transparency to allow our citizens to remain engaged and, hopefully, will reduce the appeals as the city works through the system in a way that is understandable to the non-experts residing in and around the city.

Finally, adjusting the locational analysis for all UGB expansion to better reflect the process of determining what lands make sense to add to the city is a benefit to the cities as they take the next step in the process. The current system is convoluted at best, and is a ripe ground for appeal as there is statute, rules, and court decisions that intersect and do not set out a clear process for the final determination of which lands should eventually be incorporated into a city.

In all, the process that the task force has designed will help cities make efficient decisions as to how they grow and where they grow. It will allow cities to work with its residents and neighbors in a way that reduces the time and expense of fulfilling a city's role in our current land use system: efficiently using lands to house urban densities without sacrificing the important agricultural and forestry lands that our state holds dear.

HB 2255

This bill gives cities a couple of options to address economic development programs. The concept of industrial land reserves lets cities to address the long-term planning for job creation. Similar to the urban reserves system we currently have, the industrial reserves process will let cities look beyond the current land use needs to a long-term expectation of how a city will grow its economic base and designating areas as the place for industrial expansion. This allows cities to couple that forward thinking of where they will grow to better plan on how to grow so that the infrastructure is expanded to accommodate that expected growth.

Finally, the large economic opportunities concept will allow cities and counties to work together to bring large employers into a region by creating a fast tracked system for planning. When the opportunity to bring a huge number of jobs comes to a community, there is often a timing requirement in place based on the business's need to complete their building and development quickly to respond to increased demands. The large opportunities concepts will create a system that will allow for that quick response. Importantly, these lands will have to be adjacent to an existing UGB and the city with the adjacent UGB will have to agree to send a site to the streamlined council. Moreover, the council will have to consider local land use plans and standards in its approval process.

These opportunities do not appear every day, but when they do arise, cities need to have a way to respond quickly to determine if a business can be built to provide a large number of jobs to the community. This concept will provide one more tool for cities to quickly respond to such opportunities.

Conclusion

Cities are currently home to nearly 70 percent of Oregonians, and four out of five jobs are located within cities. We also understand that Oregon is a place people want to live and work not just because of our cities but also because we maintain a large amount of area that is not cities. As a result, cities in Oregon have been some of the most efficient in creating dense urban populations throughout the state and reducing our impact on other land uses. However, cities are growing and it is estimated that by 2020, 76 percent of Oregonians will reside within cities. In order to accommodate that growth, our cities need relief from the current UGB expansion process. If we fail to make changes, urbanization will continue to grow outside of city borders and will not reflect the goals of our land use system. For these reasons, we look forward to finalizing the task force's amendments to HB 2254 and HB 2255 and working to pass these bills.

Population Forecasting - The Foundation for Comprehensive Planning

By Linda Ludwig

Legislation will be proposed by Governor John Kitzhaber in the 2013 session that will change the way population forecasts are produced in Oregon and will limit opportunities for appeal. This article examines the history of population forecasts and the specific details of the proposed legislation.

Background

Population forecasts are the starting point when city elected officials make decisions regarding growth management—including urban growth boundary (UGB) analysis and expansions, and updates to transportation system plans, public facility plans and capital improvement plans. Cities are required by law to use population forecasts to update their comprehensive plans, but securing a forecast in a timely manner has been difficult for many cities.

Counties, outside of the Portland-Metro area, have been required to provide and keep updated population forecasts for the urban and rural portions of their county. Despite this legislative mandate, and for a variety of locally-driven and economic reasons, the majority of counties have either not adopted a coordinated population forecast or have not provided timely updates. This has been due in part to cost—including the “political” costs of decisions necessary to allocate a county-wide forecast among multiple cities in a county—and the potential for litigation. It may also be because, unlike cities, most counties do not need a population forecast because they are not required to accommodate future population growth. Adding to the costs has been the increase of litigation—many forecasts have been challenged either initially or as part of a subsequent land use action.

Cities that have utilized their limited authority to generate their own forecasts have also been stymied by appeals and the lack of county action. Current and future trends indicate that there are growing numbers of cities finding it necessary to begin a UGB update as their land supply diminishes, requiring fresh forecasts.

The Framework

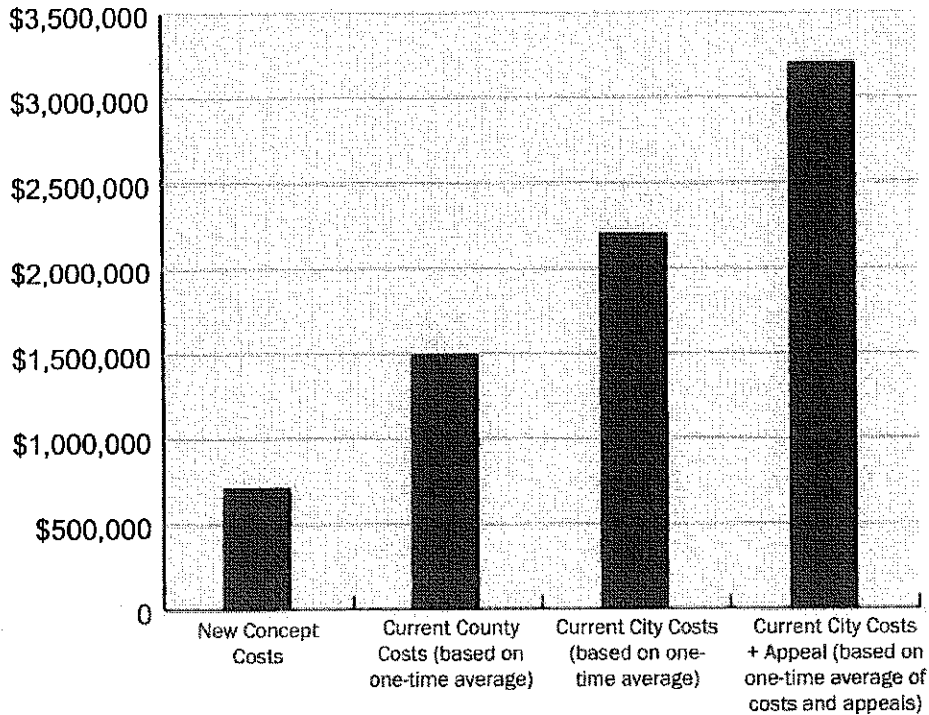
In 2011, a group of key stakeholders were convened to explore a legislative concept that would resolve the longstanding problems with population forecasting. The effort was facilitated by the Oregon Consensus program at Portland State University, which gathered information and ideas, conducted research, and developed a concept framework. The governor's office closely followed this effort, recognizing that a better forecasting system would be an important building block to the broad urban growth boundary process changes that will also be proposed in 2013.

The concept developed by the 2011 stakeholder group calls for forecasting to be re-assigned from counties to a neutral third party, the Population Research Center (PRC) at Portland State University. The PRC will provide fresh 50-year forecasts to cities every four years—incorporating new policy changes or investment decisions that may support population growth and would affect a city's forecast. It will conduct a localized process, with multiple opportunities for input from cities, counties and citizens, and provide flexibility for cities to decide when they should begin to use the new forecasts. Complex areas, such as shared urban growth boundaries or cities that include portions of more than one county, will be forecasted at the same time.

In addition, forecasts would no longer be considered a land use decision, and therefore would not be appealable to the Land Use Board of Appeals (LUBA). There will, however, be a short, administrative challenge process available to a city, county or citizen that doesn't agree with the forecast and has additional information that could result in a forecast adjustment. Metro will continue to provide long-range forecasts to cities and counties within the Metro boundary, while the PRC will produce forecasts for the jurisdictions outside the Metro boundary in Clackamas, Multnomah and Washington Counties. Metro and the PRC will coordinate their data inputs and control numbers to ensure complementary forecasts for the three-county region.



New Concept Cost Savings



Statute Versus Rule

It is anticipated that the concept framework will be provided in statute, while the procedural elements will be authorized in rule, so that they may be adjusted appropriately as experience dictates. As the current process is also codified in statute, the new concept will require legislative action in 2013.

Examples of procedural elements that may be addressed by rule include provisions to:

- Establish the forecast "increments" available within the 50-year forecast (i.e. annual, or every five years, etc.);
- Establish the type of information and data that is included in the forecast;
- Establish the four-year "phasing" of forecasts (i.e., which cities "go first" in a four-year cycle);
- Establish a flexible process for cities to transition from the use of existing forecasts to the new forecasts;
- Allow a city to contract directly and independently with PRC for a "mid-cycle" review;
- Allow a county to provide voluntary support to a city or number of cities within their county during their forecast;

- Authorize a formal extension request for cities and counties to provide additional data to PRC;
- Provide an ample number of local government meeting opportunities to provide data and feedback to PRC; and
- Allow forecasts that have been adopted into comprehensive plans through a Regional Problem Solving project to remain valid.

Funding and Cost Savings

For local governments, the proposed legislative concept would provide substantial cost savings. Although not all counties have provided forecasts or expended funds to do so, if they did meet their statutory requirements and several of these were litigated as experience dictates, the cost to counties would be at least double the cost of the new concept. If the additional costs that cities have spent on forecasts were added and some of these were litigated, the costs are either triple or quadruple the cost of the concept. The Local Government Grant Program in the Oregon Department of Land Conservation and Development's (DLCD) budget will provide the ongoing framework for the program and the funding appropriation. Funding for the population forecasting concept will be included in the budget request for DLCD, and will likely be included in the 2013-15 Governor's Recommended Budget.

(continued on page 22)



PRC Expertise

The question has been raised, "Why PRC?"

Since 1965, the PRC has served Oregon by providing demographic services to assist in policy and planning decisions. As the lead agency that works with the U.S. Census Bureau to disseminate information at the local level, the PRC has a long-standing history of providing coordinated population forecasts to private firms, public agencies and not-for-profit groups. PRC faculty and staff collectively possess more than 50 years of training and experience in demographic research methods, forecasting, census data, survey research and statistical analysis.

The population forecast model, including all the components, data points and assumptions, will be clearly documented to ensure a transparent process. Additionally, an advisory team comprised of experts in the field and city and county representatives will be appointed by the Oregon Land Conservation and Development to ensure that unbiased, data-driven methodologies are used and that best practices and sound local processes are followed.

Legislative Process

The population forecasting bill will be filed at the request of Governor John Kitzhaber for DLCD, to be considered by the 2013 Legislature. At this time, it is too early to know either the chamber of introduction or to which legislative committee it will be assigned, but League staff will continue to keep its members duly informed. A draft of the actual bill language will be available sometime in December.

The LOC Board of Directors voted to include population forecasting as one of five top legislative priorities for the session. A video explaining the concept featuring DLCD Director Jim Rue and Keizer City Councilor Cathy Clark is available on the League's Facebook page at: www.facebook.com/LeagueOfOregonCities.

Editor's Note: Linda Ludwig is the League's Deputy Legislative Director. ■

Population Forecasting Concept AT A GLANCE

- Forecasts will be provided by the Portland State University's Population Research Center (PRC) and issued for one-fourth of the state every year.
- Cities will receive new forecasts every four years, with a 50-year forecast horizon; will include single year increments.
- Includes a local process that allows multiple opportunities for input from cities, counties, citizens.
- Forecasts will not be a land use decision, and not appealable to LUBA.
- A funding request for the forecasting concept will be included in 2013-15 DLCD budget.
- A short 60-day challenge process will be available if a city, county or citizen does not agree with the forecast.
- Three generous phase-in options allow cities and counties to choose when they begin using the new numbers.
- Metro retains responsibility for city/county forecasts in its boundary, but must coordinate methodologies with the PRC. The PRC will produce forecasts for cities and counties in Multnomah/Clackamas/Washington County, outside of Metro.
- A review team comprised of experts in the field and city and county representatives will review methodology, local data collection and provide peer review to the PRC.
- Framework will be statutory, with procedures provided by administrative rule.
- Cities with a shared UGB or shared county boundaries will be coordinated and forecasted in the same "round."

