

Senate Bill 393

Sponsored by Senator GEORGE (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**.

Authorizes local government to adopt exception to statewide land use planning goal, without demonstrating that statutory standards for exception have been met, for use that is necessary for employer of 10 or more employees under specified circumstance. Requires employer in Willamette Valley seeking exception to provide green-collar jobs at family wage. Requires employer outside Willamette Valley seeking exception to provide family wage. Defines terms.

A BILL FOR AN ACT

1
2 Relating to exception to land use planning goals; amending ORS 197.732.

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

4 **SECTION 1.** ORS 197.732 is amended to read:

5 197.732. (1) As used in this section:

6 (a) "Compatible" is not intended as an absolute term meaning no interference or adverse impacts
7 of any type with adjacent uses.

8 (b) "Exception" means a comprehensive plan provision, including an amendment to an acknowl-
9 edged comprehensive plan, that:

10 (A) Is applicable to specific properties or situations and does not establish a planning or zoning
11 policy of general applicability;

12 (B) Does not comply with some or all goal requirements applicable to the subject properties or
13 situations; and

14 (C) Complies with standards under subsection (2) of this section.

15 (c) "**Family wage**" means **wages for each hour of work time that the employee is gainfully**
16 **employed computed at a rate equal to or greater than twice the minimum wage established**
17 **under ORS 653.025.**

18 (d) "**Green-collar jobs**" means **manual, management and intellectual labor positions that**
19 **provide a family wage and career track opportunities and either:**

20 (A) **Contribute directly to preserving or improving environmental quality; or**

21 (B) **Are performed in a business whose products and services directly improve environ-**
22 **mental quality.**

23 (e) "**The Willamette Valley**" has the meaning given that term in ORS 215.010.

24 (2) **Except as provided in subsections (3) and (4) of this section,** a local government may
25 adopt an exception to a goal if:

26 (a) The land subject to the exception is physically developed to the extent that it is no longer
27 available for uses allowed by the applicable goal;

28 (b) The land subject to the exception is irrevocably committed as described by Land Conserva-
29 tion and Development Commission rule to uses not allowed by the applicable goal because existing
30 adjacent uses and other relevant factors make uses allowed by the applicable goal impracticable;

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 or

2 (c) The following standards are met:

3 (A) Reasons justify why the state policy embodied in the applicable goals should not apply;

4 (B) Areas that do not require a new exception cannot reasonably accommodate the use;

5 (C) The long term environmental, economic, social and energy consequences resulting from the
6 use at the proposed site with measures designed to reduce adverse impacts are not significantly
7 more adverse than would typically result from the same proposal being located in areas requiring
8 a goal exception other than the proposed site; and

9 (D) The proposed uses are compatible with other adjacent uses or will be so rendered through
10 measures designed to reduce adverse impacts.

11 **(3) A local government in the Willamette Valley may adopt an exception to a goal for a**
12 **use that is allowed by the goal, but cannot comply with the approval standards for that type**
13 **of use, and that is necessary for an employer that employs 10 or more individuals in green-**
14 **collar jobs, without finding that the standards of subsection (2) of this section have been**
15 **met. Notwithstanding subsection (6) of this section, the local government approving or de-**
16 **nying the proposed exception under this subsection shall set forth findings of fact required**
17 **for an exception under this subsection, but need not set forth a statement of reasons that**
18 **demonstrate that the standards of subsection (2) of this section have or have not been met.**

19 **(4) A local government outside the Willamette Valley may adopt an exception to a goal**
20 **for a use that is allowed by the goal, but cannot comply with the approval standards for that**
21 **type of use, and that is necessary for an employer that employs 10 or more individuals at a**
22 **family wage, without finding that the standards of subsection (2) of this section have been**
23 **met. Notwithstanding subsection (6) of this section, the local government approving or de-**
24 **nying the proposed exception under this subsection shall set forth findings of fact required**
25 **for an exception under this subsection, but need not set forth a statement of reasons that**
26 **demonstrate that the standards of subsection (2) of this section have or have not been met.**

27 [(3)] (5) The commission shall adopt rules establishing:

28 (a) That an exception **under subsection (2) of this section** may be adopted to allow a use au-
29 thorized by a statewide **land use** planning goal that cannot comply with the approval standards for
30 that type of use;

31 (b) Under what circumstances particular reasons may or may not be used to justify an exception
32 under subsection (2)(c)(A) of this section; and

33 (c) Which uses allowed by the applicable goal must be found impracticable under subsection (2)
34 of this section.

35 [(4)] (6) A local government approving or denying a proposed exception shall set forth findings
36 of fact and a statement of reasons that demonstrate that the standards of subsection (2) of this
37 section have or have not been met.

38 [(5)] (7) Each notice of a public hearing on a proposed exception shall specifically note that a
39 goal exception is proposed and shall summarize the issues in an understandable manner.

40 [(6)] (8) Upon review of a decision approving or denying an exception **under subsection (2) of**
41 **this section:**

42 (a) The Land Use Board of Appeals or the commission [*shall be*] **is** bound by any finding of fact
43 for which there is substantial evidence in the record of the local government proceedings resulting
44 in approval or denial of the exception;

45 (b) The board upon petition, or the commission, shall determine whether the local government's

1 findings and reasons demonstrate that the standards of subsection (2) of this section have or have
 2 not been met; and

3 (c) The board or commission shall adopt a [*clear*] statement [*of reasons*] that sets forth the basis
 4 for the determination that the standards of subsection (2) of this section have or have not been met.

5 **(9) Upon review of a decision approving or denying an exception under subsection (3) or**
 6 **(4) of this section:**

7 **(a) The board or the commission is bound by any finding of fact for which there is sub-**
 8 **stantial evidence in the record of the local government proceedings resulting in approval or**
 9 **denial of the exception;**

10 **(b) The board upon petition, or the commission, shall determine whether the local**
 11 **government’s findings demonstrate that the standards of subsection (3) or (4) of this section**
 12 **have or have not been met; and**

13 **(c) The board or commission shall adopt a statement that sets forth the basis for the**
 14 **determination that the standards of subsection (3) or (4) of this section have or have not**
 15 **been met.**

16 [(7)] **(10)** The commission shall by rule establish the standards required to justify an exception
 17 to the definition of “needed housing” authorized by ORS 197.303.

18 [(8)] **(11)** An exception acknowledged under ORS 197.251, 197.625 or 197.630 (1) (1981 Replace-
 19 ment Part) on or before August 9, 1983, continues to be valid and is not subject to this section.

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