

**PROPOSED AMENDMENTS TO
HOUSE BILL 2255**

1 On page 1 of the printed bill, line 2, after the first semicolon delete the
2 rest of the line and delete lines 3 and 4 and insert “; and declaring an
3 emergency.”.

4 Delete lines 6 through 26 and delete pages 2 through 12 and insert:

5 **“SECTION 1. (1) As used in this section:**

6 **“(a) ‘Permit’ means a permit, license, certificate or other discre-**
7 **tionary approval required from a local government or a state permit-**
8 **ting agency to authorize a use of land. ‘Permit’ includes a**
9 **quasi-judicial amendment to a comprehensive plan that changes the**
10 **urban growth boundary. ‘Permit’ does not include a permit, license,**
11 **certificate or other discretionary approval issued pursuant to a feder-**
12 **ally delegated program.**

13 **“(b) ‘State permitting agency’ means the Department of Environ-**
14 **mental Quality, the Department of State Lands or the Department of**
15 **Transportation.**

16 **“(c) ‘State significance’ means, in relation to an economic oppor-**
17 **tunity project, that the proposed economic opportunity project in-**
18 **volves a specific employer and a use:**

19 **“(A) Of specific property that is located outside, and adjacent to,**
20 **an urban growth boundary;**

21 **“(B) That is for traded sector industrial use;**

22 **“(C) For which the employer has agreed to provide at least 500 new**

1 jobs for a period of at least five years; and

2 “(D) That requires at least 150 acres and for which the site charac-
3 teristics cannot be found on land within five miles of the site that are
4 already planned and zoned for industrial use.

5 “(2) The county with land use jurisdiction over an economic oppor-
6 tunity project of state significance and the city whose urban growth
7 boundary is adjacent to the site of the proposed economic opportunity
8 project may request that permits be considered in a single review
9 proceeding before the Economic Recovery Review Council established
10 under section 3, chapter 564, Oregon Laws 2011. If the economic op-
11 portunity project is adjacent to the boundary of a metropolitan service
12 district, the metropolitan service district must join in the request in
13 order for the council to consider the project.

14 “(3) The council shall expedite the review of an economic opportu-
15 nity project of state significance through an expedited project review
16 process if the council determines that:

17 “(a) An adequate workforce resides in the vicinity of the project,
18 given the planned employment and location;

19 “(b) Agreements are in place to fund public infrastructure and ser-
20 vices required to serve the project;

21 “(c) Development of the project:

22 “(A) Does not require completion of an environmental impact
23 statement, either because the development falls within a categorical
24 exclusion from the requirement or because an environmental assess-
25 ment results in a finding of no significant impact; and

26 “(B) Does not require major transportation improvements that do
27 not have committed funding; and

28 “(d) The council has not approved more than two economic oppor-
29 tunity projects of state significance within the last 24-month period.

30 “(4) If the county and city file a complete application within the

1 time specified by the council, the council shall:

2 “(a) Provide notice of the application in the manner required by
3 ORS 197.763 for a land use decision or in the manner required for a
4 quasi-judicial amendment of a comprehensive plan in the applicable
5 acknowledged land use regulations of the county applicant, whichever
6 results in broader notice;

7 “(b) Provide for at least one public hearing at a location within the
8 city applicant on the proposal to site and develop the project;

9 “(c) Consider recommendations of the county applicant, the city
10 applicant and the state permitting agencies that would otherwise have
11 jurisdiction to review the permits for the proposed economic develop-
12 ment project in determining whether the project complies with appli-
13 cable standards and criteria and in determining whether to impose
14 conditions of approval for a project the council approves; and

15 “(d) Apply the standards and criteria for each local permit, includ-
16 ing the standards and criteria for an amendment of the urban growth
17 boundary, and each state permit required for the construction and
18 operation of the project and determine, within 120 days after the date
19 a complete application is filed and based on the record and the appli-
20 cable law, whether the project complies with the applicable standards
21 and criteria.

22 “(5) The council has exclusive jurisdiction to approve permits under
23 this section. The council may not waive standards and criteria that
24 apply to issuance of a permit. If the council determines that the pro-
25 posed project complies with the applicable standards and criteria, the
26 council shall issue a project certificate approving the siting and de-
27 velopment of the project. In addition to other conditions reasonably
28 necessary to ensure that the project complies with applicable stan-
29 dards and criteria, the council may impose a condition requiring
30 commencement of construction by a date calculated to ensure that a

1 particular site is developed for the project within a specific time pe-
2 riod. If the council determines that the project does not, or cannot,
3 comply with applicable standards and criteria, the council shall issue
4 a final order denying the application and explaining why the applica-
5 tion was not approved.

6 “(6) A state permitting agency or a local government may recom-
7 mend conditions of approval reasonably necessary to ensure that the
8 construction and operation of the project complies with applicable
9 standards and criteria.

10 “(7) Expedited project review is not subject to ORS 183.413 to 183.470.

11 “(8) Issuance of a project certificate signed by the employer, the
12 county applicant, the city applicant and the council:

13 “(a) Binds the employer and public bodies, as defined in ORS 174.109,
14 in regard to the construction and operation of the project.

15 “(b) Satisfies requirements imposed on a state permitting agency
16 by ORS 197.180 and administrative rules implementing ORS 197.180.

17 “(c) Authorizes the city applicant to include the site within the ur-
18 ban growth boundary of the city, notwithstanding any contrary re-
19 quirement of ORS 197.295 to 197.314 or 197.610 to 197.625 or a statewide
20 land use planning goal relating to urbanization.

21 “(d) Authorizes the county applicant and the city applicant to sub-
22 mit the changes to the acknowledged comprehensive plan and land use
23 regulations of the county and the city in the manner required by ORS
24 197.610 to 197.625 and, for purposes of acknowledgement, limits the
25 scope of Land Conservation and Development Commission review to
26 confirmation that the changes are consistent with the project certif-
27 icate.

28 “(9) The employer must meet or exceed the employment levels
29 specified in the application for a period of five years. If the employer
30 does not meet or exceed the employment levels:

1 “(a) The council may notify the city applicant and the Department
2 of Land Conservation and Development that the lands occupied by the
3 project must be subtracted from any need determination made for an
4 amendment of the urban growth boundary of the city; and

5 “(b) The employer must pay the council \$10,000 per year for each
6 year for each full-time equivalent position by which the employer does
7 not meet or exceed the specified employment levels.

8 “(10) After the council issues a project certificate, state permitting
9 agencies and local governments shall:

10 “(a) Issue permits as required in the project certificate; and

11 “(b) Exercise enforcement authority over the permits, including
12 conditions imposed in the project certificate.

13 “(11) The council shall charge the employer a fee calculated to re-
14 cover the costs reasonably incurred to conduct expedited project re-
15 view, including the costs incurred by state permitting agencies and
16 local governments that make recommendations to the council con-
17 cerning whether the proposed siting complies with applicable stan-
18 dards and criteria. If the fee charged by the council includes costs
19 incurred by a state permitting agency or a local government, the
20 council shall pay or reimburse the state permitting agency or the local
21 government in the manner provided by ORS 469.360. The council may
22 require the employer to pay all or a portion of the fee before initiation
23 of the expedited project review and may require progress payments as
24 the review proceeds. The fee required by this section is in lieu of any
25 fee or fees otherwise required for review of a permit addressed in the
26 project certificate.

27 “(12) The council shall deposit moneys received under this section
28 in the Economic Recovery Review Council Fund established under
29 section 5, chapter 564, Oregon Laws 2011.

30 “(13) The Land Use Board of Appeals does not have jurisdiction to

1 consider decisions, aspects of decisions or actions taken under this
2 section.

3 “(14) A person who participates in the proceedings before the
4 council may appeal a final order of the council to the Court of Appeals.
5 The appeal shall proceed in the manner provided by ORS 197.850,
6 197.855 and 197.860. However, notwithstanding ORS 197.850 (9) or any
7 other provision of law, the court shall reverse or remand the decision
8 only if the court finds that:

9 “(a) The council’s determination that the proposed siting qualifies
10 as an economic opportunity project was clearly in error;

11 “(b) There is a basis to vacate the decision as described in ORS
12 36.705 (1)(a) to (d) or a basis for modification or correction of an award
13 as described in ORS 36.710; or

14 “(c) The decision was unconstitutional.

15 “SECTION 2. This 2013 Act being necessary for the immediate
16 preservation of the public peace, health and safety, an emergency is
17 declared to exist, and this 2013 Act takes effect on its passage.”.

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