

**PROPOSED AMENDMENTS TO
HOUSE BILL 2255**

1 On page 1 of the printed bill, line 2, after “amending” delete the rest of
2 the line and lines 3 and 4 and insert “sections 12 and 13, chapter 564, Oregon
3 Laws 2011; and declaring an emergency.”.

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

5 **“SECTION 1. Section 2 of this 2013 Act is added to and made a part
6 of ORS chapter 195.**

7 **“SECTION 2. (1) As used in this section:**

8 **“(a) ‘Industrial reserve’ means land that will provide for:**

9 **“(A) Future expansion over a long-term period to provide adequate
10 opportunities for traded sector industrial uses; and**

11 **“(B) The cost-effective provision of public facilities and services
12 within the area when the lands are included within the urban growth
13 boundary.**

14 **“(b) ‘Traded sector’ has the meaning given that term in ORS
15 285A.010.**

16 **“(2) The county with land use jurisdiction over land and the city
17 that is considering inclusion of the land within the urban growth
18 boundary of the city may agree to cooperatively designate land outside
19 the urban growth boundary as an industrial reserve under this section
20 subject to ORS 197.610 to 197.625 and 197.626.**

21 **“(3) Land designated as an industrial reserve may not be within the
22 boundaries of a metropolitan service district or on land designated as**

1 a rural reserve under ORS 195.141 or designated as an urban reserve
2 under ORS 195.145 (1)(b).

3 “(4) Designation and protection of industrial reserves does not im-
4 pair the rights and immunities provided under ORS 30.930 to 30.947.

5 “(5) The amount of land included in an industrial reserve may not
6 exceed the amount estimated to be needed based on a forecast of em-
7 ployment growth in traded sector industries over a 25-year period that
8 commences on the date that the county gives notice to the Depart-
9 ment of Land Conservation and Development pursuant to ORS 197.610,
10 less the amount of buildable industrial land and other industrial ca-
11 pacity already included within the urban growth boundary of the city.
12 If the city has designated an urban reserve pursuant to ORS 195.145,
13 the city must demonstrate that there is a need for industrial land in
14 addition to the supply expected to become available in the land desig-
15 nated as an urban reserve.

16 “(6) Local governments shall base decisions concerning the desig-
17 nation of industrial reserves under this section on the following cri-
18 teria, as the criteria are supplemented or made more particular by
19 rules of the Land Conservation and Development Commission:

20 “(a) Local governments shall minimize the inclusion of land that
21 is suitable for sustaining long-term agricultural operations, taking
22 into account:

23 “(A) The existence of larger blocks of agricultural or other resource
24 lands with a concentration or cluster of farms;

25 “(B) The adjacent land use pattern, including the location of the
26 land in relation to adjacent nonfarm uses and the existence of buffers
27 between agricultural operations and nonfarm uses;

28 “(C) The agricultural land use pattern, including parcelization,
29 tenure and ownership patterns; and

30 “(D) The agricultural infrastructure in the area;

1 “(b) Local governments shall include land that can be developed for
2 traded sector industrial uses in a way that makes efficient use of ex-
3 isting and future public infrastructure investments;

4 “(c) Local governments shall include only land that can be served
5 by transportation infrastructure, including infrastructure to be devel-
6 oped, and other necessary public facilities and services, efficiently and
7 cost-effectively provided by appropriate and financially capable service
8 providers; and

9 “(d) Local governments shall include only land that can be designed
10 to preserve and enhance natural ecological systems.

11 “(7) After local governments have designated land as an industrial
12 reserve under this section, when the land is included within an urban
13 growth boundary, the land must be planned and zoned for traded sec-
14 tor manufacturing. The commission may set a time period after which
15 all or part of the land may be planned and zoned for other uses, based
16 on a significant change in circumstances.

17 “(8) The commission shall adopt by rule a process for designating
18 industrial reserves pursuant to this section.

19 “SECTION 3. (1) As used in this section:

20 “(a) ‘Permit’ means a permit, license, certificate or other discre-
21 tionary approval required from a local government or a state permit-
22 ting agency to authorize a use of land. ‘Permit’ includes a
23 quasi-judicial amendment to a comprehensive plan that changes the
24 urban growth boundary. ‘Permit’ does not include a permit, license,
25 certificate or other discretionary approval issued pursuant to a feder-
26 ally delegated program.

27 “(b) ‘State permitting agency’ means the Department of Environ-
28 mental Quality, the Department of State Lands or the Department of
29 Transportation.

30 “(c) ‘State significance’ means, in relation to an economic oppor-

1 tunity project, that the proposed economic opportunity project in-
2 volves a specific employer and a use:

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

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

6 “(C) For which the employer has agreed to provide at least 500 new
7 jobs for a period of at least five years; and

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

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

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

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

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

27 “(c) Development of the project:

28 “(A) Does not require completion of an environmental impact
29 statement, either because the development falls within a categorical
30 exclusion from the requirement or because an environmental assess-

1 **ment results in a finding of no significant impact; and**

2 **“(B) Does not require major transportation improvements that do**
3 **not have committed funding; and**

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

6 **“(4) If the county and city file a complete application within the**
7 **time specified by the council, the council shall:**

8 **“(a) Provide notice of the application in the manner required by**
9 **ORS 197.763 for a land use decision or in the manner required for a**
10 **quasi-judicial amendment of a comprehensive plan in the applicable**
11 **acknowledged land use regulations of the county applicant, whichever**
12 **results in broader notice;**

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

15 **“(c) Consider recommendations of the county applicant, the city**
16 **applicant and the state permitting agencies that would otherwise have**
17 **jurisdiction to review the permits for the proposed economic develop-**
18 **ment project in determining whether the project complies with appli-**
19 **cable standards and criteria and in determining whether to impose**
20 **conditions of approval for a project the council approves; and**

21 **“(d) Apply the standards and criteria for each local permit, includ-**
22 **ing the standards and criteria for an amendment of the urban growth**
23 **boundary, and each state permit required for the construction and**
24 **operation of the project and determine, within 120 days after the date**
25 **a complete application is filed and based on the record and the appli-**
26 **cable law, whether the project complies with the applicable standards**
27 **and criteria.**

28 **“(5) The council has exclusive jurisdiction to approve permits under**
29 **this section. The council may not waive standards and criteria that**
30 **apply to issuance of a permit. If the council determines that the pro-**

1 posed project complies with the applicable standards and criteria, the
2 council shall issue a project certificate approving the siting and de-
3 velopment of the project. In addition to other conditions reasonably
4 necessary to ensure that the project complies with applicable stan-
5 dards and criteria, the council may impose a condition requiring
6 commencement of construction by a date calculated to ensure that a
7 particular site is developed for the project within a specific time pe-
8 riod. If the council determines that the project does not, or cannot,
9 comply with applicable standards and criteria, the council shall issue
10 a final order denying the application and explaining why the applica-
11 tion was not approved.

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

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

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

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

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

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

27 “(d) Authorizes the county applicant and the city applicant to sub-
28 mit the changes to the acknowledged comprehensive plan and land use
29 regulations of the county and the city in the manner required by ORS
30 197.610 to 197.625 and, for purposes of acknowledgement, limits the

1 scope of Land Conservation and Development Commission review to
2 confirmation that the changes are consistent with the project certifi-
3 cate.

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

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

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

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

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

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

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

1 fee or fees otherwise required for review of a permit addressed in the
2 project certificate.

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

6 “(13) The Land Use Board of Appeals does not have jurisdiction to
7 consider decisions, aspects of decisions or actions taken under this
8 section.

9 “(14) A person who participates in the proceedings before the
10 council may appeal a final order of the council to the Court of Appeals.
11 The appeal shall proceed in the manner provided by ORS 197.850,
12 197.855 and 197.860. However, notwithstanding ORS 197.850 (9) or any
13 other provision of law, the court shall reverse or remand the decision
14 only if the court finds that:

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

17 “(b) There is a basis to vacate the decision as described in ORS
18 36.705 (1)(a) to (d) or a basis for modification or correction of an award
19 as described in ORS 36.710; or

20 “(c) The decision was unconstitutional.

21 “SECTION 4. (1) As used in this section:

22 “(a) ‘Permit’ means a permit, license, certificate or other discre-
23 tionary approval required from a local government or a state permit-
24 ting agency to authorize a use of land. ‘Permit’ includes a
25 quasi-judicial amendment to a comprehensive plan that changes the
26 urban growth boundary. ‘Permit’ does not include a permit, license,
27 certificate or other discretionary approval issued pursuant to a feder-
28 ally delegated program.

29 “(b) ‘State permitting agency’ means the Department of Environ-
30 mental Quality, the Department of State Lands or the Department of

1 **Transportation.**

2 **“(c) ‘Regional significance’ means, in relation to an economic op-**
3 **portunity project, that the proposed economic opportunity project in-**
4 **volves a specific employer and a use:**

5 **“(A) Of specific property that is located outside, and adjacent to,**
6 **an urban growth boundary in a county that has a population of 20,000**
7 **or less;**

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

9 **“(C) For which the employer has agreed to provide at least 100 new**
10 **jobs for a period of at least five years; and**

11 **“(D) That requires at least 50 acres and for which the site charac-**
12 **teristics cannot be found on land within three miles of the site that**
13 **are already planned and zoned for industrial use.**

14 **“(2) The county with land use jurisdiction over an economic oppor-**
15 **tunity project of regional significance and the city whose urban**
16 **growth boundary is adjacent to the site of the proposed economic op-**
17 **portunity project may request that permits be considered in a single**
18 **review proceeding before the Economic Recovery Review Council es-**
19 **tablished under section 3, chapter 564, Oregon Laws 2011.**

20 **“(3) The council shall expedite the review of an economic oppor-**
21 **tunity project of regional significance through an expedited project re-**
22 **view process if the council determines that:**

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

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

27 **“(c) Development of the project:**

28 **“(A) Does not require completion of an environmental impact**
29 **statement, either because the development falls within a categorical**
30 **exclusion from the requirement or because an environmental assess-**

1 **ment results in a finding of no significant impact; and**

2 **“(B) Does not require major transportation improvements that do**
3 **not have committed funding; and**

4 **“(d) The council has not approved more than two economic oppor-**
5 **tunity projects of regional significance within the last 24-month pe-**
6 **riod.**

7 **“(4) If the county and city file a complete application within the**
8 **time specified by the council, the council shall:**

9 **“(a) Provide notice of the application in the manner required by**
10 **ORS 197.763 for a land use decision or in the manner required for a**
11 **quasi-judicial amendment to a comprehensive plan in the applicable**
12 **acknowledged land use regulations of the county applicant, whichever**
13 **results in broader notice;**

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

16 **“(c) Consider recommendations of the county applicant, the city**
17 **applicant and the state permitting agencies that would otherwise have**
18 **jurisdiction to review the permits for the proposed economic develop-**
19 **ment project in determining whether the project complies with appli-**
20 **cable standards and criteria and in determining whether to impose**
21 **conditions of approval for a project the council approves; and**

22 **“(d) Apply the standards and criteria for each local permit, includ-**
23 **ing the standards and criteria for an amendment of the urban growth**
24 **boundary, and each state permit required for the construction and**
25 **operation of the project and determine, within 120 days after the date**
26 **a complete application is filed and based on the record and the appli-**
27 **cable law, whether the project complies with the applicable standards**
28 **and criteria.**

29 **“(5) The council has exclusive jurisdiction to approve permits under**
30 **this section. The council may not waive standards and criteria that**

1 apply to issuance of a permit. If the council determines that the pro-
2 posed project complies with the applicable standards and criteria, the
3 council shall issue a project certificate approving the siting and de-
4 velopment of the project. In addition to other conditions reasonably
5 necessary to ensure that the project complies with applicable stan-
6 dards and criteria, the council may impose a condition requiring
7 commencement of construction by a date calculated to ensure that a
8 particular site is developed for the project within a specific time pe-
9 riod. If the council determines that the project does not, or cannot,
10 comply with applicable standards and criteria, the council shall issue
11 a final order denying the application and explaining why the applica-
12 tion was not approved.

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

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

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

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

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

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

28 “(d) Authorizes the county applicant and the city applicant to sub-
29 mit the changes to the acknowledged comprehensive plan and land use
30 regulations of the county and the city in the manner required by ORS

1 197.610 to 197.625 and, for purposes of acknowledgement, limits the
2 scope of Land Conservation and Development Commission review to
3 confirmation that the changes are consistent with the project certifi-
4 cate.

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

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

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

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

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

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

20 “(11) The council shall charge the employer a fee calculated to re-
21 cover the costs reasonably incurred to conduct expedited project re-
22 view, including the costs incurred by state permitting agencies and
23 local governments that make recommendations to the council con-
24 cerning whether the proposed siting complies with applicable stan-
25 dards and criteria. If the fee charged by the council includes costs
26 incurred by a state permitting agency or a local government, the
27 council shall pay or reimburse the state permitting agency or the local
28 government in the manner provided by ORS 469.360. The council may
29 require the employer to pay all or a portion of the fee before initiation
30 of the expedited project review and may require progress payments as

1 the review proceeds. The fee required by this section is in lieu of any
2 fee or fees otherwise required for review of a permit addressed in the
3 project certificate.

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

7 “(13) The Land Use Board of Appeals does not have jurisdiction to
8 consider decisions, aspects of decisions or actions taken under this
9 section.

10 “(14) A person who participates in the proceedings before the
11 council may appeal a final order of the council to the Court of Appeals.
12 The appeal shall proceed in the manner provided by ORS 197.850,
13 197.855 and 197.860. However, notwithstanding ORS 197.850 (9) or any
14 other provision of law, the court shall reverse or remand the decision
15 only if the court finds that:

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

18 “(b) There is a basis to vacate the decision as described in ORS
19 36.705 (1)(a) to (d) or a basis for modification or correction of an award
20 as described in ORS 36.710; or

21 “(c) The decision was unconstitutional.

22 “**SECTION 5.** Section 12, chapter 564, Oregon Laws 2011, is amended to
23 read:

24 “**Sec. 12.** (1) On the date of the repeal of sections 1 to 5, chapter 564,
25 Oregon Laws 2011, specified in section 13, chapter 564, Oregon Laws 2011
26 [*of this 2011 Act*]:

27 “(a) The Economic Recovery Review Council established under section 3,
28 chapter 564, Oregon Laws 2011, [*of this 2011 Act*] is abolished and the
29 tenure of office of the members of the council, the program manager for the
30 council and all employees ceases.

1 “(b) The Economic Recovery Review Council Fund established under sec-
2 tion 5, **chapter 564, Oregon Laws 2011**, [*of this 2011 Act*] is abolished. The
3 Economic Recovery Review Council shall transfer the unexpended balance
4 of moneys in the fund to the General Fund.

5 “(2) The members of the council shall allocate and deliver to the respec-
6 tive state agencies whose directors served as members of the council all re-
7 cords and property within the jurisdiction of the council, and the state
8 agencies whose directors served on the council shall take possession of the
9 records and property. The Governor shall resolve any dispute relating to the
10 allocation and delivery of records and property under this section and the
11 Governor’s decision is final.

12 “(3) The abolishment of the council does not relieve a person of a liabil-
13 ity, duty or obligation accruing under or with respect to the duties, functions
14 and powers of the council abolished by this section. The Oregon Department
15 of Administrative Services may undertake the collection or enforcement of
16 any such liability, duty or obligation.

17 “(4) The rights and obligations of the council legally incurred under
18 contracts, leases and business transactions executed, entered into or begun
19 before the date **of the repeal of sections 1 to 5, chapter 564, Oregon Laws**
20 **2011**, specified in section 13, **chapter 564, Oregon Laws 2011**, [*of this 2011*
21 *Act*] are transferred to the Oregon Department of Administrative Services.
22 For the purpose of succession to these rights and obligations, the department
23 is a continuation of the council and not a new authority.

24 “(5) Notwithstanding the repeal of sections 1 to 5, **chapter 564, Oregon**
25 **Laws 2011**, [*of this 2011 Act*] by section 13, **chapter 564, Oregon Laws 2011**
26 [*of this 2011 Act*], members of the council may take [*action*] **actions** under
27 this section that are necessary to wind down the operations of the council
28 before, on or after the date of the repeal of sections 1 to 5, **chapter 564,**
29 **Oregon Laws 2011** [*of this 2011 Act*].

30 “**SECTION 6.** Section 13, chapter 564, Oregon Laws 2011, is amended to

1 read:

2 **“Sec. 13. Sections 1 to 5 [of this 2011 Act], chapter 564, Oregon Laws**
3 **2011, and sections 3 and 4 of this 2013 Act are repealed on the later of**
4 **the following dates:**

5 **“(1) The date specified in ORS 197.723 (1) by which the Economic**
6 **Recovery Review Council must designate regionally significant indus-**
7 **trial areas; or**

8 **“(2) January 2 of the first even-numbered year after the Employment De-**
9 **partment notifies the Economic Recovery Review Council and the Office of**
10 **the Legislative Counsel that the annual average unemployment rate for the**
11 **most recent calendar year in Oregon is less than six percent.**

12 **“SECTION 7. (1) The governing body of Malheur County may plan**
13 **and zone up to three sites for industrial use:**

14 **“(a) In addition to and not in lieu of other lawful opportunities to**
15 **plan and zone land for industrial use within the county; and**

16 **“(b) Notwithstanding provisions of a statewide land use planning**
17 **goal related to:**

18 **“(A) Urbanization that requires demonstrated need to accommodate**
19 **long-range urban population or demonstrated need for employment**
20 **opportunities; and**

21 **“(B) Public facilities and services.**

22 **“(2) A site is eligible to be planned and zoned pursuant to this sec-**
23 **tion if:**

24 **“(a) The site contains 1,000 acres or less;**

25 **“(b) The site is adjacent to an urban growth boundary; and**

26 **“(c) Water, sanitary sewer service and electricity are available at**
27 **a boundary of the site or on a lawfully established unit of land, as**
28 **defined in ORS 92.010, adjoining the site.**

29 **“SECTION 8. Section 7 of this 2013 Act is repealed on December 31,**
30 **2020.**

1 **“SECTION 9. This 2013 Act being necessary for the immediate**
2 **preservation of the public peace, health and safety, an emergency is**
3 **declared to exist, and this 2013 Act takes effect on its passage.”.**

4
