

**PROPOSED AMENDMENTS TO
SENATE BILL 845**

1 On page 1 of the printed bill, line 2, after the semicolon, insert “creating
2 new provisions; amending ORS 195.141 and 195.145;”.

3 Delete lines 4 through 30 and delete pages 2 and 3 and insert:

4 **“SECTION 1. The Legislative Assembly finds and declares that the
5 State of Oregon has a compelling interest in promoting and stimulat-
6 ing economic development for the welfare of its residents by providing
7 for predictability and certainty in the use and development of land
8 within a metropolitan service district that, on January 1, 2013:**

9 **“(1) Is designated as an urban reserve by the metropolitan service
10 district;**

11 **“(2) Is included within the urban growth boundary of the metro-
12 politan service district; and**

13 **“(3) Is planned and zoned, under provisions of the acknowledged
14 comprehensive plan and land use regulations implementing the plan,
15 for traded sector use.**

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

17 **“(a) ‘Economic opportunity project of state significance’ means a
18 proposed use of land by an employer:**

19 **“(A) That is for traded sector use;**

20 **“(B) For which the employer has agreed to provide at least 500 new
21 jobs over a period of at least five years; and**

22 **“(C) That requires a block of at least 150 contiguous acres of land**

1 adjacent to the urban growth boundary of Metro.

2 “(b) ‘Local permitting agency’ means the City of Hillsboro,
3 Washington County or Metro.

4 “(c) ‘Permit’ means a permit, license, certificate or other discre-
5 tionary approval, including a change in the urban growth boundary
6 of Metro, required from a local permitting agency or a state permit-
7 ting agency to authorize a use of land unless the permit, license, cer-
8 tificate or other discretionary approval is issued pursuant to a
9 federally delegated program.

10 “(d) ‘State permitting agency’ means the Department of Environ-
11 mental Quality, the Department of State Lands or the Department of
12 Transportation.

13 “(e) ‘Traded sector’ has the meaning given that term in ORS
14 285B.280.

15 “(2) If the local permitting agencies jointly submit a written re-
16 quest, the Economic Recovery Review Council established under sec-
17 tion 3, chapter 564, Oregon Laws 2011, may review a proposed economic
18 opportunity project of state significance under this section.

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

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

24 “(b) Agreements or commitments are in place to fund public
25 infrastructure and services required to serve the project, including
26 major transportation facilities; and

27 “(c) Development of the project does not require completion of an
28 environmental impact statement.

29 “(4) The council may expedite one economic opportunity project of
30 state significance under this section.

1 **“(5) If the local permitting agencies submit a request accompanied**
2 **by complete applications for permits required for the proposed eco-**
3 **nom ic opportunity project of state significance, the council shall:**

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

9 **“(b) Provide for at least one public hearing at a location within**
10 **Washington County on the proposal to site and develop the project;**

11 **“(c) Consider recommendations of the local permitting agencies and**
12 **state permitting agencies that would otherwise have jurisdiction to**
13 **review the permits for the proposed economic development project in**
14 **determining whether the project complies with applicable standards**
15 **and criteria and in determining whether to impose conditions of ap-**
16 **proval for a project the council approves; and**

17 **“(d) Apply the standards and criteria for each permit required for**
18 **the construction and operation of the project and determine, within**
19 **120 days after the date a complete application is filed and based on the**
20 **record and the applicable law, whether the project complies with the**
21 **applicable standards and criteria.**

22 **“(6) 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 economic opportunity project of state significance complies with**
26 **the applicable standards and criteria, the council shall issue a project**
27 **certificate approving the siting and development of the project. In**
28 **addition to other conditions reasonably necessary to ensure that the**
29 **project complies with applicable standards and criteria, the council**
30 **may impose a condition requiring commencement of construction by**

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

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

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

11 “(9) Issuance of a project certificate signed by appropriate repre-
12 sentatives of the employer, the City of Hillsboro, Washington County
13 and the council:

14 “(a) Binds the employer and public bodies, as defined in ORS 174.109,
15 in regard to the construction and operation of the economic opportu-
16 nity project of state significance.

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

19 “(c) Authorizes the City of Hillsboro to include the site of the eco-
20 nomic opportunity project of state significance within the urban
21 growth boundary of the city, notwithstanding any contrary require-
22 ment of ORS 197.295 to 197.314 or 197.610 to 197.625 or a statewide land
23 use planning goal relating to urbanization.

24 “(d) Authorizes the City of Hillsboro and Washington County to
25 submit the changes to the acknowledged comprehensive plan and land
26 use regulations of the city and the county in the manner required by
27 ORS 197.610 to 197.625 and, for purposes of acknowledgement, limits
28 the scope of Land Conservation and Development Commission review
29 to confirmation that the changes are consistent with the project cer-
30 tificate.

1 **“(10) The employer must meet or exceed the employment levels**
2 **specified in the application for a period of five years. If the employer**
3 **does not meet or exceed the employment levels:**

4 **“(a) The council may notify the City of Hillsboro and the Depart-**
5 **ment of Land Conservation and Development that the lands occupied**
6 **by the economic opportunity project of state significance must be**
7 **subtracted from any need determination made for an amendment of**
8 **the urban growth boundary of the city; and**

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

12 **“(11) After the council issues a project certificate, local permitting**
13 **agencies and state permitting agencies shall:**

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

15 **“(b) Exercise enforcement authority over the permits, including**
16 **conditions imposed in the project certificate.**

17 **“(12) The council shall charge the employer a fee calculated to re-**
18 **cover the costs reasonably incurred to conduct expedited project re-**
19 **view, including the costs incurred by local permitting agencies and**
20 **state permitting agencies that make recommendations to the council**
21 **concerning whether the proposed siting complies with applicable**
22 **standards and criteria. If the fee charged by the council includes costs**
23 **incurred by a local permitting agency or a state permitting agency, the**
24 **council shall pay or reimburse the local permitting agency or the state**
25 **permitting agency in the manner provided by ORS 469.360. The council**
26 **may require the employer to pay all or a portion of the fee before in-**
27 **itiation of the expedited project review and may require progress pay-**
28 **ments as the review proceeds. The fee required by this section is in**
29 **lieu of any fee or fees otherwise required for review of a permit ad-**
30 **ressed in the project certificate.**

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

4 **“(14) The Land Use Board of Appeals does not have jurisdiction to**
5 **consider decisions, aspects of decisions or actions taken under this**
6 **section.**

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

13 **“(a) The council’s determination that the proposed siting qualifies**
14 **as an economic opportunity project of state significance was clearly**
15 **in error;**

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

19 **“(c) The decision was unconstitutional.**

20 **“SECTION 3.** ORS 195.145 is amended to read:

21 **“195.145. (1) To ensure that the supply of land available for urbanization**
22 **is maintained:**

23 **“(a) Local governments may cooperatively designate lands outside urban**
24 **growth boundaries as urban reserves subject to ORS 197.610 to 197.625 and**
25 **197.626, including land that is designated as urban reserves for the**
26 **specific purpose of accommodating a forecasted need for traded sector**
27 **employment growth to occur over a period of time from _____ to**
28 **_____.**

29 **“(b) Alternatively, a metropolitan service district established under ORS**
30 **chapter 268 and a county may enter into a written agreement pursuant to**

1 ORS 190.003 to 190.130, 195.025 or 197.652 to 197.658 to designate urban re-
2 serves. A process and criteria developed pursuant to this paragraph are an
3 alternative to a process or criteria adopted pursuant to paragraph (a) of this
4 subsection.

5 “(2)(a) The Land Conservation and Development Commission may require
6 a local government to designate an urban reserve pursuant to subsection
7 (1)(a) of this section during its periodic review in accordance with the con-
8 ditions for periodic review under ORS 197.628.

9 “(b) Notwithstanding paragraph (a) of this subsection, the commission
10 may require a local government to designate an urban reserve pursuant to
11 subsection (1)(a) of this section outside of its periodic review if:

12 “(A) The local government is located inside a Primary Metropolitan Sta-
13 tistical Area or a Metropolitan Statistical Area as designated by the Federal
14 Census Bureau upon November 4, 1993; and

15 “(B) The local government has been required to designate an urban re-
16 serve by rule prior to November 4, 1993.

17 “(3) In carrying out subsections (1) and (2) of this section:

18 “(a) Within an urban reserve, neither the commission nor any local gov-
19 ernment shall prohibit the siting on a legal parcel of a single family dwelling
20 that would otherwise have been allowed under law existing prior to desig-
21 nation as an urban reserve.

22 “(b) The commission shall provide to local governments a list of options,
23 rather than prescribing a single planning technique, to ensure the efficient
24 transition from rural to urban use in urban reserves.

25 “(4) **When a city includes within an urban growth boundary lands**
26 **designated under subsection (1)(a) of this section as urban reserves**
27 **solely for traded sector use, the city shall plan and zone the land for**
28 **traded sector use. As used in this subsection, ‘traded sector’ has the**
29 **meaning given that term in ORS 285B.280.**

30 “(5) **Before a local government designates urban reserves under**

1 subsection (1)(a) of this section, the local government shall study lands
2 adjacent to or near the urban growth boundary for suitability for
3 designation as urban reserves, based on the factors and criteria set
4 forth in this subsection. The local government shall designate land as
5 urban reserves based on:

6 “(a) The locational factors of a statewide land use planning goal
7 relating to urbanization;

8 “(b) A demonstration that there is not a reasonable alternative,
9 including designated urban reserves, that requires less, or has less ef-
10 fect on, resource land; and

11 “(c) The following priorities:

12 “(A) First priority is land adjacent to, or near, an urban growth
13 boundary and identified in an acknowledged comprehensive plan as an
14 exception area or nonresource land. First priority may include re-
15 source land that is surrounded by exception areas unless the land is
16 a high-value crop area, as defined in a statewide land use planning
17 goal relating to recreational needs, or prime or unique agricultural
18 lands, as defined by the United States Department of Agriculture.

19 “(B) If land of higher priority is inadequate to accommodate the
20 estimate of the amount of land needed, second priority is land desig-
21 nated as marginal land pursuant to ORS 197.247 (1991 Edition).

22 “(C) If land of higher priority is inadequate to accommodate the
23 estimate of the amount of land needed, third priority is land desig-
24 nated in an acknowledged comprehensive plan for farm use, forest use
25 or mixed farm and forest use. Within this subparagraph, higher pri-
26 ority must be given to land of lower capability as measured by the
27 capability classification system or by cubic foot site class, whichever
28 is appropriate for the current use.

29 “(6) The local government may use land of lower priority under
30 subsection (5) of this section when land of higher priority is inadequate

1 to accommodate the estimate of the amount of land needed because:

2 “(a) Urban services cannot reasonably be provided to the higher
3 priority area due to topographical or other physical constraints; or

4 “(b) Maximum efficiency of land uses within a proposed urban re-
5 serve requires inclusion of lower priority lands to include, or to pro-
6 vide services to, higher priority land.

7 “(7) When designating urban reserves, the local government shall
8 adopt:

9 “(a) Findings specifying the number of years over which designated
10 urban reserves are intended to provide a supply of land.

11 “(b) Findings and conclusions concerning the study of land based
12 on the factors and criteria set forth in subsection (5) of this section.

13 “(c) Findings and conclusions in support of land designated as ur-
14 ban reserves for traded sector employment use.

15 “[4] (8) Urban reserves designated by a metropolitan service district and
16 a county pursuant to subsection (1)(b) of this section must be planned to
17 accommodate population and employment growth for at least 20 years, and
18 not more than 30 years, after the 20-year period for which the district has
19 demonstrated a buildable land supply in the most recent inventory, determi-
20 nation and analysis performed under ORS 197.296.

21 “[5] (9) A district and a county shall base the designation of urban re-
22 serves under subsection (1)(b) of this section upon consideration of factors
23 including, but not limited to, whether land proposed for designation as urban
24 reserves, alone or in conjunction with land inside the urban growth bound-
25 ary:

26 “(a) Can be developed at urban densities in a way that makes efficient
27 use of existing and future public infrastructure investments;

28 “(b) Includes sufficient development capacity to support a healthy urban
29 economy;

30 “(c) Can be served by public schools and other urban-level public facilities

1 and services efficiently and cost-effectively by appropriate and financially
2 capable service providers;

3 “(d) Can be designed to be walkable and served by a well-connected sys-
4 tem of streets by appropriate service providers;

5 “(e) Can be designed to preserve and enhance natural ecological systems;
6 and

7 “(f) Includes sufficient land suitable for a range of housing types.

8 “[6] (10) A county may take an exception under ORS 197.732 to a state-
9 wide land use planning goal to allow the establishment of a transportation
10 facility in an area designated as urban reserve under subsection (1)(b) of this
11 section.

12 “[7] (11) The commission shall adopt by goal or by rule a process and
13 criteria for designating urban reserves pursuant to subsection (1)(b) of this
14 section.

15 “(12) **The designation of urban reserves does not impair the rights**
16 **or immunities established by ORS 30.930 to 30.947.**

17 “**SECTION 4.** ORS 195.141 is amended to read:

18 “195.141. (1) A county and a metropolitan service district established un-
19 der ORS chapter 268 may enter into an intergovernmental agreement pursu-
20 ant to ORS 190.003 to 190.130, 195.025 or 197.652 to 197.658 to designate rural
21 reserves pursuant to this section and urban reserves pursuant to ORS 195.145
22 (1)(b).

23 “(2) Land designated as a rural reserve:

24 “(a) Must be outside an urban growth boundary.

25 “(b) May not be designated as an urban reserve during the urban reserve
26 planning period described in ORS 195.145 [(4)] (8).

27 “(c) May not be included within an urban growth boundary during the
28 period of time described in paragraph (b) of this subsection.

29 “(3) When designating a rural reserve under this section to provide long-
30 term protection to the agricultural industry, a county and a metropolitan

1 service district shall base the designation on consideration of factors in-
2 cluding, but not limited to, whether land proposed for designation as a rural
3 reserve:

4 “(a) Is situated in an area that is otherwise potentially subject to
5 urbanization during the period described in subsection (2)(b) of this section,
6 as indicated by proximity to the urban growth boundary and to properties
7 with fair market values that significantly exceed agricultural values;

8 “(b) Is capable of sustaining long-term agricultural operations;

9 “(c) Has suitable soils and available water where needed to sustain long-
10 term agricultural operations; and

11 “(d) Is suitable to sustain long-term agricultural operations, taking into
12 account:

13 “(A) The existence of a large block of agricultural or other resource land
14 with a concentration or cluster of farms;

15 “(B) The adjacent land use pattern, including its location in relation to
16 adjacent nonfarm uses and the existence of buffers between agricultural op-
17 erations and nonfarm uses;

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

20 “(D) The sufficiency of agricultural infrastructure in the area.

21 “(4) The Land Conservation and Development Commission shall, after
22 consultation with the State Department of Agriculture, adopt by goal or by
23 rule a process and criteria for designating rural reserves pursuant to this
24 section.

25 **“SECTION 5. This 2013 Act being necessary for the immediate**
26 **preservation of the public peace, health and safety, an emergency is**
27 **declared to exist, and this 2013 Act takes effect on its passage.”.**

28