

A-Engrossed
House Bill 4078

Ordered by the House February 27
Including House Amendments dated February 27

Sponsored by Representatives DAVIS, CLEM; Representatives BARKER, BENTZ, CAMERON, THATCHER, Senators HASS, STARR (Pre-session 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.

Validates urban growth boundary adopted by Metro and acknowledged by Land Conservation and Development Commission as acknowledged urban growth boundary of Metro.

Validates urban reserves and rural reserves adopted by Metro, and counties within Metro, with exceptions.

Modifies review process for post-acknowledgment changes in Metro regional framework plan.

Declares emergency, effective on passage.

A BILL FOR AN ACT

1
2 Relating to post-acknowledgment changes to regional framework plan in Metro; creating new provisions; amending ORS 195.085, 197.299 and 197.626; and declaring an emergency.

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

5 **SECTION 1. The Legislative Assembly finds and declares that:**

6 (1) **Oregon law requires a metropolitan service district to establish an urban growth boundary and to maintain development capacity sufficient for a 20-year period within the boundary based on periodic assessments of the development capacity within the boundary.**

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8 (2) **Metro, the metropolitan service district for the Portland metropolitan area, has not implemented an approved legislative amendment to the urban growth boundary since 2005.**

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10 (3) **In 2010, Metro assessed the development capacity within the urban growth boundary and determined that the boundary did not contain sufficient capacity for a 20-year period.**

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12 (4) **The Metro Council, the governing body of Metro, established policies, including an investment strategy, for using land within the urban growth boundary more efficiently by adopting Ordinance No. 10-1244B on December 16, 2010.**

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14 (5) **Ordinance No. 10-1244B significantly increased the development capacity of the land within the urban growth boundary, but left unmet needs for housing and employment.**

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16 (6) **On July 28, 2011, the Metro Council held a public hearing in Hillsboro to allow public review of and to take comments on proposed expansion of the urban growth boundary to fill the unmet needs for housing and employment in the region.**

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18 (7) **On September 14 and 28, 2011, the Metro Council sought advice on expansion of the urban growth boundary from the Metro Policy Advisory Committee, which is composed primarily of elected and other local government officials in the region. On September 28, 2011, the Metro Council received a recommendation from the committee.**

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20 (8) **The Metro Council, with the advice and support of the committee, established six de-**

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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 sired outcomes as the basis for comparing policy and strategy options to increase the de-
2 velopment capacity of the region.

3 (9) On September 30, 2011, the Metro Council reported likely effects of the proposed ex-
4 pansion of the urban growth boundary to:

5 (a) The cities and counties in the region; and

6 (b) Nearly 34,000 households within one mile of land proposed to be included within the
7 urban growth boundary.

8 (10) The Metro Council developed, in cooperation with the cities and counties responsible
9 for land use planning in areas potentially to be included within the urban growth boundary,
10 policies and strategies addressing the affordability of housing, the compatibility of residential
11 use with nearby agricultural practices and the protection of industrial lands from conflicting
12 uses.

13 (11) On October 6 and 20, 2011, the Metro Council held public hearings on the proposed
14 expansion of the urban growth boundary.

15 (12) On October 20, 2011, the Metro Council unanimously adopted Ordinance No. 11-1264B,
16 expanding the urban growth boundary to fill the unmet needs for increased development ca-
17 pacity for housing and for industries that require large areas of developable land.

18 (13) The adopted policies and strategies reflect the intention of the Metro Council to de-
19 velop vibrant, prosperous and sustainable communities with reliable transportation choices
20 that minimize carbon emissions and to distribute the benefits and burdens of development
21 equitably in the Portland metropolitan area.

22 (14) The Director of the Department of Land Conservation and Development referred the
23 expansion of the urban growth boundary by Ordinance No. 11-1264B to the Land Conservation
24 and Development Commission for review.

25 (15) On May 10, 2012, the commission held a public hearing, according to rule-based pro-
26 cedures adopted by the commission, to consider the proposed amendment to the urban
27 growth boundary made by Ordinance No. 11-1264B.

28 (16) The commission continued the public hearing to June 14, 2012, and requested that
29 the Metro Council submit additional information describing how the record demonstrates
30 compliance with the appropriate statewide land use planning goals, administrative rules and
31 instructions.

32 (17) On June 14, 2012, the commission unanimously approved the expansion of the urban
33 growth boundary by Ordinance No. 11-1264B in Approval Order 12-UGB-001826.

34 (18) Metro and other local governments have made significant investments in
35 infrastructure to ensure that housing, education and employment needs in the region are
36 met.

37 (19) Ordinance No. 11-1264B and its findings satisfy Metro's obligations under ORS 197.295
38 to 197.314 and under statewide land use planning goals relating to citizen involvement, es-
39 tablishment of a coordinated planning process and policy framework and transition from
40 rural to urban land uses.

41 **SECTION 2.** (1) Section 3 of this 2014 Act is added to and made a part of ORS 195.137 to
42 195.145.

43 (2) Section 4 of this 2014 Act is added to and made a part of ORS 197.295 to 197.314.

44 **SECTION 3.** (1) For purposes of land use planning in Oregon, the Legislative Assembly
45 designates the land in Washington County that was designated as rural reserve in Metro

1 Resolution No. 11-4245, adopted on March 15, 2011, as the acknowledged rural reserve in
2 Washington County, except that:

3 (a) The real property in Area 5C on Metro's map denominated as the "Urban and Rural
4 Reserves in Washington County, Attachment A to Staff Report for Resolution No. 11-4245
5 (03/17/11 DRAFT)," that is more particularly described as tax lots 1500 and 1501, section 1
6 of township 2 south, range 2 west, Willamette Meridian, is not designated as a reserve area.

7 (b) The Legislative Assembly designates as acknowledged urban reserve the real property
8 that is part of the original plat of Bendemeer, Washington County, Oregon, more particularly
9 described as:

10 (A) All of lots 1 through 18, inclusive;

11 (B) The parts of lots 64, 65 and 66 that are situated between the east boundary of the
12 right of way of West Union Road and the west boundary of the right of way of Cornelius Pass
13 Road; and

14 (C) The real property that is more particularly described as: Beginning at a point of
15 origin that is the south bank of Holcomb Creek and the east boundary of the right of way
16 of Cornelius Pass Road; thence easterly along the south bank of Holcomb Creek, continuing
17 along the south bank of Holcomb Lake to its intersection with the west boundary of Area
18 8C; thence southerly along the west boundary of Area 8C to its intersection with the north
19 boundary of the right of way of West Union Road; thence westerly along the right of way to
20 its intersection with the east boundary of the right of way of Cornelius Pass Road; thence
21 northerly along the right of way to the point of origin.

22 (2) For purposes of land use planning in Oregon, the Legislative Assembly designates the
23 land in Washington County that was designated as urban reserve in Metro Resolution No.
24 11-4245, adopted on March 15, 2011, as the acknowledged urban reserve in Washington
25 County, except that:

26 (a) The real property in Area 8A on Metro's map denominated as the "Urban and Rural
27 Reserves in Washington County, Attachment A to Staff Report for Resolution No. 11-4245
28 (03/17/11 DRAFT)," east of the east boundary of the right of way of Jackson School Road and
29 east of the east bank of Storey Creek and the east bank of Waibel Creek is included within
30 the acknowledged urban growth boundary.

31 (b) The real property in Area 8A on Metro's map denominated as the "Urban and Rural
32 Reserves in Washington County, Attachment A to Staff Report for Resolution No. 11-4245
33 (03/17/11 DRAFT)," that is south of the south boundary of the right of way of Highway 26
34 and west of the real property described in paragraph (a) of this subsection is designated as
35 acknowledged rural reserve.

36 (c) The real property in Area 8B on Metro's map denominated as the "Urban and Rural
37 Reserves in Washington County, Attachment A to Staff Report for Resolution No. 11-4245
38 (03/17/11 DRAFT)," that is more particularly described as tax lots 100, 900, 901, 1100, 1200,
39 1300 and 1400 in section 15 of township 1 north, range 2 west, Willamette Meridian, is not
40 designated as a reserve area.

41 (d) The real property in Area 8B on Metro's map denominated as the "Urban and Rural
42 Reserves in Washington County, Attachment A to Staff Report for Resolution No. 11-4245
43 (03/17/11 DRAFT)," that is not described in paragraph (c) of this subsection is designated as
44 acknowledged rural reserve.

45 (e) The real property in Area 7B on Metro's map denominated as the "Urban and Rural

1 **Reserves in Washington County, Attachment A to Staff Report for Resolution No. 11-4245**
2 **(03/17/11 DRAFT),” that is north of the south bank of Council Creek is designated as ac-**
3 **knowledge rural reserve.**

4 (f) **The real property in Area 7B on Metro’s map denominated as the “Urban and Rural**
5 **Reserves in Washington County, Attachment A to Staff Report for Resolution No. 11-4245**
6 **(03/17/11 DRAFT),” that is south of the south bank of Council Creek is included within the**
7 **acknowledged urban growth boundary.**

8 (3) **For purposes of land use planning in Oregon, in relation to the following real property**
9 **in Washington County that is not reserved by designation in Metro Resolution No. 11-4245,**
10 **adopted on March 15, 2011, the Legislative Assembly designates:**

11 (a) **As acknowledged rural reserve the real property that is situated south of the City of**
12 **North Plains on Metro’s map denominated as the “Urban and Rural Reserves in Washington**
13 **County, Attachment A to Staff Report for Resolution No. 11-4245 (03/17/11 DRAFT),” more**
14 **particularly described as tax lots 100, 101, 200 and 201 in section 11 of township 1 north, range**
15 **3 west, Willamette Meridian, and tax lots 1800 and 2000 and that portion of tax lot 3900 that**
16 **is north of the south line of the Dobbins Donation Land Claim No. 47 in section 12 of town-**
17 **ship 1 north, range 3 west, Willamette Meridian.**

18 (b) **As acknowledged rural reserve the real property that is situated north of the City of**
19 **Cornelius on Metro’s map denominated as the “Urban and Rural Reserves in Washington**
20 **County, Attachment A to Staff Report for Resolution No. 11-4245 (03/17/11 DRAFT),” and that**
21 **is north of the south bank of Council Creek, east of the east right of way of Cornelius-**
22 **Schefflin Road and west of the west bank of Dairy Creek.**

23 (c) **As acknowledged rural reserve the real property that is north of the City of Forest**
24 **Grove on Metro’s map denominated as the “Urban and Rural Reserves in Washington**
25 **County, Attachment A to Staff Report for Resolution No. 11-4245 (03/17/11 DRAFT),” more**
26 **particularly described as east of Area 7B, west of the east right of way of Highway 47 and**
27 **south of the south right of way of Northwest Purdin Road.**

28 (d) **As acknowledged rural reserve the real property that is situated west of Area 8B on**
29 **Metro’s map denominated as the “Urban and Rural Reserves in Washington County, At-**
30 **tachment A to Staff Report for Resolution No. 11-4245 (03/17/11 DRAFT).”**

31 (4) **Land in a county in Metro that is planned and zoned for farm, forest or mixed farm**
32 **and forest use and that is not designated as urban reserve may not be included within the**
33 **urban growth boundary of Metro before at least 75 percent of the land in the county that**
34 **was designated urban reserve in this section has been included within the urban growth**
35 **boundary and planned and zoned for urban uses.**

36 (5)(a) **The real property described in subsection (2)(a) of this section:**

37 (A) **Is employment land of state significance; and**

38 (B) **Must be planned and zoned for employment use.**

39 (b) **In its first legislative review of the urban growth boundary on or after the effective**
40 **date of this 2014 Act, Metro shall not count the employment capacity of the real property**
41 **described in subsection (2)(a) of this section in determining the employment capacity of the**
42 **land within Metro.**

43 (6) **If the real property described in subsection (2)(f) of this section or section 4 (1) to (3)**
44 **of this 2014 Act is planned and zoned for employment use, in its first legislative review of the**
45 **urban growth boundary on or after the effective date of this 2014 Act, Metro shall not count**

1 **the employment capacity of the real property described in subsection (2)(f) of this section**
2 **or in section 4 (1) to (3) of this 2014 Act in determining the employment capacity of the land**
3 **within Metro.**

4 **SECTION 4. For the purpose of land use planning in Oregon, the Legislative Assembly**
5 **designates the urban growth boundary designated in Metro Ordinance No. 11-1264B, adopted**
6 **October 20, 2011, as the acknowledged urban growth boundary of Metro, subject to the con-**
7 **ditions of approval in the ordinance, except that:**

8 (1) **The real property in Area 7C on Metro’s map denominated as the “Urban and Rural**
9 **Reserves in Washington County, Attachment A to Staff Report for Resolution No. 11-4245**
10 **(03/17/11 DRAFT),” is included within the acknowledged urban growth boundary.**

11 (2) **The real property in Area 7D on Metro’s map denominated as the “Urban and Rural**
12 **Reserves in Washington County, Attachment A to Staff Report for Resolution No. 11-4245**
13 **(03/17/11 DRAFT),” is included within the acknowledged urban growth boundary.**

14 (3) **The real property in Area 7E on Metro’s map denominated as the “Urban and Rural**
15 **Reserves in Washington County, Attachment A to Staff Report for Resolution No. 11-4245**
16 **(03/17/11 DRAFT),” is included within the acknowledged urban growth boundary.**

17 **SECTION 5.** ORS 197.299 is amended to read:

18 197.299. (1) A metropolitan service district organized under ORS chapter 268 shall complete the
19 inventory, determination and analysis required under ORS 197.296 (3) not later than [five] **six** years
20 after completion of the previous inventory, determination and analysis.

21 (2)(a) The metropolitan service district shall take such action as necessary under ORS 197.296
22 (6)(a) to accommodate one-half of a 20-year buildable land supply determined under ORS 197.296 (3)
23 within one year of completing the analysis.

24 (b) The metropolitan service district shall take all final action under ORS 197.296 (6)(a) neces-
25 sary to accommodate a 20-year buildable land supply determined under ORS 197.296 (3) within two
26 years of completing the analysis.

27 (c) The metropolitan service district shall take action under ORS 197.296 (6)(b), within one year
28 after the analysis required under ORS 197.296 (3)(b) is completed, to provide sufficient buildable land
29 within the urban growth boundary to accommodate the estimated housing needs for 20 years from
30 the time the actions are completed. The metropolitan service district shall consider and adopt new
31 measures that the governing body deems appropriate under ORS 197.296 (6)(b).

32 (3) The Land Conservation and Development Commission may grant an extension to the time
33 limits of subsection (2) of this section if the Director of the Department of Land Conservation and
34 Development determines that the metropolitan service district has provided good cause for failing
35 to meet the time limits.

36 (4)(a) The metropolitan service district shall establish a process to expand the urban growth
37 boundary to accommodate a need for land for a public school that cannot reasonably be accommo-
38 dated within the existing urban growth boundary. The metropolitan service district shall design the
39 process to:

40 (A) Accommodate a need that must be accommodated between periodic analyses of urban growth
41 boundary capacity required by subsection (1) of this section; and

42 (B) Provide for a final decision on a proposal to expand the urban growth boundary within four
43 months after submission of a complete application by a large school district as defined in ORS
44 195.110.

45 (b) At the request of a large school district, the metropolitan service district shall assist the

1 large school district to identify school sites required by the school facility planning process de-
2 scribed in ORS 195.110. A need for a public school is a specific type of identified land need under
3 ORS 197.298 (3).

4 **SECTION 6.** ORS 197.626 is amended to read:

5 197.626. (1) A local government shall submit for review and the Land Conservation and Devel-
6 opment Commission shall review the following final land use decisions in the manner provided for
7 review of a work task under ORS 197.633:

8 (a) An amendment of an urban growth boundary by a metropolitan service district that adds
9 more than 100 acres to the area within its urban growth boundary;

10 (b) An amendment of an urban growth boundary by a city with a population of 2,500 or more
11 within its urban growth boundary that adds more than 50 acres to the area within the urban growth
12 boundary;

13 (c) A designation of an area as an urban reserve under ORS 195.137 to 195.145 by a metropolitan
14 service district or by a city with a population of 2,500 or more within its urban growth boundary;

15 (d) An amendment of the boundary of an urban reserve by a metropolitan service district;

16 (e) An amendment of the boundary of an urban reserve to add more than 50 acres to the urban
17 reserve by a city with a population of 2,500 or more within its urban growth boundary; and

18 (f) A designation or an amendment to the designation of a rural reserve under ORS 195.137 to
19 195.145 by a county, in coordination with a metropolitan service district, and the amendment of the
20 designation.

21 **(2) When the commission reviews a final land use decision of a metropolitan service dis-**
22 **trict under subsection (1)(a), (c), (d) or (f) of this section, the commission shall issue a final**
23 **order in writing within 180 days after the commission votes whether to approve the decision.**

24 [(2)] (3) A final order of the commission under this section may be appealed to the Court of
25 Appeals in the manner described in ORS 197.650 and 197.651.

26 **SECTION 7.** ORS 195.085 is amended to read:

27 195.085. (1) [No later than the first periodic review that begins after November 4, 1993,] Local
28 governments and special districts shall demonstrate compliance with ORS 195.020 and 195.065.

29 (2) The Land Conservation and Development Commission may adjust the deadline for compliance
30 under this section when cities and counties that are parties to an agreement under ORS 195.020 and
31 195.065 are scheduled for periodic review at different times.

32 (3) Local governments and special districts that are parties to an agreement in effect on No-
33 vember 4, 1993, which provides for the future provision of an urban service shall demonstrate com-
34 pliance with ORS 195.065 no later than the date such agreement expires or the second periodic
35 review that begins after November 4, 1993, whichever comes first.

36 **(4) An urban service agreement in effect on the effective date of this 2014 Act does not**
37 **apply to real property described as Area 2 on Metro's map denominated "2011 UGB Expansion**
38 **Areas, Ordinance 11-1264B, Exhibit A, October, 2011."**

39 **SECTION 8. (1) For the purpose of ORS 195.065, the City of Hillsboro and Tualatin Valley**
40 **Fire and Rescue shall enter into an urban service agreement for the unincorporated com-**
41 **munities of Reedville, Aloha, Rock Creek and North Bethany in Washington County.**

42 **(2) The agreement must generally follow a boundary between the City of Hillsboro and**
43 **Tualatin Valley Fire and Rescue along the north-south axis of Southwest 209th Avenue in**
44 **Washington County, between Southwest Farmington Road and the intersection of Northwest**
45 **Cornelius Pass Road and Northwest Old Cornelius Pass Road, excluding areas that are within**

1 the City of Hillsboro on the effective date of this 2014 Act.

2 (3) The City of Hillsboro and Tualatin Valley Fire and Rescue shall report to the Legis-
3 lative Assembly in the manner described in ORS 192.245 on or before January 1, 2015, on the
4 agreement required by this section.

5 **SECTION 9.** When the Land Conservation and Development Commission acts on remand
6 of the decision of the Oregon Court of Appeals in Case No. A152351, the commission may
7 approve all or part of the local land use decision if the commission identifies evidence in the
8 record that clearly supports all or part of the decision even though the findings of the local
9 government either:

10 (1) Do not recite adequate facts or conclusions of law; or

11 (2) Do not adequately identify the legal standards that apply, or the relationship of the
12 legal standards to the facts.

13 **SECTION 10.** The amendments to ORS 197.626 by section 6 of this 2014 Act apply to a
14 final land use decision of a metropolitan service district that is submitted to the Land Con-
15 servation and Development Commission for review on or after the effective date of this 2014
16 Act.

17 **SECTION 11.** Section 8 of this 2014 Act is repealed December 31, 2015.

18 **SECTION 12.** The amendments to ORS 197.299 by section 5 of this 2014 Act become op-
19 erative January 1, 2015.

20 **SECTION 13.** This 2014 Act being necessary for the immediate preservation of the public
21 peace, health and safety, an emergency is declared to exist, and this 2014 Act takes effect
22 on its passage.