

House Bill 4153

Sponsored by Representative MCLANE; Representatives BENTZ, CONGER, DAVIS, ESQUIVEL, HUFFMAN, JENSON, JOHNSON, KRIEGER, OLSON, PARRISH, RICHARDSON, SPRENGER, THOMPSON, WEIDNER, WHISNANT, WHITSETT (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 cities and counties to adopt ordinances for expedited siting of industrial, manufacturing or natural resource facilities in areas of high unemployment.

Declares emergency, effective on passage.

A BILL FOR AN ACT

Relating to the siting of facilities in areas of high unemployment; and declaring an emergency.

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

SECTION 1. The Legislative Assembly finds that:

(1) There is a serious and urgent need to create opportunities for family wage jobs in Oregon communities that have high long-term unemployment.

(2) Siting procedures are inadequate to meet the current and projected need to plan and site industrial, manufacturing or natural resource facilities in Oregon.

(3) An expedited siting process is needed to meet the current and projected need for industrial, manufacturing or natural resource facilities.

SECTION 2. As used in sections 1 to 4 of this 2014 Act:

(1) "Area of high unemployment" means a city or county in which the seasonally adjusted unemployment rate is seven percent or higher for a period of at least 12 consecutive months.

(2) "Industrial, manufacturing or natural resource facility" means land and structures, including warehouses, factories, mills, power generating facilities and mines, used to treat, process or manufacture materials into products.

(3) "Just, fair and reasonable" means a rate that is calculated to ensure recovery by a public body of the additional costs of providing and maintaining the requested service, including but not limited to feasibility and design engineering costs, and reasonable capacity replacement, but not to allow recovery that exceeds the actual capital and operating expenses, including reasonable reserves charged to all ratepayers, for the service.

(4) "Public services" includes water, sewer and transportation services.

SECTION 3. (1) The governing body of a city or county may adopt one or more ordinances that establish criteria under which the governing body may approve an application to site and use an industrial, manufacturing or natural resource facility in an area of high unemployment, notwithstanding statewide land use planning goals, comprehensive plans or land use regulations.

(2) Ordinances adopted pursuant to this section by the governing body of a city apply to areas of high unemployment that are located within the boundaries of the city or within the urban growth boundary of the city. Ordinances adopted pursuant to this section by the gov-

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 erning body of a county apply to areas of high unemployment that are located outside the
 2 boundaries of all cities and outside of all urban growth boundaries.

3 (3) Before adopting or amending ordinances authorized by this section, the governing
 4 body shall hold one or more public hearings.

5 (4) The governing body may approve an application to establish an industrial, manufac-
 6 turing or natural resource facility in an area of high unemployment under ordinances
 7 adopted pursuant to this section.

8 (5) A decision of the siting authority binds the state and all counties, cities and political
 9 subdivisions of the state as to the approval of the facility and the construction and operation
 10 of the facility. Affected state agencies, counties, cities and political subdivisions shall issue
 11 the appropriate permits, licenses and certificates and enter into intergovernmental agree-
 12 ments as necessary for the construction and operation of the facility.

13 (6) Each state or local governmental agency that issues a permit, license or certificate
 14 shall continue to exercise enforcement authority over the permit, license or certificate.

15 (7) Upon request of the applicant for a facility, a public body furnishing public services
 16 shall make public services available to the applicant that are either necessary for the con-
 17 struction and operation of the industrial, manufacturing or natural resource facility or re-
 18 quired by additions to or remodeling of an industrial, manufacturing or natural resource
 19 facility sited or constructed under sections 1 to 4 of this 2014 Act. All rates, terms and
 20 conditions of furnishing public services must be just, fair and reasonable.

21 (8) If the applicant for a facility and the public body cannot agree on the rates, terms
 22 and conditions of furnishing necessary public services to the facility, the applicant or the
 23 public body may deliver to the other a notice of request to mediate any disputed issues. If
 24 the applicant or the public body requests mediation, the other shall participate in good faith
 25 in the mediation. Unless otherwise agreed by the applicant and the public body, the mediation
 26 must be concluded within 30 days after delivery of the notice of request to mediate.

27 (9) The governing body shall hold at least one public hearing before issuing a decision on
 28 an application for a facility under sections 1 to 4 of this 2014 Act.

29 **SECTION 4.** (1) Action taken under the authority of sections 1 to 4 of this 2014 Act is
 30 not a land use decision, or a limited land use decision, subject to the exclusive jurisdiction
 31 of the Land Use Board of Appeals.

32 (2) A person who is adversely affected by an action taken under sections 1 to 4 of this
 33 2014 Act may seek review of the action under the writ of review procedures described in ORS
 34 34.010 to 34.100, except that a petition must be filed within 14 days after the date of the
 35 action, notwithstanding contrary provisions in ORS 34.030.

36 (3) A person is adversely affected by an action taken under sections 1 to 4 of this 2014
 37 Act if the real property of the person is within sight and sound of the facility or the value
 38 of the economic effect on the person exceeds \$5,000.

39 **SECTION 5.** This 2014 Act being necessary for the immediate preservation of the public
 40 peace, health and safety, an emergency is declared to exist, and this 2014 Act takes effect
 41 on its passage.