

**PROPOSED AMENDMENTS TO
HOUSE BILL 4078**

1 On page 1 of the printed corrected bill, line 2, after the semicolon insert
2 “creating new provisions; amending ORS 197.299, 197.626 and 197.651;”.

3 In line 10, after “approved” insert “legislative” and delete “2002” and in-
4 sert “2005”.

5 On page 2, delete lines 28 and 29 and insert:

6 “(17) On June 14, 2012, the commission unanimously approved the expan-
7 sion of the urban growth boundary by Ordinance No. 11-1264B in Approval
8 Order 12-UGB-001826.”.

9 Delete lines 37 through 44 and insert:

10 “(20) The regional and local land use decisions related to Multnomah
11 County and Clackamas County that were approved by the Land Conservation
12 and Development Commission in Approval Order No. 12-UGB-001826 and are
13 validated by sections 3 and 4 of this 2014 Act achieve a balance in the ex-
14 pansion of the area within the urban growth boundary and in the designation
15 of urban reserves and rural reserves that best achieves:

16 “(a) Livability in our communities;

17 “(b) Viability and vitality in our agricultural and forest industries; and

18 “(c) Protection of the important natural landscape features that define the
19 metropolitan region for its residents.

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

22 **“(2) Section 4 of this 2014 Act is added to and made a part of ORS**

1 197.295 to 197.314.

2 **“SECTION 3. (1) For purposes of land use planning in Oregon, the**
3 **Legislative Assembly designates the land in Washington County that**
4 **was designated as rural reserve in Metro Resolution No. 11-4245,**
5 **adopted on March 15, 2011, as the acknowledged rural reserve in**
6 **Washington County, except that the real property in Area 5C on**
7 **Metro’s map denominated as the ‘Urban and Rural Reserves in**
8 **Washington County, Attachment A to Staff Report for Resolution No.**
9 **11-4245 (03/17/11 DRAFT),’ that is more particularly described as tax**
10 **lots 1500 and 1501, section 1 of township 2 south, range 2 west,**
11 **Willamette Meridian, is not designated as a reserve area or included**
12 **within the acknowledged urban growth boundary.**

13 **“(2) For purposes of land use planning in Oregon, the Legislative**
14 **Assembly designates the land in Washington County that was desig-**
15 **nated as urban reserve in Metro Resolution No. 11-4245, adopted on**
16 **March 15, 2011, as the acknowledged urban reserve in Washington**
17 **County, except that:**

18 **“(a) The real property in Area 8A on Metro’s map denominated as**
19 **the ‘Urban and Rural Reserves in Washington County, Attachment A**
20 **to Staff Report for Resolution No. 11-4245 (03/17/11 DRAFT),’ that is**
21 **east of the east boundary of the right of way of Jackson School Road**
22 **and east of the east bank of Storey Creek and the east bank of Waibel**
23 **Creek is included within the acknowledged urban growth boundary.**

24 **“(b) The real property in Area 8A on Metro’s map denominated as**
25 **the ‘Urban and Rural Reserves in Washington County, Attachment A**
26 **to Staff Report for Resolution No. 11-4245 (03/17/11 DRAFT),’ that is**
27 **south of the south boundary of the right of way of Highway 26 and**
28 **west of the real property described in paragraph (a) of this subsection**
29 **is designated as acknowledged rural reserve.**

30 **“(c) The real property in Area 8B on Metro’s map denominated as**

1 the 'Urban and Rural Reserves in Washington County, Attachment A
2 to Staff Report for Resolution No. 11-4245 (03/17/11 DRAFT),' that is
3 more particularly described as tax lots 100, 900, 901, 1100, 1200, 1300 and
4 1400 in township 1 north, range 2 west, sections 15 and 16, Willamette
5 Meridian, is not designated as a reserve area.

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

11 "(e) The real property in Area 7B on Metro's map denominated as
12 the 'Urban and Rural Reserves in Washington County, Attachment A
13 to Staff Report for Resolution No. 11-4245 (03/17/11 DRAFT),' that is
14 north of the south bank of Council Creek is designated as acknowl-
15 edged rural reserve.

16 "(f) The real property in Area 7B on Metro's map denominated as
17 the 'Urban and Rural Reserves in Washington County, Attachment A
18 to Staff Report for Resolution No. 11-4245 (03/17/11 DRAFT),' that is
19 south of the south bank of Council Creek is included within the ac-
20 knowledged urban growth boundary.

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

25 "(a) The undesignated real property that is situated south of the
26 City of North Plains on Metro's map denominated as the 'Urban and
27 Rural Reserves in Washington County, Attachment A to Staff Report
28 for Resolution No. 11-4245 (03/17/11 DRAFT),' more particularly de-
29 scribed as tax lots 100, 101, 200 and 201 in section 11 of township 1
30 north, range 3 west, Willamette Meridian, and tax lots 1800 and 2000

1 and that portion of tax lot 3900 that is north of the south line of the
2 Dobbins Donation Land Claim No. 47 in section 12 of township 1 north,
3 range 3 west, Willamette Meridian, is designated as acknowledged ru-
4 ral reserve.

5 “(b) The undesignated real property that is situated north of the
6 City of Cornelius on Metro’s map denominated as the ‘Urban and Ru-
7 ral Reserves in Washington County, Attachment A to Staff Report for
8 Resolution No. 11-4245 (03/17/11 DRAFT),’ and that is north of the
9 south bank of Council Creek, east of the east right of way of
10 Cornelius-Schefflin Road and west of the west bank of Dairy Creek is
11 designated as acknowledged rural reserve.

12 “(c) The undesignated real property that is north of the City of
13 Forest Grove on Metro’s map denominated as the ‘Urban and Rural
14 Reserves in Washington County, Attachment A to Staff Report for
15 Resolution No. 11-4245 (03/17/11 DRAFT),’ more particularly described
16 as east of Area 7B, west of the east right of way of Highway 47 and
17 south of the south right of way of Northwest Purdin Road is desig-
18 nated as acknowledged rural reserve.

19 “(d) As acknowledged urban reserve the following real property that
20 is not reserved by designation and that is part of the original plat of
21 Bendemeer, Washington County, Oregon, more particularly described
22 as:

23 “(A) All of lots 2 through 18, inclusive;

24 “(B) The parts of lots 64, 65 and 66 that are situated between the
25 east boundary of West Union Road and the west boundary of Cornelius
26 Pass Road; and

27 “(c) The undesignated real property that begins at a point of origin
28 that is the south bank of Holcomb Creek and the east boundary of the
29 right of way of Cornelius Pass Road; thence easterly along the south
30 bank of Holcomb Creek, continuing along the south bank of Holcomb

1 Lake to its intersection with the west boundary of Area 8C; thence
2 southerly along the west boundary of Area 8C to its intersection with
3 the north boundary of the right of way of Highway 26; thence westerly
4 along the right of way to its intersection with the east boundary of the
5 right of way of Cornelius Pass Road; thence northerly to the point of
6 origin.

7 “(4) Land in a county in Metro that is planned and zoned for farm,
8 forest or mixed farm and forest use and that is not designated as ur-
9 ban reserve may not be included within the urban growth boundary
10 of Metro before at least 75 percent of the land in the county that was
11 designated urban reserve on or before the effective date of this 2014
12 Act has been included within the urban growth boundary, annexed
13 into a city and planned and zoned for urban uses.

14 “(5) The real property described in subsection (2)(a) of this section:

15 “(a) Is employment land of state significance and does not count in
16 determining the employment capacity of the land within Metro; and

17 “(b) Must be planned and zoned for employment use.

18 “(6) The designation of rural reserve and urban reserve in this sec-
19 tion does not require a metropolitan service district or any county to
20 modify any intergovernmental agreement entered into under ORS
21 195.141 on or before the effective date of this 2014 Act.

22 “SECTION 4. For the purpose of land use planning in Oregon, the
23 Legislative Assembly designates the urban growth boundary desig-
24 nated in Metro Ordinance No. 11-1264B, adopted October 20, 2011, as
25 the acknowledged urban growth boundary of Metro except that:

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

30 “(2) The real property in Area 7D on Metro’s map denominated as

1 the ‘Urban and Rural Reserves in Washington County, Attachment A
2 to Staff Report for Resolution No. 11-4245 (03/17/11 DRAFT),’ is in-
3 cluded within the acknowledged urban growth boundary.

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

8 “SECTION 5. ORS 197.299 is amended to read:

9 “197.299. (1) A metropolitan service district organized under ORS chapter
10 268 shall complete the inventory, determination and analysis required under
11 ORS 197.296 (3) not later than [*five*] **six** years after completion of the previ-
12 ous inventory, determination and analysis.

13 “(2)(a) The metropolitan service district shall take such action as neces-
14 sary under ORS 197.296 (6)(a) to accommodate one-half of a 20-year buildable
15 land supply determined under ORS 197.296 (3) within one year of completing
16 the analysis.

17 “(b) The metropolitan service district shall take all final action under
18 ORS 197.296 (6)(a) necessary to accommodate a 20-year buildable land supply
19 determined under ORS 197.296 (3) within two years of completing the analy-
20 sis.

21 “(c) The metropolitan service district shall take action under ORS 197.296
22 (6)(b), within one year after the analysis required under ORS 197.296 (3)(b)
23 is completed, to provide sufficient buildable land within the urban growth
24 boundary to accommodate the estimated housing needs for 20 years from the
25 time the actions are completed. The metropolitan service district shall con-
26 sider and adopt new measures that the governing body deems appropriate
27 under ORS 197.296 (6)(b).

28 “(3) The Land Conservation and Development Commission may grant an
29 extension to the time limits of subsection (2) of this section if the Director
30 of the Department of Land Conservation and Development determines that

1 the metropolitan service district has provided good cause for failing to meet
2 the time limits.

3 “(4)(a) The metropolitan service district shall establish a process to ex-
4 pand the urban growth boundary to accommodate a need for land for a public
5 school that cannot reasonably be accommodated within the existing urban
6 growth boundary. The metropolitan service district shall design the process
7 to:

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

11 “(B) Provide for a final decision on a proposal to expand the urban
12 growth boundary within four months after submission of a complete appli-
13 cation by a large school district as defined in ORS 195.110.

14 “(b) At the request of a large school district, the metropolitan service
15 district shall assist the large school district to identify school sites required
16 by the school facility planning process described in ORS 195.110. A need for
17 a public school is a specific type of identified land need under ORS 197.298
18 (3).

19 **“SECTION 6.** ORS 197.626 is amended to read:

20 “197.626. (1) A local government shall submit for review and the Land
21 Conservation and Development Commission shall review the following final
22 land use decisions in the manner provided for review of a work task under
23 ORS 197.633:

24 “(a) An amendment of an urban growth boundary by a metropolitan ser-
25 vice district that adds more than 100 acres to the area within its urban
26 growth boundary;

27 “(b) An amendment of an urban growth boundary by a city with a popu-
28 lation of 2,500 or more within its urban growth boundary that adds more
29 than 50 acres to the area within the urban growth boundary;

30 “(c) A designation of an area as an urban reserve under ORS 195.137 to

1 195.145 by a metropolitan service district or by a city with a population of
2 2,500 or more within its urban growth boundary;

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

5 “(e) An amendment of the boundary of an urban reserve to add more than
6 50 acres to the urban reserve by a city with a population of 2,500 or more
7 within its urban growth boundary; and

8 “(f) A designation or an amendment to the designation of a rural reserve
9 under ORS 195.137 to 195.145 by a county, in coordination with a metropol-
10 itan service district, and the amendment of the designation.

11 **“(2) When the commission reviews a final land use decision of a**
12 **metropolitan service district under subsection (1)(a), (c), (d) or (f) of**
13 **this section, the commission shall issue a final order in writing within**
14 **180 days after the commission votes whether to approve the decision.**

15 “[2] (3) A final order of the commission under this section may be ap-
16 pealed to the Court of Appeals in the manner described in ORS 197.650 and
17 197.651.

18 **“SECTION 7.** ORS 197.651 is amended to read:

19 “197.651. (1) Judicial review *[of a final order of the Land Conservation and*
20 *Development Commission under ORS 197.626 concerning the designation of*
21 *urban reserves under ORS 195.145 (1)(b) or rural reserves under ORS*
22 *195.141]* is **conducted** as provided in subsections (3) to [(12)] (15) of this
23 section[.] **for a final order of the Land Conservation and Development**
24 **Commission concerning a final land use decision:**

25 **“(a) Made by a metropolitan service district and described in ORS**
26 **197.626 (1)(a), (c) or (d).**

27 **“(b) Made by a county and described in ORS 197.626 (1)(f).**

28 “(2) Judicial review *[of any other final order of the commission under ORS*
29 *197.626 or of a final order of the commission under 197.180, 197.251, 197.628*
30 *to 197.651, 197.652 to 197.658, 197.659, 215.780 or 215.788 to 215.794]* is **con-**

1 **ducted** as provided in subsections (3) to (7), (9), (10) and [(12)] **(15)** of this
2 section[.] **for:**

3 **“(a) Any other final order of the commission described in ORS**
4 **197.626.**

5 **“(b) A final order of the commission described in ORS 197.180,**
6 **197.251, 197.628 to 197.651, 197.652 to 197.658, 197.659, 215.780 or 215.788 to**
7 **215.794.**

8 **“(3)** A proceeding for judicial review under this section may be instituted
9 by filing a petition in the Court of Appeals. The petition must be filed within
10 21 days after the date the commission delivered or mailed the order upon
11 which the petition is based.

12 **“(4)** The filing of the petition, as set forth in subsection (3) of this section,
13 and service of a petition on the persons who submitted oral or written tes-
14 timony in the proceeding before the commission are jurisdictional and may
15 not be waived or extended.

16 **“(5)** The petition must state the nature of the order the petitioner seeks
17 to have reviewed. Copies of the petition must be served by registered or
18 certified mail upon the commission and the persons who submitted oral or
19 written testimony in the proceeding before the commission.

20 **“(6)** Within [21] **14** days after service of the petition, the commission shall
21 transmit to the Court of Appeals the original or a certified copy of the entire
22 record of the proceeding under review. However, by stipulation of the parties
23 to the review proceeding, the record may be shortened. The Court of Appeals
24 may tax a party that unreasonably refuses to stipulate to limit the record for
25 the additional costs. The Court of Appeals may require or permit subsequent
26 corrections or additions to the record. Except as specifically provided in this
27 subsection, the Court of Appeals may not tax the cost of the record to the
28 petitioner or an intervening party. However, the Court of Appeals may tax
29 the costs to a party that files a frivolous petition for judicial review.

30 **“(7)** Petitions and briefs must be filed within time periods and in a man-

1 ner established by the Court of Appeals by rule.

2 “(8) The Court of Appeals shall:

3 “(a) Hear oral argument within [49] **56** days [of] **after** the date of trans-
4 mittal of the record unless the Court of Appeals determines that the ends
5 of justice served by holding oral argument on a later day outweigh the best
6 interests of the public and the parties. However, the Court of Appeals may
7 not hold oral argument more than [49] **56** days after the date of transmittal
8 of the record because of general congestion of the court calendar or lack of
9 diligent preparation or attention to the case by a member of the court or a
10 party.

11 “(b) Set forth in writing and provide to the parties a determination to
12 hear oral argument more than [49] **56** days from the date the record is
13 transmitted, together with the reasons for the determination. The Court of
14 Appeals shall schedule oral argument as soon as is practicable.

15 “(c) Consider, in making a determination under paragraph (b) of this
16 subsection:

17 “(A) Whether the case is so unusual or complex, due to the number of
18 parties or the existence of novel questions of law, that [49] **56** days is an
19 unreasonable amount of time for the parties to brief the case and for the
20 Court of Appeals to prepare for oral argument; and

21 “(B) Whether the failure to hold oral argument at a later date likely
22 would result in a miscarriage of justice.

23 “(9) The court:

24 “(a) Shall limit judicial review of an order reviewed under this section
25 to the record.

26 “(b) May not substitute its judgment for that of the Land Conservation
27 and Development Commission as to an issue of fact.

28 “(10) The Court of Appeals may affirm, reverse or remand an order re-
29 viewed under this section. The Court of Appeals shall reverse or remand the
30 order only if the court finds the order is:

1 “(a) Unlawful in substance or procedure. However, error in procedure is
2 not cause for reversal or remand unless the Court of Appeals determines that
3 substantial rights of the petitioner were prejudiced.

4 “(b) Unconstitutional.

5 “(c) Not supported by substantial evidence in the whole record as to facts
6 found by the commission.

7 “(11) The Court of Appeals shall issue a final order on the petition for
8 judicial review [*with the greatest possible expediency.*] **within 180 days after**
9 **the court hears oral argument.**

10 **“(12) The 180-day period described in subsection (11) of this section**
11 **does not include:**

12 **“(a) A period of delay that results from a motion properly before**
13 **the Court of Appeals; or**

14 **“(b) Except as provided in subsection (13) of this section, a period**
15 **of delay that results from a continuance granted by the court on the**
16 **court’s own motion or at the request of one of the parties if the court**
17 **granted the continuance on the basis of findings that the ends of jus-**
18 **tice served by granting the continuance outweigh the best interest of**
19 **the public and the parties in having a decision within 180 days.**

20 **“(13) A period of delay resulting from a continuance granted by the**
21 **Court of Appeals under subsection (12)(b) of this section is not ex-**
22 **cluded from the 180-day period unless the court sets forth in the re-**
23 **cord, orally or in writing, reasons for finding that the ends of justice**
24 **served by granting the continuance outweigh the best interests of the**
25 **public and the parties in having a decision within the 180-day period.**
26 **The court shall consider the following factors in determining whether**
27 **to grant a continuance under subsection (12)(b) of this section:**

28 **“(a) Whether the refusal to grant a continuance in the proceeding**
29 **is likely to make it impossible to continue with the proceeding or to**
30 **result in a miscarriage of justice; or**

1 **“(b) Whether the case is so unusual or complex, due to the number**
2 **of parties or the existence of novel questions of fact or law, that it is**
3 **not reasonable to expect adequate consideration of the issues within**
4 **the 180-day period.**

5 **“(14) The Court of Appeals may not grant a continuance under**
6 **subsection (12)(b) of this section due to general congestion of the court**
7 **calendar or lack of diligent preparation or attention to the case by a**
8 **party or a member of the court.**

9 **“[(12)] (15) If the order of the commission is remanded by the Court of**
10 **Appeals or the Supreme Court, the commission shall respond to the court’s**
11 **appellate judgment within 30 days.**

12 **“SECTION 8. (1) The amendments to ORS 197.626 by section 6 of this**
13 **2014 Act apply to a final land use decision of a metropolitan service**
14 **district that is submitted to the Land Conservation and Development**
15 **Commission for review on or after the effective date of this 2014 Act.**

16 **“(2) The amendments to ORS 197.651 by section 7 of this 2014 Act**
17 **apply to a petition for judicial review under ORS 197.651 that is filed**
18 **on or after the effective date of this 2014 Act.**

19 **“SECTION 9. The amendments to ORS 197.299 by section 5 of this**
20 **2014 Act become operative January 1, 2015.”.**

21 In line 45, delete “4” and insert “10”.

22