



Oregon

Kate Brown, Governor

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To: The Honorable Senator Chris Edwards, Chair
Senate Committee on Environment and Natural Resources

From: Jim Rue, Director
Department of Land Conservation and Development

Regarding: Senate Bill 748

Senate Bill 748 would authorize local governments to allow the development of “an employment use” on any land, including farmland or forest land outside urban growth boundaries (UGBs), in certain circumstances. The bill provides for this by allowing “an exception” to the state’s land use planning goals, but without a demonstration that any of the statutory standards for exceptions have been met.

In other words, the bill allows “employment uses” on all land in the subject counties, regardless of the underlying zoning and regardless of: existing or surrounding uses, sufficiency of transportation or other public facilities, impacts to farming, forestry, natural resources, and without consideration of state goal protections for coastal estuaries, beaches and dunes. The bill essentially waives the statewide land use planning program for a wide range of circumstances generally described in the bill.

The bill applies to local governments that have experienced sustained high unemployment or sustained population decline or that have a high poverty level. Under the bill, such local governments could waive all requirements of the statewide planning program in order to allow “an employment use” that “will create” ten or more new full-time jobs “for which the salary or wage compensation is 400 percent or more of federal poverty level for a family of four.” The key term “employment use” is undefined in the bill. Given current laws and rules, the department suggests that “employment use” probably means industrial uses and a wide range of commercial retail and wholesale uses, service uses, business headquarters, administrative and governmental employment uses, medical, educational and social service uses, and recreational uses in a variety of settings including, outdoors or in small or large buildings or multi-building campuses.

This bill allows certain local governments to approve development through “an exception” to the statewide land use goals without demonstrating that statutory standards for exceptions are met (in other words, no standards). The department is concerned that, effectively, this bill waives all Oregon land use planning requirements that would otherwise apply to land use proposals.

Because the terms of the bill are broad and undefined, such as “sustained high unemployment or sustained population decline or that have a high poverty level,” the department is unable to

indicate which counties specifically would be affected by the bill, but the department believes many counties may qualify today or in the future. As such, the department cannot estimate the degree of impact to farmland, forest land, natural resources, coastal resources, transportation and other infrastructure, and local economies reliant on these resources. The department is concerned that the negative impacts would indeed be quite broad and widespread as a result of this bill.

Related to this, we note that the Oregon Coastal Management Program is substantially funded by federal grants to DLCD, dispersed to local jurisdiction. This bill would effectively negate key portions of the state's core agreement with federal coastal management agencies, agreements associated with receipt of federal funding. As such, federal approval of Oregon's Coastal Management Program and the federal coastal zone management funding provided to the department may be jeopardized by this bill.

Finally we note that, due to the unique requirements and the terminology of this bill, the Land Conservation and Development Commission (LCDC) would need to develop new and amended interpretive rules to implement the bill, in order to define terms and adjust many current policies affected by the bill.

Thank you for considering this testimony. If you have questions, please contact Bob Rindy, DLCD Legislative Coordinator, 503-934-0008, or email at bob.rindy@state.or.us.

Copy: Richard Whitman, Governor's Office
Greg Macpherson, LCDC Chair