

House Committee On Rural Communities, Land Use, and Water

**Fiscal:** Has minimal fiscal impact

**Revenue:** No Revenue Impact

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**Action Date:** 03/26/15

**Action:** Do Pass As Amended And Be Printed Engrossed.

**Meeting Dates:** 03/12, 03/26

**Vote:**

Yeas: 6 - Clem, Gomberg, Helm, McLane, Post, Witt

Exc: 1 - Gilliam

**Prepared By:** Ian Davidson, Committee Administrator

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**WHAT THE MEASURE DOES:**

Defines terms. Requires filing with mayor and governing body, with a copy to Metro and Department of Land Conservation and Development, to withdraw tracts from City of Damascus. Requires a determination of absence of undue hardship on operation of city at time of request for withdrawal. Requires public hearing on withdrawal of tract occur 30 days after receipt of request for withdrawal and requires public notice of public hearing be posted 10 days after receipt of request for withdrawal. Details requirements of public notice. Authorizes City Council to make determination on withdrawal within 30 days after receiving testimony at public hearing. Details steps that occur if City Council decides to permit withdrawal or rejects withdrawal. Requires determination from City Council be made within 30 days or withdrawal is deemed complete. Identifies which organizations must be notified of changes to city boundaries. Prohibits reannexation of withdrawn tracts for a period of 10 years.

**ISSUES DISCUSSED:**

- Ruling of *City of Damascus v. Hank Brown*
- Recent history of disincorporations in Oregon

**EFFECT OF COMMITTEE AMENDMENT:**

Replaces measure.

**BACKGROUND:**

House Bill 4029 (2014) allowed property owners on the edge of Damascus to leave the city if they lived within a half-mile of another city if Damascus failed to pass a comprehensive land use plan; however, the Oregon Court of Appeals ruled the law unconstitutional in *City of Damascus v. Hank Brown* staying all de-annexations from the city. The ruling stated the following: “The legislature's decision to delegate that legislative authority to certain landowners, without any expression of policy to guide their decision, is an unconstitutional delegation in its purest form because it is a delegation of the legislature's power to make the law -- a law that alters the location of the city's boundary.”

House Bill 3084 A would alter the reason the Oregon Court of Appeals in 2014 ruled HB 4029 unconstitutional by modifying the authority for withdrawal of tract from the city to the mayor. The measure would require the mayor to determine whether a tract qualifies for withdrawal from the city, and whether such withdrawal would cause undue hardship on city operations.