

HOUSE AMENDMENTS TO HOUSE BILL 2723

By COMMITTEE ON RURAL COMMUNITIES, LAND USE, AND WATER

April 24

1 On page 1 of the printed bill, line 2, after “ORS” insert “197.296,”.

2 Delete lines 5 through 20 and insert:

3 **“SECTION 1. (1)(a) As used in this section, ‘agricultural production’ means the employ-**
4 **ment of land for farm use as defined in ORS 308A.056.**

5 **“(b) A city or county that designates an urban agriculture incentive zone under this**
6 **section may further define ‘agricultural production’ and define ‘small-scale’ for the purposes**
7 **of this section by ordinance, resolution or rule.**

8 **“(2) A city or county may designate any urbanized area of the city or county as an urban**
9 **agriculture incentive zone.**

10 **“(3)(a) A city or county may enter into an agreement with an owner of unimproved land**
11 **within an urban agriculture incentive zone pursuant to which the owner agrees to restrict**
12 **the use of the unimproved land to small-scale urban agricultural production for five consec-**
13 **utive years.**

14 **“(b) During each of the five years of the agreement, the unimproved land shall be subject**
15 **to special assessment in the same manner as farmland is assessed under ORS 308A.107,**
16 **provided the gross income requirements specified under ORS 308A.071 (2)(a)(A) to (C) are**
17 **met for the year.**

18 **“(c) The area of unimproved land subject to special assessment may be smaller than the**
19 **tax lot of which the area is a part and shall be limited to the area actually used for small-**
20 **scale urban agricultural production.**

21 **“(d) A city or county may enter into subsequent five-year agreements with an owner of**
22 **unimproved land granted special assessment under this section that begin after the fifth year**
23 **of any prior agreement entered into under this section.**

24 **“(4)(a) An owner seeking to have unimproved land granted special assessment under this**
25 **section must file an application with the county assessor on or before April 1 preceding the**
26 **first property tax year for which the special assessment is sought.**

27 **“(b) The application must be made on forms prepared by the Department of Revenue and**
28 **supplied by the county assessor and must include:**

29 **“(A) A copy of the agreement entered into under subsection (3) of this section;**

30 **“(B) A true copy of the deed, contract of sale, power of attorney or other appropriate**
31 **instrument evidencing the applicant’s ownership of the land or authority to file the applica-**
32 **tion on behalf of the owner;**

33 **“(C) Any information necessary to determine that the owner and the unimproved land**
34 **qualify for the special assessment; and**

35 **“(D) The affidavit or affirmation of the applicant that the statements contained in the**

1 application are true.

2 “(c) If the application does not meet all requirements under this section, the county
3 assessor shall reject the application and notify the owner of the rejection. Rejection of an
4 application under this paragraph is not reviewable, but an owner may submit an application
5 for the unimproved land for any subsequent property tax year.

6 “(d) If the application meets all requirements under this section, the county assessor
7 shall approve the application and notify the owner of the approval and the land shall be
8 subject to special assessment under this section for each of the next following five property
9 tax years.

10 “(e) The county assessor shall enter on the assessment and tax roll for the land the no-
11 tation ‘potential additional tax liability.’

12 “(5)(a) Unimproved land subject to special assessment under this section shall be dis-
13 qualified from special assessment if the county assessor discovers that, during the term of
14 an agreement entered into under subsection (3) of this section:

15 “(A) For any property tax year, the gross income requirements specified under ORS
16 308A.071 (2)(a)(A) to (C) were not met; or

17 “(B) The unimproved land is no longer used for urban agricultural production.

18 “(b) Disqualification under this subsection becomes effective on the January 1 assess-
19 ment date of the assessment year in which the discovery is made if the notice of disquali-
20 fication required under ORS 308A.718 is mailed by the county assessor before August 15 of
21 the property tax year for which the disqualification is asserted.

22 “(c) Following disqualification, an additional tax shall be added to the tax extended
23 against the land on the next assessment and tax roll, to be collected and distributed in the
24 same manner as other ad valorem property taxes. The additional tax shall be equal to the
25 difference between the taxes assessed against the land and the taxes that would otherwise
26 have been assessed against the land for each of the property tax years for which the land
27 was subject to special assessment under this section before the disqualification.

28 “(d) Additional taxes imposed under paragraph (c) of this subsection shall be deemed as-
29 sessed and imposed in the year to which the additional taxes relate.

30 “(e) The amount determined to be due under this section may be paid to the tax collector
31 prior to the time of the next assessment and tax roll, pursuant to the provisions of ORS
32 311.370.

33 “(f) For purposes of this subsection, unimproved land is not disqualified from special as-
34 sessment and may not be assessed additional taxes solely because the land is no longer used
35 for urban agricultural production outside the effective periods of agreements entered into
36 under subsection (3) of this section.

37 “(6) The designation of an urban agriculture incentive zone under this section is solely
38 for purposes of the special assessment granted under this section and, except as provided in
39 ORS 197.296 (4), has no effect on buildable land inventories or the urban growth boundary
40 of the city or county that designates the zone.

41 “(7) The Department of Revenue may adopt rules necessary for administration of the
42 urban agriculture incentive zone special assessment under this section.”.

43 On page 3, after line 44, insert:

44 “**SECTION 4.** ORS 197.296 is amended to read:

45 “197.296. (1)(a) The provisions of this section apply to metropolitan service district regional

1 framework plans and local government comprehensive plans for lands within the urban growth
2 boundary of a city that is located outside of a metropolitan service district and has a population of
3 25,000 or more.

4 “(b) The Land Conservation and Development Commission may establish a set of factors under
5 which additional cities are subject to the provisions of this section. In establishing the set of factors
6 required under this paragraph, the commission shall consider the size of the city, the rate of popu-
7 lation growth of the city or the proximity of the city to another city with a population of 25,000 or
8 more or to a metropolitan service district.

9 “(2) At periodic review pursuant to ORS 197.628 to 197.651 or at any other legislative review
10 of the comprehensive plan or regional plan that concerns the urban growth boundary and requires
11 the application of a statewide planning goal relating to buildable lands for residential use, a local
12 government shall demonstrate that its comprehensive plan or regional plan provides sufficient
13 buildable lands within the urban growth boundary established pursuant to statewide planning goals
14 to accommodate estimated housing needs for 20 years. The 20-year period shall commence on the
15 date initially scheduled for completion of the periodic or legislative review.

16 “(3) In performing the duties under subsection (2) of this section, a local government shall:

17 “(a) Inventory the supply of buildable lands within the urban growth boundary and determine
18 the housing capacity of the buildable lands; and

19 “(b) Conduct an analysis of housing need by type and density range, in accordance with ORS
20 197.303 and statewide planning goals and rules relating to housing, to determine the number of units
21 and amount of land needed for each needed housing type for the next 20 years.

22 “(4)(a) For the purpose of the inventory described in subsection (3)(a) of this section, ‘buildable
23 lands’ includes:

24 “(A) Vacant lands planned or zoned for residential use;

25 “(B) Partially vacant lands planned or zoned for residential use;

26 “(C) Lands that may be used for a mix of residential and employment uses under the existing
27 planning or zoning; and

28 “(D) Lands that may be used for residential infill or redevelopment.

29 “(b) For the purpose of the inventory and determination of housing capacity described in sub-
30 section (3)(a) of this section, the local government must demonstrate consideration of:

31 “(A) The extent [*that*] **to which** residential development is prohibited or restricted by local
32 regulation and ordinance, state law and rule or federal statute and regulation;

33 “(B) A written long term contract or easement for radio, telecommunications or electrical fa-
34 cilities, if the written contract or easement is provided to the local government; [*and*]

35 “(C) The presence of a single family dwelling or other structure on a lot or parcel[.]; **and**

36 “**(D) The extent to which lands designated by a city or county as urban agriculture in-
37 centive zones will affect future development.**

38 “(c) Except for land that may be used for residential infill or redevelopment, a local government
39 shall create a map or document that may be used to verify and identify specific lots or parcels that
40 have been determined to be buildable lands.

41 “(5)(a) Except as provided in paragraphs (b) and (c) of this subsection, the determination of
42 housing capacity and need pursuant to subsection (3) of this section must be based on data relating
43 to land within the urban growth boundary that has been collected since the last periodic review or
44 five years, whichever is greater. The data shall include:

45 “(A) The number, density and average mix of housing types of urban residential development

1 that have actually occurred;

2 “(B) Trends in density and average mix of housing types of urban residential development;

3 “(C) Demographic and population trends;

4 “(D) Economic trends and cycles; and

5 “(E) The number, density and average mix of housing types that have occurred on the buildable
6 lands described in subsection (4)(a) of this section.

7 “(b) A local government shall make the determination described in paragraph (a) of this sub-
8 section using a shorter time period than the time period described in paragraph (a) of this subsection
9 if the local government finds that the shorter time period will provide more accurate and reliable
10 data related to housing capacity and need. The shorter time period may not be less than three years.

11 “(c) A local government shall use data from a wider geographic area or use a time period for
12 economic cycles and trends longer than the time period described in paragraph (a) of this subsection
13 if the analysis of a wider geographic area or the use of a longer time period will provide more ac-
14 curate, complete and reliable data relating to trends affecting housing need than an analysis per-
15 formed pursuant to paragraph (a) of this subsection. The local government must clearly describe the
16 geographic area, time frame and source of data used in a determination performed under this para-
17 graph.

18 “(6) If the housing need determined pursuant to subsection (3)(b) of this section is greater than
19 the housing capacity determined pursuant to subsection (3)(a) of this section, the local government
20 shall take one or more of the following actions to accommodate the additional housing need:

21 “(a) Amend its urban growth boundary to include sufficient buildable lands to accommodate
22 housing needs for the next 20 years. As part of this process, the local government shall consider the
23 effects of measures taken pursuant to paragraph (b) of this subsection. The amendment shall include
24 sufficient land reasonably necessary to accommodate the siting of new public school facilities. The
25 need and inclusion of lands for new public school facilities shall be a coordinated process between
26 the affected public school districts and the local government that has the authority to approve the
27 urban growth boundary;

28 “(b) Amend its comprehensive plan, regional plan, functional plan or land use regulations to
29 include new measures that demonstrably increase the likelihood that residential development will
30 occur at densities sufficient to accommodate housing needs for the next 20 years without expansion
31 of the urban growth boundary. A local government or metropolitan service district that takes this
32 action shall monitor and record the level of development activity and development density by hous-
33 ing type following the date of the adoption of the new measures; or

34 “(c) Adopt a combination of the actions described in paragraphs (a) and (b) of this subsection.

35 “(7) Using the analysis conducted under subsection (3)(b) of this section, the local government
36 shall determine the overall average density and overall mix of housing types at which residential
37 development of needed housing types must occur in order to meet housing needs over the next 20
38 years. If that density is greater than the actual density of development determined under subsection
39 (5)(a)(A) of this section, or if that mix is different from the actual mix of housing types determined
40 under subsection (5)(a)(A) of this section, the local government, as part of its periodic review, shall
41 adopt measures that demonstrably increase the likelihood that residential development will occur
42 at the housing types and density and at the mix of housing types required to meet housing needs
43 over the next 20 years.

44 “(8)(a) A local government outside a metropolitan service district that takes any actions under
45 subsection (6) or (7) of this section shall demonstrate that the comprehensive plan and land use

1 regulations comply with goals and rules adopted by the commission and implement ORS 197.295 to
2 197.314.

3 “(b) The local government shall determine the density and mix of housing types anticipated as
4 a result of actions taken under subsections (6) and (7) of this section and monitor and record the
5 actual density and mix of housing types achieved. The local government shall compare actual and
6 anticipated density and mix. The local government shall submit its comparison to the commission
7 at the next periodic review or at the next legislative review of its urban growth boundary, which-
8 ever comes first.

9 “(9) In establishing that actions and measures adopted under subsections (6) or (7) of this section
10 demonstrably increase the likelihood of higher density residential development, the local government
11 shall at a minimum ensure that land zoned for needed housing is in locations appropriate for the
12 housing types identified under subsection (3) of this section and is zoned at density ranges that are
13 likely to be achieved by the housing market using the analysis in subsection (3) of this section.
14 Actions or measures, or both, may include but are not limited to:

15 “(a) Increases in the permitted density on existing residential land;

16 “(b) Financial incentives for higher density housing;

17 “(c) Provisions permitting additional density beyond that generally allowed in the zoning district
18 in exchange for amenities and features provided by the developer;

19 “(d) Removal or easing of approval standards or procedures;

20 “(e) Minimum density ranges;

21 “(f) Redevelopment and infill strategies;

22 “(g) Authorization of housing types not previously allowed by the plan or regulations;

23 “(h) Adoption of an average residential density standard; and

24 “(i) Rezoning or redesignation of nonresidential land.”.

25 In line 45, delete “4” and insert “5”.

26 On page 4, line 3, delete “5” and insert “6”.

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