

**PROPOSED AMENDMENTS TO
HOUSE BILL 2723**

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**
4 **production’ means the employment of land for farm use as defined in**
5 **ORS 308A.056.**

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

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

12 **“(3)(a) A city or county may enter into an agreement with an owner**
13 **of unimproved land within an urban agriculture incentive zone pur-**
14 **suant to which the owner agrees to restrict the use of the unimproved**
15 **land to small-scale urban agricultural production for five consecutive**
16 **years.**

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

22 **“(c) The area of unimproved land subject to special assessment may**

1 be smaller than the tax lot of which the area is a part and shall be
2 limited to the area actually used for small-scale urban agricultural
3 production.

4 “(d) A city or county may enter into subsequent five-year agree-
5 ments with an owner of unimproved land granted special assessment
6 under this section that begin after the fifth year of any prior agree-
7 ment entered into under this section.

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

12 “(b) The application must be made on forms prepared by the De-
13 partment of Revenue and supplied by the county assessor and must
14 include:

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

17 “(B) A true copy of the deed, contract of sale, power of attorney
18 or other appropriate instrument evidencing the applicant’s ownership
19 of the land or authority to file the application on behalf of the owner;

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

22 “(D) The affidavit or affirmation of the applicant that the state-
23 ments contained in the application are true.

24 “(c) If the application does not meet all requirements under this
25 section, the county assessor shall reject the application and notify the
26 owner of the rejection. Rejection of an application under this para-
27 graph is not reviewable, but an owner may submit an application for
28 the unimproved land for any subsequent property tax year.

29 “(d) If the application meets all requirements under this section,
30 the county assessor shall approve the application and notify the owner

1 of the approval and the land shall be subject to special assessment
2 under this section for each of the next following five property tax
3 years.

4 “(e) The county assessor shall enter on the assessment and tax roll
5 for the land the notation ‘potential additional tax liability.’

6 “(5)(a) Unimproved land subject to special assessment under this
7 section shall be disqualified from special assessment if the county
8 assessor discovers that, during the term of an agreement entered into
9 under subsection (3) of this section:

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

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

14 “(b) Disqualification under this subsection becomes effective on the
15 January 1 assessment date of the assessment year in which the dis-
16 covery is made if the notice of disqualification required under ORS
17 308A.718 is mailed by the county assessor before August 15 of the
18 property tax year for which the disqualification is asserted.

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

27 “(d) Additional taxes imposed under paragraph (c) of this subsection
28 shall be deemed assessed and imposed in the year to which the addi-
29 tional taxes relate.

30 “(e) The amount determined to be due under this section may be

1 paid to the tax collector prior to the time of the next assessment and
2 tax roll, pursuant to the provisions of ORS 311.370.

3 “(f) For purposes of this subsection, unimproved land is not dis-
4 qualified from special assessment and may not be assessed additional
5 taxes solely because the land is no longer used for urban agricultural
6 production outside the effective periods of agreements entered into
7 under subsection (3) of this section.

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

13 “(7) The Department of Revenue may adopt rules necessary for ad-
14 ministration of the urban agriculture incentive zone special assess-
15 ment under this section.”.

16 On page 3, after line 44, insert:

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

18 “197.296. (1)(a) The provisions of this section apply to metropolitan ser-
19 vice district regional framework plans and local government comprehensive
20 plans for lands within the urban growth boundary of a city that is located
21 outside of a metropolitan service district and has a population of 25,000 or
22 more.

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

29 “(2) At periodic review pursuant to ORS 197.628 to 197.651 or at any other
30 legislative review of the comprehensive plan or regional plan that concerns

1 the urban growth boundary and requires the application of a statewide
2 planning goal relating to buildable lands for residential use, a local govern-
3 ment shall demonstrate that its comprehensive plan or regional plan provides
4 sufficient buildable lands within the urban growth boundary established
5 pursuant to statewide planning goals to accommodate estimated housing
6 needs for 20 years. The 20-year period shall commence on the date initially
7 scheduled for completion of the periodic or legislative review.

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

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

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

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

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

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

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

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

23 “(b) For the purpose of the inventory and determination of housing ca-
24 pacity described in subsection (3)(a) of this section, the local government
25 must demonstrate consideration of:

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

29 “(B) A written long term contract or easement for radio, telecommuni-
30 cations or electrical facilities, if the written contract or easement is provided

1 to the local government; *[and]*

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

4 **“(D) The extent to which lands designated by a city or county as**
5 **urban agriculture incentive zones will affect future development.**

6 “(c) Except for land that may be used for residential infill or redevelop-
7 ment, a local government shall create a map or document that may be used
8 to verify and identify specific lots or parcels that have been determined to
9 be buildable lands.

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

15 “(A) The number, density and average mix of housing types of urban resi-
16 dential development that have actually occurred;

17 “(B) Trends in density and average mix of housing types of urban resi-
18 dential development;

19 “(C) Demographic and population trends;

20 “(D) Economic trends and cycles; and

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

23 “(b) A local government shall make the determination described in para-
24 graph (a) of this subsection using a shorter time period than the time period
25 described in paragraph (a) of this subsection if the local government finds
26 that the shorter time period will provide more accurate and reliable data
27 related to housing capacity and need. The shorter time period may not be
28 less than three years.

29 “(c) A local government shall use data from a wider geographic area or
30 use a time period for economic cycles and trends longer than the time period

1 described in paragraph (a) of this subsection if the analysis of a wider ge-
2 ographic area or the use of a longer time period will provide more accurate,
3 complete and reliable data relating to trends affecting housing need than an
4 analysis performed pursuant to paragraph (a) of this subsection. The local
5 government must clearly describe the geographic area, time frame and source
6 of data used in a determination performed under this paragraph.

7 “(6) If the housing need determined pursuant to subsection (3)(b) of this
8 section is greater than the housing capacity determined pursuant to sub-
9 section (3)(a) of this section, the local government shall take one or more
10 of the following actions to accommodate the additional housing need:

11 “(a) Amend its urban growth boundary to include sufficient buildable
12 lands to accommodate housing needs for the next 20 years. As part of this
13 process, the local government shall consider the effects of measures taken
14 pursuant to paragraph (b) of this subsection. The amendment shall include
15 sufficient land reasonably necessary to accommodate the siting of new public
16 school facilities. The need and inclusion of lands for new public school fa-
17 cilities shall be a coordinated process between the affected public school
18 districts and the local government that has the authority to approve the ur-
19 ban growth boundary;

20 “(b) Amend its comprehensive plan, regional plan, functional plan or land
21 use regulations to include new measures that demonstrably increase the
22 likelihood that residential development will occur at densities sufficient to
23 accommodate housing needs for the next 20 years without expansion of the
24 urban growth boundary. A local government or metropolitan service district
25 that takes this action shall monitor and record the level of development ac-
26 tivity and development density by housing type following the date of the
27 adoption of the new measures; or

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

30 “(7) Using the analysis conducted under subsection (3)(b) of this section,

1 the local government shall determine the overall average density and overall
2 mix of housing types at which residential development of needed housing
3 types must occur in order to meet housing needs over the next 20 years. If
4 that density is greater than the actual density of development determined
5 under subsection (5)(a)(A) of this section, or if that mix is different from the
6 actual mix of housing types determined under subsection (5)(a)(A) of this
7 section, the local government, as part of its periodic review, shall adopt
8 measures that demonstrably increase the likelihood that residential develop-
9 ment will occur at the housing types and density and at the mix of housing
10 types required to meet housing needs over the next 20 years.

11 “(8)(a) A local government outside a metropolitan service district that
12 takes any actions under subsection (6) or (7) of this section shall demonstrate
13 that the comprehensive plan and land use regulations comply with goals and
14 rules adopted by the commission and implement ORS 197.295 to 197.314.

15 “(b) The local government shall determine the density and mix of housing
16 types anticipated as a result of actions taken under subsections (6) and (7)
17 of this section and monitor and record the actual density and mix of housing
18 types achieved. The local government shall compare actual and anticipated
19 density and mix. The local government shall submit its comparison to the
20 commission at the next periodic review or at the next legislative review of
21 its urban growth boundary, whichever comes first.

22 “(9) In establishing that actions and measures adopted under subsections
23 (6) or (7) of this section demonstrably increase the likelihood of higher den-
24 sity residential development, the local government shall at a minimum en-
25 sure that land zoned for needed housing is in locations appropriate for the
26 housing types identified under subsection (3) of this section and is zoned at
27 density ranges that are likely to be achieved by the housing market using
28 the analysis in subsection (3) of this section. Actions or measures, or both,
29 may include but are not limited to:

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

- 1 “(b) Financial incentives for higher density housing;
- 2 “(c) Provisions permitting additional density beyond that generally al-
- 3 lowed in the zoning district in exchange for amenities and features provided
- 4 by the developer;
- 5 “(d) Removal or easing of approval standards or procedures;
- 6 “(e) Minimum density ranges;
- 7 “(f) Redevelopment and infill strategies;
- 8 “(g) Authorization of housing types not previously allowed by the plan
- 9 or regulations;
- 10 “(h) Adoption of an average residential density standard; and
- 11 “(i) Rezoning or redesignation of nonresidential land.”.

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

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

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