



Oregon

Kate Brown, Governor

Department of Land Conservation and Development
Oregon Department of Agriculture
Oregon Department of Forestry
Oregon Department of Fish and Wildlife
Oregon Department of Energy

May 12, 2017

To: Senate President Peter Courtney
Senate Republican Leader Ted Ferrioli
Senator Ginny Burdick, Chair, Senate Rules Committee

Cc: House Speaker Tina Kotek

From: Department of Land Conservation and Development, Oregon Department of Agriculture, Oregon Department of Forestry, Oregon Fish and Wildlife Department, Oregon Department of Energy

Re: Senate Bill 432

Thank you for the opportunity to provide this information and analysis on Senate Bill 432 as introduced and with the -6 amendments recently shared. Our agencies share the stated goals of supporting economic development and thriving, healthy communities in Eastern Oregon. All Oregonians should have opportunities and feel that they have a future for their families in their communities.

This letter highlights the larger concerns and questions we have identified. Overall, we conclude that simply removing the goals of Oregon's land use system is not rural economic development. The challenges faced by rural communities with small populations, loss of natural resource industries such as mills, lack of workforce and affordable housing, is more complex.

Overview of Oregon's Land Use Planning Goals

Oregon's statewide planning goals were initially adopted between 1974 and 1978. Most of the goals have been amended over time, although their basic principles remain intact. The goals establish state policies on urban and rural uses, resource conservation, economic development, affordable housing, urban growth boundaries, coastal protections, natural hazards, transportation and public facilities, and citizen involvement.

Under Senate Bill 100, the state's 241 cities and 36 counties are responsible for adopting local comprehensive plans, zoning land, administering land use regulations, and approving land use permits. Local land use plans must be consistent with the state's land use planning goals.

Because local land use plans are comprehensive in nature, include an inventory of environmental assets and potential impacts, and regulate how land will be developed and where, Oregon does not require environmental impact statements for major developments. Washington State, which has been cited as a model for SB 432, has both a Growth Management Act and requires a state

environmental impact assessment for major developments under the Washington State Environmental Policy Act.

We understand that SB 432 was modelled after Washington's Growth Management Act (GMA). Washington counties that meet certain criteria are allowed to adopt a resolution for partial planning, *not* a complete waiver from the GMA. All counties, including partial planning counties, must plan for natural resource lands and critical areas including: wetlands, aquifer recharge areas, fish and wildlife habitat conservation areas, frequently flooded areas, and geologically hazardous areas. In addition, all Washington counties must perform an environmental impact analysis following the Washington State Environmental Policy Act.

Initial Concerns and Questions with SB 432 and -6 amendments

We understand that more amendments may still be under discussion, so this letter is an initial analysis. If SB 432 were to move forward in its current form, we have significant technical and legal concerns and questions, including how the bill would affect appeals to the Land Use Board of Appeal and the effect on state agency required coordination under the land use system.

1. Need for Effective Local and State Investments in Promoting Economic Development

Our initial analysis of Senate Bill 432 concludes that if local governments choose to implement it, there will be new costs on cities and counties to change and implement their plans. There will also be state costs for implementation. State agencies are required to comply with Oregon's land use planning goals in their permitting decisions, and we have questions about how the bill would affect state agencies' programs and permits.

With limited local and state resources, we encourage a more targeted and focused approach that would include helping Eastern Oregon counties assess barriers and opportunities to economic development and develop and implement plans to address those barriers and opportunities.

2. Effect on Working Farms, Ranches and Forests

Oregon's land use Goals 3 and 4 – the Agricultural Lands and Forest Lands goals – help keep working lands from being converted or fragmented into parcels too small to manage effectively for agricultural and timber production, and provide the basis for right-to farm protections and special farm tax assessments. Such protections are critical: non-farm and non-forest development on or near working resource lands increases conflicts with farm and forest use and land costs, driving up the cost of production.

Despite structural changes in the economy of the nation and the state, farming and forestry continue to be significant contributors to Oregon's economic and employment base. Relative to other states, Oregon has done a far better job conserving farm and forest lands for agricultural and timber-related uses. The most recent *U.S. Census of Agriculture* (2012) demonstrates that Oregon is conserving large and mid-sized farms at a much higher rate than the rest of the

nation—loss of large farms in Oregon is less than half the national rate, and loss of mid-sized farms is almost one fourth the national rate.

Oregon's agriculture, food and fiber industry is economically linked to approximately \$50 billion in Oregon sales, and represents nearly 11 percent of Oregon's net state product and 14 percent of full and part-time jobs in Oregon. Oregon continues to be the leading producer of timber in the U.S., and jobs in forest products sector continue to be the leading source of "traded sector" employment in many parts of the state. By keeping lands in active timber and agricultural production, Oregon's land use system has helped sustain rural communities and their economies. Well-managed farms, ranches and forests also support healthy habitats and watersheds for native fish and wildlife.

3. Oregon's Land Use System Reduces Loss from Wildfires

In addition to maintaining working forests, Oregon's land use goals help reduce the risk and impact of wildfire on communities and families. The Oregon Global Warming Commission's recent report to the Legislature included statistics showing that nationally, homes and structures lost annually by wildfires has increased from 405 lost in the 1970's to 4500 lost in 2015. In contrast, the Oregon Department of Forestry's Forest, *Farms and People* Land Use Report demonstrates the effectiveness Oregon's land use planning system to minimize the risk of wildfire to homeowners and rural communities.

4. Removing Land Use Goals Creates Economic, Environmental and Infrastructure Gaps and Uncertainty

Oregon does not have a state environmental impact process because it relies on Oregon's statewide land use planning program. State agencies are directed to issue permits consistent with the statewide planning goals and local land use plans, as well as other applicable laws. Local land use plans are comprehensive in nature, and include an inventory of environmental assets and potential impacts, and regulate how land will be developed and where. Oregon's natural resources protection goal (Goal 5) requires local governments to consider the economic, social, environmental, and energy consequences of land use.

As an example, siting of energy facilities is based on Oregon's statewide goals. Without a consistent approach provided in the statewide goals, there is less certainty and predictability for energy facilities. While the intent of the bill may be to allow less restrictive land use regulations, the bill does not preclude land use standards that are more restrictive than statewide planning goals, or that do not comply with statewide planning goals.

Under current law, local governments are precluded from including additional land use standards on many uses within Exclusive Farm Use zoned land. Transmission lines and associated transmission lines fall within this group of uses – they can only be reviewed according to what is established in statute and state rules. If a county were to adopt more restrictive or different standards, it could be more difficult, if not impossible, to site associated transmission lines

related to energy development facilities and bulk transmission lines. Delivery of sufficient power through transmission lines is necessary for economic growth, in particular for energy intensive industries such as food processing and data centers.

5. Risk of Undermining Oregon's Sage-Grouse Action Plan

In the U.S. Fish and Wildlife Service's (USFWS) 2015 decision not to list the sage grouse under the Endangered Species Act, the USFWS committed to review the status of the species in five years. The USFWS stated that particular attention will be placed on the timely implementation of the state's sage-grouse conservation plans which were foundational to the decision not to list.

The -6 amendments require the counties to comply with the land use rules related to sage-grouse, although we have questions about how the language would be applied and implemented. However, a critical part of the decision to not list the sage-grouse was based on the comprehensive nature of the statewide land use system. The dual goals of the sage grouse action plan to protect sage grouse habitat and working farms and ranches is also based on Goal 3 protections of agricultural lands and Goal 5 protection of mesic habitats (wetlands) which benefit sage-grouse. Oregon cannot afford questions about the efficacy of its Sage-Grouse Action Plan as we near the five year evaluation.

Conclusion

Our agencies are committed to continued productive conversations about the barriers to economic development in Eastern Oregon, which we do not believe would be effectively addressed by SB 432. Please let us know if further information from any of our agencies would be helpful.

Sincerely,



Carrie MacLaren, Deputy Director
Department of Land Conservation and
Development

Todd Cornett, Assistant Director
Oregon Department of Energy

Lisa Hanson, Deputy Director
Department of Agriculture

Nancy Hirsch, Deputy Director
Department of Forestry

Shannon Hurn, Deputy Director
Department of Fish and Wildlife