

Senate Bill 432

Sponsored by Senator FERRIOLI (Pre-session filed.)

SUMMARY

The following summary is not prepared by the sponsors of the measure and is not a part of the body thereof subject to consideration by the Legislative Assembly. It is an editor's brief statement of the essential features of the measure **as introduced**.

Allows rural county with no population growth, and certain local governments in county, to adopt comprehensive land use plan without complying with statewide land use planning goals.

A BILL FOR AN ACT

1
2 Relating to land use planning that does not comply with goals in rural counties with no population
3 growth; creating new provisions; and amending ORS 197.250, 197.319 and 197.320.

4 **Be It Enacted by the People of the State of Oregon:**

5 **SECTION 1.** ORS 197.250 is amended to read:

6 197.250. Except as otherwise provided in ORS 197.245 **or section 3 of this 2017 Act**, all com-
7 prehensive plans and land use regulations adopted by a local government to carry out those com-
8 prehensive plans and all plans, programs, rules or regulations affecting land use adopted by a state
9 agency or special district shall be in compliance with the goals within one year after the date those
10 goals are approved by the Land Conservation and Development Commission.

11 **SECTION 2.** Section 3 of this 2017 Act is added to and made a part of ORS chapter 197.

12 **SECTION 3.** (1) **The Legislative Assembly finds and declares that:**

13 (a) **Oregon's rural lands and rural communities are important to Oregon's economy, its**
14 **people and its environment.**

15 (b) **While respecting regional differences, rural lands and rural communities enhance the**
16 **character and economic desirability of our state, help to preserve traditional economic ac-**
17 **tivities and contribute to the quality of life in Oregon.**

18 (c) **To retain and enhance the job base in rural areas, rural counties must have the**
19 **ability to:**

20 (A) **Create opportunities for business development; and**

21 (B) **Retain, and facilitate expansion of, existing businesses.**

22 (d) **Business development in rural counties does not necessarily require an urban level**
23 **of services.**

24 (e) **Many business opportunities in rural areas fit within the desired rural character of**
25 **these lands and communities.**

26 (2) **A county with a population of less than 50,000, based on the most recent federal**
27 **decennial census, that has not experienced population growth since the previous federal**
28 **decennial census, or a local government jurisdiction with 51 percent or more of its population**
29 **within the county, may:**

30 (a) **Adopt a resolution declaring its intention to adopt a comprehensive plan and land use**
31 **regulations implementing the plan for which acknowledgment under ORS 197.251 is not re-**

NOTE: Matter in **boldfaced** type in an amended section is new; matter [*italic and bracketed*] is existing law to be omitted. New sections are in **boldfaced** type.

1 **quired; and**

2 **(b) Adopt a comprehensive plan and land use regulations that do not comply with the**
3 **statewide land use planning goals.**

4 **(3) If a local government adopts a comprehensive plan and land use regulations as de-**
5 **scribed in subsection (2) of this section and subsequently ceases to meet the criteria de-**
6 **scribed in subsection (2) of this section, the local government shall amend the plan and**
7 **regulations to comply with the statewide land use planning goals within one year after the**
8 **local government ceases to meet the criteria.**

9 **(4) A local government that adopts a comprehensive plan and land use regulations under**
10 **this section shall:**

11 **(a) Make land use decisions in compliance with the plan and regulations; and**

12 **(b) Submit the plan and regulations, and subsequent amendments to the plan and regu-**
13 **lations, to the Land Conservation and Development Commission within 30 days after the local**
14 **government makes the plan and regulations, or the amendments, effective.**

15 **(5) Notwithstanding the exception in subsection (2) of this section to the requirement for**
16 **acknowledgment under ORS 197.251, references in the Oregon Revised Statutes to an ac-**
17 **knowledged comprehensive plan, or acknowledged land use regulations, include a compre-**
18 **hensive plan or land use regulations adopted in compliance with this section.**

19 **SECTION 4.** ORS 197.320 is amended to read:

20 197.320. (1) The Land Conservation and Development Commission shall issue an order requiring
21 a local government, state agency or special district to take action necessary to bring its compre-
22 hensive plan, land use regulation, limited land use decisions or other land use decisions into com-
23 pliance with the goals, acknowledged comprehensive plan provisions or land use regulations if the
24 commission has good cause to believe:

25 [(1)] **(a)** A comprehensive plan or land use regulation adopted by a local government not on a
26 compliance schedule is not in compliance with the goals by the date set in ORS 197.245 or 197.250
27 **or section 3 of this 2017 Act** for [such] compliance;

28 [(2)] **(b)** A plan, program, rule or regulation affecting land use adopted by a state agency or
29 special district is not in compliance with the goals by the date set in ORS 197.245 or 197.250 for
30 such compliance;

31 [(3)] **(c)** A local government is not making satisfactory progress toward performance of its
32 compliance schedule;

33 [(4)] **(d)** A state agency is not making satisfactory progress in carrying out its coordination
34 agreement or the requirements of ORS 197.180;

35 [(5)] **(e)** A local government [has no] **does not have a** comprehensive plan or land use regulation
36 and is not on a compliance schedule directed to developing the plan or regulation;

37 [(6)] **(f)** A local government has engaged in a pattern or practice of decision making that vio-
38 lates an acknowledged comprehensive plan or land use regulation[. *In making its determination under*
39 *this subsection, the commission shall determine whether there is evidence in the record to support the*
40 *decisions made. The commission shall not judge the issue solely upon adequacy of the findings in*
41 *support of the decisions];*

42 [(7)] **(g)** A local government has failed to comply with a commission order entered under ORS
43 197.644;

44 [(8)] **(h)** A special district has engaged in a pattern or practice of decision-making that violates
45 an acknowledged comprehensive plan or cooperative agreement adopted pursuant to ORS 197.020;

1 [(9)] (i) A special district is not making satisfactory progress toward performance of its obli-
 2 gations under ORS chapters 195 and 197;

3 [(10)] (j) A local government’s approval standards, special conditions on approval of specific
 4 development proposals or procedures for approval do not comply with ORS 197.307 (4) or (6);

5 [(11)] (k) A local government is not making satisfactory progress toward meeting its obligations
 6 under ORS 195.065; or

7 [(12)] (L) A local government within the jurisdiction of a metropolitan service district has failed
 8 to make changes to the comprehensive plan or land use regulations to comply with the regional
 9 framework plan of the district or has engaged in a pattern or practice of decision-making that vio-
 10 lates a requirement of the regional framework plan.

11 **(2) In making its determination under subsection (1)(f) of this section, the commission**
 12 **shall determine whether there is evidence in the record to support the decisions made. The**
 13 **commission may not judge the issue solely upon adequacy of the findings in support of the**
 14 **decisions.**

15 **SECTION 5.** ORS 197.319 is amended to read:

16 197.319. (1) Before a person may request adoption of an enforcement order under ORS 197.320,
 17 the person shall:

18 (a) Present the reasons, in writing, for such an order to the affected local government; and

19 (b) Request:

20 (A) Revisions to the local comprehensive plan, land use regulations, special district cooperative
 21 or urban service agreement or decision-making process which is the basis for the order; or

22 (B) That an action be taken regarding the local comprehensive plan, land use regulations, spe-
 23 cial district agreement or decision-making process that is the basis for the order.

24 (2)(a) The local government or special district shall issue a written response to the request
 25 within 60 days of the date the request is mailed to the local government or special district.

26 (b) The requestor and the local government or special district may enter into mediation to re-
 27 solve issues in the request. The Department of Land Conservation and Development shall provide
 28 mediation services when jointly requested by the local government or special district and the
 29 requestor.

30 (c) If the local government or special district does not act in a manner which the requestor
 31 believes is adequate to address the issues raised in the request within the time period provided in
 32 paragraph (a) of this subsection, a petition may be presented to the Land Conservation and Devel-
 33 opment Commission under ORS 197.324.

34 (3) A metropolitan service district may request an enforcement order under ORS 197.320 [(12)]
 35 **(1)(L)** without first complying with subsections (1) and (2) of this section.

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