

Senate Bill 547

Sponsored by Senator THATCHER (Presession 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**.

Eliminates authority of metropolitan service district to make certain land use decisions, urban growth decisions and rural reserve and urban reserve designations.

Prohibits metropolitan service district from adopting land use planning goals, enacting land use regulations, adopting regional framework plan, coordinating with special districts and serving as metropolitan planning organization.

Permits metropolitan service district to advise, but not require, cities and counties to coordinate air quality, water quality and transportation planning.

A BILL FOR AN ACT

1
2 Relating to authority of metropolitan service districts; amending ORS 195.020, 195.025, 195.060,
3 195.065, 195.141, 195.143, 195.145, 197.015, 197.254, 197.296, 197.299, 197.301, 197.302, 197.309,
4 197.319, 197.320, 197.505, 197.626, 197.629, 197.651, 199.705, 199.715, 199.725, 199.735, 199.740,
5 199.750, 199.760, 199.780, 199.795, 268.347, 268.351, 268.380, 268.390, 268.710, 285C.500, 308A.350,
6 308A.700 and 451.010 and section 9, chapter 59, Oregon Laws 2016; and repealing ORS 199.742,
7 199.777, 268.354 and 268.385.

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

9 **SECTION 1.** ORS 268.380 is amended to read:

10 268.380. (1) A district may **coordinate its activities with the land use planning development**
11 **activities of the federal government, other local governmental bodies situated within this**
12 **state or within any other state and any agency of this state or another state. [.]**

13 *[(a) Adopt land-use planning goals and objectives for the district consistent with goals adopted*
14 *under ORS chapters 195, 196 and 197;]*

15 *[(b) Review the comprehensive plans in effect on January 1, 1979, or subsequently adopted by the*
16 *cities and counties within the district and recommend that cities and counties, as the district considers*
17 *necessary, make changes in any plan to ensure that the plan conforms to the district's metropolitan area*
18 *goals and objectives and the statewide goals;]*

19 *[(c) Coordinate the land-use planning activities of that portion of the cities and counties within the*
20 *district; and]*

21 *[(d) Coordinate its activities and the related activities of the cities and counties within the district*
22 *with the land-use planning development activities of the federal government, other local governmental*
23 *bodies situated within this state or within any other state and any agency of this state or another*
24 *state.]*

25 *[(2) When a district is required by a district charter to adopt a regional framework plan, the re-*
26 *gional framework plan shall include and be consistent with land use planning goals and objectives*
27 *adopted by the district.]*

28 **(2) A district may not:**

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 (a) Adopt land use planning goals or objectives;

2 (b) Enact land use regulations;

3 (c) Adopt a regional framework plan;

4 (d) Designate urban reserves or rural reserves pursuant to ORS 195.137 to 195.145 or
5 enter into an intergovernmental agreement for the purpose of making such designations;

6 (e) Exercise coordinative functions pursuant to ORS 195.020 and 195.025; or

7 (f) Serve as a metropolitan planning organization for the purposes of federal law.

8 **SECTION 2.** ORS 268.390 is amended to read:

9 268.390. (1) A district may define and apply a planning procedure that identifies and designates
10 areas and activities having significant impact upon the orderly and responsible development of the
11 metropolitan area, including, but not limited to, impact on:

12 (a) Air quality;

13 (b) Water quality; and

14 (c) Transportation.

15 (2) A district may *[prepare and adopt functional plans]* **advise, but not require, cities and**
16 **counties within the district to provide a coordinated response** for those areas designated under
17 subsection (1) of this section to control metropolitan area impact on air and water quality, trans-
18 portation and other aspects of metropolitan area development the district may identify.

19 *[(3)(a) A district shall adopt an urban growth boundary for the district in compliance with appli-*
20 *cable goals adopted under ORS chapters 195, 196 and 197. When a district includes land designated*
21 *as urban reserve under ORS 195.145 (1)(b) within an urban growth boundary pursuant to ORS 197.298*
22 *(1), the district is not required to consider the capability classification system or the cubic foot site class*
23 *of the land as described in ORS 197.298 (2).]*

24 *[(b) Notwithstanding the procedural requirements for boundary changes under ORS 268.354, when*
25 *the district adopts an urban growth boundary, the urban growth boundary becomes the boundary of*
26 *the district.]*

27 *[(4) A district may review the comprehensive plans adopted by the cities and counties within the*
28 *district that affect areas designated by the district under subsection (1) of this section or the urban*
29 *growth boundary adopted under subsection (3) of this section and recommend or require cities and*
30 *counties, as it considers necessary, to make changes in any plan to ensure that the plan and any actions*
31 *taken under the plan substantially comply with the district's functional plans adopted under subsection*
32 *(2) of this section and its urban growth boundary adopted under subsection (3) of this section.]*

33 *[(5) Pursuant to a regional framework plan, a district may adopt implementing ordinances that:]*

34 *[(a) Require local comprehensive plans and implementing regulations to substantially comply with*
35 *the regional framework plan within two years after compliance acknowledgment.]*

36 *[(b) Require adjudication and determination by the district of the consistency of local comprehen-*
37 *sive plans with the regional framework plan.]*

38 *[(c) Require each city and county within the jurisdiction of the district and making land use deci-*
39 *sions concerning lands within the land use jurisdiction of the district to make those decisions consistent*
40 *with the regional framework plan. The obligation to apply the regional framework plan to land use*
41 *decisions shall not begin until one year after the regional framework plan is acknowledged as com-*
42 *plying with the statewide land use planning goals adopted under ORS chapters 195, 196 and 197.]*

43 *[(d) Require changes in local land use standards and procedures if the district determines that*
44 *changes are necessary to remedy a pattern or practice of decision-making inconsistent with the regional*
45 *framework plan.]*

1 *[(6) A process established by the district to enforce the requirements of this section must provide:]*

2 *[(a) Notice of noncompliance to the city or county.]*

3 *[(b) Opportunity for the city or county to be heard.]*

4 *[(c) Entry of an order by the district explaining its findings, conclusions and enforcement remedies,*
 5 *if any.]*

6 *[(7) Enforcement remedies ordered under subsection (6) of this section may include, but are not*
 7 *limited to:]*

8 *[(a) Direct application of specified requirements of functional plans to land use decisions by the city*
 9 *or county;]*

10 *[(b) Withholding by the district of discretionary funds from the city or county; and]*

11 *[(c) Requesting an enforcement action pursuant to ORS 197.319 to 197.335 and withholding moneys*
 12 *pursuant to an enforcement order resulting from the enforcement action.]*

13 *[(8) An order issued under subsection (6) of this section:]*

14 *[(a) Must provide for relief from enforcement remedies upon action by the city or county that brings*
 15 *the comprehensive plan and implementing regulations into substantial compliance with the*
 16 *requirement.]*

17 *[(b) Is subject to review under ORS 197.830 to 197.845 as a land use decision.]*

18 *[(9) The regional framework plan, ordinances that implement the regional framework plan and any*
 19 *determination by the district of consistency with the regional framework plan are subject to review*
 20 *under ORS 197.274.]*

21 **SECTION 3.** ORS 195.020 is amended to read:

22 195.020. (1) Special districts shall exercise their planning duties, powers and responsibilities and
 23 take actions that are authorized by law with respect to programs affecting land use, including a city
 24 or special district boundary change as defined in ORS 197.175 (1), in accordance with goals approved
 25 pursuant to ORS chapters 195, 196 and 197.

26 (2) A county assigned coordinative functions under ORS 195.025 (1), *or the metropolitan service*
 27 *district, which is assigned coordinative functions for Multnomah, Washington and Clackamas counties*
 28 *by ORS 195.025 (1),* shall enter into a cooperative agreement with each special district that provides
 29 an urban service within the boundaries of the county *[or the metropolitan district]*. A county *[or the*
 30 *metropolitan service district]* may enter into a cooperative agreement with any other special district
 31 operating within the boundaries of the county *[or the metropolitan district]*.

32 (3) The appropriate city and county *[and, if within the boundaries of the metropolitan service*
 33 *district, the metropolitan service district,]* shall enter into a cooperative agreement with each special
 34 district that provides an urban service within an urban growth boundary. The appropriate city and
 35 county, *and the metropolitan service district,* may enter into a cooperative agreement with any other
 36 special district operating within an urban growth boundary.

37 (4) The agreements described in subsection (2) of this section shall conform to the requirements
 38 of paragraphs (a) to (d), *(f) and (g)* **and (f)** of this subsection. The agreements described in sub-
 39 section (3) of this section shall:

40 (a) Describe how the city or county will involve the special district in comprehensive planning,
 41 including plan amendments, periodic review and amendments to land use regulations;

42 (b) Describe the responsibilities of the special district in comprehensive planning, including plan
 43 amendments, periodic review and amendments to land use regulations regarding provision of urban
 44 services;

45 (c) Establish the role and responsibilities of each party to the agreement with respect to city

1 or county approval of new development;

2 (d) Establish the role and responsibilities of the city or county with respect to district interests
3 including, where applicable, water sources, capital facilities and real property, including rights of
4 way and easements;

5 (e) Specify the units of local government which shall be parties to an urban service agreement
6 under ORS 195.065; **and**

7 *[(f) If a metropolitan service district is a party to the agreement, describe how the metropolitan
8 service district will involve the special district in the exercise of the metropolitan service district's re-
9 gional planning responsibilities; and]*

10 *[(g)]* (f) Contain such other provisions as the Land Conservation and Development Commission
11 may require by rule.

12 (5) Agreements required under subsections (2) and (3) of this section are subject to review by
13 the commission. The commission may provide by rule for periodic submission and review of cooper-
14 ative agreements to insure that they are consistent with acknowledged comprehensive plans.

15 **SECTION 4.** ORS 195.025 is amended to read:

16 195.025. (1) In addition to the responsibilities stated in ORS 197.175, each county, through its
17 governing body, shall be responsible for coordinating all planning activities affecting land uses
18 within the county, including planning activities of the county, cities, special districts and state
19 agencies, to assure an integrated comprehensive plan for the entire area of the county. *[In addition
20 to being subject to the provisions of ORS chapters 195, 196 and 197 with respect to city or special
21 district boundary changes, as defined by ORS 197.175 (1), the governing body of the metropolitan ser-
22 vice district shall be considered the county review, advisory and coordinative body for Multnomah,
23 Clackamas and Washington Counties for the areas within that district.]*

24 (2) For the purposes of carrying out ORS chapters 195, 196 and 197, counties may voluntarily
25 join together with adjacent counties as authorized in ORS 190.003 to 190.620.

26 (3) Whenever counties and cities representing 51 percent of the population in their area petition
27 the Land Conservation and Development Commission for an election in their area to form a regional
28 planning agency to exercise the authority of the counties under subsection (1) of this section in the
29 area, the commission shall review the petition. If it finds that the area described in the petition
30 forms a reasonable planning unit, it shall call an election in the area on a date specified in ORS
31 203.085, to form a regional planning agency. The election shall be conducted in the manner provided
32 in ORS chapter 255. The county clerk shall be considered the elections officer and the commission
33 shall be considered the district elections authority. The agency shall be considered established if the
34 majority of votes favor the establishment.

35 (4) If a voluntary association of local governments adopts a resolution ratified by each partic-
36 ipating county and a majority of the participating cities therein which authorizes the association to
37 perform the review, advisory and coordination functions assigned to the counties under subsection
38 (1) of this section, the association may perform such duties.

39 **SECTION 5.** ORS 195.141 is amended to read:

40 195.141. (1) A county *[and a metropolitan service district established under ORS chapter 268 may
41 enter into an intergovernmental agreement pursuant to ORS 190.003 to 190.130, 195.025 or 197.652 to
42 197.658 to]* **may** designate rural reserves pursuant to this section and urban reserves pursuant to
43 ORS 195.145 (1)*[(b)].*

44 (2) Land designated as a rural reserve:

45 (a) Must be outside an urban growth boundary.

1 (b) May not be designated as an urban reserve during the urban reserve planning period de-
2 scribed in ORS 195.145 (4).

3 (c) May not be included within an urban growth boundary during the period of time described
4 in paragraph (b) of this subsection.

5 (3) When designating a rural reserve under this section to provide long-term protection to the
6 agricultural industry, a county [*and a metropolitan service district*] shall base the designation on
7 consideration of factors including, but not limited to, whether land proposed for designation as a
8 rural reserve:

9 (a) Is situated in an area that is otherwise potentially subject to urbanization during the period
10 described in subsection (2)(b) of this section, as indicated by proximity to the urban growth boundary
11 and to properties with fair market values that significantly exceed agricultural values;

12 (b) Is capable of sustaining long-term agricultural operations;

13 (c) Has suitable soils and available water where needed to sustain long-term agricultural oper-
14 ations; and

15 (d) Is suitable to sustain long-term agricultural operations, taking into account:

16 (A) The existence of a large block of agricultural or other resource land with a concentration
17 or cluster of farms;

18 (B) The adjacent land use pattern, including its location in relation to adjacent nonfarm uses
19 and the existence of buffers between agricultural operations and nonfarm uses;

20 (C) The agricultural land use pattern, including parcelization, tenure and ownership patterns;
21 and

22 (D) The sufficiency of agricultural infrastructure in the area.

23 (4) The Land Conservation and Development Commission shall, after consultation with the State
24 Department of Agriculture, adopt by goal or by rule a process and criteria for designating rural
25 reserves pursuant to this section.

26 **SECTION 6.** ORS 195.143 is amended to read:

27 195.143. (1) A county [*and a metropolitan service district*] must consider simultaneously the des-
28 ignation and establishment of:

29 (a) Rural reserves pursuant to ORS 195.141; and

30 (b) Urban reserves pursuant to ORS 195.145 (1)(b)].

31 [(2) *An agreement between a county and a metropolitan service district to establish rural reserves*
32 *pursuant to ORS 195.141 and urban reserves pursuant to ORS 195.145 (1)(b) must provide for a coor-*
33 *ordinated and concurrent process for adoption by the county of comprehensive plan provisions and by the*
34 *district of regional framework plan provisions to implement the agreement. A district may not designate*
35 *urban reserves pursuant to ORS 195.145 (1)(b) in a county until the county and the district have en-*
36 *tered into an agreement pursuant to ORS 195.145 (1)(b) that identifies the land to be designated by the*
37 *district in the district's regional framework plan as urban reserves. A county may not designate rural*
38 *reserves pursuant to ORS 195.141 until the county and the district have entered into an agreement*
39 *pursuant to ORS 195.141 that identifies the land to be designated as rural reserves by the county in*
40 *the county's comprehensive plan.*]

41 [(3) *A county and a metropolitan service district may not enter into an intergovernmental agreement*
42 *to designate urban reserves in the county pursuant to ORS 195.145 (1)(b) unless the county and the*
43 *district also agree to designate rural reserves in the county.*]

44 **(2) A county may not designate urban reserves in the county pursuant to ORS 195.145 (1)**
45 **unless the county also designates rural reserves in the county.**

1 [(4)] (3) Designation and protection of rural reserves pursuant to ORS 195.141 or urban reserves
 2 pursuant to ORS 195.145 (1)[(b)]:

3 (a) Is not a basis for a claim for compensation under ORS 195.305 unless the designation and
 4 protection of rural reserves or urban reserves imposes a new restriction on the use of private real
 5 property.

6 (b) Does not impair the rights and immunities provided under ORS 30.930 to 30.947.

7 **SECTION 7.** ORS 195.145 is amended to read:

8 195.145. (1) To ensure that the supply of land available for urbanization is maintained, **local**
 9 **governments may cooperatively designate lands outside urban growth boundaries as urban**
 10 **reserves subject to ORS 197.610 to 197.625 and 197.626.**[:]

11 [(a) *Local governments may cooperatively designate lands outside urban growth boundaries as ur-*
 12 *ban reserves subject to ORS 197.610 to 197.625 and 197.626.*]

13 [(b) *Alternatively, a metropolitan service district established under ORS chapter 268 and a county*
 14 *may enter into a written agreement pursuant to ORS 190.003 to 190.130, 195.025 or 197.652 to 197.658*
 15 *to designate urban reserves. A process and criteria developed pursuant to this paragraph are an al-*
 16 *ternative to a process or criteria adopted pursuant to paragraph (a) of this subsection.*]

17 (2)(a) The Land Conservation and Development Commission may require a local government to
 18 designate an urban reserve pursuant to subsection (1)[(a)] of this section during its periodic review
 19 in accordance with the conditions for periodic review under ORS 197.628.

20 (b) Notwithstanding paragraph (a) of this subsection, the commission may require a local gov-
 21 ernment to designate an urban reserve pursuant to subsection (1)[(a)] of this section outside of its
 22 periodic review if:

23 (A) The local government is located inside a Primary Metropolitan Statistical Area or a Met-
 24 ropolitan Statistical Area as designated by the Federal Census Bureau upon November 4, 1993; and

25 (B) The local government has been required to designate an urban reserve by rule prior to No-
 26 vember 4, 1993.

27 (3) In carrying out subsections (1) and (2) of this section:

28 (a) Within an urban reserve, neither the commission nor any local government shall prohibit the
 29 siting on a legal parcel of a single family dwelling that would otherwise have been allowed under
 30 law existing prior to designation as an urban reserve.

31 (b) The commission shall provide to local governments a list of options, rather than prescribing
 32 a single planning technique, to ensure the efficient transition from rural to urban use in urban re-
 33 serves.

34 (4) Urban reserves designated by [*a metropolitan service district and a county*] **a local govern-**
 35 **ment** pursuant to subsection (1)[(b)] of this section must be planned to accommodate population and
 36 employment growth for at least 20 years, and not more than 30 years, after the 20-year period for
 37 which the district has demonstrated a buildable land supply in the most recent inventory, determi-
 38 nation and analysis performed under ORS 197.296.

39 (5) A [*district and a county*] **local government** shall base the designation of urban reserves un-
 40 der subsection (1)[(b)] of this section upon consideration of factors including, but not limited to,
 41 whether land proposed for designation as urban reserves, alone or in conjunction with land inside
 42 the urban growth boundary:

43 (a) Can be developed at urban densities in a way that makes efficient use of existing and future
 44 public infrastructure investments;

45 (b) Includes sufficient development capacity to support a healthy urban economy;

1 (c) Can be served by public schools and other urban-level public facilities and services efficiently
2 and cost-effectively by appropriate and financially capable service providers;

3 (d) Can be designed to be walkable and served by a well-connected system of streets by appro-
4 priate service providers;

5 (e) Can be designed to preserve and enhance natural ecological systems; and

6 (f) Includes sufficient land suitable for a range of housing types.

7 (6) A county may take an exception under ORS 197.732 to a statewide land use planning goal
8 to allow the establishment of a transportation facility in an area designated as urban reserve under
9 subsection (1)(b) of this section.

10 (7) The commission shall adopt by goal or by rule a process and criteria for designating urban
11 reserves pursuant to subsection (1)(b) of this section.

12 **SECTION 8.** ORS 197.296 is amended to read:

13 197.296. (1)(a) The provisions of this section apply to [*metropolitan service district regional*
14 *framework plans and*] local government comprehensive plans for lands within the urban growth
15 boundary of a city that is located **within a metropolitan service district or a city that is located**
16 outside of a metropolitan service district and has a population of 25,000 or more.

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

22 (2) At periodic review pursuant to ORS 197.628 to 197.651 or at any other legislative review of
23 the comprehensive plan [*or regional framework plan*] that concerns the urban growth boundary and
24 requires the application of a statewide planning goal relating to buildable lands for residential use,
25 a local government shall demonstrate that its comprehensive plan [*or regional framework plan*] pro-
26 vides sufficient buildable lands within the urban growth boundary established pursuant to statewide
27 planning goals to accommodate estimated housing needs for 20 years. The 20-year period shall
28 commence on the date initially scheduled for completion of the periodic or legislative review.

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

30 (a) Inventory the supply of buildable lands within the urban growth boundary and determine the
31 housing capacity of the buildable lands; and

32 (b) Conduct an analysis of housing need by type and density range, in accordance with ORS
33 197.303 and statewide planning goals and rules relating to housing, to determine the number of units
34 and amount of land needed for each needed housing type for the next 20 years.

35 (4)(a) For the purpose of the inventory described in subsection (3)(a) of this section, "buildable
36 lands" includes:

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

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

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

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

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

44 (A) The extent that residential development is prohibited or restricted by local regulation and
45 ordinance, state law and rule or federal statute and regulation;

1 (B) A written long term contract or easement for radio, telecommunications or electrical facili-
2 ties, if the written contract or easement is provided to the local government; and

3 (C) The presence of a single family dwelling or other structure on a lot or parcel.

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

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

11 (A) The number, density and average mix of housing types of urban residential development that
12 have actually occurred;

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

14 (C) Demographic and population trends;

15 (D) Economic trends and cycles; and

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

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

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

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

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

39 (b) Amend its comprehensive plan, [*regional framework plan,*] functional plan or land use regu-
40 lations to include new measures that demonstrably increase the likelihood that residential develop-
41 ment will occur at densities sufficient to accommodate housing needs for the next 20 years without
42 expansion of the urban growth boundary. A local government or metropolitan service district that
43 takes this action shall monitor and record the level of development activity and development density
44 by housing type following the date of the adoption of the new measures; or

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

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

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

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

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

- 26 (a) Increases in the permitted density on existing residential land;
- 27 (b) Financial incentives for higher density housing;
- 28 (c) Provisions permitting additional density beyond that generally allowed in the zoning district
 29 in exchange for amenities and features provided by the developer;
- 30 (d) Removal or easing of approval standards or procedures;
- 31 (e) Minimum density ranges;
- 32 (f) Redevelopment and infill strategies;
- 33 (g) Authorization of housing types not previously allowed by the plan or regulations;
- 34 (h) Adoption of an average residential density standard; and
- 35 (i) Rezoning or redesignation of nonresidential land.

36 **SECTION 9.** ORS 197.299 is amended to read:

37 197.299. (1) A **city within a** metropolitan service district organized under ORS chapter 268 shall
 38 complete the inventory, determination and analysis required under ORS 197.296 (3) not later than
 39 six years after completion of the previous inventory, determination and analysis.

40 (2)(a) The [*metropolitan service district*] **city** shall take such action as necessary under ORS
 41 197.296 (6)(a) to accommodate one-half of a 20-year buildable land supply determined under ORS
 42 197.296 (3) within one year of completing the analysis.

43 (b) The [*metropolitan service district*] **city** shall take all final action under ORS 197.296 (6)(a)
 44 necessary to accommodate a 20-year buildable land supply determined under ORS 197.296 (3) within
 45 two years of completing the analysis.

1 (c) The [*metropolitan service district*] **city** shall take action under ORS 197.296 (6)(b), within one
2 year after the analysis required under ORS 197.296 (3)(b) is completed, to provide sufficient buildable
3 land within the urban growth boundary to accommodate the estimated housing needs for 20 years
4 from the time the actions are completed. The [*metropolitan service district*] **city** shall consider and
5 adopt new measures that the governing body deems appropriate under ORS 197.296 (6)(b).

6 (3) The Land Conservation and Development Commission may grant an extension to the time
7 limits of subsection (2) of this section if the Director of the Department of Land Conservation and
8 Development determines that the [*metropolitan service district*] **city** has provided good cause for
9 failing to meet the time limits.

10 (4)(a) The [*metropolitan service district*] **city** shall establish a process to expand the urban growth
11 boundary to accommodate a need for land for a public school that cannot reasonably be accommo-
12 dated within the existing urban growth boundary. The [*metropolitan service district*] **city** shall design
13 the process to:

14 (A) Accommodate a need that must be accommodated between periodic analyses of urban growth
15 boundary capacity required by subsection (1) of this section; and

16 (B) Provide for a final decision on a proposal to expand the urban growth boundary within four
17 months after submission of a complete application by a large school district as defined in ORS
18 195.110.

19 (b) At the request of a large school district, the [*metropolitan service district*] **city** shall assist
20 the large school district to identify school sites required by the school facility planning process de-
21 scribed in ORS 195.110. A need for a public school is a specific type of identified land need under
22 ORS 197.298 (3).

23 **SECTION 10.** ORS 197.301 is amended to read:

24 197.301. (1) A **city within a** metropolitan service district organized under ORS chapter 268 shall
25 compile and report to the Department of Land Conservation and Development on performance
26 measures as described in this section at least once every two years. The information shall be re-
27 ported in a manner prescribed by the department.

28 (2) Performance measures subject to subsection (1) of this section shall be adopted by a [*metro-*
29 *politan service district*] **city** and shall include but are not limited to measures that analyze the fol-
30 lowing:

31 (a) The rate of conversion of vacant land to improved land;

32 (b) The density and price ranges of residential development, including both single family and
33 multifamily residential units;

34 (c) The level of job creation within individual cities and the urban areas of a county inside the
35 metropolitan service district;

36 (d) The number of residential units added to small sites assumed to be developed in the [*metro-*
37 *politan service district's*] **city's** inventory of available lands but which can be further developed, and
38 the conversion of existing spaces into more compact units with or without the demolition of existing
39 buildings;

40 (e) The amount of environmentally sensitive land that is protected and the amount of environ-
41 mentally sensitive land that is developed;

42 (f) The sales price of vacant land;

43 (g) Residential vacancy rates;

44 (h) Public access to open spaces; and

45 (i) Transportation measures including mobility, accessibility and air quality indicators.

1 **SECTION 11.** ORS 197.302 is amended to read:

2 197.302. (1) After gathering and compiling information on the performance measures as described
3 in ORS 197.301 but prior to submitting the information to the Department of Land Conservation and
4 Development, a **city within a** metropolitan service district shall determine if actions taken under
5 ORS 197.296 (6) have established the buildable land supply and housing densities necessary to ac-
6 commodate estimated housing needs determined under ORS 197.296 (3). If the [*metropolitan service*
7 *district*] **city** determines that the actions undertaken will not accommodate estimated need, the
8 [*district*] **city** shall develop a corrective action plan, including a schedule for implementation. The
9 [*district*] **city** shall submit the plan to the department along with the report on performance meas-
10 ures required under ORS 197.301. Corrective action under this section may include amendment of
11 the urban growth boundary, comprehensive plan[, *regional framework plan, functional plan*] or land
12 use regulations as described in ORS 197.296.

13 (2) Within two years of submitting a corrective action plan to the department, the [*metropolitan*
14 *service district*] **city** shall demonstrate by reference to the performance measures described in ORS
15 197.301 that implementation of the plan has resulted in the buildable land supply and housing den-
16 sity within the urban growth boundary necessary to accommodate the estimated housing needs for
17 each housing type as determined under ORS 197.296 (3).

18 (3) The failure of the [*metropolitan service district*] **city** to demonstrate the buildable land supply
19 and housing density necessary to accommodate housing needs as required under this section and
20 ORS 197.296 may be the basis for initiation of enforcement action pursuant to ORS 197.319 to
21 197.335.

22 **SECTION 12.** ORS 197.015 is amended to read:

23 197.015. As used in ORS chapters 195, 196 and 197 and ORS 197A.300 to 197A.325, unless the
24 context requires otherwise:

25 (1) “Acknowledgment” means a commission order that certifies that a comprehensive plan and
26 land use regulations, land use regulation or plan or regulation amendment complies with the goals
27 or certifies that [*Metro land use planning goals and objectives,*] **the** Metro regional framework plan,
28 amendments to Metro planning goals and objectives or amendments to the Metro regional frame-
29 work plan comply with the goals.

30 (2) “Board” means the Land Use Board of Appeals.

31 (3) “Carport” means a stationary structure consisting of a roof with its supports and not more
32 than one wall, or storage cabinet substituting for a wall, and used for sheltering a motor vehicle.

33 (4) “Commission” means the Land Conservation and Development Commission.

34 (5)(a) “Comprehensive plan” means a generalized, coordinated land use map and policy state-
35 ment of the governing body of a local government that interrelates all functional and natural sys-
36 tems and activities relating to the use of lands, including but not limited to sewer and water
37 systems, transportation systems, educational facilities, recreational facilities, and natural resources
38 and air and water quality management programs.

39 **(b) As used in this subsection:**

40 **(A)** “Comprehensive” means all-inclusive, both in terms of the geographic area covered and
41 functional and natural activities and systems occurring in the area covered by the plan. [*“General*
42 *nature” means a summary of policies and proposals in broad categories and does not necessarily in-*
43 *dicade specific locations of any area, activity or use. A plan is “coordinated” when the needs of all*
44 *levels of governments, semipublic and private agencies and the citizens of Oregon have been considered*
45 *and accommodated as much as possible.*]

1 **(B) “Coordinated land use map” means a land use map that considers and accommodates,**
2 **as much as possible, the needs of all levels of governments, semipublic and private agencies**
3 **and the citizens of Oregon.**

4 (C) “Land” includes water, both surface and subsurface, and the air.

5 (6) “Department” means the Department of Land Conservation and Development.

6 (7) “Director” means the Director of the Department of Land Conservation and Development.

7 (8) “Goals” means the mandatory statewide land use planning standards adopted by the com-
8 mission pursuant to ORS chapters 195, 196 and 197.

9 (9) “Guidelines” means suggested approaches designed to aid, **but not limit to a single ap-**
10 **proach,** cities and counties in preparation, adoption and implementation of comprehensive plans in
11 compliance with goals and to aid state agencies and special districts in the preparation, adoption
12 and implementation of plans, programs and regulations in compliance with goals. [*Guidelines shall*
13 *be advisory and shall not limit state agencies, cities, counties and special districts to a single*
14 *approach.*]

15 (10) “Land use decision”:

16 (a) Includes:

17 (A) A final decision or determination made by a local government or special district that con-
18 cerns the adoption, amendment or application of:

19 (i) The goals;

20 (ii) A comprehensive plan provision;

21 (iii) A land use regulation; or

22 (iv) A new land use regulation;

23 (B) A final decision or determination of a state agency other than the commission with respect
24 to which the agency is required to apply the goals; or

25 (C) A decision of a county planning commission made under ORS 433.763;

26 (b) Does not include a decision of a local government:

27 (A) That is made under land use standards that do not require interpretation or the exercise
28 of policy or legal judgment;

29 (B) That approves or denies a building permit issued under clear and objective land use stan-
30 dards;

31 (C) That is a limited land use decision;

32 (D) That determines final engineering design, construction, operation, maintenance, repair or
33 preservation of a transportation facility that is otherwise authorized by and consistent with the
34 comprehensive plan and land use regulations;

35 (E) That is an expedited land division as described in ORS 197.360;

36 (F) That approves, pursuant to ORS 480.450 (7), the siting, installation, maintenance or removal
37 of a liquefied petroleum gas container or receptacle regulated exclusively by the State Fire Marshal
38 under ORS 480.410 to 480.460;

39 (G) That approves or denies approval of a final subdivision or partition plat or that determines
40 whether a final subdivision or partition plat substantially conforms to the tentative subdivision or
41 partition plan; or

42 (H) That a proposed state agency action subject to ORS 197.180 (1) is compatible with the ac-
43 knowledged comprehensive plan and land use regulations implementing the plan, if:

44 (i) The local government has already made a land use decision authorizing a use or activity that
45 encompasses the proposed state agency action;

1 (ii) The use or activity that would be authorized, funded or undertaken by the proposed state
2 agency action is allowed without review under the acknowledged comprehensive plan and land use
3 regulations implementing the plan; or

4 (iii) The use or activity that would be authorized, funded or undertaken by the proposed state
5 agency action requires a future land use review under the acknowledged comprehensive plan and
6 land use regulations implementing the plan;

7 (c) Does not include a decision by a school district to close a school;

8 (d) Does not include, except as provided in ORS 215.213 (13)(c) or 215.283 (6)(c), authorization
9 of an outdoor mass gathering as defined in ORS 433.735, or other gathering of fewer than 3,000
10 persons that is not anticipated to continue for more than 120 hours in any three-month period; and

11 (e) Does not include:

12 (A) A writ of mandamus issued by a circuit court in accordance with ORS 215.429 or 227.179;

13 (B) Any local decision or action taken on an application subject to ORS 215.427 or 227.178 after
14 a petition for a writ of mandamus has been filed under ORS 215.429 or 227.179; or

15 (C) A state agency action subject to ORS 197.180 (1), if:

16 (i) The local government with land use jurisdiction over a use or activity that would be au-
17 thorized, funded or undertaken by the state agency as a result of the state agency action has already
18 made a land use decision approving the use or activity; or

19 (ii) A use or activity that would be authorized, funded or undertaken by the state agency as a
20 result of the state agency action is allowed without review under the acknowledged comprehensive
21 plan and land use regulations implementing the plan.

22 (11) “Land use regulation” means any local government zoning ordinance, land division ordi-
23 nance adopted under ORS 92.044 or 92.046 or similar general ordinance establishing standards for
24 implementing a comprehensive plan.

25 (12) “Limited land use decision”:

26 (a) Means a final decision or determination made by a local government pertaining to a site
27 within an urban growth boundary that concerns:

28 (A) The approval or denial of a tentative subdivision or partition plan, as described in ORS
29 92.040 (1).

30 (B) The approval or denial of an application based on discretionary standards designed to reg-
31 ulate the physical characteristics of a use permitted outright, including but not limited to site re-
32 view and design review.

33 (b) Does not mean a final decision made by a local government pertaining to a site within an
34 urban growth boundary that concerns approval or denial of a final subdivision or partition plat or
35 that determines whether a final subdivision or partition plat substantially conforms to the tentative
36 subdivision or partition plan.

37 (13) “Local government” means any city[,] or county [*or metropolitan service district formed un-*
38 *der ORS chapter 268*] or an association of local governments performing land use planning functions
39 under ORS 195.025.

40 (14) “Metro” means a metropolitan service district organized under ORS chapter 268.

41 [(15) “Metro planning goals and objectives” means the land use goals and objectives that a metro-
42 politan service district may adopt under ORS 268.380 (1)(a). The goals and objectives do not constitute
43 a comprehensive plan.]

44 [(16)] (15) “Metro regional framework plan” means the regional framework plan required by the
45 1992 Metro Charter or its separate components. [*Neither the regional framework plan nor its indi-*

1 *vidual components constitute a comprehensive plan.]*

2 [(17)] (16) “New land use regulation” means a land use regulation other than an amendment to
3 an acknowledged land use regulation adopted by a local government that already has a compre-
4 hensive plan and land regulations acknowledged under ORS 197.251.

5 [(18)] (17) “Person” means any individual, partnership, corporation, association, governmental
6 subdivision or agency or public or private organization of any kind. The Land Conservation and
7 Development Commission or its designee is considered a person for purposes of appeal under ORS
8 chapters 195 and 197.

9 [(19)] (18) “Special district” means any unit of local government, other than a city, county,
10 metropolitan service district formed under ORS chapter 268 or an association of local governments
11 performing land use planning functions under ORS 195.025, authorized and regulated by statute.
12 [and] “**Special district**” includes but is not limited to water control districts, domestic water asso-
13 ciations and water cooperatives, irrigation districts, port districts, regional air quality control au-
14 thorities, fire districts, school districts, hospital districts, mass transit districts and sanitary
15 districts.

16 [(20)] (19) “Urban unincorporated community” means an area designated in a county’s ac-
17 knowledged comprehensive plan as an urban unincorporated community after December 5, 1994.

18 [(21)] (20) “Voluntary association of local governments” means a regional planning agency in
19 this state officially designated by the Governor pursuant to the federal Office of Management and
20 Budget Circular A-95 as a regional clearinghouse.

21 [(22)] (21) “Wetlands” means those areas that are inundated or saturated by surface or ground
22 water at a frequency and duration that are sufficient to support, and that under normal circum-
23 stances do support, a prevalence of vegetation typically adapted for life in saturated soil conditions.

24 **SECTION 13.** ORS 195.060 is amended to read:

25 195.060. As used in ORS 195.020, 195.065 to 195.085 and 197.005, unless the context requires
26 otherwise:

27 (1) “District” has the meaning given that term in ORS 198.010. In addition, the term includes a
28 county service district organized under ORS chapter 451.

29 (2) “Urban growth boundary” means an acknowledged urban growth boundary contained in a
30 city or county comprehensive plan[*or an acknowledged urban growth boundary that has been adopted*
31 *by a metropolitan service district council under ORS 268.390 (3)*].

32 (3) “Urban service” has the meaning given that term in ORS 195.065.

33 **SECTION 14.** ORS 197.254 is amended to read:

34 197.254. (1) A state agency is barred, after the date set for submission of programs by the Land
35 Conservation and Development Commission as provided in ORS 197.180 (4), from contesting a re-
36 quest for acknowledgment submitted by a local government under ORS 197.251 or from filing an
37 appeal of a post-acknowledgement change under ORS 197.610 to 197.625 to a comprehensive plan or
38 a land use regulation, if the commission finds that:

39 (a) The state agency has not complied with ORS 197.180; or

40 (b) The state agency has not coordinated its plans, programs or rules affecting land use with the
41 comprehensive plan or land use regulations of the city or county pursuant to a coordination program
42 approved by the commission under ORS 197.180.

43 (2) A state agency is barred from seeking a commission order under ORS 197.644 requiring
44 amendment of a local government comprehensive plan or a land use regulation in order to comply
45 with the agency’s plan or program unless the agency has first requested the amendment from the

1 local government and has had its request denied.

2 (3) A special district is barred from contesting a request for initial compliance acknowledgment
3 submitted by a local government under ORS 197.251 or from filing an appeal of a post-
4 acknowledgement change under ORS 197.610 to 197.625 to a comprehensive plan or a land use reg-
5 ulation, if the county [*or metropolitan service district*] assigned coordinative functions under ORS
6 195.025 (1) finds that:

7 (a) The special district has not entered into a cooperative agreement under ORS 195.020; or

8 (b) The special district has not coordinated its plans, programs or regulations affecting land use
9 with the comprehensive plan or land use regulations of the local government pursuant to its coop-
10 erative agreement made under ORS 195.020.

11 (4) A special district is barred from seeking a commission order under ORS 197.644 requiring
12 amendment of a local government comprehensive plan or a land use regulation in order to comply
13 with the special district's plan or program unless the special district has first requested the
14 amendment from the local government and has had its request denied.

15 **SECTION 15.** ORS 197.309, as amended by section 1, chapter 59, Oregon Laws 2016, is amended
16 to read:

17 197.309. (1) As used in this section:

18 (a) "Affordable housing" means housing that is affordable to households with incomes equal to
19 or higher than 80 percent of the median family income for the county in which the housing is built.

20 (b) "Multifamily structure" means a structure that contains three or more housing units sharing
21 at least one wall, floor or ceiling surface in common with another unit within the same structure.

22 (2) [*Except as provided in subsection (3) of this section,*] A metropolitan service district may not
23 adopt a land use regulation or functional plan provision, or impose as a condition for approving a
24 permit under ORS 215.427 or 227.178 a requirement, that has the effect of establishing the sales or
25 rental price for a housing unit or residential building lot or parcel, or that requires a housing unit
26 or residential building lot or parcel to be designated for sale or rent to a particular class or group
27 of purchasers or renters.

28 [(3) *The provisions of subsection (2) of this section do not limit the authority of a metropolitan*
29 *service district to:*]

30 [(a) *Adopt or enforce a use regulation, provision or requirement creating or implementing an in-*
31 *centive, contract commitment, density bonus or other voluntary regulation, provision or requirement*
32 *designed to increase the supply of moderate or lower cost housing units; or]*

33 [(b) *Enter into an affordable housing covenant as provided in ORS 456.270 to 456.295.*]

34 [(4)] (3) Notwithstanding ORS 91.225, a city or county may adopt a land use regulation or
35 functional plan provision, or impose as a condition for approving a permit under ORS 215.427 or
36 227.178 a requirement, that has the effect of establishing the sales or rental price for a new multi-
37 family structure, or that requires a new multifamily structure to be designated for sale or rent as
38 affordable housing.

39 [(5)] (4) A regulation, provision or requirement adopted or imposed under subsection [(4)] (3) of
40 this section:

41 (a) May not require more than 20 percent of housing units within a multifamily structure to be
42 sold or rented as affordable housing;

43 (b) May apply only to multifamily structures containing at least 20 housing units;

44 (c) Must provide developers the option to pay an in-lieu fee, in an amount determined by the city
45 or county, in exchange for providing the requisite number of housing units within the multifamily

1 structure to be sold or rented at below-market rates; and

2 (d) Must require the city or county to offer a developer of multifamily structures, other than a
3 developer that elects to pay an in-lieu fee pursuant to paragraph (c) of this subsection, at least one
4 of the following incentives:

5 (A) Whole or partial fee waivers or reductions.

6 (B) Whole or partial waivers of system development charges or impact fees set by the city or
7 county.

8 (C) Finance-based incentives.

9 (D) Full or partial exemption from ad valorem property taxes on the terms described in this
10 subparagraph. For purposes of any statute granting a full or partial exemption from ad valorem
11 property taxes that uses a definition of “low income” to mean income at or below 60 percent of the
12 area median income and for which the multifamily structure is otherwise eligible, the city or county
13 shall allow the multifamily structure of the developer to qualify using a definition of “low income”
14 to mean income at or below 80 percent of the area median income.

15 [(6)] **(5)** A regulation, provision or requirement adopted or imposed under subsection [(4)] **(3)** of
16 this section may offer developers one or more of the following incentives:

17 (a) Density adjustments.

18 (b) Expedited service for local permitting processes.

19 (c) Modification of height, floor area or other site-specific requirements.

20 (d) Other incentives as determined by the city or county.

21 [(7)] **(6)** Subsection [(4)] **(3)** of this section does not restrict the authority of a city or county to
22 offer developers voluntary incentives, including incentives to:

23 (a) Increase the number of affordable housing units in a development.

24 (b) Decrease the sale or rental price of affordable housing units in a development.

25 (c) Build affordable housing units that are affordable to households with incomes equal to or
26 lower than 80 percent of the median family income for the county in which the housing is built.

27 [(8)(a)] **(7)(a)** A city or county that adopts or imposes a regulation, provision or requirement
28 described in subsection [(4)] **(3)** of this section may not apply the regulation, provision or require-
29 ment to any multifamily structure for which an application for a permit, as defined in ORS 215.402
30 or 227.160, has been submitted as provided in ORS 215.416 or 227.178 (3), or, if such a permit is not
31 required, a building permit application has been submitted to the city or county prior to the effec-
32 tive date of the regulation, provision or requirement.

33 (b) If a multifamily structure described in paragraph (a) of this subsection has not been com-
34 pleted within the period required by the permit issued by the city or county, the developer of the
35 multifamily structure shall resubmit an application for a permit, as defined in ORS 215.402 or
36 227.160, as provided in ORS 215.416 or 227.178 (3), or, if such a permit is not required, a building
37 permit application under the regulation, provision or requirement adopted by the city or county
38 under subsection [(4)] **(3)** of this section.

39 [(9)(a)] **(8)(a)** A city or county that adopts or imposes a regulation, provision or requirement
40 under subsection [(4)] **(3)** of this section shall adopt and apply only clear and objective standards,
41 conditions and procedures regulating the development of affordable housing units within its juris-
42 diction. The standards, conditions and procedures may not have the effect, either individually or
43 cumulatively, of discouraging development of affordable housing units through unreasonable cost or
44 delay.

45 (b) Paragraph (a) of this subsection does not apply to:

1 (A) An application or permit for residential development in an area identified in a formally
 2 adopted central city plan, or a regional center as defined by Metro, in a city with a population of
 3 500,000 or more.

4 (B) An application or permit for residential development in historic areas designated for pro-
 5 tection under a land use planning goal protecting historic areas.

6 (c) In addition to an approval process for affordable housing based on clear and objective stan-
 7 dards, conditions and procedures as provided in paragraph (a) of this subsection, a city or county
 8 may adopt and apply an alternative approval process for applications and permits for residential
 9 development based on approval criteria regulating, in whole or in part, appearance or aesthetics
 10 that are not clear and objective if:

11 (A) The developer retains the option of proceeding under the approval process that meets the
 12 requirements of paragraph (a) of this subsection;

13 (B) The approval criteria for the alternative approval process comply with applicable statewide
 14 land use planning goals and rules; and

15 (C) The approval criteria for the alternative approval process authorize a density at or above
 16 the density level authorized in the zone under the approval process provided in paragraph (a) of this
 17 subsection.

18 ~~[(10)]~~ (9) If a regulation, provision or requirement adopted or imposed by a city or county under
 19 subsection ~~[(4)]~~ (3) of this section requires that a percentage of housing units in a new multifamily
 20 structure be designated as affordable housing, any incentives offered under subsection ~~[(5)(d) or (6)]~~
 21 (4)(d) or (5) of this section shall be related in a manner determined by the city or county to the
 22 required percentage of affordable housing units.

23 **SECTION 16.** ORS 197.319 is amended to read:

24 197.319. (1) Before a person may request adoption of an enforcement order under ORS 197.320,
 25 the person shall:

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

27 (b) Request:

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

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

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

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

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

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

44 **SECTION 17.** ORS 197.320 is amended to read:

45 197.320. (1) The Land Conservation and Development Commission shall issue an order requiring

1 a local government, state agency or special district to take action necessary to bring its compre-
 2 hensive plan, land use regulation, limited land use decisions or other land use decisions into com-
 3 pliance with the goals, acknowledged comprehensive plan provisions or land use regulations if the
 4 commission has good cause to believe:

5 [(1)] (a) A comprehensive plan or land use regulation adopted by a local government not on a
 6 compliance schedule is not in compliance with the goals by the date set in ORS 197.245 or 197.250
 7 for such compliance;

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

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

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

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

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

22 [(7)] (g) A local government has failed to comply with a commission order entered under ORS
 23 197.644;

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

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

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

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

32 [(12) *A local government within the jurisdiction of a metropolitan service district has failed to make*
 33 *changes to the comprehensive plan or land use regulations to comply with the regional framework plan*
 34 *of the district or has engaged in a pattern or practice of decision-making that violates a requirement*
 35 *of the regional framework plan].*

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

40 **SECTION 18.** ORS 197.505 is amended to read:

41 197.505. As used in ORS 197.505 to 197.540:

42 (1) "Public facilities" means those public facilities for which a public facilities plan is required
 43 under ORS 197.712.

44 (2) "Special district" refers to only those entities as defined in ORS 197.015 [(19)] (18) that pro-
 45 vide services for which public facilities plans are required.

1 **SECTION 19.** ORS 197.651 is amended to read:

2 197.651. (1) Judicial review of a final order of the Land Conservation and Development Com-
3 mission under ORS 197.626 concerning the designation of urban reserves under ORS 195.145 (1)[(b)]
4 or rural reserves under ORS 195.141 is as provided in subsections (3) to (12) of this section.

5 (2) Judicial review of any other final order of the commission under ORS 197.626 or of a final
6 order of the commission under 197.180, 197.251, 197.628 to 197.651, 197.652 to 197.658, 197.659,
7 215.780 or 215.788 to 215.794 is as provided in subsections (3) to (7), (9), (10) and (12) of this section.

8 (3) A proceeding for judicial review under this section may be instituted by filing a petition in
9 the Court of Appeals. The petition must be filed within 21 days after the date the commission de-
10 livered or mailed the order upon which the petition is based.

11 (4) The filing of the petition, as set forth in subsection (3) of this section, and service of a peti-
12 tion on the persons who submitted oral or written testimony in the proceeding before the commis-
13 sion are jurisdictional and may not be waived or extended.

14 (5) The petition must state the nature of the order the petitioner seeks to have reviewed. Copies
15 of the petition must be served by registered or certified mail upon the commission and the persons
16 who submitted oral or written testimony in the proceeding before the commission.

17 (6) Within 21 days after service of the petition, the commission shall transmit to the Court of
18 Appeals the original or a certified copy of the entire record of the proceeding under review. How-
19 ever, by stipulation of the parties to the review proceeding, the record may be shortened. The Court
20 of Appeals may tax a party that unreasonably refuses to stipulate to limit the record for the addi-
21 tional costs. The Court of Appeals may require or permit subsequent corrections or additions to the
22 record. Except as specifically provided in this subsection, the Court of Appeals may not tax the cost
23 of the record to the petitioner or an intervening party. However, the Court of Appeals may tax the
24 costs to a party that files a frivolous petition for judicial review.

25 (7) Petitions and briefs must be filed within time periods and in a manner established by the
26 Court of Appeals by rule.

27 (8) The Court of Appeals shall:

28 (a) Hear oral argument within 49 days of the date of transmittal of the record unless the Court
29 of Appeals determines that the ends of justice served by holding oral argument on a later day out-
30 weigh the best interests of the public and the parties. However, the Court of Appeals may not hold
31 oral argument more than 49 days after the date of transmittal of the record because of general
32 congestion of the court calendar or lack of diligent preparation or attention to the case by a member
33 of the court or a party.

34 (b) Set forth in writing and provide to the parties a determination to hear oral argument more
35 than 49 days from the date the record is transmitted, together with the reasons for the determi-
36 nation. The Court of Appeals shall schedule oral argument as soon as is practicable.

37 (c) Consider, in making a determination under paragraph (b) of this subsection:

38 (A) Whether the case is so unusual or complex, due to the number of parties or the existence
39 of novel questions of law, that 49 days is an unreasonable amount of time for the parties to brief
40 the case and for the Court of Appeals to prepare for oral argument; and

41 (B) Whether the failure to hold oral argument at a later date likely would result in a miscar-
42 riage of justice.

43 (9) The court:

44 (a) Shall limit judicial review of an order reviewed under this section to the record.

45 (b) May not substitute its judgment for that of the Land Conservation and Development Com-

1 mission as to an issue of fact.

2 (10) The Court of Appeals may affirm, reverse or remand an order reviewed under this section.
3 The Court of Appeals shall reverse or remand the order only if the court finds the order is:

4 (a) Unlawful in substance or procedure. However, error in procedure is not cause for reversal
5 or remand unless the Court of Appeals determines that substantial rights of the petitioner were
6 prejudiced.

7 (b) Unconstitutional.

8 (c) Not supported by substantial evidence in the whole record as to facts found by the commis-
9 sion.

10 (11) The Court of Appeals shall issue a final order on the petition for judicial review with the
11 greatest possible expediency.

12 (12) If the order of the commission is remanded by the Court of Appeals or the Supreme Court,
13 the commission shall respond to the court's appellate judgment within 30 days.

14 **SECTION 20.** ORS 268.710 is amended to read:

15 268.710. (1) The electors of any metropolitan service district, by majority vote of such electors
16 voting thereon at any legally called election, may adopt, amend, revise or repeal a charter for the
17 district. The charter, or legislation passed by the district pursuant thereto, shall provide a method
18 whereby the electors of the district, by majority vote of such electors voting thereon at any legally
19 called election, may amend, revise or repeal the charter.

20 (2) Provisions of a district charter and district legislation that relate to the amendment, revision
21 or repeal of a district charter are matters of metropolitan concern and shall prevail over conflicting
22 provisions of state law that are first effective after January 1, 1999, unless such law specifically
23 provides otherwise. After January 1, 1997, no person may commence or maintain an action to
24 challenge the validity of a district charter existing and effective on January 1, 1997, on the basis
25 of inconsistency or conflict between the district charter and ORS 268.030, 268.300, 268.310, 268.317,
26 268.318, 268.320, 268.330, 268.340, 268.345, 268.357, 268.360, 268.370, 268.500, 268.505, 268.507, 268.520,
27 268.525, 268.530, 268.590, 268.600 to 268.660 and 268.990. To the extent that provisions of a district
28 charter limit the exercise of a power granted by the statutes listed in this subsection, the provisions
29 of the district charter shall be given full force and effect. In addition to any authority expressly
30 granted to a metropolitan service district by the Legislative Assembly, a district charter is an in-
31 dependent grant of authority by the affected electorate pursuant to section 1 (5), Article IV and
32 section 2, Article XI of the Oregon Constitution.

33 (3) A charter of a metropolitan service district shall prescribe the organization of the district
34 government and shall provide directly, or by its authority, for the number, election or appointment,
35 qualifications, tenure, compensation, powers and duties of such officers as the district considers
36 necessary. Such officers shall among them exercise all the powers and perform all the duties, as
37 granted to, imposed upon or distributed among district officers by the Constitution or laws of this
38 state, by the district charter or by its authority.

39 (4) Any reference to the executive officer of a metropolitan service district in statutes of this
40 state relating to elections or government ethics shall be construed to include any district officer
41 who serves in an elective office and performs executive functions. Any reference in a district charter
42 to a district court judge may be construed as referring to a judge of the circuit court.

43 (5) As used in this section, "legally called election" means an election held on the same date
44 as a primary election or general election held throughout this state.

45 (6) Consistent with ORS 197.013, the land use planning authority granted to a district under ORS

1 chapter 268 is a matter of statewide concern. Provisions of a district charter and implementing or-
 2 dinances adopted and effective on January 1, 1997, that establish procedural requirements relating
 3 to the exercise of land use planning authority of the district, including but not limited to require-
 4 ments for local government advisory committees, are supplementary to ORS 268.380, [268.385,]
 5 268.390 and ORS chapter 197. After January 1, 1997, no person may commence or maintain an action
 6 to challenge the validity of such district charter provisions or implementing ordinances on the basis
 7 of inconsistency or conflict with the procedural requirements of ORS 268.380[, 268.385] or 268.390
 8 or the procedural requirements of ORS chapter 197 existing on January 1, 1997.

9 (7) If a district charter is repealed, the provisions of the charter providing for district officers,
 10 their powers and duties and the election of such officers shall continue in effect until the Legislative
 11 Assembly provides by law for the restructuring or dissolution of the district.

12 **SECTION 21.** ORS 285C.500 is amended to read:

13 285C.500. As used in ORS 285C.500 to 285C.506:

14 (1) "Business firm" has the meaning given that term in ORS 285C.050.

15 (2) "County per capita personal income" means the per capita personal income level published
 16 by the Bureau of Economic Analysis of the United States Department of Commerce for a county.

17 (3) "County unemployment rate" means the most recently available unemployment rate for the
 18 county, as determined by the Employment Department.

19 (4) "Facility" means the land, real property improvements and personal property that are used
 20 by a business firm to conduct business operations, and that are the subject of an application for
 21 preliminary certification under ORS 285C.503 or annual certification under ORS 285C.506.

22 (5) "Qualified location" means any area that is:

23 (a) Zoned for industrial use or is within the urban growth boundary of a city that has 15,000 or
 24 fewer residents; and

25 (b) Located in a county that, during either of the two years preceding the date an application
 26 for preliminary certification is filed under ORS 285C.503, had both:

27 (A) A county unemployment rate that was in the top half of county unemployment rates in this
 28 state; and

29 (B) A county per capita personal income that was in the bottom half of county per capita per-
 30 sonal incomes in this state.

31 (6) "Urban growth boundary" means an urban growth boundary contained in a city or county
 32 comprehensive plan that has been acknowledged by the Land Conservation and Development Com-
 33 mission pursuant to ORS 197.251 [*or an urban growth boundary that has been adopted by a metro-*
 34 *politan service district under ORS 268.390 (3)*].

35 **SECTION 22.** ORS 308A.350 is amended to read:

36 308A.350. As used in ORS 308A.350 to 308A.383:

37 (1) "Owner" means the party or parties having the fee interest in land, except that where land
 38 is subject to a real estate sales contract, "owner" means the contract vendee under a recorded
 39 contract.

40 (2) "Department" means the State Department of Fish and Wildlife.

41 (3) "Designated riparian land" means the beds of streams, the adjacent vegetation communities,
 42 and the land thereunder, which are predominantly influenced by their association with water, not
 43 to extend more than 100 feet landward of the line of nonaquatic vegetation, which are privately
 44 owned and which qualify for exemption under ORS 308A.350 to 308A.383.

45 (4) "Urban growth boundary" means an urban growth boundary contained in a city or county

1 comprehensive plan that has been acknowledged by the Land Conservation and Development Com-
2 mission pursuant to ORS 197.251 [*or an urban growth boundary that has been adopted by a metro-*
3 *politan service district council under ORS 268.390 (3)*].

4 **SECTION 23.** ORS 308A.700 is amended to read:

5 308A.700. As used in ORS 308A.700 to 308A.733:

6 (1) "Disqualification" includes the removal of forestland designation under ORS 321.359, 321.712,
7 321.716 or 321.842.

8 (2) "Urban growth boundary" means an urban growth boundary contained in a city or county
9 comprehensive plan that has been acknowledged by the Land Conservation and Development Com-
10 mission pursuant to ORS 197.251 [*or an urban growth boundary that has been adopted by a metro-*
11 *politan service district under ORS 268.390 (3)*].

12 **SECTION 24.** ORS 451.010 is amended to read:

13 451.010. (1) Master plans and service districts may be established as provided by this chapter
14 regarding:

15 (a) Sewage works, including all facilities necessary for collecting, pumping, treating and dispos-
16 ing of sanitary or storm sewage.

17 (b) Drainage works, including all facilities necessary for collecting, pumping and disposing of
18 storm and surface water.

19 (c) Street lighting works, including all facilities necessary for the lighting of streets and high-
20 ways.

21 (d) Public parks and recreation facilities, including land, structures, equipment, supplies and
22 personnel necessary to acquire, develop and maintain such public park and recreation facilities and
23 to administer a program of supervised recreation services.

24 (e) Diking and flood control works, including all facilities necessary for diking and control of
25 watercourses.

26 (f) Water supply works and service, including all facilities necessary for tapping natural sources
27 of domestic and industrial water, treating and protecting the quality of the water and transmitting
28 it to the point of sale to any person, city, domestic water supply corporation or other public or
29 private agency for domestic, municipal and industrial water supply service.

30 (g) Solid waste disposal. This paragraph does not apply in Clackamas, Multnomah and
31 Washington Counties.

32 (h) Public transportation, including public depots, public parking and the motor vehicles and
33 other equipment necessary for the transportation of persons together with their personal property.

34 (i) Agricultural educational extension services.

35 (j) Emergency medical services, including ambulance services.

36 (k) Library services.

37 (L) Roads.

38 (m) Services related to the emergency communications system established under ORS 403.105 to
39 403.250.

40 (n) Law enforcement services.

41 (o) Human services.

42 (p) Cemetery maintenance.

43 (q) Animal control.

44 (2) Within the geographical jurisdiction of any local government boundary commission estab-
45 lished by or pursuant to ORS 199.410 to 199.519, in addition to the purposes described in subsection

1 (1) of this section, master plans and service districts may be established as provided by this chapter
2 regarding:

- 3 (a) Fire prevention and protection.
- 4 (b) Hospital and ambulance services.
- 5 (c) Vector control.
- 6 (d) Weather modification.

7 (3) Within the boundaries of any subdivision, service districts may be established as provided
8 by this chapter regarding:

- 9 (a) Fire prevention and protection.

10 (b) Security services provided by contract with an association of homeowners whose property
11 is located entirely within the boundaries of the service district, which services may include the
12 enforcement of the rules or regulations of the association dealing with public access to or the use
13 of the property of the association, routine patrolling and inspection of private areas located within
14 the jurisdiction of the association and matters of traffic and safety within such areas.

- 15 (c) Law enforcement services.

- 16 (d) Hospital and ambulance services.

- 17 (e) Vector control.

- 18 (f) Activities set forth in subsection (1)(a), (f), (g), (j) and (m) of this section.

19 (4) As used in subsection (3) of this section, “subdivision” means a subdivision as defined by ORS
20 92.010 or any contiguous group of such subdivisions that:

21 (a) Is a planned community within the meaning of ORS 94.550 without regard to whether such
22 subdivision or group of subdivisions is subject to ORS 94.550 to 94.783;

23 (b) Is located entirely within an unincorporated area and is everywhere separated by a distance
24 of five miles or more from an urban growth boundary described in an acknowledged comprehensive
25 plan of a city [*or the urban growth boundary adopted by a metropolitan service district under ORS*
26 *268.390 (3)*]; and

27 (c) Prior to the establishment of a service district under subsection (3) of this section, is desig-
28 nated a subdivision for purposes of this subsection by the governing body of the county in which the
29 subdivision or group of subdivisions is located.

30 (5) Within the boundaries of Washington County, master plans and service districts may be es-
31 tablished as provided by this chapter regarding water resource management services that affect the
32 quality and quantity of water within a single watershed, basin or planning area. As used in this
33 subsection, “water resource management services” means:

34 (a) Planning for and provision of two or more services or facilities such as sewage works,
35 drainage works, surface water management, endangered species recovery management, water quality
36 management, diking and flood control works, river flow management, water supply works,
37 wastewater reuse and irrigation facilities.

38 (b) Activities ancillary to the services and facilities listed in paragraph (a) of this subsection,
39 including facilities for the production, sale or purchase of energy when such facilities are integrated
40 in a master plan adopted under ORS 451.120.

41 **SECTION 25.** Section 9, chapter 59, Oregon Laws 2016, is amended to read:

42 **Sec. 9.** (1) As soon as practicable after the end of each fiscal quarter, a city or county that
43 imposes a construction tax pursuant to section 8, **chapter 59, Oregon Laws 2016**, [*of this 2016*
44 *Act*] shall deposit the construction tax revenues collected in the fiscal quarter just ended in the
45 general fund of the city or county.

1 (2) Of the revenues deposited pursuant to subsection (1) of this section, the city or county may
 2 retain an amount not to exceed four percent as an administrative fee to recoup the expenses of the
 3 city or county incurred in complying with this section.

4 (3) After deducting the administrative fee authorized under subsection (2) of this section and
 5 paying any refunds, the city or county shall use the remaining revenues received under section 8
 6 (2), **chapter 59, Oregon Laws 2016**, [of this 2016 Act] as follows:

7 (a) Fifty percent to fund developer incentives allowed or offered pursuant to ORS 197.309 [(5)(c)
 8 and (d) and (7)] (4)(c) and (d) and (6);

9 (b) Fifteen percent to be distributed to the Housing and Community Services Department to fund
 10 home ownership programs that provide down payment assistance; and

11 (c) Thirty-five percent for programs and incentives of the city or county related to affordable
 12 housing as defined by the city or county, respectively, for purposes of this section and section 8,
 13 **chapter 59, Oregon Laws 2016** [of this 2016 Act].

14 (4) After deducting the administrative fee authorized under subsection (2) of this section and
 15 paying any refunds, the city or county shall use 50 percent of the remaining revenues received under
 16 section 8 (3), **chapter 59, Oregon Laws 2016**, [of this 2016 Act] to fund programs of the city or
 17 county related to housing.

18 **SECTION 26.** ORS 197.626 is amended to read:

19 197.626. (1) A local government shall submit for review and the Land Conservation and Devel-
 20 opment Commission shall review the following final land use decisions in the manner provided for
 21 review of a work task under ORS 197.633:

22 [(a) An amendment of an urban growth boundary by a metropolitan service district that adds more
 23 than 100 acres to the area within its urban growth boundary;]

24 [(b)] (a) An amendment of an urban growth boundary by a city with a population of 2,500 or
 25 more within its urban growth boundary that adds more than 50 acres to the area within the urban
 26 growth boundary;

27 [(c) A designation of an area as an urban reserve under ORS 195.137 to 195.145 by a metropolitan
 28 service district or by a city with a population of 2,500 or more within its urban growth boundary;]

29 [(d) An amendment of the boundary of an urban reserve by a metropolitan service district;]

30 [(e)] (b) An amendment of the boundary of an urban reserve to add more than 50 acres to the
 31 urban reserve by a city with a population of 2,500 or more within its urban growth boundary; and

32 [(f)] (c) A designation or an amendment to the designation of a rural reserve under ORS 195.137
 33 to 195.145 by a county[, in coordination with a metropolitan service district,] and the amendment of
 34 the designation.

35 [(2) When the commission reviews a final land use decision of a metropolitan service district under
 36 subsection (1)(a), (c), (d) or (f) of this section, the commission shall issue a final order in writing within
 37 180 days after the commission votes whether to approve the decision.]

38 [(3)] (2) A final order of the commission under this section may be appealed to the Court of
 39 Appeals in the manner described in ORS 197.650 and 197.651.

40 **SECTION 27.** ORS 197.629 is amended to read:

41 197.629. (1) The Land Conservation and Development Commission shall establish and maintain
 42 a schedule for periodic review of comprehensive plans and land use regulations. Except as necessary
 43 to coordinate approved periodic review work programs and to account for special circumstances
 44 that from time to time arise, the schedule shall reflect the following timelines:

45 (a) A city with a population of more than 2,500 within a metropolitan planning organization or

1 a metropolitan service district shall conduct periodic review every seven years after completion of
2 the previous periodic review; and

3 (b) A city with a population of 10,000 or more inside its urban growth boundary that is not
4 within a metropolitan planning organization shall conduct periodic review every 10 years after
5 completion of the previous periodic review.

6 (2) A county with a portion of its population within the urban growth boundary of a city subject
7 to periodic review under this section shall conduct periodic review for that portion of the county
8 according to the schedule and work program set for the city.

9 (3) Notwithstanding subsection (2) of this section, if the schedule set for the county is specific
10 as to that portion of the county within the urban growth boundary of a city subject to periodic re-
11 view under this section, the county shall conduct periodic review for that portion of the county
12 according to the schedule and work program set for the county.

13 (4) If the Land Conservation and Development Commission pays the costs of a local government
14 that is not subject to subsection (1) of this section to perform new work programs and work tasks,
15 the commission may require the local government to complete periodic review when the local gov-
16 ernment has not completed periodic review within the previous five years if:

17 (a) A city has been growing faster than the annual population growth rate of the state for five
18 consecutive years;

19 (b) A major transportation project on the Statewide Transportation Improvement Program that
20 is approved for funding by the Oregon Transportation Commission is likely to:

21 (A) Have a significant impact on a city or an urban unincorporated community; or

22 (B) Be significantly affected by growth and development in a city or an urban unincorporated
23 community;

24 (c) A major facility, including a prison, is sited or funded by a state agency; or

25 (d) Approval by the city or county of a facility for a major employer will increase employment
26 opportunities and significantly affect the capacity of housing and public facilities in the city or ur-
27 ban unincorporated community.

28 (5) The Land Conservation and Development Commission may schedule periodic review for a
29 local government earlier than provided in subsection (1) of this section if necessary to ensure that
30 all local governments in a region whose land use decisions would significantly affect other local
31 governments in the region are conducting periodic review concurrently, but not sooner than five
32 years after completion of the previous periodic review.

33 (6) A city or county that is not required to complete periodic review under subsection (1) of this
34 section may request periodic review by the commission.

35 (7) Upon request by a city, the Land Conservation and Development Commission may permit a
36 city to undergo periodic review for the limited purpose of completing changes to proposed amend-
37 ments to a comprehensive plan and land use regulations required on remand after review by the
38 commission under ORS 197.626 (1)[(b)](a). If periodic review is initiated under this subsection, the
39 city may adopt, and the Director of the Department of Land Conservation and Development may
40 approve, a work program that includes only the changes required on remand.

41 (8) As used in this section, "metropolitan planning organization" means an organization located
42 wholly within the State of Oregon and designated by the Governor to coordinate transportation
43 planning in an urbanized area of the state pursuant to 49 U.S.C. 5303(c).

44 **SECTION 28.** ORS 199.705 is amended to read:

45 199.705. In ORS 199.705 to 199.795:

1 (1) "City-county" means a city incorporated under ORS 199.705 to 199.795 and having both city
2 and county functions.

3 (2) "City in the county" means a city having more than 50 percent of its population in the
4 county.

5 (3) "Most populous city" means a city of not less than 300,000 population.

6 [(4) "*Unincorporated area*" means the area of unincorporated territory within the county that is
7 outside the urban growth boundary adopted under ORS 268.390.]

8 **SECTION 29.** ORS 199.715 is amended to read:

9 199.715. By proceeding under ORS 199.705 to 199.795, a county and the most populous city in
10 the county may consolidate to form a city-county, and one or more of the other cities in the county
11 [*and the unincorporated area*] may join in the consolidation.

12 **SECTION 30.** ORS 199.725 is amended to read:

13 199.725. (1) Within 30 days after the proceedings are initiated, a charter commission comprised
14 of persons each of whom is an elector of the county or the most populous city shall be appointed
15 as follows:

16 (a) Two members jointly by a majority of a convention of the state Senators elected from the
17 county or any part thereof, one of whom shall be a resident [*of the unincorporated area*] of the
18 county.

19 (b) Three members jointly by a majority of a convention of the state Representatives elected
20 from the county or any part thereof, one of whom shall be a resident [*of the unincorporated area*]
21 of the county.

22 (c) Three members by the governing body of the county.

23 (d) Three members by the governing body of the most populous city in the county.

24 (e) One member by the governing body of the second most populous city in the county.

25 (f) One member jointly by a majority of a convention of the mayors of the cities in the county
26 other than the cities described in paragraphs (d) and (e) of this subsection.

27 (2) Any of the appointments not made as provided by subsection (1) of this section shall be made
28 by the Governor within 45 days after the proceedings are initiated.

29 (3) Each appointment made under this section shall be certified immediately by the appointing
30 authority to the mayor of the most populous city.

31 (4) Members of the charter commission shall serve without pay.

32 (5) The terms of office of members of the commission shall continue until the charter that the
33 commission prepares is submitted to the electors under ORS 199.730 and 199.735. A position on the
34 commission shall become vacant, however, for any cause specified by ORS 236.010 and may be de-
35 clared vacant by the commission because of nonattendance at commission meetings. Within 30 days
36 after such a vacancy occurs or is declared, it shall be filled in the manner prescribed by the pro-
37 visions of subsections (1) and (2) of this section that are applicable to the position vacated.

38 (6) Within five days after receiving certification of the final appointment to the commission, the
39 mayor of the most populous city shall fix the time and place and give the commission members at
40 least 10 days' notice of the first meeting of the commission. The mayor shall convene the commission
41 and serve as its temporary chairperson. At the first meeting the commission shall designate a per-
42 manent chairperson and organize in whatever other manner it considers advisable.

43 (7) The governing body of the county proposed to be consolidated shall appropriate for the ex-
44 penses of the commission:

45 (a) Not less than \$25,000; and

1 (b) An additional amount of not more than \$100,000, as requisitioned by a majority of the fol-
 2 lowing officials: The chairperson of the commission, the chairperson of the county governing body
 3 and the mayor of the most populous city in the county.

4 (8) The county and any city in the county may appropriate money to assist the charter com-
 5 mission with its work.

6 **SECTION 31.** ORS 199.735 is amended to read:

7 199.735. (1) The commission shall call an election on a date specified in ORS 221.230.

8 (2) At the election the following questions shall be submitted:

9 (a) To the electors of the county and to the electors of the most populous city, the question of
 10 whether the charter shall be adopted as the charter of a city-county.

11 (b) To the electors of each less populous city in the county, the question of whether that city
 12 shall merge into the city-county.

13 *[(c) To the electors of the unincorporated area, the question of whether the unincorporated area
 14 shall merge into the city-county.]*

15 (3) If an elector is eligible to vote in both the county and the most populous city, the question
 16 submitted under subsection (2)(a) of this section shall appear only on the county ballot for that
 17 elector, but it shall be tallied both as a vote of an elector of the county and as an elector of the
 18 most populous city in the county.

19 (4) The commission shall file the call and the charter with the county clerk, who shall give no-
 20 tice of, conduct and publicize the results of the election under the general laws of the state gov-
 21 erning elections. The county shall bear the expense of the election.

22 **SECTION 32.** ORS 199.740 is amended to read:

23 199.740. (1) The charter shall be approved and the consolidation shall take place if, and only if,
 24 the question receives at the election affirmative votes by a majority of those electors of the county
 25 voting on the question and also by a majority of those electors of the most populous city in the
 26 county voting on the question.

27 (2) In case the question is approved as provided by subsection (1) of this section,[:]

28 *[(a)]* any less populous city in the county shall be merged with and become a part of the city-
 29 county unless a majority of the electors of the city voting on the question submitted under ORS
 30 199.735 (2) votes against the question.

31 *[(b) The unincorporated area in the county shall be merged with and become a part of the city-
 32 county unless a majority of the electors in the unincorporated area voting on the question submitted
 33 under ORS 199.735 (2) votes against the question.]*

34 (3) A majority vote for the question in a city approving it shall have the effect of approving the
 35 surrender of the charter of the city as required in section 2a (1), Article XI of the Oregon Consti-
 36 tution. The majority vote in the county approving the question shall have the effect of approving the
 37 surrender of the charter, if any, of the county. The surrender in both cases shall take effect when
 38 the city-county comes into existence.

39 **SECTION 33.** ORS 199.750 is amended to read:

40 199.750. (1) The city-county shall be a city within the meaning of state law, except ORS 221.610,
 41 221.621, 221.650, 222.210 to 222.310 and 222.840 to 222.915. In merger proceedings under ORS 222.610
 42 to 222.710 consent by the city-county to the merger may be given by the governing body of the
 43 city-county without a popular vote on the merger. No merger or annexation adding territory to the
 44 city-county shall change a county boundary. Annexation to the city-county of area in another county
 45 or merger into the city-county of a city in another county shall be for the provision of city services

1 only. Territory within the city-county may be transferred under ORS 199.490 to 199.519 to a city
 2 excluded from consolidation under ORS 199.740 (2).

3 (2) The city-county shall be a county for purposes of Articles IV, VI, VII (Amended), VII (Ori-
 4 ginal) and VIII of the Oregon Constitution and in its relationship to any city in the city-county ex-
 5 cluded from the consolidation under ORS 199.740 (2). That relationship shall continue until the
 6 excluded city disincorporates or merges into the city-county.

7 [(3) *The city-county shall be a county in its relationship to the unincorporated area excluded from*
 8 *the consolidation under ORS 199.740 (2).*]

9 [(4)] (3) The city-county shall have the powers and duties of counties and county officers and
 10 cities and city officers under state law and the city-county charter. The charter shall prescribe or
 11 make provision for prescribing what officers and agencies of the city-county shall exercise those
 12 powers and duties. The charter may prescribe or make provision for prescribing which duties or
 13 functions shall be county, city or jointly city-county powers.

14 [(5)] (4) The charter may also prescribe or make provision for prescribing that state officers
 15 elected in the city-county alone shall simultaneously be city-county and state officers and have
 16 city-county functions prescribed by the charter or ordinances of the city-county.

17 [(6)] (5) The city-county shall be both a city and a county entitled to receive funds under state
 18 and federal laws allocating funds to cities or counties or both.

19 **SECTION 34.** ORS 199.760 is amended to read:

20 199.760. (1) When a city-county is incorporated, for purposes of county functions its boundaries
 21 shall be the boundaries of the county that is consolidated into the city-county, and for purposes of
 22 city functions:

23 (a) The boundaries shall include all territory located in any city in the county immediately be-
 24 fore the consolidation; **and**

25 (b) The boundaries shall exclude all territory in any city extending into the county if more than
 26 half of the population in the city is located outside the county immediately before the
 27 consolidation[; *and*]

28 [(c) *The boundaries shall exclude the unincorporated area when a majority of the electors in the*
 29 *unincorporated area voting on the question submitted under ORS 199.735 (2) votes against the*
 30 *question*].

31 (2) No boundary change effected under ORS 199.705 to 199.795 shall:

32 (a) Change the boundaries of a legislative district established by state law.

33 (b) Deprive any member of the Legislative Assembly of the member's seat in that body.

34 (3) For purposes of ad valorem taxation, a boundary change must be filed in final approved form
 35 with the county assessor and the Department of Revenue as provided in ORS 308.225.

36 **SECTION 35.** ORS 199.780 is amended to read:

37 199.780. When it is desired to form a new county out of [*an unincorporated area or*] one or more
 38 contiguous cities or to change the boundaries of a city-county and an existing contiguous county,
 39 a petition praying for the formation of the new county or for the change in the boundaries of the
 40 city-county and the contiguous county shall be presented to the governing body of each city-county
 41 or county affected by the proposed formation or boundary change. The petition shall describe the
 42 territory proposed to be formed into the new county or transferred from the city-county to the
 43 contiguous county, together with the name of the proposed new county, if the petitioners seek for-
 44 mation of a new county. The petition shall be signed by a number of qualified electors registered in
 45 the territory to be formed into the new county or registered in the territory to be transferred to the

1 contiguous county after the change in boundaries that is equal to 15 percent of the votes cast within
 2 such territory for all candidates for Governor at the election at which a Governor was elected next
 3 preceding the filing of the petition.

4 **SECTION 36.** ORS 199.795 is amended to read:

5 199.795. *[(1) If the election was for the purpose of establishing a new county, the unincorporated*
 6 *area thereafter shall be a county for all civil, military and other purposes.]*

7 [(2)] (1) If the election was for the purpose of changing boundaries, the boundaries of the con-
 8 tiguous county and the city-county shall be changed to conform to the description furnished to the
 9 Secretary of State in the certification provided under ORS 199.787.

10 [(3)] (2) If the election was for the purpose of changing boundaries, the change shall take effect
 11 within 30 days after the Governor issues the proclamation provided for in ORS 199.790, and the
 12 territory taken from the city-county and added to the contiguous county by reason of the change in
 13 boundaries shall become a part of the contiguous county and for all purposes shall be considered a
 14 portion thereof.

15 **SECTION 37.** ORS 268.347 is amended to read:

16 268.347. (1) Notwithstanding contrary provisions regarding jurisdiction under ORS chapters 198,
 17 221 and 222, a metropolitan service district shall exercise jurisdiction, as provided in this section
 18 and ORS 268.351 [*and 268.354*], over a boundary change within the boundaries of the district [*and*
 19 *within all territory designated as urban reserves by the district*].

20 (2) For purposes of ad valorem taxation, a boundary change must be filed in final approved form
 21 with the county assessor and the Department of Revenue as provided in ORS 308.225.

22 **SECTION 38.** ORS 195.065 is amended to read:

23 195.065. (1) Under ORS 190.003 to 190.130, units of local government and special districts that
 24 provide an urban service to an area within an urban growth boundary that has a population greater
 25 than 2,500 persons, and that are identified as appropriate parties by a cooperative agreement under
 26 ORS 195.020, shall enter into urban service agreements that:

27 (a) Specify whether the urban service will be provided in the future by a city, county, district,
 28 authority or a combination of one or more cities, counties, districts or authorities.

29 (b) Set forth the functional role of each service provider in the future provision of the urban
 30 service.

31 (c) Determine the future service area for each provider of the urban service.

32 (d) Assign responsibilities for:

33 (A) Planning and coordinating provision of the urban service with other urban services;

34 (B) Planning, constructing and maintaining service facilities; and

35 (C) Managing and administering provision of services to urban users.

36 (e) Define the terms of necessary transitions in provision of urban services, ownership of facili-
 37 ties, annexation of service territory, transfer of moneys or project responsibility for projects pro-
 38 posed on a plan of the city or district prepared pursuant to ORS 223.309 and merger of service
 39 providers or other measures for enhancing the cost efficiency of providing urban services.

40 (f) Establish a process for review and modification of the urban service agreement.

41 (2)(a) Each county shall have responsibility for convening representatives of all cities and spe-
 42 cial districts that provide or declare an interest in providing an urban service inside an urban
 43 growth boundary within the county, for the purpose of negotiating an urban service agreement. A
 44 county may establish two or more subareas inside an urban growth boundary for the purpose of such
 45 agreements. If an urban service is to be provided within the boundaries of a metropolitan service

1 district, a county shall notify the metropolitan service district in advance of the time for cities and
 2 special districts to meet for the purpose of negotiating an urban service agreement[, *and the metro-*
 3 *politan service district shall exercise its review, advisory and coordination functions under ORS*
 4 *195.025*].

5 (b) When negotiating for an urban service agreement, a county shall consult with recognized
 6 community planning organizations within the area affected by the urban service agreement.

7 (3) Decisions on a local government structure to be used to deliver an urban service under ORS
 8 195.070 are not land use decisions under ORS 197.015.

9 (4) For purposes of ORS 195.020, 195.070, 195.075, 197.005 and this section, “urban services”
 10 means:

- 11 (a) Sanitary sewers;
- 12 (b) Water;
- 13 (c) Fire protection;
- 14 (d) Parks;
- 15 (e) Open space;
- 16 (f) Recreation; and
- 17 (g) Streets, roads and mass transit.

18 (5) Whether the requirement of subsection (1) of this section is met by a single urban service
 19 agreement among multiple providers of a service, by a series of agreements with individual providers
 20 or by a combination of multiprovider and single-provider agreements shall be a matter of local dis-
 21 cretion.

22 **SECTION 39.** ORS 268.351 is amended to read:

23 268.351. (1) As used in ORS 268.347 [*and 268.354*], “boundary change” means a major boundary
 24 change or a minor boundary change, as those terms are defined in ORS 199.415.

25 (2) For the purpose of applying the definitions of “major boundary change” and “minor boundary
 26 change” to ORS 268.347 [*and 268.354*], “district,” as used in those definitions, means a:

- 27 (a) Domestic water supply district organized under ORS chapter 264.
- 28 (b) Park and recreation district organized under ORS chapter 266.
- 29 (c) Metropolitan service district organized under ORS chapter 268.
- 30 (d) Sanitary district organized under ORS 450.005 to 450.245.
- 31 (e) Sanitary authority, water authority or joint water and sanitary authority organized under
 32 ORS 450.600 to 450.989.
- 33 (f) District formed under ORS 451.410 to 451.610 to provide water or sanitary service.

34 **SECTION 40.** ORS 199.742, 199.777, 268.354 and 268.385 are repealed.