



# Oregon

Kate Brown, Governor

## Department of Land Conservation and Development

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**DATE:** February 21, 2018

**TO:** The Honorable Michael Dembrow, Chair  
Senate Committee on the Environment and Natural Resources

**FROM:** Ellen Miller, Legislative Coordinator/Urban Policy Analyst  
Department of Land Conservation and Development

**RE:** **House Bill 4031A**



Thank you for the opportunity to provide information on House Bill (HB) 4031A, which, as includes fixes to two pieces of legislation passed in 2017, HB 2031 and HB 2743, plus a renewal of the guest ranch statute. The Department of Land Conservation and Development (DLCD) notified the proponents of the previously passed legislation about technical issues with both bills. Below is a summary of the issues and solutions.

### **HB 2031 fixes**

The intent of HB 2031 was to assist in the siting of the Metolius Transfer Development Opportunity (TDO) at the Bradwood Landing Site in Clatsop County, Oregon.

Since 2009, under the policy direction established by the legislature in [HB 3313](#), DLCD has worked on the implementation of the Metolius TDO. Although DLCD has no position on the bill, DLCD has put forth its best effort to recommend language that addresses unresolved issues of siting the TDO.

Soon after HB 2031 passed in 2017, DLCD received a copy of the concept design to use the TDO at Bradwood Landing in Clatsop County. The concept design includes in-water work, which will trigger federal permits. Due to its geographic location, the site falls within Oregon's coastal zone approved under the federal Coastal Zone Management Act (CZMA). When federal permits are required for projects within the coastal zone, DLCD must provide a federal consistency review to assess the proposed development's consistency with the enforceable policies of Oregon's coastal management program, which include the Statewide Planning Goals.

A lack of clarity exists on the enforceable policies, given the history of the TDO and the intent to allow the siting of a TDO in areas where such development would not be normally allowed. To remedy this issue DLCD proposed language in Section 7, subsection 7, (Page 4, lines 37-41):

*If a county listed in subsection (4)(b)(B), (D), (F), (G) or (M) of this section approves an application for a small-scale recreation community that also requires a federal license or permit, that approval shall be deemed to constitute an acknowledged exception under ORS 197.732 to any applicable statewide land use planning goal with which the use would not otherwise comply.*

This proposed language provides that an approval by a county of a SSRC would be deemed to constitute an acknowledged exception to any otherwise applicable statewide planning goal. This acknowledged exception provision could be only be used by DLCDC in its review of a TDO project subject to federal consistency under the federal CZMA, after the county approves an application. It would not impact the county's permitting process.

**HB 2743 fixes**

The intent of HB 2743 was to allow a city to add city-owned, city-serviced industrial land to its urban growth boundary (UGB) without demonstrating a need for more industrial land and to study the economic impacts of amending the UGB.

During the rule-making process, DLCDC recognized several technical problems that could not be fixed within the rules and required statutory changes. The three fixes for HB 2743 in HB 4031A are to reference the correct applicable statute ORS 197A.320 in Section 10, subsection 1, to clarify the measurable distance to the city of Madras urban growth boundary (UGB) as 78 air miles from a UGB of any city with a population of 300,000 or more in Section 9, subsection 2 (a) and to correct the applicable unemployment rate for Jefferson County, Section 9, subsection 2 (b).

DLCDC has no further comments on other changes proposed in the bill.

Thank you for this opportunity to provide you with information about HB 4031. If committee members have questions about this testimony, I may be reached at 503-269-2040 or through email at [ellen.l.miller@state.or.us](mailto:ellen.l.miller@state.or.us).