

HB 3458 -2 STAFF MEASURE SUMMARY

House Committee On Agriculture, Land Use, Natural Resources, and Water

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Meeting Dates: 3/27, 3/30

WHAT THE MEASURE DOES:

Limits issues that may serve as the basis of an appeal to the Land Use Board of Appeals (LUBA) when a local government amends comprehensive plans or land use regulations to (1) issues that were raised no later than the final evidentiary hearing or the close of the record, (2) issues that, when raised, were accompanied by statements or evidence sufficient to allow the governing body an adequate opportunity to respond to each issue, and (3) in the case of an adopted change in response to a remand from LUBA, if the issue is one that could have been but was not previously raised before the board. Allows LUBA to partially affirm a land use decision under certain conditions and excludes affirmed parts from being affected by the reversal or remand. Requires LUBA to reverse or remand new or amended land use regulations if they are not equally or more supportive of the comprehensive plan than the existing regulation. Applies to decisions made and petitions filed with LUBA on or after effective date. Takes effect on 91st day following adjournment sine die.

FISCAL: May have fiscal impact, but no statement yet issued

REVENUE: May have revenue impact, but no statement yet issued

ISSUES DISCUSSED:

EFFECT OF AMENDMENT:

-2 Removes limitations on issues that may serve as the basis of an appeal to the Land Use Board of Appeals (LUBA) when a local government amends comprehensive plans or land use regulations. Removes requirement for LUBA to reverse or remand new or amended land use regulations if they are not equally or more supportive of the comprehensive plan than the existing regulation. Prohibits a party from raising certain new issues before LUBA in cases where LUBA remands all or a portion of a decision related to acknowledged comprehensive plans or land use regulation and the local government adopts the same changes following remand with revised findings and additional evidence responding to the remand. Allows LUBA to partially affirm decisions related to an acknowledged comprehensive plan or land use regulation if the plan or regulation contains a severability clause and specifically challenged portions of the changes are complete and capable of being executed with the legislative intent.

FISCAL: May have fiscal impact, but no statement yet issued

REVENUE: May have revenue impact, but no statement yet issued

BACKGROUND:

Oregon's land use goals are achieved through local comprehensive plans which are required of each city and county along with zoning and land-division ordinances to put the plan into effect. Land use decisions made by local governments and special districts can be appealed at the Land Use Board of Appeals (LUBA) which was established by the legislature in 1979 and consists of three Board Members who are appointed by the Governor.

House Bill 3485 would limit the issues that can serve as the basis for an appeal to LUBA when a local government amends a comprehensive plan or land use regulation.