

## **Testimony in support of Senate Bill 70**

House Committee on Rules – June 22, 2023

Shawna Peterson, Executive Director - Eastern Oregon Border Economic Development Board

### **Background:**

The Oregon legislature recognized the unique situation of the communities situated on the state's far eastern border in unanimously passing HB 2012 in the 2017 Regular Session. That legislation created and funded a mechanism for identifying barriers and creating opportunities for our small slice of Oregon to more effectively compete with neighboring Idaho, respectively the Border Board and the Border Fund. The 2021 legislature passed SB 16, as advocated for by the Border Board, to allow rezoning of limited, nonviable land within the Eastern Oregon Border Economic Development Region from exclusive farm use to rural residential use. Following its passage, as the county planning department worked to implement the legislation, it was discovered that the incorporated definition of "high-value farmland" in SB 16 had the unintended effect of precluding meaningful implementation. SB 70 is a technical fix necessary to move forward with the implementation of SB 16.

### **Executive Summary:**

SB 16 from 2021 incorporated the definition of "high-value farmland" contained in ORS 195.300. The definition proved irreconcilable in that it includes in any land that was in the boundaries of an irrigation district in mid-2007. As it turns out, most of the EFU land in the Border Region is within irrigation districts, presumably was within the district as of that arbitrary date, and is therefore precluded from qualifying for rezone under SB16 regardless of whether it has water rights, is irrigated or irrigable, its soil classification, is farmable, or any of the other carefully drafted constraints of the land use regulations. At the time SB16 was drafted and later passed, the boundaries of the local irrigation districts were not clearly identifiable. SB 70 excludes that part of the definition that references irrigation districts and codifies additional protections by adding a requirement that qualifying property be within a fire protection district and not within a floodplain

### **Highlights of SB 16 that are UNAFFECTED by SB 70:**

- Subject to a county review board process, EFU land in the Border Region may be rezoned to rural residential, allowing the development of one residential unit per parcel, provided that:
  - The land has not been farmed in the prior three years;
  - The land is not predominately composed of Class I, II or III soils, or viable for reasonably obtaining a profit through farm use;
  - Rezoning will not force a significant change in accepted farm or forest practices on surrounding lands devoted to farm or forest use;
  - If the water source is a well, the lands are not within a critical ground water area or within any area in which ground water withdrawals have been restricted by the Water Resources Commission;
  - The property owner agrees, as a condition of approval of rezoning to sign and record an irrevocable deed restriction acknowledging the protected rights of farm and rangeland practices in the area;
  - The rezoning complies with any other criteria adopted by the county;

- Minimum lot size of 2 acres and no more than 200 acres total could be rezoned by the county under this Bill;
- The rezoning has received a public hearing and a written opinion from a review board;
- In the preceding 10 years, the lands have not been assessed for property tax purposes as: open space use, riparian habitat, wildlife habitat, or a conservation easement.
- Review board - 4 members appointed by the county:
  - One member who represents the interests of the farming community;
  - One member who represents the Eastern Oregon Border Economic Development Board;
  - One member who is a member of the planning body of the County;
  - One member who is a member of the governing body of the County.
- Continues any applicable farm use tax deferral and valuation on properties in region until redeveloped for sale or five years after rezoning.

**Stakeholders:**

SB 16 had and continues to enjoy strong support within the Border Region from agriculturists, property owners, residents, prospective residents, business owners, and local governments. That is an important distinction to remember as you hear from outside groups and distant landowners who are concerned in general about protecting Oregon lands. It is clear in the submitted testimony of those opposed to SB 70 that they have little understanding of either SB 16 or SB 70. Those local to the Border Region, including those serving on the Eastern Oregon Border Economic Development Board, are acutely aware of the vital role of agriculture in our region. SB 16 originally, and SB 70's technical fix, continue the critical protection of viable farm ground and farming practices. It is also noteworthy that SB 70, as amended, is the result of collaboration with the Oregon Department of Land Conservation and Development.

**Call to Action:**

On behalf of the Eastern Oregon Border Economic Development Board, I invite you to get to know our small part of Oregon. This legislature acknowledged the uniqueness of the Border Region and charged our group with creating opportunity in the face of challenge. SB 16 was a critical part of the board's work toward that end and, I believe, a shining example of a good bill getting passed on its merits. I now ask that you pass SB 70 to fix a technical error in the original legislation that is impeding its implementation as intended.