

Senate Bill 845

Sponsored by Senators STARR, BEYER, Representative READ

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**.

Authorizes Governor and Director of the Department of Land Conservation and Development to exempt certain land use decisions from appeal by contract with member of traded sector industry that agrees to acquire and develop large-site industrial use employing at least 500 full-time employees.

Declares emergency, effective on passage.

A BILL FOR AN ACT

Relating to economic development; and declaring an emergency.

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

SECTION 1. Section 2 of this 2013 Act is added to and made a part of ORS chapter 195.

SECTION 2. (1) The Legislative Assembly finds and declares that:

(a) The State of Oregon has a compelling interest in promoting and stimulating economic development for the welfare of its residents by providing for predictability and certainty in the use and development of land within a metropolitan service district that:

(A) Is designated as an urban reserve by the metropolitan service district;

(B) Is included within the urban growth boundary of the metropolitan service district;
and

(C) Is planned and zoned, under provisions of the acknowledged comprehensive plan, and land use regulations implementing the plan, for use as a large-site industrial development.

(b) An urban reserve designated by the metropolitan service district pursuant to the policy expressed in ORS 195.137 to 195.145 is:

(A) Established based on an agreement between a county and the metropolitan service district to designate rural reserves and urban reserves in a manner that balances the long-term needs of urban industries and rural, resource-based industries within the county and metropolitan service district; and

(B) Acknowledged by the Land Conservation and Development Commission to be in compliance with statewide land use planning goals, including a goal of ensuring citizen involvement.

(c) Urban reserves included within the urban growth boundary of a metropolitan service district and planned and zoned as regionally significant industrial areas have been acknowledged by the commission to be in compliance with the statewide land use planning goals, including a goal of ensuring citizen involvement.

(d) Urban reserves described in paragraph (c) of this subsection and other land included within the urban growth boundary that are planned and zoned for large-site industrial development pursuant to an acknowledged comprehensive plan, and land use regulations implementing the plan, are acknowledged by the commission to be in compliance with the

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 statewide land use planning goals, including a goal of ensuring citizen involvement.

2 (e) Consistent with the principles of participatory due process that underlie the goal of
3 ensuring citizen involvement, the extensive processes and opportunities for citizen input and
4 involvement required by the goal have given interested individuals and organizations within
5 the metropolitan service district several opportunities to comment and give input on:

6 (A) The designation of urban reserves;

7 (B) The inclusion of urban reserves within the urban growth boundary of a metropolitan
8 service district; and

9 (C) The planning and zoning of land for large-site industrial development pursuant to
10 acknowledged comprehensive plans, and land use regulations implementing the plans.

11 (f) When acquisition of land described in paragraph (d) of this subsection by a member
12 of an industry active in a traded sector, as defined in ORS 285A.010, will create a significant
13 number of full-time jobs in this state and the member requires certainty in the industrial
14 use for which the land is planned and zoned, the State of Oregon has a compelling economic
15 interest in providing certainty by contract to enable the completion of the site acquisition
16 and development by authorizing the Governor and the Director of the Department of Land
17 Conservation and Development to execute an agreement with the member of the traded
18 sector industry that:

19 (A) Protects from any appeal until on or after December 15, 2015, the land use decisions
20 by which the land has come to be planned and zoned for large-site industrial development,
21 including the designation of the land as an urban reserve and the inclusion of the land within
22 the urban growth boundary, upon acquisition of the land by the member;

23 (B) Protects permanently from any appeal the land use decisions by which the land has
24 come to be planned and zoned for large-site industrial development, including the designation
25 of the land as an urban reserve and the inclusion of the land within the urban growth
26 boundary, upon commencement of the construction of facilities on the land that leads to
27 employment of at least 500 full-time employees on the land; and

28 (C) Tolls the operation of any appeals filed to the land use decisions by which the land
29 has come to be planned and zoned for the development.

30 (g) The State of Oregon has a compelling economic interest in contractually ensuring,
31 as provided in this section, that the member of a traded sector industry that acquires land
32 planned and zoned for large-site industrial development is protected from any appeal to the
33 land use decisions by which the land has come to be planned and zoned for the development.

34 (h) The purposes of this section are:

35 (A) To promote and stimulate economic development and to create a significant number
36 of traded sector jobs on land that is designated an urban reserve, is included within the ur-
37 ban growth boundary and is planned and zoned for large-site industrial development.

38 (B) To authorize the Governor and the director to enter into agreements on behalf of the
39 State of Oregon that protect from any appeal the land use decisions by which the land has
40 come to be planned and zoned for large-site industrial development, including the designation
41 of the land as an urban reserve and the inclusion of the land within the urban growth
42 boundary.

43 (2) The Governor and the director may execute an agreement with a member of a traded
44 sector industry to protect from any appeal the approved use as described in this section
45 when, on or after the effective date of this 2013 Act, the member acquires control of land

1 within a metropolitan service district that:

2 (a) Is designated as an urban reserve;

3 (b) Is included within an urban growth boundary; and

4 (c) Is planned and zoned for large-site industrial development pursuant to an acknowl-
5 edged comprehensive plan, and land use regulations implementing the plan.

6 (3) Upon acquisition of a site by a member of a traded sector industry, an agreement
7 may provide protection from any appeal until on or after December 15, 2015, to the land use
8 decisions by which the land has come to be planned and zoned for large-site industrial de-
9 velopment, including the designation of the land as an urban reserve and the inclusion of the
10 land within the urban growth boundary.

11 (4) After the agreement is entered into, if the member has commenced construction of
12 facilities for the large-site industrial development that is projected to employ at least 500
13 full-time employees on the land, the agreement may protect the approved use as described
14 in this section permanently from any appeal of the land use decisions by which the land has
15 come to be planned and zoned for large-site industrial development, including the designation
16 of the land as an urban reserve and the inclusion of the land within the urban growth
17 boundary.

18 (5) The protection from any appeal provided by an agreement executed pursuant to this
19 section may not be abridged, impaired, limited or modified by a subsequent law if the member
20 of a traded sector industry has performed its obligations under this section and the agree-
21 ment.

22 (6) A person that files an appeal to a land use decision by which a site has come to be
23 planned and zoned for large-site industrial development may bring an action for breach of
24 the agreement by the member of a traded sector industry for the purposes of eliminating the
25 protection from any appeal by resuming the appeal of the land use decisions. The action:

26 (a) Must be brought against the State of Oregon and the member; and

27 (b) Must seek as sole and exclusive remedy the extinguishment of the protection from
28 any appeal granted by this section and the opportunity to resume an appeal tolled by opera-
29 tion of an agreement executed pursuant to this section.

30 (7) The commission may adopt rules to implement this section.

31 **SECTION 3.** (1) Sections 1 and 2 of this 2013 Act become operative on the date the Oregon
32 Court of Appeals issues a decision, as defined in ORS 19.450, in the Barkers Five LLC, et al.
33 v. LCDC, et al. (Appellate Case No. A152351).

34 (2) Upon receipt of the decision of the Oregon Court of Appeals described in subsection
35 (1) of this section, the Department of Land Conservation and Development shall inform the
36 Legislative Counsel of the date of the decision and submit a copy of the decision to the
37 Legislative Counsel.

38 **SECTION 4.** This 2013 Act being necessary for the immediate preservation of the public
39 peace, health and safety, an emergency is declared to exist, and this 2013 Act takes effect
40 on its passage.