

House Bill 2893

Sponsored by Representative BUEHLER, Senator KNOPP, Representative WHISNANT; Representative STARK

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**.

Requires city to evaluate for inclusion in urban growth boundary agricultural land consisting predominantly of certain soil classifications with other first priority lands.

Directs Land Conservation and Development Commission to establish by rule certain prioritization of lands for urban reserve designation.

A BILL FOR AN ACT

1
2 Relating to prioritization of lands for evaluation for land use planning purposes; creating new pro-
3 visions; and amending ORS 195.145 and 197A.320.

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

5 **SECTION 1.** ORS 197A.320 is amended to read:

6 197A.320. (1) Notwithstanding the priority in ORS 197.298 for inclusion of land within an urban
7 growth boundary, a city outside of Metro shall comply with this section when determining which
8 lands to include within the urban growth boundary of the city pursuant to ORS 197.295 to 197.314,
9 197A.310 or 197A.312.

10 (2) The Land Conservation and Development Commission shall provide, by rule, that:

11 (a) When evaluating lands for inclusion within the urban growth boundary, the city shall es-
12 tablish a study area that includes all land that is contiguous to the urban growth boundary and
13 within a distance specified by commission.

14 (b) The city shall evaluate all land in the study area for inclusion in the urban growth boundary
15 as provided in subsection (4) of this section, except for land excluded from the study area because:

16 (A) It is impracticable, as provided in subsection (3) of this section, to provide necessary public
17 facilities or services to the land.

18 (B) The land is subject to significant development hazards, including a risk of land slides, a risk
19 of flooding because the land is within the 100-year floodplain or is subject to inundation during
20 storm surges or tsunamis, and other risks determined by the commission.

21 (C) The long-term preservation of significant scenic, natural, cultural or recreational resources
22 requires limiting or prohibiting urban development of the land that contains the resources.

23 (D) The land is owned by the federal government and managed primarily for rural uses.

24 (c) When evaluating the priority of land for inclusion under paragraph (b) of this subsection:

25 (A) The city shall evaluate the land within the study area that is designated as an urban reserve
26 under ORS 195.145 in an acknowledged comprehensive plan, land that is subject to an acknowledged
27 exception under ORS 197.732, *[or]* land that is nonresource land **or land that is designated as**
28 **agricultural land in a county comprehensive plan and consists predominantly of soil classes**
29 **VI, VII or VIII, including soils contained in a soil complex, as determined by the United**
30 **States Department of Agriculture Natural Resources Conservation Service, and select as much**

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 of the land as necessary to satisfy the need for land using criteria established by the commission
2 and criteria in an acknowledged comprehensive plan and land use regulations.

3 (B) If the amount of land appropriate for selection under subparagraph (A) of this paragraph is
4 not sufficient to satisfy the need for land, the city shall evaluate the land within the study area that
5 is designated as marginal land under ORS 197.247 (1991 Edition) in the acknowledged comprehensive
6 plan and select as much of the land as necessary to satisfy the need for land using criteria estab-
7 lished by the commission and criteria in an acknowledged comprehensive plan and land use regu-
8 lations.

9 (C) If the amount of land appropriate for selection under subparagraphs (A) and (B) of this
10 paragraph is not sufficient to satisfy the amount of land needed, the city shall evaluate land within
11 the study area that is designated for agriculture or forest uses in the acknowledged comprehensive
12 plan that is not predominantly high-value farmland, as defined in ORS 195.300, or does not consist
13 predominantly of prime or unique soils, as determined by the United States Department of Agricul-
14 ture Natural Resources Conservation Service, and select as much of that land as necessary to satisfy
15 the need for land:

16 (i) Using criteria established by the commission and criteria in an acknowledged comprehensive
17 plan and land use regulations; and

18 (ii) Using the predominant capability classification system or the predominant cubic site class,
19 as appropriate for the acknowledged comprehensive plan designation, to select lower capability or
20 cubic site class lands first.

21 (D) If the amount of land appropriate for selection under subparagraphs (A) to (C) of this para-
22 graph is not sufficient to satisfy the need for land, the city shall evaluate land within the study area
23 that is designated as agricultural land in an acknowledged comprehensive plan and is predominantly
24 high value farmland and select as much of that land as necessary to satisfy the need for land. A
25 local government may not select land that is predominantly made up of prime or unique farm soils,
26 as defined by the United States Department of Agriculture Natural Resources Conservation Service,
27 unless there is an insufficient amount of other land to satisfy its land need.

28 (3) For purposes of subsection (2)(b)(A) of this section, the commission shall determine
29 impracticability by rule, considering the likely amount of development that could occur on the lands
30 within the planning period, the likely cost of facilities and services, physical, topographical or other
31 impediments to service provision and whether urban development has occurred on similarly situated
32 lands such that it is likely that the lands will be developed at an urban level during the planning
33 period. When impracticability is primarily a result of existing development patterns, the rules of the
34 commission shall require that the lands be included within the study area, but may allow the de-
35 velopment capacity forecast for the lands to be specified at a lower level over the planning period.
36 The rules of the commission must be based on an evaluation of how similarly situated lands have,
37 or have not, developed over time.

38 (4) For purposes of subsection (2)(b)(C) of this section, the commission by rule shall determine
39 the circumstances in which and the resources to which this exclusion will apply.

40 (5) Notwithstanding subsection (2)(c)(D) of this section, the rules must allow land that would
41 otherwise be excluded from an urban growth boundary to be included if:

42 (a) The land contains a small amount of resource land that is not important to the commercial
43 agricultural enterprise in the area and the land must be included to connect a nearby and signif-
44 icantly larger area of land of higher priority for inclusion within the urban growth boundary; or

45 (b) The land contains a small amount of resource land that is not predominantly high-value

1 farmland or predominantly made up of prime or unique farm soils and the land is completely sur-
 2 rounded by land of higher priority for inclusion into the urban growth boundary.

3 (6) When the primary purpose for expansion of the urban growth boundary is to accommodate
 4 a particular industry use that requires specific site characteristics, or to accommodate a public fa-
 5 cility that requires specific site characteristics and the site characteristics may be found in only a
 6 small number of locations, the city may limit the study area to land that has, or could be improved
 7 to provide, the required site characteristics. Lands included within an urban growth boundary for
 8 a particular industrial use, or a particular public facility, must remain planned and zoned for the
 9 intended use:

10 (a) Except as allowed by rule of the commission that is based on a significant change in cir-
 11 cumstance or the passage of time; or

12 (b) Unless the city removes the land from within the urban growth boundary.

13 (7) Notwithstanding any other provision of this section, the commission may adopt rules that
 14 specify circumstances under which a city may exchange land within the urban growth boundary of
 15 the city for land that is outside of the urban growth boundary and that is designed to avoid adverse
 16 effects of an exchange on agricultural or forest operations in the surrounding area.

17 **SECTION 2.** ORS 195.145 is amended to read:

18 195.145. (1) To ensure that the supply of land available for urbanization is maintained:

19 (a) Local governments may cooperatively designate lands outside urban growth boundaries as
 20 urban reserves subject to ORS 197.610 to 197.625 and 197.626.

21 (b) Alternatively, a metropolitan service district established under ORS chapter 268 and a
 22 county may enter into a written agreement pursuant to ORS 190.003 to 190.130, 195.025 or 197.652
 23 to 197.658 to designate urban reserves. A process and criteria developed pursuant to this paragraph
 24 are an alternative to a process or criteria adopted pursuant to paragraph (a) of this subsection.

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

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

31 (A) The local government is located inside a Primary Metropolitan Statistical Area or a Met-
 32ropolitan Statistical Area as designated by the Federal Census Bureau upon November 4, 1993; and

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

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

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

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

42 (4) Urban reserves designated by a metropolitan service district and a county pursuant to sub-
 43 section (1)(b) of this section must be planned to accommodate population and employment growth for
 44 at least 20 years, and not more than 30 years, after the 20-year period for which the district has
 45 demonstrated a buildable land supply in the most recent inventory, determination and analysis per-

1 formed under ORS 197.296.

2 (5) A district and a county shall base the designation of urban reserves under subsection (1)(b)
 3 of this section upon consideration of factors including, but not limited to, whether land proposed for
 4 designation as urban reserves, alone or in conjunction with land inside the urban growth boundary:

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

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

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

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

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

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

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

17 (7) The commission shall adopt by goal or by rule:

18 (a) **A process and criteria for designating urban reserves pursuant to subsection (1)(a)**
 19 **of this section, according to the following priorities:**

20 (A) **The local government shall evaluate the lands that are adjacent to or nearby an ur-**
 21 **ban growth boundary and identified in an acknowledged comprehensive plan as an exception**
 22 **area under ORS 197.732, resource land that is completely surrounded by exception areas that**
 23 **are not high value crop areas, as defined by rule, or unique agricultural lands, as defined by**
 24 **the United States Department of Agriculture, land that is nonresource land or land that is**
 25 **designated as agricultural land in a county comprehensive plan and consists predominantly**
 26 **of soil classes VI, VII or VIII, including soils contained in a soil complex, as determined by**
 27 **the United States Department of Agriculture Natural Resources Conservation Service, and**
 28 **select as much of the land as necessary to satisfy the need for land using criteria established**
 29 **by the commission and criteria in an acknowledged comprehensive plan and land use regu-**
 30 **lations.**

31 (B) **If the amount of land appropriate for selection under subparagraph (A) of this para-**
 32 **graph is not sufficient to satisfy the need for land, the local government shall evaluate the**
 33 **lands that are designated as marginal land under ORS 197.247 (1991 Edition) and select as**
 34 **much of the land as necessary to satisfy the need for land using criteria established by the**
 35 **commission and criteria in an acknowledged comprehensive plan and land use regulations.**

36 (C) **If the amount of land appropriate for selection under subparagraphs (A) and (B) of**
 37 **this paragraph is not sufficient to satisfy the need for land, the local government shall**
 38 **evaluate land designated in the comprehensive plan for agriculture or forest uses, and select**
 39 **as much of that land as necessary to satisfy the need for land:**

40 (i) **Using criteria established by the commission and criteria in an acknowledged com-**
 41 **prehensive plan and land use regulations; and**

42 (ii) **Using the predominant capability classification system or the predominant cubic site**
 43 **class, as appropriate for the acknowledged comprehensive plan designation, to select lower**
 44 **capability or cubic site class lands first.**

45 (b) A process and criteria for designating urban reserves pursuant to subsection (1)(b) of this

1 section.

2 **SECTION 3. The amendments to ORS 195.145 and 197A.320 by sections 1 and 2 of this 2017**

3 **Act apply to evaluations of land occurring on or after the effective date of this 2017 Act.**

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