

## FISCAL IMPACT OF PROPOSED LEGISLATION

Measure: SB 8

81st Oregon Legislative Assembly – 2021 Regular Session  
Legislative Fiscal Office

*Only Impacts on Original or Engrossed  
Versions are Considered Official*

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### **Measure Description:**

Limits standards and conditions of approval that local governments may apply to certain affordable housing.

### **Government Unit(s) Affected:**

Land Use Board of Appeals (LUBA), Oregon Judicial Department (OJD), Department of Land Conservation and Development (DLCD), Housing and Community Services Department (HCSD), Department of Justice (DOJ), Local Government

### **Summary of Fiscal Impact:**

Costs related to the measure is indeterminate but anticipated to be minimal - See explanatory analysis.

### **Analysis:**

SB 8 stipulates that, notwithstanding a property's zoning, local governments are prohibited from denying applications for a zone change or a change in use of property for affordable housing if: (1) the property is owned by a public body or religious nonprofit; (2) is commercially zoned; and (3) is within an urban growth boundary. The measure specifies certain conditions under which this prohibition does not apply including if the local government determines that the property cannot be adequately served by sewer, water, storm water drainage, and streets; has steep slopes; or is within a 100-year floodplain.

In addition, the measure provides that, where an applicant for such housing is the prevailing party in an appeal to the Land Use Board of Appeals (LUBA), the applicant is entitled to an award of, and LUBA must award, the applicant costs and attorney fees, including certain pre-litigation expenses. This provision would apply to both reversals and remands. However, the bill would require the applicant to repay those amounts plus interest if the property is not developed for housing. Finally, the measure eliminates provisions requiring counties and cities to allow certain affordable housing where nonresidential places of worship are allowed.

Land Use Board of Appeals (LUBA), Oregon Judicial Department (OJD), Department of Land Conservation and Development (DLCD), Housing and Community Services Department (HCSD), Department of Justice (DOJ)

Passage of this measure is anticipated to have no or minimal impact on LUBA, OJD, DLCD, HCSD, and DOJ.

### Local Government

The fiscal impact of this measure is indeterminate depending on the number of local government decisions approving or denying affordable housing that may be appealed to LUBA. The measure provides that the prevailing party in an appeal of a local government's decision is entitled to an award of costs and attorney fees, including certain pre-litigation expenses. This provision would apply to both reversals and remands. The League of Oregon Cities reports that because remands occur frequently for various technical reasons, local government could incur some costs. In addition, the measure requires local governments to provide density and height bonuses for affordable housing. Smaller cities that do not already zone and allow for the building height allowed in the measure do not have fire ladders long enough to reach the taller building allowed in the measure. These cities would incur the costs of purchasing new fire equipment to adequately protect buildings allowed under this measure.