

HB 3458 A STAFF MEASURE SUMMARY

Carrier: Rep. McLain

House Committee On Agriculture, Land Use, Natural Resources, and Water**Action Date:** 03/30/23**Action:** Do pass with amendments. (Printed A-Eng.)**Vote:** 9-0-0-0**Yeas:** 9 - Boice, Gamba, Hartman, Helm, Levy B, Marsh, McLain, Owens, Scharf**Fiscal:** No fiscal impact**Revenue:** No revenue impact**Prepared By:** Anna Glueder, LPRO Analyst**Meeting Dates:** 3/27, 3/30**WHAT THE MEASURE DOES:**

Prohibits a party from raising certain new issues before the Land Use Board of Appeals (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. Applies to decisions made and petitions filed with LUBA on or after effective date. Takes effect on 91st day following adjournment sine die.

ISSUES DISCUSSED:

- Intent of the amendment
- Loopholes associated with remand issues
- Delays caused by current appeal options

EFFECT OF AMENDMENT:

Removes limitations on certain 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. Revises provision allowing LUBA to partially affirm decisions related to an acknowledged comprehensive plan or land use regulation; provides that decision may be partially affirmed 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.

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 Legislative Assembly in 1979 and consists of three board members who are appointed by the Governor.

House Bill 3458 A would prohibit a party from raising certain new issues with LUBA on appeal and allow LUBA to partially affirm certain decisions.