Senate Bill 521

Sponsored by Senator SMITH DB, Representative OSBORNE (Presession filed.)

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.** The statement includes a measure digest written in compliance with applicable readability standards.

Digest: This Act makes more cities create urban reserves and allows building on them. (Flesch Readability Score: 76.5).

Requires additional cities to develop urban reserves.

Allows approval of certain types of development within urban reserves not designated by Metro and expansion of urban growth boundaries to include the development.

A BILL FOR AN ACT

Relating to urban reserves; creating new provisions; and amending ORS 197.651, 197A.242, 197A.245 and 268.390.

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

SECTION 1. ORS 197A.245 is amended to read:

197A.245. (1) To ensure that the supply of land available for urbanization is maintained:

(a) [*Local governments may*] **Each city outside of Metro with a population of more than 10,000 in a county with a population of more than 20,000 shall, with the county,** cooperatively designate lands outside urban growth boundaries as urban reserves subject to ORS 197.610 to 197.625 and 197.626.

(b) A city and county not subject to paragraph (a) of this subsection may designate urban reserves under the process and criteria adopted pursuant to paragraph (a) of this subsection.

[*(b)*] **(c)** Alternatively, Metro and a county or a city and a county may enter into a written agreement pursuant to ORS 190.003 to 190.130, 195.025 or 197.652 to 197.658 to designate urban reserves. A process and criteria developed pursuant to this paragraph are an alternative to a process or criteria adopted pursuant to paragraph (a) of this subsection.

(2) The Land Conservation and Development Commission may require a local government to designate urban reserves pursuant to subsection [*(1)(a)*] **(1)(b)** of this section during its periodic review in accordance with the conditions for periodic review under ORS 197.628.

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

(a) Within an urban reserve, a local government may not prohibit the siting on a legal parcel of a single family dwelling that would otherwise have been allowed under law existing prior to designation as an urban reserve.

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

(4) Urban reserves designated under this section must be planned to accommodate population and employment growth for:

(a) At least 40 years and not more than 50 years; or

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.

(b) At least 20 years, and not more than 30 years, after the 20-year period for which the local government has inventoried buildable lands under ORS 197A.270, 197A.280 or 197A.350.

(5) Urban reserves may be established at any time without regard to a schedule under ORS 197A.270 (2), 197A.280 (2) or 197A.350 (2).

(6) The designation of urban reserves under subsection [*(1)(b)*] **(1)(c)** of this section must be based upon consideration of factors including, but not limited to, whether land proposed for designation as urban reserves, alone or in conjunction with land inside the urban growth boundary:

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

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

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

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

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

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

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

(8) The commission shall adopt by goal or by rule a process and criteria for designating urban reserves pursuant to this section.

SECTION 2. Section 3 of this 2025 Act is added to and made a part of ORS chapter 197A.

SECTION 3. (1) A local government may approve a land use application on lands designated as urban reserves under ORS 197A.245 (1)(a) or (b) for:

(a) The subdivision of 10 or more lots for residential development;

(b) The development of a multifamily dwelling with 10 or more units; or

(c) The development of a commercial or industrial use that will result in 10 or more jobs that will pay salaries greater than the area median income.

(2) During or after the approval of an application under subsection (1) of this section, and notwithstanding ORS 197.626, ORS chapter 197A or any statewide planning goal, a city may amend its urban growth boundary to include the developed or subdivided lands.

SECTION 4. ORS 197A.242 is amended to read:

197A.242. (1) A county and Metro must consider simultaneously the designation and establishment of:

(a) Rural reserves pursuant to ORS 197A.235; and

(b) Urban reserves pursuant to ORS 197A.245 [*(1)(b)*] **(1)(c)**.

(2) An agreement to establish rural reserves pursuant to ORS 197A.235 and urban reserves pursuant to ORS 197A.245 [*(1)(b)*] **(1)(c)** must provide for a coordinated and concurrent process for adoption by the county of comprehensive plan provisions and by Metro of regional framework plan provisions to implement the agreement. Metro may not designate urban reserves pursuant to ORS 197A.245 [*(1)(b)*] **(1)(c)** in a county until the county and Metro have entered into an agreement pursuant to ORS 197A.245 [*(1)(b)*] **(1)(c)** that identifies the land to be designated by Metro in Metro's regional framework plan as urban reserves. A county may not designate rural reserves pursuant to ORS 197A.235 until the county and Metro have entered into an agreement pursuant to ORS 197A.235 that identifies the land to be designated as rural reserves by the county in the county's compre-

hensive plan.

(3) A county and Metro may not enter into an intergovernmental agreement to designate urban reserves in the county pursuant to ORS 197A.245 [*(1)(b)*] **(1)(c)** unless the county and Metro also agree to designate rural reserves in the county.

SECTION 5. ORS 197.651 is amended to read:

197.651. (1) Judicial review of a final order of the Land Conservation and Development Commission under ORS 197.626 concerning the designation of urban reserves under ORS 197A.245 [*(1)(b)*] **(1)(c)** or rural reserves under ORS 197A.235 is as provided in subsections (3) to (12) of this section.

(2) Judicial review of any other final order of the commission under ORS 197.626 or of a final order of the commission under 197.180, 197.251, 197.628 to 197.651, 197.652 to 197.658, 197.659, 215.780 or 215.788 to 215.794 is as provided in subsections (3) to (7), (9), (10) and (12) of this section.

(3) A proceeding for judicial review under this section may be instituted by filing a petition in the Court of Appeals. The petition must be filed within 21 days after the date the commission delivered or mailed the order upon which the petition is based.

(4) The filing of the petition, as set forth in subsection (3) of this section, and service of a petition on the persons who submitted oral or written testimony in the proceeding before the commission are jurisdictional and may not be waived or extended.

(5) The petition must state the nature of the order the petitioner seeks to have reviewed. Copies of the petition must be served by registered or certified mail upon the commission and the persons who submitted oral or written testimony in the proceeding before the commission.

(6) Within 21 days after service of the petition, the commission shall transmit to the Court of Appeals the original or a certified copy of the entire record of the proceeding under review. However, by stipulation of the parties to the review proceeding, the record may be shortened. The Court of Appeals may tax a party that unreasonably refuses to stipulate to limit the record for the additional costs. The Court of Appeals may require or permit subsequent corrections or additions to the record. Except as specifically provided in this subsection, the Court of Appeals may not tax the cost of the record to the petitioner or an intervening party. However, the Court of Appeals may tax the costs to a party that files a frivolous petition for judicial review.

(7) Petitions and briefs must be filed within time periods and in a manner established by the Court of Appeals by rule.

(8) The Court of Appeals shall:

(a) Hear oral argument within 49 days of the date of transmittal of the record unless the Court of Appeals determines that the ends of justice served by holding oral argument on a later day outweigh the best interests of the public and the parties. However, the Court of Appeals may not hold oral argument more than 49 days after the date of transmittal of the record because of general congestion of the court calendar or lack of diligent preparation or attention to the case by a member of the court or a party.

(b) Set forth in writing and provide to the parties a determination to hear oral argument more than 49 days from the date the record is transmitted, together with the reasons for the determination. The Court of Appeals shall schedule oral argument as soon as is practicable.

(c) Consider, in making a determination under paragraph (b) of this subsection:

(A) Whether the case is so unusual or complex, due to the number of parties or the existence of novel questions of law, that 49 days is an unreasonable amount of time for the parties to brief the case and for the Court of Appeals to prepare for oral argument; and

(B) Whether the failure to hold oral argument at a later date likely would result in a miscarriage of justice.

(9) The court:

(a) Shall limit judicial review of an order reviewed under this section to the record.

(b) May not substitute its judgment for that of the Land Conservation and Development Commission as to an issue of fact.

(10) The Court of Appeals may affirm, reverse or remand an order reviewed under this section. The Court of Appeals shall reverse or remand the order only if the court finds the order is:

(a) Unlawful in substance or procedure. However, error in procedure is not cause for reversal or remand unless the Court of Appeals determines that substantial rights of the petitioner were prejudiced.

(b) Unconstitutional.

(c) Not supported by substantial evidence in the whole record as to facts found by the commission.

(11) The Court of Appeals shall issue a final order on the petition for judicial review with the greatest possible expediency.

(12) If the order of the commission is remanded by the Court of Appeals or the Supreme Court, the commission shall respond to the court's appellate judgment within 30 days.

SECTION 6. ORS 268.390 is amended to read:

268.390. (1) A district may define and apply a planning procedure that identifies and designates areas and activities having significant impact upon the orderly and responsible development of the metropolitan area, including, but not limited to, impact on:

(a) Air quality;

(b) Water quality; and

(c) Transportation.

(2) A district may prepare and adopt functional plans for those areas designated under subsection (1) of this section to control metropolitan area impact on air and water quality, transportation and other aspects of metropolitan area development the district may identify.

(3)(a) A district shall adopt an urban growth boundary for the district in compliance with applicable goals adopted under ORS chapters 195, 196, 197 and 197A. When a district includes land designated as urban reserve under ORS 197A.245 [*(1)(b)*] **(1)(c)** within an urban growth boundary pursuant to ORS 197A.355 (1), the district is not required to consider the capability classification system or the cubic foot site class of the land as described in ORS 197A.355 (2).

(b) Notwithstanding the procedural requirements for boundary changes under ORS 268.354, when the district adopts an urban growth boundary, the urban growth boundary becomes the boundary of the district.

(4) A district may review the comprehensive plans adopted by the cities and counties within the district that affect areas designated by the district under subsection (1) of this section or the urban growth boundary adopted under subsection (3) of this section and recommend or require cities and counties, as it considers necessary, to make changes in any plan to ensure that the plan and any actions taken under the plan substantially comply with the district's functional plans adopted under subsection (2) of this section and its urban growth boundary adopted under subsection (3) of this section.

(5) Pursuant to a regional framework plan, a district may adopt implementing ordinances that:

(a) Require local comprehensive plans and implementing regulations to substantially comply

with the regional framework plan within two years after compliance acknowledgment.

(b) Require adjudication and determination by the district of the consistency of local comprehensive plans with the regional framework plan.

(c) Require each city and county within the jurisdiction of the district and making land use decisions concerning lands within the land use jurisdiction of the district to make those decisions consistent with the regional framework plan. The obligation to apply the regional framework plan to land use decisions shall not begin until one year after the regional framework plan is acknowledged as complying with the statewide land use planning goals adopted under ORS chapters 195, 196, 197 and 197A.

(d) Require changes in local land use standards and procedures if the district determines that changes are necessary to remedy a pattern or practice of decision-making inconsistent with the regional framework plan.

(6) A process established by the district to enforce the requirements of this section must provide:

(a) Notice of noncompliance to the city or county.

(b) Opportunity for the city or county to be heard.

(c) Entry of an order by the district explaining its findings, conclusions and enforcement remedies, if any.

(7) Enforcement remedies ordered under subsection (6) of this section may include, but are not limited to:

(a) Direct application of specified requirements of functional plans to land use decisions by the city or county;

(b) Withholding by the district of discretionary funds from the city or county; and

(c) Requesting an enforcement action pursuant to ORS 197.319 to 197.335 and withholding moneys pursuant to an enforcement order resulting from the enforcement action.

(8) An order issued under subsection (6) of this section:

(a) Must provide for relief from enforcement remedies upon action by the city or county that brings the comprehensive plan and implementing regulations into substantial compliance with the requirement.

(b) Is subject to review under ORS 197.830 to 197.845 as a land use decision.

(9) The regional framework plan, ordinances that implement the regional framework plan and any determination by the district of consistency with the regional framework plan are subject to review under ORS 197.274.
