

**CLACKAMAS COUNTY BOARD OF COUNTY COMMISSIONERS**  
**Study Session Worksheet**

**Presentation Date:** 06/03/15   **Start Time:** 9:00 am   **Approx. Length:** 90 minutes  
**Presentation Title:** Land Use Legislative Discussion  
**Department:** Public and Government Affairs  
**Presenters:** Gary Schmidt and Chris Lyons

**WHAT ACTION ARE YOU REQUESTING FROM THE BOARD?**

The Board of County Commissioners (BCC) will receive an update on land use legislation in the 2015 state legislative session and will consider legislative goals regarding land use for the remainder of the 2015 state legislative session.

**EXECUTIVE SUMMARY:**

The BCC entered the 2015 state legislative session without any specific land use agenda items. Several bills have been introduced in the session to attempt “land use fixes” relating to Stafford, Langdon Farms, Boring, Damascus, and urban & rural reserve designations within Clackamas County.

HB 3543 and HB 3212 are two remaining bills that could serve as potential vehicles for any land use concepts.

Currently, HB 3543 would allow residents within the UGB, urban reserve, rural reserve, or metropolitan service district to petition county boards for withdrawal from those areas. The bill, sponsored by Rep. Kennemer, is currently in the House Rules Committee and has not been scheduled for its first hearing. There are 10 amendments currently drafted for the bill.

HB 3212 is primarily related to farm use regulations, with loose ties to ORS 195, which contains Urban and Rural Reserve statutes. The bill, sponsored by Rep. Clem, is currently in the Senate Business & Transportation Committee and is scheduled for a public hearing and possible work session on Wednesday, June 3.

In April, the BCC proposed several amendments for HB 3211, which has since died in committee. PGA feels these proposals reflect the majority of the BCC’s opinion on current land use legislation in Salem, and recommends the BCC allow PGA to advocate for these items as Clackamas County’s land use agenda items for the remainder of the legislative session.

The four items include:

- Including the Advance Road area [in Wilsonville] into the Urban Growth Boundary (UGB).
- Designating the Lanphere property as rural-industrial land with retail restrictions.
- Undesignate Area 4J Rural.
- Allow Clackamas County and Metro to revise urban and rural reserves to add additional land suitable for employment (a permissive reopener).

**FINANCIAL IMPLICATIONS (current year and ongoing):**

N/A

**LEGAL/POLICY REQUIREMENTS:**

N/A

**PUBLIC/GOVERNMENTAL PARTICIPATION:**

NA

**OPTIONS:**

1. Reaffirm the 4 (four) drafted land use recommendations the BCC agreed upon for HB 3211 and use those as the County's land use legislative priorities for the remainder of the 2015 state legislative session.
2. Determine new land use legislative priorities.

**RECOMMENDATION:**

1. Reaffirm the 4 (four) drafted land use recommendations the BCC agreed upon for HB 3211 and use those as the County's land use legislative priorities for the remainder of the 2015 state legislative session.

**ATTACHMENTS:**

- HB 3543
- HB 3212
- Available amendments to HB 3543 will be provided at the policy session

**SUBMITTED BY:**

Division Director/Head Approval \_\_\_\_\_

Department Director/Head Approval \_\_\_\_\_s/Gary Schmidt\_\_\_\_\_

County Administrator Approval \_\_\_\_\_

For information on this issue or copies of attachments, please contact Gary Schmidt @ 503-742-5908
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# House Bill 3543

Sponsored by Representative KENNEMER (at the request of Boring Community Planning Organization)

## 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**.

Permits electors of areas within urban growth boundary, urban reserve, rural reserve or metropolitan service district to petition county board for withdrawal.

### A BILL FOR AN ACT

1  
2 Relating to metropolitan service districts.

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

4 **SECTION 1. Section 2 of this 2015 Act is added to and made a part of ORS chapter 268.**

5 **SECTION 2. (1)(a) The electors of an area within an urban growth boundary established**  
6 **by rule or by metropolitan service district action plan may petition the county board pursu-**  
7 **ant to ORS 198.755 and 198.760 to withdraw from the urban growth boundary.**

8 **(b) The county board shall:**

9 **(A) Direct an agent of the county board to verify the signatures on the petition;**

10 **(B) Conduct a hearing for the petition as filed; and**

11 **(C)(i) Approve the petition; or**

12 **(ii) Adjust the urban growth boundary.**

13 **(c) The county board may deny the petition if the area described in the petition is subject**  
14 **to the jurisdiction of a city.**

15 **(d) The county board shall adopt an ordinance reflecting the county board's determi-**  
16 **nation and, if the county board does not deny the petition and if appropriate, submit the**  
17 **ordinance to the metropolitan service district to remove the area from the urban growth**  
18 **boundary.**

19 **(2)(a) The electors of an area within an urban reserve or rural reserve established by rule**  
20 **or by metropolitan service district action plan may petition the county board pursuant to**  
21 **ORS 198.755 and 198.760 to withdraw from the urban reserve or rural reserve.**

22 **(b) The county board shall:**

23 **(A) Direct an agent of the county board to verify the signatures on the petition;**

24 **(B) Conduct a hearing for the petition as filed; and**

25 **(C)(i) Approve the petition;**

26 **(ii) Adjust the urban reserve or rural reserve boundaries; or**

27 **(iii) Deny the petition.**

28 **(c) The county board shall adopt an ordinance reflecting the county board's determi-**  
29 **nation and, if the county board does not deny the petition and if appropriate, submit the**  
30 **ordinance to the metropolitan service district to remove the area from the urban reserve**  
31 **or rural reserve boundaries.**

**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       **(3)(a) The electors of an area within a metropolitan service district may petition the**  
2 **county board pursuant to ORS 198.755 and 198.760 to withdraw from the metropolitan service**  
3 **district.**

4       **(b) The county board shall:**

5       **(A) Direct the agent of the county board to verify the signatures on the petition;**

6       **(B) Conduct a hearing for the petition as filed; and**

7       **(C)(i) Approve the petition; or**

8       **(ii) Adjust the metropolitan service district boundaries.**

9       **(c) The county board may deny the petition if the area described in the petition is subject**  
10 **to the jurisdiction of a city.**

11       **(d) The county board shall adopt an ordinance reflecting the county board's determi-**  
12 **nation and, if the county board does not deny the petition, submit the ordinance to the**  
13 **metropolitan service district to remove the area from the district boundaries.**

14

**A-Engrossed**  
**House Bill 3212**

Ordered by the House April 20  
Including House Amendments dated April 20

Sponsored by COMMITTEE ON RURAL COMMUNITIES, LAND USE, AND WATER

**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.

Makes law or rule **solely** for [*restricting*] **purpose of regulating** previously allowed farming practice land use regulation for purposes of certain land use laws.

*[Removes just compensation exemption for land use regulation that reduces fair market value of property and restricts farming practice or forest practice covered by right-to-farm laws.]*

**A BILL FOR AN ACT**

1  
2 Relating to land use; amending ORS 195.300.

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

4 **SECTION 1.** ORS 195.300 is amended to read:

5 195.300. As used in this section and ORS 195.301 and 195.305 to 195.336 and sections 5 to 11,  
6 chapter 424, Oregon Laws 2007, and sections 2 to 9 and 17, chapter 855, Oregon Laws 2009, and  
7 sections 2 to 7, chapter 8, Oregon Laws 2010:

8 (1) "Acquisition date" means the date described in ORS 195.328.

9 (2) "Claim" means a written demand for compensation filed under:

10 (a) ORS 195.305, as in effect immediately before December 6, 2007; or

11 (b) ORS 195.305 and 195.310 to 195.314, as in effect on and after December 6, 2007.

12 (3) "Enacted" means enacted, adopted or amended.

13 (4) "Fair market value" means the value of property as determined under ORS 195.332.

14 (5) "Farming practice" has the meaning given that term in ORS 30.930.

15 (6) "Federal law" means:

16 (a) A statute, regulation, order, decree or policy enacted by a federal entity or by a state entity  
17 acting under authority delegated by the federal government;

18 (b) A requirement contained in a plan or rule enacted by a compact entity; or

19 (c) A requirement contained in a permit issued by a federal or state agency pursuant to a federal  
20 statute or regulation.

21 (7) "File" means to submit a document to a public entity.

22 (8) "Forest practice" has the meaning given that term in ORS 527.620.

23 (9) "Ground water restricted area" means an area designated as a critical ground water area  
24 or as a ground water limited area by the Water Resources Department or Water Resources Com-  
25 mission before December 6, 2007.

26 (10) "High-value farmland" means:

27 (a) High-value farmland as described in ORS 215.710 that is land in an exclusive farm use zone

**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 or a mixed farm and forest zone, except that the dates specified in ORS 215.710 (2), (4) and (6) are  
2 December 6, 2007.

3 (b) Land west of U.S. Highway 101 that is composed predominantly of the following soils in Class  
4 III or IV or composed predominantly of a combination of the soils described in ORS 215.710 (1) and  
5 the following soils:

6 (A) Subclassification IIIw, specifically Ettersburg Silt Loam and Croftland Silty Clay Loam;

7 (B) Subclassification IIIe, specifically Klooqueth Silty Clay Loam and Winchuck Silt Loam; and

8 (C) Subclassification IVw, specifically Huffling Silty Clay Loam.

9 (c) Land that is in an exclusive farm use zone or a mixed farm and forest zone and that on June  
10 28, 2007, is:

11 (A) Within the place of use for a permit, certificate or decree for the use of water for irrigation  
12 issued by the Water Resources Department;

13 (B) Within the boundaries of a district, as defined in ORS 540.505; or

14 (C) Within the boundaries of a diking district formed under ORS chapter 551.

15 (d) Land that contains not less than five acres planted in wine grapes.

16 (e) Land that is in an exclusive farm use zone and that is at an elevation between 200 and 1,000  
17 feet above mean sea level, with an aspect between 67.5 and 292.5 degrees and a slope between zero  
18 and 15 percent, and that is located within:

19 (A) The Southern Oregon viticultural area as described in 27 C.F.R. 9.179;

20 (B) The Umpqua Valley viticultural area as described in 27 C.F.R. 9.89; or

21 (C) The Willamette Valley viticultural area as described in 27 C.F.R. 9.90.

22 (f) Land that is in an exclusive farm use zone and that is no more than 3,000 feet above mean  
23 sea level, with an aspect between 67.5 and 292.5 degrees and a slope between zero and 15 percent,  
24 and that is located within:

25 (A) The portion of the Columbia Gorge viticultural area as described in 27 C.F.R. 9.178 that is  
26 within the State of Oregon;

27 (B) The Rogue Valley viticultural area as described in 27 C.F.R. 9.132;

28 (C) The portion of the Columbia Valley viticultural area as described in 27 C.F.R. 9.74 that is  
29 within the State of Oregon;

30 (D) The portion of the Walla Walla Valley viticultural area as described in 27 C.F.R. 9.91 that  
31 is within the State of Oregon; or

32 (E) The portion of the Snake River Valley viticultural area as described in 27 C.F.R. 9.208 that  
33 is within the State of Oregon.

34 (11) "High-value forestland" means land:

35 (a) That is in a forest zone or a mixed farm and forest zone, that is located in western Oregon  
36 and composed predominantly of soils capable of producing more than 120 cubic feet per acre per  
37 year of wood fiber and that is capable of producing more than 5,000 cubic feet per year of com-  
38 mercial tree species; or

39 (b) That is in a forest zone or a mixed farm and forest zone, that is located in eastern Oregon  
40 and composed predominantly of soils capable of producing more than 85 cubic feet per acre per year  
41 of wood fiber and that is capable of producing more than 4,000 cubic feet per year of commercial  
42 tree species.

43 (12) "Home site approval" means approval of the subdivision or partition of property or approval  
44 of the establishment of a dwelling on property.

45 (13) "Just compensation" means:

1 (a) Relief under sections 5 to 11, chapter 424, Oregon Laws 2007, sections 2 to 9 and 17, chapter  
2 855, Oregon Laws 2009, and sections 2 to 7, chapter 8, Oregon Laws 2010, for land use regulations  
3 enacted on or before January 1, 2007; and

4 (b) Relief under ORS 195.310 to 195.314 for land use regulations enacted after January 1, 2007.

5 (14) "Land use regulation" means:

6 (a) A statute that establishes a minimum lot or parcel size;

7 (b) A provision in ORS 227.030 to 227.300, 227.350, 227.400, 227.450 or 227.500 or in ORS chapter  
8 215 that restricts the residential use of private real property;

9 (c) A provision of a city comprehensive plan, zoning ordinance or land division ordinance that  
10 restricts the residential use of private real property zoned for residential use;

11 (d) A provision of a county comprehensive plan, zoning ordinance or land division ordinance that  
12 restricts the residential use of private real property;

13 (e) A provision, enacted or adopted on or after January 1, 2010, of:

14 (A) The Oregon Forest Practices Act;

15 (B) An administrative rule of the State Board of Forestry; [or]

16 (C) Any other law enacted, or rule adopted, solely for the purpose of regulating a forest prac-  
17 tice; **or**

18 **(D) Any law enacted, or rule adopted, solely for the purpose of regulating a farming**  
19 **practice that was allowed immediately prior to enactment of the law or adoption of the rule;**

20 (f) ORS 561.191, a provision of ORS 568.900 to 568.933 or an administrative rule of the State  
21 Department of Agriculture that implements ORS 561.191 or 568.900 to 568.933;

22 (g) An administrative rule or goal of the Land Conservation and Development Commission; or

23 (h) A provision of a Metro functional plan that restricts the residential use of private real  
24 property.

25 (15) "Lawfully established unit of land" has the meaning given that term in ORS 92.010.

26 (16) "Lot" has the meaning given that term in ORS 92.010.

27 (17) "Measure 37 permit" means a final decision by Metro, a city or a county to authorize the  
28 development, subdivision or partition or other use of property pursuant to a waiver.

29 (18) "Owner" means:

30 (a) The owner of fee title to the property as shown in the deed records of the county where the  
31 property is located;

32 (b) The purchaser under a land sale contract, if there is a recorded land sale contract in force  
33 for the property; or

34 (c) If the property is owned by the trustee of a revocable trust, the settlor of a revocable trust,  
35 except that when the trust becomes irrevocable only the trustee is the owner.

36 (19) "Parcel" has the meaning given that term in ORS 92.010.

37 (20) "Property" means the private real property described in a claim and contiguous private real  
38 property that is owned by the same owner, whether or not the contiguous property is described in  
39 another claim, and that is not property owned by the federal government, an Indian tribe or a public  
40 body, as defined in ORS 192.410.

41 (21) "Protection of public health and safety" means a law, rule, ordinance, order, policy, permit  
42 or other governmental authorization that restricts a use of property in order to reduce the risk or  
43 consequence of fire, earthquake, landslide, flood, storm, pollution, disease, crime or other natural  
44 or human disaster or threat to persons or property including, but not limited to, building and fire  
45 codes, health and sanitation regulations, solid or hazardous waste regulations and pollution control

1 regulations.

2 (22) "Public entity" means the state, Metro, a county or a city.

3 (23) "Urban growth boundary" has the meaning given that term in ORS 195.060.

4 (24) "Waive" or "waiver" means an action or decision of a public entity to modify, remove or  
5 not apply one or more land use regulations under ORS 195.305 to 195.336 and sections 5 to 11,  
6 chapter 424, Oregon Laws 2007, sections 2 to 9 and 17, chapter 855, Oregon Laws 2009, and sections  
7 2 to 7, chapter 8, Oregon Laws 2010, or ORS 195.305, as in effect immediately before December 6,  
8 2007, to allow the owner to use property for a use permitted when the owner acquired the property.

9 (25) "Zoned for residential use" means zoning that has as its primary purpose single-family res-  
10 idential use.

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