

House Bill 3520

Sponsored by Representative KENNEMER (at the request of Common Sense for Oregon)

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**.

Prohibits local government from restricting industrial use of regionally significant industrial area without express written consent of affected landowners.

A BILL FOR AN ACT

1
2 Relating to land use; amending 197.723.

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

4 **SECTION 1.** ORS 197.723 is amended to read:

5 197.723. (1) Within three years after June 28, 2011, in cooperation with local governments and
6 private industry, the Economic Recovery Review Council, by rule, shall designate at least five and
7 not more than 15 regionally significant industrial areas. The council shall base the designation of
8 regionally significant industrial areas on the criteria in the definition of "regionally significant in-
9 dustrial area" and the judgment of the council concerning the relative importance of the areas in
10 terms of potential, long-term job creation.

11 (2) A local government may nominate a regionally significant industrial area for designation by
12 the council.

13 (3) An area containing multiple sites certified by the Oregon Business Development Department
14 as ready for development within six months or less is eligible for designation by the council if the
15 area is a regionally significant industrial area.

16 (4) In addition to demonstrating compliance with other provisions of law, including, but not
17 limited to, a statewide land use planning goal concerning economic development and rules imple-
18 menting the goal, the future employment potential of **an area designated by the council or Metro**
19 **as** a regionally significant industrial area shall be protected from conflicting development in the
20 following ways:

21 (a) A local government may not adopt a provision of a comprehensive plan or land use regu-
22 lation that prevents industrial uses within the area.

23 (b) A local government may not adopt a provision of a comprehensive plan or land use regu-
24 lation that allows new nonindustrial uses within the area that conflict with existing or planned in-
25 dustrial uses.

26 (c) A local government may not decrease the land area planned or zoned for industrial uses
27 within the regionally significant industrial area.

28 (d) A local government may adopt a provision of a comprehensive plan or land use regulation,
29 including development standards or overlay zones, that restricts the type or extent of current or
30 future industrial uses within the area, but only if the local government mitigates at the same time
31 the effect of the new provision by:

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 (A) Clearly maintaining or increasing the industrial employment potential of the area; *[and]*

2 (B) Clearly maintaining the important site characteristics and functions that led to the desig-
 3 nation of the site as a regionally significant industrial area[.]; **and**

4 **(C) Satisfying the requirements of subsections (6) to (10) of this section.**

5 (5) Subsection (4) of this section does not apply to a provision of a comprehensive plan or land
 6 use regulation that is necessary:

7 (a) To protect public health or safety; or

8 (b) To implement federal law.

9 **(6) A local government may not restrict industrial use of land designated as a regionally**
 10 **significant industrial area under subsection (4) of this section prior to the receipt of express**
 11 **written consent from all landowners of property within the regionally significant industrial**
 12 **area.**

13 **(7) A local government may not require a landowner of property within a regionally sig-**
 14 **nificant industrial area to provide express written consent for a proposed restriction as a**
 15 **condition for receipt or approval of any permit.**

16 **(8) A local government that restricts industrial use of land designated as a regionally**
 17 **significant industrial area in violation of subsection (6) of this section shall be liable to all**
 18 **landowners of property within the regionally significant industrial area in an amount equal**
 19 **to the diminution of the value of each landowner's property, measured by the best and**
 20 **highest use of the property, including any use for which the property is or may reasonably**
 21 **be adapted.**

22 **(9) Any restriction of industrial use of land designated as a regionally significant indus-**
 23 **trial area in violation of subsection (6) constitutes substantial interference for purposes of**
 24 **inverse condemnation proceedings.**

25 **(10) No person may bring a cause of action against a local government to enjoin or delay**
 26 **compliance with subsections (4) or (6) of this section. A local government shall defend itself**
 27 **against any cause of action brought by any person in violation of this subsection.**

28 *[(6)]* **(11)** If 50 percent of the developable land within a regionally significant industrial area has
 29 not been developed within 10 years after designation of the area, the council shall remove the des-
 30 ignation, unless landowners representing a majority of the land within the area request that the
 31 designation be continued.

32 *[(7)]* **(12)** Within a regionally significant industrial area, a new industrial use or the expansion
 33 of an existing industrial use is eligible for an expedited industrial land use permit issued under ORS
 34 197.724 if the new or expanded use does not require a change to the acknowledged comprehensive
 35 plan or land use regulations.

36 *[(8)]* **(13)** In addition to other criteria for distribution of available funds, the Oregon
 37 Infrastructure Finance Authority and the Oregon Transportation Commission may consider the
 38 designation of an area as a regionally significant industrial area in prioritizing funding for trans-
 39 portation and other public infrastructure.

40 *[(9)]* **(14)** ORS 197.722 to 197.728 do not apply to land in the Willamette River Greenway Plan
 41 boundary between river mile 1 and river mile 11.

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