

Legislative Committee

Monday, June 6, 2011

12:00 p.m.

Lunch will be available at 11:30 a.m.

Local Government Center, Room 113

1201 Court Street NE

Salem, Oregon

Agenda

12:00 p.m.

1. Call to Order

President Janet Carlson

1.1 Agenda approval **(Action)**

1.2 Minutes of May 16, 2011 meeting **(Action)** page 3

1.3 Special Operations Committee minutes for April 27, 2011 **(Action)** page 11

12:05 p.m.

2. Red Cross Initiative for Oregon

Mark Labhart

Maree Wacker, CEO, Oregon Trail Chapter, American Red Cross

12:20 p.m.

3. Action or Possible Action Items

3.1 HB 2566 (bill and amendments) page 13

Gil Riddell

3.2 HB 3280-A (bill and amendments) page 19

Art Schlack

3.3 HB 2710-A, HB 2712-A * page 47

Paul Snider

3.4 AOC-AMH System of Care Draft page 50

Mark Nystrom

3.5 Priority items from committees

President Carlson

*See legislative bills at http://www.leg.state.or.us/bills_laws/

1:00 p.m.

4. Discussion & Updates

4.2 NACo 2011 Annual Conference, July 15-19 in Multnomah County

Diane McKeel

1:05 p.m.

5. Steering Committee Reports

5.1 Communications Policy

Jeanne Burch, chair

5.2 Community Development

Diane McKeel, chair

5.3 Environment & Energy

Gary Thompson, chair

5.4 Governance

Earl Fisher & Andy Duyck, co-chairs

5.5 Human Services

Kathy George & Bill Hall, co-chairs

5.6 Public Lands

Faye Stewart & Dan Joyce, co-chairs

5.7 Public Safety

Jim Bernard & Jay Dixon, co-chairs

5.8 Transportation

Al Switzer, chair

5.9 Water Policy

Alan Unger, chair

1:40 p.m.

6. Affiliate Organizations Reports

- | | |
|--|-----------------|
| 6.1 OSACA (Assessors) | Scot Langton |
| 6.2 OCCA (Clerks) | Dana Jenkins |
| 6.3 NACA (County Administrators) | Ralph Wyatt |
| 6.4 ODAA (District Attorneys) | Eric Nisley |
| 6.5 OACES (Engineers & Surveyors) | Robb Paul |
| 6.6 OJPA (Justices of the Peace) | Charles Fadeley |
| 6.7 OSSA (Sheriffs) | Jack Crabtree |
| 6.8 OACTC (Tax Collectors) | Bob Vroman |
| 6.9 OACTFO (Treasurers & Finance Officers) | Laurie Steele |

7. Other Business

President Carlson

- 9.1 Legislative Committee meets next on June 20

8. Adjourn

President Carlson

Next AOC Legislative Committee meeting June 20 – 12 p.m.

Local Government Center, Salem, Oregon

Scheduled Legislative Committee meetings for remainder of 2011:

July 11 (*if necessary*)
September 12

October 10
December 12

August 7-9, AOC Summer Summit at Oregon Gardens Resort, Silverton

Quality of Life for Oregonians: *An intersection of county services*

November 15-17, AOC Annual Conference, Hilton Eugene & Conference Center

Association of Oregon Counties
Legislative Committee

Monday, May 16, 2011
12:00 p.m.

Local Government Center
Salem, Oregon

Present: President Janet Carlson, Judge Pat Shaw, Judge Jeanne Burch, Commissioner Dwight Ellis, Commissioner Jay Dixon, Commissioner Kathy George, Commissioner Leslie Lewis, Commissioner Linda Modrell, Commissioner Mark Labhart, Commissioner Greg Malinowski, Commissioner Bill Hansell, Commissioner Tony Hyde, Commissioner Charlotte Lehan, Commissioner Sam Brentano, Commissioner Annabelle Jaramillo, Judge Gary Thompson, Commissioner Earl Fisher, Commissioner Bill Hall Commissioner Craig Pope, Commissioner Al Switzer, Commissioner Charlotte Lehan, Treasurer Laurie Steele, Administrator Ralph Wyatt

Via telephone: Commissioner Mary Stern, Judge Steve Grasty, Commissioner Patricia Roberts, District Attorney Eric Nisley, Public Works Director Robb Paul

Guests: Commissioner Cheryl Hukill, Lisa Naito, Jim McCauley, Gillian Wesenberg, Barb Young, Troy Rayburn, Jared Anderson, Nancy Bennett, Greg Wolf, Bill Thomas

Staff and consultants: Mike McArthur, Paul Snider, Mike Eliason, Gil Riddell, Ann Hanus, Emily Ackland, Mark Nystrom, Eric Schmidt, Laura Cleland, Cara Fischer, Joann Hendrix, Caroline Moore

President Janet Carlson called the meeting to order at 12:00 p.m.

Agenda

Commissioner Bill Hansell moved approval of the agenda for Monday, May 16, 2011, seconded by Administrator Ralph Wyatt. Motion carried.

Special Operations Committee minutes/Legislative Committee minutes
Commissioner Hansell moved approval of the Special Operations Committee minutes for March 30, 2011, the Legislative Committee minutes of March 14, 2011, April 11, 2011 and May 2, 1011, seconded by Commissioner Annabelle Jaramillo. Motion carried.

Governor's Office

Greg Wolf reported that the Governor's office has been working on establishing the Regional Solutions Team. The Regional Solutions Team centers will be located at Tillamook Community College, University of Oregon, Southern Oregon University, OSU-Cascades Campus, Eastern Oregon University and Portland State University.

Mr. Wolf commented that if needed in the future other agencies would be added to the team. An advisory committee is being formed to include AOC and LOC to help identify regional priorities.

Budget Forecast

Tom Potiowsky, state economist with the Oregon Office of Economic Analysis, reviewed the 2011 Economic and Revenue Forecast. A copy of the analysis is located at the Office of Economic Analysis website <http://oregon.gov/das/oea> and in AOC Legislative Committee records.

Action or Possible Action Items

National Forest Land Management Rule

Gil Riddell reported that the U.S. Department of Agriculture has issued proposed new rules to guide land management planning by the U.S. Forest Service on national forests. There are 11 national forests in Oregon comprising 14.3 million acres in 31 counties. The economic, environmental and social health of many communities depends on management of national forests.

Previous attempts to amend the procedurally burdensome 1982 rules have failed. The U.S. Forest Service has provided extensive outreach during this current process. Comments are due May 16, if AOC wishes to weigh in, it must act on these comments today.

The draft comments are guided by AOC Public Lands & Natural Resources principles, conversations with other stakeholders and on-the-ground experience.

On May 2, the Legislative Committee reviewed the draft comments. The Legislative Committee provided suggestions for improvements. The Public Lands & Natural Resources Committee has approved the latest draft comments (dated 5-3-11).

Commissioner Mark Labhart moved to adopt draft comments on the rule as those of AOC, seconded by Commissioner Craig Pope. Motion carried. Robb Paul abstained.

HB 2337

Mr. Riddell reviewed HB 2337, which addresses the controversial issue of using dogs to hunt cougars.

HB 2337 permits a county governing body to request inclusion into a pilot program for select cougar management zones in which dogs may be used to hunt or pursue cougars. The county governing body requests inclusion by adopting a resolution, documenting the need by identifying the extent of cougar conflicts, and demonstrating that existing cougar management actions have not been sufficient to manage cougars in the county. The Department of Fish & Wildlife is to establish the pilot program by rule.

The bill requires a 2/3rds vote in each chamber to pass, because it reduces a criminal sentence (another policy established by initiative). On April 20, the House passed the bill 45-14. It is now in the Senate, where it is less likely to pass.

Given the controversial nature of this subject, staff requests direction whether to weigh in, and if so, for, against or neutral.

Commissioner Tony Hyde moved to approve the Public Lands and Natural Resources steering committee's recommendation to support HB 2337, seconded by Commissioner Pope. Motion carried. Mr. Paul abstained.

HB 3613-A

Mr. Riddell reviewed HB 3613-A, which provides that the Oregon Department of Agriculture (ODA) water quality program is the exclusive means to protect and improve water quality through agricultural activity regulations, regarding nonpoint sources of pollution on lands outside an urban growth boundary.

HB 3613-A clarifies the jurisdiction of ODA under its Agricultural Water Quality Management Program, originated by SB 1010 (1993). The program is outcome- and condition-based, without mandatory setbacks or permitting. Plans for all 39 basins have been in place for the last four years. The program's design makes it difficult to quantify improvements on the land, but it does recognize the geologic and commodity diversity of the state.

Recent water quality standards adopted by the Department of Environmental Quality have put more pressure on point sources of pollution. As a consequence, some representatives of point sources, such as the League of Cities, and environmental groups are urging a more demanding approach to non-point source lands and have testified against HB 3613-A.

On April 27 HB 3613-A was reported out of the House Transportation & Economic Development Committee 'do pass.' If it passes the House, it likely will be referred to the Senate Environment & Natural Resources Committee.

The ODA program is not perfect, but fits the geologic, cultural and commodity diversity of agricultural lands in the state. Mr. Riddell commented that League of Oregon Cities may submit amendments to the bill but have not officially done so at this time. This bill was discussed by the Public Lands & Natural Resources and Environment & Energy steering committees both requesting support of HB 3613-A.

Commissioner Earl Fisher moved to approve the Public Lands and Natural Resources and Environment & Energy steering committees recommendation to support HB-3613-A as it stands but not support any additional amendments, seconded by Judge Gary Thompson. Motion carried. Mr. Paul abstained.

HB 3137

Mr. Riddell reviewed HB 3167, which would eliminate the three percent discount for partial or full payment of property taxes on or before November 15. He stated that the bill is from Co-chair Arnie Roblin's office exploring the concept that might help mitigate the Secure Rural Schools funding concerns.

The House Revenue Committee is considering HB 3167, which could raise \$250 million per biennium in local revenues, much of which would go to k-12 schools (roughly 42 percent), but some of which would go to counties (roughly 19 percent). Because revenues are local, this bill

can pass on majority, rather than super-majority, vote. More local revenues to schools reduce the burden on the state's School Fund. There could also be discussions about reducing the discount to two or one percent.

Mr. Riddell stated that the county tax collectors support this bill. County Administrator Ralph Wyatt stated that the administrators have not reviewed so have no recommendation at this time.

Judge Pat Shaw moved to support HB 3167 that would eliminate the three percent discount for partial or full payment of property taxes on or before November 15, seconded by Commissioner Jay Dixon. Mr. Paul abstained.

Discussion ensued regarding the administrative burden on tracking individual tax payments. If no incentive to pay in November than majority of payments will be made in May causing financial burden for counties.

Nancy Bennett, Multnomah County, stated that it is in support of the bill. She said that Multnomah County believes that the additional income to the county outweighs the administrative burden.

Commissioner Patricia Roberts asked if anyone has researched not just the cash flow issue but keeping track of who pays taxes yearly vs. quarterly, etcetera. Treasurer Laurie Steele said that if tax payments were not made until May the counties would have to extend their borrowing timetables for cash flow.

Vote was taken on the motion. Motion failed by majority vote.

Commissioner Hyde moved to remain neutral on HB 3167, seconded by Judge Thompson. Motion carried. Judge Shaw, Commissioner Sam Brentano, Commissioner Roberts, Commissioner Hansell, Commissioner Mary Stern and District Attorney Eric Nisley opposed. Mr. Paul abstained.

Commissioner Stern moved to reconsider the motion, seconded by Mr. Wyatt. Motion failed.

HB 2566

Mr. Riddell reviewed HB 2566, which is a property tax exemption for tribal land used for governmental service. He stated that at its March 14 meeting, the Legislative Committee directed staff to negotiate with Oregon tribes on their bill to exempt from property taxes land used for governmental services. The goal is to limit the exemption to that which is received by the state and local governments.

Mr. Riddell negotiated parallel language to section (3) of what state and local government follows. The amendment is: "(3) As used in this section, "government services" means the provision of services by an Indian tribe related to tribal administration, tribal facilities, fire, police, tribal health facilities, education, sewer, water, environmental and fish and wildlife management and restoration activities, land use, transportation, low-income housing, utility

services, lands purchased specifically for archaeological protection or ceremonial cultural sites, cemeteries and the exercise of rights derived from intergovernmental agreements and state and federal laws."

HB 2566 as written very broadly defined the term "governmental services." Because of the evolution of Oregon statutes, there is no simple way to define parallel exemptions for tribes and other governments. The negotiated definition by necessity focused on details.

Discussion ensued with several commissioners stating concerns. Commissioner Pope said this might encourage acquisition of land against the trust land process.

Commissioner Hyde moved to oppose HB 2566 in current form with amendments, seconded by Judge Shaw. Motion carried. Commissioner Stern, Commissioner Jaramillo opposed. Mr. Paul abstained.

HB 3086-1

President Carlson advised that the Human Resources Committee approved support of HB 3086-1 with the following amendments:

- Request report back from counties to the legislature and require state to consider the local rule on early learning.
- No sunset of the local commission statutes.
- Bill to include the provision that system is voluntary for families.

President Carlson advised that the Legislative Committee adopted the Children and Families Task Force Committee's report and recommendations. The task force supported the concept of early learning but some concerns were raised on the role of local commissioners and making sure that county systems would be preserved.

Commissioner Bill Hall moved to support HB 3086-1 with the Human Resources Committee amendments (above), seconded by Commissioner Kathy George. Motion carried. Commissioner Jaramillo and Mr. Paul abstained.

HB 3650-4

On behalf of the AOC Human Services Committee Mark Nystrom presented HB 3650, the health transformation bill. Counties, as the mental health and public health authorities, could be greatly impacted by changes caused by the bill. The vision is to bundle all Medicaid-provided services into one pool and have these funds managed by a Coordinated Care Organization (CCO). Counties' role in governance and service delivery is still being debated; AOC has been an active participant in these conversations.

The Human Services Committee strongly supports the language in the current bill. The most important concern to the counties is that the Oregon Health Authority builds a system of care that recognizes the counties' responsibilities for the uninsured, the county role in maintaining the mental health crisis safety net and addressing the needs of the seriously and persistently mentally ill. When the CCOs are created and funded, counties will still be responsible for the

total population in their communities and for the population that is in and out of the state hospital because of persistent and serious mental health issues. Counties will continue to be responsible for the intersection of mental health, the criminal justice system and the child welfare system. These responsibilities need to be formally linked to the new system and funded appropriately.

The Human Services Committee urges all commissioners and county judges to call their legislators and give them these messages:

HB 3650, as introduced, contains language in sections 4 and 22 that *must be retained in order to protect safety net mental health and public health services*:

- Oregon counties believe that as the Oregon Health Authority builds a system of care it must recognize the counties' responsibilities for the uninsured and the county role in maintaining the mental health crisis safety net and addressing the needs of the seriously and persistently mentally ill.
- When the CCOs are created and funded, counties will still be responsible for the total population in their communities and for the population that is in and out of the state hospital because of persistent and serious mental health issues.
- County government will continue to manage the intersection of mental health, the criminal justice system and the child welfare system. These responsibilities need to be linked to the new system and funded appropriately.

Commissioner George moved to support HB 3650-4 with amendments, seconded by Commissioner Hall. Motion carried. Mr. Paul abstained.

Priority items from committees

Human Services

Commissioner Hall stated that the potential impact to the Temporary Assistance for Needy Families (TANF) cuts in the Governor's recommended budget would take eligibility down from 60 months to 18 months. Human Services Committee did not recommend an AOC position on this issue but did ask that information sheets from the TANF Coalition be sent to commissioners with a chart on the number of people receiving benefits in each county and a copy of the resolution released by Multnomah County opposing the proposed cuts. The Human Services Committee urges counties to contact legislators regarding these cuts and how they will affect constituents.

Public Safety Committee

Commissioner Jay Dixon reported on HB 2710 regarding revising laws relating to court fees and county authority. Mr. Dixon said the current bill as written would not allow counties to set fees. Public Safety Committee agrees that HB 2710 should restore county authority to set fees by following statute.

Commissioner Dixon moved to support HB 2710 with amendments to strike the provisions that removes county authority to set mediation and conciliation fees,

seconded by Commissioner Earl Fisher. Motion carried. Treasurer Steele and Mr. Paul abstained.

Discussion and Updates

NACo 2011 Annual Conference

Commissioner Hansell reported Oregon counties have contributed \$28,000 to the NACo 2011 Annual Conference with another \$19,500 yet to be collected.

Steering Committee Reports

Communications Policy

Judge Jeanne Burch reported that the Oregon Telecommunications Citizens Utility Board is working on a program to allow you to choose your own personal phone services and rate. Money for this project is being donated from mitigation money from QWEST. The committee discussed the Oregon State Radio Project, which has replaced the disbanded Oregon Wireless Interoperability Network (OWIN) project. The committee received a presentation on the new AOC communication system.

Community Development - no report

Environment and Energy - no report

Governance Committee –no report

Human Services - no report

Public Lands – no report

Public Safety - no report

Transportation – no report

Water Policy - no report

Affiliate Organizations Reports

Assessors – no report

Clerks – no report

County Administrators – Ralph Wyatt reported that administrators discussed with AOC staff HB 3650 regarding the Oregon Integrated and Coordinated Health Care Delivery System and SB 41 concerning public records.

District Attorneys – District Attorney Eric Nisley said D.A.s continue to present ideas and concepts to save money for the state.

Engineers and Surveyors – no report

Justices of the Peace – no report

Sheriffs - no report

Tax Collectors – no report

Treasurers – no report

Mr. McArthur presented several maps that the legislature is considering for legislative and congressional redistricting by population. If legislators cannot come to agreement on redistricting the task falls to the secretary of state.

Meeting adjourned at 2:20 p.m.

Association of Oregon Counties
Special Operations Committee

Wednesday, April 27, 2011
4:00 p.m.

Telephone conference call

Present: President Janet Carlson, Commissioner Tammy Baney, Commissioner Mary Stern, Judge Pat Shaw, Judge Steve Grasty, Commissioner Andy Duyck

Guest: Marc Kelley, Lisa Naito

Staff: Mike McArthur, Cara Fischer, Mike Eliason, Mark Nystrom, Joann Hendrix

President Janet Carlson called the meeting to order at 4:00 p.m.

Approval of March 30, 2011 minutes

Commissioner Mary Stern moved approval of the March 30, 2011 minutes, seconded by Judge Steve Grasty. Motion carried.

Partnership for Rural America campaign briefing

Marc Kelley updated the committee on recent campaign actions, what is happening in Washington, DC and plans for the immediate future.

HB 3488

Mike Eliason reviewed HB 3488. He stated the bill, brought by a coalition of public employee unions and passed in 2009, created a process that requires a contracting agency to conduct a written cost analysis before conducting procurement for services of more than \$250,000. The analysis must show the agency would incur less cost contracting out than in performing the services with the agency's own personnel. In the alternative, the agency must demonstrate that using the agency's own personnel is "not feasible." Local government expressed opposition to this bill in 2009 as potentially taking away a tool (contracting out services) at a time when budget difficulties required all options to be considered. The bill exempted counties with a population of less than 30,000 as well as procurements for "client services," which includes mental health services.

HB 3488 would remove or modify several of the key provisions from the bill passed in 2009:

- Proposes to raise the threshold for requiring a cost analysis or feasibility determination for procurement from \$250,000 to \$2 million;
- Requires a contracting agency to include the agency's indirect overhead costs in the cost analysis. This is not allowed under the current law, which AOC argued leads to an inaccurate and artificially low estimate of the agency's cost of providing the service when compared to the cost of contracting out;
- Removes the prohibition on proceeding with procurement if the contractor's costs are lower solely because the contractor pays employees less than the public agency does; and

- Deletes the requirement that the agency is to prepare an appropriation request to obtain the resources necessary to perform services that the agency determined would be less costly to perform in-house but lacked the necessary staff and resources to perform.

Judge Grasty moved to support HB 3488, seconded by Commissioner Tammy Baney. Motion carried.

HB 3637

Mr. Eliason requested direction with regards to HB 3637. He stated the bill proposes to make all elective county or city offices non-partisan offices. Currently, the offices of county clerk, sheriff, treasurer, district attorney, surveyor, assessor and justice of the peace are all designated non-partisan. In addition, county judges who exercise judicial functions (seven counties) are designated non-partisan. Fifteen counties in Oregon currently elect partisan commissioners.

Judge Grasty moved to support HB 3637, seconded by Judge Pat Shaw.

Discussion ensued about counties retaining local authority on the issue. **Judge Grasty withdrew his motion to support HB 3637, second withdrawn by Judge Shaw.**

Most Special Operations Committee members were in opposition and did not wish to take a position on the bill. The committee requested by consensus that the bill be referred to the Legislative Committee for consideration.

HB 3650

Mark Nystrom reviewed HB 3650. He stated that the most important concern to the counties is that the Oregon Health Authority builds a system of care that recognizes the counties' responsibilities for the uninsured and the county role in maintaining the mental health crisis safety net and addressing the needs of the seriously and persistently mentally ill. When the coordinated care organizations are created and funded, counties will still be responsible for the total population in their communities and for the population that is in and out of the state hospital because of persistent and serious mental health issues. Counties will continue to be responsible for the intersection of mental health, the criminal justice system and the child welfare system. These responsibilities need to be formally linked to the new system and funded appropriately.

Mark Nystrom reviewed the testimony to be presented by Claudia Black, Multnomah County, regarding HB 3650. Mr. Nystrom requests AOC's endorsement of Ms. Black's testimony, which is included in the agenda packet.

Commissioner Andy Duyck moved to support the testimony of Claudia Black, Multnomah County, regarding HB 3650, seconded by Commissioner Stern. Motion carried.

Meeting adjourned at 5:10 p.m.

Date: June 6, 2011
To: Legislative Committee
From: Gil Riddell, policy coordinator
Subject: HB 2566 – property tax exemption for tribal land and improvements used for governmental services

Requested action:

Provide direction on latest version of amendments (-3) negotiated to HB 2566.

Background:

At its May 16 meeting, the Legislative Committee directed staff to further negotiate with the nine Oregon tribes on their bill to exempt from property taxes their land and improvements used for governmental services. The original goal was to limit the exemption to that which is received by the state and local governments.

As introduced, HB 2566 very broadly defined the term “governmental services.” Because of the evolution of Oregon statutes, there is no simple way to define parallel exemptions for tribes and other governments. The negotiated definition by necessity focused on nuts and bolts. Negotiations during the last two-and-a-half months have trimmed the definition significantly, but on May 16 the Legislative Committee expressed unease with the last version of amendments.

The dash 3 amendments are the latest.

House Bill 2566

Ordered printed by the Speaker pursuant to House Rule 12.00A (5). Pre-session filed (at the request of House Interim Committee on Revenue)

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**.

Exempts from taxation property owned, acquired or possessed by Indian tribe in Oregon or by entity owned by Indian tribe in Oregon if property is used for government services.

Applies to tax years beginning on or after July 1, 2011.

Takes effect on 91st day following adjournment sine die.

A BILL FOR AN ACT

1
2 Relating to taxation of Indian tribe property; creating new provisions; amending ORS 307.090; and
3 prescribing an effective date.

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

5 **SECTION 1.** ORS 307.090 is amended to read:

6 307.090. (1)(a) Except as provided by law, all property of the state and all public or corporate
7 property used or intended for corporate purposes of the several counties, cities, towns, school dis-
8 tricts, irrigation districts, drainage districts, ports, water districts, housing authorities and all other
9 public or municipal corporations in this state, is exempt from taxation.

10 **(b) All property owned, acquired or possessed by a federally recognized Indian tribe in**
11 **Oregon or by an entity owned by a federally recognized Indian tribe in Oregon is exempt**
12 **from taxation if the property is used for government services.**

13 (2) [*Any*] A city may agree with [*any*] a school district to make payments in lieu of taxes on all
14 property of the city located in [*any such*] **the** school district[,] and [*which*] **that** is exempt from
15 taxation under subsection (1) of this section when [*such*] **the** property is outside the boundaries of
16 the city and owned, used or operated for the production, transmission, distribution or furnishing of
17 electric power or energy or electric service for or to the public.

18 **(3) As used in this section, "government services" includes the provision of services re-**
19 **lated to tribal administration, tribal and public facilities, fire, police, tribal and public health,**
20 **education, sewer, water, environmental and fish and wildlife management and restoration**
21 **activities, land use, transportation, telecommunications, energy generation, utility services,**
22 **traditional cultural uses, cemeteries, ceremonial cultural sites and the exercise of rights**
23 **derived from treaties, intergovernmental agreements, statutes and other laws.**

24 **SECTION 2.** The amendments to ORS 307.090 by section 1 of this 2011 Act apply to tax
25 years beginning on or after July 1, 2011.

26 **SECTION 3.** This 2011 Act takes effect on the 91st day after the date on which the 2011
27 session of the Seventy-sixth Legislative Assembly adjourns sine die.
28

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.

**PROPOSED AMENDMENTS TO
HOUSE BILL 2566**

1 In line 2 of the printed bill, delete “307.090” and insert “307.112 and
2 307.181”.

3 Delete lines 5 through 27 and insert:

4 **“SECTION 1.** ORS 307.181 is amended to read:

5 “307.181. (1) Land acquired by an Indian tribe by purchase, gift or without
6 consideration is exempt from taxation if:

7 “(a) The land is located within the ancient tribal boundaries of the tribe;
8 and

9 “(b) Acquisition of the land by the United States in trust status has been
10 requested or is in process.

11 “(2) The exemption under [*this section*] **subsection (1) of this section**
12 ceases if the federal government enters a final administrative determination
13 denying the request for acquisition of the land in trust status and:

14 “(a) The deadlines for all available federal administrative appeals and
15 federal judicial review expire with no appeal or review initiated; or

16 “(b) All federal administrative and judicial proceedings arising from or
17 related to the request for or process of acquisition of the land in trust status
18 that have been initiated are completed without overturning the administra-
19 tive denial of the request.

20 **“(3) Notwithstanding subsections (1) and (2) of this section, property**
21 **exclusively owned by a federally recognized Indian tribe in Oregon or**
22 **by an entity that is wholly owned by a federally recognized Indian tribe**

1 **in Oregon is exempt from taxation if the property is used exclusively**
2 **for essential government services.**

3 **“(4) As used in this section, ‘essential government services’ means**
4 **services provided by a federally recognized Indian tribe in Oregon that**
5 **are:**

6 **“(a) Similar to services that a state or local government custom-**
7 **arily provides to its citizens; and**

8 **“(b) Related to tribal administration, tribal facilities, fire, police,**
9 **tribal health facilities, education, sewer, water, transportation, low-**
10 **income housing, utility services provided to tribal communities, lands**
11 **acquired specifically for environmental and fish and wildlife manage-**
12 **ment and restoration activities or for archaeological protection or**
13 **ceremonial cultural sites, cemeteries or the exercise of rights derived**
14 **from state and federal laws.**

15 **“SECTION 2. ORS 307.112 is amended to read:**

16 **“307.112. (1) Real or personal property of a taxable owner held under**
17 **lease, sublease or lease-purchase agreement by an institution, organization**
18 **or public body, other than the State of Oregon, granted exemption or the**
19 **right to claim exemption for any of its property under ORS 307.090, 307.130,**
20 **307.136, 307.140, 307.145, [or] 307.147 or 307.181, is exempt from taxation if:**

21 **“(a) The property is used by the lessee or, if the lessee is not in possession**
22 **of the property, the entity in possession of the property in the manner, if**
23 **any, required by law for the exemption of property owned, leased, subleased**
24 **or being purchased by it; and**

25 **“(b) It is expressly agreed within the lease, sublease or lease-purchase**
26 **agreement that the rent payable by the institution, organization or public**
27 **body has been established to reflect the savings below market rent resulting**
28 **from the exemption from taxation.**

29 **“(2) To obtain the exemption under this section, the lessee or, if the lessee**
30 **is not in possession of the property, the entity in possession of the property**

1 must file a claim for exemption with the county assessor, verified by the oath
2 or affirmation of the president or other proper officer of the institution or
3 organization, or head official of the public body or legally authorized dele-
4 gate, showing:

5 “(a) A complete description of the property for which exemption is
6 claimed.

7 “(b) If applicable, all facts relating to the use of the property by the lessee
8 or, if the lessee is not in possession of the property, all facts relating to the
9 use of the property by the entity in possession of the property.

10 “(c) A true copy of the lease, sublease or lease-purchase agreement cov-
11 ering the property for which exemption is claimed.

12 “(d) Any other information required by the claim form.

13 “(3) If the assessor is not satisfied that the rent stated in the lease, sub-
14 lease or lease-purchase agreement has been established to reflect the savings
15 below market rent resulting from the tax exemption, before the exemption
16 may be granted the lessor must provide documentary proof, as specified by
17 rule of the Department of Revenue, that the rent has been established to
18 reflect the savings below market rent resulting from the tax exemption.

19 “(4)(a) The claim must be filed on or before April 1 preceding the tax year
20 for which the exemption is claimed, except:

21 “(A) If the lease, sublease or lease-purchase agreement is entered into
22 after March 1 but not later than June 30, the claim must be filed within 30
23 days after the date the lease, sublease or lease-purchase agreement is entered
24 into if exemption is claimed for that year; or

25 “(B) If a late filing fee is paid in the manner provided in ORS 307.162 (2),
26 as applicable and notwithstanding the limitation of scope in ORS 307.162 (1),
27 the claim may be filed on or before December 31 of the tax year for which
28 exemption is first claimed.

29 “(b) The exemption first applies for the tax year beginning July 1 of the
30 year for which the claim is filed. The exemption continues as long as the use

1 of the property remains unchanged and during the period of the lease, sub-
2 lease or lease-purchase agreement. If the use changes, a new claim must be
3 filed as provided in this section. If the use changes due to sublease of the
4 property or any portion of the property from the tax exempt entity described
5 in subsection (1) of this section to another tax exempt entity, the entity in
6 possession of the property must file a new claim for exemption as provided
7 in this section. If the lease, sublease or lease-purchase agreement expires
8 before July 1 of any year, the exemption terminates as of January 1 of the
9 same calendar year.

10 **SECTION 3. The amendments to ORS 307.112 and 307.181 by**
11 **sections 1 and 2 of this 2011 Act apply to tax years beginning on or**
12 **after July 1, 2011.**

13 **SECTION 4. This 2011 Act takes effect on the 91st day after the**
14 **date on which the 2011 regular session of the Seventy-sixth Legislative**
15 **Assembly adjourns sine die.”.**

16

A-Engrossed
House Bill 3280

Ordered by the House April 26
Including House Amendments dated April 26

Sponsored by Representative HOLVEY, Senator PROZANSKI; Representative BARNHART

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.

Modifies authority for establishment of winery and for winery sales and services in exclusive farm use zone. **Creates alternative authority for such establishment.**
Declares emergency, effective on passage.

A BILL FOR AN ACT

1
2 Relating to wineries in exclusive farm use zones; creating new provisions; amending ORS 215.213,
3 215.283, 215.452, 215.455 and 308A.053; repealing section 3, chapter 97, Oregon Laws 2010; and
4 declaring an emergency.

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

6 **SECTION 1. Section 3, chapter 97, Oregon Laws 2010, is repealed.**

7 **SECTION 2.** ORS 215.452, as amended by sections 1 and 2, chapter 97, Oregon Laws 2010, is
8 amended to read:

9 215.452. (1) A winery may be established as an outright permitted use in an area zoned for ex-
10 clusive farm use under ORS 215.213 (1)(p) and 215.283 (1)(n) if the winery produces wine with a
11 maximum annual production of:

12 (a) Less than 50,000 gallons and *[that]*:

13 (A) Owns an on-site vineyard of at least 15 acres;

14 (B) Owns a contiguous vineyard of at least 15 acres;

15 (C) Has a long-term contract for the purchase of all of the grapes from at least 15 acres of a
16 vineyard contiguous to the winery; or

17 (D) Obtains grapes from any combination of subparagraph (A), (B) or (C) of this paragraph; or

18 (b) At least 50,000 gallons and no more than *[100,000]* **150,000** gallons and that:

19 (A) Owns an on-site vineyard of at least 40 acres;

20 (B) Owns a contiguous vineyard of at least 40 acres;

21 (C) Has a long-term contract for the purchase of all of the grapes from at least 40 acres of a
22 vineyard contiguous to the winery; or

23 (D) Obtains grapes from any combination of subparagraph (A), (B) or (C) of this paragraph.

24 (2) A winery described in subsection (1) of this section may sell only:

25 (a) Wines produced *[in conjunction with]* **by** the winery; and

26 (b) Items directly related to the sale and promotion of wine produced *[in conjunction with]* **by**
27 the winery, the sale of which is incidental to retail sale of wine on-site, including food and beverages
28 served by a limited service restaurant, as defined in ORS 624.010, **wine not produced by the**

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 **winery and gifts.**

2 **(3) A winery established pursuant to subsection (1) of this section must provide on-site**
3 **parking for all activities or uses of the lot, parcel or tract on which the winery is established.**

4 [(3)] (4) Prior to the issuance of a permit to establish a winery under **subsection (1) of this**
5 **section, the applicant shall show that vineyards described in subsection (1) of this section have been**
6 **planted or that the contract has been executed, as applicable.**

7 [(4)] (5) A local government shall adopt findings for each of the standards described in [*para-*
8 *graphs (a) and (b) of*] this subsection. Standards imposed on the siting of a winery shall be limited
9 solely to each of the following for the sole purpose of limiting demonstrated conflicts with accepted
10 farming or forest practices on adjacent lands:

11 (a) Establishment of a setback[, *not to exceed*] **of at least 100 feet[,]** from all property lines for
12 the winery and all public gathering places; and

13 (b) Provision of direct road access, internal circulation and parking.

14 [(5)] (6) A local government shall also apply local criteria regarding floodplains, geologic haz-
15 ards, the Willamette River Greenway, solar access, airport safety or other regulations for resource
16 protection acknowledged to comply with any statewide goal respecting open spaces, scenic and his-
17 toric areas and natural resources.

18 **SECTION 3. (1) A winery may be established, or qualified to operate, as an outright**
19 **permitted use in an area zoned for exclusive farm use under ORS 215.213 (1)(p) or 215.283**
20 **(1)(n), or in any area zoned for agricultural use, on a lot, parcel or tract of land consisting**
21 **of at least 80 contiguous acres in Oregon if:**

22 (a) **The owner of the winery owns the lot, parcel or tract and at least 50 acres of the lot,**
23 **parcel or tract have vineyards planted at least five years before the winery is established,**
24 **or qualified to operate, under this section;**

25 (b) **The owner of the winery owns at least 80 additional acres in Oregon of contiguous**
26 **planted vineyards that need not be contiguous to the acreage described in paragraph (a) of**
27 **this subsection; and**

28 (c) **The winery has produced annually, at the same or a different location, at least 150,000**
29 **gallons of wine in at least three of the five calendar years before establishment, or quali-**
30 **fication to operate, under this section.**

31 **(2) A winery described in subsection (1) of this section may sell only:**

32 (a) **Wines produced by the winery;**

33 (b) **Items directly related to the sale and promotion of wine produced by the winery, the**
34 **sale of which is incidental to retail sale of wine on-site, including food and beverages served**
35 **by a limited service restaurant, as defined in ORS 624.010, wine not produced by the winery**
36 **and gifts; and**

37 (c) **Services directly related to the sale and promotion of wine produced by the winery,**
38 **the sale and delivery of which are incidental to retail sale of wine on-site, including catered**
39 **dinners, weddings, charitable or political fundraisers and other private events, hosted by the**
40 **winery or by patrons of the winery, at which wine produced by the winery is featured.**

41 **(3) A winery established, or qualified to operate, under subsection (1) of this section may**
42 **operate a full service restaurant, as defined in ORS 624.010.**

43 **(4) A winery established, or qualified to operate, under subsection (1) of this section must**
44 **provide on-site parking for all activities or uses of the lot, parcel or tract on which the**
45 **winery is established.**

1 **(5) A person may not have a substantial ownership interest in more than one winery**
2 **operating a full service restaurant under this section.**

3 **(6) Prior to the issuance of a permit to establish a winery under subsection (1) of this**
4 **section, the applicant shall show that vineyards described in subsection (1) of this section**
5 **have been planted.**

6 **(7) A local government shall adopt findings for each of the standards described in this**
7 **subsection. Standards imposed on the siting of a winery are for the sole purpose of limiting**
8 **demonstrated conflicts with accepted farming or forest practices on adjacent lands and are**
9 **limited solely to each of the following:**

10 **(a) Establishment of a setback of at least 100 feet from all property lines for the winery**
11 **and all public gathering places; and**

12 **(b) Provision of direct road access, internal circulation and parking.**

13 **(8) A local government shall also apply local criteria regarding floodplains, geologic haz-**
14 **ards, the Willamette River Greenway, solar access, airport safety or other regulations for**
15 **resource protection acknowledged to comply with any statewide goal respecting open spaces,**
16 **scenic and historic areas and natural resources.**

17 **(9) If a winery meets the criteria described in subsection (1) of this section for estab-**
18 **lishment, or qualification to operate, as an outright permitted use in an area zoned for ex-**
19 **clusive farm use under ORS 215.213 (1)(p) or 215.283 (1)(n), a local government may authorize**
20 **the winery to sell or deliver items or services not described in subsection (2)(b) or (c) or (3)**
21 **of this section under the criteria for commercial activity in conjunction with farm use under**
22 **ORS 215.213 (2)(c) or 215.283 (2)(a).**

23 **SECTION 4.** ORS 215.213 is amended to read:

24 215.213. (1) In counties that have adopted marginal lands provisions under ORS 197.247 (1991
25 Edition), the following uses may be established in any area zoned for exclusive farm use:

26 (a) Churches and cemeteries in conjunction with churches.

27 (b) The propagation or harvesting of a forest product.

28 (c) Utility facilities necessary for public service, including wetland waste treatment systems but
29 not including commercial facilities for the purpose of generating electrical power for public use by
30 sale or transmission towers over 200 feet in height. A utility facility necessary for public service
31 may be established as provided in ORS 215.275.

32 (d) A dwelling on real property used for farm use if the dwelling is occupied by a relative of the
33 farm operator or the farm operator's spouse, which means a child, parent, stepparent, grandchild,
34 grandparent, stepgrandparent, sibling, stepsibling, niece, nephew or first cousin of either, if the farm
35 operator does or will require the assistance of the relative in the management of the farm use and
36 the dwelling is located on the same lot or parcel as the dwelling of the farm operator.
37 Notwithstanding ORS 92.010 to 92.192 or the minimum lot or parcel size requirements under ORS
38 215.780, if the owner of a dwelling described in this paragraph obtains construction financing or
39 other financing secured by the dwelling and the secured party forecloses on the dwelling, the se-
40 cured party may also foreclose on the homesite, as defined in ORS 308A.250, and the foreclosure
41 shall operate as a partition of the homesite to create a new parcel.

42 (e) Nonresidential buildings customarily provided in conjunction with farm use.

43 (f) Primary or accessory dwellings customarily provided in conjunction with farm use. For a
44 primary dwelling, the dwelling must be on a lot or parcel that is managed as part of a farm opera-
45 tion and is not smaller than the minimum lot size in a farm zone with a minimum lot size acknowl-

1 edged under ORS 197.251.

2 (g) Operations for the exploration for and production of geothermal resources as defined by ORS
3 522.005 and oil and gas as defined by ORS 520.005, including the placement and operation of
4 compressors, separators and other customary production equipment for an individual well adjacent
5 to the wellhead. Any activities or construction relating to such operations shall not be a basis for
6 an exception under ORS 197.732 (2)(a) or (b).

7 (h) Operations for the exploration for minerals as defined by ORS 517.750. Any activities or
8 construction relating to such operations shall not be a basis for an exception under ORS 197.732
9 (2)(a) or (b).

10 (i) One manufactured dwelling or recreational vehicle, or the temporary residential use of an
11 existing building, in conjunction with an existing dwelling as a temporary use for the term of a
12 hardship suffered by the existing resident or a relative of the resident. Within three months of the
13 end of the hardship, the manufactured dwelling or recreational vehicle shall be removed or demol-
14 ished or, in the case of an existing building, the building shall be removed, demolished or returned
15 to an allowed nonresidential use. The governing body or its designee shall provide for periodic re-
16 view of the hardship claimed under this paragraph. A temporary residence approved under this
17 paragraph is not eligible for replacement under paragraph (q) of this subsection.

18 (j) Climbing and passing lanes within the right of way existing as of July 1, 1987.

19 (k) Reconstruction or modification of public roads and highways, including the placement of
20 utility facilities overhead and in the subsurface of public roads and highways along the public right
21 of way, but not including the addition of travel lanes, where no removal or displacement of buildings
22 would occur, or no new land parcels result.

23 (L) Temporary public road and highway detours that will be abandoned and restored to original
24 condition or use at such time as no longer needed.

25 (m) Minor betterment of existing public road and highway related facilities, such as maintenance
26 yards, weigh stations and rest areas, within right of way existing as of July 1, 1987, and contiguous
27 public-owned property utilized to support the operation and maintenance of public roads and high-
28 ways.

29 (n) A replacement dwelling to be used in conjunction with farm use if the existing dwelling has
30 been listed in a county inventory as historic property as defined in ORS 358.480.

31 (o) Creation, restoration or enhancement of wetlands.

32 (p) A winery, as described in ORS 215.452 **or section 3 of this 2011 Act.**

33 (q) Alteration, restoration or replacement of a lawfully established dwelling that:

34 (A) Has intact exterior walls and roof structure;

35 (B) Has indoor plumbing consisting of a kitchen sink, toilet and bathing facilities connected to
36 a sanitary waste disposal system;

37 (C) Has interior wiring for interior lights;

38 (D) Has a heating system; and

39 (E) In the case of replacement:

40 (i) Is removed, demolished or converted to an allowable nonresidential use within three months
41 of the completion of the replacement dwelling. A replacement dwelling may be sited on any part of
42 the same lot or parcel. A dwelling established under this paragraph shall comply with all applicable
43 siting standards. However, the standards shall not be applied in a manner that prohibits the siting
44 of the dwelling. If the dwelling to be replaced is located on a portion of the lot or parcel not zoned
45 for exclusive farm use, the applicant, as a condition of approval, shall execute and record in the

1 deed records for the county where the property is located a deed restriction prohibiting the siting
 2 of a dwelling on that portion of the lot or parcel. The restriction imposed shall be irrevocable unless
 3 a statement of release is placed in the deed records for the county. The release shall be signed by
 4 the county or its designee and state that the provisions of this paragraph regarding replacement
 5 dwellings have changed to allow the siting of another dwelling. The county planning director or the
 6 director's designee shall maintain a record of the lots and parcels that do not qualify for the siting
 7 of a new dwelling under the provisions of this paragraph, including a copy of the deed restrictions
 8 and release statements filed under this paragraph; and

9 (ii) For which the applicant has requested a deferred replacement permit, is removed or demol-
 10 ished within three months after the deferred replacement permit is issued. A deferred replacement
 11 permit allows construction of the replacement dwelling at any time. If, however, the established
 12 dwelling is not removed or demolished within three months after the deferred replacement permit
 13 is issued, the permit becomes void. The replacement dwelling must comply with applicable building
 14 codes, plumbing codes, sanitation codes and other requirements relating to health and safety or to
 15 siting at the time of construction. A deferred replacement permit may not be transferred, by sale
 16 or otherwise, except by the applicant to the spouse or a child of the applicant.

17 (r) Farm stands if:

18 (A) The structures are designed and used for the sale of farm crops or livestock grown on the
 19 farm operation, or grown on the farm operation and other farm operations in the local agricultural
 20 area, including the sale of retail incidental items and fee-based activity to promote the sale of farm
 21 crops or livestock sold at the farm stand if the annual sale of incidental items and fees from pro-
 22 motional activity do not make up more than 25 percent of the total annual sales of the farm stand;
 23 and

24 (B) The farm stand does not include structures designed for occupancy as a residence or for
 25 activity other than the sale of farm crops or livestock and does not include structures for banquets,
 26 public gatherings or public entertainment.

27 (s) An armed forces reserve center, if the center is within one-half mile of a community college.
 28 For purposes of this paragraph, "armed forces reserve center" includes an armory or National
 29 Guard support facility.

30 (t) A site for the takeoff and landing of model aircraft, including such buildings or facilities as
 31 may reasonably be necessary. Buildings or facilities shall not be more than 500 square feet in floor
 32 area or placed on a permanent foundation unless the building or facility preexisted the use approved
 33 under this paragraph. The site shall not include an aggregate surface or hard surface area unless
 34 the surface preexisted the use approved under this paragraph. An owner of property used for the
 35 purpose authorized in this paragraph may charge a person operating the use on the property rent
 36 for the property. An operator may charge users of the property a fee that does not exceed the
 37 operator's cost to maintain the property, buildings and facilities. As used in this paragraph, "model
 38 aircraft" means a small-scale version of an airplane, glider, helicopter, dirigible or balloon that is
 39 used or intended to be used for flight and is controlled by radio, lines or design by a person on the
 40 ground.

41 (u) A facility for the processing of farm crops, or the production of biofuel as defined in ORS
 42 315.141, that is located on a farm operation that provides at least one-quarter of the farm crops
 43 processed at the facility. The building established for the processing facility shall not exceed 10,000
 44 square feet of floor area exclusive of the floor area designated for preparation, storage or other farm
 45 use or devote more than 10,000 square feet to the processing activities within another building

1 supporting farm uses. A processing facility shall comply with all applicable siting standards but the
2 standards shall not be applied in a manner that prohibits the siting of the processing facility.

3 (v) Fire service facilities providing rural fire protection services.

4 (w) Irrigation canals, delivery lines and those structures and accessory operational facilities
5 associated with a district as defined in ORS 540.505.

6 (x) Utility facility service lines. Utility facility service lines are utility lines and accessory fa-
7 cilities or structures that end at the point where the utility service is received by the customer and
8 that are located on one or more of the following:

9 (A) A public right of way;

10 (B) Land immediately adjacent to a public right of way, provided the written consent of all ad-
11 jacent property owners has been obtained; or

12 (C) The property to be served by the utility.

13 (y) Subject to the issuance of a license, permit or other approval by the Department of Envi-
14 ronmental Quality under ORS 454.695, 459.205, 468B.050, 468B.053 or 468B.055, or in compliance with
15 rules adopted under ORS 468B.095, and as provided in ORS 215.246 to 215.251, the land application
16 of reclaimed water, agricultural or industrial process water or biosolids for agricultural,
17 horticultural or silvicultural production, or for irrigation in connection with a use allowed in an
18 exclusive farm use zone under this chapter.

19 (2) In counties that have adopted marginal lands provisions under ORS 197.247 (1991 Edition),
20 the following uses may be established in any area zoned for exclusive farm use subject to ORS
21 215.296:

22 (a) A primary dwelling in conjunction with farm use or the propagation or harvesting of a forest
23 product on a lot or parcel that is managed as part of a farm operation or woodlot if the farm op-
24 eration or woodlot:

25 (A) Consists of 20 or more acres; and

26 (B) Is not smaller than the average farm or woodlot in the county producing at least \$2,500 in
27 annual gross income from the crops, livestock or forest products to be raised on the farm operation
28 or woodlot.

29 (b) A primary dwelling in conjunction with farm use or the propagation or harvesting of a forest
30 product on a lot or parcel that is managed as part of a farm operation or woodlot smaller than re-
31 quired under paragraph (a) of this subsection, if the lot or parcel:

32 (A) Has produced at least \$20,000 in annual gross farm income in two consecutive calendar
33 years out of the three calendar years before the year in which the application for the dwelling was
34 made or is planted in perennials capable of producing upon harvest an average of at least \$20,000
35 in annual gross farm income; or

36 (B) Is a woodlot capable of producing an average over the growth cycle of \$20,000 in gross an-
37 nual income.

38 (c) Commercial activities that are in conjunction with farm use, including the processing of farm
39 crops into biofuel not permitted under ORS 215.203 (2)(b)(L) or subsection (1)(u) of this section.

40 (d) Operations conducted for:

41 (A) Mining and processing of geothermal resources as defined by ORS 522.005 and oil and gas
42 as defined by ORS 520.005, not otherwise permitted under subsection (1)(g) of this section;

43 (B) Mining, crushing or stockpiling of aggregate and other mineral and other subsurface re-
44 sources subject to ORS 215.298;

45 (C) Processing, as defined by ORS 517.750, of aggregate into asphalt or portland cement; and

1 (D) Processing of other mineral resources and other subsurface resources.

2 (e) Community centers owned by a governmental agency or a nonprofit community organization
3 and operated primarily by and for residents of the local rural community, hunting and fishing pre-
4 serves, public and private parks, playgrounds and campgrounds. Subject to the approval of the
5 county governing body or its designee, a private campground may provide yurts for overnight
6 camping. No more than one-third or a maximum of 10 campsites, whichever is smaller, may include
7 a yurt. The yurt shall be located on the ground or on a wood floor with no permanent foundation.
8 Upon request of a county governing body, the Land Conservation and Development Commission may
9 provide by rule for an increase in the number of yurts allowed on all or a portion of the
10 campgrounds in a county if the commission determines that the increase will comply with the stan-
11 dards described in ORS 215.296 (1). A public park or campground may be established as provided
12 under ORS 195.120. As used in this paragraph, "yurt" means a round, domed shelter of cloth or
13 canvas on a collapsible frame with no plumbing, sewage disposal hookup or internal cooking appli-
14 ance.

15 (f) Golf courses on land determined not to be high-value farmland as defined in ORS 195.300.

16 (g) Commercial utility facilities for the purpose of generating power for public use by sale.

17 (h) Personal-use airports for airplanes and helicopter pads, including associated hangar, main-
18 tenance and service facilities. A personal-use airport as used in this section means an airstrip re-
19 stricted, except for aircraft emergencies, to use by the owner, and, on an infrequent and occasional
20 basis, by invited guests, and by commercial aviation activities in connection with agricultural op-
21 erations. No aircraft may be based on a personal-use airport other than those owned or controlled
22 by the owner of the airstrip. Exceptions to the activities permitted under this definition may be
23 granted through waiver action by the Oregon Department of Aviation in specific instances. A
24 personal-use airport lawfully existing as of September 13, 1975, shall continue to be permitted sub-
25 ject to any applicable rules of the Oregon Department of Aviation.

26 (i) A facility for the primary processing of forest products, provided that such facility is found
27 to not seriously interfere with accepted farming practices and is compatible with farm uses de-
28 scribed in ORS 215.203 (2). Such a facility may be approved for a one-year period which is
29 renewable. These facilities are intended to be only portable or temporary in nature. The primary
30 processing of a forest product, as used in this section, means the use of a portable chipper or stud
31 mill or other similar methods of initial treatment of a forest product in order to enable its shipment
32 to market. Forest products, as used in this section, means timber grown upon a parcel of land or
33 contiguous land where the primary processing facility is located.

34 (j) A site for the disposal of solid waste approved by the governing body of a city or county or
35 both and for which a permit has been granted under ORS 459.245 by the Department of Environ-
36 mental Quality together with equipment, facilities or buildings necessary for its operation.

37 (k) Dog kennels.

38 (L) Residential homes as defined in ORS 197.660, in existing dwellings.

39 (m) The propagation, cultivation, maintenance and harvesting of aquatic species that are not
40 under the jurisdiction of the State Fish and Wildlife Commission or insect species. Insect species
41 shall not include any species under quarantine by the State Department of Agriculture or the United
42 States Department of Agriculture. The county shall provide notice of all applications under this
43 paragraph to the State Department of Agriculture. Notice shall be provided in accordance with the
44 county's land use regulations but shall be mailed at least 20 calendar days prior to any administra-
45 tive decision or initial public hearing on the application.

- 1 (n) Home occupations as provided in ORS 215.448.
- 2 (o) Transmission towers over 200 feet in height.
- 3 (p) Construction of additional passing and travel lanes requiring the acquisition of right of way
4 but not resulting in the creation of new land parcels.
- 5 (q) Reconstruction or modification of public roads and highways involving the removal or dis-
6 placement of buildings but not resulting in the creation of new land parcels.
- 7 (r) Improvement of public road and highway related facilities such as maintenance yards, weigh
8 stations and rest areas, where additional property or right of way is required but not resulting in
9 the creation of new land parcels.
- 10 (s) A destination resort that is approved consistent with the requirements of any statewide
11 planning goal relating to the siting of a destination resort.
- 12 (t) Room and board arrangements for a maximum of five unrelated persons in existing resi-
13 dences.
- 14 (u) A living history museum related to resource based activities owned and operated by a gov-
15 ernmental agency or a local historical society, together with limited commercial activities and fa-
16 cilities that are directly related to the use and enjoyment of the museum and located within
17 authentic buildings of the depicted historic period or the museum administration building, if areas
18 other than an exclusive farm use zone cannot accommodate the museum and related activities or if
19 the museum administration buildings and parking lot are located within one quarter mile of the
20 metropolitan urban growth boundary. As used in this paragraph:
- 21 (A) "Living history museum" means a facility designed to depict and interpret everyday life and
22 culture of some specific historic period using authentic buildings, tools, equipment and people to
23 simulate past activities and events; and
- 24 (B) "Local historical society" means the local historical society, recognized as such by the
25 county governing body and organized under ORS chapter 65.
- 26 (v) Operations for the extraction and bottling of water.
- 27 (w) An aerial fireworks display business that has been in continuous operation at its current
28 location within an exclusive farm use zone since December 31, 1986, and possesses a wholesaler's
29 permit to sell or provide fireworks.
- 30 (x) A landscape contracting business, as defined in ORS 671.520, or a business providing land-
31 scape architecture services, as described in ORS 671.318, if the business is pursued in conjunction
32 with the growing and marketing of nursery stock on the land that constitutes farm use.
- 33 (y) Public or private schools for kindergarten through grade 12, including all buildings essential
34 to the operation of a school, primarily for residents of the rural area in which the school is located.
- 35 (3) In counties that have adopted marginal lands provisions under ORS 197.247 (1991 Edition),
36 a single-family residential dwelling not provided in conjunction with farm use may be established
37 on a lot or parcel with soils predominantly in capability classes IV through VIII as determined by
38 the Agricultural Capability Classification System in use by the United States Department of Agri-
39 culture Soil Conservation Service on October 15, 1983. A proposed dwelling is subject to approval
40 of the governing body or its designee in any area zoned for exclusive farm use upon written findings
41 showing all of the following:
- 42 (a) The dwelling or activities associated with the dwelling will not force a significant change in
43 or significantly increase the cost of accepted farming practices on nearby lands devoted to farm use.
- 44 (b) The dwelling is situated upon generally unsuitable land for the production of farm crops and
45 livestock, considering the terrain, adverse soil or land conditions, drainage and flooding, location

1 and size of the tract. A lot or parcel shall not be considered unsuitable solely because of its size
2 or location if it can reasonably be put to farm use in conjunction with other land.

3 (c) Complies with such other conditions as the governing body or its designee considers neces-
4 sary.

5 (4) In counties that have adopted marginal lands provisions under ORS 197.247 (1991 Edition),
6 one single-family dwelling, not provided in conjunction with farm use, may be established in any
7 area zoned for exclusive farm use on a lot or parcel described in subsection (7) of this section that
8 is not larger than three acres upon written findings showing:

9 (a) The dwelling or activities associated with the dwelling will not force a significant change in
10 or significantly increase the cost of accepted farming practices on nearby lands devoted to farm use;

11 (b) If the lot or parcel is located within the Willamette River Greenway, a floodplain or a
12 geological hazard area, the dwelling complies with conditions imposed by local ordinances relating
13 specifically to the Willamette River Greenway, floodplains or geological hazard areas, whichever is
14 applicable; and

15 (c) The dwelling complies with other conditions considered necessary by the governing body or
16 its designee.

17 (5) Upon receipt of an application for a permit under subsection (4) of this section, the governing
18 body shall notify:

19 (a) Owners of land that is within 250 feet of the lot or parcel on which the dwelling will be es-
20 tablished; and

21 (b) Persons who have requested notice of such applications and who have paid a reasonable fee
22 imposed by the county to cover the cost of such notice.

23 (6) The notice required in subsection (5) of this section shall specify that persons have 15 days
24 following the date of postmark of the notice to file a written objection on the grounds only that the
25 dwelling or activities associated with it would force a significant change in or significantly increase
26 the cost of accepted farming practices on nearby lands devoted to farm use. If no objection is re-
27 ceived, the governing body or its designee shall approve or disapprove the application. If an ob-
28 jection is received, the governing body shall set the matter for hearing in the manner prescribed in
29 ORS 215.402 to 215.438. The governing body may charge the reasonable costs of the notice required
30 by subsection (5)(a) of this section to the applicant for the permit requested under subsection (4) of
31 this section.

32 (7) Subsection (4) of this section applies to a lot or parcel lawfully created between January 1,
33 1948, and July 1, 1983. For the purposes of this section:

34 (a) Only one lot or parcel exists if:

35 (A) A lot or parcel described in this section is contiguous to one or more lots or parcels de-
36 scribed in this section; and

37 (B) On July 1, 1983, greater than possessory interests are held in those contiguous lots, parcels
38 or lots and parcels by the same person, spouses or a single partnership or business entity, separately
39 or in tenancy in common.

40 (b) "Contiguous" means lots, parcels or lots and parcels that have a common boundary, including
41 but not limited to, lots, parcels or lots and parcels separated only by a public road.

42 (8) A person who sells or otherwise transfers real property in an exclusive farm use zone may
43 retain a life estate in a dwelling on that property and in a tract of land under and around the
44 dwelling.

45 (9) No final approval of a nonfarm use under this section shall be given unless any additional

1 taxes imposed upon the change in use have been paid.

2 (10) Roads, highways and other transportation facilities and improvements not allowed under
3 subsections (1) and (2) of this section may be established, subject to the approval of the governing
4 body or its designee, in areas zoned for exclusive farm use subject to:

5 (a) Adoption of an exception to the goal related to agricultural lands and to any other applicable
6 goal with which the facility or improvement does not comply; or

7 (b) ORS 215.296 for those uses identified by rule of the Land Conservation and Development
8 Commission as provided in section 3, chapter 529, Oregon Laws 1993.

9 **SECTION 5.** ORS 215.283 is amended to read:

10 215.283. (1) The following uses may be established in any area zoned for exclusive farm use:

11 (a) Churches and cemeteries in conjunction with churches.

12 (b) The propagation or harvesting of a forest product.

13 (c) Utility facilities necessary for public service, including wetland waste treatment systems but
14 not including commercial facilities for the purpose of generating electrical power for public use by
15 sale or transmission towers over 200 feet in height. A utility facility necessary for public service
16 may be established as provided in ORS 215.275.

17 (d) A dwelling on real property used for farm use if the dwelling is occupied by a relative of the
18 farm operator or the farm operator's spouse, which means a child, parent, stepparent, grandchild,
19 grandparent, stepgrandparent, sibling, stepsibling, niece, nephew or first cousin of either, if the farm
20 operator does or will require the assistance of the relative in the management of the farm use and
21 the dwelling is located on the same lot or parcel as the dwelling of the farm operator.
22 Notwithstanding ORS 92.010 to 92.192 or the minimum lot or parcel size requirements under ORS
23 215.780, if the owner of a dwelling described in this paragraph obtains construction financing or
24 other financing secured by the dwelling and the secured party forecloses on the dwelling, the se-
25 cured party may also foreclose on the homesite, as defined in ORS 308A.250, and the foreclosure
26 shall operate as a partition of the homesite to create a new parcel.

27 (e) Primary or accessory dwellings and other buildings customarily provided in conjunction with
28 farm use.

29 (f) Operations for the exploration for and production of geothermal resources as defined by ORS
30 522.005 and oil and gas as defined by ORS 520.005, including the placement and operation of
31 compressors, separators and other customary production equipment for an individual well adjacent
32 to the wellhead. Any activities or construction relating to such operations shall not be a basis for
33 an exception under ORS 197.732 (2)(a) or (b).

34 (g) Operations for the exploration for minerals as defined by ORS 517.750. Any activities or
35 construction relating to such operations shall not be a basis for an exception under ORS 197.732
36 (2)(a) or (b).

37 (h) Climbing and passing lanes within the right of way existing as of July 1, 1987.

38 (i) Reconstruction or modification of public roads and highways, including the placement of
39 utility facilities overhead and in the subsurface of public roads and highways along the public right
40 of way, but not including the addition of travel lanes, where no removal or displacement of buildings
41 would occur, or no new land parcels result.

42 (j) Temporary public road and highway detours that will be abandoned and restored to original
43 condition or use at such time as no longer needed.

44 (k) Minor betterment of existing public road and highway related facilities such as maintenance
45 yards, weigh stations and rest areas, within right of way existing as of July 1, 1987, and contiguous

1 public-owned property utilized to support the operation and maintenance of public roads and high-
2 ways.

3 (L) A replacement dwelling to be used in conjunction with farm use if the existing dwelling has
4 been listed in a county inventory as historic property as defined in ORS 358.480.

5 (m) Creation, restoration or enhancement of wetlands.

6 (n) A winery, as described in ORS 215.452 **or section 3 of this 2011 Act.**

7 (o) Farm stands if:

8 (A) The structures are designed and used for the sale of farm crops or livestock grown on the
9 farm operation, or grown on the farm operation and other farm operations in the local agricultural
10 area, including the sale of retail incidental items and fee-based activity to promote the sale of farm
11 crops or livestock sold at the farm stand if the annual sale of incidental items and fees from pro-
12 motional activity do not make up more than 25 percent of the total annual sales of the farm stand;
13 and

14 (B) The farm stand does not include structures designed for occupancy as a residence or for
15 activity other than the sale of farm crops or livestock and does not include structures for banquets,
16 public gatherings or public entertainment.

17 (p) Alteration, restoration or replacement of a lawfully established dwelling that:

18 (A) Has intact exterior walls and roof structure;

19 (B) Has indoor plumbing consisting of a kitchen sink, toilet and bathing facilities connected to
20 a sanitary waste disposal system;

21 (C) Has interior wiring for interior lights;

22 (D) Has a heating system; and

23 (E) In the case of replacement:

24 (i) Is removed, demolished or converted to an allowable nonresidential use within three months
25 of the completion of the replacement dwelling. A replacement dwelling may be sited on any part of
26 the same lot or parcel. A dwelling established under this paragraph shall comply with all applicable
27 siting standards. However, the standards shall not be applied in a manner that prohibits the siting
28 of the dwelling. If the dwelling to be replaced is located on a portion of the lot or parcel not zoned
29 for exclusive farm use, the applicant, as a condition of approval, shall execute and record in the
30 deed records for the county where the property is located a deed restriction prohibiting the siting
31 of a dwelling on that portion of the lot or parcel. The restriction imposed shall be irrevocable unless
32 a statement of release is placed in the deed records for the county. The release shall be signed by
33 the county or its designee and state that the provisions of this paragraph regarding replacement
34 dwellings have changed to allow the siting of another dwelling. The county planning director or the
35 director's designee shall maintain a record of the lots and parcels that do not qualify for the siting
36 of a new dwelling under the provisions of this paragraph, including a copy of the deed restrictions
37 and release statements filed under this paragraph; and

38 (ii) For which the applicant has requested a deferred replacement permit, is removed or demol-
39 ished within three months after the deferred replacement permit is issued. A deferred replacement
40 permit allows construction of the replacement dwelling at any time. If, however, the established
41 dwelling is not removed or demolished within three months after the deferred replacement permit
42 is issued, the permit becomes void. The replacement dwelling must comply with applicable building
43 codes, plumbing codes, sanitation codes and other requirements relating to health and safety or to
44 siting at the time of construction. A deferred replacement permit may not be transferred, by sale
45 or otherwise, except by the applicant to the spouse or a child of the applicant.

1 (q) A site for the takeoff and landing of model aircraft, including such buildings or facilities as
 2 may reasonably be necessary. Buildings or facilities shall not be more than 500 square feet in floor
 3 area or placed on a permanent foundation unless the building or facility preexisted the use approved
 4 under this paragraph. The site shall not include an aggregate surface or hard surface area unless
 5 the surface preexisted the use approved under this paragraph. An owner of property used for the
 6 purpose authorized in this paragraph may charge a person operating the use on the property rent
 7 for the property. An operator may charge users of the property a fee that does not exceed the
 8 operator's cost to maintain the property, buildings and facilities. As used in this paragraph, "model
 9 aircraft" means a small-scale version of an airplane, glider, helicopter, dirigible or balloon that is
 10 used or intended to be used for flight and is controlled by radio, lines or design by a person on the
 11 ground.

12 (r) A facility for the processing of farm crops, or the production of biofuel as defined in ORS
 13 315.141, that is located on a farm operation that provides at least one-quarter of the farm crops
 14 processed at the facility. The building established for the processing facility shall not exceed 10,000
 15 square feet of floor area exclusive of the floor area designated for preparation, storage or other farm
 16 use or devote more than 10,000 square feet to the processing activities within another building
 17 supporting farm uses. A processing facility shall comply with all applicable siting standards but the
 18 standards shall not be applied in a manner that prohibits the siting of the processing facility.

19 (s) Fire service facilities providing rural fire protection services.

20 (t) Irrigation canals, delivery lines and those structures and accessory operational facilities as-
 21 sociated with a district as defined in ORS 540.505.

22 (u) Utility facility service lines. Utility facility service lines are utility lines and accessory fa-
 23 cilities or structures that end at the point where the utility service is received by the customer and
 24 that are located on one or more of the following:

25 (A) A public right of way;

26 (B) Land immediately adjacent to a public right of way, provided the written consent of all ad-
 27 jacent property owners has been obtained; or

28 (C) The property to be served by the utility.

29 (v) Subject to the issuance of a license, permit or other approval by the Department of Envi-
 30 ronmental Quality under ORS 454.695, 459.205, 468B.050, 468B.053 or 468B.055, or in compliance with
 31 rules adopted under ORS 468B.095, and as provided in ORS 215.246 to 215.251, the land application
 32 of reclaimed water, agricultural or industrial process water or biosolids for agricultural,
 33 horticultural or silvicultural production, or for irrigation in connection with a use allowed in an
 34 exclusive farm use zone under this chapter.

35 (w) A county law enforcement facility that lawfully existed on August 20, 2002, and is used to
 36 provide rural law enforcement services primarily in rural areas, including parole and post-prison
 37 supervision, but not including a correctional facility as defined under ORS 162.135.

38 (2) The following nonfarm uses may be established, subject to the approval of the governing body
 39 or its designee in any area zoned for exclusive farm use subject to ORS 215.296:

40 (a) Commercial activities that are in conjunction with farm use, including the processing of farm
 41 crops into biofuel not permitted under ORS 215.203 (2)(b)(L) or subsection (1)(r) of this section.

42 (b) Operations conducted for:

43 (A) Mining and processing of geothermal resources as defined by ORS 522.005 and oil and gas
 44 as defined by ORS 520.005 not otherwise permitted under subsection (1)(f) of this section;

45 (B) Mining, crushing or stockpiling of aggregate and other mineral and other subsurface re-

1 sources subject to ORS 215.298;

2 (C) Processing, as defined by ORS 517.750, of aggregate into asphalt or portland cement; and

3 (D) Processing of other mineral resources and other subsurface resources.

4 (c) Private parks, playgrounds, hunting and fishing preserves and campgrounds. Subject to the
5 approval of the county governing body or its designee, a private campground may provide yurts for
6 overnight camping. No more than one-third or a maximum of 10 campsites, whichever is smaller,
7 may include a yurt. The yurt shall be located on the ground or on a wood floor with no permanent
8 foundation. Upon request of a county governing body, the Land Conservation and Development
9 Commission may provide by rule for an increase in the number of yurts allowed on all or a portion
10 of the campgrounds in a county if the commission determines that the increase will comply with the
11 standards described in ORS 215.296 (1). As used in this paragraph, "yurt" means a round, domed
12 shelter of cloth or canvas on a collapsible frame with no plumbing, sewage disposal hookup or
13 internal cooking appliance.

14 (d) Parks and playgrounds. A public park may be established consistent with the provisions of
15 ORS 195.120.

16 (e) Community centers owned by a governmental agency or a nonprofit community organization
17 and operated primarily by and for residents of the local rural community. A community center au-
18 thorized under this paragraph may provide services to veterans, including but not limited to emer-
19 gency and transitional shelter, preparation and service of meals, vocational and educational
20 counseling and referral to local, state or federal agencies providing medical, mental health, disability
21 income replacement and substance abuse services, only in a facility that is in existence on January
22 1, 2006. The services may not include direct delivery of medical, mental health, disability income
23 replacement or substance abuse services.

24 (f) Golf courses on land determined not to be high-value farmland, as defined in ORS 195.300.

25 (g) Commercial utility facilities for the purpose of generating power for public use by sale.

26 (h) Personal-use airports for airplanes and helicopter pads, including associated hangar, main-
27 tenance and service facilities. A personal-use airport, as used in this section, means an airstrip re-
28 stricted, except for aircraft emergencies, to use by the owner, and, on an infrequent and occasional
29 basis, by invited guests, and by commercial aviation activities in connection with agricultural op-
30 erations. No aircraft may be based on a personal-use airport other than those owned or controlled
31 by the owner of the airstrip. Exceptions to the activities permitted under this definition may be
32 granted through waiver action by the Oregon Department of Aviation in specific instances. A
33 personal-use airport lawfully existing as of September 13, 1975, shall continue to be permitted sub-
34 ject to any applicable rules of the Oregon Department of Aviation.

35 (i) Home occupations as provided in ORS 215.448.

36 (j) A facility for the primary processing of forest products, provided that such facility is found
37 to not seriously interfere with accepted farming practices and is compatible with farm uses de-
38 scribed in ORS 215.203 (2). Such a facility may be approved for a one-year period which is
39 renewable. These facilities are intended to be only portable or temporary in nature. The primary
40 processing of a forest product, as used in this section, means the use of a portable chipper or stud
41 mill or other similar methods of initial treatment of a forest product in order to enable its shipment
42 to market. Forest products, as used in this section, means timber grown upon a parcel of land or
43 contiguous land where the primary processing facility is located.

44 (k) A site for the disposal of solid waste approved by the governing body of a city or county or
45 both and for which a permit has been granted under ORS 459.245 by the Department of Environ-

1 mental Quality together with equipment, facilities or buildings necessary for its operation.

2 (L) One manufactured dwelling or recreational vehicle, or the temporary residential use of an
3 existing building, in conjunction with an existing dwelling as a temporary use for the term of a
4 hardship suffered by the existing resident or a relative of the resident. Within three months of the
5 end of the hardship, the manufactured dwelling or recreational vehicle shall be removed or demol-
6 ished or, in the case of an existing building, the building shall be removed, demolished or returned
7 to an allowed nonresidential use. The governing body or its designee shall provide for periodic re-
8 view of the hardship claimed under this paragraph. A temporary residence approved under this
9 paragraph is not eligible for replacement under subsection (1)(p) of this section.

10 (m) Transmission towers over 200 feet in height.

11 (n) Dog kennels.

12 (o) Residential homes as defined in ORS 197.660, in existing dwellings.

13 (p) The propagation, cultivation, maintenance and harvesting of aquatic species that are not
14 under the jurisdiction of the State Fish and Wildlife Commission or insect species. Insect species
15 shall not include any species under quarantine by the State Department of Agriculture or the United
16 States Department of Agriculture. The county shall provide notice of all applications under this
17 paragraph to the State Department of Agriculture. Notice shall be provided in accordance with the
18 county's land use regulations but shall be mailed at least 20 calendar days prior to any administra-
19 tive decision or initial public hearing on the application.

20 (q) Construction of additional passing and travel lanes requiring the acquisition of right of way
21 but not resulting in the creation of new land parcels.

22 (r) Reconstruction or modification of public roads and highways involving the removal or dis-
23 placement of buildings but not resulting in the creation of new land parcels.

24 (s) Improvement of public road and highway related facilities, such as maintenance yards, weigh
25 stations and rest areas, where additional property or right of way is required but not resulting in
26 the creation of new land parcels.

27 (t) A destination resort that is approved consistent with the requirements of any statewide
28 planning goal relating to the siting of a destination resort.

29 (u) Room and board arrangements for a maximum of five unrelated persons in existing resi-
30 dences.

31 (v) Operations for the extraction and bottling of water.

32 (w) Expansion of existing county fairgrounds and activities directly relating to county
33 fairgrounds governed by county fair boards established pursuant to ORS 565.210.

34 (x) A living history museum related to resource based activities owned and operated by a gov-
35 ernmental agency or a local historical society, together with limited commercial activities and fa-
36 cilities that are directly related to the use and enjoyment of the museum and located within
37 authentic buildings of the depicted historic period or the museum administration building, if areas
38 other than an exclusive farm use zone cannot accommodate the museum and related activities or if
39 the museum administration buildings and parking lot are located within one quarter mile of an ur-
40 ban growth boundary. As used in this paragraph:

41 (A) "Living history museum" means a facility designed to depict and interpret everyday life and
42 culture of some specific historic period using authentic buildings, tools, equipment and people to
43 simulate past activities and events; and

44 (B) "Local historical society" means the local historical society recognized by the county gov-
45 erning body and organized under ORS chapter 65.

1 (y) An aerial fireworks display business that has been in continuous operation at its current
2 location within an exclusive farm use zone since December 31, 1986, and possesses a wholesaler's
3 permit to sell or provide fireworks.

4 (z) A landscape contracting business, as defined in ORS 671.520, or a business providing land-
5 scape architecture services, as described in ORS 671.318, if the business is pursued in conjunction
6 with the growing and marketing of nursery stock on the land that constitutes farm use.

7 (aa) Public or private schools for kindergarten through grade 12, including all buildings essential
8 to the operation of a school, primarily for residents of the rural area in which the school is located.

9 (3) Roads, highways and other transportation facilities and improvements not allowed under
10 subsections (1) and (2) of this section may be established, subject to the approval of the governing
11 body or its designee, in areas zoned for exclusive farm use subject to:

12 (a) Adoption of an exception to the goal related to agricultural lands and to any other applicable
13 goal with which the facility or improvement does not comply; or

14 (b) ORS 215.296 for those uses identified by rule of the Land Conservation and Development
15 Commission as provided in section 3, chapter 529, Oregon Laws 1993.

16 **SECTION 6.** ORS 215.455 is amended to read:

17 215.455. Any winery approved under ORS 215.213, 215.283, 215.284 and 215.452 **and section 3**
18 **of this 2011 Act** is not a basis for an exception under ORS 197.732 (2)(a) or (b).

19 **SECTION 7.** ORS 308A.053 is amended to read:

20 308A.053. As used in ORS 308A.050 to 308A.128:

21 (1) "Exclusive farm use zone" means a zoning district established by a county or a city under
22 the authority granted by ORS chapter 215 or 227 that is consistent with the farm use zone pro-
23 visions set forth in ORS 215.203 to 215.311, 215.438, 215.448, 215.452, 215.455 or 215.700 to 215.780
24 **or section 3 of this 2011 Act.**

25 (2) "Exclusive farm use zone farmland" means land that qualifies for special assessment under
26 ORS 308A.062.

27 (3) "Homesite" means the land, including all tangible improvements to the land under and ad-
28 jacent to a dwelling and other structures, if any, that are customarily provided in conjunction with
29 a dwelling.

30 (4) "Nonexclusive farm use zone farmland" means land that is not within an exclusive farm use
31 zone but that qualifies for farm use special assessment under ORS 308A.068.

32 (5) "Remediation plan" means a plan certified by an extension agent of the Oregon State Uni-
33 versity Extension Service to remediate or mitigate severe adverse conditions on farmland.

34 (6) "Severe adverse conditions on farmland" means conditions that render impracticable contin-
35 ued farm use and that are not due to an intentional or negligent act or omission by the owner,
36 tenant or lessee of the farmland or the applicant for certification of a remediation plan.

37 **SECTION 8. This 2011 Act being necessary for the immediate preservation of the public**
38 **peace, health and safety, an emergency is declared to exist, and this 2011 Act takes effect**
39 **on its passage.**

40

**PROPOSED AMENDMENTS TO
A-ENGROSSED HOUSE BILL 3280**

1 On page 1 of the printed A-engrossed bill, line 2, after “ORS” insert
2 “215.203.”

3 In line 3, delete “and 308A.053” and insert “, 308A.053 and 308A.056”.

4 Delete lines 6 through 28 and delete page 2.

5 On page 3, delete lines 1 through 22 and insert:

6 **“SECTION 1. Section 3, chapter 97, Oregon Laws 2010, is repealed.**

7 **“SECTION 2.** ORS 215.452, as amended by sections 1 and 2, chapter 97,
8 Oregon Laws 2010, is amended to read:

9 “215.452. *[(1) A winery may be established as an outright permitted use in*
10 *an area zoned for exclusive farm use under ORS 215.213 (1)(p) and 215.283*
11 *(1)(n) if the winery produces wine with a maximum annual production of:]*

12 *“[(a) Less than 50,000 gallons and that:]*

13 *“[(A) Owns an on-site vineyard of at least 15 acres;]*

14 *“[(B) Owns a contiguous vineyard of at least 15 acres;]*

15 *“[(C) Has a long-term contract for the purchase of all of the grapes from*
16 *at least 15 acres of a vineyard contiguous to the winery; or]*

17 *“[(D) Obtains grapes from any combination of subparagraph (A), (B) or (C)*
18 *of this paragraph; or]*

19 *“[(b) At least 50,000 gallons and no more than 100,000 gallons and that:]*

20 *“[(A) Owns an on-site vineyard of at least 40 acres;]*

21 *“[(B) Owns a contiguous vineyard of at least 40 acres;]*

22 *“[(C) Has a long-term contract for the purchase of all of the grapes from*

1 *at least 40 acres of a vineyard contiguous to the winery; or]*

2 *“[(D) Obtains grapes from any combination of subparagraph (A), (B) or (C)*
3 *of this paragraph.]*

4 *“[(2) A winery described in subsection (1) of this section may sell only:]*

5 *“[(a) Wines produced in conjunction with the winery; and]*

6 *“[(b) Items directly related to the sale and promotion of wine produced in*
7 *conjunction with the winery, the sale of which is incidental to retail sale of*
8 *wine on-site, including food and beverages served by a limited service restau-*
9 *rant, as defined in ORS 624.010.]*

10 *“[(3) Prior to the issuance of a permit to establish a winery under this*
11 *section, the applicant shall show that vineyards described in subsection (1) of*
12 *this section have been planted or that the contract has been executed, as ap-*
13 *plicable.]*

14 *“[(4) A local government shall adopt findings for each of the standards*
15 *described in paragraphs (a) and (b) of this subsection. Standards imposed on*
16 *the siting of a winery shall be limited solely to each of the following for the*
17 *sole purpose of limiting demonstrated conflicts with accepted farming or forest*
18 *practices on adjacent lands:]*

19 *“[(a) Establishment of a setback, not to exceed 100 feet, from all property*
20 *lines for the winery and all public gathering places; and]*

21 *“[(b) Provision of direct road access, internal circulation and parking.]*

22 *“[(5) A local government shall also apply local criteria regarding*
23 *floodplains, geologic hazards, the Willamette River Greenway, solar access,*
24 *airport safety or other regulations for resource protection acknowledged to*
25 *comply with any statewide goal respecting open spaces, scenic and historic*
26 *areas and natural resources.]*

27 **“(1) As used in this section:**

28 **“(a) ‘Contiguous vineyards’ means vineyards located:**

29 **“(A) On the same tract as a winery; or**

30 **“(B) On a different tract that is contiguous to the tract on which**

1 a winery is sited.

2 “(b) ‘Production’ means the process of:

3 “(A) On-site fermenting of grapes into wine;

4 “(B) Changing the class or type of wine by blending wine with dis-
5 tilled liquor, flavors, colors or artificial carbonation; or

6 “(C) Making sparkling wine by secondary fermentation.

7 “(c) ‘Winery’ means one or more structures used for the production
8 of wine.

9 “(2) A winery may be operated as a permitted use in an area zoned
10 for exclusive farm use pursuant to ORS 215.213 (1)(p) or 215.283 (1)(n)
11 if the winery is located on a tract of at least 20 acres of land, at least
12 10 acres of which are planted in vineyards, and the winery produces
13 at least 1,000 gallons of wine in a calendar year from the vineyards.

14 “(3) A winery allowed under subsection (2) of this section may in-
15 clude the following uses:

16 “(a) The production of wine;

17 “(b) The wholesale or retail sale of wine produced in conjunction
18 with the winery, including wine tastings; and

19 “(c) When the activity occurs by appointment only, activities that
20 are directly related to the sale or promotion of wine produced in con-
21 junction with the winery, including but not limited to:

22 “(A) Wine tours;

23 “(B) Consumer education;

24 “(C) Private events or activities at which wine produced in con-
25 junction with the winery is featured; and

26 “(D) The service of food required by state law to be served in con-
27 junction with the consumption of wine on the premises.

28 “(4) A winery allowed under subsection (2) of this section may not
29 include kitchen facilities.

30 “(5) A winery may be operated as a permitted use in an area zoned

1 for exclusive farm use pursuant to ORS 215.213 (1)(p) or 215.283 (1)(n)
2 if:

3 “(a) The winery is located on a tract of at least 20 acres of land;

4 “(b) The winery produces at least 10,000 gallons of wine in a calen-
5 dar year; and

6 “(c) The owner of the winery owns or holds under a long-term lease,
7 or holds under a long-term contract the right to purchase all grapes
8 from, vineyards of at least 25 acres, at least 15 acres of which must
9 be contiguous vineyards.

10 “(6) A winery allowed under subsection (5) of this section may in-
11 clude the following uses:

12 “(a) The production of wine;

13 “(b) The wholesale and retail sale of wine produced in conjunction
14 with the winery;

15 “(c) Activities that are directly related to the sale or promotion of
16 wine produced in conjunction with the winery, including but not lim-
17 ited to wine tours and tastings and consumer education;

18 “(d) The sale of items that support the sale and promotion of wine
19 produced in conjunction with the winery, including gifts and mer-
20 chandise and wine produced by other wineries;

21 “(e) The preparation and sale of food and beverages in kitchen fa-
22 cilities licensed under ORS 624.010 to 624.121 when food is:

23 “(A) Required by state law to be served in conjunction with the
24 consumption of wine on premises; or

25 “(B) Served in conjunction with the consumption of wine at events
26 or activities permitted under this subsection;

27 “(f) Public and private events or activities, the primary purpose of
28 which is to promote the winery or the Oregon wine industry;

29 “(g) Outdoor concerts for which admission is charged, facility
30 rentals or celebratory events that are approved by issuance of a

1 multiyear temporary permit that is reviewed at least once each five
2 years for compliance with the following standards:

3 “(A) The events or activities must comply with ORS 215.296;

4 “(B) The events or activities may not materially alter the stability
5 of the land use pattern in the area; and

6 “(C) If the events or activities include food service, the food service
7 is not functioning as a restaurant or a facility providing off-site
8 catering; and

9 “(h) A restaurant or other food service facility for the sale of food
10 not allowed under paragraph (e) of this subsection may be established
11 in conjunction with a winery when approved by issuance of a permit
12 that requires compliance with the following standards:

13 “(A) In the calendar year immediately preceding issuance of the
14 permit, the winery produced at least 250,000 gallons of wine;

15 “(B) The winery is located on the same tract of land as a vineyard
16 of at least 50 acres;

17 “(C) The restaurant or other facility must comply with ORS 215.296;

18 “(D) The restaurant or other facility will not materially alter the
19 stability of the land use pattern in the area; and

20 “(E) The restaurant or other facility must be incidental and subor-
21 dinate to the production and sale of wine.

22 “(7) The uses authorized under subsection (3)(c) or (6)(c) to (g) of
23 this section must be:

24 “(a) Incidental and subordinate to the production of wine and the
25 on-site retail sale of wine; and

26 “(b) Limited such that the annual gross income from the activities
27 and uses, collectively, does not exceed 25 percent of the annual gross
28 income from the on-site retail sale of wine produced in conjunction
29 with the winery.

30 “(8) A winery that includes the uses authorized under subsections

1 (3)(c) and (6)(c) to (g) of this section must submit an annual written
2 report documenting compliance with subsection (7)(b) of this section
3 to the local government with land use jurisdiction over the winery and
4 to the Department of Land Conservation and Development.

5 “(9) Before issuance of a permit to establish a winery, the applicant
6 must show that any vineyards required by subsection (2) or (5) of this
7 section have been planted or that a contract to purchase grapes from
8 contiguous vineyards has been executed, as applicable.

9 “(10) A local government shall impose the following conditions on
10 the operation of a winery under this section:

11 “(a) A setback of at least 100 feet from the property line of the tract
12 for public gathering places;

13 “(b) Provision of direct road access, internal circulation and suffi-
14 cient off-street parking to accommodate the uses authorized;

15 “(c) Measures related to floodplains, geologic hazards, the
16 Willamette River Greenway, solar access, airport safety and other
17 measures for resource protection acknowledged in the comprehensive
18 plan and land use regulations to comply with a statewide land use
19 planning goal related to open spaces, scenic and historic areas and
20 natural resources; and

21 “(d) Measures to ensure compliance with public health and safety
22 laws and regulations.

23 “SECTION 3. Section 4 of this 2011 Act is added to and made a part
24 of ORS chapter 215.

25 “SECTION 4. (1) If a winery does not meet the requirements of ORS
26 215.452, the winery may be operated as a conditional use in an area
27 zoned for exclusive farm use pursuant to ORS 215.213 (2)(c)(B) or
28 215.283 (2)(a)(B).

29 “(2) A winery allowed under this section may conduct the uses au-
30 thorized by ORS 215.452 (3), subject to the limitations that apply to the

1 **uses.”.**

2 In line 23, delete “4” and insert “5”.

3 On page 4, line 32, delete the boldfaced material.

4 On page 6, line 38, after “including” insert a colon and begin a new par-
5 agraph and insert “(A)”.

6 In line 39, delete the period and insert “; and
7 “(B) A winery, as described in section 4 of this 2011 Act.”.

8 On page 10, line 9, delete “5” and insert “6”.

9 On page 11, line 6, delete the boldfaced material.

10 On page 12, line 40, after “including” insert a colon and begin a new
11 paragraph and insert “(A)”.

12 In line 41, delete the period and insert “; and
13 “(B) A winery, as described in section 4 of this 2011 Act.”.

14 On page 15, after line 15, insert:

15 **“SECTION 7. ORS 215.203 is amended to read:**

16 “215.203. (1) Zoning ordinances may be adopted to zone designated areas
17 of land within the county as exclusive farm use zones. Land within such
18 zones shall be used exclusively for farm use except as otherwise provided in
19 ORS 215.213, 215.283 or 215.284. Farm use zones shall be established only
20 when such zoning is consistent with the comprehensive plan.

21 “(2)(a) As used in this section, ‘farm use’ means the current employment
22 of land for the primary purpose of obtaining a profit in money by raising,
23 harvesting and selling crops or the feeding, breeding, management and sale
24 of, or the produce of, livestock, poultry, fur-bearing animals or honeybees or
25 for dairying and the sale of dairy products or any other agricultural or
26 horticultural use or animal husbandry or any combination thereof. ‘Farm
27 use’ includes the preparation, storage and disposal by marketing or otherwise
28 of the products or by-products raised on such land for human or animal use.
29 ‘Farm use’ also includes the current employment of land for the primary
30 purpose of obtaining a profit in money by stabling or training equines in-

1 cluding but not limited to providing riding lessons, training clinics and
2 schooling shows. 'Farm use' also includes the propagation, cultivation,
3 maintenance and harvesting of aquatic, bird and animal species that are
4 under the jurisdiction of the State Fish and Wildlife Commission, to the ex-
5 tent allowed by the rules adopted by the commission. 'Farm use' includes the
6 on-site construction and maintenance of equipment and facilities used for the
7 activities described in this subsection. 'Farm use' does not include the use
8 of land subject to the provisions of ORS chapter 321, except land used ex-
9 clusively for growing cultured Christmas trees as defined in subsection (3)
10 of this section or land described in ORS 321.267 (3) or 321.824 (3).

11 "(b) 'Current employment' of land for farm use includes:

12 "(A) Farmland, the operation or use of which is subject to any farm-
13 related government program;

14 "(B) Land lying fallow for one year as a normal and regular requirement
15 of good agricultural husbandry;

16 "(C) Land planted in orchards or other perennials, other than land spec-
17 ified in subparagraph (D) of this paragraph, prior to maturity;

18 "(D) Land not in an exclusive farm use zone which has not been eligible
19 for assessment at special farm use value in the year prior to planting the
20 current crop and has been planted in orchards, cultured Christmas trees or
21 vineyards for at least three years;

22 "(E) Wasteland, in an exclusive farm use zone, dry or covered with water,
23 neither economically tillable nor grazeable, lying in or adjacent to and in
24 common ownership with a farm use land and which is not currently being
25 used for any economic farm use;

26 "(F) Except for land under a single family dwelling, land under buildings
27 supporting accepted farm practices, including the processing facilities al-
28 lowed by ORS 215.213 (1)(u) and 215.283 (1)(r) and the processing of farm
29 crops into biofuel as commercial activities in conjunction with farm use un-
30 der ORS 215.213 [(2)(c)] **(2)(c)(A)** and 215.283 [(2)(a)] **(2)(a)(A)**;

1 “(G) Water impoundments lying in or adjacent to and in common owner-
2 ship with farm use land;

3 “(H) Any land constituting a woodlot, not to exceed 20 acres, contiguous
4 to and owned by the owner of land specially valued for farm use even if the
5 land constituting the woodlot is not utilized in conjunction with farm use;

6 “(I) Land lying idle for no more than one year where the absence of
7 farming activity is due to the illness of the farmer or member of the farmer’s
8 immediate family. For purposes of this paragraph, illness includes injury or
9 infirmity whether or not such illness results in death;

10 “(J) Any land described under ORS 321.267 (3) or 321.824 (3);

11 “(K) Land used for the primary purpose of obtaining a profit in money
12 by breeding, raising, kenneling or training of greyhounds for racing; and

13 “(L) Land used for the processing of farm crops into biofuel, as defined
14 in ORS 315.141, if:

15 “(i) Only the crops of the landowner are being processed;

16 “(ii) The biofuel from all of the crops purchased for processing into
17 biofuel is used on the farm of the landowner; or

18 “(iii) The landowner is custom processing crops into biofuel from other
19 landowners in the area for their use or sale.

20 “(c) As used in this subsection, ‘accepted farming practice’ means a mode
21 of operation that is common to farms of a similar nature, necessary for the
22 operation of such farms to obtain a profit in money, and customarily utilized
23 in conjunction with farm use.

24 “(3) ‘Cultured Christmas trees’ means trees:

25 “(a) Grown on lands used exclusively for that purpose, capable of prepa-
26 ration by intensive cultivation methods such as plowing or turning over the
27 soil;

28 “(b) Of a marketable species;

29 “(c) Managed to produce trees meeting U.S. No. 2 or better standards for
30 Christmas trees as specified by the Agriculture Marketing Services of the

1 United States Department of Agriculture; and

2 “(d) Evidencing periodic maintenance practices of shearing for Douglas
3 fir and pine species, weed and brush control and one or more of the following
4 practices: Basal pruning, fertilizing, insect and disease control, stump cul-
5 ture, soil cultivation, irrigation.”.

6 In line 16, delete “6” and insert “8”.

7 In line 17, delete “3” and insert “4”.

8 In line 19, delete “7” and insert “9”.

9 In line 24, delete “3” and insert “4”.

10 After line 36, insert:

11 **“SECTION 10.** ORS 308A.056 is amended to read:

12 “308A.056. (1) As used in ORS 308A.050 to 308A.128, ‘farm use’ means the
13 current employment of land for the primary purpose of obtaining a profit in
14 money by:

15 “(a) Raising, harvesting and selling crops.

16 “(b) Feeding, breeding, managing or selling livestock, poultry, fur-bearing
17 animals or honeybees or the produce thereof.

18 “(c) Dairying and selling dairy products.

19 “(d) Stabling or training equines, including but not limited to providing
20 riding lessons, training clinics and schooling shows.

21 “(e) Propagating, cultivating, maintaining or harvesting aquatic species
22 and bird and animal species to the extent allowed by the rules adopted by
23 the State Fish and Wildlife Commission.

24 “(f) On-site constructing and maintaining equipment and facilities used
25 for the activities described in this subsection.

26 “(g) Preparing, storing or disposing of, by marketing or otherwise, the
27 products or by-products raised for human or animal use on land described in
28 this section.

29 “(h) Implementing a remediation plan previously presented to the assessor
30 for the county in which the land that is the subject of the plan is located.

1 “(i) Using land described in this section for any other agricultural or
2 horticultural use or animal husbandry or any combination thereof.

3 “(2) ‘Farm use’ does not include the use of land subject to timber and
4 forestland taxation under ORS chapter 321, except land used exclusively for
5 growing cultured Christmas trees or land described in ORS 321.267 (3) or
6 321.824 (3) (relating to land used to grow certain hardwood timber, including
7 hybrid cottonwood).

8 “(3) For purposes of this section, land is currently employed for farm use
9 if the land is:

10 “(a) Farmland, the operation or use of which is subject to any farm-
11 related government program;

12 “(b) Land lying fallow for one year as a normal and regular requirement
13 of good agricultural husbandry;

14 “(c) Land planted in orchards or other perennials, other than land speci-
15 fied in paragraph (d) of this subsection, prior to maturity;

16 “(d) Land not in an exclusive farm use zone that has not been eligible for
17 assessment at special farm use value in the year prior to planting the current
18 crop and has been planted in orchards, cultured Christmas trees or vineyards
19 for at least three years;

20 “(e) Wasteland, in an exclusive farm use zone, dry or covered with water,
21 neither economically tillable nor grazeable, lying in or adjacent to and in
22 common ownership with farm use land and that is not currently being used
23 for any economic farm use;

24 “(f) Except for land under a single family dwelling, land under buildings
25 supporting accepted farming practices, including the processing facilities al-
26 lowed by ORS 215.213 (1)(u) and 215.283 (1)(r) and the processing of farm
27 crops into biofuel as commercial activities in conjunction with farm use un-
28 der ORS 215.213 [(2)(c)] **(2)(c)(A)** and 215.283 [(2)(a)] **(2)(a)(A)**;

29 “(g) Water impoundments lying in or adjacent to and in common owner-
30 ship with farm use land;

1 “(h) Any land constituting a woodlot, not to exceed 20 acres, contiguous
2 to and owned by the owner of land specially valued for farm use even if the
3 land constituting the woodlot is not utilized in conjunction with farm use;

4 “(i) Land lying idle for no more than one year when the absence of
5 farming activity is the result of the illness of the farmer or a member of the
6 farmer’s immediate family, including injury or infirmity, regardless of
7 whether the illness results in death;

8 “(j) Land described under ORS 321.267 (3) or 321.824 (3) (relating to land
9 used to grow certain hardwood timber, including hybrid cottonwood);

10 “(k) Land used for the primary purpose of obtaining a profit in money by
11 breeding, raising, kenneling or training greyhounds for racing;

12 “(L) Land subject to a remediation plan previously presented to the
13 assessor for the county in which the land that is the subject of the plan is
14 located; or

15 “(m) Land used for the processing of farm crops into biofuel, as defined
16 in ORS 315.141, if:

17 “(i) Only the crops of the landowner are being processed;

18 “(ii) The biofuel from all of the crops purchased for processing into
19 biofuel is used on the farm of the landowner; or

20 “(iii) The landowner is custom processing crops into biofuel from other
21 landowners in the area for their use or sale.

22 “(4) As used in this section:

23 “(a) ‘Accepted farming practice’ means a mode of operation that is com-
24 mon to farms of a similar nature, necessary for the operation of these similar
25 farms to obtain a profit in money and customarily utilized in conjunction
26 with farm use.

27 “(b) ‘Cultured Christmas trees’ means trees:

28 “(A) Grown on lands used exclusively for that purpose, capable of prepa-
29 ration by intensive cultivation methods such as plowing or turning over the
30 soil;

1 “(B) Of a marketable species;

2 “(C) Managed to produce trees meeting U.S. No. 2 or better standards for
3 Christmas trees as specified by the Agricultural Marketing Service of the
4 United States Department of Agriculture; and

5 “(D) Evidencing periodic maintenance practices of shearing for Douglas
6 fir and pine species, weed and brush control and one or more of the following
7 practices:

8 “(i) Basal pruning;

9 “(ii) Fertilizing;

10 “(iii) Insect and disease control;

11 “(iv) Stump culture;

12 “(v) Soil cultivation; or

13 “(vi) Irrigation.

14 **“SECTION 11. (1) A use or structure lawfully established at a**
15 **winery before the effective date of this 2011 Act may be continued,**
16 **including but not limited to events and activities that exceed the in-**
17 **come limit imposed by ORS 215.452.**

18 **“(2) A use or structure continued pursuant to this section may be**
19 **altered, restored or expanded as provided in ORS 215.130.”.**

20 In line 37, delete “8” and insert “12”.

21

AOC Request

Retain language in HB 2710A and 2712A relating to court facilities:

- The direct appropriation of 1.9 million to counties in Section 52(5) of HB 2712A.
- Keeping the language in HB 2710A Section 1(3) for circuit court facilities.

Background

Oregon achieved statehood in 1859 and, as counties were created, courthouses were among the first permanent structures built. The Benton County Courthouse in Corvallis dates from 1889, making it the oldest in Oregon still used for its original purpose. The Multnomah County Courthouse has had over 95 years of continuous operation. These courthouses – a link to our history and a reflection of the economic, social, and political influences of their time – are today suffering from old age.

An assessment commissioned by the state legislature in 2008 inventories the needed repairs and construction of court facilities throughout Oregon. Counties, the judiciary and the State Legislature are united in the desire to devote more financial resources to repair Oregon's crumbling courthouses.

These two bills take a significant step forward and generate funding that provides a source of revenue to address courthouse repair and construction. HB2712, relating to criminal fines, provides for a specific allocation for counties of 1.9 million for circuit court facilities. HB 2710A allows court facilities expenditures from the county fund generated from civil fees.

This partnership between the state, counties and the courts will move our state toward the goal of restoring the 48 courthouses in Oregon.

Paul Snider

From: CarlM [CarlM@feiblemancase.com]
Sent: Wednesday, June 01, 2011 2:36 PM
To: Paul Snider
Subject: HB 2712A

Paul here is a list, with explanations, for the changes we think must be made to HB 2712A. They are listed in no particular order. Note that the issue Jad brought up to you is included. Please forward them to Rep, Richardson and let me know if you cannot endorse any of them for whatever reason.

o Section 3 of HB 2712A imposes presumptive fines on special zone convictions (violations occurring in a school zone, highway work zone, or safety corridor) that exceed (in Classes A, B, and C) current base fines for the same violation (see table below). These fines, by statute, cannot be reduced by the court in any case for any reason. *This raises, rather than lowers, fines in special zone cases.*

Special Zone Fines	Class A	Class B	Class C	Class D (Speeding Only)
HB 2712A Presumptive fine	\$770	\$450	\$280	\$170
Current base fine	\$724	\$400	\$251	\$172

o HB 2712A repeals ORS 496.715 dealing with distribution of fines from wildlife violations. Under the current statute, one-half of all fines from wildlife law convictions in a Justice Court goes to the County Treasurer; the other half goes to the state. If that law is repealed, it would appear that the entire fine from a Justice Court wildlife conviction would go to the county. This would either shift revenue away from the state or cause all wildlife violation cases to be filed in circuit courts. *ORS 496.715 should be restored to maintain that balance.*

o Sections 47-49 of HB 2712A (as well as the original bill) require that \$40 of every judgment of fine in a traffic court case is payable to the state. However, there are a number of violations that may be considered "traffic offenses" for which the statutory fine is less than \$40, such as helmet violations, parking violations, and others. Under current law, the Unitary Assessment County Assessment and \$45 surcharge do not apply to parking cases and are added onto helmet fines making the current base fine for a helmet violation \$122 when the statutory fine is only \$25. Clarification should be made on how fine money from these convictions is to be distributed. *Is the \$40 to be added rather than taken out if the total fine is less than \$40?*

o HB 2712A appears to eliminate the option of entering a plea of guilty to a violation, leaving the defendant only the option of pleading guilty or no contest. No contest pleas are confusing to many people. A "guilty plea" is often sign to the court at sentencing that the defendant has taken responsibility for his or her actions and has learned something from the incident. Elimination of a "guilty plea" option in either personal or written appearances on a violation sends the wrong message to the public many of whom refuse to take responsibility for their actions of any kind. If one has the right to plead guilty of a crime, they should have the same option in a violation case. The interim committee heard testimony from legislative counsel that a "guilty plea" was a trap for the unwary

when it could be used against a driver in a subsequent civil case arising out of an accident. That is not a current problem and is remedied by Section 30 of HB 2712A in any event. *Allow a*

mail in guilty plea.

- Section 44 of HB 2712 makes reimbursement of costs as part of a judgment “payable to the state.” Paragraph 1 of that section makes it clear that costs payable to the state are costs incurred by the state. Paragraph 2 does not make that clear. Justice courts and municipal courts incur costs in prosecuting defendants in criminal matters. It should be clear that those costs recovered remain with the jurisdiction that incurred them.

Clarify that costs in minor courts should be recovered for the jurisdiction that incurred them.

A. Carl Myers
Attorney at Law
1815 Commercial St. SE
Salem, OR 97302

**AOC-AMH SYSTEM OF CARE
DRAFT DOCUMENT**

Introduction

May 17, 2011

As part of the current statewide health care system transformation process, a workgroup of the Association of Oregon Counties (AOC) and the Oregon Health Authority's Addictions and Mental Health Division (OHA-AMH), has been tasked to develop a system of care for people with, or at risk of developing mental health and/or addictions disorders. This improved mental health and addictions system of care will be compatible with the new statewide integrated health system.

Whereas the mental health and addictions treatment system serve both Oregon Health Plan insured and uninsured indigent people with different funding mechanisms, the purpose is to create a system of care that better utilizes Medicaid and non-Medicaid funds. This system of care must improve the services and the health of those insured and uninsured individuals and be consistent with the goals of the Triple Aim.

The workgroup, following the principles previously established, has jointly developed a proposed and improved system of care. The proposed service delivery system is a new way of doing business in partnership between OHA-AMH and Local Mental Health Authorities (LMHA). This system is founded on five main concepts:

1. A system of care that coordinates services and supports for individuals across the full spectrum of care
2. Global budgeting for non-Medicaid funds with counties
3. Global budgeting with Coordinated Care Organizations (CCOs) for Medicaid funds
4. Outcome-based system management for CCOs and LMHAs
5. Coordination of Medicaid and non-Medicaid funds

The following program description is divided into five major components that address the significant areas of change. The resulting plan is an overall blueprint of how to proceed to implement the proposed changes.

**AOC-AMH SYSTEM OF CARE
DRAFT DOCUMENT**

Introduction
May 17, 2011

1. Requirements of the County Financial Assistance Agreements for the Mental Health and Addictions System of Care:

County Financial Assistance Agreements will allocate a global budget to facilitate the maintenance of a safety net system of care for county residents across the age spectrum that are uninsured, underinsured and low income, as well as crisis and prevention services accessible to the entire county's population. To insure statewide consistency, contracts will clearly specify mandatory core services and supports to be defined in a collaborative process.

2. Global budget - The contract between AMH and the LMHA will contain defined payment methodologies, using a global budget concept that will remove the current service element categories for funding. The goal for eliminating service elements is to support flexibility in meeting an individual and community service needs while ensuring resources are used in the most cost-effective manner possible and limiting allocations of county infrastructure costs. The identified array of services that the LMHA will be responsible to provide will be funded with existing dollars through a contract between AMH and the LMHA that is performance based with clearly defined, measurable outcomes. The contract will include incentives that drive the system to intervene early in a person's life rather than waiting for crises or disability before treatment is provided. The allocation of global budgets will be based on the most current population data for each county. The global budgets will reflect a prevalence factor which will serve as a risk adjuster. The global budgets will also include a minimum or "floor" amount of funding that will reflect the current allocation for small counties. The proportion of the global budget to be utilized for acute care services for non-OHP individuals will be established as a contracted not to exceed amount. This amount should reflect the current proportion of SE 24 funds as a proportion of total statewide resources to be used in the global budget. The global budget will be initiated with second year Legislatively Approved Budget funds for 2011-2013.

3. Outcome management – All services will be contracted and evaluated based on a specific set of outcomes and expectations defined in collaboration

AOC-AMH SYSTEM OF CARE DRAFT DOCUMENT

Introduction
May 17, 2011

with relevant stakeholders consistent with federal requirements. These performance measures will address Triple Aim goals: improving health care outcomes; enhancing the health care experience of the consumer and the systems that interact with those served such as juvenile and adult justice, Oregon State Hospital, and child welfare, and controlling the cost of care by assuring the right service at the right place at the right time reduces the need for higher cost and institutional care.

The contract will include all services and will be contracted and evaluated based on a specific set of outcomes and expectations defined in collaboration with the relevant stakeholders and by federal requirements using a global budget concept. The performance measures must be meaningful to people accessing services (enhancing the experience) and relevant to the systems that interact with the populations served (juvenile and adult justice, OSH, child welfare).

AMH will implement a new data system designed to capture and share information necessary to monitor system performance as well as contractual obligations. A basic goal in implementing the data system is to monitor contracts, financial expenditures, services and agreed upon outcomes. To do this, it will be very important that the system is flexible enough to evolve over time as requirements and data elements change, while being structured enough to ensure a standard process to collect information. In addition, epidemiological data, including community wellness and social determinants of health, will be tracked and made available to the LMHA, CCOs and other stakeholders for planning and outcome purposes. These data will be collected through currently available sources and summarized in meaningful ways for the appropriate stakeholders of the system of care. The foundation for this work has already been set up by the state sponsored Epidemiological Outcomes Workgroup.

4. System of care management - LMHAs will plan, organize and manage a local system of care in collaboration with the CCO, state and local service system agencies, service recipients, families and advocates. Management of the system of care is imperative to assure that services are provided and that the mutually identified and agreed upon goals are met using existing funds.

**AOC-AMH SYSTEM OF CARE
DRAFT DOCUMENT**

Introduction
May 17, 2011

System of care management will require ongoing collaboration between the LMHA, CCOs and AMH.

AMH will retain the role of the state substance abuse and mental health authority. AMH will organize its work and staff resources in a way to support more active and assertive monitoring of contractor and system performance. LMHAs will implement a uniform method of screening and responding to complaints, grievances and appeals. Agreed upon quality and performance measures will be included in the County Financial Assistance Agreement (CFAA) and reporting requirements and processes will be aligned with these measures. The CCO and LMHAs will work collaboratively to share funding/resources to appropriately serve Medicaid eligible individuals in the most integrated, least restrictive setting possible. Health promotion and the prevention of addictions and mental health disorders will be a collaborative community process that is informed by epidemiological data.

5. Populations to be served – Contract requirements for the populations to be served for Crisis, Prevention, Early Intervention and Early Identification, will identify universal, selected and indicated populations to be served.

Eligibility for all other non-Medicaid services will be restricted to those who are uninsured/underinsured and low income. Specific definitions of underinsured and low income will be developed. Within these eligibility guidelines, services can be prioritized to individuals as specified the Substance Abuse Prevention and Treatment and Mental Health block grants, Oregon Administrative Rule, and Oregon Revised Statutes.