

FROM THE DESK OF  
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OREGON STATE SENATE



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To all members of the Senate

Subject: Senate Bill 100

The accompanying statement of Legislative Intent with respect to "Goals" and "Guidelines" has been agreed upon by members of the Senate Environment and Land Use Committee. It is to be recorded in the Senate Journal.

"GOALS" ARE INTENDED TO ACHIEVE THE PURPOSES EXPRESSED IN THE PREAMBLE AND POLICY STATEMENT OF SB 100. NO EFFORT IS MADE TO FURTHER DEFINE "GOALS" - PREFERRING THE DEFINITION TO BE REFINED IN THE PROCESS OF CITIZEN INPUT, COMMISSION APPROVAL AND LEGISLATIVE REVIEW.

"GUIDELINES" ARE SUGGESTED DIRECTIONS THAT WOULD AID LOCAL GOVERNMENTS IN ACTIVATING THE "GOALS". THEY ARE INTENDED TO BE INSTRUCTIVE, DIRECTIONAL AND POSITIVE AND NOT LIMITING LOCAL GOVERNMENT TO A SINGLE COURSE OF ACTION WHEN SOME OTHER LOCALLY CONCEIVED COURSE WOULD ACHIEVE THE SAME RESULT. "GUIDELINES" ARE NOT INTENDED TO BE A GRANT OF POWER TO THE STATE TO CARRY OUT ZONING FROM THE STATE LEVEL.

Senator Hallock, Chairman th

Senator J. Burns, Vice Chairman JB

Senator Atiyeh (A)

Senator Macpherson AM

Senator Ripper J.R.

Senator Thorne MT

Senator Wingard (W)

**Enrolled**  
**Senate Bill 100**

Sponsored by Senators MACPHERSON, HALLOCK

CHAPTER.....

**AN ACT**

Relating to land use; creating new provisions; amending ORS 215.055, 215.510, 215.515, 215.535 and 453.345; and appropriating money.

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

**PART I INTRODUCTION**  
**PREAMBLE**

**SECTION 1.** The Legislative Assembly finds that:

(1) Uncoordinated use of lands within this state threaten the orderly development, the environment of this state and the health, safety, order, convenience, prosperity and welfare of the people of this state.

(2) To promote coordinated administration of land uses consistent with comprehensive plans adopted throughout the state, it is necessary to establish a process for the review of state agency, city, county and special district land conservation and development plans for compliance with state-wide planning goals and guidelines.

(3) Except as otherwise provided in subsection (4) of this section, cities and counties should remain as the agencies to consider, promote and manage the local aspects of land conservation and development for the best interests of the people within their jurisdictions.

(4) The promotion of coordinated state-wide land conservation and development requires the creation of a state-wide planning agency to prescribe planning goals and objectives to be applied by state agencies, cities, counties and special districts throughout the state.

(5) The impact of proposed development projects, constituting activities of state-wide significance upon the public health, safety and welfare, requires a system of permits reviewed by a state-wide agency to carry out state-wide planning goals and guidelines prescribed for application for activities of state-wide significance throughout this state.

**POLICY STATEMENT**

**SECTION 2.** The Legislative Assembly declares that, in order to assure the highest possible level of liveability in Oregon, it is necessary to provide for properly prepared and coordinated comprehensive plans for cities and counties, regional areas and the state as a whole. These comprehensive plans:

(1) Must be adopted by the appropriate governing body at the local and state levels;

(2) Are expressions of public policy in the form of policy statements, generalized maps and standards and guidelines;

(3) Shall be the basis for more specific rules, regulations and ordinances which implement the policies expressed through the comprehensive plans;

(4) Shall be prepared to assure that all public actions are consistent and coordinated with the policies expressed through the comprehensive plans; and

(5) Shall be regularly reviewed and, if necessary, revised to keep them consistent with the changing needs and desires of the public they are designed to serve.

#### **DEFINITIONS**

**SECTION 3.** As used in this Act, unless the context requires otherwise:

(1) "Activity of state-wide significance" means a land conservation and development activity designated pursuant to section 25 of this Act.

(2) "Commission" means the Land Conservation and Development Commission.

(3) "Committee" means the Joint Legislative Committee on Land Use.

(4) "Comprehensive plan" means a generalized, coordinated land use map and policy statement of the governing body of a state agency, city, county or special district that interrelates all functional and natural systems and activities relating to the use of lands, including but not limited to sewer and water systems, transportation systems, educational systems, recreational facilities, and natural resources and air and water quality management programs. "Comprehensive" means all-inclusive, both in terms of the geographic area covered and functional and natural activities and systems occurring in the area covered by the plan. "General nature" means a summary of policies and proposals in broad categories and does not necessarily indicate specific locations of any area, activity or use. A plan is "co-ordinated" when the needs of all levels of governments, semipublic and private agencies and the citizens of Oregon have been considered and accommodated as much as possible. "Land" includes water, both surface and subsurface, and the air.

(5) "Department" means the Department of Land Conservation and Development.

(6) "Director" means the Director of the Department of Land Conservation and Development.

(7) "Special district" means any unit of local government, other than a city or county, authorized and regulated by statute and includes, but is not limited to: Water control districts, irrigation districts, port districts, regional air quality control authorities, fire districts, school districts, hospital districts, mass transit districts and sanitary districts.

(8) "Voluntary association of local governments" means a regional planning agency in this state officially designated by the Governor pursuant to the federal Office of Management and Budget Circular A-95 as a regional clearinghouse.

#### **PART II ORGANIZATION, ROLES AND RESPONSIBILITIES**

##### **DEPARTMENT OF LAND CONSERVATION AND DEVELOPMENT**

**SECTION 4.** The Department of Land Conservation and Development is established. The department shall consist of the Land Conservation and Development Commission, the director and their subordinate officers and employees.

**SECTION 5.** (1) There is established a Land Conservation and Development Commission consisting of seven members appointed by the Governor, subject to confirmation by the Senate in the manner provided in ORS 171.560 and 171.570.

(2) In making appointments under subsection (1) of this section, the Governor shall select from residents of this state one member from each congressional district and the remaining members from the state at large. At least one and no more than two members shall be from Multnomah County.

(3) The term of office of each member of the commission is four years, but a member may be removed by the Governor for cause. Before the expiration of the term of a member, the Governor shall appoint a successor.

No person shall serve more than two full terms as a member of the commission.

(4) If there is a vacancy for any cause, the Governor shall make an appointment to become immediately effective for the unexpired term.

**SECTION 6.** Notwithstanding the term of office specified in section 5 of this Act, of the members first appointed to the commission:

(1) Two shall serve for a term ending June 30, 1974.

(2) Two shall serve for a term ending June 30, 1975.

(3) Two shall serve for a term ending June 30, 1976.

(4) One shall serve for a term ending June 30, 1977.

**SECTION 7.** (1) The commission shall select one of its members as chairman and another member as vice chairman, for such terms and with duties and powers necessary for the performance of the functions of such offices as the commission determines. The vice chairman of the commission shall act as the chairman of the commission in the absence of the chairman.

(2) A majority of the members of the commission constitutes a quorum for the transaction of business.

**SECTION 8.** Members of the commission are entitled to compensation and expenses as provided in ORS 292.495.

**SECTION 9.** The commission shall:

(1) Direct the performance by the director and his staff of their functions under this Act.

(2) In accordance with the provisions of ORS chapter 183, promulgate rules that it considers necessary in carrying out this Act.

(3) Cooperate with the appropriate agencies of the United States, this state and its political subdivisions, any other state, any interstate agency, any person or groups of persons with respect to land conservation and development.

(4) Appoint advisory committees to aid it in carrying out this Act and provide technical and other assistance, as it considers necessary, to each such committee.

**SECTION 10.** The commission may:

(1) Apply for and receive moneys from the Federal Government and from this state or any of its agencies or departments.

(2) Contract with any public agency for the performance of services or the exchange of employes or services by one to the other necessary in carrying out this Act.

(3) Contract for the services of and consultation with professional persons or organizations, not otherwise available through federal, state and local governmental agencies, in carrying out its duties under this Act.

(4) Perform other functions required to carry out this Act.

**SECTION 11.** Pursuant to the provisions of this Act, the commission shall:

(1) Establish state-wide planning goals consistent with regional, county and city concerns;

(2) Issue permits for activities of state-wide significance;

(3) Prepare inventories of land uses;

(4) Prepare state-wide planning guidelines;

(5) Review comprehensive plans for conformance with state-wide planning goals;

(6) Coordinate planning efforts of state agencies to assure conformance with state-wide planning goals and compatibility with city and county comprehensive plans;

(7) Insure widespread citizen involvement and input in all phases of the process;

(8) Prepare model zoning, subdivision and other ordinances and regulations to guide state agencies, cities, counties and special districts in imple-

menting state-wide planning goals, particularly those for the areas listed in subsection (2) of section 34 of this Act;

(9) Review and recommend to the Legislative Assembly the designation of areas of critical state concern;

(10) Report periodically to the Legislative Assembly and to the committee; and

(11) Perform other duties required by law.

**SECTION 12.** If an interstate land conservation and development planning agency is created by an interstate agreement or compact entered into by this state, the commission shall perform the functions of this state with respect to the agreement or compact. If the functions of the interstate planning agency duplicate any of the functions of the commission under this Act, the commission may:

(1) Negotiate with the interstate agency in defining the areas of responsibility of the commission and the interstate planning agency; and

(2) Cooperate with the interstate planning agency in the performance of its functions.

**SECTION 13.** (1) The commission shall appoint a person to serve as the Director of the Department of Land Conservation and Development. The director shall hold his office at the pleasure of the commission and his salary shall be fixed by the commission unless otherwise provided by law.

(2) In addition to his salary, the director shall be reimbursed, subject to any applicable law regulating travel and other expenses of state officers and employes, for actual and necessary expenses incurred by him in the performance of his official duties.

**SECTION 14.** Subject to policies adopted by the commission, the director shall:

(1) Be the administrative head of the department.

(2) Coordinate the activities of the department in its land conservation and development functions with such functions of federal agencies, other state agencies, cities, counties and special districts.

(3) Appoint, reappoint, assign and reassign all subordinate officers and employes of the department, prescribe their duties and fix their compensation, subject to the State Merit System Law.

(4) Represent this state before any agency of this state, any other state or the United States with respect to land conservation and development within this state.

**SECTION 15.** (1) There is established in the General Fund in the State Treasury the Land Conservation and Development Account. Moneys in the account are continuously appropriated for the purpose of carrying out the provisions of this Act.

(2) All fees, moneys and other revenue received by the department or the committee shall be deposited in the Land Conservation and Development Account.

#### **OREGON COASTAL CONSERVATION AND DEVELOPMENT COMMISSION**

**SECTION 16.** (1) The Land Conservation and Development Commission, by agreement with the Oregon Coastal Conservation and Development Commission created by ORS 191.120, may delegate to the Oregon Coastal Conservation and Development Commission any of the functions of the Land Conservation and Development Commission. However, the Land Conservation and Development Commission must review and grant approval prior to any action taken by the Oregon Coastal Conservation and Development Commission with respect to a delegated function.

(2) The Land Conservation and Development Commission may provide

staff and financial assistance to the Oregon Coastal Conservation and Development Commission in carrying out duties under this section.

#### **CITIES AND COUNTIES**

**SECTION 17.** Cities and counties shall exercise their planning and zoning responsibilities in accordance with this Act and the state-wide planning goals and guidelines approved under this Act.

**SECTION 18.** Pursuant to this Act, each city and county in this state shall:

(1) Prepare and adopt comprehensive plans consistent with state-wide planning goals and guidelines approved by the commission; and

(2) Enact zoning, subdivision and other ordinances or regulations to implement their comprehensive plans.

**SECTION 19.** (1) In addition to the responsibilities stated in sections 17 and 18 of this Act, each county through its governing body, shall be responsible for coordinating all planning activities affecting land uses within the county, including those of the county, cities, special districts and state agencies, to assure an integrated comprehensive plan for the entire area of the county. For purposes of this subsection, the responsibility of the county described in this subsection shall not apply to cities having a population of 300,000 or more, and such cities shall exercise, within the incorporated limits thereof, the authority vested in counties by this subsection.

(2) For the purposes of carrying out the provisions of this Act, counties may voluntarily join together with adjacent counties as authorized in ORS chapter 190.

(3) Whenever counties and cities representing 51 percent of the population in their area petition the commission for an election in their area to form a regional planning agency to exercise the authority of the counties under subsection (1) of this section in the area, the commission shall review the petition. If it finds that the area described in the petition forms a reasonable planning unit, it shall call an election in the area to form a regional planning agency. The election shall be conducted in the manner provided in ORS chapter 259. The county clerk shall be considered the election officer and the commission shall be considered the district election authority. The agency shall be considered established if the majority of votes favor the establishment.

(4) If a voluntary association of local governments adopts a resolution ratified by each participating county and a majority of the participating cities therein which authorizes the association to perform the review, advisory and coordination functions assigned to the counties under subsection (1) of this section, the association may perform such duties.

#### **SPECIAL DISTRICTS AND STATE AGENCIES**

**SECTION 20.** Special districts shall exercise their planning duties, powers and responsibilities and take actions that are authorized by law with respect to programs affecting land use in accordance with state-wide planning goals and guidelines approved pursuant to this Act.

**SECTION 21.** State agencies shall carry out their planning duties, powers and responsibilities and take actions that are authorized by law with respect to programs affecting land use in accordance with state-wide planning goals and guidelines approved pursuant to this Act.

#### **JOINT LEGISLATIVE COMMITTEE ON LAND USE**

**SECTION 22.** The Joint Legislative Committee on Land Use is established as a joint committee of the Legislative Assembly. The committee shall select an executive secretary who shall serve at the pleasure of the committee and under its direction.

**SECTION 23.** (1) The Joint Legislative Committee on Land Use shall consist of four members of the House of Representatives appointed by the

Speaker and three members of the Senate appointed by the President. No more than three House members of the committee shall be of the same political party. No more than two Senate members of the committee shall be of the same political party.

(2) The chairman of the House and Senate Environment and Land Use Committees of the Fifty-seventh Legislative Assembly of the State of Oregon shall be two of the members appointed under subsection (1) of this section for the period beginning with the effective date of this Act.

(3) The committee has a continuing existence and may meet, act and conduct its business during sessions of the Legislative Assembly or any recess thereof, and in the interim period between sessions.

(4) The term of a member shall expire upon the convening of the Legislative Assembly in regular session next following the commencement of the member's term. When a vacancy occurs in the membership of the committee in the interim between sessions, until such vacancy is filled, the membership of the committee shall be deemed not to include the vacant position for the purpose of determining whether a quorum is present and a quorum is the majority of the remaining members.

(5) Members of the committee shall be reimbursed for actual and necessary expenses incurred or paid in the performance of their duties as members of the committee, such reimbursement to be made from funds appropriated for such purposes, after submission of approved voucher claims.

(6) The committee shall select a chairman. The chairman may, in addition to his other authorized duties, approve voucher claims.

(7) Action of the committee shall be taken only upon the affirmative vote of the majority of the members of the committee.

**SECTION 24.** The committee shall:

(1) Advise the department on all matters under the jurisdiction of the department;

(2) Review and make recommendations to the Legislative Assembly on proposals for additions to or modifications of designations of activities of state-wide significance, and for designations of areas of critical state concern;

(3) Review and make recommendations to the Legislative Assembly on state-wide planning goals and guidelines approved by the commission;

(4) Study and make recommendations to the Legislative Assembly on the implementation of a program for compensation by the public to owners of lands within this state for the value of any loss of use of such lands resulting directly from the imposition of any zoning, subdivision or other ordinance or regulation regulating or restricting the use of such lands. Such recommendations shall include, but not be limited to, proposed methods for the valuation of such loss of use and proposed limits, if any, to be imposed upon the amount of compensation to be paid by the public for any such loss of use; and

(5) Make recommendations to the Legislative Assembly on any other matter relating to land use planning in Oregon.

### **PART III ACTIVITIES OF STATE-WIDE SIGNIFICANCE DESIGNATION**

**SECTION 25.** (1) The following activities may be designated by the commission as activities of state-wide significance if the commission determines that by their nature or magnitude they should be so considered:

(a) The planning and siting of public transportation facilities.

(b) The planning and siting of public sewerage systems, water supply systems and solid waste disposal sites and facilities.

(c) The planning and siting of public schools.

(2) Nothing in this Act supersedes any duty, power or responsibility



vested by statute in any state agency relating to its activities described in subsection (1) of this section; except that, a state agency may neither implement any such activity nor adopt any plan relating to such an activity without the prior review and comment of the commission.

**SECTION 26.** (1) In addition to the activities of state-wide significance that are designated by the commission under section 25 of this Act, the commission may recommend to the committee the designation of additional activities of state-wide significance. Each such recommendation shall specify the reasons for the proposed designation of the activity of state-wide significance, the dangers that would result from such activity being uncontrolled and the suggested state-wide planning goals and guidelines to be applied for the proposed activity.

(2) The commission may recommend to the committee the designation of areas of critical state concern. Each such recommendation shall specify the criteria developed and reasons for the proposed designation, the damages that would result from uncontrolled development within the area, the reasons for the implementation of state regulations for the proposed area and the suggested state regulations to be applied within the proposed area.

(3) The commission may act under subsections (1) and (2) of this section on its own motion or upon the recommendation of a state agency, city, county or special district. If the commission receives a recommendation from a state agency, city, county or special district and finds the proposed activity or area to be unsuitable for designation, it shall notify the state agency, city, county or special district of its decision and its reasons therefor.

(4) Immediately following its decision to favorably recommend to the Legislative Assembly the designation of an additional activity of state-wide significance or the designation of an area of critical state concern, the commission shall submit the proposed designation accompanied by the supporting materials described in subsections (1) and (2) of this section to the committee for its review.

#### **PERMITS FOR ACTIVITIES OF STATE-WIDE SIGNIFICANCE**

**SECTION 27.** (1) On and after the date the commission has approved state-wide planning goals and guidelines for activities of state-wide significance designated under section 25 of this Act, no proposed project constituting such an activity may be initiated by any person or public agency without a planning and siting permit issued by the commission therefor.

(2) Any person or public agency desiring to initiate a project constituting an activity of state-wide significance shall apply to the department for a planning and siting permit for such project. The application shall contain the plans for the project and the manner in which such project has been designed to meet the goals and guidelines for activities of state-wide significance and the comprehensive plans for the county within which the project is proposed, and any other information required by the commission as prescribed by rule of the commission.

(3) The department shall transmit copies of the application to affected county and state agencies for their review and recommendation.

(4) The county governing body and the state agencies shall review an application transmitted to it under subsection (3) of this section and shall, within 30 days after the date of the receipt of the application, submit their recommendations on the application to the commission.

(5) If the commission finds after review of the application and the comments submitted by the county governing body and state agencies that the proposed project complies with the state-wide goals and guidelines for activities of state-wide significance and the comprehensive plans within the county, it shall approve the application and issue a planning and siting permit for the proposed project to the person or public agency applying

therefor. Action shall be taken by the commission within 30 days of the receipt of the recommendation of the county and state agencies.

(6) The commission may prescribe and include in the planning and siting permit such conditions or restrictions that it considers necessary to assure that the proposed project complies with the state-wide goals and guidelines for activities of state-wide significance and the comprehensive plans within the county.

**SECTION 28.** If the activity requiring a planning and siting permit under section 27 of this Act also requires any other permit from any state agency, the commission, with the cooperation and concurrence of the other agency, may provide a joint application form and permit to satisfy both the requirements of this Act and any other requirements set by statute or by rule of the state agency.

**SECTION 29.** (1) If any person or public agency is in doubt whether a proposed development project constitutes an activity of state-wide significance, the person or public agency may request a determination from the commission on the question. Within 60 days after the date of the receipt by it of such a request, the commission, with the advice of the committee and of the county governing body for the county in which such activity is proposed, shall issue a binding letter of interpretation with respect to the proposed project.

(2) Requests for determinations under this section shall be made to the commission in writing and in such form and contain such information as may be prescribed by the commission.

**SECTION 30.** (1) No project constituting an activity of state-wide significance shall be undertaken without a planning and siting permit issued under section 27 of this Act.

(2) Any person or agency acting in violation of subsection (1) of this section may be enjoined in civil proceedings brought in the name of the county or the State of Oregon.

**SECTION 31.** If the county governing body or the commission determines the existence of an alleged violation under section 30 of this Act, it may:

(1) Investigate, hold hearings, enter orders and take action that it deems appropriate under this Act, as soon as possible.

(2) For the purpose of investigating conditions relating to the violation, through its members or its duly authorized representatives, enter at reasonable times upon any private or public property.

(3) Conduct public hearings.

(4) Publish its findings and recommendations as they are formulated relative to the violation.

(5) Give notice of any order relating to a particular violation of its state-wide goals, a particular violation of the terms or conditions of a planning and siting permit or a particular violation of the provisions of this Act by mailing notice to the person or public body conducting or proposing to conduct the project affected in the manner provided by ORS chapter 183.

#### **PART IV STATE-WIDE PLANNING GOALS AND GUIDELINES**

**SECTION 32.** All comprehensive plans and any zoning, subdivision and other ordinances and regulations adopted by a state agency, city, county or special district to carry out such plans shall be in conformity with the state-wide planning goals within one year from the date such goals are approved by the commission.

**SECTION 33.** Not later than January 1, 1975, the department shall prepare and the commission shall adopt state-wide planning goals and guidelines for use by state agencies, cities, counties and special districts in preparing, adopting, revising and implementing existing and future comprehensive plans.

**SECTION 34.** In preparing and adopting state-wide planning goals and guidelines, the department and the commission shall:

(1) Consider the existing comprehensive plans of state agencies, cities, counties and special districts in order to preserve functional and local aspects of land conservation and development.

(2) Give priority consideration to the following areas and activities:

- (a) Those activities listed in section 25 of this Act;
- (b) Lands adjacent to freeway interchanges;
- (c) Estuarine areas;
- (d) Tide, marsh and wetland areas;
- (e) Lakes and lakeshore areas;
- (f) Wilderness, recreational and outstanding scenic areas;
- (g) Beaches, dunes, coastal headlands and related areas;
- (h) Wild and scenic rivers and related lands;
- (i) Flood plains and areas of geologic hazard;
- (j) Unique wildlife habitats; and
- (k) Agricultural land.

**SECTION 35.** To assure widespread citizen involvement in all phases of the planning process:

(1) The commission shall appoint a State Citizen Involvement Advisory Committee, broadly representative of geographic areas of the state and of interests relating to land uses and land use decisions, to develop a program for the commission that promotes and enhances public participation in the development of state-wide planning goals and guidelines.

(2) Within 90 days after the effective date of this Act, each county governing body shall submit to the commission a program for citizen involvement in preparing, adopting and revising comprehensive plans within the county. Such program shall at least contain provision for a citizen advisory committee or committees broadly representative of geographic areas and of interests relating to land uses and land use decisions.

(3) The state advisory committee appointed under subsection (1) of this section shall review the proposed programs submitted by each county and recommend to the commission whether or not the proposed program adequately provides for public involvement in the planning process.

**SECTION 36.** (1) In preparing the state-wide planning goals and guidelines, the department shall:

(a) Hold at least 10 public hearings throughout the state, causing notice of the time, place and purpose of each such hearing to be published in a newspaper of general circulation within the area where the hearing is to be conducted not later than 30 days prior to the date of the hearing.

(b) Implement any other provision for public involvement developed by the state advisory committee under subsection (1) of section 35 of this Act and approved by the commission.

(2) Upon completion of the preparation of the proposed state-wide planning goals and guidelines, the department shall submit them to the commission for approval.

**SECTION 37.** Upon receipt of the proposed state-wide planning goals and guidelines prepared and submitted to it by the department, the commission shall:

(1) Hold at least one public hearing on the proposed state-wide planning goals and guidelines. The commission shall cause notice of the time, place and purpose of the hearings and the place where copies of the proposed goals and guidelines are available before the hearings with the cost thereof to be published in a newspaper of general circulation in the state not later than 30 days prior to the date of the hearing. The department shall supply a copy of its proposed state-wide planning goals and guidelines to the Governor, the committee, affected state agencies and special

districts and to each city and county without charge. The department shall provide copies of such proposed goals and guidelines to other public agencies or persons upon request and payment of the cost of preparing the copies of the materials requested.

(2) Consider the recommendations and comments received from the public hearings conducted under subsection (1) of this section, make any revisions in the proposed state-wide planning goals and guidelines that it considers necessary and approve the proposed goals and guidelines as they may be revised by the commission.

**SECTION 38.** The commission may periodically revise, update and expand the initial state-wide planning goals and guidelines adopted under section 37 of this Act. Such revisions, updates or expansions shall be made in the manner provided in sections 36 and 37 of this Act.

**SECTION 39.** Following the approval by the commission of state-wide planning goals and guidelines, each county governing body shall review all comprehensive plans for land conservation and development within the county, both those adopted and those being prepared. The county governing body shall advise the state agency, city, county or special district preparing the comprehensive plans whether or not the comprehensive plans are in conformity with the state-wide planning goals.

#### **PART V COMPREHENSIVE PLANS**

**SECTION 40.** Comprehensive plans and zoning, subdivision, and other ordinances and regulations adopted prior to the effective date of this Act shall remain in effect until revised under this Act. It is intended that existing planning efforts and activities shall continue and that such efforts be utilized in achieving the purposes of this Act.

**SECTION 41.** Prior to approval by the commission of its state-wide planning goals and guidelines under section 37 of this Act, the goals listed in ORS 215.515 shall be applied by state agencies, cities, counties and special districts in the preparation, revision, adoption or implementation of any comprehensive plan.

**SECTION 42.** Each city or county shall prepare and the city council or the county governing body shall adopt the comprehensive plans required under this Act or by any other law in accordance with section 41 of this Act for those plans adopted prior to the expiration of one year following the date the commission approves its state-wide planning goals and guidelines under section 37 of this Act. Plans adopted by cities and counties after the expiration of one year following the date of approval of such goals and guidelines by the commission shall be designed to comply with such goals and any subsequent amendments thereto.

Section 43. ORS 215.055 is amended to read:

215.055. (1) *[The] Any comprehensive plan [and all legislation and regulations] and all zoning, subdivision or other ordinances and regulations authorized by ORS 215.010 to 215.233 and adopted prior to the expiration of one year following the date of the approval of state-wide planning goals and guidelines under section 37 of this 1973 Act shall be designed to promote the public health, safety and general welfare and shall be based on the following considerations, among others: The various characteristics of the various areas in the county, the suitability of the areas for particular land uses and improvements, the land uses and improvements in the areas, trends in land improvement, density of development, property values, the needs of economic enterprises in the future development of the areas, needed access to particular sites in the areas, natural resources of the county and prospective needs for development thereof, and the public need for healthful, safe, aesthetic surroundings and conditions.*

(2) *Any plan and all zoning, subdivision or other ordinances and regulations authorized by ORS 215.010 to 215.233 and adopted after the expira-*

tion of one year after the date of the approval of state-wide planning goals and guidelines under section 37 of this 1973 Act shall be designed to comply with such state-wide planning goals and any subsequent revisions or amendments thereof.

[(2)] (3) In order to conserve natural resources of the state, any land use plan or zoning, subdivision or other ordinance adopted by a county shall take into consideration lands that are, can or should be utilized for sources or processing of mineral aggregates.

**SECTION 44.** Upon the expiration of one year after the date of the approval of state-wide planning goals and guidelines and annually thereafter, each county governing body shall report to the commission on the status of comprehensive plans within each county. Each such report shall include:

(1) Copies of comprehensive plans reviewed by the county governing body and copies of zoning and subdivision ordinances and regulations applied to those areas within the county listed in subsection (2) of section 34 of this Act.

(2) For those areas or jurisdictions within the county without comprehensive plans, a statement and review of the progress made toward compliance with the state-wide planning goals.

**SECTION 45.** (1) Notwithstanding any other provision of law, after the expiration of one year after the date of the approval of the initial state-wide planning goals and guidelines under section 37 of this Act, upon 90 days' notice to the affected governing body or bodies, and upon public hearings held within 30 days thereafter, the commission shall prescribe and may amend and administer comprehensive plans and zoning, subdivision or other ordinances and regulations necessary to develop and implement a comprehensive plan within the boundaries of a county, whether or not within the boundaries of a city, that do not comply with the state-wide planning goals approved under this Act and any subsequent revisions or amendments thereof.

(2) If the city or county has under consideration a comprehensive plan or zoning, subdivision or other ordinances or regulations for lands described in subsection (1) of this section, and shows satisfactory progress toward the adoption of such comprehensive plan or such ordinances or regulations, the commission may grant a reasonable extension of time after the date set in this section for completion of such plan or such ordinances or regulations.

(3) Any comprehensive plan or zoning, subdivision or other ordinance or regulation adopted by the commission under subsection (1) of this section shall comply with the state-wide planning goals approved under this Act and all subsequent revisions or amendments thereof.

**SECTION 46.** (1) There is transferred to and vested in the commission those duties, powers and functions vested in the Governor by ORS 215.505 to 215.535. After the effective date of this Act, the commission shall exercise such duties, powers and functions.

(2) For the purpose of harmonizing and clarifying Oregon Revised Statutes, the Legislative Counsel may substitute for words designating the Governor, where such words occur in ORS 215.505 to 215.535, words designating the Land Conservation and Development Commission.

Section 47. ORS 215.510 is amended to read:

215.510. (1) Any comprehensive [*land use plans*] plan for any city or county prescribed or amended by the [*Governor*] commission pursuant to ORS 215.505 or section 45 of this 1973 Act shall be in accordance with the standards provided in ORS 215.515 and the notice and hearing requirements provided in ORS 215.060.

(2) Any zoning, subdivision or other ordinances and regulations for any

city or county prescribed or amended by the [Governor] commission pursuant to ORS 215.505 or section 45 of this 1973 Act shall be in accordance with the standards provided in ORS 215.055 and the notice and hearing requirements provided in ORS 215.223.

(3) A comprehensive [land use] plan or zoning, subdivision or other ordinance or regulation for any city or county prescribed or amended by the [Governor] commission pursuant to ORS 215.505 or section 45 of this 1973 Act may be for any purpose provided in ORS 215.010 to 215.233 and subsections (1) and (2) of 215.990, except that the [Governor] commission may not prescribe building regulations. The [Governor] commission may, however, cause to be instituted an appropriate proceeding to enjoin the construction of buildings or performance of any other acts which would constitute a land use that does not conform to the applicable [land use] comprehensive plan or zoning, subdivision or other ordinance or regulation.

(4) Any hearings required by this section may be held by the [Governor] commission, or by a person designated by the [Governor] commission, and all such hearings shall be held in the county seat of the county or in the city in which said comprehensive [land use] plan or zoning, subdivision or other ordinance or regulation is to be prescribed.

Section 48. ORS 215.515 is amended to read:

215.515. (1) Comprehensive physical planning, adopted by the commission prior to the expiration of one year following the date of the approval of state-wide planning goals and guidelines under section 37 of this 1973 Act, should provide guidance for physical development within the state responsive to economic development, human resource development, natural resource development and regional and metropolitan area development. It should assist in attainment of the optimum living environment for the state's citizenry and assure sound housing, employment opportunities, educational fulfillment and sound health facilities. State plans should relate to intermediate and long-range growth objectives. The plans should set a pattern upon which state agencies and local government may base their programs and local area plans. Goals for comprehensive physical planning are:

[(1)] (a) To preserve the quality of the air [and] , water and land resources of the state.

[(2)] (b) To conserve open space and protect natural and scenic resources.

[(3)] (c) To provide for the recreational needs of citizens of the state and visitors.

[(4)] (d) To conserve prime farm lands for the production of crops [and] .

(e) To provide for an orderly and efficient transition from rural to urban land use.

[(5)] (f) To protect life and property in areas subject to floods, landslides and other natural disasters.

[(6)] (g) To provide and encourage a safe, convenient and economic transportation system including all modes of transportation: Air, water, rail, highway and mass transit, and recognizing differences in the social costs in the various modes of transportation.

[(7)] (h) To develop a timely, orderly and efficient arrangement of public facilities and services to serve as a framework for urban and rural development.

[(8)] (i) To diversify and improve the economy of the state.

[(9)] (j) To ensure that the development of properties within the state is commensurate with the character and the physical limitations of the land.

(2) Comprehensive plans adopted by the commission after the expira-

tion of one year after the date of the approval of state-wide planning goals and guidelines under section 37 of this 1973 Act shall be designed to comply with such state-wide planning goals and any subsequent revisions or amendments thereof.

Section 49. ORS 215.535 is amended to read:

215.535. In addition to the remedy prescribed in subsection (3) of ORS 215.510, the [Governor] commission may cause to be instituted any civil action or suit [he] it considers appropriate to remedy violations of any comprehensive [land use] plan or zoning, subdivision or other ordinance or regulation prescribed by the [Governor] commission pursuant to ORS 215.505 or section 45 of this 1973 Act.

**SECTION 50.** (1) Whenever the commission prescribes a comprehensive plan or zoning, subdivision or other ordinances or regulations for lands described in subsection (1) of section 45 of this Act, the costs incurred by the commission and the department in the preparation and administration of such plan or ordinances or regulations shall be borne by the city or county for which the commission has proposed such plan or ordinances or regulations. Upon presentation by the commission to the governing body of the city or county of a certified, itemized statement of costs, the governing body shall order payment to the commission out of any available funds. With respect to a city or county, if no payment is made by the governing body within 30 days thereafter, the commission shall submit to the Secretary of State its certified, itemized statement of such costs and the commission shall be reimbursed upon the order of the Secretary of State to the State Treasurer, from the city's or county's share of the state's cigarette and liquor revenues.

(2) Within 10 days of receipt of the certified, itemized statement of costs under subsection (1) of this section, any city or county aggrieved by the statement may appeal to the Court of Appeals. The appeal shall be taken as from a contested case under ORS 183.480. Notice of the appeal shall operate as a stay in the commissioner's right to reimbursement under subsection (1) of this section until the decision is made on the appeal.

#### **PART VI APPEALS**

**SECTION 51.** (1) In the manner provided in sections 52 to 54 of this Act, the commission shall review upon:

(a) Petition by a county governing body, a comprehensive plan provision or any zoning, subdivision or other ordinance or regulation adopted by a state agency, city, county or special district that the governing body considers to be in conflict with state-wide planning goals approved under section 37 of this Act or interim goals specified in ORS 215.515.

(b) Petition by a city or county governing body, a land conservation and development action taken by a state agency, city, county or special district that the governing body considers to be in conflict with state-wide planning goals approved under section 37 of this Act or interim goals specified in ORS 215.515.

(c) Petition by a state agency, city, county or special district, any county governing body action that the state agency, city, county or special district considers to be improperly taken or outside the scope of the governing body's authority under this Act.

(d) Petition by any person or group of persons whose interests are substantially affected, a comprehensive plan provision or any zoning, subdivision or other ordinance or regulation alleged to be in violation of state-wide planning goals approved under section 37 of this Act or interim goals specified in ORS 215.515.

(2) A petition filed with the commission pursuant to subsection (1) of this section must be filed not later than 60 days (excluding Saturdays

and holidays) after the date of the final adoption or approval of the action or comprehensive plan upon which the petition is based.

**SECTION 52.** (1) All review proceedings conducted by the commission pursuant to section 51 of this Act shall be based on the administrative record, if any, prepared with respect to the proceedings for the adoption or approval of the comprehensive plan provision or action that is the subject of the review proceeding.

(2) The commission shall adopt such rules, procedures and regulations for the conduct of review proceedings held pursuant to section 51 of this Act, in accordance with the provisions of ORS 183.310 to 183.500 for hearings and notice in contested cases.

(3) A city, county, state agency, special district or any person or group of persons whose interests are substantially affected may intervene in and be made a party to any review proceeding conducted by the commission with the approval of the commission, upon the request of the hearings officer appointed to conduct such proceeding or upon the approval by the hearings officer of a request by such agency, person or group of persons for intervention in the review proceeding.

**SECTION 53.** (1) In carrying out its duties under section 51 of this Act, the chairman of the commission shall assign each petition to be reviewed by the commission to a hearings officer who shall conduct the review proceeding.

(2) A hearings officer shall conduct a review proceeding in accordance with the rules, procedures and regulations adopted by the commission. Upon the conclusion of a hearing, the hearings officer shall promptly determine the matter, prepare a recommendation for commission action upon the matter and submit a copy of his recommendation to the commission and to each party to the proceeding.

(3) The commission shall review the recommendation of the hearings officer and the record of the proceeding and issue its order with respect to the review proceeding within 60 days following the date of the filing of the petition upon which such review proceeding is based. The commission may adopt, reject or amend the recommendation of the hearings officer in any matter.

(4) No order of the commission issued under subsection (3) of this section is valid unless all members of the commission have received the recommendation of the hearings officer in the matter and at least four members of the commission concur in its action in the matter.

(5) Any party to a review proceeding before the commission who is adversely affected or aggrieved by the order issued by the commission in the matter may appeal the order of the commission in the manner provided in ORS 183.480 for appeals from final orders in contested cases.

(6) The commission may enforce orders issued under subsection (3) of this section in appropriate judicial proceedings brought by the commission therefor.

**SECTION 54.** (1) If, upon its review of the recommendation of a hearings officer and the record of the review proceeding prepared following a review proceeding before the commission, the commission is unable to reach a decision in the matter without further information or evidence not contained in the record of the proceeding, it may refer the matter back to the hearings officer and request that the additional information or evidence be acquired by him or that he correct any errors or deficiencies found by the commission to exist in his recommendation or record of the proceeding.

(2) In case of a referral of a matter back to the hearings officer pursuant to subsection (1) of this section, the 60-day period referred



to in subsection (3) of section 53 of this Act is suspended for a reasonable interval not to exceed 60 days.

#### **PART VII LEGISLATIVE REVIEW**

**SECTION 55.** The department shall report monthly to the committee in order to keep the committee informed on progress made by the department, commission, counties and other agencies in carrying out the provisions of this Act.

**SECTION 56.** (1) Prior to the end of each even-numbered year, the department shall prepare a written report for submission to the Legislative Assembly of the State of Oregon describing activities and accomplishments of the department, commission, state agencies, cities, counties and special districts in carrying out the provisions of this Act.

(2) A draft of the report required by subsection (1) of this section shall be submitted to the committee for its review and comment at least 60 days prior to submission of the report to the Legislative Assembly. Comments of the committee shall be incorporated into the final report.

(3) Goals and guidelines adopted by the commission shall be included in the report to the Legislative Assembly submitted under subsection (1) of this section.

#### **PART VIII MISCELLANEOUS**

Section 57. ORS 453.345 is amended to read:

453.345. (1) Applications for site certificates shall be made to the Nuclear and Thermal Energy Council on a form prescribed by the council and accompanied by the fee required by ORS 453.405. The application may be filed not sooner than 12 months after filing of the notice of intent.

(2) Proposed use of a site within an area designated by the council as suitable for location of thermal power plants or nuclear installations does not preclude the necessity of the applicant obtaining a site certificate for the specific site.

(3) Copies of the notice of intent and of the application shall be sent for comment and recommendation within specified deadlines established by the council to the Department of Environmental Quality, the State Water Resources Board, the Fish Commission of the State of Oregon, the State Game Commission, the State Board of Health, the State Engineer, the State Geologist, the State Forestry Department, the Public Utility Commissioner of Oregon, the State Department of Agriculture, the Department of Transportation, the Department of Land Conservation and Development and the Economic Development Division.

**SECTION 58.** The part designations and unit captions used in this Act are provided only for the convenience of locating provisions of this Act, and are not part of the statutory law of this state.



Chapter

, Oregon Laws 1973

ENROLLED

Senate Bill 100

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Passed by Senate

April 18, 1973

~~Repassed by Senate~~

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Secretary of Senate

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President of Senate

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Passed by House

May 23, 1973

~~Repassed by House~~

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Speaker of House

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Received by Executive Department:

..... M., ....., 1973.

Approved: ....., 1973.

.....  
Governor

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Filed in Office of Secretary of State:

..... M., ....., 1973.

.....  
Secretary of State

"(4) The promotion of coordinated state-wide land conservation and development requires the creation of a state-wide planning agency to prescribe planning goals and objectives to be applied by state agencies, cities, counties and special districts throughout the state.

"(5) The impact of proposed development projects, constituting activities of state-wide significance upon the public health, safety and welfare, requires a system of permits reviewed by a state-wide agency to carry out state-wide planning goals and guidelines prescribed for application for activities of state-wide significance throughout this state.

#### "POLICY STATEMENT

"Section 2. The Legislative Assembly declares that, in order to assure the highest possible level of liveability in Oregon, it is necessary to provide for properly prepared and coordinated comprehensive plans for cities and counties, regional areas and the state as a whole. These comprehensive plans:

"(1) Must be adopted by the appropriate governing body at the local and state levels;

"(2) Are expressions of public policy in the form of policy statements, generalized maps and standards and guidelines;

"(3) Shall be the basis for more specific rules, regulations and ordinances which implement the policies expressed through the comprehensive plans;

(4) Shall be prepared to assure that all public actions are consistent and coordinated with the policies expressed through the comprehensive plans; and

(5) Shall be regularly reviewed and, if necessary, revised to keep them consistent with the changing needs and desires of the public they are designed to serve.

DEFINITIONS

Section 3. As used in this Act, unless the context requires otherwise:

(1) "Activity of state-wide significance" means a land conservation and development activity designated pursuant to section 25 of this Act.

(2) "Commission" means the Land Conservation and Development Commission.

(3) "Committee" means the Joint Legislative Committee on Land Use.

(4) "Comprehensive plan" means a generalized, coordinated land use map and policy statement of the governing body of a state agency, city, county or special district that inter-relates all functional and natural systems and activities relating to the use of lands, including but not limited to sewer and water systems, transportation systems, educational systems, recreational facilities, and natural resources and air and water quality management programs. "Comprehensive" means all-inclusive, both in terms of the geographic area covered and functional and natural activities and systems

occurring in the area covered by the plan. "General nature" means a summary of policies and proposals in broad categories and does not necessarily indicate specific locations of any area, activity or use. A plan is "coordinated" when the needs of all levels of governments, semipublic and private agencies and the citizens of Oregon have been considered and accommodated as much as possible. "Land" includes water, both surface and subsurface, and the air.

⑤ "Department" means the Department of Land Conservation and Development.

⑥ "Director" means the Director of the Department of Land Conservation and Development.

⑦ "Special district" means any unit of local government, other than a city or county, authorized and regulated by statute and includes, but is not limited to: Water control districts, irrigation districts, port districts, regional air quality control authorities, fire districts, school districts, hospital districts, mass transit districts and sanitary districts.

⑧ "Voluntary association of local governments" means a regional planning agency in this state officially designated by the Governor pursuant to the federal Office of Management and Budget Circular A-95 as a regional clearing house.

"PART II ORGANIZATION, ROLES AND RESPONSIBILITIES  
"DEPARTMENT OF LAND CONSERVATION AND DEVELOPMENT

"Section 4. The Department of Land Conservation and Development is established. The department shall consist of

the Land Conservation and Development Commission, the director and their subordinate officers and employees.

"Section 5. (1) There is established a Land Conservation and Development Commission consisting of seven members appointed by the Governor, subject to confirmation by the Senate in the manner provided in ORS 171.560 and 171.570.

"(2) In making appointments under subsection (1) of this section, the Governor shall select from residents of this state one member from each congressional district and the remaining members from the state at large. At least one and no more than two members shall be from Multnomah County.

"(3) The term of office of each member of the commission is four years, but a member may be removed by the Governor for cause. Before the expiration of the term of a member, the Governor shall appoint a successor. No person shall serve more than two full terms as a member of the commission.

"(4) If there is a vacancy for any cause, the Governor shall make an appointment to become immediately effective for the unexpired term.

"Section 6. Notwithstanding the term of office specified in section 5 of this Act, of the members first appointed to the commission:

"(1) Two shall serve for a term ending June 30, 1974.

"(2) Two shall serve for a term ending June 30, 1975.

"(3) Two shall serve for a term ending June 30, 1976.

"(4) One shall serve for a term ending June 30, 1977.

"Section 7. (1) The commission shall select one of

its members as chairman and another member as vice chairman, for such terms and with duties and powers necessary for the performance of the functions of such offices as the commission determines. The vice chairman of the commission shall act as the chairman of the commission in the absence of the chairman.

"(2) A majority of the members of the commission constitutes a quorum for the transaction of business.

"Section 8. Members of the commission are entitled to compensation and expenses as provided in ORS 292.495.

"Section 9. The commission shall:

"(1) Direct the performance by the director and his staff of their functions under this Act.

"(2) In accordance with the provisions of ORS chapter 183, promulgate rules that it considers necessary in carrying out this Act.

"(3) Cooperate with the appropriate agencies of the United States, this state and its political subdivisions, any other state, any interstate agency, any person or groups of persons with respect to land conservation and development.

"(4) Appoint advisory committees to aid it in carrying out this Act and provide technical and other assistance, as it considers necessary, to each such committee.

"Section 10. The commission may:

"(1) Apply for and receive moneys from the Federal Government and from this state or any of its agencies or departments.

"(2) Contract with any public agency for the performance

of services or the exchange of employes or services by one to the other necessary in carrying out this Act.

§(3) Contract for the services of and consultation with professional persons or organizations, not otherwise available through federal, state and local governmental agencies, in carrying out its duties under this Act.

§(4) Perform other functions required to carry out this Act.

Section 11. Pursuant to the provisions of this Act, the commission shall:

§(1) Establish state-wide planning goals consistent with regional, county and city concerns;

§(2) Issue permits for activities of state-wide significance;

§(3) Prepare inventories of land uses;

§(4) Prepare state-wide planning guidelines;

§(5) Review comprehensive plans for conformance with state-wide planning goals;

§(6) Coordinate planning efforts of state agencies to assure conformance with state-wide planning goals and compatibility with city and county comprehensive plans;

§(7) Insure widespread citizen involvement and input in all phases of the process;

§(8) Prepare model zoning, subdivision and other ordinances and regulations to guide state agencies, cities, counties and special districts in implementing state-wide



planning goals, particularly those for the areas listed in subsection (2) of section 34 of this Act;

"(9) Review and recommend to the Legislative Assembly the designation of areas of critical state concern;

"(10) Report periodically to the Legislative Assembly and to the committee; and

"(11) Perform other duties required by law.

"Section 12. If an interstate land conservation and development planning agency is created by an interstate agreement or compact entered into by this state, the commission shall perform the functions of this state with respect to the agreement or compact. If the functions of the interstate planning agency duplicate any of the functions of the commission under this Act, the commission may:

"(1) Negotiate with the interstate agency in defining the areas of responsibility of the commission and the interstate planning agency; and

"(2) Cooperate with the interstate planning agency in the performance of its functions.

"Section 13. (1) The commission shall appoint a person to serve as the Director of the Department of Land Conservation and Development. The director shall hold his office at the pleasure of the commission and his salary shall be fixed by the commission unless otherwise provided by law.

"(2) In addition to his salary, the director shall be reimbursed, subject to any applicable law regulating travel and other expenses of state officers and employes, for

actual and necessary expenses incurred by him in the performance of his official duties.

"Section 14. Subject to policies adopted by the commission, the director shall:

"(1) Be the administrative head of the department.

"(2) Coordinate the activities of the department in its land conservation and development functions with such functions of federal agencies, other state agencies, cities, counties and special districts.

"(3) Appoint, reappoint, assign and reassign all subordinate officers and employes of the department, prescribe their duties and fix their compensation, subject to the State Merit System Law.

"(4) Represent this state before any agency of this state, any other state or the United States with respect to land conservation and development within this state.

"Section 15. (1) There is established in the General Fund in the State Treasury the Land Conservation and Development Account. Moneys in the account are continuously appropriated for the purpose of carrying out the provisions of this Act.

"(2) All fees, moneys and other revenue received by the department or the committee shall be deposited in the Land Conservation and Development Account.

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OREGON COASTAL CONSERVATION AND  
DEVELOPMENT COMMISSION

"Section 16. (1) The Land Conservation and Development Commission, by agreement with the Oregon Coastal Conservation and Development Commission created by ORS 191.120 may delegate to the Oregon Coastal Conservation and Development Commission, any of the functions of the Land Conservation and Development Commission. However, the Land Conservation and Development Commission must review and grant approval prior to any action taken by the Oregon Coastal Conservation and Development Commission with respect to a delegated function.

"(2) The Land Conservation and Development Commission may provide staff and financial assistance to the Oregon Coastal Conservation and Development Commission in carrying out duties under this section.

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CITIES AND COUNTIES

"Section 17. Cities and counties shall exercise their planning and zoning responsibilities in accordance with this Act and the state-wide planning goals and guidelines approved under this Act.

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"Section 18. Pursuant to this Act, each city and county in this state shall:

"(1) Prepare and adopt comprehensive plans consistent with state-wide planning goals and guidelines approved by the commission; and

"(2) Enact zoning, subdivision and other ordinances or regulations to implement their comprehensive plans.

Section 19. (1) In addition to the responsibilities stated in sections 17 and 18 of this Act, each county through its governing body, shall be responsible for coordinating all planning activities affecting land uses within the county, including those of the county, cities, special districts and state agencies, to assure an integrated comprehensive plan for the entire area of the county.

(2) For the purposes of carrying out the provisions of this Act, counties may voluntarily join together with adjacent counties as authorized in ORS chapter 190.

(3) Whenever counties and cities representing 51 percent of the population in their area petition the commission for an election in their area to form a regional planning agency to exercise the authority of the counties under subsection (1) of this section in the area, the commission shall review the petition. If it finds that the area described in the petition forms a reasonable planning unit, it shall call an election in the area to form a regional planning agency. The election shall be conducted in the manner provided in ORS chapter 259. The county clerk shall be considered the election officer and the commission shall be considered the district election authority. The agency shall be considered established if the majority of votes favor the establishment.

(4) If a voluntary association of local governments adopts a resolution ratified by each participating county and a majority of the participating cities therein which authorizes the association to perform the review, advisory

and coordination functions assigned to the counties under subsection (1) of this section, the association may perform such duties.

"SPECIAL DISTRICTS AND STATE AGENCIES

"Section 20. Special districts shall exercise their planning duties, powers and responsibilities and take actions that are authorized by law with respect to programs affecting land use in accordance with state-wide planning goals and guidelines approved pursuant to this Act.

"Section 21. State agencies shall carry out their planning duties, powers and responsibilities and take actions that are authorized by law with respect to programs affecting land use in accordance with state-wide planning goals and guidelines approved pursuant to this Act.

"JOINT LEGISLATIVE COMMITTEE ON LAND USE

"Section 22. The Joint Legislative Committee on Land Use is established as a joint committee of the Legislative Assembly. The committee shall select an executive secretary who shall serve at the pleasure of the committee and under its direction.

"Section 23. (1) The Joint Legislative Committee on Land Use shall consist of four members of the House of Representatives appointed by the Speaker and three members of the Senate appointed by the President. No more than three House members of the committee shall be of the same political

party. No more than two Senate members of the committee shall be of the same political party.

(2) The chairmen of the House and Senate Environment and Land Use Committees of the Fifty-seventh Legislative Assembly of the State of Oregon shall be two of the members appointed under subsection (1) of this section for the period beginning with the effective date of this Act.

(3) The committee has a continuing existence and may meet, act and conduct its business during sessions of the Legislative Assembly or any recess thereof, and in the interim period between sessions.

(4) The term of a member shall expire upon the convening of the Legislative Assembly in regular session next following the commencement of the member's term. When a vacancy occurs in the membership of the committee in the interim between sessions, until such vacancy is filled, the membership of the committee shall be deemed not to include the vacant position for the purpose of determining whether a quorum is present and a quorum is the majority of the remaining members.

(5) Members of the committee shall be reimbursed for actual and necessary expenses incurred or paid in the performance of their duties as members of the committee, such reimbursement to be made from funds appropriated for such purposes, after submission of approved voucher claims.

"(6) The committee shall select a chairman. The chairman may, in addition to his other authorized duties, approve voucher claims.

"(7) Action of the committee shall be taken only upon the affirmative vote of the majority of the members of the committee.

Section 24. The committee shall:

"(1) Advise the department on all matters under the jurisdiction of the department;

"(2) Review and make recommendations to the Legislative Assembly on proposals for additions to or modifications of designations of activities of state-wide significance, and for designations of areas of critical state concern;

"(3) Review and make recommendations to the Legislative Assembly on state-wide planning goals and guidelines approved by the commission;

"(4) Study and make recommendations to the Legislative Assembly on the implementation of a program for compensation by the public to owners of lands within this state for the value of any loss of use of such lands resulting directly from the imposition of any zoning, subdivision or other ordinance or regulation regulating or restricting the use of such lands. Such recommendations shall include, but not be limited to, proposed methods for the valuation of such loss of use and proposed limits, if any, to be imposed upon the

amount of compensation to be paid by the public for any such loss of use; and

(5) Make recommendations to the Legislative Assembly on any other matter relating to land use planning in Oregon.

PART III ACTIVITIES OF STATE-WIDE SIGNIFICANCE

DESIGNATION

Section 25. (1) The following activities may be designated by the commission as activities of state-wide significance if the commission determines that by their nature or magnitude they should be so considered:

(a) The planning and siting of public transportation facilities.

(b) The planning and siting of public sewerage systems, water supply systems and solid waste disposal sites and facilities.

(c) The planning and siting of public schools.

(2) Nothing in this Act supersedes any duty, power or responsibility vested by statute in any state agency relating to its activities described in subsection (1) of this section; except that, a state agency may neither implement any such activity nor adopt any plan relating to such an activity without the prior review and comment of the commission.

Section 26. (1) In addition to the activities of state-wide significance that are designated by the commission



under section 25 of this Act, the commission may recommend to the committee the designation of additional activities of state-wide significance. Each such recommendation shall specify the reasons for the proposed designation of the activity of state-wide significance, the dangers that would result from such activity being uncontrolled and the suggested state-wide planning goals and guidelines to be applied for the proposed activity.

(2) The commission may recommend to the committee the designation of areas of critical state concern. Each such recommendation shall specify the criteria developed and reasons for the proposed designation, the damages that would result from uncontrolled development within the area, the reasons for the implementation of state regulations for the proposed area and the suggested state regulations to be applied within the proposed area.

(3) The commission may act under subsections (1) and (2) of this section on its own motion or upon the recommendation of a state agency, city, county or special district. If the commission receives a recommendation from a state agency, city, county or special district and finds the proposed activity or area to be unsuitable for designation, it shall notify the state agency, city, county or special district of its decision and its reasons therefor.

(4) Immediately following its decision to favorably recommend to the Legislative Assembly the designation of an

additional activity of state-wide significance or the designation of an area of critical state concern, the commission shall submit the proposed designation accompanied by the supporting materials described in subsections (1) and (2) of this section to the committee for its review.

"PERMITS FOR ACTIVITIES OF STATE-WIDE SIGNIFICANCE

Section 27. (1) On and after the date the commission has approved state-wide planning goals and guidelines for activities of state-wide significance designated under section 25 of this Act, no proposed project constituting such an activity may be initiated by any person or public agency without a planning and siting permit issued by the commission therefor.

(2) Any person or public agency desiring to initiate a project constituting an activity of state-wide significance shall apply to the department for a planning and siting permit for such project. The application shall contain the plans for the project and the manner in which such project has been designed to meet the goals and guidelines for activities of state-wide significance and the comprehensive plans for the county within which the project is proposed, and any other information required by the commission as prescribed by rule of the commission.

(3) The department shall transmit copies of the application to affected county and state agencies for their review and recommendation.

ψ(4) The county governing body and the state agencies shall review an application transmitted to it under subsection (3) of this section and shall, within 30 days after the date of the receipt of the application, submit their recommendations on the application to the commission.

"(5) If the commission finds after review of the application and the comments submitted by the county governing body and state agencies that the proposed project complies with the state-wide goals and guidelines for activities of state-wide significance and the comprehensive plans within the county, it shall approve the application and issue a planning and siting permit for the proposed project to the person or public agency applying therefor. Action shall be taken by the commission within 30 days of the receipt of the recommendation of the county and state agencies.

"(6) The commission may prescribe and include in the planning and siting permit such conditions or restrictions that it considers necessary to assure that the proposed project complies with the state-wide goals and guidelines for activities of state-wide significance and the comprehensive plans within the county.

ψ Section 28. If the activity requiring a planning and siting permit under section 27 of this Act also requires any other permit from any state agency, the commission, with the

cooperation and concurrence of the other agency, may provide a joint application form and permit to satisfy both the requirements of this Act and any other requirements set by statute or by rule of the state agency.

Section 29. (1) If any person or public agency is in doubt whether a proposed development project constitutes an activity of state-wide significance, the person or public agency may request a determination from the commission on the question. Within 60 days after the date of the receipt by it of such a request, the commission, with the advice of the committee and of the county governing body for the county in which such activity is proposed, shall issue a binding letter of interpretation with respect to the proposed project.

(2) Requests for determinations under this section shall be made to the commission in writing and in such form and contain such information as may be prescribed by the commission.

Section 30. (1) No project constituting an activity of state-wide significance shall be undertaken without a planning and siting permit issued under section 27 of this Act.

(2) Any person or agency acting in violation of subsection (1) of this section may be enjoined in civil proceedings brought in the name of the county or the State of Oregon.

Section 31. If the county governing body or the commission determines the existence of an alleged violation under section 30 of this Act, it may:

"(1) Investigate, hold hearings, enter orders and take action that it deems appropriate under this Act, as soon as possible.

"(2) For the purpose of investigating conditions relating to the violation, through its members or its duly authorized representatives, enter at reasonable times upon any private or public property.

"(3) Conduct public hearings.

"(4) Publish its findings and recommendations as they are formulated relative to the violation.

"(5) Give notice of any order relating to a particular violation of its state-wide goals, a particular violation of the terms or conditions of a planning and siting permit or a particular violation of the provisions of this Act by mailing notice to the person or public body conducting or proposing to conduct the project affected in the manner provided by ORS chapter 183.

"PART IV STATE-WIDE PLANNING GOALS AND GUIDELINES

"Section 32. All comprehensive plans and any zoning, subdivision and other ordinances and regulations adopted by a state agency, city, county or special district to carry out such plans shall be in conformity with the state-wide planning goals within one year from the date such goals are approved by the commission.

Section 33. Not later than January 1, 1975, the department shall prepare and the commission shall adopt state-wide planning goals and guidelines for use by state agencies, cities, counties and special districts in preparing, adopting, revising and implementing existing and future comprehensive plans.

Section 34. In preparing and adopting state-wide planning goals and guidelines, the department and the commission shall:

(1) Consider the existing comprehensive plans of state agencies, cities, counties and special districts in order to preserve functional and local aspects of land conservation and development.

(2) Give priority consideration to the following areas and activities:

(a) Those activities listed in section 25 of this Act;

(b) Lands adjacent to freeway interchanges;

(c) Estuarine areas;

(d) Tide, marsh, and wetland areas;

(e) Lakes and lakeshore areas;

(f) Wilderness, recreational and outstanding scenic areas;

(g) Beaches, dunes, coastal headlands and related areas;

- §(h) Wild and scenic rivers and related lands;
- §(i) Flood plains and areas of geologic hazard;
- §(j) Unique wildlife habitats; and
- §(k) Agricultural land.

§ "Section 35. To assure widespread citizen involvement in all phases of the planning process:

§(1) The commission shall appoint a State Citizen Involvement Advisory Committee, broadly representative of geographic areas of the state and of interests relating to land uses and land use decisions, to develop a program for the commission that promotes and enhances public participation in the development of state-wide planning goals and guidelines.

§(2) Within 90 days after the effective date of this Act, each county governing body shall submit to the commission a program for citizen involvement in preparing, adopting and revising comprehensive plans within the county. Such program shall at least contain provision for a citizen advisory committee or committees broadly representative of geographic areas and of interests relating to land uses and land use decisions.

§(3) The state advisory committee appointed under subsection (1) of this section shall review the proposed programs submitted by each county and recommend to the commission whether or not the proposed program adequately provides for public involvement in the planning process.

Section 36. (1) In preparing the state-wide planning goals and guidelines, the department shall:

(a) Hold at least 10 public hearings throughout the state, causing notice of the time, place and purpose of each such hearing to be published in a newspaper of general circulation within the area where the hearing is to be conducted not later than 30 days prior to the date of the hearing.

(b) Implement any other provision for public involvement developed by the state advisory committee under subsection (1) of section 35 of this Act and approved by the commission.

(2) Upon completion of the preparation of the proposed state-wide planning goals and guidelines, the department shall submit them to the commission for approval.

Section 37. Upon receipt of the proposed state-wide planning goals and guidelines prepared and submitted to it by the department, the commission shall:

(1) Hold at least one public hearing on the proposed state-wide planning goals and guidelines. The commission shall cause notice of the time, place and purpose of the hearings and the place where copies of the proposed goals and guidelines are available before the hearings with the cost thereof to be published in a newspaper of general circulation in the state not later than 30 days prior to the date of the hearing. The department shall supply a copy of its proposed state-wide planning goals and guidelines to the Governor, the committee, affected state agencies and special districts and



to each city and county without charge. The department shall provide copies of such proposed goals and guidelines to other public agencies or persons upon request and payment of the cost of preparing the copies of the materials requested.

(2) Consider the recommendations and comments received from the public hearings conducted under subsection (1) of this section, make any revisions in the proposed state-wide planning goals and guidelines that it considers necessary and approve the proposed goals and guidelines as they may be revised by the commission.

Section 38. The commission may periodically revise, update and expand the initial state-wide planning goals and guidelines adopted under section 37 of this Act. Such revisions, updateings or expansions shall be made in the manner provided in sections 36 and 37 of this Act.

Section 39. Following the approval by the commission of state-wide planning goals and guidelines, each county governing body shall review all comprehensive plans for land conservation and development within the county, both those adopted and those being prepared. The county governing body shall advise the state agency, city, county or special district preparing the comprehensive plans whether or not the comprehensive plans are in conformity with the state-wide planning goals.

#### PART V COMPREHENSIVE PLANS

Section 40. Comprehensive plans and zoning, subdivision, and other ordinances and regulations adopted prior to the

effective date of this Act shall remain in effect until revised under this Act. It is intended that existing planning efforts and activities shall continue and that such efforts be utilized in achieving the purposes of this Act.

11 <sup>9</sup>Section 41. Prior to approval by the commission of its state-wide planning goals and guidelines under section 37 of this Act, the goals listed in ORS 215.515 shall be applied by state agencies, cities, counties and special districts in the preparation, revision, adoption or implementation of any comprehensive plan.

H <sup>9</sup>Section 42. Each city or county shall prepare and the city council or the county governing body shall adopt the comprehensive plans required under this Act or by any other law in accordance with section 41 of this Act for those plans adopted prior to the expiration of one year following the date the commission approves its state-wide planning goals and guidelines under section 37 of this Act. Plans adopted by cities and counties after the expiration of one year following the date of approval of such goals and guidelines by the commission shall be designed to comply with such goals and any subsequent amendments thereto.

<sup>9</sup>Section 43. ORS 215.055 is amended to read:

215.055. (1) [The] Any comprehensive plan [and all legislation and regulations] and all zoning, subdivision or other ordinances and regulations authorized by ORS 215.010 to 215.233

and adopted prior to the expiration of one year following the date of the approval of state-wide planning goals and guidelines under section 37 of this 1973 Act shall be designed to promote the public health, safety and general welfare and shall be based on the following considerations, among others: The various characteristics of the various areas in the county, the suitability of the areas for particular land uses and improvements, the land uses and improvements in the areas, trends in land improvement, density of development, property values, the needs of economic enterprises in the future development of the areas, needed access to particular sites in the areas, natural resources of the county and prospective needs for development thereof, and the public need for healthful, safe, aesthetic surroundings and conditions.

§(2) Any plan and all zoning, subdivision or other ordinances and regulations authorized by ORS 215.010 to 215.233 and adopted after the expiration of one year after the date of the approval of state-wide planning goals and guidelines under section 37 of this 1973 Act shall be designed to comply with such state-wide planning goals and any subsequent revisions or amendments thereof.

§(2) (3) In order to conserve natural resources of the state, any land use plan or zoning, subdivision or other ordinance adopted by a county shall take into consideration lands that are, can or should be utilized for sources or processing of mineral aggregates.

1f Section 44. Upon the expiration of one year after the date of the approval of state-wide planning goals and guidelines and annually thereafter, each county governing body shall report to the commission on the status of comprehensive plans within each county. Each such report shall include:

(1) Copies of comprehensive plans reviewed by the county governing body and copies of zoning and subdivision ordinances and regulations applied to those areas within the county listed in subsection (2) of section 34 of this Act.

(2) For those areas or jurisdictions within the county without comprehensive plans, a statement and review of the progress made toward compliance with the state-wide planning goals.

1f Section 45. (1) Notwithstanding any other provision of law, after the expiration of one year after the date of the approval of the initial state-wide planning goals and guidelines under section 37 of this Act, upon 90 days' notice to the affected governing body or bodies, and upon public hearings held within 30 days thereafter, the commission shall prescribe and may amend and administer comprehensive plans and zoning, subdivision or other ordinances and regulations necessary to develop and implement a comprehensive plan within the boundaries of a county, whether or not within the boundaries of a city, that do not comply with the state-wide planning goals approved under this Act and any subsequent revisions or amendments thereof.

"(2) If the city or county has under consideration a comprehensive plan or zoning, subdivision or other ordinances or regulations for lands described in subsection (1) of this section, and shows satisfactory progress toward the adoption of such comprehensive plan or such ordinances or regulations, the commission may grant a reasonable extension of time after the date set in this section for completion of such plan or such ordinances or regulations.

"(3) Any comprehensive plan or zoning, subdivision or other ordinance or regulation adopted by the commission under subsection (1) of this section shall comply with the state-wide planning goals approved under this Act and all subsequent revisions or amendments thereof.

Section 46. (1) There is transferred to and vested in the commission those duties, powers and functions vested in the Governor by ORS 215.505 to 215.535. After the effective date of this Act, the commission shall exercise such duties, powers and functions.

"(2) For the purpose of harmonizing and clarifying Oregon Revised Statutes, the Legislative Counsel may substitute for words designating the Governor, where such words occur in ORS 215.505 to 215.535, words designating the Land Conservation and Development Commission.

"Section 47. ORS 215.510 is amended to read:

"215.510. (1) Any comprehensive [land use plans] plan for any city or county prescribed or amended by the [Governor] commission pursuant to ORS 215.505 or section 45 of this 1973

Act shall be in accordance with the standards provided in ORS 215.515 and the notice and hearing requirements provided in ORS ~~315.060~~.

(2) Any zoning, subdivision or other ordinances and regulations for any city or county prescribed or amended by the [Governor] commission pursuant to ORS 215.505 or section 45 of this 1973 Act shall be in accordance with the standards provided in ORS 215.055 and the notice and hearing requirements provided in ORS 215.223.

(3) A comprehensive [land use] plan or zoning, subdivision or other ordinance or regulation for any city or county prescribed or amended by the [Governor] commission pursuant to ORS 215.505 or section 45 of this 1973 Act may be for any purpose provided in ORS 215.010 to 215.233 and subsections (1) and (2) of 215.990, except that the [Governor] commission may not prescribe building regulations. The [Governor] commission may, however, cause to be instituted an appropriate proceeding to enjoin the construction of buildings or performance of any other acts which would constitute a land use that does not conform to the applicable [land use] comprehensive plan or zoning, subdivision or other ordinance or regulation.

(4) Any hearings required by this section may be held by the [Governor] commission, or by a person designated by the [Governor] commission, and all such hearings shall be held in the county seat of the county or in the city in which said comprehensive [land use] plan or zoning, subdivision or other ordinance or regulation is to be prescribed.

Section 48. ORS 215.515 is amended to read:

215.515. (1) Comprehensive physical planning, adopted by the commission prior to the expiration of one year following

the date of the approval of state-wide planning goals and guidelines under section 37 of this 1973 Act, should provide guidance for physical development within the state responsive to economic development, human resource development, natural resource development and regional and metropolitan area development. It should assist in attainment of the optimum living environment for the state's citizenry and assure sound housing, employment opportunities, educational fulfillment and sound health facilities. State plans should relate to intermediate and long-range growth objectives. The plans should set a pattern upon which state agencies and local government may base their programs and local area plans.

Goals for comprehensive physical planning are:

"[(1)] (a) To preserve the quality of the air [and],  
water and land resources of the state.

"[(2)] (b) To conserve open space and protect natural and scenic resources.

"[(3)] (c) To provide for the recreational needs of citizens of the state and visitors.

"[(4)] (d) To conserve prime farm lands for the production of crops [and].

"(e) To provide for an orderly and efficient transition from rural to urban land use.

"[(5)] (f) To protect life and property in areas subject to floods, landslides and other natural disasters.

"[(6)] (g) To provide and encourage a safe, convenient

and economic transportation system including all modes of transportation: Air, water, rail, highway and mass transit, and recognizing differences in the social costs in the various modes of transportation.

"[(7)] (h) To develop a timely, orderly and efficient arrangement of public facilities and services to serve as a framework for urban and rural development.

"[(8)] (i) To diversify and improve the economy of the state.

"[(9)] (j) To ensure that the development of properties within the state is commensurate with the character and the physical limitations of the land.

"(2) Comprehensive plans adopted by the commission after the expiration of one year after the date of the approval of state-wide planning goals and guidelines under section 37 of this 1973 Act shall be designed to comply with such state-wide planning goals and any subsequent revisions or amendments thereof.

"Section 49. ORS 215.535 is amended to read:

"215.535. In addition to the remedy prescribed in subsection (3) of ORS 215.510, the [Governor] commission may cause to be instituted any civil action or suit [he] it considers appropriate to remedy violations of any comprehensive [land use] plan or zoning, subdivision or other ordinance or regulation prescribed by the [Governor] commission pursuant to ORS 215.505 or section 45 of this 1973 Act.



Section 50. (1) Whenever the commission prescribes a comprehensive plan or zoning, subdivision or other ordinances or regulations for lands described in subsection (1) of section 45 of this Act, the costs incurred by the commission and the department in the preparation and administration of such plan or ordinances or regulations shall be borne by the city or county for which the commission has proposed such plan or ordinances or regulations. Upon presentation by the commission to the governing body of the city or county of a certified, itemized statement of costs, the governing body shall order payment to the commission out of any available funds. With respect to a city or county, if no payment is made by the governing body within 30 days thereafter, the commission shall submit to the Secretary of State its certified, itemized statement of such costs and the commission shall be reimbursed upon the order of the Secretary of State to the State Treasurer, from the city's or county's share of the state's cigarette and liquor revenues.

(2) Within 10 days of receipt of the certified, itemized statement of costs under subsection (1) of this section, any city or county aggrieved by the statement may appeal to the Court of Appeals. The appeal shall be taken as from a contested case under ORS 183.480. Notice of the appeal shall operate as a stay in the commissioner's right to reimbursement under subsection (1) of this section until the decision is made on the appeal.

PART VI APPEALS

"Section 51. (1) In the manner provided in sections 52 to 54 of this Act, the commission shall review upon:

"(a) Petition by a county governing body, a comprehensive plan provision or any zoning, subdivision or other ordinance or regulation adopted by a state agency, city, county or special district that the governing body considers to be in conflict with state-wide planning goals approved under section 37 of this Act or interim goals specified in ORS 215.515.

"(b) Petition by a city or county governing body, a land conservation and development action taken by a state agency, city, county or special district that the governing body considers to be in conflict with state-wide planning goals approved under section 37 of this Act or interim goals specified in ORS 215.515.

"(c) Petition by a state agency, city, county or special district, any county governing body action that the state agency, city, county or special district considers to be improperly taken or outside the scope of the governing body's authority under this Act.

"(d) Petition by any person or group of persons whose interests are substantially affected, a comprehensive plan provision or any zoning, subdivision or other ordinance or regulation alleged to be in violation of state-wide planning goals approved under section 37 of this Act or interim goals specified in ORS 215.515.

4/ (2) A petition filed with the commission pursuant to subsection (1) of this section must be filed not later than 60 days (excluding Saturdays and holidays) after the date of the final adoption or approval of the action or comprehensive plan upon which the petition is based.

4/ Section 52. (1) All review proceedings conducted by the commission pursuant to section 51 of this Act shall be based on the administrative record, if any, prepared with respect to the proceedings for the adoption or approval of the comprehensive plan provision or action that is the subject of the review proceeding.

(2) The commission shall adopt such rules, procedures and regulations for the conduct of review proceedings held pursuant to section 51 of this Act, in accordance with the provisions of ORS 183.310 to 183.500 for hearings and notice in contested cases.

(3) A city, county, state agency, special district or any person or group of persons whose interests are substantially affected may intervene in and be made a party to any review proceeding conducted by the commission with the approval of the commission, upon the request of the hearings officer appointed to conduct such proceeding or upon the approval by the hearings officer of a request by such agency, person or group of persons for intervention in the review proceeding.

4/ Section 53. (1) In carrying out its duties under section 51 of this Act, the chairman of the commission shall assign

each petition to be reviewed by the commission to a hearings officer who shall conduct the review proceeding.

(2) A hearings officer shall conduct a review proceeding in accordance with the rules, procedures and regulations adopted by the commission. Upon the conclusion of a hearing, the hearings officer shall promptly

determine the matter, prepare a recommendation for commission action upon the matter and submit a copy of his recommendation to the commission and to each party to the proceeding.

(3) The commission shall review the recommendation of the hearings officer and the record of the proceeding and issue its order with respect to the review proceeding within 60 days following the date of the filing of the petition upon which such review proceeding is based. The commission may adopt, reject or amend the recommendation of the hearings officer in any matter.

(4) No order of the commission issued under subsection (3) of this section is valid unless all members of the commission have received the recommendation of the hearings officer in the matter and at least four members of the commission concur in its action in the matter.

(5) Any party to a review proceeding before the commission who is adversely affected or aggrieved by the order issued by the commission in the matter may appeal the order of the commission in the manner provided in ORS 183.480 for appeals from final orders in contested cases.

(6) The commission may enforce orders issued under subsection (3) of this section in appropriate judicial proceedings brought by the commission therefor.

Section 54. (1) If, upon its review of the recommendation of a hearings officer and the record of the review proceeding prepared following a review proceeding before the

commission, the commission is unable to reach a decision in the matter without further information or evidence not contained in the record of the proceeding, it may refer the matter back to the hearings officer and request that the additional information or evidence be acquired by him or that he correct any errors or deficiencies found by the commission to exist in his recommendation or record of the proceeding.

(2) In case of a referral of a matter back to the hearings officer pursuant to subsection (1) of this section, the 60-day period referred to in subsection (3) of section 53 of this Act is suspended during the period beginning on the date of the commission's referral to the hearings officer and ending on the date that the hearings officer submits the revised recommendation or record as requested by the commission.

PART VII LEGISLATIVE REVIEW

Section 55. The department shall report monthly to the committee in order to keep the committee informed on progress made by the department, commission, counties and other agencies in carrying out the provisions of this Act.

Section 56. (1) Prior to the end of each even-numbered year, the department shall prepare a written report for submission to the Legislative Assembly of the State of Oregon describing activities and accomplishments of the department, commission, state agencies, cities, counties and special districts in carrying out the provisions of this Act.

(2) A draft of the report required by subsection (1) of this section shall be submitted to the committee for its review and comment at least 60 days prior to submission of the report to the Legislative Assembly. Comments of the committee shall be incorporated into the final report.

(3) Goals and guidelines adopted by the commission shall be included in the report to the Legislative Assembly submitted under subsection (1) of this section.

PART VIII MISCELLANEOUS

Section 57. ORS 453.345 is amended to read:

453.345. (1) Applications for site certificates shall be made to the Nuclear and Thermal Energy Council on a form prescribed by the council and accompanied by the fee required by ORS 453.405. The application may be filed not sooner than 12 months after filing of the notice of intent.

(2) Proposed use of a site within an area designated by the council as suitable for location of thermal power plants or nuclear installations does not preclude the necessity of the applicant obtaining a site certificate for the specific site.

(3) Copies of the notice of intent and of the application shall be sent for comment and recommendation within specified deadlines established by the council to the Department of Environmental Quality, the State Water Resources Board, the Fish Commission of the State of Oregon, the State Game Commission, the State Board of Health, the State Engineer,

the State Geologist, the State Forestry Department, the Public Utility Commissioner of Oregon, the State Department of Agriculture, the Department of Transportation, ( ) the Department of Land Conservation and Development and the Economic Development Division.

sf Section 58. The part designations and unit captions used in this Act are provided only for the convenience of locating provisions of this Act, and are not part of the statutory law of this state.

sf Section 59. This Act being necessary for the immediate preservation of the public peace, health and safety, an emergency is declared to exist, and this Act takes effect on July 1, 1973. ( )

~~Delete pages 3 through 36.~~



Representative

*J. Deley*

will lead the floor discussion on this measure.

1 employes of the department, prescribe their duties and fix their compensa-  
2 tion, subject to the State Merit System Law.

3 (4) Represent this state before any agency of this state, any other  
4 state or the United States with respect to land conservation and develop-  
5 ment within this state.

6 **SECTION 15.** (1) There is established in the General Fund in the  
7 State Treasury the Land Conservation and Development Account. Moneys  
8 in the account are continuously appropriated for the purpose of carrying  
9 out the provisions of this Act.

10 (2) All fees, moneys and other revenue received by the department  
11 or the committee shall be deposited in the Land Conservation and Develop-  
12 ment Account.

13 **OREGON COASTAL CONSERVATION AND**  
14 **DEVELOPMENT COMMISSION**

15 **SECTION 16.** (1) The Land Conservation and Development Commis-  
16 sion may delegate, by agreement, to the Oregon Coastal Conservation and  
17 Development Commission, created by ORS 191.120, any of its functions;  
18 however, the Land Conservation and Development Commission shall review  
19 and grant prior approval for any action taken by the Oregon Coastal Con-  
20 servation and Development Commission with respect to a delegated  
21 function.

22 (2) The Land Conservation and Development Commission may provide  
23 staff and financial assistance to the Oregon Coastal Conservation and De-  
24 velopment Commission.

25 **SECTION 17.** Pursuant to subsection (1) of section 16, the Oregon  
26 Coastal Conservation and Development Commission may carry out, within  
27 the coastal zone described in subsection (4) of ORS 191.110 and during the  
28 time period specified in subsection (2) of ORS 191.140, the functions of  
29 the Land Conservation and Development Commission in preparing state-  
30 wide objectives and regulations for areas and activities of critical state  
31 concern.

32 **DISTRICT COUNCILS OF LOCAL GOVERNMENT**

33 **SECTION 18.** To assure the orderly development and conservation of  
34 the state through the encouragement of coordinated federal, state, regional

1 and local land use planning, the following planning districts are created:

2 (1) District 1 which is composed of Clatsop and Tillamook Counties.

3 (2) District 2 which is composed of Columbia, Washington, Multnomah  
4 and Clackamas Counties.

5 (3) District 3 which is composed of Yamhill, Polk and Marion Counties.

6 (4) District 4 which is composed of Lincoln, Benton and Linn Counties.

7 (5) District 5 which is composed of Lane County.

8 (6) District 6 which is composed of Douglas County.

9 (7) District 7 which is composed of Coos and Curry Counties.

10 (8) District 8 which is composed of Jackson and Josephine Counties.

11 (9) District 9 which is composed of Hood River, Sherman and Wasco  
12 Counties.

13 (10) District 10 which is composed of Deschutes, Jefferson and Crook  
14 Counties.

15 (11) District 11 which is composed of Klamath and Lake Counties.

16 (12) District 12 which is composed of Gilliam, Morrow, Umatilla,  
17 Wheeler and Grant Counties.

18 (13) District 13 which is composed of Wallowa, Union and Baker  
19 Counties.

20 (14) District 14 which is composed of Harney and Malheur Counties.

21 **SECTION 19.** (1) There is created a district association of local gov-  
22 ernments in each planning district of this state. Each association shall be  
23 comprised of all cities, counties and special districts situated within the  
24 planning district.

25 (2) There is created for each association a district council of local gov-  
26 ernments with a membership as provided in section 20 of this Act. Not later  
27 than the expiration of 10 days after the effective date of this Act, the  
28 chairman of the county governing body of the most populous county in each  
29 planning district shall call a meeting of the members of the council for the  
30 planning district described in section 20 of this Act.

31 **SECTION 20.** (1) The membership of a district council of local gov-  
32 ernments for a planning district shall consist of:

33 (a) The chairman of the board of commissioners, or in his stead, a

1 member of the county commission selected by the county commission, for  
2 each county within the planning district;

3 (b) The mayor of the most populous city in each county, or, in his  
4 stead, a member of the city council selected by the mayor and city council  
5 of the most populous city in each county; and

6 (c) Such other members representing the remaining cities and special  
7 districts in the planning district as shall be deemed appropriate in the  
8 bylaws adopted by the district council.

9 (2)(a) Representatives from cities and counties described in subsection  
10 (1) of this section shall comprise at least two-thirds of the district council  
11 membership.

12 (b) The term of a member of a district council described in subsection  
13 (1) of this section shall be limited to two years.

14 (3) The voters of a planning district, from time to time and in the exer-  
15 cise of their power of the initiative or by approving a measure referred to  
16 them by the district council, may alter or revise the number, qualifications  
17 and manner of selecting members of the district council provided in sub-  
18 sections (1) and (2) of this section.

19 **SECTION 21.** Each district council shall establish a district planning  
20 committee with a membership as determined by the council; however, at  
21 least 50 percent of the membership of the committee shall be composed of  
22 representatives of city and county planning commissions within the plan-  
23 ning district.

24 **SECTION 22.** Each district council, with the advice of its district plan-  
25 ning committee, shall:

26 (1) Coordinate land conservation and development by the cities, coun-  
27 ties and special districts within the planning district.

28 (2) Review the comprehensive plans prepared and proposed by cities,  
29 counties and special districts within the planning district for compliance  
30 with state-wide planning guidelines prescribed by the commission or ap-  
31 proved by the Legislative Assembly.

32 (3) Review other comprehensive plans and zoning, subdivision and  
33 other ordinances or regulations prepared, proposed or adopted by cities,  
34 counties and special districts within the planning district for compliance  
with state-wide objectives and regulations prescribed by the commission

1 with respect to land conservation and development in areas and activities  
2 of critical state concern within the planning district.

3 (4) Cooperate with the department, other state agencies, other district  
4 councils, special districts, cities and counties outside the planning district  
5 to coordinate land conservation and development within the state.

6 (5) Appoint advisory committees within the planning district, as neces-  
7 sary, to aid it in carrying out its land conservation and development func-  
8 tions within the planning district; provide technical and other assistance  
9 for such committees and consult with; and consider the recommendations  
10 of such committees in carrying out its duties under this Act.

11 **SECTION 23.** A district council, with the advice of its district planning  
12 committee, may:

13 (1) Provide land conservation and development planning, advisory and  
14 technical services to each special district, city or county engaged in land  
15 conservation and development within the planning district upon request  
16 and subject to payment therefor.

17 (2) Provide information, maps and other data pertinent to its duties  
18 to the commission or other agency of the state, other district councils,  
19 special districts, cities and counties within or without the planning district.

20 (3) Conduct, arrange or assist in the promotion of educational programs  
21 relating to land conservation and development in the state or planning  
22 district and the need for the coordinated planning thereof.

23 (4) Subject to the prior approval of the commission, join with any  
24 similar council or planning agency with jurisdiction over contiguous land  
25 situated in another state to form an interstate district council.

26 (5) Provide any other services or perform any other functions that it  
27 considers necessary in carrying out its duties under this Act.

28 **CITIES AND COUNTIES**

29 **SECTION 24.** Cities and counties shall exercise their planning and  
30 zoning responsibilities under ORS chapters 92, 215 and 227 in accordance  
31 with this Act and the state-wide objectives and regulations and the state-  
32 wide planning guidelines approved under this Act.

33 **SECTION 25.** Pursuant to this Act, each city and county in this state  
34 shall:

(1) Prepare and adopt comprehensive plans consistent with the state-

1 wide objectives and regulations for areas and activities of state concern  
2 and state-wide planning guidelines approved by the commission; and

3 (2) Enact zoning, subdivision and other ordinances or regulations to  
4 implement their comprehensive plans.

#### 5 SPECIAL DISTRICTS AND STATE AGENCIES

6 SECTION 26. Special districts shall exercise their planning duties,  
7 powers and responsibilities that are authorized by law with respect to  
8 programs affecting land use in accordance with state-wide planning guide-  
9 lines and state-wide objectives and regulations approved pursuant to this  
10 Act.

11 SECTION 27. State agencies shall carry out their planning duties,  
12 powers and responsibilities that are authorized by law with respect to  
13 programs affecting land use in accordance with state-wide planning guide-  
14 lines and state-wide objectives and regulations approved pursuant to this  
15 Act.

#### 16 JOINT LEGISLATIVE COMMITTEE ON LAND USE

17 SECTION 28. The Joint Legislative Committee on Land Use is estab-  
18 lished as a joint committee of the Legislative Assembly. The committee  
19 shall select an executive secretary who shall serve at the pleasure of the  
20 committee and under its direction.

21 SECTION 29. (1) The Joint Legislative Committee on Land Use  
22 shall consist of four members of the House appointed by the Speaker and  
23 three members of the Senate appointed by the President. No more than  
24 three House members of the committee shall be of the same political  
25 party. No more than two Senate members of the committee shall be of  
26 the same political party.

27 (2) The committee has a continuing existence and may meet, act and  
28 conduct its business during sessions of the Legislative Assembly or any  
29 recess thereof, and in the interim period between sessions.

30 (3) The term of a member shall expire upon the convening of the  
31 Legislative Assembly in regular session next following the commencement  
32 of the member's term. When a vacancy occurs in the membership of the

1 such plan or ordinances or regulations shall be borne by the city or county  
2 for which the Governor has proposed such plan or ordinances or regula-  
3 tions. Upon presentation by the Governor to the governing body of the city  
4 or county of a certified, itemized statement of costs, the governing body  
5 shall order payment to the Governor out of any available funds. With re-  
6 spect to a city or county, if no payment is made by the governing body with-  
7 in 30 days thereafter, the Governor shall submit to the Secretary of State his  
8 certified, itemized statement of such costs and the Governor shall be re-  
9 imbursed upon the order of the Secretary of State to the State Treasurer,  
10 from the city's or county's share of the state's cigarette and liquor revenues.

#### 11 PART VI APPEALS

12 SECTION 60. (1) In the manner provided in sections 61 to 63 of this  
13 Act, the commission shall review upon:

14 (a) Petition by a district council, a comprehensive plan provision  
15 of a state agency, city, county or special district that the district council  
16 considers to be in conflict with approved state-wide planning guidelines  
17 or approved state-wide objectives or regulations.

18 (b) Petition by a district council, a land conservation and development  
19 action taken by a state agency, city, county or special district with respect  
20 to an area or activity of critical state concern that the district council  
21 considers to be in conflict with approved state-wide planning guide-  
22 lines or approved state-wide objectives or regulations.

23 (c) Petition by a state agency, city, county or special district, any dis-  
24 trict council action that the state agency, city, county, or special district  
25 considers to be improperly taken or outside the scope of the district  
26 council's authority under this Act.

27 (d) Petition by any person or group of persons, a provision of an  
28 adopted comprehensive plan or an action taken by a district council.

29 (2) A petition filed with the commission pursuant to subsection (1)  
30 of this section must be filed not later than 60 days (excluding Saturdays  
31 and holidays) after the date of the final adoption or approval of the  
32 action or comprehensive plan upon which the petition is based.

33 SECTION 61. (1) All review proceedings conducted by the com-  
34 mission pursuant to section 60 of this Act shall be based on the admini-

1 [(4)] (d) To conserve prime farm lands for the production of crops  
2 [and].

3 (e) To provide for an orderly and efficient transition from rural to  
4 urban land use.

5 [(5)] (f) To protect life and property in areas subject to floods, land-  
6 slides and other natural disasters.

7 [(6)] (g) To provide and encourage a safe, convenient and economic  
8 transportation system including all modes of transportation: Air, water,  
9 rail, highway and mass transit, and recognizing differences in the social  
10 costs in the various modes of transportation.

11 [(7)] (h) To develop a timely, orderly and efficient arrangement of  
12 public facilities and services to serve as a framework for urban and rural  
13 development.

14 [(8)] (i) To diversify and improve the economy of the state.

15 [(9)] (j) To ensure that the development of properties within the  
16 state is commensurate with the character and the physical limitations of  
17 the land.

18 (2) Comprehensive physical planning adopted by the Governor after  
19 the expiration of one year after the date of the approval of state-wide plan-  
20 ning guidelines under section 46 of this 1973 Act shall be designed to  
21 comply with such state-wide planning guidelines and any subsequent  
22 revisions or amendments thereof.

23 Section 58. ORS 215.535 is amended to read:

24 215.535. In addition to the remedy prescribed in subsection (3) of ORS  
25 215.510, the Governor may cause to be instituted any civil action or suit he  
26 considers appropriate to remedy violations of any comprehensive [land  
27 use] plan or zoning, subdivision or other ordinance or regulation pre-  
28 scribed by the Governor pursuant to ORS 215.505 of section 55 of this 1973  
29 Act.

30 SECTION 59. Whenever the Governor prescribes a comprehensive plan  
31 or zoning, subdivision or other ordinances or regulations for lands des-  
32 cribed in subsection (1) of section 55 of this Act, the costs incurred by the  
33 Governor and the department in the preparation and administration of



# Committee Report Review – Engrossed and Enrolled Bills Unit

Date \_\_\_\_\_

We have examined the report of the House Committee on ENVIRONMENT AND LAND USE,  
dated 5/14/73, on measure SB 100 Eng. Re-Eng., and,  
pursuant to House Rule 8.20(2), attest that the measure in the form reported out is accurate in form and style  
according to the **Form and Style Manual for Legislative Measures.**

*Virginia Mack*  
For Engrossed and Enrolled Bills Unit

**Enrolled**

**ENG.-RE-ENGROSSED**

(March 23 amendments not printed)

# Senate Bill 100

Ordered by the Senate April 9  
(Including Amendments by Senate March 23, April 9 and April 18)

Sponsored by Senators MACPHERSON, HALLOCK

## CHAPTER

### 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.

Creates Department of Land Conservation and Development, composed of Land Conservation and Development Commission, director and employees. Establishes Joint Legislative Committee on Land Use, as standing committee, to advise and assist department in carrying out its duties.

Authorizes commission to designate activities of state-wide significance in public transportation, public sewerage systems and public schools and to make recommendation for additional designations, subject to approval of Legislative Assembly. Requires commission, subject to approval of Legislative Assembly, to promulgate and implement state-wide planning goals consistent with regional, county and city concerns for such activities and state-wide planning guidelines for land use planning in state. Requires state agencies, planning districts, cities, counties and special districts to comply with state-wide planning guidelines and state-wide planning goals in adoption of comprehensive plans and zoning, subdivision or other ordinances and regulations. Makes counties responsible for coordinating all land use planning activities within counties, except for cities having population of 300,000 or more.

Requires permit to be issued by commission for development projects constituting activities of state-wide significance. Provides for enforcement of permit requirements. Authorizes injunction of activities of state-wide significance carried on without permit.

Permits voluntary association of counties for planning purposes. Provides for establishment of regional planning agency composed of cities and counties, subject to approval of voters in proposed region. Authorizes voluntary association of local governments to perform coordinative planning functions of counties under Act.

Continued on Page 2

**NOTE:** Matter in **bold face** in an amended section is new; matter [*italic and bracketed*] is existing law to be omitted; complete new sections begin with **SECTION**.

**Continued from Page 1**

*Delete* } Requires, within one year after approval of state-wide planning guidelines, all comprehensive plans and zoning, subdivision or other ordinances or regulations to comply with such guidelines. Authorizes commission to perform planning and zoning functions of noncomplying governmental units. Provides, in case of nonpayment by city or county, for reimbursement of commission from city or county share of state liquor and cigarette revenues. Establishes appeal procedures.

Provides for review by commission of specified land conservation and development actions and plans. Establishes Land Conservation and Development Account in General Fund for use by department.

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~~A BILL FOR AN ACT~~

Relating to land use; creating new provisions; amending ORS 215.055, 215.510, 215.515, 215.535 and 453.345; and appropriating money.

*Blank slugs*

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

**PART I INTRODUCTION**

**PREAMBLE**

**SECTION 1.** The Legislative Assembly finds that:

(1) Uncoordinated use of lands within this state threaten the orderly development, the environment of this state and the health, safety, order, convenience, prosperity and welfare of the people of this state.

(2) To promote coordinated administration of land uses consistent with comprehensive plans adopted throughout the state, it is necessary to establish a process for the review of state agency, city, county and special district land conservation and development plans for compliance with state-wide planning goals and guidelines.

(3) Except as otherwise provided in subsection (4) of this section, cities and counties should remain as the agencies to consider, promote and manage the local aspects of land conservation and development for the best interests of the people within their jurisdictions.

(4) The promotion of coordinated state-wide land conservation and development requires the creation of a state-wide planning agency to prescribe planning goals and objectives to be applied by state agencies, cities, counties and special districts throughout the state.

(5) The impact of proposed development projects, constituting activities of state-wide significance upon the public health, safety and welfare, requires a system of permits reviewed by a state-wide agency to carry out state-wide planning goals and guidelines prescribed for application for activities of state-wide significance throughout this state.

**POLICY STATEMENT**

**SECTION 2.** The Legislative Assembly declares that, in order to assure the highest possible level of liveability in Oregon, it is necessary to provide for properly prepared and coordinated comprehensive plans for cities and counties, regional areas and the state as a whole. These comprehensive plans:

- 1 (1) Must be adopted by the appropriate governing body at the local  
2 and state levels;
- 3 (2) Are expressions of public policy in the form of policy statements,  
4 generalized maps and standards and guidelines;
- 5 (3) Shall be the basis for more specific rules, regulations and ordinances  
6 which implement the policies expressed through the comprehensive plans;
- 7 (4) Shall be prepared to assure that all public actions are consistent  
8 and coordinated with the policies expressed through the comprehensive  
9 plans; and
- 10 (5) Shall be regularly reviewed and, if necessary, revised to keep them  
11 consistent with the changing needs and desires of the public they are  
12 designed to serve.

13 **DEFINITIONS**

14 **SECTION 3.** As used in this Act, unless the context requires otherwise:

- 15 (1) "Activity of state-wide significance" means a land conservation and  
16 development activity designated pursuant to section 25 of this Act.
- 17 (2) "Commission" means the Land Conservation and Development  
18 Commission.
- 19 (3) "Committee" means the Joint Legislative Committee on Land Use.
- 20 (4) "Comprehensive plan" means a generalized, coordinated land use  
21 map and policy statement of the governing body of a state agency, city,  
22 county or special district that interrelates all functional and natural sys-  
23 tems and activities relating to the use of lands, including but not limited  
24 to sewer and water systems, transportation systems, educational systems,  
25 recreational facilities, and natural resources and air and water quality  
26 management programs. "Comprehensive" means all-inclusive, both in terms  
27 of the geographic area covered and functional and natural activities and  
28 systems occurring in the area covered by the plan. "General nature" means  
29 a summary of policies and proposals in broad categories and does not neces-  
30 sarily indicate specific locations of any area, activity or use. A plan is "co-  
31 ordinated" when the needs of all levels of governments, semipublic and  
32 private agencies and the citizens of Oregon have been considered and  
33 accommodated as much as possible. "Land" includes water, both surface  
34 and subsurface, and the air.

1 (5) "Department" means the Department of Land Conservation and  
2 Development.

3 (6) "Director" means the Director of the Department of Land Con-  
4 servation and Development.

5 (7) "Special district" means any unit of local government, other than  
6 a city or county, authorized and regulated by statute and includes, but is  
7 not limited to: Water control districts, irrigation districts, port districts,  
8 regional air quality control authorities, fire districts, school districts, hos-  
9 pital districts, mass transit districts and sanitary districts.

10 (8) "Voluntary association of local governments" means a regional  
11 planning agency in this state officially designated by the Governor pur-  
12 suant to the federal Office of Management and Budget Circular A-95 as  
13 a regional clearinghouse.

*Close of...*

14 **PART II ORGANIZATION, ROLES AND RESPONSIBILITIES**

15 **DEPARTMENT OF LAND CONSERVATION AND DEVELOPMENT**

16 **SECTION 4.** The Department of Land Conservation and Development  
17 is established. The department shall consist of the Land Conservation and  
18 Development Commission, the director and their subordinate officers and  
19 employes.

20 **SECTION 5. (1)** There is established a Land Conservation and De-  
21 velopment Commission consisting of seven members appointed by the  
22 Governor, subject to confirmation by the Senate in the manner provided  
23 in ORS 171.560 and 171.570.

24 (2) In making appointments under subsection (1) of this section, the  
25 Governor shall select from residents of this state one member from each  
26 congressional district and the remaining members from the state at large.  
27 At least one and no more than two members shall be from Multnomah  
28 County.

(X)

29 (3) The term of office of each member of the commission is four years,  
30 but a member may be removed by the Governor for cause. Before the ex-  
31 piration of the term of a member, the Governor shall appoint a successor.  
32 No person shall serve more than two full terms as a member of the com-  
33 mission.

34 (4) If there is a vacancy for any cause, the Governor shall make an

1 appointment to become immediately effective for the unexpired term.

2 **SECTION 6.** Notwithstanding the term of office specified in section 5  
3 of this Act, of the members first appointed to the commission:

- 4 (1) Two shall serve for a term ending June 30, 1974.
- 5 (2) Two shall serve for a term ending June 30, 1975.
- 6 (3) Two shall serve for a term ending June 30, 1976.
- 7 (4) One shall serve for a term ending June 30, 1977.

8 **SECTION 7.** (1) The commission shall select one of its members as  
9 chairman and another member as vice chairman, for such terms and with  
10 duties and powers necessary for the performance of the functions of such  
11 offices as the commission determines. The vice chairman of the commission  
12 shall act as the chairman of the commission in the absence of the chairman.

13 (2) A majority of the members of the commission constitutes a quorum  
14 for the transaction of business.

15 **SECTION 8.** Members of the commission are entitled to compensation  
16 and expenses as provided in ORS 292.495.

17 **SECTION 9.** The commission shall:

- 18 (1) Direct the performance by the director and his staff of their  
19 functions under this Act.
- 20 (2) In accordance with the provisions of ORS chapter 183, promulgate  
21 rules that it considers necessary in carrying out this Act.
- 22 (3) Cooperate with the appropriate agencies of the United States, this  
23 state and its political subdivisions, any other state, any interstate agency,  
24 any person or groups of persons with respect to land conservation and  
25 development.
- 26 (4) Appoint advisory committees to aid it in carrying out this Act and  
27 provide technical and other assistance, as it considers necessary, to each  
28 such committee.

29 **SECTION 10.** The commission may:

- 30 (1) Apply for and receive moneys from the Federal Government and  
31 from this state or any of its agencies or departments.
- 32 (2) Contract with any public agency for the performance of services or  
33 the exchange of employes or services by one to the other necessary in  
34 carrying out this Act.

1 (3) Contract for the services of and consultation with professional  
2 persons or organizations, not otherwise available through federal, state and  
3 local governmental agencies, in carrying out its duties under this Act.

4 (4) Perform other functions required to carry out this Act.

5 **SECTION 11.** Pursuant to the provisions of this Act, the commission  
6 shall:

7 (1) Establish state-wide planning goals consistent with regional, county  
8 and city concerns;

9 (2) Issue permits for activities of state-wide significance;

10 (3) Prepare inventories of land uses;

11 (4) Prepare state-wide planning guidelines;

12 (5) Review comprehensive plans for conformance with state-wide plan-  
13 ning goals;

14 (6) Coordinate planning efforts of state agencies to assure conformance  
15 with state-wide planning goals and <sup>compatibility</sup> ~~compatibility~~ with city and county  
16 comprehensive plans;

(1011)  
842

17 (7) Insure widespread citizen involvement and input in all phases of  
18 the process;

19 (8) Prepare model zoning, subdivision and other ordinances and regu-  
20 lations to guide state agencies, cities, counties and special districts in imple-  
21 menting state-wide planning goals, particularly those for the areas listed in  
22 subsection (2) of section 34 of this Act;

23 (9) Review and recommend to the Legislative Assembly the designation  
24 of areas of critical state concern;

25 (10) Report periodically to the Legislative Assembly and to the com-  
26 mittee; and

27 (11) Perform other duties required by law.

28 **SECTION 12.** If an interstate land conservation and development plan-  
29 ning agency is created by an interstate agreement or compact entered into  
30 by this state, the commission shall perform the functions of this state with  
31 respect to the agreement or compact. If the functions of the interstate plan-  
32 ning agency duplicate any of the functions of the commission under this  
33 Act, the commission may:

34 (1) Negotiate with the interstate agency in defining the areas of



1 responsibility of the commission and the interstate planning agency; and  
2 (2) Cooperate with the interstate planning agency in the performance  
3 of its functions.

4 **SECTION 13.** (1) The commission shall appoint a person to serve as  
5 the Director of the Department of Land Conservation and Development.  
6 The director shall hold his office at the pleasure of the commission and his  
7 salary shall be fixed by the commission unless otherwise provided by law.

8 (2) In addition to his salary, the director shall be reimbursed, subject  
9 to any applicable law regulating travel and other expenses of state officers  
10 and employes, for actual and necessary expenses incurred by him in the  
11 performance of his official duties.

12 **SECTION 14.** Subject to policies adopted by the commission, the di-  
13 rector shall:

14 (1) Be the administrative head of the department.

15 (2) Coordinate the activities of the department in its land conservation  
16 and development functions with such functions of federal agencies, other  
17 state agencies, cities, counties and special districts.

18 (3) Appoint, reappoint, assign and reassign all subordinate officers and  
19 employes of the department, prescribe their duties and fix their compen-  
20 sation, subject to the State Merit System Law.

21 (4) Represent this state before any agency of this state, any other state  
22 or the United States with respect to land conservation and development  
23 within this state.

24 **SECTION 15.** (1) There is established in the General Fund in the  
25 State Treasury the Land Conservation and Development Account. Moneys  
26 in the account are continuously appropriated for the purpose of carrying  
27 out the provisions of this Act.

28 (2) All fees, moneys and other revenue received by the department  
29 or the committee shall be deposited in the Land Conservation and Develop-  
30 ment Account.

31 **OREGON COASTAL CONSERVATION AND**  
32 **DEVELOPMENT COMMISSION**

33 **SECTION 16.** (1) The Land Conservation and Development Commis-  
sion, by agreement with the Oregon Coastal Conservation and Development

1 Commission created by ORS 191.120, may delegate to the Oregon Coastal  
2 Conservation and Development Commission, any of the functions of the  
3 Land Conservation and Development Commission. However, the Land  
4 Conservation and Development Commission must review and grant ap-  
5 proval prior to any action taken by the Oregon Coastal Conservation and  
6 Development Commission with respect to a delegated function.

7 (2) The Land Conservation and Development Commission may provide  
8 staff and financial assistance to the Oregon Coastal Conservation and  
9 Development Commission in carrying out duties under this section.

#### 10 CITIES AND COUNTIES

11 **SECTION 17.** Cities and counties shall exercise their planning and  
12 zoning responsibilities in accordance with this Act and the state-wide plan-  
13 ning goals and guidelines approved under this Act.

14 **SECTION 18.** Pursuant to this Act, each city and county in this state  
15 shall:

16 (1) Prepare and adopt comprehensive plans consistent with state-wide  
17 planning goals and guidelines approved by the commission; and

18 (2) Enact zoning, subdivision and other ordinances or regulations to  
19 implement their comprehensive plans.

20 **SECTION 19.** (1) In addition to the responsibilities stated in sections  
21 17 and 18 of this Act, each county through its governing body, shall be  
22 responsible for coordinating all planning activities affecting land uses  
23 within the county, including those of the county, cities, special districts and  
24 state agencies, to assure an integrated comprehensive plan for the entire  
25 area of the county. For purposes of this subsection, the responsibility of  
26 the county described in this subsection shall not apply to cities having a  
27 population of 300,000 or more, and such cities shall exercise, within the  
28 incorporated limits thereof, the authority vested in counties by this sub-  
29 section.

30 (2) For the purposes of carrying out the provisions of this Act, counties  
31 may voluntarily join together with adjacent counties as authorized in ORS  
32 chapter 190.

33 (3) Whenever counties and cities representing 51 percent of the popu-  
34 lation in their area petition the commission for an election in their area to

1 form a regional planning agency to exercise the authority of the counties  
2 under subsection (1) of this section in the area, the commission shall  
3 review the petition. If it finds that the area described in the petition forms  
4 a reasonable planning unit, it shall call an election in the area to form a  
5 regional planning agency. The election shall be conducted in the manner  
6 provided in ORS chapter 259. The county clerk shall be considered the  
7 election officer and the commission shall be considered the district election  
8 authority. The agency shall be considered established if the majority of  
9 votes favor the establishment.

10 (4) If a voluntary association of local governments adopts a resolution  
11 ratified by each participating county and a majority of the participating  
12 cities therein which authorizes the association to perform the review, ad-  
13 visory and coordination functions assigned to the counties under sub-  
14 section (1) of this section, the association may perform such duties.

#### 15 SPECIAL DISTRICTS AND STATE AGENCIES

16 **SECTION 20.** Special districts shall exercise their planning duties,  
17 powers and responsibilities and take actions that are authorized by law  
18 with respect to programs affecting land use in accordance with state-wide  
19 planning goals and guidelines approved pursuant to this Act.

20 **SECTION 21.** State agencies shall carry out their planning duties,  
21 powers and responsibilities and take actions that are authorized by law  
22 with respect to programs affecting land use in accordance with state-wide  
23 planning goals and guidelines approved pursuant to this Act.

#### 24 JOINT LEGISLATIVE COMMITTEE ON LAND USE

25 **SECTION 22.** The Joint Legislative Committee on Land Use is estab-  
26 lished as a joint committee of the Legislative Assembly. The committee  
27 shall select an executive secretary who shall serve at the pleasure of the  
28 committee and under its direction.

29 **SECTION 23.** (1) The Joint Legislative Committee on Land Use shall  
30 consist of four members of the House of Representatives appointed by the  
31 Speaker and three members of the Senate appointed by the President. No  
32 more than three House members of the committee shall be of the same  
33 political party. No more than two Senate members of the committee shall  
34 be of the same political party.

1 (2) The chairman of the House and Senate Environment and Land  
2 Use Committees of the Fifty-seventh Legislative Assembly of the State of  
3 Oregon shall be two of the members appointed under subsection (1) of  
4 this section for the period beginning with the effective date of this Act.

5 (3) The committee has a continuing existence and may meet, act and  
6 conduct its business during sessions of the Legislative Assembly or any  
7 recess thereof, and in the interim period between sessions.

8 (4) The term of a member shall expire upon the convening of the Legis-  
9 lative Assembly in regular session next following the commencement of  
10 the member's term. When a vacancy occurs in the membership of the  
11 committee in the interim between sessions, until such vacancy is filled, the  
12 membership of the committee shall be deemed not to include the vacant  
13 position for the purpose of determining whether a quorum is present and  
14 a quorum is the majority of the remaining members.

15 (5) Members of the committee shall be reimbursed for actual and  
16 necessary expenses incurred or paid in the performance of their duties as  
17 members of the committee, such reimbursement to be made from funds  
18 appropriated for such purposes, after submission of approved voucher  
19 claims.

20 (6) The committee shall select a chairman. The chairman may, in addi-  
21 tion to his other authorized duties, approve voucher claims.

22 (7) Action of the committee shall be taken only upon the affirmative  
23 vote of the majority of the members of the committee.

24 **SECTION 24.** The committee shall:

25 (1) Advise the department on all matters under the jurisdiction of the  
26 department;

27 (2) Review and make recommendations to the Legislative Assembly  
28 on proposals for additions to or modifications of designations of activities of  
29 state-wide significance, and for designations of areas of critical state  
30 concern;

31 (3) Review and make recommendations to the Legislative Assembly  
32 on state-wide planning goals and guidelines approved by the commission;

33 (4) Study and make recommendations to the Legislative Assembly  
34 on the implementation of a program for compensation by the public to

1 owners of lands within this state for the value of any loss of use of such  
2 lands resulting directly from the imposition of any zoning, subdivision or  
3 other ordinance or regulation regulating or restricting the use of such  
4 lands. Such recommendations shall include, but not be limited to, proposed  
5 methods for the valuation of such loss of use and proposed limits, if any,  
6 to be imposed upon the amount of compensation to be paid by the public  
7 for any such loss of use; and

8 (5) Make recommendations to the Legislative Assembly on any other  
9 matter relating to land use planning in Oregon.

10 **PART III ACTIVITIES OF STATE-WIDE SIGNIFICANCE**

11 **DESIGNATION**

12 **SECTION 25.** (1) The following activities may be designated by the  
13 commission as activities of state-wide significance if the commission deter-  
14 mines that by their nature or magnitude they should be so considered:

15 (a) The planning and siting of public transportation facilities.

16 (b) The planning and siting of public sewerage systems, water supply  
17 systems and solid waste disposal sites and facilities.

18 (c) The planning and siting of public schools.

19 (2) Nothing in this Act supersedes any duty, power or responsibility  
20 vested by statute in any state agency relating to its activities described in  
21 subsection (1) of this section; except that, a state agency may neither  
22 implement any such activity nor adopt any plan relating to such an activity  
23 without the prior review and comment of the commission.

24 **SECTION 26.** (1) In addition to the activities of state-wide signifi-  
25 cance that are designated by the commission under section 25 of this Act,  
26 the commission may recommend to the committee the designation of addi-  
27 tional activities of state-wide significance. Each such recommendation shall  
28 specify the reasons for the proposed designation of the activity of state-  
29 wide significance, the dangers that would result from such activity being  
30 uncontrolled and the suggested state-wide planning goals and guidelines  
31 to be applied for the proposed activity.

32 (2) The commission may recommend to the committee the designation  
33 of areas of critical state concern. Each such recommendation shall specify  
34 the criteria developed and reasons for the proposed designation, the damages

1 that would result from uncontrolled development within the area, the  
2 reasons for the implementation of state regulations for the proposed area  
3 and the suggested state regulations to be applied within the proposed area.

4 (3) The commission may act under subsections (1) and (2) of this sec-  
5 tion on its own motion or upon the recommendation of a state agency, city,  
6 county or special district. If the commission receives a recommendation  
7 from a state agency, city, county or special district and finds the proposed  
8 activity or area to be unsuitable for designation, it shall notify the state  
9 agency, city, county or special district of its decision and its reasons there-  
10 for.

11 (4) Immediately following its decision to favorably recommend to  
12 the Legislative Assembly the designation of an additional activity of state-  
13 wide significance or the designation of an area of critical state concern,  
14 the commission shall submit the proposed designation accompanied by the  
15 supporting materials described in subsections (1) and (2) of this section to  
16 the committee for its review.

17 **PERMITS FOR ACTIVITIES OF STATE-WIDE SIGNIFICANCE**

18 **SECTION 27.** (1) On and after the date the commission has approved  
19 state-wide planning goals and guidelines for activities of state-wide sig-  
20 nificance designated under section 25 of this Act, no proposed project con-  
21 stituting such an activity may be initiated by any person or public agency  
22 without a planning and siting permit issued by the commission therefor.

23 (2) Any person or public agency desiring to initiate a project consti-  
24 tuting an activity of state-wide significance shall apply to the department  
25 for a planning and siting permit for such project. The application shall  
26 contain the plans for the project and the manner in which such project  
27 has been designed to meet the goals and guidelines for activities of state-  
28 wide significance and the comprehensive plans for the county within  
29 which the project is proposed, and any other information required by the  
30 commission as prescribed by rule of the commission.

31 (3) The department shall transmit copies of the application to affected  
32 county and state agencies for their review and recommendation.

33 (4) The county governing body and the state agencies shall review  
34 an application transmitted to it under subsection (3) of this section and

1 shall, within 30 days after the date of the receipt of the application, sub-  
2 mit their recommendations on the application to the commission.

3 (5) If the commission finds after review of the application and the  
4 comments submitted by the county governing body and state agencies that  
5 the proposed project complies with the state-wide goals and guidelines for  
6 activities of state-wide significance and the comprehensive plans within  
7 the county, it shall approve the application and issue a planning and siting  
8 permit for the proposed project to the person or public agency applying  
9 therefor. Action shall be taken by the commission within 30 days of the  
10 receipt of the recommendation of the county and state agencies.

11 (6) The commission may prescribe and include in the planning and  
12 siting permit such conditions or restrictions that it considers necessary  
13 to assure that the proposed project complies with the state-wide goals and  
14 guidelines for activities of state-wide significance and the comprehensive  
15 plans within the county.

16 **SECTION 28.** If the activity requiring a planning and siting permit  
17 under section 27 of this Act also requires any other permit from any state  
18 agency, the commission, with the cooperation and concurrence of the other  
19 agency, may provide a joint application form and permit to satisfy both  
20 the requirements of this Act and any other requirements set by statute or  
21 by rule of the state agency.

22 **SECTION 29.** (1) If any person or public agency is in doubt whether  
23 a proposed development project constitutes an activity of state-wide sig-  
24 nificance, the person or public agency may request a determination from  
25 the commission on the question. Within 60 days after the date of the receipt  
26 by it of such a request, the commission, with the advice of the committee  
27 and of the county governing body for the county in which such activity is  
28 proposed, shall issue a binding letter of interpretation with respect to the  
29 proposed project.

30 (2) Requests for determinations under this section shall be made to the  
31 commission in writing and in such form and contain such information as  
32 may be prescribed by the commission.

33 **SECTION 30.** (1) No project constituting an activity of state-wide

1 significance shall be undertaken without a planning and siting permit is-  
2 sued under section 27 of this Act.

3 (2) Any person or agency acting in violation of subsection (1) of this  
4 section may be enjoined in civil proceedings brought in the name of the  
5 county or the State of Oregon.

6 **SECTION 31.** If the county governing body or the commission de-  
7 termines the existence of an alleged violation under section 30 of this Act,  
8 it may:

9 (1) Investigate, hold hearings, enter orders and take action that it  
10 deems appropriate under this Act, as soon as possible.

11 (2) For the purpose of investigating conditions relating to the violation,  
12 through its members or its duly authorized representatives, enter at rea-  
13 sonable times upon any private or public property.

14 (3) Conduct public hearings.

15 (4) Publish its findings and recommendations as they are formulated  
16 relative to the violation.

17 (5) Give notice of any order relating to a particular violation of its  
18 state-wide goals, a particular violation of the terms or conditions of a plan-  
19 ning and siting permit or a particular violation of the provisions of this  
20 Act by mailing notice to the person or public body conducting or proposing  
21 to conduct the project affected in the manner provided by ORS chapter 183.

#### 22 **PART IV STATE-WIDE PLANNING GOALS AND GUIDELINES**

23 **SECTION 32.** All comprehensive plans and any zoning, subdivision and  
24 other ordinances and regulations adopted by a state agency, city, county  
25 or special district to carry out such plans shall be in conformity with the  
26 state-wide planning goals within one year from the date such goals are  
27 approved by the commission.

28 **SECTION 33.** Not later than January 1, 1975, the department shall pre-  
29 pare and the commission shall adopt state-wide planning goals and guide-  
30 lines for use by state agencies, cities, counties and special districts in pre-  
31 paring, adopting, revising and implementing existing and future compre-  
32 hensive plans.



1     **SECTION 34.** In preparing and adopting state-wide planning goals and  
2 guidelines, the department and the commission shall:

3     (1) Consider the existing comprehensive plans of state agencies, cities,  
4 counties and special districts in order to preserve functional and local  
5 aspects of land conservation and development.

6     (2) Give priority consideration to the following areas and activities:

- 7     (a) Those activities listed in section 25 of this Act;  
8     (b) Lands adjacent to freeway interchanges;  
9     (c) Estuarine areas;  
10    (d) Tide, marsh and wetland areas;  
11    (e) Lakes and lakeshore areas;  
12    (f) Wilderness, recreational and outstanding scenic areas;  
13    (g) Beaches, dunes, coastal headlands and related areas;  
14    (h) Wild and scenic rivers and related lands;  
15    (i) Flood plains and areas of geologic hazard;  
16    (j) Unique wildlife habitats; and  
17    (k) Agricultural land.

18     **SECTION 35.** To assure widespread citizen involvement in all phases  
19 of the planning process:

20     (1) The commission shall appoint a State Citizen Involvement Advis-  
21 ory Committee, broadly representative of geographic areas of the state and  
22 of interests relating to land uses and land use decisions, to develop a pro-  
23 gram for the commission that promotes and enhances public participation  
24 in the development of state-wide planning goals and guidelines.

25     (2) Within 90 days after the effective date of this Act, each county  
26 governing body shall submit to the commission a program for citizen in-  
27 volvement in preparing, adopting and revising comprehensive plans with-  
28 in the county. Such program shall at least contain provision for a citizen  
29 advisory committee or committees broadly representative of geographic  
30 areas and of interests relating to land uses and land use decisions.

31     (3) The state advisory committee appointed under subsection (1) of this  
32 section shall review the proposed programs submitted by each county and  
33 recommend to the commission whether or not the proposed program ade-  
34 quately provides for public involvement in the planning process.

1 **SECTION 36.** (1) In preparing the state-wide planning goals and  
2 guidelines, the department shall:

3 (a) Hold at least 10 public hearings throughout the state, causing no-  
4 tice of the time, place and purpose of each such hearing to be published in  
5 a newspaper of general circulation within the area where the hearing is  
6 to be conducted not later than 30 days prior to the date of the hearing.

7 (b) Implement any other provision for public involvement developed  
8 by the state advisory committee under subsection (1) of section 35 of this  
9 Act and approved by the commission.

10 (2) Upon completion of the preparation of the proposed state-wide  
11 planning goals and guidelines, the department shall submit them to the  
12 commission for approval.

13 **SECTION 37.** Upon receipt of the proposed state-wide planning goals  
14 and guidelines prepared and submitted to it by the department, the com-  
15 mission shall:

16 (1) Hold at least one public hearing on the proposed state-wide plan-  
17 ning goals and guidelines. The commission shall cause notice of the time,  
18 place and purpose of the hearings and the place where copies of the  
19 proposed goals and guidelines are available before the hearings with the  
20 cost thereof to be published in a newspaper of general circulation in the  
21 state not later than 30 days prior to the date of the hearing. The department  
22 shall supply a copy of its proposed state-wide planning goals and guide-  
23 lines to the Governor, the committee, affected state agencies and special  
24 districts and to each city and county without charge. The department shall  
25 provide copies of such proposed goals and guidelines to other public agen-  
26 cies or persons upon request and payment of the cost of preparing the  
27 copies of the materials requested.

28 (2) Consider the recommendations and comments received from the  
29 public hearings conducted under subsection (1) of this section, make any  
30 revisions in the proposed state-wide planning goals and guidelines that it  
31 considers necessary and approve the proposed goals and guidelines as they  
32 may be revised by the commission.

33 **SECTION 38.** The commission may periodically revise, update and ex-  
34 pand the initial state-wide planning goals and guidelines adopted under

1 section 37 of this Act. Such revisions, updatings or expansions shall be made  
2 in the manner provided in sections 36 and 37 of this Act.

3 **SECTION 39.** Following the approval by the commission of state-wide  
4 planning goals and guidelines, each county governing body shall review all  
5 comprehensive plans for land conservation and development within the  
6 county, both those adopted and those being prepared. The county gov-  
7 erning body shall advise the state agency, city, county or special district  
8 preparing the comprehensive plans whether or not the comprehensive plans  
9 are in conformity with the state-wide planning goals.

10 **PART V COMPREHENSIVE PLANS**

11 **SECTION 40.** Comprehensive plans and zoning, subdivision, and other  
12 ordinances and regulations adopted prior to the effective date of this Act  
13 shall remain in effect until revised under this Act. It is intended that exist-  
14 ing planning efforts and activities shall continue and that such efforts be  
15 utilized in achieving the purposes of this Act.

16 **SECTION 41.** Prior to approval by the commission of its state-wide  
17 planning goals and guidelines under section 37 of this Act, the goals listed  
18 in ORS 215.515 shall be applied by state agencies, cities, counties and spe-  
19 cial districts in the preparation, revision, adoption or implementation of  
20 any comprehensive plan.

21 **SECTION 42.** Each city or county shall prepare and the city council or  
22 the county governing body shall adopt the comprehensive plans required  
23 under this Act or by any other law in accordance with section 41 of this  
24 Act for those plans adopted prior to the expiration of one year following  
25 the date the commission approves its state-wide planning goals and guide-  
26 lines under section 37 of this Act. Plans adopted by cities and counties  
27 after the expiration of one year following the date of approval of such  
28 goals and guidelines by the commission shall be designed to comply with  
29 such goals and any subsequent amendments thereto.

30 Section 43. ORS 215.055 is amended to read:

31 215.055. (1) *[The]* **Any comprehensive plan** *[and all legislation and*  
32 *regulations]* **and all zoning, subdivision or other ordinances and regula-**  
33 **tions authorized by ORS 215.010 to 215.233 and adopted prior to the expira-**  
34 **tion of one year following the date of the approval of state-wide planning**

1 goals and guidelines under section 37 of this 1973 Act shall be designed to  
 2 promote the public health, safety and general welfare and shall be based on  
 3 the following considerations, among others: The various characteristics  
 4 of the various areas in the county, the suitability of the areas for par-  
 5 ticular land uses and improvements, the land uses and improvements in  
 6 the areas, trends in land improvement, density of development, property  
 7 values, the needs of economic enterprises in the future development of the  
 8 areas, needed access to particular sites in the areas, natural resources of the  
 9 county and prospective needs for development thereof, and the public  
 10 need for healthful, safe, aesthetic surroundings and conditions.

11 (2) Any plan and all zoning, subdivision or other ordinances and regu-  
 12 lations authorized by ORS 215.010 to 215.233 and adopted after the expira-  
 13 tion of one year after the date of the approval of state-wide planning goals  
 14 and guidelines under section 37 of this 1973 Act shall be designed to comply  
 15 with such state-wide planning goals and any subsequent revisions or  
 16 amendments thereof.

17 [(2)] (3) In order to conserve natural resources of the state, any land  
 18 use plan or zoning, subdivision or other ordinance adopted by a county  
 19 shall take into consideration lands that are, can or should be utilized for  
 20 sources or processing of mineral aggregates.

21 SECTION 44. Upon the expiration of one year after the date of the  
 22 approval of state-wide planning goals and guidelines and annually there-  
 23 after, each county governing body shall report to the commission on the  
 24 status of comprehensive plans within each county. Each such report shall  
 25 include:

26 (1) Copies of comprehensive plans reviewed by the county governing  
 27 body and copies of zoning and subdivision ordinances and regulations ap-  
 28 plied to those areas within the county listed in subsection (2) of section  
 29 34 of this Act.

30 (2) For those areas or jurisdictions within the county without com-  
 31 prehensive plans, a statement and review of the progress made toward  
 32 compliance with the state-wide planning goals.

33 SECTION 45. (1) Notwithstanding any other provision of law, after the  
 34 expiration of one year after the date of the approval of the initial state-

1 wide planning goals and guidelines under section 37 of this Act, upon 90  
2 days' notice to the affected governing body or bodies, and upon public  
3 hearings held within 30 days thereafter, the commission shall prescribe and  
4 may amend and administer comprehensive plans and zoning, subdivision  
5 or other ordinances and regulations necessary to develop and implement a  
6 comprehensive plan within the boundaries of a county, whether or not  
7 within the boundaries of a city, that do not comply with the state-wide  
8 planning goals approved under this Act and any subsequent revisions or  
9 amendments thereof.

10 (2) If the city or county has under consideration a comprehensive  
11 plan or zoning, subdivision or other ordinances or regulations for lands  
12 described in subsection (1) of this section, and shows satisfactory progress  
13 toward the adoption of such comprehensive plan or such <sup>ordinances</sup> or  
14 regulations, the commission may grant a reasonable extension of time  
15 after the date set in this section for completion of such plan or such  
16 ordinances or regulations.

17 (3) Any comprehensive plan or zoning, subdivision or other ordinance  
18 or regulation adopted by the commission under subsection (1) of this  
19 section shall comply with the state-wide planning goals approved under  
20 this Act and all subsequent revisions or amendments thereof.

21 **SECTION 46.** (1) There is transferred to and vested in the commission  
22 those duties, powers and functions vested in the Governor by ORS 215.505  
23 to 215.535. After the effective date of this Act, the commission shall  
24 exercise such duties, powers and functions.

25 (2) For the purpose of harmonizing and clarifying Oregon Revised  
26 Statutes, the Legislative Counsel may substitute for words designating  
27 the Governor, where such words occur in ORS 215.505 to 215.535, words  
28 designating the Land Conservation and Development Commission.

29 Section 47. ORS 215.510 is amended to read:

30 215.510. (1) Any comprehensive [land use plans] plan for any city  
31 or county prescribed or amended by the [Governor] commission pursuant  
32 to ORS 215.505 or section 45 of this 1973 Act shall be in accordance with  
33 the standards provided in ORS 215.515 and the notice and hearing re-  
34 quirements provided in ORS 215.060.

1 (2) Any zoning, **subdivision or other ordinances and regulations for any**  
2 **city or county** prescribed or amended by the [Governor] **commission** pur-  
3 suant to ORS 215.505 or **section 45 of this 1973 Act** shall be in accordance  
4 with the standards provided in ORS 215.055 and the notice and hearing  
5 requirements provided in ORS 215.223.

6 (3) A comprehensive [*land use*] plan or zoning, **subdivision or other**  
7 **ordinance or regulation for any city or county** prescribed or amended by  
8 the [Governor] **commission** pursuant to ORS 215.505 or **section 45 of this**  
9 **1973 Act** may be for any purpose provided in ORS 215.010 to 215.233 and  
10 subsections (1) and (2) of 215.990, except that the [Governor] **commission**  
11 may not prescribe building regulations. The [Governor] **commission** may,  
12 however, cause to be instituted an appropriate proceeding to enjoin the  
13 construction of buildings or performance of any other acts which would  
14 constitute a land use that does not conform to the applicable [*land use*]  
15 **comprehensive plan or zoning, subdivision or other ordinance or regula-**  
16 **tion.**

17 (4) Any hearings required by this section may be held by the [Gov-  
18 **ernor] commission**, or by a person designated by the [Governor] **com-**  
19 **mission**, and all such hearings shall be held in the county seat of the  
20 county or in the city in which said comprehensive [*land use*] plan or zon-  
21 **ing, subdivision or other ordinance or regulation** is to be prescribed.

22 Section 48. ORS 215.515 is amended to read:

23 215.515. (1) Comprehensive physical planning, **adopted by the com-**  
24 **mission prior to the expiration of one year following the date of the**  
25 **approval of state-wide planning goals and guidelines under section 37**  
26 **of this 1973 Act**, should provide guidance for physical development within  
27 the state responsive to economic development, human resource develop-  
28 ment, natural resource development and regional and metropolitan area  
29 development. It should assist in attainment of the optimum living environ-  
30 ment for the state's citizenry and assure sound housing, employment  
31 opportunities, educational fulfillment and sound health facilities. State  
32 plans should relate to intermediate and long-range growth objectives. The  
33 plans should set a pattern upon which state agencies and local government

1 may base their programs and local area plans. Goals for comprehensive  
2 physical planning are:

3 [(1)] (a) To preserve the quality of the air [and] , water and land  
4 resources of the state.

5 [(2)] (b) To conserve open space and protect natural and scenic re-  
6 sources.

7 [(3)] (c) To provide for the recreational needs of citizens of the  
8 state and visitors.

9 [(4)] (d) To conserve prime farm lands for the production of crops  
10 [and] .

11 (e) To provide for an orderly and efficient transition from rural  
12 to urban land use.

13 [(5)] (f) To protect life and property in areas subject to floods,  
14 landslides and other natural disasters.

15 [(6)] (g) To provide and encourage a safe, convenient and economic  
16 transportation system including all modes of transportation: Air, water,  
17 rail, highway and mass transit, and recognizing differences in the social  
18 costs in the various modes of transportation.

19 [(7)] (h) To develop a timely, orderly and efficient arrangement of  
20 public facilities and services to serve as a framework for urban and rural  
21 development.

22 [(8)] (i) To diversify and improve the economy of the state.

23 [(9)] (j) To ensure that the development of properties within the state  
24 is commensurate with the character and the physical limitations of the land.

25 (2) Comprehensive plans adopted by the commission after the expira-  
26 tion of one year after the date of the approval of state-wide planning  
27 goals and guidelines under section 37 of this 1973 Act shall be designed  
28 to comply with such state-wide planning goals and any subsequent re-  
29 visions or amendments thereof.

30 Section 49. ORS 215.535 is amended to read:

31 215.535. In addition to the remedy prescribed in subsection (3) of  
32 ORS 215.510, the [Governor] commission may cause to be instituted any  
33 civil action or suit [he] it considers appropriate to remedy violations of  
34 any comprehensive [land use] plan or zoning, subdivision or other ordi-

1 nance or regulation prescribed by the [Governor] commission pursuant  
2 to ORS 215.505 or section 45 of this 1973 Act .

3 SECTION 50. (1) Whenever the commission prescribes a comprehen-  
4 sive plan or zoning, subdivision or other ordinances or regulations for lands  
5 described in subsection (1) of section 45 of this Act, the costs incurred by  
6 the commission and the department in the preparation and administration  
7 of such plan or ordinances or regulations shall be borne by the city or  
8 county for which the commission has proposed such plan or ordinances  
9 or regulations. Upon presentation by the commission to the governing  
10 body of the city or county of a certified, itemized statement of costs, the  
11 governing body shall order payment to the commission out of any avail-  
12 able funds. With respect to a city or county, if no payment is made  
13 by the governing body within 30 days thereafter, the commission shall  
14 submit to the Secretary of State its certified, itemized statement of such  
15 costs and the commission shall be reimbursed upon the order of the Secre-  
16 tary of State to the State Treasurer, from the city's or county's share of the  
17 state's cigarette and liquor revenues.

18 (2) Within 10 days of receipt of the certified, itemized statement of costs  
19 under subsection (1) of this section, any city or county aggrieved by  
20 the statement may appeal to the Court of Appeals. The appeal shall  
21 be taken as from a contested case under ORS 183.480. Notice of the appeal  
22 shall operate as a stay in the commissioner's right to reimbursement  
23 under subsection (1) of this section until the decision is made on the appeal.

24 PART VI APPEALS

25 SECTION 51. (1) In the manner provided in sections 52 to 54 of this  
26 Act, the commission shall review upon:

27 (a) Petition by a county governing body, a comprehensive plan pro-  
28 vision or any zoning, subdivision or other ordinance or regulation adopted  
29 by a state agency, city, county or special district that the governing body  
30 considers to be in conflict with state-wide planning goals approved under  
31 section 37 of this Act or interim goals specified in ORS 215.515.

32 (b) Petition by a city or county governing body, a land conservation  
33 and development action taken by a state agency, city, county or special  
34 district that the governing body considers to be in conflict with state-





1 wide planning goals approved under section 37 of this Act or interim  
2 goals specified in ORS 215.515.

3 (c) Petition by a state agency, city, county or special district, any  
4 county governing body action that the state agency, city, county or special  
5 district considers to be improperly taken or outside the scope of the gov-  
6 erning body's authority under this Act.

7 (d) Petition by any person or group of persons whose interests are  
8 substantially affected, a comprehensive plan provision or any zoning, sub-  
9 division or other ordinance or regulation alleged to be in violation of  
10 state-wide planning goals approved under section 37 of this Act or interim  
11 goals specified in ORS 215.515.

12 (2) A petition filed with the commission pursuant to subsection (1)  
13 of this section must be filed not later than 60 days (excluding Saturdays  
14 and holidays) after the date of the final adoption or approval of the  
15 action or comprehensive plan upon which the petition is based.

16 **SECTION 52.** (1) All review proceedings conducted by the commis-  
17 sion pursuant to section 51 of this Act shall be based on the administra-  
18 tive record, if any, prepared with respect to the proceedings for the adop-  
19 tion or approval of the comprehensive plan provision or action that is  
20 the subject of the review proceeding.

21 (2) The commission shall adopt such rules, procedures and regulations  
22 for the conduct of review proceedings held pursuant to section 51 of  
23 this Act, in accordance with the provisions of ORS 183.310 to 183.500 for  
24 hearings and notice in contested cases.

25 (3) A city, county, state agency, special district or any person or  
26 group of persons whose interests are <sup>substantially</sup> ~~sustantially~~ affected may intervene  
27 in and be made a party to any review proceeding conducted by the com-  
28 mission with the approval of the commission, upon the request of the  
29 hearings officer appointed to conduct such proceeding or upon the ap-  
30 proval by the hearings officer of a request by such agency, person or  
31 group of persons for intervention in the review proceeding.

32 **SECTION 53.** (1) In carrying out its duties under section 51 of this  
33 Act, the chairman of the commission shall assign each petition to be

1 reviewed by the commission to a hearings officer who shall conduct the  
2 review proceeding.

3 (2) A hearings officer shall conduct a review proceeding in accordance  
4 with the rules, procedures and regulations adopted by the commission.  
5 Upon the conclusion of a hearing, the hearings officer shall promptly  
6 determine the matter, prepare a recommendation for commission action  
7 upon the matter and submit a copy of his recommendation to the com-  
8 mission and to each party to the proceeding.

9 (3) The commission shall review the recommendation of the hearings  
10 officer and the record of the proceeding and issue its order with respect  
11 to the review proceeding within 60 days following the date of the filing  
12 of the petition upon which such review proceeding is based. The com-  
13 mission may adopt, reject or amend the recommendation of the hearings  
14 officer in any matter.

15 (4) No order of the commission issued under subsection (3) of this  
16 section is valid unless all members of the commission have received  
17 the recommendation of the hearings officer in the matter and at least  
18 four members of the commission concur in its action in the matter.

19 (5) Any party to a review proceeding before the commission who  
20 is adversely affected or aggrieved by the order issued by the commis-  
21 sion in the matter may appeal the order of the commission in the manner  
22 provided in ORS 183.480 for appeals from final orders in contested cases.

23 (6) The commission may enforce orders issued under subsection (3) of  
24 this section in appropriate judicial proceedings brought by the com-  
25 mission therefor.

26 **SECTION 54.** (1) If, upon its review of the recommendation of a  
27 hearings officer and the record of the review proceeding prepared follow-  
28 ing a review proceeding before the commission, the commission is unable  
29 to reach a decision in the matter without further information or evidence  
30 not contained in the record of the proceeding, it may refer the matter back  
31 to the hearings officer and request that the additional information or evi-  
32 dence be acquired by him or that he correct any errors or deficiencies  
33 found by the commission to exist in his recommendation or record of  
34 the proceeding.

1 (2) In case of a referral of a matter back to the hearings officer  
2 pursuant to subsection (1) of this section, the 60-day period referred  
3 to in subsection (3) of section 53 of this Act is suspended for a reasonable  
4 interval not to exceed 60 days.

5 **PART VII LEGISLATIVE REVIEW**

6 **SECTION 55.** The department shall report monthly to the committee  
7 in order to keep the committee informed on progress made by the depart-  
8 ment, commission, counties and other agencies in carrying out the pro-  
9 visions of this Act.

10 **SECTION 56.** (1) Prior to the end of each even-numbered year, the  
11 department shall prepare a written report for submission to the Legisla-  
12 tive Assembly of the State of Oregon describing activities and accomp-  
13 lishments of the department, commission, state agencies, cities, counties  
14 and special districts in carrying out the provisions of this Act.

15 (2) A draft of the report required by subsection (1) of this section  
16 shall be submitted to the committee for its review and comment at least  
17 60 days prior to submission of the report to the Legislative Assembly. Com-  
18 ments of the committee shall be incorporated into the final report.

19 (3) Goals and guidelines adopted by the commission shall be included  
20 in the report to the Legislative Assembly submitted under subsection  
21 (1) of this section.

22 **PART VIII MISCELLANEOUS**

23 Section 57. ORS 453.345 is amended to read:

24 453.345. (1) Applications for site certificates shall be made to the  
25 Nuclear and Thermal Energy Council on a form prescribed by the council  
26 and accompanied by the fee required by ORS 453.405. The application may  
27 be filed not sooner than 12 months after filing of the notice of intent.

28 (2) Proposed use of a site within an area designated by the council  
29 as suitable for location of thermal power plants or nuclear installations  
30 does not preclude the necessity of the applicant obtaining a site certificate  
31 for the specific site.

32 (3) Copies of the notice of intent and of the application shall be sent  
33 for comment and recommendation within specified deadlines established  
34 by the council to the Department of Environmental Quality, the State Water

1 Resources Board, the Fish Commission of the State of Oregon, the State  
2 Game Commission, the State Board of Health, the State Engineer, the  
3 State Geologist, the State Forestry Department, the Public Utility Commis-  
4 sioner of Oregon, the State Department of Agriculture, the Department  
5 of Transportation, the **Department of Land Conservation and Develop-**  
6 **ment** and the Economic Development Division.

7 **SECTION 58.** The part designations and unit captions used in this  
8 Act are provided only for the convenience of locating provisions of this Act,  
9 and are not part of the statutory law of this state.



# Committee Report Review – Legislative Counsel

Date \_\_\_\_\_

We have examined the report of the House Committee on ENVIRONMENT AND LAND USE,  
dated 5/14/73, on measure SB 100 Eng. Re-Eng., and,  
pursuant to House Rule 8.20(2), attest that the revised bill summary complies with the requirements of House  
Rule 14.15(4) and that the identification of substantive changes in the report is accurate.

\_\_\_\_\_  
For Legislative Counsel

MEASURE HAS NO REVISED SUMMARY.

MEASURE HAS NO SUBSTANTIVE CHANGES.

HCR 73-3

  
\_\_\_\_\_  
Committee Clerk

# HOUSE COMMITTEE REPORT

SB 100 Eng. Re-Eng.

COMMITTEE ON ENVIRONMENT AND LAND USE DATED 5/14/73

Mr. Speaker: The committee on ENVIRONMENT AND LAND USE to whom was referred

SB 100 Eng. Re-Eng. having had the same under consideration, respectfully reports it back with the recommendation:

- that the bill do pass.
- that the bill do pass as amended.
- that the bill be now referred to the Committee on \_\_\_\_\_

\_\_\_\_\_ (according to prior reference)

\_\_\_\_\_

## IDENTIFICATION OF SUBSTANTIVE AMENDMENTS BY THE COMMITTEE:

NONE

## EXPLANATION OF THE BILL:

SEE BILL SUMMARY

## ATTACHMENTS

- Engrossed bill
- Attested by E & E
- Attested by Leg. Counsel

  
Chairman

Date: 5/14/73

# HOUSE AMENDMENTS

TO SB 100 Eng. Re-Eng.

COMMITTEE ON ENVIRONMENT AND LAND USE

Committee Report dated 5/14/73 Date(s) of Committee Action: 5/14/73

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NONE

  
\_\_\_\_\_  
Committee Clerk

# Senate Bill 100

Sponsored by Senators MACPHERSON, HALLOCK

## 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.

Creates Department of Land Conservation and Development, composed of Land Conservation and Development Commission, director and employees. Establishes Joint Legislative Committee on Land Use, as standing committee, to advise and assist department in carrying out its duties.

Designates areas and activities of critical state concern and provides for additional designations, subject to approval of Legislative Assembly. Requires commission, subject to approval of Legislative Assembly, to promulgate and implement state-wide objectives and regulations for such areas and activities and state-wide planning guidelines for all land use planning in state. Requires state agencies, planning districts, cities, counties and special districts to comply with state-wide planning guidelines and state-wide objectives and regulations in adoption of comprehensive plans and zoning, subdivision or other ordinances and regulations.

Requires development permit to be issued by commission for development projects constituting activities of critical state concern. Provides for enforcement of permit requirements. Declares certain development projects to be public nuisances, subject to civil abatement proceedings by commission.

Establishes 14 planning districts in state to advise, assist and review actions and comprehensive plans of state agencies, cities, counties and special districts with respect to such districts.

Requires, within one year after approval of state-wide planning guidelines, all comprehensive plans and zoning, subdivision or other ordinances or regulations to comply with such guidelines. Authorizes Governor to prescribe comprehensive plans and such ordinances and regulations where none exist or to revise existing noncomplying plans, ordinances and regulations. Permits Governor to charge for his services. Provides, in case of nonpayment by city or county, for reimbursement of Governor from city or county share of state liquor and cigarette revenues.

Provides for review by commission of specified land conservation and development actions and plans. Establishes Land Conservation and Development Account in General Fund for use by department.

Declares emergency and takes effect July 1, 1973.

**NOTE:** Matter in bold face in an amended section is new; matter [*italic and bracketed*] is existing law to be omitted; complete new sections begin with **SECTION**.



## A BILL FOR AN ACT

1  
2 Relating to land use; creating new provisions; amending ORS 215.055,  
3 215.510, 215.515, 215.535 and 227.240; appropriating money; and declar-  
4 ing an emergency.

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

**PART I INTRODUCTION****PREAMBLE**

6  
7  
8 **SECTION 1.** (1) Uncoordinated use of lands within this state threaten  
9 the orderly development, the environment of this state and the health,  
10 safety, order, convenience, prosperity and welfare of the people of this  
11 state.

12 (2) To promote coordinated administration of land uses consistent  
13 with comprehensive plans adopted throughout the state, it is necessary to  
14 establish a process for the review of state agency, planning district, city,  
15 county and special district land conservation and development plans for  
16 compliance with state-wide planning guidelines.

17 (3) Except as otherwise provided in subsection (5) of this section,  
18 cities and counties should remain as the agencies to consider, promote  
19 and manage the local aspects of land conservation and development for  
20 the best interests of the people within their jurisdictions.

21 (4) To promote coordinated conservation and development of all land  
22 uses within geographic areas of this state, it is necessary to establish  
23 planning districts and district councils to coordinate efforts of state agen-  
24 cies, cities, counties and special districts within each planning district.

25 (5) The promotion of coordinated state-wide land conservation and  
26 development in areas and for activities of critical state concern requires  
27 the creation of a state-wide planning agency to prescribe planning ob-  
28 jectives and regulations to be applied by state agencies, cities, counties,  
29 district councils and special districts within areas of critical state concern  
30 throughout the state.

31 (6) The impact of proposed development projects, constituting activi-  
32 ties of critical state concern, upon the public health, safety and welfare  
33 requires a system of permits issued by a state-wide agency to carry out

1 state-wide objectives and regulations prescribed for application for activi-  
2 ties of state-wide concern throughout this state.

3

### POLICY STATEMENT

4 **SECTION 2.** In order to assure the highest possible level of live-  
5 ability in Oregon, it is necessary to provide for properly prepared and  
6 coordinated comprehensive plans for cities and counties, regional areas  
7 and the state as a whole. These comprehensive plans:

8 (1) Must be adopted by the appropriate governing body at the local,  
9 regional and state levels;

10 (2) Are expressions of public policy in the form of policy statements,  
11 generalized maps and standards and guidelines;

12 (3) Shall be the basis for more specific rules, regulations and ordi-  
13 nances which implement the policies expressed through the comprehensive  
14 plans;

15 (4) Shall be prepared to assure that all public actions are consistent  
16 and coordinated with the policies expressed through the comprehensive  
17 plans; and

18 (5) Shall be regularly reviewed and, if necessary, revised to keep  
19 them consistent with the changing needs and desires of the public they  
20 are designed to serve.

21

### DEFINITIONS

22 **SECTION 3.** As used in this Act, unless the context requires other-  
23 wise:

24 (1) "Activity of critical state concern" means a land conservation and  
25 development project designated pursuant to section 32 of this Act.

26 (2) "Area of critical state concern" means a geographic area of the  
27 state designated pursuant to section 31 of this Act.

28 (3) "Commission" means the Land Conservation and Development  
29 Commission.

30 (4) "Committee" means the Joint Legislative Committee on Land Use.

31 (5) "Comprehensive plan" means a generalized, coordinated land use  
32 map and policy statement of the governing body of a state agency, plan-  
33 ning district, city, county or special district that interrelates all functional  
34 and natural systems and activities relating to the use of lands, including

1 but not limited to sewer and water systems, transportation systems, edu-  
2 cational systems, recreational facilities, and air and water quality manage-  
3 ment programs. "Comprehensive" means all-inclusive, both in terms of  
4 the geographic area covered and functional and natural activities and  
5 systems occurring in the area covered by the plan. "General nature" means  
6 a summary of policies and proposals in broad categories and does not  
7 necessarily indicate specific locations of any area, activity or use. A plan  
8 is "coordinated" when the needs of all levels of governments, semi-public  
9 and private agencies and groups have been considered and accommodated  
10 as much as possible. "Land" includes water, both surface and sub-surface,  
11 and the air.

12 (6) "Department " means the Department of Land Conservation and  
13 Development.

14 (7) "Development" means the carrying out of any building or mining  
15 operation, or the material change in the use or appearance of any structure  
16 or land, or the change in the intensity of the use of land, or the departure  
17 from the normal use of land for which permission has been granted.  
18 "Development," as designated in an ordinance, rule or development permit,  
19 includes all associated building, mining, changes and departures, unless  
20 otherwise specified. When appropriate to the context, "development"  
21 also includes the act of developing and the result of development.

22 (8) "Director" means the Director of the Department of Land Con-  
23 servation and Development.

24 (9) "District Council" means the district council of local governments  
25 established for an association of local governments pursuant to section  
26 19 of this Act.

27 (10) "Planning district" means a geographic area of the state designated  
28 pursuant to section 18 of this Act.

29 (11) "Special district" means any unit of local government, other than  
30 a city or county, authorized and regulated by statute and includes, but  
31 is not limited to: Water control districts, irrigation districts, port districts,  
32 air pollution control districts, fire districts, school districts, hospital dis-  
33 tricts, mass transit districts and sanitary districts.

1       **PART II ORGANIZATION, ROLES AND RESPONSIBILITIES**

2       **DEPARTMENT OF LAND CONSERVATION AND DEVELOPMENT**

3       **SECTION 4.** The Department of Land Conservation and Development  
4 is established. The department shall consist of the Land Conservation and  
5 Development Commission, the director and their subordinate officers  
6 and employes.

7       **SECTION 5.** (1) There is established a Land Conservation and De-  
8 velopment Commission consisting of five members appointed by the Gov-  
9 ernor, subject to confirmation by the Senate in the manner provided in  
10 ORS 171.560 and 171.570.

11       (2) In making appointments under subsection (1) of this section, the  
12 Governor shall select from residents of this state one member from each  
13 congressional district and one member from the state at large.

14       (3) The term of office of each member of the commission is four  
15 years, but a member serves at the pleasure of the Governor. Before the  
16 expiration of the term of a member, the Governor shall appoint a successor.  
17 No person shall serve more than two full terms as a member of the com-  
18 mission.

19       (4) If there is a vacancy for any cause the Governor shall make an  
20 appointment to become immediately effective for the unexpired term.

21       **SECTION 6.** Notwithstanding the term of office specified in section  
22 5 of this Act, of the members first appointed to the commission:

23       (1) Two shall serve for a term ending June 30, 1974.

24       (2) One shall serve for a term ending June 30, 1975.

25       (3) One shall serve for a term ending June 30, 1976.

26       (4) One shall serve for a term ending June 30, 1977.

27       **SECTION 7.** (1) The commission shall select one of its members as  
28 chairman and another member as vice chairman, for such terms and with  
29 duties and powers necessary for the performance of the functions of such  
30 offices as the commission determines. The vice chairman of the commission  
31 shall act as the chairman of the commission in the absence of the chairman.

32       (2) A majority of the members of the commission constitutes a quorum  
33 for the transaction of business.

1     **SECTION 8.** Members of the commission are entitled to compensa-  
2 tion and expenses as provided in ORS 292.495.

3     **SECTION 9.** The commission shall:

4     (1) Direct the performance by the director and his staff of their  
5 functions under this Act.

6     (2) In accordance with the provisions of ORS chapter 183, promulgate  
7 rules and regulations that it considers necessary in carrying out this Act.

8     (3) Cooperate with the appropriate agencies of the United States, this  
9 state, any other state, any interstate agency, any person or groups of  
10 persons with respect to land conservation and development.

11    (4) Appoint advisory committees to aid it in carrying out this Act  
12 and provide technical and other assistance, as it considers necessary, to  
13 each such committee.

14    (5) Consult with advisory committees, appointed by each district  
15 council pursuant to subsection (5) of section 22 of this Act, in carrying out  
16 its duties under this Act.

17    **SECTION 10.** The commission may:

18    (1) Apply for and receive moneys from the Federal Government  
19 and from this state or any of its agencies or departments.

20    (2) Subject to the approval of the Governor, contract with any public  
21 agency for the performance of services or the exchange of employes or  
22 services by one to the other necessary in carrying out this Act.

23    (3) Contract for the services of and consultation with professional  
24 persons or organizations, not otherwise available through federal, state and  
25 local governmental agencies, in carryinng out its duties under this Act.

26    (4) Perform any other functions that it considers necessary to carry  
27 out this Act.

28    **SECTION 11.** Pursuant to the provisions of this Act, the commission  
29 shall be responsible for:

30    (1) Establishing state-wide planning goals;

31    (2) Issuing permits for activities of critical state concern;

32    (3) Preparing state-wide objectives and regulations for areas and  
33 activities of critical state concern;

34    (4) Preparing inventories of land uses;

1 (5) Preparing state-wide planning guidelines;

2 (6) Reviewing comprehensive plans for conformance with state-wide  
3 objectives and regulations and state-wide planning guidelines.

4 (7) Reporting to the legislature as provided in sections 64 and 68 of  
5 this Act; and

6 (8) Performing any other duty required by law.

7 **SECTION 12.** If an interstate land conservation and development  
8 planning agency is created by an interstate agreement or compact entered  
9 into by this state, the commission shall perform the functions of this  
10 state with respect to the agreement or compact. If the functions of the  
11 interstate planning agency duplicate any of the functions of the commission  
12 under this Act, the commission may:

13 (1) Negotiate with the interstate agency in defining the areas of  
14 responsibility of the commission and the interstate planning agency;

15 (2) Suspend by rule the performance of any functions granted to the  
16 commission under this Act that duplicates a function of the interstate  
17 planning agency; and

18 (3) Cooperate with the interstate planning agency in the performance  
19 of its functions.

20 **SECTION 13.** (1) The commission shall appoint a person to serve  
21 as the Director of the Department of Land Conservation and Development.  
22 The director shall hold his office at the pleasure of the commission and his  
23 salary shall be fixed by the commission unless otherwise provided by law.

24 (2) In addition to his salary, the director shall be reimbursed, subject  
25 to any applicable law regulating travel and other expenses of state of-  
26 ficers and employes, for actual and necessary expenses incurred by him  
27 in the performance of his official duties.

28 **SECTION 14.** Subject to policies adopted by the commission, the di-  
29 rector shall:

30 (1) Be the administrative head of the department.

31 (2) Coordinate the activities of the department in its land conserva-  
32 tion and development functions with such functions of federal agencies,  
33 other state agencies, district councils, cities, counties and special districts.

34 (3) Appoint, reappoint, assign and reassign all subordinate officers and

1 employes of the department, prescribe their duties and fix their compensa-  
2 tion, subject to the State Merit System Law.

3 (4) Represent this state before any agency of this state, any other  
4 state or the United States with respect to land conservation and develop-  
5 ment within this state.

6 **SECTION 15.** (1) There is established in the General Fund in the  
7 State Treasury the Land Conservation and Development Account. Moneys  
8 in the account are continuously appropriated for the purpose of carrying  
9 out the provisions of this Act.

10 (2) All fees, moneys and other revenue received by the department  
11 or the committee shall be deposited in the Land Conservation and Develop-  
12 ment Account.

13 **OREGON COASTAL CONSERVATION AND**  
14 **DEVELOPMENT COMMISSION**

15 **SECTION 16.** (1) The Land Conservation and Development Commis-  
16 sion may delegate, by agreement, to the Oregon Coastal Conservation and  
17 Development Commission, created by ORS 191.120, any of its functions;  
18 however, the Land Conservation and Development Commission shall review  
19 and grant prior approval for any action taken by the Oregon Coastal Con-  
20 servation and Development Commission with respect to a delegated  
21 function.

22 (2) The Land Conservation and Development Commission may provide  
23 staff and financial assistance to the Oregon Coastal Conservation and De-  
24 velopment Commission.

25 **SECTION 17.** Pursuant to subsection (1) of section 16, the Oregon  
26 Coastal Conservation and Development Commission may carry out, within  
27 the coastal zone described in subsection (4) of ORS 191.110 and during the  
28 time period specified in subsection (2) of ORS 191.140, the functions of  
29 the Land Conservation and Development Commission in preparing state-  
30 wide objectives and regulations for areas and activities of critical state  
31 concern.

32 **DISTRICT COUNCILS OF LOCAL GOVERNMENT**

33 **SECTION 18.** To assure the orderly development and conservation of  
34 the state through the encouragement of coordinated federal, state, regional

1 and local land use planning, the following planning districts are created:

- 2 (1) District 1 which is composed of Clatsop and Tillamook Counties.
- 3 (2) District 2 which is composed of Columbia, Washington, Multnomah  
4 and Clackamas Counties.
- 5 (3) District 3 which is composed of Yamhill, Polk and Marion Counties.
- 6 (4) District 4 which is composed of Lincoln, Benton and Linn Counties.
- 7 (5) District 5 which is composed of Lane County.
- 8 (6) District 6 which is composed of Douglas County.
- 9 (7) District 7 which is composed of Coos and Curry Counties.
- 10 (8) District 8 which is composed of Jackson and Josephine Counties.
- 11 (9) District 9 which is composed of Hood River, Sherman and Wasco  
12 Counties.
- 13 (10) District 10 which is composed of Deschutes, Jefferson and Crook  
14 Counties.
- 15 (11) District 11 which is composed of Klamath and Lake Counties.
- 16 (12) District 12 which is composed of Gilliam, Morrow, Umatilla,  
17 Wheeler and Grant Counties.
- 18 (13) District 13 which is composed of Wallowa, Union and Baker  
19 Counties.
- 20 (14) District 14 which is composed of Harney and Malheur Counties.

21 **SECTION 19.** (1) There is created a district association of local gov-  
22 ernments in each planning district of this state. Each association shall be  
23 comprised of all cities, counties and special districts situated within the  
24 planning district.

25 (2) There is created for each association a district council of local gov-  
26 ernments with a membership as provided in section 20 of this Act. Not later  
27 than the expiration of 10 days after the effective date of this Act, the  
28 chairman of the county governing body of the most populous county in each  
29 planning district shall call a meeting of the members of the council for the  
30 planning district described in section 20 of this Act.

31 **SECTION 20.** (1) The membership of a district council of local gov-  
32 ernments for a planning district shall consist of:

33 (a) The chairman of the board of commissioners, or in his stead, a



1 member of the county commission selected by the county commission, for  
2 each county within the planning district;

3 (b) The mayor of the most populous city in each county, or, in his  
4 stead, a member of the city council selected by the mayor and city council  
5 of the most populous city in each county; and

6 (c) Such other members representing the remaining cities and special  
7 districts in the planning district as shall be deemed appropriate in the  
8 bylaws adopted by the district council.

9 (2)(a) Representatives from cities and counties described in subsection  
10 (1) of this section shall comprise at least two-thirds of the district council  
11 membership.

12 (b) The term of a member of a district council described in subsection  
13 (1) of this section shall be limited to two years.

14 (3) The voters of a planning district, from time to time and in the exer-  
15 cise of their power of the initiative or by approving a measure referred to  
16 them by the district council, may alter or revise the number, qualifications  
17 and manner of selecting members of the district council provided in sub-  
18 sections (1) and (2) of this section.

19 **SECTION 21.** Each district council shall establish a district planning  
20 committee with a membership as determined by the council; however, at  
21 least 50 percent of the membership of the committee shall be composed of  
22 representatives of city and county planning commissions within the plan-  
23 ning district.

24 **SECTION 22.** Each district council, with the advice of its district plan-  
25 ning committee, shall:

26 (1) Coordinate land conservation and development by the cities, coun-  
27 ties and special districts within the planning district.

28 (2) Review the comprehensive plans prepared and proposed by cities,  
29 counties and special districts within the planning district for compliance  
30 with state-wide planning guidelines prescribed by the commission or ap-  
31 proved by the Legislative Assembly.

32 (3) Review other comprehensive plans and zoning, subdivision and  
33 other ordinances or regulations prepared, proposed or adopted by cities,  
34 counties and special districts within the planning district for compliance  
with state-wide objectives and regulations prescribed by the commission

1 with respect to land conservation and development in areas and activities  
2 of critical state concern within the planning district.

3 (4) Cooperate with the department, other state agencies, other district  
4 councils, special districts, cities and counties outside the planning district  
5 to coordinate land conservation and development within the state.

6 (5) Appoint advisory committees within the planning district, as neces-  
7 sary, to aid it in carrying out its land conservation and development func-  
8 tions within the planning district; provide technical and other assistance  
9 for such committees and consult with; and consider the recommendations  
10 of such committees in carrying out its duties under this Act.

11 **SECTION 23.** A district council, with the advice of its district planning  
12 committee, may:

13 (1) Provide land conservation and development planning, advisory and  
14 technical services to each special district, city or county engaged in land  
15 conservation and development within the planning district upon request  
16 and subject to payment therefor.

17 (2) Provide information, maps and other data pertinent to its duties  
18 to the commission or other agency of the state, other district councils,  
19 special districts, cities and counties within or without the planning district.

20 (3) Conduct, arrange or assist in the promotion of educational programs  
21 relating to land conservation and development in the state or planning  
22 district and the need for the coordinated planning thereof.

23 (4) Subject to the prior approval of the commission, join with any  
24 similar council or planning agency with jurisdiction over contiguous land  
25 situated in another state to form an interstate district council.

26 (5) Provide any other services or perform any other functions that it  
27 considers necessary in carrying out its duties under this Act.

28

#### CITIES AND COUNTIES

29 **SECTION 24.** Cities and counties shall exercise their planning and  
30 zoning responsibilities under ORS chapters 92, 215 and 227 in accordance  
31 with this Act and the state-wide objectives and regulations and the state-  
32 wide planning guidelines approved under this Act.

33 **SECTION 25.** Pursuant to this Act, each city and county in this state  
34 shall:

(1) Prepare and adopt comprehensive plans consistent with the state-

1 wide objectives and regulations for areas and activities of state concern  
2 and state-wide planning guidelines approved by the commission; and

3 (2) Enact zoning, subdivision and other ordinances or regulations to  
4 implement their comprehensive plans.

#### 5 **SPECIAL DISTRICTS AND STATE AGENCIES**

6 **SECTION 26.** Special districts shall exercise their planning duties,  
7 powers and responsibilities that are authorized by law with respect to  
8 programs affecting land use in accordance with state-wide planning guide-  
9 lines and state-wide objectives and regulations approved pursuant to this  
10 Act.

11 **SECTION 27.** State agencies shall carry out their planning duties,  
12 powers and responsibilities that are authorized by law with respect to  
13 programs affecting land use in accordance with state-wide planning guide-  
14 lines and state-wide objectives and regulations approved pursuant to this  
15 Act.

#### 16 **JOINT LEGISLATIVE COMMITTEE ON LAND USE**

17 **SECTION 28.** The Joint Legislative Committee on Land Use is estab-  
18 lished as a joint committee of the Legislative Assembly. The committee  
19 shall select an executive secretary who shall serve at the pleasure of the  
20 committee and under its direction.

21 **SECTION 29.** (1) The Joint Legislative Committee on Land Use  
22 shall consist of four members of the House appointed by the Speaker and  
23 three members of the Senate appointed by the President. No more than  
24 three House members of the committee shall be of the same political  
25 party. No more than two Senate members of the committee shall be of  
26 the same political party.

27 (2) The committee has a continuing existence and may meet, act and  
28 conduct its business during sessions of the Legislative Assembly or any  
29 recess thereof, and in the interim period between sessions.

30 (3) The term of a member shall expire upon the convening of the  
31 Legislative Assembly in regular session next following the commencement  
32 of the member's term. When a vacancy occurs in the membership of the

1 committee in the interim between sessions, until such vacancy is filled,  
2 the membership of the committee shall be deemed not to include the  
3 vacant position for the purpose of determining whether a quorum is pres-  
4 ent and a quorum is the majority of the remaining members.

5 (4) Members of the committee shall be reimbursed for actual and  
6 necessary expenses incurred or paid in the performance of their duties as  
7 members of the committee, such reimbursement to be made from funds  
8 appropriated for such purposes, after submission of approved voucher  
9 claims.

10 (5) The committee shall select a chairman. The chairman may, in  
11 addition to his other authorized duties, approve voucher claims.

12 (6) Action of the committee shall be taken only upon the affirmative  
13 vote of the majority of the members of the committee.

14 **SECTION 30.** The committee shall:

15 (1) Advise the department on all matters under the jurisdiction of  
16 the department;

17 (2) Review and make recommendations to the Legislative Assembly  
18 on proposals for additions to or modifications of designations of areas  
19 or activities of critical state concern;

20 (3) Review and make recommendations to the Legislative Assembly  
21 on state-wide objectives and regulations and state-wide planning guide-  
22 lines approved by the commission; and

23 (4) Make recommendations to the Legislative Assembly on any other  
24 matter relating to land use planning in Oregon.

25 **PART III AREAS AND ACTIVITIES OF STATE CONCERN**

26 **DESIGNATION**

27 **SECTION 31.** The following geographic areas in this state are desig-  
28 nated as areas of critical state concern:

29 (1) Any scenic waterway designated as such in accordance with ORS  
30 390.805 to 390.925, including any related adjacent land.

31 (2) Any waterway in this state designated as a wild and scenic river  
32 pursuant to the federal Wild and Scenic Rivers Act, Public Law 90-542,  
33 including any adjacent lands regulated thereunder.

1 (3) All of the following lands, including adjacent lands situated within  
2 one-quarter of one mile of such lands' boundaries:

3 (a) State parks and recreation areas administered by the Highway  
4 Division of the Department of Transportation.

5 (b) Recreation, primitive or wilderness areas on lands administered  
6 by the U.S. Forest Service, the Bureau of Land Management, the National  
7 Parks Service and U.S. Army Corps of Engineers.

8 (c) Lands subject to the regulation of the State Game Commission,  
9 Fish Commission of the State of Oregon, Federal Bureau of Sport Fisheries  
10 or the Wildlife Refuge Division of the U.S. Department of Interior.

11 (d) Parks or recreation areas situated outside an incorporated area  
12 and administered by a unit of local government.

13 (e) Parks or recreation areas on lands under the jurisdiction of the  
14 State Board of Forestry or the Division of State Lands.

15 (4) Lands situated within a radius of one-half of one mile from the  
16 center of the right of way of a state highway that is a part of the National  
17 System of Interstate and Defense Highways established pursuant to sec-  
18 tion 103 (d), title 23, United States Code, at the point of its interchange  
19 with any other public highway where such point of interchange is not  
20 located within an incorporated area and such lands situated within a  
21 radius of one-quarter of one mile where such point of interchange is located  
22 within an incorporated area.

23 (5) All lands west of the Oregon Coast Highway as described in  
24 ORS 366.235, except that:

25 (a) In Tillamook County, Oregon, only the lands west of a line  
26 formed by connecting the western boundaries of the following described  
27 roadways: Brooten Road (County Road 887) northerly from its junction  
28 with the Oregon Coast Highway to Pacific City, McPhillips Drive (County  
29 Road 915) northerly from Pacific City to its junction with Sandlake Road  
30 (County Road 871), Sandlake-Cape Lookout Road, (County Road 871)  
31 northerly to its junction with Cape Lookout Park, Netarts Bay Drive  
32 (County Road 665) northerly from its junction with the Sandlake-Cape  
33 Lookout Road (County Road 871) to its junction at Netarts with State

1 Highway 131, and northerly along State Highway 131 to its junction with  
2 the Oregon Coast Highway near Tillamook.

3 (b) In Coos County, Oregon, only the lands west of a line formed by  
4 connecting the western boundaries of the following described roadways:  
5 FAS 263 southerly from its junction with the Oregon Coast Highway to  
6 Charleston; Seven Devils Road (No. 33) southerly from its junction with  
7 FAS 263 to its junction with the Oregon Coast Highway, near Bandon.

8 (6) All estuaries including all land extending 1,000 feet on a horizontal  
9 plane from the mean higher high-tide mark as located by reference to  
10 the tidal bench mark data prepared by the United States Coast and  
11 Geodetic Survey. As used in this subsection, "estuaries" means partially  
12 enclosed bodies of water where the tide ebbs and flows and where fresh  
13 water from the land meets the salt waters of the Pacific Ocean from the  
14 Pacific Ocean on the west to a point on the east where there exists a  
15 bottom salinity of five parts per thousand as measured at the time of the  
16 lowest water flow in summer.

17 (7) All lands within the area bounded on the west by the mouth of  
18 the Sandy River, on the north by the ordinary high water line of the  
19 Columbia River, on the east by the western boundary of the City of The  
20 Dalles, Oregon, and on the south by the ridge of the cliffs of the Columbia  
21 River Gorge.

22 (8) All lands situated within 1,000 feet from the right of way bound-  
23 aries of highways designated under ORS 377.530 as scenic highways if  
24 such highways are not located within an incorporated area and all lands  
25 situated within 200 feet from the right of way boundaries of such high-  
26 ways if such highways are located within the boundaries of an incorpo-  
27 rated area.

28 **SECTION 32.** (1) The following developmental activities are desig-  
29 nated as activities that by their nature or magnitude are of critical state  
30 concern:

31 (a) The planning, siting and construction of airports.

32 (b) The planning, siting and construction of state and federal high-  
33 way systems or any portion thereof.

1 (c) The planning, siting and construction of mass transit systems or  
2 any portion thereof.

3 (d) The planning, siting and construction of solid waste disposal sites  
4 and facilities.

5 (e) The planning, siting and construction of high-voltage power, gas  
6 and oil transmission lines.

7 (f) The planning, siting and construction of sewerage systems and  
8 water supply systems.

9 (g) The planning, siting and construction of thermal power plants and  
10 nuclear installations.

11 (2) Nothing in this Act supersedes any duty, power or responsibility  
12 vested by statute in any state agency relating to its activities described in  
13 subsection (1) of this section; except that, a state agency may neither im-  
14 plement any such activity nor adopt any plan relating to such an activity  
15 without the prior approval of the commission.

16 **SECTION 33.** (1) In addition to the areas of critical state concern  
17 designated in section 31 of this Act and the activities of critical state con-  
18 cern designated in section 32 of this Act, the commission may recommend  
19 to the committee the designation of additional areas or activities of critical  
20 state concern. Each such recommendation shall specify the reasons for the  
21 proposed designation of the area or activity of critical state concern, the  
22 dangers that would result from uncontrolled development within the area  
23 or by the activity, the reasons for the implementation of state-wide plan-  
24 ning objectives and regulations for the proposed area or activity, and the  
25 suggested state-wide planning objectives and regulations to be applied  
26 within the proposed area or for the proposed activity.

27 (2) The commission may act under subsection (1) of this section on  
28 its own motion or upon the recommendation of a state agency, district  
29 council, city, county or special district. If the commission receives a recom-  
30 mendation from a state agency, district council, city, county or special  
31 district and finds the proposed area or activity to be unsuitable for desig-  
32 nation, it shall notify the state agency, district council, city, council or  
33 special district of its decision and its reasons therefor.

1 (3) Immediately following its decision to favorably recommend to the  
2 Legislative Assembly the designation of an additional area or activity of  
3 critical state concern, the commission shall submit the proposed designa-  
4 tion accompanied by the supporting materials described in subsection (1)  
5 of this section to the committee for its review.

6 **PERMITS FOR ACTIVITIES OF STATE CONCERN**

7 **SECTION 34.** (1) On and after 90 days after the effective date of  
8 this Act, no proposed development project constituting an activity of critical  
9 state concern designated under section 32 of this Act may be initiated by  
10 any person or public agency without a development permit issued by the  
11 commission therefor.

12 (2) Any person or public agency desiring to initiate a development  
13 constituting an activity of critical state concern shall apply to the depart-  
14 ment for a development permit for such project. The application shall  
15 contain the plans for the project and the manner in which such project  
16 has been designed to meet the objectives and regulations for activities of  
17 critical state concern and the comprehensive plans for the state and the  
18 planning district within which the development is proposed, and any other  
19 information required by the commission as prescribed by rule of the com-  
20 mission.

21 (3) The department shall transmit copies of the application to the  
22 appropriate district council and affected state agencies for their review  
23 and recommendation.

24 (4) The district council and the state agencies shall review an appli-  
25 cation transmitted to it under subsection (3) of this section and shall,  
26 within 30 days after the date of the receipt of the application, submit their  
27 recommendations on the application to the commission.

28 (5) If the commission finds after review of the application and the  
29 comments submitted by the district council and state agencies that the  
30 proposed project complies with the state-wide objectives and regulations  
31 for activities of critical state concern and the comprehensive plans within  
32 the planning district, it shall approve the application and issue a develop-  
33 ment permit for the proposed project to the person or public agency apply-  
34 ing therefor.



1 (6) The commission may prescribe and shall include in the develop-  
2 ment permit such conditions or restrictions that it considers necessary to  
3 assure that the proposed development project complies with the state-  
4 wide objectives and regulations for activities of critical state concern and  
5 the comprehensive plans within the planning district.

6 (7) If the activity requiring a development permit under this section  
7 also requires any other permit from any state agency, the commission,  
8 with the cooperation and concurrence of the other agency, may provide a  
9 joint application form and permit to satisfy both the requirements of this  
10 Act and any other requirements set by statute or by rule or regulations  
11 of the state agency.

12 **SECTION 35.** (1) If an application for a proposed development project  
13 constituting an activity of critical state concern designated by section 32  
14 of this Act is received by the department prior to the adoption of state-  
15 wide objectives and regulations for activities of critical state concern, the  
16 commission shall approve the application and issue a development permit  
17 for the proposed development project if such development project is in  
18 compliance with the comprehensive plans of a state agency, planning dis-  
19 trict, city or county and with zoning, subdivision and other ordinances and  
20 regulations adopted to carry out such comprehensive plans that are in  
21 effect on the date of the receipt of the application by the commission.

22 (2) If there are no state agency, planning district, city, or county com-  
23 prehensive plans in effect within the area in which a development project  
24 described in subsection (1) of this section is to be located, the commission  
25 may issue a development permit and prescribe in the development permit  
26 reasonable conditions for the protection of the public health, welfare and  
27 safety.

28 **SECTION 36.** In reviewing under subsection (5) of section 34 of this  
29 Act an application for a development permit for a proposed development  
30 project constituting an activity of critical state concern, the commission  
31 shall consider whether or not:

32 (1) The location of a proposed development is essential or appropriate  
33 in view of the available alternative locations within or outside the district;

1 (2) The proposed development will have a favorable impact upon the  
2 environment in comparison to alternative manners of development;

3 (3) The proposed development will favorably affect other persons or  
4 property in view of any circumstances that are peculiar to the location, size  
5 or nature of the development;

6 (4) If the proposed development imposes immediate cost burdens on  
7 the city or county within which it is to be located, the amount of similar  
8 existing development within such city or county is more than an equitable  
9 share of that type of development needed within the planning district;

10 (5) The proposed development will favorably affect the ability of  
11 people to find adequate housing reasonably accessible to their employment;

12 (6) The proposed development will favorably affect the provision for  
13 city or county services and the burden of taxpayers in making provision  
14 therefor;

15 (7) The proposed development will efficiently use public or public-  
16 aided school, transportation or other facilities that are existing or that are  
17 to be furnished within the foreseeable future; and

18 (8) The proposed development should be approved in view of other  
19 considerations deemed necessary by the district council.

20 **SECTION 37.** (1) If any person or public agency is in doubt whether  
21 a proposed development project constitutes an activity of critical state  
22 concern, the person or public agency may request a determination from  
23 the commission on the question. Within 60 days after the date of the receipt  
24 by it of such a request, the commission, with the advice of the committee  
25 and of the district council for the planning district in which such activity  
26 is proposed, shall issue a binding letter of interpretation with respect to  
27 the proposed development project.

28 (2) Requests for determinations under this section shall be made to the  
29 commission in writing and in such form and contain such information as  
30 may be prescribed by the commission.

31 **SECTION 38.** (1) Any development project constituting an activity  
32 of critical state concern that is being carried out without a development  
33 permit issued under section 34 of this Act or in a manner contrary to the

1 conditions set out in a development permit issued therefor under section  
2 34 of this Act is a public nuisance.

3 (2) Any development project that does not constitute an activity  
4 of critical state concern, that is being carried out within an area of critical  
5 state concern and that does not comply with the state-wide objectives and  
6 regulations approved by the commission for the area of critical state con-  
7 cern is a public nuisance.

8 **SECTION 39.** If the commission determines the existence of an alleged  
9 public nuisance under section 38 of this Act, it may:

10 (1) Investigate, hold hearings, make orders and take action that it  
11 deems appropriate under this Act, as soon as possible.

12 (2) For the purpose of investigating conditions relating to the alleged  
13 public nuisance, through its members or its duly authorized representa-  
14 tives enter at reasonable times upon any private or public property.

15 (3) Conduct public hearings in accordance with ORS chapter 183.

16 (4) Publish its findings and recommendations as they are formulated  
17 relative to the alleged public nuisance.

18 (5) Give notice of any order relating to a particular violation of its  
19 state-wide objectives and regulations, a particular violation of the terms  
20 or conditions of a development permit or a particular violation of the pro-  
21 visions of this Act by mailing notice to the person or public body conduct-  
22 ing or proposing to conduct the development project affected in the manner  
23 provided by ORS chapter 183.

24 (6) Take appropriate action for the enforcement of orders promulgated  
25 as a result of any hearing. Any violation of an order of the commission  
26 under this section may be enjoined in civil abatement proceedings brought  
27 in the name of the State of Oregon. Proceedings thus brought by the  
28 commission shall set forth the dates of notice and hearing and the  
29 specific order of the commission, together with the facts giving rise to  
30 the violation.

31 **SECTION 40.** (1) Proceedings to abate alleged public nuisances under  
32 section 38 of this Act may be instituted at law or in equity, in the name  
33 of the State of Oregon upon relation of the Land Conservation and De-  
34 velopment Commission.

1 (2) However, notwithstanding any other provisions of law, the com-  
2 mission, without the necessity of prior administrative proceedings or  
3 hearing and entry of an order, may institute a suit at law or in equity  
4 in the name of the State of Oregon to abate or restrain threatened or  
5 existing nuisances under section 38 of this Act, whenever such nuisances  
6 create an emergency that requires immediate action to protect the public  
7 health, safety or welfare. No temporary restraining order or temporary  
8 injunction or abatement order shall be granted unless the defendant is  
9 accorded an opportunity to be heard thereon at a time and place set by  
10 the court in an order directing the defendant to appear at such time and  
11 place, and to then and there show cause, if any he has, why a temporary  
12 restraining order or temporary injunction or abatement order should not  
13 be granted. The order to show cause, together with affidavits supporting  
14 the application for such temporary injunction or abatement order, shall  
15 be served on the defendant as a summons. The defendant may submit  
16 counteraffidavits at such time and place. The commission shall not be  
17 required to furnish any bond in such proceeding. Neither members of the  
18 commission nor the director or members of their staffs shall be liable  
19 for any damages the defendant may sustain by reason of an injunction or  
20 restraining order or abatement order issued after such hearing.

21 (3) Cases filed under this section shall be given preference on the  
22 docket over all other civil cases except those given an equal preference  
23 by statute.

#### 24 **PART IV STATE-WIDE GUIDELINES, OBJECTIVES**

#### 25 **AND REGULATIONS**

26 **SECTION 41.** All comprehensive plans and any zoning, subdivision  
27 and other ordinances and regulations adopted by a state agency, planning  
28 district, city, county or special district to carry out such plans shall be  
29 in conformity with the state-wide planning guidelines, and the state-wide  
30 objectives and regulations approved by the commission or the Legislative  
31 Assembly.

32 **SECTION 42.** (1) Not later than the expiration of one year following  
33 the effective date of this Act, the department shall prepare state-wide  
34 objectives and regulations to be applied by state agencies, district councils,

1 cities, counties and special districts in planning for, regulating, reviewing  
2 and passing upon land conservation and development proposals to be  
3 carried out within areas of critical state concern designated in section 31  
4 of this Act. Within such period the department shall also prepare state-  
5 wide objectives and regulations to be applied by itself, state agencies,  
6 district councils, counties, cities and special districts in planning for, regu-  
7 lating, reviewing and passing upon applications for development permits  
8 for development projects constituting activities of critical state concern  
9 designated in section 32 of this Act.

10 (2) Upon completion of the preparation of the proposed state-wide  
11 objectives and regulations pursuant to subsection (1) of this section, the  
12 department shall submit them to the commission for approval.

13 **SECTION 43.** In preparing state-wide objectives and regulations for  
14 areas and activities of critical state concern designated under sections  
15 31 and 32 of this Act, the department shall consider the comprehensive  
16 plans of state agencies, planning districts, cities, counties and special  
17 districts in the state in order to preserve functional and local aspects of  
18 land conservation and development.

19 **SECTION 44.** (1) Upon receipt of the proposed state-wide objectives  
20 and regulations prepared and submitted to it by the department pursuant  
21 to section 42 of this Act, the commission shall:

22 (a) Hold at least one public hearing within each district on the pro-  
23 posed state-wide planning objectives and regulations for areas and activi-  
24 ties of critical state concern. The commission shall cause notice of the  
25 time and place of each such hearing to be published in a newspaper of  
26 general circulation within the district where the hearing is to be conducted  
27 not later than 30 days prior to the date of the hearing. The department  
28 shall supply a copy of its proposed state-wide objectives and regulations  
29 for areas and activities of critical state concern to the Governor, the  
30 committee, affected state agencies and special districts and to each city,  
31 county and district council upon request and without charge. The depart-  
32 ment shall provide copies of such proposed state-wide objectives and regula-

1 tions to other public agencies or persons upon request and payment of the  
2 cost of preparing the copies of the materials requested.

3 (b) Consider the recommendations and comments received from each  
4 of the public hearings conducted under paragraph (a) of this subsection,  
5 make any revisions in the proposed state-wide objectives and regulations  
6 for areas and activities of critical state concern that it considers necessary  
7 and approve the proposed objectives and regulations, as they may be  
8 revised by the commission.

9 (2) After the date of the approval by the commission of state-wide  
10 objectives and regulations for areas and activities of critical state concern  
11 designated in sections 31 and 32 of this Act, all planning, regulation, re-  
12 view and action upon land development proposals by the state, district  
13 councils, cities, counties or special districts shall be revised, if necessary,  
14 to comply with such objectives and regulations. The preparation of new  
15 comprehensive plans and any revision of any comprehensive plan of any  
16 special district, city, county, planning district or state agency shall comply  
17 with such objectives and regulations.

18 **SECTION 45.** Following the approval by the commission of state-  
19 wide objectives and regulations for areas and activities of critical state  
20 concern under section 44 of this Act, each district council shall review  
21 the comprehensive plans for land conservation and development within  
22 the planning district to assure that state-wide objectives and regulations  
23 approved by the commission for designated areas and activities of critical  
24 state concern within the planning district are implemented.

25 **SECTION 46.** (1) Not later than January 1, 1975, the department shall  
26 prepare state-wide planning guidelines for use by state agencies, cities,  
27 counties, district councils and special districts in preparing, adopting, re-  
28 vising and implementing existing and future comprehensive plans.

29 (2) Following the preparation of the proposed state-wide planning  
30 guidelines pursuant to subsection (1) of this section, the department shall  
31 submit the proposed state-wide planning guidelines for review and ap-  
32 proval by the commission in the manner provided in section 44 of this Act  
33 for the approval of state-wide objectives and regulations for areas and  
34 activities of critical state concern.

1     **SECTION 47.** Following the approval by the commission of state-wide  
2 planning guidelines, each district council shall review all comprehensive  
3 plans for land conservation and development within the planning district,  
4 both those adopted and those being prepared. The district council shall  
5 advise the state agency, city, county or special district preparing the com-  
6 prehensive plans whether or not the comprehensive plans are in conformity  
7 with the state-wide planning guidelines.

8                                   **PART V COMPREHENSIVE PLANS**

9     **SECTION 48.** Comprehensive plans and zoning, subdivision, and other  
10 ordinances and regulations adopted prior to the effective date of this Act  
11 shall remain in effect until revised, if necessary, under this Act.

12    **SECTION 49.** Prior to approval by the commission of its state-wide  
13 planning guidelines under section 46 of this Act, the goals listed in ORS  
14 215.515 shall be used in the preparation, revision, adoption or implementa-  
15 tion of any comprehensive plan.

16    **SECTION 50.** Any zoning, subdivision or other ordinance or regula-  
17 tion adopted by a state agency, district council, city, county or special  
18 district after the effective date of this Act shall be based upon its compre-  
19 hensive plan and a finding by it that:

20       (1) The designation of land use zones is reasonably related to the  
21 effects of permitted land uses upon public facilities and other services, in-  
22 cluding but not limited to, transportation systems, public schools, health  
23 care facilities, fire and police facilities and the impact of such uses upon  
24 the state's finite natural resources.

25       (2) Agricultural zones relate to the need to conserve prime farm lands  
26 and provide for a blocking of agricultural lands in order to minimize con-  
27 flicts between farm and nonfarm uses.

28       (3) Development of urban and nonfarm uses is conditioned upon the  
29 provision for the public facilities necessary to protect the public health,  
30 safety and welfare.

31       (4) Business, commercial and industrial zones relate to the needs of  
32 the area and that the location of such zones and the uses permitted therein

1 are based upon the effect of such land uses upon the adjacent lands and  
2 the community as a whole.

3 (5) Residential zones are located with respect to their respective re-  
4 quirements for public facilities and services and provide adequate regu-  
5 lations for varying densities of development.

6 (6) If substantial differences exist between adjacent land uses, transi-  
7 tional land uses are established between such conflicting land uses or that  
8 the development regulations for the more intensive land use provide ade-  
9 quate protection for adjacent property.

10 (7) Zoning regulations and ordinances do not prevent:

11 (a) The preservation of unique land uses and characteristics;

12 (b) The protection of life and property involved in the use of lands  
13 situated within flood plains; and

14 (c) Adequate housing for persons of low income within the area.

15 Section 51. ORS 227.240 is amended to read:

16 227.240. (1) For each district provided for by subsection (1) of ORS  
17 227.230, regulations may be imposed designating the class of use that shall  
18 be excluded or subjected to special regulations and designating the uses  
19 for which buildings may not be erected or altered, or designating the  
20 class of use which only shall be permitted. These regulations shall be  
21 designed to [*promote the public health, safety and general welfare. The*  
22 *council shall give reasonable consideration, among other things, to the*  
23 *character of the district, its peculiar suitability for particular uses, the*  
24 *conservation of property values and the direction of building development*  
25 *in accord with a well considered plan*] **comply with the considerations speci-**  
26 **fied therefor in section 50 of this 1973 Act .**

27 (2) The regulations provided for by subsection (2) of ORS 227.230 shall  
28 be uniform for each class of buildings throughout each district. The regu-  
29 lations in one or more districts may differ from those in other districts. The  
30 regulations shall be designed to secure safety from fire and other dangers  
31 and to promote the public health and welfare, and to secure provision for  
32 adequate light, air and reasonable access. The council shall pay reasonable  
33 regard to the character of buildings erected before May 29, 1919, in each



1 district, the value of the land, and the use to which it may be put to the  
2 end that the regulations may promote public health, safety and welfare.

3 **SECTION 52.** Each city or county shall prepare and the city council or  
4 the county governing body shall adopt the comprehensive plans required  
5 by ORS 215.505 to 215.535 and 215.990 in accordance with section 49 of this  
6 Act for those plans adopted prior to the expiration of one year following  
7 the date the commission approves its state-wide planning guidelines under  
8 section 46 of this Act. Plans adopted by cities after the expiration of one  
9 year following the date of approval of such guidelines by the commission  
10 shall be designed to comply with such guidelines and any subsequent  
11 amendments thereto.

12 Section 53. ORS 215.055 is amended to read:

13 215.055. (1) *[The]* **Any comprehensive plan** *[and all legislation and*  
14 *regulations]* **and all zoning, subdivision or other ordinances and regula-**  
15 **tions authorized by ORS 215.010 to 215.233 and adopted prior to the ex-**  
16 **piration of one year following the date of the approval of state-wide plan-**  
17 **ning guidelines under section 46 of this 1973 Act** shall be designed to pro-  
18 mote the public health, safety and general welfare and shall be based on  
19 the following considerations, among others: The various characteristics of  
20 the various areas in the county, the suitability of the areas for particular  
21 land uses and improvements, the land uses and improvements in the areas,  
22 trends in land improvement, density of development, property values, the  
23 needs of economic enterprises in the future development of the areas,  
24 needed access to particular sites in the areas, natural resources of the  
25 county and prospective needs for development thereof, and the public need  
26 for healthful, safe, aesthetic surroundings and conditions.

27 **(2) Any plan and all zoning, subdivision or other ordinances and regu-**  
28 **lations authorized by ORS 215.010 to 215.233 and adopted after the expira-**  
29 **tion of one year after the date of the approval of state-wide planning**  
30 **guidelines under section 46 of this 1973 Act shall be designed to comply**  
31 **with such state-wide planning guidelines and any subsequent revisions or**  
32 **amendments thereof.**

33 **(3) Any zoning, subdivisions or other ordinances or regulation author-**  
34 **ized by ORS 215.010 to 215.233 and adopted after the effective date of this**

1 1973 Act shall be based upon the considerations specified in section 50 of  
2 this 1973 Act.

3 [(2)] (4) In order to conserve natural resources of the state, any land  
4 use plan or zoning, subdivision or other ordinance adopted by a county  
5 shall take into consideration lands that are, can or should be utilized for  
6 sources or processing of mineral aggregates.

7 **SECTION 54.** (1) Following the approval by the commission of state-  
8 wide planning guidelines under section 46 of this Act, each district council  
9 shall review the comprehensive plans and all revisions thereof of state  
10 agencies, special districts, cities and counties within the planning district  
11 for compliance with state-wide planning guidelines and state-wide objec-  
12 tives and regulations approved by the commission.

13 (2) The district council shall approve comprehensive plans and re-  
14 visions thereof that comply with the state-wide planning guidelines and  
15 state-wide objectives and regulations approved by the commission.

16 (3) Upon the expiration of one year after the date of the approval of  
17 state-wide planning guidelines and annually thereafter, each district coun-  
18 cil shall report to the commission on the status of comprehensive plans  
19 within each planning district. Each such report shall include:

20 (a) Copies of comprehensive plans reviewed by the district council.

21 (b) For those areas or jurisdiction within the planning district without  
22 comprehensive plans, a statement and review of the progress made toward  
23 compliance with the state-wide planning guidelines and the state-wide  
24 objectives and regulations.

25 **SECTION 55.** (1) Notwithstanding any other provision of law, after  
26 the expiration of one year after the date of the approval of the initial state-  
27 wide planning guidelines under section 46 of this Act, the Governor shall  
28 prescribe, may amend and shall thereafter administer comprehensive plans  
29 and zoning, subdivision or other ordinances and regulations for lands  
30 within the boundaries of a county, whether or not within the boundaries  
31 of a city that:

32 (a) Are not subject to ORS 390.640 or to a comprehensive plan and  
33 zoning, subdivision or other ordinances and regulations adopted pursuant

1 to ORS 215.010 to 215.233 and subsections (1) and (2) of ORS 215.990 or  
2 zoned pursuant to any other state law or city ordinance; or

3 (b) Are subject to a comprehensive plan or a zoning, subdivision or  
4 other ordinance or regulation, that does not comply with the state-wide  
5 planning guidelines or state-wide objectives and regulations approved under  
6 this Act and any subsequent revisions or amendments thereof.

7 (2) If the city or county shall have under consideration a comprehen-  
8 sive plan or zoning, subdivision or other ordinances or regulations for lands  
9 described in subsection (1) of this section, and shall have shown satisfactory  
10 progress toward the adoption of such comprehensive plan or such ordi-  
11 nances or regulations, the Governor may grant a reasonable extension of  
12 time after the date set in this section for completion of such plan or such  
13 ordinances or regulations.

14 (3) Any comprehensive plan or zoning, subdivision or other ordinance  
15 or regulation adopted by the Governor under subsection (1) of this section  
16 shall comply with the state-wide planning guidelines and state-wide ob-  
17 jectives and regulations approved under this Act and all subsequent revi-  
18 sions or amendments thereof.

19 (4) The department shall cooperate with and assist the Governor in the  
20 preparation and administration of any comprehensive plan or zoning, sub-  
21 division or ordinances or regulations prescribed by him under subsection  
22 (1) of this section.

23 Section 56. ORS 215.510 is amended to read:

24 215.510. (1) Any comprehensive [*land use plans*] **plan for any city or**  
25 **county** prescribed or amended by the Governor pursuant to ORS 215.505  
26 **or section 55 of this 1973 Act** shall be in accordance with the standards  
27 provided in ORS 215.515 and the notice and hearing requirements provided  
28 in ORS 215.060.

29 (2) Any zoning, **subdivision or other ordinances and regulations for**  
30 **any city or county** prescribed or amended by the Governor pursuant to  
31 **ORS 215.505 or section 55 of this 1973 Act** shall be in accordance with the  
32 standards provided in ORS 215.055 and the notice and hearing require-  
33 ments provided in ORS 215.223.

1 (3) A comprehensive [*land use*] plan or zoning, **subdivision or other**  
2 **ordinance or regulation for any city or county** prescribed or amended by  
3 the Governor pursuant to ORS 215.505 or **section 55 of this 1973 Act** may be  
4 for any purpose provided in ORS 215.010 to 215.233 and subsections (1)  
5 and (2) of 215.990, except that the Governor may not prescribe build-  
6 ing regulations. The Governor may, however, cause to be instituted an  
7 appropriate proceeding to enjoin the construction of buildings or perform-  
8 ance of any other acts which would constitute a land use that does not con-  
9 form to the applicable [*land use*] **comprehensive plan or zoning, subdivi-**  
10 **sion or other ordinance or regulation.**

11 (4) Any hearings required by this section may be held by the Governor,  
12 or by a person designated by the Governor, and all such hearings shall be  
13 held in the county seat of the county **or in the city** in which said compre-  
14 hensive [*land use*] plan or zoning, **subdivision or other ordinance or regu-**  
15 **lation is to be prescribed.**

16 Section 57. ORS 215.515 is amended to read:

17 215.515. (1) Comprehensive physical planning, **adopted by the Gov-**  
18 **ernor prior to the expiration of one year following the date of the approval**  
19 **of state-wide planning guidelines under section 46 of this 1973 Act**, should  
20 provide guidance for physical development within the state responsive to  
21 economic development, human resource development, natural resource  
22 development and regional and metropolitan area development. It should  
23 assist in attainment of the optimum living environment for the state's citi-  
24 zenry and assure sound housing, employment opportunities, educational  
25 fulfillment and sound health facilities. State plans should relate to inter-  
26 mediate and long-range growth objectives. The plans should set a pattern  
27 upon which state agencies and local government may base their programs  
28 and local area plans. Goals for comprehensive physical planning are:

29 [(1)] (a) To preserve the quality of the air [*and*], water and land  
30 resources of the state.

31 [(2)] (b) To conserve open space and protect natural and scenic re-  
32 sources.

33 [(3)] (c) To provide for the recreational needs of citizens of the state  
34 and visitors.

1    [(4)] (d) To conserve prime farm lands for the production of crops  
2 [and].

3    (e) To provide for an orderly and efficient transition from rural to  
4 urban land use.

5    [(5)] (f) To protect life and property in areas subject to floods, land-  
6 slides and other natural disasters.

7    [(6)] (g) To provide and encourage a safe, convenient and economic  
8 transportation system including all modes of transportation: Air, water,  
9 rail, highway and mass transit, and recognizing differences in the social  
10 costs in the various modes of transportation.

11   [(7)] (h) To develop a timely, orderly and efficient arrangement of  
12 public facilities and services to serve as a framework for urban and rural  
13 development.

14   [(8)] (i) To diversify and improve the economy of the state.

15   [(9)] (j) To ensure that the development of properties within the  
16 state is commensurate with the character and the physical limitations of  
17 the land.

18   **(2) Comprehensive physical planning adopted by the Governor after**  
19 **the expiration of one year after the date of the approval of state-wide plan-**  
20 **ning guidelines under section 46 of this 1973 Act shall be designed to**  
21 **comply with such state-wide planning guidelines and any subsequent**  
22 **revisions or amendments thereof.**

23   Section 58. ORS 215.535 is amended to read:

24   215.535. In addition to the remedy prescribed in subsection (3) of ORS  
25 215.510, the Governor may cause to be instituted any civil action or suit he  
26 considers appropriate to remedy violations of any comprehensive [*land*  
27 *use*] plan or zoning, **subdivision or other ordinance or regulation pre-**  
28 **scribed by the Governor pursuant to ORS 215.505 of section 55 of this 1973**  
29 **Act.**

30   **SECTION 59.** Whenever the Governor prescribes a comprehensive plan  
31 or zoning, subdivision or other ordinances or regulations for lands des-  
32 cribed in subsection (1) of section 55 of this Act, the costs incurred by the  
33 Governor and the department in the preparation and administration of

1 such plan or ordinances or regulations shall be borne by the city or county  
2 for which the Governor has proposed such plan or ordinances or regula-  
3 tions. Upon presentation by the Governor to the governing body of the city  
4 or county of a certified, itemized statement of costs, the governing body  
5 shall order payment to the Governor out of any available funds. With re-  
6 spect to a city or county, if no payment is made by the governing body with-  
7 in 30 days thereafter, the Governor shall submit to the Secretary of State his  
8 certified, itemized statement of such costs and the Governor shall be re-  
9 imbursed upon the order of the Secretary of State to the State Treasurer,  
10 from the city's or county's share of the state's cigarette and liquor revenues.

11 **PART VI APPEALS**

12 **SECTION 60.** (1) In the manner provided in sections 61 to 63 of this  
13 Act, the commission shall review upon:

14 (a) Petition by a district council, a comprehensive plan provision  
15 of a state agency, city, county or special district that the district council  
16 considers to be in conflict with approved state-wide planning guidelines  
17 or approved state-wide objectives or regulations.

18 (b) Petition by a district council, a land conservation and development  
19 action taken by a state agency, city, county or special district with respect  
20 to an area or activity of critical state concern that the district council  
21 considers to be in conflict with approved state-wide planning guide-  
22 lines or approved state-wide objectives or regulations.

23 (c) Petition by a state agency, city, county or special district, any dis-  
24 trict council action that the state agency, city, county, or special district  
25 considers to be improperly taken or outside the scope of the district  
26 council's authority under this Act.

27 (d) Petition by any person or group of persons, a provision of an  
28 adopted comprehensive plan or an action taken by a district council.

29 (2) A petition filed with the commission pursuant to subsection (1)  
30 of this section must be filed not later than 60 days (excluding Saturdays  
31 and holidays) after the date of the final adoption or approval of the  
32 action or comprehensive plan upon which the petition is based.

33 **SECTION 61.** (1) All review proceedings conducted by the com-  
34 mission pursuant to section 60 of this Act shall be based on the admini-

1 strative record, if any, prepared with respect to the proceedings for the  
2 adoption or approval of the comprehensive plan provision or action that  
3 is the subject of the review proceeding.

4 (2) The commission shall adopt such rules, procedures and regulations  
5 for the conduct of review proceedings held pursuant to section 60 of this  
6 Act, in accordance with the provisions of ORS 183.310 to 183.500 for  
7 hearings and notice in contested cases.

8 (3) A district council, city, county, state agency, special district or  
9 any person or group of persons may intervene in and be made a party  
10 to any review proceeding conducted by the commission with the approval  
11 of the commission upon the request of the hearings officer appointed to  
12 conduct such proceeding or upon the approval by the hearings officer  
13 of a request by such agency, person or group of persons for intervention  
14 in the review proceeding.

15 **SECTION 62.** (1) In carrying out its duties under section 60 of  
16 this Act, the chairman of the commission shall assign each petition to be  
17 reviewed by the commission to a hearings officer who shall conduct the  
18 review proceeding.

19 (2) A hearings officer shall conduct a review proceeding in accord-  
20 ance with the rules, procedures and regulations adopted by the commission.  
21 Upon the conclusion of a hearing, the hearings officer shall promptly  
22 determine the matter, prepare a recommendation for commission action  
23 upon the matter and submit a copy of his recommendation to the com-  
24 mission and to each party to the proceeding.

25 (3) The commission shall review the recommendation of the hearings  
26 officer and the record of the proceeding and issue its order with respect to  
27 the review proceeding within 60 days following the date of the filing of  
28 the petition upon which such review proceeding is based. The commission  
29 may adopt, reject or amend the recommendation of the hearings officer  
30 in any matter.

31 (4) No order of the commission issued under subsection (3) of this  
32 section is valid unless all members of the commission have received the  
33 recommendation of the hearings officer in the matter and at least three  
34 members of the commission concur in its action in the matter.

1 (5) Any party to a review proceeding before the commission who is  
2 aggrieved by the order issued by the commission in the matter may appeal  
3 the order of the commission in the manner provided in ORS 183.480 to  
4 183.500 for appeals from final orders in contested cases.

5 **SECTION 63.** (1) If, upon its review of the recommendation of a  
6 hearings officer and the record of the review proceeding prepared follow-  
7 ing a review proceeding before the commission, the commission is unable  
8 to reach a decision in the matter without further information or evidence  
9 not contained in the record of the proceeding, it may refer the matter back  
10 to the hearings officer and request that the additional information or evi-  
11 dence be acquired by him or that he correct any errors or deficiencies  
12 found by the commission to exist in his recommendation or record of  
13 the proceeding.

14 (2) In case of a referral of a matter back to the hearings officer pur-  
15 suant to subsection (1) of this section, the 60-day period referred to in  
16 subsection (3) of section 62 of this Act is suspended during the period  
17 beginning on the date of the commission's referral to the hearings officer  
18 and ending on the date that the hearings officer submits the revised  
19 recommendation or record as requested by the commission.

20 **PART VII LEGISLATIVE REVIEW**

21 **SECTION 64.** (1) Prior to the expiration of 60 days after the date  
22 of the convening of the Fifty-eighth Legislative Assembly of the State  
23 of Oregon, the commission shall prepare and submit a report to the  
24 Legislative Assembly. Such report shall include:

25 (a) The modifications of and additions to areas or activities of critical  
26 state concern as recommended by the commission under section 33 of this  
27 Act.

28 (b) State-wide planning guidelines approved by the commission under  
29 section 46 of this Act.

30 (c) State-wide objectives and regulations for areas and activities of  
31 critical concern approved by the commission under section 44 of this Act.

32 (d) A summary of the orders issued by the commission following  
33 review proceedings conducted pursuant to section 60 of this Act; and



1 (e) A summary of the activities of the department, district councils,  
2 cities and counties in land conservation and development in the state.

3 (2) In addition to the contents of the report required under subsection  
4 (1) of this section, the commission may also submit proposed legislation  
5 that it considers necessary in furthering the purposes of this Act.

6 **SECTION 65.** The committee shall submit to the Legislative Assembly  
7 its comments and recommendations on the contents and provisions of the  
8 report required by section 64.

9 **SECTION 66.** (1) The report submitted by the commission to the  
10 Legislative Assembly pursuant to subsection (1) of section 64 of this Act  
11 shall be considered approved by the Legislative Assembly upon:

12 (a) The passage by both Houses of the Legislative Assembly of a joint  
13 resolution approving the report; or

14 (b) The expiration of 90 days after the date of the submission of the  
15 report to the Legislative Assembly, or the date of the adjournment of  
16 such legislative session, whichever occurs first.

17 (2) The Legislative Assembly may amend or revise the contents of  
18 the report or may refer the report back to the commission for further  
19 study with a statement of the provisions of the report that it finds unsuit-  
20 able, accompanied by the reasons for each such finding, and its suggestions  
21 for the amendment or revision by the commission of the report.

22 (3) Upon the date of the completion and publication by the commission  
23 of the revision of its report in conformity with the directions of the  
24 Legislative Assembly, the report shall be considered approved by the  
25 Legislative Assembly under this section.

26 (4) The committee shall determine whether or not the report, if  
27 revised by the commission under subsection (2) of this section, is in con-  
28 formity with the directions of the Legislative Assembly.

29 **SECTION 67.** (1) Following the approval under section 66 of this  
30 Act by the Legislative Assembly of the report, the commission may  
31 revise the state-wide planning guidelines and its state-wide objectives  
32 and regulations for areas and activities of critical state concern in the  
33 manner provided in sections 44 and 46 of this Act for the initial adoption  
34 of such guidelines, objectives and regulations.

1 (2) Any revision or amendment approved by the commission under  
2 subsection (1) of this section shall be submitted to the next following regu-  
3 lar session of the Legislative Assembly for final approval.

4 (3) Any action that is taken by any agency of this state, the commis-  
5 sion, a district council, a city or county of this state in reliance upon a  
6 state-wide planning guideline or a state-wide objective or regulation or  
7 any amendment thereof that has been approved by the commission shall  
8 not be invalidated by subsequent refusal by the Legislative Assembly  
9 to approve or by any subsequent amendment thereof by the Legislative  
10 Assembly.

11 **SECTION 68.** During each biennium following July 1, 1975, the com-  
12 mission shall review its activities under this Act and submit a report to  
13 the Legislative Assembly. Such report shall include:

14 (1) Modifications of and additions to designations of areas or activities  
15 of critical state concern in the state;

16 (2) Modifications of and additions to state-wide objectives and regu-  
17 lations for areas and activities of critical state concern;

18 (3) Modifications of and additions to state-wide planning guidelines;

19 (4) A summary of the orders issued under section 60 of this Act since  
20 the date of the previous report by the commission to the Legislative  
21 Assembly; and

22 (5) A summary of the activities of the department, district councils,  
23 cities and counties in land conservation and development in the state  
24 since the date of the previous report by the commission to the Legislative  
25 Assembly.

26 **SECTION 69.** The committee shall submit to each legislative session  
27 its comments and recommendations on the contents and provisions of  
28 each report submitted by the commission under section 68 of this Act.

29 **SECTION 70.** Each report submitted to the Legislative Assembly pur-  
30 suant to section 68 of this Act shall be considered approved in the same  
31 manner and under the same conditions provided for the approval of the  
32 report described in section 66 of this Act.

1

**PART VIII MISCELLANEOUS**

2

**SECTION 71.** The part designations and unit captions used in this Act  
3 are provided only for the convenience of locating provisions of this Act,  
4 and are not part of the statutory law of this state.

5

**SECTION 72.** This Act being necessary for the immediate preserva-  
6 tion of the public peace, health and safety, an emergency is declared to  
7 exist, and this Act takes effect on July 1, 1973.



**ENG.-RE-ENGROSSED**

(March 23 amendments not printed)

**Senate Bill 100**

Ordered by the Senate April 9  
(Including Amendments by Senate March 23, April 9 and April 18)

Sponsored by Senators MACPHERSON, HALLOCK

**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.

Creates Department of Land Conservation and Development, composed of Land Conservation and Development Commission, director and employees. Establishes Joint Legislative Committee on Land Use, as standing committee, to advise and assist department in carrying out its duties.

Authorizes commission to designate activities of state-wide significance in public transportation, public sewerage systems and public schools and to make recommendation for additional designations, subject to approval of Legislative Assembly. Requires commission, subject to approval of Legislative Assembly, to promulgate and implement state-wide planning goals consistent with regional, county and city concerns for such activities and state-wide planning guidelines for land use planning in state. Requires state agencies, planning districts, cities, counties and special districts to comply with state-wide planning guidelines and state-wide planning goals in adoption of comprehensive plans and zoning, subdivision or other ordinances and regulations. Makes counties responsible for coordinating all land use planning activities within counties, except for cities having population of 300,000 or more.

Requires permit to be issued by commission for development projects constituting activities of state-wide significance. Provides for enforcement of permit requirements. Authorizes injunction of activities of state-wide significance carried on without permit.

Permits voluntary association of counties for planning purposes. Provides for establishment of regional planning agency composed of cities and counties, subject to approval of voters in proposed region. Authorizes voluntary association of local governments to perform coordinative planning functions of counties under Act.

**Continued on Page 2**

**NOTE:** Matter in **bold face** in an amended section is new; matter [*italic and bracketed*] is existing law to be omitted; complete new sections begin with **SECTION**.

**Continued from Page 1**

Requires, within one year after approval of state-wide planning guidelines, all comprehensive plans and zoning, subdivision or other ordinances or regulations to comply with such guidelines. Authorizes commission to perform planning and zoning functions of noncomplying governmental units. Provides, in case of nonpayment by city or county, for reimbursement of commission from city or county share of state liquor and cigarette revenues. Establishes appeal procedures.

Provides for review by commission of specified land conservation and development actions and plans. Establishes Land Conservation and Development Account in General Fund for use by department.

1

**A BILL FOR AN ACT**

2 Relating to land use; creating new provisions; amending ORS 215.055,  
3 215.510, 215.515, 215.535 and 453.345; and appropriating money.

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

5

**PART I INTRODUCTION**

6

**PREAMBLE**

7

**SECTION 1.** The Legislative Assembly finds that:

8 (1) Uncoordinated use of lands within this state threaten the orderly  
9 development, the environment of this state and the health, safety, order,  
10 convenience, prosperity and welfare of the people of this state.

11 (2) To promote coordinated administration of land uses consistent with  
12 comprehensive plans adopted throughout the state, it is necessary to  
13 establish a process for the review of state agency, city, county and special  
14 district land conservation and development plans for compliance with  
15 state-wide planning goals and guidelines.

16 (3) Except as otherwise provided in subsection (4) of this section,  
17 cities and counties should remain as the agencies to consider, promote and  
18 manage the local aspects of land conservation and development for the  
19 best interests of the people within their jurisdictions.

20 (4) The promotion of coordinated state-wide land conservation and  
21 development requires the creation of a state-wide planning agency to  
22 prescribe planning goals and objectives to be applied by state agencies,  
23 cities, counties and special districts throughout the state.

24 (5) The impact of proposed development projects, constituting activities  
25 of state-wide significance upon the public health, safety and welfare,  
26 requires a system of permits reviewed by a state-wide agency to carry out  
27 state-wide planning goals and guidelines prescribed for application for  
28 activities of state-wide significance throughout this state.

29

**POLICY STATEMENT**

30

**SECTION 2.** The Legislative Assembly declares that, in order to assure  
31 the highest possible level of liveability in Oregon, it is necessary to provide  
32 for properly prepared and coordinated comprehensive plans for cities and  
33 counties, regional areas and the state as a whole. These comprehensive plans:

- 1 (1) Must be adopted by the appropriate governing body at the local  
2 and state levels;
- 3 (2) Are expressions of public policy in the form of policy statements,  
4 generalized maps and standards and guidelines;
- 5 (3) Shall be the basis for more specific rules, regulations and ordinances  
6 which implement the policies expressed through the comprehensive plans;
- 7 (4) Shall be prepared to assure that all public actions are consistent  
8 and coordinated with the policies expressed through the comprehensive  
9 plans; and
- 10 (5) Shall be regularly reviewed and, if necessary, revised to keep them  
11 consistent with the changing needs and desires of the public they are  
12 designed to serve.

### 13 DEFINITIONS

14 **SECTION 3.** As used in this Act, unless the context requires otherwise:

- 15 (1) "Activity of state-wide significance" means a land conservation and  
16 development activity designated pursuant to section 25 of this Act.
- 17 (2) "Commission" means the Land Conservation and Development  
18 Commission.
- 19 (3) "Committee" means the Joint Legislative Committee on Land Use.
- 20 (4) "Comprehensive plan" means a generalized, coordinated land use  
21 map and policy statement of the governing body of a state agency, city,  
22 county or special district that interrelates all functional and natural sys-  
23 tems and activities relating to the use of lands, including but not limited  
24 to sewer and water systems, transportation systems, educational systems,  
25 recreational facilities, and natural resources and air and water quality  
26 management programs. "Comprehensive" means all-inclusive, both in terms  
27 of the geographic area covered and functional and natural activities and  
28 systems occurring in the area covered by the plan. "General nature" means  
29 a summary of policies and proposals in broad categories and does not neces-  
30 sarily indicate specific locations of any area, activity or use. A plan is "co-  
31 ordinated" when the needs of all levels of governments, semipublic and  
32 private agencies and the citizens of Oregon have been considered and  
33 accommodated as much as possible. "Land" includes water, both surface  
34 and subsurface, and the air.

1 (5) "Department" means the Department of Land Conservation and  
2 Development.

3 (6) "Director" means the Director of the Department of Land Con-  
4 servation and Development.

5 (7) "Special district" means any unit of local government, other than  
6 a city or county, authorized and regulated by statute and includes, but is  
7 not limited to: Water control districts, irrigation districts, port districts,  
8 regional air quality control authorities, fire districts, school districts, hos-  
9 pital districts, mass transit districts and sanitary districts.

10 (8) "Voluntary association of local governments" means a regional  
11 planning agency in this state officially designated by the Governor pur-  
12 suant to the federal Office of Management and Budget Circular A-95 as  
13 a regional clearinghouse.

## 14 **PART II ORGANIZATION, ROLES AND RESPONSIBILITIES**

### 15 **DEPARTMENT OF LAND CONSERVATION AND DEVELOPMENT**

16 **SECTION 4.** The Department of Land Conservation and Development  
17 is established. The department shall consist of the Land Conservation and  
18 Development Commission, the director and their subordinate officers and  
19 employes.

20 **SECTION 5. (1)** There is established a Land Conservation and De-  
21 velopment Commission consisting of seven members appointed by the  
22 Governor, subject to confirmation by the Senate in the manner provided  
23 in ORS 171.560 and 171.570.

24 (2) In making appointments under subsection (1) of this section, the  
25 Governor shall select from residents of this state one member from each  
26 congressional district and the remaining members from the state at large.  
27 At least one and no more than two members shall be from Multnomah  
28 County.

29 (3) The term of office of each member of the commission is four years,  
30 but a member may be removed by the Governor for cause. Before the ex-  
31 piration of the term of a member, the Governor shall appoint a successor.  
32 No person shall serve more than two full terms as a member of the com-  
33 mission.

34 (4) If there is a vacancy for any cause, the Governor shall make an



1 appointment to become immediately effective for the unexpired term.

2 **SECTION 6.** Notwithstanding the term of office specified in section 5  
3 of this Act, of the members first appointed to the commission:

4 (1) Two shall serve for a term ending June 30, 1974.

5 (2) Two shall serve for a term ending June 30, 1975.

6 (3) Two shall serve for a term ending June 30, 1976.

7 (4) One shall serve for a term ending June 30, 1977.

8 **SECTION 7.** (1) The commission shall select one of its members as  
9 chairman and another member as vice chairman, for such terms and with  
10 duties and powers necessary for the performance of the functions of such  
11 offices as the commission determines. The vice chairman of the commission  
12 shall act as the chairman of the commission in the absence of the chairman.

13 (2) A majority of the members of the commission constitutes a quorum  
14 for the transaction of business.

15 **SECTION 8.** Members of the commission are entitled to compensation  
16 and expenses as provided in ORS 292.495.

17 **SECTION 9.** The commission shall:

18 (1) Direct the performance by the director and his staff of their  
19 functions under this Act.

20 (2) In accordance with the provisions of ORS chapter 183, promulgate  
21 rules that it considers necessary in carrying out this Act.

22 (3) Cooperate with the appropriate agencies of the United States, this  
23 state and its political subdivisions, any other state, any interstate agency,  
24 any person or groups of persons with respect to land conservation and  
25 development.

26 (4) Appoint advisory committees to aid it in carrying out this Act and  
27 provide technical and other assistance, as it considers necessary, to each  
28 such committee.

29 **SECTION 10.** The commission may:

30 (1) Apply for and receive moneys from the Federal Government and  
31 from this state or any of its agencies or departments.

32 (2) Contract with any public agency for the performance of services or  
33 the exchange of employes or services by one to the other necessary in  
34 carrying out this Act.

1 (3) Contract for the services of and consultation with professional  
2 persons or organizations, not otherwise available through federal, state and  
3 local governmental agencies, in carrying out its duties under this Act.

4 (4) Perform other functions required to carry out this Act.

5 **SECTION 11.** Pursuant to the provisions of this Act, the commission  
6 shall:

7 (1) Establish state-wide planning goals consistent with regional, county  
8 and city concerns;

9 (2) Issue permits for activities of state-wide significance;

10 (3) Prepare inventories of land uses;

11 (4) Prepare state-wide planning guidelines;

12 (5) Review comprehensive plans for conformance with state-wide plan-  
13 ning goals;

14 (6) Coordinate planning efforts of state agencies to assure conformance  
15 with state-wide planning goals and compatability with city and county  
16 comprehensive plans;

17 (7) Insure widespread citizen involvement and input in all phases of  
18 the process;

19 (8) Prepare model zoning, subdivision and other ordinances and regu-  
20 lations to guide state agencies, cities, counties and special districts in imple-  
21 menting state-wide planning goals, particularly those for the areas listed in  
22 subsection (2) of section 34 of this Act;

23 (9) Review and recommend to the Legislative Assembly the designation  
24 of areas of critical state concern;

25 (10) Report periodically to the Legislative Assembly and to the com-  
26 mittee; and

27 (11) Perform other duties required by law.

28 **SECTION 12.** If an interstate land conservation and development plan-  
29 ning agency is created by an interstate agreement or compact entered into  
30 by this state, the commission shall perform the functions of this state with  
31 respect to the agreement or compact. If the functions of the interstate plan-  
32 ning agency duplicate any of the functions of the commission under this  
33 Act, the commission may:

34 (1) Negotiate with the interstate agency in defining the areas of

1 responsibility of the commission and the interstate planning agency; and

2 (2) Cooperate with the interstate planning agency in the performance  
3 of its functions.

4 **SECTION 13.** (1) The commission shall appoint a person to serve as  
5 the Director of the Department of Land Conservation and Development.  
6 The director shall hold his office at the pleasure of the commission and his  
7 salary shall be fixed by the commission unless otherwise provided by law.

8 (2) In addition to his salary, the director shall be reimbursed, subject  
9 to any applicable law regulating travel and other expenses of state officers  
10 and employes, for actual and necessary expenses incurred by him in the  
11 performance of his official duties.

12 **SECTION 14.** Subject to policies adopted by the commission, the di-  
13 rector shall:

14 (1) Be the administrative head of the department.

15 (2) Coordinate the activities of the department in its land conservation  
16 and development functions with such functions of federal agencies, other  
17 state agencies, cities, counties and special districts.

18 (3) Appoint, reappoint, assign and reassign all subordinate officers and  
19 employes of the department, prescribe their duties and fix their compen-  
20 sation, subject to the State Merit System Law.

21 (4) Represent this state before any agency of this state, any other state  
22 or the United States with respect to land conservation and development  
23 within this state.

24 **SECTION 15.** (1) There is established in the General Fund in the  
25 State Treasury the Land Conservation and Development Account. Moneys  
26 in the account are continuously appropriated for the purpose of carrying  
27 out the provisions of this Act.

28 (2) All fees, moneys and other revenue received by the department  
29 or the committee shall be deposited in the Land Conservation and Develop-  
30 ment Account.

31 **OREGON COASTAL CONSERVATION AND**  
32 **DEVELOPMENT COMMISSION**

33 **SECTION 16.** (1) The Land Conservation and Development Commis-  
34 sion, by agreement with the Oregon Coastal Conservation and Development

1 Commission created by ORS 191.120 may delegate to the Oregon Coastal  
2 Conservation and Development Commission, any of the functions of the  
3 Land Conservation and Development Commission. However, the Land  
4 Conservation and Development Commission must review and grant ap-  
5 proval prior to any action taken by the Oregon Coastal Conservation and  
6 Development Commission with respect to a delegated function.

7 (2) The Land Conservation and Development Commission may provide  
8 staff and financial assistance to the Oregon Coastal Conservation and  
9 Development Commission in carrying out duties under this section.

#### 10 CITIES AND COUNTIES

11 **SECTION 17.** Cities and counties shall exercise their planning and  
12 zoning responsibilities in accordance with this Act and the state-wide plan-  
13 ning goals and guidelines approved under this Act.

14 **SECTION 18.** Pursuant to this Act, each city and county in this state  
15 shall:

16 (1) Prepare and adopt comprehensive plans consistent with state-wide  
17 planning goals and guidelines approved by the commission; and

18 (2) Enact zoning, subdivision and other ordinances or regulations to  
19 implement their comprehensive plans.

20 **SECTION 19.** (1) In addition to the responsibilities stated in sections  
21 17 and 18 of this Act, each county through its governing body, shall be  
22 responsible for coordinating all planning activities affecting land uses  
23 within the county, including those of the county, cities, special districts and  
24 state agencies, to assure an integrated comprehensive plan for the entire  
25 area of the county. For purposes of this subsection, the responsibility of  
26 the county described in this subsection shall not apply to cities having a  
27 population of 300,000 or more, and such cities shall exercise, within the  
28 incorporated limits thereof, the authority vested in counties by this sub-  
29 section.

30 (2) For the purposes of carrying out the provisions of this Act, counties  
31 may voluntarily join together with adjacent counties as authorized in ORS  
32 chapter 190.

33 (3) Whenever counties and cities representing 51 percent of the popu-  
34 lation in their area petition the commission for an election in their area to

1 form a regional planning agency to exercise the authority of the counties  
2 under subsection (1) of this section in the area, the commission shall  
3 review the petition. If it finds that the area described in the petition forms  
4 a reasonable planning unit, it shall call an election in the area to form a  
5 regional planning agency. The election shall be conducted in the manner  
6 provided in ORS chapter 259. The county clerk shall be considered the  
7 election officer and the commission shall be considered the district election  
8 authority. The agency shall be considered established if the majority of  
9 votes favor the establishment.

10 (4) If a voluntary association of local governments adopts a resolution  
11 ratified by each participating county and a majority of the participating  
12 cities therein which authorizes the association to perform the review, ad-  
13 visory and coordination functions assigned to the counties under sub-  
14 section (1) of this section, the association may perform such duties.

#### 15 SPECIAL DISTRICTS AND STATE AGENCIES

16 SECTION 20. Special districts shall exercise their planning duties,  
17 powers and responsibilities and take actions that are authorized by law  
18 with respect to programs affecting land use in accordance with state-wide  
19 planning goals and guidelines approved pursuant to this Act.

20 SECTION 21. State agencies shall carry out their planning duties,  
21 powers and responsibilities and take actions that are authorized by law  
22 with respect to programs affecting land use in accordance with state-wide  
23 planning goals and guidelines approved pursuant to this Act.

#### 24 JOINT LEGISLATIVE COMMITTEE ON LAND USE

25 SECTION 22. The Joint Legislative Committee on Land Use is estab-  
26 lished as a joint committee of the Legislative Assembly. The committee  
27 shall select an executive secretary who shall serve at the pleasure of the  
28 committee and under its direction.

29 SECTION 23. (1) The Joint Legislative Committee on Land Use shall  
30 consist of four members of the House of Representatives appointed by the  
31 Speaker and three members of the Senate appointed by the President. No  
32 more than three House members of the committee shall be of the same  
33 political party. No more than two Senate members of the committee shall  
34 be of the same political party.

1 (2) The chairman of the House and Senate Environment and Land  
2 Use Committees of the Fifty-seventh Legislative Assembly of the State of  
3 Oregon shall be two of the members appointed under subsection (1) of  
4 this section for the period beginning with the effective date of this Act.

5 (3) The committee has a continuing existence and may meet, act and  
6 conduct its business during sessions of the Legislative Assembly or any  
7 recess thereof, and in the interim period between sessions.

8 (4) The term of a member shall expire upon the convening of the Legis-  
9 lative Assembly in regular session next following the commencement of  
10 the member's term. When a vacancy occurs in the membership of the  
11 committee in the interim between sessions, until such vacancy is filled, the  
12 membership of the committee shall be deemed not to include the vacant  
13 position for the purpose of determining whether a quorum is present and  
14 a quorum is the majority of the remaining members.

15 (5) Members of the committee shall be reimbursed for actual and  
16 necessary expenses incurred or paid in the performance of their duties as  
17 members of the committee, such reimbursement to be made from funds  
18 appropriated for such purposes, after submission of approved voucher  
19 claims.

20 (6) The committee shall select a chairman. The chairman may, in addi-  
21 tion to his other authorized duties, approve voucher claims.

22 (7) Action of the committee shall be taken only upon the affirmative  
23 vote of the majority of the members of the committee.

24 **SECTION 24.** The committee shall:

25 (1) Advise the department on all matters under the jurisdiction of the  
26 department;

27 (2) Review and make recommendations to the Legislative Assembly  
28 on proposals for additions to or modifications of designations of activities of  
29 state-wide significance, and for designations of areas of critical state  
30 concern;

31 (3) Review and make recommendations to the Legislative Assembly  
32 on state-wide planning goals and guidelines approved by the commission;

33 (4) Study and make recommendations to the Legislative Assembly  
34 on the implementation of a program for compensation by the public to

1 owners of lands within this state for the value of any loss of use of such  
2 lands resulting directly from the imposition of any zoning, subdivision or  
3 other ordinance or regulation regulating or restricting the use of such  
4 lands. Such recommendations shall include, but not be limited to, proposed  
5 methods for the valuation of such loss of use and proposed limits, if any,  
6 to be imposed upon the amount of compensation to be paid by the public  
7 for any such loss of use; and

8 (5) Make recommendations to the Legislative Assembly on any other  
9 matter relating to land use planning in Oregon.

### 10 PART III ACTIVITIES OF STATE-WIDE SIGNIFICANCE

#### 11 DESIGNATION

12 SECTION 25. (1) The following activities may be designated by the  
13 commission as activities of state-wide significance if the commission deter-  
14 mines that by their nature or magnitude they should be so considered:

15 (a) The planning and siting of public transportation facilities.

16 (b) The planning and siting of public sewerage systems, water supply  
17 systems and solid waste disposal sites and facilities.

18 (c) The planning and siting of public schools.

19 (2) Nothing in this Act supersedes any duty, power or responsibility  
20 vested by statute in any state agency relating to its activities described in  
21 subsection (1) of this section; except that, a state agency may neither  
22 implement any such activity nor adopt any plan relating to such an activity  
23 without the prior review and comment of the commission.

24 SECTION 26. (1) In addition to the activities of state-wide signifi-  
25 cance that are designated by the commission under section 25 of this Act,  
26 the commission may recommend to the committee the designation of addi-  
27 tional activities of state-wide significance. Each such recommendation shall  
28 specify the reasons for the proposed designation of the activity of state-  
29 wide significance, the dangers that would result from such activity being  
30 uncontrolled and the suggested state-wide planning goals and guidelines  
31 to be applied for the proposed activity.

32 (2) The commission may recommend to the committee the designation  
33 of areas of critical state concern. Each such recommendation shall specify  
34 the criteria developed and reasons for the proposed designation, the damages

1 that would result from uncontrolled development within the area, the  
2 reasons for the implementation of state regulations for the proposed area  
3 and the suggested state regulations to be applied within the proposed area.

4 (3) The commission may act under subsections (1) and (2) of this sec-  
5 tion on its own motion or upon the recommendation of a state agency, city,  
6 county or special district. If the commission receives a recommendation  
7 from a state agency, city, county or special district and finds the proposed  
8 activity or area to be unsuitable for designation, it shall notify the state  
9 agency, city, county or special district of its decision and its reasons there-  
10 for.

11 (4) Immediately following its decision to favorably recommend to  
12 the Legislative Assembly the designation of an additional activity of state-  
13 wide significance or the designation of an area of critical state concern,  
14 the commission shall submit the proposed designation accompanied by the  
15 supporting materials described in subsections (1) and (2) of this section to  
16 the committee for its review.

#### 17 **PERMITS FOR ACTIVITIES OF STATE-WIDE SIGNIFICANCE**

18 **SECTION 27.** (1) On and after the date the commission has approved  
19 state-wide planning goals and guidelines for activities of state-wide sig-  
20 nificance designated under section 25 of this Act, no proposed project con-  
21 stituting such an activity may be initiated by any person or public agency  
22 without a planning and siting permit issued by the commission therefor.

23 (2) Any person or public agency desiring to initiate a project consti-  
24 tuting an activity of state-wide significance shall apply to the department  
25 for a planning and siting permit for such project. The application shall  
26 contain the plans for the project and the manner in which such project  
27 has been designed to meet the goals and guidelines for activities of state-  
28 wide significance and the comprehensive plans for the county within  
29 which the project is proposed, and any other information required by the  
30 commission as prescribed by rule of the commission.

31 (3) The department shall transmit copies of the application to affected  
32 county and state agencies for their review and recommendation.

33 (4) The county governing body and the state agencies shall review  
34 an application transmitted to it under subsection (3) of this section and



1 shall, within 30 days after the date of the receipt of the application, sub-  
2 mit their recommendations on the application to the commission.

3 (5) If the commission finds after review of the application and the  
4 comments submitted by the county governing body and state agencies that  
5 the proposed project complies with the state-wide goals and guidelines for  
6 activities of state-wide significance and the comprehensive plans within  
7 the county, it shall approve the application and issue a planning and siting  
8 permit for the proposed project to the person or public agency applying  
9 therefor. Action shall be taken by the commission within 30 days of the  
10 receipt of the recommendation of the county and state agencies.

11 (6) The commission may prescribe and include in the planning and  
12 siting permit such conditions or restrictions that it considers necessary  
13 to assure that the proposed project complies with the state-wide goals and  
14 guidelines for activities of state-wide significance and the comprehensive  
15 plans within the county.

16 **SECTION 28.** If the activity requiring a planning and siting permit  
17 under section 27 of this Act also requires any other permit from any state  
18 agency, the commission, with the cooperation and concurrence of the other  
19 agency, may provide a joint application form and permit to satisfy both  
20 the requirements of this Act and any other requirements set by statute or  
21 by rule of the state agency.

22 **SECTION 29. (1)** If any person or public agency is in doubt whether  
23 a proposed development project constitutes an activity of state-wide sig-  
24 nificance, the person or public agency may request a determination from  
25 the commission on the question. Within 60 days after the date of the receipt  
26 by it of such a request, the commission, with the advice of the committee  
27 and of the county governing body for the county in which such activity is  
28 proposed, shall issue a binding letter of interpretation with respect to the  
29 proposed project.

30 (2) Requests for determinations under this section shall be made to the  
31 commission in writing and in such form and contain such information as  
32 may be prescribed by the commission.

33 **SECTION 30. (1)** No project constituting an activity of state-wide

1 significance shall be undertaken without a planning and siting permit is-  
2 sued under section 27 of this Act.

3 (2) Any person or agency acting in violation of subsection (1) of this  
4 section may be enjoined in civil proceedings brought in the name of the  
5 county or the State of Oregon.

6 **SECTION 31.** If the county governing body or the commission de-  
7 termines the existence of an alleged violation under section 30 of this Act,  
8 it may:

9 (1) Investigate, hold hearings, enter orders and take action that it  
10 deems appropriate under this Act, as soon as possible.

11 (2) For the purpose of investigating conditions relating to the violation,  
12 through its members or its duly authorized representatives, enter at rea-  
13 sonable times upon any private or public property.

14 (3) Conduct public hearings.

15 (4) Publish its findings and recommendations as they are formulated  
16 relative to the violation.

17 (5) Give notice of any order relating to a particular violation of its  
18 state-wide goals, a particular violation of the terms or conditions of a plan-  
19 ning and siting permit or a particular violation of the provisions of this  
20 Act by mailing notice to the person or public body conducting or proposing  
21 to conduct the project affected in the manner provided by ORS chapter 183.

22 **PART IV STATE-WIDE PLANNING GOALS AND GUIDELINES**

23 **SECTION 32.** All comprehensive plans and any zoning, subdivision and  
24 other ordinances and regulations adopted by a state agency, city, county  
25 or special district to carry out such plans shall be in conformity with the  
26 state-wide planning goals within one year from the date such goals are  
27 approved by the commission.

28 **SECTION 33.** Not later than January 1, 1975, the department shall pre-  
29 pare and the commission shall adopt state-wide planning goals and guide-  
30 lines for use by state agencies, cities, counties and special districts in pre-  
31 paring, adopting, revising and implementing existing and future compre-  
32 hensive plans.

1    **SECTION 34.** In preparing and adopting state-wide planning goals and  
2 guidelines, the department and the commission shall:

3    (1) Consider the existing comprehensive plans of state agencies, cities,  
4 counties and special districts in order to preserve functional and local  
5 aspects of land conservation and development.

6    (2) Give priority consideration to the following areas and activities:

7    (a) Those activities listed in section 25 of this Act;

8    (b) Lands adjacent to freeway interchanges;

9    (c) Estuarine areas;

10   (d) Tide, marsh and wetland areas;

11   (e) Lakes and lakeshore areas;

12   (f) Wilderness, recreational and outstanding scenic areas;

13   (g) Beaches, dunes, coastal headlands and related areas;

14   (h) Wild and scenic rivers and related lands;

15   (i) Flood plains and areas of geologic hazard;

16   (j) Unique wildlife habitats; and

17   (k) Agricultural land.

18   **SECTION 35.** To assure widespread citizen involvement in all phases  
19 of the planning process:

20   (1) The commission shall appoint a State Citizen Involvement Advis-  
21 ory Committee, broadly representative of geographic areas of the state and  
22 of interests relating to land uses and land use decisions, to develop a pro-  
23 gram for the commission that promotes and enhances public participation  
24 in the development of state-wide planning goals and guidelines.

25   (2) Within 90 days after the effective date of this Act, each county  
26 governing body shall submit to the commission a program for citizen in-  
27 volvement in preparing, adopting and revising comprehensive plans with-  
28 in the county. Such program shall at least contain provision for a citizen  
29 advisory committee or committees broadly representative of geographic  
30 areas and of interests relating to land uses and land use decisions.

31   (3) The state advisory committee appointed under subsection (1) of this  
32 section shall review the proposed programs submitted by each county and  
33 recommend to the commission whether or not the proposed program ade-  
34 quately provides for public involvement in the planning process.

1     **SECTION 36.** (1) In preparing the state-wide planning goals and  
2 guidelines, the department shall:

3     (a) Hold at least 10 public hearings throughout the state, causing no-  
4 tice of the time, place and purpose of each such hearing to be published in  
5 a newspaper of general circulation within the area where the hearing is  
6 to be conducted not later than 30 days prior to the date of the hearing.

7     (b) Implement any other provision for public involvement developed  
8 by the state advisory committee under subsection (1) of section 35 of this  
9 Act and approved by the commission.

10    (2) Upon completion of the preparation of the proposed state-wide  
11 planning goals and guidelines, the department shall submit them to the  
12 commission for approval.

13    **SECTION 37.** Upon receipt of the proposed state-wide planning goals  
14 and guidelines prepared and submitted to it by the department, the com-  
15 mission shall:

16    (1) Hold at least one public hearing on the proposed state-wide plan-  
17 ning goals and guidelines. The commission shall cause notice of the time,  
18 place and purpose of the hearings and the place where copies of the  
19 proposed goals and guidelines are available before the hearings with the  
20 cost thereof to be published in a newspaper of general circulation in the  
21 state not later than 30 days prior to the date of the hearing. The department  
22 shall supply a copy of its proposed state-wide planning goals and guide-  
23 lines to the Governor, the committee, affected state agencies and special  
24 districts and to each city and county without charge. The department shall  
25 provide copies of such proposed goals and guidelines to other public agen-  
26 cies or persons upon request and payment of the cost of preparing the  
27 copies of the materials requested.

28    (2) Consider the recommendations and comments received from the  
29 public hearings conducted under subsection (1) of this section, make any  
30 revisions in the proposed state-wide planning goals and guidelines that it  
31 considers necessary and approve the proposed goals and guidelines as they  
32 may be revised by the commission.

33    **SECTION 38.** The commission may periodically revise, update and ex-  
34 pand the initial state-wide planning goals and guidelines adopted under

1 section 37 of this Act. Such revisions, updatings or expansions shall be made  
2 in the manner provided in sections 36 and 37 of this Act.

3     **SECTION 39.** Following the approval by the commission of state-wide  
4 planning goals and guidelines, each county governing body shall review all  
5 comprehensive plans for land conservation and development within the  
6 county, both those adopted and those being prepared. The county gov-  
7 erning body shall advise the state agency, city, county or special district  
8 preparing the comprehensive plans whether or not the comprehensive plans  
9 are in conformity with the state-wide planning goals.

#### 10                     **PART V COMPREHENSIVE PLANS**

11     **SECTION 40.** Comprehensive plans and zoning, subdivision, and other  
12 ordinances and regulations adopted prior to the effective date of this Act  
13 shall remain in effect until revised under this Act. It is intended that exist-  
14 ing planning efforts and activities shall continue and that such efforts be  
15 utilized in achieving the purposes of this Act.

16     **SECTION 41.** Prior to approval by the commission of its state-wide  
17 planning goals and guidelines under section 37 of this Act, the goals listed  
18 in ORS 215.515 shall be applied by state agencies, cities, counties and spe-  
19 cial districts in the preparation, revision, adoption or implementation of  
20 any comprehensive plan.

21     **SECTION 42.** Each city or county shall prepare and the city council or  
22 the county governing body shall adopt the comprehensive plans required  
23 under this Act or by any other law in accordance with section 41 of this  
24 Act for those plans adopted prior to the expiration of one year following  
25 the date the commission approves its state-wide planning goals and guide-  
26 lines under section 37 of this Act. Plans adopted by cities and counties  
27 after the expiration of one year following the date of approval of such  
28 goals and guidelines by the commission shall be designed to comply with  
29 such goals and any subsequent amendments thereto.

30     Section 43. ORS 215.055 is amended to read:

31     215.055. (1) *[The]* Any comprehensive plan *[and all legislation and*  
32 *regulations]* and all zoning, subdivision or other ordinances and regula-  
33 tions authorized by ORS 215.010 to 215.233 and adopted prior to the expira-  
34 tion of one year following the date of the approval of state-wide planning

1 goals and guidelines under section 37 of this 1973 Act shall be designed to  
2 promote the public health, safety and general welfare and shall be based on  
3 the following considerations, among others: The various characteristics  
4 of the various areas in the county, the suitability of the areas for par-  
5 ticular land uses and improvements, the land uses and improvements in  
6 the areas, trends in land improvement, density of development, property  
7 values, the needs of economic enterprises in the future development of the  
8 areas, needed access to particular sites in the areas, natural resources of the  
9 county and prospective needs for development thereof, and the public  
10 need for healthful, safe, aesthetic surroundings and conditions.

11 (2) Any plan and all zoning, subdivision or other ordinances and regu-  
12 lations authorized by ORS 215.010 to 215.233 and adopted after the expira-  
13 tion of one year after the date of the approval of state-wide planning goals  
14 and guidelines under section 37 of this 1973 Act shall be designed to comply  
15 with such state-wide planning goals and any subsequent revisions or  
16 amendments thereof.

17 [(2)] (3) In order to conserve natural resources of the state, any land  
18 use plan or zoning, subdivision or other ordinance adopted by a county  
19 shall take into consideration lands that are, can or should be utilized for  
20 sources or processing of mineral aggregates.

21 SECTION 44. Upon the expiration of one year after the date of the  
22 approval of state-wide planning goals and guidelines and annually there-  
23 after, each county governing body shall report to the commission on the  
24 status of comprehensive plans within each county. Each such report shall  
25 include:

26 (1) Copies of comprehensive plans reviewed by the county governing  
27 body and copies of zoning and subdivision ordinances and regulations ap-  
28 plied to those areas within the county listed in subsection (2) of section  
29 34 of this Act.

30 (2) For those areas or jurisdictions within the county without com-  
31 prehensive plans, a statement and review of the progress made toward  
32 compliance with the state-wide planning goals.

33 SECTION 45. (1) Notwithstanding any other provision of law, after the  
34 expiration of one year after the date of the approval of the initial state-

1 wide planning goals and guidelines under section 37 of this Act, upon 90  
2 days' notice to the affected governing body or bodies, and upon public  
3 hearings held within 30 days thereafter, the commission shall prescribe and  
4 may amend and administer comprehensive plans and zoning, subdivision  
5 or other ordinances and regulations necessary to develop and implement a  
6 comprehensive plan within the boundaries of a county, whether or not  
7 within the boundaries of a city, that do not comply with the state-wide  
8 planning goals approved under this Act and any subsequent revisions or  
9 amendments thereof.

10 (2) If the city or county has under consideration a comprehensive  
11 plan or zoning, subdivision or other ordinances or regulations for lands  
12 described in subsection (1) of this section, and shows satisfactory progress  
13 toward the adoption of such comprehensive plan or such ordinances or  
14 regulations, the commission may grant a reasonable extension of time  
15 after the date set in this section for completion of such plan or such  
16 ordinances or regulations.

17 (3) Any comprehensive plan or zoning, subdivision or other ordinance  
18 or regulation adopted by the commission under subsection (1) of this  
19 section shall comply with the state-wide planning goals approved under  
20 this Act and all subsequent revisions or amendments thereof.

21 **SECTION 46.** (1) There is transferred to and vested in the commission  
22 those duties, powers and functions vested in the Governor by ORS 215.505  
23 to 215.535. After the effective date of this Act, the commission shall  
24 exercise such duties, powers and functions.

25 (2) For the purpose of harmonizing and clarifying Oregon Revised  
26 Statutes, the Legislative Counsel may substitute for words designating  
27 the Governor, where such words occur in ORS 215.505 to 215.535, words  
28 designating the Land Conservation and Development Commission.

29 Section 47. ORS 215.510 is amended to read:

30 215.510. (1) Any comprehensive [*land use plans*] **plan for any city**  
31 **or county** prescribed or amended by the [*Governor*] **commission** pursuant  
32 to ORS 215.505 or **section 45 of this 1973 Act** shall be in accordance with  
33 the standards provided in ORS 215.515 and the notice and hearing re-  
34 quirements provided in ORS 215.060.

1 (2) Any zoning, subdivision or other ordinances and regulations for any  
2 city or county prescribed or amended by the [Governor] commission pur-  
3 suant to ORS 215.505 or section 45 of this 1973 Act shall be in accordance  
4 with the standards provided in ORS 215.055 and the notice and hearing  
5 requirements provided in ORS 215.223.

6 (3) A comprehensive [land use] plan or zoning, subdivision or other  
7 ordinance or regulation for any city or county prescribed or amended by  
8 the [Governor] commission pursuant to ORS 215.505 or section 45 of this  
9 1973 Act may be for any purpose provided in ORS 215.010 to 215.233 and  
10 subsections (1) and (2) of 215.990, except that the [Governor] commission  
11 may not prescribe building regulations. The [Governor] commission may,  
12 however, cause to be instituted an appropriate proceeding to enjoin the  
13 construction of buildings or performance of any other acts which would  
14 constitute a land use that does not conform to the applicable [land use]  
15 comprehensive plan or zoning, subdivision or other ordinance or regula-  
16 tion.

17 (4) Any hearings required by this section may be held by the [Gov-  
18 ernor] commission, or by a person designated by the [Governor] com-  
19 mission, and all such hearings shall be held in the county seat of the  
20 county or in the city in which said comprehensive [land use] plan or zon-  
21 ing, subdivision or other ordinance or regulation is to be prescribed.

22 Section 48. ORS 215.515 is amended to read:

23 215.515. (1) Comprehensive physical planning, adopted by the com-  
24 mission prior to the expiration of one year following the date of the  
25 approval of state-wide planning goals and guidelines under section 37  
26 of this 1973 Act, should provide guidance for physical development within  
27 the state responsive to economic development, human resource develop-  
28 ment, natural resource development and regional and metropolitan area  
29 development. It should assist in attainment of the optimum living environ-  
30 ment for the state's citizenry and assure sound housing, employment  
31 opportunities, educational fulfillment and sound health facilities. State  
32 plans should relate to intermediate and long-range growth objectives. The  
33 plans should set a pattern upon which state agencies and local government



1 may base their programs and local area plans. Goals for comprehensive  
2 physical planning are:

3 [(1)] (a) To preserve the quality of the air [*and*] , water and land  
4 resources of the state.

5 [(2)] (b) To conserve open space and protect natural and scenic re-  
6 sources.

7 [(3)] (c) To provide for the recreational needs of citizens of the  
8 state and visitors.

9 [(4)] (d) To conserve prime farm lands for the production of crops  
10 [*and*] .

11 (e) To provide for an orderly and efficient transition from rural  
12 to urban land use.

13 [(5)] (f) To protect life and property in areas subject to floods,  
14 landslides and other natural disasters.

15 [(6)] (g) To provide and encourage a safe, convenient and economic  
16 transportation system including all modes of transportation: Air, water,  
17 rail, highway and mass transit, and recognizing differences in the social  
18 costs in the various modes of transportation.

19 [(7)] (h) To develop a timely, orderly and efficient arrangement of  
20 public facilities and services to serve as a framework for urban and rural  
21 development.

22 [(8)] (i) To diversify and improve the economy of the state.

23 [(9)] (j) To ensure that the development of properties within the state  
24 is commensurate with the character and the physical limitations of the land.

25 (2) Comprehensive plans adopted by the commission after the expira-  
26 tion of one year after the date of the approval of state-wide planning  
27 goals and guidelines under section 37 of this 1973 Act shall be designed  
28 to comply with such state-wide planning goals and any subsequent re-  
29 visions or amendments thereof.

30 Section 49. ORS 215.535 is amended to read:

31 215.535. In addition to the remedy prescribed in subsection (3) of  
32 ORS 215.510, the [*Governor*] commission may cause to be instituted any  
33 civil action or suit [*he*] it considers appropriate to remedy violations of  
34 any comprehensive [*land use*] plan or zoning, **subdivision or other ordi-**

1 nance or regulation prescribed by the [Governor] **commission** pursuant  
2 to ORS 215.505 or **section 45 of this 1973 Act** .

3 **SECTION 50.** (1) Whenever the commission prescribes a comprehen-  
4 sive plan or zoning, subdivision or other ordinances or regulations for lands  
5 described in subsection (1) of section 45 of this Act, the costs incurred by  
6 the commission and the department in the preparation and administration  
7 of such plan or ordinances or regulations shall be borne by the city or  
8 county for which the commission has proposed such plan or ordinances  
9 or regulations. Upon presentation by the commission to the governing  
10 body of the city or county of a certified, itemized statement of costs, the  
11 governing body shall order payment to the commission out of any avail-  
12 able funds. With respect to a city or county, if no payment is made  
13 by the governing body within 30 days thereafter, the commission shall  
14 submit to the Secretary of State its certified, itemized statement of such  
15 costs and the commission shall be reimbursed upon the order of the Secre-  
16 tary of State to the State Treasurer, from the city's or county's share of the  
17 state's cigarette and liquor revenues.

18 (2) Within 10 days of receipt of the certified, itemized statement of costs  
19 under subsection (1) of this section, any city or county aggrieved by  
20 the statement may appeal to the Court of Appeals. The appeal shall  
21 be taken as from a contested case under ORS 183.480. Notice of the appeal  
22 shall operate as a stay in the commissioner's right to reimbursement  
23 under subsection (1) of this section until the decision is made on the appeal.

#### 24 **PART VI APPEALS**

25 **SECTION 51.** (1) In the manner provided in sections 52 to 54 of this  
26 Act, the commission shall review upon:

27 (a) Petition by a county governing body, a comprehensive plan pro-  
28 vision or any zoning, subdivision or other ordinance or regulation adopted  
29 by a state agency, city, county or special district that the governing body  
30 considers to be in conflict with state-wide planning goals approved under  
31 section 37 of this Act or interim goals specified in ORS 215.515.

32 (b) Petition by a city or county governing body, a land conservation  
33 and development action taken by a state agency, city, county or special  
34 district that the governing body considers to be in conflict with state-

1 wide planning goals approved under section 37 of this Act or interim  
2 goals specified in ORS 215.515.

3 (c) Petition by a state agency, city, county or special district, any  
4 county governing body action that the state agency, city, county or special  
5 district considers to be improperly taken or outside the scope of the gov-  
6 erning body's authority under this Act.

7 (d) Petition by any person or group of persons whose interests are  
8 substantially affected, a comprehensive plan provision or any zoning, sub-  
9 division or other ordinance or regulation alleged to be in violation of  
10 state-wide planning goals approved under section 37 of this Act or interim  
11 goals specified in ORS 215.515.

12 (2) A petition filed with the commission pursuant to subsection (1)  
13 of this section must be filed not later than 60 days (excluding Saturdays  
14 and holidays) after the date of the final adoption or approval of the  
15 action or comprehensive plan upon which the petition is based.

16 **SECTION 52.** (1) All review proceedings conducted by the commis-  
17 sion pursuant to section 51 of this Act shall be based on the administra-  
18 tive record, if any, prepared with respect to the proceedings for the adop-  
19 tion or approval of the comprehensive plan provision or action that is  
20 the subject of the review proceeding.

21 (2) The commission shall adopt such rules, procedures and regulations  
22 for the conduct of review proceedings held pursuant to section 51 of  
23 this Act, in accordance with the provisions of ORS 183.310 to 183.500 for  
24 hearings and notice in contested cases.

25 (3) A city, county, state agency, special district or any person or  
26 group of persons whose interests are substantially affected may intervene  
27 in and be made a party to any review proceeding conducted by the com-  
28 mission with the approval of the commission, upon the request of the  
29 hearings officer appointed to conduct such proceeding or upon the ap-  
30 proval by the hearings officer of a request by such agency, person or  
31 group of persons for intervention in the review proceeding.

32 **SECTION 53.** (1) In carrying out its duties under section 51 of this  
33 Act, the chairman of the commission shall assign each petition to be

1 reviewed by the commission to a hearings officer who shall conduct the  
2 review proceeding.

3 (2) A hearings officer shall conduct a review proceeding in accordance  
4 with the rules, procedures and regulations adopted by the commission.  
5 Upon the conclusion of a hearing, the hearings officer shall promptly  
6 determine the matter, prepare a recommendation for commission action  
7 upon the matter and submit a copy of his recommendation to the com-  
8 mission and to each party to the proceeding.

9 (3) The commission shall review the recommendation of the hearings  
10 officer and the record of the proceeding and issue its order with respect  
11 to the review proceeding within 60 days following the date of the filing  
12 of the petition upon which such review proceeding is based. The com-  
13 mission may adopt, reject or amend the recommendation of the hearings  
14 officer in any matter.

15 (4) No order of the commission issued under subsection (3) of this  
16 section is valid unless all members of the commission have received  
17 the recommendation of the hearings officer in the matter and at least  
18 four members of the commission concur in its action in the matter.

19 (5) Any party to a review proceeding before the commission who  
20 is adversely affected or aggrieved by the order issued by the commis-  
21 sion in the matter may appeal the order of the commission in the manner  
22 provided in ORS 183.480 for appeals from final orders in contested cases.

23 (6) The commission may enforce orders issued under subsection (3) of  
24 this section in appropriate judicial proceedings brought by the com-  
25 mission therefor.

26 **SECTION 54.** (1) If, upon its review of the recommendation of a  
27 hearings officer and the record of the review proceeding prepared follow-  
28 ing a review proceeding before the commission, the commission is unable  
29 to reach a decision in the matter without further information or evidence  
30 not contained in the record of the proceeding, it may refer the matter back  
31 to the hearings officer and request that the additional information or evi-  
32 dence be acquired by him or that he correct any errors or deficiencies  
33 found by the commission to exist in his recommendation or record of  
34 the proceeding.

1 (2) In case of a referral of a matter back to the hearings officer  
2 pursuant to subsection (1) of this section, the 60-day period referred  
3 to in subsection (3) of section 53 of this Act is suspended for a reasonable  
4 interval not to exceed 60 days.

#### 5 PART VII LEGISLATIVE REVIEW

6 SECTION 55. The department shall report monthly to the committee  
7 in order to keep the committee informed on progress made by the depart-  
8 ment, commission, counties and other agencies in carrying out the pro-  
9 visions of this Act.

10 SECTION 56. (1) Prior to the end of each even-numbered year, the  
11 department shall prepare a written report for submission to the Legisla-  
12 tive Assembly of the State of Oregon describing activities and accomp-  
13 lishments of the department, commission, state agencies, cities, counties  
14 and special districts in carrying out the provisions of this Act.

15 (2) A draft of the report required by subsection (1) of this section  
16 shall be submitted to the committee for its review and comment at least  
17 60 days prior to submission of the report to the Legislative Assembly. Com-  
18 ments of the committee shall be incorporated into the final report.

19 (3) Goals and guidelines adopted by the commission shall be included  
20 in the report to the Legislative Assembly submitted under subsection  
21 (1) of this section.

#### 22 PART VIII MISCELLANEOUS

23 Section 57. ORS 453.345 is amended to read:

24 453.345. (1) Applications for site certificates shall be made to the  
25 Nuclear and Thermal Energy Council on a form prescribed by the council  
26 and accompanied by the fee required by ORS 453.405. The application may  
27 be filed not sooner than 12 months after filing of the notice of intent.

28 (2) Proposed use of a site within an area designated by the council  
29 as suitable for location of thermal power plants or nuclear installations  
30 does not preclude the necessity of the applicant obtaining a site certificate  
31 for the specific site.

32 (3) Copies of the notice of intent and of the application shall be sent  
33 for comment and recommendation within specified deadlines established  
34 by the council to the Department of Environmental Quality, the State Water

1 Resources Board, the Fish Commission of the State of Oregon, the State  
2 Game Commission, the State Board of Health, the State Engineer, the  
3 State Geologist, the State Forestry Department, the Public Utility Commis-  
4 sioner of Oregon, the State Department of Agriculture, the Department  
5 of Transportation, the **Department of Land Conservation and Develop-**  
6 **ment** and the Economic Development Division.

7 **SECTION 58.** The part designations and unit captions used in this  
8 Act are provided only for the convenience of locating provisions of this Act,  
9 and are not part of the statutory law of this state.



*Eng.* RE-ENGROSSED

(March 23 amendments not printed)

# Senate Bill 100

Ordered by the Senate April 9  
(Including Amendments by Senate March 23, *and April 9*)

Sponsored by Senators MACPHERSON, HALLOCK

## 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.

Creates Department of Land Conservation and Development, composed of Land Conservation and Development Commission, director and employees. Establishes Joint Legislative Committee on Land Use, as standing committee to advise and assist department in carrying out its duties.

Authorizes commission to designate activities of state-wide significance in public transportation, public sewerage systems and public schools and to make recommendation for additional designations, subject to approval of Legislative Assembly. Requires commission, subject to approval of Legislative Assembly, to promulgate and implement state-wide planning goals consistent with regional, county and city concerns for such activities and state-wide planning guidelines for land use planning in state. Requires state agencies, planning districts, cities, counties and special districts to comply with state-wide planning guidelines and state-wide planning goals in adoption of comprehensive plans and zoning, subdivision or other ordinances and regulations. **Makes counties responsible for coordinating all land use planning activities within counties, except for cities having population of 300,000 or more.**

Requires permit to be issued by commission for development projects constituting activities of state-wide significance. provides for enforcement of permit requirements. Authorizes injunction of activities of state-wide significance carried on without permit.

Permits voluntary association of counties for planning purposes. Provides for establishment of regional planning agency composed of cities and counties, subject to approval of voters in proposed region. Authorizes voluntary association of local governments to perform coordinative planning functions of counties under Act.

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**NOTE:** Matter in bold face in an amended section is new; matter [*italic and bracketed*] is existing law to be omitted; complete new sections begin with SECTION.

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Requires, within one year after approval of state-wide planning guidelines, all comprehensive plans and zoning, subdivision or other ordinances or regulations to comply with such guidelines. Authorizes commission to perform planning and zoning functions of noncomplying governmental units. Provides, in case of nonpayment by city or county, for reimbursement of commission from city or county share of state liquor and cigarette revenues. Establishes appeal procedures.

Provides for review by commission of specified land conservation and development actions and plans. Establishes Land Conservation and Development Account in General Fund for use by department.

Declares emergency and takes effect July 1, 1973.



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## A BILL FOR AN ACT

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Relating to land use; creating new provisions; amending ORS 215.055,

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215.510, 215.515, 215.535 and 453.345; appropriating money ~~and declar-~~

4

~~ing an emergency.~~

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

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**PART I INTRODUCTION**

7

**PREAMBLE**

8

**SECTION 1.** The Legislative Assembly finds that:

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(1) Uncoordinated use of lands within this state threaten the orderly development, the environment of this state and the health, safety, order, convenience, prosperity and welfare of the people of this state.

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(2) To promote coordinated administration of land uses consistent with comprehensive plans adopted throughout the state, it is necessary to establish a process for the review of state agency, city, county and special district land conservation and development plans for compliance with state-wide planning goals and guidelines.

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(3) Except as otherwise provided in subsection (4) of this section, cities and counties should remain as the agencies to consider, promote and manage the local aspects of land conservation and development for the best interests of the people within their jurisdictions.

21

(4) The promotion of coordinated state-wide land conservation and development requires the creation of a state-wide planning agency to prescribe planning goals and objectives to be applied by state agencies, cities, counties and special districts throughout the state.

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(5) The impact of proposed development projects, constituting activities of state-wide significance upon the public health, safety and welfare, requires a system of permits reviewed by a state-wide agency to carry out state-wide planning goals and guidelines prescribed for application for activities of state-wide significance throughout this state.

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**POLICY STATEMENT**

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**SECTION 2.** The Legislative Assembly declares that, in order to assure the highest possible level of liveability in Oregon, it is necessary to provide for properly prepared and coordinated comprehensive plans for cities and

1 counties, regional areas and the state as a whole. These comprehensive plans:

2 (1) Must be adopted by the appropriate governing body at the local  
3 and state levels;

4 (2) Are expressions of public policy in the form of policy statements,  
5 generalized maps and standards and guidelines;

6 (3) Shall be the basis for more specific rules, regulations and ordinances  
7 which implement the policies expressed through the comprehensive plans;

8 (4) Shall be prepared to assure that all public actions are consistent  
9 and coordinated with the policies expressed through the comprehensive  
10 plans; and

11 (5) Shall be regularly reviewed and, if necessary, revised to keep them  
12 consistent with the changing needs and desires of the public they are  
13 designed to serve.

14

#### DEFINITIONS

15 **SECTION 3.** As used in this Act, unless the context requires otherwise:

16 (1) "Activity of state-wide significance" means a land conservation and  
17 development activity designated pursuant to section 25 of this Act.

18 (2) "Commission" means the Land Conservation and Development  
19 Commission.

20 (3) "Committee" means the Joint Legislative Committee on Land Use.

21 (4) "Comprehensive plan" means a generalized, coordinated land use  
22 map and policy statement of the governing body of a state agency, city,  
23 county or special district that interrelates all functional and natural sys-  
24 tems and activities relating to the use of lands, including but not limited  
25 to sewer and water systems, transportation systems, educational systems,  
26 recreational facilities, and natural resources and air and water quality  
27 management programs. "Comprehensive" means all-inclusive, both in terms  
28 of the geographic area covered and functional and natural activities and  
29 systems occurring in the area covered by the plan. "General nature" means  
30 a summary of policies and proposals in broad categories and does not neces-  
31 sarily indicate specific locations of any area, activity or use. A plan is "co-  
32 ordinated" when the needs of all levels of governments, semipublic and  
33 private agencies and the citizens of Oregon have been considered and  
34 accommodated as much as possible. "Land" includes water, both surface  
and subsurface, and the air.

1 (5) "Department" means the Department of Land Conservation and  
2 Development.

3 (6) "Director" means the Director of the Department of Land Con-  
4 servation and Development.

5 (7) "Special district" means any unit of local government, other than  
6 a city or county, authorized and regulated by statute and includes, but is  
7 not limited to: Water control districts, irrigation districts, port districts,  
8 regional air quality control authorities, fire districts, school districts, hos-  
9 pital districts, mass transit districts and sanitary districts.

10 (8) "Voluntary association of local governments" means a regional  
11 planning agency in this state officially designated by the Governor pur-  
12 suant to the federal Office of Management and Budget Circular A-95 as  
13 a regional clearing house.

## 14 **PART II ORGANIZATION, ROLES AND RESPONSIBILITIES**

### 15 **DEPARTMENT OF LAND CONSERVATION AND DEVELOPMENT**

16 **SECTION 4.** The Department of Land Conservation and Development  
17 is established. The department shall consist of the Land Conservation and  
18 Development Commission, the director and their subordinate officers and  
19 employes.

20 **SECTION 5. (1)** There is established a Land Conservation and De-  
21 velopment Commission consisting of seven members appointed by the  
22 Governor, subject to confirmation by the Senate in the manner provided  
23 in ORS 171.560 and 171.570.

24 (2) In making appointments under subsection (1) of this section, the  
25 Governor shall select from residents of this state one member from each  
26 congressional district and the remaining members from the state at large.  
27 At least one and no more than two members shall be from Multnomah  
28 County.

29 (3) The term of office of each member of the commission is four years,  
30 but a member may be removed by the Governor for cause. Before the ex-  
31 piration of the term of a member, the Governor shall appoint a successor.  
32 No person shall serve more than two full terms as a member of the com-  
33 mission.

1 (4) If there is a vacancy for any cause, the Governor shall make an  
2 appointment to become immediately effective for the unexpired term.

3 **SECTION 6.** Notwithstanding the term of office specified in section 5  
4 of this Act, of the members first appointed to the commission:

5 (1) Two shall serve for a term ending June 30, 1974.

6 (2) Two shall serve for a term ending June 30, 1975.

7 (3) Two shall serve for a term ending June 30, 1976.

8 (4) One shall serve for a term ending June 30, 1977.

9 **SECTION 7.** (1) The commission shall select one of its members as  
10 chairman and another member as vice chairman, for such terms and with  
11 duties and powers necessary for the performance of the functions of such  
12 offices as the commission determines. The vice chairman of the commission  
13 shall act as the chairman of the commission in the absence of the chairman.

14 (2) A majority of the members of the commission constitutes a quorum  
15 for the transaction of business.

16 **SECTION 8.** Members of the commission are entitled to compensation  
17 and expenses as provided in ORS 292.495.

18 **SECTION 9.** The commission shall:

19 (1) Direct the performance by the director and his staff of their  
20 functions under this Act.

21 (2) In accordance with the provisions of ORS chapter 183, promulgate  
22 rules that it considers necessary in carrying out this Act.

23 (3) Cooperate with the appropriate agencies of the United States, this  
24 state and its political subdivisions, any other state, any interstate agency,  
25 any person or groups of persons with respect to land conservation and  
26 development.

27 (4) Appoint advisory committees to aid it in carrying out this Act and  
28 provide technical and other assistance, as it considers necessary, to each  
29 such committee.

30 **SECTION 10.** The commission may:

31 (1) Apply for and receive moneys from the Federal Government and  
32 from this state or any of its agencies or departments.

33 (2) Contract with any public agency for the performance of services or

1 the exchange of employes or services by one to the other necessary in  
2 carrying out this Act.

3 (3) Contract for the services of and consultation with professional  
4 persons or organizations, not otherwise available through federal, state and  
5 local governmental agencies, in carrying out its duties under this Act.

6 (4) Perform other functions required to carry out this Act.

7 **SECTION 11.** Pursuant to the provisions of this Act, the commission  
8 shall:

9 (1) Establish state-wide planning goals consistent with regional, county  
10 and city concerns;

11 (2) Issue permits for activities of state-wide significance;

12 (3) Prepare inventories of land uses;

13 (4) Prepare state-wide planning guidelines;

14 (5) Review comprehensive plans for conformance with state-wide plan-  
15 ning goals;

16 (6) Coordinate planning efforts of state agencies to assure conformance  
17 with state-wide planning goals and compatability with city and county  
18 comprehensive plans;

19 (7) Insure widespread citizen involvement and input in all phases of  
20 the process;

21 (8) Prepare model zoning, subdivision and other ordinances and regu-  
22 lations to guide state agencies, cities, counties and special districts in imple-  
23 menting state-wide planning goals, particularly those for the areas listed in  
24 subsection (2) of section 34 of this Act;

25 (9) Review and recommend to the Legislative Assembly the designation  
26 of areas of critical state concern;

27 (10) Report periodically to the Legislative Assembly and to the com-  
28 mittee; and

29 (11) Perform other duties required by law.

30 **SECTION 12.** If an interstate land conservation and development plan-  
31 ning agency is created by an interstate agreement or compact entered into  
32 by this state, the commission shall perform the functions of this state with  
33 respect to the agreement or compact. If the functions of the interstate plan-

1 ning agency duplicate any of the functions of the commission under this  
2 Act, the commission may:

3 (1) Negotiate with the interstate agency in defining the areas of  
4 responsibility of the commission and the interstate planning agency; and

5 (2) Cooperate with the interstate planning agency in the performance  
6 of its functions.

7 **SECTION 13.** (1) The commission shall appoint a person to serve as  
8 the Director of the Department of Land Conservation and Development.  
9 The director shall hold his office at the pleasure of the commission and his  
10 salary shall be fixed by the commission unless otherwise provided by law.

11 (2) In addition to his salary, the director shall be reimbursed, subject  
12 to any applicable law regulating travel and other expenses of state officers  
13 and employes, for actual and necessary expenses incurred by him in the  
14 performance of his official duties.

15 **SECTION 14.** Subject to policies adopted by the commission, the di-  
16 rector shall:

17 (1) Be the administrative head of the department.

18 (2) Coordinate the activities of the department in its land conservation  
19 and development functions with such functions of federal agencies, other  
20 state agencies, cities, counties and special districts.

21 (3) Appoint, reappoint, assign and reassign all subordinate officers and  
22 employes of the department, prescribe their duties and fix their compen-  
23 sation, subject to the State Merit System Law.

24 (4) Represent this state before any agency of this state, any other state  
25 or the United States with respect to land conservation and development  
26 within this state.

27 **SECTION 15.** (1) There is established in the General Fund in the  
28 State Treasury the Land Conservation and Development Account. Moneys  
29 in the account are continuously appropriated for the purpose of carrying  
30 out the provisions of this Act.

31 (2) All fees, moneys and other revenue received by the department  
32 or the committee shall be deposited in the Land Conservation and Develop-  
33 ment Account.

1                   **OREGON COASTAL CONSERVATION AND**  
2                   **DEVELOPMENT COMMISSION**

3       **SECTION 16.** (1) The Land Conservation and Development Commis-  
4 sion, by agreement with the Oregon Coastal Conservation and Development  
5 Commission created by ORS 191.120 may delegate to the Oregon Coastal  
6 Conservation and Development Commission, any of the functions of the  
7 Land Conservation and Development Commission. However, the Land  
8 Conservation and Development Commission must review and grant ap-  
9 proval prior to any action taken by the Oregon Coastal Conservation and  
10 Development Commission with respect to a delegated function.

11       (2) The Land Conservation and Development Commission may provide  
12 staff and financial assistance to the Oregon Coastal Conservation and  
13 Development Commission in carrying out duties under this section.

14                   **CITIES AND COUNTIES**

15       **SECTION 17.** Cities and counties shall exercise their planning and  
16 zoning responsibilities in accordance with this Act and the state-wide plan-  
17 ning goals and guidelines approved under this Act.

18       **SECTION 18.** Pursuant to this Act, each city and county in this state  
19 shall:

20       (1) Prepare and adopt comprehensive plans consistent with state-wide  
21 planning goals and guidelines approved by the commission; and

22       (2) Enact zoning, subdivision and other ordinances or regulations to  
23 implement their comprehensive plans.

24       **SECTION 19.** (1) In addition to the responsibilities stated in sections  
25 17 and 18 of this Act, each county through its governing body, shall be  
26 responsible for coordinating all planning activities affecting land uses  
27 within the county, including those of the county, cities, special districts and  
28 state agencies, to assure an integrated comprehensive plan for the entire  
29 area of the county. For purposes of this subsection, the responsibility of  
30 the county described in this subsection shall not apply to cities having a  
31 population of 300,000 or more, and such cities shall exercise, within the  
32 incorporated limits thereof, the authority vested in counties by this sub-  
33 section.

34       (2) For the purposes of carrying out the provisions of this Act, counties

1 may voluntarily join together with adjacent counties as authorized in ORS  
2 chapter 190.

3 (3) Whenever counties and cities representing 51 percent of the popu-  
4 lation in their area petition the commission for an election in their area to  
5 form a regional planning agency to exercise the authority of the counties  
6 under subsection (1) of this section in the area, the commission shall  
7 review the petition. If it finds that the area described in the petition forms  
8 a reasonable planning unit, it shall call an election in the area to form a  
9 regional planning agency. The election shall be conducted in the manner  
10 provided in ORS chapter 259. The county clerk shall be considered the  
11 election officer and the commission shall be considered the district election  
12 authority. The agency shall be considered established if the majority of  
13 votes favor the establishment.

14 (4) If a voluntary association of local governments adopts a resolution  
15 ratified by each participating county and a majority of the participating  
16 cities therein which authorizes the association to perform the review, ad-  
17 visory and coordination functions assigned to the counties under sub-  
18 section (1) of this section, the association may perform such duties.

#### 19 SPECIAL DISTRICTS AND STATE AGENCIES

20 SECTION 20. Special districts shall exercise their planning duties,  
21 powers and responsibilities and take actions that are authorized by law  
22 with respect to programs affecting land use in accordance with state-wide  
23 planning goals and guidelines approved pursuant to this Act.

24 SECTION 21. State agencies shall carry out their planning duties,  
25 powers and responsibilities and take actions that are authorized by law  
26 with respect to programs affecting land use in accordance with state-wide  
27 planning goals and guidelines approved pursuant to this Act.

#### 28 JOINT LEGISLATIVE COMMITTEE ON LAND USE

29 SECTION 22. The Joint Legislative Committee on Land Use is estab-  
30 lished as a joint committee of the Legislative Assembly. The committee  
31 shall select an executive secretary who shall serve at the pleasure of the  
32 committee and under its direction.

33 SECTION 23. (1) The Joint Legislative Committee on Land Use shall  
34 consist of four members of the House of Representatives appointed by the



1 Speaker and three members of the Senate appointed by the President. No  
2 more than three House members of the committee shall be of the same  
3 political party. No more than two Senate members of the committee shall  
4 be of the same political party.

5 (2) The chairman of the House and Senate Environment and Land  
6 Use Committees of the Fifty-seventh Legislative Assembly of the State of  
7 Oregon shall be two of the members appointed under subsection (1) of  
8 this section for the period beginning with the effective date of this Act.

9 (3) The committee has a continuing existence and may meet, act and  
10 conduct its business during sessions of the Legislative Assembly or any  
11 recess thereof, and in the interim period between sessions.

12 (4) The term of a member shall expire upon the convening of the Legis-  
13 lative Assembly in regular session next following the commencement of  
14 the member's term. When a vacancy occurs in the membership of the  
15 committee in the interim between sessions, until such vacancy is filled, the  
16 membership of the committee shall be deemed not to include the vacant  
17 position for the purpose of determining whether a quorum is present and  
18 a quorum is the majority of the remaining members.

19 (5) Members of the committee shall be reimbursed for actual and  
20 necessary expenses incurred or paid in the performance of their duties as  
21 members of the committee, such reimbursement to be made from funds  
22 appropriated for such purposes, after submission of approved voucher  
23 claims.

24 (6) The committee shall select a chairman. The chairman may, in addi-  
25 tion to his other authorized duties, approve voucher claims.

26 (7) Action of the committee shall be taken only upon the affirmative  
27 vote of the majority of the members of the committee.

28 **SECTION 24.** The committee shall:

29 (1) Advise the department on all matters under the jurisdiction of the  
30 department;

31 (2) Review and make recommendations to the Legislative Assembly  
32 on proposals for additions to or modifications of designations of activities of

1 state-wide significance, and for designations of areas of critical state  
2 concern;

3 (3) Review and make recommendations to the Legislative Assembly  
4 on state-wide planning goals and guidelines approved by the commission;

5 (4) Study and make recommendations to the Legislative Assembly  
6 on the implementation of a program for compensation by the public to  
7 owners of lands within this state for the value of any loss of use of such  
8 lands resulting directly from the imposition of any zoning, subdivision or  
9 other ordinance or regulation regulating or restricting the use of such  
10 lands. Such recommendations shall include, but not be limited to, proposed  
11 methods for the valuation of such loss of use and proposed limits, if any,  
12 to be imposed upon the amount of compensation to be paid by the public  
13 for any such loss of use; and

14 (5) Make recommendations to the Legislative Assembly on any other  
15 matter relating to land use planning in Oregon.

### 16 PART III ACTIVITIES OF STATE-WIDE SIGNIFICANCE

#### 17 DESIGNATION

18 SECTION 25. (1) The following activities may be designated by the  
19 commission as activities of state-wide significance if the commission deter-  
20 mines that by their nature or magnitude they should be so considered:

21 (a) The planning and siting of public transportation facilities.

22 (b) The planning and siting of public sewerage systems, water supply  
23 systems and solid waste disposal sites and facilities.

24 (c) The planning and siting of public schools.

25 (2) Nothing in this Act supersedes any duty, power or responsibility  
26 vested by statute in any state agency relating to its activities described in  
27 subsection (1) of this section; except that, a state agency may neither  
28 implement any such activity nor adopt any plan relating to such an activity  
29 without the prior review and comment of the commission.

30 SECTION 26. (1) In addition to the activities of state-wide signifi-  
31 cance that are designated by the commission under section 25 of this Act,  
32 the commission may recommend to the committee the designation of addi-  
33 tional activities of state-wide significance. Each such recommendation shall  
34 specify the reasons for the proposed designation of the activity of state-

1 wide significance, the dangers that would result from such activity being  
2 uncontrolled and the suggested state-wide planning goals and guidelines  
3 to be applied for the proposed activity.

4 (2) The commission may recommend to the committee the designation  
5 of areas of critical state concern. Each such recommendation shall specify  
6 the criteria developed and reasons for the proposed designation, the damages  
7 that would result from uncontrolled development within the area, the  
8 reasons for the implementation of state regulations for the proposed area  
9 and the suggested state regulations to be applied within the proposed area.

10 (3) The commission may act under subsections (1) and (2) of this sec-  
11 tion on its own motion or upon the recommendation of a state agency, city,  
12 county or special district. If the commission receives a recommendation  
13 from a state agency, city, county or special district and finds the proposed  
14 activity or area to be unsuitable for designation, it shall notify the state  
15 agency, city, county or special district of its decision and its reasons there-  
16 for.

17 (4) Immediately following its decision to favorably recommend to  
18 the Legislative Assembly the designation of an additional activity of state-  
19 wide significance or the designation of an area of critical state concern,  
20 the commission shall submit the proposed designation accompanied by the  
21 supporting materials described in subsections (1) and (2) of this section to  
22 the committee for its review.

#### 23 **PERMITS FOR ACTIVITIES OF STATE-WIDE SIGNIFICANCE**

24 **SECTION 27.** (1) On and after the date the commission has approved  
25 state-wide planning goals and guidelines for activities of state-wide sig-  
26 nificance designated under section 25 of this Act, no proposed project con-  
27 stituting such an activity may be initiated by any person or public agency  
28 without a planning and siting permit issued by the commission therefor.

29 (2) Any person or public agency desiring to initiate a project consti-  
30 tuting an activity of state-wide significance shall apply to the department  
31 for a planning and siting permit for such project. The application shall  
32 contain the plans for the project and the manner in which such project  
33 has been designed to meet the goals and guidelines for activities of state-  
34 wide significance and the comprehensive plans for the county within

1 which the project is proposed, and any other information required by the  
2 commission as prescribed by rule of the commission.

3 (3) The department shall transmit copies of the application to affected  
4 county and state agencies for their review and recommendation.

5 (4) The county governing body and the state agencies shall review  
6 an application transmitted to it under subsection (3) of this section and  
7 shall, within 30 days after the date of the receipt of the application, sub-  
8 mit their recommendations on the application to the commission.

9 (5) If the commission finds after review of the application and the  
10 comments submitted by the county governing body and state agencies that  
11 the proposed project complies with the state-wide goals and guidelines for  
12 activities of state-wide significance and the comprehensive plans within  
13 the county, it shall approve the application and issue a planning and siting  
14 permit for the proposed project to the person or public agency applying  
15 therefor. Action shall be taken by the commission within 30 days of the  
16 receipt of the recommendation of the county and state agencies.

17 (6) The commission may prescribe and include in the planning and  
18 siting permit such conditions or restrictions that it considers necessary  
19 to assure that the proposed project complies with the state-wide goals and  
20 guidelines for activities of state-wide significance and the comprehensive  
21 plans within the county.

22 **SECTION 28.** If the activity requiring a planning and siting permit  
23 under section 27 of this Act also requires any other permit from any state  
24 agency, the commission, with the cooperation and concurrence of the other  
25 agency, may provide a joint application form and permit to satisfy both  
26 the requirements of this Act and any other requirements set by statute or  
27 by rule of the state agency.

28 **SECTION 29.** (1) If any person or public agency is in doubt whether  
29 a proposed development project constitutes an activity of state-wide sig-  
30 nificance, the person or public agency may request a determination from  
31 the commission on the question. Within 60 days after the date of the receipt  
32 by it of such a request, the commission, with the advice of the committee  
33 and of the county governing body for the county in which such activity is

1 proposed, shall issue a binding letter of interpretation with respect to the  
2 proposed project.

3 (2) Requests for determinations under this section shall be made to the  
4 commission in writing and in such form and contain such information as  
5 may be prescribed by the commission.

6 **SECTION 30.** (1) No project constituting an activity of state-wide  
7 significance shall be undertaken without a planning and siting permit is-  
8 sued under section 27 of this Act.

9 (2) Any person or agency acting in violation of subsection (1) of this  
10 section may be enjoined in civil proceedings brought in the name of the  
11 county or the State of Oregon.

12 **SECTION 31.** If the county governing body or the commission de-  
13 termines the existence of an alleged violation under section 30 of this Act,  
14 it may:

15 (1) Investigate, hold hearings, enter orders and take action that it  
16 deems appropriate under this Act, as soon as possible.

17 (2) For the purpose of investigating conditions relating to the violation,  
18 through its members or its duly authorized representatives, enter at rea-  
19 sonable times upon any private or public property.

20 (3) Conduct public hearings.

21 (4) Publish its findings and recommendations as they are formulated  
22 relative to the violation.

23 (5) Give notice of any order relating to a particular violation of its  
24 state-wide goals, a particular violation of the terms or conditions of a plan-  
25 ning and siting permit or a particular violation of the provisions of this  
26 Act by mailing notice to the person or public body conducting or proposing  
27 to conduct the project affected in the manner provided by ORS chapter 183.

28 **PART IV STATE-WIDE PLANNING GOALS AND GUIDELINES**

29 **SECTION 32.** All comprehensive plans and any zoning, subdivision and  
30 other ordinances and regulations adopted by a state agency, city, county  
31 or special district to carry out such plans shall be in conformity with the  
32 state-wide planning goals within one year from the date such goals are  
33 approved by the commission.

34 **SECTION 33.** Not later than January 1, 1975, the department shall pre-

1 pare and the commission shall adopt state-wide planning goals and guide-  
2 lines for use by state agencies, cities, counties and special districts in pre-  
3 paring, adopting, revising and implementing existing and future compre-  
4 hensive plans.

5 **SECTION 34.** In preparing and adopting state-wide planning goals and  
6 guidelines, the department and the commission shall:

7 (1) Consider the existing comprehensive plans of state agencies, cities,  
8 counties and special districts in order to preserve functional and local  
9 aspects of land conservation and development.

10 (2) Give priority consideration to the following areas and activities:

11 (a) Those activities listed in section 25 of this Act;

12 (b) Lands adjacent to freeway interchanges;

13 (c) Estuarine areas;

14 (d) Tide, marsh and wetland areas;

15 (e) Lakes and lakeshore areas;

16 (f) Wilderness, recreational and outstanding scenic areas;

17 (g) Beaches, dunes, coastal headlands and related areas;

18 (h) Wild and scenic rivers and related lands;

19 (i) Flood plains and areas of geologic hazard;

20 (j) Unique wildlife habitats; and

21 (k) Agricultural land.

22 **SECTION 35.** To assure widespread citizen involvement in all phases  
23 of the planning process:

24 (1) The commission shall appoint a State Citizen Involvement Advis-  
25 ory Committee, broadly representative of geographic areas of the state and  
26 of interests relating to land uses and land use decisions, to develop a pro-  
27 gram for the commission that promotes and enhances public participation  
28 in the development of state-wide planning goals and guidelines.

29 (2) Within 90 days after the effective date of this Act, each county  
30 governing body shall submit to the commission a program for citizen in-  
31 volvement in preparing, adopting and revising comprehensive plans with-  
32 in the county. Such program shall at least contain provision for a citizen  
33 advisory committee or committees broadly representative of geographic  
34 areas and of interests relating to land uses and land use decisions.

1 (3) The state advisory committee appointed under subsection (1) of this  
2 section shall review the proposed programs submitted by each county and  
3 recommend to the commission whether or not the proposed program ade-  
4 quately provides for public involvement in the planning process.

5 **SECTION 36.** (1) In preparing the state-wide planning goals and  
6 guidelines, the department shall:

7 (a) Hold at least 10 public hearings throughout the state, causing no-  
8 tice of the time, place and purpose of each such hearing to be published in  
9 a newspaper of general circulation within the area where the hearing is  
10 to be conducted not later than 30 days prior to the date of the hearing.

11 (b) Implement any other provision for public involvement developed  
12 by the state advisory committee under subsection (1) of section 35 of this  
13 Act and approved by the commission.

14 (2) Upon completion of the preparation of the proposed state-wide  
15 planning goals and guidelines, the department shall submit them to the  
16 commission for approval.

17 **SECTION 37.** Upon receipt of the proposed state-wide planning goals  
18 and guidelines prepared and submitted to it by the department, the com-  
19 mission shall:

20 (1) Hold at least one public hearing on the proposed state-wide plan-  
21 ning goals and guidelines. The commission shall cause notice of the time,  
22 place and purpose of the hearings and the place where copies of the  
23 proposed goals and guidelines are available before the hearings with the  
24 cost thereof to be published in a newspaper of general circulation in the  
25 state not later than 30 days prior to the date of the hearing. The department  
26 shall supply a copy of its proposed state-wide planning goals and guide-  
27 lines to the Governor, the committee, affected state agencies and special  
28 districts and to each city and county without charge. The department shall  
29 provide copies of such proposed goals and guidelines to other public agen-  
30 cies or persons upon request and payment of the cost of preparing the  
31 copies of the materials requested.

32 (2) Consider the recommendations and comments received from the  
33 public hearings conducted under subsection (1) of this section, make any  
34 revisions in the proposed state-wide planning goals and guidelines that it

1 considers necessary and approve the proposed goals and guidelines as they  
2 may be revised by the commission.

3     **SECTION 38.** The commission may periodically revise, update and ex-  
4 pand the initial state-wide planning goals and guidelines adopted under  
5 section 37 of this Act. Such revisions, updatings or expansions shall be made  
6 in the manner provided in sections 36 and 37 of this Act.

7     **SECTION 39.** Following the approval by the commission of state-wide  
8 planning goals and guidelines, each county governing body shall review all  
9 comprehensive plans for land conservation and development within the  
10 county, both those adopted and those being prepared. The county gov-  
11 erning body shall advise the state agency, city, county or special district  
12 preparing the comprehensive plans whether or not the comprehensive plans  
13 are in conformity with the state-wide planning goals.

#### 14                                   **PART V COMPREHENSIVE PLANS**

15     **SECTION 40.** Comprehensive plans and zoning, subdivision, and other  
16 ordinances and regulations adopted prior to the effective date of this Act  
17 shall remain in effect until revised under this Act. It is intended that exist-  
18 ing planning efforts and activities shall continue and that such efforts be  
19 utilized in achieving the purposes of this Act.

20     **SECTION 41.** Prior to approval by the commission of its state-wide  
21 planning goals and guidelines under section 37 of this Act, the goals listed  
22 in ORS 215.515 shall be applied by state agencies, cities, counties and spe-  
23 cial districts in the preparation, revision, adoption or implementation of  
24 any comprehensive plan.

25     **SECTION 42.** Each city or county shall prepare and the city council or  
26 the county governing body shall adopt the comprehensive plans required  
27 under this Act or by any other law in accordance with section 41 of this  
28 Act for those plans adopted prior to the expiration of one year following  
29 the date the commission approves its state-wide planning goals and guide-  
30 lines under section 37 of this Act. Plans adopted by cities and counties  
31 after the expiration of one year following the date of approval of such  
32 goals and guidelines by the commission shall be designed to comply with  
33 such goals and any subsequent amendments thereto.



1 Section 43. ORS 215.055 is amended to read:

2 215.055. (1) [*The*] **Any comprehensive plan** [*and all legislation and*  
3 *regulations*] **and all zoning, subdivision or other ordinances and regula-**  
4 **tions authorized by ORS 215.010 to 215.233 and adopted prior to the expira-**  
5 **tion of one year following the date of the approval of state-wide planning**  
6 **goals and guidelines under section 37 of this 1973 Act shall be designed to**  
7 **promote the public health, safety and general welfare and shall be based on**  
8 **the following considerations, among others: The various characteristics**  
9 **of the various areas in the county, the suitability of the areas for par-**  
10 **ticular land uses and improvements, the land uses and improvements in**  
11 **the areas, trends in land improvement, density of development, property**  
12 **values, the needs of economic enterprises in the future development of the**  
13 **areas, needed access to particular sites in the areas, natural resources of the**  
14 **county and prospective needs for development thereof, and the public**  
15 **need for healthful, safe, aesthetic surroundings and conditions.**

16 **(2) Any plan and all zoning, subdivision or other ordinances and regu-**  
17 **lations authorized by ORS 215.010 to 215.233 and adopted after the expira-**  
18 **tion of one year after the date of the approval of state-wide planning goals**  
19 **and guidelines under section 37 of this 1973 Act shall be designed to comply**  
20 **with such state-wide planning goals and any subsequent revisions or**  
21 **amendments thereof.**

22 **[(2)] (3) In order to conserve natural resources of the state, any land**  
23 **use plan or zoning, subdivision or other ordinance adopted by a county**  
24 **shall take into consideration lands that are, can or should be utilized for**  
25 **sources or processing of mineral aggregates.**

26 **SECTION 44.** Upon the expiration of one year after the date of the  
27 approval of state-wide planning goals and guidelines and annually there-  
28 after, each county governing body shall report to the commission on the  
29 status of comprehensive plans within each county. Each such report shall  
30 include:

31 (1) Copies of comprehensive plans reviewed by the county governing  
32 body and copies of zoning and subdivision ordinances and regulations ap-  
33 plied to those areas within the county listed in subsection (2) of section  
34 34 of this Act.

DR 97010 22010 92100 21210 218 2215 190  
215 203 215 233 215 203 207.010 207.150  
227.210 227.10

1 (2) For those areas or jurisdictions within the county without com-  
2 prehensive plans, a statement and review of the progress made toward  
3 compliance with the state-wide planning goals.

4 **SECTION 45.** (1) Notwithstanding any other provision of law, after the  
5 expiration of one year after the date of the approval of the initial state-  
6 wide planning goals and guidelines under section 37 of this Act, upon 90  
7 days' notice to the affected governing body or bodies, and upon public  
8 hearings held within 30 days thereafter, the commission shall prescribe and  
9 may amend and administer comprehensive plans and zoning, subdivision  
10 or other ordinances and regulations necessary to develop and implement a  
11 comprehensive plan within the boundaries of a county, whether or not  
12 within the boundaries of a city, that do not comply with the state-wide  
13 planning goals approved under this Act and any subsequent revisions or  
14 amendments thereof.

15 (2) If the city or county has under consideration a comprehensive  
16 plan or zoning, subdivision or other ordinances or regulations for lands  
17 described in subsection (1) of this section, and shows satisfactory progress  
18 toward the adoption of such comprehensive plan or such ordinances or  
19 regulations, the commission may grant a reasonable extension of time  
20 after the date set in this section for completion of such plan or such  
21 ordinances or regulations.

22 (3) Any comprehensive plan or zoning, subdivision or other ordinance  
23 or regulation adopted by the commission under subsection (1) of this  
24 section shall comply with the state-wide planning goals approved under  
25 this Act and all subsequent revisions or amendments thereof.

26 **SECTION 46.** (1) There is transferred to and vested in the commission  
27 those duties, powers and functions vested in the Governor by ORS 215.505  
28 to 215.535. After the effective date of this Act, the commission shall  
29 exercise such duties, powers and functions.

30 (2) For the purpose of harmonizing and clarifying Oregon Revised  
31 Statutes, the Legislative Counsel may substitute for words designating  
32 the Governor, where such words occur in ORS 215.505 to 215.535, words  
33 designating the Land Conservation and Development Commission.

1 Section 47. ORS 215.510 is amended to read:

2 215.510. (1) Any comprehensive [*land use plans*] **plan for any city**  
3 **or county** prescribed or amended by the [*Governor*] **commission** pursuant  
4 to ORS 215.505 **or section 45 of this 1973 Act** shall be in accordance with  
5 the standards provided in ORS 215.515 and the notice and hearing re-  
6 quirements provided in ORS 215.060.

7 (2) Any zoning, **subdivision or other ordinances and regulations for any**  
8 **city or county** prescribed or amended by the [*Governor*] **commission** pur-  
9 suant to ORS 215.505 **or section 45 of this 1973 Act** shall be in accordance  
10 with the standards provided in ORS 215.055 and the notice and hearing  
11 requirements provided in ORS 215.223.

12 (3) A comprehensive [*land use*] plan or zoning, **subdivision or other**  
13 **ordinance or regulation for any city or county** prescribed or amended by  
14 the [*Governor*] **commission** pursuant to ORS 215.505 **or section 45 of this**  
15 **1973 Act** may be for any purpose provided in ORS 215.010 to 215.233 and  
16 subsections (1) and (2) of 215.990, except that the [*Governor*] **commission**  
17 may not prescribe building regulations. The [*Governor*] **commission** may,  
18 however, cause to be instituted an appropriate proceeding to enjoin the  
19 construction of buildings or performance of any other acts which would  
20 constitute a land use that does not conform to the applicable [*land use*]  
21 **comprehensive plan or zoning, subdivision or other ordinance or regula-**  
22 **tion.**

23 (4) Any hearings required by this section may be held by the [*Gov-*  
24 *ernor*] **commission**, or by a person designated by the [*Governor*] **com-**  
25 **mission**, and all such hearings shall be held in the county seat of the  
26 county **or in the city** in which said comprehensive [*land use*] plan or zon-  
27 ing, **subdivision or other ordinance or regulation** is to be prescribed.

28 Section 48. ORS 215.515 is amended to read:

29 215.515. (1) Comprehensive physical planning, **adopted by the com-**  
30 **mission prior to the expiration of one year following the date of the**  
31 **approval of state-wide planning goals and guidelines under section 37**  
32 **of this 1973 Act**, should provide guidance for physical development within  
33 the state responsive to economic development, human resource develop-  
34 ment, natural resource development and regional and metropolitan area

1 development. It should assist in attainment of the optimum living environ-  
2 ment for the state's citizenry and assure sound housing, employment  
3 opportunities, educational fulfillment and sound health facilities. State  
4 plans should relate to intermediate and long-range growth objectives. The  
5 plans should set a pattern upon which state agencies and local government  
6 may base their programs and local area plans. Goals for comprehensive  
7 physical planning are:

8 [(1)] (a) To preserve the quality of the air [and] , water and land  
9 resources of the state.

10 [(2)] (b) To conserve open space and protect natural and scenic re-  
11 sources.

12 [(3)] (c) To provide for the recreational needs of citizens of the  
13 state and visitors.

14 [(4)] (d) To conserve prime farm lands for the production of crops  
15 [and].

16 (e) To provide for an orderly and efficient transition from rural  
17 to urban land use.

18 [(5)] (f) To protect life and property in areas subject to floods,  
19 landslides and other natural disasters.

20 [(6)] (g) To provide and encourage a safe, convenient and economic  
21 transportation system including all modes of transportation: Air, water,  
22 rail, highway and mass transit, and recognizing differences in the social  
23 costs in the various modes of transportation.

24 [(7)] (h) To develop a timely, orderly and efficient arrangement of  
25 public facilities and services to serve as a framework for urban and rural  
26 development.

27 [(8)] (i) To diversify and improve the economy of the state.

28 [(9)] (j) To ensure that the development of properties within the state  
29 is commensurate with the character and the physical limitations of the land.

30 (2) Comprehensive plans adopted by the commission after the expira-  
31 tion of one year after the date of the approval of state-wide planning  
32 goals and guidelines under section 37 of this 1973 Act shall be designed  
33 to comply with such state-wide planning goals and any subsequent re-  
34 visions or amendments thereof.

1 Section 49. ORS 215.535 is amended to read:

2 215.535. In addition to the remedy prescribed in subsection (3) of  
3 ORS 215.510, the [Governor] **commission** may cause to be instituted any  
4 civil action or suit [he] it considers appropriate to remedy violations of  
5 any comprehensive [land use] plan or zoning, **subdivision or other ordi-**  
6 **nance or** regulation prescribed by the [Governor] **commission** pursuant  
7 to ORS 215.505 or **section 45 of this 1973 Act** .

8 **SECTION 50.** (1) Whenever the commission prescribes a comprehen-  
9 sive plan or zoning, subdivision or other ordinances or regulations for lands  
10 described in subsection (1) of section 45 of this Act, the costs incurred by  
11 the commission and the department in the preparation and administration  
12 of such plan or ordinances or regulations shall be borne by the city or  
13 county for which the commission has proposed such plan or ordinances  
14 or regulations. Upon presentation by the commission to the governing  
15 body of the city or county of a certified, itemized statement of costs, the  
16 governing body shall order payment to the commission out of any avail-  
17 able funds. With respect to a city or county, if no payment is made  
18 by the governing body within 30 days thereafter, the commission shall  
19 submit to the Secretary of State its certified, itemized statement of such  
20 costs and the commission shall be reimbursed upon the order of the Secre-  
21 tary of State to the State Treasurer, from the city's or county's share of the  
22 state's cigarette and liquor revenues.

23 (2) Within 10 days of receipt of the certified, itemized statement of costs  
24 under subsection (1) of this section, any city or county aggrieved by  
25 the statement may appeal to the Court of Appeals. The appeal shall  
26 be taken as from a contested case under ORS 183.480. Notice of the appeal  
27 shall operate as a stay in the commissioner's right to reimbursement  
28 under subsection (1) of this section until the decision is made on the appeal.

#### 29 **PART VI APPEALS**

30 **SECTION 51.** (1) In the manner provided in sections 52 to 54 of this  
31 Act, the commission shall review upon:

32 (a) Petition by a county governing body, a comprehensive plan pro-  
33 vision or any zoning, subdivision or other ordinance or regulation adopted  
34 by a state agency, city, county or special district that the governing body

1 considers to be in conflict with state-wide planning goals approved under  
2 section 37 of this Act or interim goals specified in ORS 215.515.

3 (b) Petition by a city or county governing body, a land conservation  
4 and development action taken by a state agency, city, county or special  
5 district that the governing body considers to be in conflict with state-  
6 wide planning goals approved under section 37 of this Act or interim  
7 goals specified in ORS 215.515.

8 (c) Petition by a state agency, city, county or special district, any  
9 county governing body action that the state agency, city, county or special  
10 district considers to be improperly taken or outside the scope of the gov-  
11 erning body's authority under this Act.

12 (d) Petition by any person or group of persons whose interests are  
13 substantially affected, a comprehensive plan provision or any zoning, sub-  
14 division or other ordinance or regulation alleged to be in violation of  
15 state-wide planning goals approved under section 37 of this Act or interim  
16 goals specified in ORS 215.515.

17 (2) A petition filed with the commission pursuant to subsection (1)  
18 of this section must be filed not later than 60 days (excluding Saturdays  
19 and holidays) after the date of the final adoption or approval of the  
20 action or comprehensive plan upon which the petition is based.

21 **SECTION 52.** (1) All review proceedings conducted by the commis-  
22 sion pursuant to section 51 of this Act shall be based on the administra-  
23 tive record, if any, prepared with respect to the proceedings for the adop-  
24 tion or approval of the comprehensive plan provision or action that is  
25 the subject of the review proceeding.

26 (2) The commission shall adopt such rules, procedures and regulations  
27 for the conduct of review proceedings held pursuant to section 51 of  
28 this Act, in accordance with the provisions of ORS 183.310 to 183.500 for  
29 hearings and notice in contested cases.

30 (3) A city, county, state agency, special district or any person or  
31 group of persons whose interests are substantially affected may intervene  
32 in and be made a party to any review proceeding conducted by the com-  
33 mission with the approval of the commission, upon the request of the  
34 hearings officer appointed to conduct such proceeding or upon the ap-

1 proval by the hearings officer of a request by such agency, person or  
2 group of persons for intervention in the review proceeding.

3 **SECTION 53.** (1) In carrying out its duties under section 51 of this  
4 Act, the chairman of the commission shall assign each petition to be  
5 reviewed by the commission to a hearings officer who shall conduct the  
6 review proceeding.

7 (2) A hearings officer shall conduct a review proceeding in accordance  
8 with the rules, procedures and regulations adopted by the commission.  
9 Upon the conclusion of a hearing, the hearings officer shall promptly  
10 determine the matter, prepare a recommendation for commission action  
11 upon the matter and submit a copy of his recommendation to the com-  
12 mission and to each party to the proceeding.

13 (3) The commission shall review the recommendation of the hearings  
14 officer and the record of the proceeding and issue its order with respect  
15 to the review proceeding within 60 days following the date of the filing  
16 of the petition upon which such review proceeding is based. The com-  
17 mission may adopt, reject or amend the recommendation of the hearings  
18 officer in any matter.

19 (4) No order of the commission issued under subsection (3) of this  
20 section is valid unless all members of the commission have received  
21 the recommendation of the hearings officer in the matter and at least  
22 four members of the commission concur in its action in the matter.

23 (5) Any party to a review proceeding before the commission who  
24 is adversely affected or aggrieved by the order issued by the commis-  
25 sion in the matter may appeal the order of the commission in the manner  
26 provided in ORS 183.480 for appeals from final orders in contested cases.

27 (6) The commission may enforce orders issued under subsection (3) of  
28 this section in appropriate judicial proceedings brought by the com-  
29 mission therefor.

30 **SECTION 54.** (1) If, upon its review of the recommendation of a  
31 hearings officer and the record of the review proceeding prepared follow-  
32 ing a review proceeding before the commission, the commission is unable  
33 to reach a decision in the matter without further information or evidence  
34 not contained in the record of the proceeding, it may refer the matter back

1 to the hearings officer and request that the additional information or evi-  
2 dence be acquired by him or that he correct any errors or deficiencies  
3 found by the commission to exist in his recommendation or record of  
4 the proceeding.

5 (2) In case of a referral of a matter back to the hearings officer  
6 pursuant to subsection (1) of this section, the 60-day period referred  
7 to in subsection (3) of section 53 of this Act is suspended for a reasonable  
8 interval not to exceed 60 days.

#### 9 PART VII LEGISLATIVE REVIEW

10 SECTION 55. The department shall report monthly to the committee  
11 in order to keep the committee informed on progress made by the depart-  
12 ment, commission, counties and other agencies in carrying out the pro-  
13 visions of this Act.

14 SECTION 56. (1) Prior to the end of each even-numbered year, the  
15 department shall prepare a written report for submission to the Legisla-  
16 tive Assembly of the State of Oregon describing activities and accomp-  
17 lishments of the department, commission, state agencies, cities, counties  
18 and special districts in carrying out the provisions of this Act.

19 (2) A draft of the report required by subsection (1) of this section  
20 shall be submitted to the committee for its review and comment at least  
21 60 days prior to submission of the report to the Legislative Assembly. Com-  
22 ments of the committee shall be incorporated into the final report.

23 (3) Goals and guidelines adopted by the commission shall be included  
24 in the report to the Legislative Assembly submitted under subsection  
25 (1) of this section.

#### 26 PART VIII MISCELLANEOUS

27 Section 57. ORS 453.345 is amended to read:

28 453.345. (1) Applications for site certificates shall be made to the  
29 Nuclear and Thermal Energy Council on a form prescribed by the council  
30 and accompanied by the fee required by ORS 453.405. The application may  
31 be filed not sooner than 12 months after filing of the notice of intent.

32 (2) Proposed use of a site within an area designated by the council  
33 as suitable for location of thermal power plants or nuclear installations



1 does not preclude the necessity of the applicant obtaining a site certificate  
2 for the specific site.

3 (3) Copies of the notice of intent and of the application shall be sent  
4 for comment and recommendation within specified deadlines established  
5 by the council to the Department of Environmental Quality, the State Water  
6 Resources Board, the Fish Commission of the State of Oregon, the State  
7 Game Commission, the State Board of Health, the State Engineer, the  
8 State Geologist, the State Forestry Department, the Public Utility Commis-  
9 sioner of Oregon, the State Department of Agriculture, the Department  
10 of Transportation, **the Department of Land Conservation and Develop-**  
11 **ment** and the Economic Development Division.

12 **SECTION 58.** The part designations and unit captions used in this  
13 Act are provided only for the convenience of locating provisions of this Act,  
14 and are not part of the statutory law of this state.

15 ~~SECTION 59. This Act being necessary for the immediate preservation~~  
16 ~~of the public peace, health and safety, an emergency is declared to exist,~~  
17 ~~and this Act takes effect on July 1, 1973.~~

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# SENATE COMMITTEE REPORT

Salem, Oregon April 11, 1973

Mr. President:

Your Committee on ENVIRONMENT AND LAND USE to whom was referred  
SENATE BILL 100, having had the same under consideration,

respectfully report it back with the recommendation that it:

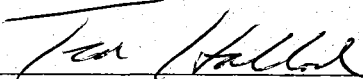
- Do pass:  Do pass with amendments:  
 Be adopted:  Be adopted with amendments:  
 Do pass with amendments to the printed engrossed bill.  
 (Referred to Committee on Ways and Means by prior reference)  
 (Other—specify)

Voting no: Senator John Burns

Voting aye: Senator Atiyeh, Macpherson, Ripper, Thorne, Wingard, Hallock

Excused: \_\_\_\_\_

Submit:  
2 copies if no amdts.  
4 copies if amdts.  
5 copies if to be printed engrossed.

  
\_\_\_\_\_  
(Chairman)  
Senator Ted Hallock  
Sen. Hector Macpherson  
will lead floor discussion.

On page 3 of the printed re-engrossed bill, line 3,  
after the first semicolon insert "and" and in the same  
line delete "; and declar-".

In line 4, delete "ing an emergency".

On page 27, delete lines 15 through 17.

RE-ENGROSSED

(March 23 amendments not printed)

**Senate Bill 100**

Ordered by the Senate April 9  
(Including Amendments by Senate March 23 and April 9)

Sponsored by Senators MACPHERSON, HALLOCK

**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.

Creates Department of Land Conservation and Development, composed of Land Conservation and Development Commission, director and employees. Establishes Joint Legislative Committee on Land Use, as standing committee to advise and assist department in carrying out its duties.

Authorizes commission to designate activities of state-wide significance in public transportation, public sewerage systems and public schools and to make recommendation for additional designations, subject to approval of Legislative Assembly. Requires commission, subject to approval of Legislative Assembly, to promulgate and implement state-wide planning goals consistent with regional, county and city concerns for such activities and state-wide planning guidelines for land use planning in state. Requires state agencies, planning districts, cities, counties and special districts to comply with state-wide planning guidelines and state-wide planning goals in adoption of comprehensive plans and zoning, subdivision or other ordinances and regulations. **Makes counties responsible for coordinating all land use planning activities within counties, except for cities having population of 300,000 or more.**

Requires permit to be issued by commission for development projects constituting activities of state-wide significance. provides for enforcement of permit requirements. Authorizes injunction of activities of state-wide significance carried on without permit.

Permits voluntary association of counties for planning purposes. Provides for establishment of regional planning agency composed of cities and counties, subject to approval of voters in proposed region. Authorizes voluntary association of local governments to perform coordinative planning functions of counties under Act.

**Continued on Page 2**

**NOTE:** Matter in bold face in an amended section is new; matter [*italic and crackered*] is existing law to be omitted; complete new sections begin with **SECTION.**

**Continued from Page 1**

Requires, within one year after approval of state-wide planning guidelines, all comprehensive plans and zoning, subdivision or other ordinances or regulations to comply with such guidelines. Authorizes commission to perform planning and zoning functions of noncomplying governmental units. Provides, in case of nonpayment by city or county, for reimbursement of commission from city or county share of state liquor and cigarette revenues. Establishes appeal procedures.

Provides for review by commission of specified land conservation and development actions and plans. Establishes Land Conservation and Development Account in General Fund for use by department.

Declares emergency and takes effect July 1, 1973.

## 1 A BILL FOR AN ACT

2 Relating to land use; creating new provisions; amending ORS 215.055,  
3 215.510, 215.515, 215.535 and 453.345; appropriating money; and declar-  
4 ing an emergency.

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

6 **PART I INTRODUCTION**7 **PREAMBLE**

8 **SECTION 1.** The Legislative Assembly finds that:

9 (1) Uncoordinated use of lands within this state threaten the orderly  
10 development, the environment of this state and the health, safety, order,  
11 convenience, prosperity and welfare of the people of this state.

12 (2) To promote coordinated administration of land uses consistent with  
13 comprehensive plans adopted throughout the state, it is necessary to  
14 establish a process for the review of state agency, city, county and special  
15 district land conservation and development plans for compliance with  
16 state-wide planning goals and guidelines.

17 (3) Except as otherwise provided in subsection (4) of this section,  
18 cities and counties should remain as the agencies to consider, promote and  
19 manage the local aspects of land conservation and development for the  
20 best interests of the people within their jurisdictions.

21 (4) The promotion of coordinated state-wide land conservation and  
22 development requires the creation of a state-wide planning agency to  
23 prescribe planning goals and objectives to be applied by state agencies,  
24 cities, counties and special districts throughout the state.

25 (5) The impact of proposed development projects, constituting activities  
26 of state-wide significance upon the public health, safety and welfare,  
27 requires a system of permits reviewed by a state-wide agency to carry out  
28 state-wide planning goals and guidelines prescribed for application for  
29 activities of state-wide significance throughout this state.

30 **POLICY STATEMENT**

31 **SECTION 2.** The Legislative Assembly declares that, in order to assure  
32 the highest possible level of liveability in Oregon, it is necessary to provide  
33 for properly prepared and coordinated comprehensive plans for cities and

1 counties, regional areas and the state as a whole. These comprehensive plans:

2 (1) Must be adopted by the appropriate governing body at the local  
3 and state levels;

4 (2) Are expressions of public policy in the form of policy statements,  
5 generalized maps and standards and guidelines;

6 (3) Shall be the basis for more specific rules, regulations and ordinances  
7 which implement the policies expressed through the comprehensive plans;

8 (4) Shall be prepared to assure that all public actions are consistent  
9 and coordinated with the policies expressed through the comprehensive  
10 plans; and

11 (5) Shall be regularly reviewed and, if necessary, revised to keep them  
12 consistent with the changing needs and desires of the public they are  
13 designed to serve.

#### 14 DEFINITIONS

15 **SECTION 3.** As used in this Act, unless the context requires otherwise:

16 (1) "Activity of state-wide significance" means a land conservation and  
17 development activity designated pursuant to section 25 of this Act.

18 (2) "Commission" means the Land Conservation and Development  
19 Commission.

20 (3) "Committee" means the Joint Legislative Committee on Land Use.

21 (4) "Comprehensive plan" means a generalized, coordinated land use  
22 map and policy statement of the governing body of a state agency, city,  
23 county or special district that interrelates all functional and natural sys-  
24 tems and activities relating to the use of lands, including but not limited  
25 to sewer and water systems, transportation systems, educational systems,  
26 recreational facilities, and natural resources and air and water quality  
27 management programs. "Comprehensive" means all-inclusive, both in terms  
28 of the geographic area covered and functional and natural activities and  
29 systems occurring in the area covered by the plan. "General nature" means  
30 a summary of policies and proposals in broad categories and does not neces-  
31 sarily indicate specific locations of any area, activity or use. A plan is "co-  
32 ordinated" when the needs of all levels of governments, semipublic and  
33 private agencies and the citizens of Oregon have been considered and  
34 accommodated as much as possible. "Land" includes water, both surface  
and subsurface, and the air.

1 (5) "Department" means the Department of Land Conservation and  
2 Development.

3 (6) "Director" means the Director of the Department of Land Con-  
4 servation and Development.

5 (7) "Special district" means any unit of local government, other than  
6 a city or county, authorized and regulated by statute and includes, but is  
7 not limited to: Water control districts, irrigation districts, port districts,  
8 regional air quality control authorities, fire districts, school districts, hos-  
9 pital districts, mass transit districts and sanitary districts.

10 (8) "Voluntary association of local governments" means a regional  
11 planning agency in this state officially designated by the Governor pur-  
12 suant to the federal Office of Management and Budget Circular A-95 as  
13 a regional clearinghouse.

## 14 **PART II ORGANIZATION, ROLES AND RESPONSIBILITIES**

### 15 **DEPARTMENT OF LAND CONSERVATION AND DEVELOPMENT**

16 **SECTION 4.** The Department of Land Conservation and Development  
17 is established. The department shall consist of the Land Conservation and  
18 Development Commission, the director and their subordinate officers and  
19 employees.

20 **SECTION 5.** (1) There is established a Land Conservation and De-  
21 velopment Commission consisting of seven members appointed by the  
22 Governor, subject to confirmation by the Senate in the manner provided  
23 in ORS 171.560 and 171.570.

24 (2) In making appointments under subsection (1) of this section, the  
25 Governor shall select from residents of this state one member from each  
26 congressional district and the remaining members from the state at large.  
27 At least one and no more than two members shall be from Multnomah  
28 County.

29 (3) The term of office of each member of the commission is four years,  
30 but a member may be removed by the Governor for cause. Before the ex-  
31 piration of the term of a member, the Governor shall appoint a successor.  
32 No person shall serve more than two full terms as a member of the com-  
33 mission.



1 (4) If there is a vacancy for any cause, the Governor shall make an  
2 appointment to become immediately effective for the unexpired term.

3 **SECTION 6.** Notwithstanding the term of office specified in section 5  
4 of this Act, of the members first appointed to the commission:

5 (1) Two shall serve for a term ending June 30, 1974.

6 (2) Two shall serve for a term ending June 30, 1975.

7 (3) Two shall serve for a term ending June 30, 1976.

8 (4) One shall serve for a term ending June 30, 1977.

9 **SECTION 7.** (1) The commission shall select one of its members as  
10 chairman and another member as vice chairman, for such terms and with  
11 duties and powers necessary for the performance of the functions of such  
12 offices as the commission determines. The vice chairman of the commission  
13 shall act as the chairman of the commission in the absence of the chairman.

14 (2) A majority of the members of the commission constitutes a quorum  
15 for the transaction of business.

16 **SECTION 8.** Members of the commission are entitled to compensation  
17 and expenses as provided in ORS 292.495.

18 **SECTION 9.** The commission shall:

19 (1) Direct the performance by the director and his staff of their  
20 functions under this Act.

21 (2) In accordance with the provisions of ORS chapter 183, promulgate  
22 rules that it considers necessary in carrying out this Act.

23 (3) Cooperate with the appropriate agencies of the United States, this  
24 state and its political subdivisions, any other state, any interstate agency,  
25 any person or groups of persons with respect to land conservation and  
26 development.

27 (4) Appoint advisory committees to aid it in carrying out this Act and  
28 provide technical and other assistance, as it considers necessary, to each  
29 such committee.

30 **SECTION 10.** The commission may:

31 (1) Apply for and receive moneys from the Federal Government and  
32 from this state or any of its agencies or departments.

33 (2) Contract with any public agency for the performance of services or

1 the exchange of employes or services by one to the other necessary in  
2 carrying out this Act.

3 (3) Contract for the services of and consultation with professional  
4 persons or organizations, not otherwise available through federal, state and  
5 local governmental agencies, in carrying out its duties under this Act.

6 (4) Perform other functions required to carry out this Act.

7 **SECTION 11.** Pursuant to the provisions of this Act, the commission  
8 shall:

9 (1) Establish state-wide planning goals consistent with regional, county  
10 and city concerns;

11 (2) Issue permits for activities of state-wide significance;

12 (3) Prepare inventories of land uses;

13 (4) Prepare state-wide planning guidelines;

14 (5) Review comprehensive plans for conformance with state-wide plan-  
15 ning goals;

16 (6) Coordinate planning efforts of state agencies to assure conformance  
17 with state-wide planning goals and compatability with city and county  
18 comprehensive plans;

19 (7) Insure widespread citizen involvement and input in all phases of  
20 the process;

21 (8) Prepare model zoning, subdivision and other ordinances and regu-  
22 lations to guide state agencies, cities, counties and special districts in imple-  
23 menting state-wide planning goals, particularly those for the areas listed in  
24 subsection (2) of section 34 of this Act;

25 (9) Review and recommend to the Legislative Assembly the designation  
26 of areas of critical state concern;

27 (10) Report periodically to the Legislative Assembly and to the com-  
28 mittee; and

29 (11) Perform other duties required by law.

30 **SECTION 12.** If an interstate land conservation and development plan-  
31 ning agency is created by an interstate agreement or compact entered into  
32 by this state, the commission shall perform the functions of this state with  
33 respect to the agreement or compact. If the functions of the interstate plan-

1 ning agency duplicate any of the functions of the commission under this  
2 Act, the commission may:

3 (1) Negotiate with the interstate agency in defining the areas of  
4 responsibility of the commission and the interstate planning agency; and

5 (2) Cooperate with the interstate planning agency in the performance  
6 of its functions.

7 **SECTION 13.** (1) The commission shall appoint a person to serve as  
8 the Director of the Department of Land Conservation and Development.  
9 The director shall hold his office at the pleasure of the commission and his  
10 salary shall be fixed by the commission unless otherwise provided by law.

11 (2) In addition to his salary, the director shall be reimbursed, subject  
12 to any applicable law regulating travel and other expenses of state officers  
13 and employes, for actual and necessary expenses incurred by him in the  
14 performance of his official duties.

15 **SECTION 14.** Subject to policies adopted by the commission, the di-  
16 rector shall:

17 (1) Be the administrative head of the department.

18 (2) Coordinate the activities of the department in its land conservation  
19 and development functions with such functions of federal agencies, other  
20 state agencies, cities, counties and special districts.

21 (3) Appoint, reappoint, assign and reassign all subordinate officers and  
22 employes of the department, prescribe their duties and fix their compen-  
23 sation, subject to the State Merit System Law.

24 (4) Represent this state before any agency of this state, any other state  
25 or the United States with respect to land conservation and development  
26 within this state.

27 **SECTION 15.** (1) There is established in the General Fund in the  
28 State Treasury the Land Conservation and Development Account. Moneys  
29 in the account are continuously appropriated for the purpose of carrying  
30 out the provisions of this Act.

31 (2) All fees, moneys and other revenue received by the department  
32 or the committee shall be deposited in the Land Conservation and Develop-  
33 ment Account.

1                   **OREGON COASTAL CONSERVATION AND**  
2                   **DEVELOPMENT COMMISSION**

3       **SECTION 16.** (1) The Land Conservation and Development Commis-  
4 sion, by agreement with the Oregon Coastal Conservation and Development  
5 Commission created by ORS 191.120 may delegate to the Oregon Coastal  
6 Conservation and Development Commission, any of the functions of the  
7 Land Conservation and Development Commission. However, the Land  
8 Conservation and Development Commission must review and grant ap-  
9 proval prior to any action taken by the Oregon Coastal Conservation and  
10 Development Commission with respect to a delegated function.

11       (2) The Land Conservation and Development Commission may provide  
12 staff and financial assistance to the Oregon Coastal Conservation and  
13 Development Commission in carrying out duties under this section.

14                   **CITIES AND COUNTIES**

15       **SECTION 17.** Cities and counties shall exercise their planning and  
16 zoning responsibilities in accordance with this Act and the state-wide plan-  
17 ning goals and guidelines approved under this Act.

18       **SECTION 18.** Pursuant to this Act, each city and county in this state  
19 shall:

20       (1) Prepare and adopt comprehensive plans consistent with state-wide  
21 planning goals and guidelines approved by the commission; and

22       (2) Enact zoning, subdivision and other ordinances or regulations to  
23 implement their comprehensive plans.

24       **SECTION 19.** (1) In addition to the responsibilities stated in sections  
25 17 and 18 of this Act, each county through its governing body, shall be  
26 responsible for coordinating all planning activities affecting land uses  
27 within the county, including those of the county, cities, special districts and  
28 state agencies, to assure an integrated comprehensive plan for the entire  
29 area of the county. For purposes of this subsection, the responsibility of  
30 the county described in this subsection shall not apply to cities having a  
31 population of 300,000 or more, and such cities shall exercise, within the  
32 incorporated limits thereof, the authority vested in counties by this sub-  
33 section.

34       (2) For the purposes of carrying out the provisions of this Act, counties

1 may voluntarily join together with adjacent counties as authorized in ORS  
2 chapter 190.

3 (3) Whenever counties and cities representing 51 percent of the popu-  
4 lation in their area petition the commission for an election in their area to  
5 form a regional planning agency to exercise the authority of the counties  
6 under subsection (1) of this section in the area, the commission shall  
7 review the petition. If it finds that the area described in the petition forms  
8 a reasonable planning unit, it shall call an election in the area to form a  
9 regional planning agency. The election shall be conducted in the manner  
10 provided in ORS chapter 259. The county clerk shall be considered the  
11 election officer and the commission shall be considered the district election  
12 authority. The agency shall be considered established if the majority of  
13 votes favor the establishment.

14 (4) If a voluntary association of local governments adopts a resolution  
15 ratified by each participating county and a majority of the participating  
16 cities therein which authorizes the association to perform the review, ad-  
17 visory and coordination functions assigned to the counties under sub-  
18 section (1) of this section, the association may perform such duties.

#### 19 **SPECIAL DISTRICTS AND STATE AGENCIES**

20 **SECTION 20.** Special districts shall exercise their planning duties,  
21 powers and responsibilities and take actions that are authorized by law  
22 with respect to programs affecting land use in accordance with state-wide  
23 planning goals and guidelines approved pursuant to this Act.

24 **SECTION 21.** State agencies shall carry out their planning duties,  
25 powers and responsibilities and take actions that are authorized by law  
26 with respect to programs affecting land use in accordance with state-wide  
27 planning goals and guidelines approved pursuant to this Act.

#### 28 **JOINT LEGISLATIVE COMMITTEE ON LAND USE**

29 **SECTION 22.** The Joint Legislative Committee on Land Use is estab-  
30 lished as a joint committee of the Legislative Assembly. The committee  
31 shall select an executive secretary who shall serve at the pleasure of the  
32 committee and under its direction.

33 **SECTION 23.** (1) The Joint Legislative Committee on Land Use shall  
34 consist of four members of the House of Representatives appointed by the

1 Speaker and three members of the Senate appointed by the President. No  
2 more than three House members of the committee shall be of the same  
3 political party. No more than two Senate members of the committee shall  
4 be of the same political party.

5 (2) The chairman of the House and Senate Environment and Land  
6 Use Committees of the Fifty-seventh Legislative Assembly of the State of  
7 Oregon shall be two of the members appointed under subsection (1) of  
8 this section for the period beginning with the effective date of this Act.

9 (3) The committee has a continuing existence and may meet, act and  
10 conduct its business during sessions of the Legislative Assembly or any  
11 recess thereof, and in the interim period between sessions.

12 (4) The term of a member shall expire upon the convening of the Legis-  
13 lative Assembly in regular session next following the commencement of  
14 the member's term. When a vacancy occurs in the membership of the  
15 committee in the interim between sessions, until such vacancy is filled, the  
16 membership of the committee shall be deemed not to include the vacant  
17 position for the purpose of determining whether a quorum is present and  
18 a quorum is the majority of the remaining members.

19 (5) Members of the committee shall be reimbursed for actual and  
20 necessary expenses incurred or paid in the performance of their duties as  
21 members of the committee, such reimbursement to be made from funds  
22 appropriated for such purposes, after submission of approved voucher  
23 claims.

24 (6) The committee shall select a chairman. The chairman may, in addi-  
25 tion to his other authorized duties, approve voucher claims.

26 (7) Action of the committee shall be taken only upon the affirmative  
27 vote of the majority of the members of the committee.

28 **SECTION 24.** The committee shall:

29 (1) Advise the department on all matters under the jurisdiction of the  
30 department;

31 (2) Review and make recommendations to the Legislative Assembly  
32 on proposals for additions to or modifications of designations of activities of

1 state-wide significance, and for designations of areas of critical state  
2 concern;

3 (3) Review and make recommendations to the Legislative Assembly  
4 on state-wide planning goals and guidelines approved by the commission;

5 (4) Study and make recommendations to the Legislative Assembly  
6 on the implementation of a program for compensation by the public to  
7 owners of lands within this state for the value of any loss of use of such  
8 lands resulting directly from the imposition of any zoning, subdivision or  
9 other ordinance or regulation regulating or restricting the use of such  
10 lands. Such recommendations shall include, but not be limited to, proposed  
11 methods for the valuation of such loss of use and proposed limits, if any,  
12 to be imposed upon the amount of compensation to be paid by the public  
13 for any such loss of use; and

14 (5) Make recommendations to the Legislative Assembly on any other  
15 matter relating to land use planning in Oregon.

### 16 PART III ACTIVITIES OF STATE-WIDE SIGNIFICANCE

#### 17 DESIGNATION

18 SECTION 25. (1) The following activities may be designated by the  
19 commission as activities of state-wide significance if the commission deter-  
20 mines that by their nature or magnitude they should be so considered:

21 (a) The planning and siting of public transportation facilities.

22 (b) The planning and siting of public sewerage systems, water supply  
23 systems and solid waste disposal sites and facilities.

24 (c) The planning and siting of public schools.

25 (2) Nothing in this Act supersedes any duty, power or responsibility  
26 vested by statute in any state agency relating to its activities described in  
27 subsection (1) of this section; except that, a state agency may neither  
28 implement any such activity nor adopt any plan relating to such an activity  
29 without the prior review and comment of the commission.

30 SECTION 26. (1) In addition to the activities of state-wide signifi-  
31 cance that are designated by the commission under section 25 of this Act,  
32 the commission may recommend to the committee the designation of addi-  
33 tional activities of state-wide significance. Each such recommendation shall  
34 specify the reasons for the proposed designation of the activity of state-

1 wide significance, the dangers that would result from such activity being  
2 uncontrolled and the suggested state-wide planning goals and guidelines  
3 to be applied for the proposed activity.

4 (2) The commission may recommend to the committee the designation  
5 of areas of critical state concern. Each such recommendation shall specify  
6 the criteria developed and reasons for the proposed designation, the damages  
7 that would result from uncontrolled development within the area, the  
8 reasons for the implementation of state regulations for the proposed area  
9 and the suggested state regulations to be applied within the proposed area.

10 (3) The commission may act under subsections (1) and (2) of this sec-  
11 tion on its own motion or upon the recommendation of a state agency, city,  
12 county or special district. If the commission receives a recommendation  
13 from a state agency, city, county or special district and finds the proposed  
14 activity or area to be unsuitable for designation, it shall notify the state  
15 agency, city, county or special district of its decision and its reasons there-  
16 for.

17 (4) Immediately following its decision to favorably recommend to  
18 the Legislative Assembly the designation of an additional activity of state-  
19 wide significance or the designation of an area of critical state concern,  
20 the commission shall submit the proposed designation accompanied by the  
21 supporting materials described in subsections (1) and (2) of this section to  
22 the committee for its review.

### 23 **PERMITS FOR ACTIVITIES OF STATE-WIDE SIGNIFICANCE**

24 **SECTION 27.** (1) On and after the date the commission has approved  
25 state-wide planning goals and guidelines for activities of state-wide sig-  
26 nificance designated under section 25 of this Act, no proposed project con-  
27 stituting such an activity may be initiated by any person or public agency  
28 without a planning and siting permit issued by the commission therefor.

29 (2) Any person or public agency desiring to initiate a project consti-  
30 tuting an activity of state-wide significance shall apply to the department  
31 for a planning and siting permit for such project. The application shall  
32 contain the plans for the project and the manner in which such project  
33 has been designed to meet the goals and guidelines for activities of state-  
34 wide significance and the comprehensive plans for the county within



1 which the project is proposed, and any other information required by the  
2 commission as prescribed by rule of the commission.

3 (3) The department shall transmit copies of the application to affected  
4 county and state agencies for their review and recommendation.

5 (4) The county governing body and the state agencies shall review  
6 an application transmitted to it under subsection (3) of this section and  
7 shall, within 30 days after the date of the receipt of the application, sub-  
8 mit their recommendations on the application to the commission.

9 (5) If the commission finds after review of the application and the  
10 comments submitted by the county governing body and state agencies that  
11 the proposed project complies with the state-wide goals and guidelines for  
12 activities of state-wide significance and the comprehensive plans within  
13 the county, it shall approve the application and issue a planning and siting  
14 permit for the proposed project to the person or public agency applying  
15 therefor. Action shall be taken by the commission within 30 days of the  
16 receipt of the recommendation of the county and state agencies.

17 (6) The commission may prescribe and include in the planning and  
18 siting permit such conditions or restrictions that it considers necessary  
19 to assure that the proposed project complies with the state-wide goals and  
20 guidelines for activities of state-wide significance and the comprehensive  
21 plans within the county.

22 **SECTION 28.** If the activity requiring a planning and siting permit  
23 under section 27 of this Act also requires any other permit from any state  
24 agency, the commission, with the cooperation and concurrence of the other  
25 agency, may provide a joint application form and permit to satisfy both  
26 the requirements of this Act and any other requirements set by statute or  
27 by rule of the state agency.

28 **SECTION 29.** (1) If any person or public agency is in doubt whether  
29 a proposed development project constitutes an activity of state-wide sig-  
30 nificance, the person or public agency may request a determination from  
31 the commission on the question. Within 60 days after the date of the receipt  
32 by it of such a request, the commission, with the advice of the committee  
33 and of the county governing body for the county in which such activity is

1 proposed, shall issue a binding letter of interpretation with respect to the  
2 proposed project.

3 (2) Requests for determinations under this section shall be made to the  
4 commission in writing and in such form and contain such information as  
5 may be prescribed by the commission.

6 **SECTION 30.** (1) No project constituting an activity of state-wide  
7 significance shall be undertaken without a planning and siting permit is-  
8 sued under section 27 of this Act.

9 (2) Any person or agency acting in violation of subsection (1) of this  
10 section may be enjoined in civil proceedings brought in the name of the  
11 county or the State of Oregon.

12 **SECTION 31.** If the county governing body or the commission de-  
13 termines the existence of an alleged violation under section 30 of this Act,  
14 it may:

15 (1) Investigate, hold hearings, enter orders and take action that it  
16 deems appropriate under this Act, as soon as possible.

17 (2) For the purpose of investigating conditions relating to the violation,  
18 through its members or its duly authorized representatives, enter at rea-  
19 sonable times upon any private or public property.

20 (3) Conduct public hearings.

21 (4) Publish its findings and recommendations as they are formulated  
22 relative to the violation.

23 (5) Give notice of any order relating to a particular violation of its  
24 state-wide goals, a particular violation of the terms or conditions of a plan-  
25 ning and siting permit or a particular violation of the provisions of this  
26 Act by mailing notice to the person or public body conducting or proposing  
27 to conduct the project affected in the manner provided by ORS chapter 183.

28 **PART IV STATE-WIDE PLANNING GOALS AND GUIDELINES**

29 **SECTION 32.** All comprehensive plans and any zoning, subdivision and  
30 other ordinances and regulations adopted by a state agency, city, county  
31 or special district to carry out such plans shall be in conformity with the  
32 state-wide planning goals within one year from the date such goals are  
33 approved by the commission.

34 **SECTION 33.** Not later than January 1, 1975, the department shall pre-

1 pare and the commission shall adopt state-wide planning goals and guide-  
2 lines for use by state agencies, cities, counties and special districts in pre-  
3 paring, adopting, revising and implementing existing and future compre-  
4 hensive plans.

5 **SECTION 34.** In preparing and adopting state-wide planning goals and  
6 guidelines, the department and the commission shall:

7 (1) Consider the existing comprehensive plans of state agencies, cities,  
8 counties and special districts in order to preserve functional and local  
9 aspects of land conservation and development.

10 (2) Give priority consideration to the following areas and activities:

11 (a) Those activities listed in section 25 of this Act;

12 (b) Lands adjacent to freeway interchanges;

13 (c) Estuarine areas;

14 (d) Tide, marsh and wetland areas;

15 (e) Lakes and lakeshore areas;

16 (f) Wilderness, recreational and outstanding scenic areas;

17 (g) Beaches, dunes, coastal headlands and related areas;

18 (h) Wild and scenic rivers and related lands;

19 (i) Flood plains and areas of geologic hazard;

20 (j) Unique wildlife habitats; and

21 (k) Agricultural land.

22 **SECTION 35.** To assure widespread citizen involvement in all phases  
23 of the planning process:

24 (1) The commission shall appoint a State Citizen Involvement Advis-  
25 ory Committee, broadly representative of geographic areas of the state and  
26 of interests relating to land uses and land use decisions, to develop a pro-  
27 gram for the commission that promotes and enhances public participation  
28 in the development of state-wide planning goals and guidelines.

29 (2) Within 90 days after the effective date of this Act, each county  
30 governing body shall submit to the commission a program for citizen in-  
31 volvement in preparing, adopting and revising comprehensive plans with-  
32 in the county. Such program shall at least contain provision for a citizen  
33 advisory committee or committees broadly representative of geographic  
34 areas and of interests relating to land uses and land use decisions.

1 (3) The state advisory committee appointed under subsection (1) of this  
2 section shall review the proposed programs submitted by each county and  
3 recommend to the commission whether or not the proposed program ade-  
4 quately provides for public involvement in the planning process.

5 **SECTION 36.** (1) In preparing the state-wide planning goals and  
6 guidelines, the department shall:

7 (a) Hold at least 10 public hearings throughout the state, causing no-  
8 tice of the time, place and purpose of each such hearing to be published in  
9 a newspaper of general circulation within the area where the hearing is  
10 to be conducted not later than 30 days prior to the date of the hearing.

11 (b) Implement any other provision for public involvement developed  
12 by the state advisory committee under subsection (1) of section 35 of this  
13 Act and approved by the commission.

14 (2) Upon completion of the preparation of the proposed state-wide  
15 planning goals and guidelines, the department shall submit them to the  
16 commission for approval.

17 **SECTION 37.** Upon receipt of the proposed state-wide planning goals  
18 and guidelines prepared and submitted to it by the department, the com-  
19 mission shall:

20 (1) Hold at least one public hearing on the proposed state-wide plan-  
21 ning goals and guidelines. The commission shall cause notice of the time,  
22 place and purpose of the hearings and the place where copies of the  
23 proposed goals and guidelines are available before the hearings with the  
24 cost thereof to be published in a newspaper of general circulation in the  
25 state not later than 30 days prior to the date of the hearing. The department  
26 shall supply a copy of its proposed state-wide planning goals and guide-  
27 lines to the Governor, the committee, affected state agencies and special  
28 districts and to each city and county without charge. The department shall  
29 provide copies of such proposed goals and guidelines to other public agen-  
30 cies or persons upon request and payment of the cost of preparing the  
31 copies of the materials requested.

32 (2) Consider the recommendations and comments received from the  
33 public hearings conducted under subsection (1) of this section, make any  
34 revisions in the proposed state-wide planning goals and guidelines that it

1 considers necessary and approve the proposed goals and guidelines as they  
2 may be revised by the commission.

3 **SECTION 38.** The commission may periodically revise, update and ex-  
4 pand the initial state-wide planning goals and guidelines adopted under  
5 section 37 of this Act. Such revisions, updatings or expansions shall be made  
6 in the manner provided in sections 36 and 37 of this Act.

7 **SECTION 39.** Following the approval by the commission of state-wide  
8 planning goals and guidelines, each county governing body shall review all  
9 comprehensive plans for land conservation and development within the  
10 county, both those adopted and those being prepared. The county gov-  
11 erning body shall advise the state agency, city, county or special district  
12 preparing the comprehensive plans whether or not the comprehensive plans  
13 are in conformity with the state-wide planning goals.

#### 14 **PART V COMPREHENSIVE PLANS**

15 **SECTION 40.** Comprehensive plans and zoning, subdivision, and other  
16 ordinances and regulations adopted prior to the effective date of this Act  
17 shall remain in effect until revised under this Act. It is intended that exist-  
18 ing planning efforts and activities shall continue and that such efforts be  
19 utilized in achieving the purposes of this Act.

20 **SECTION 41.** Prior to approval by the commission of its state-wide  
21 planning goals and guidelines under section 37 of this Act, the goals listed  
22 in ORS 215.515 shall be applied by state agencies, cities, counties and spe-  
23 cial districts in the preparation, revision, adoption or implementation of  
24 any comprehensive plan.

25 **SECTION 42.** Each city or county shall prepare and the city council or  
26 the county governing body shall adopt the comprehensive plans required  
27 under this Act or by any other law in accordance with section 41 of this  
28 Act for those plans adopted prior to the expiration of one year following  
29 the date the commission approves its state-wide planning goals and guide-  
30 lines under section 37 of this Act. Plans adopted by cities and counties  
31 after the expiration of one year following the date of approval of such  
32 goals and guidelines by the commission shall be designed to comply with  
33 such goals and any subsequent amendments thereto.

1 Section 43. ORS 215.055 is amended to read:

2 215.055. (1) *[The]* **Any comprehensive plan** *[and all legislation and*  
3 *regulations]* **and all zoning, subdivision or other ordinances and regula-**  
4 **tions** authorized by ORS 215.010 to 215.233 **and adopted prior to the expira-**  
5 **tion of one year following the date of the approval of state-wide planning**  
6 **goals and guidelines under section 37 of this 1973 Act** shall be designed to  
7 promote the public health, safety and general welfare and shall be based on  
8 the following considerations, among others: The various characteristics  
9 of the various areas in the county, the suitability of the areas for par-  
10 ticular land uses and improvements, the land uses and improvements in  
11 the areas, trends in land improvement, density of development, property  
12 values, the needs of economic enterprises in the future development of the  
13 areas, needed access to particular sites in the areas, natural resources of the  
14 county and prospective needs for development thereof, and the public  
15 need for healthful, safe, aesthetic surroundings and conditions.

16 **(2) Any plan and all zoning, subdivision or other ordinances and regu-**  
17 **lations authorized by ORS 215.010 to 215.233 and adopted after the expira-**  
18 **tion of one year after the date of the approval of state-wide planning goals**  
19 **and guidelines under section 37 of this 1973 Act shall be designed to comply**  
20 **with such state-wide planning goals and any subsequent revisions or**  
21 **amendments thereof.**

22 *[(2)]* **(3)** In order to conserve natural resources of the state, any land  
23 **use plan or zoning, subdivision or other ordinance** adopted by a county  
24 shall take into consideration lands that are, can or should be utilized for  
25 sources or processing of mineral aggregates.

26 **SECTION 44.** Upon the expiration of one year after the date of the  
27 approval of state-wide planning goals and guidelines and annually there-  
28 after, each county governing body shall report to the commission on the  
29 status of comprehensive plans within each county. Each such report shall  
30 include:

31 **(1)** Copies of comprehensive plans reviewed by the county governing  
32 body and copies of zoning and subdivision ordinances and regulations ap-  
33 plied to those areas within the county listed in subsection (2) of section  
34 34 of this Act.

1 (2) For those areas or jurisdictions within the county without com-  
2 prehensive plans, a statement and review of the progress made toward  
3 compliance with the state-wide planning goals.

4 **SECTION 45.** (1) Notwithstanding any other provision of law, after the  
5 expiration of one year after the date of the approval of the initial state-  
6 wide planning goals and guidelines under section 37 of this Act, upon 90  
7 days' notice to the affected governing body or bodies, and upon public  
8 hearings held within 30 days thereafter, the commission shall prescribe and  
9 may amend and administer comprehensive plans and zoning, subdivision  
10 or other ordinances and regulations necessary to develop and implement a  
11 comprehensive plan within the boundaries of a county, whether or not  
12 within the boundaries of a city, that do not comply with the state-wide  
13 planning goals approved under this Act and any subsequent revisions or  
14 amendments thereof.

15 (2) If the city or county has under consideration a comprehensive  
16 plan or zoning, subdivision or other ordinances or regulations for lands  
17 described in subsection (1) of this section, and shows satisfactory progress  
18 toward the adoption of such comprehensive plan or such ordinances or  
19 regulations, the commission may grant a reasonable extension of time  
20 after the date set in this section for completion of such plan or such  
21 ordinances or regulations.

22 (3) Any comprehensive plan or zoning, subdivision or other ordinance  
23 or regulation adopted by the commission under subsection (1) of this  
24 section shall comply with the state-wide planning goals approved under  
25 this Act and all subsequent revisions or amendments thereof.

26 **SECTION 46.** (1) There is transferred to and vested in the commission  
27 those duties, powers and functions vested in the Governor by ORS 215.505  
28 to 215.535. After the effective date of this Act, the commission shall  
29 exercise such duties, powers and functions.

30 (2) For the purpose of harmonizing and clarifying Oregon Revised  
31 Statutes, the Legislative Counsel may substitute for words designating  
32 the Governor, where such words occur in ORS 215.505 to 215.535, words  
33 designating the Land Conservation and Development Commission.

1 Section 47. ORS 215.510 is amended to read:

2 215.510. (1) Any comprehensive [*land use plans*] **plan for any city**  
3 **or county** prescribed or amended by the [*Governor*] **commission** pursuant  
4 to ORS 215.505 **or section 45 of this 1973 Act** shall be in accordance with  
5 the standards provided in ORS 215.515 and the notice and hearing re-  
6 quirements provided in ORS 215.060.

7 (2) Any zoning, **subdivision or other ordinances and regulations for any**  
8 **city or county** prescribed or amended by the [*Governor*] **commission** pur-  
9 suant to ORS 215.505 **or section 45 of this 1973 Act** shall be in accordance  
10 with the standards provided in ORS 215.055 and the notice and hearing  
11 requirements provided in ORS 215.223.

12 (3) A comprehensive [*land use*] plan or zoning, **subdivision or other**  
13 **ordinance or regulation for any city or county** prescribed or amended by  
14 the [*Governor*] **commission** pursuant to ORS 215.505 **or section 45 of this**  
15 **1973 Act** may be for any purpose provided in ORS 215.010 to 215.233 and  
16 subsections (1) and (2) of 215.990, except that the [*Governor*] **commission**  
17 may not prescribe building regulations. The [*Governor*] **commission** may,  
18 however, cause to be instituted an appropriate proceeding to enjoin the  
19 construction of buildings or performance of any other acts which would  
20 constitute a land use that does not conform to the applicable [*land use*]  
21 **comprehensive plan or zoning, subdivision or other ordinance or regula-**  
22 **tion.**

23 (4) Any hearings required by this section may be held by the [*Gov-*  
24 *ernor*] **commission**, or by a person designated by the [*Governor*] **com-**  
25 **mission**, and all such hearings shall be held in the county seat of the  
26 county **or in the city** in which said comprehensive [*land use*] plan or zon-  
27 ing, **subdivision or other ordinance or regulation** is to be prescribed.

28 Section 48. ORS 215.515 is amended to read:

29 215.515. (1) Comprehensive physical planning, **adopted by the com-**  
30 **mission prior to the expiration of one year following the date of the**  
31 **approval of state-wide planning goals and guidelines under section 37**  
32 **of this 1973 Act**, should provide guidance for physical development within  
33 the state responsive to economic development, human resource develop-  
34 ment, natural resource development and regional and metropolitan area



1 development. It should assist in attainment of the optimum living environ-  
2 ment for the state's citizenry and assure sound housing, employment  
3 opportunities, educational fulfillment and sound health facilities. State  
4 plans should relate to intermediate and long-range growth objectives. The  
5 plans should set a pattern upon which state agencies and local government  
6 may base their programs and local area plans. Goals for comprehensive  
7 physical planning are:

8 [(1)] (a) To preserve the quality of the air [and] , water and land  
9 resources of the state.

10 [(2)] (b) To conserve open space and protect natural and scenic re-  
11 sources.

12 [(3)] (c) To provide for the recreational needs of citizens of the  
13 state and visitors.

14 [(4)] (d) To conserve prime farm lands for the production of crops  
15 [and] .

16 (e) To provide for an orderly and efficient transition from rural  
17 to urban land use.

18 [(5)] (f) To protect life and property in areas subject to floods,  
19 landslides and other natural disasters.

20 [(6)] (g) To provide and encourage a safe, convenient and economic  
21 transportation system including all modes of transportation: Air, water,  
22 rail, highway and mass transit, and recognizing differences in the social  
23 costs in the various modes of transportation.

24 [(7)] (h) To develop a timely, orderly and efficient arrangement of  
25 public facilities and services to serve as a framework for urban and rural  
26 development.

27 [(8)] (i) To diversify and improve the economy of the state.

28 [(9)] (j) To ensure that the development of properties within the state  
29 is commensurate with the character and the physical limitations of the land.

30 (2) Comprehensive plans adopted by the commission after the expira-  
31 tion of one year after the date of the approval of state-wide planning  
32 goals and guidelines under section 37 of this 1973 Act shall be designed  
33 to comply with such state-wide planning goals and any subsequent re-  
34 visions or amendments thereof.

1 Section 49. ORS 215.535 is amended to read:

2 215.535. In addition to the remedy prescribed in subsection (3) of  
3 ORS 215.510, the [Governor] **commission** may cause to be instituted any  
4 civil action or suit [he] it considers appropriate to remedy violations of  
5 any comprehensive [land use] plan or zoning, **subdivision or other ordi-**  
6 **nance or regulation** prescribed by the [Governor] **commission** pursuant  
7 to ORS 215.505 or **section 45 of this 1973 Act** .

8 **SECTION 50.** (1) Whenever the commission prescribes a comprehen-  
9 sive plan or zoning, subdivision or other ordinances or regulations for lands  
10 described in subsection (1) of section 45 of this Act, the costs incurred by  
11 the commission and the department in the preparation and administration  
12 of such plan or ordinances or regulations shall be borne by the city or  
13 county for which the commission has proposed such plan or ordinances  
14 or regulations. Upon presentation by the commission to the governing  
15 body of the city or county of a certified, itemized statement of costs, the  
16 governing body shall order payment to the commission out of any avail-  
17 able funds. With respect to a city or county, if no payment is made  
18 by the governing body within 30 days thereafter, the commission shall  
19 submit to the Secretary of State its certified, itemized statement of such  
20 costs and the commission shall be reimbursed upon the order of the Secre-  
21 tary of State to the State Treasurer, from the city's or county's share of the  
22 state's cigarette and liquor revenues.

23 (2) Within 10 days of receipt of the certified, itemized statement of costs  
24 under subsection (1) of this section, any city or county aggrieved by  
25 the statement may appeal to the Court of Appeals. The appeal shall  
26 be taken as from a contested case under ORS 183.480. Notice of the appeal  
27 shall operate as a stay in the commissioner's right to reimbursement  
28 under subsection (1) of this section until the decision is made on the appeal.

#### 29 **PART VI APPEALS**

30 **SECTION 51.** (1) In the manner provided in sections 52 to 54 of this  
31 Act, the commission shall review upon:

32 (a) Petition by a county governing body, a comprehensive plan pro-  
33 vision or any zoning, subdivision or other ordinance or regulation adopted  
34 by a state agency, city, county or special district that the governing body

1 considers to be in conflict with state-wide planning goals approved under  
2 section 37 of this Act or interim goals specified in ORS 215.515.

3 (b) Petition by a city or county governing body, a land conservation  
4 and development action taken by a state agency, city, county or special  
5 district that the governing body considers to be in conflict with state-  
6 wide planning goals approved under section 37 of this Act or interim  
7 goals specified in ORS 215.515.

8 (c) Petition by a state agency, city, county or special district, any  
9 county governing body action that the state agency, city, county or special  
10 district considers to be improperly taken or outside the scope of the gov-  
11 erning body's authority under this Act.

12 (d) Petition by any person or group of persons whose interests are  
13 substantially affected, a comprehensive plan provision or any zoning, sub-  
14 division or other ordinance or regulation alleged to be in violation of  
15 state-wide planning goals approved under section 37 of this Act or interim  
16 goals specified in ORS 215.515.

17 (2) A petition filed with the commission pursuant to subsection (1)  
18 of this section must be filed not later than 60 days (excluding Saturdays  
19 and holidays) after the date of the final adoption or approval of the  
20 action or comprehensive plan upon which the petition is based.

21 **SECTION 52.** (1) All review proceedings conducted by the commis-  
22 sion pursuant to section 51 of this Act shall be based on the administra-  
23 tive record, if any, prepared with respect to the proceedings for the adop-  
24 tion or approval of the comprehensive plan provision or action that is  
25 the subject of the review proceeding.

26 (2) The commission shall adopt such rules, procedures and regulations  
27 for the conduct of review proceedings held pursuant to section 51 of  
28 this Act, in accordance with the provisions of ORS 183.310 to 183.500 for  
29 hearings and notice in contested cases.

30 (3) A city, county, state agency, special district or any person or  
31 group of persons whose interests are substantially affected may intervene  
32 in and be made a party to any review proceeding conducted by the com-  
33 mission with the approval of the commission, upon the request of the  
34 hearings officer appointed to conduct such proceeding or upon the ap-

1 proval by the hearings officer of a request by such agency, person or  
2 group of persons for intervention in the review proceeding.

3 **SECTION 53.** (1) In carrying out its duties under section 51 of this  
4 Act, the chairman of the commission shall assign each petition to be  
5 reviewed by the commission to a hearings officer who shall conduct the  
6 review proceeding.

7 (2) A hearings officer shall conduct a review proceeding in accordance  
8 with the rules, procedures and regulations adopted by the commission.  
9 Upon the conclusion of a hearing, the hearings officer shall promptly  
10 determine the matter, prepare a recommendation for commission action  
11 upon the matter and submit a copy of his recommendation to the com-  
12 mission and to each party to the proceeding.

13 (3) The commission shall review the recommendation of the hearings  
14 officer and the record of the proceeding and issue its order with respect  
15 to the review proceeding within 60 days following the date of the filing  
16 of the petition upon which such review proceeding is based. The com-  
17 mission may adopt, reject or amend the recommendation of the hearings  
18 officer in any matter.

19 (4) No order of the commission issued under subsection (3) of this  
20 section is valid unless all members of the commission have received  
21 the recommendation of the hearings officer in the matter and at least  
22 four members of the commission concur in its action in the matter.

23 (5) Any party to a review proceeding before the commission who  
24 is adversely affected or aggrieved by the order issued by the commis-  
25 sion in the matter may appeal the order of the commission in the manner  
26 provided in ORS 183.480 for appeals from final orders in contested cases.

27 (6) The commission may enforce orders issued under subsection (3) of  
28 this section in appropriate judicial proceedings brought by the com-  
29 mission therefor.

30 **SECTION 54.** (1) If, upon its review of the recommendation of a  
31 hearings officer and the record of the review proceeding prepared follow-  
32 ing a review proceeding before the commission, the commission is unable  
33 to reach a decision in the matter without further information or evidence  
34 not contained in the record of the proceeding, it may refer the matter back

1 to the hearings officer and request that the additional information or evi-  
2 dence be acquired by him or that he correct any errors or deficiencies  
3 found by the commission to exist in his recommendation or record of  
4 the proceeding.

5 (2) In case of a referral of a matter back to the hearings officer  
6 pursuant to subsection (1) of this section, the 60-day period referred  
7 to in subsection (3) of section 53 of this Act is suspended for a reasonable  
8 interval not to exceed 60 days.

#### 9 **PART VII LEGISLATIVE REVIEW**

10 **SECTION 55.** The department shall report monthly to the committee  
11 in order to keep the committee informed on progress made by the depart-  
12 ment, commission, counties and other agencies in carrying out the pro-  
13 visions of this Act.

14 **SECTION 56.** (1) Prior to the end of each even-numbered year, the  
15 department shall prepare a written report for submission to the Legisla-  
16 tive Assembly of the State of Oregon describing activities and accomp-  
17 lishments of the department, commission, state agencies, cities, counties  
18 and special districts in carrying out the provisions of this Act.

19 (2) A draft of the report required by subsection (1) of this section  
20 shall be submitted to the committee for its review and comment at least  
21 60 days prior to submission of the report to the Legislative Assembly. Com-  
22 ments of the committee shall be incorporated into the final report.

23 (3) Goals and guidelines adopted by the commission shall be included  
24 in the report to the Legislative Assembly submitted under subsection  
25 (1) of this section.

#### 26 **PART VIII MISCELLANEOUS**

27 Section 57. ORS 453.345 is amended to read:

28 453.345. (1) Applications for site certificates shall be made to the  
29 Nuclear and Thermal Energy Council on a form prescribed by the council  
30 and accompanied by the fee required by ORS 453.405. The application may  
31 be filed not sooner than 12 months after filing of the notice of intent.

32 (2) Proposed use of a site within an area designated by the council  
33 as suitable for location of thermal power plants or nuclear installations

1 does not preclude the necessity of the applicant obtaining a site certificate  
2 for the specific site.

3 (3) Copies of the notice of intent and of the application shall be sent  
4 for comment and recommendation within specified deadlines established  
5 by the council to the Department of Environmental Quality, the State Water  
6 Resources Board, the Fish Commission of the State of Oregon, the State  
7 Game Commission, the State Board of Health, the State Engineer, the  
8 State Geologist, the State Forestry Department, the Public Utility Commis-  
9 sioner of Oregon, the State Department of Agriculture, the Department  
10 of Transportation, **the Department of Land Conservation and Develop-**  
11 **ment** and the Economic Development Division.

12 **SECTION 58.** The part designations and unit captions used in this  
13 Act are provided only for the convenience of locating provisions of this Act,  
14 and are not part of the statutory law of this state.

15 **SECTION 59.** This Act being necessary for the immediate preservation  
16 of the public peace, health and safety, an emergency is declared to exist,  
17 and this Act takes effect on July 1, 1973.



*Amended  
m/nyf  
ing*

*B-* ENGROSSED

(amendment not printed ~~March-23~~)

# Senate Bill 100

Ordered by the Senate March 23  
(Including Amendments by Senate March 23)

Sponsored by Senators MACPHERSON, HALLOCK

## 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.

Creates Department of Land Conservation and Development, composed of Land Conservation and Development Commission, director and employees. Establishes Joint Legislative Committee on Land Use, as standing committee, to advise and assist department in carrying out its duties.

*[Designates areas and]* **Authorizes commission to designate activities of [critical state concern and provides for] state-wide significance in public transportation, public sewerage systems and public schools and to make recommendation for additional designations, subject to approval of Legislative Assembly. Requires commission, subject to approval of Legislative Assembly, to promulgate and implement state-wide [objectives and regulations] planning goals consistent with regional, county and city concerns for such [areas and] activities and state-wide planning guidelines for [all] land use planning in state. Requires state agencies, planning districts, cities, counties and special districts to comply with state-wide planning guidelines and state-wide [objectives and regulations] planning goals in adoption of comprehensive plans and zoning, subdivision or other ordinances and regulations.**

Requires *[development]* permit to be issued by commission for development projects constituting activities of *[critical state concern]* **state-wide significance**. Provides for enforcement of permit requirements. *[Declares certain development projects to be public nuisances, subject to civil abatement proceedings by commission.]* **Authorizes injunction of activities of state-wide significance carried on without permit.**

*[Establishes 14 planning districts in state to advise, assist and review actions and comprehensive plans of state agencies, cities, counties and special districts with respect to such districts.]* **Permits voluntary association**

Continued on Page 2

**NOTE:** Matter in bold face in an amended section is new; matter *[italic and bracketed]* is existing law to be omitted; complete new sections begin with **SECTION.**

Continued from Page 1

**of counties for planning purposes. Provides for establishment of regional planning agency composed of cities and counties, subject to approval of voters in proposed region. Authorizes voluntary association of local governments to perform coordinative planning functions of counties under Act.**

Requires, within one year after approval of state-wide planning guidelines, all comprehensive plans and zoning, subdivision or other ordinances or regulations to comply with such guidelines. [*Authorizes Governor to prescribe comprehensive plans and such ordinances and regulations where none exist or to revise existing noncomplying plans, ordinances and regulations. Permits Governor to charge for his services.*] **Authorizes commission to perform planning and zoning functions of noncomplying governmental units.** Provides, in case of nonpayment by city or county, for reimbursement of [*Governor*] **commission** from city or county share of state liquor and cigarette revenues. **Establishes appeal procedures.**

Provides for review by commission of specified land conservation and development actions and plans. Establishes Land Conservation and Development Account in General Fund for use by department.

Declares emergency and takes effect July 1, 1973.



## 1 A BILL FOR AN ACT

2 Relating to land use; creating new provisions; amending ORS 215.055,  
3 215.510, 215.515, 215.535 and 453.345; appropriating money; and declar-  
4 ing an emergency.

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

6 **PART I INTRODUCTION**7 **PREAMBLE**

8 **SECTION 1.** The Legislative Assembly finds that:

9 (1) Uncoordinated use of lands within this state threaten the orderly  
10 development, the environment of this state and the health, safety, order,  
11 convenience, prosperity and welfare of the people of this state.

12 (2) To promote coordinated administration of land uses consistent with  
13 comprehensive plans adopted throughout the state, it is necessary to  
14 establish a process for the review of state agency, city, county and special  
15 district land conservation and development plans for compliance with  
16 state-wide planning goals and guidelines.

17 (3) Except as otherwise provided in subsection (4) of this section,  
18 cities and counties should remain as the agencies to consider, promote and  
19 manage the local aspects of land conservation and development for the  
20 best interests of the people within their jurisdictions.

21 (4) The promotion of coordinated state-wide land conservation and  
22 development requires the creation of a state-wide planning agency to  
23 prescribe planning goals and objectives to be applied by state agencies,  
24 cities, counties and special districts throughout the state.

25 (5) The impact of proposed development projects, constituting activities  
26 of state-wide significance upon the public health, safety and welfare,  
27 requires a system of permits reviewed by a state-wide agency to carry out  
28 state-wide planning goals and guidelines prescribed for application for  
29 activities of state-wide significance throughout this state.

30 **POLICY STATEMENT**

31 **SECTION 2.** The Legislative Assembly declares that, in order to assure  
32 the highest possible level of liveability in Oregon, it is necessary to provide  
33 for properly prepared and coordinated comprehensive plans for cities and

1 counties, regional areas and the state as a whole. These comprehensive plans:

2 (1) Must be adopted by the appropriate governing body at the local  
3 and state levels;

4 (2) Are expressions of public policy in the form of policy statements,  
5 generalized maps and standards and guidelines;

6 (3) Shall be the basis for more specific rules, regulations and ordinances  
7 which implement the policies expressed through the comprehensive plans;

8 (4) Shall be prepared to assure that all public actions are consistent  
9 and coordinated with the policies expressed through the comprehensive  
10 plans; and

11 (5) Shall be regularly reviewed and, if necessary, revised to keep them  
12 consistent with the changing needs and desires of the public they are  
13 designed to serve.

14

#### DEFINITIONS

15 **SECTION 3.** As used in this Act, unless the context requires otherwise:

16 (1) "Activity of state-wide significance" means a land conservation and  
17 development activity designated pursuant to section 25 of this Act.

18 (2) "Commission" means the Land Conservation and Development  
19 Commission.

20 (3) "Committee" means the Joint Legislative Committee on Land Use.

21 (4) "Comprehensive plan" means a generalized, coordinated land use  
22 map and policy statement of the governing body of a state agency, city,  
23 county or special district that interrelates all functional and natural sys-  
24 tems and activities relating to the use of lands, including but not limited  
25 to sewer and water systems, transportation systems, educational systems,  
26 recreational facilities, and natural resources and air and water quality  
27 management programs. "Comprehensive" means all-inclusive, both in terms  
28 of the geographic area covered and functional and natural activities and  
29 systems occurring in the area covered by the plan. "General nature" means  
30 a summary of policies and proposals in broad categories and does not neces-  
31 sarily indicate specific locations of any area, activity or use. A plan is "co-  
32 ordinated" when the needs of all levels of governments, semipublic and  
33 private agencies and the citizens of Oregon have been considered and  
34 accommodated as much as possible. "Land" includes water, both surface  
and subsurface, and the air.

1 (5) "Department" means the Department of Land Conservation and  
2 Development.

3 (6) "Director" means the Director of the Department of Land Con-  
4 servation and Development.

5 (7) "Special district" means any unit of local government, other than  
6 a city or county, authorized and regulated by statute and includes, but is  
7 not limited to: Water control districts, irrigation districts, port districts,  
8 regional air quality control authorities, fire districts, school districts, hos-  
9 pital districts, mass transit districts and sanitary districts.

10 (8) "Voluntary association of local governments" means a regional  
11 planning agency in this state officially designated by the Governor pur-  
12 suant to the federal Office of Management and Budget Circular A-95 as  
13 a regional clearinghouse.

## 14 **PART II ORGANIZATION, ROLES AND RESPONSIBILITIES**

### 15 **DEPARTMENT OF LAND CONSERVATION AND DEVELOPMENT**

16 **SECTION 4.** The Department of Land Conservation and Development  
17 is established. The department shall consist of the Land Conservation and  
18 Development Commission, the director and their subordinate officers and  
19 employes.

20 **SECTION 5.** (1) There is established a Land Conservation and De-  
21 velopment Commission consisting of seven members appointed by the  
22 Governor, subject to confirmation by the Senate in the manner provided  
23 in ORS 171.560 and 171.570.

24 (2) In making appointments under subsection (1) of this section, the  
25 Governor shall select from residents of this state one member from each  
26 congressional district and the remaining members from the state at large.  
27 At least one and no more than two members shall be from Multnomah  
28 County.

29 (3) The term of office of each member of the commission is four years,  
30 but a member may be removed by the Governor for cause. Before the ex-  
31 piration of the term of a member, the Governor shall appoint a successor.  
32 No person shall serve more than two full terms as a member of the com-  
33 mission.

1 (4) If there is a vacancy for any cause, the Governor shall make an  
2 appointment to become immediately effective for the unexpired term.

3 **SECTION 6.** Notwithstanding the term of office specified in section 5  
4 of this Act, of the members first appointed to the commission:

5 (1) Two shall serve for a term ending June 30, 1974.

6 (2) Two shall serve for a term ending June 30, 1975.

7 (3) Two shall serve for a term ending June 30, 1976.

8 (4) One shall serve for a term ending June 30, 1977.

9 **SECTION 7.** (1) The commission shall select one of its members as  
10 chairman and another member as vice chairman, for such terms and with  
11 duties and powers necessary for the performance of the functions of such  
12 offices as the commission determines. The vice chairman of the commission  
13 shall act as the chairman of the commission in the absence of the chairman.

14 (2) A majority of the members of the commission constitutes a quorum  
15 for the transaction of business.

16 **SECTION 8.** Members of the commission are entitled to compensation  
17 and expenses as provided in ORS 292.495.

18 **SECTION 9.** The commission shall:

19 (1) Direct the performance by the director and his staff of their  
20 functions under this Act.

21 (2) In accordance with the provisions of ORS chapter 183, promulgate  
22 rules that it considers necessary in carrying out this Act.

23 (3) Cooperate with the appropriate agencies of the United States, this  
24 state and its political subdivisions, any other state, any interstate agency,  
25 any person or groups of persons with respect to land conservation and  
26 development.

27 (4) Appoint advisory committees to aid it in carrying out this Act and  
28 provide technical and other assistance, as it considers necessary, to each  
29 such committee.

30 **SECTION 10.** The commission may:

31 (1) Apply for and receive moneys from the Federal Government and  
32 from this state or any of its agencies or departments.

33 (2) Contract with any public agency for the performance of services or

1 the exchange of employes or services by one to the other necessary in  
2 carrying out this Act.

3 (3) Contract for the services of and consultation with professional  
4 persons or organizations, not otherwise available through federal, state and  
5 local governmental agencies, in carrying out its duties under this Act.

6 (4) Perform other functions required to carry out this Act.

7 **SECTION 11.** Pursuant to the provisions of this Act, the commission  
8 shall:

9 (1) Establish state-wide planning goals consistent with regional, county  
10 and city concerns;

11 (2) Issue permits for activities of state-wide significance;

12 (3) Prepare inventories of land uses;

13 (4) Prepare state-wide planning guidelines;

14 (5) Review comprehensive plans for conformance with state-wide plan-  
15 ning goals;

16 (6) Coordinate planning efforts of state agencies to assure conformance  
17 with state-wide planning goals and compatability with city and county  
18 comprehensive plans;

19 (7) Insure widespread citizen involvement and input in all phases of  
20 the process;

21 (8) Prepare model zoning, subdivision and other ordinances and regu-  
22 lations to guide state agencies, cities, counties and special districts in imple-  
23 menting state-wide planning goals, particularly those for the areas listed in  
24 subsection (2) of section 34 of this Act;

25 (9) Review and recommend to the Legislative Assembly the designation  
26 of areas of critical state concern;

27 (10) Report periodically to the Legislative Assembly and to the com-  
28 mittee; and

29 (11) Perform other duties required by law.

30 **SECTION 12.** If an interstate land conservation and development plan-  
31 ning agency is created by an interstate agreement or compact entered into  
32 by this state, the commission shall perform the functions of this state with  
33 respect to the agreement or compact. If the functions of the interstate plan-

ning agency duplicate any of the functions of the commission under this Act, the commission may:

(1) Negotiate with the interstate agency in defining the areas of responsibility of the commission and the interstate planning agency; and

(2) Cooperate with the interstate planning agency in the performance of its functions.

**SECTION 13.** (1) The commission shall appoint a person to serve as the Director of the Department of Land Conservation and Development. The director shall hold his office at the pleasure of the commission and his salary shall be fixed by the commission unless otherwise provided by law.

(2) In addition to his salary, the director shall be reimbursed, subject to any applicable law regulating travel and other expenses of state officers and employes, for actual and necessary expenses incurred by him in the performance of his official duties.

**SECTION 14.** Subject to policies adopted by the commission, the director shall:

(1) Be the administrative head of the department.

(2) Coordinate the activities of the department in its land conservation and development functions with such functions of federal agencies, other state agencies, cities, counties and special districts.

(3) Appoint, reappoint, assign and reassign all subordinate officers and employes of the department, prescribe their duties and fix their compensation, subject to the State Merit System Law.

(4) Represent this state before any agency of this state, any other state or the United States with respect to land conservation and development within this state.

**SECTION 15.** (1) There is established in the General Fund in the State Treasury the Land Conservation and Development Account. Moneys in the account are continuously appropriated for the purpose of carrying out the provisions of this Act.

(2) All fees, moneys and other revenue received by the department or the committee shall be deposited in the Land Conservation and Development Account.

**OREGON COASTAL CONSERVATION AND  
DEVELOPMENT COMMISSION**

1                   **SECTION 16.** (1) The Land Conservation and Development Commis-  
2 sion, by agreement with the Oregon Coastal Conservation and Development  
3 Commission created by ORS 191.120 may delegate to the Oregon Coastal  
4 Conservation and Development Commission, any of the functions of the  
5 Land Conservation and Development Commission. However, the Land  
6 Conservation and Development Commission must review and grant ap-  
7 proval prior to any action taken by the Oregon Coastal Conservation and  
8 Development Commission with respect to a delegated function.

9                   (2) The Land Conservation and Development Commission may provide  
10 staff and financial assistance to the Oregon Coastal Conservation and  
11 Development Commission in carrying out duties under this section.

**CITIES AND COUNTIES**

12                   **SECTION 17.** Cities and counties shall exercise their planning and  
13 zoning responsibilities in accordance with this Act and the state-wide plan-  
14 ning goals and guidelines approved under this Act.

15                   **SECTION 18.** Pursuant to this Act, each city and county in this state  
16 shall:

17                   (1) Prepare and adopt comprehensive plans consistent with state-wide  
18 planning goals and guidelines approved by the commission; and

19                   (2) Enact zoning, subdivision and other ordinances or regulations to  
20 implement their comprehensive plans.

21                   **SECTION 19.** (1) In addition to the responsibilities stated in sections  
22 17 and 18 of this Act, each county through its governing body, shall be  
23 responsible for coordinating all planning activities affecting land uses  
24 within the county, including those of the county, cities, special districts and  
25 state agencies, to assure an integrated comprehensive plan for the entire

26 *Insert*  
27 For purposes of this subsection, the responsibility of the county described in this  
28 subsection shall not apply to cities having a population of 300,000 or more, and  
such cities shall exercise, within the incorporated limits thereof, the authority  
vested in counties by this subsection.     representing 51 percent of the popu-

29 lation in their area petition the commission for an election in their area to

**OREGON COASTAL CONSERVATION AND  
DEVELOPMENT COMMISSION**

1                   **SECTION 16.** (1) The Land Conservation and Development Commis-  
2 sion, by agreement with the Oregon Coastal Conservation and Development  
3 Commission created by ORS 191.120 may delegate to the Oregon Coastal  
4 Conservation and Development Commission, any of the functions of the  
5 Land Conservation and Development Commission. However, the Land  
6 Conservation and Development Commission must review and grant ap-  
7 proval prior to any action taken by the Oregon Coastal Conservation and  
8 Development Commission with respect to a delegated function.

9                   (2) The Land Conservation and Development Commission may provide  
10 staff and financial assistance to the Oregon Coastal Conservation and  
11 Development Commission in carrying out duties under this section.

**CITIES AND COUNTIES**

12                   **SECTION 17.** Cities and counties shall exercise their planning and  
13 zoning responsibilities in accordance with this Act and the state-wide plan-  
14 ning goals and guidelines approved under this Act.

15                   **SECTION 18.** Pursuant to this Act, each city and county in this state  
16 shall:

17                   (1) Prepare and adopt comprehensive plans consistent with state-wide  
18 planning goals and guidelines approved by the commission; and

19                   (2) Enact zoning, subdivision and other ordinances or regulations to  
20 implement their comprehensive plans.

21                   **SECTION 19.** (1) In addition to the responsibilities stated in sections  
22 17 and 18 of this Act, each county through its governing body, shall be  
23 responsible for coordinating all planning activities affecting land uses  
24 within the county, including those of the county, cities, special districts and  
25 state agencies, to assure an integrated comprehensive plan for the entire  
26 area of the county. )

27                   (2) For the purposes of carrying out the provisions of this Act, counties  
28 may voluntarily join together with adjacent counties as authorized in ORS  
29 chapter 190.

30                   (3) Whenever counties and cities representing 51 percent of the popu-  
31 lation in their area petition the commission for an election in their area to

*Insert 1*  
*191.120*



1 form a regional planning agency to exercise the authority of the counties  
2 under subsection (1) of this section in the area, the commission shall  
3 review the petition. If it finds that the area described in the petition forms  
4 a reasonable planning unit, it shall call an election in the area to form a  
5 regional planning agency. The election shall be conducted in the manner  
6 provided in ORS chapter 259. The county clerk shall be considered the  
7 election officer and the commission shall be considered the district election  
8 authority. The agency shall be considered established if the majority of  
9 votes favor the establishment.

10 (4) If a voluntary association of local governments adopts a resolution  
11 ratified by each participating county and a majority of the participating  
12 cities therein which authorizes the association to perform the review, ad-  
13 visory and coordination functions assigned to the counties under sub-  
14 section (1) of this section, the association may perform such duties.

#### 15 SPECIAL DISTRICTS AND STATE AGENCIES

16 SECTION 20. Special districts shall exercise their planning duties,  
17 powers and responsibilities and take actions that are authorized by law  
18 with respect to programs affecting land use in accordance with state-wide  
19 planning goals and guidelines approved pursuant to this Act.

20 SECTION 21. State agencies shall carry out their planning duties,  
21 powers and responsibilities and take actions that are authorized by law  
22 with respect to programs affecting land use in accordance with state-wide  
23 planning goals and guidelines approved pursuant to this Act.

#### 24 JOINT LEGISLATIVE COMMITTEE ON LAND USE

25 SECTION 22. The Joint Legislative Committee on Land Use is estab-  
26 lished as a joint committee of the Legislative Assembly. The committee  
27 shall select an executive secretary who shall serve at the pleasure of the  
28 committee and under its direction.

29 SECTION 23. (1) The Joint Legislative Committee on Land Use shall  
30 consist of four members of the House of Representatives appointed by the  
31 Speaker and three members of the Senate appointed by the President. No  
32 more than three House members of the committee shall be of the same  
33 political party. No more than two Senate members of the committee shall  
34 be of the same political party.

1 (2) The chairman of the House and Senate Environment and Land  
2 Use Committees of the Fifty-seventh Legislative Assembly of the State of  
3 Oregon shall be two of the members appointed under subsection (1) of  
4 this section for the period beginning with the effective date of this Act.

5 (3) The committee has a continuing existence and may meet, act and  
6 conduct its business during sessions of the Legislative Assembly or any  
7 recess thereof, and in the interim period between sessions.

8 (4) The term of a member shall expire upon the convening of the Legis-  
9 lative Assembly in regular session next following the commencement of  
10 the member's term. When a vacancy occurs in the membership of the  
11 committee in the interim between sessions, until such vacancy is filled, the  
12 membership of the committee shall be deemed not to include the vacant  
13 position for the purpose of determining whether a quorum is present and  
14 a quorum is the majority of the remaining members.

15 (5) Members of the committee shall be reimbursed for actual and  
16 necessary expenses incurred or paid in the performance of their duties as  
17 members of the committee, such reimbursement to be made from funds  
18 appropriated for such purposes, after submission of approved voucher  
19 claims.

20 (6) The committee shall select a chairman. The chairman may, in addi-  
21 tion to his other authorized duties, approve voucher claims.

22 (7) Action of the committee shall be taken only upon the affirmative  
23 vote of the majority of the members of the committee.

24 **SECTION 24.** The committee shall:

25 (1) Advise the department on all matters under the jurisdiction of the  
26 department;

27 (2) Review and make recommendations to the Legislative Assembly  
28 on proposals for additions to or modifications of designations of activities of  
29 state-wide significance, and for designations of areas of critical state  
30 concern;

31 (3) Review and make recommendations to the Legislative Assembly  
32 on state-wide planning goals and guidelines approved by the commission;

33 (4) Study and make recommendations to the Legislative Assembly

1 on the implementation of a program for compensation by the public to  
2 owners of lands within this state for the value of any loss of use of such  
3 lands resulting directly from the imposition of any zoning, subdivision or  
4 other ordinance or regulation regulating or restricting the use of such  
5 lands. Such recommendations shall include, but not be limited to, proposed  
6 methods for the valuation of such loss of use and proposed limits, if any,  
7 to be imposed upon the amount of compensation to be paid by the public  
8 for any such loss of use; and

9 (5) Make recommendations to the Legislative Assembly on any other  
10 matter relating to land use planning in Oregon.

### 11 PART III ACTIVITIES OF STATE-WIDE SIGNIFICANCE

#### 12 DESIGNATION

13 SECTION 25. (1) The following activities may be designated by the  
14 commission as activities of state-wide significance if the commission deter-  
15 mines that by their nature or magnitude they should be so considered:

16 (a) The planning and siting of public transportation facilities.

17 (b) The planning and siting of public sewerage systems, water supply  
18 systems and solid waste disposal sites and facilities.

19 (c) The planning and siting of public schools.

20 (2) Nothing in this Act supersedes any duty, power or responsibility  
21 vested by statute in any state agency relating to its activities described in  
22 subsection (1) of this section; except that, a state agency may neither  
23 implement any such activity nor adopt any plan relating to such an activity  
24 without the prior review and comment of the commission.

25 SECTION 26. (1) In addition to the activities of state-wide signifi-  
26 cance that are designated by the commission under section 25 of this Act,  
27 the commission may recommend to the committee the designation of addi-  
28 tional activities of state-wide significance. Each such recommendation shall  
29 specify the reasons for the proposed designation of the activity of state-  
30 wide significance, the dangers that would result from such activity being  
31 uncontrolled and the suggested state-wide planning goals and guidelines  
32 to be applied for the proposed activity.

33 (2) The commission may recommend to the committee the designation  
34 of areas of critical state concern. Each such recommendation shall specify

1 the criteria developed and reasons for the proposed designation, the damages  
2 that would result from uncontrolled development within the area, the  
3 reasons for the implementation of state regulations for the proposed area  
4 and the suggested state regulations to be applied within the proposed area.

5 (3) The commission may act under subsections (1) and (2) of this sec-  
6 tion on its own motion or upon the recommendation of a state agency, city,  
7 county or special district. If the commission receives a recommendation  
8 from a state agency, city, county or special district and finds the proposed  
9 activity or area to be unsuitable for designation, it shall notify the state  
10 agency, city, county or special district of its decision and its reasons there-  
11 for.

12 (4) Immediately following its decision to favorably recommend to  
13 the Legislative Assembly the designation of an additional activity of state-  
14 wide significance or the designation of an area of critical state concern,  
15 the commission shall submit the proposed designation accompanied by the  
16 supporting materials described in subsections (1) and (2) of this section to  
17 the committee for its review.

#### 18 **PERMITS FOR ACTIVITIES OF STATE-WIDE SIGNIFICANCE**

19 **SECTION 27.** (1) On and after the date the commission has approved  
20 state-wide planning goals and guidelines for activities of state-wide sig-  
21 nificance designated under section 25 of this Act, no proposed project con-  
22 stituting such an activity may be initiated by any person or public agency  
23 without a planning and siting permit issued by the commission therefor.

24 (2) Any person or public agency desiring to initiate a project consti-  
25 tuting an activity of state-wide significance shall apply to the department  
26 for a planning and siting permit for such project. The application shall  
27 contain the plans for the project and the manner in which such project  
28 has been designed to meet the goals and guidelines for activities of state-  
29 wide significance and the comprehensive plans for the county within  
30 which the project is proposed, and any other information required by the  
31 commission as prescribed by rule of the commission.

32 (3) The department shall transmit copies of the application to affected  
33 county and state agencies for their review and recommendation.

34 (4) The county governing body and the state agencies shall review

1 an application transmitted to it under subsection (3) of this section and  
2 shall, within 30 days after the date of the receipt of the application, sub-  
3 mit their recommendations on the application to the commission.

4 (5) If the commission finds after review of the application and the  
5 comments submitted by the county governing body and state agencies that  
6 the proposed project complies with the state-wide goals and guidelines for  
7 activities of state-wide significance and the comprehensive plans within  
8 the county, it shall approve the application and issue a planning and siting  
9 permit for the proposed project to the person or public agency applying  
10 therefor. Action shall be taken by the commission within 30 days of the  
11 receipt of the recommendation of the county and state agencies.

12 (6) The commission may prescribe and include in the planning and  
13 siting permit such conditions or restrictions that it considers necessary  
14 to assure that the proposed project complies with the state-wide goals and  
15 guidelines for activities of state-wide significance and the comprehensive  
16 plans within the county.

17 **SECTION 28.** If the activity requiring a planning and siting permit  
18 under section 27 of this Act also requires any other permit from any state  
19 agency, the commission, with the cooperation and concurrence of the other  
20 agency, may provide a joint application form and permit to satisfy both  
21 the requirements of this Act and any other requirements set by statute or  
22 by rule of the state agency.

23 **SECTION 29. (1)** If any person or public agency is in doubt whether  
24 a proposed development project constitutes an activity of state-wide sig-  
25 nificance, the person or public agency may request a determination from  
26 the commission on the question. Within 60 days after the date of the receipt  
27 by it of such a request, the commission, with the advice of the committee  
28 and of the county governing body for the county in which such activity is  
29 proposed, shall issue a binding letter of interpretation with respect to the  
30 proposed project.

31 (2) Requests for determinations under this section shall be made to the  
32 commission in writing and in such form and contain such information as  
33 may be prescribed by the commission.

1     **SECTION 30.** (1) No project constituting an activity of state-wide  
2 significance shall be undertaken without a planning and siting permit is-  
3 sued under section 27 of this Act.

4     (2) Any person or agency acting in violation of subsection (1) of this  
5 section may be enjoined in civil proceedings brought in the name of the  
6 county or the State of Oregon.

7     **SECTION 31.** If the county governing body or the commission de-  
8 termines the existence of an alleged violation under section 30 of this Act,  
9 it may:

10    (1) Investigate, hold hearings, enter orders and take action that it  
11 deems appropriate under this Act, as soon as possible.

12    (2) For the purpose of investigating conditions relating to the violation,  
13 through its members or its duly authorized representatives, enter at rea-  
14 sonable times upon any private or public property.

15    (3) Conduct public hearings.

16    (4) Publish its findings and recommendations as they are formulated  
17 relative to the violation.

18    (5) Give notice of any order relating to a particular violation of its  
19 state-wide goals, a particular violation of the terms or conditions of a plan-  
20 ning and siting permit or a particular violation of the provisions of this  
21 Act by mailing notice to the person or public body conducting or proposing  
22 to conduct the project affected in the manner provided by ORS chapter 183.

23     **PART IV STATE-WIDE PLANNING GOALS AND GUIDELINES**

24     **SECTION 32.** All comprehensive plans and any zoning, subdivision and  
25 other ordinances and regulations adopted by a state agency, city, county  
26 or special district to carry out such plans shall be in conformity with the  
27 state-wide planning goals within one year from the date such goals are  
28 approved by the commission.

29     **SECTION 33.** Not later than January 1, 1975, the department shall pre-  
30 pare and the commission shall adopt state-wide planning goals and guide-  
31 lines for use by state agencies, cities, counties and special districts in pre-  
32 paring, adopting, revising and implementing existing and future compre-  
33 hensive plans.

1     **SECTION 34.** In preparing and adopting state-wide planning goals and  
2 guidelines, the department and the commission shall:

3     (1) Consider the existing comprehensive plans of state agencies, cities,  
4 counties and special districts in order to preserve functional and local  
5 aspects of land conservation and development.

6     (2) Give priority consideration to the following areas and activities:

7         (a) Those activities listed in section 25 of this Act;

8         (b) Land adjacent to freeway interchanges;

9         (c) Estuarine areas;

10        (d) Tide, marsh and wetland areas;

11        (e) Lakes and lakeshore areas;

12        (f) Wilderness, recreational and outstanding scenic areas;

13        (g) Beaches, dunes, coastal headlands and related areas;

14        (h) Wild and scenic rivers and related lands;

15        (i) Flood plains and areas of geologic hazard;

16        (j) Unique wildlife habitats; and

17        (k) Agricultural land.

18     **SECTION 35.** To assure widespread citizen involvement in all phases  
19 of the planning process:

20     (1) The commission shall appoint a State Citizen Involvement Advis-  
21 ory Committee, broadly representative of geographic areas of the state and  
22 of interests relating to land uses and land use decisions, to develop a pro-  
23 gram for the commission that promotes and enhances public participation  
24 in the development of state-wide planning goals and guidelines.

25     (2) Within 90 days after the effective date of this Act, each county  
26 governing body shall submit to the commission a program for citizen in-  
27 volvement in preparing, adopting and revising comprehensive plans with-  
28 in the county. Such program shall at least contain provision for a citizen  
29 advisory committee or committees broadly representative of geographic  
30 areas and of interests relating to land uses and land use decisions.

31     (3) The state advisory committee appointed under subsection (1) of this  
32 section shall review the proposed programs submitted by each county and  
33 recommend to the commission whether or not the proposed program ade-  
34 quately provides for public involvement in the planning process.

1     **SECTION 36.** (1) In preparing the state-wide planning goals and  
2 guidelines, the department shall:

3     (a) Hold at least 10 public hearings throughout the state, causing no-  
4 tice of the time, place and purpose of each such hearing to be published in  
5 a newspaper of general circulation within the area where the hearing is  
6 to be conducted not later than 30 days prior to the date of the hearing.

7     (b) Implement any other provision for public involvement developed  
8 by the state advisory committee under subsection (1) of section 35 of this  
9 Act and approved by the commission.

10    (2) Upon completion of the preparation of the proposed state-wide  
11 planning goals and guidelines, the department shall submit them to the  
12 commission for approval.

13    **SECTION 37.** Upon receipt of the proposed state-wide planning goals  
14 and guidelines prepared and submitted to it by the department, the com-  
15 mission shall:

16    (1) Hold at least one public hearing on the proposed state-wide plan-  
17 ning goals and guidelines. The commission shall cause notice of the time,  
18 place and purpose of the hearings and the place where copies of the  
19 proposed goals and guidelines are available before the hearings with the  
20 cost thereof to be published in a newspaper of general circulation in the  
21 state not later than 30 days prior to the date of the hearing. The department  
22 shall supply a copy of its proposed state-wide planning goals and guide-  
23 lines to the Governor, the committee, affected state agencies and special  
24 districts and to each city and county without charge. The department shall  
25 provide copies of such proposed goals and guidelines to other public agen-  
26 cies or persons upon request and payment of the cost of preparing the  
27 copies of the materials requested.

28    (2) Consider the recommendations and comments received from the  
29 public hearings conducted under subsection (1) of this section, make any  
30 revisions in the proposed state-wide planning goals and guidelines that it  
31 considers necessary and approve the proposed goals and guidelines as they  
32 may be revised by the commission.

33    **SECTION 38.** The commission may periodically revise, update and ex-  
34 pand the initial state-wide planning goals and guidelines adopted under



1 section 37 of this Act. Such revisions, updatings or expansions shall be made  
2 in the manner provided in sections 36 and 37 of this Act.

3 **SECTION 39.** Following the approval by the commission of state-wide  
4 planning goals and guidelines, each county governing body shall review all  
5 comprehensive plans for land conservation and development within the  
6 county, both those adopted and those being prepared. The county gov-  
7 erning body shall advise the state agency, city, county or special district  
8 preparing the comprehensive plans whether or not the comprehensive plans  
9 are in conformity with the state-wide planning goals.

#### 10 **PART V COMPREHENSIVE PLANS**

11 **SECTION 40.** Comprehensive plans and zoning, subdivision, and other  
12 ordinances and regulations adopted prior to the effective date of this Act  
13 shall remain in effect until revised under this Act. It is intended that exist-  
14 ing planning efforts and activities shall continue and that such efforts be  
15 utilized in achieving the purposes of this Act.

16 **SECTION 41.** Prior to approval by the commission of its state-wide  
17 planning goals and guidelines under section 37 of this Act, the goals listed  
18 in ORS 215.515 shall be applied by state agencies, cities, counties and spe-  
19 cial districts in the preparation, revision, adoption or implementation of  
20 any comprehensive plan.

21 **SECTION 42.** Each city or county shall prepare and the city council or  
22 the county governing body shall adopt the comprehensive plans required  
23 under this Act or by any other law in accordance with section 41 of this  
24 Act for those plans adopted prior to the expiration of one year following  
25 the date the commission approves its state-wide planning goals and guide-  
26 lines under section 37 of this Act. Plans adopted by cities and counties  
27 after the expiration of one year following the date of approval of such  
28 goals and guidelines by the commission shall be designed to comply with  
29 such goals and any subsequent amendments thereto.

30 Section 43. ORS 215.055 is amended to read:

31 215.055. (1) *[The] Any comprehensive plan [and all legislation and*  
32 *regulations] and all zoning, subdivision or other ordinances and regula-*  
33 *tions authorized by ORS 215.010 to 215.233 and adopted prior to the expira-*

1 tion of one year following the date of the approval of state-wide planning  
2 goals and guidelines under section 37 of this 1973 Act shall be designed to  
3 promote the public health, safety and general welfare and shall be based on  
4 the following considerations, among others: The various characteristics  
5 of the various areas in the county, the suitability of the areas for par-  
6 ticular land uses and improvements, the land uses and improvements in  
7 the areas, trends in land improvement, density of development, property  
8 values, the needs of economic enterprises in the future development of the  
9 areas, needed access to particular sites in the areas, natural resources of the  
10 county and prospective needs for development thereof, and the public  
11 need for healthful, safe, aesthetic surroundings and conditions.

12 (2) Any plan and all zoning, subdivision or other ordinances and regu-  
13 lations authorized by ORS 215.010 to 215.233 and adopted after the expira-  
14 tion of one year after the date of the approval of state-wide planning goals  
15 and guidelines under section 37 of this 1973 Act shall be designed to comply  
16 with such state-wide planning goals and any subsequent revisions or  
17 amendments thereof.

18 [(2)] (3) In order to conserve natural resources of the state, any land  
19 use plan or zoning, subdivision or other ordinance adopted by a county  
20 shall take into consideration lands that are, can or should be utilized for  
21 sources or processing of mineral aggregates.

22 SECTION 44. Upon the expiration of one year after the date of the  
23 approval of state-wide planning goals and guidelines and annually there-  
24 after, each county governing body shall report to the commission on the  
25 status of comprehensive plans within each county. Each such report shall  
26 include:

27 (1) Copies of comprehensive plans reviewed by the county governing  
28 body and copies of zoning and subdivision ordinances and regulations ap-  
29 plied to those areas within the county listed in subsection (2) of section  
30 34 of this Act.

31 (2) For those areas or jurisdictions within the county without com-  
32 prehensive plans, a statement and review of the progress made toward  
33 compliance with the state-wide planning goals.

34 SECTION 45. (1) Notwithstanding any other provision of law, after the

1 expiration of one year after the date of the approval of the initial state-  
2 wide planning goals and guidelines under section 37 of this Act, upon 90  
3 days' notice to the affected governing body or bodies, and upon public  
4 hearings held within 30 days thereafter, the commission shall prescribe and  
5 may amend and administer comprehensive plans and zoning, subdivision  
6 or other ordinances and regulations necessary to develop and implement a  
7 comprehensive plan within the boundaries of a county, whether or not  
8 within the boundaries of a city, that do not comply with the state-wide  
9 planning goals approved under this Act and any subsequent revisions or  
10 amendments thereof.

11 (2) If the city or county has under consideration a comprehensive  
12 plan or zoning, subdivision or other ordinances or regulations for lands  
13 described in subsection (1) of this section, and shows satisfactory progress  
14 toward the adoption of such comprehensive plan or such ordinances or  
15 regulations, the commission may grant a reasonable extension of time  
16 after the date set in this section for completion of such plan or such  
17 ordinances or regulations.

18 (3) Any comprehensive plan or zoning, subdivision or other ordinance  
19 or regulation adopted by the commission under subsection (1) of this  
20 section shall comply with the state-wide planning goals approved under  
21 this Act and all subsequent revisions or amendments thereof.

22 **SECTION 46.** (1) There is transferred to and vested in the commission  
23 those duties, powers and functions vested in the Governor by ORS 215.505  
24 to 215.535. After the effective date of this Act, the commission shall  
25 exercise such duties, powers and functions.

26 (2) For the purpose of harmonizing and clarifying Oregon Revised  
27 Statutes, the Legislative Counsel may substitute for words designating  
28 the Governor, where such words occur in ORS 215.505 to 215.535, words  
29 designating the Land Conservation and Development Commission.

30 Section 47. ORS 215.510 is amended to read:

31 215.510. (1) Any comprehensive [*land use plans*] **plan for any city**  
32 **or county** prescribed or amended by the [*Governor*] **commission** pursuant  
33 to ORS 215.505 or section 45 of this 1973 Act shall be in accordance with

1 the standards provided in ORS 215.515 and the notice and hearing re-  
2 quirements provided in ORS 215.060.

3 (2) Any zoning, **subdivision or other ordinances and regulations for any**  
4 **city or county** prescribed or amended by the [Governor] **commission** pur-  
5 suant to ORS 215.505 or **section 45 of this 1973 Act** shall be in accordance  
6 with the standards provided in ORS 215.055 and the notice and hearing  
7 requirements provided in ORS 215.223.

8 (3) A comprehensive [*land use*] plan or zoning, **subdivision or other**  
9 **ordinance or regulation for any city or county** prescribed or amended by  
10 the [Governor] **commission** pursuant to ORS 215.505 or **section 45 of this**  
11 **1973 Act** may be for any purpose provided in ORS 215.010 to 215.233 and  
12 subsections (1) and (2) of 215.990, except that the [Governor] **commission**  
13 may not prescribe building regulations. The [Governor] **commission** may,  
14 however, cause to be instituted an appropriate proceeding to enjoin the  
15 construction of buildings or performance of any other acts which would  
16 constitute a land use that does not conform to the applicable [*land use*]  
17 **comprehensive plan or zoning, subdivision or other ordinance or regula-**  
18 **tion.**

19 (4) Any hearings required by this section may be held by the [Gov-  
20 ernor] **commission**, or by a person designated by the [Governor] **com-**  
21 **mission**, and all such hearings shall be held in the county seat of the  
22 county or in the city in which said comprehensive [*land use*] plan or zon-  
23 ing, **subdivision or other ordinance or regulation** is to be prescribed.

24 Section 48. ORS 215.515 is amended to read:

25 215.515. (1) Comprehensive physical planning, **adopted by the com-**  
26 **mission prior to the expiration of one year following the date of the**  
27 **approval of state-wide planning goals and guidelines under section 37**  
28 **of this 1973 Act**, should provide guidance for physical development within  
29 the state responsive to economic development, human resource develop-  
30 ment, natural resource development and regional and metropolitan area  
31 development. It should assist in attainment of the optimum living environ-  
32 ment for the state's citizenry and assure sound housing, employment  
33 opportunities, educational fulfillment and sound health facilities. State  
34 plans should relate to intermediate and long-range growth objectives. The

1 plans should set a pattern upon which state agencies and local government  
2 may base their programs and local area plans. Goals for comprehensive  
3 physical planning are:

4 [(1)] (a) To preserve the quality of the air [*and*] , water and land  
5 resources of the state.

6 [(2)] (b) To conserve open space and protect natural and scenic re-  
7 sources.

8 [(3)] (c) To provide for the recreational needs of citizens of the  
9 state and visitors.

10 [(4)] (d) To conserve prime farm lands for the production of crops  
11 [*and*] .

12 (e) To provide for an orderly and efficient transition from rural  
13 to urban land use.

14 [(5)] (f) To protect life and property in areas subject to floods,  
15 landslides and other natural disasters.

16 [(6)] (g) To provide and encourage a safe, convenient and economic  
17 transportation system including all modes of transportation: Air, water,  
18 rail, highway and mass transit, and recognizing differences in the social  
19 costs in the various modes of transportation.

20 [(7)] (h) To develop a timely, orderly and efficient arrangement of  
21 public facilities and services to serve as a framework for urban and rural  
22 development.

23 [(8)] (i) To diversify and improve the economy of the state.

24 [(9)] (j) To ensure that the development of properties within the state  
25 is commensurate with the character and the physical limitations of the land.

26 (2) Comprehensive plans adopted by the commission after the expira-  
27 tion of one year after the date of the approval of state-wide planning  
28 goals and guidelines under section 37 of this 1973 Act shall be designed  
29 to comply with such state-wide planning goals and any subsequent re-  
30 visions or amendments thereof.

31 Section 49. ORS 215.535 is amended to read:

32 215.535. In addition to the remedy prescribed in subsection (3) of  
33 ORS 215.510, the [*Governor*] commission may cause to be instituted any  
34 civil action or suit [*he*] it considers appropriate to remedy violations of

1 any comprehensive [*land use*] plan or zoning, **subdivision or other ordi-**  
2 **nance or** regulation prescribed by the [*Governor*] **commission** pursuant  
3 to ORS 215.505 or **section 45 of this 1973 Act.**

4 **SECTION 50.** (1) Whenever the commission prescribes a comprehen-  
5 sive plan or zoning, subdivision or other ordinances or regulations for lands  
6 described in subsection (1) of section 45 of this Act, the costs incurred by  
7 the commission and the department in the preparation and administration  
8 of such plan or ordinances or regulations shall be borne by the city or  
9 county for which the commission has proposed such plan or ordinances  
10 or regulations. Upon presentation by the commission to the governing  
11 body of the city or county of a certified, itemized statement of costs, the  
12 governing body shall order payment to the commission out of any avail-  
13 able funds. With respect to a city or county, if no payment is made  
14 by the governing body within 30 days thereafter, the commission shall  
15 submit to the Secretary of State its certified, itemized statement of such  
16 costs and the commission shall be reimbursed upon the order of the Secre-  
17 tary of State to the State Treasurer, from the city's or county's share of the  
18 state's cigarette and liquor revenues.

19 (2) Within 10 days of receipt of the certified, itemized statement of costs  
20 under subsection (1) of this section, any city or county aggrieved by  
21 the statement may appeal to the Court of Appeals. The appeal shall  
22 be taken as from a contested case under ORS 183.480. Notice of the appeal  
23 shall operate as a stay in the commissioner's right to reimbursement  
24 under subsection (1) of this section until the decision is made on the appeal.

#### 25 **PART VI APPEALS**

26 **SECTION 51.** (1) In the manner provided in sections 52 to 54 of this  
27 Act, the commission shall review upon:

28 (a) Petition by a county governing body, a comprehensive plan pro-  
29 vision or any zoning, subdivision or other ordinance or regulation adopted  
30 by a state agency, city, county or special district that the governing body  
31 considers to be in conflict with state-wide planning goals approved under  
32 section 37 of this Act or interim goals specified in ORS 215.515.

33 (b) Petition by a city or county governing body, a land conservation  
34 and development action taken by a state agency, city, county or special

1 district that the governing body considers to be in conflict with state-  
2 wide planning goals approved under section 37 of this Act or interim  
3 goals specified in ORS 215.515.

4 (c) Petition by a state agency, city, county or special district, any  
5 county governing body action that the state agency, city, county or special  
6 district considers to be improperly taken or outside the scope of the gov-  
7 erning body's authority under this Act.

8 (d) Petition by any person or group of persons whose interests are  
9 substantially affected, a comprehensive plan provision or any zoning, sub-  
10 division or other ordinance or regulation alleged to be in violation of  
11 state-wide planning goals approved under section 37 of this Act or interim  
12 goals specified in ORS 215.515.

13 (2) A petition filed with the commission pursuant to subsection (1)  
14 of this section must be filed not later than 60 days (excluding Saturdays  
15 and holidays) after the date of the final adoption or approval of the  
16 action or comprehensive plan upon which the petition is based.

17 **SECTION 52.** (1) All review proceedings conducted by the commis-  
18 sion pursuant to section 51 of this Act shall be based on the administra-  
19 tive record, if any, prepared with respect to the proceedings for the adop-  
20 tion or approval of the comprehensive plan provision or action that is  
21 the subject of the review proceeding.

22 (2) The commission shall adopt such rules, procedures and regulations  
23 for the conduct of review proceedings held pursuant to section 51 of  
24 this Act, in accordance with the provisions of ORS 183.310 to 183.500 for  
25 hearings and notice in contested cases.

26 (3) A city, county, state agency, special district or any person or  
27 group of persons whose interests are substantially affected may intervene  
28 in and be made a party to any review proceeding conducted by the com-  
29 mission with the approval of the commission, upon the request of the  
30 hearings officer appointed to conduct such proceeding or upon the ap-  
31 proval by the hearings officer of a request by such agency, person or  
32 group of persons for intervention in the review proceeding.

33 **SECTION 53.** (1) In carrying out its duties under section 51 of this

1 Act, the chairman of the commission shall assign each petition to be  
2 reviewed by the commission to a hearings officer who shall conduct the  
3 review proceeding.

4 (2) A hearings officer shall conduct a review proceeding in accordance  
5 with the rules, procedures and regulations adopted by the commission.  
6 Upon the conclusion of a hearing, the hearings officer shall promptly  
7 determine the matter, prepare a recommendation for commission action  
8 upon the matter and submit a copy of his recommendation to the com-  
9 mission and to each party to the proceeding.

10 (3) The commission shall review the recommendation of the hearings  
11 officer and the record of the proceeding and issue its order with respect  
12 to the review proceeding within 60 days following the date of the filing  
13 of the petition upon which such review proceeding is based. The com-  
14 mission may adopt, reject or amend the recommendation of the hearings  
15 officer in any matter.

16 (4) No order of the commission issued under subsection (3) of this  
17 section is valid unless all members of the commission have received  
18 the recommendation of the hearings officer in the matter and at least  
19 four members of the commission concur in its action in the matter.

20 (5) Any party to a review proceeding before the commission who  
21 is adversely affected or aggrieved by the order issued by the commis-  
22 sion in the matter may appeal the order of the commission in the manner  
23 provided in ORS 183.480 for appeals from final orders in contested cases.

24 (6) The commission may enforce orders issued under subsection (3) of  
25 this section in appropriate judicial proceedings brought by the com-  
26 mission therefor.

27 **SECTION 54.** (1) If, upon its review of the recommendation of a  
28 hearings officer and the record of the review proceeding prepared follow-  
29 ing a review proceeding before the commission, the commission is unable  
30 to reach a decision in the matter without further information or evidence  
31 not contained in the record of the proceeding, it may refer the matter back  
32 to the hearings officer and request that the additional information or evi-  
33 dence be acquired by him or that he correct any errors or deficiencies



1 found by the commission to exist in his recommendation or record of  
2 the proceeding.

3 (2) In case of a referral of a matter back to the hearings officer  
4 pursuant to subsection (1) of this section, the 60-day period referred  
5 to in subsection (3) of section 53 of this Act is suspended <sup>for a reasonable period not to exceed 60 days</sup> during the  
6 period beginning on the date of the commission's referral to the hearings  
7 officer and ending on the date that the hearings officer submits the  
8 revised recommendation or record as requested by the commission.

#### 9 PART VII LEGISLATIVE REVIEW

10 SECTION 55. The department shall report monthly to the committee  
11 in order to keep the committee informed on progress made by the depart-  
12 ment, commission, counties and other agencies in carrying out the pro-  
13 visions of this Act.

14 SECTION 56. (1) Prior to the end of each even-numbered year, the  
15 department shall prepare a written report for submission to the Legisla-  
16 tive Assembly of the State of Oregon describing activities and accomp-  
17 lishments of the department, commission, state agencies, cities, counties  
18 and special districts in carrying out the provisions of this Act.

19 (2) A draft of the report required by subsection (1) of this section  
20 shall be submitted to the committee for its review and comment at least  
21 60 days prior to submission of the report to the Legislative Assembly. Com-  
22 ments of the committee shall be incorporated into the final report.

23 (3) Goals and guidelines adopted by the commission shall be included  
24 in the report to the Legislative Assembly submitted under subsection  
25 (1) of this section.

#### 26 PART VIII MISCELLANEOUS

27 Section 57. ORS 453.345 is amended to read:

28 453.345. (1) Applications for site certificates shall be made to the  
29 Nuclear and Thermal Energy Council on a form prescribed by the council  
30 and accompanied by the fee required by ORS 453.405. The application may  
31 be filed not sooner than 12 months after filing of the notice of intent.

32 (2) Proposed use of a site within an area designated by the council  
33 as suitable for location of thermal power plants or nuclear installations  
34 does not preclude the necessity of the applicant obtaining a site certificate

1 for the specific site.

2 (3) Copies of the notice of intent and of the application shall be sent  
3 for comment and recommendation within specified deadlines established  
4 by the council to the Department of Environmental Quality, the State Water  
5 Resources Board, the Fish Commission of the State of Oregon, the State  
6 Game Commission, the State Board of Health, the State Engineer, the  
7 State Geologist, the State Forestry Department, the Public Utility Commis-  
8 sioner of Oregon, the State Department of Agriculture, the Department  
9 of Transportation, **the Department of Land Conservation and Develop-**  
10 **ment** and the Economic Development Division.

11 **SECTION 58.** The part designations and unit captions used in this  
12 Act are provided only for the convenience of locating provisions of this Act,  
13 and are not part of the statutory law of this state.

14 **SECTION 59.** This Act being necessary for the immediate preservation  
15 of the public peace, health and safety, an emergency is declared to exist,  
16 and this Act takes effect on July 1, 1973.



**SENATE AMENDMENTS TO  
PRINTED ENGROSSED SENATE BILL 100**

By COMMITTEE ON ENVIRONMENT AND LAND USE

April 9

1 On page 9 of the printed engrossed bill, line 29, after the period insert  
2 "For purposes of this subsection, the responsibility of the county described  
3 in this subsection shall not apply to cities having a population of 300,000  
4 or more, and such cities shall exercise, within the incorporated limits  
5 thereof, the authority vested in counties by this subsection."

6 On page 26, line 5, after "suspended" insert "for a reasonable interval  
7 not to exceed 60 days." and delete the rest of the line and lines 6 through 8.



# SENATE COMMITTEE REPORT

Salem, Oregon April 6, 1973

Mr. President:

Your Committee on ENVIRONMENT AND LAND USE to whom was referred

SENATE BILL 100,

having had the same under consideration, respectfully report it back with the recommendation that it:

Do pass:

Do pass with amendments:

Be adopted:

Be adopted with amendments:

Do pass with amendments to the printed engrossed bill.

(Referred to Committee on Ways and Means by prior reference)

(Other—specify)

Reporting no: Senator John Burns

Voting aye: Sen. Atiyeh, Macpherson, Ripper, Thorne, Wingard, Hallock

Excused: \_\_\_\_\_


On page 9 of the printed ~~bill Section 19~~, line 29, after the period insert

"For purposes of this subsection, the responsibility of the county described in this subsection shall not apply to cities having a population of 300,000 or more, and such cities shall exercise, within the incorporated limits thereof, the authority vested in counties by this subsection."

On page 26, ~~of the printed bill Sec. 54~~, line 5, after "suspended" insert

"for a reasonable interval not to exceed 60 days." <sup>and</sup> Delete the rest of <sup>the</sup> line ~~5~~

and ~~all of~~ lines <sup>through</sup> 6, 7, and 8.

  
Sen. Ted Hallock

(Chairman)

Submit:

2 copies if no amdts.

4 copies if amdts.

5 copies if to be printed engrossed.

Sen. Hector Macpherson

will lead floor discussion.

MS/MLF  
10/7  
-GUYEK  
JMK  
March 25

ENGROSSED  
**Senate Bill 100**

Sponsored by Senators MACPHERSON, HALLOCK

**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**.

Creates Department of Land Conservation and Development, composed of Land Conservation and Development Commission, director and employees. Establishes Joint Legislative Committee on Land Use, as standing committee, to advise and assist department in carrying out its duties.

Designates areas and activities of critical state concern and provides for additional designations, subject to approval of Legislative Assembly. Requires commission, subject to approval of Legislative Assembly, to promulgate and implement state-wide objectives and regulations for such areas and activities and state-wide planning guidelines for all land use planning in state. Requires state agencies, planning districts, cities, counties and special districts to comply with state-wide planning guidelines and state-wide objectives and regulations in adoption of comprehensive plans and zoning, subdivision or other ordinances and regulations.

Requires development permit to be issued by commission for development projects constituting activities of critical state concern. Provides for enforcement of permit requirements. Declares certain development projects to be public nuisances, subject to civil abatement proceedings by commission.

Establishes 14 planning districts in state to advise, assist and review actions and comprehensive plans of state agencies, cities, counties and special districts with respect to such districts.

Requires, within one year after approval of state-wide planning guidelines, all comprehensive plans and zoning, subdivision or other ordinances or regulations to comply with such guidelines. Authorizes Governor to prescribe comprehensive plans and such ordinances and regulations where none exist or to revise existing noncomplying plans, ordinances and regulations. Permits Governor to charge for his services. Provides, in case of nonpayment by city or county, for reimbursement of Governor from city or county share of state liquor and cigarette revenues.

Provides for review by commission of specified land conservation and development actions and plans. Establishes Land Conservation and Development Account in General Fund for use by department.

Declares emergency and takes effect July 1, 1973.

**NOTE:** Matter in bold face in an amended section is new; matter [italic and bracketed] is existing law to be omitted; complete new sections begin with SECTION.

A BILL FOR AN ACT

2 Relating to land use; creating new provisions; amending ORS 215.055,  
3 215.510, 215.515, 215.535 and <sup>453.345</sup>~~227.240~~; appropriating money; and declar-  
4 ing an emergency.

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

6 PART I INTRODUCTION

7 PREAMBLE

*Insert*

8 <sup>①</sup>SECTION 1. (1) Uncoordinated use of lands within this state threaten  
9 the orderly development, the environment of this state and the health,  
10 safety, order, convenience, prosperity and welfare of the people of this  
11 state.

12 (2) To promote coordinated administration of land uses consistent  
13 with comprehensive plans adopted throughout the state, it is necessary to  
14 establish a process for the review of state agency, planning district, city,  
15 county and special district land conservation and development plans for  
16 compliance with state-wide planning guidelines.

*delete*

17 (3) Except as otherwise provided in subsection (5) of this section,  
18 cities and counties should remain as the agencies to consider, promote  
19 and manage the local aspects of land conservation and development for  
20 the best interests of the people within their jurisdictions.

21 (4) To promote coordinated conservation and development of all land  
22 uses within geographic areas of this state, it is necessary to establish  
23 planning districts and district councils to coordinate efforts of state agen-  
24 cies, cities, counties and special districts within each planning district.

25 (5) The promotion of coordinated state-wide land conservation and  
26 development in areas and for activities of critical state concern requires  
27 the creation of a state-wide planning agency to prescribe planning ob-  
28 jectives and regulations to be applied by state agencies, cities, counties,  
29 district councils and special districts within areas of critical state concern  
30 throughout the state.

31 (6) The impact of proposed development projects, constituting activi-  
32 ties of critical state concern, upon the public health, safety and welfare  
33 requires a system of permits issued by a state-wide agency to carry out

1 state-wide objectives and regulations prescribed for application for activi-  
2 ties of state-wide concern throughout this state.

3 **POLICY STATEMENT**

4 **SECTION 2.** In order to assure the highest possible level of live-  
5 ability in Oregon, it is necessary to provide for properly prepared and  
6 coordinated comprehensive plans for cities and counties, regional areas  
7 and the state as a whole. These comprehensive plans:

8 (1) Must be adopted by the appropriate governing body at the local,  
9 regional and state levels;

10 (2) Are expressions of public policy in the form of policy statements,  
11 generalized maps and standards and guidelines;

12 (3) Shall be the basis for more specific rules, regulations and ordi-  
13 nances which implement the policies expressed through the comprehensive  
14 plans;

15 (4) Shall be prepared to assure that all public actions are consistent  
16 and coordinated with the policies expressed through the comprehensive  
17 plans; and

18 (5) Shall be regularly reviewed and, if necessary, revised to keep  
19 them consistent with the changing needs and desires of the public they  
20 are designed to serve.

*delete*

21 **DEFINITIONS**

22 **SECTION 3.** As used in this Act, unless the context requires other-  
23 wise:

24 (1) "Activity of critical state concern" means a land conservation and  
25 development project designated pursuant to section 32 of this Act.

26 (2) "Area of critical state concern" means a geographic area of the  
27 state designated pursuant to section 31 of this Act.

28 (3) "Commission" means the Land Conservation and Development  
29 Commission.

30 (4) "Committee" means the Joint Legislative Committee on Land Use.

31 (5) "Comprehensive plan" means a generalized, coordinated land use  
32 map and policy statement of the governing body of a state agency, plan-  
33 ning district, city, county or special district that interrelates all functional  
34 and natural systems and activities relating to the use of lands, including

1 but not limited to sewer and water systems, transportation systems, edu-  
2 cational systems, recreational facilities, and air and water quality manage-  
3 ment programs. "Comprehensive" means all-inclusive, both in terms of  
4 the geographic area covered and functional and natural activities and  
5 systems occurring in the area covered by the plan. "General nature" means  
6 a summary of policies and proposals in broad categories and does not  
7 necessarily indicate specific locations of any area, activity or use. A plan  
8 is "coordinated" when the needs of all levels of governments, semi-public  
9 and private agencies and groups have been considered and accommodated  
10 as much as possible. "Land" includes water, both surface and sub-surface,  
11 and the air.

12 (6) "Department " means the Department of Land Conservation and  
13 Development.

*delete*  
14 (7) "Development" means the carrying out of any building or mining  
15 operation, or the material change in the use or appearance of any structure  
16 or land, or the change in the intensity of the use of land, or the departure  
17 from the normal use of land for which permission has been granted.  
18 "Development," as designated in an ordinance, rule or development permit,  
19 includes all associated building, mining, changes and departures, unless  
20 otherwise specified. When appropriate to the context, "development"  
21 also includes the act of developing and the result of development.

22 (8) "Director" means the Director of the Department of Land Con-  
23 servation and Development.

24 (9) "District Council" means the district council of local governments  
25 established for an association of local governments pursuant to section  
26 19 of this Act.

27 (10) "Planning district" means a geographic area of the state designated  
28 pursuant to section 18 of this Act.

29 (11) "Special district" means any unit of local government, other than  
30 a city or county, authorized and regulated by statute and includes, but  
31 is not limited to: Water control districts, irrigation districts, port districts,  
32 air pollution control districts, fire districts, school districts, hospital dis-  
33 tricts, mass transit districts and sanitary districts.



**PART II ORGANIZATION, ROLES AND RESPONSIBILITIES****DEPARTMENT OF LAND CONSERVATION AND DEVELOPMENT**

**SECTION 4.** The Department of Land Conservation and Development is established. The department shall consist of the Land Conservation and Development Commission, the director and their subordinate officers and employes.

**SECTION 5. (1)** There is established a Land Conservation and Development Commission consisting of five members appointed by the Governor, subject to confirmation by the Senate in the manner provided in ORS 171.560 and 171.570.

(2) In making appointments under subsection (1) of this section, the Governor shall select from residents of this state one member from each congressional district and one member from the state at large.

(3) The term of office of each member of the commission is four years, but a member serves at the pleasure of the Governor. Before the expiration of the term of a member, the Governor shall appoint a successor. No person shall serve more than two full terms as a member of the commission.

(4) If there is a vacancy for any cause the Governor shall make an appointment to become immediately effective for the unexpired term.

**SECTION 6.** Notwithstanding the term of office specified in section 5 of this Act, of the members first appointed to the commission:

(1) Two shall serve for a term ending June 30, 1974.

(2) One shall serve for a term ending June 30, 1975.

(3) One shall serve for a term ending June 30, 1976.

(4) One shall serve for a term ending June 30, 1977.

**SECTION 7. (1)** The commission shall select one of its members as chairman and another member as vice chairman, for such terms and with duties and powers necessary for the performance of the functions of such offices as the commission determines. The vice chairman of the commission shall act as the chairman of the commission in the absence of the chairman.

(2) A majority of the members of the commission constitutes a quorum for the transaction of business.

1 **SECTION 8.** Members of the commission are entitled to compensa-  
2 tion and expenses as provided in ORS 292.495.

3 **SECTION 9.** The commission shall:

4 (1) Direct the performance by the director and his staff of their  
5 functions under this Act.

6 (2) In accordance with the provisions of ORS chapter 183, promulgate  
7 rules and regulations that it considers necessary in carrying out this Act.

8 (3) Cooperate with the appropriate agencies of the United States, this  
9 state, any other state, any interstate agency, any person or groups of  
10 persons with respect to land conservation and development.

11 (4) Appoint advisory committees to aid it in carrying out this Act  
12 and provide technical and other assistance, as it considers necessary, to  
13 each such committee.

14 (5) Consult with advisory committees, appointed by each district  
15 council pursuant to subsection (5) of section 22 of this Act, in carrying out  
16 its duties under this Act.

17 **SECTION 10.** The commission may:

18 (1) Apply for and receive moneys from the Federal Government  
19 and from this state or any of its agencies or departments.

20 (2) Subject to the approval of the Governor, contract with any public  
21 agency for the performance of services or the exchange of employes or  
22 services by one to the other necessary in carrying out this Act.

23 (3) Contract for the services of and consultation with professional  
24 persons or organizations, not otherwise available through federal, state and  
25 local governmental agencies, in carrying out its duties under this Act.

26 (4) Perform any other functions that it considers necessary to carry  
27 out this Act.

28 **SECTION 11.** Pursuant to the provisions of this Act, the commission  
29 shall be responsible for:

30 (1) Establishing state-wide planning goals;

31 (2) Issuing permits for activities of critical state concern;

32 (3) Preparing state-wide objectives and regulations for areas and  
33 activities of critical state concern;

34 (4) Preparing inventories of land uses;

- 1 (5) Preparing state-wide planning guidelines;
- 2 (6) Reviewing comprehensive plans for conformance with state-wide
- 3 objectives and regulations and state-wide planning guidelines.
- 4 (7) Reporting to the legislature as provided in sections 64 and 68 of
- 5 this Act; and
- 6 (8) Performing any other duty required by law.

7 **SECTION 12.** If an interstate land conservation and development  
 8 planning agency is created by an interstate agreement or compact entered  
 9 into by this state, the commission shall perform the functions of this  
 10 state with respect to the agreement or compact. If the functions of the  
 11 interstate planning agency duplicate any of the functions of the commission  
 12 under this Act, the commission may:

- 13 (1) Negotiate with the interstate agency in defining the areas of
- 14 responsibility of the commission and the interstate planning agency;
- 15 (2) Suspend by rule the performance of any functions granted to the
- 16 commission under this Act that duplicates a function of the interstate
- 17 planning agency; and
- 18 (3) Cooperate with the interstate planning agency in the performance
- 19 of its functions.

*delete*

20 **SECTION 13.** (1) The commission shall appoint a person to serve  
 21 as the Director of the Department of Land Conservation and Development.  
 22 The director shall hold his office at the pleasure of the commission and his  
 23 salary shall be fixed by the commission unless otherwise provided by law.

- 24 (2) In addition to his salary, the director shall be reimbursed, subject
- 25 to any applicable law regulating travel and other expenses of state of-
- 26 ficers and employes, for actual and necessary expenses incurred by him
- 27 in the performance of his official duties.

28 **SECTION 14.** Subject to policies adopted by the commission, the di-  
 29 rector shall:

- 30 (1) Be the administrative head of the department.
- 31 (2) Coordinate the activities of the department in its land conserva-
- 32 tion and development functions with such functions of federal agencies,
- 33 other state agencies, district councils, cities, counties and special districts.
- 34 (3) Appoint, reappoint, assign and reassign all subordinate officers and

1 employes of the department, prescribe their duties and fix their compensa-  
2 tion, subject to the State Merit System Law.

3 (4) Represent this state before any agency of this state, any other  
4 state or the United States with respect to land conservation and develop-  
5 ment within this state.

6 **SECTION 15.** (1) There is established in the General Fund in the  
7 State Treasury the Land Conservation and Development Account. Moneys  
8 in the account are continuously appropriated for the purpose of carrying  
9 out the provisions of this Act.

10 (2) All fees, moneys and other revenue received by the department  
11 or the committee shall be deposited in the Land Conservation and Develop-  
12 ment Account.

13 **OREGON COASTAL CONSERVATION AND**  
14 **DEVELOPMENT COMMISSION**

15 **SECTION 16.** (1) The Land Conservation and Development Commis-  
16 sion may delegate, by agreement, to the Oregon Coastal Conservation and  
17 Development Commission, created by ORS 191.120, any of its functions;  
18 however, the Land Conservation and Development Commission shall review  
19 and grant prior approval for any action taken by the Oregon Coastal Con-  
20 servation and Development Commission with respect to a delegated  
21 function.

22 (2) The Land Conservation and Development Commission may provide  
23 staff and financial assistance to the Oregon Coastal Conservation and De-  
24 velopment Commission.

25 **SECTION 17.** Pursuant to subsection (1) of section 16, the Oregon  
26 Coastal Conservation and Development Commission may carry out, within  
27 the coastal zone described in subsection (4) of ORS 191.110 and during the  
28 time period specified in subsection (2) of ORS 191.140, the functions of  
29 the Land Conservation and Development Commission in preparing state-  
30 wide objectives and regulations for areas and activities of critical state  
31 concern.

32 **DISTRICT COUNCILS OF LOCAL GOVERNMENT**

33 **SECTION 18.** To assure the orderly development and conservation of  
34 the state through the encouragement of coordinated federal, state, regional

1 and local land use planning, the following planning districts are created:

- 2 (1) District 1 which is composed of Clatsop and Tillamook Counties.
- 3 (2) District 2 which is composed of Columbia, Washington, Multnomah
- 4 and Clackamas Counties.
- 5 (3) District 3 which is composed of Yamhill, Polk and Marion Counties.
- 6 (4) District 4 which is composed of Lincoln, Benton and Linn Counties.
- 7 (5) District 5 which is composed of Lane County.
- 8 (6) District 6 which is composed of Douglas County.
- 9 (7) District 7 which is composed of Coos and Curry Counties.
- 10 (8) District 8 which is composed of Jackson and Josephine Counties.
- 11 (9) District 9 which is composed of Hood River, Sherman and Wasco
- 12 Counties.
- 13 (10) District 10 which is composed of Deschutes, Jefferson and Crook
- 14 Counties.
- 15 (11) District 11 which is composed of Klamath and Lake Counties.
- 16 (12) District 12 which is composed of Gilliam, Morrow, Umatilla,
- 17 Wheeler and Grant Counties.

*delete*

18 (13) District 13 which is composed of Wallowa, Union and Baker

19 Counties.

20 (14) District 14 which is composed of Harney and Malheur Counties.

21 **SECTION 19.** (1) There is created a district association of local gov-

22 ernments in each planning district of this state. Each association shall be

23 comprised of all cities, counties and special districts situated within the

24 planning district.

25 (2) There is created for each association a district council of local gov-

26 ernments with a membership as provided in section 20 of this Act. Not later

27 than the expiration of 10 days after the effective date of this Act, the

28 chairman of the county governing body of the most populous county in each

29 planning district shall call a meeting of the members of the council for the

30 planning district described in section 20 of this Act.

31 **SECTION 20.** (1) The membership of a district council of local gov-

32 ernments for a planning district shall consist of:

33 (a) The chairman of the board of commissioners, or, in his stead, a

*P*

1 member of the county commission selected by the county commission, for  
2 each county within the planning district;

3 (b) The mayor of the most populous city in each county, or, in his  
4 stead, a member of the city council selected by the mayor and city council  
5 of the most populous city in each county; and

6 (c) Such other members representing the remaining cities and special  
7 districts in the planning district as shall be deemed appropriate in the  
8 bylaws adopted by the district council.

9 (2)(a) Representatives from cities and counties described in subsection  
10 (1) of this section shall comprise at least two-thirds of the district council  
11 membership.

12 (b) The term of a member of a district council described in subsection  
13 (1) of this section shall be limited to two years.

14 (3) The voters of a planning district, from time to time and in the exer-  
15 cise of their power of the initiative or by approving a measure referred to  
16 them by the district council, may alter or revise the number, qualifications  
17 and manner of selecting members of the district council provided in sub-  
18 sections (1) and (2) of this section.

*delete*  
19 **SECTION 21.** Each district council shall establish a district planning  
20 committee with a membership as determined by the council; however, at  
21 least 50 percent of the membership of the committee shall be composed of  
22 representatives of city and county planning commissions within the plan-  
23 ning district.

24 **SECTION 22.** Each district council, with the advice of its district plan-  
25 ning committee, shall:

26 (1) Coordinate land conservation and development by the cities, coun-  
27 ties and special districts within the planning district.

28 (2) Review the comprehensive plans prepared and proposed by cities,  
29 counties and special districts within the planning district for compliance  
30 with state-wide planning guidelines prescribed by the commission or ap-  
31 proved by the Legislative Assembly.

32 (3) Review other comprehensive plans and zoning, subdivision and  
33 other ordinances or regulations prepared, proposed or adopted by cities,  
34 counties and special districts within the planning district for compliance  
with state-wide objectives and regulations prescribed by the commission

1 with respect to land conservation and development in areas and activities  
2 of ~~critical~~<sup>critical</sup> state concern within the planning district.

3 (4) Cooperate with the department, other state agencies, other district  
4 councils, special districts, cities and counties outside the planning district  
5 to coordinate land conservation and development within the state.

6 (5) Appoint advisory committees within the planning district, as neces-  
7 sary, to aid it in carrying out its land conservation and development func-  
8 tions within the planning district; provide technical and other assistance  
9 for such committees and consult with; and consider the recommendations  
10 of such committees in carrying out its duties under this Act.

11 **SECTION 23.** A district council, with the advice of its district planning  
12 committee, may:

13 (1) Provide land conservation and development planning, advisory and  
14 technical services to each special district, city or county engaged in land  
15 conservation and development within the planning district upon request  
16 and subject to payment therefor.

17 (2) Provide information, maps and other data pertinent to its duties  
18 to the commission or other agency of the state, other district councils,  
19 special districts, cities and counties within or ~~without~~<sup>outside</sup> the planning district.

20 (3) Conduct, arrange or assist in the promotion of educational programs  
21 relating to land conservation and development in the state or planning  
22 district and the need for the coordinated planning thereof.

23 (4) Subject to the prior approval of the commission, join with any  
24 similar council or planning agency with jurisdiction over contiguous land  
25 situated in another state to form an interstate district council.

26 (5) Provide any other services or perform any other functions that it  
27 considers necessary in carrying out its duties under this Act.

28 **CITIES AND COUNTIES**

29 **SECTION 24.** Cities and counties shall exercise their planning and  
30 zoning responsibilities under ORS chapters 92, 215 and 227 in accordance  
31 with this Act and the state-wide objectives and regulations and the state-  
32 wide planning guidelines approved under this Act.

33 **SECTION 25.** Pursuant to this Act, each city and county in this state  
34 shall:

(1) Prepare and adopt comprehensive plans consistent with the state-

1 wide objectives and regulations for areas and activities of state concern  
2 and state-wide planning guidelines approved by the commission; and

3 (2) Enact zoning, subdivision and other ordinances or regulations to  
4 implement their comprehensive plans.

#### 5 SPECIAL DISTRICTS AND STATE AGENCIES

6 SECTION 26. Special districts shall exercise their planning duties,  
7 powers and responsibilities that are authorized by law with respect to  
8 programs affecting land use in accordance with state-wide planning guide-  
9 lines and state-wide objectives and regulations approved pursuant to this  
10 Act.

11 SECTION 27. State agencies shall carry out their planning duties,  
12 powers and responsibilities that are authorized by law with respect to  
13 programs affecting land use in accordance with state-wide planning guide-  
14 lines and state-wide objectives and regulations approved pursuant to this  
15 Act.

PT

#### 16 JOINT LEGISLATIVE COMMITTEE ON LAND USE

17 SECTION 28. The Joint Legislative Committee on Land Use is estab-  
18 lished as a joint committee of the Legislative Assembly. The committee  
19 shall select an executive secretary who shall serve at the pleasure of the  
20 committee and under its direction.

21 SECTION 29. (1) The Joint Legislative Committee on Land Use  
22 shall consist of four members of the House appointed by the Speaker and  
23 three members of the Senate appointed by the President. No more than  
24 three House members of the committee shall be of the same political  
25 party. No more than two Senate members of the committee shall be of  
26 the same political party.

27 (2) The committee has a continuing existence and may meet, act and  
28 conduct its business during sessions of the Legislative Assembly or any  
29 recess thereof, and in the interim period between sessions.

30 (3) The term of a member shall expire upon the convening of the  
31 Legislative Assembly in regular session next following the commencement  
32 of the member's term. When a vacancy occurs in the membership of the



1 committee in the interim between sessions, until such vacancy is filled,  
2 the membership of the committee shall be deemed not to include the  
3 vacant position for the purpose of determining whether a quorum is pres-  
4 ent and a quorum is the majority of the remaining members.

5 (4) Members of the committee shall be reimbursed for actual and  
6 necessary expenses incurred or paid in the performance of their duties as  
7 members of the committee, such reimbursement to be made from funds  
8 appropriated for such purposes, after submission of approved voucher  
9 claims.

10 (5) The committee shall select a chairman. The chairman may, in  
11 addition to his other authorized duties, approve voucher claims.

12 (6) Action of the committee shall be taken only upon the affirmative  
13 vote of the majority of the members of the committee.

14 **SECTION 30.** The committee shall:

15 (1) Advise the department on all matters under the jurisdiction of  
16 the department;

17 (2) Review and make recommendations to the Legislative Assembly  
18 on proposals for additions to or modifications of designations of areas  
19 or activities of critical state concern;

20 (3) Review and make recommendations to the Legislative Assembly  
21 on state-wide objectives and regulations and state-wide planning guide-  
22 lines approved by the commission; and

23 (4) Make recommendations to the Legislative Assembly on any other  
24 matter relating to land use planning in Oregon.

25 **PART III AREAS AND ACTIVITIES OF STATE CONCERN**

26 **DESIGNATION**

27 **SECTION 31.** The following geographic areas in this state are desig-  
28 nated as areas of critical state concern:

29 (1) Any scenic waterway designated as such in accordance with ORS  
30 390.805 to 390.925, including any related adjacent land.

31 (2) Any waterway in this state designated as a wild and scenic river  
32 pursuant to the federal Wild and Scenic Rivers Act, Public Law 90-542,  
33 including any adjacent lands regulated thereunder.

*delete*

1 (3) All of the following lands, including adjacent lands situated within  
2 one-quarter of one mile of such lands' boundaries:

3 (a) State parks and recreation areas administered by the Highway  
4 Division of the Department of Transportation.

5 (b) Recreation, primitive or wilderness areas on lands administered  
6 by the U.S. Forest Service, the Bureau of Land Management, the National  
7 Parks Service and U.S. Army Corps of Engineers.

8 (c) Lands subject to the regulation of the State Game Commission,  
9 Fish Commission of the State of Oregon, Federal Bureau of Sport Fisheries  
10 or the Wildlife Refuge Division of the U.S. Department of Interior.

11 (d) Parks or recreation areas situated outside an incorporated area  
12 and administered by a unit of local government.

13 (e) Parks or recreation areas on lands under the jurisdiction of the  
14 State Board of Forestry or the Division of State Lands.

15 (4) Lands situated within a radius of one-half of one mile from the  
16 center of the right of way of a state highway that is a part of the National  
17 System of Interstate and Defense Highways established pursuant to sec-  
18 tion 103 (d), title 23, United States Code, at the point of its interchange  
19 with any other public highway where such point of interchange is not  
20 located within an incorporated area and such lands situated within a  
21 radius of one-quarter of one mile where such point of interchange is located  
22 within an incorporated area.

23 (5) All lands west of the Oregon Coast Highway as described in  
24 ORS 366.235, except that:

25 (a) In Tillamook County, Oregon, only the lands west of a line  
26 formed by connecting the western boundaries of the following described  
27 roadways: Brooten Road (County Road 887) northerly from its junction  
28 with the Oregon Coast Highway to Pacific City, McPhillips Drive (County  
29 Road 915) northerly from Pacific City to its junction with Sandlake Road  
30 (County Road 871), Sandlake-Cape Lookout Road, (County Road 871)  
31 northerly to its junction with Cape Lookout Park, Netarts Bay Drive  
32 (County Road 665) northerly from its junction with the Sandlake-Cape  
33 Lookout Road (County Road 871) to its junction at Netarts with State

1 Highway 131, and northerly along State Highway 131 to its junction with  
2 the Oregon Coast Highway near Tillamook.

3 (b) In Coos County, Oregon, only the lands west of a line formed by  
4 connecting the western boundaries of the following described roadways:  
5 FAS 263 southerly from its junction with the Oregon Coast Highway to  
6 Charleston; Seven Devils Road (No. 33) southerly from its junction with  
7 FAS 263 to its junction with the Oregon Coast Highway, near Bandon.

8 (6) All estuaries including all land extending 1,000 feet on a horizontal  
9 plane from the mean higher high-tide mark as located by reference to  
10 the tidal bench mark date prepared by the United States Coast and  
11 Geodetic Survey. As used in this subsection, "estuaries" means partially  
12 enclosed bodies of water where the tide ebbs and flows and where fresh  
13 water from the land meets the salt waters of the Pacific Ocean from the  
14 Pacific Ocean on the west to a point on the east where there exists a  
15 bottom salinity of five parts per thousand as measured at the time of the  
16 lowest water flow in summer.

17 (7) All lands within the area bounded on the west by the mouth of  
18 the Sandy River, on the north by the ordinary high water line of the  
19 Columbia River, on the east by the western boundary of the City of The  
20 Dalles, Oregon, and on the south by the ridge of the cliffs of the Columbia  
21 River Gorge.

22 (8) All lands situated within 1,000 feet from the right of way bound-  
23 aries of highways designated under ORS 377.530 as scenic highways if  
24 such highways are not located within an incorporated area and all lands  
25 situated within 200 feet from the right of way boundaries of such high-  
26 ways if such highways are located within the boundaries of an incorpo-  
27 rated area.

28 **SECTION 32.** (1) The following developmental activities are desig-  
29 nated as activities that by their nature or magnitude are of critical state  
30 concern:

31 (a) The planning, siting and construction of airports.

32 (b) The planning, siting and construction of state and federal high-  
33 way systems or any portion thereof.

1 (c) The planning, siting and construction of mass transit systems or  
2 any portion thereof.

3 (d) The planning, siting and construction of solid waste disposal sites  
4 and facilities.

5 (e) The planning, siting and construction of high-voltage power, gas  
6 and oil transmission lines.

7 (f) The planning, siting and construction of sewerage systems and  
8 water supply systems.

9 (g) The planning, siting and construction of thermal power plants and  
10 nuclear installations.

11 (2) Nothing in this Act supersedes any duty, power or responsibility  
12 vested by statute in any state agency relating to its activities described in  
13 subsection (1) of this section; except that, a state agency may neither im-  
14 plement any such activity nor adopt any plan relating to such an activity  
15 without the prior approval of the commission.

16 **SECTION 33.** (1) In addition to the areas of critical state concern  
17 designated in section 31 of this Act and the activities of critical state con-  
18 cern designated in section 32 of this Act, the commission may recommend  
19 to the committee the designation of additional areas or activities of critical  
20 state concern. Each such recommendation shall specify the reasons for the  
21 proposed designation of the area or activity of critical state concern, the  
22 dangers that would result from uncontrolled development within the area  
23 or by the activity, the reasons for the implementation of state-wide plan-  
24 ning objectives and regulations for the proposed area or activity, and the  
25 suggested state-wide planning objectives and regulations to be applied  
26 within the proposed area or for the proposed activity.

27 (2) The commission may act under subsection (1) of this section on  
28 its own motion or upon the recommendation of a state agency, district  
29 council, city, county or special district. If the commission receives a recom-  
30 mendation from a state agency, district council, city, county or special  
31 district and finds the proposed area or activity to be unsuitable for desig-  
32 nation, it shall notify the state agency, district council, city, ~~council~~ or  
33 special district of its decision and its reasons therefor.

1 (3) Immediately following its decision to favorably recommend to the  
2 Legislative Assembly the designation of an additional area or activity of  
3 critical state concern, the commission shall submit the proposed designa-  
4 tion accompanied by the supporting materials described in subsection (1)  
5 of this section to the committee for its review.

6 **PERMITS FOR ACTIVITIES OF STATE CONCERN**

7 **SECTION 34.** (1) On and after 90 days after the effective date of  
8 this Act, no proposed development project constituting an activity of critical  
9 state concern designated under section 32 of this Act may be initiated by  
10 any person or public agency without a development permit issued by the  
11 commission therefor.

12 (2) Any person or public agency desiring to initiate a development  
13 constituting an activity of critical state concern shall apply to the depart-  
14 ment for a development permit for such project. The application shall  
15 contain the plans for the project and the manner in which such project  
16 has been designed to meet the objectives and regulations for activities of  
17 critical state concern and the comprehensive plans for the state and the  
18 planning district within which the development is proposed, and any other  
19 information required by the commission as prescribed by rule of the com-  
20 mission.

21 (3) The department shall transmit copies of the application to the  
22 appropriate district council and affected state agencies for their review  
23 and recommendation.

24 (4) The district council and the state agencies shall review an appli-  
25 cation transmitted to it under subsection (3) of this section and shall,  
26 within 30 days after the date of the receipt of the application, submit their  
27 recommendations on the application to the commission.

28 (5) If the commission finds after review of the application and the  
29 comments submitted by the district council and state agencies that the  
30 proposed project complies with the state-wide objectives and regulations  
31 for activities of critical state concern and the comprehensive plans within  
32 the planning district, it shall approve the application and issue a develop-  
33 ment permit for the proposed project to the person or public agency apply-  
34 ing therefor.

1 (6) The commission may prescribe and shall include in the develop-  
2 ment permit such conditions or restrictions that it considers necessary to  
3 assure that the proposed development project complies with the state-  
4 wide objectives and regulations for activities of critical state concern and  
5 the comprehensive plans within the planning district.

6 (7) If the activity requiring a development permit under this section  
7 also requires any other permit from any state agency, the commission,  
8 with the cooperation and concurrence of the other agency, may provide a  
9 joint application form and permit to satisfy both the requirements of this  
10 Act and any other requirements set by statute or by rule or regulations  
11 of the state agency.

12 **SECTION 35.** (1) If an application for a proposed development project  
13 constituting an activity of critical state concern designated by section 32  
14 of this Act is received by the department prior to the adoption of state-  
15 wide objectives and regulations for activities of critical state concern, the  
16 commission shall approve the application and issue a development permit  
17 for the proposed development project if such development project is in  
18 compliance with the comprehensive plans of a state agency, planning dis-  
19 trict, city or county and with zoning, subdivision and other ordinances and  
20 regulations adopted to carry out such comprehensive plans that are in  
21 effect on the date of the receipt of the application by the commission.

22 (2) If there are no state agency, planning district, city, or county com-  
23 prehensive plans in effect within the area in which a development project  
24 described in subsection (1) of this section is to be located, the commission  
25 may issue a development permit and prescribe in the development permit  
26 reasonable conditions for the protection of the public health, welfare and  
27 safety.

28 **SECTION 36.** In reviewing under subsection (5) of section 34 of this  
29 Act an application for a development permit for a proposed development  
30 project constituting an activity of critical state concern, the commission  
31 shall consider whether or not:

32 (1) The location of a proposed development is essential or appropriate  
33 in view of the available alternative locations within or outside the district;

1 (2) The proposed development will have a favorable impact upon the  
2 environment in comparison to alternative manners of development;

3 (3) The proposed development will favorably affect other persons or  
4 property in view of any circumstances that are peculiar to the location, size  
5 or nature of the development;

6 (4) If the proposed development imposes immediate cost burdens on  
7 the city or county within which it is to be located, the amount of similar  
8 existing development within such city or county is more than an equitable  
9 share of that type of development needed within the planning district;

10 (5) The proposed development will favorably affect the ability of  
11 people to find adequate housing reasonably accessible to their employment;

12 (6) The proposed development will favorably affect the provision for  
13 city or county services and the burden of taxpayers in making provision  
14 therefor;

*delete*

15 (7) The proposed development will efficiently use public or public-  
16 aided school, transportation or other facilities that are existing or that are  
17 to be furnished within the foreseeable future; and

18 (8) The proposed development should be approved in view of other  
19 considerations deemed necessary by the district council.

20 **SECTION 37.** (1) If any person or public agency is in doubt whether  
21 a proposed development project constitutes an activity of critical state  
22 concern, the person or public agency may request a determination from  
23 the commission on the question. Within 60 days after the date of the receipt  
24 by it of such a request, the commission, with the advice of the committee  
25 and of the district council for the planning district in which such activity  
26 is proposed, shall issue a binding letter of interpretation with respect to  
27 the proposed development project.

28 (2) Requests for determinations under this section shall be made to the  
29 commission in writing and in such form and contain such information as  
30 may be prescribed by the commission.

31 **SECTION 38.** (1) Any development project constituting an activity  
32 of critical state concern that is being carried out without a development  
33 permit issued under section 34 of this Act or in a manner contrary to the

1 conditions set out in a development permit issued therefor under section  
2 34 of this Act is a public nuisance.

3 (2) Any development project that does not constitute an activity  
4 of critical state concern, that is being carried out within an area of critical  
5 state concern and that does not comply with the state-wide objectives and  
6 regulations approved by the commission for the area of critical state con-  
7 cern is a public nuisance.

8 **SECTION 39.** If the commission determines the existence of an alleged  
9 public nuisance under section 38 of this Act, it may:

10 (1) Investigate, hold hearings, make orders and take action that it  
11 deems appropriate under this Act, as soon as possible.

12 (2) For the purpose of investigating conditions relating to the alleged  
13 public nuisance, through its members or its duly authorized representa-  
14 tives enter at reasonable times upon any private or public property.

15 (3) Conduct public hearings in accordance with ORS chapter 183.

16 (4) Publish its findings and recommendations as they are formulated  
17 relative to the alleged public nuisance.

18 (5) Give notice of any order relating to a particular violation of its  
19 state-wide objectives and regulations, a particular violation of the terms  
20 or conditions of a development permit or a particular violation of the pro-  
21 visions of this Act by mailing notice to the person or public body conduct-  
22 ing or proposing to conduct the development project affected in the manner  
23 provided by ORS chapter 183.

24 (6) Take appropriate action for the enforcement of orders promulgated  
25 as a result of any hearing. Any violation of an order of the commission  
26 under this section may be enjoined in civil abatement proceedings brought  
27 in the name of the State of Oregon. Proceedings thus brought by the  
28 commission shall set forth the dates of notice and hearing and the  
29 specific order of the commission, together with the facts giving rise to  
30 the violation.

31 **SECTION 40.** (1) Proceedings to abate alleged public nuisances under  
32 section 38 of this Act may be instituted at law or in equity, in the name  
33 of the State of Oregon upon relation of the Land Conservation and De-  
34 velopment Commission.

*delete*



1 (2) However, notwithstanding any other provisions of law, the com-  
2 mission, without the necessity of prior administrative proceedings or  
3 hearing and entry of an order, may institute a suit at law or in equity  
4 in the name of the State of Oregon to abate or restrain threatened or  
5 existing nuisances under section 38 of this Act, whenever such nuisances  
6 create an emergency that requires immediate action to protect the public  
7 health, safety or welfare. No temporary restraining order or temporary  
8 injunction or abatement order shall be granted unless the defendant is  
9 accorded an opportunity to be heard thereon at a time and place set by  
10 the court in an order directing the defendant to appear at such time and  
11 place, and to then and there show cause, if any he has, why a temporary  
12 restraining order or temporary injunction or abatement order should not  
13 be granted. The order to show cause, together with affidavits supporting  
14 the application for such temporary injunction or abatement order, shall  
15 be served on the defendant as a summons. The defendant may submit  
16 counteraffidavits at such time and place. The commission shall not be  
17 required to furnish any bond in such proceeding. Neither members of the  
18 commission nor the director or members of their staffs shall be liable  
19 for any damages the defendant may sustain by reason of an injunction or  
20 restraining order or abatement order issued after such hearing.

21 (3) Cases filed under this section shall be given preference on the  
22 docket over all other civil cases except those given an equal preference  
23 by statute.

24 **PART IV STATE-WIDE GUIDELINES, OBJECTIVES**  
25 **AND REGULATIONS**

26 **SECTION 41.** All comprehensive plans and any zoning, subdivision  
27 and other ordinances and regulations adopted by a state agency, planning  
28 district, city, county or special district to carry out such plans shall be  
29 in conformity with the state-wide planning guidelines, and the state-wide  
30 objectives and regulations approved by the commission or the Legislative  
31 Assembly.

32 **SECTION 42.** (1) Not later than the expiration of one year following  
33 the effective date of this Act, the department shall prepare state-wide  
34 objectives and regulations to be applied by state agencies, district councils,

1 cities, counties and special districts in planning for, regulating, reviewing  
2 and passing upon land conservation and development proposals to be  
3 carried out within areas of critical state concern designated in section 31  
4 of this Act. Within such period the department shall also prepare state-  
5 wide objectives and regulations to be applied by itself, state agencies,  
6 district councils, counties, cities and special districts in planning for, regu-  
7 lating, reviewing and passing upon applications for development permits  
8 for development projects constituting activities of critical state concern  
9 designated in section 32 of this Act.

10 (2) Upon completion of the preparation of the proposed state-wide  
11 objectives and regulations pursuant to subsection (1) of this section, the  
12 department shall submit them to the commission for approval.

13 **SECTION 43.** In preparing state-wide objectives and regulations for  
14 areas and activities of critical state concern designated under sections  
15 31 and 32 of this Act, the department shall consider the comprehensive  
16 plans of state agencies, planning districts, cities, counties and special  
17 districts in the state in order to preserve functional and local aspects of  
18 land conservation and development.

*delete*  
19 **SECTION 44.** (1) Upon receipt of the proposed state-wide objectives  
20 and regulations prepared and submitted to it by the department pursuant  
21 to section 42 of this Act, the commission shall:

22 (a) Hold at least one public hearing within each district on the pro-  
23 posed state-wide planning objectives and regulations for areas and activi-  
24 ties of critical state concern. The commission shall cause notice of the  
25 time and place of each such hearing to be published in a newspaper of  
26 general circulation within the district where the hearing is to be conducted  
27 not later than 30 days prior to the date of the hearing. The department  
28 shall supply a copy of its proposed state-wide objectives and regulations  
29 for areas and activities of critical state concern to the Governor, the  
30 committee, affected state agencies and special districts and to each city,  
31 county and district council upon request and without charge. The depart-  
32 ment shall provide copies of such proposed state-wide objectives and regula-

1 tions to other public agencies or persons upon request and payment of the.  
2 cost of preparing the copies of the materials requested.

3 (b) Consider the recommendations and comments received from each  
4 of the public hearings conducted under paragraph (a) of this subsection,  
5 make any revisions in the proposed state-wide objectives and regulations  
6 for areas and activities of critical state concern that it considers necessary  
7 and approve the proposed objectives and regulations, as they may be  
8 revised by the commission.

9 (2) After the date of the approval by the commission of state-wide  
10 objectives and regulations for areas and activities of critical state concern  
11 designated in sections 31 and 32 of this Act, all planning, regulation, re-  
12 view and action upon land development proposals by the state, district  
13 councils, cities, counties or special districts shall be revised, if necessary,  
14 to comply with such objectives and regulations. The preparation of new  
15 comprehensive plans and any revision of any comprehensive plan of any  
16 special district, city, county, planning district or state agency shall comply  
17 with such objectives and regulations.

18 **SECTION 45.** Following the approval by the commission of state-  
19 wide objectives and regulations for areas and activities of critical state  
20 concern under section 44 of this Act, each district council shall review  
21 the comprehensive plans for land conservation and development within  
22 the planning district to assure that state-wide objectives and regulations  
23 approved by the commission for designated areas and activities of critical  
24 state concern within the planning district are implemented.

25 **SECTION 46.** (1) Not later than January 1, 1975, the department shall  
26 prepare state-wide planning guidelines for use by state agencies, cities,  
27 counties, district councils and special districts in preparing, adopting, re-  
28 vising and implementing existing and future comprehensive plans.

29 (2) Following the preparation of the proposed state-wide planning  
30 guidelines pursuant to subsection (1) of this section, the department shall  
31 submit the proposed state-wide planning guidelines for review and ap-  
32 proval by the commission in the manner provided in section 44 of this Act  
33 for the approval of state-wide objectives and regulations for areas and  
34 activities of critical state concern.

1     **SECTION 47.** Following the approval by the commission of state-wide  
2 planning guidelines, each district council shall review all comprehensive  
3 plans for land conservation and development within the planning district,  
4 both those adopted and those being prepared. The district council shall  
5 advise the state agency, city, county or special district preparing the com-  
6 prehensive plans whether or not the comprehensive plans are in conformity  
7 with the state-wide planning guidelines.

8                                   **PART V COMPREHENSIVE PLANS**

9     **SECTION 48.** Comprehensive plans and zoning, subdivision, and other  
10 ordinances and regulations adopted prior to the effective date of this Act  
11 shall remain in effect until revised, if necessary, under this Act.

12     **SECTION 49.** Prior to approval by the commission of its state-wide  
13 planning guidelines under section 46 of this Act, the goals listed in ORS  
14 215.515 shall be used in the preparation, revision, adoption or implementa-  
15 tion of any comprehensive plan.

16     **SECTION 50.** Any zoning, subdivision or other ordinance or regula-  
17 tion adopted by a state agency, district council, city, county or special  
18 district after the effective date of this Act shall be based upon its compre-  
19 hensive plan and a finding by it that:

20         (1) The designation of land use zones is reasonably related to the  
21 effects of permitted land uses upon public facilities and other services, in-  
22 cluding but not limited to, transportation systems, public schools, health  
23 care facilities, fire and police facilities and the impact of such uses upon  
24 the state's finite natural resources.

25         (2) Agricultural zones relate to the need to conserve prime farm lands  
26 and provide for a blocking of agricultural lands in order to minimize con-  
27 flicts between farm and nonfarm uses.

28         (3) Development of urban and nonfarm uses is conditioned upon the  
29 provision for the public facilities necessary to protect the public health,  
30 safety and welfare.

31         (4) Business, commercial and industrial zones relate to the needs of  
32 the area and that the location of such zones and the uses permitted therein

1 are based upon the effect of such land uses upon the adjacent lands and  
2 the community as a whole.

3 (5) Residential zones are located with respect to their respective re-  
4 quirements for public facilities and services and provide adequate regu-  
5 lations for varying densities of development.

6 (6) If substantial differences exist between adjacent land uses, transi-  
7 tional land uses are established between such conflicting land uses or that  
8 the development regulations for the more intensive land use provide ade-  
9 quate protection for adjacent property.

10 (7) Zoning regulations and ordinances do not prevent:

11 (a) The preservation of unique land uses and characteristics;

12 (b) The protection of life and property involved in the use of lands  
13 situated within flood plains; and

14 (c) Adequate housing for persons of low income within the area.

15 Section 51. ORS 227.240 is amended to read:

16 227.240. (1) For each district provided for by subsection (1) of ORS  
17 227.230, regulations may be imposed designating the class of use that shall  
18 be excluded or subjected to special regulations and designating the uses  
19 for which buildings may not be erected or altered, or designating the  
20 class of use which only shall be permitted. These regulations shall be  
21 designed to [*promote the public health, safety and general welfare. The*  
22 *council shall give reasonable consideration, among other things, to the*  
23 *character of the district, its peculiar suitability for particular uses, the*  
24 *conservation of property values and the direction of building development*  
25 *in accord with a well considered plan*] **comply with the considerations speci-**  
26 **fied therefor in section 50 of this 1973 Act.**

27 (2) The regulations provided for by subsection (2) of ORS 227.230 shall  
28 be uniform for each class of buildings throughout each district. The regu-  
29 lations in one or more districts may differ from those in other districts. The  
30 regulations shall be designed to secure safety from fire and other dangers  
31 and to promote the public health and welfare, and to secure provision for  
32 adequate light, air and reasonable access. The council shall pay reasonable  
33 regard to the character of buildings erected before May 29, 1919, in each

1 district, the value of the land, and the use to which it may be put to the  
2 end that the regulations may promote public health, safety and welfare.

3 **SECTION 52.** Each city or county shall prepare and the city council or  
4 the county governing body shall adopt the comprehensive plans required  
5 by ORS 215.505 to 215.535 and 215.990 in accordance with section 49 of this  
6 Act for those plans adopted prior to the expiration of one year following  
7 the date the commission approves its state-wide planning guidelines under  
8 section 46 of this Act. Plans adopted by cities after the expiration of one  
9 year following the date of approval of such guidelines by the commission  
10 shall be designed to comply with such guidelines and any subsequent  
11 amendments thereto.

12 Section 53. ORS 215.055 is amended to read:

13 215.055. (1) *del* **[The] Any comprehensive plan [and all legislation and**  
14 **regulations] and all zoning, subdivision or other ordinances and regula-**  
15 **tions authorized by ORS 215.010 to 215.233 and adopted prior to the ex-**  
16 **piration of one year following the date of the approval of state-wide plan-**  
17 **ning guidelines under section 46 of this 1973 Act shall be designed to pro-**  
18 **mote the public health, safety and general welfare and shall be based on**  
19 **the following considerations, among others: The various characteristics of**  
20 **the various areas in the county, the suitability of the areas for particular**  
21 **land uses and improvements, the land uses and improvements in the areas,**  
22 **trends in land improvement, density of development, property values, the**  
23 **needs of economic enterprises in the future development of the areas,**  
24 **needed access to particular sites in the areas, natural resources of the**  
25 **county and prospective needs for development thereof, and the public need**  
26 **for healthful, safe, aesthetic surroundings and conditions.**

27 **(2) Any plan and all zoning, subdivision or other ordinances and regu-**  
28 **lations authorized by ORS 215.010 to 215.233 and adopted after the expira-**  
29 **tion of one year after the date of the approval of state-wide planning**  
30 **guidelines under section 46 of this 1973 Act shall be designed to comply**  
31 **with such state-wide planning guidelines and any subsequent revisions or**  
32 **amendments thereof.**

33 **(3) Any zoning, subdivisions or other ordinances or regulation author-**  
34 **ized by ORS 215.010 to 215.233 and adopted after the effective date of this**

1 1973 Act shall be based upon the considerations specified in section 50 of  
2 this 1973 Act.

3 [(2)] (4) In order to conserve natural resources of the state, any land  
4 use plan or zoning, subdivision or other ordinance adopted by a county  
5 shall take into consideration lands that are, can or should be utilized for  
6 sources or processing of mineral aggregates.

7 **SECTION 54.** (1) Following the approval by the commission of state-  
8 wide planning guidelines under section 46 of this Act, each district council  
9 shall review the comprehensive plans and all revisions thereof of state  
10 agencies, special districts, cities and counties within the planning district  
11 for compliance with state-wide planning guidelines and state-wide objec-  
12 tives and regulations approved by the commission.

13 (2) The district council shall approve comprehensive plans and re-  
14 visions thereof that comply with the state-wide planning guidelines and  
15 state-wide objectives and regulations approved by the commission.

16 (3) Upon the expiration of one year after the date of the approval of  
17 state-wide planning guidelines and annually thereafter, each district coun-  
18 cil shall report to the commission on the status of comprehensive plans  
19 within each planning district. Each such report shall include:

- 20 (a) Copies of comprehensive plans reviewed by the district council.  
21 (b) For those areas or jurisdiction within the planning district without  
22 comprehensive plans, a statement and review of the progress made toward  
23 compliance with the state-wide planning guidelines and the state-wide  
24 objectives and regulations.

25 **SECTION 55.** (1) Notwithstanding any other provision of law, after  
26 the expiration of one year after the date of the approval of the initial state-  
27 wide planning guidelines under section 46 of this Act, the Governor shall  
28 prescribe, may amend and shall thereafter administer comprehensive plans  
29 and zoning, subdivision or other ordinances and regulations for lands  
30 within the boundaries of a county, whether or not within the boundaries  
31 of a city that:

- 32 (a) Are not subject to ORS 390.640 or to a comprehensive plan and  
33 zoning, subdivision or other ordinances and regulations adopted pursuant

1 to ORS 215.010 to 215.233 and subsections (1) and (2) of ~~ORS~~ 215.990 or  
2 zoned pursuant to any other state law or city ordinance; or

3 (b) Are subject to a comprehensive plan or a zoning, subdivision or  
4 other ordinance or regulation, that does not comply with the state-wide  
5 planning guidelines or state-wide objectives and regulations approved under  
6 this Act and any subsequent revisions or amendments thereof.

7 (2) If the city or county shall have under consideration a comprehen-  
8 sive plan or zoning, subdivision or other ordinances or regulations for lands  
9 described in subsection (1) of this section, and shall have shown satisfactory  
10 progress toward the adoption of such comprehensive plan or such ordi-  
11 nances or regulations, the Governor may grant a reasonable extension of  
12 time after the date set in this section for completion of such plan or such  
13 ordinances or regulations.

14 (3) Any comprehensive plan or zoning, subdivision or other ordinance  
15 or regulation adopted by the Governor under subsection (1) of this section  
16 shall comply with the state-wide planning guidelines and state-wide ob-  
17 jectives and regulations approved under this Act and all subsequent revi-  
18 sions or amendments thereof.

19 (4) The department shall cooperate with and assist the Governor in the  
20 preparation and administration of any comprehensive plan or zoning, sub-  
21 division or ordinances or regulations prescribed by him under subsection  
22 (1) of this section.

23 Section 56. ORS 215.510 is amended to read:

24 215.510. (1) Any comprehensive [*land use plans*] **plan for any city or**  
25 **county** prescribed or amended by the Governor pursuant to ORS 215.505  
26 **or section 55 of this 1973 Act** shall be in accordance with the standards  
27 provided in ORS 215.515 and the notice and hearing requirements provided  
28 in ORS 215.060.

29 (2) Any zoning, **subdivision or other ordinances and** regulations for  
30 **any city or county** prescribed or amended by the Governor pursuant to  
31 **ORS 215.505 or section 55 of this 1973 Act** shall be in accordance with the  
32 standards provided in ORS 215.055 and the notice and hearing require-  
33 ments provided in ORS 215.223.

*delete*



1 (3) A comprehensive [*land use*] plan or zoning, **subdivision or other**  
2 **ordinance or regulation for any city or county** prescribed or amended by  
3 the Governor pursuant to ORS 215.505 or **section 55 of this 1973 Act** may be  
4 for any purpose provided in ORS 215.010 to 215.233 and subsections (1)  
5 and (2) of 215.990, except that the Governor may not prescribe build-  
6 ing regulations. The Governor may, however, cause to be instituted an  
7 appropriate proceeding to enjoin the construction of buildings or perform-  
8 ance of any other acts which would constitute a land use that does not con-  
9 form to the applicable [*land use*] **comprehensive plan or zoning, subdivi-**  
10 **sion or other ordinance or regulation.**

11 (4) Any hearings required by this section may be held by the Governor,  
12 or by a person designated by the Governor, and all such hearings shall be  
13 held in the county seat of the county or in the city in which said compre-  
14 hensive [*land use*] plan or zoning, **subdivision or other ordinance or regu-**  
15 **lation is to be prescribed.**

16 Section 57. ORS 215.515 is amended to read:

17 215.515. (1) Comprehensive physical planning, **adopted by the Gov-**  
18 **ernor prior to the expiration of one year following the date of the approval**  
19 **of state-wide planning guidelines under section 46 of this 1973 Act**, should  
20 provide guidance for physical development within the state responsive to  
21 economic development, human resource development, natural resource  
22 development and regional and metropolitan area development. It should  
23 assist in attainment of the optimum living environment for the state's citi-  
24 zenry and assure sound housing, employment opportunities, educational  
25 fulfillment and sound health facilities. State plans should relate to inter-  
26 mediate and long-range growth objectives. The plans should set a pattern  
27 upon which state agencies and local government may base their programs  
28 and local area plans. Goals for comprehensive physical planning are:

29 [(1)] (a) To preserve the quality of the air [*and*], water and land  
30 resources of the state.

31 [(2)] (b) To conserve open space and protect natural and scenic re-  
32 sources.

33 [(3)] (c) To provide for the recreational needs of citizens of the state  
34 and visitors.

1 [(4)] (d) To conserve prime farm lands for the production of crops  
2 [and].

3 (e) To provide for an orderly and efficient transition from rural to  
4 urban land use.

5 [(5)] (f) To protect life and property in areas subject to floods, land-  
6 slides and other natural disasters.

7 [(6)] (g) To provide and encourage a safe, convenient and economic  
8 transportation system including all modes of transportation: Air, water,  
9 rail, highway and mass transit, and recognizing differences in the social  
10 costs in the various modes of transportation.

11 [(7)] (h) To develop a timely, orderly and efficient arrangement of  
12 public facilities and services to serve as a framework for urban and rural  
13 development.

14 [(8)] (i) To diversify and improve the economy of the state.

15 [(9)] (j) To ensure that the development of properties within the  
16 state is commensurate with the character and the physical limitations of  
17 the land.

*delete*  
18 (2) Comprehensive physical planning adopted by the Governor after  
19 the expiration of one year after the date of the approval of state-wide plan-  
20 ning guidelines under section 46 of this 1973 Act shall be designed to  
21 comply with such state-wide planning guidelines and any subsequent  
22 revisions or amendments thereof.

23 Section 58. ORS 215.535 is amended to read:

24 215.535. In addition to the remedy prescribed in subsection (3) of ORS  
25 215.510, the Governor may cause to be instituted any civil action or suit he  
26 considers appropriate to remedy violations of any comprehensive [land  
27 use] plan or zoning, subdivision or other ordinance or regulation pre-  
28 scribed by the Governor pursuant to ORS 215.505 <sup>or</sup> of section 55 of this 1973  
29 Act.

30 SECTION 59. Whenever the Governor prescribes a comprehensive plan  
31 or zoning, subdivision or other ordinances or regulations for lands des-  
32 cribed in subsection (1) of section 55 of this Act, the costs incurred by the  
33 Governor and the department in the preparation and administration of

1 such plan or ordinances or regulations shall be borne by the city or county  
 2 for which the Governor has proposed such plan or ordinances or regula-  
 3 tions. Upon presentation by the Governor to the governing body of the city  
 4 or county of a certified, itemized statement of costs, the governing body  
 5 shall order payment to the Governor out of any available funds. With re-  
 6 spect to a city or county, if no payment is made by the governing body with-  
 7 in 30 days thereafter, the Governor shall submit to the Secretary of State his  
 8 certified, itemized statement of such costs and the Governor shall be re-  
 9 imbursed upon the order of the Secretary of State to the State Treasurer,  
 10 from the city's or county's share of the state's cigarette and liquor revenues.

#### 11 **PART VI APPEALS**

12 **SECTION 60.** (1) In the manner provided in sections 61 to 63 of this  
 13 Act, the commission shall review upon:

14 (a) Petition by a district council, a comprehensive plan provision  
 15 of a state agency, city, county or special district that the district council  
 16 considers to be in conflict with approved state-wide planning guidelines  
 17 or approved state-wide objectives or regulations.

18 (b) Petition by a district council, a land conservation and development  
 19 action taken by a state agency, city, county or special district with respect  
 20 to an area or activity of critical state concern that the district council  
 21 considers to be in conflict with approved state-wide planning guide-  
 22 lines or approved state-wide objectives or regulations.

23 (c) Petition by a state agency, city, county or special district, any dis-  
 24 trict council action that the state agency, city, county or special district  
 25 considers to be improperly taken or outside the scope of the district  
 26 council's authority under this Act.

27 (d) Petition by any person or group of persons, a provision of an  
 28 adopted comprehensive plan or an action taken by a district council.

29 (2) A petition filed with the commission pursuant to subsection (1)  
 30 of this section must be filed not later than 60 days (excluding Saturdays  
 31 and holidays) after the date of the final adoption or approval of the  
 32 action or comprehensive plan upon which the petition is based.

33 **SECTION 61.** (1) All review proceedings conducted by the com-  
 34 mission pursuant to section 60 of this Act shall be based on the admini-

1 strative record, if any, prepared with respect to the proceedings for the  
2 adoption or approval of the comprehensive plan provision or action that  
3 is the subject of the review proceeding.

4 (2) The commission shall adopt such rules, procedures and regulations  
5 for the conduct of review proceedings held pursuant to section 60 of this  
6 Act, in accordance with the provisions of ORS 183.310 to 183.500 for  
7 hearings and notice in contested cases.

8 (3) A district council, city, county, state agency, special district or  
9 any person or group of persons may intervene in and be made a party  
10 to any review proceeding conducted by the commission with the approval  
11 of the commission upon the request of the hearings officer appointed to  
12 conduct such proceeding or upon the approval by the hearings officer  
13 of a request by such agency, person or group of persons for intervention  
14 in the review proceeding.

*delete*  
15 **SECTION 62.** (1) In carrying out its duties under section 60 of  
16 this Act, the chairman of the commission shall assign each petition to be  
17 reviewed by the commission to a hearings officer who shall conduct the  
18 review proceeding.

19 (2) A hearings officer shall conduct a review proceeding in accord-  
20 ance with the rules, procedures and regulations adopted by the commission.  
21 Upon the conclusion of a hearing, the hearings officer shall promptly  
22 determine the matter, prepare a recommendation for commission action  
23 upon the matter and submit a copy of his recommendation to the com-  
24 mission and to each party to the proceeding.

25 (3) The commission shall review the recommendation of the hearings  
26 officer and the record of the proceeding and issue its order with respect to  
27 the review proceeding within 60 days following the date of the filing of  
28 the petition upon which such review proceeding is based. The commission  
29 may adopt, reject or amend the recommendation of the hearings officer  
30 in any matter.

31 (4) No order of the commission issued under subsection (3) of this  
32 section is valid unless all members of the commission have received the  
33 recommendation of the hearings officer in the matter and at least three  
34 members of the commission concur in its action in the matter.

1 (5) Any party to a review proceeding before the commission who is  
 2 aggrieved by the order issued by the commission in the matter may appeal  
 3 the order of the commission in the manner provided in ORS 183.480 to  
 4 183.500 for appeals from final orders in contested cases.

5 **SECTION 63.** (1) If, upon its review of the recommendation of a  
 6 hearings officer and the record of the review proceeding prepared follow-  
 7 ing a review proceeding before the commission, the commission is unable  
 8 to reach a decision in the matter without further information or evidence  
 9 not contained in the record of the proceeding, it may refer the matter back  
 10 to the hearings officer and request that the additional information or evi-  
 11 dence be acquired by him or that he correct any errors or deficiencies  
 12 found by the commission to exist in his recommendation or record of  
 13 the proceeding.

14 (2) In case of a referral of a matter back to the hearings officer pur-  
 15 suant to subsection (1) of this section, the 60-day period referred to in  
 16 subsection (3) of section 62 of this Act is suspended during the period  
 17 beginning on the date of the commission's referral to the hearings officer  
 18 and ending on the date that the hearings officer submits the revised  
 19 recommendation or record as requested by the commission.

*delete*

20

#### **PART VII LEGISLATIVE REVIEW**

21 **SECTION 64.** (1) Prior to the expiration of 60 days after the date  
 22 of the convening of the Fifty-eighth Legislative Assembly of the State  
 23 of Oregon, the commission shall prepare and submit a report to the  
 24 Legislative Assembly. Such report shall include:

25 (a) The modifications of and additions to areas or activities of critical  
 26 state concern as recommended by the commission under section 33 of this  
 27 Act.

28 (b) State-wide planning guidelines approved by the commission under  
 29 section 46 of this Act.

30 (c) State-wide objectives and regulations for areas and activities of  
 31 critical concern approved by the commission under section 44 of this Act.

32 (d) A summary of the orders issued by the commission following  
 33 review proceedings conducted pursuant to section 60 of this Act; and

1 (e) A summary of the activities of the department, district councils,  
2 cities and counties in land conservation and development in the state.

3 (2) In addition to the contents of the report required under subsection  
4 (1) of this section, the commission may also submit proposed legislation  
5 that it considers necessary in furthering the purposes of this Act.

6 **SECTION 65.** The committee shall submit to the Legislative Assembly  
7 its comments and recommendations on the contents and provisions of the  
8 report required by section 64. *of 15. 6. 61*

9 **SECTION 66.** (1) The report submitted by the commission to the  
10 Legislative Assembly pursuant to subsection (1) of section 64 of this Act  
11 shall be considered approved by the Legislative Assembly upon:

12 (a) The passage by both Houses of the Legislative Assembly of a joint  
13 resolution approving the report; or

14 (b) The expiration of 90 days after the date of the submission of the  
15 report to the Legislative Assembly, or the date of the adjournment of  
16 such legislative session, whichever occurs first.

*delete*  
17 (2) The Legislative Assembly may amend or revise the contents of  
18 the report or may refer the report back to the commission for further  
19 study with a statement of the provisions of the report that it finds unsuit-  
20 able, accompanied by the reasons for each such finding, and its suggestions  
21 for the amendment or revision by the commission of the report.

22 (3) Upon the date of the completion and publication by the commission  
23 of the revision of its report in conformity with the directions of the  
24 Legislative Assembly, the report shall be considered approved by the  
25 Legislative Assembly under this section.

26 (4) The committee shall determine whether or not the report, if  
27 revised by the commission under subsection (2) of this section, is in con-  
28 formity with the directions of the Legislative Assembly.

29 **SECTION 67.** (1) Following the approval under section 66 of this  
30 Act by the Legislative Assembly of the report, the commission may  
31 revise the state-wide planning guidelines and its state-wide objectives  
32 and regulations for areas and activities of critical state concern in the  
33 manner provided in sections 44 and 46 of this Act for the initial adoption  
34 of such guidelines, objectives and regulations.

1 (2) Any revision or amendment approved by the commission under  
2 subsection (1) of this section shall be submitted to the next following regu-  
3 lar session of the Legislative Assembly for final approval.

4 (3) Any action that is taken by any agency of this state, the commis-  
5 sion, a district council, a city or county of this state in reliance upon a  
6 state-wide planning guideline or a state-wide objective or regulation or  
7 any amendment thereof that has been approved by the commission shall  
8 not be invalidated by subsequent refusal by the Legislative Assembly  
9 to approve or by any subsequent amendment thereof by the Legislative  
10 Assembly.

11 **SECTION 68.** During each biennium following July 1, 1975, the com-  
12 mission shall review its activities under this Act and submit a report to  
13 the Legislative Assembly. Such report shall include:

*delete*

14 (1) Modifications of and additions to designations of areas or activities  
15 of critical state concern in the state;

16 (2) Modifications of and additions to state-wide objectives and regu-  
17 lations for areas and activities of critical state concern;

18 (3) Modifications of and additions to state-wide planning guidelines;

19 (4) A summary of the orders issued under section 60 of this Act since  
20 the date of the previous report by the commission to the Legislative  
21 Assembly; and

22 (5) A summary of the activities of the department, district councils,  
23 cities and counties in land conservation and development in the state  
24 since the date of the previous report by the commission to the Legislative  
25 Assembly.

26 **SECTION 69.** The committee shall submit to each legislative session  
27 its comments and recommendations on the contents and provisions of  
28 each report submitted by the commission under section 68 of this Act.

29 **SECTION 70.** Each report submitted to the Legislative Assembly pur-  
30 suant to section 68 of this Act shall be considered approved in the same  
31 manner and under the same conditions provided for the approval of the  
32 report described in section 66 of this Act.

**PART VIII MISCELLANEOUS**

1

2 **SECTION 71.** The part designations and unit captions used in this Act  
3 are provided only for the convenience of locating provisions of this Act,  
4 and are not part of the statutory law of this state.

5 **SECTION 72.** This Act being necessary for the immediate preserva-  
6 tion of the public peace, health and safety, an emergency is declared to  
7 exist, and this Act takes effect on July 1, 1973.





ENGROSSED

(amendment not printed March 23)

Senate Bill 100

Ordered by the Senate March 23  
(Including Amendments by Senate March 23)

Sponsored by Senators MACPHERSON, HALLOCK

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.

Creates Department of Land Conservation and Development, composed of Land Conservation and Development Commission, director and employes. Establishes Joint Legislative Committee on Land Use, as standing committee, to advise and assist department in carrying out its duties.

*[Designates areas and]* **Authorizes commission to designate activities of *[critical state concern and provides for]* state-wide significance in public transportation, public sewerage systems and public schools and to make recommendation for additional designations, subject to approval of Legislative Assembly. Requires commission, subject to approval of Legislative Assembly, to promulgate and implement state-wide *[objectives and regulations]* planning goals consistent with regional, county and city concerns for such *[areas and]* activities and state-wide planning guidelines for *[all]* land use planning in state. Requires state agencies, planning districts, cities, counties and special districts to comply with state-wide planning guidelines and state-wide *[objectives and regulations]* planning goals in adoption of comprehensive plans and zoning, subdivision or other ordinances and regulations.**

Requires *[development]* permit to be issued by commission for development projects constituting activities of *[critical state concern]* state-wide significance. Provides for enforcement of permit requirements. *[Declares certain development projects to be public nuisances, subject to civil abatement proceedings by commission.]* **Authorizes injunction of activities of state-wide significance carried on without permit.**

*[Establishes 14 planning districts in state to advise, assist and review actions and comprehensive plans of state agencies, cities, counties and special districts with respect to such districts.]* **Permits voluntary association**

Continued on Page 2

**NOTE:** Matter in bold face in an amended section is new; matter *[italic and bracketed]* is existing law to be omitted; complete new sections begin with SECTION.

**Continued from Page 1**

**of counties for planning purposes. Provides for establishment of regional planning agency composed of cities and counties, subject to approval of voters in proposed region. Authorizes voluntary association of local governments to perform coordinative planning functions of counties under Act.**

Requires, within one year after approval of state-wide planning guidelines, all comprehensive plans and zoning, subdivision or other ordinances or regulations to comply with such guidelines. [*Authorizes Governor to prescribe comprehensive plans and such ordinances and regulations where none exist or to revise existing noncomplying plans, ordinances and regulations. Permits Governor to charge for his services.*] **Authorizes commission to perform planning and zoning functions of noncomplying governmental units.** Provides, in case of nonpayment by city or county, for reimbursement of [Governor] **commission** from city or county share of state liquor and cigarette revenues. **Establishes appeal procedures.**

Provides for review by commission of specified land conservation and development actions and plans. Establishes Land Conservation and Development Account in General Fund for use by department.

Declares emergency and takes effect July 1, 1973.

## 1 A BILL FOR AN ACT

2 Relating to land use; creating new provisions; amending ORS 215.055,  
3 215.510, 215.515, 215.535 and 453.345; appropriating money; and declar-  
4 ing an emergency.

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

6 **PART I INTRODUCTION**7 **PREAMBLE**

8 **SECTION 1.** The Legislative Assembly finds that:

9 (1) Uncoordinated use of lands within this state threaten the orderly  
10 development, the environment of this state and the health, safety, order,  
11 convenience, prosperity and welfare of the people of this state.

12 (2) To promote coordinated administration of land uses consistent with  
13 comprehensive plans adopted throughout the state, it is necessary to  
14 establish a process for the review of state agency, city, county and special  
15 district land conservation and development plans for compliance with  
16 state-wide planning goals and guidelines.

17 (3) Except as otherwise provided in subsection (4) of this section,  
18 cities and counties should remain as the agencies to consider, promote and  
19 manage the local aspects of land conservation and development for the  
20 best interests of the people within their jurisdictions.

21 (4) The promotion of coordinated state-wide land conservation and  
22 development requires the creation of a state-wide planning agency to  
23 prescribe planning goals and objectives to be applied by state agencies,  
24 cities, counties and special districts throughout the state.

25 (5) The impact of proposed development projects, constituting activities  
26 of state-wide significance upon the public health, safety and welfare,  
27 requires a system of permits reviewed by a state-wide agency to carry out  
28 state-wide planning goals and guidelines prescribed for application for  
29 activities of state-wide significance throughout this state.

30 **POLICY STATEMENT**

31 **SECTION 2.** The Legislative Assembly declares that, in order to assure  
32 the highest possible level of liveability in Oregon, it is necessary to provide  
33 for properly prepared and coordinated comprehensive plans for cities and

1 counties, regional areas and the state as a whole. These comprehensive plans:

2 (1) Must be adopted by the appropriate governing body at the local  
3 and state levels;

4 (2) Are expressions of public policy in the form of policy statements,  
5 generalized maps and standards and guidelines;

6 (3) Shall be the basis for more specific rules, regulations and ordinances  
7 which implement the policies expressed through the comprehensive plans;

8 (4) Shall be prepared to assure that all public actions are consistent  
9 and coordinated with the policies expressed through the comprehensive  
10 plans; and

11 (5) Shall be regularly reviewed and, if necessary, revised to keep them  
12 consistent with the changing needs and desires of the public they are  
13 designed to serve.

14

#### DEFINITIONS

15 **SECTION 3.** As used in this Act, unless the context requires otherwise:

16 (1) "Activity of state-wide significance" means a land conservation and  
17 development activity designated pursuant to section 25 of this Act.

18 (2) "Commission" means the Land Conservation and Development  
19 Commission.

20 (3) "Committee" means the Joint Legislative Committee on Land Use.

21 (4) "Comprehensive plan" means a generalized, coordinated land use  
22 map and policy statement of the governing body of a state agency, city,  
23 county or special district that interrelates all functional and natural sys-  
24 tems and activities relating to the use of lands, including but not limited  
25 to sewer and water systems, transportation systems, educational systems,  
26 recreational facilities, and natural resources and air and water quality  
27 management programs. "Comprehensive" means all-inclusive, both in terms  
28 of the geographic area covered and functional and natural activities and  
29 systems occurring in the area covered by the plan. "General nature" means  
30 a summary of policies and proposals in broad categories and does not neces-  
31 sarily indicate specific locations of any area, activity or use. A plan is "co-  
32 ordinated" when the needs of all levels of governments, semipublic and  
33 private agencies and the citizens of Oregon have been considered and  
34 accommodated as much as possible. "Land" includes water, both surface  
and subsurface, and the air.

1 (5) "Department" means the Department of Land Conservation and  
2 Development.

3 (6) "Director" means the Director of the Department of Land Con-  
4 servation and Development.

5 (7) "Special district" means any unit of local government, other than  
6 a city or county, authorized and regulated by statute and includes, but is  
7 not limited to: Water control districts, irrigation districts, port districts,  
8 regional air quality control authorities, fire districts, school districts, hos-  
9 pital districts, mass transit districts and sanitary districts.

10 (8) "Voluntary association of local governments" means a regional  
11 planning agency in this state officially designated by the Governor pur-  
12 suant to the federal Office of Management and Budget Circular A-95 as  
13 a regional clearinghouse.

## 14 **PART II ORGANIZATION, ROLES AND RESPONSIBILITIES**

### 15 **DEPARTMENT OF LAND CONSERVATION AND DEVELOPMENT**

16 **SECTION 4.** The Department of Land Conservation and Development  
17 is established. The department shall consist of the Land Conservation and  
18 Development Commission, the director and their subordinate officers and  
19 employees.

20 **SECTION 5. (1)** There is established a Land Conservation and De-  
21 velopment Commission consisting of seven members appointed by the  
22 Governor, subject to confirmation by the Senate in the manner provided  
23 in ORS 171.560 and 171.570.

24 (2) In making appointments under subsection (1) of this section, the  
25 Governor shall select from residents of this state one member from each  
26 congressional district and the remaining members from the state at large.  
27 At least one and no more than two members shall be from Multnomah  
28 County.

29 (3) The term of office of each member of the commission is four years,  
30 but a member may be removed by the Governor for cause. Before the ex-  
31 piration of the term of a member, the Governor shall appoint a successor.  
32 No person shall serve more than two full terms as a member of the com-  
33 mission.

1 (4) If there is a vacancy for any cause, the Governor shall make an  
2 appointment to become immediately effective for the unexpired term.

3 **SECTION 6.** Notwithstanding the term of office specified in section 5  
4 of this Act, of the members first appointed to the commission:

5 (1) Two shall serve for a term ending June 30, 1974.

6 (2) Two shall serve for a term ending June 30, 1975.

7 (3) Two shall serve for a term ending June 30, 1976.

8 (4) One shall serve for a term ending June 30, 1977.

9 **SECTION 7.** (1) The commission shall select one of its members as  
10 chairman and another member as vice chairman, for such terms and with  
11 duties and powers necessary for the performance of the functions of such  
12 offices as the commission determines. The vice chairman of the commission  
13 shall act as the chairman of the commission in the absence of the chairman.

14 (2) A majority of the members of the commission constitutes a quorum  
15 for the transaction of business.

16 **SECTION 8.** Members of the commission are entitled to compensation  
17 and expenses as provided in ORS 292.495.

18 **SECTION 9.** The commission shall:

19 (1) Direct the performance by the director and his staff of their  
20 functions under this Act.

21 (2) In accordance with the provisions of ORS chapter 183, promulgate  
22 rules that it considers necessary in carrying out this Act.

23 (3) Cooperate with the appropriate agencies of the United States, this  
24 state and its political subdivisions, any other state, any interstate agency,  
25 any person or groups of persons with respect to land conservation and  
26 development.

27 (4) Appoint advisory committees to aid it in carrying out this Act and  
28 provide technical and other assistance, as it considers necessary, to each  
29 such committee.

30 **SECTION 10.** The commission may:

31 (1) Apply for and receive moneys from the Federal Government and  
32 from this state or any of its agencies or departments.

33 (2) Contract with any public agency for the performance of services or

1 the exchange of employees or services by one to the other necessary in  
2 carrying out this Act.

3 (3) Contract for the services of and consultation with professional  
4 persons or organizations, not otherwise available through federal, state and  
5 local governmental agencies, in carrying out its duties under this Act.

6 (4) Perform other functions required to carry out this Act.

7 **SECTION 11.** Pursuant to the provisions of this Act, the commission  
8 shall:

9 (1) Establish state-wide planning goals consistent with regional, county  
10 and city concerns;

11 (2) Issue permits for activities of state-wide significance;

12 (3) Prepare inventories of land uses;

13 (4) Prepare state-wide planning guidelines;

14 (5) Review comprehensive plans for conformance with state-wide plan-  
15 ning goals;

16 (6) Coordinate planning efforts of state agencies to assure conformance  
17 with state-wide planning goals and compatability with city and county  
18 comprehensive plans;

19 (7) Insure widespread citizen involvement and input in all phases of  
20 the process;

21 (8) Prepare model zoning, subdivision and other ordinances and regu-  
22 lations to guide state agencies, cities, counties and special districts in imple-  
23 menting state-wide planning goals, particularly those for the areas listed in  
24 subsection (2) of section 34 of this Act;

25 (9) Review and recommend to the Legislative Assembly the designation  
26 of areas of critical state concern;

27 (10) Report periodically to the Legislative Assembly and to the com-  
28 mittee; and

29 (11) Perform other duties required by law.

30 **SECTION 12.** If an interstate land conservation and development plan-  
31 ning agency is created by an interstate agreement or compact entered into  
32 by this state, the commission shall perform the functions of this state with  
33 respect to the agreement or compact. If the functions of the interstate plan-

1 ning agency duplicate any of the functions of the commission under this  
2 Act, the commission may:

3 (1) Negotiate with the interstate agency in defining the areas of  
4 responsibility of the commission and the interstate planning agency; and

5 (2) Cooperate with the interstate planning agency in the performance  
6 of its functions.

7 **SECTION 13.** (1) The commission shall appoint a person to serve as  
8 the Director of the Department of Land Conservation and Development.  
9 The director shall hold his office at the pleasure of the commission and his  
10 salary shall be fixed by the commission unless otherwise provided by law.

11 (2) In addition to his salary, the director shall be reimbursed, subject  
12 to any applicable law regulating travel and other expenses of state officers  
13 and employes, for actual and necessary expenses incurred by him in the  
14 performance of his official duties.

15 **SECTION 14.** Subject to policies adopted by the commission, the di-  
16 rector shall:

17 (1) Be the administrative head of the department.

18 (2) Coordinate the activities of the department in its land conservation  
19 and development functions with such functions of federal agencies, other  
20 state agencies, cities, counties and special districts.

21 (3) Appoint, reappoint, assign and reassign all subordinate officers and  
22 employes of the department, prescribe their duties and fix their compen-  
23 sation, subject to the State Merit System Law.

24 (4) Represent this state before any agency of this state, any other state  
25 or the United States with respect to land conservation and development  
26 within this state.

27 **SECTION 15.** (1) There is established in the General Fund in the  
28 State Treasury the Land Conservation and Development Account. Moneys  
29 in the account are continuously appropriated for the purpose of carrying  
30 out the provisions of this Act.

31 (2) All fees, moneys and other revenue received by the department  
32 or the committee shall be deposited in the Land Conservation and Develop-  
33 ment Account.



1                   **OREGON COASTAL CONSERVATION AND**  
2                   **DEVELOPMENT COMMISSION**

3       **SECTION 16.** (1) The Land Conservation and Development Commis-  
4 sion, by agreement with the Oregon Coastal Conservation and Development  
5 Commission created by ORS 191.120 may delegate to the Oregon Coastal  
6 Conservation and Development Commission, any of the functions of the  
7 Land Conservation and Development Commission. However, the Land  
8 Conservation and Development Commission must review and grant ap-  
9 proval prior to any action taken by the Oregon Coastal Conservation and  
10 Development Commission with respect to a delegated function.

11       (2) The Land Conservation and Development Commission may provide  
12 staff and financial assistance to the Oregon Coastal Conservation and  
13 Development Commission in carrying out duties under this section.

14                   **CITIES AND COUNTIES**

15       **SECTION 17.** Cities and counties shall exercise their planning and  
16 zoning responsibilities in accordance with this Act and the state-wide plan-  
17 ning goals and guidelines approved under this Act.

18       **SECTION 18.** Pursuant to this Act, each city and county in this state  
19 shall:

20       (1) Prepare and adopt comprehensive plans consistent with state-wide  
21 planning goals and guidelines approved by the commission; and

22       (2) Enact zoning, subdivision and other ordinances or regulations to  
23 implement their comprehensive plans.

24       **SECTION 19.** (1) In addition to the responsibilities stated in sections  
25 17 and 18 of this Act, each county through its governing body, shall be  
26 responsible for coordinating all planning activities affecting land uses  
27 within the county, including those of the county, cities, special districts and  
28 state agencies, to assure an integrated comprehensive plan for the entire  
29 area of the county.

30       (2) For the purposes of carrying out the provisions of this Act, counties  
31 may voluntarily join together with adjacent counties as authorized in ORS  
32 chapter 190.

33       (3) Whenever counties and cities representing 51 percent of the popu-  
34 lation in their area petition the commission for an election in their area to

1 form a regional planning agency to exercise the authority of the counties  
2 under subsection (1) of this section in the area, the commission shall  
3 review the petition. If it finds that the area described in the petition forms  
4 a reasonable planning unit, it shall call an election in the area to form a  
5 regional planning agency. The election shall be conducted in the manner  
6 provided in ORS chapter 259. The county clerk shall be considered the  
7 election officer and the commission shall be considered the district election  
8 authority. The agency shall be considered established if the majority of  
9 votes favor the establishment.

10 (4) If a voluntary association of local governments adopts a resolution  
11 ratified by each participating county and a majority of the participating  
12 cities therein which authorizes the association to perform the review, ad-  
13 visory and coordination functions assigned to the counties under sub-  
14 section (1) of this section, the association may perform such duties.

#### 15 **SPECIAL DISTRICTS AND STATE AGENCIES**

16 **SECTION 20.** Special districts shall exercise their planning duties,  
17 powers and responsibilities and take actions that are authorized by law  
18 with respect to programs affecting land use in accordance with state-wide  
19 planning goals and guidelines approved pursuant to this Act.

20 **SECTION 21.** State agencies shall carry out their planning duties,  
21 powers and responsibilities and take actions that are authorized by law  
22 with respect to programs affecting land use in accordance with state-wide  
23 planning goals and guidelines approved pursuant to this Act.

#### 24 **JOINT LEGISLATIVE COMMITTEE ON LAND USE**

25 **SECTION 22.** The Joint Legislative Committee on Land Use is estab-  
26 lished as a joint committee of the Legislative Assembly. The committee  
27 shall select an executive secretary who shall serve at the pleasure of the  
28 committee and under its direction.

29 **SECTION 23.** (1) The Joint Legislative Committee on Land Use shall  
30 consist of four members of the House of Representatives appointed by the  
31 Speaker and three members of the Senate appointed by the President. No  
32 more than three House members of the committee shall be of the same  
33 political party. No more than two Senate members of the committee shall  
34 be of the same political party.

1 (2) The chairman of the House and Senate Environment and Land  
2 Use Committees of the Fifty-seventh Legislative Assembly of the State of  
3 Oregon shall be two of the members appointed under subsection (1) of  
4 this section for the period beginning with the effective date of this Act.

5 (3) The committee has a continuing existence and may meet, act and  
6 conduct its business during sessions of the Legislative Assembly or any  
7 recess thereof, and in the interim period between sessions.

8 (4) The term of a member shall expire upon the convening of the Legis-  
9 lative Assembly in regular session next following the commencement of  
10 the member's term. When a vacancy occurs in the membership of the  
11 committee in the interim between sessions, until such vacancy is filled, the  
12 membership of the committee shall be deemed not to include the vacant  
13 position for the purpose of determining whether a quorum is present and  
14 a quorum is the majority of the remaining members.

15 (5) Members of the committee shall be reimbursed for actual and  
16 necessary expenses incurred or paid in the performance of their duties as  
17 members of the committee, such reimbursement to be made from funds  
18 appropriated for such purposes, after submission of approved voucher  
19 claims.

20 (6) The committee shall select a chairman. The chairman may, in addi-  
21 tion to his other authorized duties, approve voucher claims.

22 (7) Action of the committee shall be taken only upon the affirmative  
23 vote of the majority of the members of the committee.

24 **SECTION 24.** The committee shall:

25 (1) Advise the department on all matters under the jurisdiction of the  
26 department;

27 (2) Review and make recommendations to the Legislative Assembly  
28 on proposals for additions to or modifications of designations of activities of  
29 state-wide significance, and for designations of areas of critical state  
30 concern;

31 (3) Review and make recommendations to the Legislative Assembly  
32 on state-wide planning goals and guidelines approved by the commission;

33 (4) Study and make recommendations to the Legislative Assembly

1 on the implementation of a program for compensation by the public to  
2 owners of lands within this state for the value of any loss of use of such  
3 lands resulting directly from the imposition of any zoning, subdivision or  
4 other ordinance or regulation regulating or restricting the use of such  
5 lands. Such recommendations shall include, but not be limited to, proposed  
6 methods for the valuation of such loss of use and proposed limits, if any,  
7 to be imposed upon the amount of compensation to be paid by the public  
8 for any such loss of use; and

9 (5) Make recommendations to the Legislative Assembly on any other  
10 matter relating to land use planning in Oregon.

### 11 PART III ACTIVITIES OF STATE-WIDE SIGNIFICANCE

#### 12 DESIGNATION

13 SECTION 25. (1) The following activities may be designated by the  
14 commission as activities of state-wide significance if the commission deter-  
15 mines that by their nature or magnitude they should be so considered:

16 (a) The planning and siting of public transportation facilities.

17 (b) The planning and siting of public sewerage systems, water supply  
18 systems and solid waste disposal sites and facilities.

19 (c) The planning and siting of public schools.

20 (2) Nothing in this Act supersedes any duty, power or responsibility  
21 vested by statute in any state agency relating to its activities described in  
22 subsection (1) of this section; except that, a state agency may neither  
23 implement any such activity nor adopt any plan relating to such an activity  
24 without the prior review and comment of the commission.

25 SECTION 26. (1) In addition to the activities of state-wide signifi-  
26 cance that are designated by the commission under section 25 of this Act,  
27 the commission may recommend to the committee the designation of addi-  
28 tional activities of state-wide significance. Each such recommendation shall  
29 specify the reasons for the proposed designation of the activity of state-  
30 wide significance, the dangers that would result from such activity being  
31 uncontrolled and the suggested state-wide planning goals and guidelines  
32 to be applied for the proposed activity.

33 (2) The commission may recommend to the committee the designation  
34 of areas of critical state concern. Each such recommendation shall specify

1 the criteria developed and reasons for the proposed designation, the damages  
2 that would result from uncontrolled development within the area, the  
3 reasons for the implementation of state regulations for the proposed area  
4 and the suggested state regulations to be applied within the proposed area.

5 (3) The commission may act under subsections (1) and (2) of this sec-  
6 tion on its own motion or upon the recommendation of a state agency, city,  
7 county or special district. If the commission receives a recommendation  
8 from a state agency, city, county or special district and finds the proposed  
9 activity or area to be unsuitable for designation, it shall notify the state  
10 agency, city, county or special district of its decision and its reasons there-  
11 for.

12 (4) Immediately following its decision to favorably recommend to  
13 the Legislative Assembly the designation of an additional activity of state-  
14 wide significance or the designation of an area of critical state concern,  
15 the commission shall submit the proposed designation accompanied by the  
16 supporting materials described in subsections (1) and (2) of this section to  
17 the committee for its review.

18 **PERMITS FOR ACTIVITIES OF STATE-WIDE SIGNIFICANCE**

19 **SECTION 27.** (1) On and after the date the commission has approved  
20 state-wide planning goals and guidelines for activities of state-wide sig-  
21 nificance designated under section 25 of this Act, no proposed project con-  
22 stituting such an activity may be initiated by any person or public agency  
23 without a planning and siting permit issued by the commission therefor.

24 (2) Any person or public agency desiring to initiate a project consti-  
25 tuting an activity of state-wide significance shall apply to the department  
26 for a planning and siting permit for such project. The application shall  
27 contain the plans for the project and the manner in which such project  
28 has been designed to meet the goals and guidelines for activities of state-  
29 wide significance and the comprehensive plans for the county within  
30 which the project is proposed, and any other information required by the  
31 commission as prescribed by rule of the commission.

32 (3) The department shall transmit copies of the application to affected  
33 county and state agencies for their review and recommendation.

34 (4) The county governing body and the state agencies shall review

1 an application transmitted to it under subsection (3) of this section and  
2 shall, within 30 days after the date of the receipt of the application, sub-  
3 mit their recommendations on the application to the commission.

4 (5) If the commission finds after review of the application and the  
5 comments submitted by the county governing body and state agencies that  
6 the proposed project complies with the state-wide goals and guidelines for  
7 activities of state-wide significance and the comprehensive plans within  
8 the county, it shall approve the application and issue a planning and siting  
9 permit for the proposed project to the person or public agency applying  
10 therefor. Action shall be taken by the commission within 30 days of the  
11 receipt of the recommendation of the county and state agencies.

12 (6) The commission may prescribe and include in the planning and  
13 siting permit such conditions or restrictions that it considers necessary  
14 to assure that the proposed project complies with the state-wide goals and  
15 guidelines for activities of state-wide significance and the comprehensive  
16 plans within the county.

17 **SECTION 28.** If the activity requiring a planning and siting permit  
18 under section 27 of this Act also requires any other permit from any state  
19 agency, the commission, with the cooperation and concurrence of the other  
20 agency, may provide a joint application form and permit to satisfy both  
21 the requirements of this Act and any other requirements set by statute or  
22 by rule of the state agency.

23 **SECTION 29.** (1) If any person or public agency is in doubt whether  
24 a proposed development project constitutes an activity of state-wide sig-  
25 nificance, the person or public agency may request a determination from  
26 the commission on the question. Within 60 days after the date of the receipt  
27 by it of such a request, the commission, with the advice of the committee  
28 and of the county governing body for the county in which such activity is  
29 proposed, shall issue a binding letter of interpretation with respect to the  
30 proposed project.

31 (2) Requests for determinations under this section shall be made to the  
32 commission in writing and in such form and contain such information as  
33 may be prescribed by the commission.

1     **SECTION 30.** (1) No project constituting an activity of state-wide  
2 significance shall be undertaken without a planning and siting permit is-  
3 sued under section 27 of this Act.

4     (2) Any person or agency acting in violation of subsection (1) of this  
5 section may be enjoined in civil proceedings brought in the name of the  
6 county or the State of Oregon.

7     **SECTION 31.** If the county governing body or the commission de-  
8 termines the existence of an alleged violation under section 30 of this Act,  
9 it may:

10    (1) Investigate, hold hearings, enter orders and take action that it  
11 deems appropriate under this Act, as soon as possible.

12    (2) For the purpose of investigating conditions relating to the violation,  
13 through its members or its duly authorized representatives, enter at rea-  
14 sonable times upon any private or public property.

15    (3) Conduct public hearings.

16    (4) Publish its findings and recommendations as they are formulated  
17 relative to the violation.

18    (5) Give notice of any order relating to a particular violation of its  
19 state-wide goals, a particular violation of the terms or conditions of a plan-  
20 ning and siting permit or a particular violation of the provisions of this  
21 Act by mailing notice to the person or public body conducting or proposing  
22 to conduct the project affected in the manner provided by ORS chapter 183.

23     **PART IV STATE-WIDE PLANNING GOALS AND GUIDELINES**

24     **SECTION 32.** All comprehensive plans and any zoning, subdivision and  
25 other ordinances and regulations adopted by a state agency, city, county  
26 or special district to carry out such plans shall be in conformity with the  
27 state-wide planning goals within one year from the date such goals are  
28 approved by the commission.

29     **SECTION 33.** Not later than January 1, 1975, the department shall pre-  
30 pare and the commission shall adopt state-wide planning goals and guide-  
31 lines for use by state agencies, cities, counties and special districts in pre-  
32 paring, adopting, revising and implementing existing and future compre-  
33 hensive plans.

1     **SECTION 34.** In preparing and adopting state-wide planning goals and  
2 guidelines, the department and the commission shall:

3     (1) Consider the existing comprehensive plans of state agencies, cities,  
4 counties and special districts in order to preserve functional and local  
5 aspects of land conservation and development.

6     (2) Give priority consideration to the following areas and activities:

7     (a) Those activities listed in section 25 of this Act;

8     (b) ~~Land~~ adjacent to freeway interchanges;

9     (c) Estuarine areas;

10    (d) Tide, marsh and wetland areas;

11    (e) Lakes and lakeshore areas;

12    (f) Wilderness, recreational and outstanding scenic areas;

13    (g) Beaches, dunes, coastal headlands and related areas;

14    (h) Wild and scenic rivers and related lands;

15    (i) Flood plains and areas of geologic hazard;

16    (j) Unique wildlife habitats; and

17    (k) Agricultural land.

18     **SECTION 35.** To assure widespread citizen involvement in all phases  
19 of the planning process:

20     (1) The commission shall appoint a State Citizen Involvement Advis-  
21 ory Committee, broadly representative of geographic areas of the state and  
22 of interests relating to land uses and land use decisions, to develop a pro-  
23 gram for the commission that promotes and enhances public participation  
24 in the development of state-wide planning goals and guidelines.

25     (2) Within 90 days after the effective date of this Act, each county  
26 governing body shall submit to the commission a program for citizen in-  
27 volvement in preparing, adopting and revising comprehensive plans with-  
28 in the county. Such program shall at least contain provision for a citizen  
29 advisory committee or committees broadly representative of geographic  
30 areas and of interests relating to land uses and land use decisions.

31     (3) The state advisory committee appointed under subsection (1) of this  
32 section shall review the proposed programs submitted by each county and  
33 recommend to the commission whether or not the proposed program ade-  
34 quately provides for public involvement in the planning process.



1     **SECTION 36.** (1) In preparing the state-wide planning goals and  
2 guidelines, the department shall:

3     (a) Hold at least 10 public hearings throughout the state, causing no-  
4 tice of the time, place and purpose of each such hearing to be published in  
5 a newspaper of general circulation within the area where the hearing is  
6 to be conducted not later than 30 days prior to the date of the hearing.

7     (b) Implement any other provision for public involvement developed  
8 by the state advisory committee under subsection (1) of section 35 of this  
9 Act and approved by the commission.

10    (2) Upon completion of the preparation of the proposed state-wide  
11 planning goals and guidelines, the department shall submit them to the  
12 commission for approval.

13    **SECTION 37.** Upon receipt of the proposed state-wide planning goals  
14 and guidelines prepared and submitted to it by the department, the com-  
15 mission shall:

16    (1) Hold at least one public hearing on the proposed state-wide plan-  
17 ning goals and guidelines. The commission shall cause notice of the time,  
18 place and purpose of the hearings and the place where copies of the  
19 proposed goals and guidelines are available before the hearings with the  
20 cost thereof to be published in a newspaper of general circulation in the  
21 state not later than 30 days prior to the date of the hearing. The department  
22 shall supply a copy of its proposed state-wide planning goals and guide-  
23 lines to the Governor, the committee, affected state agencies and special  
24 districts and to each city and county without charge. The department shall  
25 provide copies of such proposed goals and guidelines to other public agen-  
26 cies or persons upon request and payment of the cost of preparing the  
27 copies of the materials requested.

28    (2) Consider the recommendations and comments received from the  
29 public hearings conducted under subsection (1) of this section, make any  
30 revisions in the proposed state-wide planning goals and guidelines that it  
31 considers necessary and approve the proposed goals and guidelines as they  
32 may be revised by the commission.

33    **SECTION 38.** The commission may periodically revise, update and ex-  
34 pand the initial state-wide planning goals and guidelines adopted under

1 section 37 of this Act. Such revisions, updatings or expansions shall be made  
2 in the manner provided in sections 36 and 37 of this Act.

3 **SECTION 39.** Following the approval by the commission of state-wide  
4 planning goals and guidelines, each county governing body shall review all  
5 comprehensive plans for land conservation and development within the  
6 county, both those adopted and those being prepared. The county gov-  
7 erning body shall advise the state agency, city, county or special district  
8 preparing the comprehensive plans whether or not the comprehensive plans  
9 are in conformity with the state-wide planning goals.

10

#### **PART V · COMPREHENSIVE PLANS**

11 **SECTION 40.** Comprehensive plans and zoning, subdivision, and other  
12 ordinances and regulations adopted prior to the effective date of this Act  
13 shall remain in effect until revised under this Act. It is intended that exist-  
14 ing planning efforts and activities shall continue and that such efforts be  
15 utilized in achieving the purposes of this Act.

16 **SECTION 41.** Prior to approval by the commission of its state-wide  
17 planning goals and guidelines under section 37 of this Act, the goals listed  
18 in ORS 215.515 shall be applied by state agencies, cities, counties and spe-  
19 cial districts in the preparation, revision, adoption or implementation of  
20 any comprehensive plan.

21 **SECTION 42.** Each city or county shall prepare and the city council or  
22 the county governing body shall adopt the comprehensive plans required  
23 under this Act or by any other law in accordance with section 41 of this  
24 Act for those plans adopted prior to the expiration of one year following  
25 the date the commission approves its state-wide planning goals and guide-  
26 lines under section 37 of this Act. Plans adopted by cities and counties  
27 after the expiration of one year following the date of approval of such  
28 goals and guidelines by the commission shall be designed to comply with  
29 such goals and any subsequent amendments thereto.

30 Section 43. ORS 215.055 is amended to read:

31 215.055. (1) *[The]* **Any comprehensive plan** *[and all legislation and*  
32 *regulations]* **and all zoning, subdivision or other ordinances and regula-**  
33 **tions authorized by ORS 215.010 to 215.233 and adopted prior to the expira-**

1 tion of one year following the date of the approval of state-wide planning  
2 goals and guidelines under section 37 of this 1973 Act shall be designed to  
3 promote the public health, safety and general welfare and shall be based on  
4 the following considerations, among others: The various characteristics  
5 of the various areas in the county, the suitability of the areas for par-  
6 ticular land uses and improvements, the land uses and improvements in  
7 the areas, trends in land improvement, density of development, property  
8 values, the needs of economic enterprises in the future development of the  
9 areas, needed access to particular sites in the areas, natural resources of the  
10 county and prospective needs for development thereof, and the public  
11 need for healthful, safe, aesthetic surroundings and conditions.

12 (2) Any plan and all zoning, subdivision or other ordinances and regu-  
13 lations authorized by ORS 215.010 to 215.233 and adopted after the expira-  
14 tion of one year after the date of the approval of state-wide planning goals  
15 and guidelines under section 37 of this 1973 Act shall be designed to comply  
16 with such state-wide planning goals and any subsequent revisions or  
17 amendments thereof.

18 [(2)] (3) In order to conserve natural resources of the state, any land  
19 use plan or zoning, subdivision or other ordinance adopted by a county  
20 shall take into consideration lands that are, can or should be utilized for  
21 sources or processing of mineral aggregates.

22 SECTION 44. Upon the expiration of one year after the date of the  
23 approval of state-wide planning goals and guidelines and annually there-  
24 after, each county governing body shall report to the commission on the  
25 status of comprehensive plans within each county. Each such report shall  
26 include:

27 (1) Copies of comprehensive plans reviewed by the county governing  
28 body and copies of zoning and subdivision ordinances and regulations ap-  
29 plied to those areas within the county listed in subsection (2) of section  
30 34 of this Act.

31 (2) For those areas or jurisdictions within the county without com-  
32 prehensive plans, a statement and review of the progress made toward  
33 compliance with the state-wide planning goals.

34 SECTION 45. (1) Notwithstanding any other provision of law, after the

1 expiration of one year after the date of the approval of the initial state-  
2 wide planning goals and guidelines under section 37 of this Act, upon 90  
3 days' notice to the affected governing body or bodies, and upon public  
4 hearings held within 30 days thereafter, the commission shall prescribe and  
5 may amend and administer comprehensive plans and zoning, subdivision  
6 or other ordinances and regulations necessary to develop and implement a  
7 comprehensive plan within the boundaries of a county, whether or not  
8 within the boundaries of a city, that do not comply with the state-wide  
9 planning goals approved under this Act and any subsequent revisions or  
10 amendments thereof.

11 (2) If the city or county has under consideration a comprehensive  
12 plan or zoning, subdivision or other ordinances or regulations for lands  
13 described in subsection (1) of this section, and shows satisfactory progress  
14 toward the adoption of such comprehensive plan or such ordinances or  
15 regulations, the commission may grant a reasonable extension of time  
16 after the date set in this section for completion of such plan or such  
17 ordinances or regulations.

18 (3) Any comprehensive plan or zoning, subdivision or other ordinance  
19 or regulation adopted by the commission under subsection (1) of this  
20 section shall comply with the state-wide planning goals approved under  
21 this Act and all subsequent revisions or amendments thereof.

22 **SECTION 46.** (1) There is transferred to and vested in the commission  
23 those duties, powers and functions vested in the Governor by ORS 215.505  
24 to 215.535. After the effective date of this Act, the commission shall  
25 exercise such duties, powers and functions.

26 (2) For the purpose of harmonizing and clarifying Oregon Revised  
27 Statutes, the Legislative Counsel may substitute for words designating  
28 the Governor, where such words occur in ORS 215.505 to 215.535, words  
29 designating the Land Conservation and Development Commission.

30 Section 47. ORS 215.510 is amended to read:

31 215.510. (1) Any comprehensive [*land use plans*] **plan for any city**  
32 **or county** prescribed or amended by the [*Governor*] **commission** pursuant  
33 to ORS 215.505 or section 45 of this 1973 Act shall be in accordance with

1 the standards provided in ORS 215.515 and the notice and hearing re-  
2 quirements provided in ORS 215.060.

3 (2) Any zoning, **subdivision or other ordinances and regulations for any**  
4 **city or county** prescribed or amended by the [Governor] **commission** pur-  
5 suant to ORS 215.505 or **section 45 of this 1973 Act** shall be in accordance  
6 with the standards provided in ORS 215.055 and the notice and hearing  
7 requirements provided in ORS 215.223.

8 (3) A comprehensive [*land use*] plan or zoning, **subdivision or other**  
9 **ordinance or regulation for any city or county** prescribed or amended by  
10 the [Governor] **commission** pursuant to ORS 215.505 or **section 45 of this**  
11 **1973 Act** may be for any purpose provided in ORS 215.010 to 215.233 and  
12 subsections (1) and (2) of 215.990, except that the [Governor] **commission**  
13 may not prescribe building regulations. The [Governor] **commission** may,  
14 however, cause to be instituted an appropriate proceeding to enjoin the  
15 construction of buildings or performance of any other acts which would  
16 constitute a land use that does not conform to the applicable [*land use*]  
17 **comprehensive plan or zoning, subdivision or other ordinance or regula-**  
18 **tion.**

19 (4) Any hearings required by this section may be held by the [Gov-  
20 *ernor*] **commission**, or by a person designated by the [Governor] **com-**  
21 **mission**, and all such hearings shall be held in the county seat of the  
22 county or in the city in which said comprehensive [*land use*] plan or zon-  
23 ing, **subdivision or other ordinance or regulation** is to be prescribed.

24 Section 48. ORS 215.515 is amended to read:

25 215.515. (1) Comprehensive physical planning, **adopted by the com-**  
26 **mission prior to the expiration of one year following the date of the**  
27 **approval of state-wide planning goals and guidelines under section 37**  
28 **of this 1973 Act**, should provide guidance for physical development within  
29 the state responsive to economic development, human resource develop-  
30 ment, natural resource development and regional and metropolitan area  
31 development. It should assist in attainment of the optimum living environ-  
32 ment for the state's citizenry and assure sound housing, employment  
33 opportunities, educational fulfillment and sound health facilities. State  
34 plans should relate to intermediate and long-range growth objectives. The

1 plans should set a pattern upon which state agencies and local government  
2 may base their programs and local area plans. Goals for comprehensive  
3 physical planning are:

4 [(1)] (a) To preserve the quality of the air [and] , water and land  
5 resources of the state.

6 [(2)] (b) To conserve open space and protect natural and scenic re-  
7 sources.

8 [(3)] (c) To provide for the recreational needs of citizens of the  
9 state and visitors.

10 [(4)] (d) To conserve prime farm lands for the production of crops  
11 [and].

12 (e) To provide for an orderly and efficient transition from rural  
13 to urban land use.

14 [(5)] (f) To protect life and property in areas subject to floods,  
15 landslides and other natural disasters.

16 [(6)] (g) To provide and encourage a safe, convenient and economic  
17 transportation system including all modes of transportation: Air, water,  
18 rail, highway and mass transit, and recognizing differences in the social  
19 costs in the various modes of transportation.

20 [(7)] (h) To develop a timely, orderly and efficient arrangement of  
21 public facilities and services to serve as a framework for urban and rural  
22 development.

23 [(8)] (i) To diversify and improve the economy of the state.

24 [(9)] (j) To ensure that the development of properties within the state  
25 is commensurate with the character and the physical limitations of the land.

26 (2) Comprehensive plans adopted by the commission after the expira-  
27 tion of one year after the date of the approval of state-wide planning  
28 goals and guidelines under section 37 of this 1973 Act shall be designed  
29 to comply with such state-wide planning goals and any subsequent re-  
30 visions or amendments thereof.

31 Section 49. ORS 215.535 is amended to read:

32 215.535. In addition to the remedy prescribed in subsection (3) of  
33 ORS 215.510, the [Governor] commission may cause to be instituted any  
34 civil action or suit [he] it considers appropriate to remedy violations of

1 any comprehensive [*land use*] plan or zoning, **subdivision or other ordi-**  
2 **nance or regulation** prescribed by the [*Governor*] **commission** pursuant  
3 to ORS 215.505 or **section 45 of this 1973 Act** .

4 **SECTION 50.** (1) Whenever the commission prescribes a comprehen-  
5 sive plan or zoning, subdivision or other ordinances or regulations for lands  
6 described in subsection (1) of section 45 of this Act, the costs incurred by  
7 the commission and the department in the preparation and administration  
8 of such plan or ordinances or regulations shall be borne by the city or  
9 county for which the commission has proposed such plan or ordinances  
10 or regulations. Upon presentation by the commission to the governing  
11 body of the city or county of a certified, itemized statement of costs, the  
12 governing body shall order payment to the commission out of any avail-  
13 able funds. With respect to a city or county, if no payment is made  
14 by the governing body within 30 days thereafter, the commission shall  
15 submit to the Secretary of State its certified, itemized statement of such  
16 costs and the commission shall be reimbursed upon the order of the Secre-  
17 tary of State to the State Treasurer, from the city's or county's share of the  
18 state's cigarette and liquor revenues.

19 (2) Within 10 days of receipt of the certified, itemized statement of costs  
20 under subsection (1) of this section, any city or county aggrieved by  
21 the statement may appeal to the Court of Appeals. The appeal shall  
22 be taken as from a contested case under ORS 183.480. Notice of the appeal  
23 shall operate as a stay in the commissioner's right to reimbursement  
24 under subsection (1) of this section until the decision is made on the appeal.

#### 25 **PART VI APPEALS**

26 **SECTION 51.** (1) In the manner provided in sections 52 to 54 of this  
27 Act, the commission shall review upon:

28 (a) Petition by a county governing body, a comprehensive plan pro-  
29 vision or any zoning, subdivision or other ordinance or regulation adopted  
30 by a state agency, city, county or special district that the governing body  
31 considers to be in conflict with state-wide planning goals approved under  
32 section 37 of this Act or interim goals specified in ORS 215.515.

33 (b) Petition by a city or county governing body, a land conservation  
34 and development action taken by a state agency, city, county or special

1 district that the governing body considers to be in conflict with state-  
2 wide planning goals approved under section 37 of this Act or interim  
3 goals specified in ORS 215.515.

4 (c) Petition by a state agency, city, county or special district, any  
5 county governing body action that the state agency, city, county or special  
6 district considers to be improperly taken or outside the scope of the gov-  
7 erning body's authority under this Act.

8 (d) Petition by any person or group of persons whose interests are  
9 substantially affected, a comprehensive plan provision or any zoning, sub-  
10 division or other ordinance or regulation alleged to be in violation of  
11 state-wide planning goals approved under section 37 of this Act or interim  
12 goals specified in ORS 215.515.

13 (2) A petition filed with the commission pursuant to subsection (1)  
14 of this section must be filed not later than 60 days (excluding Saturdays  
15 and holidays) after the date of the final adoption or approval of the  
16 action or comprehensive plan upon which the petition is based.

17 **SECTION 52.** (1) All review proceedings conducted by the commis-  
18 sion pursuant to section 51 of this Act shall be based on the administra-  
19 tive record, if any, prepared with respect to the proceedings for the adop-  
20 tion or approval of the comprehensive plan provision or action that is  
21 the subject of the review proceeding.

22 (2) The commission shall adopt such rules, procedures and regulations  
23 for the conduct of review proceedings held pursuant to section 51 of  
24 this Act, in accordance with the provisions of ORS 183.310 to 183.500 for  
25 hearings and notice in contested cases.

26 (3) A city, county, state agency, special district or any person or  
27 group of persons whose interests are substantially affected may intervene  
28 in and be made a party to any review proceeding conducted by the com-  
29 mission with the approval of the commission, upon the request of the  
30 hearings officer appointed to conduct such proceeding or upon the ap-  
31 proval by the hearings officer of a request by such agency, person or  
32 group of persons for intervention in the review proceeding.

33 **SECTION 53.** (1) In carrying out its duties under section 51 of this



1 Act, the chairman of the commission shall assign each petition to be  
2 reviewed by the commission to a hearings officer who shall conduct the  
3 review proceeding.

4 (2) A hearings officer shall conduct a review proceeding in accordance  
5 with the rules, procedures and regulations adopted by the commission.  
6 Upon the conclusion of a hearing, the hearings officer shall promptly  
7 determine the matter, prepare a recommendation for commission action  
8 upon the matter and submit a copy of his recommendation to the com-  
9 mission and to each party to the proceeding.

10 (3) The commission shall review the recommendation of the hearings  
11 officer and the record of the proceeding and issue its order with respect  
12 to the review proceeding within 60 days following the date of the filing  
13 of the petition upon which such review proceeding is based. The com-  
14 mission may adopt, reject or amend the recommendation of the hearings  
15 officer in any matter.

16 (4) No order of the commission issued under subsection (3) of this  
17 section is valid unless all members of the commission have received  
18 the recommendation of the hearings officer in the matter and at least  
19 four members of the commission concur in its action in the matter.

20 (5) Any party to a review proceeding before the commission who  
21 is adversely affected or aggrieved by the order issued by the commis-  
22 sion in the matter may appeal the order of the commission in the manner  
23 provided in ORS 183.480 for appeals from final orders in contested cases.

24 (6) The commission may enforce orders issued under subsection (3) of  
25 this section in appropriate judicial proceedings brought by the com-  
26 mission therefor.

27 **SECTION 54.** (1) If, upon its review of the recommendation of a  
28 hearings officer and the record of the review proceeding prepared follow-  
29 ing a review proceeding before the commission, the commission is unable  
30 to reach a decision in the matter without further information or evidence  
31 not contained in the record of the proceeding, it may refer the matter back  
32 to the hearings officer and request that the additional information or evi-  
33 dence be acquired by him or that he correct any errors or deficiencies

1 found by the commission to exist in his recommendation or record of  
2 the proceeding.

3 (2) In case of a referral of a matter back to the hearings officer  
4 pursuant to subsection (1) of this section, the 60-day period referred  
5 to in subsection (3) of section 53 of this Act is suspended during the  
6 period beginning on the date of the commission's referral to the hearings  
7 officer and ending on the date that the hearings officer submits the  
8 revised recommendation or record as requested by the commission.

#### 9 **PART VII LEGISLATIVE REVIEW**

10 **SECTION 55.** The department shall report monthly to the committee  
11 in order to keep the committee informed on progress made by the depart-  
12 ment, commission, counties and other agencies in carrying out the pro-  
13 visions of this Act.

14 **SECTION 56.** (1) Prior to the end of each even-numbered year, the  
15 department shall prepare a written report for submission to the Legisla-  
16 tive Assembly of the State of Oregon describing activities and accomp-  
17 lishments of the department, commission, state agencies, cities, counties  
18 and special districts in carrying out the provisions of this Act.

19 (2) A draft of the report required by subsection (1) of this section  
20 shall be submitted to the committee for its review and comment at least  
21 60 days prior to submission of the report to the Legislative Assembly. Com-  
22 ments of the committee shall be incorporated into the final report.

23 (3) Goals and guidelines adopted by the commission shall be included  
24 in the report to the Legislative Assembly submitted under subsection  
25 (1) of this section.

#### 26 **PART VIII MISCELLANEOUS**

27 Section 57. ORS 453.345 is amended to read:

28 453.345. (1) Applications for site certificates shall be made to the  
29 Nuclear and Thermal Energy Council on a form prescribed by the council  
30 and accompanied by the fee required by ORS 453.405. The application may  
31 be filed not sooner than 12 months after filing of the notice of intent.

32 (2) Proposed use of a site within an area designated by the council  
33 as suitable for location of thermal power plants or nuclear installations  
34 does not preclude the necessity of the applicant obtaining a site certificate

1 for the specific site.

2 (3) Copies of the notice of intent and of the application shall be sent  
3 for comment and recommendation within specified deadlines established  
4 by the council to the Department of Environmental Quality, the State Water  
5 Resources Board, the Fish Commission of the State of Oregon, the State  
6 Game Commission, the State Board of Health, the State Engineer, the  
7 State Geologist, the State Forestry Department, the Public Utility Commis-  
8 sioner of Oregon, the State Department of Agriculture, the Department  
9 of Transportation, **the Department of Land Conservation and Develop-**  
10 **ment** and the Economic Development Division.

11 **SECTION 58.** The part designations and unit captions used in this  
12 Act are provided only for the convenience of locating provisions of this Act,  
13 and are not part of the statutory law of this state.

14 **SECTION 59.** This Act being necessary for the immediate preservation  
15 of the public peace, health and safety, an emergency is declared to exist,  
16 and this Act takes effect on July 1, 1973.



*Amendments  
not printed  
March 23*

SENATE AMENDMENTS TO SENATE BILL 100

By COMMITTEE ON ENVIRONMENT AND LAND USE

March 23, 1973

Reporting aye: ~~Sen. Atiyeh, Sen. Macpherson, Sen. [unclear], Sen. [unclear], Sen. [unclear]~~

Excused: \_\_\_\_\_

To be printed and engrossed with amendments and be re-referred to the Environment and Land Use Committee for further study.

*See attached*

*Ted Hallock*

Senator Ted Hallock

(Chairman)

- Submit:
- 2 copies if no amdts.
- 4 copies if amdts.
- 5 copies if to be printed engrossed.

Sen. \_\_\_\_\_ will lead floor discussion.

# SENATE COMMITTEE REPORT

Salem, Oregon March 23, 1973

Mr. President:

Your Committee on ENVIRONMENT AND LAND USE to whom was referred

SENATE BILL 100, having had the same under consideration,

respectfully report it back with the recommendation that it:

- Do pass:  Do pass with amendments:  
 Be adopted:  Be adopted with amendments:  
 Do pass with amendments to the printed engrossed bill.  
 (Referred to Committee on Ways and Means by prior reference)  
 (Other—specify)

Voting no: Senator J. Burns

Voting aye: Sen. Atiyeh, Sen. Macpherson, Sen. Ripper, Sen. Thorne, Sen. Wingard, Sen. Hallock

Excused: \_\_\_\_\_

To be printed and engrossed with amendments and be re-referred to the Environment and Land Use Committee for further study.

*See attached*

Ted Hallock  
**Senator Ted Hallock**  
(Chairman)

Submit:  
2 copies if no amdts.  
4 copies if amdts.  
5 copies if to be printed engrossed.

Sen. \_\_\_\_\_ will lead floor discussion.

SB 100  
~~SB 100~~

A BILL FOR  
AN ACT

Relating to land use; creating new provisions; amending ORS  
215.055, 215.510, 215.515, 215.535 and 227.240;  
appropriating money; and declaring an emergency.

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

PART I INTRODUCTION

PREAMBLE

Section 1. (1) Uncoordinated use of lands within this state threaten the orderly development, the environment of this state and the health, safety, order, convenience, prosperity and welfare of the people of this state.

(2) To promote coordinated administration of land uses consistent with comprehensive plans adopted throughout the state, it is necessary to establish a process for the review of state agency, planning district, city, county and special district land conservation and development plans for compliance with state-wide planning guidelines.

(3) Except as otherwise provided in subsection (5) of this section, cities and counties should remain as the agencies to consider, promote and manage the local aspects of land conservation and development for the best interests of the people within their jurisdictions.

(4) To promote coordinated conservation and development of all land uses within geographic areas of this state, it is necessary to establish planning districts and district councils to coordinate efforts of state agencies, cities, counties and special districts within each planning district.

(5) The promotion of coordinated state-wide land conservation and development in areas and for activities of critical state concern requires the creation of a state-wide planning agency to prescribe planning objectives and regulations to be applied by state agencies, cities, counties, district councils and special districts within areas of critical state concern throughout the state.

(6) The impact of proposed development projects, constituting activities of critical state concern, upon the public health, safety and welfare requires a system of permits issued by a state-wide agency to carry out state-wide objectives and regulations prescribed for application for activities of state-wide concern throughout this state.

#### POLICY STATEMENT

Section 2. In order to assure the highest possible level of liveability in Oregon, it is necessary to provide for properly prepared and coordinated comprehensive plans for cities and counties, regional areas and the state as a whole. These comprehensive plans:

(1) Must be adopted by the appropriate governing body at the local, regional and state levels;

(2) Are expressions of public policy in the form of policy statements, generalized maps and standards and guidelines;

(3) Shall be the basis for more specific rules, regulations and ordinances which implement the policies expressed through the comprehensive plans;

(4) Shall be prepared to assure that all public actions are consistent and coordinated with the policies expressed through the comprehensive plans; and

(5) Shall be regularly reviewed and, if necessary, revised to keep them consistent with the changing needs and desires of the public they are designed to serve.

DEFINITIONS

Section 3. As used in this Act, unless the context requires otherwise:

(1) "Activity of critical state concern" means a land conservation and development project designated pursuant to section 32 of this Act.

(2) "Area of critical state concern" means a geographic area of the state designated pursuant to section 31 of this Act.

(3) "Commission" means the Land Conservation and Development Commission.

(4) "Committee" means the Joint Legislative Committee on Land Use.

(5) "Comprehensive plan" means a generalized, coordinated land use map and policy statement of the governing body of a state agency, planning district, city, county or special district that interrelates all functional and natural systems and activities relating to the use of lands, including but not limited to sewer and water systems, transportation systems,



educational systems, recreational facilities, and air and water quality management programs. "Comprehensive" means all-inclusive, both in terms of the geographic area covered and functional and natural activities and systems occurring in the area covered by the plan. "General nature" means a summary of policies and proposals in broad categories and does not necessarily indicate specific locations of any area, activity or use. A plan is "coordinated" when the needs of all levels of governments, semi-public and private agencies and groups have been considered and accommodated as much as possible. "Land" includes water, both surface and sub-surface, and the air.

(6) "Department" means the Department of Land Conservation and Development.

(7) "Development" means the carrying out of any building or mining operation, or the material change in the use or appearance of any structure or land, or the change in the intensity of the use of land, or the departure from the normal use of land for which permission has been granted. "Development," as designated in an ordinance, rule or development permit, includes all associated building, mining, changes and departures, unless otherwise specified. When appropriate to the context, "development" also includes the act of developing and the result of development.

(8) "Director" means the Director of the Department of Land Conservation and Development.

(9) "District Council" means the district council of local governments established for an association of local governments pursuant to section 19 of this Act.

(10) "Planning district" means a geographic area of the state designated pursuant to section 18 of this Act.

(11) "Special district" means any unit of local government, other than a city or county, authorized and regulated by statute and includes, but is not limited to: Water control districts, irrigation districts, port districts, air pollution control districts, fire districts, school districts, hospital districts, mass transit districts and sanitary districts.

PART II ORGANIZATION, ROLES AND RESPONSIBILITIES

DEPARTMENT OF LAND CONSERVATION AND DEVELOPMENT

Section 4. The Department of Land Conservation and Development is established. The department shall consist of the Land Conservation and Development Commission, the director and their subordinate officers and employes.

Section 5. (1) There is established a Land Conservation and Development Commission consisting of five members appointed by the Governor, subject to confirmation by the Senate in the manner provided in ORS 171.560 and 171.570.

~~(2) In making appointments under subsection (1) of this~~

(2) In making appointments under subsection (1) of this section, the Governor shall select from residents of this state one member from each congressional district and one member from the state at large.

(3) The term of office of each member of the commission is four years, but a member serves at the pleasure of the Governor.

Before the expiration of the term of a member, the Governor shall appoint a successor. No person shall serve more than two full terms as a member of the commission.

(4) If there is a vacancy for any cause the Governor shall make an appointment to become immediately effective for the unexpired term.

*af*  
Section 6. Notwithstanding the term of office specified in section 5 of this Act, of the members first appointed to the commission:

- (1) Two shall serve for a term ending June 30, 1974.
- (2) One shall serve for a term ending June 30, 1975.
- (3) One shall serve for a term ending June 30, 1976.
- (4) One shall serve for a term ending June 30, 1977.

*af*  
Section 7. (1) The commission shall select one of its members as chairman and another member as vice chairman, for such terms and with duties and powers necessary for the performance of the functions of such offices as the commission determines. The vice chairman of the commission shall act as the chairman of the commission in the absence of the chairman.

(2) A majority of the members of the commission constitutes a quorum for the transaction of business.

*af*  
Section 8. Members of the commission are entitled to compensation and expenses as provided in ORS 292.495.

*af*  
Section 9. The commission shall:

(1) Direct the performance by the director and his staff of their functions under this Act.

(2) In accordance with the provisions of ORS chapter 183, promulgate rules and regulations that it considers necessary in carrying out this Act.

(3) Cooperate with the appropriate agencies of the United States, this state, any other state, any interstate agency, any person or groups of persons with respect to land conservation and development.

(4) Appoint advisory committees to aid it in carrying out this Act and provide technical and other assistance, as it considers necessary, to each such committee.

(5) Consult with advisory committees, appointed by each district council pursuant to subsection (5) of section 22 of this Act, in carrying out its duties under this Act.

Section 10. The commission may:

(1) Apply for and receive moneys from the Federal Government and from this state or any of its agencies or departments.

(2) Subject to the approval of the Governor, contract with any public agency for the performance of services or the exchange of employes or services by one to the other necessary in carrying out this Act.

(3) Contract for the services of and consultation with professional persons or organizations, not otherwise available through federal, state and local governmental agencies, in carrying out its duties under this Act.

(4) Perform any other functions that it considers necessary to carry out this Act.

Section 11. Pursuant to the provisions of this Act, the commission shall be responsible for:

(1) Establishing state-wide planning goals;

(2) Issuing permits for activities of critical state concern;

(3) Preparing state-wide objectives and regulations for areas and activities of critical state concern;

(4) Preparing inventories of land uses;

(5) Preparing state-wide planning guidelines;

(6) Reviewing comprehensive plans for conformance with state-wide objectives and regulations and state-wide planning guidelines.

(7) Reporting to the Legislature as provided in sections 64 and 68 of this Act; and

(8) Performing any other duty required by law.

*MP*  
Section 12. If an interstate land conservation and development planning agency is created by an interstate agreement or compact entered into by this state, the commission shall perform the functions of this state with respect to the agreement or compact. If the functions of the interstate planning agency duplicate any of the functions of the commission under this Act, the commission may:

(1) Negotiate with the interstate agency in defining the areas of responsibility of the commission and the interstate planning agency;

*e*  
(2) Suspend by rule the performance of any functions granted to the ~~the~~ commission under this Act that duplicates a function of the interstate planning agency; and

(3) Cooperate with the interstate planning agency in the performance of its functions.

*MP*  
Section 13. (1) The commission shall appoint a person to serve as the Director of the Department of Land Conservation and

Development. The director shall hold his office at the pleasure of the commission and his salary shall be fixed by the commission unless otherwise provided by law.

(2) In addition to his salary, the director shall be reimbursed, subject to any applicable law regulating travel and other expenses of state officers and employes, for actual and necessary expenses incurred by him in the performance of his official duties.

(4) Section 14. Subject to policies adopted by the commission, the director shall:

(1) Be the administrative head of the department.

(2) Coordinate the activities of the department in its land conservation and development functions with such functions of federal agencies, other state agencies, district councils, cities, counties and special districts.

(3) Appoint, reappoint, assign and reassign all subordinate officers and employes of the department, prescribe their duties and fix their compensation, subject to the State Merit System Law.

(4) Represent this state before any agency of this state, any other state or the United States with respect to land conservation and development within this state.

(4) Section 15. (1) There is established in the General Fund in the State Treasury the Land Conservation and Development Account. Moneys in the account are continuously appropriated for the purpose of carrying out the provisions of this Act.

(2) All fees, moneys and other revenue received by the department or the committee shall be deposited in the Land Conservation and Development Account.

OREGON COASTAL CONSERVATION AND DEVELOPMENT COMMISSION

Section 16. (1) The Land Conservation and Development Commission may delegate, by agreement, to the Oregon Coastal Conservation and Development Commission, created by ORS 191.120, any of its functions; however, the Land Conservation and Development Commission shall review and grant prior approval for any action taken by the Oregon Coastal Conservation and Development Commission with respect to a delegated function.

(2) The Land Conservation and Development Commission may provide staff and financial assistance to the Oregon Coastal Conservation and Development Commission.

Section 17. Pursuant to subsection (1) of section 16, the Oregon Coastal Conservation and Development Commission may carry out, within the coastal zone described in subsection (4) of ORS 191.110 and during the time period specified in subsection (2) of ORS 191.140, the functions of the Land Conservation and Development Commission in preparing state-wide objectives and regulations for areas and activities of critical state concern.

DISTRICT COUNCILS OF LOCAL GOVERNMENT

Section 18. To assure the orderly development and conservation of the state through the encouragement of coordinated federal, state, regional and local land use planning, the following planning districts are created:

(1) District 1 which is composed of Clatsop and Tillamook Counties.

(2) District 2 which is composed of Columbia, Washington, Multnomah and Clackamas Counties.

(3) District 3 which is composed of Yamhill, Polk and Marion Counties.

(4) District 4 which is composed of Lincoln, Benton and Linn Counties.

(5) District 5 which is composed of Lane County.

(6) District 6 which is composed of Douglas County.

(7) District 7 which is composed of Coos and Curry Counties.

(8) District 8 which is composed of Jackson and Josephine Counties.

(9) District 9 which is composed of Hood River, Sherman and Wasco Counties.

(10) District 10 which is composed of Deschutes, Jefferson and Crook Counties.

(11) District 11 which is composed of Klamath and Lake Counties.

(12) District 12 which is composed of Gilliam, Morrow, Umatilla, Wheeler and Grant Counties.

(13) District 13 which is composed of Wallowa, Union and Baker Counties.

(14) District 14 which is composed of Harney and Malheur Counties.



af Section 19. (1) There is created a district association of local governments in each planning district of this state. Each association shall be comprised of all cities, counties and special districts situated within the planning district.

(2) There is created for each association a district council of local governments with a membership as provided in section 20 of this Act. Not later than the expiration of 10 days after the effective date of this Act, the chairman of the county governing body of the most populous county in each planning district shall call a meeting of the members of the council for the planning district described in section 20 of this Act.

af Section 20. (1) The membership of a district council of local governments for a planning district shall consist of:

(a) The chairman of the board of commissioners, or, in his stead, a member of the county commission selected by the county commission, for each county within the planning district;

(b) The mayor of the most populous city in each county, or, in his stead, a member of the city council selected by the mayor and city council of the most populous city in each county;

(c) Such other members representing the remaining cities and special districts in the planning district as shall be deemed appropriate in the bylaws adopted by the district council.

(2) (a) Representatives from cities and counties described in subsection (1) of this section shall comprise at least two-thirds of the district council membership.

(b) The term of a member of a district council described in subsection (1) of this section shall be limited to two years.

(3) The voters of a planning district, from time to time and in the exercise of their power of the initiative or by approving a measure referred to them by the district council, may alter or revise the number, qualifications and manner of selecting members of the district council provided in subsections (1) and (2) of this section.

( *bf* ) Section 21. Each district council shall establish a district planning committee with a membership as determined by the council; however, at least 50 percent of the membership of the committee shall be composed of representatives of city and county planning commissions within the planning district.

*bf* Section 22. Each district council, with the advice of its district planning committee, shall:

(1) Coordinate land conservation and development by the cities, counties and special districts within the planning district.

(2) Review the comprehensive plans prepared and proposed by cities, counties and special districts within the planning district for compliance with state-wide planning guidelines prescribed by the commission or approved by the Legislative Assembly.

(3) Review other comprehensive plans and zoning, subdivision and other ordinances or regulations prepared, proposed or adopted by cities, counties and special districts within the

planning district for compliance with state-wide objectives and regulations prescribed by the commission with respect to land conservation and development in areas and activities of critical state concern within the planning district.

(4) Cooperate with the department, other state agencies, other district councils, special districts, cities and counties outside the planning district to coordinate land conservation and development within the state.

(5) Appoint advisory committees within the planning district, as necessary, to aid it in carrying out its land conservation and development functions within the planning district; provide technical and other assistance for such committees and consult with; and consider the recommendations of such committees in carrying out its duties under this Act.

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Section 23. A district council, with the advice of its district planning committee, may:

(1) Provide land conservation and development planning, advisory and technical services to each special district, city or county engaged in land conservation and development within the planning district upon request and subject to payment therefor.

(2) Provide information, maps and other data pertinent to its duties to the commission or other agency of the state, other district councils, special districts, cities and counties within or outside the planning district.

(3) Conduct, arrange or assist in the promotion of educational programs relating to land conservation and development in the state or planning district and the need for the coordinated planning thereof.

(4) Subject to the prior approval of the commission, join with any similar council or planning agency with jurisdiction over contiguous land situated in another state to form an interstate district council.

(5) Provide any other services or perform any other functions that it considers necessary in carrying out its duties under this Act.

CITIES AND COUNTIES

Section 24. Cities and counties shall exercise their planning and zoning responsibilities under ORS chapters 92, 215 and 227 in accordance with this Act and the state-wide objectives and regulations and the state-wide planning guidelines approved under this Act.

Section 25. Pursuant to this Act, each city and county in this state shall:

(1) Prepare and adopt comprehensive plans consistent with the state-wide objectives and regulations for areas and activities of state concern and state-wide planning guidelines approved by the commission; and

(2) Enact zoning, subdivision and other ordinances or regulations to implement their comprehensive plans.

SPECIAL DISTRICTS AND STATE AGENCIES

Section 26. Special districts shall exercise their planning duties, powers and responsibilities that are authorized by law with respect to programs affecting land use in accordance with state-wide planning guidelines and state-wide objectives and regulations approved pursuant to this Act.

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Section 27. State agencies shall carry out their planning duties, powers and responsibilities that are authorized by law with respect to programs affecting land use in accordance with state-wide planning guidelines and state-wide objectives and regulations approved pursuant to this Act.

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JOINT LEGISLATIVE COMMITTEE ON LAND USE

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Section 28. The Joint Legislative Committee on Land Use is established as a joint committee of the Legislative Assembly. The committee shall select an executive secretary who shall serve at the pleasure of the committee and under its direction.

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Section 29. (1) The Joint Legislative Committee on Land Use shall consist of four members of the House appointed by the Speaker and three members of the Senate appointed by the President. No more than three House members of the committee shall be of the same political party. No more than two Senate members of the committee shall be of the same political party.

(2) The committee has a continuing existence and may meet, act and conduct its business during sessions of the Legislative Assembly or any recess thereof, and in the interim period between sessions.

(3) The term of a member shall expire upon the convening of the Legislative Assembly in regular session next following the commencement of the member's term. When a vacancy occurs in the membership of the committee in the interim between sessions, until such vacancy is filled, the membership of the committee shall be deemed not to include the vacant position for the purpose of determining whether a quorum is present and a quorum is the majority of the remaining members.

(4) Members of the committee shall be reimbursed for actual and necessary expenses incurred or paid in the performance of their duties as members of the committee, such reimbursement to be made from funds appropriated for such purposes, after submission of approved voucher claims.

(5) The committee shall select a chairman. The chairman may, in addition to his other authorized duties, approve voucher claims.

(6) Action of the committee shall be taken only upon the affirmative vote of the majority of the members of the committee.

Section 30. The committee shall:

(1) Advise the department on all matters under the jurisdiction of the department;

(2) Review and make recommendations to the Legislative Assembly on proposals for additions to or modifications of designations of areas or activities of critical state concern;

(3) Review and make recommendations to the Legislative Assembly on state-wide objectives and regulations and state-wide planning guidelines approved by the commission; and

(4) Make recommendations to the Legislative Assembly on any other matter relating to land use planning in Oregon.

PART III AREAS AND ACTIVITIES OF STATE CONCERN

DESIGNATION

Section 31. The following geographic areas in this state are designated as areas of critical state concern:

(1) Any scenic waterway designated as such in accordance with ORS 390.805 to 390.925, including any related adjacent land.

(2) Any waterway in this state designated as a wild and scenic river pursuant to the federal Wild and Scenic Rivers Act, Public Law 90-542, including any adjacent lands regulated thereunder.

(3) All of the following lands, including adjacent lands situated within one-quarter of one mile of such lands' boundaries:

(a) State parks and recreation areas administered by the ~~State~~ Highway Division <sup>of the Department of Transportation</sup>

(b) Recreation, primitive or wilderness areas on lands administered by the U.S. Forest Service, the Bureau of Land Management, the National Parks Service and U.S. Army Corps of Engineers.

(c) Lands subject to the regulation of the State Game Commission, Fish Commission <sup>of this State</sup> of Oregon, Federal Bureau of Sport Fisheries or the Wildlife Refuge Division of the U. S. Department of Interior.

(d) Parks or recreation areas situated outside an incorporated area and administered by a unit of local government.

(e) Parks or recreation areas on lands under the jurisdiction of the State Board of Forestry or the Division of State Lands.

(4) Lands situated within a radius of one-half of one mile from the center of the right of way of a state highway that is a part of the National System of Interstate and Defense Highways established pursuant to section 103 (d), title 23, United States Code, at the point of its interchange with any

other public highway where such point of interchange is not located within an incorporated area and such lands situated within a radius of one-quarter of one mile where such point of interchange is located within an incorporated area.

(5) All lands west of the Oregon Coast Highway as described in ORS 366.235, except that:

(a) In Tillamook County, Oregon, only the lands west of a line formed by connecting the western boundaries of the following described roadways: Brooten Road (County Road 887) northerly from its junction with the Oregon Coast Highway to Pacific City, McPhillips Drive (County Road 915) northerly from Pacific City to its junction with Sandlake Road (County Road 871), Sandlake-Cape Lookout Road, (County Road 871) northerly to its junction with Cape Lookout Park, Netarts Bay Drive (County Road 665) northerly from its junction with the Sandlake-Cape Lookout Road (County Road 871) to its junction at Netarts with State Highway 131, and northerly along State Highway 131 to its junction with the Oregon Coast Highway near Tillamook.

(b) In Coos County, Oregon, only the lands west of a line formed by connecting the western boundaries of the following described roadways: FAS 263 southerly from its junction with the Oregon Coast Highway to Charleston; Seven Devils Road (No. 33) southerly from its junction with FAS 263 to its junction with the Oregon Coast Highway, near Bandon.

(6) All estuaries including all land extending 1,000 feet on a horizontal plane from the mean higher high-tide mark as located by reference to the tidal benchmark date prepared by the



United States Coast and Geodetic Survey. As used in this subsection, "estuaries" means partially enclosed bodies of water where the tide ebbs and flows and where fresh water from the land meets the salt waters of the Pacific Ocean from the Pacific Ocean on the west to a point on the east where there exists a bottom salinity of five parts per thousand as measured at the time of the lowest water flow in summer.

(7) All lands within the area bounded on the west by the mouth of the Sandy River, on the north by the ordinary high water line of the Columbia River, on the east by the western boundary of the City of The Dalles, Oregon, and on the south by the ridge of the cliffs of the Columbia River Gorge.

(8) All lands situated within 1,000 feet from the right of way boundaries of highways designated under ORS 377.530 as scenic highways if such highways are not located within an incorporated area and all lands situated within 200 feet from the right of way boundaries of such highways if such highways are located within the boundaries of an incorporated area.

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Section 32. (1) The following developmental activities are designated as activities that by their nature or magnitude are of critical state concern:

(a) The planning, siting and construction of airports.

(b) The planning, siting and construction of state and federal highway systems or any portion thereof.

(c) The planning, siting and construction of mass transit systems or any portion thereof.

(d) The planning, siting and construction of solid waste disposal sites and facilities.

(e) The planning, siting and construction of high-voltage power, gas and oil transmission lines.

(f) The planning, siting and construction of sewerage systems and water supply systems.

(g) The planning, siting and construction of thermal power plants and nuclear installations.

(2) Nothing in this Act supersedes any duty, power or responsibility vested by statute in any state agency relating to its activities described in subsection (1) of this section; except that, a state agency may neither implement any such activity nor adopt any plan relating to such an activity without the prior approval of the commission.

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Section 33. (1) In addition to the areas of critical state concern designated in section 31 of this Act and the activities of critical state concern designated in section 32 of this Act, the commission may recommend to the committee the designation of additional areas or activities of critical state concern. Each such recommendation shall specify the reasons for the proposed designation of the area or activity of critical state concern, the dangers that would result from uncontrolled development within the area or by the activity, the reasons for the implementation of state-wide planning objectives and regulations for the proposed area or activity, and the suggested state-wide planning objectives and regulations to be applied within the proposed area or for the proposed activity.

(2) The commission may act under subsection (1) of this section on its own motion or upon the recommendation of a state

agency, district council, city, county or special district. If the commission receives a recommendation from a state agency, district council, city, county or special district and finds the proposed area or activity to be unsuitable for designation, it shall notify the state agency, district council, city, county or special district of its decision and its reasons therefor.

(3) Immediately following its decision to favorably recommend to the Legislative Assembly the designation of an additional area or activity of critical state concern, the commission shall submit the proposed designation accompanied by the supporting materials described in subsection (1) of this section to the committee for its review.

PERMITS FOR ACTIVITIES OF STATE CONCERN

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Section 34. (1) On and after 90 days after the effective date of this Act, no proposed development project constituting an activity of critical state concern designated under section 32 of this Act may be initiated by any person or public agency without a development permit issued by the commission therefor.

(2) Any person or public agency desiring to initiate a development constituting an activity of critical state concern shall apply to the department for a development permit for such project. The application shall contain the plans for the project and the manner in which such project has been designed to meet the objectives and regulations for activities of critical state concern and the comprehensive plans for the state

and the planning district within which the development is proposed, and any other information required by the commission as prescribed by rule of the commission.

(3) The department shall transmit copies of the application to the appropriate district council and affected state agencies for their review and recommendation.

(4) The district council and the state agencies shall review an application transmitted to it under subsection (3) of this section and shall, within 30 days after the date of the receipt of the application, submit their recommendations on the application to the commission.

(5) If the commission finds after review of the application and the comments submitted by the district council and state agencies that the proposed project complies with the state-wide objectives and regulations for activities of critical state concern and the comprehensive plans within the planning district, it shall approve the application and issue a development permit for the proposed project to the person or public agency applying therefor.

(6) The commission may prescribe and shall include in the development permit such conditions or restrictions that it considers necessary to assure that the proposed development project complies with the state-wide objectives and regulations for activities of critical state concern and the comprehensive plans within the planning district.

(7) If the activity requiring a development permit under this section also requires any other permit from any state agency,

the commission, with the cooperation and concurrence of the other agency, may provide a joint application form and permit to satisfy both the requirements of this Act and any other requirements set by statute or by rule or regulation of the state agency.

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Section 35. (1) If an application for a proposed development project constituting an activity of critical state concern designated by section 32 of this Act is received by the department prior to the adoption of state-wide objectives and regulations for activities of critical state concern, the commission shall approve the application and issue a development permit for the proposed development project if such development project is in compliance with the comprehensive plans of a state agency, planning district, city or county and with zoning, subdivision and other ordinances and regulations adopted to carry out such comprehensive plans that are in effect on the date of the receipt of the application by the commission.

(2) If there are no state agency, planning district, city, or county comprehensive plans in effect within the area in which a development project described in subsection (1) of this section is to be located, the commission may issue a development permit and prescribe in the development permit reasonable conditions for the protection of the public health, welfare and safety.

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Section 36. In reviewing under subsection (5) of section 34 of this Act an application for a development permit for a proposed development project constituting an activity of critical state concern, the commission shall consider whether or not:

(1) The location of a proposed development is essential or appropriate in view of the available alternative locations within or outside the district;

(2) The proposed development will have a favorable impact upon the environment in comparison to alternative manners of development;

(3) The proposed development will favorably affect other persons or property in view of any circumstances that are peculiar to the location, size or nature of the development;

(4) If the proposed development imposes immediate cost burdens on the city or county within which it is to be located, the amount of similar existing development within such city or county is more than an equitable share of that type of development needed within the planning district;

(5) The proposed development will favorably affect the ability of people to find adequate housing reasonably accessible to their employment;

(6) The proposed development will favorably affect the provision for city or county services and the burden of taxpayers in making provision therefor;

(7) The proposed development will efficiently use public or public-aided school, transportation or other facilities that are existing or that are to be furnished within the foreseeable future; and

(8) The proposed development should be approved in view of other considerations deemed necessary by the district council.

Section 37. (1) If any person or public agency is in

doubt whether a proposed development project constitutes an activity of critical state concern, the person or public agency may request a determination from the commission on the question. Within 60 days after the date of the receipt by it of such a request, the commission, with the advice of the committee and of the district council for the planning district in which such activity is proposed, shall issue a binding letter of interpretation with respect to the proposed development project.

(2) Requests for determinations under this section shall be made to the commission in writing and in such form and contain such information as may be prescribed by the commission.

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Section 38. (1) Any development project constituting an activity of critical state concern that is being carried out without a development permit issued under section 34 of this Act or in a manner contrary to the conditions set out in a development permit issued therefor under section 34 of this Act is a public nuisance.

(2) Any development project that does not constitute an activity of critical state concern, that is being carried out within an area of critical state concern and that does not comply with the state-wide objectives and regulations approved by the commission for the area of critical state concern is a public nuisance.

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Section 39. If the commission determines the existence of an alleged public nuisance under section 38 of this Act, it may:

(1) Investigate, hold hearings, make orders and take action that it deems appropriate under this Act, as soon as possible.

(2) For the purpose of investigating conditions relating to the alleged public nuisance, through its members or its duly authorized representatives enter at reasonable times upon any private or public property.

(3) Conduct public hearings in accordance with ORS chapter 183.

(4) Publish its findings and recommendations as they are formulated relative to the alleged public nuisance.

(5) Give notice of any order relating to a particular violation of its state-wide objectives and regulations, a particular violation of the terms or conditions of a development permit or a particular violation of the provisions of this Act by mailing notice to the person or public body conducting or proposing to conduct the development project affected in the manner provided by ORS chapter 183.

(6) Take appropriate action for the enforcement of orders promulgated as a result of any hearing. Any violation of an order of the commission under this section may be enjoined in civil abatement proceedings brought in the name of the State of Oregon. Proceedings thus brought by the commission shall set forth the dates of notice and hearing and the specific order of the commission, together with the facts giving rise to the violation.



Section 40. (1) Proceedings to abate alleged public nuisances under section 38 of this Act may be instituted at law or in equity, in the name of the State of Oregon upon relation of the Land Conservation and Development Commission.

(2) However, notwithstanding any other provisions of law, the commission, without the necessity of prior administrative proceedings or hearing and entry of an order, may institute a suit at law or in equity in the name of the State of Oregon to abate or restrain threatened or existing nuisances under section 38 of this Act, whenever such nuisances create an emergency that requires immediate action to protect the public health, safety or welfare. No temporary restraining order or temporary injunction or abatement order shall be granted unless the defendant is accorded an opportunity to be heard thereon at a time and place set by the court in an order directing the defendant to appear at such time and place, and to then and there show cause, if any he has, why a temporary restraining order or temporary injunction or abatement order should not be granted. The order to show cause, together with affidavits supporting the application for such temporary injunction or abatement order, shall be served on the defendant as a summons.

The defendant may submit counteraffidavits at such time and place. The commission shall not be required to furnish any bond in such proceeding. Neither members of the commission nor the director or members of their staffs shall be liable for any damages the defendant may sustain by reason of an injunction or restraining order or abatement order issued after such hearing.

(3) Cases filed under this section shall be given preference on the docket over all other civil cases except those given an equal preference by statute.

PART IV STATE-WIDE GUIDELINES, OBJECTIVES AND REGULATIONS

Section 41. All comprehensive plans and any zoning, subdivision and other ordinances and regulations adopted by a state agency, planning district, city, county or special district to carry out such plans shall be in conformity with the state-wide planning guidelines, and the state-wide objectives and regulations approved by the commission or the Legislative Assembly.

Section 42. (1) Not later than the expiration of one year following the effective date of this Act, the department shall prepare state-wide objectives and regulations to be applied by state agencies, district councils, cities, counties and special districts in planning for, regulating, reviewing and passing upon land conservation and development proposals to be carried out within areas of critical state concern designated in section 31 of this Act. Within such period the department shall also prepare state-wide objectives and regulations to be applied by itself, state agencies, district councils, counties, cities and special districts in planning for, regulating, reviewing and passing upon applications for development permits for development projects constituting activities of critical state concern designated in section 32 of this Act.

(2) Upon completion of the preparation of the proposed

state-wide objectives and regulations pursuant to subsection (1) of this section, the department shall submit them to the commission for approval.

Section 43. In preparing state-wide objectives and regulations for areas and activities of critical state concern designated under sections 31 and 32 of this Act, the department shall consider the comprehensive plans of state agencies, planning districts, cities, counties and special districts in the state in order to preserve functional and local aspects of land conservation and development.

Section 44. (1) Upon receipt of the proposed state-wide objectives and regulations prepared and submitted to it by the department pursuant to section 42 of this Act, the commission shall:

(a) Hold at least one public hearing within each district on the proposed state-wide planning objectives and regulations for areas and activities of critical state concern. The commission shall cause notice of the time and place of each such hearing to be published in a newspaper of general circulation within the district where the hearing is to be conducted not later than 30 days prior to the date of the hearing. The department shall supply a copy of its proposed state-wide objectives and regulations for areas and activities of critical state concern to the Governor, the committee, affected state agencies and special districts and to each city, county and district council upon request and without charge. The department shall provide copies of such proposed state-wide objectives

and regulations to other public agencies or persons upon request and payment of the cost of preparing the copies of the materials requested.

(b) Consider the recommendations and comments received from each of the public hearings conducted under paragraph (a) of this subsection, make any revisions in the proposed state-wide objectives and regulations for areas and activities of critical state concern that it considers necessary and approve the proposed objectives and regulations, as they may be revised by the commission.

(2) After the date of the approval by the commission of state-wide objectives and regulations for areas and activities of critical state concern designated in sections 31 and 32 of this Act, all planning, regulation, review and action upon land development proposals by the state, district councils, cities, counties or special districts shall be revised, if necessary, to comply with such objectives and regulations. The preparation of new comprehensive plans and any revision of any comprehensive plan of any special district, city, county, planning district or state agency shall comply with such objectives and regulations.

Section 45. Following the approval by the commission of state-wide objectives and regulations for areas and activities of critical state concern under section 44 of this Act, each district council shall review the comprehensive plans for land conservation and development within the planning district to assure that state-wide objectives and regulations approved by the commission for designated areas and activities of critical state concern within the planning district are implemented.

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Section 46. (1) Not later than January 1, 1975, the department shall prepare state-wide planning guidelines for use by state agencies, cities, counties, district councils and special districts in preparing, adopting, revising and implementing existing and future comprehensive plans.

(2) Following the preparation of the proposed state-wide planning guidelines pursuant to subsection (1) of this section, the department shall submit the proposed state-wide planning guidelines for review and approval by the commission in the manner provided in section 44 of this Act for the approval of state-wide objectives and regulations for areas and activities of critical state concern.

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Section 47. Following the approval by the commission of state-wide planning guidelines, each district council shall review all comprehensive plans for land conservation and development within the planning district, both those adopted and those being prepared. The district council shall advise the state agency, city, county or special district preparing the comprehensive plans whether or not the comprehensive plans are in conformity with the state-wide planning guidelines.

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PART V COMPREHENSIVE PLANS

Section 48. Comprehensive plans and zoning, subdivision, and other ordinances and regulations adopted prior to the effective date of this Act shall remain in effect until revised, if necessary, under this Act.

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Section 49. Prior to approval by the commission of its state-wide planning guidelines under section 46 of this Act,

the goals listed in ORS 215.515 shall be used in the preparation, revision, adoption or implementation of any comprehensive plan.

Section 50. Any zoning, subdivision or other ordinance or regulation adopted by a state agency, district council, city, county or special district after the effective date of this Act shall be based upon its comprehensive plan and a finding by it that:

(1) The designation of land use zones is reasonably related to the effects of permitted land uses upon public facilities and other services, including but not limited to, transportation systems, public schools, health care facilities, fire and police facilities and the impact of such uses upon the state's finite natural resources.

(2) Agricultural zones relate to the need to conserve prime farm lands and provide for a blocking of agricultural lands in order to minimize conflicts between farm and nonfarm uses.

(3) Development of urban and nonfarm uses is conditioned upon the provision for the public facilities necessary to protect the public health, safety and welfare.

(4) Business, commercial and industrial zones relate to the needs of the area and that the location of such zones and the uses permitted therein are based upon the effect of such land uses upon the adjacent lands and the community as a whole.

(5) Residential zones are located with respect to their respective requirements for public facilities and services and provide adequate regulations for varying densities of development.

(6) If substantial differences exist between adjacent land uses, transitional land uses are established between such conflicting land uses or that the development regulations for the more intensive land use provide adequate protection for adjacent property.

(7) Zoning regulations and ordinances do not prevent:

- (a) The preservation of unique land uses and characteristics;
- (b) The protection of life and property involved in the use of lands situated within flood plains; and
- (c) Adequate housing for persons of low income within the area.

Section 51. ORS 227.240 is amended to read:

227.240. (1) For each district provided for by subsection (1) of ORS 227.230, regulations may be imposed designating the class of use that shall be excluded or subjected to special regulations and designating the uses for which buildings may not be erected or altered, or designating the class of use which only shall be permitted. These regulations shall be designed to [promote the public health, safety and general welfare. The council shall give reasonable consideration, among other things, to the character of the district, its peculiar suitability for particular uses, the conservation of property values and the direction of building development in accord with a well considered plan] comply with the considerations specified therefor in section 50 of this 1973 Act.

(2) The regulations provided for by subsection (2) of ORS 227.230 shall be uniform for each class of buildings

throughout each district. The regulations in one or more districts may differ from those in other districts. The regulations shall be designed to secure safety from fire and other dangers and to promote the public health and welfare, and to secure provision for adequate light, air and reasonable access. The council shall pay reasonable regard to the character of buildings erected before May 29, 1919, in each district, the value of the land, and the use to which it may be put to the end that the regulations may promote public health, safety and welfare.

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Section 52. Each city or county shall prepare and the city council or the county governing body shall adopt the comprehensive plans required by ORS 215.505 to 215.535 and 215.990 in accordance with section 49 of this Act for those plans adopted prior to the expiration of one year following the date the commission approves its state-wide planning guidelines under section 46 of this Act. Plans adopted by cities after the expiration of one year following the date of approval of such guidelines by the commission shall be designed to comply with such guidelines and any subsequent amendments thereto.

Section 53. ORS 215.055 is amended to read:

215.055. (1) [The] Any comprehensive plan [and all legislation and regulations] and all zoning, subdivision or other ordinances and regulations authorized by ORS 215.010 to 215.233 and adopted prior to the expiration of one year following the date of the approval of state-wide planning guidelines under section 46 of this 1973 Act shall be designed to promote



the public health, safety and general welfare and shall be based on the following considerations, among others: The various characteristics of the various areas in the county, the suitability of the areas for particular land uses and improvements, the land uses and improvements in the areas, trends in land improvement, density of development, property values, the needs of economic enterprises in the future development of the areas, needed access to particular sites in the areas, natural resources of the county and prospective needs for development thereof, and the public need for healthful, safe, aesthetic surroundings and conditions.

(2) Any plan and all zoning, subdivision or other ordinances and regulations authorized by ORS 215.010 to 215.233 and adopted after the expiration of one year after the date of the approval of state-wide planning guidelines under section 46 of this 1973 Act shall be designed to comply with such state-wide planning guidelines and any subsequent revisions or amendments thereof.

(3) Any zoning, subdivisions or other ordinances or regulation authorized by ORS 215.010 to 215.233 and adopted after the effective date of this 1973 Act shall be based upon the <sup>considerations</sup> ~~consideration~~ specified in section 50 of this 1973 Act.

fn [(2)] (4) In order to conserve natural resources of the state, any land use plan or zoning, subdivision or other ordinance adopted by a county shall take into consideration lands that are, can or should be utilized for sources or processing of mineral aggregates.

16/ Section 54. (1) Following the approval by the commission of state-wide planning guidelines under section 46 of this Act, each district council shall review the comprehensive plans and all revisions thereof of state agencies, special districts, cities and counties within the planning district for compliance with state-wide planning guidelines and state-wide objectives and regulations approved by the commission.

(2) The district council shall approve comprehensive plans and revisions thereof that comply with the state-wide planning guidelines and state-wide objectives and regulations approved by the commission.

(3) Upon the expiration of one year after the date of the approval of state-wide planning guidelines and annually thereafter, each district council shall report to the commission on the status of comprehensive plans within each planning district. Each such report shall include:

(a) Copies of comprehensive plans reviewed by the district council.

(b) For those areas or jurisdiction within the planning district without comprehensive plans, a statement and review of the progress made toward compliance with the state-wide planning guidelines and the state-wide objectives and regulations.

11/ Section 55. (1) Notwithstanding any other provision of law, after the expiration of one year after the date of the approval of the initial state-wide planning guidelines under section 46 of this Act, the Governor shall prescribe, may amend and shall thereafter administer comprehensive plans and

zoning, subdivision or other ordinances and regulations for lands within the boundaries of a county, whether or not within the boundaries of a city that:

(a) Are not subject to ORS 390.640 or to a comprehensive plan and zoning, subdivision or other ordinances and regulations adopted pursuant to ORS 215.010 to 215.233 and subsections (1) and (2) of <sup>ORS</sup> 215.990 or zoned pursuant to any other state law or city ordinance; or

(b) Are subject to a comprehensive plan or a zoning, subdivision or other ordinance or regulation, that does not comply with the state-wide planning guidelines or state-wide objectives and regulations approved under this Act and any subsequent revisions or amendments thereof.

(2) If the city or county shall have under consideration a comprehensive plan or zoning, subdivision or other ordinances or regulations for lands described in subsection (1) of this section, and shall have shown satisfactory progress toward the adoption of such comprehensive plan or such ordinances or regulations, the Governor may grant a reasonable extension of time after the date set in this section for completion of such plan or such ordinances or regulations.

(3) Any comprehensive plan or zoning, subdivision or other ordinance or regulation adopted by the Governor under subsection (1) of this section shall comply with the state-wide planning guidelines and state-wide objectives and regulations approved under this Act and all subsequent revisions or amendments thereof.

(4) The department shall cooperate with and assist the

Governor in the preparation and administration of any comprehensive plan or zoning, subdivision or ordinances or regulations prescribed by him under subsection (1) of this section.

Section 56. ORS 215.510 is amended to read:

215.510. (1) Any comprehensive [land use plans] plan for any city or county prescribed or amended by the Governor pursuant to ORS 215.505 or section 55 of this 1973 Act shall be in accordance with the standards provided in ORS 215.515 and the notice and hearing requirements provided in ORS 215.060.

(2) Any zoning, subdivision or other ordinances and regulations for any city or county prescribed or amended by the Governor pursuant to ORS 215.505 or section 55 of this 1973 Act shall be in accordance with the standards provided in ORS 215.055 and the notice and hearing requirements provided in ORS 215.223.

(3) A comprehensive [land use] plan or zoning, subdivision or other ordinance or regulation for any city or county prescribed or amended by the Governor pursuant to ORS 215.505 or section 55 of this 1973 Act may be for any purpose provided in ORS 215.010 to 215.233 and subsections (1) and (2) of 215.990, except that the Governor may not prescribe building regulations. The Governor may, however, cause to be instituted an appropriate proceeding to enjoin the construction of buildings or performance of any other acts which would constitute a land use that does not conform to the applicable [land use] comprehensive plan or zoning, subdivision or other ordinance or regulation.

(4) Any hearings required by this section may be held by the Governor, or by a person designated by the Governor, and all such hearings shall be held in the county seat of the county or in the city in which said comprehensive [land use] plan or zoning, subdivision or other ordinance or regulation is to be prescribed.

Section 57. ORS 215.515 is amended to read:

215.515. (1) Comprehensive physical planning, adopted by the Governor prior to the expiration of one year following the date of the approval of state-wide planning guidelines under section 46 of this 1973 Act, should provide guidance for physical development within the state responsive to economic development, human resource development, natural resource development and regional and metropolitan area development. It should assist in attainment of the optimum living environment for the state's citizenry and assure sound housing, employment opportunities, educational fulfillment and sound health facilities. State plans should relate to intermediate and long-range growth objectives. The plans should set a pattern upon which state agencies and local government may base their programs and local area plans. Goals for comprehensive physical planning are:

[(1)] (a) To preserve the quality of the air [and], water and land resources of the state.

[(2)] (b) To conserve open space and protect natural and scenic resources.

[(3)] (c) To provide for the recreational needs of citizens of the state and visitors.

[(4)] (d) To conserve prime farm lands for the production of crops [and].

(e) To provide for an orderly and efficient transition from rural to urban land use.

[(5)] (f) To protect life and property in areas subject to floods, landslides and other natural disasters.

[(6)] (g) To provide and encourage a safe, convenient and economic transportation system including all modes of transportation: Air, water, rail, highway and mass transit, and recognizing differences in the social costs in the various modes of transportation.

[(7)] (h) To develop a timely, orderly and efficient arrangement of public facilities and services to serve as a framework for urban and rural development.

[(8)] (i) To diversify and improve the economy of the state.

[(9)] (j) To ensure that the development of properties within the state is commensurate with the character and the physical limitations of the land.

(2) Comprehensive physical planning adopted by the Governor after the expiration of one year after the date of the approval of state-wide planning guidelines under section 46 of this 1973 Act shall be designed to comply with such state-wide planning guidelines and any subsequent revisions or amendments thereof.

Section 58. ORS 215.535 is amended to read:

215.535. In addition to the remedy prescribed in subsection (3) of ORS 215.510, the Governor may cause to be instituted any civil action or suit he considers appropriate to remedy violations of any comprehensive [land use] plan or zoning, subdivision or other ordinance or regulation prescribed by the Governor pursuant to ORS 215.505 or section 55 of this 1973 Act.

Section 59. Whenever the Governor prescribes a comprehensive plan or zoning, subdivision or other ordinances or regulations for lands described in subsection (1) of section 55 of this Act, the costs incurred by the Governor and the department in the preparation and administration of such plan or ordinances or regulations shall be borne by the city or county for which the Governor has proposed such plan or ordinances or regulations. Upon presentation by the Governor to the governing body of the city or county of a certified, itemized statement of costs, the governing body shall order payment to the Governor out of any available funds. With respect to a city or county, if no payment is made by the governing body within 30 days thereafter, the Governor shall submit to the Secretary of State his certified, itemized statement of such costs and the Governor shall be reimbursed upon the order of the Secretary of State to the State Treasurer, from the city's or county's share of the state's cigarette and liquor revenues.

PART VI APPEALS

Section 60. (1) In the manner provided in sections 61 to 63 of this Act, the commission shall review upon:

(a) Petition by a district council, a comprehensive plan provision of a state agency, city, county or special district that the district council considers to be in conflict with approved state-wide planning guidelines or approved state-wide objectives or regulations.

(b) Petition by a district council, a land conservation and development action taken by a state agency, city, county or special district with respect to an area or activity of critical state concern that the district council considers to be in conflict with approved state-wide planning guidelines or approved state-wide objectives or regulations.

(c) Petition by a state agency, city, county or special district, any district council action that the state agency, city, county or special district considers to be improperly taken or outside the scope of the district council's authority under this Act.

(d) Petition by any person or group of persons, a provision of an adopted comprehensive plan or an action taken by a district council.

(2) A petition filed with the commission pursuant to subsection (1) of this section must be filed not later than 60 days (excluding Saturdays and holidays) after the date of the final adoption or approval of the action or comprehensive plan upon which the petition is based.



Section 61. (1) All review proceedings conducted by the commission pursuant to section 60 of this Act shall be based on the administrative record, if any, prepared with respect to the proceedings for the adoption or approval of the comprehensive plan provision or action that is the subject of the review proceeding.

(2) The commission shall adopt such rules, procedures and regulations for the conduct of review proceedings held pursuant to section 60 of this Act, in accordance with the provisions of ORS 183.310 to 183.500 for hearings and notice in contested cases.

(3) A district council, city, county, state agency, special district or any person or group of persons may intervene in and be made a party to any review proceeding conducted by the commission with the approval of the commission upon the request of the hearings officer appointed to conduct such proceeding or upon the approval by the hearings officer of a request by such agency, person or group of persons for intervention in the review proceeding.

Section 62. (1) In carrying out its duties under section 60 of this Act, the chairman of the commission shall assign each petition to be reviewed by the commission to a hearings officer who shall conduct the review proceeding.

(2) A hearings officer shall conduct a review proceeding in accordance with the rules, procedures and regulations adopted by the commission. Upon the conclusion of a hearing, the hearings officer shall promptly determine the matter,

prepare a recommendation for commission action upon the matter and submit a copy of his recommendation to the commission and to each party to the proceeding.

(3) The commission shall review the recommendation of the hearings officer and the record of the proceeding and issue its order with respect to the review proceeding within 60 days following the date of the filing of the petition upon which such review proceeding is based. The commission may adopt, reject or amend the recommendation of the hearings officer in any matter.

(4) No order of the commission issued under subsection (3) of this section is valid unless all members of the commission have received the recommendation of the hearings officer in the matter and at least three members of the commission concur in its action in the matter.

(5) Any party to a review proceeding before the commission who is aggrieved by the order issued by the commission in the matter may appeal the order of the commission in the manner provided in ORS 183.480 to 183.500 for appeals from final orders in contested cases.

*MP*  
Section 63. (1) If, upon its review of the recommendation of a hearings officer and the record of the review proceeding prepared following a review proceeding before the commission, the commission is unable to reach a decision in the matter without further information or evidence not contained in the record of the proceeding, it may refer the matter back to the hearings officer and request that the additional

information or evidence be acquired by him or that he correct any errors or deficiencies found by the commission to exist in his recommendation or record of the proceeding.

(2) In case of a referral of a matter back to the hearings officer pursuant to subsection (1) of this section, the 60-day period referred to in subsection (3) of section 62 of this Act is suspended during the period beginning on the date of the commission's referral to the hearings officer and ending on the date that the hearings officer submits the revised recommendation or record as requested by the commission.

#### PART VII LEGISLATIVE REVIEW

Section 64. (1) Prior to the expiration of 60 days after the date of the convening of the Fifty-eighth Legislative Assembly of the State of Oregon, the commission shall prepare and submit a report to the Legislative Assembly. Such report shall include:

(a) The modifications of and additions to areas or activities of critical state concern as recommended by the commission under section 33 of this Act.

(b) State-wide planning guidelines approved by the commission under section 46 of this Act.

(c) State-wide objectives and regulations for areas and activities of critical state concern approved by the commission under section 44 of this Act.

(d) A summary of the orders issued by the commission following review proceedings conducted pursuant to section 60 of this Act; and

(e) A summary of the activities of the department, district councils, cities and counties in land conservation and development in the state.

(2) In addition to the contents of the report required under subsection (1) of this section, the commission may also submit proposed legislation that it considers necessary in furthering the purposes of this Act.

*af*  
Section 65. The committee shall submit to the Legislative Assembly its comments and recommendations on the contents and provisions of the report required by section 64.

*af*  
Section 66. (1) The report submitted by the commission to the Legislative Assembly pursuant to subsection (1) of section 64 of this Act shall be considered approved by the Legislative Assembly upon:

(a) The passage by both Houses of the Legislative Assembly of a joint resolution approving the report; or

(b) The expiration of 90 days after the date of the submission of the report to the Legislative Assembly, or the date of the adjournment of such legislative session, whichever occurs first.

(2) The Legislative Assembly may amend or revise the contents of the report or may refer the report back to the commission for further study with a statement of the provisions of the report that it finds unsuitable, accompanied by the reasons for each such finding, and its suggestions for the amendment or revision by the commission of the report.

(3) Upon the date of the completion and publication by

the commission of the revision of its report in conformity with the directions of the Legislative Assembly, the report shall be considered approved by the Legislative Assembly under this section.

(4) The committee shall determine whether or not the report, if revised <sup>by</sup> the commission <sup>for</sup> under subsection (2) of this section, is in conformity with the directions of the Legislative Assembly.

Section 67. (1) Following the approval under section 66 of this Act by the Legislative Assembly of the report, the commission may revise the state-wide planning guidelines and its state-wide objectives and regulations for areas and activities of critical state concern in the manner provided in sections 44 and 46 of this Act for the initial adoption of such guidelines, objectives and regulations.

(2) Any revision or amendment approved by the commission under subsection (1) of this section shall be submitted to the next following regular session of the Legislative Assembly for final approval.

(3) Any action that is taken by any agency of this state, the commission, a district council, a city or county of this state in reliance upon a state-wide planning guideline or a state-wide objective or regulation or any amendment thereof that has been approved by the commission shall not be invalidated by subsequent refusal by the Legislative Assembly to approve or by any subsequent amendment thereof by the Legislative Assembly.

Section 68. During each biennium following July 1, 1975, the commission shall review its activities under this Act and submit a report to the Legislative Assembly. Such report shall include:

(1) Modifications of and additions to designations of areas or activities of critical state concern in the state;

(2) Modifications of and additions to state-wide objectives and regulations for areas and activities of critical state concern;

(3) Modifications of and additions to state-wide planning guidelines;

(4) A summary of the orders issued under section 60 of this Act since the date of the previous report by the commission to the Legislative Assembly; and

(5) A summary of the activities of the department, district councils, cities and counties in land conservation and development in the state since the date of the previous report by the commission to the Legislative Assembly.

Section 69. The committee shall submit to each legislative session its comments and recommendations on the contents and provisions of each report submitted by the commission under section 68 of this Act.

Section 70. Each report submitted to the Legislative Assembly pursuant to section 68 of this Act shall be considered approved in the same manner and under the same conditions provided for the approval of the report described in section 66 of this Act.

PART VIII MISCELLANEOUS

Section 71. The part designations and unit captions used in this Act are provided only for the convenience of locating provisions of this Act, and are not part of the statutory law of this state.

Section 72. This Act being necessary for the immediate preservation of the public peace, health and safety, an emergency is declared to exist, and this Act takes effect on July 1, 1973.

# SENATE BILL BACK

▼ CROSS OUT INAPPLICABLE WORDS ▼

BILL  
 ..... ~~RESOLUTION~~ ..... NUMBER S.B. 100  
 ..... ~~MEMORIAL~~ .....

Title: Relating to land use; creating new provisions; amending ORS 215.055, 215.510, 215.515, 215.535, and 227.240; appropriating money; and declaring an emergency.

Principal Sponsors:  
 Senator Hallock                      Senator ~~Macpherson~~

*Handwritten notes:*  
 Part of  
 sent to  
 telephone  
 call to 11/13-11:40 am  
 Macpherson

*Handwritten initials:* DA

## ADDITIONAL SPONSORS

SENATE

HOUSE

Atiyeh .....	Akeson .....	Macpherson .....
Boe .....	AuCoin .....	Magruder .....
Browne .....	Bazett .....	Markham .....
Burbidge .....	Blumenauer .....	Martin .....
Burns, J. ....	Bunn .....	Marx .....
Burns, K. ....	Burrows .....	McCoy .....
Carson .....	Byers .....	Morris .....
Cook .....	Cherry .....	Oakes .....
Eivers .....	Cole .....	Otto .....
Fadeley .....	Densmore .....	Patterson .....
Groener .....	Dereli .....	Paulus .....
Hallock .....	Elliott .....	Peck .....
Hartung .....	Eymann .....	Perry .....
Heard .....	Fadeley .....	Priestley .....
Holmstrom .....	Gilmour .....	Ragsdale .....
Howard .....	Grannell .....	Rieke .....
Hoyt .....	Groener .....	Roberts .....
Jernstedt .....	Gwinn .....	Skelton .....
Macpherson .....	Hampton .....	Stevenson .....
Mahoney .....	Hanneman .....	Stults, D. ....
Meeker .....	Hansell .....	Stults, R. ....
Newbry .....	Ingalls .....	Sumner .....
Ouderkirk .....	Johnson, L. ....	Walden .....
Potts .....	Johnson, S. ....	Whallon .....
Ripper .....	Jones .....	Whitehead .....
Roberts .....	Kafoury .....	Whiting .....
Smith .....	Katz .....	Wilhelms .....
Stevenson .....	Kinsey .....	Willits .....
Thorne .....	Lang .....	Wolfer, C. ....
Wingard .....	Lindquist .....	Wolfer, M. ....

Staple

Staple



# SENATE COMMITTEE REPORT

Salem, Oregon March 23, 1973

Mr. President:

Your Committee on ENVIRONMENT AND LAND USE to whom was referred  
SENATE BILL 100, having had the same under consideration,

respectfully report it back with the recommendation that it:

- Do pass:  Do pass with amendments:  
 Be adopted:  Be adopted with amendments:  
 Do pass with amendments to the printed engrossed bill.  
 (Referred to Committee on Ways and Means by prior reference)  
 (Other—specify)

Voting no: Senator J. Burns

Voting aye: Sen. Atiyeh, Sen. Macpherson, Sen. Ripper, Sen. Tacoma, Sen. Wingard, Sen. Hallock

Excused: \_\_\_\_\_

To be printed and engrossed with amendments and be re-referred to the  
Environment and Land Use Committee for further study.



Senator Ted Hallock

(Chairman)

Submit:  
2 copies if no amdts.  
4 copies if amdts.  
5 copies if to be printed engrossed.

Sen. \_\_\_\_\_  
will lead floor discussion.

March 22, 1973

PROPOSED AMENDMENTS TO SENATE BILL 100

On page 2 of the printed bill, line 3, delete "227.240" and insert "453.345".

Delete lines 8 through 33 and insert:

"Section 1. The Legislative Assembly finds that:

"(1) Uncoordinated use of lands within this state threaten the orderly development, the environment of this state and the health, safety, order, convenience, prosperity and welfare of the people of this state.

"(2) To promote coordinated administration of land uses consistent with comprehensive plans adopted throughout the state, it is necessary to establish a process for the review of state agency, city, county and special district land conservation and development plans for compliance with state-wide planning goals and guidelines.

"(3) Except as otherwise provided in subsection (4) of this section, cities and counties should remain as the agencies to consider, promote and manage the local aspects of land conservation and development for the best interests of the people within their jurisdictions.

"(4) The promotion of coordinated state-wide land conservation and development requires the creation of a state-wide planning agency to prescribe planning goals and objectives to be applied by state agencies, cities, counties and special districts throughout the state.

"(5) The impact of proposed development projects, constituting activities of state-wide significance upon the public health, safety and welfare, requires a system of permits reviewed by a state-wide agency to carry out state-wide planning goals and guidelines prescribed for application for activities of state-wide significance throughout this state.

"POLICY STATEMENT

"Section 2. The Legislative Assembly declares that, in order to assure the highest possible level of liveability in Oregon, it is necessary to provide for properly prepared and coordinated comprehensive plans for cities and counties, regional areas and the state as a whole. These comprehensive plans:

"(1) Must be adopted by the appropriate governing body at the local and state levels;

"(2) Are expressions of public policy in the form of policy statements, generalized maps and standards and guidelines;

"(3) Shall be the basis for more specific rules, regulations and ordinances which implement the policies expressed through the comprehensive plans;

"(4) Shall be prepared to assure that all public actions are consistent and coordinated with the policies expressed through the comprehensive plans; and

"(5) Shall be regularly reviewed and, if necessary, revised to keep them consistent with the changing needs and desires of the public they are designed to serve.

#### "DEFINITIONS

"Section 3. As used in this Act, unless the context requires otherwise:

"(1) 'Activity of state-wide significance' means a land conservation and development activity designated pursuant to section 25 of this Act.

"(2) 'Commission' means the Land Conservation and Development Commission.

"(3) 'Committee' means the Joint Legislative Committee on Land Use.

"(4) 'Comprehensive plan' means a generalized, coordinated land use map and policy statement of the governing body of a state agency, city, county or special district that inter-relates all functional and natural systems and activities relating to the use of lands, including but not limited to sewer and water systems, transportation systems, educational systems, recreational facilities, and natural resources and air and water quality management programs. 'Comprehensive' means all-inclusive, both in terms of the geographic area covered and functional and natural activities and systems

occurring in the area covered by the plan. 'General nature' means a summary of policies and proposals in broad categories and does not necessarily indicate specific locations of any area, activity or use. A plan is 'coordinated' when the needs of all levels of governments, semipublic and private agencies and the citizens of Oregon have been considered and accommodated as much as possible. 'Land' includes water, both surface and subsurface, and the air.

"(5) 'Department' means the Department of Land Conservation and Development.

"(6) 'Director' means the Director of the Department of Land Conservation and Development.

"(7) 'Special district' means any unit of local government, other than a city or county, authorized and regulated by statute and includes, but is not limited to: Water control districts, irrigation districts, port districts, regional air quality control authorities, fire districts, school districts, hospital districts, mass transit districts and sanitary districts.

"(8) 'Voluntary association of local governments' means a regional planning agency in this state officially designated by the Governor pursuant to the federal Office of Management and Budget Circular A-95 as a regional clearing house.

{ "PART II ORGANIZATION, ROLES AND RESPONSIBILITIES  
"DEPARTMENT OF LAND CONSERVATION AND DEVELOPMENT

"Section 4. The Department of Land Conservation and Development is established. The department shall consist of

the Land Conservation and Development Commission, the director and their subordinate officers and employes.

1/6  
"Section 5. (1) There is established a Land Conservation and Development Commission consisting of seven members appointed by the Governor, subject to confirmation by the Senate in the manner provided in ORS 171.560 and 171.570.

"(2) In making appointments under subsection (1) of this section, the Governor shall select from residents of this state one member from each congressional district and the remaining members from the state at large. At least one and no more than two members shall be from Multnomah County.

"(3) The term of office of each member of the commission is four years, but a member may be removed by the Governor for cause. Before the expiration of the term of a member, the Governor shall appoint a successor. No person shall serve more than two full terms as a member of the commission.

"(4) If there is a vacancy for any cause, the Governor shall make an appointment to become immediately effective for the unexpired term.

6/4  
"Section 6. Notwithstanding the term of office specified in section 5 of this Act, of the members first appointed to the commission:

"(1) Two shall serve for a term ending June 30, 1974.

"(2) Two shall serve for a term ending June 30, 1975.

"(3) Two shall serve for a term ending June 30, 1976.

"(4) One shall serve for a term ending June 30, 1977.

6/5  
"Section 7. (1) The commission shall select one of

its members as chairman and another member as vice chairman, for such terms and with duties and powers necessary for the performance of the functions of such offices as the commission determines. The vice chairman of the commission shall act as the chairman of the commission in the absence of the chairman.

"(2) A majority of the members of the commission constitutes a quorum for the transaction of business.

"Section 8. Members of the commission are entitled to compensation and expenses as provided in ORS 292.495.

"Section 9. The commission shall:

"(1) Direct the performance by the director and his staff of their functions under this Act.

"(2) In accordance with the provisions of ORS chapter 183, promulgate rules that it considers necessary in carrying out this Act.

"(3) Cooperate with the appropriate agencies of the United States, this state and its political subdivisions, any other state, any interstate agency, any person or groups of persons with respect to land conservation and development.

"(4) Appoint advisory committees to aid it in carrying out this Act and provide technical and other assistance, as it considers necessary, to each such committee.

"Section 10. The commission may:

"(1) Apply for and receive moneys from the Federal Government and from this state or any of its agencies or departments.

"(2) Contract with any public agency for the performance

of services or the exchange of employees or services by one to the other necessary in carrying out this Act.

"(3) Contract for the services of and consultation with professional persons or organizations, not otherwise available through federal, state and local governmental agencies, in carrying out its duties under this Act.

"(4) Perform other functions required to carry out this Act.

"Section 11. Pursuant to the provisions of this Act, the commission shall:

"(1) Establish state-wide planning goals consistent with regional, county and city concerns;

"(2) Issue permits for activities of state-wide significance;

"(3) Prepare inventories of land uses;

"(4) Prepare state-wide planning guidelines;

"(5) Review comprehensive plans for conformance with state-wide planning goals;

"(6) Coordinate planning efforts of state agencies to assure conformance with state-wide planning goals and compatibility with city and county comprehensive plans;

"(7) Insure widespread citizen involvement and input in all phases of the process;

"(8) Prepare model zoning, subdivision and other ordinances and regulations to guide state agencies, cities, counties and special districts in implementing state-wide



planning goals, particularly those for the areas listed in subsection (2) of section 34 of this Act;

"(9) Review and recommend to the Legislative Assembly the designation of areas of critical state concern;

"(10) Report periodically to the Legislative Assembly and to the committee; and

"(11) Perform other duties required by law.

Section 12. If an interstate land conservation and development planning agency is created by an interstate agreement or compact entered into by this state, the commission shall perform the functions of this state with respect to the agreement or compact. If the functions of the interstate planning agency duplicate any of the functions of the commission under this Act, the commission may:

"(1) Negotiate with the interstate agency in defining the areas of responsibility of the commission and the interstate planning agency; and

"(2) Cooperate with the interstate planning agency in the performance of its functions.

Section 13. (1) The commission shall appoint a person to serve as the Director of the Department of Land Conservation and Development. The director shall hold his office at the pleasure of the commission and his salary shall be fixed by the commission unless otherwise provided by law.

"(2) In addition to his salary, the director shall be reimbursed, subject to any applicable law regulating travel and other expenses of state officers and employees, for

actual and necessary expenses incurred by him in the performance of his official duties.

"Section 14. Subject to policies adopted by the commission, the director shall:

"(1) Be the administrative head of the department.

"(2) Coordinate the activities of the department in its land conservation and development functions with such functions of federal agencies, other state agencies, cities, counties and special districts.

"(3) Appoint, reappoint, assign and reassign all subordinate officers and employes of the department, prescribe their duties and fix their compensation, subject to the State Merit System Law.

"(4) Represent this state before any agency of this state, any other state or the United States with respect to land conservation and development within this state.

"Section 15. (1) There is established in the General Fund in the State Treasury the Land Conservation and Development Account. Moneys in the account are continuously appropriated for the purpose of carrying out the provisions of this Act.

"(2) All fees, moneys and other revenue received by the department or the committee shall be deposited in the Land Conservation and Development Account.

86  
"OREGON COASTAL CONSERVATION AND  
DEVELOPMENT COMMISSION

43  
"Section 16. (1) The Land Conservation and Development Commission, by agreement with the Oregon Coastal Conservation and Development Commission created by ORS 191.120 may delegate to the Oregon Coastal Conservation and Development Commission, any of the functions of the Land Conservation and Development Commission. However, the Land Conservation and Development Commission must review and grant approval prior to any action taken by the Oregon Coastal Conservation and Development Commission with respect to a delegated function.

"(2) The Land Conservation and Development Commission may provide staff and financial assistance to the Oregon Coastal Conservation and Development Commission in carrying out duties under this section.

44  
"CITIES AND COUNTIES

45  
"Section 17. Cities and counties shall exercise their planning and zoning responsibilities in accordance with this Act and the state-wide planning goals and guidelines approved under this Act.

46  
"Section 18. Pursuant to this Act, each city and county in this state shall:

"(1) Prepare and adopt comprehensive plans consistent with state-wide planning goals and guidelines approved by the commission; and

"(2) Enact zoning, subdivision and other ordinances or regulations to implement their comprehensive plans.

"Section 19. (1) In addition to the responsibilities stated in sections 17 and 18 of this Act, each county through its governing body, shall be responsible for coordinating all planning activities affecting land uses within the county, including those of the county, cities, special districts and state agencies, to assure an integrated comprehensive plan for the entire area of the county.

"(2) For the purposes of carrying out the provisions of this Act, counties may voluntarily join together with adjacent counties as authorized in ORS chapter 190.

"(3) Whenever counties and cities representing 51 percent of the population in their area petition the commission for an election in their area to form a regional planning agency to exercise the authority of the counties under subsection (1) of this section in the area, the commission shall review the petition. If it finds that the area described in the petition forms a reasonable planning unit, it shall call an election in the area to form a regional planning agency. The election shall be conducted in the manner provided in ORS chapter 259. The county clerk shall be considered the election officer and the commission shall be considered the district election authority. The agency shall be considered established if the majority of votes favor the establishment.

"(4) If a voluntary association of local governments adopts a resolution ratified by each participating county and a majority of the participating cities therein which authorizes the association to perform the review, advisory

and coordination functions assigned to the counties under subsection (1) of this section, the association may perform such duties:

"SPECIAL DISTRICTS AND STATE AGENCIES

"Section 20. Special districts shall exercise their planning duties, powers and responsibilities and take actions that are authorized by law with respect to programs affecting land use in accordance with state-wide planning goals and guidelines approved pursuant to this Act.

"Section 21. State agencies shall carry out their planning duties, powers and responsibilities and take actions that are authorized by law with respect to programs affecting land use in accordance with state-wide planning goals and guidelines approved pursuant to this Act.

"JOINT LEGISLATIVE COMMITTEE ON LAND USE

"Section 22. The Joint Legislative Committee on Land Use is established as a joint committee of the Legislative Assembly. The committee shall select an executive secretary who shall serve at the pleasure of the committee and under its direction.

"Section 23. (1) The Joint Legislative Committee on Land Use shall consist of four members of the House of Representatives appointed by the Speaker and three members of the Senate appointed by the President. No more than three House members of the committee shall be of the same political

party. No more than two Senate members of the committee shall be of the same political party.

"(2) The chairmen of the House and Senate Environment and Land Use Committees of the Fifty-seventh Legislative Assembly of the State of Oregon shall be two of the members appointed under subsection (1) of this section for the period beginning with the effective date of this Act.

"(3) The committee has a continuing existence and may meet, act and conduct its business during sessions of the Legislative Assembly or any recess thereof, and in the interim period between sessions.

"(4) The term of a member shall expire upon the convening of the Legislative Assembly in regular session next following the commencement of the member's term. When a vacancy occurs in the membership of the committee in the interim between sessions, until such vacancy is filled, the membership of the committee shall be deemed not to include the vacant position for the purpose of determining whether a quorum is present and a quorum is the majority of the remaining members.

"(5) Members of the committee shall be reimbursed for actual and necessary expenses incurred or paid in the performance of their duties as members of the committee, such reimbursement to be made from funds appropriated for such purposes, after submission of approved voucher claims.

"(6) The committee shall select a chairman. The chairman may, in addition to his other authorized duties, approve voucher claims.

"(7) Action of the committee shall be taken only upon the affirmative vote of the majority of the members of the committee.

"Section 24. The committee shall:

"(1) Advise the department on all matters under the jurisdiction of the department;

"(2) Review and make recommendations to the Legislative Assembly on proposals for additions to or modifications of designations of activities of state-wide significance, and for designations of areas of critical state concern;

"(3) Review and make recommendations to the Legislative Assembly on state-wide planning goals and guidelines approved by the commission;

"(4) Study and make recommendations to the Legislative Assembly on the implementation of a program for compensation by the public to owners of lands within this state for the value of any loss of use of such lands resulting directly from the imposition of any zoning, subdivision or other ordinance or regulation regulating or restricting the use of such lands. Such recommendations shall include, but not be limited to, proposed methods for the valuation of such loss of use and proposed limits, if any, to be imposed upon the

amount of compensation to be paid by the public for any such loss of use; and

"(5) Make recommendations to the Legislative Assembly on any other matter relating to land use planning in Oregon.

"PART III ACTIVITIES OF STATE-WIDE SIGNIFICANCE

"DESIGNATION

"Section 25. (1) The following activities may be designated by the commission as activities of state-wide significance if the commission determines that by their nature or magnitude they should be so considered:

"(a) The planning and siting of public transportation facilities.

"(b) The planning and siting of public sewerage systems, water supply systems and solid waste disposal sites and facilities.

"(c) The planning and siting of public schools.

"(2) Nothing in this Act supersedes any duty, power or responsibility vested by statute in any state agency relating to its activities described in subsection (1) of this section; except that, a state agency may neither implement any such activity nor adopt any plan relating to such an activity without the prior review and comment of the commission.

"Section 26. (1) In addition to the activities of state-wide significance that are designated by the commission



under section 25 of this Act, the commission may recommend to the committee the designation of additional activities of state-wide significance. Each such recommendation shall specify the reasons for the proposed designation of the activity of state-wide significance, the dangers that would result from such activity being uncontrolled and the suggested state-wide planning goals and guidelines to be applied for the proposed activity.

"(2) The commission may recommend to the committee the designation of areas of critical state concern. Each such recommendation shall specify the criteria developed and reasons for the proposed designation, the damages that would result from uncontrolled development within the area, the reasons for the implementation of state regulations for the proposed area and the suggested state regulations to be applied within the proposed area.

"(3) The commission may act under subsections (1) and (2) of this section on its own motion or upon the recommendation of a state agency, city, county or special district. If the commission receives a recommendation from a state agency, city, county or special district and finds the proposed activity or area to be unsuitable for designation, it shall notify the state agency, city, county or special district of its decision and its reasons therefor.

"(4) Immediately following its decision to favorably recommend to the Legislative Assembly the designation of an

additional activity of state-wide significance or the designation of an area of critical state concern, the commission shall submit the proposed designation accompanied by the supporting materials described in subsections (1) and (2) of this section to the committee for its review.

"PERMITS FOR ACTIVITIES OF STATE-WIDE SIGNIFICANCE

"Section 27. (1) On and after the date the commission has approved state-wide planning goals and guidelines for activities of state-wide significance designated under section 25 of this Act, no proposed project constituting such an activity may be initiated by any person or public agency without a planning and siting permit issued by the commission therefor.

"(2) Any person or public agency desiring to initiate a project constituting an activity of state-wide significance shall apply to the department for a planning and siting permit for such project. The application shall contain the plans for the project and the manner in which such project has been designed to meet the goals and guidelines for activities of state-wide significance and the comprehensive plans for the county within which the project is proposed, and any other information required by the commission as prescribed by rule of the commission.

"(3) The department shall transmit copies of the application to affected county and state agencies for their review and recommendation.

"(4) The county governing body and the state agencies shall review an application transmitted to it under subsection (3) of this section and shall, within 30 days after the date of the receipt of the application, submit their recommendations on the application to the commission.

"(5) If the commission finds after review of the application and the comments submitted by the county governing body and state agencies that the proposed project complies with the state-wide goals and guidelines for activities of state-wide significance and the comprehensive plans within the county, it shall approve the application and issue a planning and siting permit for the proposed project to the person or public agency applying therefor. Action shall be taken by the commission within 30 days of the receipt of the recommendation of the county and state agencies.

"(6) The commission may prescribe and include in the planning and siting permit such conditions or restrictions that it considers necessary to assure that the proposed project complies with the state-wide goals and guidelines for activities of state-wide significance and the comprehensive plans within the county.

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"Section 28. If the activity requiring a planning and siting permit under section 27 of this Act also requires any other permit from any state agency, the commission, with the

cooperation and concurrence of the other agency, may provide a joint application form and permit to satisfy both the requirements of this Act and any other requirements set by statute or by rule of the state agency.

"Section 29. (1) If any person or public agency is in doubt whether a proposed development project constitutes an activity of state-wide significance, the person or public agency may request a determination from the commission on the question. Within 60 days after the date of the receipt by it of such a request, the commission, with the advice of the committee and of the county governing body for the county in which such activity is proposed, shall issue a binding letter of interpretation with respect to the proposed project.

"(2) Requests for determinations under this section shall be made to the commission in writing and in such form and contain such information as may be prescribed by the commission.

"Section 30. (1) No project constituting an activity of state-wide significance shall be undertaken without a planning and siting permit issued under section 27 of this Act.

"(2) Any person or agency acting in violation of subsection (1) of this section may be enjoined in civil proceedings brought in the name of the county or the State of Oregon.

"Section 31. If the county governing body or the commission determines the existence of an alleged violation under section 30 of this Act, it may:

"(1) Investigate, hold hearings, enter orders and take action that it deems appropriate under this Act, as soon as possible.

"(2) For the purpose of investigating conditions relating to the violation, through its members or its duly authorized representatives, enter at reasonable times upon any private or public property.

"(3) Conduct public hearings.

"(4) Publish its findings and recommendations as they are formulated relative to the violation.

"(5) Give notice of any order relating to a particular violation of its state-wide goals, a particular violation of the terms or conditions of a planning and siting permit or a particular violation of the provisions of this Act by mailing notice to the person or public body conducting or proposing to conduct the project affected in the manner provided by ORS chapter 183.

"PART IV STATE-WIDE PLANNING GOALS AND GUIDELINES

"Section 32. All comprehensive plans and any zoning, subdivision and other ordinances and regulations adopted by a state agency, city, county or special district to carry out such plans shall be in conformity with the state-wide planning goals within one year from the date such goals are approved by the commission.

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"Section 33. Not later than January 1, 1975, the department shall prepare and the commission shall adopt state-wide planning goals and guidelines for use by state agencies, cities, counties and special districts in preparing, adopting, revising and implementing existing and future comprehensive plans.

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"Section 34. In preparing and adopting state-wide planning goals and guidelines, the department and the commission shall:

"(1) Consider the existing comprehensive plans of state agencies, cities, counties and special districts in order to preserve functional and local aspects of land conservation and development.

"(2) Give priority consideration to the following areas and activities:

"(a) Those activities listed in section 25 of this Act;

"(b) Lands adjacent to freeway interchanges;

"(c) Estuarine areas;

"(d) Tide, marsh, and wetland areas;

"(e) Lakes and lakeshore areas;

"(f) Wilderness, recreational and outstanding scenic areas;

"(g) Beaches, dunes, coastal headlands and related areas;

- "(h) Wild and scenic rivers and related lands;
- "(i) Flood plains and areas of geologic hazard;
- "(j) Unique wildlife habitats; and
- "(k) Agricultural land.

"Section 35. To assure widespread citizen involvement in all phases of the planning process:

"(1) The commission shall appoint a State Citizen Involvement Advisory Committee, broadly representative of geographic areas of the state and of interests relating to land uses and land use decisions, to develop a program for the commission that promotes and enhances public participation in the development of state-wide planning goals and guidelines.

"(2) Within 90 days after the effective date of this Act, each county governing body shall submit to the commission a program for citizen involvement in preparing, adopting and revising comprehensive plans within the county. Such program shall at least contain provision for a citizen advisory committee or committees broadly representative of geographic areas and of interests relating to land uses and land use decisions.

"(3) The state advisory committee appointed under subsection (1) of this section shall review the proposed programs submitted by each county and recommend to the commission whether or not the proposed program adequately provides for public involvement in the planning process.

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"Section 36. (1) In preparing the state-wide planning goals and guidelines, the department shall:

"(a) Hold at least 10 public hearings throughout the state, causing notice of the time, place and purpose of each such hearing to be published in a newspaper of general circulation within the area where the hearing is to be conducted not later than 30 days prior to the date of the hearing.

"(b) Implement any other provision for public involvement developed by the state advisory committee under subsection (1) of section 35 of this Act and approved by the commission.

"(2) Upon completion of the preparation of the proposed state-wide planning goals and guidelines, the department shall submit them to the commission for approval.

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Section 37. Upon receipt of the proposed state-wide planning goals and guidelines prepared and submitted to it by the department, the commission shall:

"(1) Hold at least one public hearing on the proposed state-wide planning goals and guidelines. The commission shall cause notice of the time, place and purpose of the hearings and the place where copies of the proposed goals and guidelines are available before the hearings with the cost thereof to be published in a newspaper of general circulation in the state not later than 30 days prior to the date of the hearing. The department shall supply a copy of its proposed state-wide planning goals and guidelines to the Governor, the committee, affected state agencies and special districts and



to each city and county without charge. The department shall provide copies of such proposed goals and guidelines to other public agencies or persons upon request and payment of the cost of preparing the copies of the materials requested.

"(2) Consider the recommendations and comments received from the public hearings conducted under subsection (1) of this section, make any revisions in the proposed state-wide planning goals and guidelines that it considers necessary and approve the proposed goals and guidelines as they may be revised by the commission.

"Section 38. The commission may periodically revise, update and expand the initial state-wide planning goals and guidelines adopted under section 37 of this Act. Such revisions, updatings or expansions shall be made in the manner provided in sections 36 and 37 of this Act.

"Section 39. Following the approval by the commission of state-wide planning goals and guidelines, each county governing body shall review all comprehensive plans for land conservation and development within the county, both those adopted and those being prepared. The county governing body shall advise the state agency, city, county or special district preparing the comprehensive plans whether or not the comprehensive plans are in conformity with the state-wide planning goals.

#### "PART V COMPREHENSIVE PLANS

"Section 40. Comprehensive plans and zoning, subdivision, and other ordinances and regulations adopted prior to the

effective date of this Act shall remain in effect until revised under this Act. It is intended that existing planning efforts and activities shall continue and that such efforts be utilized in achieving the purposes of this Act.

"Section 41. Prior to approval by the commission of its state-wide planning goals and guidelines under section 37 of this Act, the goals listed in ORS 215.515 shall be applied by state agencies, cities, counties and special districts in the preparation, revision, adoption or implementation of any comprehensive plan.

"Section 42. Each city or county shall prepare and the city council or the county governing body shall adopt the comprehensive plans required under this Act or by any other law in accordance with section 41 of this Act for those plans adopted prior to the expiration of one year following the date the commission approves its state-wide planning goals and guidelines under section 37 of this Act. Plans adopted by cities and counties after the expiration of one year following the date of approval of such goals and guidelines by the commission shall be designed to comply with such goals and any subsequent amendments thereto.

"Section 43. ORS 215.055 is amended to read:

215.055. (1) [The] Any comprehensive plan [and all legislation and regulations] and all zoning, subdivision or other ordinances and regulations authorized by ORS 215.010 to 215.233

and adopted prior to the expiration of one year following the date of the approval of state-wide planning goals and guidelines under section 37 of this 1973 Act shall be designed to promote the public health, safety and general welfare and shall be based on the following considerations, among others: The various characteristics of the various areas in the county, the suitability of the areas for particular land uses and improvements, the land uses and improvements in the areas, trends in land improvement, density of development, property values, the needs of economic enterprises in the future development of the areas, needed access to particular sites in the areas, natural resources of the county and prospective needs for development thereof, and the public need for healthful, safe, aesthetic surroundings and conditions.

"(2) Any plan and all zoning, subdivision or other ordinances and regulations authorized by ORS 215.010 to 215.233 and adopted after the expiration of one year after the date of the approval of state-wide planning goals and guidelines under section 37 of this 1973 Act shall be designed to comply with such state-wide planning goals and any subsequent revisions or amendments thereof.

"[(2)] (3) In order to conserve natural resources of the state, any land use plan or zoning, subdivision or other ordinance adopted by a county shall take into consideration lands that are, can or should be utilized for sources or processing of mineral aggregates.

"Section 44. Upon the expiration of one year after the date of the approval of state-wide planning goals and guidelines and annually thereafter, each county governing body shall report to the commission on the status of comprehensive plans within each county. Each such report shall include:

"(1) Copies of comprehensive plans reviewed by the county governing body and copies of zoning and subdivision ordinances and regulations applied to those areas within the county listed in subsection (2) of section 34 of this Act.

"(2) For those areas or jurisdictions within the county without comprehensive plans, a statement and review of the progress made toward compliance with the state-wide planning goals.

"Section 45. (1) Notwithstanding any other provision of law, after the expiration of one year after the date of the approval of the initial state-wide planning goals and guidelines under section 37 of this Act, upon 90 days' notice to the affected governing body or bodies, and upon public hearings held within 30 days thereafter, the commission shall prescribe and may amend and administer comprehensive plans and zoning, subdivision or other ordinances and regulations necessary to develop and implement a comprehensive plan within the boundaries of a county, whether or not within the boundaries of a city, that do not comply with the state-wide planning goals approved under this Act and any subsequent revisions or amendments thereof.

"(2) If the city or county has under consideration a comprehensive plan or zoning, subdivision or other ordinances or regulations for lands described in subsection (1) of this section, and shows satisfactory progress toward the adoption of such comprehensive plan or such ordinances or regulations, the commission may grant a reasonable extension of time after the date set in this section for completion of such plan or such ordinances or regulations.

"(3) Any comprehensive plan or zoning, subdivision or other ordinance or regulation adopted by the commission under subsection (1) of this section shall comply with the state-wide planning goals approved under this Act and all subsequent revisions or amendments thereof.

"Section 46. (1) There is transferred to and vested in the commission those duties, powers and functions vested in the Governor by ORS 215.505 to 215.535. After the effective date of this Act, the commission shall exercise such duties, powers and functions.

"(2) For the purpose of harmonizing and clarifying Oregon Revised Statutes, the Legislative Counsel may substitute for words designating the Governor, where such words occur in ORS 215.505 to 215.535, words designating the Land Conservation and Development Commission.

"Section 47. ORS 215.510 is amended to read:

"215.510. (1) Any comprehensive [land use plans] plan for any city or county prescribed or amended by the [Governor] commission pursuant to ORS 215.505 or section 45 of this 1973

Act shall be in accordance with the standards provided in ORS 215.515 and the notice and hearing requirements provided in ORS 315-060. <sup>215.010</sup>

"(2) Any zoning, subdivision or other ordinances and regulations for any city or county prescribed or amended by the [Governor] commission pursuant to ORS 215.505 or section 45 of this 1973 Act shall be in accordance with the standards provided in ORS 215.055 and the notice and hearing requirements provided in ORS 215.223.

"(3) A comprehensive [land use] plan or zoning, sub-division or other ordinance or regulation for any city or county prescribed or amended by the [Governor] commission pursuant to ORS 215.505 or section 45 of this 1973 Act may be for any purpose provided in ORS 215.010 to 215.233 and subsections (1) and (2) of 215.990, except that the [Governor] commission may not prescribe building regulations. The [Governor] commission may, however, cause to be instituted an appropriate proceeding to enjoin the construction of buildings or performance of any other acts which would constitute a land use that does not conform to the applicable [land use] comprehensive plan or zoning, subdivision or other ordinance or regulation.

"(4) Any hearings required by this section may be held by the [Governor] commission, or by a person designated by the [Governor] commission, and all such hearings shall be held in the county seat of the county or in the city in which said comprehensive [land use] plan or zoning, subdivision or other ordinance or regulation is to be prescribed.

"Section 48. ORS 215.515 is amended to read:

"215.515. (1) Comprehensive physical planning, adopted by the commission prior to the expiration of one year following

the date of the approval of state-wide planning goals and guidelines under section 37 of this 1973 Act, should provide guidance for physical development within the state responsive to economic development, human resource development, natural resource development and regional and metropolitan area development. It should assist in attainment of the optimum living environment for the state's citizenry and assure sound housing, employment opportunities, educational fulfillment and sound health facilities. State plans should relate to intermediate and long-range growth objectives. The plans should set a pattern upon which state agencies and local government may base their programs and local area plans. Goals for comprehensive physical planning are:

"[(1)] (a) To preserve the quality of the air [and],  
water and land resources of the state.

"[(2)] (b) To conserve open space and protect natural and scenic resources.

"[(3)] (c) To provide for the recreational needs of citizens of the state and visitors.

"[(4)] (d) To conserve prime farm lands for the production of crops [and].

"(e) To provide for an orderly and efficient transition from rural to urban land use.

"[(5)] (f) To protect life and property in areas subject to floods, landslides and other natural disasters.

"[(6)] (g) To provide and encourage a safe, convenient

and economic transportation system including all modes of transportation: Air, water, rail, highway and mass transit, and recognizing differences in the social costs in the various modes of transportation.

"[(7)] (h) To develop a timely, orderly and efficient arrangement of public facilities and services to serve as a framework for urban and rural development.

"[(8)] (i) To diversify and improve the economy of the state.

"[(9)] (j) To ensure that the development of properties within the state is commensurate with the character and the physical limitations of the land.

"(2) Comprehensive plans adopted by the commission after the expiration of one year after the date of the approval of state-wide planning goals and guidelines under section 37 of this 1973 Act shall be designed to comply with such state-wide planning goals and any subsequent revisions or amendments thereof.

"Section 49. ORS 215.535 is amended to read:

"215.535. In addition to the remedy prescribed in subsection (3) of ORS 215.510, the [Governor] commission may cause to be instituted any civil action or suit [he] it considers appropriate to remedy violations of any comprehensive [land use] plan or zoning, subdivision or other ordinance or regulation prescribed by the [Governor] commission pursuant to ORS 215.505 or section 45 of this 1973 Act.



lf "Section 50. (1) Whenever the commission prescribes a comprehensive plan or zoning, subdivision or other ordinances or regulations for lands described in subsection (1) of section 45 of this Act, the costs incurred by the commission and the department in the preparation and administration of such plan or ordinances or regulations shall be borne by the city or county for which the commission has proposed such plan or ordinances or regulations. Upon presentation by the commission to the governing body of the city or county of a certified, itemized statement of costs, the governing body shall order payment to the commission out of any available funds. With respect to a city or county, if no payment is made by the governing body within 30 days thereafter, the commission shall submit to the Secretary of State its certified, itemized statement of such costs and the commission shall be reimbursed upon the order of the Secretary of State to the State Treasurer, from the city's or county's share of the state's cigarette and liquor revenues.

"(2) Within 10 days of receipt of the certified, itemized statement of costs under subsection (1) of this section, any city or county aggrieved by the statement may appeal to the Court of Appeals. The appeal shall be taken as from a contested case under ORS 183.480. Notice of the appeal shall operate as a stay in the commissioner's right to reimbursement under subsection (1) of this section until the decision is made on the appeal.

"PART VI APPEALS

"Section 51. (1) In the manner provided in sections 52 to 54 of this Act, the commission shall review upon:

"(a) Petition by a county governing body, a comprehensive plan provision or any zoning, subdivision or other ordinance or regulation adopted by a state agency, city, county or special district that the governing body considers to be in conflict with state-wide planning goals approved under section 37 of this Act or interim goals specified in ORS 215.515.

"(b) Petition by a city or county governing body, a land conservation and development action taken by a state agency, city, county or special district that the governing body considers to be in conflict with state-wide planning goals approved under section 37 of this Act or interim goals specified in ORS 215.515.

"(c) Petition by a state agency, city, county or special district, any county governing body action that the state agency, city, county, or special district considers to be improperly taken or outside the scope of the governing body's authority under this Act.

"(d) Petition by any person or group of persons whose interests are substantially affected, a comprehensive plan provision or any zoning, subdivision or other ordinance or regulation alleged to be in violation of state-wide planning goals approved under section 37 of this Act or interim goals specified in ORS 215.515.

"(2) A petition filed with the commission pursuant to subsection (1) of this section must be filed not later than 60 days (excluding Saturdays and holidays) after the date of the final adoption or approval of the action or comprehensive plan upon which the petition is based.

"Section 52. (1) All review proceedings conducted by the commission pursuant to section 51 of this Act shall be based on the administrative record, if any, prepared with respect to the proceedings for the adoption or approval of the comprehensive plan provision or action that is the subject of the review proceeding.

"(2) The commission shall adopt such rules, procedures and regulations for the conduct of review proceedings held pursuant to section 51 of this Act, in accordance with the provisions of ORS 183.310 to 183.500 for hearings and notice in contested cases.

"(3) A city, county, state agency, special district or any person or group of persons whose interests are substantially affected may intervene in and be made a party to any review proceeding conducted by the commission with the approval of the commission, upon the request of the hearings officer appointed to conduct such proceeding or upon the approval by the hearings officer of a request by such agency, person or group of persons for intervention in the review proceeding.

"Section 53. (1) In carrying out its duties under section 51 of this Act, the chairman of the commission shall assign

each petition to be reviewed by the commission to a hearings officer who shall conduct the review proceeding.

"(2) A hearings officer shall conduct a review proceeding in accordance with the rules, procedures and regulations adopted by the commission. Upon the conclusion of a hearing, the hearings officer shall promptly

determine the matter, prepare a recommendation for commission action upon the matter and submit a copy of his recommendation to the commission and to each party to the proceeding.

"(3) The commission shall review the recommendation of the hearings officer and the record of the proceeding and issue its order with respect to the review proceeding within 60 days following the date of the filing of the petition upon which such review proceeding is based. The commission may adopt, reject or amend the recommendation of the hearings officer in any matter.

"(4) No order of the commission issued under subsection (3) of this section is valid unless all members of the commission have received the recommendation of the hearings officer in the matter and at least four members of the commission concur in its action in the matter.

"(5) Any party to a review proceeding before the commission who is adversely affected or aggrieved by the order issued by the commission in the matter may appeal the order of the commission in the manner provided in ORS 183.480 for appeals from final orders in contested cases.

"(6) The commission may enforce orders issued under subsection (3) of this section in appropriate judicial proceedings brought by the commission therefor.

"Section 54. (1) If, upon its review of the recommendation of a hearings officer and the record of the review proceeding prepared following a review proceeding before the

commission, the commission is unable to reach a decision in the matter without further information or evidence not contained in the record of the proceeding, it may refer the matter back to the hearings officer and request that the additional information or evidence be acquired by him or that he correct any errors or deficiencies found by the commission to exist in his recommendation or record of the proceeding.

"(2) In case of a referral of a matter back to the hearings officer pursuant to subsection (1) of this section, the 60-day period referred to in subsection (3) of section 53 of this Act is suspended during the period beginning on the date of the commission's referral to the hearings officer and ending on the date that the hearings officer submits the revised recommendation or record as requested by the commission.

#### "PART VII LEGISLATIVE REVIEW

"Section 55. The department shall report monthly to the committee in order to keep the committee informed on progress made by the department, commission, counties and other agencies in carrying out the provisions of this Act.

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"Section 56. (1) Prior to the end of each even-numbered year, the department shall prepare a written report for submission to the Legislative Assembly of the State of Oregon describing activities and accomplishments of the department, commission, state agencies, cities, counties and special districts in carrying out the provisions of this Act.

"(2) A draft of the report required by subsection (1) of this section shall be submitted to the committee for its review and comment at least 60 days prior to submission of the report to the Legislative Assembly. Comments of the committee shall be incorporated into the final report.

"(3) Goals and guidelines adopted by the commission shall be included in the report to the Legislative Assembly submitted under subsection (1) of this section.

#### PART VIII MISCELLANEOUS

"Section 57. ORS 453.345 is amended to read:

453.345. (1) Applications for site certificates shall be made to the Nuclear and Thermal Energy Council on a form prescribed by the council and accompanied by the fee required by ORS 453.405. The application may be filed not sooner than 12 months after filing of the notice of intent.

"(2) Proposed use of a site within an area designated by the council as suitable for location of thermal power plants or nuclear installations does not preclude the necessity of the applicant obtaining a site certificate for the specific site.

"(3) Copies of the notice of intent and of the application shall be sent for comment and recommendation within specified deadlines established by the council to the Department of Environmental Quality, the State Water Resources Board, the Fish Commission of the State of Oregon, the State Game Commission, the State Board of Health, the State Engineer,

the State Geologist, the State Forestry Department, the Public Utility Commissioner of Oregon, the State Department of Agriculture, the Department of Transportation, the Department of Land Conservation and Development and the Economic Development Division.

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"Section 58. The part designations and unit captions used in this Act are provided only for the convenience of locating provisions of this Act, and are not part of the statutory law of this state.

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"Section 59. This Act being necessary for the immediate preservation of the public peace, health and safety, an emergency is declared to exist, and this Act takes effect on July 1, 1973."

Delete pages 3 through 36.