

# House Bill 2461

Sponsored by Representative BUTLER

## 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**.

Authorizes city or district providing urban services within urban growth boundary to extend services to land within jurisdiction of federally recognized Indian tribe.

## A BILL FOR AN ACT

1 Relating to urban services; amending ORS 195.060, 195.065, 197.005 and 221.034.

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

3 **SECTION 1.** ORS 195.060 is amended to read:

4 195.060. As used in [*ORS 195.020, 195.065 to 195.085 and 197.005*] **this chapter**, unless the con-  
5 text requires otherwise:

6 (1) "District" [*has the meaning given that term in ORS 198.010. In addition, the term includes*]  
7 **or "special district":**

8 (a) **Means a district identified in ORS 198.010 or** a county service district organized under  
9 ORS chapter 451.

10 (b) **Does not mean a school district.**

11 (2) "Urban growth boundary" means an acknowledged urban growth boundary contained in a  
12 city or county comprehensive plan or an acknowledged urban growth boundary that has been  
13 adopted by a metropolitan service district council under ORS 268.390 (3).

14 (3) "Urban [*service*] *has the meaning given that term in ORS 195.065*] **services" means:**

15 (a) **Sanitary sewers;**

16 (b) **Water;**

17 (c) **Fire protection;**

18 (d) **Parks;**

19 (e) **Open space;**

20 (f) **Recreation; and**

21 (g) **Streets, roads and mass transit.**

22 **SECTION 2.** ORS 195.065 is amended to read:

23 195.065. (1) Under ORS 190.003 to 190.130, units of local government and special districts that  
24 provide an urban service to an area within an urban growth boundary that has a population greater  
25 than 2,500 persons, and that are identified as appropriate parties by a cooperative agreement under  
26 ORS 195.020, shall enter into urban service agreements that:

27 (a) Specify whether the urban service will be provided in the future by a city, county, district,  
28 authority or a combination of one or more cities, counties, districts or authorities.

29 (b) Set forth the functional role of each service provider in the future provision of the urban  
30 service.  
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**NOTE:** Matter in **boldfaced** type in an amended section is new; matter [*italic and bracketed*] is existing law to be omitted.  
New sections are in **boldfaced** type.

1 (c) Determine the future service area for each provider of the urban service.

2 (d) Assign responsibilities for:

3 (A) Planning and coordinating provision of the urban service with other urban services;

4 (B) Planning, constructing and maintaining service facilities; and

5 (C) Managing and administering provision of services to urban users.

6 (e) Define the terms of necessary transitions in provision of urban services, ownership of facilities, annexation of service territory, transfer of moneys or project responsibility for projects proposed on a plan of the city or district prepared pursuant to ORS 223.309 and merger of service providers or other measures for enhancing the cost efficiency of providing urban services.

7 (f) Establish a process for review and modification of the urban service agreement.

8 (2)(a) Each county shall have responsibility for convening representatives of all cities and special districts that provide or declare an interest in providing an urban service inside an urban growth boundary within the county, for the purpose of negotiating an urban service agreement. A county may establish two or more subareas inside an urban growth boundary for the purpose of such agreements. If an urban service is to be provided within the boundaries of a Metropolitan Service District, a county shall notify the Metropolitan Service District in advance of the time for cities and special districts to meet for the purpose of negotiating an urban service agreement, and the Metropolitan Service District shall exercise its review, advisory and coordination functions under ORS 195.025.

9 (b) When negotiating for an urban service agreement, a county shall consult with recognized community planning organizations within the area affected by the urban service agreement.

10 (3) Decisions on a local government structure to be used to deliver an urban service under ORS 195.070 are not land use decisions under ORS 197.015.

11 [(4) For purposes of ORS 195.020, 195.070, 195.075, 197.005 and this section, "urban services" means:]

12 [(a) Sanitary sewers;]

13 [(b) Water;]

14 [(c) Fire protection;]

15 [(d) Parks;]

16 [(e) Open space;]

17 [(f) Recreation; and]

18 [(g) Streets, roads and mass transit.]

19 [(5)] (4) Whether the requirement of subsection (1) of this section is met by a single urban service agreement among multiple providers of a service, by a series of agreements with individual providers or by a combination of multiprovider and single-provider agreements shall be a matter of local discretion.

20 (5) **Notwithstanding a statewide land use planning goal relating to urban and rural public facilities and services, with the approval of the governing body of the city or the district, a city or a district that provides urban services within an urban growth boundary may extend those services beyond the urban growth boundary to serve areas within the jurisdictional boundaries of a federally recognized Indian tribe.**

21 **SECTION 3.** ORS 197.005 is amended to read:

22 197.005. (1) **As used in this section, "urban services" has the meaning given that term in ORS 195.060.**

23 (2) The Legislative Assembly finds that:

1        [(1)] (a) Uncoordinated use of lands within this state threatens the orderly development, the  
 2 environment of this state and the health, safety, order, convenience, prosperity and welfare of the  
 3 people of this state.

4        [(2)] (b) To promote coordinated administration of land uses consistent with comprehensive plans  
 5 adopted throughout the state, it is necessary to establish a process for the review of state agency,  
 6 city, county and special district land conservation and development plans for compliance with goals.

7        [(3)] (c) Except as otherwise provided in [subsection (4) of this section] **paragraph (d) of this**  
 8 **subsection**, cities and counties should remain as the agencies to consider, promote and manage the  
 9 local aspects of land conservation and development for the best interests of the people within their  
 10 jurisdictions.

11       [(4)] (d) The promotion of coordinated statewide land conservation and development requires the  
 12 creation of a statewide planning agency to prescribe planning goals and objectives to be applied by  
 13 state agencies, cities, counties and special districts throughout the state.

14       [(5)] (e) City and county governments are responsible for the development of local comprehen-  
 15 sive plans. The purpose of ORS 195.065, 195.070 and 195.075 is to enhance coordination among cities,  
 16 counties and special districts to [assure] **ensure** effectiveness and efficiency in the delivery of urban  
 17 services required under those local comprehensive plans.

18        **SECTION 4.** ORS 221.034 is amended to read:

19        221.034. (1) As used in this section:

20        (a) “Neighboring city” means a city that has any part of its territory situated within three miles  
 21 of the area proposed to be incorporated.

22        (b) “Rural unincorporated community” means a settlement with a boundary identified in an ac-  
 23 knowledged comprehensive plan of a county and that:

24        (A) Is made up primarily of lands subject to an exception to statewide planning goals related to  
 25 agricultural lands or forestlands;

26        (B) Either was identified in the acknowledged comprehensive plan of a county as a “rural com-  
 27 munity,” “service center,” “rural center,” “resort community” or similar term before October 28,  
 28 1994, or is listed in the Department of Land Conservation and Development’s “Survey of Oregon  
 29 Unincorporated Communities” (January 30, 1997);

30        (C) Lies outside the urban growth boundary of a city or a metropolitan service district; and

31        (D) Is not incorporated as a city.

32        (c) “Urban reserve area” has the meaning given that term in ORS 195.145.

33        (d) “Urban services” has the meaning given that term in ORS [195.065] **195.060**.

34        (2) When any of the area proposed to be incorporated as a city lies within an urbanized area,  
 35 but outside the urban growth boundary of a city or a metropolitan service district:

36        (a) The area proposed to be incorporated must also be located entirely within a designated rural  
 37 unincorporated community and contiguous lands subject to an exception to statewide planning goals  
 38 related to agricultural lands or forestlands.

39        (b) The petition required by ORS 221.031 must be accompanied by an affidavit, signed by a chief  
 40 petitioner, stating that:

41        (A) Ten percent of the electors registered within the area proposed for incorporation favor the  
 42 incorporation; and

43        (B) The chief petitioners have engaged the neighboring cities in discussions concerning the ef-  
 44 fects of the proposed incorporation, including discussions specifically relating to how those cities  
 45 and the proposed city will allow for expansion of urban growth boundaries and, where applicable,

1 for creation or expansion of urban reserve areas.

2 (c) The economic feasibility statement required by ORS 221.035 must:

3 (A) Indicate that the proposed city must plan for and provide urban services in a cost-effective  
4 manner at the minimum level adequate to meet current needs and projected growth;

5 (B) Contain a proposed permanent rate limit for operating taxes to provide revenues for urban  
6 services; and

7 (C) Indicate that the proposed city must plan for residential development at or above the same  
8 urban density planned for an existing city, within the county, that has a similar geographic area  
9 within the existing city's urban growth boundary or, for a proposed city within three miles of Met-  
10 ro's boundary, a minimum urban residential density in accordance with a statewide planning goal  
11 and rules pertaining to needed housing for cities within Metro's urban growth boundary.

12 (d) If the proposed city will be required to complete a public facility plan and a transportation  
13 systems plan, the proposed city must demonstrate the ability to provide urban services to meet  
14 current needs and projected growth. The proposed city may meet this requirement, in whole or in  
15 part, by establishing an agreement in principle with a city or a district, as defined in ORS 195.060,  
16 to provide the urban services.

17 (3) If the governing body of a neighboring city determines that the proposed incorporation ad-  
18 versely affects that city, the governing body may ask the county court with which the petition for  
19 incorporation was filed to reject the petition and terminate the incorporation proceedings. The ob-  
20 jections by the city to the incorporation shall be heard and considered by the county court at a  
21 public hearing held under ORS 221.040.

22 (4) If, at the hearing held under ORS 221.040, the county court finds that any of the require-  
23 ments of subsection (2) of this section are not met or that the proposed incorporation will adversely  
24 affect a neighboring city, the county court shall provide by order for the termination of the incor-  
25 poration proceedings. The order shall contain the findings of the county court relating to the pro-  
26 posed incorporation and the reasons for terminating the incorporation proceedings.

27 (5) In the manner provided in ORS 197.830 to 197.845, the Land Use Board of Appeals shall re-  
28 view, upon the petition of a party to the incorporation proceedings, the order of the county court  
29 under subsection (4) of this section.

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