

# House Bill 3011

Sponsored by Representative KRUMMEL; Representatives CLEM, C EDWARDS, FLORES, GARRARD, Senator L GEORGE

## 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**.

Repeals authority of city to annex by ordinance, resolution or other method required by charter territory not within city but surrounded by corporate boundaries of city and body of water.

Modifies procedure for city to annex territory made contiguous to city by annexation of public right of way. Defines "contiguous" for purposes of annexation law.

## A BILL FOR AN ACT

1  
2 Relating to annexations by cities; creating new provisions; amending ORS 12.270, 199.487, 199.490,  
3 222.111 and 222.280 and section 3, chapter 737, Oregon Laws 1987, and sections 5, 9 and 11,  
4 chapter 844, Oregon Laws 2005; and repealing ORS 222.750 and sections 6 and 7, chapter 844,  
5 Oregon Laws 2005.

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

7 **SECTION 1. ORS 222.750 is repealed.**

8 **SECTION 2. As used in ORS chapter 222, "contiguous":**

9 (1) **Includes territory that is separated from a city only by a public right of way or a**  
10 **stream, bay, lake or other body of water.**

11 (2) **Does not include territory for which the only point of contact with a city is a public**  
12 **right of way that is within the corporate boundaries of the city.**

13 **SECTION 3. ORS 222.111 is amended to read:**

14 222.111. (1) When a proposal containing the terms of annexation is approved in the manner  
15 provided by the charter of the annexing city or by ORS 222.111 to 222.180 or 222.840 to 222.915, the  
16 **corporate** boundaries of [*any*] a city may be extended by the annexation of territory that is not  
17 within **the corporate boundaries of** a city and that is contiguous to the city [*or separated from it*  
18 *only by a public right of way or a stream, bay, lake or other body of water. Such*]. **The** territory  
19 **proposed to be annexed** may lie either wholly or partially within or without the same county in  
20 which the city lies.

21 (2) A proposal for annexation of territory to a city may be initiated by the legislative body of  
22 the city, on its own motion, or by a petition to the legislative body of the city by owners of real  
23 property in the territory to be annexed.

24 (3) The proposal for annexation may provide that, during each of not more than 10 full fiscal  
25 years beginning with the first fiscal year after the annexation takes effect, the rate of taxation for  
26 city purposes on property in the annexed territory shall be at a specified ratio of the highest rate  
27 of taxation applicable that year for city purposes to other property in the city. The proposal may  
28 provide for the ratio to increase from fiscal year to fiscal year according to a schedule of increase  
29 specified in the proposal[; *but in no case shall the proposal*] **but may not** provide for a rate of tax-  
30 ation for city purposes in the annexed territory [*which will exceed*] **that exceeds** the highest rate

**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 of taxation applicable that year for city purposes to other property in the city. If the annexation  
 2 takes place on the basis of a proposal providing for taxation at a ratio, the city may not tax prop-  
 3 erty in the annexed territory at a rate other than the ratio [*which*] the proposal authorizes for that  
 4 fiscal year.

5 (4) When the territory to be annexed includes a part less than the entire area of a district  
 6 named in ORS 222.510, the proposal for annexation may provide that if annexation of the territory  
 7 occurs the part of the district annexed into the city is withdrawn from the district as of the effective  
 8 date of the annexation. However, if the affected district is a district named in ORS 222.465, the ef-  
 9 fective date of the withdrawal of territory shall be determined as provided in ORS 222.465.

10 (5) The legislative body of the city shall submit, except when not required under ORS 222.120,  
 11 222.170 and 222.840 to 222.915 to do so, the proposal for annexation to the electors of the territory  
 12 proposed for annexation and, except when permitted under ORS 222.120 or 222.840 to 222.915 to  
 13 dispense with submitting the proposal for annexation to the electors of the city, the legislative body  
 14 of the city shall submit [*such*] **the** proposal to the electors of the city. The proposal for annexation  
 15 may be voted upon at a general election or at a special election to be held for that purpose.

16 (6) The proposal for annexation may be voted upon by the electors of the city and of the terri-  
 17 tory simultaneously or at different times not more than 12 months apart.

18 (7) Two or more proposals for annexation of territory may be voted upon simultaneously; how-  
 19 ever, in the city each proposal shall be stated separately on the ballot and voted on separately, and  
 20 in the territory proposed for annexation no proposal for annexing other territory shall appear on the  
 21 ballot.

22 **SECTION 4.** ORS 12.270 is amended to read:

23 12.270. On September 13, 1975, any proceeding that establishes or alters the boundaries of a  
 24 governmental subdivision previously or hereafter initiated and purported to be effected in accord-  
 25 ance with applicable legal requirements shall be conclusively presumed valid for all purposes one  
 26 year after the purported effective date of the action. No direct or collateral attack on the action  
 27 may thereafter be commenced. This statute of limitations includes but is not limited to the following  
 28 proceedings:

- 29 (1) Formations and change of organizations under ORS 198.705 to 198.955.
- 30 (2) Boundary changes under ORS 199.410 to 199.519.
- 31 (3) Consolidations under ORS 199.705 to 199.795.
- 32 (4) Incorporations under ORS 221.010 to 221.090.
- 33 (5) Annexations under ORS 222.111 to 222.180[, 222.750] and 222.840 to 222.915.
- 34 (6) Consolidations under ORS 222.210 to 222.310.
- 35 (7) Withdrawals and transfers of territory under ORS 222.510 to 222.580.
- 36 (8) Mergers under ORS 222.610 to 222.710.
- 37 (9) Formations and changes under ORS chapter 261.
- 38 (10) Alterations, changes, mergers and consolidations under ORS 330.080 to 330.123, 330.505 to  
 39 330.780 (1989 Edition) and 335.490 to 335.505.
- 40 (11) Alterations, changes, mergers and consolidations under ORS chapter 333 commenced before  
 41 July 1, 2003.
- 42 (12) Formations and boundary changes under ORS 341.025 to 341.125 and 341.565 to 341.575.
- 43 (13) Organizations and boundary changes under ORS 545.002 and 545.025 to 545.043, 545.051 to  
 44 545.105, 545.109, 545.123, 545.126 and 545.131.
- 45 (14) Formations and boundary alterations under ORS 547.005 to 547.060 and 547.250 to 547.260.

1 (15) Formations and organizations under ORS chapter 551.

2 **SECTION 5.** ORS 199.487 is amended to read:

3 199.487. (1) Within the jurisdiction of a boundary commission, a minor boundary change pro-  
 4 ceeding may be initiated as provided by ORS 199.490. In addition, a city annexation proceeding may  
 5 be initiated as provided by ORS [222.750 *or*] 222.840 to 222.915. Minor boundary change proceedings  
 6 shall be conducted as provided by this section and ORS 199.490 to 199.534.

7 (2) ORS 222.111 to 222.180, 222.460 and the statutes of the state that govern annexation of ter-  
 8 ritory to, or withdrawal of territory from, districts do not apply in territory subject to the jurisdic-  
 9 tion of a boundary commission. However, a city annexation proposal initiated under ORS 199.490  
 10 may include a tax differential proposal authorized by ORS 222.111 (3). Notwithstanding ORS 199.490  
 11 (2)(b), 222.173 (1), 222.175 or any other requirement for obtaining consent to annexation, a city or  
 12 district may use a consent to annexation contained in contracts authorized by ORS 198.869 or  
 13 222.115 in formulating annexation proposals or petitions under ORS 198.855, 199.490 (2), 222.125 or  
 14 222.170 for properties whose owners have signed such consents to annexation. ORS 222.530 shall not  
 15 apply in territory subject to the jurisdiction of a boundary commission unless the affected territory  
 16 constitutes at least 60 percent of the area and 60 percent of the assessed value of the district.

17 (3) Notwithstanding any charter or statutory provision to the contrary, a final order or a proc-  
 18 lamation of a boundary commission declaring a minor boundary change approved is effective to  
 19 change the boundary of the city or district without the necessity of any further action by the elec-  
 20 tors or the governing body of the city or district.

21 **SECTION 6.** ORS 199.490 is amended to read:

22 199.490. (1) A proceeding for a minor boundary change other than a transfer of territory may  
 23 be initiated:

- 24 (a) By resolution of the governing body of the affected city or district;
- 25 (b) By petition signed by 10 percent of the electors registered in the affected territory;
- 26 (c) By petition signed by the owners of at least one-half the land area in the affected territory;
- 27 (d) By resolution of a boundary commission having jurisdiction of the affected territory; or
- 28 (e) When the minor boundary change is a withdrawal of a city from a district, by resolution of  
 29 the governing body of the city, which shall be an affected city for the purposes of ORS 199.410 to  
 30 199.534.

31 (2)(a)(A) An annexation proceeding may also be initiated by a resolution adopted by the gov-  
 32 erning body of the affected city or district upon receiving consent to annex their land in writing  
 33 from more than half of the owners of land in the territory proposed to be annexed, who also own  
 34 more than half of the land in the territory proposed to be annexed and of real property therein  
 35 representing more than half of the assessed value of all real property in the territory proposed to  
 36 be annexed.

37 (B) A resolution adopted by the governing body of the affected city or district upon receiving  
 38 written consent to annexation from a majority of the electors registered in the territory proposed  
 39 to be annexed and written consent to the annexation of their land from the owners of more than  
 40 half the land in the territory proposed to be annexed.

41 (b) However, before soliciting statements of consent for the purpose of authorizing an  
 42 annexation under a proceeding initiated as provided by this subsection, the governing body of the  
 43 affected city or district shall file a notice of intent to annex with the boundary commission having  
 44 jurisdiction of the affected territory. The notice of intent to annex shall name the affected city or  
 45 district and generally describe the boundaries of the territory sought to be annexed, which territory

1 must be contiguous to the city or district or separated from it only by a public right of way or a  
 2 stream, bay, lake or other body of water. The notice of intent to annex shall have attached to it a  
 3 county assessor’s cadastral map showing the location of the affected territory that the city or dis-  
 4 trict proposes to annex.

5 (c) For the purpose of this subsection, consent need not be obtained for any land in a public  
 6 way included within or contiguous to the territory proposed to be annexed. However, land in such  
 7 a public way shall, as determined by the commission, be considered annexed to the affected city or  
 8 district if the minor boundary change is approved, regardless of the land’s ownership, size or as-  
 9 sessed valuation.

10 (d) For the purpose of this subsection, consent need not be obtained for any real property that  
 11 is publicly owned, is the right of way for a public utility, telecommunications utility or railroad or  
 12 is exempt from ad valorem taxation unless the owner of such property files a statement consenting  
 13 to or opposing annexation with the legislative body of the annexing city or district on or before the  
 14 date the city or district adopts the resolution required by paragraph (a) of this subsection.

15 (e) As used in this subsection, “owner” has the additional meaning given that term in ORS  
 16 222.120 (7).

17 (3) A transfer of territory proceeding may be initiated:

- 18 (a) By joint resolution of the governing bodies of the affected districts or cities;
- 19 (b) By petition signed by 10 percent of the electors registered in the affected territory;
- 20 (c) By petition signed by the owners of at least one-half the land area in the affected territory;

21 or

22 (d) By resolution of a boundary commission having jurisdiction of the affected territory.

23 (4) The petition or resolution shall:

- 24 (a) Name the affected city or district and state whether it is proposed to annex, withdraw or  
 25 transfer territory;
- 26 (b) Describe the boundaries of the affected territory;
- 27 (c) If the proposal concerns a district, designate the applicable principal Act;
- 28 (d) Have attached a county assessor’s cadastral map showing the location of the affected terri-  
 29 tory; and
- 30 (e) Be filed with the boundary commission having jurisdiction of the affected territory.

31 (5) When a city annexation is initiated[:]

32 *[(a) As provided by ORS 222.750 the petition proposing the annexation shall be filed with the*  
 33 *boundary commission having jurisdiction of the annexation.]*

34 *[(b)]* as provided by ORS 222.840 to 222.915, the findings adopted by the Director of Human  
 35 Services under ORS 222.880 shall be considered the initiatory action and a certified copy of the  
 36 findings shall be filed with the boundary commission having jurisdiction of the annexation, at the  
 37 same time a copy of the finding is filed with the affected city.

38 (6) Except when a boundary change is initiated by an affected city or district under subsection  
 39 (1), (2), (3) or (5) of this section or by the Director of Human Services as provided by subsection  
 40 (5)*[(b)]* of this section, the boundary commission shall notify the affected city or district that a pe-  
 41 tition has been filed or that the commission has adopted a resolution. If the petition complies with  
 42 the requirements of the applicable statutes, the commission shall proceed as provided by ORS  
 43 199.460 to 199.463 and 199.490 to 199.519.

44 (7) Unless the parties appearing at a hearing for a minor boundary change or application under  
 45 ORS 199.464 agree to a postponement of the adoption of a final order, a final order approving or

1 disapproving a minor boundary change must be adopted within 90 days after the date the petition,  
 2 resolution or application is filed with the commission. If a final order approving or disapproving a  
 3 minor boundary change is not adopted within 90 days after the petition, resolution or application is  
 4 filed or within the period of postponement, the petition, resolution or application shall be considered  
 5 approved by the commission. A postponement shall not be for a period exceeding one year from the  
 6 date the petition, resolution or application initiating the proposal is filed with the commission.

7 **SECTION 7.** ORS 222.280 is amended to read:

8 222.280. (1) Not later than the 30th day after an election held under ORS 222.250, or after an  
 9 election held under ORS 222.275, if such an election is held, the chief elections officer shall call a  
 10 special election in the consolidated city for the purpose of electing the officers required by the  
 11 charter adopted by the electors. The election shall be held on a date specified in ORS 221.230 that  
 12 is not sooner than the 90th day after the date on which the election is called.

13 (2) The first city officers shall take office on the 10th day following the date on which their  
 14 elections are proclaimed.

15 (3) On the date on which the first city officers take office, or at whatever subsequent time the  
 16 charter of the consolidated city specifies, the city shall be one city, with the rights and privileges  
 17 conferred by its charter adopted under ORS 222.210 to 222.310 and the laws of this state.

18 *[(4) A city incorporated under ORS 222.210 to 222.310 may not exercise the power granted by ORS*  
 19 *222.750 as to land surrounded by the corporate limits or boundaries of the city at the time of incorpo-*  
 20 *ration.]*

21 **SECTION 8.** Section 3, chapter 737, Oregon Laws 1987, as amended by section 14, chapter 516,  
 22 Oregon Laws 1997, is amended to read:

23 **Sec. 3.** (1) Notwithstanding any other provision of law, *[when]* **a city may annex property to**  
 24 **the city only after receiving a petition requesting annexation from the owner of the property,**  
 25 **if the property:**

- 26 (a) Is property on which no electors reside;
- 27 (b) Is zoned for industrial uses;
- 28 (c) Has sewer and water lines paid for and installed by the property owner; and
- 29 (d) Has an assessed valuation, including improvements, of more than \$7 million.

30  
 31 *[that property can only be annexed by or to a city after the city receives a petition requesting*  
 32 *annexation from the owner of the property.]*

33 *[(2) Property described in subsection (1) of this section shall not be included with other territory*  
 34 *as part of an annexation, or annexed under ORS 222.750, unless the owner of the property consents to*  
 35 *the annexation in the form of a petition for annexation.]*

36 *[(3)]* (2) This section applies to property that, on September 27, 1987, was within the jurisdiction  
 37 of a local government boundary commission.

38 **SECTION 9.** Section 5, chapter 844, Oregon Laws 2005, is amended to read:

39 **Sec. 5.** (1) Notwithstanding any provision of ORS 195.205 to 195.225, 199.410 to 199.534, 222.111  
 40 to 222.180, 222.750 and 222.840 to 222.915, property described in subsection (2) or (3) of this section  
 41 may not be annexed by or to a city unless the city receives consent to the annexation from the  
 42 owner of the property in the form of a petition for annexation.

43 (2) Property for which annexation is limited by subsection (1) of this section is property:

- 44 (a) That is composed of one or more lots, parcels or tracts that:
- 45 (A) Are owned by the same individual or entity, including an affiliate or subsidiary of the entity;

1 (B) Are contiguous or are separated from each other only by a public right of way, a stream, a  
 2 bay, a lake or another body of water; and

3 (C) Together comprise at least 150 acres;

4 (b) On which no electors reside;

5 (c) That was zoned for industrial, employment or transit-oriented employment uses on December  
 6 31, 2004;

7 (d) That has private, on-premises security services; and

8 (e) That has an assessed valuation, including improvements, of more than \$12 million.

9 (3) Subsection (1) of this section applies to a lot, parcel or tract that is owned by the same in-  
 10 dividual or entity, including an affiliate or a subsidiary of the entity, that owns the property de-  
 11 scribed in subsection (2)(a) of this section if the lot, parcel or tract:

12 (a) Is within two miles of the property described in subsection (2)(a) of this section; and

13 (b) Contains 10 or more acres that are contiguous or separated from each other only by a public  
 14 right of way, a stream, a bay, a lake or another body of water.

15 (4) A city may not obtain approval of an owner for annexation under this section by requiring  
 16 or requesting that the owner waive remonstrance or agree to annexation in order to receive utility  
 17 service or other city services located in the city right of way at the same price the city charges an  
 18 owner of similar property that is within the city.

19 **SECTION 10.** Section 9, chapter 844, Oregon Laws 2005, is amended to read:

20 **Sec. 9.** (1) Section 3, **chapter 844, Oregon Laws 2005**, [of this 2005 Act] applies to an election  
 21 conducted on or after [the effective date of this 2005 Act] **September 2, 2005**, and before January 2,  
 22 2008.

23 (2) [Sections 5, 6 and 7 of this 2005 Act apply] **Section 5, chapter 844, Oregon Laws 2005, ap-**  
 24 **plies** to an annexation of territory approved on or after March 1, 2005, and to an annexation of  
 25 territory proposed on or after [the effective date of this 2005 Act] **September 2, 2005**.

26 **SECTION 11.** Section 11, chapter 844, Oregon Laws 2005, is amended to read:

27 **Sec. 11.** (1) [Sections 5, 6 and 7 of this 2005 Act are] **Section 5, chapter 844, Oregon Laws**  
 28 **2005, is** repealed on June 30, 2035.

29 (2) Notwithstanding subsection (1) of this section, unless this section is amended, [sections 5 and  
 30 6 of this 2005 Act are] **section 5, chapter 844, Oregon Laws 2005, is** repealed five years after June  
 31 30, 2035.

32 **SECTION 12.** Sections 6 and 7, chapter 844, Oregon Laws 2005, are repealed.

33 **SECTION 13.** (1) The repeal of ORS 222.750 by section 1 of this 2007 Act and the amend-  
 34 ments to ORS 222.111 by section 3 of this 2007 Act apply to:

35 (a) A proposed annexation that has not been declared approved by ordinance, resolution  
 36 or other method required by a charter before the effective date of this 2007 Act; and

37 (b) A proposed incorporation of territory that has not actually completed incorporation  
 38 before the effective date of this 2007 Act.

39 (2) Section 2 of this 2007 Act applies to a proposed annexation or consolidation of terri-  
 40 tories that has not been declared approved by ordinance, resolution or other method required  
 41 by a charter before the effective date of this 2007 Act.