

Enrolled
House Bill 3013

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

CHAPTER

AN ACT

Relating to incorporation of city; creating new provisions; and amending ORS 221.031, 221.035 and 221.040.

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

SECTION 1. (1) ORS 221.034 and 221.036 are added to and made a part of ORS 221.031 to 221.061.

(2) Section 2 of this 2007 Act is added to and made a part of ORS 221.031 to 221.061.

SECTION 2. After a person files a petition for incorporation under ORS 221.031, a city or district may not commence annexation proceedings for any part of the area that is included in the boundaries of the area proposed to be incorporated until after a county court removes that part of the area from within the boundaries of the proposed city or the later of the following:

(1) The county court rejects the petition; or

(2) The voters do not approve the question of incorporation at an election called by the county court.

SECTION 3. ORS 221.031 is amended to read:

221.031. (1) Before circulating a petition to incorporate unincorporated territory as a city, the petitioners shall file a **petition for incorporation in a form prescribed by rule of the Secretary of State** with:

(a) The county clerk of the county in which the proposed city lies; or[, *should it lie*]

(b) **If the proposed city lies** in more than one county, [to] the county clerk of the county in which the largest part of its territory lies. [, *a petition for incorporation in a form prescribed by rule of the Secretary of State. If the economic feasibility statement required by ORS 221.035 is submitted with the petition,*]

(2) The county clerk shall immediately date and time stamp the prospective petition and shall authorize the circulation of the petition **when the economic feasibility statement required by ORS 221.035 is filed with the county clerk.** The county clerk shall retain the prospective petition and economic feasibility statement and shall immediately send two copies of the prospective petition to the appropriate county court.

[2] (3) A petition for incorporation filed with the county clerk under subsection (1) of this section shall designate the name and residence address of not more than three persons as chief petitioners, who shall be electors registered within the boundaries of the proposed city. The petition shall contain the name of the proposed city. The petition shall also include a proposed permanent rate limit for operating taxes that would generate operating tax revenues sufficient to support an

adequate level of municipal services. The tax rate limit shall be expressed in dollars per thousand dollars of assessed value. The tax rate limit shall be calculated for the latest tax year for which the assessed value of the proposed city is available. There shall be attached to the cover sheet of the petition a map indicating the exterior boundaries of the proposed city. The map shall not exceed 14 inches by 17 inches in size and shall be used in lieu of a metes and bounds or legal description of the proposed city. If the territory proposed to be incorporated is within the jurisdiction of a local government boundary commission, the petition shall be accompanied by the economic feasibility analysis required under ORS 199.476 (1). Notwithstanding subsection [(1)] (2) of this section, unless the economic feasibility analysis is approved by the local government boundary commission as provided in ORS 199.522, the county clerk shall not authorize the circulation of the petition.

[(3)] (4) Each sheet of signatures shall be attached to a full and correct copy of the petition for incorporation. Not more than 20 signatures on each sheet of the petition for incorporation shall be counted. The circulator shall certify on each signature sheet that the individuals signed the sheet in the presence of the circulator and that the circulator believes each individual is an elector registered in the county. If the territory proposed to be incorporated is within the jurisdiction of a local government boundary commission, each signature sheet shall contain a statement that the economic feasibility analysis for the proposed city was approved by the boundary commission, that the analysis is available for inspection at the offices of the boundary commission and that subsequent to the gathering of the petitions the boundary commission must review and finally approve the proposal prior to submission at an election.

SECTION 4. ORS 221.035 is amended to read:

221.035. (1) If a person intends to file a petition for incorporation under ORS 221.031 (1), the person may file a notice of intent to prepare an economic feasibility statement with the county clerk of the county in which the proposed city lies or, should it lie in more than one county, with the county clerk of the county in which the largest part of its territory lies.

(2) When a petition for incorporation is filed under ORS 221.031 (1), an economic feasibility statement concerning the proposed city described in the petition shall also be filed with the county clerk. The economic feasibility statement shall be prepared by the persons designated as the chief petitioners and shall form the basis for the proposed permanent rate limit for operating taxes required by ORS 221.031 [(2)] (3). The economic feasibility statement shall contain:

- (a) A description of the services and functions to be performed or provided by the proposed city;
- (b) An analysis of the relationship between those services and functions and other existing or needed government services; and
- (c) Proposed first and third year budgets for the new city demonstrating its economic feasibility.

SECTION 5. ORS 221.040 is amended to read:

221.040. (1) When a petition for incorporation described in ORS 221.031 is signed by 20 percent or, in a county with a population over 300,000, by 10 percent, of the electors registered in the area proposed to be incorporated, the petition shall be filed with the county court of the county in which the proposed petition was filed under ORS 221.031. A petition shall not be accepted for filing unless all the signatures on the petition were obtained within the six-month period immediately following the date on which the petitions were filed under ORS 221.031. Upon the filing of the petition, the county court shall fix the time and place for the hearing of such petition and shall give notice thereof by publication once each week for two successive weeks in a newspaper published in the county where the petition is filed and of general circulation within the boundaries, and by posting the notice for the same period of time in three public places in the area proposed to be incorporated. The notice shall state the time and place of the hearing, describe the boundaries set forth in the petition and state the purpose of the petition. If any portion of the proposed incorporation of a city lies within another county or counties, then the notice shall be published in a newspaper of general circulation in each of the counties and in the same time and manner.

(2) At the time and place fixed for the hearing, or at any time and place at which the hearing may be continued or postponed, any person interested may appear and present oral or written objections to the granting of the petition, the forming of the proposed incorporated city or the esti-

mated rate of taxation set forth in the petition. The court may alter the boundaries as set forth in the petition to include all territory which may be benefited by being included within the boundaries of the proposed incorporated city, but shall not modify boundaries so as to exclude any land which would be benefited by the formation of the proposed city. No land shall be included in the proposed city which will not, in the judgment of the court, be benefited. If the court determines that any land has been improperly omitted from the proposed city and the owner has not appeared at the hearing, it shall continue the hearing and shall order notice given to the nonappearing owner requiring the owner to appear before it and show cause, if any the owner has, why the owner's land should not be included in the proposed city. The notice shall be given by publication and posting in the same manner as the original notice for hearing and for the same period. For the purposes of this subsection, "owner" means the legal owner of record except that if there is a vendee under a duly recorded contract, the vendee shall be deemed to be the owner.

(3) Upon the final hearing of the petition, the court, if it approves the petition as originally presented or in an altered form, shall provide by order for the holding of an election relating to the incorporation of the proposed city. The order calling the election shall fix the date of the election on the date of the next primary election or general election that is not sooner than the 90th day after the date of the order. The order shall contain:

(a) A description of the exterior boundaries of the proposed city as determined by the court. The description shall be a metes and bounds or legal description prepared by the county surveyor or county assessor. The description prepared under this paragraph shall accurately describe the exterior boundaries of the proposed city as indicated on the map filed under ORS 221.031 [(2)] (3) unless those boundaries were altered by the county court, in which case the description shall accurately describe the boundaries as altered;

(b) A provision requiring the county official in charge of elections to include on the ballot for the election a description of the boundaries of the proposed city using streets and other generally recognized features and a statement of the proposed permanent rate limit for operating taxes included in the petition for incorporation of the proposed city as required by ORS 221.031, which statement shall comply with the requirements of ORS 250.035; and

(c) The date on which the election will be held in the proposed city.

Passed by House May 3, 2007

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 Chief Clerk of House

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 Speaker of House

Passed by Senate May 24, 2007

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 President of Senate

Received by Governor:

.....M.,....., 2007

Approved:

.....M.,....., 2007

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 Governor

Filed in Office of Secretary of State:

.....M.,....., 2007

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 Secretary of State