

House Bill 3409

Sponsored by Representative GALIZIO (at the request of Gretchen Buehner, Councilor, City of Tigard)

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**.

Modifies contents required in economic feasibility statement submitted by petitioners seeking to incorporate city.

A BILL FOR AN ACT

1
2 Relating to incorporation of city; creating new provisions; and amending ORS 221.034, 221.035 and
3 222.225.

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

5 **SECTION 1.** ORS 221.034 is amended to read:

6 221.034. (1) As used in this section:

7 (a) "Neighboring city" means a city that has any part of its territory situated within three miles
8 of the area proposed to be incorporated.

9 (b) "Rural unincorporated community" means a settlement with a boundary identified in an ac-
10 knowledged comprehensive plan of a county and that:

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

13 (B) Either was identified in the acknowledged comprehensive plan of a county as a "rural com-
14 munity," "service center," "rural center," "resort community" or similar term before October 28,
15 1994, or is listed in the Department of Land Conservation and Development's "Survey of Oregon
16 Unincorporated Communities" (January 30, 1997);

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

18 (D) Is not incorporated as a city.

19 (c) "Urban reserve area" has the meaning given that term in ORS 195.145.

20 (d) "Urban services" has the meaning given that term in ORS 195.065.

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

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

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

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

30 (B) The chief petitioners have engaged the neighboring cities in discussions concerning the ef-
31 fects of the proposed incorporation, including discussions specifically relating to how those cities

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 and the proposed city will allow for expansion of urban growth boundaries and, where applicable,
 2 for creation or expansion of urban reserve areas.

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

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

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

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

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

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

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

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

31 **SECTION 2.** ORS 221.035 is amended to read:

32 221.035. (1) If a person intends to file a petition for incorporation under ORS 221.031 (1), the
 33 person may file a notice of intent to prepare an economic feasibility statement with the county clerk
 34 of the county in which the proposed city lies or, should it lie in more than one county, with the
 35 county clerk of the county in which the largest part of its territory lies.

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

41 (a) A description of the services and functions to be performed or provided by the proposed city;

42 (b) An analysis of the relationship between those services and functions and other existing or
 43 needed government services; *[and]*

44 (c) Proposed first and third year budgets for the new city demonstrating its economic
 45 feasibility; **and**

1 **(d) A capital construction budget that demonstrates how the proposed city will provide**
2 **for urban services, as defined in ORS 195.065, at or above the minimum level adequate to**
3 **meet current needs and projected growth. The proposed city may meet this requirement, in**
4 **whole or in part, by establishing an agreement in principle with a city or a district, as defined**
5 **in ORS 195.060, to provide the urban services.**

6 **SECTION 3.** ORS 222.225 is amended to read:

7 222.225. When a petition to create a city under ORS 222.210 to 222.310 is filed with the clerk
8 or recorder of a city under ORS 222.230, an economic feasibility statement concerning the proposed
9 city described in the petition shall also be filed with the clerk or recorder. The economic feasibility
10 statement shall be prepared by the petitioners and, if applicable, shall form the basis for the pro-
11 posed permanent rate limit for operating taxes required by ORS 222.230 (2). The economic feasibility
12 statement shall contain:

13 (1) A description of the services and functions to be performed or provided by the proposed city;

14 (2) An analysis of the relationship between those services and functions and other existing or
15 needed government services; [*and*]

16 (3) A proposed first year line item operation budget and a projected third year line item oper-
17 ating budget for the new city that demonstrate its economic feasibility; **and**

18 **(4) A capital construction budget that demonstrates how the proposed city will provide**
19 **for urban services, as defined in ORS 195.065, at or above the minimum level adequate to**
20 **meet current needs and projected growth. The proposed city may meet this requirement, in**
21 **whole or in part, by establishing an agreement in principle with a city or a district, as defined**
22 **in ORS 195.060, to provide the urban services.**

23 **SECTION 4.** The amendments to ORS 221.034, 221.035 and 222.225 by sections 1 to 3 of this
24 **2007 Act apply to an incorporation of a city for which the petition for incorporation is filed**
25 **with the county clerk on or after the effective date of this 2007 Act.**

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