

House Bill 3412

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**.

Authorizes neighboring city to veto incorporation of proposed city that would be situated within three miles of neighboring city.

A BILL FOR AN ACT

1
2 Relating to incorporation of city; creating new provisions; and amending ORS 221.031 and 221.034.

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

4 **SECTION 1.** ORS 221.031 is amended to read:

5 221.031. (1) Before circulating a petition to incorporate unincorporated territory as a city, the
6 petitioners shall file with the county clerk of the county in which the proposed city lies or, should
7 it lie in more than one county, to the county clerk of the county in which the largest part of its
8 territory lies, a petition for incorporation in a form prescribed by rule of the Secretary of State. If
9 the economic feasibility statement required by ORS 221.035 is submitted with the petition, the
10 county clerk shall immediately date and time stamp the prospective petition and shall authorize the
11 circulation of the petition. The county clerk shall retain the prospective petition and economic fea-
12 sibility statement and shall immediately send two copies of the prospective petition to the appro-
13 priate county court.

14 (2) A petition for incorporation filed with the county clerk under subsection (1) of this section
15 shall designate the name and residence address of not more than three persons as chief petitioners,
16 who shall be electors registered within the boundaries of the proposed city. The petition shall con-
17 tain the name of the proposed city. The petition shall also include a proposed permanent rate limit
18 for operating taxes that would generate operating tax revenues sufficient to support an adequate
19 level of municipal services. The tax rate limit shall be expressed in dollars per thousand dollars of
20 assessed value. The tax rate limit shall be calculated for the latest tax year for which the assessed
21 value of the proposed city is available. There shall be attached to the cover sheet of the petition a
22 map indicating the exterior boundaries of the proposed city. The map shall not exceed 14 inches by
23 17 inches in size and shall be used in lieu of a metes and bounds or legal description of the proposed
24 city. If the territory proposed to be incorporated is within the jurisdiction of a local government
25 boundary commission, the petition shall be accompanied by the economic feasibility analysis re-
26 quired under ORS 199.476 (1). Notwithstanding subsection (1) of this section, unless the economic
27 feasibility analysis is approved by the local government boundary commission as provided in ORS
28 199.522, the county clerk shall not authorize the circulation of the petition.

29 (3) Each sheet of signatures shall be attached to a full and correct copy of the petition for in-
30 corporation. Not more than 20 signatures on each sheet of the petition for incorporation shall be
31 counted. The circulator shall certify on each signature sheet that the individuals signed the sheet

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 in the presence of the circulator and that the circulator believes each individual is an elector reg-
 2 istered in the county. If the territory proposed to be incorporated is within the jurisdiction of a local
 3 government boundary commission, each signature sheet shall contain a statement that the economic
 4 feasibility analysis for the proposed city was approved by the boundary commission, that the anal-
 5 ysis is available for inspection at the offices of the boundary commission and that subsequent to the
 6 gathering of the petitions the boundary commission must review and finally approve the proposal
 7 prior to submission at an election.

8 **(4) When any of the area proposed to be incorporated lies within an urbanized area, the**
 9 **petition required by subsections (1) and (2) of this section, in addition to the requirements**
 10 **of those subsections and in order to be sufficient to allow for calling a public hearing under**
 11 **ORS 221.040, must:**

12 **(a) Be accompanied by a resolution approving the proposed incorporation adopted by the**
 13 **city or cities whose proximity would otherwise prohibit incorporation; or**

14 **(b) Be accompanied by an affidavit, signed by an individual requesting incorporation,**
 15 **stating that the city or cities whose proximity would otherwise prohibit incorporation have**
 16 **failed to take action pursuant to the request within 120 days of its submission.**

17 **SECTION 2.** ORS 221.034 is amended to read:

18 221.034. (1) As used in this section:

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

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

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

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

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

30 (D) Is not incorporated as a city.

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

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

33 (2) **Notwithstanding ORS 221.031 (4)**, when any of the area proposed to be incorporated as a
 34 city lies within an urbanized area, but outside the urban growth boundary of a city or a metropol-
 35 itan 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.

30 **SECTION 3. The amendments to ORS 221.031 and 221.034 by sections 1 and 2 of this 2007**
31 **Act apply to an incorporation of a city for which the petition for incorporation is filed with**
32 **the county clerk on or after the effective date of this 2007 Act.**