

Senate Bill 308

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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 meaning of "owner" and "landowner" for purposes of certain annexations of territory.

A BILL FOR AN ACT

1
2 Relating to annexation without election; creating new provisions; and amending ORS 199.490 and
3 222.120.

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

5 **SECTION 1. (1) As used in this section and ORS 222.120, 222.125 and 222.170, "owner" or**
6 **"landowner" means the legal owner of record of land or, when there is a recorded land con-**
7 **tract in force, the purchaser under the land contract unless the legal owner or purchaser is**
8 **a state or local road authority, as defined in ORS 801.445, whose sole ownership interest in**
9 **the territory proposed to be annexed is ownership or an interest in a public roadway located**
10 **within or adjacent to the territory proposed to be annexed.**

11 **(2) If multiple persons share ownership of a lot or parcel of land, the consent or non-**
12 **consent of each owner is counted as a fraction to the same extent as the interest of the**
13 **owner in the land bears in relation to the interest of the other owners and the same fraction**
14 **is applied to the parcel's land mass and assessed value for purposes of the consent petition.**
15 **If a corporation owns land in territory proposed to be annexed, the corporation is considered**
16 **the individual owner of that land.**

17 **SECTION 2. ORS 222.120 is amended to read:**

18 222.120. (1) Except when expressly required to do so by the city charter, the legislative body
19 of a city is not required to submit a proposal for annexation of territory to the electors of the city
20 for their approval or rejection.

21 (2) When the legislative body of the city elects to dispense with submitting the question of the
22 proposed annexation to the electors of the city, the legislative body of the city shall fix a day for
23 a public hearing before the legislative body at which time the electors of the city may appear and
24 be heard on the question of annexation.

25 (3) The city legislative body shall cause notice of the hearing to be published once each week
26 for two successive weeks prior to the day of hearing, in a newspaper of general circulation in the
27 city, and shall cause notices of the hearing to be posted in four public places in the city for a like
28 period.

29 (4) After the hearing, the city legislative body may, by an ordinance containing a legal de-
30 scription of the territory in question:

31 (a) Declare that the territory is annexed to the city upon the condition that the majority of the

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 votes cast in the territory is in favor of annexation;

2 (b) Declare that the territory is annexed to the city where electors or landowners in the con-
 3 tiguous territory consented in writing to such annexation, as provided in ORS 222.125 or 222.170,
 4 prior to the public hearing held under subsection (2) of this section; or

5 (c) Declare that the territory is annexed to the city where the Department of Human Services,
 6 prior to the public hearing held under subsection (1) of this section, has issued a finding that a
 7 danger to public health exists because of conditions within the territory as provided by ORS 222.840
 8 to 222.915.

9 (5) If the territory described in the ordinance issued under subsection (4) of this section is a part
 10 less than the entire area of a district named in ORS 222.510, the ordinance may also declare that
 11 the territory is withdrawn from the district on the effective date of the annexation or on any sub-
 12 sequent date specified in the ordinance. However, if the affected district is a district named in ORS
 13 222.465, the effective date of the withdrawal of territory shall be determined as provided in ORS
 14 222.465.

15 (6) The ordinance referred to in subsection (4) of this section is subject to referendum.

16 *[(7) For the purpose of this section, ORS 222.125 and 222.170, "owner" or "landowner" means the*
 17 *legal owner of record or, where there is a recorded land contract which is in force, the purchaser*
 18 *thereunder. If there is a multiple ownership in a parcel of land each consenting owner shall be counted*
 19 *as a fraction to the same extent as the interest of the owner in the land bears in relation to the interest*
 20 *of the other owners and the same fraction shall be applied to the parcel's land mass and assessed value*
 21 *for purposes of the consent petition. If a corporation owns land in territory proposed to be annexed, the*
 22 *corporation shall be considered the individual owner of that land.]*

23 **SECTION 3.** ORS 199.490 is amended to read:

24 199.490. (1) A proceeding for a minor boundary change other than a transfer of territory may
 25 be initiated:

26 (a) By resolution of the governing body of the affected city or district;

27 (b) By petition signed by 10 percent of the electors registered in the affected territory;

28 (c) By petition signed by the owners of at least one-half the land area in the affected territory;

29 (d) By resolution of a boundary commission having jurisdiction of the affected territory; or

30 (e) When the minor boundary change is a withdrawal of a city from a district, by resolution of
 31 the governing body of the city, which shall be an affected city for the purposes of ORS 199.410 to
 32 199.534.

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

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

43 (b) However, before soliciting statements of consent for the purpose of authorizing an
 44 annexation under a proceeding initiated as provided by this subsection, the governing body of the
 45 affected city or district shall file a notice of intent to annex with the boundary commission having

1 jurisdiction of the affected territory. The notice of intent to annex shall name the affected city or
 2 district and generally describe the boundaries of the territory sought to be annexed, which territory
 3 must be contiguous to the city or district or separated from it only by a public right of way or a
 4 stream, bay, lake or other body of water. The notice of intent to annex shall have attached to it a
 5 county assessor's cadastral map showing the location of the affected territory that the city or dis-
 6 trict proposes to annex.

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

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

17 (e) As used in this subsection, "owner" has the additional meaning given that term in [ORS
 18 222.120 (7)] **section 1 of this 2007 Act.**

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

20 (a) By joint resolution of the governing bodies of the affected districts or cities;

21 (b) By petition signed by 10 percent of the electors registered in the affected territory;

22 (c) By petition signed by the owners of at least one-half the land area in the affected territory;

23 or

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

25 (4) The petition or resolution shall:

26 (a) Name the affected city or district and state whether it is proposed to annex, withdraw or
 27 transfer territory;

28 (b) Describe the boundaries of the affected territory;

29 (c) If the proposal concerns a district, designate the applicable principal Act;

30 (d) Have attached a county assessor's cadastral map showing the location of the affected terri-
 31 tory; and

32 (e) Be filed with the boundary commission having jurisdiction of the affected territory.

33 (5) When a city annexation is initiated:

34 (a) As provided by ORS 222.750 the petition proposing the annexation shall be filed with the
 35 boundary commission having jurisdiction of the annexation.

36 (b) As provided by ORS 222.840 to 222.915, the findings adopted by the Director of Human Ser-
 37 vices under ORS 222.880 shall be considered the initiatory action and a certified copy of the findings
 38 shall be filed with the boundary commission having jurisdiction of the annexation, at the same time
 39 a copy of the finding is filed with the affected city.

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

1 (7) Unless the parties appearing at a hearing for a minor boundary change or application under
2 ORS 199.464 agree to a postponement of the adoption of a final order, a final order approving or
3 disapproving a minor boundary change must be adopted within 90 days after the date the petition,
4 resolution or application is filed with the commission. If a final order approving or disapproving a
5 minor boundary change is not adopted within 90 days after the petition, resolution or application is
6 filed or within the period of postponement, the petition, resolution or application shall be considered
7 approved by the commission. A postponement shall not be for a period exceeding one year from the
8 date the petition, resolution or application initiating the proposal is filed with the commission.

9 **SECTION 4. The amendments to ORS 222.120 by section 2 of this 2007 Act apply to an**
10 **annexation proposal for which the first notice of hearing required in ORS 222.120 is published**
11 **and posted on or after the effective date of this 2007 Act.**

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