

Enrolled Senate Bill 417

Sponsored by Senator WALKER, Representatives BARNHART, C EDWARDS

CHAPTER

AN ACT

Relating to boundary commissions; creating new provisions; amending ORS 183.315, 183.635, 199.430, 199.432, 199.457, 267.207 and 267.263; repealing ORS 199.425, 199.458 and 199.459; and appropriating money.

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

SECTION 1. (1) The local government boundary commission having jurisdiction in Lane County is abolished. On the operative date of this section, the tenure of office of the members of the commission and of any advisory committee appointed by the commission ceases.

(2) All the duties, functions and powers of the commission are abolished.

SECTION 2. (1) The members of the local government boundary commission having jurisdiction in Lane County shall:

(a) Deliver to the State Archivist all records within the jurisdiction of the commission that relate to the duties, functions and powers abolished by section 1 of this 2007 Act except as provided in section 4 of this 2007 Act; and

(b) Terminate those employees engaged primarily in the exercise of the duties, functions and powers abolished by section 1 of this 2007 Act.

(2) The State Archivist shall take possession of the records described in subsection (1)(a) of this section for archival purposes.

(3) The Governor shall resolve any dispute between the commission and the State Archivist relating to transfers of records.

SECTION 3. (1) The Lane County Local Government Boundary Commission Fund is abolished.

(2) The unexpended moneys in the fund and the unexpended balances of amounts authorized to be expended by the local government boundary commission having jurisdiction in Lane County for the biennium beginning July 1, 2007, from revenues dedicated, continuously appropriated, appropriated or otherwise made available for the purpose of administering and enforcing the duties, functions and powers abolished by section 1 of this 2007 Act are appropriated and transferred to Lane County for:

(a) Payment of costs incurred in relation to an action, proceeding or prosecution described in section 4 of this 2007 Act or a liability, duty or obligation described in section 5 of this 2007 Act; and

(b) Equitable distribution to local governments, as defined in ORS 174.116, within Lane County in the manner in which service charges were assessed and collected from cities, counties and districts within the jurisdiction of the local government boundary commission,

for the purpose of paying the costs of those local governments that are associated with future boundary changes.

(3) If the unexpended moneys described in subsection (2) of this section are not adequate to make the payments required by subsection (2)(a) of this section, Lane County may assess and collect charges from cities, counties and districts within the jurisdiction of the local government boundary commission in the manner described in ORS 199.457 to make the payments.

(4) The expenditure classifications, if any, established by Acts authorizing or limiting expenditures by the commission remain applicable to expenditures by a local government in Lane County.

SECTION 4. (1) The abolishment of the duties, functions and powers of the local government boundary commission having jurisdiction in Lane County by section 1 of this 2007 Act does not affect any action, proceeding or prosecution involving or with respect to those duties, functions and powers begun before and pending at the time of abolishment, except that:

(a) The appropriate city is substituted for the commission in an action, proceeding or prosecution relating to a change in the boundary of that city; and

(b) Lane County is substituted for the commission in all other actions, proceedings or prosecutions.

(2) The members of the commission shall deliver to:

(a) The appropriate city within Lane County all records and property within the jurisdiction of the commission that relate to a pending action, proceeding or prosecution relating to a change in the boundary of that city; and

(b) Lane County all other records and property within the jurisdiction of the commission that relate to a pending action, proceeding or prosecution.

(3) The commission shall dispose of or deliver all other property, or proceeds of the disposal of the property, to Lane County.

SECTION 5. (1) Nothing in sections 1 to 6 of this 2007 Act, the amendments to ORS 183.315, 183.635, 199.430, 199.432, 199.457, 267.207 and 267.263 by sections 8 to 14 of this 2007 Act and the repeal of ORS 199.425, 199.458 and 199.459 by section 15 of this 2007 Act relieves a person of a liability, duty or obligation accruing under or with respect to the duties, functions and powers abolished by section 1 of this 2007 Act. Lane County may undertake the collection or enforcement of the liabilities, duties or obligations.

(2) The rights and obligations of the local government boundary commission having jurisdiction in Lane County legally incurred under contracts, leases and business transactions executed, entered into or begun before the operative date of section 1 of this 2007 Act are transferred to Lane County. For the purpose of succession to these rights and obligations, Lane County is a continuation of the commission and not a new authority.

SECTION 6. Whenever, in an uncodified law or resolution of the Legislative Assembly or in a rule, document, record or proceeding authorized by the Legislative Assembly, reference is made to the local government boundary commission having jurisdiction in Lane County or a member or employee of the commission, the reference is considered to be, as appropriate, a reference to Lane County or an officer or employee of Lane County, or a city within Lane County or an officer or employee of the city.

SECTION 7. On and after January 2, 2008, a boundary change, as defined in ORS 199.415, must be processed as provided in the appropriate provisions of ORS chapters 195, 198, 221 or 222.

SECTION 8. ORS 183.315 is amended to read:

183.315. (1) The provisions of ORS 183.410, 183.415, 183.425, 183.440, 183.450, 183.452, 183.458, 183.460, 183.470 and 183.480 do not apply to local government boundary commissions created pursuant to ORS [199.425 or] 199.430, the Department of Revenue, State Accident Insurance Fund Corporation, Department of Consumer and Business Services with respect to its functions under ORS

chapters 654 and 656, Psychiatric Security Review Board or State Board of Parole and Post-Prison Supervision.

(2) This chapter does not apply with respect to actions of the Governor authorized under ORS chapter 240 and ORS 396.125 or actions of the Adjutant General authorized under ORS 396.160 (14).

(3) The provisions of ORS 183.410, 183.415, 183.425, 183.440, 183.450, 183.452, 183.458 and 183.460 do not apply to the Employment Appeals Board or the Employment Department.

(4) The Employment Department shall be exempt from the provisions of this chapter to the extent that a formal finding of the United States Secretary of Labor is made that such provision conflicts with the terms of the federal law, acceptance of which by the state is a condition precedent to continued certification by the United States Secretary of Labor of the state's law.

(5) The provisions of ORS 183.415 to 183.430, 183.440 to 183.460, 183.470 to 183.485 and 183.490 to 183.500 do not apply to orders issued to persons who:

(a) Have been committed pursuant to ORS 137.124 to the custody of the Department of Corrections or are otherwise confined in a Department of Corrections facility; or

(b) Seek to visit an inmate confined in a Department of Corrections facility.

(6) ORS 183.410, 183.415, 183.425, 183.440, 183.450, 183.460, 183.470 and 183.482 (3) do not apply to the Public Utility Commission. Notwithstanding ORS 183.480 and except as provided in ORS 757.495 and 759.390, only a party to a hearing before the Public Utility Commission is entitled to seek judicial review of an order of the commission.

(7) The provisions of this chapter do not apply to the suspension, cancellation or termination of an apprenticeship or training agreement under ORS 660.060.

(8) The provisions of ORS 183.413 to 183.497 do not apply to administrative proceedings conducted under rules adopted by the Secretary of State under ORS 246.190.

SECTION 9. ORS 183.635 is amended to read:

183.635. (1) Except as provided in this section, all agencies must use administrative law judges assigned from the Office of Administrative Hearings established under ORS 183.605 to conduct contested case hearings, without regard to whether those hearings are subject to the procedural requirements for contested case hearings.

(2) The following agencies need not use administrative law judges assigned from the office:

(a) Attorney General.

(b) Boards of stewards appointed by the Oregon Racing Commission.

(c) Bureau of Labor and Industries and the Commissioner of the Bureau of Labor and Industries.

(d) Department of Corrections.

(e) Department of Education, State Board of Education and Superintendent of Public Instruction.

(f) Department of Higher Education and institutions of higher education listed in ORS 352.002.

(g) Department of Human Services for vocational rehabilitation services cases under 29 U.S.C. 722(c) and disability determination cases under 42 U.S.C. 405.

(h) Department of Revenue.

(i) Department of State Police.

(j) Employment Appeals Board.

(k) Employment Relations Board.

(L) Energy Facility Siting Council.

(m) Fair Dismissal Appeals Board.

(n) Governor.

(o) Land Conservation and Development Commission.

(p) Land Use Board of Appeals.

(q) Local government boundary commissions created pursuant to ORS [199.425 or] 199.430.

(r) Oregon Youth Authority.

(s) Psychiatric Security Review Board.

(t) Public Utility Commission.

(u) Secretary of State.

(v) State Accident Insurance Fund Corporation.

- (w) State Apprenticeship and Training Council.
- (x) State Board of Parole and Post-Prison Supervision.
- (y) State Land Board.
- (z) State Treasurer.
- (aa) Wage and Hour Commission.

(3) The Workers' Compensation Board is exempt from using administrative law judges assigned from the office for any hearing conducted by the board under ORS chapters 147, 654 and 656. Except as specifically provided in this subsection, the Department of Consumer and Business Services must use administrative law judges assigned from the office only for contested cases arising out of the department's powers and duties under:

- (a) ORS chapter 59;
- (b) ORS 200.005 to 200.075;
- (c) ORS chapter 455;
- (d) ORS chapter 674;
- (e) ORS chapters 706 to 716;
- (f) ORS chapter 717;
- (g) ORS chapters 722, 723, 725 and 726; and
- (h) ORS chapters 731, 732, 733, 734, 735, 737, 742, 743, 744, 746, 748 and 750.

(4) Notwithstanding any other provision of law, in any proceeding in which an agency is required to use an administrative law judge assigned from the office, an officer or employee of the agency may not conduct the hearing on behalf of the agency.

(5) Notwithstanding any other provision of ORS 183.600 to 183.690, an agency is not required to use an administrative law judge assigned from the office if:

- (a) Federal law requires that a different administrative law judge or hearing officer be used; or
- (b) Use of an administrative law judge from the office could result in a loss of federal funds.

(6) Notwithstanding any other provision of this section, the Department of Environmental Quality must use administrative law judges assigned from the office only for contested case hearings conducted under the provisions of ORS 183.413 to 183.470.

SECTION 10. ORS 199.430 is amended to read:

199.430. (1) [*Outside the areas described in ORS 199.425,*] A boundary commission may be created as provided by this section with territorial jurisdiction in one county or in two or more contiguous counties. A commission may be created by:

(a) Similar resolutions creating a commission adopted by the county board of each of the counties within the jurisdiction of the commission; or

(b) Similar petitions, signed by the electors of each county within the jurisdiction of the proposed commission, requesting the creation of a commission having jurisdiction within the counties, filed with and approved by order of the county boards of each county in the jurisdiction of the commission.

(2) Each petition filed with a county board requesting creation of a boundary commission shall be signed by not less than 10 percent of the registered electors of the county. The petition shall be approved by the county board if it finds that the needs of the local government units in the territory described in the petition and the public interest would be benefited by the establishment of a boundary commission to carry out the purposes described by ORS 199.410.

(3) A resolution creating or an order approving the creation of a boundary commission is effective on:

(a) The date the last county board in the jurisdiction of the commission adopts the resolution or order; or

(b) The date specified in the order, or resolution, but not more than 60 days after the adoption of the resolution or order.

(4) When a commission is created under this section, copies of the resolutions or orders of the county boards shall be filed with the Governor, the Secretary of State, and the county clerk and the assessor of each county within the jurisdiction of the commission.

(5) A commission created as provided by this section shall not have jurisdiction of any proceeding initiated prior to the effective date of the resolution or order creating such commission.

SECTION 11. ORS 199.432 is amended to read:

199.432. (1) A boundary commission created under ORS [199.425 or] 199.430 may sue and be sued, enter into contracts and perform such other actions as may be necessary to carry out the provisions of ORS 199.410 to 199.534.

(2) A boundary commission is a state agency as defined in ORS 291.002 and is not subject to the provisions of ORS 291.201 to 291.226, 291.230 to 291.260, 291.371, 291.373, 291.375 or 291.385.

(3) A boundary commission employing personnel under ORS 199.455 shall provide employee benefits provided to state management service employees.

SECTION 12. ORS 199.457 is amended to read:

199.457. (1) Any county located within the jurisdiction of a boundary commission may levy taxes and expend funds for the purposes of ORS 199.410 to 199.534.

(2) A boundary commission may accept any funds, property or services, or the use of any property donated by any person, district, city or county in carrying out the purposes of ORS 199.410 to 199.534.

(3) A boundary commission, with the approval of the advisory committee appointed under ORS 199.450, may establish and collect reasonable service charges from persons, cities, the county or counties and special districts within its jurisdiction to defray the costs of operating the commission and carrying out the purposes of ORS 199.410 to 199.534. Such charges shall include, but not be limited to, fees for filing a petition or resolution for a boundary change with the commission.

(4) In addition to any service charges established under subsection (3) of this section, a boundary commission may determine it is necessary to charge cities and counties within its jurisdiction for services and activities carried out under ORS 199.410 to 199.534. If the commission determines that it is necessary to charge cities and counties within its jurisdiction for any fiscal year, the commission shall determine, with the approval of the advisory committee appointed under ORS 199.450, the total amount to be charged and shall assess each city and county with the portion of the total amount as the population of the portion of the city or county within the jurisdiction of the commission bears to the total population of the area within the jurisdiction of the commission. For the purposes of this subsection, the population of a county does not include the population of any city situated within the boundaries of that county. *[An assessment made under this subsection shall not exceed 21 cents per capita per year for a boundary commission created pursuant to ORS 199.425.]*

(5) In addition to any service charges, established under subsection (3) of this section, a boundary commission may determine it is necessary to charge districts within its jurisdiction for services and activities carried out under ORS 199.410 to 199.534. If the commission determines that it is necessary to charge districts within its jurisdiction for any fiscal year, the commission shall determine, with the approval of the advisory committee appointed under ORS 199.450, the total amount to be charged and shall assess each district with the portion of the total amount as the assessed valuation of the district within the jurisdiction of the commission bears to the total assessed valuation of all districts within the jurisdiction of the commission. *[For purposes of this subsection, the assessed valuation of inactive or nonfunctioning districts shall not be included in the total assessed valuation of all districts and such districts shall not be assessed. For a boundary commission created pursuant to ORS 199.425 any district with an assessed valuation over \$1 billion shall be assessed a flat rate of \$2,500 per year and such district's assessed valuation shall not be included in the total assessed valuation of all districts within the jurisdiction of the commission. An assessment made under this subsection shall not exceed 0.00878 dollars per thousand dollars of assessed valuation per year for a boundary commission created pursuant to ORS 199.425.]* However, assessments shall not be made by a boundary commission under this subsection against a highway lighting district organized under ORS chapter 372, a vector control district organized under ORS chapter 452 or a county service district organized under ORS chapter 451 for the purpose of providing street lighting works or vector control.

(6) For each fiscal year beginning on or after July 1, 1982, the commission shall notify each city, county or district governing body of its intent to levy an assessment under this section and the amount of the assessment for each city, county and district at least 120 days before the beginning of the fiscal year for which the assessment will be made.

(7) The decision of the commission to assess the cities, counties and districts within its jurisdiction, and the amount of the assessment upon each, shall be binding upon those governmental bodies. Cities, counties and districts shall pay their assessment in equal quarterly payments as the commission may require except that any city or district with a total annual assessment of less than \$100 shall pay the total assessment in one installment at the time specified for the second quarterly payment.

(8) When a city or district located in a county outside the jurisdiction of a boundary commission annexes or otherwise incorporates territory located within the jurisdiction of a boundary commission, the boundary commission shall assess the city or district with the portion of the total amount determined under subsection (4) or (5) of this section as the assessed valuation of the territory of the city or district within the jurisdiction of the boundary commission bears to the total assessed valuation of the entire city or district.

SECTION 13. ORS 267.207 is amended to read:

267.207. (1) The board of directors of a mass transit district may alter the territorial boundaries of the district by a nonemergency ordinance adopted at any regular meeting.

(2) If an ordinance annexing territory to a district is initiated or referred by, or referred to, the electors of the district, it shall not take effect unless approved by a majority of the electors registered in the territory proposed to be annexed to the district voting on the question and by a majority of the electors of the district voting on the question.

(3)(a) The board of directors of a mass transit district, as a result of the continuing comprehensive transportation planning process required by the Federal Transit Administration, shall determine annually the territory in the district within which the transit system of the district will operate. When the board determines during such planning process for any fiscal year that it will not provide transit service during that fiscal year to an area presently within the district, the board shall by ordinance withdraw from that area on the date specified in the ordinance, and that area shall no longer be part of the district. The board shall by ordinance set forth the criteria to be used in making the determinations described in this subsection.

(b) Subject to paragraph (a) of this subsection, the territorial jurisdiction of a district shall include:

(A) All territory located within the boundaries of a metropolitan service district;

(B) Each census tract within which the transit system of the district operates, or such smaller portion of the tract as determined by the board; and

(C) If so determined by the board of directors, any territory located within two and one-half miles or less of the transit system of the district or any route used by that system for the transportation of passengers.

(4) If an ordinance withdrawing territory from a district is initiated or referred by, or referred to, the electors of the district it shall not take effect unless approved by a majority of the electors of the entire district voting on the question.

(5) [Notwithstanding ORS 199.425,] The alteration of the boundaries of a district under this section [shall not be] **is not** subject to the jurisdiction or review of a local government boundary commission.

SECTION 14. ORS 267.263 is amended to read:

267.263. [Notwithstanding ORS 199.425,] The alteration of the boundaries of a district under ORS 267.250 to 267.263 is not subject to the jurisdiction or review of a local government boundary commission.

SECTION 15. ORS 199.425, 199.458 and 199.459 are repealed.

SECTION 16. (1) Sections 1, 3, 5 and 6 of this 2007 Act, the amendments to ORS 183.315, 183.635, 199.430, 199.432, 199.457, 267.207 and 267.263 by sections 8 to 14 of this 2007 Act and

the repeal of ORS 199.425, 199.458 and 199.459 by section 15 of this 2007 Act become operative on July 1, 2008.

(2) Lane County, cities within Lane County and the local government boundary commission having jurisdiction in Lane County may take any action necessary under sections 2, 4 and 7 of this 2007 Act before the operative date of sections 1, 3, 5 and 6 of this 2007 Act, the amendments to ORS 183.315, 183.635, 199.430, 199.432, 199.457, 267.207 and 267.263 by sections 8 to 14 of this 2007 Act and the repeal of ORS 199.425, 199.458 and 199.459 by section 15 of this 2007 Act.

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Secretary of Senate

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President of Senate

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Speaker of House

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

Approved:

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

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Governor

Filed in Office of Secretary of State:

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Secretary of State