

A-Engrossed Senate Bill 417

Ordered by the Senate April 11
Including Senate Amendments dated April 11

Sponsored by Senator WALKER, Representatives BARNHART, C EDWARDS

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.

Abolishes local government boundary commission having jurisdiction in Lane County and Lane County Local Government Boundary Commission Fund.
Transfers moneys in fund to Lane County for specified purposes.

A BILL FOR AN ACT

1
2 Relating to boundary commissions; creating new provisions; amending ORS 183.315, 183.635, 199.430,
3 199.432, 199.457, 267.207 and 267.263; repealing ORS 199.425, 199.458 and 199.459; and appropri-
4 ating money.

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

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

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

10 **SECTION 2. (1) The members of the local government boundary commission having ju-**
11 **risdiction in Lane County shall:**

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

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

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

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

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

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

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

4 (b) Equitable distribution to local governments, as defined in ORS 174.116, within Lane
5 County in the manner in which service charges were assessed and collected from cities,
6 counties and districts within the jurisdiction of the local government boundary commission,
7 for the purpose of paying the costs of those local governments that are associated with fu-
8 ture boundary changes.

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

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

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

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

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

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

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

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

32 (3) The commission shall dispose of or deliver all other property, or proceeds of the dis-
33 posal of the property, to Lane County.

34 **SECTION 5.** (1) Nothing in sections 1 to 6 of this 2007 Act, the amendments to ORS
35 183.315, 183.635, 199.430, 199.432, 199.457, 267.207 and 267.263 by sections 8 to 14 of this 2007
36 Act and the repeal of ORS 199.425, 199.458 and 199.459 by section 15 of this 2007 Act relieves
37 a person of a liability, duty or obligation accruing under or with respect to the duties, func-
38 tions and powers abolished by section 1 of this 2007 Act. Lane County may undertake the
39 collection or enforcement of the liabilities, duties or obligations.

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

45 **SECTION 6.** Whenever, in an uncodified law or resolution of the Legislative Assembly

1 or in a rule, document, record or proceeding authorized by the Legislative Assembly, refer-
2 ence is made to the local government boundary commission having jurisdiction in Lane
3 County or a member or employee of the commission, the reference is considered to be, as
4 appropriate, a reference to Lane County or an officer or employee of Lane County, or a city
5 within Lane County or an officer or employee of the city.

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

9 **SECTION 8.** ORS 183.315 is amended to read:

10 183.315. (1) The provisions of ORS 183.410, 183.415, 183.425, 183.440, 183.450, 183.452, 183.458,
11 183.460, 183.470 and 183.480 do not apply to local government boundary commissions created pur-
12 suant to ORS [199.425 or] 199.430, the Department of Revenue, State Accident Insurance Fund Cor-
13 poration, Department of Consumer and Business Services with respect to its functions under ORS
14 chapters 654 and 656, Psychiatric Security Review Board or State Board of Parole and Post-Prison
15 Supervision.

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

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

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

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

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

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

29 (6) ORS 183.410, 183.415, 183.425, 183.440, 183.450, 183.460, 183.470 and 183.482 (3) do not apply
30 to the Public Utility Commission. Notwithstanding ORS 183.480 and except as provided in ORS
31 757.495 and 759.390, only a party to a hearing before the Public Utility Commission is entitled to
32 seek judicial review of an order of the commission.

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

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

37 **SECTION 9.** ORS 183.635 is amended to read:

38 183.635. (1) Except as provided in this section, all agencies must use administrative law judges
39 assigned from the Office of Administrative Hearings established under ORS 183.605 to conduct con-
40 tested case hearings, without regard to whether those hearings are subject to the procedural re-
41 quirements for contested case hearings.

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

43 (a) Attorney General.

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

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

- 1 (d) Department of Corrections.
- 2 (e) Department of Education, State Board of Education and Superintendent of Public Instruction.
- 3 (f) Department of Higher Education and institutions of higher education listed in ORS 352.002.
- 4 (g) Department of Human Services for vocational rehabilitation services cases under 29 U.S.C.
- 5 722(c) and disability determination cases under 42 U.S.C. 405.
- 6 (h) Department of Revenue.
- 7 (i) Department of State Police.
- 8 (j) Employment Appeals Board.
- 9 (k) Employment Relations Board.
- 10 (L) Energy Facility Siting Council.
- 11 (m) Fair Dismissal Appeals Board.
- 12 (n) Governor.
- 13 (o) Land Conservation and Development Commission.
- 14 (p) Land Use Board of Appeals.
- 15 (q) Local government boundary commissions created pursuant to ORS [199.425 or] 199.430.
- 16 (r) Oregon Youth Authority.
- 17 (s) Psychiatric Security Review Board.
- 18 (t) Public Utility Commission.
- 19 (u) Secretary of State.
- 20 (v) State Accident Insurance Fund Corporation.
- 21 (w) State Apprenticeship and Training Council.
- 22 (x) State Board of Parole and Post-Prison Supervision.
- 23 (y) State Land Board.
- 24 (z) State Treasurer.
- 25 (aa) Wage and Hour Commission.
- 26 (3) The Workers' Compensation Board is exempt from using administrative law judges assigned
- 27 from the office for any hearing conducted by the board under ORS chapters 147, 654 and 656. Except
- 28 as specifically provided in this subsection, the Department of Consumer and Business Services must
- 29 use administrative law judges assigned from the office only for contested cases arising out of the
- 30 department's powers and duties under:
 - 31 (a) ORS chapter 59;
 - 32 (b) ORS 200.005 to 200.075;
 - 33 (c) ORS chapter 455;
 - 34 (d) ORS chapter 674;
 - 35 (e) ORS chapters 706 to 716;
 - 36 (f) ORS chapter 717;
 - 37 (g) ORS chapters 722, 723, 725 and 726; and
 - 38 (h) ORS chapters 731, 732, 733, 734, 735, 737, 742, 743, 744, 746, 748 and 750.
- 39 (4) Notwithstanding any other provision of law, in any proceeding in which an agency is re-
- 40 quired to use an administrative law judge assigned from the office, an officer or employee of the
- 41 agency may not conduct the hearing on behalf of the agency.
- 42 (5) Notwithstanding any other provision of ORS 183.600 to 183.690, an agency is not required to
- 43 use an administrative law judge assigned from the office if:
 - 44 (a) Federal law requires that a different administrative law judge or hearing officer be used; or
 - 45 (b) Use of an administrative law judge from the office could result in a loss of federal funds.

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

4 **SECTION 10.** ORS 199.430 is amended to read:

5 199.430. (1) [*Outside the areas described in ORS 199.425,*] A boundary commission may be created
6 as provided by this section with territorial jurisdiction in one county or in two or more contiguous
7 counties. A commission may be created by:

8 (a) Similar resolutions creating a commission adopted by the county board of each of the coun-
9 ties within the jurisdiction of the commission; or

10 (b) Similar petitions, signed by the electors of each county within the jurisdiction of the pro-
11 posed commission, requesting the creation of a commission having jurisdiction within the counties,
12 filed with and approved by order of the county boards of each county in the jurisdiction of the
13 commission.

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

19 (3) A resolution creating or an order approving the creation of a boundary commission is effec-
20 tive on:

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

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

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

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

30 **SECTION 11.** ORS 199.432 is amended to read:

31 199.432. (1) A boundary commission created under ORS [*199.425 or*] 199.430 may sue and be sued,
32 enter into contracts and perform such other actions as may be necessary to carry out the provisions
33 of ORS 199.410 to 199.534.

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

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

38 **SECTION 12.** ORS 199.457 is amended to read:

39 199.457. (1) Any county located within the jurisdiction of a boundary commission may levy taxes
40 and expend funds for the purposes of ORS 199.410 to 199.534.

41 (2) A boundary commission may accept any funds, property or services, or the use of any prop-
42 erty donated by any person, district, city or county in carrying out the purposes of ORS 199.410 to
43 199.534.

44 (3) A boundary commission, with the approval of the advisory committee appointed under ORS
45 199.450, may establish and collect reasonable service charges from persons, cities, the county or

1 counties and special districts within its jurisdiction to defray the costs of operating the commission
2 and carrying out the purposes of ORS 199.410 to 199.534. Such charges shall include, but not be
3 limited to, fees for filing a petition or resolution for a boundary change with the commission.

4 (4) In addition to any service charges established under subsection (3) of this section, a bound-
5 ary commission may determine it is necessary to charge cities and counties within its jurisdiction
6 for services and activities carried out under ORS 199.410 to 199.534. If the commission determines
7 that it is necessary to charge cities and counties within its jurisdiction for any fiscal year, the
8 commission shall determine, with the approval of the advisory committee appointed under ORS
9 199.450, the total amount to be charged and shall assess each city and county with the portion of
10 the total amount as the population of the portion of the city or county within the jurisdiction of the
11 commission bears to the total population of the area within the jurisdiction of the commission. For
12 the purposes of this subsection, the population of a county does not include the population of any
13 city situated within the boundaries of that county. [*An assessment made under this subsection shall*
14 *not exceed 21 cents per capita per year for a boundary commission created pursuant to ORS 199.425.*]

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

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

38 (7) The decision of the commission to assess the cities, counties and districts within its juris-
39 diction, and the amount of the assessment upon each, shall be binding upon those governmental
40 bodies. Cities, counties and districts shall pay their assessment in equal quarterly payments as the
41 commission may require except that any city or district with a total annual assessment of less than
42 \$100 shall pay the total assessment in one installment at the time specified for the second quarterly
43 payment.

44 (8) When a city or district located in a county outside the jurisdiction of a boundary commission
45 annexes or otherwise incorporates territory located within the jurisdiction of a boundary commis-

1 sion, the boundary commission shall assess the city or district with the portion of the total amount
 2 determined under subsection (4) or (5) of this section as the assessed valuation of the territory of
 3 the city or district within the jurisdiction of the boundary commission bears to the total assessed
 4 valuation of the entire city or district.

5 **SECTION 13.** ORS 267.207 is amended to read:

6 267.207. (1) The board of directors of a mass transit district may alter the territorial boundaries
 7 of the district by a nonemergency ordinance adopted at any regular meeting.

8 (2) If an ordinance annexing territory to a district is initiated or referred by, or referred to, the
 9 electors of the district, it shall not take effect unless approved by a majority of the electors regis-
 10 tered in the territory proposed to be annexed to the district voting on the question and by a ma-
 11 jority of the electors of the district voting on the question.

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

20 (b) Subject to paragraph (a) of this subsection, the territorial jurisdiction of a district shall in-
 21 clude:

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

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

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

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

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

34 **SECTION 14.** ORS 267.263 is amended to read:

35 267.263. [*Notwithstanding ORS 199.425,*] The alteration of the boundaries of a district under ORS
 36 267.250 to 267.263 is not subject to the jurisdiction or review of a local government boundary com-
 37 mission.

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

39 **SECTION 16.** (1) Sections 1, 3, 5 and 6 of this 2007 Act, the amendments to ORS 183.315,
 40 183.635, 199.430, 199.432, 199.457, 267.207 and 267.263 by sections 8 to 14 of this 2007 Act and
 41 the repeal of ORS 199.425, 199.458 and 199.459 by section 15 of this 2007 Act become operative
 42 on July 1, 2008.

43 (2) Lane County, cities within Lane County and the local government boundary commis-
 44 sion having jurisdiction in Lane County may take any action necessary under sections 2, 4
 45 and 7 of this 2007 Act before the operative date of sections 1, 3, 5 and 6 of this 2007 Act, the

1 **amendments to ORS 183.315, 183.635, 199.430, 199.432, 199.457, 267.207 and 267.263 by sections**
2 **8 to 14 of this 2007 Act and the repeal of ORS 199.425, 199.458 and 199.459 by section 15 of this**
3 **2007 Act.**

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