

Senate Bill 758

Sponsored by Senator METSGER

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**.

Eliminates authority of city to annex territory surrounded by city by ordinance. Requires that territory surrounded by city be annexed by consensual methods available for annexations generally.

A BILL FOR AN ACT

1
2 Relating to annexation; amending ORS 12.270, 199.487, 199.490 and 222.280 and section 3, chapter
3 737, Oregon Laws 1987, and sections 1, 5 and 11, chapter 844, Oregon Laws 2005; and repealing
4 ORS 222.750.

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

6 **SECTION 1. ORS 222.750 is repealed.**

7 **SECTION 2.** ORS 12.270 is amended to read:

8 12.270. On September 13, 1975, any proceeding that establishes or alters the boundaries of a
9 governmental subdivision previously or hereafter initiated and purported to be effected in accord-
10 ance with applicable legal requirements shall be conclusively presumed valid for all purposes one
11 year after the purported effective date of the action. No direct or collateral attack on the action
12 may thereafter be commenced. This statute of limitations includes but is not limited to the following
13 proceedings:

14 (1) Formations and change of organizations under ORS 198.705 to 198.955.

15 (2) Boundary changes under ORS 199.410 to 199.519.

16 (3) Consolidations under ORS 199.705 to 199.795.

17 (4) Incorporations under ORS 221.010 to 221.090.

18 (5) Annexations under ORS 222.111 to 222.180[*222.750*] and 222.840 to 222.915.

19 (6) Consolidations under ORS 222.210 to 222.310.

20 (7) Withdrawals and transfers of territory under ORS 222.510 to 222.580.

21 (8) Mergers under ORS 222.610 to 222.710.

22 (9) Formations and changes under ORS chapter 261.

23 (10) Alterations, changes, mergers and consolidations under ORS 330.080 to 330.123, 330.505 to
24 330.780 (1989 Edition) and 335.490 to 335.505.

25 (11) Alterations, changes, mergers and consolidations under ORS chapter 333 commenced before
26 July 1, 2003.

27 (12) Formations and boundary changes under ORS 341.025 to 341.125 and 341.565 to 341.575.

28 (13) Organizations and boundary changes under ORS 545.002 and 545.025 to 545.043, 545.051 to
29 545.105, 545.109, 545.123, 545.126 and 545.131.

30 (14) Formations and boundary alterations under ORS 547.005 to 547.060 and 547.250 to 547.260.

31 (15) Formations and organizations under ORS chapter 551.

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 **SECTION 3.** ORS 199.487 is amended to read:

2 199.487. (1) Within the jurisdiction of a boundary commission, a minor boundary change pro-
3 ceeding may be initiated as provided by ORS 199.490. In addition, a city annexation proceeding may
4 be initiated as provided by ORS [222.750 or] 222.840 to 222.915. Minor boundary change proceedings
5 shall be conducted as provided by this section and ORS 199.490 to 199.534.

6 (2) ORS 222.111 to 222.180, 222.460 and the statutes of the state that govern annexation of ter-
7 ritory to, or withdrawal of territory from, districts do not apply in territory subject to the jurisdic-
8 tion of a boundary commission. However, a city annexation proposal initiated under ORS 199.490
9 may include a tax differential proposal authorized by ORS 222.111 (3). Notwithstanding ORS 199.490
10 (2)(b), 222.173 (1), 222.175 or any other requirement for obtaining consent to annexation, a city or
11 district may use a consent to annexation contained in contracts authorized by ORS 198.869 or
12 222.115 in formulating annexation proposals or petitions under ORS 198.855, 199.490 (2), 222.125 or
13 222.170 for properties whose owners have signed such consents to annexation. ORS 222.530 shall not
14 apply in territory subject to the jurisdiction of a boundary commission unless the affected territory
15 constitutes at least 60 percent of the area and 60 percent of the assessed value of the district.

16 (3) Notwithstanding any charter or statutory provision to the contrary, a final order or a proc-
17 lamation of a boundary commission declaring a minor boundary change approved is effective to
18 change the boundary of the city or district without the necessity of any further action by the elec-
19 tors or the governing body of the city or district.

20 **SECTION 4.** ORS 199.490 is amended to read:

21 199.490. (1) A proceeding for a minor boundary change other than a transfer of territory may
22 be initiated:

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

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

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

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

27 (e) When the minor boundary change is a withdrawal of a city from a district, by resolution of
28 the governing body of the city, which shall be an affected city for the purposes of ORS 199.410 to
29 199.534.

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

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

40 (b) However, before soliciting statements of consent for the purpose of authorizing an
41 annexation under a proceeding initiated as provided by this subsection, the governing body of the
42 affected city or district shall file a notice of intent to annex with the boundary commission having
43 jurisdiction of the affected territory. The notice of intent to annex shall name the affected city or
44 district and generally describe the boundaries of the territory sought to be annexed, which territory
45 must be contiguous to the city or district or separated from it only by a public right of way or a

1 stream, bay, lake or other body of water. The notice of intent to annex shall have attached to it a
 2 county assessor's cadastral map showing the location of the affected territory that the city or dis-
 3 trict proposes to annex.

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

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

14 (e) As used in this subsection, "owner" has the additional meaning given that term in ORS
 15 222.120 (7).

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

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

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

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

20 or

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

22 (4) The petition or resolution shall:

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

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

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

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

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

30 (5) When a city annexation is initiated[.]

31 [(a) As provided by ORS 222.750 the petition proposing the annexation shall be filed with the
 32 boundary commission having jurisdiction of the annexation.]

33 [(b)] as provided by ORS 222.840 to 222.915, the findings adopted by the Director of Human
 34 Services under ORS 222.880 shall be considered the initiatory action and a certified copy of the
 35 findings shall be filed with the boundary commission having jurisdiction of the annexation, at the
 36 same time a copy of the finding is filed with the affected city.

37 (6) Except when a boundary change is initiated by an affected city or district under subsection
 38 (1), (2)[(3) or (5)] **or** (3) of this section or by the Director of Human Services as provided by sub-
 39 section [(5)(b)] (5) of this section, the boundary commission shall notify the affected city or district
 40 that a petition has been filed or that the commission has adopted a resolution. If the petition com-
 41 plies with the requirements of the applicable statutes, the commission shall proceed as provided by
 42 ORS 199.460 to 199.463 and 199.490 to 199.519.

43 (7) Unless the parties appearing at a hearing for a minor boundary change or application under
 44 ORS 199.464 agree to a postponement of the adoption of a final order, a final order approving or
 45 disapproving a minor boundary change must be adopted within 90 days after the date the petition,

1 resolution or application is filed with the commission. If a final order approving or disapproving a
 2 minor boundary change is not adopted within 90 days after the petition, resolution or application is
 3 filed or within the period of postponement, the petition, resolution or application shall be considered
 4 approved by the commission. A postponement shall not be for a period exceeding one year from the
 5 date the petition, resolution or application initiating the proposal is filed with the commission.

6 **SECTION 5.** Section 3, chapter 737, Oregon Laws 1987, as amended by section 14, chapter 516,
 7 Oregon Laws 1997, is amended to read:

8 **Sec. 3.** (1) Notwithstanding any other provision of law, *[when]* **property can be annexed by a**
 9 **city only after the city receives a petition requesting annexation from the owner of the**
 10 **property if the property:**

- 11 (a) Is property on which no electors reside;
- 12 (b) Is zoned for industrial uses;
- 13 (c) Has sewer and water lines paid for and installed by the property owner; and
- 14 (d) Has an assessed valuation, including improvements, of more than \$7 million.

15
 16 *[that property can only be annexed by or to a city after the city receives a petition requesting*
 17 *annexation from the owner of the property.]*

18 (2) Property described in subsection (1) of this section shall not be included with other territory
 19 as part of an annexation~~, or annexed under ORS 222.750,~~ unless the owner of the property consents
 20 to the annexation in the form of a petition for annexation.

21 (3) This section applies to property that, on September 27, 1987, was within the jurisdiction of
 22 a local government boundary commission.

23 **SECTION 6.** Section 1, chapter 844, Oregon Laws 2005, is amended to read:

24 **Sec. 1.** *[The City of Beaverton may not annex territory as provided in ORS 222.750 and,]*
 25 Notwithstanding any charter provision to the contrary, the City of Beaverton may not annex terri-
 26 tory in any manner that does not require the city to obtain approval of the residents of or the
 27 property owners in the territory.

28 **SECTION 7.** Section 5, chapter 844, Oregon Laws 2005, is amended to read:

29 **Sec. 5.** (1) Notwithstanding any provision of ORS 195.205 to 195.225, 199.410 to 199.534, 222.111
 30 to 222.180~~, 222.750]~~ and 222.840 to 222.915, property described in subsection (2) or (3) of this section
 31 may not be annexed by or to a city unless the city receives consent to the annexation from the
 32 owner of the property in the form of a petition for annexation.

33 (2) Property for which annexation is limited by subsection (1) of this section is property:

- 34 (a) That is composed of one or more lots, parcels or tracts that:
 - 35 (A) Are owned by the same individual or entity, including an affiliate or subsidiary of the entity;
 - 36 (B) Are contiguous or are separated from each other only by a public right of way, a stream, a
 37 bay, a lake or another body of water; and
 - 38 (C) Together comprise at least 150 acres;
- 39 (b) On which no electors reside;
- 40 (c) That was zoned for industrial, employment or transit-oriented employment uses on December
 41 31, 2004;
- 42 (d) That has private, on-premises security services; and
- 43 (e) That has an assessed valuation, including improvements, of more than \$12 million.

44 (3) Subsection (1) of this section applies to a lot, parcel or tract that is owned by the same in-
 45 dividual or entity, including an affiliate or a subsidiary of the entity, that owns the property de-

1 scribed in subsection (2)(a) of this section if the lot, parcel or tract:

2 (a) Is within two miles of the property described in subsection (2)(a) of this section; and

3 (b) Contains 10 or more acres that are contiguous or separated from each other only by a public
4 right of way, a stream, a bay, a lake or another body of water.

5 (4) A city may not obtain approval of an owner for annexation under this section by requiring
6 or requesting that the owner waive remonstrance or agree to annexation in order to receive utility
7 service or other city services located in the city right of way at the same price the city charges an
8 owner of similar property that is within the city.

9 **SECTION 8.** Section 11, chapter 844, Oregon Laws 2005, is amended to read:

10 **Sec. 11.** (1) [*Sections 5, 6 and 7 of this 2005 Act are*] **Section 5, chapter 844, Oregon Laws**
11 **2005, is repealed on June 30, 2035.**

12 **(2) Sections 6 and 7, chapter 844, Oregon Laws 2005, are repealed on the effective date**
13 **of this 2007 Act.**

14 [(2)] **(3)** Notwithstanding subsection (1) of this section, unless this section is amended, [*sections*
15 *5 and 6 of this 2005 Act are*] **section 5, chapter 844, Oregon Laws 2005, is repealed five years after**
16 **June 30, 2035.**

17 **SECTION 9.** ORS 222.280 is amended to read:

18 222.280. (1) Not later than the 30th day after an election held under ORS 222.250, or after an
19 election held under ORS 222.275, if such an election is held, the chief elections officer shall call a
20 special election in the consolidated city for the purpose of electing the officers required by the
21 charter adopted by the electors. The election shall be held on a date specified in ORS 221.230 that
22 is not sooner than the 90th day after the date on which the election is called.

23 (2) The first city officers shall take office on the 10th day following the date on which their
24 elections are proclaimed.

25 (3) On the date on which the first city officers take office, or at whatever subsequent time the
26 charter of the consolidated city specifies, the city shall be one city, with the rights and privileges
27 conferred by its charter adopted under ORS 222.210 to 222.310 and the laws of this state.

28 [(4) *A city incorporated under ORS 222.210 to 222.310 may not exercise the power granted by ORS*
29 *222.750 as to land surrounded by the corporate limits or boundaries of the city at the time of incorpo-*
30 *ration.*]

31
