

A-Engrossed House Bill 3617

Ordered by the House February 10
Including House Amendments dated February 10

Sponsored by Representative HUNT; Representatives BARKER, BARNHART, BOONE, BUCKLEY, CLEM, DEMBROW, DOHERTY, FREDERICK, GARRETT, GREENLICK, HARKER, HOLVEY, KAHL, KOMP, READ, ROBLAN, J SMITH, STIEGLER, TOMEI, VANORMAN, Senator SCHRADER (Presession filed.)

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.

Allows existing special district or county service district to continue to provide services for newly incorporated city if petitioners propose and voters approve of continuance. **Creates process by which city that previously allowed district may extinguish district.**

Defines "rate-setting authority" for purpose of setting rates for sewer service. Creates process by which certain rate-setting authorities set rates for sewer service.

Declares emergency, effective on passage.

A BILL FOR AN ACT

1
2 Relating to local government provision of services; creating new provisions; amending ORS 221.031,
3 222.510 and 451.585; and declaring an emergency.

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

5 **SECTION 1.** ORS 222.510 is amended to read:

6 222.510. (1) Whenever the entire area of a rural fire protection district, a water district, in-
7 cluding a domestic water supply corporation, a park and recreation district, a highway lighting
8 district, a county service district, a special road district, a road assessment district or a sanitary
9 district or authority, lawfully organized and existing, becomes incorporated in or annexed to a city
10 in accordance with law, the district is extinguished and the city shall, upon the effective date of the
11 incorporation or annexation, succeed to all the assets and become charged with all the liabilities,
12 obligations and functions of the district. The district officers shall forthwith deliver to the city of-
13 ficers the district assets and records. Uncollected taxes theretofore levied by the district become the
14 property of the city and must be delivered to it by the county treasurer upon collection.

15 **(2) Notwithstanding subsection (1) of this section, a rural fire protection district, a water**
16 **district, including a domestic water supply corporation, a park and recreation district, a**
17 **highway lighting district, a county service district, a special road district, a road assessment**
18 **district or a sanitary district or authority, lawfully organized and existing, the entire area**
19 **of which becomes incorporated in a city, may continue to provide services if the continuation**
20 **is proposed by petitioners in a petition for incorporation that is subsequently approved by**
21 **voters in an incorporation election. At any time after incorporation, a city may cause a dis-**
22 **trict to be extinguished and succeed to all the assets and become charged with all the li-**
23 **abilities, obligations and functions of the district if:**

24 **(a) The governing body of the city holds a public hearing on the question of the**
25 **extinguishment, hears objections to the extinguishment at the hearing, determines that 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 **extinguishment is in the best interest of the city and adopts an ordinance extinguishing the**
2 **district;**

3 **(b) After the hearing, the governing body of the city refers the ordinance extinguishing**
4 **the district to the electors of the city; and**

5 **(c) The majority of all votes cast favors that the district be extinguished.**

6 **(3) For the public hearing required in subsection (2)(a) of this section, the governing body**
7 **shall fix a date, time and place for the hearing and cause notice of the date, time, place and**
8 **purpose of the hearing to be published once each week for two successive weeks prior to the**
9 **date of the hearing in a newspaper of general circulation in the city, and shall cause notices**
10 **of the hearing to be posted in four public places in the city for a like period.**

11 **SECTION 2.** ORS 221.031 is amended to read:

12 221.031. (1) Before circulating a petition to incorporate unincorporated territory as a city, the
13 petitioners shall file a petition for incorporation in a form prescribed by rule of the Secretary of
14 State with:

15 (a) The county clerk of the county in which the proposed city lies; or

16 (b) If the proposed city lies in more than one county, the county clerk of the county in which
17 the largest part of its territory lies.

18 (2) The county clerk shall immediately date and time stamp the prospective petition and shall
19 authorize the circulation of the petition when the economic feasibility statement required by ORS
20 221.035 is filed with the county clerk. The county clerk shall retain the prospective petition and
21 economic feasibility statement and shall immediately send two copies of the prospective petition to
22 the appropriate county court.

23 (3)(a) A petition for incorporation filed with the county clerk under subsection (1) of this section
24 shall designate the name and residence address of not more than three persons as chief petitioners,
25 who shall be electors registered within the boundaries of the proposed city.

26 (b) The petition shall contain the name of the proposed city.

27 (c) The petition shall [*also*] include a proposed permanent rate limit for operating taxes that
28 would generate operating tax revenues sufficient to support an adequate level of municipal services.
29 The tax rate limit shall be expressed in dollars per thousand dollars of assessed value. The tax rate
30 limit shall be calculated for the latest tax year for which the assessed value of the proposed city is
31 available.

32 (d) There shall be attached to the cover sheet of the petition a map indicating the exterior
33 boundaries of the proposed city. The map shall not exceed 14 inches by 17 inches in size and shall
34 be used in lieu of a metes and bounds or legal description of the proposed city.

35 (e) If the territory proposed to be incorporated is within the jurisdiction of a local government
36 boundary commission, the petition shall be accompanied by the economic feasibility analysis re-
37 quired under ORS 199.476 (1). Notwithstanding subsection (2) of this section, unless the economic
38 feasibility analysis is approved by the local government boundary commission as provided in ORS
39 199.522, the county clerk shall not authorize the circulation of the petition.

40 **(f) If the petitioners propose not to extinguish a special district pursuant to ORS 222.510**
41 **(2) or a county service district pursuant to ORS 451.585 (1), the petition shall include a**
42 **statement of this proposal.**

43 (4) Each sheet of signatures shall be attached to a full and correct copy of the petition for in-
44 corporation. Not more than 20 signatures on each sheet of the petition for incorporation shall be
45 counted. The circulator shall certify on each signature sheet that the circulator witnessed the

1 signing of the signature sheet by each individual whose signature appears on the signature sheet
 2 and that the circulator believes each individual is an elector registered in the county. If the terri-
 3 tory proposed to be incorporated is within the jurisdiction of a local government boundary commis-
 4 sion, each signature sheet shall contain a statement that the economic feasibility analysis for the
 5 proposed city was approved by the boundary commission, that the analysis is available for inspection
 6 at the offices of the boundary commission and that subsequent to the gathering of the petitions the
 7 boundary commission must review and finally approve the proposal prior to submission at an
 8 election.

9 **SECTION 3.** ORS 451.585 is amended to read:

10 451.585. (1) Whenever the entire area of a district is incorporated in or annexed to a city in
 11 accordance with law, the district shall be extinguished and the city shall upon the effective date of
 12 such annexation succeed to all the assets and become charged with all the liabilities, obligations
 13 and functions of the district. The district officers shall forthwith deliver to the city officers the
 14 district assets and records. Uncollected taxes theretofore levied by such district shall become the
 15 property of the city and be delivered to it by the county treasurer upon collection.

16 **(2) Notwithstanding subsection (1) of this section, a district, the entire area of which**
 17 **becomes incorporated in a city, may continue to provide services if the continuation is pro-**
 18 **posed by petitioners in a petition for incorporation that is subsequently approved by voters**
 19 **in an incorporation election. At any time after incorporation, a city may cause a district to**
 20 **be extinguished and succeed to all the assets and become charged with all the liabilities, ob-**
 21 **ligations and functions of the district if:**

22 **(a) The governing body of the city holds a public hearing on the question of the**
 23 **extinguishment, hears objections to the extinguishment at the hearing, determines that the**
 24 **extinguishment is in the best interest of the city and adopts an ordinance extinguishing the**
 25 **district;**

26 **(b) After the hearing, the governing body of the city refers the ordinance extinguishing**
 27 **the district to the electors of the city; and**

28 **(c) The majority of all votes cast favors that the district be extinguished.**

29 **(3) For the public hearing required in subsection (2)(a) of this section, the governing body**
 30 **shall fix a date, time and place for the hearing and cause notice of the date, time, place and**
 31 **purpose of the hearing to be published once each week for two successive weeks prior to the**
 32 **date of the hearing in a newspaper of general circulation in the city, and shall cause notices**
 33 **of the hearing to be posted in four public places in the city for a like period.**

34 [(2)] (4) Whenever a part less than the whole of a district becomes incorporated in or annexed
 35 to a city in accordance with law, the city may at any time after such incorporation or annexation
 36 cause that part to be withdrawn from such district in the manner set forth in ORS 222.524, and the
 37 provisions of ORS 222.510 to 222.580 shall be applicable to such withdrawal except that in case the
 38 district and the city cannot agree upon a division of assets or obligations and liabilities, then and
 39 in such case, either the district or the city may petition the circuit court for the county in which
 40 the city has its legal situs to determine such division.

41 **SECTION 4.** (1) For the purposes of this section, "rate-setting authority" means a county
 42 service district authorized under ORS 451.410 to 451.610 that controls sewage works for a
 43 county that:

44 **(a) Is within a metropolitan service district;**

45 **(b) Has a population of less than 600,000; and**

1 (c) Has a majority of its territory located east of the Willamette River.

2 (2) Prior to June 1 of each year, a rate-setting authority shall adopt a proposed rate for
3 sewer service provided to each city or portion of a city located outside of the boundaries of
4 the rate-setting authority, or to each city that is considered a wholesale purchaser of sewer
5 service from the rate-setting authority, to be effective on or after July 1 of the same year.
6 The rate-setting authority shall transmit the proposed rate to the governing body of the city
7 affected by the proposed rate by first class mail within five working days of the rate-setting
8 decision.

9 (3) Within 10 working days of receipt of the notice of a proposed rate from the rate-
10 setting authority, a city may notify the rate-setting authority by first class mail that the
11 city:

12 (a) Objects to the proposed rate; and

13 (b) Intends to submit the dispute to an arbitrator of the American Arbitration Associ-
14 ation under the provisions of ORS 190.710 to 190.800.

15 (4) Within 10 working days of receipt of the notice of objection from the city, the rate-
16 setting authority shall either:

17 (a) Change the proposed rate to its previous amount; or

18 (b) Agree to arbitrate the dispute under the provisions of ORS 190.710 to 190.800 and no-
19 tify the city of this decision by first class mail.

20 (5) The city shall pay the rate-setting authority the previous rate for sewer service dur-
21 ing the duration of the arbitration process. If the arbitrator grants a rate different from the
22 previous rate, the arbitrator's opinion and award must include reimbursement of one party
23 by the other of the difference between the amount of moneys collected during the arbitration
24 process and the amount of moneys that would have been collected based upon the
25 arbitrator's granted rate.

26 (6) If a rate-setting authority agrees to arbitration under subsection (4)(b) of this section,
27 the rate-setting authority is prohibited from terminating sewer service or canceling a con-
28 tract to provide sewer service to a city outside of the boundaries of the rate-setting au-
29 thority or to a city that is considered a wholesale purchaser of sewer service from the
30 rate-setting authority prior to completing the arbitration process.

31 **SECTION 5.** This 2010 Act being necessary for the immediate preservation of the public
32 peace, health and safety, an emergency is declared to exist, and this 2010 Act takes effect
33 on its passage.

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