

Enrolled
Senate Bill 1015

Printed pursuant to Senate Interim Rule 213.28 by order of the President of the Senate in conformance with pre-session filing rules, indicating neither advocacy nor opposition on the part of the President (at the request of Senate Interim Committee on Finance and Revenue)

CHAPTER

AN ACT

Relating to property taxation; creating new provisions; amending ORS 198.815, 221.050, 222.050, 307.518, 307.529, 307.535 and 308.225; and prescribing an effective date.

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

SECTION 1. ORS 308.225 is amended to read:

308.225. (1) In preparing the assessment roll in any year, a county assessor shall disregard changes or proposed changes described in subsections (3), (4) and (5) of this section in the boundary lines of any taxing district levying ad valorem property taxes if the description and map showing changes or proposed changes are not filed in final approved form, in accordance with and at the time required by subsection (2) of this section.

(2)(a) If a boundary change is made or proposed, the person, governing body, officer, administrative agency or court [*making the determination that*] **that is or will be responsible for determining whether** the boundary change is final shall file with the county assessor and the Department of Revenue the legal description of the [*boundary*] change or proposed change and an accurate map showing the change or proposed change in final approved form, [*prior to the next*] **on or before March 31 of the assessment year to which the boundary change applies.**

(b)(A) Except as [*is*] otherwise provided in subparagraph (B) of this paragraph, the legal description of the boundary change [*shall*] **must** consist of a series of courses in which the first course [*shall start*] **starts** at a point of beginning and the final course [*shall end at that*] **ends at the point** of beginning. Each course [*shall*] **must** be identified by bearings and distances and, when available, refer to deed lines, deed corners and other monuments, or, in lieu of bearings and distances, be identified by reference to:

(i) Township, range, section or section subdivision lines of the [*U.S. Rectangular survey system*] **United States Public Land Survey System.**

(ii) Survey center line or right of way lines of public roads, streets or highways.

(iii) Ordinary high water or ordinary low water of tidal lands.

(iv) Right of way lines of railroads.

(v) Any line identified on the plat of any recorded subdivision defined in ORS 92.010.

(vi) Donation land claims.

(vii) Line of ordinary high water and line of ordinary low water of rivers and streams, as defined in ORS 274.005, or the thread of rivers and streams.

(B) In lieu of the requirements of subparagraph (A) of this paragraph, boundary change areas conforming to areas of the [*U. S. Rectangular survey*] **United States Public Land Survey System**

may be described by township, section, quarter-section or quarter-quarter section, or if the areas conform to subdivision lots and blocks, may be described by lot and block description.

(c) [A map shall be provided to the filing body by] The county assessor or the department **shall provide a map to the person, body, officer or agency making the filing** within 14 days after the filing body notifies the assessor and department that a boundary change is being proposed. [The boundary line shall then be accurately entered thereon by the person, body, officer or agency making the filing.] **Upon receipt, the filing body shall accurately enter the boundary line on the map.**

(d) The description and map [shall] **must** be filed in final approved form [not later than] **on or before** March 31 of the assessment year to which the **boundary** change applies. Proposed [boundary] changes [shall] **must** be certified to the county assessor and the department in the same manner as [boundary] changes. If the taxing district is located in more than one county, the description and map shall be filed with the assessor in each county and with the department within the time provided in this subsection.

(3) For purposes of this section, boundary change means the change that occurs in the boundaries of a district by reason of:

- (a) The formation of a new district;
- (b) The consolidation or merger of two or more districts or parts thereof;
- (c) The annexation of territory by a district;
- (d) The withdrawal of territory from a district; or
- (e) The dissolution of a district.

(4) For purposes of this section, the establishment of tax zones within a district constitutes a boundary change.

(5) For [the] purposes of this section, a proposed change means a boundary change [which] **that** has not become final or effective [by] **on or before** March 31[, but which] **and that:**

(a) Is certain to become final or effective [prior to] **before** July 1 of the same year; or

(b) **Is subject to voter approval in an election held before July 1 of the same year and that becomes final or effective before July 1 of the same year.**

(6) Each description and map filed under subsection (2) of this section shall be submitted to the Department of Revenue and approved or disapproved within 30 days of receipt.

(7) Within five days of its determination, the Department of Revenue shall mail to each county assessor with whom a filing has been made and to the filing body notice of its approval or disapproval under subsection (6) of this section. If disapproved, the department shall explain what steps must be taken to correct the description or map, and shall cooperate with the filing body in helping it meet the requirements of this section, and whenever possible, the filing [date] **deadline** of March 31. Corrected descriptions and maps must then be resubmitted to the department, and approved, and filed with the assessor or assessors.

(8) The filing of the description and map under this section is for assessment and taxation purposes only and does not affect or relate to filing for any other purpose.

SECTION 2. Section 3 of this 2010 Act is added to and made a part of ORS chapter 307.

SECTION 3. Communications equipment, emergency response equipment and other tangible personal property is exempt from ad valorem property taxation if the equipment or property is:

(1) **Acquired or used primarily for the purposes of responding to and maintaining the capability to respond to shipboard fires or oil spills in navigable waters;**

(2) **Owned by a nonprofit corporation organized under ORS chapter 65 that operates as a maritime fire and safety association; and**

(3) **Made available by the nonprofit corporation for use by a federal, state or local emergency response agency pursuant to a mutual aid compact.**

SECTION 4. (1) If a city or county approved an exemption under ORS 307.600 to 307.637 for property used for other than residential or housing purposes, the exemption from ad valorem taxation applies for the term of the exemption approved by the city or county as

determined under ORS 307.612, provided that the property for which the exemption was approved:

(a) Was first approved for exemption under ORS 307.600 to 307.637 before August 26, 2009, for a tax year beginning before July 1, 2009; and

(b) Otherwise continues to be eligible for exemption under ORS 307.600 to 307.637.

(2) If, before January 1, 2010, a county assessor terminated all or a portion of an exemption granted under ORS 307.600 to 307.637 for property described in subsection (1) of this section because the exemption had been approved for or applied to property used for other than residential or housing purposes, or if, before January 1, 2010, a city, county or county assessor issued a determination that all or a portion of an exemption for property described in subsection (1) of this section was in error because property used for other than residential or housing purposes did not qualify for the exemption, the termination or determination is reversed.

SECTION 5. (1) If taxes on the exempt value described in section 4 (1) of this 2010 Act have not been paid, the taxes and any interest are abated.

(2) If taxes have been paid on the value of property added to the tax roll as a result of a termination or determination described in section 4 (2) of this 2010 Act, the tax collector shall refund the taxes. A refund of taxes under this section shall be considered a refund described in ORS 311.812 (2) except that interest shall be paid at the rate of one-half of one percent per month or fraction of a month. Refunds and interest associated with the refunds shall be withheld from future distributions to the taxing districts that received the taxes paid as a result of the termination or determination described in section 4 (2) of this 2010 Act.

(3) The county assessor and tax collector shall make the necessary corrections in the records of their offices required by this section and section 4 of this 2010 Act.

SECTION 6. ORS 307.518 is amended to read:

307.518. (1) Property or a portion of property that meets all of the following criteria shall be exempt from taxation as provided under ORS 307.515 to 307.523:

(a) If unoccupied, the property:

(A) Is offered for rental solely as a residence for low income persons; or

(B) Is held for the purpose of developing low income rental housing.

(b) If occupied, the property is occupied solely as a residence for low income persons.

(c) An exemption for the property has been approved as provided under ORS 307.523, pursuant to an application filed before January 1, [2010] **2020**.

(d) The property is owned or being purchased by a nonprofit corporation organized in a manner that meets the criteria for a public benefit corporation, as described under ORS 65.001 (37) or for a religious corporation, as described under ORS 65.001 (39).

(e) The property is owned or being purchased by a nonprofit corporation that expends no more than 10 percent of its annual income from residential rentals for purposes other than the acquisition, maintenance or repair of residential rental property for low income persons or for the provision of on-site child care services for the residents of the rental property.

(2) For the purposes of this section, a nonprofit corporation that has only a leasehold interest in property is considered to be a purchaser of that property if:

(a) The nonprofit corporation is obligated under the terms of the lease to pay the ad valorem taxes on the real and personal property used in the rental activity on that property; or

(b) The rent payable has been established to reflect the savings resulting from the exemption from taxation.

(3) A partnership shall be considered a nonprofit corporation for purposes of this section if:

(a) A nonprofit corporation is a general partner of the partnership; and

(b) The nonprofit corporation is responsible for the day-to-day operation of the property that is the subject of the exemption under ORS 307.515 to 307.523.

SECTION 7. ORS 307.529 is amended to read:

307.529. (1) Except as provided in ORS 307.531, if, after an application for exemption under ORS 307.517 has been approved under ORS 307.527, the governing body finds that construction or development of the exempt property differs from the construction or development described in the application for exemption, or is not completed on or before January 1, [2010] **2020**, or that any provision of ORS 307.515 to 307.523 is not being complied with, or any provision required by the governing body pursuant to ORS 307.515 to 307.523 is not being complied with, the governing body shall give notice of the proposed termination of the exemption to the owner, by mailing the notice to the last-known address of the owner, and to every known lender, by mailing the notice to the last-known address of every known lender. The notice shall state the reasons for the proposed termination and shall require the owner to appear at a specified time, not less than 20 days after mailing the notice, to show cause, if any, why the exemption should not be terminated.

(2) If the owner fails to appear and show cause why the exemption should not be terminated, the governing body shall notify every known lender, and shall allow any lender not less than 30 days after the date the notice of the failure to appear and show cause is mailed to cure any noncompliance or to provide assurance adequate to the governing body that all noncompliance shall be remedied.

(3) If the owner fails to appear and show cause why the exemption should not be terminated, and the lender fails to cure or give adequate assurance of the cure of any noncompliance, the governing body shall adopt an ordinance or resolution stating its findings terminating the exemption. A copy of the ordinance or resolution shall be filed with the county assessor, and a copy shall be sent to the owner at the owner's last-known address and to the lender at the last-known address of the lender within 10 days after its adoption.

SECTION 8. ORS 307.535 is amended to read:

307.535. Notwithstanding any provision of ORS 307.515 to 307.523:

(1) If the governing body finds that construction of the housing unit otherwise entitled to exemption under ORS 307.517 was not completed by January 1, [2010] **2020**, due to circumstances beyond the control of the owner, and that the owner had been acting and could reasonably be expected to act in good faith and with due diligence, the governing body may extend the deadline for completion of construction for a period not to exceed 12 consecutive months.

(2) If property granted exemption under ORS 307.515 to 307.523 is destroyed by fire or act of God, or is otherwise no longer capable of owner-occupancy due to circumstances beyond the control of the owner, the exemption shall cease but no additional taxes shall be imposed upon the property under ORS 307.531 or 307.533.

SECTION 9. Sections 4 and 5 of this 2010 Act are repealed on January 2, 2020.

SECTION 10. Section 3 of this 2010 Act and the amendments to ORS 308.225 by section 1 of this 2010 Act apply to property tax years beginning on or after July 1, 2010.

SECTION 11. ORS 198.815 is amended to read:

198.815. (1) If the required number of written requests for an election are filed with the county board on or before the date of the final hearing or if the petition for formation includes a permanent rate limit for operating taxes for the proposed district, the board shall provide by order for the holding of an election to submit to the electors the question of forming the district. The board shall cause notice of the election to be published by two insertions. If requests for an election are filed by less than the required number of persons and no permanent rate limit for operating taxes is included in the petition, the county board shall dismiss the requests and enter an order creating the district.

(2) The order calling an election shall fix the date of the election on the next available election date in ORS 255.345 for which the filing deadline can be met. However, when the proposal for formation includes a permanent rate limit for operating taxes for the proposed district, the election shall be held on the date of the next primary election or general election for which the filing deadline can be met. The order shall also state that at such election members of the district board will be voted for. Candidates to be voted for as members of the first board of a district shall be nominated as provided by ORS chapter 255 and the principal Act of a district.

(3) The order calling the election shall require the county official in charge of elections to include with the ballot for the election a map or other description of the boundaries of the proposed district using streets and other generally recognized features and a statement of the permanent rate, if any, proposed for the district in the petition for formation under ORS 198.750 (1)(g). Such statement shall comply with the requirements of ORS 250.035. The map or other description and statement required by this subsection shall be supplied by the county board.

(4)(a) When the proposal for formation includes a permanent rate limit for operating taxes for the proposed district, the ballot title shall clearly indicate that a single question is being proposed which is:

(A) Whether the proposed district shall be formed; and

(B) Whether the permanent rate limit specified in the ballot title shall be adopted as the maximum rate of operating taxes for that district.

(b) The ballot title for the election shall be in compliance with ORS 250.036.

(5) When the proposal for formation includes a permanent rate limit for the proposed district, the district shall be authorized to impose operating taxes not in excess of the permanent rate limit if the proposal is approved by a majority of the votes cast and:

(a) At least 50 percent of registered electors eligible to vote in the election cast a ballot; or

(b) The election is [*a general election in an even-numbered year*] **held in May or November of any year.**

(6) If a proposed county service district is subject to dissolution unless a determination of public need for continued existence is made, the ballot title shall include the fiscal year in which dissolution will occur and statement that the district will dissolve unless the board of directors determines that there is a public need for continued existence.

SECTION 12. ORS 221.050 is amended to read:

221.050. (1) The county court shall submit the proposition for incorporation determined as provided in ORS 221.040 to the electors registered in the area proposed to be incorporated. At the same election, five city council members for the proposed city shall be elected.

(2) ORS chapters 246 to 260 govern the conduct of an election under this section, including the nomination and election of the first city council, except as follows:

(a) A nominating or primary election for the purpose of nominating candidates for the city council shall not be held.

(b) Notwithstanding ORS 249.037, a nominating petition or declaration of candidacy must be filed with the county clerk not sooner than the 100th day and not later than the 70th day before the date of the election.

(c) At the time of filing a declaration of candidacy, a candidate for the first city council shall pay to the officer with whom the declaration is filed a fee of \$25.

(d) A nominating petition shall contain at least 25 signatures of electors in the area proposed to be incorporated or a number of signatures of electors equal to at least 10 percent of the number of electors in the area proposed to be incorporated as of the date the election is ordered under ORS 221.040, whichever is less.

(3) The proposed ballot title for an election under this section shall be in compliance with ORS 250.036.

(4) Not later than the 30th day after an election called under ORS 221.040 the county court calling the election shall proclaim whether the results of the election favor incorporation. The county court also shall proclaim which candidates for city council are elected, if the results of the election favor incorporation. The results of the election favor incorporation if a majority of the votes cast on the proposition favors incorporation and:

(a) At least 50 percent of registered electors eligible to vote in the election cast a ballot; or

(b) The election is [*a general election in an even-numbered year*] **held in May or November of any year.**

(5) If the results of the election favor incorporation:

(a) The area described in the notice of election is incorporated as a city from the date of the election;

(b) The proposed rate limit for operating taxes submitted to and approved by the electors at the election shall be the permanent rate limit for operating taxes for the new city; and

(c) The five council members elected under subsection (2) of this section shall take office not later than the 10th day next following the proclamation on the proposition and council election.

SECTION 13. ORS 222.050 is amended to read:

222.050. (1) This section applies if a consolidation or merger proposes to consolidate or merge two or more cities and at least one of the cities has not previously imposed ad valorem property taxes.

(2) The question of the consolidation or merger that is submitted to the electors of the city that has not previously imposed ad valorem property taxes may also propose a permanent rate limit on operating taxes as described in section 11 (3)(c), Article XI of the Oregon Constitution.

(3) The permanent rate limit proposed under subsection (2) of this section shall be taken into account in determining the permanent rate limit for the city following consolidation or merger as provided in section 11 (3)(d), Article XI of the Oregon Constitution.

(4) The question of the consolidation or merger that is submitted to the electors of the city that has not previously approved operating taxes shall be considered approved by such electors if a majority of the votes cast are in favor of the consolidation or merger and:

(a) At least 50 percent of registered voters eligible to vote in the election cast a ballot; or

(b) The election is [*a general election in an even-numbered year*] **held in May or November of any year.**

(5) ORS 250.036 applies to a ballot title for an election described in this section.

(6) Notwithstanding that a majority of all electors voting on the question of consolidation or merger approve the consolidation or merger, the consolidation or merger shall not be considered approved if the voting participation requirements in subsection (4) of this section have not been met in the city to which this section applies.

(7) If the city to which this section applies approves the consolidation or merger but the consolidation or merger is not approved by the other electors voting on the question or for some other reason does not occur, no permanent rate limit for operating taxes shall be established for the city as a result of the election.

SECTION 14. The amendments to ORS 198.815, 221.050 and 222.050 by sections 11 to 13 of this 2010 Act apply to elections held on or after the third Tuesday in May 2010, regardless of when the election results are declared or proclaimed.

SECTION 15. This 2010 Act takes effect on the 91st day after the date on which the special session of the Seventy-fifth Legislative Assembly adjourns sine die.

Passed by Senate February 11, 2010

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Secretary of Senate

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President of Senate

Passed by House February 19, 2010

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Speaker of House

Received by Governor:

.....M,....., 2010

Approved:

.....M,....., 2010

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Governor

Filed in Office of Secretary of State:

.....M,....., 2010

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Secretary of State