

## HOUSE AMENDMENTS TO HOUSE BILL 4090

By COMMITTEE ON AGRICULTURE AND NATURAL RESOURCES

February 15

1 On page 1 of the printed bill, line 2, delete “and 221.034” and insert “, 195.205, 195.225, 198.866,  
2 221.034, 222.520, 264.540, 264.550 and 523.670”.

3 Delete lines 7 through 13 and insert:

4 “**SECTION 2.** (1) For a lawfully established unit of land located entirely within the urban  
5 growth boundary of a metropolitan service district, if the service provider cannot provide sanitary  
6 sewer or water services to the established unit of land, though the established unit of land is located  
7 in the service area of the provider as identified in the applicable urban services agreement, the  
8 owner may cause another service provider to connect the established unit of land to the facilities  
9 of the other provider. For purposes of this section, a service provider cannot provide service to the  
10 lawfully established unit of land if the service provider:”.

11 In line 14, delete “or unable”.

12 In line 17, before “capacity” insert “planned”.

13 In line 18, after “land” insert “located entirely within the urban growth boundary of a metro-  
14 politan service district”.

15 On page 2, delete lines 2 through 4 and insert:

16 “(5) When an urban service is provided pursuant to this section:

17 “(a) Notwithstanding contrary provisions of an annexation plan described in ORS 195.205, a city  
18 or district that provides services pursuant to this section may require the owner to waive  
19 remonstrance, agree to annexation or petition for annexation.

20 “(b) The urban services agreement must be modified to reflect the adjusted service areas under  
21 the agreement.

22 “(c) Contrary provisions of an annexation plan prepared under ORS 195.205 must be modified to  
23 conform to the modified urban services agreement.

24 “(6)(a) If a city provides sanitary sewer or water services pursuant to this section, the city may  
25 exercise land use planning and zoning authority for the lawfully established unit of land under ORS  
26 chapters 195, 196 and 197.

27 “(b) A city that exercises land use planning and zoning authority pursuant to this subsection  
28 may impose and collect system development charges from the owner of the lawfully established unit  
29 of land pursuant to ORS 223.297 to 223.314.”.

30 In line 23, delete “or” and insert “and”.

31 On page 3, after line 24, insert:

32 “**SECTION 4a.** ORS 195.205 is amended to read:

33 “195.205. (1) A city or district that provides an urban service may annex territory under ORS  
34 195.020, 195.060 to 195.085, 195.205 to 195.235, 197.005, 197.319, 197.320, 197.335 and 223.304 that:

35 “(a) Is situated within an urban growth boundary; and

1 “(b) Is contained within an annexation plan adopted pursuant to ORS 195.020, 195.060 to 195.085,  
2 195.205 to 195.235, 197.005, 197.319, 197.320, 197.335 and 223.304.

3 “(2) A city or district may submit an annexation plan to a vote under subsection (5) of this  
4 section only if, prior to the submission of the annexation plan to a vote:

5 “(a) The territory contained in the annexation plan is subject to urban service agreements  
6 among all appropriate counties and cities and the providers of urban services within the territory,  
7 as required by ORS 195.065 and 195.070, and:

8 “(A) Such urban service agreements were in effect on November 4, 1993; or

9 “(B) They expressly state that they may be relied upon as a prerequisite of the annexation  
10 method authorized by ORS 195.020, 195.060 to 195.085, 195.205 to 195.235, 197.005, 197.319, 197.320,  
11 197.335 and 223.304; and

12 “(b) The territory contained in the annexation plan is subject to an agreement between the city  
13 and county addressing fiscal impacts, if the annexation is by a city and will cause reductions in the  
14 county property tax revenues by operation of section 11b, Article XI of the Oregon Constitution.

15 “(3) Prior to adopting an annexation plan, the governing body of a city or district shall hold a  
16 public hearing at which time interested persons may appear and be heard on the question of estab-  
17 lishing the annexation plan.

18 “(4) The governing body of the city or district shall cause notice of the hearing to be published,  
19 once each week for two successive weeks prior to the day of the hearing, in a newspaper of general  
20 circulation in the city or district.

21 “(5) If after the public hearing required under subsection (3) of this section[,] the governing body  
22 of the city or district decides to proceed with the annexation plan, [it] **except as provided in sub-**  
23 **section (6) of this section, the governing body** shall cause the annexation plan to be submitted  
24 to the electors of the city or district and to the electors of the territory proposed to be annexed  
25 under the annexation plan. The proposed annexation plan may be voted upon at a general election  
26 or at a special election to be held for that purpose.

27 “**(6) For purposes of an annexation by a service provider providing sanitary sewer or**  
28 **water services pursuant to section 2 of this 2012 Act, the governing body of a district may**  
29 **declare the annexation approved by resolution or ordinance without submitting the**  
30 **annexation plan to the electors of the district or to the electors of the territory proposed to**  
31 **be annexed.**

32 “**SECTION 4b.** ORS 195.225 is amended to read:

33 “195.225. (1) In areas subject to the jurisdiction of a local government boundary commission, the  
34 boundary commission shall conduct an advisory review of an annexation plan for conformity with  
35 annexation plan requirements set forth in ORS 195.220, 199.462 and the rules of procedure of the  
36 Land Conservation and Development Commission.

37 “(2) If a boundary commission finds that an annexation plan does not comply with ORS 195.220,  
38 199.462 or the procedural rules of the commission, the boundary commission, by order, shall disap-  
39 prove the annexation plan and return the plan to the governing body of the city or district. The  
40 order of the boundary commission that disapproves an annexation plan shall describe with  
41 particularity the provisions of the annexation plan that do not comply with ORS 195.220, 199.462 or  
42 the procedural rules of the commission and shall specifically indicate the reasons for noncompliance.

43 “(3) The governing body of the city or district, upon receiving an order of the boundary com-  
44 mission that disapproves an annexation plan, may amend the plan and resubmit the amended plan  
45 to the boundary commission.

1 “(4) After a boundary commission reviews an annexation plan, **except as provided in sub-**  
2 **section (5) of this section**, the annexation plan shall be submitted to the electors of the city or  
3 district and affected territory as provided in ORS 195.205.

4 “(5) **For purposes of an annexation by a service provider providing sanitary sewer or**  
5 **water services pursuant to section 2 of this 2012 Act, the governing body of a district may**  
6 **declare the annexation approved by resolution or ordinance without submitting the**  
7 **annexation plan to the electors of the district or to the electors of the territory proposed to**  
8 **be annexed.**

9 “[5] (6) Notwithstanding ORS chapter 199, annexations provided for in an annexation plan ap-  
10 proved [by the electors of a city or district and affected territory] **under subsection (4) or (5) of this**  
11 **section** do not require the approval of a local government boundary commission.

12 “[6] (7) A city or district shall submit an **approved** annexation plan [approved by the electors]  
13 and a copy of the resolution, ordinance, order or proclamation proclaiming an annexation under an  
14 approved annexation plan to the local government boundary commission filing with the Secretary  
15 of State, Department of Revenue, assessor and county clerk of each county in which the affected  
16 territory is located.”.

17 On page 4, after line 36, insert:

18 “**SECTION 6.** ORS 222.520 is amended to read:

19 “222.520. (1) Whenever a part less than the entire area of a district named in ORS 222.510 be-  
20 comes incorporated as or annexed to a city in accordance with law **and the city will provide the**  
21 **service to that part after incorporation or annexation that the district provided to the part**  
22 **before incorporation or annexation**, the city may cause [that] **the** part to be withdrawn from the  
23 district in the manner set forth in ORS 222.120 or at any time after [such] **the** incorporation or  
24 annexation in the manner set forth in ORS 222.524. Until so withdrawn, the part of [such a] **the**  
25 district incorporated or annexed into a city shall continue to be a part of the district.

26 “(2) The part thus withdrawn shall not thereby be relieved from liabilities and indebtedness  
27 previously contracted by the district. For the purposes of paying [such] **the** liabilities and indebt-  
28 edness of the district, property in the part withdrawn shall continue to be subject to assessment and  
29 taxation uniformly with property in the area remaining in the district. The city of which it became  
30 a part shall, however, assume [such] **the** obligations if the obligations assumed do not bring the total  
31 of the city’s obligations above any applicable limitations prescribed by statute. When the city as-  
32 sumes [such] **the** obligations it shall be liable to the district for one of the following, at the option  
33 of the city:

34 “(a) The amount of taxes which otherwise would be extended each year therefor against the  
35 property in the part withdrawn; or

36 “(b) Payment annually, as the bonds of the district that were outstanding on the effective date  
37 of the withdrawal mature, of the same proportion of [such] **the** outstanding bonds, and the interest  
38 thereon, as the assessed valuation of the part withdrawn bears to the assessed valuation of the en-  
39 tire district on the effective date of the withdrawal. After the city agrees to make [such] payments  
40 under this subsection, neither the city nor the part withdrawn shall be charged by the district with  
41 any future liabilities, obligations or functions of the district.

42 “**SECTION 7.** ORS 198.866 is amended to read:

43 “198.866. (1) The governing body of a city may adopt a resolution or motion to propose  
44 annexation **of all or part of the city** to a district for the purpose of receiving service from the  
45 district. Upon adoption of an annexation proposal, the governing body of the city shall certify to the

1 district board a copy of the proposal.

2 “(2) The district board shall approve or disapprove the city’s annexation proposal. If the district  
3 board approves the proposal, the district board shall adopt an order or resolution to call an election  
4 in the district unless otherwise provided in subsection (3) of this section.

5 “(3) The district board is not required to call an election if:

6 “(a) The population of the city is less than 20 percent of the population of the district; or

7 “(b) The entire boundary of the city is encompassed within the boundary of the district.

8 “(4) Notwithstanding subsection (3) of this section, if 10 percent of the electors or 100 electors  
9 of the district, whichever is less, sign and present to the county board a petition requesting an  
10 election, the board shall call an election in the district. The petition shall be in conformity, to the  
11 greatest extent practicable, with ORS 198.750, 198.760, 198.765 and 198.770.

12 “(5) The order or resolution of the district board shall include the applicable matters specified  
13 in ORS 198.745. In addition the order or resolution may contain a plan for zoning or subdistricting  
14 the district as enlarged by the annexation if the principal Act for the district provides for election  
15 or representation by zone or subdistrict.

16 “(6) The district board shall certify a copy of the resolution or order to the governing body of  
17 the city.

18 “(7) Upon receipt of the resolution or order of the district board, the governing body of the city  
19 shall call an election in **the part of the city proposed for annexation** on the date specified in the  
20 order or resolution of the district board.

21 “(8) An election under this section shall be held on a date specified in ORS 255.345 that is not  
22 sooner than the 90th day after the date of the district order or resolution calling the election.

23 “**SECTION 8.** ORS 264.540 is amended to read:

24 “264.540. (1) If **all of** a city has been annexed to a district under ORS 198.866 and 198.867 or  
25 has been joined to a district under ORS 198.910, the city may designate the location and type of fire  
26 hydrants to be installed within the territory of the city. The board of commissioners shall establish  
27 the rates for the use of water therefrom as provided in ORS 264.330. The city and the district may  
28 by contract determine the entire matter of installation of hydrants and use of water therefrom and  
29 payment therefor.

30 “(2) The ownership of the water supply system within the city boundaries shall revert to and  
31 be vested in the district.

32 “**SECTION 9.** ORS 264.550 is amended to read:

33 “264.550. If **all or part of** a city has been annexed to a district under ORS 198.866 and 198.867  
34 or has been joined to a district under ORS 198.910, the city and the district may:

35 “(1) Enter into contracts and agreements to do any act or thing which either could have done  
36 if the annexation **or joining** had not occurred.

37 “(2) Contract and agree for the collection by the district of any water user tax or charge im-  
38 posed by the city upon water users within the territory of the city, and the district thereupon may  
39 provide for [such] collection according to its rules [and regulations] for the collection of amounts  
40 due the district by water users, including but not limited to shutting off the water supply for non-  
41 payment.

42 “**SECTION 10.** ORS 523.670 is amended to read:

43 “523.670. If **all or part of** a city has been annexed to a district under ORS 198.866 and 198.867  
44 or joined to a district under ORS 198.910, the city and the district may:

45 “(1) Enter into contracts and agreements to do any act or thing which either could have done

1 if the annexation **or joining** had not occurred.

2       “(2) Contract and agree for the collection by the district of any geothermal heat tax or charge  
3 imposed by the city upon geothermal heat users within the territory of the city, and the district  
4 thereupon may provide for [*such*] collection according to its rules [*and regulations*] for the collection  
5 of amounts due the district by geothermal heat users, including but not limited to shutting off the  
6 geothermal heat supply for nonpayment.”.

7       In line 37, delete “6” and insert “11”.

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