

ANNEXATION AND INFRASTRUCTURE FINANCING 101

An Introduction to the law of Annexation and Boundary Changes, with a Focus on Public Infrastructure Financing

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Presentation Overview

- Annexation to Cities
 - Legal limitations
 - Procedures
- Annexation to Service Districts
- Withdrawal from Service Districts
- Land use issues
- Coordination issues among governments
- Infrastructure Financing Tools

Annexation to Cities

- Governed by statute and case law
- Annexation Statutes – ORS Chapter 222:
 - ORS 222.111 – Authority to Annex – contiguity requirement, annexation must be “reasonable”
 - ORS 222.120 – Hearing Requirements
 - ORS 222.125 - Double Majority, and ORS 222.175 – Triple Majority. Require written consent or a vote
 - ORS 222.750 – Island Annexation – 2007 legislative changes, case law add limitations

Annexation to and Withdrawal from Districts

- **Service Districts:**
 - **Special Districts**
 - Organized under specific statutory authority.
 - Examples include:
 - Rural Fire Protection Districts (ORS Chapter 478) ; Water Supply Districts (ORS Chapter 264); Sanitary Districts (ORS Chapter 450)
 - **County Service Districts**
 - Organized under ORS Chapter 451. Typically, Board of County Commissioners serves as District Board.
 - Examples include Clean Water Services (Washington County) and Clackamas County Service District #1 (storm water and sanitary sewer)

Annexation to and Withdrawal from Districts (cont'd)

- Special Districts also may annex
 - Statute ties annexation to service availability (ORS 198.850(2))
 - Territory need not be contiguous
 - Petitions for annexation decided by County Board
- Cities and residents can withdraw territory from Districts
 - Cities upon annexation to city or later
 - Landowners or voters can petition for withdrawal; County Commission decides, or vote in the district

Annexation as a Land Use Decision

- Annexation is a “land use” decision.
- Annexation must comply with local comprehensive plan and land use regulations. ORS 197.175
- If election is held, the result of the election is **not** a land use decision.

Coordination Issues:

- City can withdraw annexed area from certain special districts. ORS 222.510, 222.520, 222.524.
 - City must provide (i.e. fund) the service.
 - HB 2618 (2013)

- Annexing city into special district. ORS 198.866.
 - Requires voter approval unless city entirely surrounded by district, or city is less than 20 percent of district population

- “SB 122” Coordination Agreements.

Coordination Issues (cont'd)

- “SB 122” Agreements.
 - ORS 195.060 to 195.085.
 - Enacted in 1993. Compliance has been uneven.
 - Required to address, among other things:
 - (a) Whether the urban service will be provided by a city, county, district, authority or a combination.
 - (b) The role of each service provider in the future.
 - (c) The future service area for each provider.
 - (d) Planning responsibilities.
 - (e) The terms of transitions in terms of ownership of facilities, annexation of service territory, transfer of moneys or project responsibility and the merger of service providers.

Financing Local Infrastructure:

- Limits on Local Taxing Authority
 - Art. XI, Section 11.
 - Fixes local permanent rate at 1997 rate. Section (3)(b).
 - Limits increase in assessed value to three percent per year. Section (1)(b).
- Implemented through ORS Chapter 310.
- “Compression” may impose additional limits.
- Local governments have been turning to both traditional and new financing options to provide infrastructure

Financing Local Infrastructure, continued

Some financing tools:

- Local Improvement District. ORS 223.387 to 223.395.
 - City builds improvements
 - Benefited properties pay
 - Detailed statutory process and requirements
 - Local government share of cost
 - Lien factor
- Reimbursement District.
 - Local tool, no statutory corollary
 - Developer funds improvements
 - Benefiting properties reimburse
 - No lien
 - Challenged and upheld by Court of Appeals - *Baker v. City of Woodburn*.

Financing Local Infrastructure, continued

- Systems Development Charges. ORS 223.297 to 223.314.
 - Cities, counties, special districts can charge
 - Public process for adoption
 - Statutes are designed for fair share contribution by development
 - Many legislative changes
 - Important court cases

Financing Local Infrastructure, continued

- Bonds
 - General Obligation bonds (GO)
 - Cities, counties, some special districts
 - Voter approval required
 - Repayment guaranteed by full faith and credit of issuer
 - Costly to issue, market uncertainty
 - Revenue bonds
 - No voter approval
 - Repayment assured only by revenue from the facility built with the bond proceeds

Financing Local Infrastructure, continued

- Urban Renewal. ORS Chapter 457
 - Statutory option – property tax bill stays the same, revenues from tax payments diverted to approved urban renewal district
 - Cities and Counties
 - Elimination of “blight” by building improvements
 - Complex public outreach and adoption process
 - Much significant legislation
 - Limits on scope
 - Several Districts are operating in Oregon

Conclusion and Questions

- Complex issue with significant political, financial implications
- Legislation as a “barometer”
- **Questions and discussion by the Committee**