

5/26/2015

Steve Jansen, Coos County Assessor

Concerns about HB 3188

Section 2 (1)(a) brings up ORS 198.705 to 198.955. I assume the “notwithstanding” refers only to 198.720 regarding having more than one such district in the county performing the same service. Do all the other provisions of ORS 198.705 to 198.955 apply? “**Notwithstanding ORS 198.705 to 198.955**” means none of the provisions of that series apply. The point was to create a different kind of special district using a custom apparatus.

For a landowner like the CB/NB Water Board –a landowner but not elector- which owns land within the city limits of CB, would they be excluded from participation? **A landowner that is an entity may elect to incur the charge for the land. See, e.g., Section 6 (2)(c) “An owner that has elected not to incur the charge . . .”** “That” refers to both individuals and entities.

Section 2 (2)(a) lists the criteria of “more than 50% of the eligible petitioners who cumulatively own more than 50% by area of the eligible land within the proposed district”. Consider the hypothetical:

- **Landowner A** (500 acres),
- **Landowner B** (250 acres), and
- **Landowner C** (200 acres) petition to form a district.

Acreages are non-contiguous within the landowners’ holdings, and the landowners themselves are non-contiguous. So far, the qualifications of HB 3188 are all satisfied. Assume all three of three petitioners are in favor the first year.

What if **Landowner B and C** opt out after the first year? The district still has more than 50% of the acreage requirement, but less than 50% of the necessary landowners. Does the district continue to exist?

Similarly, if **Landowner A** opts out after the first year, more than 50% of the owners are still there, but less than 50% of the total acreage requirement. Does the district continue to exist?

What if **Landowner A** is part of several other non-contiguous predator control districts throughout the county? That owner may be a major %-holder in one district, but owns ‘just enough’ acreage in several others to put them over the 50% acreage requirement. If **Landowner A** withdraws from all of the districts, all could possibly collapse due to no longer meeting the acreage percentage requirements.

The 50/50 requirement is for formation. The district may be dissolved under section 3 (2) but the bill does not require automatic dissolution. A predator damage control district is a purposely lightweight bureaucratic funding mechanism. Services are provided only for landowners that elect to incur a charge for the services. Thus, if participation falls below the level required for formation, there is less harm than there might otherwise be, because the charge is meant to compensate the county for the actual cost of providing the services. Less participation means less cost.

Section 2(3)(c)(A) instructs the Assessor to “compare the signatures of the petitioners...” Per ORS 198.765(2), we’d only be comparing “the number of signatures”; not the signatures themselves. As far as legitimacy of signatures, it would make no difference to the Assessor. **The point is for the assessor to**

compare each signature to the land records to make sure the petitioner is the owner of the land. It doesn't require authenticating the signature.

Since landowners may opt in or out annually, must this petitioning procedure be re-accomplished annually? **No**

What about land sales from year to year? A new owner means a new name (and decision to opt in or out) for the following year. **Yes**

Section 5(2) final sentence directs submission to "the County". Specifically whom at the county? The Board of Commissioners? Clerk? Treasurer? Tax Collector? County Counsel? Preferred date for us is July 15th. **The previous sentence requires recommendation to "the governing body of the county"—that's who must receive it. Each county can name its own date.**

Section 7(1); same question. Again, the preferred date for us is July 15th, just as for all the other special districts. **Sub (1) requires submission "on or before a date prescribed by the governing body of the county" and sub (2) requires the governing body of the county to certify the information submitted. This language could be clearer, but its meaning is reasonably determinable. Again, each county can name its own date. As noted above, predator damage control districts are not like "all the other special districts."**