

A-Engrossed
Senate Bill 121

Ordered by the Senate April 13
Including Senate Amendments dated April 13

Sponsored by Senator HANSELL (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.

Authorizes electors in affected territory to propose plan for abating health hazard other than annexation of territory or extraterritorial extension of city or district services to territory.

[Adds cost-effectiveness to criteria that Oregon Health Authority or Environmental Quality Commission must consider in deciding whether to approve or reject proposed alternative plan.] **Provides for rejection of alternative plan proposed by local governing body if Oregon Health Authority or Environmental Quality Commission determines that annexation is best, most expeditious and most cost-effective method of removing or alleviating dangerous conditions.**

Changes number of residents necessary to petition local board of health to initiate annexation proceedings to abate health hazard. Allows for withdrawal of petition at any time before annexation is final, **upon provision of alternative plan by specified number of petitioners.**

Applies to proceedings in which annexation of affected territory to city or district, or extraterritorial extension of city or district services to affected territory, is not final. **Applies to petitions to initiate annexation proceedings filed before, on or after effective date of Act.**

Declares emergency, effective on passage.

A BILL FOR AN ACT

1
2 Relating to health hazard abatement; creating new provisions; amending ORS 222.885, 222.890 and
3 222.905; and declaring an emergency.

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

5 **SECTION 1.** ORS 222.885 is amended to read:

6 222.885. (1)(a) Within 60 days after the Director of the Oregon Health Authority [*under*] **finds,**
7 **pursuant to** ORS 222.880, [*finds*] that conditions dangerous to public health exist, [*a petition, signed*
8 *by*] not less than 51 percent of the electors registered in the affected territory[,], may [*be filed*] **file**
9 **a petition** with the Oregon Health Authority[. *Such petition shall suggest*] **proposing** an alternative
10 plan to annexation to the city for removal or alleviation of the conditions dangerous to public
11 health.

12 (b) The petition shall state the intent of the residents to seek:

13 (A) Annexation to an existing district authorized by law to provide facilities within the affected
14 territory necessary to remove or alleviate the dangerous conditions; [*or to seek,*]

15 (B) With the approval of the city or district, extraterritorial extension of a city's or district's
16 sewer or water lines; **or**

17 (C) **Approval of a plan other than annexation or extraterritorial extension.**

18 (c) The petition [*shall*] **must** be accompanied by a proposed plan [*which shall state the type of*]
19 **stating any** facilities to be constructed, a proposed means of financing the facilities[,], and an esti-
20 mate of the time required to construct [*such*] **the** facilities and place them in operation.

21 (2)(a) Within 30 days after the director [*under*] **finds, pursuant to** ORS 222.880, [*finds*] that

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 conditions dangerous to public health exist, [a resolution adopted by] the city council or the gov-
2 erning body of any district having jurisdiction over the affected territory may [be filed] **file** with the
3 authority. *The resolution shall suggest* **a validly adopted resolution proposing** an alternative plan
4 to annexation to the city for removal or alleviation of the conditions dangerous to public health.

5 **(b)** The resolution [shall] **must** be accompanied by a proposed plan [which shall state the type
6 of] **stating any** facilities to be constructed, a proposed means of financing the facilities[,] and an
7 estimate of the time required to construct [such] **the** facilities and place them in operation.

8 **(3)** Upon receipt of [such] **a** petition or resolution [adopted by a district or city council] **under**
9 **this section**, the authority shall:

10 **(a)** Immediately forward copies of [any] **the** petition or resolution to the city or district referred
11 to in the petition or resolution, and, except where the condition causing the danger to public health
12 is impure or inadequate domestic water, to the Environmental Quality Commission.

13 **(b)** Order further proceedings on the findings filed under ORS 222.880 stayed, pending the review
14 permitted under ORS 222.890 and this section.

15 **SECTION 2.** ORS 222.890 is amended to read:

16 222.890. (1) An alternative plan [referred] **proposed pursuant** to [in] ORS 222.885 shall be re-
17 viewed by the Oregon Health Authority in cases where danger to public health is caused by impure
18 or inadequate domestic water and in all other cases by the Environmental Quality Commission. The
19 plan shall be approved or rejected by the authority or commission. In reviewing the alternative plan
20 contained in the petition, the authority or commission shall consider whether, in its judgment, the
21 plan contains a preferable alternative for the alleviation or removal of the conditions dangerous to
22 public health.

23 **(2)(a) With respect to an alternative plan proposed in a petition filed under ORS 222.885**
24 **(1)**, if [it] **the authority or commission** determines that annexation to the city provides the best
25 and most expeditious method of removing or alleviating the dangerous conditions, the alternative
26 plan shall be rejected and further proceedings on the finding filed under ORS 222.880 shall resume.

27 **(b) With respect to an alternative plan proposed in a resolution filed under ORS 222.885**
28 **(2)**, if **the authority or commission determines that annexation to the city provides the best,**
29 **most expeditious and most cost-effective method of removing or alleviating the dangerous**
30 **conditions, the alternative plan shall be rejected and further proceedings on the finding filed**
31 **under ORS 222.880 shall resume.**

32 [(2)] **(3)** If the authority or commission finds that the alternative plan provides a preferable
33 method of alleviating or removing the dangerous conditions, the petitioners or appropriate governing
34 body shall have six months within which to present to the authority or commission information
35 showing:

36 **(a)** That the territory in which the conditions dangerous to public health exist:

37 **(A)** Has received approval for the extension of a city's or district's sewer or water lines within
38 the territory or has annexed to a district authorized by law to provide facilities necessary to remove
39 or alleviate the dangerous conditions, and that financing of the facilities for extension of such fa-
40 cilities to the territory has been assured; **or**

41 **(B) Has taken substantial steps to implement the alternative plan.**

42 **(b)** Detailed plans and specifications for the construction of [such] **any proposed** facilities.

43 **(c)** A time schedule for the construction of [such] **any proposed** facilities.

44 **(d)** That [such] **proposed** facilities, if constructed, will remove or alleviate the conditions dan-
45 gerous to public health in a manner as satisfactory and expeditious as would be accomplished by the

1 proposed annexation to the city.

2 [(3)] **(4)(a)** The authority or commission shall review the final plan [*presented to it*] **proposed**
 3 by the petitioners, city or district and shall promptly certify whether the requirements of subsection
 4 [(2)] **(3)** of this section have been met.

5 **(b)** If the requirements have been met, the authority shall certify the alternative plan. Further
 6 annexation proceedings on the findings filed under ORS 222.880 shall be suspended and the city shall
 7 be so notified.

8 **(c)** If the requirements of subsection [(2)] **(3)** of this section [*are not*] **have not been** met [*by the*
 9 *petitioners, city or district*] or whenever the authority or commission determines that the require-
 10 ments of the certified plan are not being satisfied, further proceedings on the findings filed under
 11 ORS 222.880 shall resume.

12 **SECTION 3.** ORS 222.905 is amended to read:

13 222.905. (1) [*The local board of health or the boundary commission having jurisdiction shall, if*
 14 *it*] **If a local board of health** believes **that** a danger to public health exists within a territory
 15 **within its jurisdiction that is** otherwise eligible for annexation in accordance with ORS 222.111,
 16 **the board shall** proceed in the same manner as a city is authorized to proceed under ORS 222.860.

17 **(2)(a)** [*Any 11*] **Forty percent of the** residents of territory otherwise eligible for annexation in
 18 accordance with ORS 222.111 who believe a danger to public health exists within [*such*] **the** terri-
 19 tory may [*apply to*] **petition** the local board of health to initiate proceedings to annex [*such*] **the**
 20 territory as provided in subsection (1) of this section.

21 **(b)** The local board of health shall [*within a reasonable time, but not more than 90 days,*] inves-
 22 tigate the matters alleged in the [*application*] **petition within 90 days after receiving the petition**
 23 and shall either initiate proceedings **to annex the territory** or certify to the petitioners that the
 24 investigation disclosed insufficient evidence to initiate proceedings.

25 **(3)(a)(A)** **At any time before the annexation of territory initiated under subsection (2) of**
 26 **this section is final, the petition shall be withdrawn if a number of petitioners described in**
 27 **subparagraph (B) of this paragraph provides the local board of health with a copy of an al-**
 28 **ternative plan that meets the requirements of ORS 222.885 (1)(c).**

29 **(B)** **The required number of petitioners under this paragraph is any number that, if sub-**
 30 **tracted from the number of petitioners who signed the petition under subsection (2) of this**
 31 **section, would reduce the total number of petitioners below 40 percent of the residents of the**
 32 **territory.**

33 **(b)** **If a petition is withdrawn under paragraph (a) of this subsection before the Director**
 34 **of the Oregon Health Authority finds that a danger to public health exists in the territory**
 35 **under ORS 222.880, the Oregon Health Authority and the local board of health shall termi-**
 36 **nate all proceedings under ORS 222.840 to 222.915 with respect to the territory that was the**
 37 **subject of the petition.**

38 **(c)** **If a petition is withdrawn under paragraph (a) of this subsection after the director**
 39 **finds that a danger to public health exists in the territory under ORS 222.880, the alternative**
 40 **plan provided under paragraph (a) of this subsection shall be evaluated by the authority or**
 41 **the Environmental Quality Commission pursuant to the standards described in ORS 222.890.**

42 **SECTION 4.** (1) **The amendments to ORS 222.885, 222.890 and 222.905 by sections 1 to 3**
 43 **of this 2015 Act apply to proceedings initiated pursuant to ORS 222.840 to 222.915 in which**
 44 **the annexation of affected territory to a city or district, or the extraterritorial extension of**
 45 **city or district services to affected territory, is not final before the effective date of this 2015**

1 **Act.**

2 **(2) The amendments to ORS 222.905 (2) by section 3 of this 2015 Act apply to petitions**
3 **filed before, on or after the effective date of this 2015 Act that relate to proceedings de-**
4 **scribed in subsection (1) of this section. A petition described in this subsection that does not**
5 **meet the 40 percent requirement under ORS 222.905 (2) is not valid for any purpose.**

6 **(3) For purposes of this section, annexation or extension is final if all necessary actions**
7 **under ORS 222.840 to 222.915 have been completed and judicial review under ORS 222.896 is**
8 **no longer available because of lapse of time or issuance of an order from which there is no**
9 **further appeal.**

10 **SECTION 5. This 2015 Act being necessary for the immediate preservation of the public**
11 **peace, health and safety, an emergency is declared to exist, and this 2015 Act takes effect**
12 **on its passage.**

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