

Enrolled Senate Bill 121

Sponsored by Senator HANSELL; Representative SMITH (Pre-session filed.)

CHAPTER

AN ACT

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

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

SECTION 1. ORS 222.885 is amended to read:

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

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

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

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

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

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

(2)(a) Within 30 days after the director *[under]* **finds, pursuant to** ORS 222.880, *[finds]* that conditions dangerous to public health exist, *[a resolution adopted by]* the city council or the governing body of any district having jurisdiction over the affected territory may *[be filed]* **file** with the authority. *The resolution shall suggest* **a validly adopted resolution proposing** an alternative plan to annexation to the city for removal or alleviation of the conditions dangerous to public health.

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

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

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

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

SECTION 2. ORS 222.890 is amended to read:

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

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

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

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

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

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

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

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

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

(d) That [*such*] **proposed** facilities, if constructed, will remove or alleviate the conditions dangerous to public health in a manner as satisfactory and expeditious as would be accomplished by the proposed annexation to the city.

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

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

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

SECTION 3. ORS 222.905 is amended to read:

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

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

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

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

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

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

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

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

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

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

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

Passed by Senate April 15, 2015

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Lori L. Brocker, Secretary of Senate

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Peter Courtney, President of Senate

Passed by House May 28, 2015

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Tina Kotek, Speaker of House

Received by Governor:

.....M,....., 2015

Approved:

.....M,....., 2015

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Kate Brown, Governor

Filed in Office of Secretary of State:

.....M,....., 2015

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Jeanne P. Atkins, Secretary of State