

# Senate Bill 121

Sponsored by Senator HANSELL (Pre-session 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 **as introduced**.

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.

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.

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.

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

26 (b) The resolution [*shall*] **must** be accompanied by a proposed plan [*which shall state the type*  
27 *of*] **stating any** facilities to be constructed, a proposed means of financing the facilities[,] and an

**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 estimate of the time required to construct [*such*] **the** facilities and place them in operation.

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

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

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

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

10 222.890. (1) An alternative plan [*referred*] **proposed pursuant** to [*in*] ORS 222.885 shall be re-  
11 viewed by the Oregon Health Authority in cases where danger to public health is caused by impure  
12 or inadequate domestic water and in all other cases by the Environmental Quality Commission. The  
13 plan shall be approved or rejected by the authority or commission. In reviewing the alternative plan  
14 contained in the petition, the authority or commission shall consider whether, in its judgment, the  
15 plan contains a preferable alternative for the alleviation or removal of the conditions dangerous to  
16 public health.

17 (2) If [*it*] **the authority or commission** determines that annexation to the city provides the best  
18 [*and*], most expeditious **and most cost-effective** method of removing or alleviating the dangerous  
19 conditions, the alternative plan shall be rejected and further proceedings on the finding filed under  
20 ORS 222.880 shall resume.

21 [(2)] (3) If the authority or commission finds that the alternative plan provides a preferable  
22 method of alleviating or removing the dangerous conditions, the petitioners or appropriate governing  
23 body shall have six months within which to present to the authority or commission information  
24 showing:

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

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

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

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

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

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

36 [(3)] (4)(a) The authority or commission shall review the final plan [*presented to it*] **proposed**  
37 by the petitioners, city or district and shall promptly certify whether the requirements of subsection  
38 [(2)] (3) of this section have been met.

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

42 (c) If the requirements of subsection [(2)] (3) of this section [*are not*] **have not been met** [*by the*  
43 *petitioners, city or district*] or whenever the authority or commission determines that the require-  
44 ments of the certified plan are not being satisfied, further proceedings on the findings filed under  
45 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 within its jurisdiction** a danger to public health exists within a territory 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]* \_\_\_\_\_ **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 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 and shall either initiate proceedings or certify to the petitioners that the investigation disclosed insufficient evidence to initiate proceedings.

(3) **At any time before annexation of the territory is final, a number of petitioners under this section sufficient to reduce the total number of petitions below \_\_\_\_\_ percent may withdraw the petition for annexation upon providing the local board of health with a copy of an alternative plan of the kind described in ORS 222.885 (1).**

**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 any 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.**

(2) **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.**