

Senate Bill 498

Sponsored by Senator EDWARDS (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 **as introduced**.

Prohibits city from submitting question of annexation of territory to electors of city when owners of land in territory and at least 50 percent of electors in territory consent to annexation in writing and additional criteria are met.

A BILL FOR AN ACT

1
2 Relating to annexation of territory by city; creating new provisions; and amending ORS 199.490,
3 222.111, 222.120, 222.125 and 222.170.

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

5 **SECTION 1. ORS 222.125 and section 3 of this 2015 Act are added to and made a part of**
6 **ORS 222.111 to 222.180.**

7 **SECTION 2.** ORS 222.125 is amended to read:

8 222.125. (1) The legislative body of a city need not call or hold an election in the city or in any
9 contiguous territory proposed to be annexed or hold the hearing otherwise required under ORS
10 222.120 when all of the owners of land in that territory and not less than 50 percent of the electors,
11 if any, residing in the territory [*consent in writing to the annexation of the land in the territory and*]
12 file a **written** statement of [*their*] consent with the legislative body. Upon receiving written consent
13 to annexation by owners and electors under this section, the legislative body of the city, by resolu-
14 tion or ordinance, may set the final boundaries of the area to be annexed by a legal description
15 and proclaim the annexation.

16 (2) **Notwithstanding contrary provisions of a city charter, the legislative body of a city**
17 **may not submit a proposal for annexation of territory to the electors of the city for their**
18 **approval or rejection, and is not required to hold the public hearing otherwise required by**
19 **ORS 222.120, when:**

20 (a) **All of the owners of land in the territory and at least 50 percent of the electors, if**
21 **any, residing in the territory file a written statement of consent with the legislative body;**

22 (b) **The land in the territory does not receive sanitary sewer service or water service**
23 **from the city;**

24 (c) **The territory is within an urban growth boundary; and**

25 (d) **All of the owners of land in the territory state in writing that residential areas in the**
26 **territory will not be developed at a density that is more than 20 percent higher than the**
27 **average density of residential development of other areas in the city that are zoned for res-**
28 **idential use.**

29 **SECTION 3. (1) As used in ORS 222.111 to 222.180:**

30 (a) **“Owner” or “landowner” means the legal owner of record or, when a recorded land**
31 **contract is in force, the purchaser under the land contract.**

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 **(b) “Lawfully established unit of land” has the meaning given that term in ORS 92.010.**

2 **(2) When there are multiple owners of a lawfully established unit of land, each consenting**
 3 **owner must be counted as a fraction to the same extent as the interest of the owner in the**
 4 **land bears in relation to the interest of the other owners and the same fraction must be**
 5 **applied to the land’s mass and assessed value for purposes of the consent petition.**

6 **(3) When a corporation owns land in territory proposed to be annexed, the corporation**
 7 **shall be considered the one owner of the land.**

8 **SECTION 4.** ORS 222.111 is amended to read:

9 222.111. (1) When a proposal containing the terms of annexation is approved in the manner
 10 provided by the charter of the annexing city or by ORS 222.111 to 222.180 or 222.840 to 222.915, the
 11 boundaries of any city may be extended by the annexation of territory that is not within a city and
 12 that is contiguous to the city or separated from it only by a public right of way or a stream, bay,
 13 lake or other body of water. Such territory may lie either wholly or partially within or without the
 14 same county in which the city lies.

15 (2) A proposal for annexation of territory to a city may be initiated by the legislative body of
 16 the city, on its own motion, or by a petition to the legislative body of the city by owners of real
 17 property in the territory to be annexed.

18 (3) The proposal for annexation may provide that, during each of not more than 10 full fiscal
 19 years beginning with the first fiscal year after the annexation takes effect, the rate of taxation for
 20 city purposes on property in the annexed territory shall be at a specified ratio of the highest rate
 21 of taxation applicable that year for city purposes to other property in the city. The proposal may
 22 provide for the ratio to increase from fiscal year to fiscal year according to a schedule of increase
 23 specified in the proposal; but in no case shall the proposal provide for a rate of taxation for city
 24 purposes in the annexed territory which will exceed the highest rate of taxation applicable that year
 25 for city purposes to other property in the city. If the annexation takes place on the basis of a pro-
 26 posal providing for taxation at a ratio, the city may not tax property in the annexed territory at a
 27 rate other than the ratio which the proposal authorizes for that fiscal year.

28 (4) When the territory to be annexed includes a part less than the entire area of a district
 29 named in ORS 222.510, the proposal for annexation may provide that if annexation of the territory
 30 occurs the part of the district annexed into the city is withdrawn from the district as of the effective
 31 date of the annexation. However, if the affected district is a district named in ORS 222.465, the ef-
 32 fective date of the withdrawal of territory shall be determined as provided in ORS 222.465.

33 *[(5) The legislative body of the city shall submit, except when not required under ORS 222.120,*
 34 *222.170 and 222.840 to 222.915 to do so, the proposal for annexation to the electors of the territory*
 35 *proposed for annexation and, except when permitted under ORS 222.120 or 222.840 to 222.915 to dis-*
 36 *pende with submitting the proposal for annexation to the electors of the city, the legislative body of the*
 37 *city shall submit such proposal to the electors of the city. The proposal for annexation may be voted*
 38 *upon at a general election or at a special election to be held for that purpose.]*

39 **(5) The proposal for annexation may be voted upon at a general election or at a special**
 40 **election to be held for the purpose. The legislative body of the city shall:**

41 **(a) Submit the proposal for annexation to the electors of the territory proposed for**
 42 **annexation unless the legislative body is not required to submit the proposal to electors of**
 43 **the territory under ORS 222.120, 222.170 or 222.840 to 222.915.**

44 **(b) Submit the proposal for annexation to the electors of the city, unless ORS 222.120 or**
 45 **222.840 to 222.915 allow the legislative body to dispense with submitting the proposal for**

1 **annexation to the electors of the city or ORS 222.125 prohibits the legislative body from**
 2 **submitting the proposal to the electors of the city.**

3 (6) The proposal for annexation may be voted upon by the electors of the city and of the terri-
 4 tory simultaneously or at different times not more than 12 months apart.

5 (7) Two or more proposals for annexation of territory may be voted upon simultaneously; how-
 6 ever, in the city each proposal shall be stated separately on the ballot and voted on separately, and
 7 in the territory proposed for annexation no proposal for annexing other territory shall appear on the
 8 ballot.

9 **SECTION 5.** ORS 222.120 is amended to read:

10 222.120. (1) Except when expressly required to do so by the city charter, the legislative body
 11 of a city is not required to submit a proposal for annexation of territory to the electors of the city
 12 for their approval or rejection.

13 (2) When the legislative body of the city elects to dispense with submitting the question of the
 14 proposed annexation to the electors of the city, the legislative body of the city shall fix a day for
 15 a public hearing before the legislative body at which time the electors of the city may appear and
 16 be heard on the question of annexation.

17 (3) The city legislative body shall cause notice of the hearing to be published once each week
 18 for two successive weeks prior to the day of hearing, in a newspaper of general circulation in the
 19 city, and shall cause notices of the hearing to be posted in four public places in the city for a like
 20 period.

21 (4) After the hearing, the city legislative body may, by an ordinance containing a legal de-
 22 scription of the territory in question:

23 (a) Declare that the territory is annexed to the city upon the condition that the majority of the
 24 votes cast in the territory is in favor of annexation;

25 (b) Declare that the territory is annexed to the city where electors or landowners in the con-
 26 tiguous territory consented in writing to such annexation, as provided in ORS 222.125 or 222.170,
 27 prior to the public hearing held under subsection (2) of this section; or

28 (c) Declare that the territory is annexed to the city where the Oregon Health Authority, prior
 29 to the public hearing held under subsection (1) of this section, has issued a finding that a danger
 30 to public health exists because of conditions within the territory as provided by ORS 222.840 to
 31 222.915.

32 (5) If the territory described in the ordinance issued under subsection (4) of this section is a part
 33 less than the entire area of a district named in ORS 222.510, the ordinance may also declare that
 34 the territory is withdrawn from the district on the effective date of the annexation or on any sub-
 35 sequent date specified in the ordinance. However, if the affected district is a district named in ORS
 36 222.465, the effective date of the withdrawal of territory shall be determined as provided in ORS
 37 222.465.

38 (6) The ordinance referred to in subsection (4) of this section is subject to referendum.

39 [(7) *For the purpose of this section, ORS 222.125 and 222.170, "owner" or "landowner" means the*
 40 *legal owner of record or, where there is a recorded land contract which is in force, the purchaser*
 41 *thereunder. If there is a multiple ownership in a parcel of land each consenting owner shall be counted*
 42 *as a fraction to the same extent as the interest of the owner in the land bears in relation to the interest*
 43 *of the other owners and the same fraction shall be applied to the parcel's land mass and assessed value*
 44 *for purposes of the consent petition. If a corporation owns land in territory proposed to be annexed, the*
 45 *corporation shall be considered the individual owner of that land.*]

1 **SECTION 6.** ORS 222.170 is amended to read:

2 222.170. (1) The legislative body of the city need not call or hold an election in any contiguous
3 territory proposed to be annexed if more than half of the owners of land in the territory, who also
4 own more than half of the land in the contiguous territory and of real property therein representing
5 more than half of the assessed value of all real property in the contiguous territory consent in
6 writing to the annexation of their land in the territory and file a statement of their consent with
7 the legislative body on or before the day:

8 (a) The public hearing is held under ORS 222.120, if the city legislative body dispenses with
9 submitting the question to the electors of the city; or

10 (b) The city legislative body orders the annexation election in the city under ORS 222.111, if the
11 city legislative body submits the question to the electors of the city.

12 (2) The legislative body of the city need not call or hold an election in any contiguous territory
13 proposed to be annexed if a majority of the electors registered in the territory proposed to be an-
14 nexed consent in writing to annexation and the owners of more than half of the land in that terri-
15 tory consent in writing to the annexation of their land and those owners and electors file a
16 statement of their consent with the legislative body on or before the day:

17 (a) The public hearing is held under ORS 222.120, if the city legislative body dispenses with
18 submitting the question to the electors of the city; or

19 (b) The city legislative body orders the annexation election in the city under ORS 222.111, if the
20 city legislative body submits the question to the electors of the city.

21 (3) If the city legislative body has not dispensed with, **or been prohibited from**, submitting the
22 question to the electors of the city and a majority of the votes cast on the proposition within the
23 city favor annexation, or if the city legislative body has previously dispensed with submitting the
24 question to the electors of the city as provided in ORS 222.120, **or previously been prohibited from**
25 **submitting the question to electors of the city as provided in ORS 222.125 (2)**, the legislative
26 body, by resolution or ordinance, shall set the final boundaries of the area to be annexed by a legal
27 description and proclaim the annexation.

28 (4) Real property that is publicly owned, is the right of way for a public utility, telecommuni-
29 cations carrier as defined in ORS 133.721 or railroad or is exempt from ad valorem taxation shall
30 not be considered when determining the number of owners, the area of land or the assessed valu-
31 ation required to grant consent to annexation under this section unless the owner of such property
32 files a statement consenting to or opposing annexation with the legislative body of the city on or
33 before a day described in subsection (1) of this section.

34 **SECTION 7.** ORS 199.490 is amended to read:

35 199.490. (1) A proceeding for a minor boundary change other than a transfer of territory may
36 be initiated:

37 (a) By resolution of the governing body of the affected city or district;

38 (b) By petition signed by 10 percent of the electors registered in the affected territory;

39 (c) By petition signed by the owners of at least one-half the land area in the affected territory;

40 (d) By resolution of a boundary commission having jurisdiction of the affected territory; or

41 (e) When the minor boundary change is a withdrawal of a city from a district, by resolution of
42 the governing body of the city, which shall be an affected city for the purposes of ORS 199.410 to
43 199.534.

44 (2)(a)(A) An annexation proceeding may also be initiated by a resolution adopted by the gov-
45 erning body of the affected city or district upon receiving consent to annex their land in writing

1 from more than half of the owners of land in the territory proposed to be annexed, who also own
 2 more than half of the land in the territory proposed to be annexed and of real property therein
 3 representing more than half of the assessed value of all real property in the territory proposed to
 4 be annexed.

5 (B) A resolution adopted by the governing body of the affected city or district upon receiving
 6 written consent to annexation from a majority of the electors registered in the territory proposed
 7 to be annexed and written consent to the annexation of their land from the owners of more than
 8 half the land in the territory proposed to be annexed.

9 (b) However, before soliciting statements of consent for the purpose of authorizing an
 10 annexation under a proceeding initiated as provided by this subsection, the governing body of the
 11 affected city or district shall file a notice of intent to annex with the boundary commission having
 12 jurisdiction of the affected territory. The notice of intent to annex shall name the affected city or
 13 district and generally describe the boundaries of the territory sought to be annexed, which territory
 14 must be contiguous to the city or district or separated from it only by a public right of way or a
 15 stream, bay, lake or other body of water. The notice of intent to annex shall have attached to it a
 16 county assessor's cadastral map showing the location of the affected territory that the city or dis-
 17 trict proposes to annex.

18 (c) For the purpose of this subsection, consent need not be obtained for any land in a public
 19 way included within or contiguous to the territory proposed to be annexed. However, land in such
 20 a public way shall, as determined by the commission, be considered annexed to the affected city or
 21 district if the minor boundary change is approved, regardless of the land's ownership, size or as-
 22 sessed valuation.

23 (d) For the purpose of this subsection, consent need not be obtained for any real property that
 24 is publicly owned, is the right of way for a public utility, telecommunications utility or railroad or
 25 is exempt from ad valorem taxation unless the owner of such property files a statement consenting
 26 to or opposing annexation with the legislative body of the annexing city or district on or before the
 27 date the city or district adopts the resolution required by paragraph (a) of this subsection.

28 (e) As used in this subsection, "owner" has the additional meaning given that term in [ORS
 29 222.120 (7)] **section 3 of this 2015 Act.**

30 (3) A transfer of territory proceeding may be initiated:

- 31 (a) By joint resolution of the governing bodies of the affected districts or cities;
- 32 (b) By petition signed by 10 percent of the electors registered in the affected territory;
- 33 (c) By petition signed by the owners of at least one-half the land area in the affected territory;

34 or

35 (d) By resolution of a boundary commission having jurisdiction of the affected territory.

36 (4) The petition or resolution shall:

- 37 (a) Name the affected city or district and state whether it is proposed to annex, withdraw or
 38 transfer territory;
- 39 (b) Describe the boundaries of the affected territory;
- 40 (c) If the proposal concerns a district, designate the applicable principal Act;
- 41 (d) Have attached a county assessor's cadastral map showing the location of the affected terri-
 42 tory; and
- 43 (e) Be filed with the boundary commission having jurisdiction of the affected territory.

44 (5) When a city annexation is initiated:

- 45 (a) As provided by ORS 222.750 the petition proposing the annexation shall be filed with the

1 boundary commission having jurisdiction of the annexation.

2 (b) As provided by ORS 222.840 to 222.915, the findings adopted by the Director of the Oregon
3 Health Authority under ORS 222.880 shall be considered the initiatory action and a certified copy
4 of the findings shall be filed with the boundary commission having jurisdiction of the annexation,
5 at the same time a copy of the finding is filed with the affected city.

6 (6) Except when a boundary change is initiated by an affected city or district under subsection
7 (1), (2), (3) or (5) of this section or by the director as provided by subsection (5)(b) of this section,
8 the boundary commission shall notify the affected city or district that a petition has been filed or
9 that the commission has adopted a resolution. If the petition complies with the requirements of the
10 applicable statutes, the commission shall proceed as provided by ORS 199.460 to 199.463 and 199.490
11 to 199.519.

12 (7) Unless the parties appearing at a hearing for a minor boundary change or application under
13 ORS 199.464 agree to a postponement of the adoption of a final order, a final order approving or
14 disapproving a minor boundary change must be adopted within 90 days after the date the petition,
15 resolution or application is filed with the commission. If a final order approving or disapproving a
16 minor boundary change is not adopted within 90 days after the petition, resolution or application is
17 filed or within the period of postponement, the petition, resolution or application shall be considered
18 approved by the commission. A postponement shall not be for a period exceeding one year from the
19 date the petition, resolution or application initiating the proposal is filed with the commission.

20
