

House Bill 2096

Introduced and printed pursuant to House Rule 12.00. Pre-session filed (at the request of House Interim Committee on Rural Communities, Land Use and Water)

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**.

Establishes procedure for negotiation of urban service agreement between city with population greater than 5,000 and certain districts.

A BILL FOR AN ACT

1
2 Relating to urban service agreements; creating new provisions; and amending ORS 195.065.

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

4 **SECTION 1. Section 2 of this 2017 Act is added to and made a part of ORS 195.065 to**
5 **195.085.**

6 **SECTION 2. (1) As used in this section:**

7 (a) "City" means a city with a population greater than 5,000.

8 (b) "District" means:

9 (A) A domestic water supply district organized under ORS chapter 264;

10 (B) A sanitary authority, water authority or joint water and sanitary authority organized
11 under ORS 450.600 to 450.989;

12 (C) A park and recreation district organized under ORS chapter 266; or

13 (D) A rural fire protection district organized under ORS chapter 478.

14 (2) A city may initiate the procedure to enter into or amend an urban service agreement
15 with a district by sending notice to one or more districts. A district may initiate the proce-
16 dure to enter into or amend an urban service agreement with a city by sending notice to a
17 city. A notice described in this subsection must be sent by certified mail and must state the
18 intent to enter into or a desire to amend an urban service agreement.

19 (3)(a) The recipient of a notice described in subsection (2) of this section shall respond
20 to the notice within 60 days of receipt of the notice.

21 (b) If the recipient of the notice responds to the notice in writing within 60 days and re-
22 quests to enter into or amend an urban service agreement with the sender of the notice, the
23 city and the district shall meet to negotiate the terms of the agreement within 60 days after
24 the city or district responds.

25 (c) If the district is the recipient of the notice and does not respond in writing to the
26 notice within 60 days, or responds to the notice within 60 days and declines to enter into or
27 amend an urban service agreement, the city may withdraw from the district's service terri-
28 tory any area that is included within the urban growth boundary of the city or annexed to
29 the city.

30 (4)(a) If the city and the district are unable to agree on terms and enter into or amend
31 an urban service agreement within 180 days after the date of the first meeting, the city or

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 the district may require mediation.

2 (b) If mediation is required, the city and the district shall select by mutual agreement
3 an individual to work with the city and the district to negotiate the terms of the agreement.

4 (c) The city and the district shall bear the cost of mediation equally unless otherwise
5 mutually agreed upon.

6 (5)(a) If the city and the district are unable to agree on terms and enter into or amend
7 an urban service agreement within 180 days of selecting a mediator, the city or the district
8 may require arbitration.

9 (b) If arbitration is required, the city and the district shall enter into an arbitration
10 agreement to submit all unsettled terms of negotiation that are necessary for the city and
11 the district to enter into or amend an urban service agreement for decision by an arbitral
12 tribunal selected as described in this subsection.

13 (c) Notwithstanding ORS 36.645, the arbitral tribunal shall consist of:

14 (A) One arbitrator selected by the city;

15 (B) One arbitrator selected by the district; and

16 (C) One arbitrator selected by the arbitrators selected under subparagraphs (A) and (B)
17 of this paragraph.

18 (d) If the arbitrators selected under paragraph (c)(A) and (B) of this subsection cannot
19 agree on a third arbitrator, the Department of Land Conservation and Development shall
20 select an arbitrator to complete the tribunal.

21 (e) The city and the district shall bear the cost of arbitration equally unless otherwise
22 mutually agreed upon.

23 (6)(a) The arbitral tribunal shall:

24 (A) Decide any matters necessary for the city and the district to enter into or amend an
25 urban service agreement under ORS 195.065 to 195.085; and

26 (B) Consider the provisions of ORS 222.460, 222.465 and 222.510 to 222.570.

27 (b) The arbitral tribunal may not require the city or the district to pay the other party
28 as part of the urban service agreement unless:

29 (A) The agreement requires a transfer of physical assets, in which case the agreement
30 may require the payment of fair market value for the assets;

31 (B) The city or the district offered a payment as part of prior negotiations and the
32 arbitrators incorporate all or a portion of the negotiated payment into the urban service
33 agreement; or

34 (C) The agreement requires the city or the district to pledge revenue to the payment of
35 the other party for a fixed number of years, including any necessary provisions for the pay-
36 ment of bonded indebtedness, as the result of a finding by the arbitral tribunal that the other
37 party will bear a substantial burden under the agreement.

38 (7) A city and a district may agree to cease negotiations and decline to enter into or
39 amend an urban service agreement at any time during the course of the procedure described
40 in this section.

41 (8) A city may only withdraw territory from the service territory of a district if:

42 (a) The district does not respond to the notice as required by subsection (3)(a) of this
43 section, or responds to the notice and declines to enter into or amend an urban service
44 agreement as provided in subsection (3)(c) of this section;

45 (b) The city and the district agree to cease negotiations and not enter into or amend an

1 **agreement as provided in subsection (7) of this section; or**

2 (c) **The city and the district have entered into an urban service agreement under this**
 3 **section, the terms of which permit the city to withdraw territory from the service territory**
 4 **of a district.**

5 (9) **Decisions related to the execution of an urban service agreement under this section**
 6 **are not land use decisions subject to the jurisdiction of the Land Use Board of Appeals.**

7 **SECTION 3.** ORS 195.065 is amended to read:

8 195.065. (1) [*Under ORS 190.003 to 190.130*] **Except as provided in section 2 of this 2017 Act,**
 9 units of local government and special districts that provide an urban service to an area within an
 10 urban growth boundary that has a population greater than 2,500 persons, and that are identified as
 11 appropriate parties by a cooperative agreement under ORS 195.020, shall enter into urban service
 12 agreements **under ORS 190.003 to 190.130** that:

13 (a) Specify whether the urban service will be provided in the future by a city, county, district,
 14 authority or a combination of one or more cities, counties, districts or authorities.

15 (b) Set forth the functional role of each service provider in the future provision of the urban
 16 service.

17 (c) Determine the future service area for each provider of the urban service.

18 (d) Assign responsibilities for:

19 (A) Planning and coordinating provision of the urban service with other urban services;

20 (B) Planning, constructing and maintaining service facilities; and

21 (C) Managing and administering provision of services to urban users.

22 (e) Define the terms of necessary transitions in provision of urban services, ownership of facili-
 23 ties, annexation of service territory, transfer of moneys or project responsibility for projects pro-
 24 posed on a plan of the city or district prepared pursuant to ORS 223.309 and merger of service
 25 providers or other measures for enhancing the cost efficiency of providing urban services.

26 (f) Establish a process for review and modification of the urban service agreement.

27 (2)(a) Each county shall have responsibility for convening representatives of all cities and spe-
 28 cial districts that provide or declare an interest in providing an urban service inside an urban
 29 growth boundary within the county, for the purpose of negotiating an urban service agreement. A
 30 county may establish two or more subareas inside an urban growth boundary for the purpose of such
 31 agreements. If an urban service is to be provided within the boundaries of a metropolitan service
 32 district, a county shall notify the metropolitan service district in advance of the time for cities and
 33 special districts to meet for the purpose of negotiating an urban service agreement, and the metro-
 34 politan service district shall exercise its review, advisory and coordination functions under ORS
 35 195.025.

36 (b) When negotiating for an urban service agreement, a county shall consult with recognized
 37 community planning organizations within the area affected by the urban service agreement.

38 (3) Decisions on a local government structure to be used to deliver an urban service under ORS
 39 195.070 are not land use decisions under ORS 197.015.

40 (4) For purposes of ORS 195.020, 195.070, 195.075, 197.005 and this section **and section 2 of this**
 41 **2017 Act**, “urban services” means:

42 (a) Sanitary sewers;

43 (b) Water;

44 (c) Fire protection;

45 (d) Parks;

- 1 (e) Open space;
- 2 (f) Recreation; and
- 3 (g) Streets, roads and mass transit.

4 (5) Whether the requirement of subsection (1) of this section is met by a single urban service
5 agreement among multiple providers of a service, by a series of agreements with individual providers
6 or by a combination of multiprovider and single-provider agreements shall be a matter of local dis-
7 cretion.

8 **SECTION 4. Section 2 of this 2017 Act and the amendments to ORS 195.065 by section 3**
9 **of this 2017 Act apply to urban service agreements initiated on or after the effective date of**
10 **this 2017 Act.**

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