

House Bill 2773

Sponsored by COMMITTEE ON ELECTIONS AND RULES

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**.

Modifies requirements for formation and merger of people's utility districts and for annexation of territory to existing people's utility district.

A BILL FOR AN ACT

1
2 Relating to people's utility districts; amending ORS 261.010, 261.105, 261.110, 261.113, 261.115,
3 261.151, 261.161, 261.171 and 261.200.

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

5 **SECTION 1.** ORS 261.010 is amended to read:

6 261.010. As used in this chapter, unless otherwise required by the context:

7 (1) "People's utility district" or "district" means an incorporated people's utility district, created
8 under the provisions of this chapter.

9 (2) "Board of directors," "directors" or "board" means the governing body of a people's utility
10 district, elected and functioning under the provisions of this chapter.

11 (3) "Parcel of territory" means a portion of unincorporated territory, or an area in a city com-
12 prised of less than the entire city.

13 (4) "Separate parcel of territory" means unincorporated territory that is not contiguous to other
14 territory that is a part of a district or that is described in a petition filed with the county clerk in
15 pursuance of the provisions of this chapter, but when a proposed district includes territory in more
16 than one county, the contiguous territory in each such county shall be considered as a separate
17 parcel of territory. [*When a proposed district includes any area in a city comprised of less than the*
18 *entire city, that area shall be considered as a separate parcel of territory.*]

19 (5) "Utility" means a plant, works or other property used for development, generation, storage,
20 distribution or transmission of electric energy produced from resources including, but not limited to,
21 hydroelectric, pump storage, wave, tidal, wind, solid waste, wood, straw or other fiber, coal or other
22 thermal generation, geothermal or solar resources, or development or transmission of water for do-
23 mestic or municipal purposes, waterpower or electric energy, but transmission of water shall not
24 include water for irrigation or reclamation purposes, except as secondary to and when used in
25 conjunction with a hydroelectric plant.

26 (6) "Initial utility system" means a complete operating utility system, including energy efficiency
27 measures and installations within the district or proposed district, capable of supplying the con-
28 sumers required to be served by the district at the time of acquisition or construction with all of
29 their existing water or electrical energy needs.

30 (7) "Electric cooperative" means a cooperative corporation owning and operating an electric
31 distribution system.

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 (8) “Affected territory” means that territory proposed to be formed into, annexed to or consol-
 2 idated with a district.

3 (9) “Electors’ petition” means a petition addressed to the county governing body and filed with
 4 the county clerk, containing the signatures of electors registered in the affected territory, equal to
 5 not less than [*three*] ~~six~~ percent of the total number of votes cast for all candidates for Governor
 6 within the affected territory at the most recent election at which a candidate for Governor was
 7 elected to a full term, setting forth and particularly describing the boundaries of the parcel of ter-
 8 ritory, separate parcels of territory, city and district, or any of them, referred to therein, and re-
 9 questing the county governing body to call an election to be held within the boundaries of the parcel
 10 of territory, separate parcels of territory, city and district, or any of them, for the formation of a
 11 district, the annexation of a parcel of territory or a city to a district, or the consolidation of two
 12 or more districts.

13 (10) “County governing body” means either the county court or board of county commissioners
 14 and, if the affected territory is composed of portions of two or more counties, the governing body
 15 of that county having the greatest portion of the assessed value of all taxable property within the
 16 affected territory, as shown by the most recent assessment roll of the counties.

17 (11) “Replacement value of unreimbursed investment” means original cost new less depreciation
 18 of capitalized energy efficiency measures and installations in the premises of customers of an in-
 19 vestor owned utility.

20 **SECTION 2.** ORS 261.105 is amended to read:

21 261.105. (1) People’s utility districts may be created as provided in this chapter. A people’s
 22 utility district may exercise all powers conferred by this chapter.

23 (2) **A people’s utility district is created** when a majority of all votes cast[,] at an election
 24 within the boundaries of any proposed district to determine whether or not the district is to be
 25 formed[.]:

26 (a) Favors formation[, *the district shall be created*]; **and**

27 (b) **Approves a permanent tax rate in accordance with section 11, Article XI of the**
 28 **Oregon Constitution.**

29 (3) In any election to annex a city or separate parcel of territory to an existing district[,] or to
 30 consolidate two or more existing districts, an affirmative vote of a majority of the votes cast from
 31 each city or separate parcel of territory or district voting to annex or consolidate[, *shall be*] **is** re-
 32 quired to authorize the annexation or consolidation.

33 (4) Annexation to an existing district [*shall be*] **is** subject to the provisions of ORS 198.720 (2).

34 **SECTION 3.** ORS 261.110 is amended to read:

35 261.110. (1) People’s utility districts may consist of:

36 (a) Territory, contiguous or otherwise, within one or more counties[, *and may consist of*]; **and**

37 (b) One or more cities[, *or a portion of a city,*] with or without unincorporated territory.

38 (2) Petitions asking that an election be held to determine whether or not a district shall be
 39 created shall set forth and particularly describe the boundaries of the proposed people’s utility dis-
 40 trict, and shall state that in the event the people within any one or more cities or separate parcels
 41 of territory within the proposed district vote against its formation, then that portion of the district
 42 which voted in favor of organization of a people’s utility district may be organized into the district.

43 (3) The name of a city is a sufficient description of its boundaries.

44 (4) When any city or separate parcel of territory voting at a formation election casts a majority
 45 vote against formation of the district, the city or separate parcel of territory shall not be included

1 in any district formed as a result of the election.

2 (5) A city that owns or operates a publicly owned utility for development or distribution of
 3 electric energy or the territory served by the city within or without the boundaries of the city at
 4 the time of a proposed formation of a people’s utility district may not be included in any election
 5 for the formation of the district unless the inclusion is agreed to at an election by the electors of
 6 the city.

7 (6) *[No entire township, except when needed for location of plant or impounding purposes, or both,*
 8 *shall]* **An entire township may not** be included in formation of any district, unless:

9 (a) **A generating plant or an impoundment needed for a generating plant is located within**
 10 **the township; and**

11 (b) The township contains *[not less than]* **10 or more** electors. *[No]* A portion of any township
 12 in excess of six sections *[shall]* **may not** be included, unless *[the portion contains a proportionate*
 13 *number of electors]* **the ratio of the number of electors in the portion of the township to the**
 14 **number of electors in the whole township is the same or greater than the ratio of the num-**
 15 **ber of sections in the portion of the township to the number of sections in the whole town-**
 16 **ship.**

17 (7) *[No]* Territory that is part of another people’s utility district *[shall]* **may not** be included in
 18 the formation of any district, except under the conditions provided in ORS 198.720 (2)*[, nor shall]*.
 19 The proposed district **may not** include any territory *[which at the time of the proposed district’s*
 20 *formation is]* being served by an electric cooperative **when formation of the district is proposed.**

21 **SECTION 4.** ORS 261.113 is amended to read:

22 261.113. (1) Electors’ petitions and resolutions for formation of a district shall include a proposal
 23 for the authorization of the district to impose a special levy *[of a certain amount]* **in an amount**
 24 **necessary** to finance an engineer’s report on revenue bonds for the acquisition or construction of
 25 the initial utility system, including the replacement value of the unreimbursed investment of an in-
 26 vestor owned utility in energy efficiency measures and installations within the proposed district, the
 27 election under ORS 261.355 (10) and costs associated with them.

28 (2) **The engineer’s report required by subsection (1) of this section must be written by**
 29 **an electrical engineer who is licensed by the State of Oregon and who has experience with**
 30 **systems of similar capacity to the initial utility system the proposed district will acquire or**
 31 **construct.**

32 **SECTION 5.** ORS 261.115 is amended to read:

33 261.115. (1) All electors’ petitions *[shall]* **under ORS chapter 261 must:**

34 (a) Contain a statement, **written on a separate page or pages**, as to whether *[or not]* the
 35 petitioners *[are desirous of forming]* **intend to form** a utility district, *[or]* to annex territory to an
 36 existing utility district*[,]* or to consolidate two or more existing utility districts*[, the]*;

37 (b) **Contain a** description of the territory sought to be included *[therein and]* **in the district;**

38 (c) **Contain** the name by which the utility district is to be known*[. The statement shall be printed*
 39 *on a separate page or pages]*; **and**

40 (d) **Meet the requirements for an initiative petition under ORS 255.135 (1), (2) and (3).**

41 (2) *[There shall be a signature sheet with]* **A signature sheet for an electors’ petition under**
 42 **ORS chapter 261 must:**

43 (a) **Have** sufficient space for 20 signatures*[,]* and, opposite the name of each signer, a space for
 44 the residence address of the signers of the petition and the number of their voting precinct; **and**

45 (b) **Meet the requirements for a signature sheet for an initiative petition under ORS**

1 **255.135 (4) and (5).**

2 (3) The person circulating the petition shall certify on each signature sheet that every person
 3 who signed the petition did so in the circulator’s presence and that the circulator believes that each
 4 signer stated that signer’s correct residence address and is an elector.

5 [(3)] (4) **The cover of** an electors’ petition shall designate three or more persons as chief
 6 petitioners and shall set forth their names and mailing addresses.

7 (5) **If the gathering of signatures exceeds a period of one year from the date the petition**
 8 **is approved for circulation, the requirements of ORS 255.135 (7), (8) and (9) apply.**

9 **SECTION 6.** ORS 261.151 is amended to read:

10 261.151. Upon certification of a petition for formation or adoption of a resolution by the county
 11 governing body for district formation, the county clerk shall submit a copy of the resolution or pe-
 12 tition, without signatures attached, to the Director of the State Department of Energy. Not less than
 13 30 days after receipt of the petition or resolution copy, the director shall hold a hearing within the
 14 proposed district for the purpose of receiving public testimony on the proposed district formation.
 15 Notice of the hearing, stating the time and place of the hearing, together with the electors’ petition,
 16 when applicable, without the signatures attached, shall be published at least two times prior to the
 17 date of the meeting. The first publication shall not be more than 25 days nor less than 15 days
 18 preceding the hearing and the last publication shall not be more than 14 days nor less than eight
 19 days preceding the hearing. Within [60] **75** days after receipt of the petition or resolution copy, the
 20 director, with the advice and assistance of the Public Utility Commission of Oregon, shall prepare
 21 and publish a concise report showing the availability and cost of power resources, potential tax
 22 consequences and any other information considered by the director to be relevant to the proposed
 23 formation of the district. A copy of the report shall be mailed, upon publication, by the director to
 24 the county governing body.

25 **SECTION 7.** ORS 261.161 is amended to read:

26 261.161. (1) After certification of a petition, or passage of the resolution when the formation,
 27 annexation or consolidation proposal is by resolution of the county governing body, the county
 28 governing body shall, within 10 days, fix a date for a hearing on the boundaries described in the
 29 electors’ petition or resolution of the county governing body for inclusion in the proposed or estab-
 30 lished district. The hearing shall be held by the county governing body not less than 60 days nor
 31 more than 90 days after certification of the petition or passage of the resolution. Notice of the
 32 hearing, stating the time and place of the meeting, together with the electors’ petition, when appli-
 33 cable, without the signatures attached, shall be published at least two times prior to the date of the
 34 meeting. The first publication shall not be more than 25 days nor less than 15 days preceding the
 35 hearing and the last publication shall not be more than 14 days nor less than eight days preceding
 36 the hearing. Notice of the hearing, and all other publications required by this chapter, shall be
 37 published in at least one newspaper of general circulation in the proposed or established district.
 38 The hearing may be adjourned from time to time, but shall not exceed four weeks in total length.
 39 Public testimony shall be taken at the hearing.

40 (2) Based upon the record of the hearing prescribed in subsection (1) of this section on the
 41 proposed boundaries and, if district formation is proposed, the report of the Director of the State
 42 Department of Energy under ORS 261.151, the county governing body within 10 days of the last date
 43 of hearing shall **adopt or reject the resolution for formation and, if the resolution is adopted,**
 44 **shall** determine the boundaries of the proposed or established district.

45 (3) [No] Lands [shall] **may not** be included in the boundaries fixed by the governing body lying

1 outside the boundaries described in the electors’ petition unless the owners of that land request
2 inclusion in writing before the hearing under subsection (1) of this section is completed.

3 (4) An electors’ petition shall not be denied by a county governing body because of any defi-
4 ciency in the description of the boundaries of the proposed district, but the county governing body
5 shall correct those deficiencies.

6 **SECTION 8.** ORS 261.171 is amended to read:

7 261.171. (1) Upon its own resolution, the county governing body may, and upon receipt of an
8 electors’ petition or resolution of the governing body of a people’s utility district or city that the
9 county governing body finds to be in compliance with this chapter shall, at [*the earliest practical*
10 *date*] **a date determined by the county governing body in its sole discretion**, submit the question
11 of district formation, annexation or consolidation and, if for formation, the question of a special levy
12 **pursuant to ORS 261.113**, to the electors within the affected territory at a special election. The
13 special election may be held on the same date as a primary election or general election.

14 (2) The notice of the election shall state the purpose of the election, describe in general terms
15 the boundaries of the affected territory and in all other respects comply with the general laws of
16 this state governing the time and manner of holding elections.

17 (3) The county governing body shall call no more than one election for formation of a district
18 comprising substantially the same area within [*the same calendar year*] **365 days after the certifi-**
19 **cation of a petition or passage of a resolution proposing formation of a district.**

20 **SECTION 9.** ORS 261.200 is amended to read:

21 261.200. (1) [*If a majority of votes cast at the election favors formation of the people’s utility district*
22 *and authorization of the district to impose a special levy for the purposes stated in the petition for*
23 *formation, or annexation of a parcel of territory or a city to an existing district, or consolidation of two*
24 *or more districts, as the case may be, and in conformity with provisions of ORS 261.105 and*
25 *261.110,*] The county governing body shall issue a proclamation [*accordingly*] **declaring the district**
26 **established** and file a certified copy with the county clerk of each county where the district or any
27 portion thereof is located[.] **if:**

28 (a) **A majority of votes cast at the election:**

29 (A) **Favors formation of the people’s utility district.**

30 (B) **Authorizes the district to impose a special levy for the purposes stated in the petition**
31 **for formation, or annexation of a parcel of territory or a city to an existing district, or**
32 **consolidation of two or more districts, as the case may be.**

33 (C) **Approves a permanent tax rate in accordance with section 11, Article XI of the**
34 **Oregon Constitution.**

35 (b) **The provisions of ORS 261.105 and 261.110 have been met.**

36 (2) The proclamation for formation of a district shall be in substantially the following form:
37 _____
38 _____

39 Whereas at an election duly and regularly held on the ____ day of _____, 2____, within
40 _____ County (or _____ Counties), State of Oregon, and within the boundaries of a pro-
41 posed district as herein described, there was submitted to the electors thereof the question whether
42 or not a people’s utility district should be incorporated as the (here insert name of district) and to
43 give authority to impose a special levy of \$_____ under and pursuant to the provisions of ORS
44 chapter 261; and

45 Whereas at the election so held ____ votes were cast in favor of incorporation, and ____ votes

1 were cast against incorporation; and

2 Whereas the incorporation of the (here insert name of district) received the affirmative vote of
3 the majority of the votes cast at the election;

4 Now, therefore, the undersigned hereby does proclaim and declare that all of that part of the
5 State of Oregon, described as (here insert description) has been duly and legally incorporated as the
6 _____ People’s Utility District under and pursuant to the Constitution and laws of the State
7 of Oregon, and the district has the authority to collect the sum of \$_____ by special levy against
8 the taxable property within the district.

9 Chairperson of the County Governing Body.

10 By _____

11 _____
12
13 [(2)] (3) The proclamation for annexing a parcel of territory or a city to an existing district or
14 the consolidation of two or more existing districts, or both, shall be adaptations of the above proc-
15 lamation.

16 [(3)] (4) The proclamation of formation, with the notice of boundary change under ORS 308.225,
17 shall be filed by the district with the county assessor of each county in which any portion of the
18 district is situated, who shall thereupon enter the special levy.

19 [(4)] (5) Expenditure of the moneys received from the special levy for the purposes stated in the
20 petition for district formation may be made by the district without prior adoption of a budget under
21 ORS 294.305 to 294.520.

22 [(5)] (6) Following proclamation of formation of a district, any person whose property has been
23 improperly included within a district, contrary to the provisions of ORS 261.110 (5) or (7), may pe-
24 tition a county governing body to revise the district boundaries to exclude the property. After notice
25 to the district, and a hearing on the petition, the county governing body shall revise the district
26 boundaries to exclude such property as it finds should not have been included within the district
27 under the standards set forth in ORS 261.110 (5) or (7). Upon such findings and boundary revisions
28 a district shall be permitted to refund related taxes paid that are based upon assessments made after
29 January 1, 1978. Boundary revisions shall comply with ORS 308.225. The remedy provided in this
30 subsection shall be available only to persons owning property in districts which were formed after
31 January 1, 1978.