Chapter 202

(1963 reprint)

Establishment of New Counties; Change of Boundaries

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CROSS REFERENCES

202.030

Minimum area and population of counties, Const. Art. XV, § 6

202.120

Vote of electors on location of county seat, Const. Art. I, § 21

202.280

Liability for school district indebtedness when boundaries change, 328.555

202.010 "County court" defined. As used in this chapter, unless the context requires otherwise, the term "county court" includes board of county commissioners.

202.020 Petitions to form new counties or change existing county boundaries. Whenever it is desired to form a new county out of one or more then existing counties or to change the boundaries of then existing counties, a petition praying for the formation of such new counties or for the change of the boundaries of then existing counties, describing the territory proposed to be incorporated in the new county or changed from one county to another, together with the name of the proposed new county, if for that purpose, or the name of the then existing county to be eliminated, if any county would be eliminated by the change of boundaries as proposed, signed by a majority of the legal voters residing in the territory to be embraced in the new county or residing in the territory to be embraced in the change of county boundaries, shall be presented to the county court of each county to be affected by the proposed formation of a new county. Where any existing county would be eliminated by such change of county boundaries the petition shall be signed by not less than 40 percent of the legal voters residing in the entire county to be eliminated.

202.030 Election order; notice; ballots. (1) If it appears to the county court that the proposed changes will not result in any new or remaining county having an assessed valuation, area or population less than required by the Constitution of this state, the county court shall make an order providing for the submission of the question of the formation of the new county or the change in county boundaries to a vote of all the legal electors of any county to be so affected at the next succeeding general election. If an existing county is proposed to be eliminated by the change in county boundaries, such question shall be submitted to the voters of the counties affected at the next ensuing primary, general or statewide special election.

(2) Notice of the election shall be given as in the case of election of members of the Legislative Assembly.

(3) The form of the ballot to be used in the determination of such question shall be "For new county," and "Against new county," or "For change in county boundaries," and "Against change in county boundaries," or "For change in county boundaries eliminating ——— County," and "Against change in county boundaries eliminating ——— County" (name of county to be eliminated to be inserted in blank space).

202.040 Commissioners to arrange terms on proposal to change boundaries. (1) In case the petition provided for in ORS 202.020 is for a change in the boundaries of existing counties, but not for the elimination of any then existing county, the county courts of the counties concerned forthwith shall appoint two commissioners each to act with the commissioners of the other counties and arrange the terms in respect to assumption of liabilities and division of assets among the counties concerned, upon which such change shall be made.

(2) If within 30 days after the appointment of the commissioners they have not agreed upon terms, the Governor shall, upon request of the county court of any county concerned, appoint commissioners equal in number to one-half the commissioners already appointed by the counties, who shall meet with such commissioners and draft terms.

(3) Within 60 days thereafter a majority of the commissioners may report to respective county courts a plan for division, which, in addition to the matters mentioned in subsection (1) of this section, may define the territory embraced in the proposed changes.

(4) When made within such time the plan shall be reported by the commissioners to the respective county courts, and if approved by a vote, as provided in ORS 202.050 and 202.060, it shall become a compact between and among such counties, binding upon all.

202.050 Counting, return and canvass of votes; certification to Secretary of State. (1) The votes upon the question of creating such new county or the change in boundaries shall be counted, returned and canvassed in the same manner and by the same officers as the votes cast at any general election of the state are counted, returned and canvassed.

(2) The canvass of the votes upon such question shall be entered of record by the county clerk of each county in which such vote is taken. Within 30 days thereafter the county clerk shall certify the same to the Secretary of State in the same manner as the votes on state and district officers are certified, and shall state in the certificate the name, territorial contents and boundaries of

the new county, or the names, territorial contents and boundaries of the counties affected by the change in boundaries.

(3) The Secretary of State, in the presence of the Governor, within 10 days after receiving the certificate from the county clerk, and within 30 days after any election has been held upon the creation of a new county, or the change in county boundaries, shall canvass the votes given for and against the new county or for and against the change in county boundaries.

202.060 Issuance of proclamation. If the election was for the purpose of establishing a new county and if 65 percent of all the voters residing within the limits of the proposed new county voted at the election in favor of the creation of the new county, and if 35 percent of the voters in each of the counties from which it is proposed to take territory to be included in the new county and who reside outside the limits of the proposed new county voted in favor of the creation of the proposed new county, or if the election was for the purpose of changing county boundaries, and if a majority of all the voters in each of the counties to be affected by the change in boundaries voted in favor of the proposed change in county boundaries, the Governor forthwith shall issue his proclamation declaring the new county thereby created or declaring the change in county boundaries, and further declaring what counties were eliminated by the change in county boundaries.

202.070 Operation and effect of proclamation. (1) If the election was for the purpose of establishing a new county, it thereafter shall be a county for all civil, military and other purposes.

(2) If the election was for the purpose of changing county boundaries, the boundaries of the county shall be changed to conform to the description furnished by the county clerk in the certificate provided in ORS 202.050. If such change in county boundaries resulted in the elimination of any existing county, thereafter the eliminated county shall cease to function and the authority of its officers shall cease for all purposes other than the auditing and paying of all outstanding claims against such county and the safekeeping of all county property until proper transfers and assignments of the same have been made.

(3) If the election was for the purpose of changing county boundaries, the change shall take effect within 30 days after the Governor issues the proclamation provided for in ORS 202.060 and the territory taken from any county and added to another county by reason of the change shall become a part of the county to which it has been added and for all purposes shall be deemed a portion thereof and be governed by the laws of this state relating to counties.

202.080 Boundaries to conform to established legal subdivisions. In the establishment of any proposed new county and in the establishment of the boundaries of counties in which a change is proposed, the same shall be made to conform to the established government legal subdivisions.

202.090 Application of general election laws. (1) All elections under this chapter, where not otherwise provided for, shall be conducted in the same manner as required by law for general elections.

(2) No refusal or neglect of any official to perform his lawful duties in connection with any election under this chapter shall in any manner affect the validity of such election.

202.100 Appointment of county judges and commissioners for new county. Within 30 days after the Governor issues the proclamation provided in ORS 202.060, he shall appoint three residents of the new county so formed possessing the qualifications of electors, who will accept and qualify in offices as county judge and commissioners respectively for the new county, and shall hold their offices until the first general election thereafter and until their successors are elected and qualified. Upon such persons qualifying as county judge and commissioners the new county shall be deemed to have existence as such and be governed by the laws of this state relating to counties.

202.110 Appointment of other county officers. The county judge and the county commissioners appointed under ORS 202.100 and having qualified according to law, acting as a county court shall forthwith appoint all the remaining county officers of the new county so organized, who, after having qualified, shall hold their offices until the first general election thereafter and their successors are elected and qualified. However, all justices and constables in office within the boundaries of any new county shall continue to hold office in such new county during the

remainder of their term, and shall give bonds to the new county of the same amount and in the same manner as previously given to the original county in which they were elected.

202.120 Locating county seat. (1) The county court of the new county may temporarily fix the county seat, and such location shall remain the county seat until the first general election thereafter, when the qualified voters of the new county are empowered to vote for and select the place of county seat in the manner provided by law.

(2) Immediately after the selection of the county seat either by the county court or by the canvass of the returns of votes cast at the election for that purpose, the county court shall issue its proclamation and publish the same in a newspaper published in the new county, if there is one, and if not by posting a copy of the proclamation in each election precinct in the county announcing the selection and location of the county seat.

202.130 General laws governing county court. In all matters not specially provided for in this chapter, the county court appointed as provided in ORS 202.100 shall be governed by the laws of this state then existing in relation to counties.

202.140 Compensation of members of county court. The members of the county court of any new county organized under this chapter, while in the discharge of their duties as provided in this chapter, shall receive the same compensation as is allowed by law for the performance of their ordinary official duties.

202.150 Disposition of public property, records and tax liens. (1) All public buildings, records or other public property within the limits of the original county shall remain and be the property of such original county; but, if the election is held for change in county boundaries, and any public building belonging to the county is located in the territory affected by the change of boundaries, the county acquiring the new territory shall pay the county from which such territory is taken the value of such public building.

(2) If any county is eliminated by the change in county boundaries, all public buildings and real property of the eliminated county and all liens for unpaid taxes become the property of the county acquiring the territory where the property is situated, and all public records and documents and all other property of every kind belonging to the eliminated county become the property of the county of which the largest area of the eliminated county becomes a part.

202.160 Transcription of real estate, court and tax records. (1) When a new county is organized in whole or in part from any existing county it shall be the duty of the county court of the new county to cause to be transcribed in the proper books all the records of deeds, mortgages and other instruments, probate records, court records and tax records relating to or affecting real estate in the new county. The cost of transcription shall be paid by the new county.

(2) When the election has been for a change in county boundaries, the county court of the county to which territory has been added shall cause to be transcribed in the proper books all the records of deeds, mortgages and other instruments, probate records and court records and tax records affecting or relating to real estate in such territory.

(3) Any person authorized by the county court to transcribe records pursuant to subsection (1) or (2) of this section shall have free access at all reasonable times to the original records for the purpose of transcribing the same. All records so transcribed shall have the same force and effect in all respects as original records.

(4) Whenever the boundaries of an existing county are changed so as to include territory theretofore within the boundaries of another county, the county court of the county to which territory has been added shall, within 60 days after the taking effect of the Act adding such territory, procure or cause to be procured, properly attested copies of the records of any county in which the lands were theretofore situated, affecting the title to the real estate within the additional territory, and have the same recorded in the records of the county. Thereafter such records shall be recognized and become a part of the official records of the county in which the same shall be so recorded, and such official records or duly certified copies thereof may be introduced in evidence with the same force and effect as the original records of which they are copies.

202.170 Transfer of records. (1) When a new county is organized in whole or in part

from any existing county and any record or any volume of any records of the county from which the new county is created relate wholly to property located within the new county, such records or volumes thereof shall be transferred by the officer of the old county who is in charge thereof to the officer of the new county whose duty it is to make and keep such records and take his receipt therefor. The receipt shall be filed by the officer receiving the same and shall be a sufficient accounting by and discharge to such officer for the disposition of such records. When the records have been so transferred, they shall be considered records of the county in which the property is then situated. Such records shall not be transcribed as in the case of records containing deeds, mortgages and other instruments relating to property in both counties.

(2) In the event of the elimination of any county in a change of county boundaries, all records of the eliminated county shall immediately be transferred to the county of which the largest area of the eliminated county becomes a part and be original records of such county.

202.180 Transfer of voters' registration cards and election records. (1) The county court of a new county shall cause all the registration cards of voters living in the new county to be segregated from the voters' registration cards on file in the counties from which the new county is created, and to be delivered to the county clerk of the new county who shall arrange and install the same in the manner provided by law for keeping such registration. Thereafter such registration cards and records shall constitute registration of the voters whose names appear thereon in the new county.

(2) In like manner the county court shall provide for the transfer of all poll books, voters lists and other election records, relating only to precincts and voters within the new county. Such voters lists, poll books and other voters registration and election records shall thereupon be records of the new county.

202.190 Payment of moneys due from state. All moneys due from the State of Oregon to a new county shall be paid by the Secretary of State to the county treasurer of the new county in the manner and at the same time that such moneys are paid to the other counties of the state. All moneys due from the state to a county from which any territory is taken by reason of change in the boundaries thereof shall be paid to the treasurer of the two counties affected in proportion to the change in the territory affected by the change in boundaries.

202.200 Apportionment of state taxes payable. A new county's proportion of the state taxes shall be determined as follows:

(1) If the new county is formed from one county, the new county shall pay its pro rata share of the amount of state taxes which the county from which it is formed is to pay for that year, and for each succeeding year thereafter until otherwise provided for, based upon the ratio that the taxable valuation of the property in the new county bears to the taxable valuation of the property of the original county before the new county was formed.

(2) If the new county is formed from more than one county, the new county shall pay its pro rata share of the amount of state taxes which each of the counties from which it is formed is to pay for that year, and for each succeeding year thereafter until otherwise provided for, based upon the ratio that the taxable valuation of the property in the area taken from each original county bears to the taxable valuation of the property in each original county before the new county was formed.

(3) In the event the election was for the purpose of a change in county boundaries and a portion of the territory in one county has been added to another county, the state taxes shall be adjusted in the same manner and upon the same basis as in the formation of new counties from more than one county.

202.210 Ascertainment, apportionment and assumption of indebtedness. (1) Any new county organized under this chapter shall assume and pay, as provided in this section, a just proportion of the indebtedness of the counties from which it is segregated, based upon the last assessed valuation of the original counties, and in proportion that the valuation within the segregated portion bears to the aggregate valuation of the whole original counties.

(2) In the event of a change in boundaries and the addition of a portion of the territory of one county to another county, the county to which such territory is added shall assume and pay, as provided in this section, a just proportion of the indebtedness of the county from which the territory

is segregated based upon the last assessed valuation of the county from which the territory is segregated, in proportion that the valuation within the segregated portion bears to the aggregate valuation of the original county from which the territory is taken.

(3) It shall be the duty of the county courts of both the new county organized under this chapter and the counties from which the new county is segregated, or the county courts of the two counties in which a change of boundaries has been effected, to meet together at the county seat of the new county or at the county seat of the county from which such territory is taken by a change of boundaries, on the third Monday in the sixth month following the date of the proclamation of the Governor, as provided for in ORS 202.060. They shall ascertain, as near as may be, the total outstanding indebtedness of the original counties on the first day of January following the election, and from the total indebtedness shall make the following deductions:

(a) The amount of all dues for rents.

(b) The reasonable value of all public buildings owned by and remaining within the limits of the original counties.

(c) The amount of public funds on hand and belonging to the original counties on the day for which its outstanding indebtedness is ascertained by the joint board of county courts, and not belonging to the special funds mentioned in ORS 202.220.

(4) The amount remaining after such deductions have been made shall, for the purposes and as a basis for the settlement, be the amount which the new county or the county acquiring territory by a change in boundaries, shall pay as a portion of, in the proportions specified. Such joint courts shall ascertain and fix the amount the new county shall assume and pay to the counties from which it is segregated, and the amount the county acquiring the new territory by reason of change in boundaries shall assume and pay to the county from which such territory is segregated.

(5) If by a change in county boundaries, an existing county has been eliminated, the county courts of the counties to which the territory formerly constituting the eliminated county has been added shall meet with the court of the eliminated county at the county seat of the eliminated county on the third Monday of the month following the date of the proclamation of the Governor, and shall determine as provided in this section the amount of any net outstanding indebtedness of the eliminated county. Each county to which territory from the eliminated county has been added shall assume and pay its proportional part of the indebtedness of the eliminated county to the county to which the largest area of the eliminated county has been added and such county shall pay off all outstanding indebtedness of the county eliminated. However, the territory of the county eliminated shall be responsible for its own net indebtedness at the time of elimination of the county and the property therein shall be subject to such further tax levies from year to year as may be necessary to retire the outstanding indebtedness of the eliminated county as the same shall come due, but such territory shall not become liable for any outstanding indebtedness of any county to which a portion or all of the eliminated county shall have been added.

202.220 Disposition of special funds and property. All moneys belonging to special funds, such as fire, school, roads and other funds and property owned by the districts within the boundaries of the new county organized under this chapter or owned by the districts in the territory affected by the change in boundaries segregated under the provisions of this chapter on hand at the time of the settlement provided for in ORS 202.210, shall be turned over in full by the county court of the original county to the county court of the new county, or to the county court of the county acquiring the new territory, and shall be receipted for by the latter and placed to the credit of the districts of the county to which the property belonged.

202.230 Distribution of funds in excess of indebtedness. (1) Any county in which the amount of public funds on hand at the time of the settlement provided for in ORS 202.210 exceeds the total of its outstanding indebtedness shall, after making the deductions provided for in subsection (3) of ORS 202.210, from the amount of such public funds on hand pay over to the county segregated from it and organized under this chapter or to the county acquiring territory under a change of boundaries, a just proportion of such funds based upon the next last assessed valuations of the original county prior to the date of such segregations and

in the proportion which the valuation within the segregated portion bears to the aggregate of the valuation within the whole of the original counties. The county courts shall meet as provided in ORS 202.210 and ascertain the amount so to be paid.

(2) The county court of the original counties shall issue warrants for such amount, payable immediately to the treasurer of the new county organized under this chapter, or to the treasurer of the county acquiring new territory, and the amounts so received by the latter shall be by him placed to the credit of the proper funds of his county.

202.240 Payment of apportioned indebtedness. The amount of indebtedness of a county organized or acquiring new territory as provided in this chapter, as ascertained by the joint board of county courts, shall be paid to the county from which it segregates or from which the territory is taken, in the warrants of the new county thus segregated or the warrants of the county acquiring new territory, as the case may be.

202.250 Authority to collect revenues. The authority of any county from which a portion is segregated under this chapter, for the collection of revenue within the boundaries of the portion segregated shall cease from the date upon which the two county courts, under the provisions of ORS 202.210, base the settlement between such counties, and all assessments and levies made by the authority of the county from which such territory is segregated, by its officers in the lawful performance of their official duties, affecting any of the territories embraced in the boundaries of the new county or territory segregated by change in boundaries shall remain the same and shall be payable to, and be collected by, the lawful authorities of the new county or the lawful authorities of the county acquiring such new territory.

202.260 Redistricting of county and filling of vacancies. The county courts of all the counties affected by the formation of the new county, or by a change in county boundaries, shall immediately after such segregations, redistrict their county into districts provided for by law, and shall fill the vacancies occasioned by such segregation in the manner provided for by law for filling vacancies.

202.270 Renumbering of school and road districts. School districts and road districts within the counties affected by proceedings under this chapter, shall be renumbered so as to make their number in each county run consecutively, and the number of existing school districts may when necessary be changed to effect that purpose.

202.280 Validity of school district bonds. The validity of bonds issued by any school district prior to the division of any county or prior to the change of county boundaries, under this chapter, shall in no wise be affected by such division nor by the renumbering of the school districts that may have issued such bonds.

202.290 Judicial district affiliation. Any county organized under the provisions of this chapter shall, as soon as its organization is completed, constitute a judicial subdivision of the judicial district from which its largest area was taken upon the organization of the new county. The territory segregated by a change of boundaries shall belong to the same judicial district as that the county to which it has been added belonged to at the time of the segregation.

202.300 Appointment and holding of terms of circuit court. The judge of the judicial district of which the county organized under this chapter is made a legal subdivision under the provisions of ORS 202.290 shall appoint and hold at least two terms of the circuit court each year at the county seat of such county until such terms are otherwise provided for by law.

202.310 Venue of actions and proceedings. In all actions or proceedings, civil or criminal, for the prosecution of a crime committed or a cause of action arising within the boundaries of any judicial subdivision created under the provisions of this chapter, and properly triable in such subdivision under the provisions of the civil and criminal procedure statutes, the venue thereof shall be changed to the new county or to the county to which the territory has been added by the change in boundaries, by order of the court of the judicial district upon payment upon the demand of either party. The demand shall be served upon the opposite party or his attorney, if either can be found in the state, but if neither can be found therein then the change of venue may be made upon filing the demand with the coun-

ty clerk and such change of venue shall have effect in the manner provided by law for the change of venue.

202.320 Place of return of processes, notices, bonds and other papers. All processes, writs, bonds, notices, appeals, recognizances, papers and proceedings in actions changed to a new county under the provisions of this chapter issued and made returnable to the circuit court of the county from which a portion has been segregated or organized prior to the creation of such legal subdivision, shall be considered as made, taken and returnable to the circuit court within the boundaries of the judicial district to which the new county or segregated portion has been added. Such bonds, recognizances and obligations shall be payable to the new county and recoverable in the name of such new county, or payable to or recoverable in the name of the county to which the segregated portion has been added by reason of the change in boundaries. All papers and certified copies of all proceedings had in such action shall be transmitted by the county clerk of the new county or the county clerk of the county acquiring new territory by reason of the change in boundaries.