Chapter 199

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Local Government Boundary Commissions; City-County Consolidation

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199.240 [1963 c.516 §14 (1); repealed by 1969 c.130 §3]

199.250 [1963 c.516 §15; repealed by 1969 c.130 §3]

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199.270 [1963 c.516 §16; repealed by 1969 c.130 §3]

199.280 [1963 c.516 §17; repealed by 1969 c.130 §3]

199.310 [1963 c.516 §18; repealed by 1969 c.130 §3]

LOCAL GOVERNMENT BOUNDARY COMMISSIONS

(Generally)

199.410 Policy. (1) The Legislative Assembly finds that:

(a) A fragmented approach has developed to public services provided by local government. Fragmentation results in duplications in services, unequal tax bases and resistance to cooperation and is a barrier to planning implementation. Such an approach has limited the orderly development and growth of Oregon's urban areas to the detriment of the citizens of this state.

(b) The programs and growth of each unit of local government affect not only that particular unit but also the activities and programs of a variety of other units within each urban area.

(c) As local programs become increasingly intergovernmental, the state has a responsibility to insure orderly determination and adjustment of local government boundaries to best meet the needs of the people.

(d) Local comprehensive plans define local land uses but may not specify which units of local government are to provide public services when those services are required.

(e) Urban population densities and intensive development require a broad spectrum and high level of community services and controls. When areas become urbanized and require the full range of community services, priorities are required regarding the type and levels of services that the residents need and desire. Community service priorities need to be established by weighing the total service needs against the total financial resources available for securing services. Those service priorities are required to reflect local circumstances, conditions and limited financial resources. A single governmental agency, rather than several governmental agencies is in most cases better able to assess the financial resources and therefore is the best mechanism for establishing community service priorities.

(2) It is the intent of the Legislative Assembly that each boundary commission establish policies and exercise its powers under this chapter in order to create a governmental structure that promotes efficiency and economy in providing the widest range of necessary services in a manner that encourages and provides planned, well-ordered and efficient development patterns.

(3) The purposes of ORS 199.410 to 199.534 are to:

(a) Provide a method for guiding the creation and growth of cities and special service districts in Oregon in order to prevent illogical extensions of local government boundaries and to encourage the reorganization of overlapping governmental agencies;

(b) Assure adequate quality and quantity of public services and the financial integrity of each unit of local government;

(c) Provide an impartial forum for the resolution of local government jurisdictional questions;

(d) Provide that boundary determinations are consistent with acknowledged local comprehensive plans and are, in conformance with statewide planning goals. In making boundary determinations the commission shall first consider the acknowledged comprehensive plan for consistency of its action. Only when the acknowledged local comprehensive plan provides inadequate policy direction shall the commission consider the statewide planning goals. The commission shall consider the timing, phasing and availability of services in making a boundary determination; and

(e) Reduce the fragmented approach to service delivery by encouraging single agency service delivery over service delivery by several agencies. [1969 c.494 §1; 1981 c.265 §1; 1989 c.92 §8]

199.415 Definitions for ORS 199.410 to 199.534. As used in ORS 199.410 to 199.534, unless the context requires otherwise:

(1) "Affected city" means a city or cities, named in a petition, for which a boundary change is proposed or a city or cities, named in a final order, for which a boundary change is ordered.

(2) "Affected district" means a district or districts, named in a petition, for which a boundary change is proposed or a district or districts, named in a final order, for which a boundary change is ordered.

(3) "Affected territory" means territory described in a petition.

(4) "Boundary change" means a major or minor boundary change.

(5) "Boundary commission" or "commission" means a local government boundary commission formed under ORS 199.410 to 199.534.

(6) "City council" means the governing body of a city.

(7) "County board" means the county court or board of county commissioners of a county located within the jurisdiction of a boundary commission or proposed boundary commission.

(8) "District" means one of the districts named in ORS 199.420.

(9) "District board" means the governing body of a district.

(10) "Filing agency" means the county board, district board, city council or other public officer or agency designated by the principal Act to receive or take the first action on a petition for a boundary change.

(11) "Major boundary change" means formation, merger, consolidation or dissolution of a city or district.

(12) "Minor boundary change" means an annexation, withdrawal or transfer of territory to or from a city or district.

(13) "Owner" means the owner of the title to real property or the contract purchaser of real property, of record as shown on the last available complete assessment roll.

(14) "Petition" includes resolution, order, articles of incorporation and any other form of initiatory action for a boundary change.

(15) "Principal Act" means, with reference to a city, ORS chapters 221, except ORS 221.230, and 222 and, with reference to a district, the statutes, other than ORS 199.410 to 199.534, which describe the powers of an affected district including but not limited to the statutes under which a district is proposed or is operating.

(16) "Proceeding" means a proceeding to consider a boundary change.

(17) "Transfer of territory" means the process of simultaneous withdrawal and annexation of territory from one district to another district organized under the same principal Act other than ORS 198.705 to 198.955, or the simultaneous withdrawal and annexation of territory from one city to another city.

(18) "Withdrawal" includes the detachment, disconnection or exclusion of territory from an existing city or district. [1969 c.494 §2; 1971 c.462 §1; 1973 c.664 §1; 1975 c.361 §1; 1989 c.92 §9]

199.420 "District" defined. As used in ORS 199.410 to 199.534, unless the context requires otherwise, "district" means one of the following:

(1) Domestic water supply district organized under ORS chapter 264.

(2) Park and recreation district organized under ORS chapter 266.

(3) Metropolitan service district organized under ORS chapter 268.

(4) Highway lighting district organized under ORS chapter 372.

(5) Sanitary district organized under ORS 450.005 to 450.245.

(6) Sanitary authority or water supply authority organized under ORS 450.650 to 450.989.

(7) County service district organized under ORS chapter 451.

(8) Vector control district organized under ORS 452.020 to 452.170.

(9) Rural fire protection district organized under ORS chapter 478.

(10) Geothermal heating district organized under ORS chapter 523.

(11) Corporations organized under ORS chapter 554 for the purpose of supplying water for domestic use or any other district supplying or seeking to supply domestic water.

(12) Library district organized under ORS 357.216 to 357.286.

(13) Special road district organized under ORS 371.305 to 371.360. [1969 c.494 §3; 1971 c.462 §2; 1975 c.782 §49; 1983 c.336 §1; 1987 c.863 §7; 1989 c.92 §10]

(Commission)

199.425 Local government boundary commissions; areas of jurisdiction. Two local government boundary commissions hereby are created, one having jurisdiction in each of the following areas:

(1) The area consisting of Washington, Multnomah and Clackamas Counties.

(2) The area consisting of Lane County. [1969 c.494 §4; 1979 c.152 §1; 1981 c.265 §2]

199.430 Procedure for creating commissions by local resolution or petition. (1) Outside the areas described in ORS 199.425, a boundary commission may be created as provided by this section with territo-

rial jurisdiction in one county or in two or more contiguous counties. A commission may be created by:

(a) Similar resolutions creating a commission adopted by the county board of each of the counties within the jurisdiction of the commission; or

(b) Similar petitions, signed by the electors of each county within the jurisdiction of the proposed commission, requesting the creation of a commission having jurisdiction within the counties, filed with and approved by order of the county boards of each county in the jurisdiction of the commission.

(2) Each petition filed with a county board requesting creation of a boundary commission shall be signed by not less than 10 percent of the registered electors of the county. The petition shall be approved by the county board if it finds that the needs of the local government units in the territory described in the petition and the public interest would be benefited by the establishment of a boundary commission to carry out the purposes described by ORS 199.410.

(3) A resolution creating or an order approving the creation of a boundary commission is effective on:

(a) The date the last county board in the jurisdiction of the commission adopts the resolution or order; or

(b) The date specified in the order, or resolution, but not more than 60 days after the adoption of the resolution or order.

(4) When a commission is created under this section, copies of the resolutions or orders of the county boards shall be filed with the Governor, the Secretary of State, and the county clerk and the assessor of each county within the jurisdiction of the commission.

(5) A commission created as provided by this section shall not have jurisdiction of any proceeding initiated prior to the effective date of the resolution or order creating such commission. [1969 c.494 §5; 1971 c.462 §3; 1979 c.645 §1; 1980 c.14 §4; 1981 c.265 §3]

199.432 Status of commission as state agency; application of certain laws. (1) A boundary commission created under ORS 199.425 or 199.430 may sue and be sued, enter into contracts and perform such other actions as may be necessary to carry out the provisions of ORS 199.410 to 199.534.

(2) A boundary commission is a state agency as defined in ORS 291.002 (7) and is not subject to the provisions of ORS 291.202 to 291.226, 291.232 to 291.260 and 291.371 to 291.385.

(3) A boundary commission employing personnel under ORS 199.455 shall provide employee benefits provided to state management service employees. [1979 c.545 §3; 1981 c.265 §4; 1983 c.336 §2; 1989 c.92 §11]

199.435 Organization of commission created under ORS 199.430. (1) The members of the first board of a commission formed under ORS 199.430 shall be appointed within 90 days after the commission is created.

(2) Notwithstanding ORS 199.440, of the first appointees to a commission formed under ORS 199.430, one shall serve for one year, two for two years, two for three years and two for four years. The respective terms of the first appointees shall be determined by lot at the first meeting of the commission.

(3) The Governor shall fix the time and place of the first meeting and notify the members of the commission thereof. The first meeting shall be an organizational meeting. [1969 c.494 §8]

199.440 Membership; appointment; qualifications; term; vacancy. (1) A boundary commission shall have seven members. However, if the population of the area subject to the jurisdiction of the commission exceeds 500,000 and if the area subject to its jurisdiction is wholly or partly situated within the boundaries of a metropolitan service district, the commission shall have a number of members that is equal to the number of councilors of the metropolitan service district.

(2) Except as provided in subsection (3) of this section, the Governor may appoint all members of a commission from a list of names obtained from cities, counties and districts within the area of jurisdiction of the boundary commission. The Governor shall prepare the list annually and keep it current so timely appointments will be made as vacancies occur. The Governor shall endeavor to appoint members from the various cities, counties and districts so as to provide geographical diversity of representation on the commission.

(3) When the area subject to the jurisdiction of a boundary commission is wholly or partly situated within the boundaries of a metropolitan service district organized under ORS chapter 268, the members of that boundary commission shall be appointed by the executive officer of the metropolitan service district. The executive officer shall appoint members of a boundary commission from a list of individuals nominated by the councilors of the district. Each councilor shall nominate no fewer than three nor more than five individuals for appointment to the boundary commission. When first appointing all the members of a boundary commission, the executive officer shall appoint one individual from among those nominated by each

councilor. Thereafter, as the term of a member of a boundary commission expires or as a vacancy occurs, the executive officer shall appoint an individual nominated by the councilor or a successor who nominated the boundary commission member whose term has expired or who vacated the office. The executive officer shall endeavor to appoint members from various cities, counties and districts so as to provide geographical diversity of representation on the boundary commission.

(4) To be qualified to serve as a member of a commission, a person must be a resident of the area subject to the jurisdiction of the commission. A person who is an elected or appointed officer or employee of a city, county or district may not serve as a member of a commission. No more than two members of a commission shall be engaged principally in the buying, selling or developing of real estate for profit as individuals, or receive more than half of their gross income as or be principally occupied as members of any partnership, or as officers or employees of any corporation, that is engaged principally in the buying, selling or developing of real estate for profit. No more than two members of a commission shall be engaged in the same kind of business, trade, occupation or profession.

(5) A member shall be appointed to serve for a term of four years. A person shall not be eligible to serve for more than two consecutive terms, exclusive of:

(a) Any service for the unexpired term of a predecessor in office.

(b) Any term less than four years served on the commission first appointed.

(6) A commission may declare the office of a member vacant for any cause set out by ORS 236.010 or for failure, without good reason, to attend two consecutive meetings of the commission. A vacancy shall be filled by the Governor or by the executive officer of a metropolitan service district, by appointment for the unexpired term. If the Governor or the executive officer has not filled a vacancy within 45 days after the vacancy occurs, then, and until such time as the vacancy is filled, the remaining members of a commission shall comprise and act as the full membership of the commission for purposes of ORS 199.445. [1969 c.494 §6; 1975 c.653 §1; 1979 c.374 §1; 1981 c.265 §5; 1989 c.92 §12b; 1989 c 321 §4; 1991 c.15 §1]

199.445 Quorum; voting requirements for certain matters. A majority of the members of a commission constitute a quorum for the transaction of business, and a majority of a quorum may act for the commission. However, the approval of a majority of the members of the commission is required to:

(1) Adopt a final order under ORS 199.461.

(2) Adopt rules under ORS 199.452. [1969 c.494 §9; 1971 c.462 §4]

199.450 Advisory committee; membership; function; term. (1) Each boundary commission shall appoint an advisory committee to advise and assist the commission in carrying out the purposes of ORS 199.410 to 199.534. An advisory committee shall consist of nine members who are residents within the jurisdiction of the commission. Except for the public members, to be qualified to serve on a committee a person shall be a member of the governing body of a city, county or district located within the jurisdiction of the commission. The members shall include two city officers, two county officers, two district officers and three public members, one of whom shall serve as chairperson of the advisory committee. A governing body shall not have more than one member on the advisory committee. When only one county is under the jurisdiction of a boundary commission, then the committee shall consist of three city officers, one county officer, three district officers and the two public members. Any member of the committee may designate a representative who is an officer or employee of the member's city, county or district to appear and act for that member at any meeting of the committee.

(2) The advisory committee shall meet as necessary. The advisory committee shall also meet on the call of the commission.

(3)(a) The committee may review each petition filed with the commission except a petition filed under ORS 199.495. If the committee reviews a petition, it may submit a recommendation on the petition to the boundary commission within 30 days after the petition is filed with the commission.

(b) The committee shall review each administrative rule of the commission prior to its adoption. The committee may propose any changes to the commission's rules, policies or practices as it deems necessary or desirable.

(4) In addition to its other functions and duties, the advisory committee shall review the annual budget of the boundary commission and any assessments levied under ORS 199.457. The advisory committee shall meet with the commission and may make such recommendations relating to the budget or assessments as it deems necessary or prudent. The budget or an assessment levied under ORS 199.457 shall be effective only when approved by the advisory committee.

(5) A member shall serve for a term of two years. Of the members first appointed, however, four shall serve for terms of one year and five shall serve for terms of two years. The respective terms of the members shall be determined by lot at the first meeting of the advisory committee. [1969 c.494 §9a; 1971 c.462 §5; 1981 c.265 §6; 1983 c.336 §3; 1989 c.92 §13]

199.452 Adoption of rules. A commission shall adopt, and may from time to time amend, rules to govern the proceedings before the commission. Except as provided in ORS 183.315 (1), a commission shall adopt and amend its rules in accordance with ORS 183.310 to 183.550. [Formerly 199.525; 1983 c.336 §4]

199.455 Expenses of members; employees; cooperation of local governments. (1) Each member of a boundary commission may receive travel and other expenses incidental to the performance of duties.

(2) A commission shall employ an executive officer and may employ administrative, clerical and technical assistants for carrying on its functions and it shall fix their compensation.

(3) The governing bodies of cities, counties and districts located within the area of jurisdiction of a boundary commission shall cooperate when requested with the boundary commission by providing information, records, materials and other forms of support and, if available, consulting services and staff assistance. [Formerly 199.530; 1981 c.265 §7]

199.457 Finances; tax levy by county; service charges; assessments; donations. (1) Any county located within the jurisdiction of a boundary commission may levy taxes and expend funds for the purposes of ORS 199.410 to 199.534.

(2) A boundary commission may accept any funds, property or services, or the use of any property donated by any person, district, city or county in carrying out the purposes of ORS 199.410 to 199.534.

(3) A boundary commission, with the approval of the advisory committee appointed under ORS 199.450, may establish and collect reasonable service charges from persons, cities, the county or counties and special districts within its jurisdiction to defray the costs of operating the commission and carrying out the purposes of ORS 199.410 to 199.534. Such charges shall include, but not be limited to, fees for filing a petition or resolution for a boundary change with the commission.

(4) In addition to any service charges established under subsection (3) of this section, a boundary commission may determine it is necessary to charge cities and counties within its jurisdiction for services and activities carried out under ORS 199.410 to 199.534. If the commission determines that it is necessary to charge cities and counties within its jurisdiction for any fiscal year, the commission shall determine, with the approval of the advisory committee appointed under ORS 199.450, the total amount to be charged and shall assess each city and county with the portion of the total amount as the population of the portion of the city or county within the jurisdiction of the commission bears to the total population of the area within the jurisdiction of the commission. For the purposes of this subsection, the population of a county does not include the population of any city situated within the boundaries of that county. An assessment made under this subsection shall not exceed the rate of 10 cents per capita per year for a boundary commission created pursuant to ORS 199.425 (1) or 21 cents per capita per year for a boundary commission created pursuant to ORS 199.425 (2).

(5) In addition to any service charges, established under subsection (3) of this section, a boundary commission may determine it is necessary to charge districts within its jurisdiction for services and activities carried out under ORS 199.410 to 199.534. If the commission determines that it is necessary to charge districts within its jurisdiction for any fiscal year, the commission shall determine, with the approval of the advisory committee appointed under ORS 199.450, the total amount to be charged and shall assess each district with the portion of the total amount as the assessed valuation of the district within the jurisdiction of the commission bears to the total assessed valuation of all districts within the jurisdiction of the commission. For purposes of this subsection, the assessed valuation of inactive or nonfunctioning districts shall not be included in the total assessed valuation of all districts and such districts shall not be assessed. For a boundary commission created pursuant to ORS 199.425 (1) any district with an assessed valuation over $3,144,645,000 and less than $10 billion shall be assessed a flat rate of $5,000 per year and any district with an assessed valuation of $10 billion or more shall be assessed a flat rate of $7,500 per year and such district's assessed valuation shall not be included in the total assessed valuation of all districts within the jurisdiction of the commission. An assessment made under this subsection shall not exceed.00159 dollars per thousand dollars of assessed valuation per year for a boundary commission created pursuant to ORS 199.425 (1). For a boundary commission created pursuant to ORS 199.425 (2) any district with an assessed valuation over $1 billion shall be assessed a flat rate of $2,500 per year and such district's assessed

valuation shall not be included in the total assessed valuation of all districts within the jurisdiction of the commission. An assessment made under this subsection shall not exceed.00878 dollars per thousand dollars of assessed valuation per year for a boundary commission created pursuant to ORS 199.425 (2). However, assessments shall not be made by a boundary commission under this subsection against a highway lighting district organized under ORS chapter 372, a vector control district organized under ORS chapter 452 or a county service district organized under ORS chapter 451 for the purpose of providing street lighting works or vector control.

(6) For each fiscal year beginning on or after July 1, 1982, the commission shall notify each city, county or district governing body of its intent to levy an assessment under this section and the amount of the assessment for each city, county and district at least 120 days before the beginning of the fiscal year for which the assessment will be made.

(7) The decision of the commission to assess the cities, counties and districts within its jurisdiction, and the amount of the assessment upon each, shall be binding upon those governmental bodies. Cities, counties and districts shall pay their assessment in equal quarterly payments as the commission may require except that any city or district with a total annual assessment of less than $100 shall pay the total assessment in one installment at the time specified for the second quarterly payment.

(8) When a city or district located in a county outside the jurisdiction of a boundary commission annexes or otherwise incorporates territory located within the jurisdiction of a boundary commission, the boundary commission shall assess the city or district with the portion of the total amount determined under subsection (4) or (5) of this section as the assessed valuation of the territory of the city or district within the jurisdiction of the boundary commission bears to the total assessed valuation of the entire city or district. [Formerly 199.535; 1981 c.265 §8; 1983 c.336 §5; 1989 c.92 §14]

199.458 District assessments prohibited when commission services not used; increase in assessments for county and cities. (1) Notwithstanding ORS 199.457 (4) to (7), a boundary commission created under ORS 199.425 (2) shall not levy the assessments authorized by ORS 199.457 (4) to (7) upon a district when the district has not utilized the services of the commission during the two fiscal years immediately preceding the fiscal year for which the assessment would otherwise be levied. As used in this section, "utilized the services of the commission" means processing a boundary change or application under ORS 199.464 through the commission by means of either the regular or expedited process.

(2) For any fiscal year, when any district assessment is limited by operation of subsection (1) of this section, the boundary commission shall increase the assessment under ORS 199.457 (4) against each city with a population exceeding 85,000 and the county in order to obtain the amount of revenues lost to the boundary commission by reason of the assessment limit imposed by subsection (1) of this section. The increase in assessments authorized by this subsection shall be assessed against the county and each city with a population exceeding 85,000 in the same proportion as the population of the city or county bears to the total population of the unincorporated area of the county and of all cities with a population exceeding 85,000. [1987 c.882 §6]

Note: 199.458 was added to and made a part of ORS chapter 199 but was not added to any smaller series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

199.459 Local Government Boundary Commission Funds; purposes. (1) There is established in the State Treasury separate from the General Fund a fund to be known as the Portland Metropolitan Area Local Government Boundary Commission Fund into which shall be deposited all revenues received pursuant to ORS 199.457.

(2) There is established in the State Treasury separate from the General Fund a fund to be known as the Lane County Local Government Boundary Commission Fund into which shall be deposited all revenues received pursuant to ORS 199.457.

(3) Amounts in the funds established under subsections (1) and (2) of this section are continuously appropriated for the purposes of the commissions, respectively. [1981 c.793 §1]

Note: 199.459 was enacted into law by the Legislative Assembly but was not added to or made a part of ORS chapter 199 or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

(Jurisdiction; General Procedure)

199.460 Jurisdiction of boundary commission over boundary changes. (1) A boundary commission has jurisdiction of a proceeding to consider a boundary change if any part of the territory included or proposed to be included within the affected city or district is within the jurisdiction of the commission.

(2) If the territory subject to the proceeding is within the jurisdiction of two or more commissions, the highest assessed

value commission shall have primary jurisdiction in the conduct of the proceeding under ORS 199.410 to 199.534, and all other commissions having jurisdiction of the territory shall cooperate in the conduct of the proceeding. On the call of the highest assessed value commission, the commissions shall meet as a joint commission to hold hearings and to adopt a final order in the proceeding. As used in this subsection, "highest assessed value commission" means the commission having jurisdiction of the greatest portion of the taxable assessed valuation of the affected territory.

(3) Notwithstanding subsection (2) of this section, the local government boundary commission created by ORS 199.425 (1) shall not have jurisdiction over boundary changes involving cities or districts that are located primarily within Marion County and that were formerly within the jurisdiction of the Marion-Polk County Local Government Boundary Commission. [1969 c.494 §10; 1971 c.462 §6; 1989 c.92 §15]

199.461 Study of proposed boundary change or other action; hearing; action by commission; judicial review; notice to public officials. (1) When the boundary commission receives a petition in a boundary change proceeding or an application for any proceeding allowed under ORS 199.464, it shall:

(a) Cause a study to be made of the proposal.

(b) Conduct one or more public hearings on the proposal.

(2) After the study and hearings, the boundary commission may alter the boundaries set out in a petition for formation or a minor boundary change of a city or district or in a petition for consolidation of cities so as either to include or exclude territory. If the commission determines that any land has been improperly omitted from the proposal and that the owner of the land has not appeared at the hearing, in person or by a representative designated in writing, the commission shall continue the hearing on the petition and shall order notice given to the nonappearing owner requiring appearance of the owner before the commission to show cause, if any, why the land should not be included in the proposal. For minor boundary change modifications, notice to nonappearing owners may be given by personal service or by letter sent by first-class mail, at least 10 days prior to the date to which the hearing has been continued. For major boundary change modifications, notice to nonappearing owners may be given by personal service, by letter sent by first-class mail or by a legal advertisement in a newspaper of general circulation in the area at least 15 days prior to the date to which the hearing has been continued. The required notice may be waived by the nonappearing owner.

(3) After the study and hearings the boundary commission may alter the application for extraterritorial sewer or water line extensions to include or exclude line and connections thereto, and may alter the application for formation of a privately owned sewer or water system or allocation of territory to a community water supply system to include or exclude territory. If the commission determines that any land has been improperly omitted from a proposal to form a private water or sewer system or allocate territory to a community water system, or that any line or connections have been improperly omitted from a proposal to extend extraterritorially a water or sewer line, and that the owner of the property to be included or to which the line is being extended has not appeared at the hearing, in person or by a representative designated in writing, the commission shall continue the hearing on the proposal and shall order notice given to the nonappearing owner requiring appearance of the owner before the commission to show cause, if any, why the land or line or connection should not be included in the proposal. Notice to nonappearing owners may be given by personal service or by letter sent by first-class mail, at least 10 days prior to the date to which the hearing has been continued. The required notice may be waived by the nonappearing owner.

(4) On the basis of the study and on the basis of the facts presented at the hearing, the boundary commission shall approve the proposed boundary change or application under ORS 199.464 as presented or as modified by the commission or disapprove the proposed change, by an order stating the reasons for the decision of the commission. Jurisdiction for judicial review of such an order is conferred upon the Court of Appeals. Except as provided in ORS 183.315 (1), any person interested in a boundary change may petition for judicial review of the order under ORS 183.482.

(5) Immediately after the effective date of a final order entered under subsection (4) of this section and a proclamation declaring a minor boundary change approved if any is entered under ORS 199.505 (3), the commission shall file a copy of the order and proclamation, if any, with the Secretary of State, the Department of Revenue, the assessor and the county clerk of each county in which the affected territory, city or district is located, and the clerk of the affected city or district. If the commission disapproves a minor boundary change, it shall send a copy of the

final order to the person who actually filed the petition and to the affected city or district.

(6) Immediately after the effective date of a final order on an application under ORS 199.464, the commission shall file a copy of the order with the applicant, the Health Division, the Department of Environmental Quality and the county planning department. [Formerly 199.475; 1979 c.772 §16; 1981 c.265 §9; 1983 c.336 §6, 1989 c.92 §16]

199.462 Standards for review of changes; territory which may not be included in certain changes. (1) In order to carry out the purposes described by ORS 199.410 when reviewing a petition for a boundary change or application under ORS 199.464, a boundary commission shall consider local comprehensive planning for the area, economic, demographic and sociological trends and projections pertinent to the proposal, past and prospective physical development of land that would directly or indirectly be affected by the proposed boundary change or application under ORS 199.464 and the goals adopted under ORS 197.225.

(2) Subject to any provision to the contrary in the principal Act of the affected district or city and subject to the process of transfer of territory:

(a) Territory within a city may not be included within or annexed to a district without the consent of the city council;

(b) Territory within a city may not be included within or annexed to another city; and

(c) Territory within a district may not be included within or annexed to another district subject to the same principal Act. [Formerly 199.515; 1975 c.361 §2; 1979 c.374 §2; 1981 c.748 §18; 1983 c.336 §7; 1989 c.92 §17]

199.463 Notice; hearing. (1) Notice of a public hearing conducted by a boundary commission under ORS 199.461 shall be published by at least one insertion in a newspaper of general circulation in the affected city, district or territory not more than 25 days nor less than 15 days before the hearing. A second notice may be published either by a second insertion in a newspaper of general circulation in the affected city, district or territory or by letter sent first-class mail addressed to each owner of land in the affected territory not more than 15 days nor less than 8 days before the hearing. The commission may also cause the notice to be posted in not less than three public places within the affected city, district or territory at least 15 days before the hearing. The commission may provide for publication by broadcasting on radio or television stations.

(2) Notice of a hearing shall describe the proposed boundary change or application under ORS 199.464, state the time and place of the hearing and that any interested person may appear and shall be given a reasonable opportunity to be heard.

(3) A hearing may be adjourned or continued to another time so long as notice of the continued hearing meets the requirements of ORS chapter 193. [Formerly 199.520; 1983 c.336 §8; 1989 c.92 §18]

199.464 Commission approval for exercise of additional district function, to extraterritorially extend district or city sewer or water line or to establish privately owned community water system. (1) Approval or disapproval under this section shall be based on the policy stated in ORS 199.410.

(2) Without the approval of a boundary commission, a district with territory in the jurisdiction of the commission may not initiate an additional function of the district. Any proposal by a district to initiate an additional function shall be referred immediately to the boundary commission that has jurisdiction of the territory in which the district lies. The district shall take no further action on the proposal unless the commission approves the proposal as proposed or modified.

(3) Except for lines which provide no extraterritorial service, without the approval of a boundary commission, a city or district with territory in the jurisdiction of the commission shall not extend a water or sewer line extraterritorially to an extent not effected on October 5, 1973. Tentative plans for such extraterritorial extension shall be submitted to the boundary commission that has jurisdiction of the territory in which the extension is proposed. If the commission disapproves the plans, no further action may be taken.

(4) Except as provided in paragraph (d) of subsection (5) of this section, within territory subject to the jurisdiction of a boundary commission, no person may establish a community water supply system or a privately owned sewerage system or privately owned disposal system or extend a water line or sewer line without commission approval. Tentative plans for such approval shall be submitted to the boundary commission that has jurisdiction of the territory for which the establishment or extension is proposed. However, extension by a city or district of water lines or sewer lines shall be governed by subsection (3) of this section and the requirements of this section shall not apply to establishment of a city-owned or district-owned community water supply system within its boundaries.

(5)(a) A community water supply system within the territory subject to the jurisdiction of a commission may apply to the commission for allocation of service territory. If the territory is allocated to a community water supply system, no other community water supply system may serve within the territory without approval of the commission and the approval may not be given so long as the existing system is reliable and has an adequate quality and quantity of water.

(b) In condemning all or part of the properties and allocated service territory of a private community water supply system through eminent domain, the acquisition price shall be fair market value.

(c) No part of the acquisition price for all or part of a community water supply system acquired by eminent domain shall be specially assessed against the property within the acquired service territory, or its owners on a special benefit assessment basis.

(d) A community water supply system to which service territory has been allocated under this subsection may extend or establish water lines within the territory without further approval of the commission.

(6) Action which under this section requires approval by a boundary commission but is taken without that approval may be enjoined, upon suit in a court of competent jurisdiction, by the boundary commission in whose territorial jurisdiction the action is taken.

(7) As used in this section:

(a) "Water line" includes every water line except a line connecting a community water supply system with the premises of the water user unless the line provides for extraterritorial extension of service.

(b) "Sewer line" includes every gravity sewer line that is eight inches or more in diameter and all force lines regardless of size, except a line connecting a sewer system with the premises of the user unless the line provides for extraterritorial extension of service.

(c) "Community water supply system" means a source of water and distribution system whether publicly or privately owned which serves more than three residences or other users where water is provided for public consumption including, but not limited to, a school, farm labor camp, an industrial establishment, a recreational facility, a restaurant, a motel, a mobile home or manufactured dwelling park, or a group care home.

(d) "Sewerage system" is that system described by ORS 468B.005 (5).

(e) "Disposal system" is that system described by ORS 468B.005 (1), except for individual subsurface disposal systems.

(f) "Tentative plans" submitted to the boundary commission for approval shall include:

(A) For the establishment of a water system or extension of a water line:

(i) The source of the supply and quantity of water available.

(ii) The transmission, distribution and storage system size and location.

(iii) The proposed number of service connections, a map, and a legal description indicating the proposed service area.

(B) For the establishment of a sewer system or extension of a sewer line:

(i) The location of the treatment facility and outfall or other method of disposal.

(ii) The size and location of the collection system.

(iii) The proposed number of service connections, a map, and a legal description indicating the proposed service area. [1973 c.684 §2; 1975 c.330 §1; 1979 c.374 §3; 1979 c.880 §4; 1983 c.336 §9; 1989 c.92 §19; 1989 c.648 §58]

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199.465 [1969 c.494 §11; 1971 c.462 §10; 1973 c.433 §1; 1981 c.890 §6; renumbered 199.476]

199.466 Approval of annexation or extraterritorial extension without study or hearing; conditions; appeal. (1) When filing an annexation petition or application under ORS 199.464 (3) or (4) with a boundary commission, the principal petitioner may request that the petition or application be approved without the study, public hearing and adoption of a final order required under ORS 199.461. If such request is made, the executive officer of the commission, not later than the 15th day after the filing of the petition or application, shall prepare a brief analysis of the petition or application and a recommendation for disposition of the proceeding, and send a copy of the analysis and recommendation to each commission member, to the governing body of each city, county and district with territory affected by the annexation or extension, to the owners of the affected territory and to such other persons as may be required by the commission. If the executive officer fails to prepare the analysis and recommendation by the 15th day after the filing of the petition or application, then the petition or application shall be approved only after the study, public hearing and adoption of the final order required under ORS 199.461.

(2) If, within 25 days after the filing of an annexation petition or application for an

extraterritorial water or sewer line extension, a person or governing body that received a copy of the executive officer's analysis and recommendation under subsection (1) of this section does not ask in writing for a public hearing on the proceeding under ORS 199.461, the petition or application shall be considered approved by the commission. After such approval, the executive officer of the commission shall send written notification of the approval to the officials and persons described in ORS 199.461 (5) or (6). For an annexation petition, the notification shall contain a legal description and map describing the territory approved for annexation, and for an application under ORS 199.464 (3) or (4), a general description and map of the territory affected by the extension. If a request for a public hearing is received by the commission within the 25-day period after the filing, the commission shall proceed as provided by ORS 199.460 to 199.463 and 199.490 to 199.534

(3) Any person, city, county or district may appeal the approval of a petition or tentative plans under this section as provided in ORS 199.461 (4). [1981 c.265 §14; 1983 c.336 §12; 1989 c.92 §20]

199.468 Effective date of application submitted under ORS 199.464. If the boundary commission by its final order approves any application submitted pursuant to ORS 199.464, the application shall be effective at the time specified in the final order except that the effective date shall not be more than one year after the date the final order is adopted. If no effective date is specified in the final order, the order shall take effect on the date the order is adopted. [1983 c.336 §11]

199.470 [1969 c.494 §12; repealed by 1971 c.462 §20]

199.475 [1969 c.494 §13; 1971 c.462 §7; renumbered 199.461]

199.476 When petition for major boundary change required; when economic feasibility statement required; effect of filing petition; effect of appeal. (1) When a major boundary change is initiated by a legally sufficient petition as provided by the principal Act, if the territory subject to the petition is within the jurisdiction of a boundary commission, the filing agency notwithstanding the principal Act, shall file, within 10 days after the petition is filed, a certified copy of the petition with the boundary commission having jurisdiction of the change. If the petition proposes formation, consolidation or merger of a city or district it shall be accompanied by the economic feasibility analysis and an estimate of the tax rate derived from the feasibility analysis that will be required to provide the services or functions of the proposed city or district. The analysis and estimate of the tax rate shall be prepared in cooperation with the county assessor and the Department of Revenue. The analysis shall include among other items a description of the services or functions to be performed or provided by the new unit and an analysis of their relationship to other existing or needed government services. The analysis shall also include a first year line item operating budget and a projected third year line item operating budget.

(2) The proceeding under the principal Act shall be suspended from the date the petition is filed with the filing agency until the date the commission files a certified copy of its final order with the filing agency. Suspension of the proceeding under this section shall not continue for more than 120 days after the date the commission receives the petition.

(3) If a final order is not adopted within the 120 days, the petition shall be considered approved by the commission.

(4) Notwithstanding subsection (3) of this section, if a final order of a commission is appealed for review by the Court of Appeals and a copy of the petition for judicial review is filed with the filing agency within 60 days after the date on which the final order is issued, the suspension period shall be extended and continue until the petition for judicial review is determined and the results thereof certified to the filing agency.

(5) A determination by the board of directors of a county service district that there is a public need for the continued existence of the district shall be reviewed as provided in this section. [Formerly 199.465; 1983 c.336 §13; 1987 c.504 §10; 1987 c.882 §10; 1989 c.92 §21]

199.480 Filing of major boundary change order; effect of filing. In a proceeding for a major boundary change, a certified copy of the final order of the boundary commission shall be filed with the filing agency from which the commission received the petition. If the copy is so filed and:

(1) If the commission approved the petition as presented or as modified, the proceeding shall continue as provided by the principal Act; except that when a commission considers and enters a final order on a petition:

(a) The city council or county or district board need not call or hold a hearing on the petition and shall not change boundaries as described by the final order of the commission.

(b) An election on the proposed change, if required under the principal Act, shall be held on the next appropriate election date

authorized under the principal Act or under ORS 203.085, 221.230 or 255.345.

(c) The final order, in a proceeding to merge or to consolidate districts or to dissolve a district and transfer its functions, assets and liabilities to a county service district, shall conclude the proceeding for all purposes; and the merger, consolidation or dissolution and transfer shall take effect on the date the order is adopted or at whatever date the commission specifies in its order which shall not be more than one year after the date the final order is adopted. A merger or consolidation to which this paragraph applies includes but is not limited to a merger or consolidation under ORS 198.705 to 198.955 that provides for joining a city to the surviving or successor district.

(2) If the commission disapproved the petition, the proceeding shall terminate.

(3) If the commission determines that a county service district subject to a determination of public need for continued existence shall be dissolved, it shall enter an order so providing and dissolution shall take effect at the end of the fiscal year in which the order of the commission is entered. [1969 c.494 §14; 1971 c.462 §11; 1973 c.664 §4; 1983 c.142 §12a; 1983 c.336 §14; 1987 c.504 §11; 1989 c.92 §22]

199.483 [1987 c.882 §9; repealed by 1989 c.92 §39]

199.485 Commission authority to initiate major change; resolution as petition; content and filing of resolution. (1) A boundary commission may initiate a proceeding for a major boundary change in territory subject to its jurisdiction by adopting and within 10 days thereafter filing with the proper filing agency a resolution proposing the change and by proceeding in accordance with the principal Act of the affected city or district, ORS 199.476, 199.480 and this section. When the resolution is filed with the filing agency, thereafter for all purposes the resolution shall be considered as if it were a petition filed in accordance with the principal Act.

(2) The resolution shall:

(a) Identify the affected city or district;

(b) State the kind of boundary change proposed;

(c) Contain a legal description of the boundaries of the affected territory;

(d) If the proposal concerns a district, designate the principal Act of the affected district;

(e) Have attached a map showing the location of the affected territory; and

(f) Include whatever additional information the principal Act of the affected city or district authorizes or requires petitioners to include in or with a petition for such a boundary change.

(3) In proceedings initiated under this section, the filing agency is not required to send a copy of the resolution to the boundary commission, but the commission shall, except in formation proceedings, file a certified copy of the resolution with the affected city or district within five days after the date the resolution is filed with the filing agency, unless the city or district is the filing agency. [1969 c.494 §15; 1971 c.462 §12; 1973 c.664 §5]

199.487 Commission authority to initiate minor change; nonapplicability of certain boundary change procedures; effect of commission action. (1) Within the jurisdiction of a boundary commission, a minor boundary change proceeding may be initiated as provided by ORS 199.490. In addition, a city annexation proceeding may be initiated as provided by ORS 222.750 or 222.840 to 222.915. Minor boundary change proceedings shall be conducted as provided by this section and ORS 199.490 to 199.534.

(2) ORS 222.111 to 222.180, 222.460 and the statutes of the state that govern annexation of territory to, or withdrawal of territory from, districts do not apply in territory subject to the jurisdiction of a boundary commission. However, a city annexation proposal initiated under ORS 199.490 may include a tax differential proposal authorized by ORS 222.111 (3). Notwithstanding ORS 199.490 (2)(b), 222.173 (1), 222.175 or any other requirement for obtaining consent to annexation, a city or district may use a consent to annexation contained in contracts authorized by ORS 198.869 or 222.115 in formulating annexation proposals or petitions under ORS 198.855, 199.490 (2), 222.125 or 222.170 for properties whose owners have signed such consents to annexation. ORS 222.530 shall not apply in territory subject to the jurisdiction of a boundary commission unless the affected territory constitutes at least 60 percent of the area and 60 percent of the assessed value of the district.

(3) Notwithstanding any charter or statutory provision to the contrary, a final order or a proclamation of a boundary commission declaring a minor boundary change approved is effective to change the boundary of the city or district without the necessity of any further action by the electors or the governing body of the city or district. [Formerly 199.540; 1979 c.880 §3; 1983 c.336 §15; 1985 c.702 §17; 1989 c.92 §23; 1989 c.1063 §12; 1991 c.637 §6]

199.490 Procedure for minor boundary changes or transfers of territory. (1) A proceeding for a minor boundary change other than a transfer of territory may be initiated:

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

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

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

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

(e) When the minor boundary change is a withdrawal of a city from a district, by resolution of the governing body of the city, which shall be an affected city for the purposes of ORS 199.410 to 199.534. A resolution adopted under this paragraph may include a proposed tax base for the city that the city governing body considers sufficient to support the services provided by the district to the city.

(2)(a)(A) An annexation proceeding may also be initiated by a resolution adopted by the governing body of the affected city or district upon receiving consent to annex their land in writing from more than half of the owners of land in the territory proposed to be annexed, who also own more than half of the land in the territory proposed to be annexed and of real property therein representing more than half of the assessed value of all real property in the territory proposed to be annexed.

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

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

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

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

(e) As used in this subsection, "owner" has the additional meaning given that term in ORS 222.120 (7).

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

(a) By joint resolution of the governing bodies of the affected districts or cities;

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

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

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

(4) The petition or resolution shall:

(a) Name the affected city or district and state whether it is proposed to annex, withdraw or transfer territory;

(b) Describe the boundaries of the affected territory;

(c) If the proposal concerns a district, designate the applicable principal Act;

(d) Have attached a county assessor's cadastral map showing the location of the affected territory; and

(e) Be filed with the boundary commission having jurisdiction of the affected territory.

(5) When a city annexation is initiated:

(a) As provided by ORS 222.750 the petition proposing the annexation shall be filed with the boundary commission having jurisdiction of the annexation.

(b) As provided by ORS 222.840 to 222.915, the findings adopted by the Assistant Director for Health under ORS 222.880 shall be considered the initiatory action and a

certified copy of the findings shall be filed with the boundary commission having jurisdiction of the annexation, at the same time a copy of the finding is filed with the affected city.

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

(7) Unless the parties appearing at a hearing for a minor boundary change or application under ORS 199.464 agree to a postponement of the adoption of a final order, a final order approving or disapproving a minor boundary change must be adopted within 90 days after the date the petition, resolution or application is filed with the commission. If a final order approving or disapproving a minor boundary change is not adopted within 90 days after the petition, resolution or application is filed or within the period of postponement, the petition, resolution or application shall be considered approved by the commission. A postponement shall not be for a period exceeding one year from the date the petition, resolution or application initiating the proposal is filed with the commission. [1969 c.494 §16; 1971 c.462 §14; 1973 c.808 §1; 1975 c.157 §3; 1975 c.361 §3; 1979 c.880 §1; 1983 c.83 §11; 1983 c.336 §16; 1985 c.702 §18; 1987 c.447 §114 1987 c.737 §1; 1989 c.92 §24; 1989 c.176 §1]

199.495 Effective date of certain annexations; nonapplicability of certain health hazard annexation procedures. In a proceeding initiated as provided by ORS 199.490 (2) and (5):

(1) If the proposed annexation is approved by the commission, the final order shall be effective at the time specified in the final order except that the effective date for an annexation initiated as provided by ORS 199.490 (5) shall not be more than one year after the date the final order is adopted and for an annexation initiated as provided by ORS 199.490 (2) shall not be more than 10 years after the date the final order is adopted. If no effective date is specified in the final order, the order shall take effect on the date the order is adopted. The order shall not be subject to ORS 199.505.

(2) ORS 222.883 to 222.896, 222.900 (1) and (3) and 222.915 do not apply to proceedings initiated by the findings of the Assistant Director for Health. [1969 c.494 §16a; 1971 c.462 §15; 1975 c.157 §1; 1975 c.639 §19; 1979 c.374 §4; 1979 c.880 §2; 1983 c.407 §11; 1991 c.637 §7]

199.505 Effective date of minor changes; objection; election. (1) If the boundary commission by its final order approves a minor boundary change other than a transfer of territory or a withdrawal initiated under ORS 199.490 (1)(e) that proposes a new tax base for a city, the change shall take effect at the time specified in the final order. Except for annexation proceedings initiated by a city or district, the effective date shall not be less than 45 days, nor more than one year, after the date the commission adopts the final order approving the change. For annexation proceedings initiated by a city or district, the effective date shall not be earlier than 45 days, nor more than 10 years, after the date the commission adopts the final order approving the change. If no effective date is specified in the final order, the order shall take effect 45 days after the commission adopts the final order approving the change. However, the change shall not take effect unless it is also approved by the electors if within 45 days after the date of the adoption of the order:

(a) Written objections to the change signed by not less than 10 percent or 100, whichever number is the lesser, of the electors in the affected territory are filed with the commission; or

(b) A resolution objecting to the change adopted by the city council of the affected city or district board of the affected district is filed with the commission.

(2) If objections as required by this section are filed by a city council or district board, the council or board shall call and hold an election in the affected city or district on the boundary change as approved. If objections are filed by the electors, the commission shall certify the fact of the objections to:

(a) The city council or district board of the affected city or district, if the change involves a withdrawal of territory, whereupon the council or board shall call an election in the city or district.

(b) The county board of the county where the territory is located, if the change involves an annexation, whereupon the board shall call an election in the territory. Where a minor boundary change has been initiated pursuant to ORS 199.490 (1)(a), cost of an election required by this paragraph shall be paid by the city or district to which the territory is proposed to be annexed.

(3) An election required by subsection (2) of this section shall be held on the next appropriate election date authorized under ORS 203.085, 221.230 or 255.345. A city council or

a board that calls an election under this section shall certify the results of the election to the commission. If a majority of those voting on the proposition in each election approve the change approved by the commission, the commission thereupon shall proclaim the results of the election. Upon the adoption of the proclamation the change shall take effect. [1969 c.494 §17; 1971 c.288 §1; 1971 c.462 §16; 1975 c.157 §2; 1975 c.361 §4; 1981 c.265 §10; 1983 c.336 §17; 1989 c.176 §2; 1991 c.637 §8]

199.507 Effective date of transfer of territory; objections; election. (1) If the boundary commission by its final order approves a transfer of territory, the change shall take effect at the time specified in the final order, but the effective date shall not be less than 45 days, nor more than one year, after the date the commission adopts the final order approving the change. If no effective date is specified in the final order, the order shall take effect 45 days after the commission adopts the final order approving the change. However, the change shall not take effect unless it is also approved by the electors if within 45 days after the date of the adoption of the order:

(a) Written objections to the change signed by not less than 10 percent or 100, whichever number is the lesser, of the electors in the affected territory are filed with the commission; or

(b) A resolution objecting to the change adopted by the district board or city council of any affected city or district is filed with the commission.

(2) If an objection is filed by the board of a district or city council of a city which under the final order would lose territory, it shall call and hold an election within its boundaries on whether the territory designated for transfer should be withdrawn from the district or city.

(3) If an objection is filed by the board of a district or city council of a city which under the final order would acquire the territory, it shall call and hold an election within its boundaries on whether the territory designated for transfer should be annexed to the district or city.

(4) If objections are filed by the electors, the commission shall certify the fact of the objections to the county board of the county where the territory is located whereupon the board shall call an election within the boundaries of the territory proposed for transfer on whether the territory should be transferred.

(5) An election required by this section shall be held on the next appropriate election date authorized under ORS 203.085, 221.230 or 255.345. The results of the election shall be certified to the commission. If a majority of those voting on a proposition in each and all elections approve the change approved by the commission, the commission thereupon shall proclaim the results of the election. Upon the adoption of the proclamation, the change shall take effect. [1975 c.361 §6; 1981 c.265 §11; 1983 c.336 §18]

199.508 Withdrawal of city from district when new tax base proposed for city; election; ballot title; effective date. (1) If the boundary commission by its final order approves the withdrawal of a city from a district and a proposed new tax base for the city, the withdrawal shall not take effect unless it is also approved by the electors of the city at an election at which the question of withdrawal and the adoption of a new tax base is submitted to the electors. The election shall be held on the date of the next regular statewide primary or general election that is not less than 40 days after the date of the adoption of the order of the boundary commission approving the withdrawal.

(2) A minor boundary change initiated under ORS 199.490 (1)(e) that contains a proposed new tax base for a city shall not be submitted to the electors of the district from which the city withdraws.

(3) The order by the city governing body calling an election under this section shall require the city officer in charge of elections to include on the ballot for the election a statement of the tax base proposed for the city in the resolution for withdrawal under ORS 199.490 (1)(e). Such statement shall comply with the requirements of ORS 310.402.

(4) When a proposal for withdrawal of a city from a district includes a proposed tax base for the city, the ballot title shall clearly indicate that a single question is being proposed which is:

(a) Whether the city shall withdraw from the district; and

(b) Whether the tax base specified in the ballot title shall be adopted as the tax base of the city.

(5) A city governing body that orders an election under this section shall certify the results of the election to the boundary commission. If a majority of the electors voting on the proposition in the election approve the withdrawal and the new tax base already approved by the boundary commission, the boundary commission shall proclaim the results of the election. Upon the adoption of the proclamation, the withdrawal of the city from the district shall take effect and the tax base approved by the electors shall be the tax base of the city. [1989 c.176 §4]

Note: 199.508 was added to and made a part of 199.410 to 199.534 by legislative action but was not added to any smaller series therein. See Preface to Oregon Revised Statutes for further explanation.

199.510 Financial effects of transfer or withdrawal. (1) After the date of a final order or proclamation of annexation or transfer of territory, the territory annexed or transferred shall become subject to the indebtedness, bonded or otherwise, of the affected city or district acquiring the territory in like manner as the territory within the city or district.

(2)(a) Subject to ORS 222.465, if the affected territory is to be annexed to a city, and lies within the boundaries of a district, the affected territory is withdrawn from the district on the date of the final order unless the city is part of the district. The city shall have the right to exercise the choice permitted by ORS 222.520 (2).

(b) Paragraph (a) of this subsection does not apply when the territory to be annexed lies within a water district organized under ORS chapter 264, a sanitary district organized under ORS 450.005 to 450.245 or a park and recreation district organized under ORS chapter 266. Withdrawal of territory from such a water, sanitary district or park and recreation district shall be governed solely by ORS 222.465 and 222.520 to 222.575.

(c) When a city receives services from a district and is part of that district, any territory thereafter annexed to the city shall be included in the boundaries of the district and shall be subject to all liabilities of the district in the same manner and to the same extent as other territory included in the district.

(3) After the date of a final order or proclamation withdrawing or transferring territory from an affected city or district, the territory withdrawn or transferred shall be free from assessments and taxes levied thereafter by the affected city or district losing the territory. However, the withdrawn or transferred territory shall remain subject to any bonded or other indebtedness existing at the time of the order, except as provided by ORS 198.882. If the territory is being withdrawn from a district into a city, the city shall have the right to exercise the choice permitted by ORS 222.520 (2). The proportionate share shall be based on the assessed valuation, according to the assessment roll in the year of the levy, of all the property located within the city or district immediately prior to the withdrawal. [1969 c.494 §18; 1971 c.462 §17; 1973 c.808 §2; 1975 c.361 §7; 1977 c.663 §2; 1981 c.265 §12; 1985 c.702 §19; 1989 c.483 §1]

199.512 Commission proceedings for district formation or annexation to relieve public health danger. (1) The findings of the Assistant Director for Health filed with a boundary commission in accordance with ORS 431.740 or 431.750 shall be considered a petition for the purposes of ORS 199.410 to 199.534. When the findings of the assistant director are filed with a commission, it shall proceed in accordance with the findings and with ORS 199.410 to 199.534, but the commission shall not inquire into the need for the proposed facilities or adjust the boundaries of the affected territory.

(2) In proceedings described by subsection (1) of this section, the boundary commission shall determine whether the affected territory shall be included in a new city, new metropolitan service district or new county service district or annexed to an existing district. The final order of the commission shall conclude the proceedings for all purposes; and the formation or annexation approved and ordered by the commission shall take effect 45 days after the date the commission adopts the final order in the proceeding. [1973 c.361 §16; 1989 c.92 §25]

199.514 [1973 c.664 §3; repealed by 1975 c.326 §5]

199.515 [1969 c.494 §19; 1971 c.462 §8; renumbered 199.462]

199.519 Effective date of boundary change. (1) Notwithstanding any different effective date specified in ORS 199.480, 199.505 or 199.507, a boundary change under ORS 199.410 to 199.534 shall not become effective during the period:

(a) Beginning after the 90th day before a primary or general election and ending on the day after the election; or

(b) Beginning after the deadline for filing the notice of election before any other election held by any city or district involved in the boundary change and ending on the day after the election.

(2) If the effective date established for a boundary change is a date that is prohibited under this section, the boundary change shall become effective on the day after the election for voting purposes.

(3) The provisions of this section do not apply if the territory affected by the boundary change has no registered voters. [1981 c.391 §1; 1985 c.808 §68; 1989 c.92 §26; 1989 c.923 §24]

199.520 [1969 c.494 §20; 1971 c.462 §9; renumbered 199.463]

199.522 Economic feasibility analysis for proposed city; filing with commission prior to filing incorporation petition; review of analysis by commission; approval or rejection. If the territory proposed to be incorporated is within the jurisdiction of a local government boundary commission, then prior to filing a petition to incorporate the territory with the county clerk under ORS

221.031, the petitioners shall file the economic feasibility analysis described in ORS 199.476 (1) with the local government boundary commission for review and approval. The local government boundary commission shall review the feasibility analysis. On the basis of the review and after consultation with the petitioners, if necessary, the boundary commission shall approve or reject the economic feasibility analysis as presented or approve it as modified by the commission. Approval or rejection of the economic feasibility analysis shall be done by an order stating the reasons for the decision of the commission. Approval or rejection of an economic feasibility analysis filed under this section shall be accomplished not later than 120 days after the feasibility analysis is filed with the boundary commission. [1987 c.882 §7]

199.525 [1969 c.494 §21; renumbered 199.452]

199.526 Time limit for obtaining signatures on petition for incorporation of city. When incorporation of a city is proposed within the jurisdiction of a local government boundary commission, all signatures on the petition described in ORS 221.031 and 221.040 must be obtained within any six-month period to be valid and effective to authorize a major boundary change proceeding under this chapter. [1987 c.882 §8]

Note: 199.526 was enacted into law by the Legislative Assembly but was not added to or made a part of ORS chapter 199 or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

199.530 [1969 c.494 §22; renumbered 199.455]

199.531 Policy. The Legislative Assembly finds that:

(1) Since 1985 local governments in boundary commission jurisdictions have undertaken programs involving multiple minor boundary changes, including annexation of territory, which have required the transfer of service delivery obligations from the county or special districts which formerly had jurisdiction of the territory to the annexing city or district, along with the need to receive revenue to support the services;

(2) The local governments and boundary commissions have acted in good faith reliance on state statutes concerning minor boundary changes and in compliance with those statutes;

(3) The transfer of service responsibility has resulted in extinguishing or dissolution of special service districts and the transfer of capital equipment and employees;

(4) If a court or administrative agency determines that one or more of the minor boundary changes are invalid because the statute on which they were based is unconstitutional, responsibility for service and revenue must be resolved in order to avoid substantial disruption to citizens; and

(5) Providing for legislative annexation of the affected territories is the best method for resolving service responsibility and financial obligations without jeopardizing continued service delivery to citizens in the affected territory or imposing unreasonable financial burdens on the city, county and special service districts and their citizens. [1987 c.818 §2]

199.534 Legislative annexation of territory to cities and districts; effective date; effect on other minor boundary changes. Notwithstanding any other provision of this chapter or ORS chapter 222, territory annexed or transferred to a city or district by a minor boundary change approved by a boundary commission's final order adopted after January 1, 1985, but before July 18, 1987, shall be in the annexing city or district by operation of ORS 198.855, 199.490, 199.531, 199.534, 222.120 and 222.170 to 222.177 commencing upon the effective date of the boundary commission's final order. The creation by ORS 198.855, 199.490, 199.531, 199.534, 222.120 and 222.170 to 222.177 of annexations shall not void or impair any prior or subsequent minor boundary changes inside or outside of the affected territory. [1987 c.818 §3]

199.535 [1969 c.494 §23; renumbered 199.457]

199.540 [1969 c.494 §24; 1971 c.462 §13; renumbered 199.487]

CITY-COUNTY CONSOLIDATION

(Generally)

199.705 Definitions for ORS 199.705 to 199.775. In ORS 199.705 to 199.775:

(1) "City-county" means a city incorporated under ORS 199.705 to 199.775 and having both city and county functions.

(2) "City in the county" means a city having more than 50 percent of its population in the county.

(3) "Most populous city" means a city of not less than 300,000 population. [1971 c.731 §2]

199.710 Short title. ORS 199.705 to 199.775 may be referred to as the City-County Act of 1971. [1971 c.731 §1]

199.715 City-county consolidation authorized. By proceeding under ORS 199.705 to 199.775, a county and the most populous city in the county may consolidate to form a city-county, and one or more of the other cities in the county may join in the consolidation. [1971 c.731 §3]

199.720 Initiation of consolidation proceedings by resolution or petition. (1) Consolidation proceedings may be initiated by resolution of the governing body of the

county or of the most populous city in the county. Within five days after adoption of the resolution a true copy thereof shall be filed with the governing body, other than the adopting governing body, of each city that has any territory within the county and of each county in which such a city has territory.

(2) The proceedings may also be initiated by electors of the county and of the most populous city in the county who reside within or outside of the county, filing with the county clerk of the county a petition signed by a number of such electors equal to six percent of the total number of votes cast in the county for all gubernatorial candidates at the last preceding election at which a Governor was elected for a four-year term.

(3) The form of the petition shall be:

CITY-COUNTY CONSOLIDATION

We, the undersigned electors, hereby initiate proceedings for consolidating _____ County, the City of _____, and whatever other cities in the County desire to join in the consolidation. We request that a charter commission be appointed, a charter be prepared, and an election on the consolidation be held, all under the City-County Act of 1971.

Names Addresses

_____ _____

(Here follow 20 lines for signatures)

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(4) Before the petition is circulated for signatures, a true copy of it shall be filed with the county clerk. No signature on the petition shall be counted unless subscribed thereon and filed with the county clerk within 180 days after the original filing.

(5) Within 15 days after receiving signatures to the petition the county clerk shall verify the signatures. As soon as the county clerk has verified the signatures and whether the number required for the petition have signed, the county clerk shall certify that fact on the petition and file the petition. Within five days after the certification the county clerk shall forward a true copy of the text of the petition and of the certification to the governing body of each city that has any territory within the county and of each county in which such a city has territory.

(6) The date of initiation of the proceedings shall be the date the initiating resolution is adopted or the date that the county clerk certifies that the initiating petition bears the required number of verified signatures. [1971 c.731 §4]

(Commission)

199.725 Charter commission; appointment; term; first meeting; chairman; appropriation for expenses. (1) Within 30 days after the proceedings are initiated a charter commission comprised of persons each of whom is an elector of the county or the most populous city shall be appointed as follows:

(a) Three members jointly by a majority of a convention of the State Senators elected from the county or any part thereof, one of whom shall be a resident of the unincorporated area of the county.

(b) Three members jointly by a majority of a convention of the State Representatives elected from the county or any part thereof, one of whom shall be a resident of the unincorporated area of the county.

(c) Two members by the governing body of the county.

(d) Two members by the governing body of the most populous city in the county.

(e) One member jointly by a majority of a convention of the mayors of the cities in the county other than the most populous city.

(2) Any of the appointments not made as provided by subsection (1) of this section shall be made by the Governor within 45 days after the proceedings are initiated.

(3) Each appointment made under this section shall be certified immediately by the appointing authority to the mayor of the most populous city.

(4) Members of the charter commission shall serve without pay.

(5) The terms of office of members of the commission shall continue until the charter that the commission prepares is submitted to the electors under ORS 199.730 and 199.735. A position on the commission shall become vacant, however, for any cause specified by ORS 236.010 and may be declared vacant by the commission because of nonattendance at commission meetings. Within 30 days after such a vacancy occurs or is declared, it shall be filled in the manner prescribed by the provisions of subsections (1) and (2) of this section that are applicable to the position vacated.

(6) Within five days after receiving certification of the final appointment to the commission, the mayor of the most populous city shall fix the time and place and give the commission members at least 10 days' notice of the first meeting of the commission. The mayor shall convene the commission and serve as its temporary chairman. At the first meeting the commission shall designate a

permanent chairman and organize in whatever other manner it considers advisable.

(7) The governing body of the county proposed to be consolidated shall appropriate for the expenses of the commission:

(a) Not less than $25,000; and

(b) An additional amount of not more than $100,000, as requisitioned by a majority of the following officials: The chairman of the commission, the chairman of the county governing body and the mayor of the most populous city in the county.

(8) The county and any city in the county may appropriate money to assist the charter commission with its work. [1971 c.731 §5; 1973 c.745 §1]

199.730 Functions of charter commission. The charter commission:

(1) Shall adopt rules to govern its proceedings.

(2) May acquire property, avail itself of quarters, enter into contracts necessary for its work, and receive and expend gifts, grants and appropriations.

(3) May employ administrative, clerical and technical assistance necessary for its work, and may request and secure information and assistance from the county and other units of local government located in the county and officers and employees thereof including the district attorney and the city attorneys and their staffs.

(4) Within one year after its first meeting shall prepare and publish a preliminary draft of a charter for the city-county.

(5) After publication of the preliminary draft shall hold public hearings thereon.

(6) Within two years after the first meeting of the commission shall prepare a final draft of the charter.

(7) After a majority of the members of the commission has approved the final draft, shall call and fix a date for an election under ORS 199.735. [1971 c.731 §6]

(Consolidation)

199.735 Election on consolidation; on merger. (1) The commission shall call an election on a date specified in ORS 221.230.

(2) At the election the following questions shall be submitted:

(a) To the electors of the county and to the electors of the most populous city, the question whether the charter shall be adopted as the charter of a city-county.

(b) To the electors of each less populous city in the county, the question whether that city shall merge into the city-county.

(3) If an elector is eligible to vote in both the county and the most populous city, the question submitted under paragraph (a) of subsection (2) of this section shall appear only on the county ballot for that elector, but it shall be tallied both as a vote of an elector of the county and as an elector of the most populous city in the county.

(4) The commission shall file the call and the charter with the county clerk, who shall give notice of, conduct and publicize the results of the election under the general laws of the state governing elections. The county shall bear the expense of the election. [1971 c.731 §7; 1973 c.745 §2; 1979 c.190 §402; 1983 c.83 §12; 1983 c.350 §9]

199.740 Effect of election. (1) The charter shall be approved and the consolidation shall take place if, and only if, the question receives at the election affirmative votes by a majority of those electors of the county voting on the question and also by a majority of those electors of the most populous city in the county voting on the question.

(2) In case the question is approved as provided by subsection (1) of this section, any less populous city in the county shall be merged with and become a part of the city-county unless a majority of the electors of the city voting on the question submitted under ORS 199.735 (2) votes against the question.

(3) A majority vote for the question in a city approving it shall have the effect of approving the surrender of the charter of the city as required in subsection (1), section 2a of Article XI of the Oregon Constitution. The majority vote in the county approving the question shall have the effect of approving the surrender of the charter, if any, of the county. The surrender in both cases shall take effect when the city-county comes into existence. [1971 c.731 §8; 1973 c.745 §3; 1983 c.83 §13]

199.743 Financial affairs of city-county if charter becomes effective during fiscal year. (1) Notwithstanding ORS 294.305 to 294.555 and 310.010 to 310.130, if the charter for a city-county is approved under ORS 199.740 (1) and the effective date of such charter is other than the date of the beginning of the fiscal year immediately following the fiscal year in progress on the effective date of such charter, during the remainder of the fiscal year in progress on the effective date of such charter the city-county shall expend moneys and levy taxes in accordance with the budgets prepared and adopted by each of the municipal corporations consolidated, merged or dissolved in the formation of the city-county pursuant to such charter, as if such charter had not taken effect. For the purposes of this section, the city-county shall be considered to be a continuation of

each municipal corporation consolidated, merged or dissolved in the formation of the city-county.

(2) As used in subsection (1) of this section:

(a) "Fiscal year" has the meaning given that term in ORS 294.311 (12).

(b) "Municipal corporation" has the meaning given that term in ORS 294.311 (17). [1973 c.745 §9]

199.745 First governing body of city-county. (1) The first members of the governing body of the city-county shall be nominated and elected in the manner and at the times prescribed by the city-county charter.

(2) The county clerk shall arrange for, give notice of and conduct the election. The county shall bear the expense of the election.

(3) The charter shall prescribe the date on which the city-county comes into existence and shall include necessary transitional provisions. The charter may provide that it will become effective for specified purposes immediately upon the proclamation of the results of the election on the adoption of the charter. [1971 c.731 §9; 1973 c.745 §3a]

199.750 Status of city-county. (1) The city-county shall be a city within the meaning of state law, except ORS 221.610, 221.621, 221.650, 222.210 to 222.310 and 222.840 to 222.915. In merger proceedings under ORS 222.610 to 222.710 consent by the city-county to the merger may be given by the governing body of the city-county without a popular vote on the merger. No merger or annexation adding territory to the city-county shall change a county boundary. Annexation to the city-county of area in another county or merger into the city-county of a city in another county shall be for the provision of city services only.

(2) The city-county shall be a county for purposes of Articles IV, VI, VII (Amended), VII (Original) and VIII of the Oregon Constitution and in its relationship to any city in the city-county excluded from the consolidation under ORS 199.740 (2). That relationship shall continue until the excluded city disincorporates or merges into the city-county, but the excluded city may not extend its boundaries.

(3) The city-county shall have the powers and duties of counties and county officers and cities and city officers under state law and the city-county charter. The charter shall prescribe or make provision for prescribing what officers and agencies of the city-county shall exercise those powers and duties. The charter may prescribe or make provision for prescribing which duties or functions shall be county, city or jointly city-county powers.

(4) The charter may also prescribe or make provision for prescribing that state officers elected in the city-county alone shall simultaneously be city-county and state officers and have city-county functions prescribed by the charter or ordinances of the city-county.

(5) The city-county shall be both a city and a county entitled to receive funds under state and federal laws allocating funds to cities or counties or both. [1971 c.731 §10; 1973 c.745 §4]

199.753 City-county service district. (1) A city-county may establish service districts as provided by ORS 199.705 to 199.775 and ORS chapter 451. For the purposes of ORS chapter 451, a city-county shall be considered a county and the city-county legislative body shall be considered a county court. The charter may delegate or provide for the delegation of executive and administrative responsibilities in respect to service districts to the chief executive officer and administrative departments of the city-county.

(2) In addition to those districts authorized under ORS 451.010, a city-county may create service districts for any purpose authorized by its charter. [1973 c.745 §8]

199.755 Receipt of state funds by city-county. (1) A city-county shall receive a share of the revenues allocated to counties under ORS 323.455, 366.525 and 471.810. Subject to subsections (2) and (3) of this section, it shall also receive a share allocated under ORS 323.455, 366.800 and 471.810 to cities.

(2) Starting with the first full calendar month after the effective date of the consolidation, a city-county shall receive a share of such revenues allocated to cities on the same basis as a city. In computing such share, population shall be determined as provided by subsection (3) of this section.

(3) For the purposes of this section, population of a city-county shall be determined:

(a) For the calendar year in which the consolidation becomes effective, at 70 percent of the population of the city-county as determined under ORS 190.510 to 190.590;

(b) For the first calendar year following the calendar year in which the consolidation becomes effective, at 73 percent of the population of the city-county as determined under ORS 190.510 to 190.590; and

(c) For the second calendar year following the calendar year in which the consolidation becomes effective, at 76 percent; for the third, at 79 percent; for the fourth, at 82 percent; for the fifth, at 85 percent; for the sixth, at 88 percent; for the seventh, at 91

percent; for the eighth, at 94 percent; for the ninth, at 97 percent; and for the 10th and each succeeding calendar year, following the calendar year in which the consolidation becomes effective, at 100 percent of the population of the consolidated city-county as determined under ORS 190.510 to 190.590. [1971 c.731 §11]

199.760 Boundaries of city-county; effect of change. (1) When a city-county is incorporated, for purposes of county functions its boundaries shall be the boundaries of the county that is consolidated into the city-county, and for purposes of city functions:

(a) The boundaries shall include all territory located in any city in the county immediately before the consolidation; and

(b) The boundaries shall exclude all territory in any city extending into the county if more than half of the population in the city is located outside the county immediately before the consolidation.

(2) No boundary change effected under ORS 199.705 to 199.775 shall:

(a) Change the boundaries of a legislative district established by state law.

(b) Deprive any member of the Legislative Assembly of the member's seat in that body. [1971 c.731 §12]

199.765 Tax base; effect of consolidation on continuing levies. (1) The charter for a city-county shall specify the initial tax base for the city-county within the meaning of section 11, Article XI of the Oregon Constitution which shall be not less than the sum of the existing tax bases of the most populous city, the county and all special districts automatically extinguished under ORS 222.510 or by ORS 199.705 to 199.775. To raise the revenue authorized within the initial tax base and provide for the administration of differential taxation, the charter may establish districts on the basis of services to be provided by the city-county and prescribe a formula for computing different tax rates for the different districts. The charter shall provide procedure for modification or dissolution of such districts and for changing such tax rate formula, after the first fiscal year in which the city-county levies taxes.

(2) The charter of the city-county may provide that any serial tax levy previously authorized under ORS 280.060 and any continuing tax levy authorized prior to July 21, 1953, and meeting the qualifications of ORS 310.125 by the electors of any consolidating, merging or extinguished government shall continue as if the consolidation had not occurred. The governing body of the city-county may exercise whatever taxing power is thus continued. [1971 c.731 §13; 1973 c.431 §1]

199.770 Status of employees after consolidation. After a consolidation is effected under ORS 199.705 to 199.775, there shall be preserved and continued, to at least the same extent as they exist at the time immediately before the city-county comes into existence, the employment status and pension and other benefit rights of the employees of the consolidating, merging or extinguished governmental units, including, but not limited to:

(1) Rights, privileges and benefits, including pensions and pension rights and benefits existing under collective bargaining agreements or otherwise.

(2) Collective bargaining rights.

(3) Protection of individual employees against a worsening of their positions with respect to their employment.

(4) Employment of persons employed immediately prior to the time the city-county comes into existence by the units.

(5) Priority, as of the time immediately before the city-county comes into existence, of reemployment of employees of the units who have previously been laid off or had their employment terminated.

(6) Paid training or retraining programs for any employee of a unit whose position or job is eliminated by the consolidation, merger or extinction, or by any subsequent administrative reorganization in the city-county. [1971 c.731 §14; 1973 c.745 §5]

199.775 Effect of city-county incorporation. (1) When a city-county is incorporated, it shall:

(a) Succeed to all the property, contracts and rights of the consolidating cities and county; and

(b) Subject to whatever debt distribution plan the city-county charter prescribes, become liable for all the obligations of the consolidating cities and county.

(2) The officers of the consolidating cities and county shall forthwith deliver to the city-county officers the assets and records of the consolidating cities and county. Uncollected taxes theretofore levied by the consolidating cities and county shall become the property of the city-county upon collection.

(3) Immediately after the effective date of the county boundary changes effected under ORS 199.760, the officers of the city-county and of adjoining counties that the boundary changes affect shall transfer public records, buildings and property in accordance with ORS chapter 202.

(4) ORS 222.510 applies to any district mentioned in that section whenever the en-

tire area of such a district is included within the boundaries of a city-county, as described under ORS 199.760, for either county or city functions. [1971 c.731 §15; 1973 c.745 §6]