

Enrolled Senate Bill 226

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CHAPTER

AN ACT

Relating to elections; and declaring an emergency.

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

SECTION 1. (1) Notwithstanding ORS 221.610, 221.621 and 221.650, a city shall be deemed to be disincorporated and shall cease to exist in accordance with subsection (2) of this section, upon a determination by the Secretary of State that:

(a) An election was held in the city on or after January 1, 2016, and before July 1, 2016, which included the question of whether to disincorporate the city;

(b) A majority of voters voting on the question in the election voted in favor of disincorporation;

(c) Following the election, the city charter was surrendered to the county in which the city is situated; and

(d) The Department of Revenue approved a boundary change map or maps under ORS 308.225 that eliminated the city boundaries.

(2) For all purposes whatsoever, the date on which a city was disincorporated and ceased to exist under subsection (1) of this section shall be the date on which the city charter was surrendered to the county.

SECTION 2. (1) Notwithstanding ORS 221.610, 221.621 and 221.650:

(a) The Legislative Assembly may refer an Act to the people of a city on the question of whether to disincorporate the city.

(b) If the Legislative Assembly refers an Act under this section:

(A) The election on the measure shall be held on the date of the next primary election held throughout this state that occurs after the enactment of the referred Act; and

(B) The measure shall be approved if a majority of the voters voting on the question in the election votes in favor of disincorporation.

(c) An Act referred by the Legislative Assembly under this section may include any other provision applicable to the disincorporation of a city that does not absolve the city from satisfying outstanding debts or other obligations.

(2) Any other departure or deviation from the election procedures provided under ORS 221.610, 221.621 or 221.650, or from any other law whatsoever, appearing in an Act referred by the Legislative Assembly as described in subsection (1) of this section, and any conflict between the election procedures or any other law whatsoever and the referred Act, shall be

resolved in favor of the referred Act so that the consequent election shall be considered valid and without defect.

(3) Notwithstanding any other provision of law, any Act enacted by the Legislative Assembly that requires action as a consequence of the approval of a measure referred as described in subsection (1) of this section becomes operative on the date on which the voters of the city approve the measure.

SECTION 3. Section 2 of this 2019 Act applies to Acts enacted or referred, and elections held, before the effective date of this 2019 Act.

SECTION 4. (1) It is the intent of the Legislative Assembly by enacting sections 1 to 3 of this 2019 Act to cure any defect in the procedures, and to ratify the results, of any vote on the question of the disincorporation of a city in which the disincorporation was approved by a majority of the voters of the city voting on the question at an election held on the date of a primary election held throughout this state before the effective date of this 2019 Act.

(2) Original jurisdiction to determine the validity of sections 1 to 3 of this 2019 Act is conferred on the Supreme Court.

(3)(a) Any person interested in or affected or aggrieved by sections 1 to 3 of this 2019 Act may petition for judicial review under this section. A petition for review must be filed within 30 days after the effective date of this 2019 Act.

(b) The petition must state facts showing how the petitioner is interested, affected or aggrieved and the grounds upon which the petition is based.

(4) Judicial review under this section shall be limited to:

(a) The question of whether sections 1 to 3 of this 2019 Act are valid under the laws of this state and the United States and Oregon Constitutions; and

(b) Legislative history and any supporting documents related to the question described in paragraph (a) of this subsection.

(5) Judicial review under this section shall proceed as follows:

(a)(A) First, the court shall determine whether section 1 of this 2019 Act is valid.

(B) If the court determines that section 1 of this 2019 Act is valid, the Secretary of State shall make the determination described in section 1 (1) of this 2019 Act.

(b)(A) Second, only if the court determines that section 1 of this 2019 Act is invalid under paragraph (a) of this subsection, the court shall determine whether sections 2 and 3 of this 2019 Act are valid.

(B) If the court determines that sections 2 and 3 of this 2019 Act are valid, the court shall issue an order so stating.

(6)(a) Any party interested in or affected by section 1 of this 2019 Act may request the Secretary of State to make the determination described in section 1 (1) of this 2019 Act:

(A) If no petition is filed under subsection (3) of this section within the time allowed for filing; or

(B) In any other circumstances requiring such action in order to have the determination made.

(b) The request must be accompanied by all information and documents necessary for the Secretary of State to make the determination. The request may be amended as necessary to include any additional information or documents the Secretary of State may reasonably require.

(c) The Secretary of State shall make the determination as soon as practicable following receipt of a complete request under this subsection.

(7) In the event the Supreme Court determines that there are factual issues in a petition filed under this section, the Supreme Court may appoint a special master to hear evidence and to prepare recommended findings of fact.

(8) Proceedings for review under this section shall be given priority over all other matters before the Supreme Court.

(9) If the Supreme Court determines that sections 1 to 3 of this 2019 Act are invalid, sections 1 to 3 of this 2019 Act are repealed on the date on which the court issues a decision holding sections 2 and 3 of this 2019 Act to be invalid.

SECTION 5. This 2019 Act being necessary for the immediate preservation of the public peace, health and safety, an emergency is declared to exist, and this 2019 Act takes effect on its passage.

Passed by Senate June 17, 2019

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Lori L. Brocker, Secretary of Senate

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Peter Courtney, President of Senate

Passed by House June 25, 2019

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Tina Kotek, Speaker of House

Received by Governor:

.....M.,....., 2019

Approved:

.....M.,....., 2019

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Kate Brown, Governor

Filed in Office of Secretary of State:

.....M.,....., 2019

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Bev Clarno, Secretary of State