

A-Engrossed
Senate Bill 226

Ordered by the Senate June 12
Including Senate Amendments dated June 12

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SUMMARY

The following summary is not prepared by the sponsors of the measure and is not a part of the body thereof subject to consideration by the Legislative Assembly. It is an editor's brief statement of the essential features of the measure.

[Permits minor political parties to choose to nominate candidates for particular offices as part of state-sponsored primary election.]

[Amends requirements for status as major and minor political party.]

[Permits major political party and minor political party to adopt rule permitting nomination of candidate who has not been member of party for at least 180 days.]

[Lowers to 200 number of signatures required for candidate nominating petitions.]

[Permits minor political party to nominate replacements for vacancy in certain offices.]

[Requires person who wishes to be nominated or elected to public office by write-in votes to file declaration of write-in candidacy, and attest that person is legally qualified for office, by certain time on date of election. Permits county clerk to tally votes before filing officer makes determination of qualification of write-in candidate.]

[Repeals post-election process required to issue certification of nomination or election to person nominated or elected by write-in votes.]

[Takes effect on 91st day following adjournment sine die.]

Deems city to be disincorporated upon determination by Secretary of State that election on question of disincorporation was held in city in first six months of 2016, majority of voters voting on question approved disincorporation, city charter was surrendered to county in which city was situated and Department of Revenue approved map eliminating city boundaries.

Provides that Legislative Assembly may refer Act to people of city on question of disincorporation. Provides, if Legislative Assembly refers such Act, that election on measure must be held on date of next primary election occurring after enactment of referral and measure shall be approved if majority of voters voting on question votes for disincorporation. Provides that any Act requiring action on condition of approval of measure referred as described above becomes effective on date voters approve measure. Applies retroactively.

Declares that intent of Legislative Assembly is to cure any defect in procedures, and ratify results, of any vote by majority of city voters voting on question of disincorporation of city at election held on date of primary election held throughout state before effective date of Act. Provides for expedited review of Act to Oregon Supreme Court to determine validity of Act under laws of this state and United States and Oregon Constitutions. Prescribes procedure for determining validity of two methods of curing procedural defects in election and ratifying results of city vote for disincorporation.

Declares emergency, effective on passage.

A BILL FOR AN ACT

1
2 Relating to elections; and declaring an emergency.

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

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

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

NOTE: Matter in **boldfaced** type in an amended section is new; matter *[italic and bracketed]* is existing law to be omitted. New sections are in **boldfaced** type.

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

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

5 (d) The Department of Revenue approved a boundary change map or maps under ORS
6 308.225 that eliminated the city boundaries.

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

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

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

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

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

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

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

21 (2) Any other departure or deviation from the election procedures provided under ORS
22 221.610, 221.621 or 221.650, or from any other law whatsoever, appearing in an Act referred
23 by the Legislative Assembly as described in subsection (1) of this section, and any conflict
24 between the election procedures or any other law whatsoever and the referred Act, shall be
25 resolved in favor of the referred Act so that the consequent election shall be considered valid
26 and without defect.

27 (3) Notwithstanding any other provision of law, any Act enacted by the Legislative As-
28 sembly that requires action as a consequence of the approval of a measure referred as de-
29 scribed in subsection (1) of this section becomes operative on the date on which the voters
30 of the city approve the measure.

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

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

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

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

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

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

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

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

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

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

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

9 (b)(A) Second, only if the court determines that section 1 of this 2019 Act is invalid under
10 paragraph (a) of this subsection, the court shall determine whether sections 2 and 3 of this
11 2019 Act are valid.

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

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

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

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

20 (b) The request must be accompanied by all information and documents necessary for the
21 Secretary of State to make the determination. The request may be amended as necessary to
22 include any additional information or documents the Secretary of State may reasonably re-
23 quire.

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

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

29 (8) Proceedings for review under this section shall be given priority over all other mat-
30 ters before the Supreme Court.

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

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

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