

**FORMATION, ALTERATION, AND DISSOLUTION OF SPECIAL DISTRICTS  
(Chapter 5)**

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## **INTRODUCTION**

Special districts offer advantages over other forms of government. Because they provide a specific service, all decision-making and all funds collected are dedicated to providing that service. This allows special districts to concentrate on a particular mission and avoid many of the complexities that surround general-purpose local governments like cities and counties, which must continually weigh the needs of competing groups or interests in both management and funding decisions.

Unlike counties and cities, which are typically governed by home rule charter, special districts derive nearly all of their authority directly from Oregon law in the form of Oregon Revised Statutes (“ORS”). The process for special district boundary changes, including formation, dissolution, merger, consolidation, and annexation, is primarily covered in Oregon Revised Statutes (ORS) Chapter 198 - “Special Districts Generally.”

Some types of districts have additional requirements in their principal enabling statute (“principal Act”). Before considering a boundary change or change in organization, be sure to check both ORS chapter 198 and the principal Act for your type of district.

## **APPLICABLE STATUTES**

ORS Chapter 198 covers formation and other boundary changes for the following types of districts:

1. A domestic water supply district organized under ORS chapter 264.
2. A cemetery maintenance district organized under ORS chapter 265.
3. A park and recreation district organized under ORS chapter 266.
4. A metropolitan service district organized under ORS chapter 268.
5. A special road district organized under ORS 371.305 to 371.360.
6. A road assessment district organized under ORS 371.405 to 371.535.
7. A highway lighting district organized under ORS chapter 372.
8. A health district organized under ORS 440.305 to 440.410.
9. A sanitary district organized under ORS 450.005 to 450.245.
10. A sanitary authority, water authority or joint water and sanitary authority organized under ORS 450.600 to 450.989.
11. A vector control district organized under ORS 452.020 to 452.170.
12. A rural fire protection district organized under ORS chapter 478.
13. A water improvement district organized under ORS chapter 552.
14. A water control district organized under ORS chapter 553.
15. A weather modification district organized under ORS 558.200 to 558.440.
16. A port organized under ORS 777.005 to 777.725 and 777.915 to 777.953.
17. A geothermal heating district organized under ORS chapter 523.
18. A transportation district organized under ORS 267.510 to 267.650.
19. A library district organized under ORS 357.216 to 357.286.

20. A heritage district organized under ORS 358.442 to 358.474.
21. A radio and data district organized under ORS 403.500 to 403.542.
22. A sand control district organized under ORS 555.500 to 555.535.
23. The urban flood safety and water quality district created under ORS 550.150 to 550.400.
24. A county road district organized under ORS 371.055 to 371.110.
25. A county service district organized under ORS chapter 451.
26. The Port of Portland created by ORS 778.010.
27. A translator district organized under ORS 354.605 to 354.715.

Special districts with different or additional procedures for boundary changes include:

1. A corporation for irrigation, drainage, water supply or flood control, formed under ORS chapter 554.
2. A county service district authorized by ORS chapter 451.
3. A drainage district formed under ORS chapter 547.
4. An emergency communications district authorized by ORS 403.300 to 403.380.
5. An irrigation district formed under ORS chapter 545.
6. A mass transit district authorized by ORS 267.010 to 267.390.
7. A people's utility district formed under ORS chapter 261.
8. A rural fire protection district authorized by ORS chapter 478.
9. A soil and water conservation district formed under and authorized by ORS chapter 568.

## **FORMATION**

For most types of boundary changes or changes in organization, i.e., merger, consolidation, annexation, or dissolution, the process is typically driven by the boards of directors of the existing district(s) based on the needs of the community and the overall strategic plan of the district(s) considering the change.

In comparison, the first step in forming a new special district is usually to form a committee of interested citizens or stakeholders to analyze the need for the district and to discuss the process involved.

The following general guidelines apply to the formation of most types of special districts:

1. Initial Considerations. Interested citizens with time, energy, and a willingness to raise or bear certain expenses form an unofficial or "ad hoc" committee to begin conceptual planning for the new district. The committee's considerations should include:
  - The need(s) the district is seeking to address;

- The likelihood of community support for the new district;
- The area to be served;
- Potential impacts on other providers or government entities in the area;
- The assessed valuation of the area;
- The estimated cost to provide the services being contemplated;
- The type and amount of revenue that could be generated;
- Long and short-term debt structure, if any; and
- Sources of revenue for the initial costs of formation, such as a security bond and election costs.

If possible, before undertaking any initial steps the committee members should contact others who have recently gone through the district formation process to learn from their experience.

2. Costs. The committee must determine who will initiate the formation and where the initiators will derive financial support. Costs will include obtaining a security deposit to accompany the formation petition (currently up to \$100 per precinct up to a maximum of \$10,000); costs of the election if one is required (determined by the county elections division and typically shared among all the entities with measures on the ballot); attorney or consultant fees; costs to prepare a legal description and boundary map of the area to be served; and costs of public education efforts, including costs for printing and publication. Election costs and some other expenditures may be refunded if the district is successfully formed, but the committee members should expect to pay all other costs without reimbursement.
3. Community Outreach. Public education and requests for public input should start early. The committee should plan multiple meetings in the community and invite residents within the area to attend, listen, and provide feedback. The committee should develop a succinct fact sheet that describes the needs the committee wants to address with the district; the process and estimated timeline for completion and the target election date, if applicable; any relevant historical information or context about the area that helps to support the committee's objectives; and the estimated financial impact on voters if the district is formed. The fact sheet should be distributed widely with meeting notices and to those who attend discussion meetings; be shared with the media; and be posted or distributed at key locations throughout the community.

At the end of each meeting, the committee should conduct an unofficial poll to measure the degree of community support for going forward with the formation effort. If community generally indicates support for the formation of the district, the committee can begin the steps to form the district.

4. Planning. Once the process of formation formally starts, even if all goes smoothly a special district formation may take 12 to 24 months, depending on the type of

district and whether it will assess property taxes. The timeline will be longer if there is a legal challenge, or a mandatory deadline is not met and the process is derailed for a time.

ORS chapter 198 spells out several mandatory steps that must follow a prescribed timeline, so careful planning is essential to a successful formation. The most effective approach is usually to identify a target formation date and work backwards to develop a timeline and identify key milestones. It is a good idea to employ an attorney familiar with special district formation and election laws to advise and help guide the process.

**Overview.** A special district may be formed from contiguous or noncontiguous territory located in one or more adjoining counties. (Be sure to consult the applicable principal Act to identify any exceptions or limitations). A district also may include territory within a city if the city governing body consents to the formation.

The boundaries of a new district may only include territory that can be reasonably served by the facilities or services of the proposed district. And, the new district cannot include territory already being served by a district formed under the same principal Act that is providing the same services as the proposed district unless that territory is formally withdrawn from the existing district.

The county where the proposed district will be located is responsible for overseeing the formation process, and ultimately for approving the district's formation and/or calling an election on the question of formation. In most cases the point of contact for any special district boundary change is the county clerk. The Secretary of State's Elections Division provides a list of county clerks at the following link:

[sos.oregon.gov/elections/Pages/countyofficials.aspx](https://sos.oregon.gov/elections/Pages/countyofficials.aspx)

If the proposed district will be located in two or more counties, the formation process is conducted in the county in which the greatest portion of the assessed valuation of all taxable property in the proposed district is located ("principal county").

**Initiation of Formation.** The process for formation of a special district may be initiated in one of three ways:

- By filing a petition for formation with the appropriate county;
- By obtaining the consent of all property owners within the area of the proposed district; or
- By approval and order of the county board.

A description of each of these processes is provided below.

1. Initiation by Petition. Pursuant to ORS 198.800, formation of a special district may be initiated by a petition filed with the county board of the principal county.

- Chief Petitioners. The petition must designate not more than three (3) persons as “chief petitioners,” setting forth their names and mailing addresses. The chief petitioners are responsible for submitting the required security deposit along with the petition and will be responsible for paying the costs of the election if one is held.
- Petition Requirements. The petition may consist of a single document or separate documents, but it must include all required information and components.

A. Contents. ORS 198.750 requires the petition to contain the following information:

- A statement that the petition is filed pursuant to ORS 198.705 to 198.955.
- A statement of the names of all affected districts and all affected counties.
- A designation of the principal Act of each affected district.
- A statement of the nature of the proposal, whether formation of a district or change of organization and the kind of change proposed.
- A statement whether the territory subject to the petition is inhabited or uninhabited (“uninhabited” means there reside less than twelve (12) electors who were residents within the territory thirty (30) days prior to the date a proceeding is commenced to form the district).
- A statement whether the district board members are elected and, if so, the number of members on the board.
- If the proposed district will assess a permanent tax rate, a proposed rate sufficient to support the services and functions described in the economic feasibility statement and a declaration of the rate of taxation necessary to raise an amount of revenue equal to the proposed permanent tax rate. The tax rate limit must be expressed in dollars per thousand dollars of assessed value, and must be calculated for the latest tax year for which the assessed value of the proposed district is available.

- A statement of the proposed terms and conditions, if any, to which a proposed formation is to be subject.
  - A statement or indication opposite each signature on the petition whether the signers of the petition are landowners within the district or electors registered within the district, or both.
  - A description of the boundaries of the territory proposed to be included in the district.
  - A request that proceedings be taken for formation of the district.
  - The proposed name of the new district.
  - The circulator of the petition must certify on each signature sheet that the circulator witnessed the signing of the signature sheet by each individual who signed it.
- B. City Resolution. If the proposed district includes territory within a city, a certified copy of a resolution of the city's governing body approving the petition must be filed with the petition.
- C. Economic Feasibility Statement. Before circulating the petition for formation, the chief petitioners must complete an economic feasibility statement for the proposed district. The feasibility statement forms the basis for any proposed permanent tax rate and must contain:
- A description of the services and functions to be performed or provided by the proposed district;
  - An analysis of the relationships between those services and functions and other existing or needed government services; and
  - A proposed first-year line item operating budget and a projected third-year line item operating budget for the new district that demonstrates its economic feasibility.
  - The economic feasibility statement must be attached to the petition when it is filed with the county and before it is circulated for signing.
- Prospective Petition. Before circulating a petition, the chief petitioners must file with the county clerk of the principal county a prospective petition that includes the information required for the petition. Although ORS chapter 198 doesn't require the prospective petition to be approved by the county clerk, it's a good

idea to have the clerk review it for completeness before it is circulated to make sure all requirements have been met and it will not be subject to legal challenges later.

- Signature Requirements. The petition for formation must be signed by at least:
  - 15 percent of the electors or 100 electors, whichever is more, registered in the territory to be included in the proposed district; or
  - 15 landowners or the owners of 10 percent of the acreage, whichever is greater, within the territory to be included in the proposed district.

Most county clerks can provide standardized signature forms for petitions. The petition should provide space for each signer to both print and sign his or her name and add the date of signing. If the person is signing as an elector, the signer must include the person's residential address. If the signer is signing as a landowner, the person must list the number of acres of land owned by the signer and the name of the county with authority to assess property taxes on it. If the signer is a legal representative of the owner of the property, the signature must be accompanied by a certified copy of the signer's authority to sign as a legal representative.

A signer may withdraw his or her name from the petition up until the time of filing with the county but may not withdraw the name after filing.

- Petition Filing Requirements. If the petition for formation of a district includes a permanent tax rate for the proposed district, the petition must be filed not later than 180 days before the date of the next regular statewide primary or general election where it may be voted upon.

The county may not accept the petition for filing unless:

- All signatures have been secured within six (6) months of the date on which the first signature was obtained;
  - The petition is accompanied by the economic feasibility statement required under ORS 198.749; and
  - The petition is accompanied by the required security deposit, in the form of a bond, cash deposit, or other form approved by the county clerk.
- After Circulation. Once the petition has been circulated and signatures obtained, the chief petitioners submit the signed petition to the clerk of the principal county. The clerk has ten (10) days from the date the petition is received to

review it and determine whether it has been signed by the requisite number of qualified signers. If the clerk determines there are sufficient signatures, the clerk files the petition. If the clerk determines there are insufficient signatures, the clerk notifies the chief petitioners and may return the petition to the petitioners.

After a petition satisfying all the statutory requirements has been filed, the county board must set a date for an initial hearing on the petition and give notice of the hearing by posting and publication as specified in ORS 198.730 and 198.800(2).

The process thereafter is subject to specific timelines spelled out in ORS chapter 198. See paragraph below in this section, "Hearings."

2. Initiation by Consent of Property Owners. ORS 198.830 allows a special district to be created by consent of all owners of real property within the area of the proposed district. The petition must contain all the information required by ORS 198.750 to 198.755 (see "Petition Requirements, Contents" above), must state the names of the person who will serve as members of the first district board, and must contain the written acceptance of each person agreeing to serve as a board member. The petition must include an affidavit of one of the petitioners that the petitioner believes that the signers of the petition comprise all the owners, at the time of the verification, of all the land included within the proposed district.

As with an initiative petition, a petition submitted by consent of all property owners is submitted to the county clerk, who submits it to the county board of commissioners for a hearing. If the county board finds that all property owners within the proposed district have joined in the petition and that the area could be benefited by formation of the district, the board adopts an order approving formation of the district. If the formation is approved, any election otherwise required by law is dispensed with. The board enters an order creating the district, and the people nominated by the petition and accepting the nomination constitute the first board of the district.

3. Initiation by County Board. Pursuant to ORS 198.835, a county board may initiate and pay the cost of the formation of a district to be located entirely within the county by adopting an order stating the county board's intention to initiate formation of the district, identifying the principal act, describing the name and boundaries of the proposed district, and setting a time, date, and place for a public hearing on the proposal. If any of the territory to be included within the proposed district is within the boundaries of a city, a certified copy of the city governing body's resolution approving the order must be attached to the order.

Initiation of the formation by the county board makes circulation of a petition unnecessary which can substantially shorten the time required to form the district.

However, once the county adopts an order initiating the process, it must follow the same schedule for holding hearings that apply to a formation by initiative petition, and must call an election on the formation if a tax rate is proposed.

Whether or not an election on the formation is ordered, the county must order that an election be held for the initial board of directors on the next available election date.

**Hearings.** Once the formation process is initiated, either by citizen petition or by county order, the county is required to set an initial hearing on the petition between 30 days and 50 days after the date the petition is filed. Notice of hearing must be posted in at least three places and published by two insertions in a newspaper. The notice must include:

- The purpose for which the district is to be formed.
- The name and boundaries of the proposed district.
- The time and place of the hearing on the petition.
- A statement that all interested persons may appear and be heard.

On or before the date set for the hearing, any person interested in the proposed formation may appear and present an oral or written statement for or against the granting of the petition. Any written statement objecting to the formation must clearly identify the error, omission, or defect, which is the basis for the objection. If the written objection is not timely filed, the objection is considered waived.

After concluding the hearing, the county board must evaluate the formation petition by applying certain land use criteria in ORS 199.462. That statute requires consideration of 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 district, and the statewide goals.

The board may modify the boundaries of the proposed district to include or exclude territory considering the benefit the proposed district will have to territory in or out of the district. The board may not modify the boundaries to exclude land that could be benefited by the district formation and may not include land that will not be benefited. If the county board determines that land that has been improperly omitted from the proposed district and the owner has not appeared, the county board must continue the hearing and order notice to be given to the non-appearing owner in the manner required by ORS 198.805.

If the county board approves the formation of the petition, the board adopts an order identifying the name and boundaries of the proposed district and setting a time and place for a final hearing on the petition between 20 and 50 days from the date of the order, for a final hearing on the petition. The order must state that if no written requests for an election are filed, the board will adopt an order creating the district at the final hearing. The county must publish notice of the final hearing as required by ORS 198.800 and 198.840.

Because the hearing schedule is mandated by statute, the county has little flexibility when conducting the hearings and the formation can be subject to challenge if the schedule isn't properly followed. Those considering forming a district should note that the hearing process alone will take between 50 and 100 days to complete and is subject to the county board's meeting schedule. Close coordination with the county clerk or the county counsel will be necessary to procure a spot on the meeting agenda at the appropriate times, particularly if an election will be required.

**Election.** If the approved petition includes a permanent tax rate, an election on the question of formation of a special district is required. An election is also required if the county board receives requests for an election filed by at least 15 percent of the electors or 100 electors, whichever is less, on or before the date of the final hearing, even if the petition for formation includes no permanent tax rate.

In addition, except when the formation is initiated by unanimous consent of landowners or if the principal Act for the district stipulates otherwise, an election will be required to select the initial board of directors. The procedure for nominating and electing the first board is provided in ORS Chapter 255.

If an election on the formation is required, the county board issues an order calling the election on the "next available election date for which the deadline can be met." If voters will be asked to approve a tax rate, the formation election may be held only in May or November, and "double-majority" approval requirements do not apply. If no tax rate is being requested, the formation election may be held on any of the four election dates in ORS chapter 255. If no election on formation is required, the county board issues an order dismissing election requirements and enters an order creating the district.

When the proposal for formation includes a permanent tax rate for the proposed district, the ballot title must clearly indicate that a single question is being proposed which is:

- Whether the proposed district should be formed.
- Whether the permanent tax rate specified in the ballot title should be adopted as the initial permanent tax rate of that district.

**After the Election.** Following the election, the county board has thirty (30) days to canvass the votes and adopt an order regarding the proposed formation. If a majority of voters approve formation of the district, the board adopts an order creating the district. After the date of the order, the new district becomes a municipal corporation with all the powers conferred by the principal Act. The new district pays the costs of forming the district and the county clerk refunds any cash deposit or other form of security to the persons who posted the security with the county.

If a majority votes against formation of the district, the county board adopts an order dismissing the petition. The county clerk reimburses the county for the costs of the attempted formation from the security deposit posted by the chief petitioners and refunds any remaining portion of the security deposit to the chief petitioners. If the costs of the attempted formation exceed the amount of the deposit, the chief petitioners must pay the amount of the excess costs.

Within ten (10) days after the final order of formation is adopted, ORS 198.780 requires duplicate copies of the order to be filed with the Department of Revenue, the Secretary of State, and the county clerk and the county assessor of each county affected by the formation. This requirement generally falls to the county clerk to perform, but the petitioners would be wise to either confirm that the county has made the required filings or undertake these filings themselves.

**Challenges to District Formation.** Pursuant to ORS 198.785, any citizen(s) of the affected district or territory may initiate proceedings to challenge the county clerk's refusal to accept and file a petition for formation or the county board's refusal to call a special election on the question of formation within ten (10) days of such refusal. The citizen(s) may file in circuit court of the principal county for a writ of mandamus to compel the county clerk to accept and file the petition or to compel the county board to call an election. If the circuit court finds that the petition for formation is legally sufficient and the requisite number of signatures is attached, the circuit court will direct the county board to call the election. The courts are required to handle and decide such suits as quickly as possible. The circuit court's decision is appealable.

Proceedings to challenge the validity of the formation itself may be brought by filing a challenge to a government proceeding pursuant to ORS 33.710 and 33.720, or a writ of review pursuant to ORS 34.010 to 34.100.

**Summary of Steps for District Formation.**

- Establish a working committee.
- Identify up to three people to act as Chief Petitioners.
- Set up community meetings and contact local agencies with experience forming new districts.
- Contact county clerk for information on formation process.

- Determine preliminary boundaries of district.
- Research property values within boundaries to determine assessed values and whether new tax rate will be subject to compression.
- Consider whether to hire an attorney or consultant to assist with the process.
- Develop budget to cover formation costs.
- Begin preparing an Economic Feasibility Statement.
- Develop final boundary maps and legal descriptions acceptable to the county assessor and Department of Revenue.
- Obtain petition forms from county clerk or Secretary of State. Submit prospective petition to county clerk.
- Circulate petitions. Total time from first signature to final signature may not exceed 180 days (six months).
- Obtain resolutions from any affected cities.
- Submit final petition, Economic Feasibility Statement, and security deposit 180 days prior to election to County Clerk and Surveyor for review.
- Either county counsel or committee's attorney drafts county resolutions and orders.
- County schedules hearing date.
- County holds initial hearing.
- County holds second hearing.
- County enacts formation order and calls election if applicable.
- Election is held. Formation election required in May or November if seeking a permanent tax rate. Initial board must be elected even if formation election is not required.
- If formation is approved by voters, submit county's final formation order to county clerk, county assessor, and Secretary of State.
- If a permanent tax rate is approved, submit formation materials and map to Department of Revenue by March 31.

## **MERGERS AND CONSOLIDATIONS**

Consolidation and merger are statutory methods for joining two or more existing districts into a single district. [See ORS 198.885 to 198.915.]

A district that merges into another district is considered to be annexed by and absorbed into the "surviving district." Two or more districts that consolidate become an entirely new district ("successor district").

In general, mergers and consolidations occur between districts formed under the same principal Act. However, ORS 198.885(3) permits districts providing water and sanitary services to merge or consolidate, and ORS 198.885(4) allows a county service district to merge with another type of district that provides similar services. Districts also may merge or consolidate with a city for purposes of having the city receive services the

districts provide. In any case, voters in each of the affected jurisdictions must approve the change.

**Initiation of Merger or Consolidation.** A merger or consolidation may be initiated in one of four ways:

- By duplicate petitions filed by the electors of two or more districts with the boards of the districts to be merged or consolidated. ORS 198.895(1). The petition must state the names of the affected districts and the name of the surviving or successor district and whether the merger or consolidation must be approved by each district.
- By duplicate petitions filed by the electors of two or more districts with the district boards and by the electors of a city with the city governing body, if the proposed consolidation includes joining a city to the surviving or successor district. ORS 198.895(3). The petition must address all of the matters required in the petition under the preceding paragraph except that the petition must also state the name of the city proposed to join the surviving or successor district and whether the merger or consolidation must be approved by each district or city in order to be effective
- By duplicate petitions filed by the electors of a single district with the district board, and by the electors of a city with the city governing body, if the proposal is to join a city to the district. ORS 198.895(4). A petition under this statute must contain the name of the district, the name of the city, and must state that the proposal must be approved by the district and the city in order to be effective.
- By resolution adopted by the boards of two or more districts. If the merger or consolidation proposes to join a city to the successor district, the city governing body must also adopt a resolution approving the consolidation. ORS 198.895(5). A resolution adopted or approved under this statute must contain all the matters required to be stated in a petition to merge or to consolidate.

Petition Requirements. A petition for merger or consolidation must be signed by not less than 15 percent of the electors or 100 electors, whichever is less, registered in each district proposed to merge or consolidate; or by 15 owners of land in each district or by the owners of 10 percent of the acreage located in each district, whichever is the greater number of signers.

The petition may include a plan for the distribution of debt, which is to be voted upon as a part of the proposal. The plan may provide for any distribution of indebtedness and may require that merging or consolidating districts, and any city to be joined to the surviving or successor district, remain solely liable for all or any portion of the indebtedness outstanding at the time of the consolidation or merger. ORS 198.900(1).

The petition also may propose a new name for the surviving or successor district.

Joint Assembly; Call for Election. When the governing body of each affected district or city has received a petition containing the required number of signatures, or has adopted or approved a resolution, the governing body of the affected entity having the largest population according to the most recent federal decennial census must call a joint assembly of the governing bodies of the affected entities. The governing body calling the joint assembly must give notice of the time and place of the assembly by certified mail.

At the joint assembly, a majority of the members of each governing body constitute a quorum for the transaction of business. A majority of all members present must adopt an order calling an election in each affected entity. The order must include all matters required in ORS 198.745. The order may include a plan for zoning or sub-districting the surviving or successor district for the purpose of nominating or electing members of its board if the principal Act for the district provides for this type of representation. Zones or sub-districts must be based on equal distribution of population, and, if required by the principal Act, the plan must also include a map of the proposed zone or sub-district boundaries. The final order calling the election is then submitted to the county clerk for inclusion on the ballot for the next available election date.

**Election.** The electors of each district and city involved in the merger or consolidation must approve the change. However, where there are more than two entities involved and the proposal specifically provides that it will be effective in all districts or cities where it has been approved and does not require the approval of all areas to be effective, the election will be effective in the districts or cities where it is approved, and the areas where it is not approved would not be part of the merged or consolidated district.

**Joint Meeting; Election of Board.** If the proposal for merger or consolidation is approved by a majority of voters for each entity, the governing body of the entity with the largest population must call and give notice of a joint meeting of the governing bodies of the affected entities. The meeting must be held at a time and place designated by the governing body calling the meeting not later than ten (10) days after the canvass of the vote in the entity last canvassed. At the meeting, a majority of the members of each governing body constitutes a quorum for the transaction of business. The purpose of the joint meeting is to elect members of the board of the successor or surviving district.

The number of board members elected the number provided in the principal Act of the surviving or successor district, and the terms of office of the members are provided in ORS 198.910(3). Otherwise, selection of board members will depend on the relative sizes of the affected entities. If two or more of the affected districts each have 20 percent or more of the electors or owners of land within the successor or surviving district, then each affected district is represented on the board as follows:

- (1) By one member when the percentage of electors or owners of land in the affected district is at least 20 percent but less than 40 percent of the electors or owners of land within the successor or surviving district.
- (2) By two members when the percentage of electors or owners of land in the affected district is at least 40 percent but less than 60 percent of the electors or owners of land within the successor or surviving district.
- (3) By the number of board members remaining after apportionment of board members under subsections (1) and (2) of this section when, among all of the affected districts, the percentage of electors or owners of land in the affected district is the highest percentage of electors or owners of land within the successor or surviving district.

At the first regular election held in the surviving or successor district, two or three board members are required to be elected as provided for in ORS 198.910(3).

**Resolution Declaring Completion of Change.** Once elected, the newly elected board meets immediately and adopts a resolution declaring the merger or consolidation complete. ORS 198.780 requires duplicate copies of the board's final order to be filed with the Department of Revenue, the Secretary of State, the county clerk, and the county assessor within ten (10) days of its adoption.

From the date of adoption of the resolution, the merger or consolidation is complete and the city territory, if any, together with any territory thereafter annexed to the city, is included in the boundaries of the surviving or successor district and is subject to all the liabilities of the district in the same manner and to the same extent as other territory included in the district.

Per ORS 198.780, duplicate copies of the district board's final resolution of consolidation or merger must be filed with the Secretary of State, the Department of Revenue, the county assessor, and the county clerk.

**Effects of Consolidation or Merger.** Once a consolidation is effective, the successor district succeeds to all the property, contract rights, and powers of the former district(s) or cities.

Once a merger is effective, the merging entity is considered annexed into the surviving district, and the surviving district assumes the duties and obligations, including debt obligations, of the merging district.

The former entities must turn over to the board of the successor or surviving district all funds, property, contracts, and records of the former entity, and uncollected taxes,

assessments, or charges levied by the former districts become the property of the successor or surviving district.

If provided in the debt distribution plan, the successor or surviving district board must levy taxes and assessments for the liquidation of any prior existing indebtedness.

Where two or more districts have merged or consolidated, the tax rate of the surviving district or successor district is the rate that would produce the same tax revenue as the merging or consolidating districts would have cumulatively produced in the year of consolidation or merger if the consolidation or merger had not occurred. *Oregon Constitution Article XI, Section 11(3)(d)*.

## **ANNEXATION**

Annexation is the process by which territory may be added to a special district. The process of annexation to special districts is governed by ORS 198.850 through 198.869. A district considering annexing additional territory should review those statutes as well as its principal Act to ensure all requirements are met.

A district may consist of contiguous or noncontiguous territory located in one or more adjoining counties. If any part of territory to be annexed is within a city, the petition must be accompanied by a certified copy of a resolution of the governing body of the city approving the petition.

A district may not, by annexation or otherwise, include territory included within another district formed under the same principal Act when the other district is authorized to perform and is performing the services the affected district is authorized to perform unless the territory served by the existing district is withdrawn through appropriate procedures.

Finally, the boundary of a special district must include only such territory as may reasonably be served by the facilities or services of the district. If property proposed to be annexed cannot be served by the district, the county board may remove that territory or the annexation may be subject to a legal challenge.

**Initiation of Annexation.** Annexation to a district may be initiated in the following ways, which may or may not require an election:

1. **Election Required:** When an election is required, two or more proposals for annexation of territory may be voted on at the same time, but each proposal must be stated separately on the ballot.
  - **Initiation by Elector Petition.** Electors who wish to annex to a district may file an annexation petition with the county board. Before the petition is filed it must be

approved by written indorsement by the board of the affected district, and by any other agency from which the principal Act requires approval.

When determining whether to approve an annexation petition, the county board must consider the local comprehensive plan for the area and any service agreement executed between a local government and the affected district.

If the annexation petition is not signed by all the owners of all the lands in the territory proposed to be annexed, or by a majority of the electors registered in the territory proposed to be annexed *and* by the owners of more than half of the land in the territory, the county board must order an election in the territory to be annexed and in the affected district on the same day.

If voters in both elections approve the annexation, the district board certifies the results of the election to the county board, which then issues an order of annexation and approves the boundaries of the territory to be annexed. If a majority of the votes cast in both elections do not favor annexation, the county board issues an order declaring that the annexation was not approved.

To be legally sufficient, the petition must, at minimum, include the following:

- State that the petition is filed pursuant to ORS 198.705 to 198.955;
- State the names of all affected districts and all affected counties;
- Designate the principal Act of each affected district;
- State the nature of the proposal (annexation);
- State whether the territory subject to the petition is inhabited or uninhabited. “Uninhabited territory” means territory within which there reside less than 12 electors who were residents within the territory 30 days prior to the date a proceeding for annexation is commenced (ORS 198.705(19));
- State any proposed terms and conditions, if any, to which the proposed annexation is to be subject;
- State opposite each signature whether the signers of the petition are landowners within the district or electors registered in the district or both;
- Request that proceedings be taken to annex the proposed territory;

- Include a description of the boundaries of the territory proposed to be annexed;
- Include an affidavit of the person circulating the petition stating that every person who signed the petition did so in the presence of the person circulating the petition;
- Be signed by not less than (a) 15% of the electors or 100 electors, whichever is less, registered in the area proposed to be annexed; or (b) 15 owners of land or the owners of 10% of the acreage, whichever is the greater number of signers, within the area proposed to be annexed;
- Include the printed name of each signer and the date of signing;
- If the signer is signing as an elector, include the person's place of residence, giving street and number or a designation sufficient to enable the place of residence to be readily ascertained;
- If the signer is signing the petition as a landowner, include the number of acres of land owned by the signer and the name of the county whose assessment roll is used for the purpose of determining the signer's right to vote;
- If the signer is a legal representative of a property owner, the signature shall be accompanied by a certified copy of the signer's authority to sign as a legal representative;
- Include endorsement on the petition by the district or any agency required by the principal act to endorse or approve the petition;
- Include whether or not any of the proposed property to be annexed is within a city. If so, a copy of a resolution of the governing body of the city approving the petition should be attached.
- Initiation by Board Resolution. The district board or the county board may initiate an annexation by resolution. The resolution is filed with the county board and must include the following:
  - (a) The intention of the board to initiate the formation of a district and citing the principal Act.
  - (b) The name and boundaries of the proposed area to be annexed.
  - (c) The date, time and place of a public hearing on the proposal.

If any part of the area to be annexed is included in a city, the resolution must be accompanied by a certified copy of a resolution from the city approving the annexation.

An annexation initiated by the district board may include an effective date that is not later than 10 years after the date of the order declaring the annexation.

2. No Election Required (“Consent” Annexations).

- Petition by All Electors/Landowners. If the annexation petition is signed by all of the owners of all land in the territory proposed to be annexed or by a majority of the electors registered in the territory proposed to be annexed *and* by the owners of more than half of the land in the territory, an election in the territory and in the district is not required.
- Petition by a Single Landowner. When the owner of a parcel of land wants to annex that land to a district, the owner may file an annexation petition with the county board. The petition must declare that the petition is filed pursuant to ORS 198.857, state the name of the affected district and all affected counties, indicate the principal Act of the affected district, and be signed by the owner of the landowner.

Before the petition is filed with the county board, it must be formally approved by the board of the affected district and by any other agency required by the principal Act to indorse or approve the petition.

If the petition meets all requirements, the county board sets a date for a public hearing on the petition at least 20, but no more than 50, days after the date the petition is filed. Written notice of the hearing must be mailed to the petitioner and to the board of the affected district.

Following the hearing, the county board must consider the local comprehensive plan for the area and whether approving the petition will affect any existing service agreements between the district and another public entity. If the petition is approved, the county board enters an order describing the boundaries of the land and declaring the land annexed to the district.

3. Annexation of City to District. The governing body of a city may adopt a resolution or motion to propose annexation to a district for the purpose of receiving service from the district and submit the proposal to the district board.

The district board must approve or disapprove the city's annexation proposal. If the district board approves the proposal, it must adopt an order or resolution to call an election in the district unless:

- (a) The population of the city is less than 20 percent of the population of the district; or
- (b) The entire boundary of the city is encompassed within the boundary of the district.

But, if 10 percent of the electors or 100 electors of the district, whichever is less, sign and present to the county board a petition requesting an election, the board must call an election in the district.

At minimum, the order or resolution of the district board must include the following:

- (1) Provide for giving notice of the special election or elections upon the question.
- (2) Designate each district or other territory within which the election or elections are to be held.
- (3) Fix a date for the election, which must be the same for each parcel of territory being considered for annexation.
- (4) State the substance of the question or questions to be submitted to the electors.
- (5) Specify any terms and conditions of the annexation.
- (6) Provide for and give notice of the election or elections.
- (7) If applicable, contain a plan for zoning or subdistricting the district as enlarged by the annexation if the principal Act for the district provides for election or representation by zone or subdistrict.

The district board then certifies a copy of the resolution or order to the governing body of the city, which likewise calls an election in the city on the date specified in the order or resolution of the district board.

The election must be held on the special district election date that is not sooner than the 90th day after the date of the district order or resolution calling the election.

If the electors of the city approve the annexation, the city governing body must certify the result and submit the certification to the district board and the county board. If the electors of the district approve the annexation, the district board must

certify the result, attach the city's certificate to its own certification, and present both certificates to the county board.

Upon receipt of both certifications, the county board enters an order annexing the territory included in the city to the district. Thereafter, the city territory, together with any territory thereafter annexed to the city, is included in the boundaries of the district and is subject to all liabilities of the district in the same manner and to the same extent as other territory included in the district.

4. Contract for Eventual Annexation. If the district's principal Act allows for service outside of the district boundaries ("extraterritorial service"), the district may enter into a contract with a landowner located outside the district boundary to provide services. The agreement for extraterritorial service may include a consent to eventual annexation of property of the landowner. To ensure that the agreement binds the landowner and any later owners of the land, the agreement must be recorded in the county property records.

**Hearing on Annexation Petition.** ORS 198.800 to 198.820 apply to a county hearing on a petition or resolution for annexation. The county board must set a date for hearing on the petition between 30 and 50 days after the date the petition is filed and must cause notice of the hearing to be posted in at least three public places and published by two insertions in a newspaper. The notice must state:

- The purpose of the proposal,
- The boundaries of the proposed annexation,
- The time and place of the hearing on the petition, and
- That all interested persons may appear and be heard.

At the time and place announced in the notice, the county conducts the hearing. All interested persons may appear and be heard. The county must determine at the hearing whether the proposal is consistent with the local comprehensive plan and intergovernmental service agreements and if the area could be benefited by the annexation and adopt written findings of compliance with those criteria. The county may adjourn the hearing from time to time but not exceeding four (4) weeks in all without additional notice. The county may alter the boundaries proposed in the petition to either include or exclude territory based upon benefit of such inclusion or exclusion. The board may not modify the boundaries to exclude from the proposed area any land that could be benefited nor may the board include any land that may not be benefited.

If the county board determines that any land has been improperly omitted from the proposal and that the owner of such property has not appeared at the hearing, the

board shall continue the hearing and order notice given to the non-appearing owner requiring the owner to appear before the board and show cause, if any, why the land of the owner should not be included in the proposal. Service of such notice is prescribed by ORS 198.805(2).

At the conclusion of the hearing, the board makes its determination consistent with the required criteria adopts findings in support of that determination, and enters an order approving the petition, and calling an election if needed.

Per ORS 198.780, duplicate copies of the final county order approving the annexation must be filed with the Secretary of State, the Department of Revenue, the county assessor, and the county clerk.

**Effects of Annexation.** After the date of entry of an order by the county board annexing territory to a district, the territory annexed becomes subject to the outstanding indebtedness, bonded or otherwise, of the district in the same manner as the territory within the district, unless otherwise provided in a debt distribution plan established under ORS 198.900. The annexed territory also is subject to the permanent rate limit and any local option taxes imposed by the annexing district.

#### **WITHDRAWAL OF TERRITORY**

Territory of a special district can be withdrawn from the district pursuant to the procedures contained in ORS 198.870 to 198.882. Generally, withdrawal of territory may occur when the territory to be withdrawn has not been or cannot be served by the district.

**Initiation of Withdrawal.** Withdrawal of territory from a special district may be initiated in one of two ways:

- A property owner within the district petitions the county board to withdraw the owner's property from the district.
- The electors of an area within a special district petition the county board to withdraw their property from the district.

For either of the above methods, the petition must be signed by not less than 15 percent of the electors or 100 electors registered in the district, or by 15 landowners or the owners of 10 percent of the acreage, whichever is the greater number of signers. Petitioners must cause notice of the filing of the petition to be given in writing to the secretary of the district. Within five (5) days after the petition is filed, the petitioners must furnish the secretary of the district with a copy of the petition filed.

**Process.** With minor exceptions, the procedures governing the county board's conduct of hearings, adoption of orders, and calling an election on the question of withdrawal of territory from a district are the same as those set forth in the preceding section on annexation.

The county board may approve a petition for withdrawal as presented or may approve the petition with modified boundaries. The county board must approve the petition if it is not feasible for the territory described in the petition to receive service from the district. The board must deny the petition if it appears that it is or would be feasible for the territory described in the petition to receive service from the district.

**Election.** An election on the petition for withdrawal may or may not be required.

If written requests for an election are filed by 15 percent or one hundred (100) electors, whichever is less, an election must be held. If a sufficient number of written requests for election have not been filed at the time of the county board's final hearing on the proposed withdrawal, an election is not required, and the county board adopts an order withdrawing the territory from the district. If sufficient requests are timely filed, the county board must call an election on the proposed withdrawal if those requests are filed on or before the date of the board's final hearing on the withdrawal.

If an election is required, it is held district-wide. Following the election, the county board adopts an order declaring the outcome. Regardless of the result of the election, the county board must cause a copy of the order to be filed with the secretary of the district.

Per ORS 198.780, duplicate copies of the final county order approving the withdrawal must be filed with the Secretary of State, the Department of Revenue, the county assessor, and the county clerk.

**Effects of Withdrawal.** From the date of the entry of the order by the county board, the area withdrawn from a district is thereafter free from assessments and taxes levied thereafter by the district, but it remains subject to its proportionate share of any bonded or other indebtedness existing at the time of the order.

However, if no district services have been provided to the withdrawn area and the area withdrawn does not exceed five percent (5%) of the equalized assessed valuation of the taxable property within the entire district prior to the withdrawal, and provided the total unlimited taxing power of the district over the area not withdrawn does not wholly satisfy the bonded or other indebtedness incurred prior to the withdrawal, the governing body of the district must relieve an area withdrawn from the district from taxation for its proportionate share of outstanding bonded or other indebtedness.

## **DISSOLUTION**

Dissolution of a special district terminates the district's existence and disposes of any remaining assets.

**Initiation.** Dissolution of a special district may be initiated in one of three ways:

- By Petition. Electors may file a petition for dissolution of the district with the county board. The petition must be signed by not less than 15 percent of the electors registered in the district or the owners of 15 percent of the acreage of the district.
- By District Resolution. The district board may file a resolution seeking dissolution with the county board when the district board determines that it is in the best interest of the district's inhabitants that the district be dissolved and liquidated.
- By County Resolution. The county board may adopt a resolution seeking dissolution of the district if:
  - The district has failed to elect district board members to fill vacancies on the district board.
  - If the territory within the district is uninhabited.
  - If the county board determines it is in the best interest of the people of the county that the district be dissolved and liquidated.

**Process.** Within five (5) days after a petition is filed or a resolution of the county board is adopted, as provided for above, a copy must be filed with the district board or its representative. If there are no qualified district board members at the time, the county board acts as, or appoints, a board of trustees to act on behalf of the district regarding the dissolution proceedings.

If the district to be dissolved is located within the jurisdiction of a local government boundary commission, the dissolution must be reviewed and approved according to the boundary commission's procedures for the review of major boundary changes.

When dissolution proceedings have been initiated, the district board must make findings of fact concerning the district's finances, including:

- A description of the indebtedness and the name of the holder and owner of each, if known.
- A description of each parcel of real property and interest in real property and, if the property was acquired from delinquent taxes or assessments, the amount of such taxes and assessments on each parcel of property.

- Uncollected taxes, assessments, and charges levied by the district and the amount upon each lot or tract of land.
- A description of the personal property and all other assets of the district.
- The estimated cost of dissolution.

The district board must also propose a plan of dissolution and liquidation as required by ORS 198.925(2) and 198.930. The plan of dissolution and liquidation may include provisions for transfer and conveyance of all assets of the district to any other district that agrees to assume the duties and obligations of the dissolving district, or, in the case of a county service district, to the county in which the district is located.

Within thirty (30) days after initiation of the dissolution proceeding, the findings of fact and the proposed plan of dissolution and liquidation must be filed in the office of the county clerk and made available for inspection by any interested person.

**Election.** Within ten (10) days after the district board files the dissolution and liquidation plan with the county clerk, the district board calls an election to determine whether the district shall be dissolved, its indebtedness liquidated and its assets disposed of in accordance with the proposed dissolution and liquidation plan. The notice of election must briefly summarize the dissolution and liquidation plan and state that the plan is available for examination at the office of the county clerk.

An election is not required and the county board may declare the district dissolved and proceed to wind up the district's affairs, if the county board finds:

- The dissolution is in the best interest of the people of the county; and
- The territory within the affected district is uninhabited;
- The district has failed regularly to elect district board members in accordance with the district principal act; or
- For a county service district, dissolution is required because there is no public need for continuation of the district.

**After the Election.** If a majority of the district's electors approve dissolution of the district, the district board declares the district dissolved. The district board then becomes a board of trustees which pays or obtains releases of the district's debt and disposes of the district property. If the district is located entirely within the boundaries of a single county, the district board may designate the county board as the board of trustees for the purpose of winding up the district's affairs.

Once the district's affairs have been fully settled, the board of trustees deposits all of the district's books and records with the county clerk, or with the entity that is assuming

the dissolving district's duties and obligations. The board of trustees must execute, under oath, and file with the county board a statement that the district has been dissolved and its affairs liquidated. As of the date of the statement, the corporate existence of the district is terminated for all purposes.

If a majority of the district's electors opposes dissolution, the district board declares the dissolution proposal failed and makes the election results a part of the district's records. No subsequent election on dissolution of the district may be held for at least one (1) year after the date of the election.

**Disposition of Assets.** The board of trustees may convey all of the dissolving district's assets to another district if the other district assumes all of the debt and obligations of the dissolving district, continues to furnish the services provided by the dissolving district pursuant to the dissolution and liquidation plan, and if the consent of all known holders of valid indebtedness against the district has been obtained or the plan provides for payment of the non-assenting holders.

The board of trustees may also turn over to the county treasurer or the entity assuming the dissolving district's duties and obligations any surplus funds remaining after payment of all of the district's indebtedness. If the district's assets are insufficient to pay the indebtedness, the board of trustees must levy taxes within the district for the liquidation of the indebtedness. However, if property of the district is within the corporate limits of a city, the property vests in the city upon dissolution and any property of the district located outside the city's corporate limits vests in the county upon dissolution.

Per ORS 198.780, duplicate copies of the final statement of the dissolving district's board of trustees must be filed with the Secretary of State, the Department of Revenue, the county assessor, and the county clerk.

**Dissolution of Inactive District.** If a special district fails to file reports required by ORS 294.555 or 297.405 to 297.555 (i.e., budget documents) for three consecutive years with the Secretary of State or Department of Revenue, as the case may be, either of those agencies must notify the county board of the county where the district is located. Within thirty (30) days after notice to the county board, the county must initiate proceedings to dissolve the special district and may appoint three residents of the district to assist in locating the assets, debts and records of the district.

Within sixty (60) days after receiving the notice from either state agency, the county board must prepare a financial statement for the district and file it with the county clerk. The financial statement must include:

- The date of formation of the district.

- The date of the last election of officers and the names of such officers;
- The amount of each outstanding bond, coupon, or other indebtedness with a general description of such indebtedness and the name of the holder and owner of each;
- A description of each parcel of real property and interest in real property owned by the district;
- Any uncollected charges, taxes, and assessments levied by the district;
- A description of all personal property and of all other assets of the district; and
- The estimated cost of dissolution.

Upon filing the financial statement, the county board must enter an order calling for a hearing on the question of dissolving the district. The hearing must be called not less than 21 nor more than 30 days after the filing of the statement. If the county is within the jurisdiction of a local government boundary commission, the county board must, within ten (10) days after filing a financial statement, file with the boundary commission a resolution requesting dissolution of the district.

If the county is not within a local government boundary commission, the notice of hearing by the county must be given by publication once each week for not less than three (3) weeks in a newspaper of general circulation within the district. The notice must state the time and place of the hearing and that all interested persons may appear and be heard. The notice must also state that all persons having claims against the district must present them at the time of the hearing.

After the hearing, the county board must determine whether the district is in fact operating as an active district. Once the reports required by ORS 294.555 and 297.405 to 297.555 are properly filed by the county for the district, the county must then enter an order that may (a) terminate all further proceedings if the county finds that continuation of the district is necessary, or (b) continue the hearing to initiate proceedings to incorporate or annex the district area into a county service district.

If the county board finds that the district is not active and there is no need for the district, the county board then becomes a board of trustees for the purpose of paying the debts and disposing of the property of the district. Any surplus funds and assets remaining to the credit of the district after payment of the debts of the district are credited to the county general fund, or, if the district was located in more than one county, apportioned between the counties according to the proportion in each county of the assessed valuation of taxable property in the district.

If the only debt of the district is the cost of dissolution proceedings, the county must pay the cost of the proceedings. If the assets of the district are insufficient to pay the debts of the district, the county board must levy taxes for the liquidation of the debts.

## **RESOURCES**

The Oregon Secretary of State's Elections Division provides a variety of manuals and forms for elections at the links provided. If you are unable to locate the appropriate information or form, check with your county clerk, who can direct you.

- State of Oregon: Elections - Manuals & Quick Guides:  
[sos.oregon.gov/elections/Pages/manuals-tutorials.aspx](https://sos.oregon.gov/elections/Pages/manuals-tutorials.aspx)
- State of Oregon: Elections - Election Forms:  
[sos.oregon.gov/elections/Pages/electionforms.aspx](https://sos.oregon.gov/elections/Pages/electionforms.aspx)

The Oregon Department of Revenue provides the following resources to guide the boundary change process, particularly as it applies to assessing and collecting property taxes:

- Boundary Change Checklist, 150-504-408 (oregon.gov):  
[www.oregon.gov/dor/forms/FormsPubs/boundary-change-checklist\\_504-408.pdf](https://www.oregon.gov/dor/forms/FormsPubs/boundary-change-checklist_504-408.pdf)
- Boundary Change Information, 150-504-405 (oregon.gov):  
[www.oregon.gov/dor/forms/FormsPubs/boundary-change\\_504-405.pdf](https://www.oregon.gov/dor/forms/FormsPubs/boundary-change_504-405.pdf)