

City-County Act of 1971

ORS 199.705-199.795

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Generally

199.705 Definitions for ORS 199.705 to 199.795

1. "City-county" means a city incorporated under ORS 199.705 to 199.795 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.
4. "Unincorporated area" means the area of unincorporated territory within the county that is outside the urban growth boundary adopted under ORS 268.390.

199.710 Short title

ORS 199.705 to 199.795 may be referred to as the City-County Act of 1971.

199.715 City-county consolidation authorized

By proceeding under ORS 199.705 to 199.795, 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 and the unincorporated area may join in the consolidation.

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)

1. 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.
2. 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.
3. 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.

Commission

199.725 Charter commission; appointment; term; first meeting; chairperson; 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. Two 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. Three members by the governing body of the county.
 - d. Three members by the governing body of the most populous city in the county.
 - e. One member by the governing body of the second most populous city in the county.
 - f. One member jointly by a majority of a convention of the mayors of the cities in the county other than the cities described in paragraphs (d) and (e) of this subsection.
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 chairperson. At the first meeting the commission shall designate a permanent chairperson 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 chairperson of the commission, the chairperson 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.

199.730 Functions of charter commission; rules

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.

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 of 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 of whether that city shall merge into the city-county.
 - c. To the electors of the unincorporated area, the question of whether the unincorporated area 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 subsection (2) (a) 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.

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:
 - a. 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.
 - b. The unincorporated area in the county shall be merged with and become a part of the city-county unless a majority of the electors in the unincorporated area 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 section 2a (1), 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.

199.742 Charter requirements if consolidation is rejected in unincorporated area

When a majority of the electors in the unincorporated area voting on the question submitted under ORS 199.735 (2) votes against the question, the charter of the city-county shall provide that:

1. Special districts within the unincorporated area shall not be extinguished.
2. The rate of taxation for ad valorem property taxes and business income taxes shall initially be set at the rates in effect on the date on which the charter for the city-county is approved.
3. Fees, including but not limited to business license fees and utility bill fees, shall initially be set at the rate or amount in effect on the date on which the charter for the city-county is approved.
4. Except for taxes or fees dedicated to correctional facilities, libraries or animal control, any rate increase for fees or taxes that exceeds the rate of population growth in the unincorporated area shall not take effect in the unincorporated area unless the electors in the unincorporated area approve the tax or fee increase.
5. The unincorporated area shall receive rural service levels for basic city-county services. As used in this subsection, "basic city-county services" includes police, fire, sewer, water and code enforcement services provided by the city-county.

199.743 Financial affairs of city-county if charter becomes effective during fiscal year

1. Notwithstanding ORS 294.305 to 294.565 and 310.010 to 310.110, 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.
 - b. "Municipal corporation" has the meaning given that term in ORS 294.311.

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.

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. Territory within the city-county may be transferred under ORS 199.490 to 199.519 to a city excluded from consolidation under ORS 199.740 (2).
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.
 3. The city-county shall be a county in its relationship to the unincorporated area excluded from the consolidation under ORS 199.740 (2).
 4. 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.
 5. 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.
 6. 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.

199.753 City-county service district

1. A city-county may establish service districts as provided by ORS 199.705 to 199.795 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.

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, 366.762 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 87 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 88 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 89 percent; for the third, at 91 percent; for the fourth, at 92 percent; for the fifth, at 94 percent; for the sixth, at 95 percent; for the seventh, at 97 percent; for the eighth, at 98 percent; for the ninth, at 99 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.

199.760 Boundaries of city-county; effect of change; filing boundary change with county assessor and Department of Revenue

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;
 - 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; and
 - c. The boundaries shall exclude the unincorporated area when a majority of the electors in the unincorporated area voting on the question submitted under ORS 199.735 (2) votes against the question.
2. No boundary change effected under ORS 199.705 to 199.795 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.
3. For purposes of ad valorem taxation, a boundary change must be filed in final approved form with the county assessor and the Department of Revenue as provided in ORS 308.225.

199.765 Permanent rate limit for operating taxes of city-county

The charter for a city-county shall specify the permanent rate limit for operating taxes for the city-county within the meaning of section 11 (3), Article XI of the Oregon Constitution. The permanent rate limit shall be a rate that would produce the same tax revenue as would have been cumulatively produced by the cities that are the subject of the consolidation, the county and all special districts automatically extinguished under ORS 222.510 or by ORS 199.705 to 199.795, not taking into account any applicable statutory rate limit on operating taxes. To 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 operating tax rates for the different districts, except that the operating tax rates may not cumulatively exceed the permanent rate limit established for the city-county under this section. 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 imposes ad valorem property taxes.

199.770 Status of employees after consolidation

After a consolidation is effected under ORS 199.705 to 199.795, 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.

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 entire 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.

County Formation or Boundary Change After Consolidation

199.777 New county or county boundary change authorized when unincorporated area rejects consolidation

1. When a city-county charter is approved and city-county consolidation takes place under ORS 199.705 to 199.795 and if, at the election held under ORS 199.735, a majority of the electors in the unincorporated area voting at the election votes to reject the proposed city-county charter and city-county consolidation, the electors of the unincorporated area may seek to form a new county in the unincorporated area or to change the boundaries of the city-county and a contiguous county in order to place the unincorporated area within that contiguous county.
2. The electors of any city that does not become part of the city-county and that is contiguous to the unincorporated area may jointly seek the formation of a new county or a change in county boundaries with the electors of the unincorporated area.
3. Proceedings to form a new county or to change county boundaries as authorized by this section shall be conducted as provided in ORS 199.780 to 199.795 and ORS chapter 202, except that ORS 202.020, 202.030, 202.040, 202.050, 202.060 and 202.070 do not apply to such proceedings.

199.780 Petition for county formation or boundary change; contents; required number of signatures

When it is desired to form a new county out of an unincorporated area or one or more contiguous cities or to change the boundaries of a city-county and an existing contiguous county, a petition praying for the formation of the new county or for the change in the boundaries of the city-county and the contiguous county shall be presented to the governing body of each city-county or county affected by the proposed formation or boundary change. The petition shall describe the territory proposed to be formed into the new county or transferred from the city-county to the contiguous county, together with the name of the proposed new county, if the petitioners seek formation of a new county. The petition shall be signed by a number of qualified electors registered in the territory to be formed into the new county or registered in the territory to be transferred to the contiguous county after the change in boundaries that is equal to 15 percent of the votes cast within such territory for all candidates for Governor at the election at which a Governor was elected next preceding the filing of the petition.

199.783 Division of assets when petition is for boundary change; commissioners to adopt plan for division; appointment of commissioners; effect of plan

1. When the petition provided for in ORS 199.780 is for a change in the boundaries of the city-county and a contiguous county, the governing body of the contiguous county and the governing body of the city-county shall appoint two commissioners each to jointly arrange the terms in respect to assumption of liabilities and division of assets among the contiguous county and the city-county, upon which the change in boundaries shall be made.
2. If, within 30 days after the appointment of the commissioners, they have not agreed upon terms, the Governor, upon request of the contiguous county or the city-county, shall appoint commissioners equal in number to one-half the commissioners already appointed, who shall meet with the commissioners already appointed and draft terms.
3. Within 60 days after terms have been arranged, a majority of the commissioners may report to the respective governing bodies a plan for division.
4. When made within such time, the plan for division shall be reported by the commissioners to the respective governing bodies and the plan shall become a compact between the city-county and the contiguous county, and shall be binding upon both.

199.785 Election on county formation or boundary change; election procedure; ballot title

1. If the governing body finds that the proposed formation or boundary change will not result in any new or remaining county having an area or population less than required by the Constitution of this state, the governing body shall call an election on a date specified in ORS 203.085 for the purpose of submitting to the electors the question of:
 - a. The formation of the new county; or
 - b. The change in county and city-county boundaries.
2. The question of formation of the new county shall be submitted only to the electors residing within the territory proposed to be formed into the new county. The question of a change in boundaries shall be submitted to the electors residing within the territory proposed to be transferred from the city-county to a contiguous county and to the electors residing within that contiguous county.
3. Except as provided in ORS 199.787 and 199.790, the election shall be conducted in accordance with ORS chapters 246 to 260.
4. The ballot title for determination of a question submitted under this section shall be prepared as provided in ORS 250.185.

199.787 Certification of election results

The county clerk in the contiguous county and the equivalent election officer in the city-county shall certify to the Secretary of State a copy of the summary of votes cast on the question of creating a new county or changing boundaries. Such election officer also shall certify to the Secretary of State the name, territorial contents and boundaries of the new county, or the names, territorial contents and boundaries of the county and city-county affected by the change in boundaries.

199.790 Issuance of proclamation by Governor

1. If an election for the purpose of establishing a new county is held, the Governor shall issue a proclamation declaring a new county created when, of the electors voting at the election, a majority of the electors residing within the limits of the proposed new county voted in favor of the creation of the new county.
2. If an election for the purpose of changing county and city-county boundaries is held, the Governor shall issue a proclamation declaring the change in boundaries when, of the electors voting at the election, a majority of the electors in the area proposed to be transferred to the contiguous county and a majority of the electors in the contiguous county voted in favor of the proposed change in county and city-county boundaries.

199.795 Operation and effect of proclamation

1. If the election was for the purpose of establishing a new county, the unincorporated area thereafter shall be a county for all civil, military and other purposes.
2. If the election was for the purpose of changing boundaries, the boundaries of the contiguous county and the city-county shall be changed to conform to the description furnished to the Secretary of State in the certification provided under ORS 199.787.
3. If the election was for the purpose of changing boundaries, the change shall take effect within 30 days after the Governor issues the proclamation provided for in ORS 199.790, and the territory taken from the city-county and added to the contiguous county by reason of the change in boundaries shall become a part of the contiguous county and for all purposes shall be considered a portion thereof.