Enrolled
Senate Bill 262

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CHAPTER .....

AN ACT

Relating to courts; creating new provisions; amending ORS 2.570, 19.360, 19.415, 183.650, 419A.200, 421.628 and 545.579; and declaring an emergency.

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

SECTION 1. ORS 2.570 is amended to read:

2.570. (1) In hearing and determining causes, the judges of the Court of Appeals may sit together or in departments.

(2)**(a) Except as provided in paragraph (b) of this subsection,** a department shall consist of three judges. For convenience of administration, each department may be numbered. The Chief Judge shall from time to time designate the number of departments and make assignments of the judges among the departments. The Chief Judge may sit in one or more departments and when so sitting may preside. The Chief Judge shall designate a judge to preside in each department.

(b) The Chief Judge may order that a department consist of two judges unless a third judge is necessary to break a tie vote by the department.

(3) **Except as provided in this subsection,** the majority of any department shall consist of regularly elected or appointed judges of the Court of Appeals. [*However,*] If disqualifications, recusals or other events reduce the number of available judges to fewer than [*three*] **the necessary number of judges**, the Supreme Court may appoint such number of qualified persons as may be necessary as pro tempore members of the Court of Appeals.

(4) The Chief Judge shall apportion the business of the court between the departments. Each department shall have power to hear and determine causes, and all questions that may arise therein, subject to subsection (5) of this section. The presence of [*three*] **two** judges is necessary to transact business in any department, except such business as may be transacted in chambers by any judge. The concurrence of two judges is necessary to pronounce judgment.

(5) The Chief Judge or a majority of the regularly elected or appointed judges of the Court of Appeals at any time may refer a cause to be considered en banc. When sitting en banc, the court may include not more than two judges pro tempore of the Court of Appeals. When the court sits en banc, the concurrence of a majority of the judges participating is necessary to pronounce judgment, but if the judges participating are equally divided in their view as to the judgment to be given, the judgment appealed from shall be affirmed.

(6) The Chief Judge may rule on motions and issue orders in procedural matters in the Court of Appeals **or may delegate the authority to rule on motions and issue orders in procedural**

matters to an appellate commissioner as provided for in the court's rules of appellate procedure.

(7) A judge or judge pro tempore of the Court of Appeals may participate in the decision of the matter without resubmission of the cause even though the judge is not present for oral argument on the matter.

(8) A judge or judge pro tempore of the Court of Appeals may participate in the decision of a matter without resubmission of the cause in the following circumstances:

(a) The judge was appointed or elected to the Court of Appeals after submission of the cause.

(b) The judge is participating in the decision of a cause that was submitted to a department, and the judge is participating in lieu of a judge of the department who has died, become disabled, is disqualified or is otherwise unable to participate in the decision of a cause submitted to the department.

(c) The judge is considering a cause en banc, but the judge was not part of the department that originally considered the cause.

SECTION 2. ORS 19.415 is amended to read:

19.415. (1) **Except as provided in this section,** upon an appeal [*from a judgment*] in an action [*at law*] **or proceeding**, **without regard to whether the action or proceeding was triable to the court or a jury,** the scope of review shall be as provided in section 3, Article VII (Amended) of the Oregon Constitution.

(2) No judgment shall be reversed or modified except for error substantially affecting the rights of a party.

(3) Upon an appeal [*from a judgment*] in an equitable **action or** proceeding, **review by** the Court of Appeals shall [*try the cause anew upon the record*] **be as follows:**

(a) Upon an appeal from a judgment in a proceeding for the termination of parental rights, the Court of Appeals shall try the cause anew upon the record; and

(b) Upon an appeal in an equitable action or proceeding other than an appeal from a judgment in a proceeding for the termination of parental rights, the Court of Appeals, acting in its sole discretion, may try the cause anew upon the record or make one or more factual findings anew upon the record.

(4) When the Court of Appeals has tried a cause anew upon the record **or has made one or more factual findings anew upon the record**, the Supreme Court may limit its review of the decision of the Court of Appeals to questions of law.

SECTION 3. The amendments to ORS 19.415 by section 2 of this 2009 Act apply only to appeals for which a notice of appeal is filed with the Court of Appeals under ORS 19.240 (3) on or after the effective date of this 2009 Act.

SECTION 4. ORS 19.360 is amended to read:

19.360. (1) Any party aggrieved by the trial court's final order relating to an undertaking on appeal, the trial court's grant or denial of a stay or the terms and conditions imposed by the trial court on the granting of a stay may seek review of the trial court's decision by filing a motion in the appellate court to which the appeal is made. The motion must be filed within 14 days after the entry of the trial court's order. During the 14-day period after the entry of the trial court's order, the judgment shall automatically be stayed unless the trial court orders otherwise. The trial court may impose terms or conditions on the stay or take such other action as may be necessary to prevent prejudice to the parties.

(2) The appellate court may review the decision of the trial court under the provisions of this section at any time after the filing of the notice of appeal. **Notwithstanding ORS 19.415 (3),** the appellate court shall review the decision de novo upon the record.

(3) On de novo review under subsection (2) of this section, the record shall be restricted to the record made before the trial court unless:

(a) There is additional relevant information relating to the period of time following the decision of the trial court that the appellate court determines to be important to review of the decision; or

(b) The party submitting new information establishes that there was good cause for not submitting the information to the trial court.

(4) On review of a trial court's decision relating to a request for a stay pending appeal, an appellate court may remand the matter to the trial court for reconsideration, may vacate a stay granted by the trial court, may grant a stay, and may impose or modify terms and conditions on a stay. Upon receipt of a request for a stay pending appeal made to the appellate court in the first instance, the appellate court may remand the matter to the trial court for consideration in the first instance, may grant or deny a stay, and may impose terms and conditions on a stay issued by the appellate court.

SECTION 5. ORS 183.650 is amended to read:

183.650. (1) In any contested case hearing conducted by an administrative law judge assigned from the Office of Administrative Hearings, the administrative law judge shall prepare and serve on the agency and all parties to the hearing a form of order, including recommended findings of fact and conclusions of law. The administrative law judge shall also prepare and serve a proposed order in the manner provided by ORS 183.464 unless the agency or hearing is exempt from the requirements of ORS 183.464.

(2) If the administrative law judge assigned from the office will not enter the final order in a contested case proceeding, and the agency modifies the form of order issued by the administrative law judge in any substantial manner, the agency must identify the modifications and provide an explanation to the parties to the hearing as to why the agency made the modifications.

(3) An agency conducting a contested case hearing may modify a finding of historical fact made by the administrative law judge assigned from the Office of Administrative Hearings only if the agency determines that the finding of historical fact made by the administrative law judge is not supported by a preponderance of the evidence in the record. For the purposes of this section, an administrative law judge makes a finding of historical fact if the administrative law judge determines that an event did or did not occur in the past or that a circumstance or status did or did not exist either before the hearing or at the time of the hearing.

(4) **Notwithstanding ORS 19.415 (3),** if a party seeks judicial review of an agency's modification of a finding of historical fact under subsection (3) of this section, the court shall make an independent finding of the fact in dispute by conducting a review de novo of the record viewed as a whole. If the court decides that the agency erred in modifying the finding of historical fact made by the administrative law judge, the court shall remand the matter to the agency for entry of an order consistent with the court's judgment.

SECTION 6. ORS 419A.200 is amended to read:

419A.200. (1) Except as provided in ORS 419A.190, any person or entity, including, but not limited to, a party to a juvenile court proceeding under ORS 419B.875 (1) or 419C.285 (1), whose rights or duties are adversely affected by a judgment of the juvenile court may appeal therefrom. An appeal from a circuit court must be taken to the Court of Appeals, and an appeal from a county court must be taken to the circuit court.

(2) If the proceeding is in the circuit court and no record of the proceedings was kept, the court, on motion made not later than 15 days after the entry of the court's judgment, shall grant a rehearing and shall direct that a record of the proceedings be kept. However, the court may not grant a rehearing in a case barred by ORS 419A.190 without the consent of the child, ward, youth or youth offender affected by such case. If a rehearing is held, the time for taking an appeal runs from the date of entry of the court's judgment after the rehearing.

(3)(a) The appeal may be taken by causing a notice of appeal, in the form prescribed by ORS 19.250, to be served:

(A) On all parties who have appeared in the proceeding;

(B) On the trial court administrator or other person serving as clerk of the juvenile court; and

(C) On the juvenile court transcript coordinator, if a transcript is designated in connection with the appeal.

(b) The original of the notice with proof of service must be filed with:

(A) The Court of Appeals if the appeal is from a circuit court; or

(B) The circuit court if the appeal is from a county court.

(c) The notice must be filed not later than 30 days after the entry of the court's judgment. On appeal from the county court, the circuit court shall hear the matter de novo and its judgment is appealable to the Court of Appeals in the same manner as if the proceeding had been commenced in the circuit court.

(4) The counsel in the proceeding from which the appeal is being taken shall file and serve those documents necessary to commence an appeal if the counsel is requested to do so by the party the counsel represents. If the party requesting an appeal is represented by court-appointed counsel, court-appointed counsel may discharge the duty to commence an appeal under this subsection by complying with policies and procedures established by the office of public defense services for appeals of juvenile court judgments.

(5)(a) Upon motion of a person, other than the state, entitled to appeal under subsection (1) of this section, the appellate court shall grant the person leave to file a notice of appeal after the time limits described in subsection (3) of this section if:

(A) The person shows a colorable claim of error in the proceeding from which the appeal is taken; and

(B) The person shows that the failure to file a timely notice of appeal is not personally attributable to the person.

(b) A person other than the state is not entitled to relief under this subsection for failure to file timely notice of cross-appeal when the state appeals pursuant to ORS 419A.208.

(c) The request for leave to file a notice of appeal after the time limits prescribed in subsection (3) of this section must be filed no later than 90 days after entry of the judgment being appealed and must be accompanied by the notice of appeal sought to be filed. A request for leave under this subsection may be filed by mail and is deemed filed on the date of mailing if the request is mailed as provided in ORS 19.260.

(d) The court may not grant relief under this subsection unless the state has notice and opportunity to respond to the person's request for relief.

(6) An appeal to the Court of Appeals must be conducted in the same manner as an appeal under ORS chapter 19 except that[*:*]

[*(a)*] the court shall advance the appeal on the court's docket in the same manner as appeals in criminal cases[*; and*]

[*(b) The court's scope of review is de novo on the record*].

(7)(a) Except as provided in ORS 419A.208 (2), or when otherwise ordered by the appellate court, the filing of an appeal does not suspend an order or judgment of the juvenile court nor discharge the ward or youth offender from the custody of the person, institution or agency in whose custody the ward or youth offender may have been placed nor preclude the juvenile court after notice and hearing from entering such further orders relating to the ward or youth offender's custody pending final disposition of the appeal as it finds necessary by reason only of matters transpiring subsequent to the order or judgment appealed from. The trial court administrator shall immediately file certified copies of any such order or judgment with the Court of Appeals.

(b) Notwithstanding the filing of an appeal from a jurisdictional or dispositional judgment or an order entered pursuant to ORS 419B.449 or 419B.476, the juvenile court may proceed with the adjudication of a petition seeking termination of the parental rights of a parent of the ward who is subject to the judgment from which the appeal is taken.

(c) The appeal of any judgment entered in a termination of parental rights proceeding under paragraph (b) of this subsection must be consolidated, if appropriate, with any pending appeal of an order or judgment entered under ORS 419B.325, 419B.449 or 419B.476. The consolidated appeal must be conducted and advanced on the court's docket in the same manner as termination of parental rights cases.

(8) On appeal of a judgment or final order, the appellate court may review any interlocutory order that:

(a) Involves the merits or necessarily affects the judgment or final order appealed from; and

(b) Was made after entry of the last appealable judgment or final order preceding entry of the judgment or final order being appealed.

(9) The district attorney or Attorney General shall represent the state in the appeal.

SECTION 7. ORS 421.628 is amended to read:

421.628. (1) Notwithstanding ORS 169.690, 195.025, 197.180, 215.130 (4) and 227.286 or any other provision of law, including but not limited to statutes, ordinances, regulations and charter provisions, the decisions of the Corrections Facilities Siting Authority, if approved by the Governor, shall bind the state and all counties, cities and political subdivisions in this state as to the approval of the sites and the construction and operation of the proposed corrections facilities. Affected state agencies, counties, cities and political subdivisions shall issue the appropriate permits, licenses and certificates and enter into any intergovernmental agreements as necessary for construction and operation of the facilities, subject only to the conditions of the siting decisions.

(2) Each state or local governmental agency that issues a permit, license or certificate shall continue to exercise enforcement authority over the permit, license or certificate.

(3) Except as provided in subsections (4) to (16) of this section, nothing in ORS 421.611 to 421.630 expands or alters the obligations of cities, counties and political subdivisions to pay for infrastructure improvements for the proposed corrections facilities.

(4) The Department of Corrections shall seek to obtain public services necessary for the construction and operation of corrections facilities from a public body providing such services. The department shall not acquire or develop and furnish its own public services under this section that could be provided by a public body unless the department concludes that the state can achieve significant cost savings by doing so.

(5) Upon request of the Department of Corrections, a public body furnishing public services shall make public services available to the department that are either necessary for the construction and operation of a corrections facility or required by additions to or remodeling of a corrections facility sited or constructed under ORS 421.611 to 421.630 or any other law. All rates, terms and conditions of furnishing public services shall be just, fair and reasonable. A just, fair and reasonable rate shall assure the public body the recovery of the additional costs of providing and maintaining the requested service to the corrections facility, including, but not limited to, feasibility and design engineering costs, and reasonable capacity replacement, but shall not exceed the public body′s actual capital and operating expenses, including reasonable reserves charged to all ratepayers, for such service. The public body′s rates, terms and conditions shall be conclusively deemed to be just, fair and reasonable if the department and public body so agree in writing.

(6) If the Department of Corrections and the public body cannot agree on the rates, terms and conditions of furnishing necessary public services to a corrections facility, either the department or the public body may deliver to the other a notice of request to mediate any disputed issues, including, but not limited to, whether the department can achieve significant cost savings to the state by acquiring or developing and furnishing its own public services. If either the department or the public body requests mediation, the other shall participate in good faith in such mediation. Unless otherwise agreed by the department and the public body, the mediation shall be concluded within 30 days of delivery of the notice of request to mediate.

(7) If the mediation fails to resolve the issues in dispute, or if mediation is not requested by either the Department of Corrections or the public body, the department and the public body may agree to submit any disputed matters to arbitration. The arbitration may be either binding or nonbinding. If the department and the public body cannot agree on the selection of the arbitrator and the arbitration rules and procedure, upon motion directed to the Court of Appeals, the Chief Judge of the Court of Appeals shall select the arbitrator and decide the rules and procedure. The arbitrator′s decision and award shall be guided by the standards set forth in this section. The decision and award of the arbitrator shall be final and binding on the department and the public body only if they agree to enter into binding arbitration prior to the initiation of the arbitration. If the department and public body have agreed to binding arbitration of disputed issues, either the de-

partment or the public body, if dissatisfied with the arbitrator's decision and award, may file exceptions in the Court of Appeals within 21 days of the issuance of the decision and award. Exceptions shall be limited to the causes set forth in ORS 36.705 (1)(a) to (d), and to the grounds for modification or correction of an award under ORS 36.710. If any of the exceptions requires consideration of facts that do not appear on the face of the arbitrator's decision and award or is not stipulated to by the parties, the court may appoint a master to take evidence and make the necessary factual findings. The Court of Appeals' decision shall be final and not subject to further review.

(8) If the Department of Corrections and the public body have submitted disputed matters to nonbinding arbitration or if the department and public body have chosen not to submit disputed matters to arbitration, the department shall issue a preliminary order to the public body that either concludes that the state can achieve significant costs savings by acquiring or developing and furnishing its own public services, or establishes the rates, terms and conditions upon which the public body shall make necessary public services available to the department for the corrections facility. The public body, no later than 15 days following the department's issuance of its preliminary order, may contest the preliminary order by filing a written notice to that effect with the department. The preliminary order shall become final, binding and conclusive if the public body fails to request a hearing within the time permitted in this section.

(9) If a hearing is requested, the department shall provide the public body with an opportunity to be heard and shall issue its final order upon conclusion of the hearing. The department shall establish procedures to regulate and provide for the nature and extent of the proofs and evidence and the method of taking and furnishing the same in order to afford the public body a reasonable opportunity for a fair hearing. The procedures shall ensure that the public body has a reasonable opportunity to place in the record the information upon which the public body relies as a basis for its position. The department's order shall be guided by the standards set forth in this section.

(10) Proceedings for review of the department's final order shall be instituted when the affected public body files a petition with the Court of Appeals that meets the following requirements:

(a) The petition shall be filed within 21 days of issuance of the final order on which the petition is based.

(b) The petitioner shall serve a copy of the petition by registered or certified mail upon the Department of Corrections and the Attorney General.

(11) Within 30 days after service of the petition, the department shall transmit to the Court of Appeals the original or a certified copy of the entire record and any findings that may have been made.

(12) The Court of Appeals shall review the final order of the Department of Corrections [*de novo on the record created before the department*]. The Court of Appeals' decision shall be final and not subject to further review.

(13) Proceedings for review in the Court of Appeals under this section shall be given priority over all other matters before the Court of Appeals.

(14) The Department of Corrections or other state agency shall not be required to make payments to the public body for necessary public services to a corrections facility in excess of funds that are legally available for such purposes.

(15) Nothing in this section shall require a public body to furnish public services to the Department of Corrections for a corrections facility in the event that the Legislative Assembly fails to make funds available in an amount sufficient to pay the state's share of costs of such services as determined under this section.

(16) As used in this section, "public services" means off-site infrastructure, including, but not limited to, sewer and water systems and service, and road improvements.

SECTION 8. ORS 421.628, as amended by section 9, chapter 516, Oregon Laws 2001, and section 45, chapter 598, Oregon Laws 2003, is amended to read:

421.628. (1) Notwithstanding ORS 169.690, 195.025, 197.180, 215.130 (4) and 227.286 or any other provision of law, including but not limited to statutes, ordinances, regulations and charter provisions, and except for permit decisions delegated by the federal government to the Department of

State Lands, the decisions of the Corrections Facilities Siting Authority, if approved by the Governor, shall bind the state and all counties, cities and political subdivisions in this state as to the approval of the sites and the construction and operation of the proposed corrections facilities. Except for those statutes and rules for which permit decisions have been delegated by the federal government to the Department of State Lands, all affected state agencies, counties, cities and political subdivisions shall issue the appropriate permits, licenses and certificates and enter into any intergovernmental agreements as necessary for construction and operation of the facilities, subject only to the conditions of the siting decisions.

(2) Each state or local governmental agency that issues a permit, license or certificate shall continue to exercise enforcement authority over the permit, license or certificate.

(3) Except as provided in subsections (4) to (16) of this section, nothing in ORS 421.611 to 421.630 expands or alters the obligations of cities, counties and political subdivisions to pay for infrastructure improvements for the proposed corrections facilities.

(4) The Department of Corrections shall seek to obtain public services necessary for the construction and operation of corrections facilities from a public body providing such services. The department may not acquire or develop and furnish its own public services under this section that could be provided by a public body unless the department concludes that the state can achieve significant cost savings by doing so.

(5) Upon request of the Department of Corrections, a public body furnishing public services shall make public services available to the department that are either necessary for the construction and operation of a corrections facility or required by additions to or remodeling of a corrections facility sited or constructed under ORS 421.611 to 421.630 or any other law. All rates, terms and conditions of furnishing public services shall be just, fair and reasonable. A just, fair and reasonable rate shall assure the public body the recovery of the additional costs of providing and maintaining the requested service to the corrections facility, including, but not limited to, feasibility and design engineering costs, and reasonable capacity replacement, but may not exceed the public body′s actual capital and operating expenses, including reasonable reserves charged to all ratepayers, for such service. The public body′s rates, terms and conditions shall be conclusively deemed to be just, fair and reasonable if the department and public body so agree in writing.

(6) If the Department of Corrections and the public body cannot agree on the rates, terms and conditions of furnishing necessary public services to a corrections facility, either the department or the public body may deliver to the other a notice of request to mediate any disputed issues, including, but not limited to, whether the department can achieve significant cost savings to the state by acquiring or developing and furnishing its own public services. If either the department or the public body requests mediation, the other shall participate in good faith in such mediation. Unless otherwise agreed by the department and the public body, the mediation shall be concluded within 30 days of delivery of the notice of request to mediate.

(7) If the mediation fails to resolve the issues in dispute, or if mediation is not requested by either the Department of Corrections or the public body, the department and the public body may agree to submit any disputed matters to arbitration. The arbitration may be either binding or nonbinding. If the department and the public body cannot agree on the selection of the arbitrator and the arbitration rules and procedure, upon motion directed to the Court of Appeals, the Chief Judge of the Court of Appeals shall select the arbitrator and decide the rules and procedure. The arbitrator′s decision and award shall be guided by the standards set forth in this section. The decision and award of the arbitrator shall be final and binding on the department and the public body only if they agree to enter into binding arbitration prior to the initiation of the arbitration. If the department and public body have agreed to binding arbitration of disputed issues, either the department or the public body, if dissatisfied with the arbitrator′s decision and award, may file exceptions in the Court of Appeals within 21 days of the issuance of the decision and award. Exceptions shall be limited to the causes set forth in ORS 36.705 (1)(a) to (d), and to the grounds for modification or correction of an award under ORS 36.710. If any of the exceptions requires consideration of facts that do not appear on the face of the arbitrator′s decision and award or is not

stipulated to by the parties, the court may appoint a master to take evidence and make the necessary factual findings. The Court of Appeals' decision shall be final and not subject to further review.

(8) If the Department of Corrections and the public body have submitted disputed matters to nonbinding arbitration or if the department and public body have chosen not to submit disputed matters to arbitration, the department shall issue a preliminary order to the public body that either concludes that the state can achieve significant costs savings by acquiring or developing and furnishing its own public services, or establishes the rates, terms and conditions upon which the public body shall make necessary public services available to the department for the corrections facility. The public body, no later than 15 days following the department's issuance of its preliminary order, may contest the preliminary order by filing a written notice to that effect with the department. The preliminary order shall become final, binding and conclusive if the public body fails to request a hearing within the time permitted in this section.

(9) If a hearing is requested, the department shall provide the public body with an opportunity to be heard and shall issue its final order upon conclusion of the hearing. The department shall establish procedures to regulate and provide for the nature and extent of the proofs and evidence and the method of taking and furnishing the same in order to afford the public body a reasonable opportunity for a fair hearing. The procedures shall ensure that the public body has a reasonable opportunity to place in the record the information upon which the public body relies as a basis for its position. The department's order shall be guided by the standards set forth in this section.

(10) Proceedings for review of the department's final order shall be instituted when the affected public body files a petition with the Court of Appeals that meets the following requirements:

(a) The petition shall be filed within 21 days of issuance of the final order on which the petition is based.

(b) The petitioner shall serve a copy of the petition by registered or certified mail upon the Department of Corrections and the Attorney General.

(11) Within 30 days after service of the petition, the department shall transmit to the Court of Appeals the original or a certified copy of the entire record and any findings that may have been made.

(12) The Court of Appeals shall review the final order of the Department of Corrections [*de novo on the record created before the department*]. The Court of Appeals' decision shall be final and not subject to further review.

(13) Proceedings for review in the Court of Appeals under this section shall be given priority over all other matters before the Court of Appeals.

(14) The Department of Corrections or other state agency is not required to make payments to the public body for necessary public services to a corrections facility in excess of funds that are legally available for such purposes.

(15) This section does not require a public body to furnish public services to the Department of Corrections for a corrections facility in the event that the Legislative Assembly fails to make funds available in an amount sufficient to pay the state's share of costs of such services as determined under this section.

(16) As used in this section, "public services" means off-site infrastructure, including, but not limited to, sewer and water systems and service, and road improvements.

SECTION 9. ORS 545.579 is amended to read:

545.579. (1) The appellant and all persons appearing shall make a statement in writing of the grounds of appeal, and no further pleadings shall be necessary. The cause shall be tried in one action by the circuit court as an action not triable by right to a jury.

(2) Upon the entry of a judgment, any person aggrieved by the judgment may appeal to the Court of Appeals in the manner provided for other cases in equity. Notice of appeal shall be served on those appearing in the circuit court or their attorneys. **Notwithstanding ORS 19.415 (3),** the cause shall be tried de novo by the Court of Appeals as expeditiously as possible after the appeal is perfected. Upon the effective date of decision of the Court of Appeals, the circuit court shall enter such judgment as is directed by the Court of Appeals.

(3) If the resolution of the board of directors is affirmed it shall be considered an assessment against all the lands described in the resolution for the amount of the assessment and payable at the times specified in the resolution, as well as a final determination of the total benefits accruing from the existing or proposed improvements to the parcels of land described in the resolution. If the resolution is modified in any respect, the court shall specify the proper resolution to be entered, which shall be entered accordingly. If no appeal is taken from the resolution, it shall become final.

SECTION 10. This 2009 Act being necessary for the immediate preservation of the public peace, health and safety, an emergency is declared to exist, and this 2009 Act takes effect on its passage.

Passed by Senate April 28, 2009

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Secretary of Senate

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President of Senate

Passed by House May 21, 2009

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Speaker of House

Received by Governor:

.....M.,....., 2009

Approved:

.....M.,....., 2009

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Governor

Filed in Office of Secretary of State:

.....M.,....., 2009

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Secretary of State