# Oregon Communities
## For A Voice In Annexations

**Promoting & Protecting Citizen Involvement in Land Use Issues**

P.O. Box 1388
North Plains, OR 97133-1388

http://www.ocva.org
e-mail: info@ocva.org

tel: 541-747-3144




April 24, 2019

To: The Honorable Michael Dembrow, Chair, & Members
Senate Committee on Environment & Natural Resources

**Re: PLEASE SUPPORT HB 2577-A**

Dear Chair Dembrow, Vice-Chair Olsen and Committee Members:

The purpose of HB 2577-A is to settle an interpretation issue with ORS 222.750, Section 5. **We are asking you to amend Section 5**. HB 2577 proposes using LUBA's own language to do that. The bill emerged from the House with a 50 to 4 endorsement. Discussion follows.

ORS 222.750 is the "island" annexation statute. It was amended through HB 2760 in 2007. We helped write the original language that became HB 2760, working with then-Representative Bob Ackerman (D., Eugene**). One of the new provisions (Section 5) required that residents targeted for forced annexation under section 750 receive at least 3 years' notice from the time the annexation is announced until the time it is finalized**. This was to give residents a chance to prepare for a significant jurisdictional change and a probable major financial impact.

However, in the rush to get the bill out of committee before deadline, a qualifier was added to the foregoing provision – not by us. To be eligible for the 3-year notice, the targeted territory had to be **"zoned for and in use as residential."** This came back to haunt us in 2013 when the City of Forest Grove forcibly annexed a number of "islands" **but denied those targeted the 3-year notice.**

The territories targeted were in residential use but not specifically zoned as such. This was the city's reasoning in denying the 3-year notice. Residents appealed to LUBA, arguing that if "residential" is an allowed use within a territory, then it is "zoned for" residential use. **And LUBA agreed:**

***"The meaning of "zoned for * * * residential use," as those words are used in ORS 222.750(5), is ambiguous because most zoning districts allow some residential use. The statute does not specify whether the "zoned for * * * residential use" requirement is satisfied if the applicable zone authorizes "any" residential use (petitioners' position) or whether the zone must "primarily" authorize residential uses (the city's position)… We agreed above with petitioners that ORS 222.750(5) is correctly interpreted to provide that property that is zoned to allow residential use as a permitted use in the zone is property that is "zoned for * * * residential use."*** (LUBA Case # 2013-020, emphasis ours).

However, the law was specific. LUBA denied the appeal, notwithstanding its position documented above.

**We wish to prevent a recurrence of this action.** Accordingly, we drafted HB 2577 that is now before you. **We are asking that the 3-year notice provision be amended to mirror LUBA's own interpretation of the statute and incorporating the House -1 amendment.** (continued)

The change you see highlighted in the bill clarifies the original intent of a key provision in HB 2760. We hope you will agree that the requested change makes sense from a fairness standpoint and that you will move the bill to the Senate floor with a "Do Pass" recommendation.

Thank you for your consideration.

Respectfully,

*Jerry Ritter*
Secretary & Legislative Affairs Representative
OCVA