



## **Oregon Communities**

**For a Voice In Annexations**

Promoting and Protecting Citizen Involvement in Land Use Issues

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# Islands In The Storm

The history of OCVA's involvement in the successful effort to reform ORS 222.750, Oregon's "Island Annexation" statute

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## The Story Begins in 2005

*Readers are encouraged read “**Hostile Takeover**” on the OCVA website for background into the annexation reform movement, including the beginnings of the effort to amend Oregon Revised Statutes Chapter 222, Section 750.*

With the passage of House Bill 2484 in 2005 by overwhelming majorities in both the Oregon House and Senate, Oregon cities lost ORS-195 as a forced annexation tool. (See *Hostile Takeover* for the full story.) The ORS-195 annexation method had been gaining popularity and interest among Oregon cities, much to the dismay of targeted residents who were effectively shut out of the decision making process under this law.

Meanwhile, there was in place another method by which Oregon cities could forcibly annex territory against the wishes of the targeted citizens. ORS 222.750 allowed cities to annex territory with no vote of the affected residents if the targeted area were an “**island.**” An island, for annexation purposes, is unincorporated territory surrounded on all sides by city territory. Bodies of water could comprise part of an “island” boundary...**as could city rights of way (streets).** The latter would end up creating yet another means by which cities could circumvent voters in annexation decisions.

**If a city wanted to annex an unincorporated area within its UGB without voter interference, it could create an island by annexing streets surrounding the territory.**

Island annexations had been going on in several cities prior to 2005, but that year the issue came to a head. The City of Beaverton – which had provided so much ammunition for the annexation reform effort through its aggressive annexation policies – “islanded” the headquarters of Nike Corporation. This was akin to throwing a rock through the mother of all hornets’ nests.

A legal battle ensued and in the 2005 Legislature, Senate Bill 887 was introduced. Among other provisions, the bill provided long-term protection for Nike and several other area corporations against forced annexation. SB 887 passed handily. This torpedoed the plan to annex Nike and gave Beaverton yet another black eye (it wouldn’t be the city’s last in the annexation wars).

Unfortunately, SB 887 did not extend the same protections to everybody. With ORS-195 off the table as a forced annexation tool, the intentional “islanding” problem grew as other cities – notably Eugene – jumped on the bandwagon. **It became OCVA’s next goal to reign in this unpopular practice.**

## An Annexation Work Group Is Formed

The 2005 Legislative Session saw a number of (figuratively) bloody noses and heated committee debates over annexation. Wanting to avoid a repeat in 2007, the Senate included in SB 887 a directive that an Annexation Work Group be formed to address outstanding annexation issues and make recommendations to the 2007 Legislature.

The group consisted of a wide variety of interested parties, including development interests and the League of Oregon Cities, both long-time OCVA opponents. OCVA Chairman **Richard Reid** represented OCVA. The group met at the Capitol during the spring and summer of 2006.

The work group meetings provided an ideal venue for the issue of island annexations – particularly the intentional creation of islands – to be raised. Richard brought up the topic and made OCVA's concerns a matter of record. As a result, the final report of the work group to the Legislature stated that *“cities should not be annexing public rights of way solely to create islands.”*

This simple but powerful statement provided a solid foundation for the launch of the ORS 222.750 reform effort.

### LC 1245

The conclusion by the Work Group, plus the increasing incidence of intentional island creation, prompted OCVA's long-time ally, **Rep. Bill Garrard** (R., Klamath Falls) to pursue a legislative remedy. As chairman of the House Interim Land Use Committee, he asked **Rep. Bob Ackerman** (D., Eugene, now retired) to draft legislation putting some limits and conditions on island annexation.

OCVA was honored to be asked to assist Rep. Ackerman in drafting the measure. Rep. Ackerman completed his draft by late summer 2006. It contained an outright ban on the use of streets as island boundaries and a 10-year phase in of the tax hit caused by annexations.

Legislative Counsel assigned the number 1245 to the draft. In October, 2006, LC 1245 was brought before Rep. Garrard's Interim Committee for a hearing and work session. It received a 5 – 1 endorsement for introduction as a committee measure in 2007.

### On To The 2007 Legislative Session

LC 1245 was introduced as House Bill 2050, but quickly bogged down. Several clones were also introduced – chief among them HB 2760 by **Rep. Chris Edwards** (D., Eugene) - along with a number of other annexation reform measures. **Notably, once again the opponents of OCVA's “voter annexation” ordinances left their guns holstered.** “VoA” now seems to be an accepted fact of life in Oregon, THANKS TO OCVA! This meant OCVA could focus our efforts on island annexation reform.

In March 2007, some of the bills had a hearing in **Rep. Arnie Roblan's** (D., Coos Bay) Committee on Environment & Natural Resources (there being no “Land Use Committee” in 2007). Rep. Roblan quickly concluded that the island annexation issue needed further study. But rather than shoving it off to the side, he commissioned a SECOND work group to iron out the differences among the numerous interested parties and come up with a final draft. This turned out to be a wise move.

Led by **Rep. Brian Boquist** (R., Dallas) the group included, along with OCVA, representatives from Friends of Bull Mountain, legislators, most of our usual opponents and other public & private interests. OCVA Chairman Reid and Secretary Jerry Ritter (primarily Richard) represented OCVA. HB 2760 became the vehicle and was vigorously championed by Rep. Edwards and **Rep. Brian Clem** (D., Salem). There was much debate and discussion, complicated by a fast-approaching deadline. But thanks to email and our wonderful committee administrator, **Cat McGinnis**, after 13 “dashes” (amendments) we had a final draft, literally at the last minute of the final day for bills to make it out of committee.

### Not Everything We Wanted – But A Significant Improvement

The process of getting a bill passed involves a lot of give and take. Very seldom do you get a slam-dunk such as HB 2484 in 2005. Rep. Roblan's handling of HB 2760 turned out to be a much better process than the battle over HB 2484 two years earlier. HB 2760 evolved through negotiations BEFOREHAND, rather than through sometimes rancorous committee battles and floor votes. By the time the bill reached its final work session, all parties had a good idea what would fly and what wouldn't. The result was a unanimous “do pass” endorsement by Rep. Roblan's committee.

We were not able to retain the total ban on streets as island boundaries. The final draft permitted up to 25% of an island boundary to be made up of public rights of way. Legal Counsel advised that the 10 year tax phase in provision raised constitutional issues, and it was pulled. In its place, a minimum delay of 3 years was imposed between a decision to use ORS 222.750 and the actual annexation. A public hearing requirement was included and finally, as OCVA had strongly urged, an emergency clause was inserted.

### Finishing The Job

The whole process was remarkably cordial: no knock-down drag-outs, no dirty tricks and no bloody noses when it was all over. The League of Oregon Cities didn't like the final draft, but didn't fight it. HB 2760-13 sailed through both chambers by better than 10:1 majorities and was signed into law by Governor Kulongoski on June 27, becoming effective on signature thanks to the emergency clause. **As a result, the “island annexation” process is now considerably fairer, and there will be less incentive for cities to intentionally annex streets to create islands.**

### A Team Effort

A success such as HB 2760 doesn't happen without a lot of support. The bulk of the credit goes to the participants on Rep. Roblan's Annexation Work Group who were able to craft a measure that garnered overwhelming support. OCVA's officers and Board were very active in the process. Kudos and appreciation also go to **Nike Corporation** and its government affairs representative, **Julia Brim-Edwards** who provided testimony in favor of the bill.

OCVA's Eugene UGB affiliate, the **River Road/Santa Clara Property Owners Association**, who had been at the forefront of the street annexation fight for several years, was very involved and helpful. "Friends of Bull Mountain" provided great support, as they had done with HB 2484 in 2005.

Citizens and citizens' groups, largely from Washington and Lane Counties, added their input. The leadership of **Reps. Edwards, Boquist, Clem, Roblan** and a number of other legislative allies was critical to the success, as were the votes of nearly the entire population of 900 Court St.! And of course credit and thanks go to **Governor Ted Kulongoski** for completing the job by signing the bill.

### A (Welcomed) Casualty and Another Step Toward Fairness

Closely related to the ORS 222.750 reform effort was the push to abolish the **Lane County Local Government Boundary Commission**. As the sole remaining boundary commission in the state, the LCLGBC had authority, under ORS 199, over all annexations in Lane County. For years the commission had rubber stamped virtually every annexation a Lane County city wanted, regardless of how affected citizens felt.

From 2005 through early 2007, Eugene stepped up its annexation of streets in certain unincorporated areas within the city's urban growth boundary. There was no apparent legitimate reason for this – other than to create islands. At the hearings OCVA members attended, the boundary commission OK'd all but one of these requests.

OCVA's Springfield UGB Chapter and some Lane County officials had been trying to get rid of the Boundary Commission since 1995. The primary reason was that the commission was an appointed body with no direct accountability to the voters. The vast majority of the commission's decisions on annexation requests were foregone conclusions. In at least one case, the minutes of one of its meetings dealing with an annexation request were published BEFORE the meeting. The request was of course approved. When this was questioned, the response was that the minutes could have been edited and republished had the decision gone the other way!

The rash of street annexations was the proverbial straw. Citizen anger prompted **Senator Vicki Walker** (D., Eugene) and **Representative Chris Edwards** (D., Eugene) to introduce SB 417 to abolish the commission. SB 417 passed both chambers and gained Governor Kulongoski's signature in June of 2007 – and another step in the ongoing effort to bring FAIRNESS to Oregon's annexation procedures was completed.