

A RESOLUTION AND ORDER OF THE NORTHWEST REGIONAL EDUCATION SERVICE DISTRICT BOARD OF DIRECTORS ACTING AS THE BOUNDARY BOARD FOR WASHINGTON, TILLAMOOK, CLATSOP, AND COLUMBIA COUNTIES, VACATING AND REPEALING ITS FEBRUARY 17, 2010, BOUNDARY CHANGE ORDER AND ITS MARCH 10, 2010, REMONSTRANCE RESOLUTION

WHEREAS, the Northwest Regional Education Service District is the duly authorized Boundary Board (“Boundary Board”) for school districts in Washington, Tillamook, Clatsop, and Columbia Counties pursuant to ORS 330.080(1); and

WHEREAS, Beaverton School District and Hillsboro School District are within the jurisdiction of the Boundary Board under ORS 330.080(1); and

WHEREAS, a petition for a boundary change transferring territory from the Hillsboro School District to the Beaverton School District was submitted to the Boundary Board by electors of the districts as certified by Washington County Elections; and

WHEREAS, the Boundary Board held a duly noticed meeting on Wednesday, February 17, 2010, at which the Board adopted an order approving the boundary change, as required by ORS 330.101; and

WHEREAS, the Boundary Board’s February 17, 2010, order provided that the boundary change would not go into effect if a valid remonstrance petition as provided in ORS 330.101(1) and (2) was filed within twenty days of the date of the order (“Boundary Change Order”); and

WHEREAS, a remonstrance petition objecting to the boundary change was filed signed by the required number of electors from the Hillsboro School District, as certified by Washington County Elections, within the twenty-day deadline for filing;

WHEREAS, the Boundary Board held a duly noticed meeting on Wednesday, March 10, 2010, and adopted the resolution approving the remonstrance petition and referring the proposed boundary change to the voters of the Hillsboro School District at the May 18, 2010, Primary, as required by ORS 330.101(2) (“Remonstrance Resolution”); and

WHEREAS, a lawsuit was filed on March 10, 2010, by the chief petitioner for the proposed boundary change against Washington County and the Boundary Board alleging that the County Elections Officer should not have certified the signatures on the remonstrance petition because the chief petitioner failed to file the prospective petition with Washington County Elections as required by ORS 332.118(4), and arguing that therefore the remonstrance petition is void and not timely filed and requesting that the court order the Boundary Board to approve the boundary change; and

WHEREAS, Boundary Board staff subsequently learned that the County Election Officer did not require or receive a prospective petition from either the chief petitioner for the boundary change or the chief petitioner for the remonstrance because she believed her only role under the statute

was to certify the signatures, and she has confirmed that she has received no prospective petitions from either party in a memorandum dated March 17, 2010 to County Counsel Brad Anderson and provided to the Boundary Board; and

WHEREAS, the chief petitioner for the boundary change requested the Oregon Secretary of State, in her capacity as Chief Elections Officer under ORS 246.110, to intervene in the matter; and

WHEREAS, the parties have received and provided to the Boundary Board an e-mail communication dated March 18, 2010, from Stephen Trout, Director of Elections for the Secretary of State, stating that ORS 332.118(4) requires the filing of a prospective petition with the County Elections Office before signatures can be collected, and the Boundary Board's legal counsel concurs with this interpretation of the statute; and

WHEREAS, the Boundary Board finds that it has limited discretion under ORS 330.080 to ORS 330.133; if the Boundary Board receives a valid boundary petition from electors it must order the boundary change; if the Boundary Board receives a valid remonstrance petition from the electors of an affected district, it must refer the boundary change to the voters of that district; in the absence of valid petitions, however, the Boundary Board has no jurisdiction or authority to adjust the boundaries of school districts or refer a boundary change to the voters at the request of citizens; and

WHEREAS, the Boundary Board's approval of the Boundary Change Order and the Remonstrance Resolution were based on the certification of the petitions by the County Elections Office; and

WHEREAS, the Boundary Board finds that both the petition for the boundary change and the remonstrance petition were invalid because the prospective petitions were not filed with Washington County Elections prior to gathering signatures as required by ORS 332.118(4); and

WHEREAS, the Boundary Board finds that it has no authority under ORS 330.080 to ORS 303.133 to approve a boundary change or a remonstrance election at the request of electors except pursuant to a valid petition filed in compliance with the law, and that therefore both its Boundary Change Order and its Remonstrance Resolution should not have been approved and should be vacated and repealed; and

WHEREAS, the Director of Elections indicates in his March 18, 2010, e-mail communication to the parties that this would be a satisfactory resolution to the dispute from the Secretary of State's perspective.

NOW, THEREFORE, THE BOUNDARY BOARD ORDERS: The Boundary Board's February 17, 2010, order approving the boundary change between the Hillsboro and Beaverton School Districts is hereby vacated and repealed.

BE IT RESOLVED: The Boundary Board's March 10, 2010, resolution approving the remonstrance petition and referring the proposed boundary change between the Hillsboro and

Beaverton School Districts to the voters of the Hillsboro School District is hereby vacated and repealed.

DONE AND DATED THIS _____ DAY OF _____, 2010.

NORTHWEST REGIONAL EDUCATION SERVICE DISTRICT BOARD OF DIRECTORS
AS THE BOUNDARY BOARD FOR WASHINGTON, TILLAMOOK, CLATSOP, AND
COLUMBIA COUNTIES

Boundary Board Chair /Vice-Chair

Superintendent-Clerk