

Enrolled
Senate Bill 812

Sponsored by Senator AVAKIAN

CHAPTER

AN ACT

Relating to people’s utility districts; creating new provisions; and amending ORS 261.010, 261.030, 261.050, 261.235, 261.250, 261.253, 261.305, 261.335, 261.348, 261.355, 262.005, 262.015, 262.075, 285C.050 and 288.805.

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

SECTION 1. ORS 261.010 is amended to read:

261.010. As used in this chapter, unless otherwise required by the context:

(1) “Affected territory” means that territory proposed to be formed into, annexed to or consolidated with a district.

(2) “Board of directors,” “directors” or “board” means the governing body of a people’s utility district, elected and functioning under the provisions of this chapter.

(3) “County governing body” means either the county court or board of county commissioners and, if the affected territory is composed of portions of two or more counties, the governing body of that county having the greatest portion of the assessed value of all taxable property within the affected territory, as shown by the most recent assessment roll of the counties.

(4) “Electors’ petition” means a petition addressed to the county governing body and filed with the county clerk, containing the signatures of electors registered in the affected territory, equal to not less than three percent of the total number of votes cast for all candidates for Governor within the affected territory at the most recent election at which a candidate for Governor was elected to a full term, setting forth and particularly describing the boundaries of the parcel of territory, separate parcels of territory, city and district, or any of them, referred to therein, and requesting the county governing body to call an election to be held within the boundaries of the parcel of territory, separate parcels of territory, city and district, or any of them, for the formation of a district, the annexation of a parcel of territory or a city to a district, or the consolidation of two or more districts.

(5) “Electric cooperative” means a cooperative corporation owning and operating an electric distribution system.

(6) “Initial utility system” means a complete operating utility system, including energy efficiency measures and installations within the district or proposed district, capable of supplying the consumers required to be served by the district at the time of acquisition or construction with all of their existing water or electrical energy needs.

(7) “Parcel of territory” means a portion of unincorporated territory, or an area in a city comprised of less than the entire city.

(8) “People’s utility district” or “district” means an incorporated people’s utility district, created under the provisions of this chapter.

(9) "Replacement value of unreimbursed investment" means original cost new less depreciation of capitalized energy efficiency measures and installations in the premises of customers of an investor owned utility.

(10) "Separate parcel of territory" means unincorporated territory that is not contiguous to other territory that is a part of a district or that is described in a petition filed with the county clerk in pursuance of the provisions of this chapter, but when a proposed district includes territory in more than one county, the contiguous territory in each such county shall be considered as a separate parcel of territory. When a proposed district includes any area in a city comprised of less than the entire city, that area shall be considered as a separate parcel of territory.

(11) "Utility" means a plant, works or other property used for development, generation, storage, distribution or transmission of [*electric energy produced from resources including, but not limited to, hydroelectric, pump storage, wave, tidal, wind, solid waste, wood, straw or other fiber, coal or other thermal generation, geothermal or solar resources*] **electricity**, or development or transmission of water for domestic or municipal purposes, [*waterpower or electric energy,*] but transmission of water shall not include water for irrigation or reclamation purposes, except as secondary to and when used in conjunction with a hydroelectric plant.

SECTION 2. ORS 261.030 is amended to read:

261.030. Nothing contained in this chapter authorizes or empowers the board of directors of any people's utility district to interfere with or exercise any control over any existing utility owned and operated by any electric cooperative or city in the district unless by consent of the governing body of the electric cooperative or of the city council or the governing body of the plant owned by a city, when the control of the plant is vested in a governing body other than the city council or governing body of the city. However a district may participate fully, **on a mutually agreed basis**, with electric cooperatives and utilities owned by cities **in common facilities under ORS 261.235 to 261.255 and** in the formation and operation of joint operating agencies [*for electric power*] under ORS chapter 262.

SECTION 3. ORS 261.050 is amended to read:

261.050. (1) All property, real and personal, owned, used, operated or controlled by any people's utility district, in or for the production, transmission, distribution or furnishing of [*electric power or energy*] **electricity** or electric service for or to the public, shall be assessed and taxed in the same manner and for the same purposes, and the district and the directors and officers thereof shall be subject to the same requirements, as are provided by law in respect to assessment and taxation of similar property owned, used, operated or controlled by private corporations or individuals for the purpose of furnishing [*electric power or energy*] **electricity** or electric service to the public.

(2) If a people's utility district owns property jointly with a tax-exempt governmental or municipal entity, only the portion of the property used, operated or controlled by the people's utility district shall be assessed and taxed pursuant to subsection (1) of this section.

SECTION 3a. If Senate Bill 838 becomes law, section 3 of this 2007 Act (amending ORS 261.050) is repealed and ORS 261.050, as amended by section 32, chapter 301, Oregon Laws 2007 (Enrolled Senate Bill 838), is amended to read:

261.050. (1) All property, real and personal, owned, used, operated or controlled by any people's utility district, in or for the production, transmission, distribution or furnishing of electricity or electric service for or to the public, shall be assessed and taxed in the same manner and for the same purposes, and the district and the directors and officers thereof shall be subject to the same requirements, as are provided by law in respect to assessment and taxation of similar property owned, used, operated or controlled by private corporations or individuals for the purpose of furnishing electricity or electric service to the public.

[(2) If a people's utility district owns property jointly with a tax-exempt governmental or municipal entity, only that portion of the property, or that proportion of the property rights, directly owned, used, operated or controlled by the people's utility district shall be assessed and taxed pursuant to subsection (1) of this section.]

(2) If a people's utility district owns property jointly with a tax-exempt governmental or municipal entity, only the portion of the property used, operated or controlled by the people's utility district shall be assessed and taxed pursuant to subsection (1) of this section.

SECTION 4. ORS 261.235 is amended to read:

261.235. As used in ORS 261.235 to 261.255, unless the context requires otherwise:

(1) "City" means a city organized under the law of California, Idaho, Montana, Nevada, Oregon or Washington and owning and operating an electric light and power system.

(2) "Common facilities" means any [*works and facilities necessary or incidental to*] **property used for the generation, transmission, distribution or marketing of [*electric power*] electricity and related goods and [*commodities*] services that are owned or operated jointly by a people's utility district organized under this chapter and at least one other city, district, electric cooperative or person.**

(3) "District" means a people's utility district organized under this chapter or a similar public utility district organized under the law of California, Idaho, Montana, Nevada or Washington.

(4) "Electric cooperative" means a cooperative corporation organized under the law of California, Idaho, Montana, Nevada, Oregon or Washington and owning and operating an electric distribution system.

SECTION 4a. If Senate Bill 838 becomes law, section 4 of this 2007 Act (amending ORS 261.235) is repealed and ORS 261.235, as amended by section 33, chapter 301, Oregon Laws 2007 (Enrolled Senate Bill 838), is amended to read:

261.235. As used in ORS 261.235 to 261.255, unless the context requires otherwise:

(1) "City" means a city organized under the law of California, Idaho, Montana, Nevada, Oregon or Washington and owning and operating an electric light and power system.

(2) "Common facilities" means any property used for the generation, transmission, distribution or marketing of electricity and related goods and services that are owned or operated jointly by a people's utility district organized under this chapter and at least one other city, district, [*or*] electric cooperative **or person.**

(3) "District" means a people's utility district organized under this chapter or a similar public utility district organized under the law of California, Idaho, Montana, Nevada or Washington.

(4) "Electric cooperative" means a cooperative corporation organized under the law of California, Idaho, Montana, Nevada, Oregon or Washington and owning and operating an electric distribution system.

SECTION 5. Section 6 of this 2007 Act is added to and made a part of ORS 261.235 to 261.255.

SECTION 6. A people's utility district may become a member of an electric cooperative, or of a limited liability company, for the purposes of planning, financing, constructing, acquiring, operating, owning or maintaining property used for the generation and associated transmission of electricity within or outside this state. A district may not become a stockholder in, or lend the credit of the district to, an electric cooperative or a limited liability company. If a district becomes a member of an electric cooperative or of a limited liability company, the district may not exercise the power of eminent domain for the benefit of the electric cooperative or limited liability company.

SECTION 7. ORS 261.250 is amended to read:

261.250. (1) In carrying out the powers granted in ORS 261.245 **and section 6 of this 2007 Act**, a district of this state [*shall be*] **is** liable only for its own acts with regard to the planning, financing, construction, acquisition, operation, ownership or maintenance of common facilities. No moneys or other contributions supplied by a district of this state for the planning, financing, construction, acquisition, operation or maintenance of common facilities shall be credited or applied otherwise to the account of any other participant in the common facilities.

(2) A district shall not exercise its power of eminent domain to acquire a then existing thermal power plant or any part thereof.

SECTION 8. ORS 261.253 is amended to read:

261.253. (1) [No] A public contract entered into by a noninvestor-owned electric utility [shall] **may not** contain a clause or condition that imposes an unconditional and unlimited financial obligation on the electric utility that is party to the contract unless the terms and conditions of the contract are subject to approval and are approved by the electors of the people's utility district or city that owns the electric utility.

(2) Nothing in subsection (1) of this section is intended to affect provisions of law requiring approval of electors for any particular type of public contract that are in effect on October 15, 1983, or that are later enacted.

(3) Nothing in subsection (1) of this section is intended to conflict with ORS 279C.650 to 279C.670.

(4) This section does not apply to a public contract executed in connection with the acquisition of renewable energy certificates or the acquisition, construction, improvement or equipping of, or the financing of any interest in, a renewable energy facility or electrical capacity.

[4] (5) As used in this section:

(a) "Public contract" includes a contract, note, general obligation bond or revenue bond by which the people's utility district or city or any subdivision of any of them is obligated to pay for or finance the acquisition of goods, services, materials, real property or any interest therein, improvement, betterments or additions from any funds, including receipts from rates or charges assessed to or collected from its customers.

(b) "Unconditional and unlimited financial obligation" means a public contract containing a provision that the people's utility district or city that is party to the contract is obligated to make payments required by the contract whether or not the project to be undertaken thereunder is undertaken, completed, operable or operating notwithstanding the suspension, interruption, interference, reduction or curtailment of the output or product of the project.

SECTION 8a. If Senate Bill 838 becomes law, section 8 of this 2007 Act (amending ORS 261.253) is repealed.

SECTION 9. ORS 261.305 is amended to read:

261.305. People's utility districts shall have power:

(1) To have perpetual succession.

(2) To adopt a seal and alter it at pleasure.

(3) To sue and be sued, to plead and be impleaded.

(4) To acquire and hold, including by lease-purchase agreement, real and other property necessary or incident to the business of the districts, within or without, or partly within or partly without, the district, and to sell or dispose of that property; to acquire, develop and otherwise provide for a supply of water for domestic and municipal purposes, waterpower and electric energy, or electric energy generated from any utility, and to distribute, sell and otherwise dispose of water, waterpower and electric energy, within or without the territory of such districts.

(5) To acquire, own, trade, sell or otherwise transfer renewable energy certificates.

[5] (6) To exercise the power of eminent domain for the purpose of acquiring any property, within or without the district, necessary for the carrying out of the provisions of this chapter.

[6] (7) To borrow money and incur indebtedness; to issue, sell and assume evidences of indebtedness; to refund and retire any indebtedness that may exist against or be assumed by the district or that may exist against the revenues of the district [and]; to pledge any part of its revenues; **and to obtain letters of credit or similar financial instruments from banks or other financial institutions.** Except as provided in ORS 261.355 and 261.380, no revenue or general obligation bonds shall be issued or sold without the approval of the electors. The board of directors may borrow from banks or other financial institutions[, *on notes payable within 12 months,*] such sums as the board of directors deems necessary or advisable; *however, the amounts so borrowed, together with the principal amounts of other like borrowings then outstanding and unpaid, shall not exceed the amount that the board of directors estimates as the district's net income (determined in accordance with the system of accounts maintained by the board pursuant to ORS 261.470) for the 12 full*

calendar months following the date of the proposed borrowing, adjusted by adding to the net income an amount equal to the estimated charges to depreciation for the 12-month period]. No indebtedness shall be incurred or assumed except [on account of] **for the development, purchase and operation of [a utility] electric utility facilities or for the purchase of electricity, electrical capacity or renewable energy certificates.**

[(7) To enter into rental or lease-purchase agreements to rent, lease or acquire real or personal property, or both, required for district purposes. Except when approved by a majority of the electors of the district voting on the question, a people's utility district shall not enter into rental or leasing agreements when the annual aggregate amount of payment for any and all property directly related to a single transaction exceeds 10 percent of the revenues of the district in the preceding fiscal year.]

(8) To exercise the powers otherwise granted to districts by ORS 271.390.

[(8)] **(9)** To levy and collect, or cause to be levied and collected, subject to constitutional limitations, taxes for the purpose of carrying on the operations and paying the obligations of the district as provided in this chapter.

[(9)] **(10)** To make contracts, to employ labor and professional staff, to set wages in conformance with ORS 261.345, to set salaries and provide compensation for services rendered by employees and by directors, to provide for life insurance, hospitalization, disability, health and welfare and retirement plans for employees, and to do all things necessary and convenient for full exercise of the powers herein granted. The provision for life insurance, hospitalization, disability, health and welfare and retirement plans for employees shall be in addition to any other authority of people's utility districts to participate in those plans and shall not repeal or modify any statutes except those that may be in conflict with the provision for life insurance, hospitalization, disability, health and welfare and retirement plans.

[(10)] **(11)** To enter into contracts with **any person, any public or private corporation**, the United States Government, [with] the State of Oregon, or with any other state, municipality or utility district, and with any department of any of these, for carrying out any provisions of this chapter.

[(11)] **(12)** To enter into agreements with the State of Oregon or with any local governmental unit, utility, special district or private or public corporation for the purpose of promoting economic growth and the expansion or addition of business and industry within the territory of the people's utility district. Before spending district funds under such an agreement, the board of directors shall enter on the written records of the district a brief statement that clearly indicates the purpose and amount of any proposed expenditure under the agreement.

[(12)] **(13)** To fix, maintain and collect rates and charges for any water, waterpower, [electric energy] **electricity** or other commodity or service furnished, developed or sold by the district.

[(13)] **(14)** To construct works across or along any street or public highway, or over any lands which are property of this state, or any subdivision thereof, and to have the same rights and privileges appertaining thereto as have been or may be granted to cities within the state, and to construct its works across and along any stream of water or watercourse. Any works across or along any state highway shall be constructed only with the permission of the Department of Transportation. Any works across or along any county highway shall be constructed only with the permission of the appropriate county court. Any works across or along any city street shall be constructed only with the permission of the city governing body and upon compliance with applicable city regulations and payment of any fees called for under applicable franchise agreements, intergovernmental agreements under ORS chapter 190 or contracts providing for payment of such fees. The district shall restore any such street or highway to its former state as near as may be, and shall not use the same in a manner unnecessarily to impair its usefulness.

[(14)] **(15)** To elect a board of five directors to manage its affairs.

[(15)] **(16)** To enter into franchise agreements with cities and pay fees under negotiated franchise agreements, intergovernmental agreements under ORS chapter 190 and contracts providing for the payment of such fees.

[(16)] (17) To take any other actions necessary or convenient for the proper exercise of the powers granted to a district by this chapter and by section 12, Article XI of the Oregon Constitution.

SECTION 10. ORS 261.335 is amended to read:

261.335. (1) **Except as otherwise provided in subsection (2) of this section,** people's utility districts are subject to the public contracting and purchasing requirements of ORS 279.835 to 279.855, 279C.005, 279C.100 to 279C.125 and 279C.300 to 279C.470 and ORS chapters 279A and 279B, except ORS 279A.140 and 279A.250 to 279A.290.

(2) **The public contracting and purchasing requirements of ORS 279.835 to 279.855, 279C.005, 279C.100 to 279C.125 and 279C.300 to 279C.470 and ORS chapters 279A and 279B do not apply to contracts entered into by districts for the acquisition, construction, improvement or equipping of a renewable energy facility or for the purchase or sale of electricity, electrical capacity or renewable energy certificates.**

SECTION 11. ORS 261.348 is amended to read:

261.348. (1) Notwithstanding any other law, people's utility districts and municipal electric utilities may enter into transactions with other persons or entities for the production, supply or delivery of electricity on an economic, dependable and cost-effective basis, including financial products contracts and other service contracts that reduce the risk of economic losses in the transactions. This [section] **subsection** does not authorize any transaction that:

[(1)] (a) Constitutes the investment of surplus funds for the purpose of receiving interest or other earnings from the investment; or

[(2)] (b) Is intended or useful for any purpose other than the production, supply or delivery of electricity on a cost-effective basis.

(2) **Nothing in subsection (1) of this section prohibits a people's utility district or a municipal electric utility from entering into any transaction for the acquisition, construction, improvement or equipping of a renewable energy facility or for the purchase or sale of electricity, electrical capacity or renewable energy certificates.**

SECTION 12. ORS 261.355 is amended to read:

261.355. (1) For the purpose of carrying into effect the powers granted in this chapter, any district may issue and sell revenue bonds, when authorized by a majority of its electors voting at any primary election, general election or special election.

(2) All revenue bonds issued and sold under this chapter shall be so conditioned as to be paid solely from that portion of the revenues derived [from] **by** the district [by] **from** the sale of water, waterpower and [electric energy] **electricity**, or any of them, or any other service, commodity or facility which may be produced, used or furnished in connection therewith, remaining after paying from those revenues all expenses of operation and maintenance, including taxes.

(3) Notwithstanding subsection (1) of this section and subject to subsection (4) of this section, any district may, by a duly adopted resolution of its board, issue and sell revenue bonds for the purpose of **financing** betterments and extensions [within the existing boundaries] of the district, **including renewable energy facilities or the purchase or sale of electricity, electrical capacity or renewable energy certificates**, but the amount of **revenue bonds** so issued shall be limited to the reasonable value of the betterments and extensions plus an amount not to exceed 10 percent thereof for administrative purposes. Revenue bonds shall not be issued and sold for the purpose of acquiring an initial utility system or acquiring property or facilities owned by another entity that provides electric utility service **unless:**

(a) **The acquisition is a voluntary transaction between the district and the other entity that provides electric utility service; or**

(b) [without first obtaining the affirmative vote of] The electors within the district **have approved issuance of the bonds by a vote.**

(4) Not later than the 30th day prior to a board meeting at which adoption of a resolution under subsection (3) of this section will be considered, the district shall:

(a) Provide for and give public notice, reasonably calculated to give actual notice to interested persons including news media which have requested notice, of the time and place of the meeting and of the intent of the board to consider and possibly adopt the resolution; and

(b) Mail to its customers notice of the time and place of the meeting and of the intent of the board to consider and possibly adopt the resolution.

(5) **Except as otherwise provided in this section**, any authorizing resolution adopted for the purposes of subsection (3) of this section shall provide that electors residing within the district may file a petition with the district asking to have the question of whether to issue such bonds referred to a vote.

(6) If within 60 days after adoption of a resolution under subsection (3) of this section the district receives petitions containing valid signatures of not fewer than five percent of the electors of the district, the question of issuing the bonds shall be placed on the ballot at the next date on which a district election may be held under ORS 255.345 (1).

(7) When petitions containing the number of signatures required under subsection (6) of this section are filed with the district within 60 days after adoption of a resolution under subsection (3) of this section, revenue bonds shall not be sold until the resolution is approved by a majority of the electors of the district voting on the resolution.

(8) Any district issuing revenue bonds may pledge that part of the revenue which the district may derive from its operations as security for payment of principal and interest thereon remaining after payment from such revenues of all expenses of operation and maintenance, including taxes, and consistent with the other provisions of this chapter.

(9) Prior to any district board taking formal action to issue and sell any revenue bonds **under this section**, the board shall have on file with the secretary of the district a certificate executed by a qualified engineer that the net annual revenues of the district, including the property to be acquired or constructed with the proceeds of the bonds, shall be sufficient to pay the maximum amount that will be due in any one fiscal year for both principal of and interest on both the bonds then proposed to be issued and all bonds of the district then outstanding.

(10) **Except as otherwise provided in this section**, the district shall order an election for the authorization of revenue bonds to finance the acquisition or construction of an initial utility system, including the replacement value of the unreimbursed investment of an investor owned utility in energy efficiency measures and installations within the proposed district, as early as practicable under ORS 255.345 after filing the certificate required under subsection (9) of this section. An election [*under this subsection*] **for the authorization of revenue bonds to finance the acquisition or construction of an initial utility system** shall be held no more than twice in any one calendar year for any district. In even-numbered years no election shall be held on any other date than the date of the primary election or general election.

(11) **A district may issue revenue bonds under ORS 288.805 to 288.945 without an election authorizing the issuance, except that revenue bonds shall not be issued under ORS 288.805 to 288.945 for the purpose of acquiring an initial utility system or acquiring property or facilities owned by another entity that provides electric utility service unless:**

(a) **The acquisition is a voluntary transaction between the district and the other entity that provides electric utility service; or**

(b) **The electors within the district have approved issuance of the bonds by a vote.**

SECTION 12a. If Senate Bill 838 becomes law, section 12 of this 2007 Act (amending ORS 261.355) is repealed and ORS 261.355, as amended by section 41, chapter 301, Oregon Laws 2007 (Enrolled Senate Bill 838), is amended to read:

261.355. (1) For the purpose of carrying into effect the powers granted in this chapter, any district may issue and sell revenue bonds, when authorized by a majority of its electors voting at any primary election, general election or special election.

(2) All revenue bonds issued and sold under this chapter shall be so conditioned as to be paid solely from that portion of the revenues derived by the district from the sale of water, waterpower and electricity, or any of them, or any other service, commodity or facility which may be produced,

used or furnished in connection therewith, remaining after paying from those revenues all expenses of operation and maintenance, including taxes.

(3) Notwithstanding subsection (1) of this section and subject to subsection (4) of this section, any district may, by a duly adopted resolution of its board, issue and sell revenue bonds for the purpose of financing betterments and extensions of the district, including renewable energy facilities or the purchase or sale of electricity, electrical capacity or renewable energy certificates, but the amount of revenue bonds so issued shall be limited to the reasonable value of the betterments and extensions plus an amount not to exceed 10 percent thereof for administrative purposes. Revenue bonds shall not be issued and sold for the purpose of acquiring an initial utility system or acquiring property or facilities owned by another entity that provides electric utility service unless:

(a) The acquisition is a voluntary transaction between the district and the other entity that provides electric utility service; or

(b) The electors within the district have approved issuance of the bonds by a vote.

(4) Not later than the 30th day prior to a board meeting at which adoption of a resolution under subsection (3) of this section will be considered, the district shall:

(a) Provide for and give public notice, reasonably calculated to give actual notice to interested persons including news media which have requested notice, of the time and place of the meeting and of the intent of the board to consider and possibly adopt the resolution; and

(b) Mail to its customers notice of the time and place of the meeting and of the intent of the board to consider and possibly adopt the resolution.

(5) Except as **otherwise** provided in [*subsection (3)(a) of*] this section, any authorizing resolution adopted for the purposes of subsection (3) of this section shall provide that electors residing within the district may file a petition with the district asking to have the question of whether to issue such bonds referred to a vote.

(6) If within 60 days after adoption of a resolution under subsection (3) of this section the district receives petitions containing valid signatures of not fewer than five percent of the electors of the district, the question of issuing the bonds shall be placed on the ballot at the next date on which a district election may be held under ORS 255.345 (1).

(7) When petitions containing the number of signatures required under subsection (6) of this section are filed with the district within 60 days after adoption of a resolution under subsection (3) of this section, revenue bonds shall not be sold until the resolution is approved by a majority of the electors of the district voting on the resolution.

(8) Any district issuing revenue bonds may pledge that part of the revenue which the district may derive from its operations as security for payment of principal and interest thereon remaining after payment from such revenues of all expenses of operation and maintenance, including taxes, and consistent with the other provisions of this chapter.

(9) Prior to any district board taking formal action to issue and sell any revenue bonds **under this section**, the board shall have on file with the secretary of the district a certificate executed by a qualified engineer that the net annual revenues of the district, including the property to be acquired or constructed with the proceeds of the bonds, shall be sufficient to pay the maximum amount that will be due in any one fiscal year for both principal of and interest on both the bonds then proposed to be issued and all bonds of the district then outstanding.

(10) Except as **otherwise** provided in [*subsection (3)(a) of*] this section, the district shall order an election for the authorization of revenue bonds to finance the acquisition or construction of an initial utility system, including the replacement value of the unreimbursed investment of an investor owned utility in energy efficiency measures and installations within the proposed district, as early as practicable under ORS 255.345 after filing the certificate required under subsection (9) of this section. An election [*under this subsection*] **for the authorization of revenue bonds to finance the acquisition or construction of an initial utility system** shall be held no more than twice in any one calendar year for any district. In even-numbered years no election shall be held on any other date than the date of the primary election or general election.

(11) A district may issue revenue bonds under ORS 288.805 to 288.945 without an election authorizing the issuance, except that revenue bonds shall not be issued under ORS 288.805 to 288.945 for the purpose of acquiring an initial utility system or acquiring property or facilities owned by another entity that provides electric utility service unless:

(a) The acquisition is a voluntary transaction between the district and the other entity that provides electric utility service; or

(b) The electors within the district have approved issuance of the bonds by a vote.

SECTION 13. ORS 262.005 is amended to read:

262.005. As used in ORS 262.015 to 262.105, unless the context requires otherwise:

(1) "Electric cooperative" means a cooperative corporation owning and operating an electric distribution system.

(2) "Joint operating agency" means an agency organized by three or more cities or people's utility districts under the laws of this state for the purposes and according to ORS 262.005 to 262.105.

(3) "Privately owned electric utility company" means an electric utility operated for profit and subject to regulation by the Public Utility Commission of Oregon or the equivalent officer or commission of any other state.

(4) "Utility properties" means [*plants, systems and facilities, and any enlargement or extension thereof, used for or incidental to the generation and transmission of electric power and energy,*] **a plant, works or other property used for development, generation, storage, distribution or transmission of electricity.** [*provided, however, that it shall not mean*] "Utility properties" does not include facilities for uranium refining, processing or reprocessing.

SECTION 14. ORS 262.015 is amended to read:

262.015. (1) Any three or more cities or people's utility districts or combinations thereof, organized under the laws of this state, may form a joint operating agency to plan, acquire, construct, own, operate and otherwise promote the development of utility properties [*in this state*] for the generation, [*and*] transmission **and marketing** of [*electric power and energy*] **electricity, electrical capacity or renewable energy certificates.**

(2) A joint operating agency may participate with other publicly owned utilities, including other joint operating agencies, or with electric cooperatives, or with privately owned electric utility companies, or with any combination thereof, for any purpose set forth in subsection (1) of this section, whether such agencies or utilities are organized or incorporated under the laws of this state or any other jurisdiction. However, no joint operating agency may act alone or as the managing participant to acquire, construct, own or operate utility properties[, *nor may a joint operating agency own more than 50 percent of any utility property, except combustion turbines*].

(3) Joint operating agencies, cities, people's utility districts and privately owned utilities, or combinations thereof, may participate in joint ownership of [*thermal generation and transmission*] **common** facilities in accordance with ORS 225.450 to 225.490 or 261.235 to 261.255.

SECTION 15. ORS 262.075 is amended to read:

262.075. (1) Each joint operating agency shall be a political subdivision of the State of Oregon, and shall be a municipal corporation with the right to sue and be sued in its own name. Except as otherwise provided, a joint operating agency shall have all the powers, rights, privileges and exemptions conferred on people's utility districts.

(2) A joint operating agency shall have the power to acquire, hold, sell and dispose of real and other property, within or without this state, which the board of directors in its discretion finds reasonably necessary or incident to the generation, [*and*] transmission **and marketing** of [*electric power and energy*] **electricity, electrical capacity or renewable energy certificates.** However, such an agency shall not acquire or operate any facilities for the distribution of [*electric energy*] **electricity.**

(3) A joint operating agency shall have the power of eminent domain which it may exercise for the purpose of acquiring property; however, a joint operating agency shall not condemn any properties owned by a publicly or privately owned utility which are being used for the generation or

transmission of [*electric energy or power*] **electricity** or are being developed for such purposes with due diligence, except to acquire a right of way to cross such properties in a manner which will not interfere with the use thereof by the owner.

(4) A joint operating agency shall have the power to enter into contracts, leases and other undertakings considered necessary or proper by its board, including but not limited to contracts for any term relating to the purchase, sale, interchange, assignment, allocation, transfer or wheeling of power with the Government of the United States, or any agency thereof, and with any other municipal corporation or privately owned utility, or any combination thereof, within or without the state, and may purchase, deliver or receive power anywhere.

(5) A joint operating agency shall have the power to borrow money and incur indebtedness, to issue, sell and assume evidences of indebtedness, to refund and retire any indebtedness that may exist against the agency or its revenues, and to pledge any part of its revenues. A joint operating agency may borrow from banks or other financial institutions such sums on such terms as the board considers necessary or advisable. A joint operating agency may also issue, sell and assume bond anticipation notes, refunding bond anticipation notes, or their equivalent, which shall bear such date or dates, mature at such time or times, be in such denominations and in such form, be payable in such medium, at such place or places, and be subject to such terms of redemption, as the board considers necessary or advisable. The issuance and sale of revenue obligations by a joint operating agency shall be governed by ORS 262.085.

(6) The joint operating agency may apply for, accept, receive and expend appropriations, grants, loans, gifts, bequests and devises in carrying out its functions as provided by law.

SECTION 16. ORS 285C.050 is amended to read:

285C.050. As used in ORS 285C.050 to 285C.250, unless the context requires otherwise:

(1) "Assessment date" and "assessment year" have the meanings given those terms in ORS 308.007.

(2) "Authorized business firm" means an eligible business firm that has been authorized under ORS 285C.140.

(3) "Business firm" means a person operating or conducting one or more trades or businesses, **a people's utility district organized under ORS chapter 261 or a joint operating agency formed under ORS chapter 262**, but does not include any **other** governmental agency, municipal corporation or nonprofit corporation.

(4) "County average annual wage" means:

(a) The most recently available average annual covered payroll for the county in which the enterprise zone is located, as determined by the Employment Department; or

(b) If the enterprise zone is located in more than one county, the highest county average annual wage as determined under paragraph (a) of this subsection.

(5) "Electronic commerce" means engaging in commercial or retail transactions predominantly over the Internet or a computer network, utilizing the Internet as a platform for transacting business, or facilitating the use of the Internet by other persons for business transactions, and may be further defined by the Economic and Community Development Department by rule.

(6) "Eligible business firm" means a firm engaged in an activity described under ORS 285C.135 that may file an application for authorization under ORS 285C.140.

(7) "Employee" means a person who works more than 32 hours per week, but does not include a person with a temporary or seasonal job or a person hired solely to construct qualified property.

(8) "Enterprise zone" means one of the 30 areas designated or terminated and redesignated by order of the Governor under ORS 284.160 (1987 Replacement Part) before October 3, 1989, one of the areas designated by the Director of the Economic and Community Development Department under ORS 285C.080, a federal enterprise zone area designated under ORS 285C.085, an area designated under ORS 285C.250 or a reservation enterprise zone designated under ORS 285C.306.

(9) "Federal enterprise zone" means any discrete area wholly or partially within this state that is designated as an empowerment zone, an enterprise community, a renewal community or some similar designation for purposes of improving the economic and community development of the area.

(10) "First-source hiring agreement" means an agreement between an authorized business firm and a publicly funded job training provider whereby the provider refers qualified candidates to the firm for new jobs and job openings in the firm.

(11) "In service" means being used or occupied or fully ready for use or occupancy for commercial purposes consistent with the intended operations of the business firm as described in the application for authorization.

(12) "Modification" means modernization, renovation or remodeling of an existing building, structure or real property machinery or equipment.

(13) "New employees hired by the firm":

(a) Includes only those employees of an authorized business firm engaged for a majority of their time in eligible operations.

(b) Does not include individuals employed in a job or position that:

(A) Is created and first filled after December 31 of the first tax year in which qualified property of the firm is exempt under ORS 285C.175;

(B) Existed prior to the submission of the relevant application for authorization; or

(C) Is performed primarily at a location outside of the enterprise zone.

(14) "Publicly funded job training provider" includes but is not limited to a community college, a service provider under the federal Workforce Investment Act Title I-B (29 U.S.C. 2801 et seq.), or a similar program.

(15) "Qualified business firm" means a business firm described in ORS 285C.200, the qualified property of which is exempt from property tax under ORS 285C.175.

(16) "Qualified property" means property described under ORS 285C.180.

(17) "Rural enterprise zone" means:

(a) An enterprise zone located in an area of this state in which an urban enterprise zone could not be located; or

(b) A reservation enterprise zone designated under ORS 285C.306.

(18) "Sparsely populated county" means a county with a density of 100 or fewer persons per square mile, based on the most recently available population figure for the county from the Portland State University Center for Population Research and Census.

(19) "Sponsor" means:

(a) The city, county or port, or any combination of cities, counties or ports, that received approval of an enterprise zone under ORS 284.150 and 284.160 (1987 Replacement Part), under ORS 285C.065 and 285C.075, under ORS 285C.085 or under ORS 285C.250;

(b) The tribal government, in the case of a reservation enterprise zone; or

(c) A city, county or port that joined the enterprise zone through a boundary change under ORS 285C.115 (7) or a port that joined the enterprise zone under ORS 285C.068.

(20) "Tax year" has the meaning given that term in ORS 308.007.

(21) "Urban enterprise zone" means an enterprise zone in a metropolitan statistical area, as defined by the most recent federal decennial census, that is located inside a regional or metropolitan urban growth boundary.

(22) "Year" has the meaning given that term in ORS 308.007.

SECTION 17. ORS 288.805 is amended to read:

288.805. As used in ORS 288.805 to 288.945:

(1) "Credit enhancement device" means a letter of credit, line of credit, municipal bond insurance policy or other device or facility used to enhance the creditworthiness or marketability of municipal bonds.

(2) "Facilities" means real property, including land, streets and other improvements, betterments, appurtenances, structures and fixtures, and personal property which is functionally related and subordinate to real property.

(3) "Municipality" means the political subdivisions in or of this state, municipal, quasi-municipal and public corporations and intergovernmental entities organized under ORS chapter 190.

[“Municipality” does not include a people’s utility district organized under the authority of ORS chapter 261.]

(4) “Private negotiated sale” means the sale of revenue bonds for which the rate or rates and other terms and conditions are negotiated between the public body and the purchaser.

(5) “Public body” means the State of Oregon, its agencies, institutions or any municipality.

(6) “Revenue bonds” means bonds issued for any public purpose, which are secured by revenues either pledged or designated to be payable for such public purpose of the public body and which are sold under the authority granted by ORS 288.805 to 288.945. Nothing in ORS 288.805 to 288.945 is intended to permit a public body to impose fees and charges that are not otherwise authorized by law.

(7) “Revenues” means all fees, tolls, excise taxes, assessments, property taxes and all other taxes of whatever kind or nature, rates, charges, rentals and all other income and receipts of whatever kind or character derived by or to which a public body is entitled from the operation, sale or use of facilities, projects, utilities or systems owned or operated by the public body and other revenues legally available to be pledged to secure the revenue bonds or to be designated as revenues from which the revenue bonds shall be payable.

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Secretary of Senate

.....M.,....., 2007

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President of Senate

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Governor

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Speaker of House

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Secretary of State