

# Senate Bill 820

Sponsored by COMMITTEE ON FINANCE AND REVENUE

## SUMMARY

The following summary is not prepared by the sponsors of the measure and is not a part of the body thereof subject to consideration by the Legislative Assembly. It is an editor's brief statement of the essential features of the measure **as introduced**.

Modifies laws governing people's utility districts. Makes people's utility districts subject to Uniform Revenue Bond Act.

## A BILL FOR AN ACT

1  
2 Relating to people's utility districts; creating new provisions; and amending ORS 261.030, 261.050,  
3 261.235, 261.250, 261.305, 261.355, 262.015, 262.075, 285C.050 and 288.805.

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

5 **SECTION 1.** ORS 261.030 is amended to read:

6 261.030. Nothing contained in this chapter authorizes or empowers the board of directors of any  
7 people's utility district to interfere with or exercise any control over any existing utility owned and  
8 operated by any electric cooperative or city in the district unless by consent of the governing body  
9 of the electric cooperative or of the city council or the governing body of the plant owned by a city,  
10 when the control of the plant is vested in a governing body other than the city council or governing  
11 body of the city. However a district may participate fully with electric cooperatives and utilities  
12 owned by cities **in common facilities under ORS 261.235 to 261.255 and** in the formation and op-  
13 eration of joint operating agencies [*for electric power*] under ORS chapter 262.

14 **SECTION 2.** ORS 261.050 is amended to read:

15 261.050. (1) All property, real and personal, owned, used, operated or controlled by any people's  
16 utility district, in or for the production, transmission, distribution or furnishing of electric power  
17 or energy or electric service for or to the public, shall be assessed and taxed in the same manner  
18 and for the same purposes, and the district and the directors and officers thereof shall be subject  
19 to the same requirements, as are provided by law in respect to assessment and taxation of similar  
20 property owned, used, operated or controlled by private corporations or individuals for the purpose  
21 of furnishing electric power or energy or electric service to the public.

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

26 **SECTION 3.** ORS 261.235 is amended to read:

27 261.235. As used in ORS 261.235 to 261.255, unless the context requires otherwise:

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

30 (2) "Common facilities" means any [*works and facilities necessary or incidental to the generation,*  
31 *transmission, distribution or marketing of electric power and related goods and commodities*] **property**

**NOTE:** Matter in **boldfaced** type in an amended section is new; matter [*italic and bracketed*] is existing law to be omitted.  
New sections are in **boldfaced** type.

1 **that is owned or operated jointly by a people's utility district organized under this chapter**  
 2 **and at least one other city, district or electric cooperative.**

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

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

8 **SECTION 4. Section 5 of this 2007 Act is added to and made a part of ORS 261.235 to**  
 9 **261.255.**

10 **SECTION 5. A people's utility district may become a member of an electric cooperative,**  
 11 **or of a limited liability company, for the purposes of planning, financing, constructing, ac-**  
 12 **quiring, operating, owning or maintaining any utility within or outside this state. A district**  
 13 **may not become a stockholder in, or lend the credit of the district to, an electric cooperative**  
 14 **or a limited liability company.**

15 **SECTION 6.** ORS 261.250 is amended to read:

16 261.250. (1) In carrying out the powers granted in ORS 261.245 **and section 5 of this 2007**  
 17 **Act**, a district of this state [*shall be*] **is** liable only for its own acts with regard to the planning, fi-  
 18 nancing, construction, acquisition, operation, ownership or maintenance of common facilities. No  
 19 moneys or other contributions supplied by a district of this state for the planning, financing, con-  
 20 struction, acquisition, operation or maintenance of common facilities shall be credited or applied  
 21 otherwise to the account of any other participant in the common facilities.

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

24 **SECTION 7.** ORS 261.305 is amended to read:

25 261.305. People's utility districts shall have power:

26 (1) To have perpetual succession.

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

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

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

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

37 (6) To borrow money and incur indebtedness; to issue, sell and assume evidences of indebtedness;  
 38 to refund and retire any indebtedness that may exist against or be assumed by the district or that  
 39 may exist against the revenues of the district and to pledge any part of its revenues; **and to obtain**  
 40 **letters of credit or similar financial instruments from banks or other financial institutions.**

41 Except as provided in ORS 261.355 [*and*], 261.380 **and 288.805 to 288.945**, no revenue or general  
 42 obligation bonds shall be issued or sold without the approval of the electors. The board of directors  
 43 may borrow from banks or other financial institutions[, *on notes payable within 12 months,*] such  
 44 sums as the board of directors deems necessary or advisable; however, the amounts so borrowed,  
 45 together with the principal amounts of other like borrowings then outstanding and unpaid, shall not

1 exceed the amount that the board of directors estimates as the district's net income (determined in  
 2 accordance with the system of accounts maintained by the board pursuant to ORS 261.470) for the  
 3 [12 full calendar months following the date of the proposed borrowing] **term of the loan**, adjusted  
 4 by adding to the net income an amount equal to the estimated charges to depreciation for the  
 5 [12-month period] **term of the loan**. No indebtedness shall be incurred or assumed except [on ac-  
 6 count of] **for** the development, purchase and operation of a utility.

7 (7) [To enter into rental or lease-purchase agreements to rent, lease or acquire real or personal  
 8 property, or both, required for district purposes. Except when approved by a majority of the electors  
 9 of the district voting on the question, a people's utility district shall not enter into rental or leasing  
 10 agreements when the annual aggregate amount of payment for any and all property directly related to  
 11 a single transaction exceeds 10 percent of the revenues of the district in the preceding fiscal year.] **To**  
 12 **exercise the powers otherwise granted to districts by ORS 271.390.**

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

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

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

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

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

36 (13) To construct works across or along any street or public highway, or over any lands which  
 37 are property of this state, or any subdivision thereof, and to have the same rights and privileges  
 38 appertaining thereto as have been or may be granted to cities within the state, and to construct its  
 39 works across and along any stream of water or watercourse. Any works across or along any state  
 40 highway shall be constructed only with the permission of the Department of Transportation. Any  
 41 works across or along any county highway shall be constructed only with the permission of the  
 42 appropriate county court. Any works across or along any city street shall be constructed only with  
 43 the permission of the city governing body and upon compliance with applicable city regulations and  
 44 payment of any fees called for under applicable franchise agreements, intergovernmental agreements  
 45 under ORS chapter 190 or contracts providing for payment of such fees. The district shall restore

1 any such street or highway to its former state as near as may be, and shall not use the same in a  
 2 manner unnecessarily to impair its usefulness.

3 (14) To elect a board of five directors to manage its affairs.

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

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

9 **SECTION 8.** ORS 261.355 is amended to read:

10 261.355. (1) For the purpose of carrying into effect the powers granted in this chapter, any dis-  
 11 trict may issue and sell revenue bonds, when authorized by a majority of its electors voting at any  
 12 primary election, general election or special election.

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

18 (3) Notwithstanding subsection (1) of this section and subject to subsection (4) of this section,  
 19 any district may, by a duly adopted resolution of its board, issue and sell revenue bonds for the  
 20 purpose of **financing** betterments and extensions [*within the existing boundaries*] of the district, but  
 21 the amount **of revenue bonds** so issued shall be limited to the reasonable value of the betterments  
 22 and extensions plus an amount not to exceed 10 percent thereof for administrative purposes. Re-  
 23 venue bonds shall not be issued and sold for the purpose of acquiring an initial utility system or  
 24 acquiring property or facilities owned by another entity that provides electric utility service **unless:**

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

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

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

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

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

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

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

44 (7) When petitions containing the number of signatures required under subsection (6) of this  
 45 section are filed with the district within 60 days after adoption of a resolution under subsection (3)

1 of this section, revenue bonds shall not be sold until the resolution is approved by a majority of the  
2 electors of the district voting on the resolution.

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

7 (9) Prior to any district board taking formal action to issue and sell any revenue bonds, the  
8 board shall have on file with the secretary of the district a certificate executed by a qualified en-  
9 gineer that the net annual revenues of the district, including the property to be acquired or con-  
10 structed with the proceeds of the bonds, shall be sufficient to pay the maximum amount that will  
11 be due in any one fiscal year for both principal of and interest on both the bonds then proposed to  
12 be issued and all bonds of the district then outstanding.

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

21 **SECTION 9.** ORS 262.015 is amended to read:

22 262.015. (1) Any three or more cities or people's utility districts or combinations thereof, or-  
23 ganized under the laws of this state, may form a joint operating agency to plan, acquire, construct,  
24 own, operate and otherwise promote the development of utility properties in this state for the gen-  
25 eration [*and*], transmission **and marketing** of electric power and energy.

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

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

36 **SECTION 10.** ORS 262.075 is amended to read:

37 262.075. (1) Each joint operating agency shall be a political subdivision of the State of Oregon,  
38 and shall be a municipal corporation with the right to sue and be sued in its own name. Except  
39 as otherwise provided, a joint operating agency shall have all the powers, rights, privileges and ex-  
40 emptions conferred on people's utility districts.

41 (2) A joint operating agency shall have the power to acquire, hold, sell and dispose of real and  
42 other property, within or without this state, which the board of directors in its discretion finds  
43 reasonably necessary or incident to the generation, [*and*] transmission **and marketing** of electric  
44 power and energy. However, such an agency shall not acquire or operate any facilities for the dis-  
45 tribution of electric energy.

1 (3) A joint operating agency shall have the power of eminent domain which it may exercise for  
2 the purpose of acquiring property; however, a joint operating agency shall not condemn any prop-  
3 erties owned by a publicly or privately owned utility which are being used for the generation or  
4 transmission of electric energy or power or are being developed for such purposes with due dili-  
5 gence, except to acquire a right of way to cross such properties in a manner which will not interfere  
6 with the use thereof by the owner.

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

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

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

25 **SECTION 11.** ORS 285C.050 is amended to read:

26 285C.050. As used in ORS 285C.050 to 285C.250, unless the context requires otherwise:

27 (1) "Assessment date" and "assessment year" have the meanings given those terms in ORS  
28 308.007.

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

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

35 (4) "County average annual wage" means:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

33 (17) "Rural enterprise zone" means:

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

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

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

40 (19) "Sponsor" means:

41 (a) The city, county or port, or any combination of cities, counties or ports, that received ap-  
42 proval of an enterprise zone under ORS 284.150 and 284.160 (1987 Replacement Part), under ORS  
43 285C.065 and 285C.075, under ORS 285C.085 or under ORS 285C.250;

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

45 (c) A city, county or port that joined the enterprise zone through a boundary change under ORS

1 285C.115 (7) or a port that joined the enterprise zone under ORS 285C.068.

2 (20) “Tax year” has the meaning given that term in ORS 308.007.

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

6 (22) “Year” has the meaning given that term in ORS 308.007.

7 **SECTION 12.** ORS 288.805 is amended to read:

8 288.805. As used in ORS 288.805 to 288.945:

9 (1) “Credit enhancement device” means a letter of credit, line of credit, municipal bond insur-  
 10 ance policy or other device or facility used to enhance the creditworthiness or marketability of  
 11 municipal bonds.

12 (2) “Facilities” means real property, including land, streets and other improvements,  
 13 betterments, appurtenances, structures and fixtures, and personal property which is functionally re-  
 14 lated and subordinate to real property.

15 (3) “Municipality” means the political subdivisions in or of this state, municipal, quasi-municipal  
 16 and public corporations and intergovernmental entities organized under ORS chapter 190.  
 17 [*“Municipality” does not include a people’s utility district organized under the authority of ORS*  
 18 *chapter 261.*]

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

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

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

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

33