

# Enrolled House Bill 3254

Sponsored by Representative JENSON; Representative G SMITH (at the request of Dennis Doherty,  
Michael Roxbury)

CHAPTER .....

AN ACT

Relating to special districts; creating new provisions; amending ORS 174.116, 198.010, 198.310,  
198.510 and 255.012; and prescribing an effective date.

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

**SECTION 1. Definitions. As used in sections 1 to 18 of this 2009 Act:**

- (1) "County" means the county in which all or a portion of the district is located.
- (2) "County board" means county court or board of county commissioners of the county.
- (3) "District" means a radio and data district formed under sections 1 to 18 of this 2009 Act.

- (4) "District board" means the governing body of a district.

**SECTION 2. Application of election laws. (1) ORS chapter 255 governs the following:**

- (a) The nomination and election of the members of the district board of a radio and data district.
- (b) The conduct of all elections in the district.
- (2) The electors of a district may exercise the powers of the initiative and referendum regarding a district measure, in accordance with ORS 255.135 to 255.205.

**SECTION 3. Formation. (1) Ten or more residents of a county may petition the county board, or a county board by its own resolution may resolve, for the formation of a radio and data district within all or a portion of the county.**

(2) In the case of two or more contiguous counties, 10 or more residents of the contiguous area may petition the county boards of all counties within the contiguous area for the formation of a district or the county boards of all counties within the contiguous area may adopt the same resolution for the formation of a district within the contiguous area.

(3) In addition to other required matters, a petition or resolution for formation shall state the number of members to be on the district board and the method of election of the board of the proposed district from among the methods described in section 5 of this 2009 Act.

(4) The petition or resolution shall include a description of the proposed district, including district boundaries. If all or a portion of the members of a district board are to be elected by zone, the petition or resolution shall include a description of zone boundaries. If zones are proposed to be established within the district, the zones proposed to be established shall comply with section 9 of this 2009 Act.

**SECTION 4. Size of district board; qualifications.** (1) The governing body of a radio and data district shall be a board of three or five members, to be elected by the electors of the district, and an administrator, to be appointed by the district board.

(2) Every elector of a district is qualified to be a member of the district board.

**SECTION 5. Size of district board at formation; terms of office.** (1) The number of district board members to be elected in a radio and data district shall be three or five, according to the number set forth in the petition or resolution for formation. The terms of the first district board members shall be determined as provided in subsections (2) and (3) of this section.

(2) If a three-member district board is to be elected:

(a) The candidates receiving the highest and the second highest vote shall be elected to a term expiring June 30 next following the second regular district election.

(b) The candidate receiving the third highest vote shall be elected to a term expiring June 30 next following the first regular district election.

(3) If a five-member district board is to be elected:

(a) The candidates receiving the first, second and third highest vote shall be elected to a term expiring June 30 next following the second regular district election.

(b) The candidates receiving the fourth and fifth highest vote shall be elected to a term expiring June 30 next following the first regular district election.

**SECTION 6. Election of district board after formation; terms.** (1) At the regular district election of a radio and data district, successors to the district board members whose terms expire shall be elected as follows:

(a) In an unzoned district, if one board member is to be elected, the candidate receiving the highest vote shall be elected. If two or three board members are to be elected, the candidates receiving the first and second or first, second and third highest vote shall be elected.

(b) In a district that is zoned under section 9 of this 2009 Act:

(A) If a board member is to be elected by the electors of a zone, the candidate who receives the highest vote from the zone shall be elected.

(B) If a board member is to be elected by the electors of the entire district, the candidate receiving the highest vote among the candidates nominated from the same zone shall be elected.

(2) Except as provided in section 5 of this 2009 Act, the term of a district board member is four years.

**SECTION 7. Oath of office.** A district board member of a radio and data district shall take the oath of office within 10 days after receiving the certificate of election.

**SECTION 8. District board as governing body; president and administrator; meetings; vacancies.** (1) The district board of a radio and data district shall be the governing body of the district and shall exercise all powers of the district.

(2) At its first meeting or as soon thereafter as may be practicable, the district board shall choose one of its members as president and shall appoint an administrator who need not be a member of the board. In case of the absence, or inability to act, of the president or administrator, the district board shall, by order entered upon the minutes, choose a president pro tempore, or administrator pro tempore, or both, as the case may be.

(3) All contracts, deeds, warrants, releases, receipts and documents of every kind shall be signed in the name of the district by the district president and shall be countersigned by the district administrator.

(4) The district board shall hold such meetings, either in the day or evening, as may be necessary.

(5) The district board shall fill any vacancy on the board as provided in ORS 198.320.

**SECTION 9. Methods of election.** (1) The district board members of a radio and data district may be elected by one of the following methods or a combination thereof:

(a) Elected by the electors of zones that are as nearly equal in population as possible according to the latest federal census.

(b) Elected at large by position number by the electors of the district.

(2) Candidates for election from zones shall be nominated by the electors of the zones. Candidates for election at large may be nominated by the electors of zones or by the electors of the district, as determined under subsection (3) of this section.

(3) Where the method selected under subsection (2) of this section includes a combination of nomination of candidates from zones and nomination of candidates at large, the number of candidates to be nominated in each manner shall be specified in the petition or resolution for formation of the district described in section 3 of this 2009 Act.

**SECTION 10. Boundaries of zones for district board members; adjustment for population and district boundary changes.** (1) The district board of a radio and data district shall adjust zones established within a district as necessary to make them as nearly equal in population as is feasible according to the latest federal census. The district board also shall adjust boundaries of zones as necessary to reflect boundary changes of the district.

(2) For purposes of ad valorem property taxation, a district change must be filed in final approved form with the county assessor and the Department of Revenue as provided in ORS 308.225.

**SECTION 11. General district powers.** Every radio and data district shall have power:

(1) To have and use a common seal.

(2) To sue and be sued in the name of the district.

(3) To construct, reconstruct, acquire, maintain, upgrade and operate radio and data communication facilities and equipment, including land, buildings, improvements and other property needed to maintain two-way radio and data emergency communications within the district and to connect with other emergency communications facilities and networks within and outside of the district.

(4) To acquire by lease, purchase, gift, devise, condemnation proceedings or otherwise such real and personal property and rights of way, either within or without the limits of the district as, in the judgment of the district board, are necessary or proper to fulfill the purposes of the district, and to pay for and hold the same.

(5) To make and accept any and all contracts, deeds, leases, releases and documents of any kind that, in the judgment of the district board, are necessary or proper to the exercise of any power of the district, and to direct the payment of all lawful claims or demands.

(6) To assess, levy and collect taxes to pay the cost of acquiring sites for and constructing, reconstructing, altering, operating and maintaining any property, equipment or facilities that may be acquired, or any lawful claims or demands against the district, and the operating expenses of the district.

(7) To employ all necessary agents and employees.

(8) To make and enforce rules and regulations for the proper operations of the district.

(9) To prohibit any person that violates any rule or regulation from thereafter using the facilities of the district for such period as the district board may determine.

(10) To call necessary or proper district elections after the formation of the district.

(11) To enlarge the boundaries of the district as provided by ORS 198.705 to 198.955.

(12) To establish and collect reasonable fees and charges to support district operations and the maintenance and operation of district property, facilities and equipment.

(13) Generally to do and perform any and all acts necessary and proper to the complete exercise and effect of any of the district's powers or the purposes for which the district was formed.

**SECTION 12. Levy of taxes.** (1) At the time of formation or, after formation, through determination of the district board of a radio and data district, the district may establish a permanent rate limitation on ad valorem property taxes as prescribed in ORS 280.070.

(2) A district board may elect to impose a local option tax under ORS 280.040 to 280.145 in lieu of a permanent rate limitation.

(3) Upon receiving authority from district electors to levy ad valorem property taxes, the district board shall for each fiscal year determine and establish the rate or amount of ad valorem property taxes to be levied by the district within any applicable tax limitation.

**SECTION 13. Deposit and disbursement of district moneys.** (1) Except as otherwise provided in sections 1 to 18 of this 2009 Act, the moneys of a radio and data district shall be deposited, in the discretion of the district board, either with the county treasurer of the county, in accordance with subsections (2) to (4) of this section, or in one or more banks or savings and loan associations to be designated by the board. Funds deposited in a bank or savings and loan association shall be withdrawn or paid out only upon proper order and warrant or check signed by the district administrator and countersigned by the president of the district board. The district board may by resolution designate other persons who may sign warrants or checks on behalf of the president or administrator.

(2) If district funds are deposited with the county treasurer, the county treasurer shall pay out moneys from the funds only upon the written order of the district board, signed by the president of the board and countersigned by the district administrator. The order shall specify the name of the person to whom the moneys are to be paid and the fund from which the moneys are to be paid, and shall state generally the purpose for which the payment is made. The order shall be entered in the minutes of the district board.

(3) The county treasurer shall keep the order as a voucher, and shall keep a specific account of receipts and disbursements of moneys for the district.

**SECTION 14. County counsel to aid district board.** The district board of a radio and data district may call upon the county counsel of the county in which the district is located for advice on district business. If the district is located in more than one county, the district may by intergovernmental agreement designate the county counsel of any one county as counsel for the district. The district board may at any time employ special counsel for any purpose.

**SECTION 15. Power to contract bonded indebtedness.** A radio and data district has the power to contract bonded indebtedness for the purpose of providing funds:

(1) To acquire land, rights of way and interests in land, buildings and equipment.

(2) To improve land and install facilities.

(3) To construct, reconstruct, improve, repair and furnish buildings.

(4) To acquire equipment of all types, including vehicular equipment necessary for and in the use, development and improvement of the real property, equipment and facilities of the district.

(5) To pay the costs, expenses and attorney fees incurred in the issue and sale of the bonds.

(6) To fund or refund outstanding indebtedness, or for any one or combination of any such purposes.

**SECTION 16. Bond elections.** (1) For the purpose of providing funds with which to put into effect one or any combination of the purposes authorized under section 15 of this 2009 Act, the district board of a radio and data district, when authorized by a majority of those voting at an election called for that purpose, may borrow money and sell and dispose of general obligation bonds.

(2) The district board:

(a) May order an election under this section on its own resolution; or

(b) Shall order an election under this section when a petition is filed as provided in this section.

(3) A petition shall specify a dollar amount for carrying out any one or more of the purposes authorized by section 15 of this 2009 Act. The requirements for preparing, circu-

lating and filing a petition under this section shall be as provided for an initiative petition under ORS 255.135 to 255.205.

**SECTION 17. Authority for issuance of general obligation bonds and revenue bonds; issuance and sale.** (1) Whenever authorized by the electors of the district, the district board of a radio and data district may issue general obligation bonds of the district, not exceeding the principal amount stated in the notice of election and for the purpose therein named.

(2) In addition to the authority to issue general obligation bonds, a district, when authorized by a majority of those voting at an election called for that purpose, may sell and dispose of revenue bonds, and pledge as security therefor all or any part of the unobligated net revenue of the district to purchase, acquire, construct, reconstruct or improve a facility, or to perform any of those acts in combination, for any authorized purpose. Revenue bonds shall be issued in the same manner and form as are general obligation bonds of the district, but they shall be payable, both as to principal and interest, from revenues only. Revenue bonds shall be payable solely from such part of the revenue of the district as remains after payment of obligations having a priority and of all expenses of operation and maintenance of the district, including any taxes levied against the district. All revenue bonds shall contain a clause reciting that both the principal and interest are payable solely from operating revenues of the district remaining after paying such obligations and expenses.

(3) General obligation and revenue bonds must recite that they are issued under sections 1 to 18 of this 2009 Act. All bonds shall be signed by the president of the district board and attested by the district administrator.

(4) All general obligation and revenue bonds issued, including refunding bonds, shall be issued as prescribed in ORS chapter 287A.

**SECTION 18. Contracts with United States.** (1) In carrying out the powers conferred by sections 1 to 18 of this 2009 Act, a radio and data district may contract with the United States or any agency thereof for the acquisition, construction, reconstruction, maintenance and operation, or any of them, of radio and data equipment and facilities or other property for use by the district.

(2) Contract provisions for repayment of any loan from the United States, and the bonds securing the payment of the loan, if any are issued, may be of any term or denomination not exceeding 50 years and may call for the payment of interest not exceeding seven percent per annum, may provide for installments and for repayment of the principal at such times as may be required by federal law or as may be agreed upon between the district board and the United States agency.

**SECTION 19.** ORS 174.116 is amended to read:

174.116. (1)(a) Subject to ORS 174.108, as used in the statutes of this state "local government" means all cities, counties and local service districts located in this state, and all administrative subdivisions of those cities, counties and local service districts.

(b) Subject to ORS 174.108, as used in the statutes of this state "local government" includes:

(A) An entity created by statute, ordinance or resolution for the purpose of giving advice only to a local government;

(B) An entity created by local government for the purpose of giving advice to local government and that is not created by ordinance or resolution, if the document creating the entity indicates that the entity is a public body; and

(C) Any entity created by local government other than an entity described in subparagraph (B) of this paragraph, unless the ordinance, resolution or other document creating the entity indicates that the entity is not a governmental entity or the entity is not subject to any substantial control by local government.

(2) Subject to ORS 174.108, as used in the statutes of this state "local service district" means:

(a) An economic improvement district created under ORS 223.112 to 223.132 or 223.141 to 223.161.

(b) A people's utility district organized under ORS chapter 261.

- (c) A domestic water supply district organized under ORS chapter 264.
- (d) A cemetery maintenance district organized under ORS chapter 265.
- (e) A park and recreation district organized under ORS chapter 266.
- (f) A mass transit district organized under ORS 267.010 to 267.390.
- (g) A transportation district organized under ORS 267.510 to 267.650.
- (h) A metropolitan service district organized under ORS chapter 268.
- (i) A translator district organized under ORS 354.605 to 354.715.
- (j) A library district organized under ORS 357.216 to 357.286.
- (k) A county road district organized under ORS 371.055 to 371.110.
- (L) A special road district organized under ORS 371.305 to 371.360.
- (m) A road assessment district organized under ORS 371.405 to 371.535.
- (n) A highway lighting district organized under ORS chapter 372.
- (o) A 9-1-1 communications district organized under ORS 401.818 to 401.857.
- (p) A health district organized under ORS 440.305 to 440.410.
- (q) A sanitary district organized under ORS 450.005 to 450.245.
- (r) A sanitary authority, water authority or joint water and sanitary authority organized under ORS 450.600 to 450.989.
- (s) A county service district organized under ORS chapter 451.
- (t) A vector control district organized under ORS 452.020 to 452.170.
- (u) A rural fire protection district organized under ORS chapter 478.
- (v) A geothermal heating district organized under ORS chapter 523.
- (w) An irrigation district organized under ORS chapter 545.
- (x) A drainage district organized under ORS chapter 547.
- (y) A diking district organized under ORS chapter 551.
- (z) A water improvement district organized under ORS chapter 552.
- (aa) A water control district organized under ORS chapter 553.
- (bb) A district improvement company or a district improvement corporation organized under ORS chapter 554.
- (cc) A weather modification district organized under ORS 558.200 to 558.440.
- (dd) A fair district formed under ORS chapter 565.
- (ee) A soil and water conservation district organized under ORS 568.210 to 568.808 and 568.900 to 568.933.
- (ff) A weed control district organized under ORS 570.505 to 570.575.
- (gg) A port organized under ORS 777.005 to 777.725 and 777.915 to 777.953.
- (hh) The Port of Portland created under ORS 778.010.
- (ii) An airport district established under ORS chapter 838.
- (jj) A heritage district organized under ORS 198.973 to 198.989.
- (kk) A radio and data district organized under sections 1 to 18 of this 2009 Act.**

**SECTION 20.** ORS 198.010 is amended to read:

198.010. As used in this chapter, except as otherwise specifically provided, “district” means any one of the following:

- (1) A people’s utility district organized under ORS chapter 261.
- (2) A domestic water supply district organized under ORS chapter 264.
- (3) A cemetery maintenance district organized under ORS chapter 265.
- (4) A park and recreation district organized under ORS chapter 266.
- (5) A mass transit district organized under ORS 267.010 to 267.390.
- (6) A metropolitan service district organized under ORS chapter 268.
- (7) A special road district organized under ORS 371.305 to 371.360.
- (8) A road assessment district organized under ORS 371.405 to 371.535.
- (9) A highway lighting district organized under ORS chapter 372.
- (10) A health district organized under ORS 440.305 to 440.410.
- (11) A sanitary district organized under ORS 450.005 to 450.245.

(12) A sanitary authority, water authority or joint water and sanitary authority organized under ORS 450.600 to 450.989.

(13) A vector control district organized under ORS 452.020 to 452.170.

(14) A rural fire protection district organized under ORS chapter 478.

(15) An irrigation district organized under ORS chapter 545.

(16) A drainage district organized under ORS chapter 547.

(17) A water improvement district organized under ORS chapter 552.

(18) A water control district organized under ORS chapter 553.

(19) A weather modification district organized under ORS 558.200 to 558.440.

(20) A port organized under ORS 777.005 to 777.725 and 777.915 to 777.953.

(21) A geothermal heating district organized under ORS chapter 523.

(22) A transportation district organized under ORS 267.510 to 267.650.

(23) A library district organized under ORS 357.216 to 357.286.

(24) A 9-1-1 communications district organized under ORS 401.818 to 401.857.

(25) A heritage district organized under ORS 198.973 to 198.989.

**(26) A radio and data district organized under sections 1 to 18 of this 2009 Act.**

**SECTION 21.** ORS 198.310 is amended to read:

198.310. As used in ORS 198.320, in addition to the meaning given the term by ORS 198.010 (1) to (5), [and] (7) to (24) **and (26)**, “district” means a soil and water conservation district organized under ORS 568.210 to 568.808 and 568.900 to 568.933.

**SECTION 22.** ORS 198.510 is amended to read:

198.510. As used in ORS 198.510 to 198.600, unless the context requires otherwise:

(1) “County” means the county in which the district, or the greater portion of the assessed value of the district, is located.

(2) “County board” means the board of county commissioners or the county court of the county.

(3) “County clerk” means the county clerk of the county.

(4) “District” has the meaning given that term in ORS 198.010 (2), (4), (5), (11), (12), (14), (17), (19), (20) to (23), [and] (25) **and (26)**. In addition, “district” means any one of the following:

(a) A county service district organized under ORS chapter 451.

(b) The Port of Portland established by ORS 778.010.

(5) “District board” means the governing body of a district and the term includes a county board that is in the governing body of a district.

(6) “Presiding officer” means the chairperson, president or other person performing the office of presiding officer of the district board.

(7) “Principal Act” means the law, other than ORS 198.510 to 198.600, applicable to a district.

**SECTION 23.** ORS 255.012 is amended to read:

255.012. As used in this chapter, “district” means:

(1) A domestic water supply district organized under ORS chapter 264.

(2) A cemetery maintenance district organized under ORS chapter 265.

(3) A park and recreation district organized under ORS chapter 266.

(4) A mass transit district organized under ORS 267.010 to 267.390.

(5) A transportation district organized under ORS 267.510 to 267.650.

(6) A metropolitan service district organized under ORS chapter 268.

(7) A translator district organized under ORS 354.605 to 354.715.

(8) A library district organized under ORS 357.216 to 357.286.

(9) A county road district organized under ORS 371.055 to 371.110.

(10) A special road district organized under ORS 371.305 to 371.360.

(11) A road assessment district organized under ORS 371.405 to 371.535.

(12) A highway lighting district organized under ORS chapter 372.

(13) A health district organized under ORS 440.305 to 440.410.

(14) A sanitary district organized under ORS 450.005 to 450.245.

- (15) A sanitary authority, water authority or joint water and sanitary authority organized under ORS 450.600 to 450.989.
- (16) A county service district organized under ORS chapter 451.
- (17) A vector control district organized under ORS 452.020 to 452.170.
- (18) A rural fire protection district organized under ORS chapter 478.
- (19) An airport district organized under ORS chapter 838.
- (20) A geothermal heating district organized under ORS chapter 523.
- (21) A water improvement district organized under ORS chapter 552.
- (22) A water control district organized under ORS chapter 553.
- (23) A weather modification district organized under ORS 558.200 to 558.440.
- (24) A livestock district organized under ORS 607.005 to 607.051.
- (25) A port organized under ORS 777.005 to 777.725 and 777.915 to 777.953.
- (26) The Port of Portland established by ORS 778.010.
- (27) A school district.
- (28) Territory, other than territory within a city, proposed to be created, formed or incorporated into a district or to be annexed or otherwise added to a district.
- (29) A soil and water conservation district organized under ORS 568.210 to 568.810 and 568.900 to 568.933.
- (30) A heritage district organized under ORS 198.973 to 198.989.
- (31) **A radio and data district organized under sections 1 to 18 of this 2009 Act.**

**SECTION 24.** The section captions used in this 2009 Act are provided only for the convenience of the reader and do not become part of the statutory law of this state or express any legislative intent in the enactment of this 2009 Act.

**SECTION 25.** This 2009 Act takes effect on the 91st day after the date on which the regular session of the Seventy-fifth Legislative Assembly adjourns sine die.

**Passed by House May 20, 2009**

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 Chief Clerk of House

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 Speaker of House

**Passed by Senate June 4, 2009**

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 President of Senate

**Received by Governor:**

.....M.,....., 2009

**Approved:**

.....M.,....., 2009

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 Governor

**Filed in Office of Secretary of State:**

.....M.,....., 2009

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 Secretary of State