

DRAFT

SUMMARY

Authorizes metropolitan service district to form facilities district in same manner allowed for other service districts for purposes of acquisition, construction, maintenance and operation of facilities for publicly owned natural areas, open space, trails and regional parks. Provides that governing body of metropolitan service district is governing body of facilities district. Authorizes facilities district to finance acquisition, construction, maintenance and operation of facilities with taxes, assessments, service or user charges or proceeds from bonds.

A BILL FOR AN ACT

1
2 Relating to facilities districts in metropolitan service districts; creating new
3 provisions; and amending ORS 174.116, 198.010 and 268.020.

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

5 **SECTION 1. Sections 2 to 20 of this 2011 Act are added to and made**
6 **a part of ORS chapter 268.**

7 **SECTION 2. Upon receiving authorization from the governing body**
8 **of the metropolitan service district as provided in sections 2 to 20 of**
9 **this 2011 Act, a facilities district may acquire, construct, maintain and**
10 **operate facilities for publicly owned natural areas, open space, trails**
11 **and regional parks.**

12 **SECTION 3. Proceedings for facilities district formation or change**
13 **of organization must be initiated, conducted and completed as pro-**
14 **vided by ORS 198.705 to 198.955.**

15 **SECTION 4. Prior to initiating the formation of a facilities district,**
16 **the governing body of the metropolitan service district may cause en-**
17 **gineering and program plans to be prepared. The plans may include:**

18 **(1) Preliminary plans for the facilities to be acquired, constructed,**

1 maintained or operated.

2 (2) Estimated costs of acquisition, construction, maintenance and
3 operation of the facilities.

4 **SECTION 5.** A facilities district may acquire, construct, maintain
5 and operate only those facilities that were authorized upon formation
6 of the facilities district. However, additional authority regarding fa-
7 cilities may be given to a facilities district by a proceeding initiated,
8 conducted and completed in the same manner as is provided for in the
9 original formation of a facilities district or as otherwise provided by
10 law.

11 **SECTION 6.** The governing body of the metropolitan service district
12 shall be the governing body of a facilities district established under
13 sections 2 to 20 of this 2011 Act. A facilities district shall be known by
14 the name specified in the order declaring its formation and by that
15 name shall exercise and carry out the powers and duties conferred and
16 declared in sections 2 to 20 of this 2011 Act. Before proceeding to ac-
17 quire or construct any facilities authorized under sections 2 to 20 of
18 this 2011 Act, the governing body of the facilities district shall make
19 an order to:

20 (1) Determine the facilities to be acquired, constructed, maintained
21 and operated and the part of the work to be undertaken immediately.

22 (2) Determine the manner of financing the acquisition, con-
23 struction, maintenance and operation of the facilities.

24 (3) Determine the method by which the facilities district shall bear
25 the share of the cost of acquisition or construction of the facilities
26 that is to be apportioned to the facilities district.

27 (4) If the facilities of the facilities district are to be integrated into
28 other facilities acquired, constructed or being acquired or constructed
29 by another service district or by other public bodies as defined in ORS
30 174.109, determine the fair and equitable amount the facilities district
31 should assume as its share of the acquisition or construction of any

1 other facilities, for which the amount shall be paid to the other service
2 district or public body upon terms and conditions to which the gov-
3 erning body of the facilities district has agreed.

4 (5) If any of the cost of the work is to be assessed against benefited
5 property, describe the portions of the facilities district, if any, within
6 which facilities will not be financed by assessment.

7 SECTION 7. (1) The order required by section 6 of this 2011 Act and
8 any order amending that order is subject to referendum vote within
9 the facilities district, notwithstanding the prior authorization of the
10 facilities by election during formation proceedings. The referendum
11 may be ordered by resolution of the governing body of the facilities
12 district, or by petition filed as provided in this section.

13 (2) The requirements for preparing, circulating and filing a refer-
14 endum petition under this section shall be as provided in ORS 255.135
15 to 255.205, except that notwithstanding ORS 255.165, the petition must
16 be submitted not later than the 60th day after the date of the order.

17 (3) If a majority of those voting approve the order required by sec-
18 tion 6 of this 2011 Act, the governing body of the facilities district shall
19 so declare by order entered in its journal. If a majority of those voting
20 disapprove the order, the results shall be entered in the journal.

21 SECTION 8. The facilities district may, in accordance with the or-
22 der required by section 6 of this 2011 Act, finance the acquisition,
23 construction, maintenance or operation of facilities for a facilities
24 district using:

25 (1) Moneys from a fund established under section 12 of this 2011 Act;

26 (2) Assessments collected against the property in the facilities dis-
27 trict with or without issuance of bonds authorized under ORS 223.205,
28 223.210 to 223.295 and 223.770;

29 (3) Service or user charges collected in the facilities district;

30 (4) Facilities district ad valorem taxes;

31 (5) Proceeds from the sale of bonds;

1 (6) Moneys obtained as provided under ORS 280.040, 280.050, 280.060,
2 280.070, 280.080 and 280.090; and

3 (7) Any combination of moneys from the provisions of subsections
4 (1) to (6) of this section.

5 **SECTION 9.** (1) If the cost, or any portion of the cost, of facilities
6 for a facilities district is to be assessed under section 8 of this 2011 Act
7 against the property directly benefited, the governing body of the fa-
8 cilities district shall, before attempting to implement the facilities,
9 adopt a general ordinance providing for the method of assessment. The
10 ordinance shall:

11 (a) Contain provision for notice to affected property owners of in-
12 tention to implement described facilities and to assess benefited prop-
13 erty for a part or all of the cost;

14 (b) Provide for a hearing at which affected property owners may
15 appear to object to the implementation of the proposed facilities;

16 (c) Provide that if the facilities district receives written objections
17 prior to the conclusion of the hearing signed by more than 50 percent
18 of the affected property owners representing more than 50 percent of
19 the affected property, the proposed facilities will not be implemented;

20 (d) Provide for notice of and a hearing on proposed assessments,
21 which notice and hearing may be combined with the notice and hear-
22 ing described in paragraphs (a) and (b) of this subsection;

23 (e) Provide for the general method of assessing the property directly
24 benefited and of the recording of liens against the property directly
25 benefited, and of making supplementary assessments and rebates; and

26 (f) Provide for establishing the boundaries of each assessment dis-
27 trict as work is proposed.

28 (2) Assessments in the facilities district shall, so far as practicable,
29 be apportioned within the facilities district in accordance with the
30 special and peculiar benefit each lot or parcel of land receives from the
31 facilities.

1 (3) Where parcels of land, or portions of parcels, are undeveloped,
2 the governing body of the facilities district may, in its discretion, defer
3 assessing or imposing all or any portion of the assessments on such
4 parcels until the parcels are served by the facilities.

5 SECTION 10. The facilities district may by order or by ordinance,
6 for the purpose of paying the costs of operation and maintenance of
7 facilities, and for the repayment of bonds, impose service or user
8 charges on property served by the facilities. The facilities district may,
9 from time to time when necessary, use moneys from the revolving
10 fund for such maintenance and operation on a reimbursable basis.
11 User charges, connection fees or service charges shall be based upon
12 the costs of operation, maintenance and supervision of facilities and
13 the costs of bond repayment.

14 SECTION 11. (1) When assessments are made under sections 2 to
15 20 of this 2011 Act, the assessments shall be entered in a permanent
16 lien docket that shall be kept in the office of the county clerk of the
17 county in which the property is located. The docket shall show the
18 amount of each lien, property against which it has been assessed, the
19 owner of the property and any additional information required to keep
20 a permanent and complete record of the assessment and the payments
21 on the assessment.

22 (2) If the owner of the property against which an assessment has
23 been made fails to pay the assessment, or any portion of the assess-
24 ment, or the interest on the assessment, when due, the facilities dis-
25 trict may proceed to foreclose the lien in any manner provided by law
26 for the collection of liens by local governments as defined in ORS
27 174.116 or may provide by ordinance a general procedure for the col-
28 lection of such liens in any manner not inconsistent with law.

29 (3) The provisions of ORS 223.405 to 223.485 relating to reassessment
30 shall be available to the facilities district, where applicable, in con-
31 nection with assessments made under sections 2 to 20 of this 2011 Act.

1 **SECTION 12.** (1) The governing body of the metropolitan service
2 district may, for the purpose of establishing a revolving fund to pro-
3 vide moneys to finance the acquisition or construction under sections
4 2 to 20 of this 2011 Act of facilities in the metropolitan service district
5 that may be necessary to implement the plans provided for in sections
6 2 to 20 this 2011 Act, levy an ad valorem tax of not to exceed 50 cents
7 per year, for a period not to exceed five years, for each \$1,000 of real
8 market value of taxable property within all areas of the metropolitan
9 service district to be served by the facilities included in the plans. The
10 revenues derived from the taxes shall be deposited with the metropol-
11 itan service district and credited to the revolving fund. Moneys in the
12 revolving fund shall be disbursed by the metropolitan service district
13 only upon order of the governing body of the metropolitan service
14 district and used solely for the purposes authorized in sections 2 to 20
15 of this 2011 Act.

16 (2) The boundaries of the territory within which a tax authorized
17 by subsection (1) of this section may be levied shall be determined by
18 the governing body of the metropolitan service district after a public
19 hearing. The governing body of the metropolitan service district shall
20 publish notice of the hearing once a week for two successive weeks
21 prior to the hearing in a newspaper of general circulation published
22 within the proposed boundaries of the territory or, if there is no such
23 newspaper, in a newspaper of general circulation in the metropolitan
24 service district. Any elector or any owner of property within the ter-
25 ritory may appear at the hearing to protest inclusion of the property
26 of the elector or owner within the territory, but the governing body
27 of the metropolitan service district may not exclude land that, in its
28 judgment, will be served by the facilities included in the plans.

29 **SECTION 13.** For purposes of ad valorem taxation, a boundary
30 change must be filed in final approved form with the county assessor
31 for any counties in which the boundary change is occurring and the

1 Department of Revenue as provided in ORS 308.225.

2 **SECTION 14. (1) A facilities district may, when authorized by a**
3 **majority of the votes cast at an election by electors of the facilities**
4 **district, issue general obligation bonds for the purpose of paying the**
5 **cost of acquisition or construction of facilities. Each issue of general**
6 **obligation bonds shall be the general obligation of the facilities district**
7 **and the principal and interest on the bonds shall be paid by the facil-**
8 **ities district by assessments, service or user charges or ad valorem**
9 **taxes imposed or levied within the facilities district as may be deter-**
10 **mined by the governing body of the facilities district under section 8**
11 **of this 2011 Act. Bonds authorized by this section shall be issued in**
12 **accordance with ORS chapter 287A, except as otherwise provided in**
13 **this section.**

14 **(2) In addition to the authority to issue general obligation bonds,**
15 **the governing body of the facilities district, when authorized at any**
16 **properly called election, shall have the power to sell and dispose of**
17 **revenue bonds, and to pledge as security for the revenue bonds all or**
18 **any part of the unobligated net revenues of the facilities district to**
19 **purchase, acquire, lay out, construct, reconstruct, extend, enlarge or**
20 **improve facilities. The revenue bonds shall be issued as prescribed in**
21 **ORS chapter 287A, but the revenue bonds are payable from revenues**
22 **only, both as to principal and interest. The revenue bonds are not**
23 **subject to the percentage limitation applicable to general obligation**
24 **bonds and are not a lien upon any of the taxable property within the**
25 **boundaries of the facilities district, but are payable solely from any**
26 **part of the revenues of the facilities district that remain after payment**
27 **of obligations having a priority and of all expenses of operation and**
28 **maintenance of the facilities district. All revenue bonds must contain**
29 **a clause reciting that both the principal and interest are payable solely**
30 **from the operating revenues of the facilities district that remain after**
31 **paying any obligations and expenses.**

1 **(3) The total outstanding general obligation bonds of the facilities**
2 **district, including improvement bonds of the kind authorized by ORS**
3 **223.205 and 223.210 to 223.295, may not exceed in the aggregate 13 per-**
4 **cent of the real market value of all property assessable by law for state**
5 **and county purposes within the facilities district as reflected in the**
6 **last roll certified under ORS 311.105.**

7 **SECTION 15.** **A facilities district that has not previously imposed**
8 **ad valorem property taxes may vote to establish a permanent rate**
9 **limit for operating taxes in accordance with section 11 (3)(c), Article**
10 **XI of the Oregon Constitution, and thereafter the facilities district**
11 **may levy ad valorem property taxes on property within the facilities**
12 **district for the purposes authorized by sections 2 to 20 of this 2011 Act.**
13 **If a facilities district has established a permanent rate limit in ac-**
14 **cordance with this section, the provisions of ORS 294.305 to 294.565**
15 **shall apply to the facilities district.**

16 **SECTION 16.** **For the purpose of carrying out the powers granted**
17 **under sections 2 to 20 of this 2011 Act, a facilities district may:**

18 **(1) Acquire, construct, supervise, manage, control, operate and**
19 **maintain facilities.**

20 **(2) Acquire by purchase, gift, devise, condemnation proceedings or**
21 **by any other means, such real and personal property and rights of**
22 **way, either within or without the metropolitan service district, as in**
23 **the judgment of the governing body of the facilities district are nec-**
24 **essary or proper in the exercise of the powers of the facilities district,**
25 **and to pay for and hold the property and rights of way.**

26 **(3) Make and accept contracts, deeds, releases and documents that,**
27 **in the judgment of the governing body of the facilities district, are**
28 **necessary or proper in the exercise of the powers of the facilities dis-**
29 **trict.**

30 **(4) Employ and pay necessary agents, employees and assistants.**

31 **(5) Construct facilities in and on any public street, highway or road**

1 and for this purpose enter upon the street, highway or road, make all
2 necessary and proper excavations, and thereafter restore the street,
3 highway or road to its proper condition. However, the consent of the
4 appropriate city, county or state authorities, as the case may be, must
5 first be obtained and the conditions of the consent complied with.

6 (6) Do any act necessary or proper to the complete exercise and
7 effect of any of its powers under sections 2 to 20 of this 2011 Act.

8 SECTION 17. (1) A facilities district may enter into agreements with
9 any city, any county, the federal government, the state or any of its
10 agencies, any service district organized for a public purpose or any
11 person for a period not to exceed 30 years for the cooperative financing
12 of the acquisition, construction, maintenance and operation of facili-
13 ties.

14 (2) A facilities district may enter into agreements with any county,
15 city, service district organized for a public purpose or person for the
16 use, lease or joint operation of any facilities or any portion of those
17 facilities.

18 SECTION 18. (1) Except as otherwise provided in sections 2 to 20
19 of this 2011 Act, all moneys received by a facilities district must be
20 paid to the metropolitan service district and deposited in an appropri-
21 ate facilities district fund. The metropolitan service district must es-
22 tablish separate accounts in the facilities district fund or separate
23 funds in the metropolitan service district treasury for the segregation
24 of sinking or reserve funds or accounts, of operating funds or accounts
25 or of any other funds or accounts found necessary or expedient by the
26 facilities district. Moneys received by a facilities district may not be
27 used for any purpose other than carrying out the purposes of sections
28 2 to 20 of this 2011 Act, and all funds, facilities, personnel or supplies
29 of the metropolitan service district used for those purposes shall be
30 charged to the appropriate facilities district fund or account.

31 (2) Notwithstanding the requirement for a facilities district to pay

1 facilities district moneys to the metropolitan service district for de-
2 posit in an appropriate facilities district fund in the metropolitan ser-
3 vice district treasury under subsection (1) of this section, the
4 governing body of a metropolitan service district may order the gov-
5 erning body of a facilities district to hold and manage its own moneys
6 in one or more facilities district funds or accounts with a financial
7 institution as defined in ORS 706.008. The order must provide for
8 transfer of any moneys of the facilities district then held or later re-
9 ceived by the metropolitan service district for the facilities district.
10 Thereafter, the facilities district shall be solely responsible for man-
11 agement of moneys of the facilities district and shall designate a fa-
12 cilities district officer or employee to assume the duties and
13 responsibilities otherwise imposed upon the metropolitan service dis-
14 trict.

15 (3) Moneys deposited by the facilities district in a facilities district
16 fund or account may be withdrawn or paid out only upon a proper
17 order and warrant or upon a check signed by the facilities district of-
18 ficer or employee designated to assume the duties and responsibilities
19 otherwise imposed upon the metropolitan service district. The order
20 must:

21 (a) Specify the name of the person to whom the moneys are to be
22 paid;

23 (b) Specify the fund or account from which the moneys are to be
24 withdrawn or paid out;

25 (c) State generally the purpose for which the moneys are to be
26 withdrawn or paid out; and

27 (d) Be entered in the record of proceedings of the facilities district.

28 **SECTION 19.** A facilities district established under sections 2 to 20
29 of this 2011 Act is not affected if all or part of the area within the fa-
30 cilities district is incorporated in or annexed to a city or any other
31 special district.

1 **SECTION 20. Officers and employees of a metropolitan service dis-**
2 **trict or facilities district may enter upon privately owned lands to**
3 **survey or lay out facilities by direction of the governing body of the**
4 **metropolitan service district or governing body of the facilities dis-**
5 **trict. However, the governing body of the metropolitan service district**
6 **or governing body of the facilities district must cause notification to**
7 **be given to each occupant of the lands, either by registered or certified**
8 **mail or by other lawful means. The notice must be given at least five**
9 **days before the metropolitan service district or facilities district offi-**
10 **cers or employees enter upon the lands. An officer or employee of a**
11 **metropolitan service district or facilities district entering privately**
12 **owned lands pursuant to this section may not damage or destroy trees,**
13 **shrubs, buildings or other items of value on that land without first**
14 **obtaining the consent of the owner.**

15 **SECTION 21.** ORS 268.020 is amended to read:

16 268.020. As used in this chapter:

17 (1) “District” means a metropolitan service district established under this
18 chapter.

19 (2) “District charter” means a home rule charter enacted by the electors
20 of a district under section 14, Article XI, Oregon Constitution.

21 **(3) “Facilities district” means a service district formed by a metro-**
22 **politan service district under sections 2 to 20 of this 2011 Act.**

23 [(3)] (4) “Metropolitan area” means that area which on October 4, 1997,
24 lies within the boundaries of Clackamas, Multnomah and Washington
25 Counties.

26 [(4)] (5) “Improvement” means the facilities and other property con-
27 structed, erected or acquired by and to be used in the performance of services
28 authorized to be performed by a **metropolitan service district or facilities**
29 **district.**

30 [(5)] (6) “Metropolitan significance” means having major or significant
31 district-wide impact.

1 [(6)] (7) "Person" means a public body as defined in ORS 174.109, indi-
2 vidual, corporation, partnership, association, firm, trust, estate or any other
3 legal entity.

4 [(7)] (8) "Regional framework plan" means the Metro regional framework
5 plan defined in ORS 197.015 and any **metropolitan service** district ordi-
6 nances that implement the plan.

7 **SECTION 22.** ORS 174.116 is amended to read:

8 174.116. (1)(a) Subject to ORS 174.108, as used in the statutes of this state
9 "local government" means all cities, counties and local service districts lo-
10 cated in this state, and all administrative subdivisions of those cities, coun-
11 ties and local service districts.

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

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

16 (B) An entity created by local government for the purpose of giving ad-
17 vice to local government and that is not created by ordinance or resolution,
18 if the document creating the entity indicates that the entity is a public body;
19 and

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

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

27 (a) An economic improvement district created under ORS 223.112 to
28 223.132 or 223.141 to 223.161.

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

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

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

- 1 (e) A park and recreation district organized under ORS chapter 266.
- 2 (f) A mass transit district organized under ORS 267.010 to 267.390.
- 3 (g) A transportation district organized under ORS 267.510 to 267.650.
- 4 (h) A metropolitan service district organized under ORS chapter 268 **or**
- 5 **a facilities district formed by a metropolitan service district.**
- 6 (i) A translator district organized under ORS 354.605 to 354.715.
- 7 (j) A library district organized under ORS 357.216 to 357.286.
- 8 (k) A county road district organized under ORS 371.055 to 371.110.
- 9 (L) A special road district organized under ORS 371.305 to 371.360.
- 10 (m) A road assessment district organized under ORS 371.405 to 371.535.
- 11 (n) A highway lighting district organized under ORS chapter 372.
- 12 (o) A 9-1-1 communications district organized under ORS 403.300 to
- 13 403.380.
- 14 (p) A health district organized under ORS 440.305 to 440.410.
- 15 (q) A sanitary district organized under ORS 450.005 to 450.245.
- 16 (r) A sanitary authority, water authority or joint water and sanitary au-
- 17 thority organized under ORS 450.600 to 450.989.
- 18 (s) A county service district organized under ORS chapter 451.
- 19 (t) A vector control district organized under ORS 452.020 to 452.170.
- 20 (u) A rural fire protection district organized under ORS chapter 478.
- 21 (v) A geothermal heating district organized under ORS chapter 523.
- 22 (w) An irrigation district organized under ORS chapter 545.
- 23 (x) A drainage district organized under ORS chapter 547.
- 24 (y) A diking district organized under ORS chapter 551.
- 25 (z) A water improvement district organized under ORS chapter 552.
- 26 (aa) A water control district organized under ORS chapter 553.
- 27 (bb) A district improvement company or a district improvement corpo-
- 28 ration organized under ORS chapter 554.
- 29 (cc) A weather modification district organized under ORS 558.200 to
- 30 558.440.
- 31 (dd) A fair district formed under ORS chapter 565.

1 (ee) A soil and water conservation district organized under ORS 568.210
2 to 568.808 and 568.900 to 568.933.

3 (ff) A weed control district organized under ORS 569.350 to 569.450.

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

5 (hh) The Port of Portland created under ORS 778.010.

6 (ii) An airport district established under ORS chapter 838.

7 (jj) A heritage district organized under ORS 358.442 to 358.474.

8 (kk) A radio and data district organized under ORS 403.500 to 403.542.

9 **SECTION 23.** ORS 198.010 is amended to read:

10 198.010. As used in this chapter, except as otherwise specifically provided,
11 “district” means any one of the following:

12 (1) A people’s utility district organized under ORS chapter 261.

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

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

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

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

17 (6) A metropolitan service district organized under ORS chapter 268 **or**
18 **a facilities district formed by a metropolitan service district.**

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

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

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

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

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

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

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

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

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

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

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

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

1 (19) A weather modification district organized under ORS 558.200 to
2 558.440.

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

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

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

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

7 (24) A 9-1-1 communications district organized under ORS 403.300 to
8 403.380.

9 (25) A heritage district organized under ORS 358.442 to 358.474.

10 (26) A radio and data district organized under ORS 403.500 to 403.542.

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