

House Bill 2929

Sponsored by Representative HOLVEY (Pre-session filed.)

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**.

Grants voting rights to electors of areas not within people's utility district boundaries who are served by district. Includes areas outside district boundaries that are served by district when dividing district into electoral subdivisions.

Becomes operative only if House Joint Resolution 12 (2011) is approved by people at next regular general election. Becomes operative on operative date of constitutional amendment proposed by House Joint Resolution 12 (2011).

A BILL FOR AN ACT

1
2 Relating to people's utility districts; amending ORS 261.055, 261.253, 261.315, 261.355, 261.360,
3 261.375, 261.380 and 261.405; and prescribing an effective date.

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

5 **SECTION 1.** ORS 261.055 is amended to read:

6 261.055. When any people's utility district desires to hold an election for the purpose of sub-
7 mitting to the electors of the district **and any territory for which the district provides service**
8 **established under ORS 261.315** any question that may lawfully be submitted to them, the board
9 may, at any regular or special meeting called in accordance with its rules or the statutes governing
10 the same, adopt a resolution calling a special election to be held on a date specified in ORS 255.345,
11 and may in the same resolution designate and describe in general terms the question which is to
12 be submitted at the special election.

13 **SECTION 2.** ORS 261.253 is amended to read:

14 261.253. (1) A public contract entered into by a noninvestor-owned electric utility may not con-
15 tain a clause or condition that imposes an unconditional and unlimited financial obligation on the
16 electric utility that is party to the contract unless the terms and conditions of the contract are
17 subject to approval and are approved by the electors of the people's utility district **and any terri-**
18 **tory for which the district provides service established under ORS 261.315**, or **the** city that
19 owns the electric utility.

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

23 (3) Nothing in subsection (1) of this section is intended to conflict with ORS 279C.650 to
24 279C.670.

25 (4) This section does not apply to a public contract executed in connection with:

26 (a) The acquisition of renewable energy certificates;

27 (b) The acquisition, construction, improvement or equipping of, or the financing of any interest
28 in, a renewable energy facility; or

29 (c) The acquisition or financing of any interest in electrical capacity needed to shape, firm or

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 integrate electricity from a renewable energy facility.

2 (5) As used in this section:

3 (a) “Public contract” includes a contract, note, general obligation bond or revenue bond by
 4 which the people’s utility district or city or any subdivision of any of them is obligated to pay for
 5 or finance the acquisition of goods, services, materials, real property or any interest therein, im-
 6 provement, betterments or additions from any funds, including receipts from rates or charges as-
 7 sessed to or collected from its customers.

8 (b) “Unconditional and unlimited financial obligation” means a public contract containing a
 9 provision that the people’s utility district or city that is party to the contract is obligated to make
 10 payments required by the contract whether or not the project to be undertaken thereunder is
 11 undertaken, completed, operable or operating notwithstanding the suspension, interruption, inter-
 12 ference, reduction or curtailment of the output or product of the project.

13 **SECTION 3.** ORS 261.315 is amended to read:

14 261.315. (1) Except as to distribution facilities located in unincorporated territory at or near the
 15 boundaries of the people’s utility district and forming an interconnected part of the distribution
 16 system within the district, as determined by the county governing body after a public hearing, [no]
 17 facilities then being used for the distribution of electric energy outside the boundaries of the district
 18 [shall] **may not** be acquired by it until the acquisition [thereof] is approved by a majority of the
 19 electors registered in the territory in which the facilities are located, voting on that question at an
 20 election duly called for that purpose as provided in this section. If a part of the facilities is located
 21 within a city, the election [shall] **must** be conducted so that the electors of the city may vote sep-
 22 arately and have their votes counted separately, and the part within any city may not be acquired
 23 unless a majority of the electors of the city voting on the question approves.

24 (2) When a district desires to acquire facilities outside its boundaries for distribution of electric
 25 energy, the board of directors shall pass a resolution declaring that purpose, specifying the facilities
 26 that it desires to acquire and describing the boundaries of the territory served by the facilities so
 27 as to include all those receiving service or can be reasonably served through the facilities.

28 (3) A certified copy of the resolution [shall] **must** be filed with the county governing body.
 29 Within 90 days thereafter, the county governing body shall designate the boundaries of the territory
 30 served by the facilities, and certify the boundaries to the counties in which they are located. The
 31 county governing body shall at the same time notify each of the counties of the call of an election
 32 for the purpose of authorizing acquisition of the facilities. This certification and notification [shall]
 33 **must** be given to the county clerks of the respective counties. The notice [shall] **must** state the
 34 time of the election and contain a ballot title stated in clear and concise language.

35 (4) The provisions of ORS 261.200 [shall] **must** be complied with insofar as applicable. Ballots
 36 cast by electors of cities [shall] **must** be separately kept and counted for each city.

37 **(5) Electors within the boundaries of any territory served by the district’s facilities under**
 38 **this section shall be considered to be electors of the district for the purpose of establishing**
 39 **subdivisions under ORS 261.405.**

40 **SECTION 4.** ORS 261.355 is amended to read:

41 261.355. (1) For the purpose of carrying into effect the powers granted in this chapter, any dis-
 42 trict may issue and sell revenue bonds, when authorized by a majority of its electors voting at any
 43 primary election, general election or special election.

44 (2) All revenue bonds issued and sold under this chapter shall be so conditioned as to be paid
 45 solely from that portion of the revenues derived by the district from the sale of water, waterpower

1 and electricity, or any of them, or any other service, commodity or facility which may be produced,
 2 used or furnished in connection therewith, remaining after paying from those revenues all expenses
 3 of operation and maintenance, including taxes.

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

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

14 (b) The electors within the district **and any territory for which the district provides service**
 15 **established under ORS 261.315** have approved issuance of the bonds by a vote.

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

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

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

23 (5) Except as otherwise provided in this section, any authorizing resolution adopted for the
 24 purposes of subsection (3) of this section shall provide that electors residing within the district **and**
 25 **any territory for which the district provides service established under ORS 261.315** may file
 26 a petition with the district asking to have the question of whether to issue such bonds referred to
 27 a vote.

28 (6) If within 60 days after adoption of a resolution under subsection (3) of this section the dis-
 29 trict receives petitions containing valid signatures of not fewer than five percent of the electors of
 30 the district **and any territory for which the district provides service established under ORS**
 31 **261.315**, the question of issuing the bonds shall be placed on the ballot at the next date on which
 32 a district election may be held under ORS 255.345 (1).

33 (7) When petitions containing the number of signatures required under subsection (6) of this
 34 section are filed with the district within 60 days after adoption of a resolution under subsection (3)
 35 of this section, revenue bonds shall not be sold until the resolution is approved by a majority of the
 36 electors of the district **and any territory for which the district provides service established**
 37 **under ORS 261.315** voting on the resolution.

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

42 (9) Prior to any district board taking formal action to issue and sell any revenue bonds under
 43 this section, the board shall have on file with the secretary of the district a certificate executed by
 44 a qualified engineer that the net annual revenues of the district, including the property to be ac-
 45 quired or constructed with the proceeds of the bonds, shall be sufficient to pay the maximum amount

1 that will be due in any one fiscal year for both principal of and interest on both the bonds then
 2 proposed to be issued and all bonds of the district then outstanding.

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

12 (11) A district may issue revenue bonds under ORS 287A.150 without an election authorizing the
 13 issuance, except that revenue bonds shall not be issued under ORS 287A.150 for the purpose of ac-
 14 quiring an initial utility system or acquiring property or facilities owned by another entity that
 15 provides electric utility service unless:

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

18 (b) The electors within the district **and any territory for which the district provides service**
 19 **established under ORS 261.315** have approved issuance of the bonds by a vote.

20 **SECTION 5.** ORS 261.360 is amended to read:

21 261.360. (1) When authorized by a majority of its electors voting at any primary election or
 22 general election or at a special election, at which special election not less than 25 percent of the
 23 electors of the district **and any territory for which the district provides service established**
 24 **under ORS 261.315** voted on the question, any district may issue and sell general obligation bonds
 25 so conditioned that the district shall [*therein and thereby*] unconditionally undertake, promise and
 26 agree to pay the same in whole or in part from revenue or from taxes or both.

27 (2) The general obligation bonds of the district outstanding at any time [*shall*] **may** not exceed
 28 two and one-half percent (0.025) of the real market value of all taxable property within the limits
 29 of the district.

30 (3) General obligation bonds may be made payable primarily from and secured by a lien on and
 31 pledge of the revenues derived by the district from its operations remaining after paying from such
 32 revenues all expenses of operation and maintenance, and secondarily from taxes.

33 **SECTION 6.** ORS 261.375 is amended to read:

34 261.375. (1) Except as provided in ORS 261.355 (3) and subject to ORS 261.355 (10), before any
 35 district issues general obligation or revenue bonds, other than general obligation refunding, revenue
 36 refunding or advance refunding bonds, the question of whether the bonds shall be issued [*shall*]
 37 **must** be submitted to the electors of the district **and any territory for which the district pro-**
 38 **vides service established under ORS 261.315**, either at any general, state or county election or
 39 at a special election called for that purpose by the board of the district to be held on a date speci-
 40 fied in ORS 255.345.

41 (2) At the election the notice and ballots [*shall*] **must** contain a statement of the amount of
 42 bonds to be voted on and the purpose for which the bonds are to be used. If a majority of those
 43 voting on the question vote “yes,” the board of directors is authorized to issue bonds of the char-
 44 acter and in the amount designated by the election ballot.

45 **SECTION 7.** ORS 261.380 is amended to read:

1 261.380. (1) The power to refund indebtedness approved by the electors of the district **and any**
 2 **territory for which the district provides service established under ORS 261.315** is vested in the
 3 board of directors and may be exercised by adoption of a resolution [*providing therefor*] **exercising**
 4 **the power**. It [*shall*] **is** not be necessary for the board to submit the question of the proposed re-
 5 funding to the electors of the district **and any territory for which the district provides service**
 6 **established under ORS 261.315** at an election or otherwise, but revenue bonds [*shall*] **may** not be
 7 refunded into general obligation bonds, nor [*shall*] **may** general obligation bonds be refunded into
 8 revenue bonds without approval of the electors of the district **and any territory for which the**
 9 **district provides service established under ORS 261.315** given at an election duly called and le-
 10 gally held [*therein*].

11 (2) The issuance and sale of refunding bonds, the maturity dates and other details thereof, the
 12 rights of the holders thereof, and the duties of the board with respect thereto, [*shall be*] **are** gov-
 13 erned by ORS 261.305 and 261.355 to 261.375 in so far as they are applicable. Bonds may be issued
 14 and sold to refund bonds issued pursuant to this chapter, including bonds outstanding on April 10,
 15 1951, and to refund bonds issued for refunding purposes under authority of this chapter.

16 **SECTION 8.** ORS 261.405 is amended to read:

17 261.405. (1) The management of a people’s utility district shall be vested in a board of five di-
 18 rectors.

19 (2) Upon formation of a district, annexation, consolidation, merger and after each decennial
 20 United States Census, the board of directors shall by ordinance divide the district **and any terri-**
 21 **tory for which the district provides service established under ORS 261.315** into five subdivi-
 22 sions, as nearly equal in population as possible, and where practicable fix the boundaries in
 23 conformance with adjacent precinct boundaries. One director shall be elected from each of the five
 24 subdivisions.

25 (3) Directors [*shall*] **must** be electors, [*shall*] **must** reside in the subdivision from which they
 26 are respectively nominated and elected and [*shall*] **must** have resided in the district **or any terri-**
 27 **tory for which the district provides service established under ORS 261.315** continuously for two
 28 years immediately preceding the date of their election as directors.

29 **SECTION 9.** **This 2011 Act does not become operative unless the amendment to the**
 30 **Oregon Constitution proposed by House Joint Resolution 12 (2011) is approved by the people**
 31 **at the next regular general election held throughout this state. This 2011 Act becomes op-**
 32 **erative on the operative date of that constitutional amendment.**

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