

Senate Bill 752

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**.

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 provisions; and
3 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 a part of ORS**
6 **chapter 268.**

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

11 **SECTION 3. Proceedings for facilities district formation or change of organization must**
12 **be initiated, conducted and completed as provided by ORS 198.705 to 198.955.**

13 **SECTION 4. Prior to initiating the formation of a facilities district, the governing body**
14 **of the metropolitan service district may cause engineering and program plans to be prepared.**
15 **The plans may include:**

16 (1) **Preliminary plans for the facilities to be acquired, constructed, maintained or oper-**
17 **ated.**

18 (2) **Estimated costs of acquisition, construction, maintenance and operation of the facil-**
19 **ities.**

20 **SECTION 5. A facilities district may acquire, construct, maintain and operate only those**
21 **facilities that were authorized upon formation of the facilities district. However, additional**
22 **authority regarding facilities may be given to a facilities district by a proceeding initiated,**
23 **conducted and completed in the same manner as is provided for in the original formation of**
24 **a facilities district or as otherwise provided by law.**

25 **SECTION 6. The governing body of the metropolitan service district shall be the gov-**
26 **erning body of a facilities district established under sections 2 to 20 of this 2011 Act. A fa-**
27 **cilities district shall be known by the name specified in the order declaring its formation and**
28 **by that name shall exercise and carry out the powers and duties conferred and declared in**
29 **sections 2 to 20 of this 2011 Act. Before proceeding to acquire or construct any facilities**

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 authorized under sections 2 to 20 of this 2011 Act, the governing body of the facilities district
2 shall make an order to:

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

5 (2) Determine the manner of financing the acquisition, construction, maintenance and
6 operation of the facilities.

7 (3) Determine the method by which the facilities district shall bear the share of the cost
8 of acquisition or construction of the facilities that is to be apportioned to the facilities dis-
9 trict.

10 (4) If the facilities of the facilities district are to be integrated into other facilities ac-
11 quired, constructed or being acquired or constructed by another service district or by other
12 public bodies as defined in ORS 174.109, determine the fair and equitable amount the facilities
13 district should assume as its share of the acquisition or construction of any other facilities,
14 for which the amount shall be paid to the other service district or public body upon terms
15 and conditions to which the governing body of the facilities district has agreed.

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

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

24 (2) The requirements for preparing, circulating and filing a referendum petition under
25 this section shall be as provided in ORS 255.135 to 255.205, except that notwithstanding ORS
26 255.165, the petition must be submitted not later than the 60th day after the date of the or-
27 der.

28 (3) If a majority of those voting approve the order required by section 6 of this 2011 Act,
29 the governing body of the facilities district shall so declare by order entered in its journal.
30 If a majority of those voting disapprove the order, the results shall be entered in the journal.

31 **SECTION 8.** The facilities district may, in accordance with the order required by section
32 6 of this 2011 Act, finance the acquisition, construction, maintenance or operation of facili-
33 ties for a facilities district using:

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

35 (2) Assessments collected against the property in the facilities district with or without
36 issuance of bonds authorized under ORS 223.205, 223.210 to 223.295 and 223.770;

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

38 (4) Facilities district ad valorem taxes;

39 (5) Proceeds from the sale of bonds;

40 (6) Moneys obtained as provided under ORS 280.040, 280.050, 280.060, 280.070, 280.080 and
41 280.090; and

42 (7) Any combination of moneys from the provisions of subsections (1) to (6) of this sec-
43 tion.

44 **SECTION 9.** (1) If the cost, or any portion of the cost, of facilities for a facilities district
45 is to be assessed under section 8 of this 2011 Act against the property directly benefited, the

1 governing body of the facilities district shall, before attempting to implement the facilities,
 2 adopt a general ordinance providing for the method of assessment. The ordinance shall:

3 (a) Contain provision for notice to affected property owners of intention to implement
 4 described facilities and to assess benefited property for a part or all of the cost;

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

7 (c) Provide that if the facilities district receives written objections prior to the conclusion
 8 of the hearing signed by more than 50 percent of the affected property owners representing
 9 more than 50 percent of the affected property, the proposed facilities will not be imple-
 10 mented;

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

14 (e) Provide for the general method of assessing the property directly benefited and of the
 15 recording of liens against the property directly benefited, and of making supplementary as-
 16 sessments and rebates; and

17 (f) Provide for establishing the boundaries of each assessment district as work is pro-
 18 posed.

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

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

25 **SECTION 10.** The facilities district may by order or by ordinance, for the purpose of
 26 paying the costs of operation and maintenance of facilities, and for the repayment of bonds,
 27 impose service or user charges on property served by the facilities. The facilities district
 28 may, from time to time when necessary, use moneys from the revolving fund for such
 29 maintenance and operation on a reimbursable basis. User charges, connection fees or service
 30 charges shall be based upon the costs of operation, maintenance and supervision of facilities
 31 and the costs of bond repayment.

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

38 (2) If the owner of the property against which an assessment has been made fails to pay
 39 the assessment, or any portion of the assessment, or the interest on the assessment, when
 40 due, the facilities district may proceed to foreclose the lien in any manner provided by law
 41 for the collection of liens by local governments as defined in ORS 174.116 or may provide by
 42 ordinance a general procedure for the collection of such liens in any manner not inconsistent
 43 with law.

44 (3) The provisions of ORS 223.405 to 223.485 relating to reassessment shall be available
 45 to the facilities district, where applicable, in connection with assessments made under

1 sections 2 to 20 of this 2011 Act.

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

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

23 **SECTION 13.** For purposes of ad valorem taxation, a boundary change must be filed in
24 final approved form with the county assessor for any counties in which the boundary change
25 is occurring and the Department of Revenue as provided in ORS 308.225.

26 **SECTION 14.** (1) A facilities district may, when authorized by a majority of the votes cast
27 at an election by electors of the facilities district, issue general obligation bonds for the
28 purpose of paying the cost of acquisition or construction of facilities. Each issue of general
29 obligation bonds shall be the general obligation of the facilities district and the principal and
30 interest on the bonds shall be paid by the facilities district by assessments, service or user
31 charges or ad valorem taxes imposed or levied within the facilities district as may be deter-
32 mined by the governing body of the facilities district under section 8 of this 2011 Act. Bonds
33 authorized by this section shall be issued in accordance with ORS chapter 287A, except as
34 otherwise provided in this section.

35 (2) In addition to the authority to issue general obligation bonds, the governing body of
36 the facilities district, when authorized at any properly called election, shall have the power
37 to sell and dispose of revenue bonds, and to pledge as security for the revenue bonds all or
38 any part of the unobligated net revenues of the facilities district to purchase, acquire, lay
39 out, construct, reconstruct, extend, enlarge or improve facilities. The revenue bonds shall
40 be issued as prescribed in ORS chapter 287A, but the revenue bonds are payable from re-
41 venues only, both as to principal and interest. The revenue bonds are not subject to the
42 percentage limitation applicable to general obligation bonds and are not a lien upon any of
43 the taxable property within the boundaries of the facilities district, but are payable solely
44 from any part of the revenues of the facilities district that remain after payment of obli-
45 gations having a priority and of all expenses of operation and maintenance of the facilities

1 district. All revenue bonds must contain a clause reciting that both the principal and interest
 2 are payable solely from the operating revenues of the facilities district that remain after
 3 paying any obligations and expenses.

4 (3) The total outstanding general obligation bonds of the facilities district, including im-
 5 provement bonds of the kind authorized by ORS 223.205 and 223.210 to 223.295, may not ex-
 6 ceed in the aggregate 13 percent of the real market value of all property assessable by law
 7 for state and county purposes within the facilities district as reflected in the last roll certi-
 8 fied under ORS 311.105.

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

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

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

24 (3) Make and accept contracts, deeds, releases and documents that, in the judgment of
 25 the governing body of the facilities district, are necessary or proper in the exercise of the
 26 powers of the facilities district.

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

28 (5) Construct facilities in and on any public street, highway or road and for this purpose
 29 enter upon the street, highway or road, make all necessary and proper excavations, and
 30 thereafter restore the street, highway or road to its proper condition. However, the consent
 31 of the appropriate city, county or state authorities, as the case may be, must first be ob-
 32 tained and the conditions of the consent complied with.

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

35 **SECTION 17.** (1) A facilities district may enter into agreements with any city, any
 36 county, the federal government, the state or any of its agencies, any service district organ-
 37 ized for a public purpose or any person for a period not to exceed 30 years for the cooperative
 38 financing of the acquisition, construction, maintenance and operation of facilities.

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

42 **SECTION 18.** (1) Except as otherwise provided in sections 2 to 20 of this 2011 Act, all
 43 moneys received by a facilities district must be paid to the metropolitan service district and
 44 deposited in an appropriate facilities district fund. The metropolitan service district must
 45 establish separate accounts in the facilities district fund or separate funds in the metropol-

1 itan service district treasury for the segregation of sinking or reserve funds or accounts, of
 2 operating funds or accounts or of any other funds or accounts found necessary or expedient
 3 by the facilities district. Moneys received by a facilities district may not be used for any
 4 purpose other than carrying out the purposes of sections 2 to 20 of this 2011 Act, and all
 5 funds, facilities, personnel or supplies of the metropolitan service district used for those
 6 purposes shall be charged to the appropriate facilities district fund or account.

7 (2) Notwithstanding the requirement for a facilities district to pay facilities district
 8 moneys to the metropolitan service district for deposit in an appropriate facilities district
 9 fund in the metropolitan service district treasury under subsection (1) of this section, the
 10 governing body of a metropolitan service district may order the governing body of a facilities
 11 district to hold and manage its own moneys in one or more facilities district funds or ac-
 12 counts with a financial institution as defined in ORS 706.008. The order must provide for
 13 transfer of any moneys of the facilities district then held or later received by the metropol-
 14 itan service district for the facilities district. Thereafter, the facilities district shall be solely
 15 responsible for management of moneys of the facilities district and shall designate a facilities
 16 district officer or employee to assume the duties and responsibilities otherwise imposed upon
 17 the metropolitan service district.

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

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

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

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

25 and

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

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

30 **SECTION 20.** Officers and employees of a metropolitan service district or facilities dis-
 31 trict may enter upon privately owned lands to survey or lay out facilities by direction of the
 32 governing body of the metropolitan service district or governing body of the facilities dis-
 33 trict. However, the governing body of the metropolitan service district or governing body of
 34 the facilities district must cause notification to be given to each occupant of the lands, either
 35 by registered or certified mail or by other lawful means. The notice must be given at least
 36 five days before the metropolitan service district or facilities district officers or employees
 37 enter upon the lands. An officer or employee of a metropolitan service district or facilities
 38 district entering privately owned lands pursuant to this section may not damage or destroy
 39 trees, shrubs, buildings or other items of value on that land without first obtaining the
 40 consent of the owner.

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

42 268.020. As used in this chapter:

43 (1) "District" means a metropolitan service district established under this chapter.

44 (2) "District charter" means a home rule charter enacted by the electors of a district under
 45 section 14, Article XI, Oregon Constitution.

1 **(3) “Facilities district” means a service district formed by a metropolitan service district**
 2 **under sections 2 to 20 of this 2011 Act.**

3 [(3)] **(4) “Metropolitan area” means that area which on October 4, 1997, lies within the bound-**
 4 **aries of Clackamas, Multnomah and Washington Counties.**

5 [(4)] **(5) “Improvement” means the facilities and other property constructed, erected or acquired**
 6 **by and to be used in the performance of services authorized to be performed by a metropolitan**
 7 **service district or facilities district.**

8 [(5)] **(6) “Metropolitan significance” means having major or significant district-wide impact.**

9 [(6)] **(7) “Person” means a public body as defined in ORS 174.109, individual, corporation, part-**
 10 **nership, association, firm, trust, estate or any other legal entity.**

11 [(7)] **(8) “Regional framework plan” means the Metro regional framework plan defined in ORS**
 12 **197.015 and any metropolitan service district ordinances that implement the plan.**

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

14 174.116. (1)(a) Subject to ORS 174.108, as used in the statutes of this state “local government”
 15 means all cities, counties and local service districts located in this state, and all administrative
 16 subdivisions of those cities, counties and local service districts.

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

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

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

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

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

28 (a) An economic improvement district created under ORS 223.112 to 223.132 or 223.141 to
 29 223.161.

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

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

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

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

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

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

36 (h) A metropolitan service district organized under ORS chapter 268 **or a facilities district**
 37 **formed by a metropolitan service district.**

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

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

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

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

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

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

44 (o) A 9-1-1 communications district organized under ORS 403.300 to 403.380.

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

- 1 (q) A sanitary district organized under ORS 450.005 to 450.245.
- 2 (r) A sanitary authority, water authority or joint water and sanitary authority organized under
- 3 ORS 450.600 to 450.989.
- 4 (s) A county service district organized under ORS chapter 451.
- 5 (t) A vector control district organized under ORS 452.020 to 452.170.
- 6 (u) A rural fire protection district organized under ORS chapter 478.
- 7 (v) A geothermal heating district organized under ORS chapter 523.
- 8 (w) An irrigation district organized under ORS chapter 545.
- 9 (x) A drainage district organized under ORS chapter 547.
- 10 (y) A diking district organized under ORS chapter 551.
- 11 (z) A water improvement district organized under ORS chapter 552.
- 12 (aa) A water control district organized under ORS chapter 553.
- 13 (bb) A district improvement company or a district improvement corporation organized under
- 14 ORS chapter 554.
- 15 (cc) A weather modification district organized under ORS 558.200 to 558.440.
- 16 (dd) A fair district formed under ORS chapter 565.
- 17 (ee) A soil and water conservation district organized under ORS 568.210 to 568.808 and 568.900
- 18 to 568.933.
- 19 (ff) A weed control district organized under ORS 569.350 to 569.450.
- 20 (gg) A port organized under ORS 777.005 to 777.725 and 777.915 to 777.953.
- 21 (hh) The Port of Portland created under ORS 778.010.
- 22 (ii) An airport district established under ORS chapter 838.
- 23 (jj) A heritage district organized under ORS 358.442 to 358.474.
- 24 (kk) A radio and data district organized under ORS 403.500 to 403.542.
- 25 **SECTION 23.** ORS 198.010 is amended to read:
- 26 198.010. As used in this chapter, except as otherwise specifically provided, “district” means any
- 27 one of the following:
- 28 (1) A people’s utility district organized under ORS chapter 261.
- 29 (2) A domestic water supply district organized under ORS chapter 264.
- 30 (3) A cemetery maintenance district organized under ORS chapter 265.
- 31 (4) A park and recreation district organized under ORS chapter 266.
- 32 (5) A mass transit district organized under ORS 267.010 to 267.390.
- 33 (6) A metropolitan service district organized under ORS chapter 268 **or a facilities district**
- 34 **formed by a metropolitan service district.**
- 35 (7) A special road district organized under ORS 371.305 to 371.360.
- 36 (8) A road assessment district organized under ORS 371.405 to 371.535.
- 37 (9) A highway lighting district organized under ORS chapter 372.
- 38 (10) A health district organized under ORS 440.305 to 440.410.
- 39 (11) A sanitary district organized under ORS 450.005 to 450.245.
- 40 (12) A sanitary authority, water authority or joint water and sanitary authority organized under
- 41 ORS 450.600 to 450.989.
- 42 (13) A vector control district organized under ORS 452.020 to 452.170.
- 43 (14) A rural fire protection district organized under ORS chapter 478.
- 44 (15) An irrigation district organized under ORS chapter 545.
- 45 (16) A drainage district organized under ORS chapter 547.

- 1 (17) A water improvement district organized under ORS chapter 552.
- 2 (18) A water control district organized under ORS chapter 553.
- 3 (19) A weather modification district organized under ORS 558.200 to 558.440.
- 4 (20) A port organized under ORS 777.005 to 777.725 and 777.915 to 777.953.
- 5 (21) A geothermal heating district organized under ORS chapter 523.
- 6 (22) A transportation district organized under ORS 267.510 to 267.650.
- 7 (23) A library district organized under ORS 357.216 to 357.286.
- 8 (24) A 9-1-1 communications district organized under ORS 403.300 to 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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