

# Senate Bill 547

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 cities and counties to incur exempt bonded indebtedness to finance capital costs.  
Declares emergency, effective July 1, 2013.

## A BILL FOR AN ACT

Relating to capital costs financed with local bonded indebtedness; amending ORS 287A.001, 287A.050, 287A.100, 287A.145, 305.586, 308.807, 310.140, 327.006 and 457.010; and declaring an emergency.

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

**SECTION 1.** ORS 310.140, as amended by section 17, chapter 31, Oregon Laws 2012, is amended to read:

310.140. (1) **As used in the revenue and property tax laws of this state for purposes of bonded indebtedness incurred on or after January 1, 2011, to finance capital costs, under the authority of Article XI, section 11L, Oregon Constitution:**

(a) **“Capital costs” means costs of land and of other assets having a useful life of more than one year, including costs associated with acquisition, construction, improvement, remodeling, furnishing, equipping, maintenance or repair.**

(b) **“Capital costs” does not include costs of routine maintenance or supplies.**

(c) **“Exempt bonded indebtedness” means bonded indebtedness incurred as a general obligation of the issuing local taxing district on or after January 1, 2011, that is used to finance capital costs and that is secured by a commitment to levy ad valorem taxes outside the limits of Article XI, sections 11 and 11b, Oregon Constitution.**

(d) **“Exempt bonded indebtedness” includes bonded indebtedness issued to refund or re-finance bonded indebtedness described in paragraph (c) of this subsection.**

(2) **When a provision of the revenue and property tax laws of this state relates to the use of net proceeds of exempt bonded indebtedness for capital construction, capital improvement or other words designating a capital project, the net proceeds may be used to pay capital costs if the exempt bonded indebtedness is incurred on or after January 1, 2011, under the authority of Article XI, section 11L, Oregon Constitution.**

(3) The Legislative Assembly finds that [section 11b,] Article XI [of the], **section 11b**, Oregon Constitution, was drafted by citizens and placed before the voters of the State of Oregon by initiative petition. [Section 11b,] Article XI [of the], **section 11b**, Oregon Constitution, uses terms that do not have established legal meanings and require definition by the Legislative Assembly. [Section 11b,] Article XI [of the], **section 11b**, Oregon Constitution, was amended by [section 11 (11),] Article XI [of the], **section 11 (11)**, Oregon Constitution. **Subsections (3) to (7) of this section [is intended to] interpret the terms of [section 11b,] Article XI [of the], section 11b, Oregon Constitution, as ori-**

**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.

ginally adopted and as amended by [section 11 (11),] Article XI [of the], **section 11 (11)**, Oregon Constitution, consistent with the intent of the people in adopting these provisions, so that the provisions of [section 11b,] Article XI [of the], **section 11b**, Oregon Constitution, may be given effect uniformly throughout the State of Oregon, with minimal confusion and misunderstanding by citizens and affected units of government.

(4) As used in the revenue and **property** tax laws of this state[, and] for purposes of [section 11b,] Article XI [of the], **section 11b**, Oregon Constitution:

[(1)] (a) “Actual cost” means all direct or indirect costs incurred by a government unit in order to deliver goods or services or to undertake a capital construction project. The “actual cost” of providing goods or services to a property or property owner includes the average cost or an allocated portion of the total amount of the actual cost of making a good or service available to the property or property owner, whether stated as a minimum, fixed or variable amount.

(b) “Actual cost” includes, but is not limited to, the costs of labor, materials, supplies, equipment rental, property acquisition, permits, engineering, financing, reasonable program delinquencies, return on investment, required fees, insurance, administration, accounting, depreciation, amortization, operation, maintenance, repair or replacement and debt service, including debt service payments or payments into reserve accounts for debt service and payment of amounts necessary to meet debt service coverage requirements.

[(2)] (c) “Assessment for local improvement” means any tax, fee, charge or assessment that does not exceed the actual cost incurred by a unit of government for design, construction and financing of a local improvement.

[(3)] (d) “Bonded indebtedness” means any formally executed written agreement representing a promise by a unit of government to pay to another a specified sum of money, at a specified date or dates at least one year in the future.

[(4)] (e) “Capital construction”[:]

[(a)] **means**, for bonded indebtedness issued prior to December 5, 1996, and for the proceeds of any bonded indebtedness approved by electors prior to December 5, 1996, that were spent or contractually obligated to be spent prior to June 20, 1997, [means] the construction, modification, replacement, repair, remodeling or renovation of a structure, or addition to a structure, that is expected to have a useful life of more than one year, and includes, but is not limited to:

(A) Acquisition of land, or a legal interest in land, in conjunction with the capital construction of a structure.

(B) Acquisition, installation of machinery or equipment, furnishings or materials that will become an integral part of a structure.

(C) Activities related to the capital construction, including planning, design, authorizing, issuing, carrying or repaying interim or permanent financing, research, land use and environmental impact studies, acquisition of permits or licenses or other services connected with the construction.

(D) Acquisition of existing structures, or legal interests in structures, in conjunction with the capital construction.

[(b)] (f) “**Capital construction,**” for bonded indebtedness issued on or after December 5, 1996, except for the proceeds of any bonded indebtedness approved by electors prior to December 5, 1996, that were spent or contractually obligated to be spent before June 20, 1997, has the meaning given that term in paragraph [(a)] (e) of this subsection, except [that] **as provided in paragraph (g) of this subsection.**

(g) “Capital construction”:

1 (A) Includes public safety and law enforcement vehicles with a projected useful life of five years  
2 or more; and

3 (B) Does not include:

4 (i) Maintenance and repairs, the need for which could be reasonably anticipated;

5 (ii) Supplies and equipment that are not intrinsic to the structure; or

6 (iii) Furnishings, unless the furnishings are acquired in connection with the acquisition, con-  
7 struction, remodeling or renovation of a structure, or the repair of a structure that is required be-  
8 cause of damage or destruction of the structure.

9 [(5)] (h) "Capital improvements":

10 [(a)] **means**, for bonded indebtedness issued prior to December 5, 1996, and for the proceeds of  
11 any bonded indebtedness approved by electors before December 5, 1996, that were spent or  
12 contractually obligated to be spent before June 20, 1997, [*means*] land, structures, facilities, personal  
13 property that is functionally related and subordinate to real property, machinery, equipment or fur-  
14 nishings having a useful life longer than one year.

15 [(b)] (i) "**Capital improvements,**" for bonded indebtedness issued on or after December 5, 1996,  
16 except for the proceeds of any bonded indebtedness approved by electors prior to December 5, 1996,  
17 that were spent or contractually obligated to be spent before June 20, 1997, has the meaning given  
18 that term in paragraph [(a)] (h) of this subsection, except [*that*] **as provided in paragraph (j) of**  
19 **this subsection.**

20 (j) "Capital improvements":

21 (A) Includes public safety and law enforcement vehicles with a projected useful life of five years  
22 or more; and

23 (B) Does not include:

24 (i) Maintenance and repairs, the need for which could be reasonably anticipated;

25 (ii) Supplies and equipment that are not intrinsic to the structure; or

26 (iii) Furnishings, unless the furnishings are acquired in connection with the acquisition, con-  
27 struction, remodeling or renovation of a structure, or the repair of a structure that is required be-  
28 cause of damage or destruction of the structure.

29 [(6)] (k) "Direct consequence of ownership" means that the obligation of the owner of property  
30 to pay a tax arises solely because that person is the owner of the property, and the obligation to  
31 pay the tax arises as an immediate and necessary result of that ownership without respect to any  
32 other intervening transaction, condition or event.

33 [(7)(a)] (L) "Exempt bonded indebtedness" means:

34 (A) Bonded indebtedness authorized by a specific provision of the Oregon Constitution;

35 (B) Bonded indebtedness incurred or to be incurred for capital construction or capital improve-  
36 ments that was issued as a general obligation of the issuing governmental unit on or before No-  
37 vember 6, 1990;

38 (C) Bonded indebtedness incurred or to be incurred for capital construction or capital improve-  
39 ments that was issued as a general obligation of the issuing governmental unit after November 6,  
40 1990, with the approval of the electors of the issuing governmental unit; or

41 (D) Bonded indebtedness incurred or to be incurred for capital construction or capital improve-  
42 ments, if the issuance of the bonds is approved by voters on or after December 5, 1996, in an election  
43 that is in compliance with the voter participation requirements of [*section 11 (8),*] Article XI [*of*  
44 *the*], **section 11 (8)**, Oregon Constitution.

45 [(b)] (m) "Exempt bonded indebtedness" includes bonded indebtedness issued to refund or refi-

1 nance any bonded indebtedness described in paragraph [(a)] **(L)** of this subsection.

2 [(8)(a)] **(n)** “Incurred charge” means a charge imposed by a unit of government on property or  
3 upon a property owner that does not exceed the actual cost of providing goods or services and that  
4 can be controlled or avoided by the property owner because:

5 (A) The charge is based on the quantity of the goods or services used, and the owner has direct  
6 control over the quantity;

7 (B) The goods or services are provided only on the specific request of the property owner; or

8 (C) The goods or services are provided by the government unit only after the individual property  
9 owner has failed to meet routine obligations of ownership of the affected property, and such action  
10 is deemed necessary by an appropriate government unit to enforce regulations pertaining to health  
11 or safety.

12 [(b) For purposes of this subsection, an owner of property may control or avoid an incurred charge  
13 if the owner is capable of taking action to affect the amount of a charge that is or will be imposed or  
14 to avoid imposition of a charge even if the owner must incur expense in so doing.]

15 [(c) For purposes of paragraph (a)(A) of this subsection, an owner of property has direct control  
16 over the quantity of goods or services if the owner of property has the ability, whether or not that  
17 ability is exercised, to determine the quantity of goods or services provided or to be provided.]

18 [(9)(a)] **(o)** “Local improvement” means a capital construction project, or part thereof, under-  
19 taken by a local government, pursuant to ORS 223.387 to 223.399, or pursuant to a local ordinance  
20 or resolution prescribing the procedure to be followed in making local assessments for benefits from  
21 a local improvement upon the lots that have been benefited by all or a part of the improvement:

22 (A) That provides a special benefit only to specific properties or rectifies a problem caused by  
23 specific properties;

24 (B) The costs of which are assessed against those properties in a single assessment upon the  
25 completion of the project; and

26 (C) For which the property owner may elect to make payment of the assessment plus appropriate  
27 interest over a period of at least 10 years.

28 [(b) For purposes of paragraph (a) of this subsection, the status of a capital construction project  
29 as a local improvement is not affected by the accrual of a general benefit to property other than the  
30 property receiving the special benefit.]

31 [(10)] **(p)** “Maintenance and repairs, the need for which could be reasonably anticipated”:

32 [(a)] **(A)** Means activities, the type of which may be deducted as an expense under the provisions  
33 of the federal Internal Revenue Code, as amended and in effect on December 31, 2011, that keep the  
34 property in ordinarily efficient operating condition and that do not add materially to the value of  
35 the property nor appreciably prolong the life of the property;

36 [(b)] **(B)** Does not include maintenance and repair of property that is required by damage, de-  
37 struction or defect in design, or that was otherwise not reasonably expected at the time the property  
38 was constructed or acquired, or the addition of material that is in the nature of the replacement of  
39 property and that arrests the deterioration or appreciably prolongs the useful life of the property;  
40 and

41 [(c)] **(C)** Does not include street and highway construction, overlay and reconstruction.

42 [(11)] **(q)** “Projected useful life” means the useful life, as reasonably estimated by the unit of  
43 government undertaking the capital construction or capital improvement project, beginning with the  
44 date the property was acquired, constructed or reconstructed and based on the property’s condition  
45 at the time the property was acquired, constructed or reconstructed.

1 [(12)] (r) “Routine obligations of ownership” means a standard of operation, maintenance, use  
 2 or care of property established by law, or if established by custom or common law, a standard that  
 3 is reasonable for the type of property affected.

4 [(13)] (s) “Single assessment” means the complete assessment process, including preassessment,  
 5 assessment or reassessment, for any local improvement authorized by ORS 223.387 to 223.399, or a  
 6 local ordinance or resolution that provides the procedure to be followed in making local assessments  
 7 for benefits from a local improvement upon lots that have been benefited by all or part of the im-  
 8 provement.

9 [(14)] (t) “Special benefit only to specific properties” shall have the same meaning as “special  
 10 and peculiar benefit” as that term is used in ORS 223.389.

11 [(15)] (u) “Specific request” means:

12 [(a)] (A) An affirmative act by a property owner to seek or obtain delivery of goods or services;

13 [(b)] (B) An affirmative act by a property owner, the legal consequence of which is to cause the  
 14 delivery of goods or services to the property owner; or

15 [(c)] (C) Failure of an owner of property to change a request for goods or services made by a  
 16 prior owner of the property.

17 [(16)] (v) “Structure” means any temporary or permanent building or improvement to real  
 18 property of any kind that is constructed on or attached to real property, whether above, on or be-  
 19 neath the surface.

20 [(17)] (w) “Supplies and equipment intrinsic to a structure” means the supplies and equipment  
 21 that are necessary to permit a structure to perform the functions for which the structure was con-  
 22 structed, or that will, upon installation, constitute fixtures considered to be part of the real property  
 23 that is comprised, in whole or part, of the structure and land supporting the structure.

24 [(18)] (x) “Tax on property” means any tax, fee, charge or assessment imposed by any govern-  
 25 ment unit upon property or upon a property owner as a direct consequence of ownership of that  
 26 property, but does not include incurred charges or assessments for local improvements. As used in  
 27 this subsection, “property” means real or tangible personal property, and intangible property that  
 28 is part of a unit of real or tangible personal property to the extent that such intangible property is  
 29 subject to a tax on property.

30 **(5) For purposes of subsection (4)(n) of this section, an owner of property may control**  
 31 **or avoid an incurred charge if the owner is capable of taking action to affect the amount of**  
 32 **a charge that is or will be imposed or to avoid imposition of a charge even if the owner must**  
 33 **incur expense in so doing.**

34 **(6) For purposes of subsection (4)(n)(A) of this section, an owner of property has direct**  
 35 **control over the quantity of goods or services if the owner of property has the ability,**  
 36 **whether or not that ability is exercised, to determine the quantity of goods or services pro-**  
 37 **vided or to be provided.**

38 **(7) For purposes of subsection (4)(o) of this section, the status of a capital construction**  
 39 **project as a local improvement is not affected by the accrual of a general benefit to property**  
 40 **other than the property receiving the special benefit.**

41 **SECTION 2.** ORS 287A.001 is amended to read:

42 287A.001. As used in this chapter:

43 (1) “Advance refunding bond” means a bond all or part of the proceeds of which are to be used  
 44 to pay an outstanding bond one year or more after the advance refunding bond is issued.

45 (2) “Agreement for exchange of interest rates” means a contract, or an option or forward com-

1 mitment to enter into a contract, for an exchange of interest rates for related bonds that provides  
2 for:

3 (a) Payments based on levels or changes in interest rates; or

4 (b) Provisions to hedge payment, rate, spread or similar exposure including, but not limited to,  
5 an interest rate floor or cap or an option, put or call.

6 (3) "Bond":

7 (a) Means a contractual undertaking or instrument of a public body to repay borrowed moneys.

8 (b) Does not mean a credit enhancement device.

9 (4) "Capital construction" has the meaning given that term in ORS 310.140.

10 (5) "Capital improvements" has the meaning given that term in ORS 310.140.

11 **(6) "Capital costs" has the meaning given that term in ORS 310.140.**

12 [(6)] (7) "Credit enhancement device":

13 (a) Means a letter of credit, line of credit, standby bond purchase agreement, bond insurance  
14 policy, reserve surety bond or other device or facility used to enhance the creditworthiness, liquidity  
15 or marketability of bonds or agreements for exchange of interest rates.

16 (b) Does not mean a bond.

17 [(7)] (8) "Current refunding bond" means a bond the proceeds of which are to be used to pay  
18 or purchase an outstanding bond less than one year after the current refunding bond is issued.

19 [(8)] (9) "Forward current refunding" means execution and delivery of a purchase agreement or  
20 similar instrument under which a public body contracts to sell current refunding bonds for delivery  
21 at a future date that is one year or more after execution of the purchase agreement or similar in-  
22 strument.

23 [(9)] (10) "General obligation bond" means:

24 (a) Exempt bonded indebtedness, as defined in ORS 310.140 (4), that is **authorized under Ar-**  
25 **article XI, section 11b, Oregon Constitution, and** is secured by a commitment to levy ad valorem  
26 taxes outside the limits of [*sections 11 and 11b,*] Article XI [*of the*], **sections 11 and 11b**, Oregon  
27 Constitution.

28 **(b) Exempt bonded indebtedness, as defined in ORS 310.140 (1), that is authorized under**  
29 **Article XI, section 11L, Oregon Constitution, and is incurred as a general obligation of the**  
30 **issuing local taxing district on or after January 1, 2011, to finance capital costs, as defined**  
31 **in ORS 310.140 (1) and that is secured by a commitment to levy ad valorem taxes outside the**  
32 **limits of Article XI, sections 11 and 11b, Oregon Constitution.**

33 [(10)] (11) "Lawfully available funds" means revenues or other moneys of a public body includ-  
34 ing, but not limited to, moneys credited to the general fund of the public body, revenues from an  
35 ad valorem tax and revenues derived from other taxes levied by the public body that are not dedi-  
36 cated, restricted or obligated by law or contract to an inconsistent expenditure or use.

37 [(11)] (12) "Operative document" means a bond declaration, trust agreement, indenture, security  
38 agreement or other document in which a public body pledges revenue or property as security for a  
39 bond.

40 [(12)] (13) "Pledge" means:

41 (a) To create a lien on property pursuant to ORS 287A.310.

42 (b) A lien created on property pursuant to ORS 287A.310.

43 [(13)] (14) "Public body" means:

44 (a) A county of this state;

45 (b) A city of this state;

- 1 (c) A local service district as defined in ORS 174.116 (2);
- 2 (d) A special government body as defined in ORS 174.117;
- 3 (e) Oregon Health and Science University; or
- 4 (f) Any other political subdivision of this state that is authorized by the Legislative Assembly
- 5 to issue bonds.

6 [(14)] (15) “Refunding bond” means an advance refunding bond, a current refunding bond or a  
 7 forward current refunding bond.

8 [(15)] (16) “Related bond” means a bond for which the public body enters into an agreement for  
 9 exchange of interest rates or obtains a credit enhancement device.

10 [(16)] (17) “Revenue” means all fees, tolls, excise taxes, assessments, property taxes and other  
 11 taxes, rates, charges, rentals and other income or receipts derived by a public body or to which a  
 12 public body is entitled.

13 [(17)] (18) “Revenue bond” means a bond that is not a general obligation bond.

14 [(18)] (19) “Termination payment” means the amount payable under an agreement for exchange  
 15 of interest rates by one party to another party as a result of the termination, in whole or part, of  
 16 the agreement prior to the expiration of the stated term.

17 **SECTION 3.** ORS 287A.050 is amended to read:

18 287A.050. [(1) A city may issue general obligation bonds to finance capital construction or capital  
 19 improvements upon approval of the electors of the city.]

20 (1) **Upon approval of the electors of a city, the city may issue general obligation bonds**  
 21 **to finance:**

22 (a) **Capital construction or capital improvements under the authority of Article XI, sec-**  
 23 **tion 11b, Oregon Constitution.**

24 (b) **Capital costs under the authority of Article XI, section 11L, Oregon Constitution.**

25 (2) Unless the city charter provides a lesser limitation, a city may not issue or have outstanding  
 26 at the time of issuance general obligation bonds in a principal amount that exceeds three percent  
 27 of the real market value of the taxable property within its boundaries, calculated as provided in ORS  
 28 308.207.

29 (3) The limitation described in subsection (2) of this section does not apply to general obligation  
 30 bonds issued:

31 (a) To finance the costs of local improvements assessed and paid for in installments under  
 32 statutory or charter authority [or].

33 (b) To finance capital construction or capital improvements **under the authority of Article**  
 34 **XI, section 11b, Oregon Constitution, or to finance capital costs under the authority of Ar-**  
 35 **icle XI, section 11L, Oregon Constitution, for:**

36 [(a)] (A) Water supply, treatment or distribution;

37 [(b)] (B) Sanitary or storm sewage collection or treatment;

38 [(c)] (C) Hospitals or infirmaries;

39 [(d)] (D) Gas, power or lighting; or

40 [(e)] (E) Off-street motor vehicle parking facilities.

41 **SECTION 4.** ORS 287A.100 is amended to read:

42 287A.100. [(1) Unless the county charter expressly provides otherwise, a county may issue general  
 43 obligation bonds to finance capital construction or capital improvements upon approval of the electors  
 44 of the county.]

45 (1) **Unless the county charter expressly provides otherwise, upon approval of the electors**

1 **of a county, the county may issue general obligation bonds to finance:**

2 (a) **Capital construction or capital improvements under the authority of Article XI, section 11b, Oregon Constitution.**

3 (b) **Capital costs under the authority of Article XI, section 11L, Oregon Constitution.**

4 (2) Unless the county charter provides a lesser limitation, a county may not issue or have outstanding at the time of issuance general obligation bonds in a principal amount that exceeds two percent of the real market value of the taxable property in the county, calculated as provided in ORS 308.207.

5 **SECTION 5.** ORS 287A.145 is amended to read:

6 287A.145. (1) If a court of competent jurisdiction determines that the proceeds of an issue of general obligation bonds have been used by a public body for expenditures that are not **capital costs, if issued under the authority of Article XI, section 11L, Oregon Constitution, or that are not costs of capital construction or capital improvements, if issued under the authority of Article XI, section 11b, Oregon Constitution,** the court may order the public body to:

7 (a) Replace the misspent proceeds with interest, on a reasonable schedule determined by the court, from moneys other than the tax revenues that the public body levies to pay the debt service; and

8 (b) Use the replaced moneys, **as appropriate,** for **capital costs,** capital construction or capital improvement expenditures or to pay the debt service.

9 (2) If the public body fails to comply with an order to replace the misspent proceeds or acknowledges that the public body is unable to replace the misspent proceeds, the court may determine that a portion of the future levies to pay the debt service is subject to the limits of [sections 11 and 11b,] Article XI [of the], **sections 11 and 11b,** Oregon Constitution, by calculating the amount of the tax revenues that are necessary to pay the principal and interest on the bonds that is allocable to the misspent proceeds.

10 (3) An action may not be filed or maintained against a public body because of an alleged expenditure of the bond proceeds of general obligation bonds for purposes other than **capital costs,** capital construction or capital improvements, if the misspent moneys are less than \$5,000.

11 **SECTION 6.** ORS 305.586 is amended to read:

12 305.586. (1) **As used in this section:**

13 (a) **“Capital construction” has the meaning given that term in ORS 310.140.**

14 (b) **“Capital costs” has the meaning given that term in ORS 310.140.**

15 (c) **“Capital improvements” has the meaning given that term in ORS 310.140.**

16 (2) The Legislative Assembly finds that, when general obligation bonds are issued by a government unit to finance **capital costs or to finance** the cost of capital construction or **capital** improvements, subjecting the taxes imposed to pay the principal and interest on that bonded indebtedness to the limits of [section 11b (1),] Article XI [of the], **section 11b (1),** Oregon Constitution, reduces the credit quality of the bonds, injures bondholders and increases the cost of borrowing for all local governments in Oregon. The Legislative Assembly also finds that it is in the best interests of the State of Oregon and local governments in Oregon to ensure that, if a local government body expends proceeds from [such] **the** bonds for other than **capital costs,** capital construction or **capital** improvements, **whichever is an authorized use of proceeds of the bonds,** the holders of the bonds, who are innocent with regard to [such] **the** expenditure, will not suffer impairment of their security and interest in the bonds as a result.

17 [(2)] (3) It is the policy of the State of Oregon and a matter of statewide concern that,



1 notwithstanding ORS 305.587 (1) and 305.589 (8), if in a proceeding commenced under ORS 305.583  
 2 or 305.589, the Oregon Tax Court finds that the proceeds of general obligation bonds issued for  
 3 capital construction or **capital** improvements under [section 11b (3)(b),] Article XI [of the], **section**  
 4 **11b (3)(b)**, Oregon Constitution, **or general obligation bonds issued for capital costs under Ar-**  
 5 **article XI, section 11L, Oregon Constitution**, have been expended for purposes other than **capital**  
 6 **costs or the costs of** capital construction or **capital** improvements, the court shall endeavor, to the  
 7 fullest extent practicable and consistent with equitable principles, to fashion a remedy that does not  
 8 impair the security or value of the bonds to the bondholders and does not prejudice the ability of  
 9 the local government body to satisfy its obligations under the bonds.

10 [(3)] (4) In addition, the court shall fashion any remedy in a manner that takes into account the  
 11 financial capacity and practical alternatives available to the local government body, and shall en-  
 12 sure that the remedy is proportional to, and restricted to correcting the amount of, any unlawful  
 13 expenditure of bond proceeds. To the fullest extent possible, the court shall avoid any remedy that  
 14 either invalidates, in whole or in part, the bonds or taxes levied or to be levied for payment of the  
 15 bonds, or that makes any amount of the bonds for which the proceeds lawfully were expended sub-  
 16 ject to the limits of [section 11b (1),] Article XI [of the], **section 11b (1)**, Oregon Constitution.

17 **SECTION 7.** ORS 308.807 is amended to read:

18 308.807. For payments due July 1, 1992, and each July 1 thereafter, the amount of the tax im-  
 19 posed by ORS 308.805 shall be the lesser of:

20 (1) Four percent of all gross revenue derived from the use or operation of transmission and  
 21 distribution lines (exclusive of revenues from the leasing of lines to governmental agencies) minus  
 22 the cost of power to the association, or;

23 (2) The sum of:

24 (a) An amount obtained by multiplying the real market value of the transmission and distrib-  
 25 ution lines for the current fiscal year by the maximum school tax rate allowable under ORS 310.150,  
 26 plus;

27 (b) An amount obtained by multiplying the real market value of the transmission and distrib-  
 28 ution lines for the current fiscal year by \$10 per \$1,000 of real market value, plus;

29 (c) An amount obtained by multiplying the real market value of the transmission and distrib-  
 30 ution lines by the tax rate of the county for exempt bonded indebtedness as defined in ORS 310.140  
 31 (1) and (4).

32 **SECTION 8.** ORS 327.006 is amended to read:

33 327.006. As used in ORS 327.006 to 327.133, 327.348 and 327.731:

34 (1) "Aggregate days membership" means the sum of days present and absent, according to the  
 35 rules of the State Board of Education, of all resident pupils when school is actually in session during  
 36 a certain period. The aggregate days membership of kindergarten pupils shall be calculated on the  
 37 basis of a half-day program.

38 (2)(a) "Approved transportation costs" means those costs as defined by rule of the State Board  
 39 of Education and is limited to those costs attributable to transporting or room and board provided  
 40 in lieu of transporting:

41 (A) Elementary school students who live at least one mile from school;

42 (B) Secondary school students who live at least 1.5 miles from school;

43 (C) Any student required to be transported for health or safety reasons, according to supple-  
 44 mental plans from districts that have been approved by the state board identifying students who are  
 45 required to be transported for health or safety reasons, including special education;

1 (D) Preschool children with disabilities requiring transportation for early intervention services  
2 provided pursuant to ORS 343.224 and 343.533;

3 (E) Students who require payment of room and board in lieu of transportation;

4 (F) A student transported from one school or facility to another school or facility when the  
5 student attends both schools or facilities during the day or week; and

6 (G) Students participating in school-sponsored field trips that are extensions of classroom  
7 learning experiences.

8 (b) "Approved transportation costs" does not include the cost of constructing boarding school  
9 facilities.

10 (3) "Average daily membership" or "ADM" means the aggregate days membership of a school  
11 during a certain period divided by the number of days the school was actually in session during the  
12 same period. However, if a district school board adopts a class schedule that operates throughout  
13 the year for all or any schools in the district, average daily membership shall be computed by the  
14 Department of Education so that the resulting average daily membership will not be higher or lower  
15 than if the board had not adopted such schedule.

16 (4) "Consumer Price Index" means the Consumer Price Index for All Urban Consumers of the  
17 Portland, Oregon, Metropolitan Statistical Area, as compiled by the United States Department of  
18 Labor, Bureau of Labor Statistics.

19 (5) "Kindergarten" means a kindergarten program that conforms to the standards and rules  
20 adopted by the State Board of Education.

21 (6) "Net operating expenditures" means the sum of expenditures of a school district in  
22 kindergarten through grade 12 for administration, instruction, attendance and health services, op-  
23 eration of plant, maintenance of plant, fixed charges and tuition for resident students attending in  
24 another district, as determined in accordance with the rules of the State Board of Education, but  
25 net operating expenditures does not include transportation, food service, student body activities,  
26 community services, capital outlay, debt service or expenses incurred for nonresident students.

27 (7)(a) "Resident pupil" means any pupil:

28 (A) Whose legal school residence is within the boundaries of a school district reporting the pu-  
29 pil, if the district is legally responsible for the education of the pupil, except that "resident pupil"  
30 does not include a pupil who pays tuition or for whom the parent pays tuition or for whom the  
31 district does not pay tuition for placement outside the district; or

32 (B) Whose legal residence is not within the boundaries of the district reporting the pupil but  
33 who attends school in the district with the written consent of the district school board where the  
34 school is located as provided by ORS 339.133 (5).

35 (b) A pupil is not considered to be a resident pupil under paragraph (a)(A) of this subsection if  
36 the pupil is attending school in another school district pursuant to a contract under ORS 339.125  
37 and in the prior year was considered to be a resident pupil in another school district under para-  
38 graph (a)(B) of this subsection. The pupil shall continue to be considered a resident of another  
39 school district under paragraph (a)(B) of this subsection.

40 (c) A pupil is not considered to be a resident pupil under paragraph (a)(B) of this subsection if  
41 the pupil is attending school in a school district pursuant to ORS 339.133 (5) and in the prior year  
42 was considered to be a resident pupil under paragraph (a)(A) of this subsection because the pupil  
43 was attending school in another school district pursuant to a contract under ORS 339.125. The pupil  
44 shall continue to be considered a resident pupil under paragraph (a)(A) of this subsection.

45 (d) "Resident pupil" includes a pupil admitted to a school district under ORS 339.115 (7).

1 (8) "Standard school" means a school meeting the standards set by the rules of the State Board  
2 of Education.

3 (9) "Tax" and "taxes" includes all taxes on property, excluding exempt bonded indebtedness, as  
4 those terms are defined in ORS 310.140 (1) and (4).

5 **SECTION 9.** ORS 327.006, as amended by section 7, chapter 704, Oregon Laws 2011, is amended  
6 to read:

7 327.006. As used in ORS 327.006 to 327.133, 327.348 and 327.731:

8 (1) "Aggregate days membership" means the sum of days present and absent, according to the  
9 rules of the State Board of Education, of all resident pupils when school is actually in session during  
10 a certain period. The aggregate days membership of kindergarten pupils shall be calculated on the  
11 basis of a half-day program for half-day kindergarten and on the basis of a full-day program for  
12 full-day kindergarten.

13 (2)(a) "Approved transportation costs" means those costs as defined by rule of the State Board  
14 of Education and is limited to those costs attributable to transporting or room and board provided  
15 in lieu of transporting:

16 (A) Elementary school students who live at least one mile from school;

17 (B) Secondary school students who live at least 1.5 miles from school;

18 (C) Any student required to be transported for health or safety reasons, according to supple-  
19 mental plans from districts that have been approved by the state board identifying students who are  
20 required to be transported for health or safety reasons, including special education;

21 (D) Preschool children with disabilities requiring transportation for early intervention services  
22 provided pursuant to ORS 343.224 and 343.533;

23 (E) Students who require payment of room and board in lieu of transportation;

24 (F) A student transported from one school or facility to another school or facility when the  
25 student attends both schools or facilities during the day or week; and

26 (G) Students participating in school-sponsored field trips that are extensions of classroom  
27 learning experiences.

28 (b) "Approved transportation costs" does not include the cost of constructing boarding school  
29 facilities.

30 (3) "Average daily membership" or "ADM" means the aggregate days membership of a school  
31 during a certain period divided by the number of days the school was actually in session during the  
32 same period. However, if a district school board adopts a class schedule that operates throughout  
33 the year for all or any schools in the district, average daily membership shall be computed by the  
34 Department of Education so that the resulting average daily membership will not be higher or lower  
35 than if the board had not adopted such schedule.

36 (4) "Consumer Price Index" means the Consumer Price Index for All Urban Consumers of the  
37 Portland, Oregon, Metropolitan Statistical Area, as compiled by the United States Department of  
38 Labor, Bureau of Labor Statistics.

39 (5) "Kindergarten" means a kindergarten program that conforms to the standards and rules  
40 adopted by the State Board of Education.

41 (6) "Net operating expenditures" means the sum of expenditures of a school district in  
42 kindergarten through grade 12 for administration, instruction, attendance and health services, op-  
43 eration of plant, maintenance of plant, fixed charges and tuition for resident students attending in  
44 another district, as determined in accordance with the rules of the State Board of Education, but  
45 net operating expenditures does not include transportation, food service, student body activities,

1 community services, capital outlay, debt service or expenses incurred for nonresident students.

2 (7)(a) "Resident pupil" means any pupil:

3 (A) Whose legal school residence is within the boundaries of a school district reporting the pu-  
4 pil, if the district is legally responsible for the education of the pupil, except that "resident pupil"  
5 does not include a pupil who pays tuition or for whom the parent pays tuition or for whom the  
6 district does not pay tuition for placement outside the district; or

7 (B) Whose legal residence is not within the boundaries of the district reporting the pupil but  
8 who attends school in the district with the written consent of the district school board where the  
9 school is located as provided by ORS 339.133 (5).

10 (b) A pupil is not considered to be a resident pupil under paragraph (a)(A) of this subsection if  
11 the pupil is attending school in another school district pursuant to a contract under ORS 339.125  
12 and in the prior year was considered to be a resident pupil in another school district under para-  
13 graph (a)(B) of this subsection. The pupil shall continue to be considered a resident of another  
14 school district under paragraph (a)(B) of this subsection.

15 (c) A pupil is not considered to be a resident pupil under paragraph (a)(B) of this subsection if  
16 the pupil is attending school in a school district pursuant to ORS 339.133 (5) and in the prior year  
17 was considered to be a resident pupil under paragraph (a)(A) of this subsection because the pupil  
18 was attending school in another school district pursuant to a contract under ORS 339.125. The pupil  
19 shall continue to be considered a resident pupil under paragraph (a)(A) of this subsection.

20 (d) "Resident pupil" includes a pupil admitted to a school district under ORS 339.115 (7).

21 (8) "Standard school" means a school meeting the standards set by the rules of the State Board  
22 of Education.

23 (9) "Tax" and "taxes" includes all taxes on property, excluding exempt bonded indebtedness, as  
24 those terms are defined in ORS 310.140 (1) and (4).

25 **SECTION 10.** ORS 457.010 is amended to read:

26 457.010. As used in this chapter, unless the context requires otherwise:

27 (1) "Blighted areas" means areas that, by reason of deterioration, faulty planning, inadequate  
28 or improper facilities, deleterious land use or the existence of unsafe structures, or any combination  
29 of these factors, are detrimental to the safety, health or welfare of the community. A blighted area  
30 is characterized by the existence of one or more of the following conditions:

31 (a) The existence of buildings and structures, used or intended to be used for living, commercial,  
32 industrial or other purposes, or any combination of those uses, that are unfit or unsafe to occupy  
33 for those purposes because of any one or a combination of the following conditions:

34 (A) Defective design and quality of physical construction;

35 (B) Faulty interior arrangement and exterior spacing;

36 (C) Overcrowding and a high density of population;

37 (D) Inadequate provision for ventilation, light, sanitation, open spaces and recreation facilities;

38 or

39 (E) Obsolescence, deterioration, dilapidation, mixed character or shifting of uses;

40 (b) An economic dislocation, deterioration or disuse of property resulting from faulty planning;

41 (c) The division or subdivision and sale of property or lots of irregular form and shape and in-  
42 adequate size or dimensions for property usefulness and development;

43 (d) The laying out of property or lots in disregard of contours, drainage and other physical  
44 characteristics of the terrain and surrounding conditions;

45 (e) The existence of inadequate streets and other rights of way, open spaces and utilities;

1 (f) The existence of property or lots or other areas that are subject to inundation by water;

2 (g) A prevalence of depreciated values, impaired investments and social and economic  
3 maladjustments to such an extent that the capacity to pay taxes is reduced and tax receipts are  
4 inadequate for the cost of public services rendered;

5 (h) A growing or total lack of proper utilization of areas, resulting in a stagnant and unpro-  
6 ductive condition of land potentially useful and valuable for contributing to the public health, safety  
7 and welfare; or

8 (i) A loss of population and reduction of proper utilization of the area, resulting in its further  
9 deterioration and added costs to the taxpayer for the creation of new public facilities and services  
10 elsewhere.

11 (2) "Certified statement" means the statement prepared and filed pursuant to ORS 457.430 or  
12 an amendment to the certified statement prepared and filed pursuant to ORS 457.430.

13 (3) "City" means any incorporated city.

14 (4) "Consolidated billing tax rate" means:

15 (a) If the urban renewal plan is an existing urban renewal plan (other than an existing urban  
16 renewal plan designated as an Option Three plan under ORS 457.435 (2)(c)), an urban renewal plan  
17 that was an existing urban renewal plan on October 6, 2001, (other than an existing urban renewal  
18 plan designated as an Option Three plan under ORS 457.435 (2)(c) and that was substantially  
19 amended as described in ORS 457.085 (2)(i)(A) or (B) on or after October 6, 2001, or an urban re-  
20 newal plan adopted on or after October 6, 2001, the total of all district tax rates used to extend  
21 taxes after any adjustment to reflect tax offsets under ORS 310.105, but does not include any rate  
22 derived from:

23 (A) Any urban renewal special levy under ORS 457.435.

24 (B) A local option tax, as defined in ORS 280.040, that is approved by taxing district electors  
25 after October 6, 2001.

26 (C) A tax pledged to repay exempt bonded indebtedness (other than exempt bonded indebtedness  
27 used to fund local government pension and disability plan obligations that, until funded by the ex-  
28 empt bonded indebtedness, were described in section 11 (5), Article XI of the Oregon Constitution),  
29 as defined in ORS 310.140 (1) **and** (4), that is approved by taxing district electors after October 6,  
30 2001.

31 (D) The increase in the rate of ad valorem property tax allowable under section 11 (5)(d), Article  
32 XI of the Oregon Constitution, for a school district with a statutory rate limit on July 1, 2003, that  
33 is greater than \$4.50 per \$1,000 of assessed value, to the extent that the increase is excluded from  
34 local revenues, as that term is used in ORS chapter 327, and provided that the school district noti-  
35 fies the county assessor of the rate to be excluded for the current fiscal year not later than July  
36 15.

37 (b) In the case of all other urban renewal plans, the total of all district ad valorem property tax  
38 rates used to extend taxes after any adjustments to reflect tax offsets under ORS 310.105, except  
39 that "consolidated billing tax rate" does not include any urban renewal special levy rate under ORS  
40 457.435.

41 (5)(a) "Existing urban renewal plan" means an urban renewal plan that provides for a division  
42 of ad valorem property taxes as described under ORS 457.420 to 457.460 adopted by ordinance before  
43 December 6, 1996, that:

44 (A) Except for an amendment made on account of ORS 457.190 (3) and subject to paragraph (b)  
45 of this subsection, is not changed by substantial amendment, as described in ORS 457.085 (2)(i)(A)

1 or (B), on or after December 6, 1996; and

2 (B) For tax years beginning on or after July 1, 1998, includes the limit on indebtedness as de-  
 3 scribed in ORS 457.190 (3).

4 (b) If, on or after July 1, 1998, the maximum limit on indebtedness (adopted by ordinance before  
 5 July 1, 1998, pursuant to ORS 457.190) of an existing urban renewal plan is changed by substantial  
 6 amendment, then “indebtedness issued or incurred to carry out the existing urban renewal plan” for  
 7 purposes of ORS 457.435 includes only the indebtedness within the indebtedness limit adopted by  
 8 ordinance under ORS 457.190 (3)(c) before July 1, 1998.

9 (6) “Fiscal year” means the fiscal year commencing on July 1 and closing on June 30.

10 (7) “Governing body of a municipality” means, in the case of a city, the common council or other  
 11 legislative body thereof, and, in the case of a county, the board of county commissioners or other  
 12 legislative body thereof.

13 (8) “Housing authority” or “authority” means any housing authority established pursuant to the  
 14 Housing Authorities Law.

15 (9) “Increment” means that part of the assessed value of a taxing district attributable to any  
 16 increase in the assessed value of the property located in an urban renewal area, or portion thereof,  
 17 over the assessed value specified in the certified statement.

18 (10) “Maximum indebtedness” means the amount of the principal of indebtedness included in a  
 19 plan pursuant to ORS 457.190 and does not include indebtedness incurred to refund or refinance  
 20 existing indebtedness.

21 (11) “Municipality” means any county or any city in this state. “The municipality” means the  
 22 municipality for which a particular urban renewal agency is created.

23 (12) “Taxing body” or “taxing district” means the state, city, county or any other taxing unit  
 24 which has the power to levy a tax.

25 (13) “Urban renewal agency” or “agency” means an urban renewal agency created under ORS  
 26 457.035 and 457.045.

27 (14) “Urban renewal area” means a blighted area included in an urban renewal plan or an area  
 28 included in an urban renewal plan under ORS 457.160.

29 (15) “Urban renewal project” or “project” means any work or undertaking carried out under  
 30 ORS 457.170 in an urban renewal area.

31 (16) “Urban renewal plan” or “plan” means a plan, as it exists or is changed or modified from  
 32 time to time for one or more urban renewal areas, as provided in ORS 457.085, 457.095, 457.105,  
 33 457.115, 457.120, 457.125, 457.135 and 457.220.

34 **SECTION 11. This 2013 Act being necessary for the immediate preservation of the public**  
 35 **peace, health and safety, an emergency is declared to exist, and this 2013 Act takes effect**  
 36 **July 1, 2013.**

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