

**PROPOSED AMENDMENTS TO
SENATE BILL 547**

1 On page 1 of the printed bill, line 2, after “ORS” insert “198.810,”.

2 In line 3, delete “, 308.807, 310.140, 327.006 and 457.010” and insert “and
3 310.140”.

4 Delete lines 5 through 31 and pages 2 through 14 and insert:

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

7 “310.140. (1) The Legislative Assembly finds that [*section 11b,*] Article
8 **XI, section 11b**, of the Oregon Constitution, was drafted by citizens and
9 placed before the voters of the State of Oregon by initiative petition. [*Section*
10 *11b,*] Article **XI, section 11b**, of the Oregon Constitution, uses terms that
11 do not have established legal meanings and require definition by the Legis-
12 lative Assembly. [*Section 11b,*] Article **XI, section 11b**, of the Oregon Con-
13 stitution, was amended by [*section 11 (11),*] Article **XI, section 11 (11)**, of the
14 Oregon Constitution. This section is intended to interpret the terms of [*sec-*
15 *tion 11b,*] Article **XI, section 11b**, of the Oregon Constitution, as originally
16 adopted and as amended by [*section 11 (11),*] Article **XI, section 11 (11)**, of
17 the Oregon Constitution, consistent with the intent of the people in adopting
18 these provisions, so that the provisions of [*section 11b,*] Article **XI, section**
19 **11b**, of the Oregon Constitution, may be given effect uniformly throughout
20 the State of Oregon, with minimal confusion and misunderstanding by citi-
21 zens and affected units of government. As used in the revenue and tax laws
22 of this state, and for purposes of [*section 11b,*] Article **XI, section 11b**, of the

1 Oregon Constitution:

2 “[1] (a)(A) ‘Actual cost’ means all direct or indirect costs incurred by
3 a government unit in order to deliver goods or services or to undertake a
4 capital construction project. The ‘actual cost’ of providing goods or services
5 to a property or property owner includes the average cost or an allocated
6 portion of the total amount of the actual cost of making a good or service
7 available to the property or property owner, whether stated as a minimum,
8 fixed or variable amount.

9 “(B) ‘Actual cost’ includes, but is not limited to, the costs of labor, ma-
10 terials, supplies, equipment rental, property acquisition, permits, engineering,
11 financing, reasonable program delinquencies, return on investment, required
12 fees, insurance, administration, accounting, depreciation, amortization, oper-
13 ation, maintenance, repair or replacement and debt service, including debt
14 service payments or payments into reserve accounts for debt service and
15 payment of amounts necessary to meet debt service coverage requirements.

16 “[2] (b) ‘Assessment for local improvement’ means any tax, fee, charge
17 or assessment that does not exceed the actual cost incurred by a unit of
18 government for design, construction and financing of a local improvement.

19 “[3] (c) ‘Bonded indebtedness’ means any formally executed written
20 agreement representing a promise by a unit of government to pay to another
21 a specified sum of money, at a specified date or dates at least one year in
22 the future.

23 “[4] ‘Capital construction’:]

24 “[a] (d)(A) ‘**Capital construction**’ means, for bonded indebtedness is-
25 sued prior to December 5, 1996, and for the proceeds of any bonded indebt-
26 edness approved by electors prior to December 5, 1996, that were spent or
27 contractually obligated to be spent prior to June 20, 1997, [means] the con-
28 struction, modification, replacement, repair, remodeling or renovation of a
29 structure, or addition to a structure, that is expected to have a useful life
30 of more than one year, and includes, but is not limited to:

1 “[A] (i) Acquisition of land, or a legal interest in land, in conjunction
2 with the capital construction of a structure.

3 “[B] (ii) Acquisition, installation of machinery or equipment, fur-
4 nishings or materials that will become an integral part of a structure.

5 “[C] (iii) Activities related to the capital construction, including plan-
6 ning, design, authorizing, issuing, carrying or repaying interim or permanent
7 financing, research, land use and environmental impact studies, acquisition
8 of permits or licenses or other services connected with the construction.

9 “[D] (iv) Acquisition of existing structures, or legal interests in struc-
10 tures, in conjunction with the capital construction.

11 “[b] (B) **‘Capital construction,’** for bonded indebtedness issued on or
12 after December 5, 1996, except for the proceeds of any bonded indebtedness
13 approved by electors prior to December 5, 1996, that were spent or
14 contractually obligated to be spent before June 20, 1997, has the meaning
15 given that term in [*paragraph (a) of this subsection, except that ‘capital con-*
16 *struction’*:] **subparagraph (A) of this paragraph except as provided in**
17 **subparagraphs (C) and (D) of this paragraph.**

18 “[A] (C) **‘Capital construction’** includes public safety and law
19 enforcement vehicles with a projected useful life of five years or more.[:
20 *and]*

21 “[B] (D) **‘Capital construction’** does not include:

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

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

25 “(iii) Furnishings, unless the furnishings are acquired in connection with
26 the acquisition, construction, remodeling or renovation of a structure, or the
27 repair of a structure that is required because of damage or destruction of the
28 structure.

29 “(e)(A) **‘Capital costs’ means costs of land and of other assets hav-**
30 **ing a useful life of more than one year, including costs associated with**

1 acquisition, construction, improvement, remodeling, furnishing,
2 equipping, maintenance or repair.

3 “(B) ‘Capital costs’ does not include costs of routine maintenance
4 or supplies.

5 “[5] ‘Capital improvements’:]

6 “[a] (f)(A) ‘Capital improvements’ means, for bonded indebtedness
7 issued prior to December 5, 1996, and for the proceeds of any bonded
8 indebtedness approved by electors before December 5, 1996, that were spent
9 or contractually obligated to be spent before June 20, 1997, [means] land,
10 structures, facilities, personal property that is functionally related and sub-
11 ordinate to real property, machinery, equipment or furnishings having a
12 useful life longer than one year.

13 “[b] (B) ‘Capital improvements,’ for bonded indebtedness issued on or
14 after December 5, 1996, except for the proceeds of any bonded indebtedness
15 approved by electors prior to December 5, 1996, that were spent or
16 contractually obligated to be spent before June 20, 1997, has the meaning
17 given that term in [paragraph (a) of this subsection, except that ‘capital im-
18 provements’:] **subparagraph (A) of this paragraph except as provided in**
19 **subparagraphs (C) and (D) of this paragraph.**

20 “[A] (C) ‘Capital improvements’ includes public safety and law
21 enforcement vehicles with a projected useful life of five years or more.[:
22 and]

23 “[B] (D) ‘Capital improvements’ does not include:

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

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

27 “(iii) Furnishings, unless the furnishings are acquired in connection with
28 the acquisition, construction, remodeling or renovation of a structure, or the
29 repair of a structure that is required because of damage or destruction of the
30 structure.

1 “[(6)] (g) ‘Direct consequence of ownership’ means that the obligation of
2 the owner of property to pay a tax arises solely because that person is the
3 owner of the property, and the obligation to pay the tax arises as an imme-
4 diate and necessary result of that ownership without respect to any other
5 intervening transaction, condition or event.

6 “[(7)(a)] (h)(A) ‘Exempt bonded indebtedness’ means:

7 “[A] (i) Bonded indebtedness authorized by a specific provision of the
8 Oregon Constitution;

9 “[B] (ii) Bonded indebtedness incurred or to be incurred for capital
10 construction or capital improvements that was issued as a general obligation
11 of the issuing governmental unit on or before November 6, 1990;

12 “[C] (iii) Bonded indebtedness incurred or to be incurred for capital
13 construction or capital improvements that was issued as a general obligation
14 of the issuing governmental unit after November 6, 1990, with the approval
15 of the electors of the issuing governmental unit **prior to December 5,**
16 **1996;** or

17 “[D] (iv) Bonded indebtedness incurred or to be incurred for capital
18 construction or capital improvements[,] if the issuance of the bonds is ap-
19 proved by voters on or after December 5, 1996, in an election that is in
20 compliance with the voter participation requirements of [section 11 (8),] Ar-
21 ticle XI, **section 11 (8),** of the Oregon Constitution, **or if the issuance of**
22 **the bonds is approved by voters on or after December 4, 2008, in an**
23 **election that is in compliance with the voter participation require-**
24 **ments of Article XI, section 11 (8), of the Oregon Constitution, as**
25 **limited by Article XI, section 11k, of the Oregon Constitution.**

26 “(v) Bonded indebtedness incurred or to be incurred for capital costs
27 **on or after January 1, 2011, if the issuance of the bonds is approved**
28 **by voters in an election that is in compliance with the voter partic-**
29 **ipation requirements of Article XI, section 11 (8), of the Oregon Con-**
30 **stitution, as limited by Article XI, section 11k, of the Oregon**

1 **Constitution.**

2 “[*b*] (B) ‘Exempt bonded indebtedness’ includes bonded indebtedness is-
3 sued to refund or refinance any bonded indebtedness described in [*paragraph*
4 (*a*) of this subsection] **subparagraph (A) of this paragraph.**

5 “[*(8)(a)*] (i) ‘Incurred charge’ means a charge imposed by a unit of gov-
6 ernment on property or upon a property owner that does not exceed the ac-
7 tual cost of providing goods or services and that can be controlled or avoided
8 by the property owner because:

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

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

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

18 “[*b*] *For purposes of this subsection, an owner of property may control or*
19 *avoid an incurred charge if the owner is capable of taking action to affect the*
20 *amount of a charge that is or will be imposed or to avoid imposition of a*
21 *charge even if the owner must incur expense in so doing.]*

22 “[*c*] *For purposes of paragraph (a)(A) of this subsection, an owner of*
23 *property has direct control over the quantity of goods or services if the owner*
24 *of property has the ability, whether or not that ability is exercised, to deter-*
25 *mine the quantity of goods or services provided or to be provided.]*

26 “[*(9)(a)*] (j) ‘Local improvement’ means a capital construction project, or
27 part thereof, undertaken by a local government, pursuant to ORS 223.387 to
28 223.399, or pursuant to a local ordinance or resolution prescribing the pro-
29 cedure to be followed in making local assessments for benefits from a local
30 improvement upon the lots that have been benefited by all or a part of the

1 improvement:

2 “(A) That provides a special benefit only to specific properties or rectifies
3 a problem caused by specific properties;

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

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

8 “[*b*] For purposes of paragraph (a) of this subsection, the status of a cap-
9 ital construction project as a local improvement is not affected by the accrual
10 of a general benefit to property other than the property receiving the special
11 benefit.]

12 “[*10*] ‘Maintenance and repairs, the need for which could be reasonably
13 anticipated’:]

14 “[*a*] **(k)(A) ‘Maintenance and repairs, the need for which could be**
15 **reasonably anticipated’** means activities, the type of which may be de-
16 ducted as an expense under the provisions of the federal Internal Revenue
17 Code, as amended and in effect on December 31, 2011, that keep the property
18 in ordinarily efficient operating condition and that do not add materially to
19 the value of the property nor appreciably prolong the life of the
20 property.[:]

21 “[*b*] **(B) ‘Maintenance and repairs, the need for which could be**
22 **reasonably anticipated’** does not include:

23 “**(i)** Maintenance and repair of property that is required by damage, de-
24 struction or defect in design, or that was otherwise not reasonably expected
25 at the time the property was constructed or acquired, or the addition of
26 material that is in the nature of the replacement of property and that arrests
27 the deterioration or appreciably prolongs the useful life of the property; and

28 “[*c*] **(ii)** [*Does not include*] Street and highway construction, overlay and
29 reconstruction.

30 “[*11*] **(L)** ‘Projected useful life’ means the useful life, as reasonably es-

1 timated by the unit of government undertaking the capital construction or
2 capital improvement project, beginning with the date the property was ac-
3 quired, constructed or reconstructed and based on the property's condition
4 at the time the property was acquired, constructed or reconstructed.

5 “[~~(12)~~] (m) ‘Routine obligations of ownership’ means a standard of oper-
6 ation, maintenance, use or care of property established by law, or if estab-
7 lished by custom or common law, a standard that is reasonable for the type
8 of property affected.

9 “[~~(13)~~] (n) ‘Single assessment’ means the complete assessment process,
10 including preassessment, assessment or reassessment, for any local improve-
11 ment authorized by ORS 223.387 to 223.399, or a local ordinance or resolution
12 that provides the procedure to be followed in making local assessments for
13 benefits from a local improvement upon lots that have been benefited by all
14 or part of the improvement.

15 “[~~(14)~~] (o) ‘Special benefit only to specific properties’ shall have the same
16 meaning as ‘special and peculiar benefit’ as that term is used in ORS 223.389.

17 “[~~(15)~~] (p) ‘Specific request’ means:

18 “[~~(a)~~] (A) An affirmative act by a property owner to seek or obtain de-
19 livery of goods or services;

20 “[~~(b)~~] (B) An affirmative act by a property owner, the legal consequence
21 of which is to cause the delivery of goods or services to the property owner;
22 or

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

25 “[~~(16)~~] (q) ‘Structure’ means any temporary or permanent building or im-
26 provement to real property of any kind that is constructed on or attached
27 to real property, whether above, on or beneath the surface.

28 “[~~(17)~~] (r) ‘Supplies and equipment intrinsic to a structure’ means the
29 supplies and equipment that are necessary to permit a structure to perform
30 the functions for which the structure was constructed, or that will, upon

1 installation, constitute fixtures considered to be part of the real property
2 that is comprised, in whole or part, of the structure and land supporting the
3 structure.

4 “[18] (s) ‘Tax on property’ means any tax, fee, charge or assessment
5 imposed by any government unit upon property or upon a property owner as
6 a direct consequence of ownership of that property, but does not include in-
7 curred charges or assessments for local improvements. As used in this [*sub-*
8 *section*] **paragraph**, ‘property’ means real or tangible personal property, and
9 intangible property that is part of a unit of real or tangible personal prop-
10 erty to the extent that such intangible property is subject to a tax on prop-
11 erty.

12 **“(2) For purposes of subsection (1)(i) of this section, an owner of**
13 **property may control or avoid an incurred charge if the owner is ca-**
14 **pable of taking action to affect the amount of a charge that is or will**
15 **be imposed or to avoid imposition of a charge even if the owner must**
16 **incur expense in so doing.**

17 **“(3) For purposes of subsection (1)(i)(A) of this section, an owner**
18 **of property has direct control over the quantity of goods or services**
19 **if the owner of property has the ability, whether or not that ability is**
20 **exercised, to determine the quantity of goods or services provided or**
21 **to be provided.**

22 **“(4) For purposes of subsection (1)(j) of this section, the status of**
23 **a capital construction project as a local improvement is not affected**
24 **by the accrual of a general benefit to property other than the property**
25 **receiving the special benefit.**

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

27 “287A.001. As used in this chapter:

28 “(1) ‘Advance refunding bond’ means a bond all or part of the proceeds
29 of which are to be used to pay an outstanding bond one year or more after
30 the advance refunding bond is issued.

1 “(2) ‘Agreement for exchange of interest rates’ means a contract, or an
2 option or forward commitment to enter into a contract, for an exchange of
3 interest rates for related bonds that provides for:

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

5 “(b) Provisions to hedge payment, rate, spread or similar exposure in-
6 cluding, but not limited to, an interest rate floor or cap or an option, put
7 or call.

8 “[3] *‘Bond’*:]

9 “[*(a)*] **(3)(a) ‘Bond’** means a contractual undertaking or instrument of a
10 public body to repay borrowed moneys.

11 “(b) **‘Bond’** does not mean a credit enhancement device.

12 “(4) ‘Capital construction’ has the meaning given that term in ORS
13 310.140.

14 “**(5) ‘Capital costs’ has the meaning given that term in ORS 310.140.**

15 “[5] **(6) ‘Capital improvements’** has the meaning given that term in ORS
16 310.140.

17 “[6] *‘Credit enhancement device’*:]

18 “[*(a)*] **(7)(a) ‘Credit enhancement device’** means a letter of credit, line
19 of credit, standby bond purchase agreement, bond insurance policy, reserve
20 surety bond or other device or facility used to enhance the creditworthiness,
21 liquidity or marketability of bonds or agreements for exchange of interest
22 rates.

23 “(b) **‘Credit enhancement device’** does not mean a bond.

24 “[7] **(8) ‘Current refunding bond’** means a bond the proceeds of which
25 are to be used to pay or purchase an outstanding bond less than one year
26 after the current refunding bond is issued.

27 “[8] **(9) ‘Forward current refunding’** means execution and delivery of a
28 purchase agreement or similar instrument under which a public body con-
29 tracts to sell current refunding bonds for delivery at a future date that is
30 one year or more after execution of the purchase agreement or similar in-

1 strument.

2 “[9] (10) ‘General obligation bond’ means exempt bonded indebtedness,
3 as defined in ORS 310.140, that is secured by a commitment to levy ad
4 valorem taxes outside the limits of sections 11 and 11b, Article XI, of the
5 Oregon Constitution.

6 “[10] (11) ‘Lawfully available funds’ means revenues or other moneys of
7 a public body including, but not limited to, moneys credited to the general
8 fund of the public body, revenues from an ad valorem tax and revenues de-
9 rived from other taxes levied by the public body that are not dedicated, re-
10 stricted or obligated by law or contract to an inconsistent expenditure or
11 use.

12 “[11] (12) ‘Operative document’ means a bond declaration, trust agree-
13 ment, indenture, security agreement or other document in which a public
14 body pledges revenue or property as security for a bond.

15 “[12] (13) ‘Pledge’ means:

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

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

18 “[13] (14) ‘Public body’ means:

19 “(a) A county of this state;

20 “(b) A city of this state;

21 “(c) A local service district as defined in ORS 174.116 (2);

22 “(d) A special government body as defined in ORS 174.117;

23 “(e) Oregon Health and Science University; or

24 “(f) Any other political subdivision of this state that is authorized by the
25 Legislative Assembly to issue bonds.

26 “[14] (15) ‘Refunding bond’ means an advance refunding bond, a current
27 refunding bond or a forward current refunding bond.

28 “[15] (16) ‘Related bond’ means a bond for which the public body enters
29 into an agreement for exchange of interest rates or obtains a credit en-
30 hancement device.

1 “[(16)] (17) ‘Revenue’ means all fees, tolls, excise taxes, assessments,
2 property taxes and other taxes, rates, charges, rentals and other income or
3 receipts derived by a public body or to which a public body is entitled.

4 “[(17)] (18) ‘Revenue bond’ means a bond that is not a general obligation
5 bond.

6 “[(18)] (19) ‘Termination payment’ means the amount payable under an
7 agreement for exchange of interest rates by one party to another party as a
8 result of the termination, in whole or part, of the agreement prior to the
9 expiration of the stated term.

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

11 *“287A.050. [(1) A city may issue general obligation bonds to finance capital*
12 *construction or capital improvements upon approval of the electors of the*
13 *city.]*

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

16 **“(a) Capital construction or capital improvements permitted by**
17 **Article XI, sections 11 and 11b, of the Oregon Constitution.**

18 **“(b) Capital costs permitted by Article XI, section 11L, of the**
19 **Oregon Constitution.**

20 **“(2) Unless the city charter provides a lesser limitation, a city may not**
21 **issue or have outstanding at the time of issuance general obligation bonds**
22 **in a principal amount that exceeds three percent of the real market value**
23 **of the taxable property within its boundaries, calculated as provided in ORS**
24 **308.207.**

25 **“(3) The limitation described in subsection (2) of this section does not**
26 **apply to general obligation bonds issued:**

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

29 **“(b) To finance capital construction or capital improvements permitted**
30 **by Article XI, sections 11 and 11b, of the Oregon Constitution, or to**

1 **finance capital costs permitted by Article XI, section 11L, of the**
2 **Oregon Constitution, for:**

3 “[a] **(A)** Water supply, treatment or distribution;

4 “[b] **(B)** Sanitary or storm sewage collection or treatment;

5 “[c] **(C)** Hospitals or infirmaries;

6 “[d] **(D)** Gas, power or lighting; or

7 “[e] **(E)** Off-street motor vehicle parking facilities.

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

9 “287A.100. *[(1) Unless the county charter expressly provides otherwise, a*
10 *county may issue general obligation bonds to finance capital construction or*
11 *capital improvements upon approval of the electors of the county.]*

12 **“(1) Unless the county charter expressly provides otherwise, upon**
13 **approval of the electors of a county, the county may issue general**
14 **obligation bonds to finance:**

15 **“(a) Capital construction or capital improvements permitted by**
16 **Article XI, sections 11 and 11b, of the Oregon Constitution.**

17 **“(b) Capital costs permitted by Article XI, section 11L, of the**
18 **Oregon Constitution.**

19 **“(2) Unless the county charter provides a lesser limitation, a county may**
20 **not issue or have outstanding at the time of issuance general obligation**
21 **bonds in a principal amount that exceeds two percent of the real market**
22 **value of the taxable property in the county, calculated as provided in ORS**
23 **308.207.**

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

25 “287A.145. (1) If a court of competent jurisdiction determines that the
26 proceeds of an issue of general obligation bonds have been used by a public
27 body for expenditures that are not **capital costs permitted by Article XI,**
28 **section 11L, of the Oregon Constitution, or that are not costs of capital**
29 **construction or capital improvements permitted by Article XI, sections**
30 **11 and 11b, of the Oregon Constitution,** the court may order the public

1 body to:

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

5 “(b) Use the replaced moneys [*for*], **as appropriate, for capital costs,**
6 **for the costs of** capital construction or capital **improvements** [*improvement*
7 *expenditures*] or to pay the debt service.

8 “(2) If the public body fails to comply with an order to replace the mis-
9 spent proceeds or acknowledges that the public body is unable to replace the
10 misspent proceeds, the court may determine that a portion of the future
11 levies to pay the debt service is subject to the limits of [*sections 11 and*
12 *11b,*] Article XI, **sections 11 and 11b**, of the Oregon Constitution, by cal-
13 culating the amount of the tax revenues that are necessary to pay the prin-
14 cipal and interest on the bonds that is allocable to the misspent proceeds.

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

19 **“SECTION 6.** ORS 198.810 is amended to read:

20 “198.810. (1) The county board shall approve, modify or reject a petition
21 for formation using only the criteria set forth in ORS 198.805.

22 “(2) If the county board approves the petition for formation, as presented
23 or as modified, or if the boundary commission considers the petition for
24 formation pursuant to ORS 198.800 (1)(a), approves the petition, as presented
25 or as modified, and transmits its approval to the county board in accordance
26 with ORS 199.480, the county board shall enter an order so declaring. The
27 order shall set forth the name of the district and the boundaries as deter-
28 mined by the board or by the boundary commission. The order shall also fix
29 a place, and a time not less than 20 nor more than 50 days after the date
30 of the order, for a final hearing on the petition. The order shall declare that

1 if written requests for an election are not filed as provided by subsection (3)
2 of this section, the board, at the time of the final hearing, will enter its order
3 creating the district. The board shall cause notice of the hearing to be given
4 by publication.

5 “(3) An election may not be held unless written requests for an election
6 are filed at or before the hearing by not less than 15 percent of the electors
7 or 100 electors, whichever is the lesser number, registered in the proposed
8 district.

9 “(4) Notwithstanding subsections (2) and (3) of this section, if the petition
10 for formation includes:

11 “(a) A permanent rate limit for operating taxes for the proposed district
12 and the petition is approved by the county board or boundary commission,
13 as presented or as modified, the county shall hold an election on the question
14 of forming the district.

15 “(b) In addition to the permanent rate limit for operating taxes, a sepa-
16 rate ad valorem tax for bonded indebtedness for capital construction, **capital**
17 **improvement or capital costs, as those terms are defined in ORS**
18 **310.140**, within the proposed district and the petition is approved by the
19 county board, as presented or as modified, the county shall hold an election
20 on the question of incurring the bonded indebtedness when the election on
21 the question of formation of the district is held. The question on incurring
22 bonded indebtedness may be approved only if electors approve formation of
23 the district, and the ballot measure must clearly state that the bonded
24 indebtedness may be approved only if electors approve formation of the dis-
25 trict.

26 “(5) Notwithstanding subsection (3) of this section and ORS 198.815, an
27 order of a boundary commission authorizing a county service district estab-
28 lished to provide sewage works to also provide drainage works shall be ef-
29 fective upon the filing of the order with the county board. The order of the
30 boundary commission is subject to referendum by the electors of the county

1 service district in the manner provided for district measures under ORS
2 255.135 to 255.205. If the order of a boundary commission is referred to the
3 electors, the order does not take effect until the order is approved by a ma-
4 jority of the votes cast on the question and the results of the election are
5 certified. The question in the ballot title for a measure referred under this
6 subsection shall be worded so that an affirmative response to the question
7 corresponds to a vote in favor of authorizing the county service district to
8 provide drainage works.

9 **“SECTION 7.** ORS 305.586 is amended to read:

10 **“305.586. (1) As used in this section:**

11 **“(a) ‘Capital construction’ has the meaning given that term in ORS**
12 **310.140.**

13 **“(b) ‘Capital costs’ has the meaning given that term in ORS 310.140.**

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

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

30 **“[(2)] (3)** It is the policy of the State of Oregon and a matter of statewide

1 concern that, notwithstanding ORS 305.587 (1) and 305.589 (8), if in a pro-
2 ceeding commenced under ORS 305.583 or 305.589, the Oregon Tax Court
3 finds that the proceeds of general obligation bonds issued for capital con-
4 struction or **capital** improvements [*under section 11b (3)(b), Article XI of the*
5 *Oregon Constitution,*] **as defined in Article XI, section 11 (13), of the**
6 **Oregon Constitution, or general obligation bonds issued for capital**
7 **costs, as defined in Article XI, section 11L, of the Oregon Constitution,**
8 have been expended for purposes other than **capital costs or the costs of**
9 capital construction or **capital** improvements, the court shall endeavor, to
10 the fullest extent practicable and consistent with equitable principles, to
11 fashion a remedy that does not impair the security or value of the bonds to
12 the bondholders and does not prejudice the ability of the local government
13 body to satisfy its obligations under the bonds.

14 “[~~(3)~~] (4) In addition, the court shall fashion any remedy in a manner that
15 takes into account the financial capacity and practical alternatives available
16 to the local government body, and shall ensure that the remedy is propor-
17 tional to, and restricted to correcting the amount of, any unlawful expendi-
18 ture of bond proceeds. To the fullest extent possible, the court shall avoid
19 any remedy that either invalidates, in whole or in part, the bonds or taxes
20 levied or to be levied for payment of the bonds, or that makes any amount
21 of the bonds for which the proceeds lawfully were expended subject to the
22 limits of [*section 11b (1),*] Article XI, **section 11b (1)**, of the Oregon Consti-
23 tution.

24 **“SECTION 8. This 2013 Act being necessary for the immediate**
25 **preservation of the public peace, health and safety, an emergency is**
26 **declared to exist, and this 2013 Act takes effect July 1, 2013.”**

27
