

# House Bill 3398

Sponsored by Representative NATHANSON

## 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**.

Establishes principal Act for organization of ocean power districts to contract with Department of State Lands to carry out certain duties related to regulation of ocean renewable energy facilities.

Authorizes department to contract with ocean power districts organized under principal Act to carry out certain duties of department related to regulation of ocean renewable energy facilities.

## A BILL FOR AN ACT

1  
2 Relating to ocean power districts; creating new provisions; and amending ORS 174.116, 198.010,  
3 198.115, 198.180, 198.210, 198.310, 198.335, 198.510, 198.705 and 255.012.

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

5 **SECTION 1. (1) The Department of State Lands may enter into contracts with ocean**  
6 **power districts organized under sections 2 to 8 of this 2015 Act for the purpose of carrying**  
7 **out the duties of the department related to the permitting and regulation of ocean renewable**  
8 **energy facilities.**

9 (2) The department shall adopt by rule standards for contracts entered into under this  
10 section, including but not limited to standards for the terms and conditions to be included  
11 in the contracts.

12 **SECTION 2. As used in sections 2 to 8 of this 2015 Act:**

13 (1) "Ocean renewable energy" means electricity that is generated through:

14 (a) The conversion of energy contained in the natural properties of the ocean, including  
15 but not limited to energy contained in waves and swells, the tides and currents, ocean tem-  
16 perature and salinity gradients; and

17 (b) Ocean offshore wind power.

18 (2) "Ocean renewable energy facility" means any energy conversion technology or device  
19 that is used as a necessary component of a research project, demonstration project or com-  
20 mercial operation to generate ocean renewable energy, including but not limited to all buoys,  
21 anchors, energy collectors, cables, control and transmission lines and other equipment nec-  
22 essary or useful to the project or operation.

23 (3) "Territorial sea" has the meaning given that term in ORS 196.405.

24 (4) "Territorial Sea Plan" has the meaning given that term in ORS 196.405.

25 **SECTION 3. (1) An ocean power district may be organized to, pursuant to contracts with**  
26 **the Department of State Lands, permit and regulate, and build and maintain infrastructure**  
27 **for, ocean renewable energy facilities located within the district as provided in sections 2 to**  
28 **8 of this 2015 Act and the provisions of ORS 198.705 to 198.955 that are consistent with**  
29 **sections 2 to 8 of this 2015 Act.**

30 (2) From the date of organization, an ocean power district is a body politic and corporate

**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 that:

2 (a) Has the power to perform the duties and functions imposed on the district by law.

3 (b) May make all contracts, hold, receive and dispose of real and personal property and  
 4 do all other acts and things that may be requisite, necessary or convenient in carrying out  
 5 the objectives of the district or exercising the powers conferred upon it.

6 (c) May sue and be sued, plead and be impleaded in all actions, suits or proceedings  
 7 brought by or against it.

8 **SECTION 4.** An ocean power district organized under sections 2 to 8 of this 2015 Act may  
 9 consist only of territory that has been designated in that part of the Territorial Sea Plan  
 10 that provides for a map area designation as an area of the territorial sea appropriate for the  
 11 development of ocean renewable energy facilities.

12 **SECTION 5.** (1) A petition to organize an ocean power district under section 3 of this 2015  
 13 Act must be approved by the Department of State Lands.

14 (2) The department shall establish by rule standards for the approval of petitions for the  
 15 organization of ocean power districts under sections 2 to 8 of this 2015 Act. Rules adopted  
 16 under this section shall be consistent with the Territorial Sea Plan and any other law appli-  
 17 cable to the siting and regulation of ocean renewable energy facilities.

18 **SECTION 6.** (1) The district board of an ocean power district shall deposit moneys re-  
 19 ceived by the district in one or more insured institutions, as defined in ORS 706.008, desig-  
 20 nated by the board. Moneys may be withdrawn only when ordered by the board, upon a check  
 21 signed and countersigned by the individual or individuals authorized by a resolution of the  
 22 board.

23 (2) The board shall retain on file a receipt or voucher that shows clearly the nature and  
 24 items covered by each check drawn.

25 **SECTION 7.** (1) In carrying out the purposes of sections 2 to 8 of this 2015 Act, an ocean  
 26 power district may assess, levy and collect a tax upon the taxable real and personal property  
 27 situated within the district, in an amount each year not to exceed one-fourth of one percent  
 28 (0.0025) of the real market value of the property, computed in accordance with ORS 308.207.

29 (2) Taxes authorized under this section must be levied and returned to the county officer  
 30 whose duty it is to extend the tax roll by the time required by law for city taxes to be levied  
 31 and extended. The county officer whose duty it is to extend the county levy shall extend the  
 32 levy of a district in the same manner as city taxes are extended.

33 (3) All taxes levied by the district become payable at the same time and are collected by  
 34 the same officers as regular county taxes. The county officers collecting the taxes shall pay  
 35 them to the treasurer of the district.

36 (4) For purposes of ad valorem taxation, a boundary change must be filed in final ap-  
 37 proved form with the county assessor and the Department of Revenue as provided in ORS  
 38 308.225.

39 **SECTION 8.** (1) For the purposes of exercising the authority granted by sections 2 to 8  
 40 of this 2015 Act, an ocean power district may:

41 (a) Issue and sell, when authorized by the electors of the district, general obligation  
 42 bonds of the district secured by a pledge of the full faith and credit and taxing power of the  
 43 district.

44 (b) Issue and sell revenue bonds secured by a pledge of all or a portion of the revenue  
 45 of the district.

1       **(2) Bonds outstanding at any one time may not exceed in the aggregate two and one-half**  
2 **percent of the real market value of all taxable property within the district, computed in ac-**  
3 **cordance with ORS 308.207.**

4       **(3) All bonds issued by an ocean power district under this section must be issued as**  
5 **provided in ORS chapter 287A.**

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

7       198.010. As used in this chapter, except as otherwise specifically provided, “district” means any  
8 one of the following:

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

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

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

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

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

14       (6) A metropolitan service district organized under ORS chapter 268.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

36       **(27) An ocean power district organized under sections 2 to 8 of this 2015 Act.**

37       **SECTION 10.** ORS 198.115 is amended to read:

38       198.115. (1) As used in this section, “district” has the meaning given that term in ORS 198.010  
39 (1) to (5), [and] (7) to (24) **and (27).**

40       (2) A district, by an ordinance or resolution that takes effect at least one year prior to the date  
41 of the regular district election, may provide that any individual who is an employee of the district  
42 is not eligible to serve as a member of the governing board of the district by which the individual  
43 is employed.

44       **SECTION 11.** ORS 198.180 is amended to read:

45       198.180. As used in ORS 198.190, unless the context requires otherwise, “district” has the

1 meaning given that term by ORS 198.010 (2) to (5), (7) to (23), [and] (25) **and (27)**. In addition, “dis-  
 2 trict” means any one of the following:

3 (1) A county service district organized under ORS chapter 451.

4 (2) A diking district organized under ORS chapter 551.

5 (3) A corporation for irrigation, drainage, water supply or flood control organized under ORS  
 6 chapter 554.

7 (4) A soil and water conservation district organized under ORS 568.210 to 568.808 and 568.900  
 8 to 568.933.

9 (5) The Port of Portland created by ORS 778.010.

10 **SECTION 12.** ORS 198.210 is amended to read:

11 198.210. As used in ORS 198.220, in addition to the meaning given the term by ORS 198.010 (1)  
 12 to (5), [and] (7) to (24) **and (27)**, “district” means any one of the following:

13 (1) A corporation for irrigation, drainage, water supply or flood control organized under ORS  
 14 chapter 554.

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

17 (3) A weed control district organized under ORS 569.350 to 569.445.

18 (4) A port district organized under ORS chapter 778.

19 **SECTION 13.** ORS 198.310 is amended to read:

20 198.310. As used in ORS 198.320, in addition to the meaning given the term by ORS 198.010 (1)  
 21 to (5), (7) to (24), [and] (26) **and (27)**, “district” means a soil and water conservation district organ-  
 22 ized under ORS 568.210 to 568.808 and 568.900 to 568.933.

23 **SECTION 14.** ORS 198.335 is amended to read:

24 198.335. As used in ORS 198.335 to 198.365, unless the context requires otherwise:

25 (1) “County board” means the board of county commissioners or the county court.

26 (2) “Special district”:

27 (a) Has the meaning given the term “district” in ORS 198.010 (1) to (5), [and] (7) to (24) **and**  
 28 **(27)**; and

29 (b) Also means:

30 (A) A diking district organized under ORS chapter 551.

31 (B) A corporation for irrigation, drainage, water supply or flood control organized under ORS  
 32 chapter 554.

33 (C) A soil and water conservation district organized under ORS 568.210 to 568.808 and 568.900  
 34 to 568.933.

35 (D) A weed control district organized under ORS 569.350 to 569.445.

36 (E) A port district organized under ORS chapter 778.

37 **SECTION 15.** ORS 198.510 is amended to read:

38 198.510. As used in ORS 198.510 to 198.600, unless the context requires otherwise:

39 (1) “County” means the county in which the district, or the greater portion of the assessed value  
 40 of the district, is located.

41 (2) “County board” means the board of county commissioners or the county court of the county.

42 (3) “County clerk” means the county clerk of the county.

43 (4) “District” has the meaning given that term in ORS 198.010 (2), (4), (5), (11), (12), (14), (17),  
 44 (19), (20) to (23), (25), [and] (26) **and (27)**. In addition, “district” means any one of the following:

45 (a) A county service district organized under ORS chapter 451.

1 (b) The Port of Portland established by ORS 778.010.

2 (5) "District board" means the governing body of a district and the term includes a county board  
3 that is in the governing body of a district.

4 (6) "Presiding officer" means the chairperson, president or other person performing the office  
5 of presiding officer of the district board.

6 (7) "Principal Act" means the law, other than ORS 198.510 to 198.600, applicable to a district.

7 **SECTION 16.** ORS 198.705 is amended to read:

8 198.705. As used in ORS 198.705 to 198.955, unless the context requires otherwise:

9 (1) "Affected county" means each county which contains or would contain any territory for  
10 which a formation or a change of organization is proposed or ordered or which contains all or any  
11 part of a district for which a change of organization is proposed or ordered.

12 (2) "Affected district" means each district which contains or would contain territory for which  
13 a formation or a change of organization is proposed or ordered.

14 (3) "Annexation" includes the attachment or addition of territory to, or inclusion of territory in,  
15 an existing district.

16 (4) "Change of organization" means the annexation or withdrawal of territory to or from a dis-  
17 trict, the merger or consolidation of districts or the dissolution of a district.

18 (5) "Consolidation" means the uniting or joining of two or more districts into a single new suc-  
19 cessor district.

20 (6) "County board" means the county court or board of county commissioners of the principal  
21 county.

22 (7) "Dissolution" includes disincorporation, extinguishment or termination of the existence of a  
23 district and the cessation of all its corporate powers, except for the purpose of winding up the af-  
24 fairs of the district.

25 (8) "District" has the meaning given that term in ORS 198.010 (2) to (4), (6) to (14), (17) to (23),  
26 [and] (25) **and** (27). In addition, "district" means any one of the following:

27 (a) A county road district organized under ORS 371.055 to 371.110.

28 (b) A county service district organized under ORS chapter 451.

29 (c) The Port of Portland created by ORS 778.010.

30 (d) A translator district organized under ORS 354.605 to 354.715.

31 (9) "District board" means the governing board of a district.

32 (10) "Formation" includes incorporation, organization or creation of a district.

33 (11) "Inhabited territory" means territory within which there reside 12 or more persons who  
34 have been registered to vote within the territory for at least 30 days prior to the date a proceeding  
35 is commenced under ORS 198.705 to 198.955.

36 (12) "Landowner" or "owner of land" means any person shown as the owner of land on the last  
37 assessment roll. However, if the person no longer holds the title to the property, then the terms  
38 mean any person entitled to be shown as owner of land on the next assessment roll, or, when land  
39 is subject to a written agreement of sale, the terms mean any person shown in the agreement as  
40 purchaser to the exclusion of the seller. "Landowner" or "owner of land" includes any public  
41 agency owning land.

42 (13) "Legal representative" means:

43 (a) An officer of a corporation duly authorized, by the bylaws or a resolution of the board of  
44 directors of the corporation, to sign for and on behalf of the corporation; and

45 (b) A guardian, executor, administrator or other person holding property in a trust capacity

1 under appointment of court, when authorized by an order of court, which order may be made without  
2 notice.

3 (14) “Merger” means the extinguishment, termination and cessation of the existence of one or  
4 more districts by uniting with and being absorbed into another district.

5 (15) “Notice” includes an ordinance, resolution, order or other similar matter providing notice  
6 which ORS 198.705 to 198.955 authorize or require to be published, posted or mailed.

7 (16) “Principal Act” means the statutes which describe the powers of a district, including the  
8 statutes under which a district is proposed or is operating.

9 (17) “Principal county” or “county” means the county in which the district, or the greater por-  
10 tion of the assessed value of all taxable property in the district, as shown by the most recent as-  
11 sessment roll of the counties, is located at the time proceedings are initiated to form a district, but  
12 for any district formed prior to and existing on September 9, 1971, “principal county” or “county”  
13 means the county in which the district, or the greater portion of the value of all taxable property  
14 in the district, as shown by the most recent assessment roll of the counties, was located on Sep-  
15 tember 9, 1971.

16 (18) “Proceeding” means a proceeding for formation or for change of organization conducted  
17 pursuant to ORS 198.705 to 198.955.

18 (19) “Uninhabited territory” means territory within which there reside less than 12 electors who  
19 were residents within the territory 30 days prior to the date a proceeding is commenced under ORS  
20 198.705 to 198.955.

21 (20) “Withdrawal” includes the detachment, disconnection or exclusion of territory from an ex-  
22 isting district.

23 **SECTION 17.** ORS 174.116 is amended to read:

24 174.116. (1)(a) Subject to ORS 174.108, as used in the statutes of this state “local government”  
25 means all cities, counties and local service districts located in this state, and all administrative  
26 subdivisions of those cities, counties and local service districts.

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

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

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

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

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

38 (a) An economic improvement district created under ORS 223.112 to 223.132 or 223.141 to  
39 223.161.

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

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

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

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

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

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

- 1 (h) A metropolitan service district organized under ORS chapter 268.
- 2 (i) A translator district organized under ORS 354.605 to 354.715.
- 3 (j) A library district organized under ORS 357.216 to 357.286.
- 4 (k) A county road district organized under ORS 371.055 to 371.110.
- 5 (L) A special road district organized under ORS 371.305 to 371.360.
- 6 (m) A road assessment district organized under ORS 371.405 to 371.535.
- 7 (n) A highway lighting district organized under ORS chapter 372.
- 8 (o) A 9-1-1 communications district organized under ORS 403.300 to 403.380.
- 9 (p) A health district organized under ORS 440.305 to 440.410.
- 10 (q) A sanitary district organized under ORS 450.005 to 450.245.
- 11 (r) A sanitary authority, water authority or joint water and sanitary authority organized under
- 12 ORS 450.600 to 450.989.
- 13 (s) A county service district organized under ORS chapter 451.
- 14 (t) A vector control district organized under ORS 452.020 to 452.170.
- 15 (u) A rural fire protection district organized under ORS chapter 478.
- 16 (v) A geothermal heating district organized under ORS chapter 523.
- 17 (w) An irrigation district organized under ORS chapter 545.
- 18 (x) A drainage district organized under ORS chapter 547.
- 19 (y) A diking district organized under ORS chapter 551.
- 20 (z) A water improvement district organized under ORS chapter 552.
- 21 (aa) A water control district organized under ORS chapter 553.
- 22 (bb) A district improvement company or a district improvement corporation organized under
- 23 ORS chapter 554.
- 24 (cc) A weather modification district organized under ORS 558.200 to 558.440.
- 25 (dd) A fair district formed under ORS chapter 565.
- 26 (ee) A soil and water conservation district organized under ORS 568.210 to 568.808 and 568.900
- 27 to 568.933.
- 28 (ff) A weed control district organized under ORS 569.350 to 569.445.
- 29 (gg) A port organized under ORS 777.005 to 777.725 and 777.915 to 777.953.
- 30 (hh) The Port of Portland created under ORS 778.010.
- 31 (ii) An airport district established under ORS chapter 838.
- 32 (jj) A heritage district organized under ORS 358.442 to 358.474.
- 33 (kk) A radio and data district organized under ORS 403.500 to 403.542.
- 34 **(LL) An ocean power district organized under sections 2 to 8 of this 2015 Act.**
- 35 **SECTION 18.** ORS 255.012 is amended to read:
- 36 255.012. As used in this chapter, “district” means:
- 37 (1) A domestic water supply district organized under ORS chapter 264.
- 38 (2) A cemetery maintenance district organized under ORS chapter 265.
- 39 (3) A park and recreation district organized under ORS chapter 266.
- 40 (4) A mass transit district organized under ORS 267.010 to 267.390.
- 41 (5) A transportation district organized under ORS 267.510 to 267.650.
- 42 (6) A metropolitan service district organized under ORS chapter 268.
- 43 (7) A translator district organized under ORS 354.605 to 354.715.
- 44 (8) A library district organized under ORS 357.216 to 357.286.
- 45 (9) A county road district organized under ORS 371.055 to 371.110.

- 1 (10) A special road district organized under ORS 371.305 to 371.360.
  - 2 (11) A road assessment district organized under ORS 371.405 to 371.535.
  - 3 (12) A highway lighting district organized under ORS chapter 372.
  - 4 (13) A health district organized under ORS 440.305 to 440.410.
  - 5 (14) A sanitary district organized under ORS 450.005 to 450.245.
  - 6 (15) A sanitary authority, water authority or joint water and sanitary authority organized under
  - 7 ORS 450.600 to 450.989.
  - 8 (16) A county service district organized under ORS chapter 451.
  - 9 (17) A vector control district organized under ORS 452.020 to 452.170.
  - 10 (18) A rural fire protection district organized under ORS chapter 478.
  - 11 (19) An airport district organized under ORS chapter 838.
  - 12 (20) A geothermal heating district organized under ORS chapter 523.
  - 13 (21) A water improvement district organized under ORS chapter 552.
  - 14 (22) A water control district organized under ORS chapter 553.
  - 15 (23) A weather modification district organized under ORS 558.200 to 558.440.
  - 16 (24) A livestock district organized under ORS 607.005 to 607.051.
  - 17 (25) A port organized under ORS 777.005 to 777.725 and 777.915 to 777.953.
  - 18 (26) The Port of Portland established by ORS 778.010.
  - 19 (27) A school district.
  - 20 (28) Territory, other than territory within a city, proposed to be created, formed or incorporated
  - 21 into a district or to be annexed or otherwise added to a district.
  - 22 (29) A soil and water conservation district organized under ORS 568.210 to 568.810 and 568.900
  - 23 to 568.933.
  - 24 (30) A heritage district organized under ORS 358.442 to 358.474.
  - 25 (31) A radio and data district organized under ORS 403.500 to 403.542.
  - 26 **(32) An ocean power district organized under sections 2 to 8 of this 2015 Act.**
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