

Enrolled House Bill 2745

Sponsored by Representative HUFFMAN

CHAPTER

AN ACT

Relating to intergovernmental entity funding of transit operations; creating new provisions; amending ORS 190.083; and prescribing an effective date.

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

SECTION 1. ORS 190.083 is amended to read:

190.083. (1) Before a county enters into an intergovernmental agreement creating an intergovernmental entity to operate, maintain, repair and modernize transportation facilities, the county shall obtain approval of the terms and conditions of the agreement from the governing bodies of a majority of the cities within the county.

(2) Subject to the provisions of this section, an intergovernmental entity created to operate, maintain, repair and modernize transportation facilities may issue general obligation bonds and assess, levy and collect taxes in support of the purposes of the entity.

(3)(a) To carry out the purposes of an intergovernmental agreement under this section, and when authorized at an election described in paragraph (b) of this subsection, an intergovernmental entity created to operate, maintain, repair and modernize transportation facilities may borrow moneys and sell and dispose of general obligation bonds. Approval requires an affirmative vote of a majority of the electors within the intergovernmental entity voting in the election.

(b) If the bonds are not subject to the limitations under [section 11 or 11b,] Article XI, **section 11 or 11b**, of the Oregon Constitution:

(A) The proposition submitted to the electors shall provide that the intergovernmental entity shall assess, levy and collect taxes each year on the assessed value of all taxable property within the intergovernmental entity for the purposes of paying the principal and interest on the general obligation bonds;

(B) The election must comply with the voter participation requirements of [section 11 (8),] Article XI, **section 11 (8)**, of the Oregon Constitution; and

(C) Outstanding bonds may never exceed in the aggregate two percent of the real market value of all taxable property within the entity.

(4) The governing body of an intergovernmental entity created to operate, maintain, repair and modernize transportation facilities shall issue the bonds from time to time as authorized by the electors of the entity. The governing body shall issue the bonds according to the applicable provisions of ORS chapter 287A.

(5) The electors of an intergovernmental entity created to operate, maintain, repair and modernize transportation facilities may establish a permanent rate limit for ad valorem property taxes for the entity pursuant to [section 11 (3)(c),] Article XI, **section 11 (3)(c)**, of the Oregon Constitution.

(6) An intergovernmental entity created to operate, maintain, repair and modernize transportation facilities may exercise the powers necessary to carry out the purposes of the intergovernmental agreement, including but not limited to the authority to enter into agreements and to expend tax proceeds and other revenues the entity receives.

(7) An intergovernmental entity created to operate, maintain, repair and modernize transportation facilities is not a district as defined in ORS 198.010 and is not subject to the provisions of ORS chapter 451.

(8) An intergovernmental entity described in this section is subject to ORS 294.305 to 294.565 for each fiscal year or budget period in which the entity proposes to impose or imposes ad valorem property taxes.

(9) An intergovernmental entity that qualifies as a designated recipient of funding for transit operations from the Federal Transit Administration may utilize the procedures established under section 2 of this 2017 Act in addition to this section.

SECTION 2. (1) Subject to the provisions of this section, an intergovernmental entity created to operate, maintain, repair and modernize transportation facilities and that qualifies as a designated recipient of funding for transit operations from the Federal Transit Administration may issue general obligation bonds and assess, levy and collect ad valorem property taxes, including operating taxes and local option taxes, in support of the purposes of the entity. Taxes authorized as prescribed in this section may be imposed throughout the territory of the units of local government that make up the entity, or only in tax zones within the territory that are established as prescribed in this section.

(2) In order to utilize the powers and authorities granted under this section, the intergovernmental agreement entered into under ORS 190.010 that created the intergovernmental entity, or as amended, must provide for a board of directors of the entity and the method of selecting board members. The board of directors shall serve as the entity's governing body.

(3) An intergovernmental entity described in subsection (1) of this section may provide public transportation and terminal facilities for public transportation, except that the public transportation and facilities for public transportation must be limited to nonrail transportation and transportation facilities.

(4) An intergovernmental entity described in subsection (1) of this section may undertake any of the following actions only by using the procedures and obtaining the approvals described in subsections (5) to (7) of this section:

(a) Issue general obligation bonds not subject to limitation under Article XI, section 11 or 11b, of the Oregon Constitution;

(b) Establish a permanent rate limit for operating taxes within the meaning of Article XI, section 11 (3), of the Oregon Constitution;

(c) Impose local option taxes under ORS 280.040 to 280.145; or

(d) Divide the territory of the entity into zones based upon qualitative differences for the purpose of imposing and levying ad valorem property taxes at different rates in each zone based upon services provided by the entity in each zone.

(5) In order to undertake any of the actions described in subsection (4)(a) to (c) of this section, the following steps must be completed in the following order:

(a) The board of directors of the intergovernmental entity, after consultation with the governing bodies of all affected cities and counties, must approve a preliminary resolution that sets forth with particularity the financial or geographic specifics of the measure sought to be approved, including but not limited to:

(A) The amount of bonds to be issued, purposes for which bond proceeds may be spent and the estimated amount of ad valorem property taxes pledged per \$1,000 of assessed value for repayment of the bonds;

(B) The permanent rate limit for operating taxes being proposed;

(C) The amount, rate and duration of any local option taxes being proposed; and

(D) Any other information otherwise required by law or that the board determines to include in the preliminary resolution.

(b) The governing body of each city and county wholly or partially within the territory of the entity must, within one year, approve or reject the preliminary resolution by order or resolution of the city or county governing body, except that:

(A) In the case of a preliminary resolution that establishes proposed tax zones and does not seek a permanent rate limit on operating taxes, a city or county that lacks territory within those zones need not act on the preliminary resolution and approval by their governing bodies may not be sought; and

(B) The approval of the governing body of a county need not be obtained and may not be sought if the preliminary resolution does not seek a permanent rate limit on operating taxes and the only territory of the county within the proposed zone is also only within the boundaries of cities that have granted approval under this subsection.

(c) If the governing body of every city and county required to consider the question under paragraph (b) of this subsection approves the preliminary resolution, the board of directors of the entity, within 120 days of the last required governing body approval under paragraph (b) of this subsection, shall consider a final resolution that refers to voters one or more ballot measures that reflect the contents of the resolutions approved under paragraphs (a) and (b) of this subsection.

(d) Each ballot measure referred to voters as described in paragraph (c) of this subsection must be approved by voters in the same manner provided by law for approval of general obligation bonds, a permanent rate limit for operating taxes or local option taxes.

(6) If a permanent rate limit for operating taxes is approved by voters, the board of directors must thereafter obtain the approval of the governing body of each city in which operating taxes are to be imposed and of the governing body of each county in which operating taxes are to be imposed within unincorporated territory.

(7)(a) The procedures described in this subsection must be undertaken and completed in order to divide the territory of the entity into zones as described in subsection (4)(d) of this section and:

(A) Issue general obligation bonds not subject to limitation under Article XI, section 11 or 11b, of the Oregon Constitution, for which ad valorem property taxes are to be imposed within a zone of the territory of the entity that is based on different levels of service in the zone; or

(B) Impose local option taxes under ORS 280.040 to 280.145 in a zone of the territory of the entity that is based on different levels of service in the zone.

(b) The board of directors of the intergovernmental entity, after consultation with the governing bodies of all affected cities and counties in a proposed zone, must approve a preliminary resolution that sets forth:

(A) The geographic boundaries of the proposed zone in which taxes are to be imposed;

(B) The qualitative differences in the levels of service that are to be provided that justifies the establishment of the proposed zone;

(C) The amount of any bonds to be issued, purposes for which bond proceeds may be spent and the estimated amount of ad valorem property taxes pledged per \$1,000 of assessed value for repayment of the bonds;

(D) The amount, rate and duration of any local option taxes being proposed; and

(E) Any other information otherwise required by law or that the board determines to include in the preliminary resolution.

(c) The governing body of each city and county wholly or partially within the proposed zone must, within one year, approve or reject the preliminary resolution by order or resolution of the city or county governing body.

(d) If the governing body of every city and county required to consider the question under paragraph (c) of this subsection approves the preliminary resolution, the board of direc-

tors of the intergovernmental entity, within 120 days of the last required governing body approval under paragraph (c) of this subsection, shall consider a final resolution that refers to voters in the proposed zone one or more ballot measures that reflect the contents of the resolutions approved under paragraphs (b) and (c) of this subsection.

(e) Each ballot measure referred to voters as described in paragraph (d) of this subsection must be approved by voters in the same manner provided by law for approval of general obligation bonds, a permanent rate limit for operating taxes, or local option taxes, except that if the final resolution includes dividing the territory of the entity into zones and does not establish a permanent rate limit for operating taxes:

(A) The election must be held in May or November; and

(B) The ballot measure must be approved by a majority of voters voting in the election in each zone in which taxes are to be imposed.

(8) A ballot measure that proposes measures described in subsections (5)(d) and (7)(e) of this section shall be combined in a proposed zone.

(9) If the voters approve a ballot measure in accordance with subsection (5)(d) or (7)(e) of this section:

(a) Any tax revenues collected thereafter may be expended only for the purposes specified in the measure; and

(b) In the case of a measure establishing tax zones within the territory of the intergovernmental entity, the tax revenues collected from each zone must be expended within the geographic area of the respective zone.

(10) Following the approval of a ballot measure described in subsection (5)(d) or (7)(e) of this section that authorizes ad valorem taxes of the intergovernmental entity to be imposed within the territory of one or more cities or counties, if the boundaries of an affected city or county change, the area in which taxes are to be imposed shall also be adjusted to reflect the boundary change. Any boundary change shall comply with the procedures set forth in ORS 308.225.

(11) If the territory of an intergovernmental entity is divided into zones under this section, the board of directors shall determine, make and declare the ad valorem property tax levy for each zone when the board adopts its budget for any fiscal year. If the board modifies the ad valorem property tax levy or boundaries of a zone, the board must first obtain the approval of each affected city's governing body or, in the case of a zone that includes unincorporated territory, each affected county's governing body. The determination of the amount of ad valorem property taxes to be levied in each zone shall be in accordance with the proposal approved by the voters under this section and shall be entered in the proper records of the intergovernmental entity.

SECTION 3. (1) The board of directors of an intergovernmental entity described in section 2 of this 2017 Act shall perform all of the following:

(a) Before the entity may impose ad valorem property taxes, establish one or more transit advisory councils representative of each zone in which ad valorem property taxes are to be imposed. If the entity elects to not establish zones, the entity need establish only one transit advisory council. Council members shall be appointed by the board following nomination of proposed members by affected cities and counties.

(b) Maintain adequate levels of communication between affected local governments and the board of directors.

(c) Cause to be performed an annual report of standard transit performance metrics and an annual audit that satisfies the federal audit requirements for the expenditure of federal funds by state and local governments.

(2)(a) If the governing bodies of three or more cities or counties with territory within the boundaries of the intergovernmental entity file a written notice with the board of directors alleging that any of the actions required under subsection (1) of this section are not being adequately performed, the board of directors and the notifying governing bodies shall within

60 days conduct a mediation session with a mediator qualified to perform mediation under ORS 36.100 to 36.238, in order to resolve the dispute.

(b) One-half of the cost of the mediation shall be borne by the intergovernmental entity and the remaining one-half of the cost shall be borne by the cities and counties that served notice under this subsection.

SECTION 4. (1) The board of directors of an intergovernmental entity that was in existence on the day before the effective date of this 2017 Act and that otherwise meets the requirements of section 2 (1) of this 2017 Act shall be deemed to satisfy the requirements of section 2 (2) of this 2017 Act.

(2) This section is repealed on January 2, 2029.

SECTION 5. This 2017 Act takes effect on the 91st day after the date on which the 2017 regular session of the Seventy-ninth Legislative Assembly adjourns sine die.

Passed by House May 30, 2017

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Timothy G. Sekerak, Chief Clerk of House

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Tina Kotek, Speaker of House

Passed by Senate June 13, 2017

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Peter Courtney, President of Senate

Received by Governor:

.....M,....., 2017

Approved:

.....M,....., 2017

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Kate Brown, Governor

Filed in Office of Secretary of State:

.....M,....., 2017

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Dennis Richardson, Secretary of State