

SB 431-2
(LC 1587)
3/21/19 (ASD/ps)

Requested by SENATE COMMITTEE ON ENVIRONMENT AND NATURAL RESOURCES

**PROPOSED AMENDMENTS TO
SENATE BILL 431**

1 On page 1 of the printed bill, delete lines 6 through 26 and delete pages
2 2 through 15 and insert:

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**“PURPOSE AND CREATION OF
URBAN FLOOD SAFETY AND WATER QUALITY DISTRICT**

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“SECTION 1. Purpose. The Legislative Assembly declares the lands protected by the Columbia River levee system in northern Multnomah County to be of statewide and regional significance because they contain significant industrial and economic lands, one of the state’s most important transportation hubs, the Portland International Airport, the second largest source of drinking water in Oregon and a number of important natural assets. This area also represents a significant cultural and community history of flooding, displacement and loss, a history that should be remembered so that it is not repeated. The purpose of sections 1 to 26 of this 2019 Act is to create a new special district that has the legislative authority and financial capability to carry out the purposes set forth in section 3 (1) of this 2019 Act.

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“SECTION 2. Definitions. As used in sections 1 to 26 of this 2019 Act, unless the context requires otherwise:

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“(1) ‘District’ means the urban flood safety and water quality dis-

1 **trict created under section 3 of this 2019 Act.**

2 **“(2) ‘District board’ means the board of directors of the district.**

3 **“(3) ‘Elector’ means an individual qualified to vote under Article II,**
4 **section 2, of the Oregon Constitution, who resides in the district.**

5 **“(4) ‘File for record’ means to file a document for recording with**
6 **the county clerk.**

7 **“(5) ‘Green infrastructure’ means infrastructure adapted to wet**
8 **weather management that:**

9 **“(a) Infiltrates, evapotranspires, captures and reuses storm water**
10 **to maintain or restore natural hydrology;**

11 **“(b) Protects natural landscapes;**

12 **“(c) Creates rain gardens, porous pavements, green roofs, infil-**
13 **tration planters or tree boxes; or**

14 **“(d) Harvests rain water for nonpotable uses, including landscape**
15 **irrigation and toilet flushing.**

16 **“(6) ‘Land’ or ‘tract of land’ means real property, including im-**
17 **provements on the property.**

18 **“(7) ‘Landscape resilience’ means the ability of a landscape to sus-**
19 **tain ecological functions, native biodiversity and critical landscape**
20 **processes over time, under changing conditions and despite multiple**
21 **stressors and uncertainties.**

22 **“(8) ‘Managed floodplain’ means the portion of the historic**
23 **Columbia River floodplain located in northern Multnomah County that**
24 **requires or benefits from management to accomplish the purposes of**
25 **the district, as determined by the district board.**

26 **“(9) ‘Public body’ has the meaning given that term in ORS 174.109.**

27 **“(10) ‘Works’ means dams and storage reservoirs for flood risk re-**
28 **duction, canals, ditches, dikes, levees, revetments, green**
29 **infrastructure and all other structures, facilities, improvements and**
30 **property necessary or convenient for conveying and controlling water**

1 for the purpose of flood control, environmental benefits or water
2 quality.

3 **“SECTION 3. Creation of urban flood safety and water quality dis-**
4 **trict; purposes; limitation; filing boundary change with county**
5 **assessor and Department of Revenue; protection of water rights. (1)**

6 **An urban flood safety and water quality district is created for the**
7 **purpose of acquiring, purchasing, constructing, improving, operating**
8 **and maintaining works in order to:**

9 **“(a) Reduce the risk of flooding;**

10 **“(b) Protect people and property from flood risk;**

11 **“(c) Respond to flood emergencies;**

12 **“(d) Convey water for the purpose of flood safety;**

13 **“(e) Contribute to improved water quality, fish and wildlife habitat,**
14 **floodplain restoration and landscape resilience;**

15 **“(f) Promote equity and social justice in all aspects of the district’s**
16 **operations;**

17 **“(g) Prepare for and adapt to the impact of climate change in re-**
18 **lation to the managed floodplain; and**

19 **“(h) Provide the public with information regarding the cultural**
20 **history of the territory in the managed floodplain.**

21 **“(2)(a) The boundaries of the district are the boundaries of the**
22 **portion of Multnomah County that lies within the urban growth**
23 **boundary adopted by the metropolitan service district under ORS**
24 **268.390 as the urban growth boundary exists on the effective date of**
25 **this 2019 Act, or as changed by the metropolitan service district under**
26 **ORS 268.354 on or after the effective date of this 2019 Act. All cities**
27 **and taxing districts within the boundaries of the district shall be in-**
28 **cluded in the district.**

29 **“(b) A change to the boundaries of the district made pursuant to**
30 **this subsection must be filed in final approved form with the county**

1 assessor and the Department of Revenue as provided in ORS 308.225.

2 “(3) Sections 1 to 26 of this 2019 Act may not be construed to affect,
3 amend or repeal any other Oregon law or to affect or impair the vested
4 rights of any person or public body to the use of water or vested rights
5 in the use of water.

6 **“SECTION 4. Proceedings to test validity of order or act of district**
7 **board.** (1)(a) Any elector or owner of land within the district may bring
8 any proceeding that the board of directors of the urban flood safety
9 and water quality district is authorized to bring under ORS 33.710.

10 “(b) The proceeding shall be governed by ORS 33.720, except as
11 otherwise provided in this section.

12 “(c) For purposes of this section, the district shall be considered a
13 municipal corporation as defined in ORS 33.710.

14 “(2) The proceeding shall be brought in Multnomah County Circuit
15 Court. The district board shall be named as defendant in the proceed-
16 ing.

17 “(3) Service of summons shall be made on the members of the dis-
18 trict board personally if within Multnomah County. For directors not
19 within the county, service may be made by publication of notice for a
20 like time, and in like manner, as provided by ORS 33.720. Jurisdiction
21 shall be complete within 10 days after the date of completing publica-
22 tion of notice.

23
24 **“BOARD OF DIRECTORS**

25
26 **“SECTION 5. Board of directors; selection of directors; terms.** (1)
27 **The initial board of directors of the urban flood safety and water**
28 **quality district shall consist of 17 directors appointed as follows:**

29 “(a) **One director representing the City of Portland appointed by the**
30 **Portland city council.**

1 **“(b) One director representing the City of Gresham appointed by the**
2 **Gresham city council.**

3 **“(c) One director representing the City of Fairview appointed by the**
4 **Fairview city council.**

5 **“(d) One director representing the City of Troutdale appointed by**
6 **the Troutdale city council.**

7 **“(e) One director representing the City of Wood Village appointed**
8 **by the Wood Village city council.**

9 **“(f) One director representing Metro appointed by the Metro Coun-**
10 **cil.**

11 **“(g) One director representing Multnomah County appointed by the**
12 **Multnomah County board of county commissioners.**

13 **“(h) One director representing the Port of Portland appointed by**
14 **the board of commissioners of the Port of Portland.**

15 **“(i) One director representing Multnomah County Drainage District**
16 **No. 1 appointed by the district board of supervisors.**

17 **“(j) One director representing Peninsula Drainage District No. 1**
18 **appointed by the district board of supervisors.**

19 **“(k) One director representing Peninsula Drainage District No. 2**
20 **appointed by the district board of supervisors.**

21 **“(L) One director representing Sandy Drainage Improvement Com-**
22 **pany appointed by the company board of directors.**

23 **“(m) One director who resides in a neighborhood within the man-**
24 **aged floodplain appointed by the Governor.**

25 **“(n) One director who represents a private sector business located**
26 **in the managed floodplain appointed by the Governor.**

27 **“(o) Three directors who represent public interest nonprofit corpo-**
28 **rations with expertise or interest related to the managed floodplain**
29 **appointed by the Governor, of which:**

30 **“(A) One director must represent an environmental conservation**

1 **organization; and**

2 **“(B) One director must represent an environmental justice organ-**
3 **ization.**

4 **“(2) The purpose of the initial district board is to organize the dis-**
5 **trict and to develop, and approve or seek approval from the electors**
6 **of, methods of funding the operations of the district. To accomplish**
7 **this purpose, the initial district board may exercise all the duties and**
8 **powers set forth in section 7 of this 2019 Act.**

9 **“(3) At the first meeting of the initial district board, the board shall**
10 **elect a member to serve as chair. The chair shall preside over board**
11 **meetings, appoint subcommittees subject to board approval and set the**
12 **meeting agenda subject to revisions by the board.**

13 **“(4) Any vacancy on the initial district board shall be filled by ma-**
14 **jority vote of the remaining directors of the board. The replacement**
15 **director must qualify for the vacant position as provided in subsection**
16 **(1) of this section.**

17 **“(5) The directors of the initial district board shall serve until the**
18 **initial district board adopts a resolution calling for the selection of the**
19 **district board. The initial district board shall adopt the resolution no**
20 **later than six months before the next regular district election that is**
21 **held after the district first begins to collect revenues under one of the**
22 **methods set forth in section 16 of this 2019 Act. The initial district**
23 **board shall file a copy of the resolution with the county elections of-**
24 **ficer and the Governor.**

25 **“(6) The district board shall consist of nine voting directors selected**
26 **as follows:**

27 **“(a) One director shall be elected at large by the electors. A can-**
28 **didate for this position must be an elector.**

29 **“(b) Four directors shall be elected at large by the electors. A can-**
30 **didate for any of these positions must be an elector who:**

1 **“(A) Resides within the managed floodplain;**

2 **“(B) Regardless of whether the elector resides within the managed**
3 **floodplain, owns real property located within the managed floodplain;**
4 **or**

5 **“(C) Regardless of whether the elector resides within the managed**
6 **floodplain, is the designated representative of a business or other for**
7 **profit or nonprofit corporation that owns real property located within**
8 **the managed floodplain and is authorized in writing by the owner to**
9 **be a candidate at the time of filing the declaration of candidacy.**

10 **“(c)(A) The Governor shall appoint four directors as follows:**

11 **“(i) One director with expertise or an interest in flood safety;**

12 **“(ii) One director with expertise or an interest in environmental**
13 **conservation;**

14 **“(iii) One director with expertise or an interest in environmental**
15 **justice; and**

16 **“(iv) One director representing the Port of Portland from among**
17 **persons recommended by the board of commissioners of the Port of**
18 **Portland.**

19 **“(B) Before making an appointment under subparagraph (A)(i) to**
20 **(iii) of this paragraph, the Governor shall provide the district board**
21 **with an opportunity to recommend individuals who may have specific**
22 **kinds of expertise that the board believes to be necessary or beneficial**
23 **to the district.**

24 **“(7) Each elected director of the district board shall be elected for**
25 **a term of four years. The first elected directors shall determine their**
26 **terms by lot so that the terms of two directors expire on June 30 next**
27 **following the first regular district election and the terms of three di-**
28 **rectors expire on June 30 next following the second regular district**
29 **election.**

30 **“(8) Each director of the district board appointed by the Governor**

1 under subsection (6)(c) of this section shall be appointed for a term
2 of four years. The Governor shall appoint two directors for a term
3 expiring on June 30 next following the first regular district election
4 and two directors for a term expiring on June 30 next following the
5 second regular district election.

6 “(9)(a)(A) The district board shall fill any vacancy among the
7 elected directors of the district board as provided in ORS 198.320.

8 “(B) The Governor shall fill any vacancy among the appointed di-
9 rectors of the district board.

10 “(b) A director appointed to the district board under paragraph (a)
11 of this subsection shall serve the remainder of the unexpired term of
12 the director that the newly appointed director replaces.

13 **“SECTION 6. Organizational meeting; oath; officers; meetings. (1)**
14 **As soon as practicable after the election and appointment of the di-**
15 **rectors to the board of directors of the urban flood safety and water**
16 **quality district, the directors shall meet to qualify all individuals**
17 **elected or appointed as directors by administering an oath of office and**
18 **to elect the officers of the district board.**

19 “(2) The directors shall elect from their number a chair and vice
20 chair. Such officers have the authority and duties granted them by the
21 district board.

22 “(3) The district board shall meet at times and places that the dis-
23 trict board considers necessary or convenient.

24 **“SECTION 7. Duties of district board.** The board of directors of the
25 urban flood safety and water quality district shall:

26 “(1) Manage and conduct the affairs of the district.

27 “(2) Employ and appoint agents and employees and prescribe the
28 duties and fix the compensation of the agents and employees.

29 “(3) Establish reasonable bylaws and rules for the administration
30 of the affairs of the district.

1 **“(4) Adopt ordinances under ORS 198.510 to 198.600 that the directors**
2 **consider necessary or convenient for carrying out or enforcing the**
3 **district’s powers and duties under sections 1 to 26 of this 2019 Act.**

4 **“(5) Establish and maintain funds and accounts for the moneys of**
5 **the district.**

6 **“(6) Obtain an annual audit of the books of the district.**

7 **“(7) Fix the location of the principal office of the district at some**
8 **convenient place within the district.**

9 **“(8) Keep a record of all proceedings of the district board.**

10 **“(9) File for record all documents required by law to be recorded.**

11 **“(10) Establish the boundaries of the managed floodplain. The dis-**
12 **trict board may amend the boundaries from time to time as the board**
13 **deems necessary or prudent to address regulatory or environmental**
14 **changes that affect the need for district management to accomplish**
15 **the purposes of the district set forth in section 3 of this 2019 Act.**

16 **“(11) Consider equity and inclusion in all aspects of administering**
17 **the district.**

18 **“SECTION 8. Stakeholder advisory committee. The board of direc-**
19 **tors of the urban flood safety and water quality district may appoint**
20 **stakeholder advisory committees to advise the district board on as-**
21 **pects of the operation of the district, to assist the board with com-**
22 **munity outreach and citizen participation or to advise the board on**
23 **other matters as the board deems necessary or beneficial to the dis-**
24 **trict.**

25
26 **“POWERS OF DISTRICT**

27
28 **“SECTION 9. General powers of district. To carry out the purposes**
29 **for which it was created, the urban flood safety and water quality**
30 **district is a body corporate and has the power to, without limitation:**

- 1 **“(1) Have and use a seal.**
- 2 **“(2) Have perpetual succession.**
- 3 **“(3) Sue and be sued in its own name.**
- 4 **“(4) Acquire by condemnation, purchase, devise, gift or voluntary**
5 **grant real and personal property, or any interest in such property,**
6 **located inside or outside the boundaries of the managed floodplain, as**
7 **the district board deems necessary for the purposes of the district set**
8 **forth in section 3 of this 2019 Act, and dispose of such real and per-**
9 **sonal property when the district board deems the property unnecessary**
10 **for the purposes of the district set forth in section 3 of this 2019 Act.**
- 11 **“(5) Enter into intergovernmental agreements under ORS chapter**
12 **190 for the construction, preservation, improvement, operation or**
13 **maintenance of any works or other services.**
- 14 **“(6) Enter into contracts with the federal government, including,**
15 **without limitation, the United States Army Corps of Engineers and the**
16 **Federal Emergency Management Agency.**
- 17 **“(7) Build, construct, purchase, improve, operate and maintain,**
18 **subject to all applicable provisions of law, all works that the district**
19 **board considers necessary or desirable.**
- 20 **“(8) Enter into contracts and employ agents, engineers and attor-**
21 **neys.**
- 22 **“(9) Enter into contracts or grant agreements with nonprofit cor-**
23 **porations or community groups.**
- 24 **“(10) Acquire and maintain water and water rights, as the district**
25 **board deems necessary for the purposes of the district set forth in**
26 **section 3 of this 2019 Act.**
- 27 **“(11) Enforce the authority of the district and protect the district’s**
28 **works against public nuisances, obstructions or discharges on public**
29 **or private property that the district deems to have a negative impact**
30 **on the district’s works.**

1 “(12) Dissolve any drainage district or corporation described in sec-
2 tion 22 of this 2019 Act that is located entirely within the boundaries
3 of the district and assume the assets of the dissolved district or cor-
4 poration, including all lands and personal property, water rights, ob-
5 ligations, debts and liabilities.

6 “(13) Do such other acts and things as may be necessary or proper
7 for the exercise of the powers granted to the district.

8 “SECTION 10. Eminent domain. (1) Except as otherwise provided in
9 this section, the exercise of the power of eminent domain by the urban
10 flood safety and water quality district pursuant to section 9 (4) of this
11 2019 Act shall be governed by ORS 35.015 to 35.530.

12 “(2) The district’s authority to condemn property is limited to
13 property located:

14 “(a) Within the managed floodplain; or

15 “(b) Outside the managed floodplain if the district board deems such
16 property to be necessary for flood control within the managed
17 floodplain.

18 “(3) The district’s authority to condemn property includes property
19 already devoted to a public use, if acquisition of such property is re-
20 quired by regulations applicable to the district under federal law, is
21 required by a federally mandated agreement between a federal agency
22 and the district or is approved by the public body that owns the prop-
23 erty.

24 “(4) If the district seeks to acquire by eminent domain all or a
25 portion of property dedicated to open space under the land use regu-
26 lations of a city or county, just compensation shall be determined
27 based on the zoning designation applicable to the property immediately
28 prior to the open space dedication.

29 “SECTION 11. District activities as urban services. Activities of the
30 urban flood safety and water quality district are deemed to be urban

1 services, as defined in ORS 195.065, if the district engages in the ac-
2 tivities to manage flood control and safety, water quality or surface
3 water.

4 **“SECTION 12. Watershed improvement.** (1)(a) The urban flood
5 safety and water quality district shall prepare a plan for watershed and
6 habitat improvement and landscape resilience within the managed
7 floodplain. The watershed improvement plan shall be coordinated with
8 plans or programs of other jurisdictions with authority over watershed
9 management within the managed floodplain.

10 **“(b)** The urban flood safety and water quality district may seek
11 funding from other sources if the district determines that the
12 watershed improvement plan would benefit the region or the state.

13 **“(2)(a)** A watershed improvement plan prepared pursuant to this
14 section must:

15 **“(A)** Include existing and proposed works of the district and of
16 other public and private agencies relating to flood safety and
17 watershed health; and

18 **“(B)** Demonstrate a basis for the coordination and planning of fu-
19 ture works of the district, governmental agencies and private interests
20 to contribute to improved water quality, fish and wildlife habitat and
21 landscape resilience while reducing the risk of flooding, protecting
22 persons and property from flood risk, improving response to flood
23 emergencies and providing for conveyance of water for flood safety.

24 **“(b)** A watershed improvement plan and works included in the plan
25 must be based on assessments of data and information critical for
26 evaluating and monitoring flood safety or watershed health.

27 **“(3)(a)** The initial district board of directors appointed under section
28 5 (1) of this 2019 Act shall consider the projected scope of a watershed
29 improvement plan and the impact of the plan on the cost of the
30 district’s works in the course of developing methods of funding the

1 operations of the district as provided in section 5 (2) of this 2019 Act.

2 “(b) The district board of directors shall complete a watershed im-
3 provement plan within three years following the date on which the
4 directors of the district board commence their initial terms of office
5 as provided in section 5 (6) to (9) of this 2019 Act.

6 “(4) The district shall review and update the watershed improve-
7 ment plan at least every 10 years.

8 **“SECTION 13. District works; engineering plans.** (1) The urban flood
9 safety and water quality district may undertake construction of works
10 upon approval of the proposed works by the district board.

11 “(2)(a) The district board shall obtain engineering plans for any
12 works that require engineering.

13 “(b) In lieu of obtaining engineering plans pursuant to paragraph
14 (a) of this subsection, the district board may adopt, as an engineering
15 plan, any plans prepared by an agency of the state or federal govern-
16 ment or a local government having territory within the boundaries of
17 the district that are applicable to the proposed works.

18 **“SECTION 14. District contracts subject to Public Contracting**
19 **Code.** The urban flood safety and water quality district is a contracting
20 agency as defined in ORS 279A.010 for all applicable requirements of
21 the Public Contracting Code.

22 **“SECTION 15. Construction on public land or right of way or along**
23 **watercourse.** (1) The urban flood safety and water quality district may
24 construct works:

25 “(a) Across or along any street or public highway, or over any
26 lands, that are the property of the state or of any political subdivision
27 of the state.

28 “(b) Across or along any stream of water or watercourse.

29 “(2) When constructing works under this section, the district shall
30 comply with any federal, state or local permitting or regulatory re-

1 requirements or restrictions imposed by the public body that owns or
2 has jurisdiction over a street, right of way, stream of water or
3 watercourse, ground water resources or other affected lands.

4 **“SECTION 16. Financing construction, operation or maintenance**
5 **of district works.** The board of directors of the urban flood safety and
6 water quality district may finance the construction, operation or
7 maintenance of district works by the following means:

8 “(1) Assessments made under section 17 of this 2019 Act against the
9 benefited lands in the district, with or without the issuance of works
10 bonds.

11 “(2) Service and user charges imposed under section 19 of this 2019
12 Act, with or without the issuance of revenue bonds.

13 “(3) Issuance of general obligation bonds under section 20 of this
14 2019 Act.

15 “(4) Any combination of the means described in this section.

16 **“SECTION 17. Assessment of cost of works against benefited lands;**
17 **hearing on proposed assessment; works bonds.** (1) All or part of the
18 cost of building, constructing, purchasing, operating, maintaining or
19 improving works of the urban flood safety and water quality district
20 may be assessed against the lands to be benefited by the works. The
21 district board shall determine the portion of the cost, if any, that is
22 to be paid from the general fund of the district and the portion that
23 is to be paid by assessments against the lands benefited.

24 “(2) Assessments shall be apportioned by the district board among
25 benefited lands in accordance with the special and peculiar benefit to
26 be received from the district works by each lot or parcel of land. For
27 parcels of land, or any portion of the parcels, in the district that are
28 undeveloped, the district board may, in its discretion, defer assessing
29 or imposing all or any portion of the assessments on such parcels until
30 the parcels are connected with, or receiving services from, the district

1 **works.**

2 **“(3) The district board shall afford an opportunity for hearing any**
3 **objections or remonstrances to assessments under this section. If the**
4 **district board receives objections or remonstrances that are signed by**
5 **more than 50 percent of the landowners representing more than 50**
6 **percent of the territory within the proposed assessment district, the**
7 **proposed assessment may not be imposed.**

8 **“(4) If any portion of the cost of district works is assessed against**
9 **benefited lands under this section, the district board may issue works**
10 **bonds in the total amount of the valid applications the district board**
11 **has received to pay assessments in installments as provided by ORS**
12 **223.205 and 223.210 to 223.295.**

13 **“SECTION 18. Ad valorem property taxes; collection; enforcement.**

14 **(1)(a) The urban flood safety and water quality district may annually**
15 **impose, assess and collect a tax on all taxable property located in the**
16 **district in an amount sufficient to pay the yearly interest on out-**
17 **standing bonds issued by the district together with any portion of the**
18 **principal of the bonds maturing within the year.**

19 **“(b) The tax imposed pursuant to this subsection shall be applied**
20 **only in payment of the principal and interest due on bonds issued by**
21 **the district. In addition, the district may apply any otherwise unobli-**
22 **gated district funds toward payment of the principal and interest due**
23 **on the bonds.**

24 **“(2) The district is a municipal corporation for purposes of ORS**
25 **294.305 to 294.565 and shall file a written notice with the county**
26 **assessor as required under ORS 310.060.**

27 **“SECTION 19. Service and user charges; process for issuing revenue**
28 **bonds. (1) To pay the costs of constructing, operating and maintaining**
29 **district works, the board of directors of the urban flood safety and**
30 **water quality district may adopt an ordinance to:**

1 “(a) Impose and collect service charges, fees or rates on the owners
2 or occupants of property served by the works of the district.

3 “(b) Impose and collect user charges, fees and tolls for connection
4 to or use of works, facilities and services of the district.

5 “(2) Charges, fees, rates and tolls described in subsection (1) of this
6 section shall be based on the costs of operating and maintaining the
7 works, facilities or services and of administering the charges.

8 “(3) The district board may adopt differential charges or rates ap-
9 plicable to unique, qualitatively different areas within the district
10 when the district board deems such differential charges or rates nec-
11 essary, beneficial or equitable.

12 “(4) Service charges, fees and rates imposed on the owners or oc-
13 cupants of property located outside the managed floodplain shall be
14 commensurate with:

15 “(a) The benefits received by such properties from the works; or

16 “(b) The costs actually incurred by the district related to such
17 properties, including, but not limited to, pumping of storm water
18 runoff.

19 “(5) The district may enter into intergovernmental agreements un-
20 der ORS chapter 190 with cities located in whole or in part within the
21 district boundaries to collect service charges, fees and rates on behalf
22 of the district.

23 “(6) The district board may issue revenue bonds by pledging all or
24 part of any charge, fee, rate or toll adopted pursuant to this section.
25 All revenue bonds issued under this section shall be issued as pre-
26 scribed in ORS chapter 287A.

27 “SECTION 20. General obligation bonds; refunding bonds; proce-
28 dures. (1)(a) If authorized by a majority of the electors voting on the
29 question at an election held for the purpose, the urban flood safety and
30 water quality district may borrow money and issue, sell and dispose

1 of general obligation bonds.

2 “(b) Bonds issued under this section may be issued solely for the
3 purpose of financing:

4 “(A) Capital construction or capital improvements within the
5 meaning of Article XI, section 11, of the Oregon Constitution;

6 “(B) Capital construction or improvements within the meaning of
7 Article XI, section 11b, of the Oregon Constitution; or

8 “(C) Capital costs within the meaning of Article XI, section 11L, of
9 the Oregon Constitution.

10 “(2)(a) The bonds shall be issued from time to time by the district
11 board on behalf of the district as authorized by the electors. The bonds
12 shall mature serially within no more than 50 years from the issue date.

13 “(b) Notwithstanding paragraph (a) of this subsection, for an
14 indebtedness to the federal government or the State of Oregon, the
15 district may issue one or more bonds of the denominations agreed
16 upon.

17 “(3) Bonds issued pursuant to this section shall bear interest at a
18 rate determined by the district board, payable semiannually.

19 “(4) The bonds shall be so conditioned that the district promises and
20 agrees to pay to the bearer at a place named in the bonds, the princi-
21 pal sum with interest at the rate named in the bonds, payable semi-
22 annually, in accordance with the tenor and terms of the interest
23 coupons attached.

24 “(5) To provide additional security for the payment of the principal
25 and interest on the bonds, the district board may adopt a resolution
26 pledging all or any part of the net revenue of the district to that pur-
27 pose. The resolution shall constitute part of the contract with the
28 holders of the bonds. The district board may adopt a resolution pur-
29 suant to this subsection without submitting the question of the pledge
30 to the electors.

1 “(6) Refunding bonds of the same character and tenor as those re-
2 placed by the refunding bonds may be issued pursuant to a resolution
3 adopted by the district board without submitting to the electors the
4 question of authorizing the issuance of the refunding bonds.

5 “(7) All general obligation bonds, including refunding bonds, issued
6 under this section shall be issued as prescribed in ORS chapter 287A.

7 “SECTION 21. Loan agreements with state and federal agencies. (1)
8 The urban flood safety and water quality district may enter into a loan
9 agreement with a state or federal agency. The loan agreement shall
10 be in such form and contain such terms as the district and the agency
11 may agree to.

12 “(2) The district may agree to impose and collect assessments
13 against each tract of land benefited by the works or services financed
14 by the loan agreement, to take all actions necessary to impose and
15 collect the assessments, to assign to the lending agency the assess-
16 ments as security for the loan and to take all actions within the period
17 of time agreed to by the district and lending agency.

18 “(3) If the lending agency pays over money to the district pursuant
19 to the terms of a loan agreement entered into under this section and
20 the district fails, refuses or neglects to impose or collect the assess-
21 ments, to obtain or prepare a roll of benefited tracts of land, to assign
22 the assessments or in any other manner to perform as agreed under
23 the loan agreement, the lending agency has the right, at the agency’s
24 election, to apply to Multnomah County Circuit Court for a writ of
25 mandamus, or any other order or writ, to require the district or the
26 directors, employees and agents of the district to perform as agreed
27 to under the terms of the loan agreement. In addition to the assess-
28 ments imposed under the loan agreement, all costs, charges and ex-
29 penses pertaining to the issuance and execution of a writ or order
30 under this subsection shall be charged to and collected from the lands

1 subject to the assessments.

2 “(4) Upon the execution of a loan agreement under this section, the
3 district shall file for record a certificate that states the date of the
4 loan agreement, the maximum amount, term and rate of the loan and
5 the recording data pertaining to the recorded order creating the dis-
6 trict. The certificate must give notice that all lands within the district
7 determined to be benefited by the construction of the works specified
8 in the loan agreement are subject to the assessments imposed under
9 this section.

10 “SECTION 22. Dissolution of drainage or water control district or
11 corporation; transfer of assets and liabilities to urban flood safety and
12 water quality district. (1)(a) Notwithstanding any other provision of
13 law, the urban flood safety and water quality district may, by resolu-
14 tion of the district board, dissolve any drainage district formed and
15 operating under ORS chapter 547, any drainage district organized and
16 operating under ORS 548.005 to 548.120 or any corporation incorporated
17 for any of the purposes listed in ORS 554.020, that is operating entirely
18 within the boundaries of the urban flood safety and water quality dis-
19 trict.

20 “(b) Upon the dissolution, the dissolved district or corporation shall
21 transfer, and the urban flood safety and water quality district shall
22 assume, the duties, assets and liabilities of the dissolved district or
23 corporation and continue to furnish the services formerly provided by
24 the district or corporation to the residents of, and owners of property
25 in, the dissolved district or corporation. Such assets include, without
26 limitation, all interests in real property and tangible and intangible
27 personal property, including water rights, uncollected taxes, assess-
28 ments or other charges levied by the dissolved district or corporation.

29 “(c) The dissolved district or corporation shall be considered an-
30 nexed by and merged into the urban flood safety and water quality

1 **district.**

2 **“(2) A dissolution under this section may be initiated only by re-**
3 **solution of the district board. The district board may not consider a**
4 **dissolution resolution unless and until the urban flood safety and wa-**
5 **ter quality district has operating and capital funding sufficient to en-**
6 **able the urban flood safety and water quality district to assume and**
7 **manage the duties, assets and liabilities of the dissolved district or**
8 **corporation.**

9 **“(3) A dissolution under this section becomes effective no later than**
10 **one year after the date on which the district board adopts the dissol-**
11 **ution resolution, unless the district or corporation to be dissolved**
12 **agrees to an earlier dissolution date.**

13 **“(4)(a) As soon as practicable after the date on which the district**
14 **board adopts a dissolution resolution under this section, the district**
15 **board and the governing bodies of the districts or corporations to be**
16 **dissolved, or the designated representatives of the governing bodies,**
17 **shall meet to negotiate a debt distribution plan. A debt distribution**
18 **plan may provide for any distribution of indebtedness between the ur-**
19 **ban flood safety and water quality district and the district or corpo-**
20 **ration to be dissolved.**

21 **“(b) If the district board and the governing bodies do not agree on**
22 **a debt distribution plan, or if the territory of the district or corpo-**
23 **ration to be dissolved remains liable under the plan for any portion**
24 **of the indebtedness outstanding at the time of the dissolution and**
25 **transfer, the district board shall serve as the ex officio board of the**
26 **dissolved district or corporation for the purpose of imposing and col-**
27 **lecting charges or taxes in the territory until all indebtedness of the**
28 **dissolved district or corporation, including interest, is paid in full.**

29 **“(c) Before a debt distribution plan may be agreed to under this**
30 **section, the urban flood safety and water quality district shall obtain**

1 consent from all known holders of valid indebtedness owed by the
2 district or corporation to be dissolved or releases based on provision
3 in the debt distribution plan for the payment of nonconsenting hold-
4 ers. The territory within the boundaries of the district or corporation
5 to be dissolved may not by reason of the dissolution and transfer be
6 relieved of outstanding liabilities and indebtedness for which the dis-
7 trict or corporation to be dissolved has previously entered into an
8 agreement.

9 “(5) After paying and discharging all debts and obligations or ob-
10 taining consent from holders of valid indebtedness or releases from
11 nonconsenting holders, in accordance with the debt distribution plan,
12 the governing body of the district or corporation to be dissolved shall
13 transfer to the urban flood safety and water quality district all assets
14 of the district or corporation to be dissolved.

15 “(6) If requested by the district or corporation to be dissolved, or
16 at the discretion of the district board, the district board may create a
17 zone committee with members appointed by the chair of the district
18 or corporation to be dissolved to provide for continuity and recom-
19 mendations with respect to fees, rates and charges, and levels of sup-
20 port and operation, within the territory of the dissolved district or
21 corporation.

22 “SECTION 23. Notice requirements. (1) Except as provided in sub-
23 section (2) of this section, when notice is required to be given by
24 publication under sections 1 to 26 of this 2019 Act, the notice must be
25 published in a newspaper of general circulation within the boundaries
26 of the urban flood safety and water quality district, or if there is no
27 such newspaper, in a newspaper of general circulation in Multnomah
28 County.

29 “(2) This section does not apply to provision of notice for an
30 election.

1 **SECTION 24. Election laws applicable.** (1) ORS chapter 255 governs
2 the nomination and election of the board of directors of the urban
3 flood safety and water quality district and the conduct of all district
4 elections.

5 “(2) The electors may exercise the powers of the initiative and ref-
6 erendum regarding a district measure in accordance with ORS 255.135
7 to 255.205.

8 **SECTION 25. Waterway pollution; penalty.** (1) A person commits
9 the crime of waterway pollution if the person:

10 “(a) Throws, dumps or otherwise places, or permits to be thrown,
11 dumped or otherwise placed, any rubbish, refuse or any other matter
12 or object in any ditch, lateral, canal, slough or other waterway or
13 conduit used in connection with any works or waterway under the
14 control of the urban flood safety and water quality district;

15 “(b) Befouls or pollutes, or allows to be befouled or polluted, any
16 waterway or conduit described in paragraph (a) of this subsection; or

17 “(c) Obstructs, or allows to be obstructed, in any manner, any
18 waterway or conduit described in paragraph (a) of this subsection.

19 “(2) Waterway pollution is a Class C misdemeanor.

20 **SECTION 26. Civil liability for remediation costs.** (1) Regardless
21 of any criminal prosecution or the result of a prosecution under sec-
22 tion 25 of this 2019 Act, the urban flood safety and water quality dis-
23 trict or any other person injured by a violation of section 25 of this
24 2019 Act may bring a civil action to secure an injunction, damages or
25 other appropriate relief against any and all persons whose actions
26 caused the injury to a waterway described in section 25 of this 2019
27 Act owned or controlled by the district or person.

28 “(2) Upon prevailing in such civil action, the plaintiff may recover
29 damages measured by the total costs of remediating the injury actu-
30 ally incurred by the district or the person that owns or controls the

1 **injured waterway.**

2

3

“CONFORMING AMENDMENTS

4

5 **“SECTION 27.** ORS 174.116 is amended to read:

6 “174.116. (1)(a) Subject to ORS 174.108, as used in the statutes of this state
7 ‘local government’ means all cities, counties and local service districts lo-
8 cated in this state, and all administrative subdivisions of those cities, coun-
9 ties and local service districts.

10 “(b) Subject to ORS 174.108, as used in the statutes of this state ‘local
11 government’ includes:

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

14 “(B) An entity created by local government for the purpose of giving ad-
15 vice to local government and that is not created by ordinance or resolution,
16 if the document creating the entity indicates that the entity is a public body;
17 and

18 “(C) Any entity created by local government other than an entity de-
19 scribed in subparagraph (B) of this paragraph, unless the ordinance, resol-
20 ution or other document creating the entity indicates that the entity is not
21 a governmental entity or the entity is not subject to any substantial control
22 by local government.

23 “(2) Subject to ORS 174.108, as used in the statutes of this state ‘local
24 service district’ means:

25 “(a) An economic improvement district created under ORS 223.112 to
26 223.132 or 223.141 to 223.161.

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

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

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

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

- 1 “(f) A mass transit district organized under ORS 267.010 to 267.390.
- 2 “(g) A transportation district organized under ORS 267.510 to 267.650.
- 3 “(h) A metropolitan service district organized under ORS chapter 268.
- 4 “(i) A translator district organized under ORS 354.605 to 354.715.
- 5 “(j) A library district organized under ORS 357.216 to 357.286.
- 6 “(k) A county road district organized under ORS 371.055 to 371.110.
- 7 “(L) A special road district organized under ORS 371.305 to 371.360.
- 8 “(m) A road assessment district organized under ORS 371.405 to 371.535.
- 9 “(n) A highway lighting district organized under ORS chapter 372.
- 10 “(o) A 9-1-1 communications district organized under ORS 403.300 to
11 403.380.
- 12 “(p) A health district organized under ORS 440.305 to 440.410.
- 13 “(q) A sanitary district organized under ORS 450.005 to 450.245.
- 14 “(r) A sanitary authority, water authority or joint water and sanitary
15 authority organized under ORS 450.600 to 450.989.
- 16 “(s) A county service district organized under ORS chapter 451.
- 17 “(t) A vector control district organized under ORS 452.020 to 452.170.
- 18 “(u) A rural fire protection district organized under ORS chapter 478.
- 19 “(v) A geothermal heating district organized under ORS chapter 523.
- 20 “(w) An irrigation district organized under ORS chapter 545.
- 21 “(x) A drainage district organized under ORS chapter 547.
- 22 “(y) A diking district organized under ORS chapter 551.
- 23 “(z) A water improvement district organized under ORS chapter 552.
- 24 “(aa) A water control district organized under ORS chapter 553.
- 25 “(bb) A district improvement company or a district improvement corpo-
26 ration organized under ORS chapter 554.
- 27 “(cc) A weather modification district organized under ORS 558.200 to
28 558.440.
- 29 “(dd) A fair district formed under ORS chapter 565.
- 30 “(ee) A soil and water conservation district organized under ORS 568.210

1 to 568.808 and 568.900 to 568.933.

2 “(ff) A weed control district organized under ORS 569.350 to 569.445.

3 “(gg) A port organized under ORS 777.005 to 777.725 and 777.915 to
4 777.953.

5 “(hh) The Port of Portland created under ORS 778.010.

6 “(ii) An airport district established under ORS chapter 838.

7 “(jj) A heritage district organized under ORS 358.442 to 358.474.

8 “(kk) A radio and data district organized under ORS 403.500 to 403.542.

9 “(LL) A sand control district organized under ORS 555.500 to 555.535.

10 “(mm) **The urban flood safety and water quality district created**
11 **under sections 1 to 26 of this 2019 Act.**

12 “**SECTION 28.** ORS 198.010 is amended to read:

13 “198.010. As used in this chapter, except as otherwise specifically pro-
14 vided, ‘district’ means any one of the following:

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

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

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

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

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

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

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

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

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

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

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

26 “(12) A sanitary authority, water authority or joint water and sanitary
27 authority organized under ORS 450.600 to 450.989.

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

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

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

- 1 “(16) A drainage district organized under ORS chapter 547.
- 2 “(17) A water improvement district organized under ORS chapter 552.
- 3 “(18) A water control district organized under ORS chapter 553.
- 4 “(19) A weather modification district organized under ORS 558.200 to
5 558.440.
- 6 “(20) A port organized under ORS 777.005 to 777.725 and 777.915 to 777.953.
- 7 “(21) A geothermal heating district organized under ORS chapter 523.
- 8 “(22) A transportation district organized under ORS 267.510 to 267.650.
- 9 “(23) A library district organized under ORS 357.216 to 357.286.
- 10 “(24) A 9-1-1 communications district organized under ORS 403.300 to
11 403.380.
- 12 “(25) A heritage district organized under ORS 358.442 to 358.474.
- 13 “(26) A radio and data district organized under ORS 403.500 to 403.542.
- 14 “(27) A sand control district organized under ORS 555.500 to 555.535.
- 15 “**(28) The urban flood safety and water quality district created under**
16 **sections 1 to 26 of this 2019 Act.**
- 17 “**SECTION 29.** ORS 198.310 is amended to read:
- 18 “198.310. As used in ORS 198.320, in addition to the meaning given the
19 term by ORS 198.010 (1) to (5), (7) to (24)[, (26) and (27)] **and (26) to (28)**,
20 ‘district’ means a soil and water conservation district organized under ORS
21 568.210 to 568.808 and 568.900 to 568.933.
- 22 “**SECTION 30.** ORS 198.510 is amended to read:
- 23 “198.510. As used in ORS 198.510 to 198.600, unless the context requires
24 otherwise:
- 25 “(1) ‘County’ means the county in which the district, or the greater por-
26 tion of the assessed value of the district, is located.
- 27 “(2) ‘County board’ means the board of county commissioners or the
28 county court of the county.
- 29 “(3) ‘County clerk’ means the county clerk of the county.
- 30 “(4) ‘District’ has the meaning given that term in ORS 198.010 (2), (4), (5),

1 (11), (12), (14), (16), (17), (19), (20) to (23), (25)[, (26) and (27)] **to (28)**. In ad-
2 dition, ‘district’ means any one of the following:

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

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

5 “(5) ‘District board’ means the governing body of a district and the term
6 includes a county board that is in the governing body of a district.

7 “(6) ‘Presiding officer’ means the chairperson, president or other person
8 performing the office of presiding officer of the district board.

9 “(7) ‘Principal Act’ means the law, other than ORS 198.510 to 198.600,
10 applicable to a district.

11

12 **“UNIT AND SECTION CAPTIONS**

13

14 **“SECTION 31. The unit and section captions used in this 2019 Act**
15 **are provided only for the convenience of the reader and do not become**
16 **part of the statutory law of this state or express any legislative intent**
17 **in the enactment of this 2019 Act.**

18

19 **“EFFECTIVE DATE**

20

21 **“SECTION 32. This 2019 Act takes effect on the 91st day after the**
22 **date on which the 2019 regular session of the Eightieth Legislative**
23 **Assembly adjourns sine die.”.**

24
