Chapter 268

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Metropolitan Service Districts

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GENERAL PROVISIONS

268.010 Short title. This chapter may be referred to as the Metropolitan Service District Act of 1969.
[1969 c.700 §1]

268.020 Definitions. As used in this chapter:

(1) "District" means a metropolitan service district established under this chapter.

(2) "Metropolitan area" means the Oregon portion of a standard metropolitan statistical area designated by an agency of the United States.

(3) "Improvement" means the facilities and other property constructed, erected or acquired by and to be used in the performance of services authorized to be performed by a district.
[1969 c.700 §2]

268.030 Purpose of chapter; limitation on use; purpose of districts. (1) This chapter is enacted in order to provide a method of making available in metropolitan areas public services not adequately available through previously authorized governmental agencies.

(2) To this end not more than one district may be established under this chapter in any metropolitan area.

(3) Subject to the limitations of state law, the district may provide:

(a) Metropolitan aspects of sewerage, solid and liquid waste disposal, control of surface water, and public transportation; and

(b) Local aspects of those public services that are transferred to the district by agreement between the district and other public corporations, cities or counties.
[1969 c.700 §3]

268.040 Exemption from public utility regulation. Transportation facilities operated by a district, including the rates and charges made by the district and the equipment operated by the district, and transportation facilities operated for a district by a private operator pursuant to a contract between the operator and the district, including the rates and charges made by the operator pursuant to the contract, and the equipment operated pursuant to the contract, shall not be subject to the laws of this state regulating public utilities, including those laws administered by the Public Utility Commissioner of Oregon.
[1969 c.700 §31]

268.050 Initiative and referendum. The voters of a district may exercise the powers of the initiative and referendum with reference to legislation of the district, in accordance with the laws of the state governing exercise of the initiative and the referendum by voters of districts generally.
[1969 c.700 §28]

FORMATION

268.100 Initiation of proceedings to establish district; petition or resolution for election; tax base. (1) In addition to initiatory action authorized by ORS 198.705 to 198.955, proceedings to establish a district may be initiated by:

(a) A resolution adopted by the governing body of the most populous city in the proposed district and filed with the county governing body, petitioning that body to call the election; or

(b) A resolution adopted by the county governing body of the most populous county in a metropolitan area on its own motion and declaring its intention to call the election.

(2) The petition or resolution initiating formation may request that the election to establish the district be held at the same time as an election at which it is permissible to establish a tax base within the meaning of section 11, Article XI of the Oregon Constitution. If the petition or resolution does so, the election shall be held at such time. The petition or resolution may also request that the proposition to be voted on at such an election include a proposed tax base for the district within the meaning of section 11, Article XI of the Oregon Constitution. If the petition or resolution does so, the proposition to be voted on at the election shall include a proposed tax base for the district, in accordance with the petition or resolution.
[1969 c.700 §4; 1971 c.727 §97]

268.110 [1969 c.700 §5(1), (2); repealed by 1971 c.727 §203]

268.115 [1969 c.700 §5(3), (4); repealed by 1971 c.727 §191]

268.120 Establishing district tax base. A tax base within the meaning of section 11, Article XI of the Oregon Constitution may be established for a district at the same election at which the district is established. If the petition or resolution for initiating proceedings to establish the district contains both requests authorized by subsection (2) of ORS 268.100, the county governing body that calls the election shall confer about the proposed tax base with the governing bodies of all

counties and cities having territory in the proposed district and shall then determine the tax base to be proposed for the district. The proposition submitted to the voters of the district for the purpose of establishing the district shall propose the tax base specified by the county governing body. The tax base so proposed shall be the initial tax base of the district within the meaning of section 11, Article XI of the Oregon Constitution, if the district is established at the election.
[1969 c.700 §6; 1971 c.727 §99]

268.130 [1969 c.700 §7; repealed by 1971 c.727 §191]

GOVERNING BODY

268.200 Governing body of district; selection; first meeting; chairman; rules of procedure. (1) The governing body of a district shall consist of a representative from each governing body of a county with territory in the district, who shall be chosen by that governing body; or, if the district lies entirely in a single county, of two representatives from the governing body of that county, who shall be chosen by that governing body; of a representative from the governing body of the most populous city in the district, who shall be chosen by that governing body; and, if the district lies entirely in a single county, of two representatives of the other cities in the district and in the county, who shall be chosen by a joint convention of the mayors of those cities or, if the district lies in two or more counties, of a representative of the cities in the district and in each of those counties, other than the most populous city in the district, each of whom shall be chosen by a joint convention of the mayors of the cities in his county that lie in the district, except the most populous city in the district.

(2) The members of the governing body shall be chosen within 30 days after the district is established. Any not so chosen within that time shall be chosen promptly thereafter by the Governor. They shall assume their offices the second Monday after the expiration of the 30 days and shall continue in office until the first Monday of the January of the first odd-numbered year after they become members of the governing body. Their respective successors shall be similarly chosen during December of even-numbered years after the district is established, with each successor to hold his office for two years and until his successor is appointed and qualifies for the office, unless the body that appoints him declares his office vacant and appoints his successor. The successor shall serve for the unexpired term remaining after the vacancy is declared.

(3) The chairman of the county governing body that calls the election on establishing the district shall convene the first members of the district governing body and shall serve as chairman of the first meeting until the members choose a permanent chairman.

(4) At its first meeting after January 1 each year the district governing body shall choose a chairman for the ensuing year. The chairman shall be the presiding officer of the governing body and have whatever additional functions the governing body prescribes for him.

(5) The governing body may adopt and enforce rules of procedure governing its proceedings.
[1969 c.700 §9]

268.210 Employing assistance. The governing body of a district may employ whatever administrative, clerical, technical and other assistance is necessary for the proper functioning of the district, on whatever terms the governing body considers in the best interests of the district.
[1969 c.700 §27]

268.220 Employes' rights when district assumes a function of another public corporation, city or county. Except as otherwise provided by ORS 268.230, a district shall offer to employ every person who, on the date the district takes over a function of a public corporation, city or county in the district, is employed by the corporation, city or county to carry on the function. Where the district employs such a person, the employe shall remain an employe of the corporation, city or county for purposes of any pension or retirement plan he has been included in by the corporation, city or county and shall continue to have rights and benefits thereunder as if he had remained an employe of the corporation, city or county, until the district provides a similar plan for its employes and he is included in the plan. Until he is so included, the district shall deduct from his compensation the amount he is required to pay under the plan of the corporation, city or county; shall pay that amount to the corporation, city or county, which shall credit the amount to him under the plan; and shall make whatever payments the plan calls for his employer to make.
[1969 c.700 §30]

268.230 District to protect employes' rights when an operating public transportation system is acquired. When the district acquires an operating public transportation system, it shall make fair and equitable arrangements to protect the interests of employes and retired employes of the system. Such protective arrangements shall include, but shall not be limited to:

(1) Preservation of rights, privileges and benefits, including continuation of pension rights and payment of benefits, existing under collective bargaining agreements, or otherwise;

(2) Continuation of collective bargaining rights;

(3) Protection of individual employes against a worsening of their positions with respect to their employment; and

(4) Assurance of employment to persons employed by the mass transportation system acquired and priority of reemployment to persons previously employed.

[1969 c.700 §29a]

POWERS

268.300 Existence, status and general powers of district; where vested. (1) A district shall constitute a municipal corporation of this state, and a public body, corporate and politic, exercising public power. It shall have full power to carry out the objectives of its formation and to that end may have and use a seal, have perpetual succession, sue and be sued in its own name, and enter into contracts.

(2) Except as this chapter provides to the contrary, the powers of the district shall be vested in the governing body of the district.

[1969 c.700 §§8, 26]

268.310 Powers of district. A district may:

(1) Acquire, construct, alter, maintain and operate interceptor, trunk and outfall sewers and pumping stations and facilities for treatment and disposal of sewage as defined in ORS 468.700 and engage in local aspects of sewerage transferred to the district by agreement with other public corporations, cities or counties in accordance with this chapter.

(2) Subject to the requirements of ORS 459.005 to 459.045, 459.065 to 459.105, 459.205 to 459.285 and subsections (1) to (3) of ORS 459.992, dispose, and provide facilities for disposal, of solid and liquid wastes and, by agreement with other public corporations, cities or counties in accordance with this chapter, collect and transport such wastes.

(3) Control the flow, and provide for the drainage, of surface water, by means of dams, dikes, ditches, canals and similar necessary improvements.

(4) Provide public transportation and terminal facilities for public transportation, including local aspects thereof transferred to the district by one or more other public corporations, cities or counties through agreements in accordance with this chapter.

[1969 c.700 §10; 1971 c.648 §22]

268.320 Voter approval of district actions; assumption of local aspects of functions. (1) The voters of a district may, from time to time, and in exercise of their power of the initiative, or by approving a proposition referred to them by the governing body of the district, authorize the district to assume additional functions and determine the number, qualifications and manner of selecting members of the governing body of the district.

(2) Local aspects of the functions may be assumed only on the basis of agreements in accord with paragraph (b) of subsection (3) of ORS 268.030.

[1969 c.700 §11]

268.330 Powers when providing local aspects of service; powers for public transportation. (1) To provide a local aspect of a public service the district may take over facilities and functions of another public corporation, city or county, and may exercise powers of the corporation, city or county, in accordance with the agreement by which the district assumes the functions of the other corporation, city or county.

(2) For purposes of public transportation, a district may:

(a) Contract with the United States or with any county, city or state, or any of their departments or agencies, for the construction, preservation, improvement, operation or maintenance of any mass transit system.

(b) Build, construct, purchase, improve, operate and maintain, subject to other applicable provisions of law, all improvements, facilities or equipment necessary or desirable for the mass transit system of the district.

(c) Enter into contracts and employ agents, engineers, attorneys and other persons and fix their compensation.

(d) Fix and collect charges for the use of the transit system and other district facilities.

(e) A district shall be entitled to tax refunds under ORS 319.350 and 319.831, as if the district were a city.

(f) Construct, acquire, maintain and operate passenger terminal facilities and motor

vehicle parking facilities in connection with the mass transit system within or outside the district.

(g) Use a public thoroughfare in a manner mutually agreed to by the governing bodies of the district and of the thoroughfare or, if they cannot so agree upon how the district may use the thoroughfare, in a manner determined by an arbitrator appointed by the Governor.

(h) Do such other acts or things as may be necessary or convenient for the proper exercise of the powers granted to a district by this chapter.
[1969 c.700 §12]

268.340 Acquisition of property; condemnation procedure; authority to lease and dispose of property; right of entry to survey lands. (1) To the extent necessary to provide a metropolitan aspect of a public service, a district may acquire by purchase, condemnation, devise, gift or grant real and personal property or any interest therein within and without the district, including property of other public corporations. In so doing the district may proceed under ORS 35.010 to 35.140 or 223.105 to 223.175.

(2) A district may lease and dispose of property in accordance with ORS 271.300 to 271.370.

(3) For purposes of surveys necessary for its proper functioning, a district may enter upon land, after giving the owner thereof reasonable advance notice of the entry.
[1969 c.700 §§13, 14, 15]

268.350 Contracts of district. A district may contract with any public or private agency for the agency to operate any facility or perform any function that the district is authorized to operate or perform. By contract the district may assume any function of any public corporation, city or county in the district that the district has power to assume under this chapter.
[1969 c.700 §23]

268.360 Authority to exercise police power; ordinances; rules and regulations. For purposes of its authorized functions a district may exercise police power and in so doing adopt such ordinances, rules, and regulations as a majority of the members of its governing body considers necessary for the proper functioning of the district.
[1969 c.700 §24]

268.370 Authority to take over transit system of mass transit district; effect of transfer order. When a metropolitan service district organized under this chapter functions in a mass transit district organized under ORS chapter 267, the governing body of the metropolitan district may at any time order transfer of the transit system of the transit district to the metropolitan district, whereupon:

(1) The governing body of the transit district shall transfer title to, and possession of, the transit system and of all books, records, files, documents, and other property of the district to the metropolitan district.

(2) The metropolitan district shall be responsible for all the liabilities and obligations imposed upon or assumed by the transit district.

(3) For purposes of mass transit the metropolitan district shall have all the rights, powers, privileges, and immunities, and be subject to all the duties and obligations, of a mass transit district under ORS chapter 267, in so far as those rights, powers, privileges, immunities, duties, and obligations are consistent with this chapter.

(4) The boundaries of the metropolitan district shall, for purposes of mass transit, be extended to encompass all the territory of the transit district.

(5) The transit district shall be dissolved and the offices of its directors terminated.
[1969 c.700 §32]

FINANCES

268.500 Levy, collection, enforcement of ad valorem taxes; limitation; classification of property for different tax rates. (1) A district may levy annually an ad valorem tax on all taxable property within its boundaries not to exceed in any one year one-half percent (.005) of the true cash value of all taxable property within the boundaries of such district, computed in accordance with ORS 308.207. The district may also annually assess, levy and collect a special tax upon all such property in an amount sufficient to pay the yearly interest on bonds previously issued by the district and then outstanding, together with any portion of the principal of such bonds maturing within the year. The special tax shall be applied only in payment of the interest and principal of bonds issued by the corporation, but the corporation may apply any funds it may have towards the payment of principal and interest of any such bonds.

(2) Such taxes shall be levied in each year and returned to the county officer whose duty

it is to extend the tax levy by the time required by law for city taxes to be levied and returned. All taxes levied by the district shall become payable at the same time and be collected by the same officer who collects county taxes and shall be turned over to the district according to law. The county officer whose duty it is to extend the county levy shall extend the levy of the district in the same manner as city taxes are extended. Property shall be subject to sale for nonpayment of taxes levied by the corporation in like manner and with like effect as in the case of county and state taxes.

(3) In taxation a district may classify property on the basis of services received from the district and prescribe different tax rates for the different classes of property.
[1969 c.700 §17]

268.510 Special assessments; procedure; notice; content; basis of assessments; instalment payment. (1) A district may levy special assessments against the property within the district in proportion to the benefits such property might have or receive on account of the construction or acquisition of a facility or the furnishing of a service which the district is authorized to furnish. Before such construction or acquisition is undertaken however, the governing body of the district shall adopt a general ordinance which shall provide for the mailing to owners of the property to be assessed at their last-known address, notice of intent to make such improvement and assessment and advising such property owner that each may appear before the governing body to remonstrate against such assessment and to provide for the general method of assessing the property directly benefited and for the recording of assessment liens on such property and for the making of supplemental assessments and rebates.

(2) Action on such an ordinance shall not be taken by the governing body until the expiration of 20 days from the mailing of the notice. The governing body may provide, and state in the notice that the cost of such improvements, construction or acquisition shall be paid in part by assessments against the property directly benefited and in part out of general funds, ad valorem tax levies, the proceeds of the sale of bonds, service charges, or any combination of such sources. The determination of the governing body as to the proportion of cost allocation shall be based on its sound discretion.

(3) Any owner of property which has been assessed more than $100 for an improvement beneficial to such property shall have the right to pay such assessment in instalments. Such property owner and the district shall have the respective rights, powers and duties pertaining to assessments as are given to property owners and cities respectively under the provisions of ORS 223.205 to 223.300 (Bancroft Bonding Act).
[1969 c.700 §18]

268.520 Authority to issue bonds; limitation; conditions; advertisement and sale. (1) For the purpose of performing any service that the district has power to perform, the district, when authorized at any properly called election held for such purpose, shall have the power to borrow money by the issuance and sale of general obligation bonds. Such bonds shall never exceed in the aggregate 10 percent of the true cash value of all taxable property within the district computed in accordance with ORS 308.207. The bonds shall be so conditioned that the district shall promise and agree therein to pay the bearer at a place named therein, the principal sum with interest at a rate named therein payable semiannually in accordance with the tenor and terms of the interest coupons attached. The bonds shall mature serially not to exceed 30 years from the date of issue, in like manner as bonds issued under the authority of ORS 287.008.

(2) For the purpose of performing any of the powers conferred by this chapter a district, when authorized at any properly called election held for such purpose, shall have the power to borrow money by the issuance and sale also of revenue bonds and to pledge as security therefor, all or any part of the unobligated net income or revenue of the district. The revenue bonds shall be issued in the same manner and form as are general obligation bonds of the district but they shall be payable both as to principal and interest from revenues only. The revenue bonds shall not be subject to the percentage limitation applicable to general obligation bonds and should not be a lien on any of the taxable property within the corporate limits of the district and shall be payable solely from such part of revenues of the corporation as remain after the payment of obligations having a priority and of all expenses of operation and maintenance of the corporation. All revenue bonds shall contain a provision that both the principal and interest are payable solely from the operating revenues of the district remaining after paying such obligations and expenses.

(3) All general obligation bonds and revenue bonds shall be advertised for sale and sold in the manner prescribed in ORS 287.002 for the sale of bonds of cities.
[1969 c.700 §19]

268.525 Refunding bonds. Refunding bonds of the same character and tenor as those replaced thereby may be issued pursuant to a resolution adopted by the district governing body without submitting to the voters the question of authorizing the issuance of the bonds.
[1969 c.700 §19a]

268.530 Bond elections. Elections for the purpose of voting on the question of borrowing funds by issuance and sale of general obligation bonds or revenue bonds shall be called by the governing body.
[1969 c.700 §20; 1971 c.647 §63a]

268.540 Service and user charges; acceptance of grants; loans from cities and counties. (1) A district may impose and collect service or user charges in payment for its services.

(2) A district may seek and accept grants of financial and other assistance from public and private sources.

(3) A district may, with the approval of a majority of members of its governing body, borrow money from any county or city with territory in the district.
[1969 c.700 §§16, 21, 22]

268.700 [1969 c.700 §29; repealed by 1971 c.727 §203]

PENALTIES

268.990 Penalties; jurisdiction. (1) Violation of any ordinance, rule or regulation adopted by a district shall be punishable by a fine of not more than $500 or by imprisonment in a county jail for not more than 30 days or by both.

(2) Any penalty for such a violation may be imposed or enforced by the district in the district or circuit court of the state for the county where the violation takes place.
[1969 c.700 §25]

CERTIFICATE OF LEGISLATIVE COUNSEL

Pursuant to ORS 173.170, I, Robert W. Lundy, Legislative Counsel, do hereby certify that I have compared each section printed in this chapter with the original section in the enrolled bill, and that the sections in this chapter are correct copies of the enrolled sections, with the exception of the changes in form permitted by ORS 173.160 and other changes specifically authorized by law.

Done at Salem, Oregon,
on December 1, 1971.

Robert W. Lundy
Legislative Counsel

CHAPTERS 269 AND 270

[Reserved for expansion]