

Chapter 280

1975 REPLACEMENT PART

Financing of Public Projects, Improvements and Economic Development Projects

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GENERALLY

280.010 Towns, cities and counties authorized to aid in highways and river improvements. An incorporated town or city, or an organized county, may aid in the construction and repair of any public highway or river improvement in the manner prescribed in ORS 280.020 and 280.030, but all such improvements so aided shall be for the use of all citizens of this state without charge.

280.020 Petition or vote to authorize tax and appropriation of money. It shall be lawful and competent for the municipal authorities of the town or city, or the commissioners of the county, to act under ORS 280.030 if a majority of the legal voters of the town, city or county, as shown by the poll books of the last preceding election:

(1) Petition the municipal authorities of the town or city, or the commissioners of the county, in favor of any proposition to aid in the construction or repair of any public highway or river improvement; or

(2) Decide in favor of so aiding such public works at any special or regular election under the direction of such authorities.

280.030 Levy of tax and appropriation of money. In pursuance of the proposition petitioned for or decided in favor of by the voters pursuant to ORS 280.020, it shall be lawful and competent for the municipal authorities of the town or city, or the commissioners of the county, as the case may be, to:

(1) Enact, order and levy an annual tax, running through one or more years, providing a separate fund for the purpose of aiding and constructing the public work petitioned for or decided in favor of by the voters.

(2) Provide funds by such annual tax.

(3) Make annual payments for such purpose.

(4) Order and appropriate the funds or money of the annual tax for such annual payments.

280.040 "Subdivision" defined. As used in ORS 280.040 to 280.140, "subdivision" includes only such counties, municipal corporations, quasi-municipal corporations and civil or political corporations or subdivisions as are empowered by law to levy ad valorem taxes.

280.050 Providing funds for financing cost of services, projects, property and equipment. Funds may be obtained as prescribed in ORS 280.040 to 280.140 for the purpose of financing the cost of any service, project, property or equipment which a subdivision has lawful power to perform, construct or acquire, and of repairs and improvements thereto and of maintenance and replacement thereof.

[Amended by 1967 c.203 s.4]

280.055 Obtaining and advancing of funds to county service districts. Funds may be obtained by a county as prescribed by ORS 280.040 to 280.140 for the purpose of advancing funds to a district established under ORS 451.410 to 451.600 to finance the cost of any service facility which the district is authorized to construct, maintain and operate.

[1969 c.646 s.17]

280.060 Levy of taxes outside constitutional limitation; approval of electors. Upon approval of a majority of the electors of a subdivision voting at any election regularly called and held therein for the purpose or purposes named in ORS 280.050, a subdivision may levy taxes serially outside the limitation imposed by section 11, Article XI, Oregon Constitution, over such period of time as is authorized by the electors, but not exceeding 10 years. The amount levied each year shall be uniform, or substantially so, throughout the period during which the taxes are levied.

[Amended by 1953 c.134 s.2]

280.070 Manner of holding elections.

(1) Elections held within counties for the purpose of approving a tax levy under ORS 280.060 shall be called by the county court or board of county commissioners and shall be held in the same manner and at the same times at which elections may be called and held under the provisions of ORS 370.120 and related sections.

(2) Elections held within other subdivisions for the purpose of approving such tax levy shall be called and held in the manner in which bond elections may be called and held in such subdivisions. The voting requirements, if any, that apply to the bond elections shall apply equally to elections held under authority of this section.

280.080 Contents of order, resolution or ordinance calling election. The order, resolution or ordinance, as the case may be,

pursuant to which the election required by ORS 280.060 is called and held, shall set forth:

(1) The purpose for which the funds to be provided by the tax levies are to be expended.

(2) The estimated total outlay for such purpose.

(3) The period, not exceeding 10 years, during which the proposed taxes are to be levied.

(4) Whether or not the proposed taxes are outside the limitation imposed by section 11, Article XI, Oregon Constitution.

280.090 Submission of several propositions. If more than one proposition is submitted to the voters at the same election, the several propositions shall be voted upon separately; but not more than two separate propositions may be submitted to the electors under the provisions of ORS 280.040 to 280.140 within a single year.

280.100 Financial reserve or special fund may be established without vote; unexpended balances. Any city, town or port, by ordinance, and any other subdivision, by resolution, may establish a financial reserve or special fund or funds for the purposes specified in ORS 280.050, without submitting the question to a vote of the electors, if the taxes levied or other funds used for the purpose of establishing the fund or funds are within the limitation imposed by section 11, Article XI, Oregon Constitution. The annual increments to such funds shall be limited to a period of not to exceed 10 years. Should unexpended balances remain after disbursement of the funds referred to in this section for the purposes for which they were provided, such balances upon approval of the governing body of the subdivision duly entered into the minutes of its proceedings may be transferred to the general fund of the subdivision.

280.110 Keeping funds; limitation on expenditure. All funds received by any subdivision pursuant to the authority of ORS 280.040 to 280.140 shall be:

(1) Kept by the treasurer or other financial officer thereof in a fund or funds separate and distinct from other funds of the subdivision.

(2) Retained or expended only for the purpose for which the funds were created.

280.120 Action when further accumulation becomes unnecessary. If at any

time conditions arise which dispense with the necessity of further accumulation or expenditure from a fund referred to in ORS 280.110 for the purpose for which it was voted, the governing body by vote of two-thirds of the members of such body may so declare by an appropriate resolution adopted and spread upon the minutes of such body, after which the balances in such funds and future receipts from tax levies and penalties and interest thereon, if any, which otherwise would have been credited thereto, shall be transferred to the general fund of the subdivision and the tax levies thereafter shall be discontinued.

280.130 Transfer of balance of fund after 12 years. Any balance in a fund referred to in ORS 280.110 that is not expended or obligated by definite commitments within 12 years from the date of the election or of the adoption of the ordinance or resolution pursuant to which the fund was established shall automatically revert to and become a part of the general fund of the subdivision and shall be transferred thereto by the treasurer or other financial officer thereof.

280.140 Unauthorized expenditure or deficit prohibited. No member of the governing body of a subdivision through his vote shall cause to be made an unauthorized expenditure or a deficit in a fund originating pursuant to the provisions of ORS 280.040 to 280.130.

280.150 Appropriating money and issuing bonds to construct, operate and maintain joint facilities. Incorporated cities, school districts and counties of this state may jointly, in such manner as they shall agree upon, construct, acquire, own, equip, operate and maintain facilities which will directly aid each participating governmental unit in performing a duty or duties imposed upon it or aid in exercising a power or powers conferred upon it, and may appropriate money and may issue bonds therefor.

ECONOMIC DEVELOPMENT PROJECTS

280.310 Policy. The Legislative Assembly finds that by use of the powers and procedures described in ORS 280.310 to 280.390 for the assembling and sale or lease of lands for industrial and commercial uses and for the construction and leasing of facilities for such uses, financed through the issuance of

revenue bonds secured solely by the properties and rentals thus made available, the state may be able to reduce substantially in various counties the occurrence of economic conditions requiring more expensive remedial action. It is the purpose of ORS 280.310 to 280.390 to authorize the exercise of powers granted by ORS 280.310 to 280.390 by this state in addition to and not in lieu of any other powers it may possess.
[1975 c.316 s.1]

280.315 Definitions for ORS 280.310 to 280.390. As used in ORS 280.310 to 280.390 unless the context requires otherwise:

(1) "Economic development project" includes any properties, real or personal, used or useful in connection with a revenue producing enterprise. "Economic development project" shall not include any facility or facilities designed primarily for the generation, transmission, sale or distribution of electrical energy.

(2) "Eligible project" means an economic development project found by the Economic Development Commission to meet standards of the commission adopted by rule pursuant to ORS 280.310 to 280.390.
[1975 c.316 s.2]

280.320 Eligibility of projects for financing; standards. (1) The Economic Development Commission shall adopt by rule standards by which to determine the eligibility of economic development projects for bond financing pursuant to ORS 280.310 to 280.390. In determining such standards, the commission shall consider all relevant data without giving priority to one factor over others. The commission may consider but is not limited to the following:

(a) Population density and potential population impact in affected areas;

(b) Areas' abilities to support other needed services resulting from economic development projects;

(c) Effect of economic development projects on balanced economic development of the state;

(d) Employment opportunities;

(e) Suitability of various areas in the state for particular types of economic development projects; and

(f) Economic impact of particular economic development project in other states and on world trade.

(2) Upon determining an economic development project an "eligible project," the Economic Development Commission shall

forward the application to the State Treasurer, who shall examine the fiscal soundness of the eligible project, and determine whether to issue the revenue bonds.
[1975 c.316 s.3]

280.325 Review by Economic Development Commission. The state, acting through the State Treasurer, shall not undertake to finance any economic development project pursuant to ORS 280.310 to 280.390 before the Economic Development Commission has reviewed the project pursuant to standards adopted under ORS 280.320.
[1975 c.316 s.4]

280.330 Request by county governing body. (1) The undertaking of any eligible project must be requested by official action of the governing body of the county taken at a regular or duly called special meeting thereof by the affirmative vote of a majority of its members.

(2) The governing body of any Oregon county is encouraged to forward appropriate prospective development projects to the Economic Development Commission for processing pursuant to ORS 280.320.
[1975 c.316 s.10]

280.335 Powers of State Treasurer. In addition to any other powers granted by law or by charter, in relation to an eligible project, the state, acting through the State Treasurer or his designee may:

(1) Lease and sublease eligible projects to any person, firm or public or private corporation or federal or state governmental subdivision or agency in such manner that rents to be charged for the use of such projects shall be fixed, and revised from time to time as necessary, so as to produce income and revenue sufficient to provide for the prompt payment of principal of and interest on all bonds issued under this section when due, and the lease shall also provide that the lessee shall be required to pay all expenses of the operation and maintenance of the project including, but without limitation, adequate insurance thereon and insurance against all liability for injury to persons or property arising from the operation thereof, and all taxes and special assessments levied upon or with respect to the leased premises and payable during the term of the lease, during which term ad valorem taxes in the same amount and to the same extent as though the lessee were the owner of all real and personal property comprising the project;

(2) Pledge and assign to the holders of such bonds or a trustee therefor all or any part of the revenues of one or more eligible projects owned or to be acquired by the state, and define and segregate such revenues or provide for the payment thereof to a trustee;

(3) Mortgage or otherwise encumber eligible projects in favor of the holders of such bonds or a trustee therefor. However, in creating any such mortgages or encumbrances the state can not obligate itself except with respect to the project;

(4) Make all contracts, execute all instruments, and do all things necessary or convenient in the exercise of the powers granted by this section, or in the performance of its covenants or duties, or in order to secure the payment of its bonds; including a contract entered into prior to the construction, acquisition and installation of the eligible project authorizing the lessee, subject to such terms and conditions as the state shall find necessary or desirable and proper, to provide for the construction, acquisition and installation of the buildings, improvements and equipment to be included in the project by any means available to the lessee and in the manner determined by the lessee, and without advertisement for bids as may be required for the construction, acquisition or installation of other public facilities;

(5) Enter into and perform such contracts and agreements with political subdivisions and state agencies as the respective governing bodies of the same may consider proper and feasible for or concerning the planning, construction, installation, lease, or other acquisition, and the financing of such facilities, which contracts and agreements may establish a board, commission or such other body as may be deemed proper for the supervision and general management of the facilities of the eligible project; and

(6) Accept from any authorized agency of the Federal Government loans or grants for the planning, construction, acquisition, leasing, or other provision of any eligible project, and enter into agreements with such agency respecting such loans or grants.

[1975 c.316 s.7]

280.340 Powers of Economic Development Commission. In carrying out its duties under ORS 280.310 to 280.390, the Economic Development Commission, acting for and in behalf of the state as its duly authorized agency, may:

(1) Acquire, construct and hold in whole or in part any lands, buildings, easements, water and air rights, improvements to lands and buildings and capital equipment to be located permanently or used exclusively on such lands or in such buildings, which are deemed necessary in connection with an eligible project to be situated within the state, and construct, reconstruct, improve, better and extend such projects, and enter into contracts therefor; and

(2) Sell and convey all properties acquired in connection with eligible projects, including without limitation the sale and conveyance thereof subject to any mortgage and the sale and conveyance thereof under an option granted to the lessee of the eligible project, for such price, and at such time as the state may determine. However, no sale or conveyance of such properties shall ever be made in such manner as to impair the rights of interests of the holder, or holders, or any bonds issued under the authority of ORS 280.310 to 280.390.

[1975 c.316 s.8]

280.345 Limitation on state power.

Except as provided in subsection (2) of ORS 280.340, the state shall not have power to operate any eligible project as a business or in any manner whatsoever, and nothing in ORS 280.310 to 280.390 authorizes the state to expend any funds on any eligible project, other than the revenues of such projects, or the proceeds of revenue bonds issued hereunder, or other funds granted to the state for the purposes of an eligible project.

[1975 c.316 s.9]

280.350 Authority to issue bonds. (1)

If the State Treasurer determines that revenue bonds should be issued:

(1) The State Treasurer may authorize and issue in the name of the State of Oregon revenue bonds secured by revenues from eligible economic development projects to finance or refinance in whole or part the cost of acquisition, construction, reconstruction, improvement or extension of projects. The bonds shall be identified by project and issued in the manner prescribed by ORS chapter 286, and refunding bonds may be issued to refinance such revenue bonds.

(b) The State Treasurer shall designate the underwriter, trustee and bond counsel and enter into appropriate agreements with each to carry out the provisions of ORS 280.310 to 280.390.

(2) Any trustee designated by the State Treasurer to carry out all or part of the

powers specified in ORS 280.335 must agree to furnish financial statements and audit reports for each bond issue.

[1975 c.316 s.6]

280.355 Issuance of bonds; determining factors. (1) In determining whether to issue revenue bonds under ORS 280.310 to 280.390, the State Treasurer shall consider:

(a) The bond market for the types of bonds proposed for issuance.

(b) The terms and conditions of the proposed issue.

(c) Such other relevant factors as the State Treasurer considers necessary to protect the financial integrity of the state.

(2) The State Treasurer shall also review the fiscal soundness of the economic development project and may rerefer the proposed project to the Economic Development Commission for further study.

[1975 c.316 s.5]

280.360 Method of issuing bonds.

Bonds authorized under ORS 280.310 to 280.390 shall be issued in accordance with the provisions of ORS 456.610 to 456.720 relating to bonds payable from income of revenue producing facilities, the bonds to be sold at public or private sale, and the bonds may mature at any time or times within 30 years from date of issue and may be sold at a price equal to such percentage of the par value thereof, plus accrued interest, and bearing interest at such rate or rates, may be agreed upon by the lessee, the purchaser, and the state, notwithstanding any limitation of interest rate or cost of the amounts of annual maturities contained in any other law.

[1975 c.316 s.11]

280.365 Administration expenses. The administrative expenses of the State Treasurer shall be charged against bond proceeds or project revenues.

[1975 c.316 s.12]

280.370 Refunding bonds. The State Treasurer shall have the power, whenever he deems refunding expedient, to refund any bonds by the issuance of new bonds, whether the bonds to be refunded have or have not matured. The refunding bonds may be exchanged for bonds to be refunded and the proceeds applied to the purchase, redemption or payment of such bonds.

[1975 c.316 s.13]

280.375 Validity of bonds. The validity of bonds issued under ORS 280.310 to 280.390 shall not be dependent on nor be affected by the validity or regularity of any proceeding relating to the acquisition, purchase, construction, installation, reconstruction, improvement, betterment or extension of the eligible project for which the bonds are issued. The official action authorizing such bonds may provide that the bonds shall contain a recital that they are issued pursuant to ORS 280.310 to 280.390 and such recital shall be conclusive evidence of their validity and of the regularity of their issuance.

[1975 c.316 s.14]

280.380 Covenants in bonds. The official action authorizing the issuance of bonds under ORS 280.310 to 280.390 to finance or refinance in whole or in part, the acquisition, construction, installation, reconstruction, improvement, betterment or extension of any eligible project may contain covenants, notwithstanding that such covenants may limit the exercises of powers conferred by ORS 280.310 to 280.390 in the following respects and in such other respects as the state, acting through the State Treasurer, or his designee may decide:

(1) The rents to be charged for the use of properties acquired, constructed, installed, reconstructed, improved, bettered or extended under the authority of ORS 280.310 to 280.390;

(2) The use and disposition of the revenues of such projects;

(3) The creation and maintenance of sinking funds and the regulation, use and disposition thereof;

(4) The creation and maintenance of funds to provide for maintaining the eligible project and replacement of properties depreciated, damaged, destroyed or condemned;

(5) The purpose or purposes to which the proceeds of sale of bonds may be applied and the use and disposition of such proceeds;

(6) The nature of mortgages or other encumbrances on the eligible project made in favor of the holder or holders of such bonds or a trustee therefor;

(7) The events of default and the rights and liabilities arising thereon and the terms and conditions upon which the holders of any bonds may bring any suit or action on such bonds or on any coupons appurtenant thereto;

(8) The issuance of other or additional bonds or instruments payable from or

constituting a charge against the revenue of the eligible project;

(9) The insurance to be carried upon the eligible project and the use and disposition of insurance moneys;

(10) The keeping of books of account and the inspection and audit thereof;

(11) The terms and conditions upon which any or all of the bonds shall become or may be declared due before maturity and the terms and conditions upon which such declaration and its consequences may be waived;

(12) The rights, liabilities, powers and duties arising upon the breach by the municipality or redevelopment agency of any covenants, conditions or obligations;

(13) The appointing of and vesting in a trustee or trustees of the right to enforce any covenants made to secure or to pay the bonds; the powers and duties of such trustee or trustees, and the limitation of his or its liabilities;

(14) The terms and conditions upon which the holder or holders of the bonds, or the holders of any proportion or percentage of them, may enforce any covenants made under ORS 280.310 to 280.390;

(15) A procedure by which the terms of any official action authorizing bonds or of any other contract with bondholders, including but not limited to an indenture of trust or similar instrument, may be amended or abrogated, and the amount of bonds the holders of which may consent thereto, and the manner in which such consent may be given; and

(16) The subordination of the security of any bonds issued under ORS 280.310 to 280.390 and the payment of principal and interest thereof, to the extent deemed feasible and desirable by the state, to other bonds or obligations of the state issued to finance the eligible project or that may be outstanding when the bonds thus subordinated are issued and delivered.

[1975 c.316 s.15]

280.385 Limitations of bonds; recitals. (1) Revenue bonds issued under ORS 280.310 to 280.390:

(a) Shall not be payable from nor charged upon any funds other than the revenue pledged to the payment thereof, except as provided in this section, nor shall the state be subject to any liability thereon. No holder or holders of such bonds shall ever have the right to compel any exercise of the taxing power of the state to pay any such bonds or the interest thereon, nor to enforce

payment thereof against any property of the state except those projects or portions thereof, mortgaged or otherwise encumbered under the provisions and for the purposes of ORS 280.310 to 280.390.

(b) Shall not constitute a charge, lien or encumbrance, legal or equitable, upon any property of the state, except those eligible projects, or portions thereof, mortgaged or otherwise encumbered, under the provisions and for the purposes of ORS 280.310 to 280.390.

(2) Each bond issued under ORS 280.310 to 280.390 shall recite in substance that the bond, including interest thereon, is payable solely from the revenue pledged to the payment thereof. No such bond shall constitute a debt of the state or a lending of the credit of the state within the meaning of any constitutional or statutory limitation. However, nothing in ORS 280.310 to 280.390 is intended to impair the rights of holders of bonds to enforce covenants made for the security thereof as provided in ORS 280.390. [1975 c.316 s.16]

280.390 Powers of bondholders.

Subject to any contractual limitation binding upon the holders of any issue of revenue bonds, or a trustee therefor, including but not limited to the restriction of the exercise of any remedy to a specified proportion or percentage of such holders, any holder of bonds, or any trustee therefor, for the equal benefit and protection of all bondholders similarly situated, may:

(1) By suit, action or proceeding at law or in equity, enforce his or its rights against the state and any of its officers, agents and employes, and may require and compel the state or any such officers, agents or employes to perform and carry out its and their duties and obligations under ORS 280.310 to 280.390 and its and their covenants and agreements with bondholders;

(2) By action require the state to account as if they were the trustees of an express trust;

(3) By action enjoin any acts or things which may be unlawful or in violation of the right of the bondholders;

(4) Bring suit upon the bonds;

(5) Foreclose any mortgage or lien given under the authority of ORS 280.310 to 280.390 and cause the property standing as security to be sold under any proceedings permitted by law or equity; and

(6) Exercise any right or remedy conferred by ORS 280.310 to 280.390 without exhausting and without regard to any other

right or remedy conferred by ORS 280.310 to 280.390 or any other law of this state, none of which rights and remedies is intended to be exclusive of any other, and each is cumulative and in addition to every other right and remedy.

[1975 c.316 s.17]

PENALTIES

280.990 Penalties. Any unlawful diversion or over-expenditure of the fund referred to in ORS 280.140 as the result of the vote by any public official having charge, control

or administration of the fund shall render him civilly liable for the return of the money in the amount over-expended or diverted, with interest thereon at the legal rate until repaid, by suit of any taxpayer of the subdivision concerned or by suit of the district attorney of the county, or the attorney for the subdivision, wherein the offense was committed. The suit shall be tried as a proceeding in equity and more than one alleged unauthorized diversion, misuse of or overdraft from the fund, by vote or direction of the defendant, may be pleaded in the same suit.

CERTIFICATE OF LEGISLATIVE COUNSEL

Pursuant to ORS 173.170, I, Thomas G. Clifford, 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,

*October 1, 1975.

Thomas G. Clifford
Legislative Counsel

