Chapter 382

1981 REPLACEMENT PART

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GENERAL PROVISIONS

382.005 "County court" defined. As used in this chapter, unless the context requires otherwise, "county court" includes board of county commissioners.

BRIDGES UNDER DEPARTMENT OF TRANSPORTATION

382.105 Construction and operation of toll bridges by Department of Transportation. Whenever in the judgment of the Department of Transportation the construction of a bridge over any stream, river, bay, arm of the ocean or other body of water on any state highway, federal aid highway, any highway constituting a direct or immediate extension thereof or a connection between two state highways or federal highways is necessary in order to afford adequate convenience and a safe means of travel for the public and such bridge should be constructed and operated as a toll bridge, then the department may:

(1) Construct the bridge.

(2) Pay in the first instance the cost and expense out of highway funds.

(3) Thereafter replenish or reimburse the state highway funds with tolls received as a result of the use and operation of the toll bridge.

382.110 Financing toll bridge construction by bonds or other source. Funds for the construction of any toll bridge by the Department of Transportation shall be procured from the sale of bonds authorized to be issued and sold for highway construction, but if no bonds are available for the purpose, then funds available from any other source may be used.

382.115 Fixing toll rates; removal of tolls. (1) The Department of Transportation may determine and fix the rate of toll to be charged for transit over any toll bridge mentioned in ORS 382.105, which rate shall be sufficient to reimburse the highway funds for the initial outlay of costs.

(2) As soon as sufficient funds have been received from tolls collected for the use of such bridge to reimburse the highway funds the bridge shall be operated as a free bridge.

382.120 Bridges on Oregon Coast Highway. (1) The Department of Transportation may operate free of tolls any of the bridges constructed pursuant to the terms and provisions of chapter 9, Oregon Laws 1933, Second Special Session.

(2) The Department of Transportation may pay, in whole or in part, out of any highway revenues subject to the control of the department the principal of and interest on the bonds issued pursuant to the terms and provisions of chapter 9, Oregon Laws 1933, Second Special Session.

(3) This section shall not abrogate or impair the obligations of any bonds or of any contract with the purchaser or holder of any or all of the bonds issued or of any other contract made pursuant to the terms and provisions of chapter 9, Oregon Laws 1933, Second Special Session.

(4) The authority conferred by this section is cumulative, in addition and supplemental to the authority conferred by any other law. In so far as this section is inconsistent with any other law this section is controlling.

382.125 Required approval of plans for bridges over navigable waters. (1) No bridge shall be constructed over or across any navigable water wholly or in part within this state or over lands lying between high and low water on any navigable stream within or forming the boundary of this state unless and until the plans, and the elevation and clearance of the bridge, are first approved by the Department of Transportation, except that:

(a) Such approval is not required when the bridge is located wholly within the corporate limits of a city of over 100,000 population.

(b) If such bridge is to be constructed by a county, the elevation and clearance but not the plans of the proposed bridge must first be approved.

(2) If such bridge is located within the limits of any port district existing under the laws of this state or between any such port district and the Pacific Ocean, it shall not be constructed unless and until the plans, elevation and clearance of the bridge are first approved by the board of commissioners of the port district. [Amended by 1963 c.602 §1; 1981 c 153 §75]

382.205 Using county funds for bridges. If the money provided by ORS 368.705 is expended and an emergency arises demanding immediate action by it, the county court may in its discretion apply any moneys in the county treasury, not otherwise appropriated, toward defraying the expense of

building or repairing bridges on any of the county or state roads within the county or over streams forming boundaries between the county and any other county.

382.210 [Amended by 1963 c 602 §2; repealed by 1981 c 153 §79]

382.215 [Repealed by 1981 c. 153 §79]

382.220 [Repealed by 1971 c 659 §6]

382.225 [Repealed by 1981 c 153 §79]

382.230 [Repealed by 1981 c 153 §79]

382.235 [Repealed by 1981 c 153 §79]

382.240 [Repealed by 1981 c 153 §79]

382.245 [Repealed by 1981 c 153 §79]

382.250 [Repealed by 1981 c.153 §79]

382.255 [Repealed by 1981 c 153 §79]

382.260 [Repealed by 1981 c 153 §79]

382.265 [Repealed by 1981 c 153 §79]

382.270 [Repealed by 1981 c.153 §79]

382.275 [Repealed by 1981 c 153 §79]

382.280 [Repealed by 1981 c 153 §79]

382.285 [Repealed by 1981 c.153 §79]

MULTNOMAH COUNTY BRIDGES

382.305 Operation of bridges across Willamette River by Multnomah County. (1) The Board of County Commissioners of Multnomah County shall operate and maintain all bridges, as defined in subsection (2) of this section, together with the approaches thereof, erected, owned by or leased to the City of Portland or Multnomah County, across the Willamette River within the boundaries of Portland, and the City of Portland shall surrender and deliver possession and control of such bridges, except as provided in ORS 382.310 to 382.330, to the board of county commissioners.

(2) As used in ORS 382.305 to 382.330, "bridge" means the bridges and parts thereof.

382.310 Powers of Multnomah County as to Willamette River bridges. (1) The Board of County Commissioners of Multnomah County shall:

(a) Maintain, keep in good condition and repair and operate the bridges and their approaches. The lighting of the bridges and their approaches is a part of the duty to maintain and operate such bridges; and the board may enter into contracts for such lighting.

(b) Operate, maintain and keep in good condition all parts of the bridges owned by the city or leased by the city or by the board of county commissioners.

(2) The Board of County Commissioners of Multnomah County shall, at the cost and expense of the county:

(a) Employ, hire and discharge, from time to time, agents, workmen, laborers and servants, as it deems necessary in the conduct, maintenance, repair and operation of the bridges and their approaches.

(b) Make needful rules and regulations for the operation and maintenance of the bridges, but such rules and regulations shall be subject to the exercise by the City of Portland of such police power and authority as the city has under its charter with respect to the bridges owned by the city.

(3) The Board of County Commissioners of Multnomah County may enter into agreements or leases for the use by the public, for highway purposes and for the operation of street cars thereon, of the upper highway deck of the bridges constructed across the Willamette River in Portland, by persons or corporations other than the City of Portland.

382.312 St. Johns and Ross Island Bridge obligations; performance by state. Notwithstanding the provisions of ORS 382.305 and 382.310, if by September 1, 1975, Multnomah County pays or agrees to pay to the Department of Transportation the sum of $300,000, the obligations imposed by ORS 382.305 and 382.310 with respect to the bridges included in ORS 382.305 and known as the St. Johns Bridge and the Ross Island Bridge shall be performed, after September 1, 1975, by the Highway Division of the Department of Transportation at the cost and expense of the division. [1975 c.436 §4]

382.315 Agreements with public service corporations for use of Willamette River bridges. If the Board of County Commissioners of Multnomah County makes an agreement or lease for the use of the upper deck of any bridge constructed across the Willamette River within Portland and if any public service corporation operating a street car line within Portland desires to maintain and operate its street cars over the upper deck of the bridge so leased, the board of county commissioners may agree with the public service corporation upon the terms and compensation for such use. If they are unable to

agree, the amount of compensation to be paid by the public service corporation shall be the same as may at such time be fixed or charged by the City of Portland for the use of other bridges across the Willamette River by public service corporations.

382.320 [Repealed by 1969 c 429 §6]

382.325 Powers of Portland as to Willamette River bridges. The City of Portland, Oregon, may:

(1) Regulate traffic upon and across the bridges and their approaches constructed by the City of Portland.

(2) Lay and maintain upon the bridges and their respective approaches constructed by the City of Portland all rails and tracks necessary, desirable or convenient for the operation of street cars thereon.

(3) Provide for the use of the bridges and their approaches constructed by the City of Portland and rails and tracks thereon by street cars propelled by electrical and other motive power, and the carrying of passengers on such street cars.

(4) Make contracts with and grant rights, privileges and franchises to any persons, firms or corporations for the use of the bridges and their approaches, and rails and tracks by cars, street cars and trains, the carrying of passengers thereon and for charging and collecting fares and tolls under such rights, privileges and franchises.

(5) Contract for, agree upon and charge and collect rents and other compensation for such use by cars, street cars and trains, and the Board of County Commissioners of Multnomah County shall have no right to establish or collect rents or other compensation for the use of the bridges by cars, street cars and trains.

(6) Exercise all other power and authority over the bridges and their approaches not expressly conferred by ORS 382.305 to 382.330 on Multnomah County.

382.330 Operation of Adams Street-Glisan Street bridge in Portland. (1) The Board of County Commissioners of Multnomah County shall operate, maintain and repair the bridge existing on February 25, 1913, across the Willamette River from Adams Street on the east side of the river to Glisan Street on the west side of the river, in Portland, subject to the terms and provisions of the lease executed by the Oregon-Washington Railroad and Navigation Company, party of the first part, and the City of Portland, party of the second part, dated October 9, 1912, and filed with the city auditor on October 19, 1912.

(2) The board of county commissioners may, from time to time, enter into leases or agreements with the owners of such bridge for the use of the upper deck and its approaches for highway purposes by the public and the operation of street cars thereon.

(3) In the event that no public service corporation makes any contract or agreement with the City of Portland for the operation of its street cars over the upper deck of such bridge or its approaches prior to February 25, 1913, the compensation to be paid by the public service corporation shall be fixed by and paid to the City of Portland, subject to the lease mentioned in subsection (1) of this section.

382.335 "Board of county commissioners" and "construct," as used in ORS 382.335 to 382.425, defined. As used in ORS 382.335 to 382.425:

(1) "Board of county commissioners" means the Board of County Commissioners of Multnomah County and includes the constituted authorities of Multnomah County having control of road construction, maintenance and operation.

(2) "Construct" includes repair, maintain, improve or other words of similar meaning.

(3) "Construction" includes repair, maintenance, improvement, reconstruction or other words of similar meaning.

382.340 Bridges over Willamette River and Slough as permanent roads. Bridges over the Willamette River in Portland, Oregon, and the Willamette Slough within Multnomah County are permanent roads and include approaches and viaducts leading thereto.

382.345 Multnomah County constructing and financing Willamette River bridges. Multnomah County may borrow money for the purpose of constructing and reconstructing bridges across the Willamette River in Portland, Oregon, and Willamette Slough within Multnomah County and issue bonds to evidence such indebtedness.

382.350 Petition and order for bond election; debt limitation. Whenever a petition therefor, signed by not less than 10 per-

cent of the registered voters of Multnomah County and stating the amount of the proposed bond issue is filed with the county clerk, the board of county commissioners shall, subject to ORS 382.355 and 382.360, order an election to determine whether or not the county shall issue bonds for the construction of the bridge mentioned in ORS 382.345. However, if the county debt for the construction of permanent roads already incurred or authorized, together with the new debt sought to be created by the petition, exceeds six percent of the assessed valuation of all the property in the county, then the board of county commissioners shall disregard the petition.

382.355 Filing and presentation of petition; order of board of county commissioners. (1) The petition mentioned in ORS 382.350 shall be filed with the county clerk and presented to the board of county commissioners at or before its next regular session.

(2) The board of county commissioners shall examine the petition as soon as it is presented. If it is satisfied that the petition substantially conforms to the requirements of ORS 382.370 and contains the names and post-office addresses, places of residence and precincts of the requisite number of voters as required by ORS 382.350, the board of county commissioners shall make an order directing that a special election be called and held in the county for the purposes specified in the petition at a time to be then fixed by the board of county commissioners, which shall not be less than 30 nor more than 40 days after the date of making the order and not more than 90 days after the day of filing the petition.

(3) If the board of county commissioners determines either that the petition does not substantially conform to the requirements of ORS 382.370 or that it does not contain names and post-office addresses, places of residence and precincts of the requisite number of voters as required by ORS 382.350, it shall make an order declaring that fact, particularly designating the defects and refusing to order a special election.

382.360 Appeals from orders of board of county commissioners. (1) There shall be no appeal from the order mentioned in ORS 382.355 (2).

(2) Within 10 days after the entry of the order mentioned in ORS 382.355 (3), any one or more of the petitioners may appeal to the circuit court in the same manner as appeals are taken from the county court in actions at law, except that the notice of appeal, if not entered in the journal at the time the order is made, shall be served on the county clerk and no appeal bond shall be required.

(3) If the circuit court upon appeal is satisfied that the board of county commissioners should have ordered an election, the circuit court shall direct the board of county commissioners to proceed as if it had declared the proceedings sufficient. If upon appeal the circuit court decides that the judgment of the board of county commissioners was correct it shall make an order affirming the judgment of the board of county commissioners. There shall be no appeal from the judgment of the circuit court.

382.365 Majority vote to authorize bond issue. The bonds mentioned in ORS 382.345 shall be issued only upon approval of a majority of those voting at any election for the same.

382.370 Form of petitions, notices and ballots. Petitions for bridge bond elections, bridge bond election notices and ballots shall be in substantially the same form as prescribed by ORS 381.445, 381.470 and 381.475.

382.375 Election; laws applicable. (1) Elections for the issuance of the bonds may be held at any general election or at any time, subject to the time limitations of ORS 382.355 (2).

(2) The laws of this state governing special and general elections in so far as they do not conflict with ORS 382.335 to 382.425 apply to elections under ORS 382.335 to 382.425.

382.380 Order declaring bond election result. If at any such general or special bridge bond election a majority of the voters voting at such election votes in favor of issuing the bonds, the board of county commissioners shall enter an order in its journal declaring that fact. The order shall be absolutely conclusive as to the regularity of all the proceedings in reference to the matter.

382.385 County commissioners submitting bond issue on own motion. The board of county commissioners of its own motion may submit the question of issuing bonds for the purposes mentioned in ORS 382.345 at any general election. This may be done by an order of the board of county commissioners, entered in the journal at least 40 days next preceding any general election. The

order shall set out the amount of bonds proposed to be issued, the length of time they shall run and the maximum rate of interest they shall bear. After having entered such order the board of county commissioners shall proceed to submit the question to the voters of the county in the same manner and with like effect as upon the petition mentioned in ORS 382.350.

382.390 Arrangement by county commissioners for bond issuance and sale. Thirty days after the entry upon the records of the order mentioned in ORS 382.380, or if the election is contested, within 30 days after the final determination of such contest, the board of county commissioners shall arrange to issue such bonds as were authorized at the election and shall thereafter, as soon as may in its judgment be deemed expedient, issue and sell the bonds. The board of county commissioners may arrange the form, details and sale of the bonds consistently with ORS 382.335 to 382.425.

382.395 Terms and conditions of bonds. (1) The bonds mentioned in ORS 382.345 shall:

(a) Be in denominations of $100 or more, but not exceeding $1,000.

(b) Run not to exceed 30 years from the date of their respective issuance.

(c) Bear interest at a rate determined by the board of county commissioners, payable semiannually.

(d) Have interest coupons attached to them, one coupon for each interest payment that will be made.

(e) Be signed by the chairman of the board of county commissioners and the county clerk. The interest coupons shall bear the printed facsimile signatures of the chairman of the board of county commissioners and the county clerk.

(f) Be sealed with the seal of the county.

(g) Bear the certificate of the county treasurer over the signed statement that they have been registered in the treasurer's office, naming the date registered.

(h) Be issued in series and mature serially.

(2) The bonds and interest coupons shall:

(a) Be lithographed or printed on good bond paper.

(b) Be made payable to bearer, in any coin or currency which, at the time of payment, is legal tender for the payment of public and private debts within the United States.

(c) Be paid by the county treasurer upon presentation at the treasurer's office or at the fiscal agency of the state in New York City, upon the date of payment named thereon.

(3) Subject to subsections (1) and (2) of this section, denominations of the bonds, dates of maturity and dates when interest is payable may be determined by the board of county commissioners. [Amended by 1981 c.94 §35]

382.400 Registering bonds. The county treasurer shall keep a register of all the bonds issued or sold under ORS 382.335 to 382.425, noting therein the number of bonds, amount, date of issuance, date of sale and such facts as in his judgment serve to keep an accurate record of the bonds so issued and sold.

382.405 Bond advertisement and sale. (1) The board of county commissioners shall advertise in one newspaper in the county outside of Portland, if there is one, in one leading newspaper in Portland, Oregon, and in one leading financial newspaper in New York City for two weeks before any sale of bonds, the fact of the sale, inviting bids for the bonds and stating such facts as will interest prospective purchasers. For example, the date and place of sale, the terms of sale, the character of the bonds, the amount, interest and denomination of the bonds, the fact that all bids must be accompanied by a certified check for five percent of the amount of the bid, that any and all bids may be rejected, that the bonds may be sold only for cash, not below par, and to the highest bidder and such other facts as may in the judgment of the board of county commissioners procure the most advantageous sale of the bonds may be stated.

(2) All bids to purchase bonds shall be sealed and accompanied by a certified check for five percent of the amount of the bid. The board of county commissioners may reject any and all bids.

(3) No bonds authorized by ORS 382.345 shall be sold for less than par or for anything but cash.

382.410 Custody and disbursement of bond proceeds. The proceeds of all the bonds sold under ORS 382.335 to 382.425 shall be paid into the county treasury and shall go into

a special bridge fund. Such proceeds shall be disbursed for the purposes for which the bonds are issued.

382.415 Paying bond principal and interest with tax or motor license fund. (1) The board of county commissioners shall, at the time of making the annual tax levy upon the previous year's assessment, levy a tax on all the taxable property in the county sufficient to pay the outstanding bonds at maturity and the interest on all outstanding bonds for the current year. The proceeds derived from the tax shall be used only for the payment of the principal and interest of the bonds. Such proceeds shall be paid by the county treasurer to the bearer of the bonds or sent to the fiscal agency at New York City for the payment of the interest coupons upon presentation, as provided in ORS 382.395.

(2) The board of county commissioners in its annual budget has the option of providing for the application of all or part of the proceeds of the county motor license fund to all or part of the payments of principal and interest on bridge bonds maturing in the ensuing year. In case this option is exercised and such other provision is made for meeting the debt requirement, in whole or in part, then the tax levy authorized by subsection (1) of this section shall only be for such amount, if any, as may be necessary over and above this other provision of funds.

382.420 Title and control of bridge. Upon the completion of any bridge constructed under ORS 382.335 to 382.425, title thereto and full control thereof shall be vested in Multnomah County, control to be exercised on behalf of the county by the board of county commissioners.

382.425 County clerk as clerk of county commissioners; records of proceedings. In all proceedings relative to the bonds or to bridge construction, the County Clerk of Multnomah County shall be the clerk of the board of county commissioners. The records of all proceedings shall be recorded in the books of the county clerk.

CITY BRIDGES

382.505 Erection and maintenance of bridges by cities. Each incorporated city in this state may erect and maintain bridges across navigable or other water within or without the boundaries of the city when found necessary or convenient and take such action and proceedings as are suitable for obtaining the approval of the proper authorities of the United States Government therefor.

382.605 [Repealed by 1969 c.50 §1]

382.610 [Repealed by 1969 c.50 §1]

382.615 [Repealed by 1969 c.50 §1]

382.620 [Repealed by 1969 c.50 §1]

382.625 [Repealed by 1969 c.50 §1]

382.630 [Repealed by 1969 c 50 §1]

382.635 [Repealed by 1969 c.50 §1]

382.640 [Repealed by 1969 c.50 §1]

382.645 [Repealed by 1969 c 50 §1]

382.650 [Repealed by 1969 c.50 §1]

382.655 [Repealed by 1969 c.50 §1]

382.660 [Repealed by 1969 c.50 §1]

382.665 [Repealed by 1969 c.50 §1]

382.670 [Repealed by 1969 c 50 §1]

382.675 [Repealed by 1969 c.50 §1]

382.705 [Repealed by 1969 c 50 §1]

382.710 [Repealed by 1969 c 50 §1]

382.715 [Repealed by 1969 c.50 §1]

382.720 [Repealed by 1969 c.50 §1]

382.725 [Repealed by 1969 c.50 §1]

382.730 [Repealed by 1969 c 50 §1]

382.735 [Repealed by 1969 c.50 §1]

382.740 [Repealed by 1969 c.50 §1]

382.745 [Repealed by 1969 c.50 §1]

382.750 [Repealed by 1969 c 50 §1]

382.755 [Repealed by 1969 c.50 §1]

382.760 [Repealed by 1969 c.50 §1]

382.765 [Repealed by 1969 c.50 §1]

382.770 [Repealed by 1969 c 50 §1]

382.775 [Repealed by 1969 c.50 §1]

382.780 [Repealed by 1969 c.50 §1]

382.785 [Repealed by 1969 c.50 §1]