

Chapter 391

1983 REPLACEMENT PART

Mass Transportation

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CROSS REFERENCES

Mass Transit Division, 184.680
Mass transit districts, Ch. 267
Metropolitan service districts, Ch. 268
Transportation districts, Ch. 267

391.560 to 391.590

Public borrowing and bonds generally, Ch. 288

391.630, 391.640

Investing state funds, generally, 293.701 to 293.776, 293.810 and 293.820
Local government investment, 294.805 to 294.895

LIGHT RAIL TRANSIT

391.100 Light Rail Construction Fund; purpose; requirements for expenditures from fund. (1) There is created as a fund the Light Rail Construction Fund separate and distinct from the General Fund. The moneys in the fund and the interest earnings of the fund are appropriated continuously to the Public Transit Division of the Department of Transportation for the purpose of financing that part of the Banfield Transitway Project that includes construction of a light rail system from the City of Portland to the City of Gresham to be routed along the corridor in which the Banfield Freeway, Interstate Highway 205 and East Burnside Street are located.

(2) No moneys shall be expended for construction from the fund created by subsection (1) of this section unless the Director of Transportation determines that the following conditions have occurred no later than the last day of June 1983:

(a) The United States Department of Transportation, subject to the appropriations process and to the satisfaction of the Joint Committee on Ways and Means or the Emergency Board, if the Legislative Assembly is not in session, has committed sufficient moneys to complete the Banfield Transitway Project; and

(b) The Tri-County Metropolitan Transportation District has entered into a binding, enforceable agreement with the State of Oregon in which:

(A) During the construction of the Banfield Transitway Project, the district agrees not to request or accept any state General Fund moneys for the light rail construction portion of that project other than those moneys appropriated to the fund created in this section by the Sixtieth Legislative Assembly;

(B) The district agrees to provide not less than \$2,930,000 of the total funding for the light rail construction part of the Banfield Transitway Project; and

(C) In any instance where the actual expenditures for the light rail portion of the Banfield Transitway Project fall short of the estimated expenditures for the project, those moneys, other than federal moneys, that are not required for the project shall remain in the fund established by this section.

(3) The Director of Transportation shall certify the unobligated balance of the fund created by this section and that unobligated balance shall revert to the General Fund in accordance with the following:

(a) If at any time the Director of Transportation determines that the conditions required under subsection (2) of this section will not occur within the required time under that subsection, the director shall certify the unobligated balance of the fund and the unobligated balance shall revert.

(b) If the Director of Transportation determines that the conditions required under subsection (2) of this section have occurred and moneys from the fund are expended on the Banfield Transitway Project, the director shall certify the unobligated balance after the project is accepted by the Director of Transportation and all claims, suits and actions arising out of the project have been resolved. [1979 c.586 §1; 1981 c.262 §1]

MASS TRANSPORTATION FINANCING AUTHORITY

391.500 Declaration of policy; construction of statutes. (1) The Legislative Assembly of the State of Oregon finds and declares that:

(a) It is in the public interest to provide methods of financing the costs of mass transit facilities; and

(b) The method of financing provided in ORS 267.227 and 391.500 to 391.660 is in the public interest and serves a public purpose.

(2) The purpose of ORS 267.227 and 391.500 to 391.660 is to create an authority to provide financial assistance to mass transit districts.

(3) ORS 267.227 and 391.500 to 391.660 shall be liberally construed. [1977 c.662 §2]

391.510 Definitions for ORS 391.500 to 391.660. As used in ORS 267.227 and 391.500 to 391.660, unless the context otherwise requires:

(1) "Acquire" or "acquisition" means the acquisition, by purchase, lease, gift, grant, devise, construction, installation, reconstruction, repair and alteration, and the equipment, improvement and extension of mass transit facilities.

(2) "Authority" means the Oregon Mass Transportation Financing Authority created by ORS 267.227 and 391.500 to 391.660.

(3) "Board" means the members of the authority created in ORS 391.520.

(4) "District" means a mass transit district established under ORS 267.010 to 267.390.

(5) "Finance" or "financing" means the issuance of revenue bonds pursuant to ORS

391.570 by the authority for the purpose of providing financial assistance to districts.

(6) "Financial assistance" means the providing of methods of financing of costs of mass transit facilities under ORS 267.227 and 391.500 to 391.660.

(7) "Mass transit facility" or "facilities" means any or all property constituting a mass transit system, or any portion thereof, in any manner owned, used, leased or operated by a district and which is located wherever a district is authorized to operate. [1977 c.662 §3]

391.520 Financing authority created; membership. The Oregon Mass Transportation Financing Authority is hereby created as a public instrumentality of the State of Oregon and the exercise by the authority of the powers conferred by ORS 267.227 and 391.500 to 391.660 is the performance of an essential public function. The authority shall consist of the chairman of the Oregon Transportation Commission, the State Treasurer, or his designee, the chairman of the Oregon Investment Council, or his designee, and a representative designated by the board of directors of each district. [1977 c.662 §4]

391.530 Meetings; quorum; expenses. The members shall select a chairman from among themselves and may select such other officers as they consider necessary. Any member may call a meeting of the board. A majority of the members of the authority shall constitute a quorum for all purposes. Members of the authority shall receive no compensation for services but shall be entitled to the necessary expenses incurred in the discharge of their duties. [1977 c.662 §5]

391.540 Bylaws; secretary's duties, power. The authority may adopt and amend appropriate bylaws for the regulation of its affairs and the conduct of its business and may elect a secretary who need not be a member. The secretary shall perform such duties as the board shall designate and may give certificates under the official seal of the authority, and all persons dealing with the authority may rely on such certificates. [1977 c.662 §6]

391.550 Powers of Mass Transportation Financing Authority. The authority shall have the following powers together with all powers incidental thereto or necessary for the performance thereof:

(1) To have perpetual succession as a public instrumentality of the State of Oregon;

(2) To sue and be sued and to prosecute and defend, at law or in equity, in any court having jurisdiction of the subject matter and of the parties;

(3) To have and to use a corporate seal and to alter the same at pleasure;

(4) To maintain an office at such place or places as it may designate;

(5) To acquire, own, finance, lease and dispose of any mass transit facility and to enter into contracts for any and all of such purposes; provided, that title to or in any mass transit facility so financed may in the discretion of the authority remain in a district and provided, further, that the district shall not itself operate any mass transit facility, except as lessor;

(6) To lease or sell to a district any or all of the mass transit facilities upon such terms and conditions as the board shall deem proper, and to charge and collect rent or other payments therefor and to terminate any such lease or sales agreement upon the failure of the district to comply with any of the obligations thereof; and to include in any such lease, if desired, provisions that the district shall have options to renew the term of the lease for such period or periods and at such rent as shall be determined by the board or to purchase any or all of the mass transit facilities for a nominal amount or otherwise or that at or prior to the payment of all of the indebtedness incurred by the authority for the financing of such mass transit facilities the authority may convey any or all of the mass transit facilities to the district with or without consideration;

(7) By resolution of a majority of the members of the authority, to issue bonds in the aggregate principal sum of not to exceed \$250 million par value for any of its corporate purposes and to refund the same, subject to the provisions of ORS 267.227 and 391.500 to 391.660;

(8) To employ or to contract with other state or municipal agencies for such employes and agents as may be necessary in its judgment;

(9) To receive and accept from any public agency loans or grants for aid in the acquisition of any mass transit facility and any portion thereof, and to receive and accept grants, gifts or other contributions from any source;

(10) To refund outstanding obligations incurred by any district including obligations incurred, undertaken or completed prior to or after October 4, 1977;

(11) To receive and to pledge as security for the payment of any bonds issued under ORS 267.227 and 391.500 to 391.660, any lease, pur-

chase agreement, note, bond or other obligation by or on behalf of any district;

(12) To make loans to any district for the purpose of providing financial assistance to such district in accordance with an agreement between the authority and such district; and

(13) To do all things necessary and convenient to carry out the purpose of ORS 267.227 and 391.500 to 391.660. [1977 c.662 §7; 1983 c.306 §1]

391.560 Lease terms for facility financed by bonds. Any lease of a mass transit facility entered into pursuant to the provisions of ORS 267.227 and 391.500 to 391.660 shall be for a term not shorter than the longest maturity of any bonds issued to finance such mass transit facility or a portion thereof and shall provide for income, revenues and rentals from all sources pledged to the payment of such bonds adequate to pay the principal, interest and premiums, if any, on such bonds as the same fall due and to create and maintain such reserves and accounts for depreciation, if any, as the board in its discretion shall determine to be necessary. [1977 c.662 §8]

391.570 Bonds; form; conditions; issuance; refunding. (1) Bonds may be issued as serial bonds or as term bonds or a combination of both types. The board may provide that such bonds:

(a) May be executed and delivered by the authority at any time and from time to time in such amounts including all necessary and incidental expenses, together with all necessary initial bond and interest reserves and applicable interest during the period of acquisition;

(b) May be in such form and denominations and of such terms and maturities;

(c) May be in fully registered form or in bearer form registerable either as to principal or interest or both;

(d) May bear such conversion privileges and be payable in such instalments and at such time or times not exceeding 40 years from the date thereof;

(e) May be payable at such time or times and at such place or places whether within or without the State of Oregon and evidenced in such manner;

(f) May be made optional for redemption prior to maturity at such price or prices and on such terms and conditions;

(g) May be executed by the manual or facsimile signatures of such officers of the authority; and

(h) May contain such other provisions not inconsistent with ORS 267.227 and 391.500 to 391.660.

(2) Any bonds of the authority may be sold for such price and in such manner and from time to time as may be determined by the board. The board shall publish notice of its intent to sell bonds, at least once, at least two days prior to the date of sale, in a newspaper of general circulation in each district which is to receive financial assistance from the proceeds of the bonds. The notice shall state the general purposes for which the bonds are to be sold. Issuance by the authority of one or more series of bonds for one or more purposes shall not preclude it from issuing other bonds in connection with the same mass transit facility or any other mass transit facility or for any other purpose, but the proceedings where any subsequent bonds may be issued shall recognize and protect any prior pledge made for any prior issue of bonds. Refunding bonds may be issued whether the bonds to be refunded are then subject to redemption or are thereafter subject to redemption or maturity, and regardless of the purpose for which the bonds to be refunded were issued by the authority. All such bonds and the interest coupons applicable thereto, if any, are made and shall be construed to be negotiable instruments. [1977 c.662 §9]

391.580 Pledges for bonds. The principal, interest and premiums, if any, on any bonds issued by the authority shall be secured solely by a pledge of the income, revenues and receipts out of which the same shall be made payable and may also be secured by and payable out of proceeds from the sale of the mass transit facility acquired or financed by the proceeds of such bonds. The resolution under which the bonds are authorized to be issued and any indenture executed as security for the bonds, may contain any agreements and provisions with respect to the maintenance of the properties covered thereby, the fixing and collection of rents for any portions leased by the authority to a district, the pledge of the agreement of the district to make such payments as shall be necessary to pay principal, interest and premiums, if any, on the bonds, the creation and maintenance of special funds from such revenues, and the rights and remedies available in the event of default, designation of a trustee, and any other provision the board shall deem advisable. Each pledge and agreement made for the benefit or security of any of the bonds of the authority shall continue effective until the principal, interest and premiums, if any, on the bonds for the benefit of which the same were made shall have been fully paid or

provision for such payment duly made. [1977 c.662 §10]

391.590 Bonds not general obligation of state. All bonds issued by the authority under the provisions of ORS 267.227 and 391.500 to 391.660 shall not constitute a debt, liability or general obligation of this state, or a pledge of the faith and credit of this state, but shall be payable solely from the income revenues, receipts or assets pledged for their payment. Each bond issued shall contain on the face a statement that the State of Oregon or the authority shall not be obligated to pay the same nor the interest thereon except from the income revenues, receipts or assets pledged therefor, and that neither the general obligation, full faith and credit nor the taxing power of this state is pledged to the payment of the principal of or the interest on such bond. [1977 c.662 §11]

391.600 Income and property of authority and bond interest tax exempt. (1) The income and, to the extent permitted by the Constitution, the property of the authority shall be exempt from all taxation in the State of Oregon. For purposes of the Oregon Securities Law, bonds issued by the authority shall be deemed to be securities issued by an instrumentality or a political subdivision of the State of Oregon.

(2) Interest payable on bonds of the authority shall be exempt from taxes imposed on income by the State of Oregon. [1977 c.662 §12]

391.605 Limitations on transfer to metropolitan service district. (1) No transfer authorized by ORS 267.020 of a mass transit district system to a metropolitan service district shall take effect while bonds issued by the authority to finance mass transit facilities for the district are outstanding until a plan designed to repay any outstanding bonds when due is prepared by the governing body of the metropolitan service district and approved by:

(a) The chairperson of the Oregon Transportation Commission or the chairperson's designee;

(b) The State Treasurer or State Treasurer's designee; and

(c) The chairperson of the Oregon Investment Council or the chairperson's designee.

(2) Persons given authority to approve a transfer under subsection (1) of this section may only refuse to approve a transfer for reasons relating to the financial effect of the transfer. [1983 c.306 §3]

391.610 Expenses of authority; borrowed funds. All expenses of the authority incurred in carrying out the provisions of ORS 267.227 and 391.500 to 391.660 shall be payable solely from funds provided under the authority of ORS 267.227 and 391.500 to 391.660. For the purposes of meeting the necessary expenses of initial organization and operation until such date as the authority derives moneys from funds provided hereunder, the authority shall be empowered to borrow moneys from districts, and districts are empowered to lend money to the authority as may be required and agreed for such necessary expenses of organization and operation. Expenses incurred by the authority in connection with any application by a district for financial assistance under ORS 267.227 and 391.500 to 391.660 shall be paid by such district as provided in ORS 267.200 (10), or, in the alternative and in the discretion of the authority, may be paid from the proceeds of bonds issued by the authority. [1977 c.662 §13]

391.620 Limitation on transfer of property rights. The authority shall not convey its right, title and interest in mass transit facilities to any district, prior to the time the bonds secured thereby are fully paid, unless the authority has determined that adequate provision has been made for the payment of principal, interest and premiums, if any, on the bonds as they become due. [1977 c.662 §14]

391.630 Investments of surplus moneys. The authority may invest any surplus moneys in investments permitted by ORS 294.035. [1977 c.662 §15]

391.640 Investment in authority's bonds authorized. The state and all counties, cities and other municipal corporations, all financial institutions and building and loan associations, savings and loan associations, investment companies, insurance companies and associations, and all personal representatives, guardians, trustees and other fiduciaries may legally invest any sinking funds, moneys or other funds belonging to them or within their control in any bonds issued pursuant to ORS 267.227 and 391.500 to 391.660. [1977 c.662 §16]

391.650 Severability of ORS 391.500 to 391.660. If any one or more sections or provisions of ORS 267.227 and 391.500 to 391.660, or the application thereof to any person or circumstance, shall ever be held by any court of competent jurisdiction to be invalid, the remaining provisions of ORS 267.227 and 391.500 to 391.660 and the application thereof to persons or circumstances other than those to which it is

held to be invalid, shall not be affected thereby, it being the intention of this Legislative Assembly to enact the remaining provisions of ORS 267.227 and 391.500 to 391.660 notwithstanding such invalidity. [1977 c.662 §19]

as the "Oregon Mass Transportation Financing Act." [1977 c.662 §1]

391.660 Short title. ORS 267.227 and 391.500 to 391.660 may be referred to and cited

CHAPTERS 392 to 395
[Reserved for expansion]

