

Chapter 354

1985 REPLACEMENT PART

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EDUCATION AND CULTURAL FACILITIES

STATE RADIO STATIONS

354 010 [Repealed by 1983 c 286 §1]

354 020 [Repealed by 1983 c 286 §1]

354.090 Management of state radio station at Oregon Institute of Technology.

The State Board of Higher Education is declared the managing agency of the FM radio station KTEC, licensed to the Oregon Institute of Technology, and as such shall prescribe rules and regulations in conformity with the regulations and laws of the United States Government relating to educational FM radio stations. By such rules and regulations the State Board of Higher Education shall make the facilities of the radio station available in the training programs of the Oregon Institute of Technology [1957 c 389 §16, 1961 c 126 §1]

PUBLIC BROADCASTING

354.105 Definitions for ORS 354.105 to 354.215. As used in ORS 354 105 to 354 215

(1) "Commission" means the Oregon Commission on Public Broadcasting

(2) "Coverage" means that geographic area which is reached by a broadcast station both through over-the-air transmission and translators. [1979 c 657 §3, 1985 c 505 §1]

354.115 Oregon Commission on Public Broadcasting; appointment; confirmation; chairperson; term; qualifications; compensation. (1) There is created the Oregon Commission on Public Broadcasting. The commission shall consist of 11 members

(a) Three persons appointed by the Speaker of the House of Representatives,

(b) Three persons appointed by the President of the Senate, and

(c) Five persons appointed by the Governor

(2) The appointing authorities shall coordinate the appointments to represent the concerns of higher education, primary and secondary education, the community colleges, the broadcasting industry and the congressional districts

(3) Appointments of members to the commission by the Governor are subject to confirmation by the Senate pursuant to section 4, Article III of the Oregon Constitution

(4) The Governor shall select the chairperson from among the members of the commission

(5) The term of office of a member of the commission is four years. Terms of office shall

expire on June 30. Before the expiration of the term of a member, the appointing authority shall appoint a successor to succeed the member whose term is expiring. Successors shall assume commission member duties on July 1 following the appointment. No person appointed to the commission shall serve more than two consecutive terms, or a maximum of eight years. In case of a vacancy on the commission, for any cause except where the vacancy is caused by the normal expiration of a member's term, the appointing authority shall make an appointment to become immediately effective for the duration of the unexpired term.

(6) The commission shall include persons representative of the general population of the state and representative of special interests related to educational and cultural broadcasting.

(7) Members of the commission shall be entitled to compensation and expenses as provided in ORS 292 495 [1979 c 657 §4, 1981 c 518 §1]

354.125 Commission functions. The Oregon Commission on Public Broadcasting shall be the administering agency of noncommercial educational television stations owned by the state and the state-owned television network and shall prescribe rules, in conformity with the laws and regulations of the United States Government applying to noncommercial educational television stations owned by the state, to govern the use, operation and control of the facilities. The rules shall be made in accordance with the determination of what is in the best interest of the people of Oregon to meet their educational and cultural needs [1979 c 657 §6]

354.135 Commission duties. The commission shall

(1) Administer all noncommercial educational television stations owned by the state, operate the state-owned television and radio network and coordinate the use of other telecommunication media for providing public services

(2) Employ an executive director and such other personnel as may be necessary to carry out its functions of operating a broadcast network and planning for coordination of services to extend coverage to all areas of the state

(3) Employ the most cost-effective organization for production of broadcast and other program materials

(4) Consider creative and innovative approaches to obtaining maximum benefit from available production and program distribution resources throughout the state

(5) Use, under agreement with the Department of Higher Education, supplies and services

under the same financial arrangements as were in effect prior to July 29, 1981

(6)(a) Establish advisory committees, including but not limited to the areas of

- (A) Program development,
- (B) Policy development, and
- (C) Technical development

(b) These committees shall assist the commission in identifying the issues, problems and alternative solutions which are critical to the operation of an effective public broadcasting system

(7) Evaluate the effectiveness of services provided throughout the state

(8) Develop a state-wide plan for public and educational broadcasting and telecommunications that addresses at least the following:

- (a) Goals for the system,
- (b) Operations of the system,
- (c) Technical and program needs of each coverage area within the state,
- (d) Cost-effective methods for providing service throughout the state,
- (e) Procedures for effective cooperation with other publicly owned and community licensed broadcast stations,
- (f) Procedures for effective interagency coordination, and
- (g) Use of services by state agencies

(9) Conduct a plan review process which includes, but is not limited to, participation by

- (a) The advisory committees established pursuant to subsection (6) of this section,
- (b) The governing boards of other publicly owned and community licensed public broadcast stations, and
- (c) Members of the public

(10) Update the plan and present the plan to the Legislative Assembly by the date of each convening in regular session

(11) Seek to make public broadcasting available throughout the state consistent with state priorities and plans for providing such service and may enter into contracts with other publicly owned broadcast stations to provide such service

(12) Actively pursue public contributions, grants and other sources of funding separate from the General Fund for production, system development and innovative uses for existing capabilities

(13) Have the authority to plan with other agencies charged with educational and instructional programming systems [1979 c 657 §5, 1981 c 518 §2, 1985 c 505 §2]

Note Section 7, chapter 518, Oregon Laws 1981, provides

Sec 7 (1) Any employe of the Oregon Commission on Public Broadcasting who on the effective date of this 1981 Act [July 29, 1981] holds a tenured position under State Board of Higher Education's rules is entitled to the rights of tenure granted by those rules as they are in effect on the effective date of this 1981 Act as an employe of the commission on and after the effective date of this 1981 Act

(2) This section is repealed June 30, 1987

354.145 Use of public television facilities by public and private agencies; charges. (1) Subject to the provisions of subsection (2) of this section, the commission shall make the facilities of any public television station, for which it is licensee, available to all departments and agencies of the State of Oregon and to any private or public corporation, firm, organization or association for cultural or educational purposes

(2) No department, agency, corporation, firm, organization or association shall be allowed to use the facilities of any public television station for which the commission is the administrator, unless

(a) The department, agency, corporation, firm, organization or association agrees to conform in its use of the facilities to the rules issued by the commission, and

(b) The department, agency, corporation, firm, organization or association agrees to pay reasonable charges fixed by the rules of the commission based on the operating expenses of the television facilities used. The amounts received under the provisions of this paragraph are continuously appropriated for the purpose of paying the operating expenses of public television. No charges under the provisions of this paragraph shall be, or be considered to be, charges based on the amount of television time given to the payer. As used in this paragraph, "operating expenses" means technical, programming, administrative and maintenance expenses, including reasonable building and equipment reserves, but does not include capital outlay for the initial plant and equipment [1979 c 657 §7]

354.155 Acceptance of gifts. The commission may encourage and accept gifts for the development of the facilities of public television. All gifts to the commission for such purposes shall be used subject to the terms of the gift [1979 c 657 §8]

354.165 Authority to apply for federal permits. The commission or any nonprofit corporation organized under the laws of Oregon for public television purposes may apply to the Federal Communications Commission for permits to construct noncommercial public television stations in Oregon to utilize any channel allocated for that purpose by the Federal Communications Commission and may apply for licenses to operate such stations [1979 c 657 §9]

354 175 [1979 c 657 §10, repealed by 1981 c 518 §9]

354.180 Payment of obligations; supplies and services from Department of Higher Education. (1) The Department of Higher Education is authorized to pay the lawful obligations of the Oregon Commission on Public Broadcasting from its current expense (suspense) account and the Executive Department is authorized to reimburse the Department of Higher Education from General Fund appropriation, the Commission on Public Broadcasting Account or the Commission on Public Broadcasting Donation Fund in the manner as other claims against the state are paid

(2) The Department of Higher Education shall provide supplies and services to the Oregon Commission on Public Broadcasting under the same financial arrangements as were in effect prior to July 29, 1981 [1981 c 518 §6]

354.185 Commission not state review agency for proposals to Federal Government. The commission shall not serve as the state review agency of Oregon grant proposals to the Public Telecommunications Facilities Program of the United States Department of Commerce The Governor shall designate another agency [1979 c 657 §13]

354.195 Implementation of ORS 354.105 to 354.215. If the implementation of ORS 354 105 to 354 215 is found to jeopardize any federal television license held by the state or any agency thereof, the implementation of ORS 354 105 to 354 215 shall be brought in so far as possible into conformity with the federal requirements [1979 c 657 §15]

354.205 Receipt of gifts and grants; Commission on Public Broadcasting Donation Fund. (1) The Oregon Commission on Public Broadcasting shall encourage gifts and grants to itself by faithfully devoting such funds to the purpose for which intended and by other suitable means All gifts and grants raised by the commission or given or granted to it shall be held for its exclusive use, subject to the terms of gift or grant Subject to such terms, such gifts and grants may be invested in any manner which constitutes

a legal investment for trust funds held for charitable or educational purposes

(2) All gifts, grants and donations received by the commission shall be placed by the State Treasurer to the credit of a separate fund, to be known as the Commission on Public Broadcasting Donation Fund, and the State Treasurer shall credit monthly to such fund any interest or other income derived from the fund or the investing thereof All moneys in the fund are continuously appropriated to the commission for the purposes for which such moneys were donated, granted or received [1981 c 518 §5]

354 210 [1957 c 694 §1, repealed by 1979 c 657 §1]

354.215 Commission on Public Broadcasting Account. There is created in the General Fund of the State Treasury an account to be known as the Commission on Public Broadcasting Account All moneys in the account are continuously appropriated for the use of the commission in carrying out the provisions of this section and ORS 240 205, 354.115, 354 135, 354 180 and 354 205 [1981 c 518 §4]

354 220 [1957 c 694 §3, repealed by 1979 c 657 §1]

354.225 Funding for system development to be according to plan. Funds for system development by publicly owned broadcast stations shall be authorized by the Legislative Assembly in accordance with the plan developed under ORS 354 135 (8) [1985 c 505 §3]

354 230 [1957 c 694 §4, repealed by 1979 c 657 §1]

354 290 [1957 c 694 §2, repealed by 1979 c 657 §1]

354 300 [1957 c 694 §5, repealed by 1961 c 238 §1]

EDUCATIONAL TELEVISION AND RADIO

354.410 Definitions for ORS 354.410 to 354.440. As used in ORS 354 410 to 354.440, unless the context requires otherwise

(1) "Educational television and radio" means programs for direct teaching, programs for instructional enrichment, and programs for inservice education of teachers which are transmitted for viewing or listening in connection with instruction in public elementary and secondary education by state-operated educational television and radio stations

(2) "Direct teaching" means instruction primarily by educational television or radio in a subject or course of study which is a part of the public school curriculum as authorized by the State Board of Education.

(3) "Instructional enrichment" means instruction by means of educational television or

radio which is designed to improve, supplement, complement, or strengthen instruction in a subject or course of study which is a part of the public school curriculum

(4) "In-service programs for teachers" means programs which are designed to strengthen and improve the knowledge and understanding by teachers of subject matter content of courses taught in the public elementary and secondary schools, and programs designed to improve the understanding, knowledge, and skills of teachers relating to methods of teaching, the nature of the learning process, the nature of the learner and other matters connected with the instructional program of the public schools [1961 c 535 §2]

354.420 Purpose of ORS 354.410 to 354.440. (1) The purpose of ORS 354 410 to 354 440 is to encourage the development of and provide means for making educational television and radio programs of direct instruction and instructional enrichment for pupils and in-service education for teachers available to the public schools of the state, and to provide for the authorization and approval of such programs by the Department of Education

(2) Educational television and radio are hereby declared to be and authorized as suitable means of instruction in the public schools of Oregon to the extent that may be approved by the Department of Education and accepted by local school district officials [1961 c 535 §§1, 3, 1965 c 100 §453]

354.430 Authority of Department of Education; disposition of sale proceeds. The Department of Education may utilize its appropriate personnel and facilities and any funds made available to it

(1) To stimulate interest by school districts in the appropriate use of educational television and radio in the public schools

(2) To plan and produce suitable educational television and radio programs of direct instruction, instructional enrichment for pupils and in-service programs for teachers in the public schools

(3) To cooperate with officials of state-operated educational television and radio stations in planning and producing suitable programs of direct teaching and instructional enrichment, and in planning and producing in-service programs for teachers for the public schools

(4) To assist local school districts in planning suitable programs of educational television and radio for the public schools, and to cooperate with officials of state-operated educational television and radio stations in producing such programs

(5) To employ personnel and pay expenses for services, materials, equipment and supplies necessary for the administration of ORS 354 410 to 354 440

(6) To contract for and pay for professional services utilized in the development and production of programs for educational television and radio.

(7) To purchase, rent, lease or contract for use of filmed, taped or otherwise recorded educational television and radio programs from available sources and to sell programs or to exchange them for others of a similar nature

(8) All moneys received under subsection (7) of this section shall be deposited in the State Treasury to the credit of the Department of Education and shall be used exclusively for the purposes authorized by this section [1961 c 535 §5, 1965 c 100 §454, 1967 c 570 §1]

354.440 Board to approve certain educational television and radio programs; advisory committee. (1) All educational television and radio programs provided by state-operated educational television and radio stations for direct teaching, instructional enrichment, and in-service education of teachers as defined in ORS 354 410 shall be approved by the State Board of Education

(2) The State Board of Education shall appoint an advisory committee of seven members to advise the Department of Education on the planning and preparation of in-school television programs [1961 c 535 §§4, 6, 1965 c 100 §455]

TRANSLATOR DISTRICTS

354.605 Definitions for ORS 354.605 to 354.715. As used in ORS 354 605 to 354 715, unless the context requires otherwise

(1) "County board" means the governing body of the county in which a district is principally situated

(2) "District" means a translator district formed under ORS 354 605 to 354 715

(3) "District board" means the governing board of a district

(4) "Translator" means any UHF facility or Federal Communications Commission approved equipment owned by a district which serves the district by receiving, amplifying and transmitting signals broadcast by one or more television stations and public service signals which are allowed by Federal Communications Commission regulations intended for the general public but the term does not include VHF equipment for transmitting those signals [1975 c 286 §1, 1979 c 108 §7]

354.615 Application of ORS 354.605 to 354.715. Except as provided in ORS 354 690 (5), nothing in ORS 354 605 to 354 715 shall apply to the construction or operation of community antenna systems or the redistribution of any signals, writings, images, sounds or intelligence of any nature by cable [1975 c 286 §2(2), 1979 c 108 §8, 1985 c 445 §3]

354.625 Creation of translator district; boundaries of district. (1) A translator district may be created as provided by ORS 354 605 to 354 715 for the construction, maintenance and operation of translator stations and the transmission and reception of television broadcast signals in areas so remote from regular transmission points that adequate television programming is not available to the public. The translator transmitting facilities shall conform to all FCC rules and regulations and shall be prohibited from interfering with all existing reception facilities, including but not limited to off-air antennas, CATV or MATV

(2) The boundaries of any district organized under ORS 354 605 to 354 715 shall be determined pursuant to the provisions of ORS 198 720 [1975 c 286 §2(1), (3), 1979 c 108 §9]

354.635 Contents of petition of formation. (1) In addition to matters named in ORS 198 750 the petition to form a translator district shall include

(a) A brief description of the proposed system including the type of construction, location, number of translators to be erected and the number of television channels to be provided

(b) The maximum service charge that may be charged by the district

(2) The petition shall be addressed to and filed with the county board of the principal county and the proceeding conducted as provided in ORS 198 705 to 198 845 [1975 c 286 §3, 1979 c 108 §10]

354.645 When election on formation and first board to be held. The formation and changes of organization of a district shall take place in the manner provided in ORS 198 705 to 198 955 [1975 c 286 §4, 1979 c 108 §11]

354.650 Election laws applicable. (1) ORS chapter 255 governs the following

(a) The nomination and election of district board members

(b) The conduct of district elections

(2) The electors of a district may exercise the powers of the initiative and referendum regarding a district measure, in accordance with ORS 255 135 to 255 205 [1983 c 350 §216]

354.655 District board; membership; quorum; term; expenses. (1) The district board shall consist of five members, each of whom shall be an elector of the district. The terms of office for the district board members first elected shall be determined by lot. The terms of two shall expire June 30 next following the first regular district election and the terms of three shall expire June 30 next following the second regular district election

(2) As soon as possible after the election and the taking of the oath of office by the members, an organizational meeting shall be held and officers selected. A majority of the members shall constitute a quorum for the transaction of business.

(3) Except as provided in subsection (1) of this section, the term of office of each district board member is four years

(4) The members of the district board shall serve without compensation, but shall be entitled to receive actual and necessary travel and other expenses incurred in the performance of their duties

(5) The district board shall fill any vacancy on the board in the manner provided in ORS 198 320 [1975 c 286 §5, 1979 c 108 §12, 1983 c 83 §78, 1983 c 350 §214]

354.665 Board duties. A district board shall

(1) Manage and conduct the affairs of the district

(2) Establish and maintain funds and accounts for the district

(3) Establish reasonable rules for the administration of the district [1975 c 286 §6]

354.675 Powers of district. A translator district shall have full power to carry out the objectives of its formation and to that end may

(1) Acquire by purchase, devise or gift or voluntary grant real and personal property or any interest therein including any rights of way or easements necessary or convenient for its purposes

(2) Sue and be sued in its own name

(3) Build, construct, improve, operate and maintain, subject to other applicable provisions of law, any translators necessary for the transmission of signals intended to be received by the general public

(4) Perform all acts necessary to insure an efficient and equitable distribution of television programming within the district subject to the availability of funds in the approved budget

(5) Make contracts of any lawful nature, employ personnel, including any technical or professional consultants necessary to carry out the provisions of ORS 354 605 to 354 715

(6) Apply for, accept and hold any licenses or permits required under federal or state law [1975 c 286 §7, 1979 c 108 §13]

354.680 Use of commercial matter; solicitation of financial support. (1) A district shall not delete television commercial matter in the signals it transmits, without written permission from the broadcasting television station, or in any manner finance its operation through the sale of commercial matter in its transmissions

(2) A district may, without elector approval but with permission from the broadcasting television station, generate revenue in its transmissions through the acknowledgment or solicitation of financial support considered necessary for the continued operation of the translator [1979 c 108 §3]

354.685 Methods of finance. When authorized by its electors, a district board may finance the acquisition, purchase, lease, operation or maintenance of the district by any of the following methods

(1) Imposition of a service charge upon property within the district for use of the translator signals as provided in ORS 354 690 A district created before May 7, 1979, shall be considered to have received elector authorization for imposition of the service charge

(2) Issuance of revenue bonds The revenue bonds shall be issued in the same manner and form as are general obligation bonds under ORS 287 014 to 287 026 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 shall not be a lien on any of the taxable property within the limits of the district and shall be payable solely from such part of revenues of the district as remains after the payment of obligations having a priority and of all expenses of operation and maintenance of the district 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 [1975 c 286 §8, 1979 c 108 §14]

354.690 Liability for service charge; notice; exemption; collection of delinquent charges. (1) When a district broadcasts television signals through a translator on a regular

basis and any property within the district receives those signals, the owner of the property receiving the signal shall be liable to the district for the service charges

(2) When a district broadcasts television signals through a translator on a regular basis, if any person residing on or occupying property located in an excluded area intentionally receives and uses those signals, the owner of that property is liable to the district for a service charge The owner of the property shall be deemed to have contracted with the district for use of the translator signals

(3) The district shall determine which property is receiving the signal, the amount of any service charge and the method of payment by property owners The district may classify property within excluded areas and within the district according to the uses of district signals For property within an excluded area, the district shall prepare a verified report which shall disclose that the property has been physically inspected and that there are reasonable grounds to believe that the property is intentionally receiving and using the signal

(4) The district shall notify each owner of property it has determined is liable for a service charge at least 30 days prior to imposition of any service charge The notice shall be by mail and shall include a written declaration which the owner may verify by signing and return to the district office stating that the owner is exempt from the service charge for one of the following reasons

(a) The property already receives adequate regional television signals from another source and is not using district signals,

(b) The property is so situated as to preclude use of the signals, or

(c) A television is not used on the property and there are no plans to do so

(5) If property within an excluded area or within the district is owned, rented or leased by a community antenna television company which carries a district's television signals by cable to subscribers because of Federal Communications Commission requirements, that property shall be exempt from any district service charge

(6) A verified declaration returned to the district under subsection (4) of this section shall exempt the property in question and shall be valid for one year from its signing, unless the owner of the property informs the district of a change of circumstances which should subject the owner to a service charge

(7) The district may determine which service charges are delinquent and certify them, together with interest at the rate of two-thirds of one percent per month from the dates due, to the assessor of the county in which the property of the person against whom delinquent service charges are assessed is located by July 15 of any year. The assessor shall enter the charges and interest thereon upon the tax rolls of the county and collect and enforce them in the same manner as other taxes of the county and they shall be credited to the district. The charges and interest, when entered upon the tax rolls, shall be a charge upon, and lien against, the real property of the person against whom they are assessed. Delinquent charges, plus interest, once certified to the county assessor shall not be collected in any other manner by the district.

(8) As used in this section, "excluded area" means territory that is within a city or other area excluded from a district but surrounded by the territory of the district and that is not served by a community antenna system regulated by the Federal Communications Commission or not otherwise within a district. If the property is located in an area which enables the property to receive signals from more than one district, the property shall be liable for a service charge from one district only.

(9) The district board may enter into an agreement with the owner of property that is not within the district for the payment of service charges for use of the translator signals of the district when

(a) The electors of the district, at an election called for that purpose, have authorized the district board to make such agreements, and

(b) The property is within a city that is surrounded by the district and is served by a community antenna system regulated by the

Federal Communications Commission [1979 c 108 §2, 1985 c 445 §1]

354.695 [1975 c 286 §9, repealed by 1979 c 108 §17]

354.700 Limit on broadcast of signals.

A district shall broadcast only signals originating for public consumption or satellite transmission within 500 miles of the district and any United States Congressional proceedings [1979 c 108 §4]

354.705 Referral of increase in minimum tax rate to voters. (1) Subject to limitations of the Oregon Constitution, the district board may refer to the electors of the district any proposal to increase the maximum service charge as provided in ORS 354.635 to maintain the financial stability of the district in an emergency. The proposal shall state that an emergency exists and specify with distinctness the facts and reasons constituting the emergency.

(2) The district board may refer to the electors of the district proposed additional or alternate means of financing allowed under ORS 354.685 [1975 c 286 §10, 1979 c 108 §15, 1983 c 350 §217]

354.715 Dissolution, liquidation and transfer proceedings. Dissolution, liquidation and transfer proceedings shall be conducted in the manner provided by ORS 198.920 to 198.955 [1975 c 286 §11]

PENALTIES

354.990 Penalties. Any property owner who knowingly makes any false verified declaration in order to obtain a service charge exemption under the provisions of ORS 354.690 is guilty of unsworn falsification and upon conviction shall be punished as provided in ORS 162.085 [1975 c 286 §12, 1979 c 108 §16, 1985 c 445 §2]

CHAPTERS 355 AND 356

[Reserved for expansion]

