Chapter 190

1987 REPLACEMENT PART

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INTERGOVERNMENTAL COOPERATION

190.003 Definitions for ORS 190.003 to 190.110. As used in ORS 190.003 to 190.110, "unit of local government" includes a county, city, district or other public corporation, commission, authority or entity organized and existing under statute or city or county charter. [1967 c 550 §2]

190.007 Policy; construction. In the interest of furthering economy and efficiency in local government, intergovernmental cooperation is declared a matter of state-wide concern. The provisions of ORS 190.003 to 190.110 shall be liberally construed. [1967 c.550 §3]

190.010 Authority of local governments to make intergovernmental agreement. A unit of local government may enter into a written agreement with any other unit or units of local government for the performance of any or all functions and activities that a party to the agreement, its officers or agencies, have authority to perform. The agreement may provide for the performance of a function or activity:

(1) By a consolidated department;

(2) By jointly providing for administrative officers;

(3) By means of facilities or equipment jointly constructed, owned, leased or operated;

(4) By one of the parties for any other party; or

(5) By a combination of the methods described in this section. [Amended by 1953 c.161 §2; 1963 c.189 §1; 1967 c.550 §4]

190.020 Contents of agreement. (1) An agreement under ORS 190.010 shall specify the functions or activities to be performed and by what means they shall be performed. Where applicable, the agreement shall provide for:

(a) The apportionment among the parties to the agreement of the responsibility for providing funds to pay for expenses incurred in the performance of the functions or activities.

(b) The apportionment of fees or other revenue derived from the functions or activities and the manner in which such revenue shall be accounted for.

(c) The transfer of personnel and the preservation of their employment benefits.

(d) The transfer of possession of or title to real or personal property.

(e) The term or duration of the agreement, which may be perpetual.

(f) The rights of the parties to terminate the agreement.

(2) When the parties to an agreement are unable, upon termination of the agreement, to agree on the transfer of personnel or the division of assets and liabilities between the parties, the circuit court has jurisdiction to determine that transfer or division. [Amended by 1967 c 550 §5]

190.030 Effect of agreement. (1) When an agreement under ORS 190.010 has been entered into, the unit of local government, consolidated department or administrative officer designated therein to perform specified functions or activities is vested with all powers, rights and duties relating to those functions and activities that are vested by law in each separate party to the agreement, its officers and agencies.

(2) An officer designated in an agreement to perform specified duties, functions or activities of two or more public officers shall be considered to be holding only one office.

(3) An elective office may not be terminated by an agreement under ORS 190.010. [Amended by 1967 c.550 §6]

190.040 [Amended by 1953 c 182 §2, 1957 c 428 §1, repealed by 1963 c.189 §3]

190.110 Authority of units of local government and state agencies to cooperate. (1) In performing a duty imposed upon it or in exercising a power conferred upon it, a unit of local government or a state agency of this state may cooperate, by agreement or otherwise, with a unit of local government or a state agency of this or another state, or with the United States, or with a United States governmental agency, or with an American Indian tribe or an agency of an American Indian tribe. This power includes power to provide jointly for administrative officers.

(2) With regard to an American Indian tribe, the power described in subsection (1) of this section includes the power of the Executive Department to enter into agreements to insure that the state, a state agency or unit of local government does not interfere with or infringe on the exercise of any right or privilege of an American Indian tribe or members of a tribe held or granted under any federal treaty, executive order, agreement, statute, policy or any other authority. Nothing in this subsection shall be construed to modify the obligations of the United States to an American Indian tribe or its members concerning real or personal property, title to which is held in trust by the United States. [Amended by 1963 c.189 §2; 1967 c 550 §7; 1985 c.267 §1]

190.120 [1955 c.164 §1, 1959 c.662 §3, 1961 c.108 §8, renumbered 297.910]

190.150 Agreements under federal Watershed Protection and Flood Prevention Act. (1) Districts that may enter into agreements with the United States, or any agency or instrumentality thereof, under the Watershed Protection and Flood Prevention Act, as amended (16 U.S.C. 1002), are:

(a) People's utility districts organized under ORS chapter 261.

(b) Domestic water supply corporations organized under ORS chapter 264.

(c) Irrigation districts organized under ORS chapter 545 and ORS 548.005 to 548.235 and 548.305 to 548.810.

(d) Drainage districts organized under ORS chapter 547 and ORS 548.005 to 548.235 and 548.305 to 548.810.

(e) Diking districts organized under ORS chapter 551.

(f) Water control districts organized under ORS chapter 553.

(g) Irrigation, drainage, water supply or flood control corporations organized under ORS chapter 554.

(2) No agreement under subsection (1) of this section that imposes any part of the cost of a work of improvement upon a district is binding upon the district until the project and the method of financing its costs have been authorized in accordance with the laws that apply to that district.

(3) This section is intended to be supplementary and in addition to and is not intended to repeal any law authorizing this state or any political subdivision or instrumentality thereof to make contracts with the United States or any agency or instrumentality thereof. [1959 c.113 §§1, 2, 3; 1969 c.50 §2]

190.210 Executive Department to maintain liaison with local governments providing services to state agencies. The Legislative Assembly recognizes the need for intergovernmental cooperation between the state governmental agencies located in the various regions of the state and the local governmental agencies which provide the state agencies necessary services such as: (a) Fire and police protection; (b) sewage, water and storm drainage; (c) traffic and transportation facilities; (d) refuse disposal; and (e) schools, parks and zoning. In meeting this need for intergovernmental cooperation, the Executive Department shall maintain liaison with the various local governmental agencies which provide services to the state agencies and may participate in the joint deliberations of the local governments in developing plans for services which are supported or utilized by these state agencies. [1961 c.591 §1]

190.220 State to pay share of cost of intergovernmental and planning studies; limitation. (1) The Executive Department is authorized to pay out of the General Fund, to the extent that moneys are available therefor, its proportionate share of the cost of development and coordination of intergovernmental studies and plans prepared by tax supported intergovernmental planning groups, except that the state's financial participation shall be limited to the planning and coordinating of those activities and services which are supported or utilized by the state agencies located in the various regional areas.

(2) The Executive Department is authorized to pay, from moneys appropriated for such purposes, grants-in-aid to tax supported intergovernmental planning groups in support of planning activities conducted by such groups. [1961 c.591 §2; 1969 c.136 §5]

190.230 Public employment status of certain persons under various federal programs. Persons who are recipients, beneficiaries or trainees in work training, work study and work experience programs authorized by the Economic Opportunity Act of 1964 (United States Public Law 88-452), as amended; persons who are volunteers under section 603 of that Act; and persons participating in the Work Incentive Program, Title IV of the Social Security Act (United States Public Law 90-248), as amended; and persons participating in programs of work experience and training during their participation in such programs:

(1) Are not serving in positions in the service of the state or any county or city for purposes of any merit system or civil service law or of any state, county or city retirement system.

(2) Are workers covered under the state system of workers' compensation if the recipient, beneficiary or trainee is not otherwise covered by a federal program of insurance offering similar coverage. [1965 c.405 §1; 1969 c.227 §1; 1975 c.107 §1; 1977 c.294 §1, 1985 c 565 §23]

190.240 Furnishing of services by state agency to federal and local governmental units. (1) Subject to rules prescribed by the Executive Department, any state agency as defined in ORS 291.002 may, upon request, furnish to the Federal Government or a city, county,

district or other municipal corporation or political subdivision in Oregon the same or similar services, other than materials, equipment and supplies, having a single unit price of less than $500, furnished under the laws of this state to other state agencies. Equipment does not include used goods; material and supplies do not include goods produced by the State of Oregon. The cost of the services provided under this subsection shall be charged to the Federal Government, city, county, district or other municipal corporation or political subdivision for which the services are performed.

(2) Except as provided in subsections (3) and (4) of this section, in the case of state agencies, the cost of services furnished pursuant to subsection (1) of this section may be paid out of the miscellaneous receipts account established pursuant to ORS 283.250 for such agencies. All moneys received by an agency in payment of such services shall be paid into the State Treasury for deposit to the credit of the miscellaneous receipts account established pursuant to ORS 283.250 for the agency furnishing the service.

(3) In the case of the Executive Department, the cost of services furnished pursuant to subsection (1) of this section may be advanced from the Executive Department Revolving Fund and reimbursed to the fund from the charges paid to the department by the Federal Government, city, county, district or other municipal corporation or political subdivision for which the services are performed.

(4) In the case of the Department of General Services, the cost of services furnished pursuant to subsection (1) of this section may be advanced from the General Services Operating Account and reimbursed to the fund from the charges paid to the department by the Federal Government, city, county, district or other municipal corporation or political subdivision for which the services are performed. [1965 c 351 §2 (2), (3), 1967 c.419 §43; 1969 c.420 §1]

190.250 Furnishing centralized accounting and data processing services to federal and local governmental units. Upon request of the Federal Government or a city, county, district or other municipal corporation or political subdivision in Oregon, the Executive Department may provide centralized accounting, data processing, data recording and storing and other similar services for such Federal Government, city, county, district or other municipal corporation or political subdivision. The cost of the services provided under this section may be advanced out of the Executive Department Revolving Fund and the cost thereof shall be charged to the Federal Government, city, county, district or other municipal corporation or political subdivision for which the services are performed. [1965 c.351 §2 (1); 1967 c.454 §91]

190.260 [Formerly 297.920; repealed by 1967 c.454 §119]

INTERGOVERNMENTAL COORDINATION

190.310 Definitions for ORS 190.310 to 190.340. As used in ORS 190.310 to 190.340, unless the context requires otherwise:

(1) "Federal aid" includes all types of federal grants, federal financial assistance, federal loans and other types of federal assistance, whether or not any state or local funds are required to match or contribute toward the costs of the program for which federal aid is available.

(2) "Local governments" means municipal corporations as defined in ORS 294.311.

(3) "State agency" means state agency as defined in ORS 291.002. [1967 c.165 §1]

190.320 Intergovernmental Coordination Division; administrator. The Office of Intergovernmental Coordinator that has heretofore operated under ORS 190.310 to 190.340 is hereby transferred into the Intergovernmental Coordination Division of the Executive Department of the state. The administrative head of the division shall be known as the Administrator of the Intergovernmental Coordination Division. [1967 c.165 §2; 1969 c.80 §27]

190.330 Duties of division. The Intergovernmental Coordination Division shall:

(1) Compile and maintain current information on available and pending federal aid programs and make this information available to state agencies and to local governments in this state.

(2) Provide assistance, as requested, to state agencies and local governments in this state in preparing applications for federal aid.

(3) Compile and maintain current information relating to the amounts of federal aid being received and disbursed by state agencies and local governments in this state.

(4) Analyze the relations of federal aid programs with state and locally financed programs and make recommendations to state agencies, local governments, the Director of the Executive Department, the Governor and the Legislative Assembly on means of avoiding duplication of activity and of increasing efficiency in programs

financed by federal aid. [1967 c.165 §3; 1969 c 80 §28, 1975 c.605 §13]

190.340 Agencies to assist division. All agencies and officers of this state and all local governments and officers thereof in this state are directed to assist the division in carrying out its functions under ORS 190.310 to 190.340 by furnishing the division such information as the Administrator of the Intergovernmental Coordination Division requests and is relevant to those functions. [1967 c.165 §4; 1969 c.80 §29]

INTERSTATE COOPERATION

190.410 Definitions for ORS 190.410 to 190.440. As used in ORS 190.410 to 190.440, "public agency" includes any county, city, special district or other public corporation, commission, authority or entity organized and existing under laws of this state, or any other state, or under the city or county charter of any county or city of this or any other state. [1969 c.390 §1]

190.420 Authority of public agency to make agreements with public agencies in other states; content of agreement; liability of public agency. (1) Any power or powers, privileges or authority exercised or capable of exercise by a public agency in this state may be exercised and enjoyed jointly with any public agency in another state to the extent that the laws of the other state permit such joint exercise or enjoyment.

(2) Public agencies in this state and in another state may enter into agreements with one another for joint or cooperative action. Such action must be recorded by ordinance, resolution or in other lawful manner by the governing bodies of the participating public agencies.

(3) An agreement under subsection (2) of this section must specify its duration, the organization, composition and nature of any separate legal or administrative entity created to exercise the functions agreed upon, the purpose of the agreement, the method of financing the joint or cooperative undertaking, the methods to be employed to terminate the agreement, and any other necessary and proper matters.

(4) No agreement under subsection (2) of this section shall relieve any public agency of any obligation or responsibility imposed on it by law. [1969 c.390 §2]

190.430 Attorney General to review agreements. Every agreement made under ORS 190.420 shall be submitted to the Attorney General before taking effect. The Attorney General shall determine whether the agreement is in proper form and compatible with the laws of this state. If the Attorney General determines that the agreement is in some instance improper, the Attorney General shall give written notice to the governing body of the public agency in this state concerning the specific respects in which the agreement fails to comply with law. Failure to give such notice within 30 days of submission of the agreement to the Attorney General shall constitute approval of the agreement. [1969 c 390 §3]

190.440 Powers of public agency under agreement. Any public agency entering into an agreement under ORS 190.410 to 190.440 may expend funds and may sell, lease, give or otherwise supply the administrative board of other legal or administrative entity that operates the joint or cooperative undertaking by providing such personnel or services therefor as may be within its legal power to furnish. [1969 c.390 §4]

190.470 Council of State Governments declared a joint governmental agency. The Council of State Governments is a joint governmental agency of this state and of the other states which cooperate through it. [Formerly 189.100]

STATE CENSUS

190.510 Definitions for ORS 190.510 to 190.610. As used in ORS 190.510 to 190.610, unless the context requires otherwise:

(1) "Board" means the State Board of Higher Education established under ORS 351.010.

(2) "City" means any incorporated city or town. [Formerly 221 845, 1965 c 207 §1]

190.520 Annual estimate of population of cities and counties by State Board of Higher Education; actual count. The board shall:

(1) Annually estimate the population as of July 1 of each city and county within the state and no later than December 15 of each year file with the Secretary of State a certificate of population showing the board's estimate of the population of each city and county within the state as of July 1. The board's estimate may be based upon statistical or other pertinent data or upon an actual count. The certificate shall also indicate the results of any enumeration of cities or annexed areas made after July 1.

(2) Annually estimate the number of persons between the ages of 4 and 20 who resided in each county as of October 25. The board shall certify such estimate to the Superintendent of Public Instruction and to the executive officer of the administrative office of each county, as defined in ORS 328.001, by January 1 of each year.

(3) Upon an official request from a city, county, political subdivision, public corporation or state agency, cause to be conducted at the expense of the requesting party an actual count of the population of the area specified in the request and file with the Secretary of State a certificate of population based upon such count.

(4) Upon the incorporation of a city, cause to be conducted at the expense of the city an actual count of the population of the city. The board shall file a certificate of population with the Secretary of State based upon such count. If the election of officers of the newly incorporated city is held 40 days or more before the end of the calendar quarter, the certificate shall be filed before the end of the calendar quarter. If the election is held less than 40 days before the end of the calendar quarter, the certificate shall be filed before the end of the calendar quarter next following the election. [Formerly 221.850; 1963 c.312 §1; 1971 c.294 §11]

190.530 Revision of certificate; effect. Upon petition from a city, county, political subdivision, public corporation or state agency for reconsideration, or upon its own motion, the board may revise its determination of the population of a city, county or other area. Payment of funds to a city, county or other area under ORS 323.455, 366.785 to 366.820 or 471.810 shall be affected by a subsequent filing of a corrected certificate under this section in the manner provided by ORS 190.620. [Formerly 221 855, 1963 c 312 §2; 1971 c.222 §2]

190.540 Effect of certificate of population; use in computing shares of state revenues. (1) The population shown in the certificate of population of the board filed pursuant to ORS 190.520 or 190.530 shall be the official population of the city, county or other area covered by the certificate until a later certificate covering such city, county or other area is filed by the board.

(2) After a certificate of population is filed pursuant to ORS 190.520 or 190.530, the population of a city, county or other area as shown in the certificate shall be the official and exclusive basis for determining per capita allocation and payment of funds to such city, county or other area under ORS 366.785 to 366.820 and 471.810 until the filing by the board of a later certificate for such city, county or other area. [Formerly 221 860; 1961 c.259 §1; 1963 c.312 §3; 1967 c.577 §6]

190.550 [Formerly 221.865, repealed by 1965 c 207 §7]

190.560 [Formerly 221.870; repealed by 1965 c.207 §7]

190.570 [Formerly 221 875, repealed by 1965 c 207 §7]

190.580 Rules and regulations. The board may adopt such rules and regulations as it considers desirable and expedient in the conduct of its duties under ORS 190.510 to 190.610. [Formerly 221.880]

190.590 Reporting information to board. Any state agency, or officer thereof, and any city, or department, officer or employe thereof, shall, upon request of the board, furnish such available information as may be required by the board in securing accurate data and information upon which to base its estimates. The board may prescribe the form for reporting such information. [Formerly 221.885]

190.600 [Formerly 221.890; repealed by 1963 c.115 §2]

190.610 Board to establish program at state institution of higher education. The board shall establish a program at one or more of the institutions under its control, designed to perform the duties imposed upon it by ORS 190.510 to 190.610. [1965 c.207 §6]

190.620 Effect of corrected certificate on payments to cities or counties; adjustment of payments. (1) Whenever a corrected certificate of census is filed and the correction is such that payment of funds under ORS 323.455, 366.785 to 366.820 or 471.810 was more or less than the city, county or other area would have been entitled, the payment shall be corrected in the distribution of funds next following the erroneous distribution. In computing the corrected distribution, the amount due any city or county or other area under the corrected certificate shall be distributed first, and the amounts payable that would otherwise be distributed shall be adjusted accordingly.

(2) The provisions of subsection (1) of this section shall apply to all distributions made after December 31, 1970, if a corrected certificate has been filed prior to the distribution next following the erroneous distribution. If the corrected certificate is not filed before the distribution next following the erroneous distribution, no adjustments are required and the corrected certificate shall affect only those distributions made after the corrected certificate is filed. [1971 c.222 §1]

INTERGOVERNMENTAL ARBITRATION

190.710 Definitions for ORS 190.710 to 190.800. As used in ORS 190.710 to 190.800:

(1) "Association" means the American Arbitration Association.

(2) "Local government" means a city, county, special district or other public corporation, com-

mission, authority or entity organized under state statute or city or county charter.

(3) "State agency" means any state board, commission, department or division. [1981 c 857 §1]

190.720 Agreement to arbitrate; costs. (1) Disputes between a state agency or local government and another state agency or local government, including disputes relating to the title to real estate, may, if the parties agree, be submitted to the award of an arbitrator of the association. The agreement may not be rescinded after the notice of intent to arbitrate has been mailed to the association.

(2) Costs of arbitration shall be assessed to the parties as provided by the commercial arbitration rules of the association. [1981 c 857 §§2, 12]

190.730 Submission to regional office. The parties shall submit to the northwest regional office of the association:

(1) Duplicate copies of a notice of intention to arbitrate;

(2) Duplicate copies of each party's statement of the nature of the dispute, the amount of money involved, if any, and the remedy sought; and

(3) The administrative fee required by the association. [1981 c.857 §3]

190.740 Arbitration rules. Except as otherwise provided in ORS 190.710 to 190.800, an arbitration proceeding shall be conducted under the commercial arbitration rules of the association as they existed on January 1, 1981. [1981 c 857 §4]

190.750 Selection of arbitrators. (1) Arbitrator candidates shall be selected from a list of candidates provided by the association.

(2) The association shall make an initial screening for bias as may be appropriate and shall require a candidate for a particular case to complete a current personal disclosure statement under oath. In addition to other relevant information, the statement shall disclose the present residence and immediate prior residence of the candidate, any prior association with any of the parties and any personal acquaintance with counsel for the parties. If the statement reveals facts which suggest the possibility of bias, the association shall communicate those facts to the parties. The arbitrator shall then be appointed in accordance with the rules of the association. [1981 c.857 §5]

190.760 Procedure during arbitration. (1) The arbitrator shall regulate the hearing in accordance with the rules of the association except that:

(a) The arbitrator shall take an oath of office.

(b) Testimony shall be taken under oath.

(c) After the first witness is sworn, an arbitrator may not be disqualified for bias.

(2) The arbitrator may call a neutral expert on the arbitrator's own motion, which expert witness shall be subject to cross-examination by the parties. The cost of the expert witness is part of the cost of the proceeding. [1981 c.857 §6]

190.770 Subpena procedure. The arbitrator may, and shall, upon application by a party to the proceeding, issue a subpena requiring a person to appear and be examined with reference to a matter within the scope of the proceeding, and to produce books, records or papers pertinent to the proceeding. In case of disobedience to the subpena, the party requesting it may petition the circuit court of the county in which the witness resides or the circuit court of the county in which the inquiry is being held to require compliance with the subpena. The circuit court, in case of refusal to obey a subpena, may issue an order requiring the person to appear and to produce books, records and papers and give evidence on the matter in question. Failure to obey the order of the court may be punished by the court as contempt. [1981 c.857 §7]

190.780 Depositions. On application of a party to the arbitration, the arbitrator may order the deposition of a witness to be taken for use as evidence and not for discovery if the witness cannot be compelled to attend the hearing or if exceptional circumstances exist making it desirable. [1981 c.857 §8]

190.790 Relief; briefs; opinion; damages; filing of award. (1) The arbitrator may grant any relief deemed appropriate.

(2) The arbitrator may order submission of written briefs within 30 days after the close of hearings. In addition to a brief, each party may summarize the evidence and propose an award.

(3) The arbitrator shall issue a written opinion and award within 30 days after the close of the hearing or the receipt of briefs, if ordered.

(4) Damages or other remedies shall be without limitation as to nature or amount unless otherwise provided by law.

(5) The award shall be filed with a clerk as provided by ORS 33.310. If the dispute involves real property, the award shall be filed in the county or counties in which the property is located. [1981 c 857 §§9, 10; 1985 c.496 §23]

190.800 Exceptions to award and appeal. Exceptions to the award and appeal

from a judgment on the award shall be taken as provided by ORS 33.320 to 33.340. [1981 c.857 §11]

190.900 [1985 c.595 §4; renumbered 658.630 in 1987]