Chapter 391

1987 REPLACEMENT PART

Mass Transportation

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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 designee, the chairman of the Oregon Investment Council, or 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, purchase 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 In addition, the district which is to lease or purchase the mass transit facilities financed out of the proceeds of any bonds issued by the authority may, by resolution of the district board, pledge all or any part of the revenues of the district derived from any taxes which the district is authorized to levy as security for the payment of the principal, interest and premiums, if any, on the bonds issued by the authority to finance such mass transit facilities In the resolution of the district board pledging all or any part of its tax revenues as security for any bonds issued by the authority, the district may reserve the right to pledge from time to time on a parity basis all or any part of its tax revenues as security for any one or more series of bonds issued thereafter by the authority or the district, and in the event the right so reserved by the district is exercised all bonds secured by a pledge of such tax revenues shall be equally and ratably secured by such tax revenues without preference or priority of any kind of any bond or series of bonds secured thereby over any other bond or series of bonds secured thereby A pledge

of tax revenues by a district as a security for the payment of any bonds issued by the authority shall not be considered to be the incurring of bonded indebtedness by the district Any pledge made pursuant to this section shall be valid and binding from and after the date of issuance of the bonds secured thereby and the income, revenues, receipts or taxes pledged shall be immediately subject to the lien of such pledge without the physical delivery thereof, the filing of any notice or any further act. The lien of any such pledge shall be valid and binding against all persons having claims of any kind against the pledgor whether in tort, contract or otherwise, irrespective of whether such persons have notice thereof 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, 1985 c 655 §1]

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 con-

vey 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 banking 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]

391.660 Short title. ORS 267 227 and 391 500 to 391 660 may be referred to and cited as the "Oregon Mass Transportation Financing Act" [1977 c 662 §1]

ELDERLY AND HANDICAPPED TRANSPORTATION

391.800 Elderly and Handicapped Special Transportation Fund. (1) There is established in the State Treasury, separate and distinct from the General Fund, the Elderly and Handicapped Special Transportation Fund All moneys in the Elderly and Handicapped Special Transportation Fund are appropriated continuously to the Public Transit Division of the Department of Transportation for payment of the division's administrative costs of the program and payment to mass transit districts, transportation districts and counties as provided in ORS 391 810

(2) The Elderly and Handicapped Special Transportation Fund shall consist of

(a) Moneys transferred to the fund under ORS 323 455 (3),

(b) Other moneys appropriated to the fund by the Legislative Assembly, and

(c) Moneys obtained from interest earned on the investment of such moneys

(3) Moneys in the Elderly and Handicapped Special Transportation Fund, with the approval of the State Treasurer, may be invested as provided by ORS 293 701 to 293 776, 293 810 and 293 820, and the earnings from such investments shall be credited to the Elderly and Handicapped Special Transportation Fund [1985 c 816 §9, 1987 c 62 §1]

391.810 Distribution of funds to districts and counties. (1) The Public Transit Division shall regularly distribute moneys in the Elderly and Handicapped Special Transportation Fund to mass transit districts organized under ORS 267 010 to 267 390, transportation districts organized under ORS 267 510 to 267 650 and to those counties in which no part of a mass transit district or transportation district is located

(2)(a) Each such district shall receive that share of the moneys as the population of the counties in which the district is situated, determined under ORS 190 510 to 190 610 last preceding such apportionment, bears to the total population of the state However, if two or more districts are situated in a single county, distribution of moneys under this subsection shall be determined as though only the mass transit district is located in that county or, if there are two or more transportation districts in the county, as though only the transportation district with the highest population is located in that county

(b) Each county in which no part of a mass transit district or transportation district is located shall receive that share of the moneys as its population, determined under ORS 190 510 to 190 610 last preceding such apportionment, bears to the total population of the state

(3) The Public Transit Division shall not distribute moneys to a mass transit district, transportation district or county under this section unless the district or county has appointed an advisory committee under ORS 391 820

(4) The Public Transit Division shall adopt rules necessary for the administration of ORS 391 800 to 391.830 [1985 c 816 §10]

391.820 Advisory committees; membership; duties. (1) The governing body of each

mass transit district, transportation district and county that is eligible to receive moneys from the Elderly and Handicapped Special Transportation Fund under ORS 391 810 shall appoint an advisory committee to advise and assist the governing body in carrying out the purposes of ORS 391 800 to 391 830 The number and terms of the members of an advisory committee appointed under this section shall be determined by the appointing governing body

(2) To be qualified to serve on an advisory committee of a district or county, an individual must reside within the boundaries of the district, the county within which a district or part thereof is located or the county in which no part of a district is located and must be

(a) An elderly or handicapped user of transportation services in the district or county,

(b) An elderly or handicapped person who lives in an area of the district or county where there are no public transportation services,

(c) An individual engaged in providing transportation services to the elderly or handicapped in the district or county,

(d) A representative of elderly persons, or

(e) A representative of handicapped persons

(3) An advisory committee appointed under this section shall review the distribution of moneys by the governing body of a district or county under ORS 391 830 The advisory committee may propose any changes to the policies or practices of the governing body relating to the distribution that the advisory committee considers necessary or desirable [1985 c 816 §11, 1987 c 532 §1]

391.830 Use of funds to finance and improve transportation for elderly and handicapped. (1)(a) Each mass transit district and transportation district that receives moneys from the Public Transit Division of the Department of Transportation under ORS 391 810 shall distribute those moneys to providers of transportation for the purpose of financing and improving transportation programs and services for the elderly and handicapped residents of the district and the county in which all or a portion of the district is located The moneys distributed to providers of transportation in areas within the counties in which the district is located but outside the boundaries of the district shall be that share of all moneys received by the district as the population of those counties residing outside the district, as determined by the last federal decennial census, bears to the total population of the counties

(b) Each county that receives moneys from the Public Transit Division of the Department of Transportation under ORS 391 810 shall distribute those moneys to providers of transportation for the purpose of financing and improving transportation programs and services for the elderly and handicapped residents of the county

(2) The governing body of a district or county, after consultation with the advisory committee it appointed under ORS 391 820, shall determine the amount of money to be distributed to a provider of transportation and the purposes for which the money must be used

(3) Any provider of transportation receiving funds prior to January 1, 1986, from any governmental unit or agency for purposes related to the transportation needs of the elderly or handicapped is eligible to receive moneys from a district or county under this section

(4) Moneys distributed to providers of transportation under this section may be used for the following purposes

(a) Maintenance of existing transportation programs and services for the elderly and handicapped

(b) Expansion of such programs and services

(c) Creation of new programs and services

(d) Planning for, and development of, access to transportation for elderly and handicapped individuals who are not currently served by transportation programs and services

(5) As used in this section, "provider of transportation" includes a city, county, district or any other person or agency, whether public or private, that maintains, operates or sponsors vehicles and facilities for the transportation of passengers for profit or on a nonprofit or voluntary basis [1985 c 816 §12]

CHAPTERS 392 to 395
[Reserved for expansion]