

Chapter 401

1987 REPLACEMENT PART

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EMERGENCY MANAGEMENT AND SERVICES

(Generally)

401.015 Statement of policy and purpose. (1) The general purpose of ORS 401 015 to 401 105, 401 260 to 401 325 and 401 355 to 401 580 is to reduce the vulnerability of the State of Oregon to loss of life, injury to persons or property and human suffering and financial loss resulting from emergencies, and to provide for recovery and relief assistance for the victims of such occurrences

(2) It is declared to be the policy and intent of the Legislative Assembly that preparations for emergencies and governmental responsibility for responding to emergencies be placed at the local government level. The state shall prepare for emergencies, but shall not assume authority or responsibility for responding to such an event unless the appropriate response is beyond the capability of the city and county in which it occurs, the city or county fails to act, or the emergency involves two or more counties [1983 c 586 §1]

401 020 [Amended by 1975 c 379 §8, repealed by 1983 c 586 §49]

401.025 Definitions for ORS 401.015 to 401.105, 401.260 to 401.325 and 401.355 to 401.580. As used in ORS 401 015 to 401 105, 401 260 to 401 325 and 401 355 to 401 580, unless the context requires otherwise

(1) "Administrator" means the Administrator of the Emergency Management Division

(2) "Beneficiary" has the meaning given that term in ORS 656 005

(3) "Division" means the Emergency Management Division of the Executive Department

(4) "Emergency" includes any man-made or natural event or circumstance causing or threatening loss of life, injury to person or property, human suffering or financial loss, and includes, but is not limited to, fire, explosion, flood, severe weather, drought, earthquake, volcanic activity, spills or releases of oil or hazardous material as defined in ORS 466 605, contamination, utility or transportation emergencies, disease, blight, infestation, civil disturbance, riot, sabotage and war

(5) "Emergency management agency" means an organization created and authorized under ORS 401 015 to 401 105, 401 260 to 401 325 and

401 355 to 401 580 by the state, county or city to provide for and assure the conduct and coordination of functions for comprehensive emergency program management

(6) "Emergency program management" includes all the tasks and activities necessary to coordinate and maintain an emergency services system including, but not limited to, program development, fiscal management, coordination with nongovernmental agencies and organizations, public information, personnel training and development and implementation of exercises to test the system

(7) "Emergency program manager" means the person administering the emergency management agency of a county or city

(8) "Emergency service agency" means an organization within a local government which performs essential services for the public's benefit prior to, during or following an emergency. This includes, but is not limited to, organizational units within local governments, such as law enforcement, fire control, health, medical and sanitation services, public works and engineering, public information and communications

(9) "Emergency service worker" means an individual who, under the direction of an emergency service agency or emergency management agency, performs emergency services and

(a) Is a registered volunteer or independently volunteers to serve without compensation and is accepted by the division or the emergency management agency of a county or city, or

(b) Is a member of the Oregon National Guard Reserve acting in support of the emergency services system

(10) "Emergency services" includes those activities provided by state and local government agencies with emergency operational responsibilities to prepare for and carry out any activity to prevent, minimize, respond to or recover from an emergency. These activities include, without limitation, coordination, preplanning, training, interagency liaison, fire fighting, oil or hazardous material spill or release clean up as defined in ORS 466 605, law enforcement, medical, health and sanitation services, engineering and public works, search and rescue activities, warning and public information, damage assessment, administration and fiscal management, and those measures defined as "civil defense" in section 3 of the Act of January 12, 1951, P L 81-920 (50 U S C 2252)

(11) "Emergency services system" means that system composed of all agencies and organiza-

tions involved in the coordinated delivery of emergency services

(12) "Injury" means any personal injury sustained by an emergency service worker by accident, disease or infection arising out of and in the course of emergency services or death resulting proximately from the performance of emergency services

(13) "Local government" means any governmental entity authorized by the laws of this state

(14) "Major disaster" means any event defined as a "major disaster" by the Act of May 22, 1974, P L 93-288

(15) "Search and rescue" means the acts of searching for, rescuing or recovering, by means of ground or marine activity, any person who is lost, injured or killed while out of doors. However, "search and rescue" does not include air activity in conflict with the activities carried out by the Aeronautics Division of the Department of Transportation

(16) "Sheriff" means the chief law enforcement officer of a county [1983 c 586 §2, 1985 c 733 §21, 1987 c 373 §84]

401 030 [Amended by 1967 c 595 §1, 1969 c 80 §8, 1975 c 379 §9, 1975 c 624 §1, repealed by 1983 c 586 §49]

401.035 Responsibility for emergency services systems (1) The Governor is responsible for the emergency services system within the State of Oregon

(2) The executive officer or governing body of each county or city of this state is responsible for the emergency services system within that jurisdiction

(3) In carrying out their responsibilities for emergency services systems, the Governor and the executive officers or governing bodies of the counties or cities may delegate any administrative or operative authority vested in them by ORS 401 015 to 401 105, 401 260 to 401 325 and 401 355 to 401 580 and provide for the subdelegation of that authority [1983 c 586 §3]

401 040 [Amended by 1963 c 528 §1, 1967 c 419 §33, 1969 c 80 §9, 1975 c 379 §10, 1975 c 624 §2, 1981 c 615 §4, repealed by 1983 c 586 §49]

401.045 Application of federal law. All provisions of mutual aid set out in the Interstate Civil Defense and Disaster Compact (1951) and its supplements and 16 U S C 552 shall apply to ORS 401 015 to 401 105, 401 260 to 401 325 and 401 355 to 401 580 [1983 c 586 §18]

401 050 [Amended by 1963 c 528 §2, 1967 c 419 §34, 1967 c 595 §2, 1969 c 80 §10, 1969 c 314 §32, 1981 c 615 §5, repealed by 1983 c 586 §49]

(Powers of Governor)

401.055 Declaration of state of emergency. (1) The Governor may declare a state of emergency by proclamation at the request of a county governing body or after determining that an emergency has occurred or is imminent

(2) Any proclamation of a state of emergency must specify the geographical area covered by the proclamation. Such area shall be no larger than necessary to effectively respond to the emergency [1983 c 586 §4]

401 060 [Amended by 1963 c 528 §4, 1967 c 595 §3, 1969 c 80 §11, repealed by 1983 c 586 §49]

401 064 [1975 c 379 §3, repealed by 1983 c 586 §49]

401.065 Police powers during state of emergency; suspension of agency rules. During a state of emergency, the Governor shall

(1) Have complete authority over all executive agencies of state government and the right to exercise, within the area designated in the proclamation, all police powers vested in the state by the Oregon Constitution in order to effectuate the purposes of ORS 401 015 to 401 105, 401 260 to 401 325 and 401 355 to 401 580,

(2) Have authority to suspend provisions of any order or rule of any state agency, if the Governor determines and declares that strict compliance with the provisions of the order or rule would in any way prevent, hinder or delay mitigation of the effects of the emergency, and

(3) Have authority to direct any agencies in the state government to utilize and employ state personnel, equipment and facilities for the performance of any activities designed to prevent or alleviate actual or threatened damage due to the emergency, and may direct the agencies to provide supplemental services and equipment to local governments to restore any services in order to provide for the health and safety of the citizens of the affected area [1983 c 586 §5]

401 066 [1975 c 379 §2, 1977 c 248 §3, repealed by 1983 c 586 §49]

401 068 [1975 c 379 §4, repealed by 1983 c 586 §49]

401 070 [Repealed by 1983 c 586 §49]

401.074 Providing temporary housing during emergency. Whenever the Governor has declared a state of emergency under ORS 401 015 to 401 105, 401 260 to 401 325 and 401 355 to 401 580 or the President of the United States has declared an emergency or a major disaster to exist in this state, the Governor, with the concurrence of the Joint Committee on Ways and Means or the Emergency Board, if the Legislative Assembly is not in session, is authorized

(1) To enter into purchase, lease or other arrangements with any agency of the United States for temporary housing units to be occupied by disaster victims and to make the units available to local governments of the state

(2) To assist any local government of this state which requires temporary housing for disaster victims following the declaration of a state of emergency to acquire and prepare a site to receive and utilize temporary housing units by

(a) Advancing or lending funds available to the Governor from any appropriation made by the Legislative Assembly or from any other source, and

(b) Passing through funds made available by any public or private agency [1983 c 586 §6]

401 075 [1977 c 248 §2, repealed by 1983 c 586 §49]

401 080 [Amended by 1953 c 6 §4 1967 c 595 §4 1975 c 379 §11, repealed by 1983 c 586 §49]

401.085 Management of resources during emergency. Whenever the Governor has declared a state of emergency under ORS 401 015 to 401 105, 401 260 to 401 325 and 401 355 to 401 580, the Governor shall be authorized to issue, amend and enforce rules and orders to

(1) Control, restrict and regulate by rationing, freezing, use of quotas, prohibitions on shipments, price fixing, allocation or other means, the use, sale or distribution of food, feed, fuel, clothing and other commodities, materials, goods and services,

(2) Prescribe and direct activities in connection with use, conservation, salvage and prevention of waste of materials, services and facilities, including, but not limited to, production, transportation, power and communication facilities training, and supply of labor, utilization of industrial plants, health and medical care, nutrition, housing, rehabilitation, education, welfare, child care, recreation, consumer protection and other essential civil needs, and

(3) Take any other action that may be necessary for the management of resources following an emergency [1983 c 586 §7]

401 090 [Repealed by 1983 c 586 §49]

401.095 Effect of rules and orders during emergency; scope; effect; termination.

(1) All rules and orders issued under authority conferred by ORS 401 065 to 401 085 shall have the full force and effect of law both during and after the declaration of a state of emergency All existing laws, ordinances, rules and orders inconsistent with ORS 401 065 to 401 085 shall be inoperative during the period of time and to the extent such inconsistencies exist

(2) The authority exercised under ORS 401 065 to 401 085 may be exercised with respect to the entire territory over which the Governor has jurisdiction, or to any specified part thereof

(3) When real or personal property is taken under power granted by ORS 401 085, the owner of the property shall be entitled to reasonable compensation from the state

(4) The powers granted to the Governor by ORS 401 065 to 401 085 shall continue until termination of the state of emergency The powers granted to the Governor by ORS 401 074 may continue beyond the termination of the state of emergency and shall be terminated by proclamation of the Governor or by joint resolution of the Legislative Assembly [1983 c 586 §8]

401 100 [Repealed by 1983 c 586 §49]

401.105 Termination of state of emergency. (1) The Governor shall terminate the state of emergency by proclamation when the emergency no longer exists, or when the threat of an emergency has passed

(2) The state of emergency proclaimed by the Governor may be terminated at any time by joint resolution of the Legislative Assembly [1983 c 586 §9]

401 110 [Amended by 1975 c 379 §12, repealed by 1983 c 586 §49]

401.115 Additional powers during emergency. During the existence of an emergency, the Governor may

(1) Assume complete control of all emergency operations in the area specified in a proclamation of a state of emergency issued under ORS 401 055, direct all rescue and salvage work and do all things deemed advisable and necessary to alleviate the immediate conditions

(2) Assume control of all police and law enforcement activities in such area, including the activities of all local police and peace officers

(3) Close all roads and highways in such area to traffic or by order of the Governor limit the travel on such roads to such extent as the Governor deems necessary and expedient

(4) Designate persons to coordinate the work of public and private relief agencies operating in such area and exclude from such area any person or agency refusing to cooperate with and work under such coordinator or to cooperate with other agencies engaged in emergency work

(5) Require the aid and assistance of any state or other public or quasi-public agencies in the performance of duties and work attendant upon the emergency conditions in such area [Formerly 401 530]

401 120 [Repealed by 1983 c 586 §49]

401.125 Authority concerning federal financial assistance to political subdivision. Whenever, at the request of the Governor, the President of the United States has declared a major disaster to exist in this state, the Governor is authorized

(1) Upon determination that a political subdivision of the state will suffer a substantial loss of tax and other revenues from a major disaster and has demonstrated a need for financial assistance to perform its governmental functions, to apply to the Federal Government, on behalf of the political subdivision, for a loan, and to receive and disburse the proceeds of any approved loan to any applicant political subdivision

(2) To determine the amount needed to restore or resume its governmental functions, and to certify the same to the Federal Government, provided, however, that no application amount shall exceed 25 percent of the annual operating budget of the applicant political subdivision for the fiscal year in which the major disaster occurs

(3) To recommend to the Federal Government, based upon the review of the Governor, the cancellation of all or any part of repayment when, in the first three full fiscal year period following the major disaster, the revenues of the political subdivision are insufficient to meet its operating expenses, including additional disaster-related expenses of a municipal operation character [Formerly 401 630]

401 130 [Repealed by 1983 c 586 §49]

401.135 Authority concerning federal financial assistance to individuals or families. Whenever the President of the United States, at the request of the Governor, with the concurrence of the Emergency Board or Joint Ways and Means Committee of the Legislative Assembly, has declared a major disaster to exist in this state, the Governor is authorized

(1) Upon determination that financial assistance is essential to meet disaster-related necessary expenses or serious needs of individuals or families adversely affected by a major disaster that cannot be otherwise adequately met from other means of assistance, to accept a grant by the Federal Government to fund such financial assistance, subject to such terms and conditions as may be imposed upon the grant

(2) To enter into an agreement with the Federal Government, or any officer or agency thereof, pledging the state to participate in the funding of the assistance authorized in subsection (1) of this section in an amount not to exceed 25 percent thereof

(3) To make financial grants to meet disaster-related necessary expenses or serious needs of individuals or families adversely affected by a major disaster which cannot otherwise adequately be met from other means of assistance, which shall not exceed \$5,000 in the aggregate to an individual or family in any single major disaster declared by the President [Formerly 401 640]

401 140 [Repealed by 1983 c 586 §49]

401.145 Authority over removal of disaster debris or wreckage; unconditional authorization of community; liability for injury or damage. (1) Whenever the Governor has declared a disaster emergency to exist under the laws of this state, or the President of the United States, at the request of the Governor, has declared a major disaster or emergency to exist in this state, the Governor is authorized

(a) Through the use of state departments or agencies, or the use of any of the state's instrumentalities, to clear or remove from publicly or privately owned land or water, debris and wreckage which may threaten public health or safety, or public or private property

(b) To accept funds from the Federal Government and utilize such funds to make grants to any political subdivision for the purpose of removing debris or wreckage from publicly or privately owned land or water

(2) Authority under subsection (1) of this section shall not be exercised unless the affected political subdivision, corporation, organization, or individual shall first present an unconditional authorization for removal of such debris or wreckage from public and private property and, in the case of removal of debris or wreckage from private property, shall first agree to indemnify the state government against any claim arising from such removal

(3) Whenever the Governor provides for clearance of debris or wreckage pursuant to subsections (1) and (2) of this section, employes of the designated state agencies or individuals appointed by the Governor are authorized to enter upon private lands or waters and perform any tasks necessary to the removal or clearance operation

(4) Except in cases of wilful misconduct, gross negligence or bad faith, any state employe or individual appointed by the Governor authorized to perform duties necessary to the removal of debris or wreckage shall not be liable for death of or injury to persons or damage to property [Formerly 401 650]

401 150 [Repealed by 1983 c 586 §49]

401.155 Rules to carry out ORS 401.125 to 401.145 and 401.335 The Governor is authorized to make rules and regulations as are necessary to carry out the purposes of ORS 401 125 to 401 145 and 401 335 [Formerly 401 660]

401 160 [Amended by 1953 c 6 §4, 1955 c 451 §1, repealed by 1983 c 586 §49]

401 170 [Amended by 1963 c 179 §1, 1971 c 766 §1, repealed by 1983 c 586 §49]

401 180 [Repealed by 1983 c 586 §49]

401 190 [Amended by 1963 c 528 §5, repealed by 1983 c 586 §49]

401 195 [1981 c 763 §2, repealed by 1983 c 586 §49]

401 200 [1981 c 763 §3, 1983 c 586 §27, renumbered 401 355]

401 205 [1981 c 763 §4, 1983 c 586 §28, renumbered 401 365]

401 210 [Formerly 401 820, 1983 c 586 §29 renumbered 401 375]

401 215 [Formerly 401 830, 1983 c 586 §30, renumbered 401 385]

401 220 [1981 c 763 §5, 1983 c 586 §31, renumbered 401 395]

401 225 [1981 c 763 §6, 1983 c 586 §32, renumbered 401 405]

401 230 [1981 c 763 §7, 1983 c 586 §33 renumbered 401 415]

401 235 [1981 c 763 §8, 1983 c 586 §34 renumbered 401 425]

401 240 [1981 c 763 §9, 1983 c 586 §35, renumbered 401 435]

401 245 [1981 c 763 §10, 1983 c 586 §36, renumbered 401 445]

401 250 [1981 c 763 §11, 1983 c 586 §37 renumbered 401 455]

401 255 [1981 c 763 §12, 1983 c 586 §38, renumbered 401 465]

(Emergency Management Division)

401.260 Emergency Management Division; administrator; employes. (1) The Emergency Management Division that has operated under this chapter is continued and is made the emergency management agency for the state of Oregon. The division shall be under the supervision of an administrator appointed by the Director of the Executive Department with the approval of the Governor. The appointee shall serve at the pleasure of the director, shall not be subject to the State Personnel Relations Law and shall be qualified by training or experience in emergency services

(2) The Director of the Executive Department, with the approval of the Governor, may

employ, subject to the applicable provisions of the State Personnel Relations Law, such personnel as are necessary to carry out the purposes of ORS 401 015 to 401 105, 401 260 to 401 325 and 401 355 to 401 580, and shall fix their compensation in accordance with the compensation plan for classified employes and make expenditures within the appropriation therefor or from other funds made available to the division for purposes of emergency program management [1983 c 586 §10]

401.270 Duties of administrator. The administrator shall be responsible for emergency program management planning and for coordinating the state emergency services system, and shall, with the approval of the Director of the Executive Department or as directed by the Governor

(1) Make rules that are necessary and proper for the administration of ORS 401 015 to 401 105, 401 260 to 401 325 and 401 355 to 401 580,

(2) Coordinate the activities of all public and private organizations providing emergency services within this state,

(3) Maintain liaison and cooperate with emergency management agencies and organizations of local governments, other states and the Federal Government,

(4) Have such additional authority, duties and responsibilities authorized by ORS 401 015 to 401 105, 401 260 to 401 325 and 401 355 to 401 580 or as may be directed by the Governor,

(5) Administer grants relating to emergency program management and emergency services for the state, and

(6) Provide for and staff a State Emergency Operations Center to aid the Governor and the division in the performance of duties under ORS 401 015 to 401 105, 401 260 to 401 325 and 401 355 to 401 580 [1983 c 586 §11]

401.280 Federal grants for emergency management and services; authority of division. (1) The division is designated as the sole agency of the State of Oregon for the purpose of negotiating agreements with the Federal Emergency Management Agency or other appropriate federal agency, on behalf of the state, for the acquisition of federal grants-in-aid for the purpose of providing emergency program management and emergency services

(2) The division is authorized to accept and receive on behalf of the state, counties and cities federal grants-in-aid for purpose of emergency program management and emergency services, to deposit such funds in the Emergency Manage-

ment Revolving Account and to authorize the disbursement and distribution of these funds in accordance with the applicable agreement [1983 c 586 §22]

(Powers of Local Governments)

401.305 Emergency management agency of city or county; emergency program manager. Each county of this state shall, and each city may, establish an emergency management agency which shall be directly responsible to the executive officer or governing body of the county or city. The executive officer or governing body of each county and any city which participates shall appoint an emergency program manager who shall have responsibility for the organization, administration and operation of such agency, subject to the direction and control of the county or city. Each emergency management agency shall perform emergency program management functions within the territorial limits of the county or city and may perform such functions outside the territorial limits as required under any mutual aid agreement or as authorized by the county or city [1983 c 586 §12]

401.310 [Amended by 1953 c 394 §10, 1969 c 80 §12, repealed by 1983 c 586 §49]

401.315 City or county authorized to incur obligations for emergency services. In carrying out the provisions of ORS 401.015 to 401.105, 401.260 to 401.325 and 401.355 to 401.580, counties or cities may enter into contracts and incur obligations necessary to mitigate, prepare for, respond to or recover from emergencies or major disaster [1983 c 586 §13]

401.320 [Amended by 1953 c 394 §10, repealed by 1983 c 586 §49]

401.325 Emergency management agency appropriation; tax levy. (1) Each county and city may make appropriations, in the manner provided by law for making appropriations for the expenses of the county or city, for the payment of expenses of its emergency management agency and may levy taxes upon the taxable property within the county or city

(2) An appropriation made under subsection (1) of this section shall be budgeted so that it is possible to identify it as a distinguishable expense category [1983 c 586 §14]

401.330 [Amended by 1953 c 394 §10, repealed by 1983 c 586 §49]

401.335 Temporary housing for disaster victims; political subdivision's authority. Any political subdivision of this state is expressly authorized to acquire, temporarily or

permanently, by purchase, lease, or otherwise, sites required for installation of temporary housing units for disaster victims, and to enter into arrangements necessary to prepare or equip such sites to utilize the housing units [Formerly 401.620]

401.340 [Amended by 1953 c 394 §10, repealed by 1983 c 586 §49]

401.350 [Amended by 1953 c 394 §10, repealed by 1983 c 586 §49]

(Emergency Service Workers)

401.355 Eligibility of emergency service worker for benefits for injury sustained in emergency service. (1) An emergency service worker may apply for and may receive benefits as provided in ORS 401.355 to 401.465 for injury sustained in emergency service performed within or without the state

(a) Where the injury is proximately caused by or in the course of emergency service, with or without negligence of the emergency service worker

(b) Where the injury is not caused by the voluntary intoxication of the emergency service worker

(c) Where the injury is not intentionally self-inflicted

(2) No emergency service worker or beneficiary is eligible for benefits under ORS 401.355 to 401.465

(a) If the emergency service worker is entitled to receive benefits under the workers' compensation laws of this state or similar statutes in other states or under any disability, retirement or liability insurance program of the worker's regular employer who has contributed to the cost thereof, or under any federal or local program for compensation of injuries of public employes, in those cases where the injury is compensable because it arose out of and in the course of emergency service duties performed as part of the regular employment of the emergency service worker

(b) If the emergency service worker is a member of a federal emergency management or emergency service agency or an emergency management or emergency service agency of another state or foreign nation who is performing emergency services in this state [Formerly 401.200]

401.360 [Amended by 1953 c 394 §10, repealed by 1983 c 586 §49]

401.365 Registration and qualification of emergency management agencies. All state and local emergency management agencies may register and qualify to come within the

provisions of ORS 401 355 to 401 465 [Formerly 401 205]

401 370 [Amended by 1953 c 394 §10, repealed by 1983 c 586 §49]

401 375 "Emergency service" defined; service not in violation of child labor laws. Emergency service shall not be deemed employment in violation of any laws of this state relating to labor by minors "Emergency service" includes all activities authorized and carried on pursuant to ORS 401 015 to 401 105, 401 260 to 401 325 and 401 355 to 401 580, including such training as is necessary and proper to engage in such activities [Formerly 401 210]

401 380 [1953 c 394 §8, 1959 c 403 §1, 1983 c 586 §39, renumbered 401 535]

401.385 Record of enrollment of emergency service workers. Each emergency program manager of an emergency management agency shall maintain a record of enrollment of emergency service workers who are personnel of the agency Each record shall contain the name and address of the worker, the name of the employer of the worker, date of enrollment and authorized classification of assignment to duty, including the times of assigned duty, as well as changes in enrollment The record forms shall be supplied by the Emergency Management Division of the Executive Department Records of membership in the Oregon National Guard Reserve shall be maintained by the Military Department of the State of Oregon [Formerly 401 215]

401.395 Benefits for injury sustained in emergency service. If an emergency service worker sustains an injury, benefits shall be paid in the same manner as provided for injured workers under the workers' compensation laws of this state, except that

(1) If the injury results in temporary partial disability, no benefits shall accrue to the injured emergency service worker on account of loss of wages due to such disability

(2) Costs of rehabilitation services to disabled emergency service workers shall be paid from funds specifically appropriated therefor in an amount approved by the Executive Department, Emergency Management Division, which shall be the reasonable and necessary cost of such services, including services of a physician or rehabilitation facility specially qualified to render rehabilitation services Expenses of rehabilitation may include travel, board and room, when necessary

(3) The maximum amount payable for medical, surgical or hospital expenses, compensation

and rehabilitation on any one claim shall not exceed \$20,000 [Formerly 401 220]

401.405 Benefits not assignable; exempt from execution, attachment and garnishment. No benefits payable under ORS 401 355 to 401 465 are subject to assignment prior to their receipt by the person entitled thereto, nor shall they pass by operation of law These benefits and the right to receive them are also exempt from seizure on execution, attachment or garnishment, or by the process of any court [Formerly 401 225]

401 410 [1967 c 480 §1, repealed by 1983 c 586 §49]

401.415 Benefits as exclusive remedy. The filing of claims for benefits under ORS 401 355 to 401 465 is the exclusive remedy of an emergency service worker or beneficiary for injuries compensable under ORS 401 355 to 401 465 against the state or its political subdivision or any emergency management agency or other person acting under governmental authority in furtherance of emergency service activities, regardless of negligence [Formerly 401 230]

401 420 [1967 c 480 §2, repealed by 1983 c 586 §49]

401.425 Claims for benefits. (1) Claims for benefits under ORS 401 355 to 401 465 shall be filed by application with the Executive Department, Emergency Management Division in the manner provided by rules of the department

(2) The right to benefits under ORS 401 355 to 401 465 shall be barred unless written claim is filed with the division within 90 days after the injury, or, if death results therefrom, within 90 days after death However, if death occurs more than one year after the injury, the right shall be barred unless prior written claim based on the injury has been timely filed The requirements of this subsection may be waived by the division on the ground that, for good and sufficient reason, claim could not be filed on time [Formerly 401 235]

401 430 [1967 c 480 §3, repealed by 1983 c 586 §49]

401.435 Appeal. Any question of law or fact may be appealed to the circuit court of the county where the injury occurred within 30 days from the date of mailing of the final decision by the Executive Department, Emergency Management Division, if the emergency service worker is dissatisfied with the final decision [Formerly 401 240]

401 440 [1967 c 480 §4 repealed by 1983 c 586 §49]

401.445 Allocation of necessary funds. If funds are not available to the Executive Department, Emergency Management Division, to pay claims approved under ORS 401 355 to

401 465, the Executive Department shall request allocation of necessary funds from the Emergency Board if the unavailability occurs during the interim between sessions of the Legislative Assembly. If the unavailability occurs during a session, the Executive Department shall request the Joint Committee on Ways and Means to submit legislation necessary to provide such funds [Formerly 401 245]

401 450 [1967 c 480 §5, repealed by 1983 c 586 §49]

401.455 Benefits limited by availability of funds; priority among claimants. Liability of the State of Oregon or any agency thereof for the payment of benefits under ORS 401 355 to 401 465 is contingent upon and limited by the availability of funds. In the event that funds are not sufficient to meet the benefit claims for a given period, priority among claimants shall be determined according to the time of filing of the claim [Formerly 401 250]

401 460 [1967 c 480 §6, repealed by 1983 c 586 §49]

401.465 Obtaining public or private insurance with available funds. Funds available for purposes of ORS 401 355 to 401 465 may be used to effect insurance or reinsurance with any authority or instrumentality, public or private, or otherwise to distribute the liability for compensation payable to civil defense volunteers [Formerly 401 255]

401 470 [1967 c 480 §7, repealed by 1983 c 586 §49]

(Miscellaneous)

401 480 Cooperative assistance agreements. The state, counties and cities may, in collaboration with public and private agencies, enter into cooperative assistance agreements for reciprocal emergency aid and resources [1983 c 586 §15]

401.490 Mutual use of supplies and services. In carrying out the provisions of ORS 401 015 to 401 105, 401 260 to 401 325 and 401 355 to 401 580, the Governor and the executive officers or governing bodies of the counties and cities may request and utilize the services, equipment, supplies and facilities of existing departments, offices and agencies of the state and of local governments. The officers and personnel of all local government departments, offices and agencies may cooperate with, and extend such services and facilities to the Governor, to the division and to emergency management agencies and emergency service agencies upon request [1983 c 586 §16]

401.500 Reimbursement by state for services provided by local government

employees. The state shall reimburse a local government for the compensation paid and the actual and necessary travel, subsistence and maintenance expenses of employees of the local government while actually serving at the direction of the Governor or the administrator in a state function or capacity [1983 c 586 §17]

401.505 Acceptance of aid for emergency services. Whenever any organization, agency, person, firm, corporation or officer thereof offers to the state or to any county or city, services, equipment, supplies, material or funds by way of gift, grant or loan for purposes of emergency program management or emergency services, the state, acting through the Governor, or the county or city, acting through its executive officer or governing body, may accept the offer. Upon acceptance, the Governor or executive officer or governing body of a county or city, as the case may be, may authorize any officer thereof to receive the services, equipment, supplies, materials or funds on behalf of the state, county or city, subject to the terms of the offer and any rules of the agency making the offer [1983 c 586 §19]

401 510 [Repealed by 1983 c 586 §49]

401.515 Nonliability for emergency services; exception. (1) During the existence of an emergency, the state and any local government, any agent thereof or emergency service worker engaged in any emergency services activity, while complying with or attempting to comply with ORS 401 015 to 401 105, 401 260 to 401 325 and 401 355 to 401 580 or any rule promulgated under those sections, shall not, except in cases of wilful misconduct, gross negligence or bad faith, be liable for the death or injury of any person, or damage or loss of property, as a result of that activity

(2) There shall be no liability on the part of a person who owns or maintains any building or premises which has been designated by any emergency management agency or emergency service agency or any public body or officer of this state or the United States as a fallout shelter or a shelter from destructive operations or attacks by enemies of the United States for the death of or injury to any individual or damage to or loss of property while in or upon the building or premises as a result of the condition of the building or premises or as a result of any act or omission, except wilful misconduct, gross negligence or bad faith of such person or the servants, agents or employes of the person when the dead or injured individual entered or went on or into the building or premises for the purpose of seeking refuge

therein during or in anticipation of destructive operations or attacks by enemies of the United States or during tests ordered by lawful authority

(3) The provisions of ORS 401 015 to 401 105, 401 260 to 401 325 and 401 355 to 401 580 shall not affect the right of any person to receive benefits or compensation to which the person would otherwise be entitled under ORS 401 015 to 401 105, 401 260 to 401 325 and 401 355 to 401 580, under ORS chapter 656, under any pension or retirement law or under any act of Congress

(4) Emergency service workers, in carrying out, complying with or attempting to comply with any order or rule issued under ORS 401 015 to 401 105, 401 260 to 401 325 and 401 355 to 401 580 or any local ordinance, or performing any of their authorized functions or duties or training for the performance of their authorized functions or duties, shall have the same degree of responsibility for their actions and enjoy the same immunities as officers and employes of the state and its local governments performing similar work

(5) Nothing in this section shall excuse any governmental agency from liability for intentional confiscation or intentional destruction of private property

(6) There shall be no liability incurred by any person who complies with an order of the Governor under ORS 401 015 to 401 105, 401 260 to 401 325 and 401 355 to 401 580 for damages resulting from compliance [1983 c 586 §20]

401 520 [Repealed by 1983 c 586 §49]

401.525 Use of moneys and property for emergency services authorized. (1) The expenditure of necessary money and use of state property by any agency in performing duties in an emergency is authorized. Moneys so expended shall be deemed an administrative expense of the agency

(2) If the Governor finds that funds regularly appropriated to state and local governments are not sufficient to cope with a particular emergency, the Governor may, with the concurrence of the Joint Committee on Ways and Means or the Emergency Board, when the Legislative Assembly is not in session, transfer and expend moneys appropriated for other purposes [1983 c 586 §21]

401 530 [Amended by 1983 c 586 §39a, renumbered 401 115]

401.535 Emergency Management Revolving Account; source; use. There hereby is created in the General Fund in the State Treasury an account to be known as the Emergency Management Revolving Account. All con-

tributions, grants-in-aid or other moneys received or collected by the Emergency Management Division of the Executive Department, and any other funds contributed, granted or appropriated for transfer to the revolving account under authority of law shall be placed in the General Fund and credited to the Emergency Management Revolving Account, which account hereby is appropriated for the purpose of this section. The division may use the revolving account to pay for the purchase of organizational and mobile support equipment and surplus property, for shelter construction, administration and personal services, when the purchase or expense is incurred pursuant to the agency's agreements with the Federal Government, other state agencies or political subdivisions of the state [Formerly 401 380]

401 540 [Repealed by 1983 c 586 §49]

SEARCH AND RESCUE

(Generally)

401.550 Duties of Search and Rescue Coordinator. The administrator shall appoint a Search and Rescue Coordinator to

(1) Coordinate the search and rescue function of the Emergency Management Division,

(2) Coordinate the activities of state and federal agencies involved in search and rescue,

(3) Establish liaison with the Oregon State Sheriffs Association and other public and private organizations and agencies involved in search and rescue,

(4) Provide on-scene search and rescue coordination when requested by an authorized person,

(5) Coordinate and process requests for the use of emergency service workers and equipment,

(6) Assist in developing training and outdoor education programs,

(7) Gather statistics in search and rescue operations, and

(8) Gather and disseminate resource information of personnel, equipment and materials available for search and rescue [1983 c 586 §23]

401.560 Search and rescue activities; responsibilities of sheriff; delegation of sheriff's duties. (1) The sheriff of each county has the responsibility for search and rescue activities within the county. The duty of a sheriff under this subsection may be delegated to a qualified deputy or emergency service worker

(2) If the sheriff does not accept the responsibility for search and rescue activities, the chief

executive of the county shall designate the county emergency program manager to perform the duties and responsibilities required under ORS 401 015 to 401 105, 401 260 to 401 325 and 401 355 to 401 580

(3) The sheriff or authorized person of each county shall notify the division of all search and rescue missions in the county and shall request the assignment of mission numbers therefor

(4) The sheriff or authorized person of each county shall work with the county emergency program manager in coordinating search and rescue activities in the county of the sheriff and in registering emergency service workers [1983 c 586 §25]

401.570 Restriction of access to search and rescue area. The sheriff of each county, the county emergency program manager performing the sheriff's duties under ORS 401 560 or duly assigned military or state police personnel may restrict access to a specific search and rescue area. No unauthorized person shall then enter into a restricted area or interfere with a search and rescue mission. Provision shall be made for reasonable access by members of the media in the performance of newsgathering and reporting. Access shall be restricted for a reasonable period of time necessary to accomplish the search and rescue mission [1983 c 586 §24]

401.573 County sheriff to adopt search and rescue plan; contents; annual review.

(1) The sheriff of each county shall adopt a search and rescue plan for the county. The search and rescue plan shall set forth search and rescue policies for the county and shall describe procedures for implementing those policies. A county search and rescue plan shall list and describe materials, equipment and personnel available within the county for search and rescue missions. The plan shall also include

(a) A detailed description of activities and circumstances that constitute search and rescue in the county

(b) Identification of volunteer organizations available to the county for use in search and rescue missions

(c) Procedures for contacting and requesting assistance from volunteer organizations during search and rescue activities

(d) Procedures for contacting and requesting available assistance from other agencies and groups

(e) Minimum standards for individuals whose technical or professional skills may be required for search and rescue missions

(2) A county search and rescue plan adopted under this section shall require a person in charge of a search and rescue mission to complete a mission fact sheet for the mission. The fact sheet shall contain the mission number assigned under ORS 401 580 for the search and rescue mission and such other information required under the search and rescue plan of the county

(3) The sheriff of each county shall review and, if necessary or desirable, revise the search and rescue plan annually. After the initial adoption of a search and rescue plan under this section and after each annual review or revision of the plan, the sheriff shall submit the plan to the Search and Rescue Coordinator appointed under ORS 401 550

(4) The Emergency Management Division, after consultation with the Oregon Sheriffs' Association, may establish guidelines for county search and rescue plans

(5) The Emergency Management Division shall annually publish and distribute to the sheriff of each county a search and rescue resource inventory, which shall include materials, equipment and personnel available from counties, agencies and the State of Oregon for use in search and rescue missions [1985 c 470 §2]

401.576 Critique of search and rescue mission required; filing with Emergency Management Division.

After a search and rescue mission that, in the opinion of the sheriff, is other than routine or upon request for a critique from an individual directly involved in the mission, the sheriff of the county in which the search and rescue mission took place shall conduct a critique of the mission. As part of the critique, the sheriff shall examine the fact sheet for the mission and may receive testimony and information from persons involved in the mission. When a critique of a search and rescue mission is conducted under this section, the sheriff shall prepare findings of fact concerning the mission and may prepare recommendations for the conduct of future missions or propose amendments to the search and rescue plan under which the mission was conducted. If amendments to the search and rescue plan are proposed and adopted, the sheriff shall file the amended search and rescue plan with the Emergency Management Division [1985 c 470 §3]

401.580 Search and rescue mission number. (1) A mission number shall be assigned to each search and rescue mission reported by an authorized person under ORS 401 015 to 401 105, 401 260 to 401 325 and 401 355 to 401 580

(2) The mission number assigned shall be referenced for

(a) The payment of workers' compensation benefits for those persons participating in search and rescue activities, and

(b) The dispatch and request for state, federal and cooperative assistance resources [1983 c 586 §26]

401 600 [1975 c 624 §4, repealed by 1983 c 586 §49]

(Equipment and Signaling Devices)

401.605 Definitions for ORS 30.260, 30.270, 30.480, 30.785, 30.803, 30.807, 30.880 and 401.605 to 401.635. As used in ORS 30 260, 30 270, 30 480, 30 785, 30 803, 30 807, 30 880 and 401 605 to 401 635

(1) "Electronic signaling device" includes, but is not limited to, a system consisting of an instrument which emits a radio signal, designed to be carried on the person, an instrument for locating the source of such signal, designed to be utilized by searchers and such instruments as may be employed for testing and maintaining the same

(2) "Inherent risks of wilderness travel and mountain climbing" includes, but is not limited to, those dangers or conditions, the risk of which is an integral part of these activities, such as becoming lost, incapacitated or for some other reason being unable to return safely without outside assistance "Inherent risks" include the activities associated with search and rescue, due to the unpredictable circumstances under which search and rescue operations are conducted

(3) "Wilderness travel" includes, but is not limited to, travel in areas not served by roads suitable for ordinary motor vehicles, whether or not such areas have been officially designated as wilderness areas [1987 c 915 §1]

Note 401 605 to 401 635 were enacted into law by the Legislative Assembly but were not added to or made a part of ORS chapter 401 or any series therein by legislative action See Preface to Oregon Revised Statutes for further explanation

401 610 [1975 c 624 §5, repealed by 1983 c 586 §49]

401.615 Assumption of risk of wilderness travel or mountain climbing; use and effect of signal devices. (1) In accordance with ORS 18 470 and notwithstanding ORS 18 475 (2), an individual who engages in wilderness travel or mountain climbing accepts and assumes the inherent risks of wilderness travel or mountain climbing

(2) The Legislative Assembly recognizes that the use of electronic signaling devices can aid in locating wilderness travelers or mountain climbers who require search and rescue, but that the use of such devices may be required in unpredict-

able circumstances which may not result in successful function of such devices [1987 c 915 §2]

Note See note under 401 605

401 620 [1975 c 624 §6, renumbered 401 335]

401.625 Required equipment when guiding children above timberline. A person who guides for compensation an organized group that includes children under 18 years of age on any mountain above the timberline must carry an altimeter, a contour map of the area and a compass [1987 c 915 §4]

Note See note under 401 605

401 630 [1975 c 624 §7, renumbered 401 125]

401.635 Electronic signaling devices; rulemaking authority of state police; advisory committee. The Department of State Police by rule shall adopt specifications and distribution procedures applicable to electronic signaling devices described in ORS 30 260, 30 270, 30 480, 30 785, 30 803, 30 807, 30 880 and 401 605 to 401 635 The department may appoint an advisory committee to advise it on the specifications and procedures [1987 c 915 §5]

Note See note under 401 605

401 640 [1975 c 624 §11, renumbered 401 135]

401 650 [1975 c 624 §§8, 9, 10, renumbered 401 145]

401 660 [1975 c 624 §12 1983 c 586 §40, renumbered 401 155]

EMERGENCY TELEPHONE SYSTEMS

401.710 Definitions for ORS 401.710 to 401.790. As used in ORS 307 215 and 401 710 to 401 790, unless the context requires otherwise

(1) "Account" means the Emergency Communications Account

(2) "Division" means the Emergency Management Division of the Executive Department

(3) "Department" means the Department of Revenue

(4) "Exchange access services" means

(a) Telephone exchange access lines or channels which provide local access from the premises of a subscriber in this state to the local telecommunications network to effect the transfer of information, and

(b) Unless a separate tariff rate is charged therefor, any facility or service provided in connection with the services described in paragraph (a) of this subsection

(5) "Public or private safety agency" means any unit of state or local government, a special-

purpose district or a private firm which provides or has authority to provide fire-fighting, police, ambulance or emergency medical services

(6) "Subscriber" means a person who receives telephone exchange access services

(7) "Provider" means a public utility which provides telephone exchange access services

(8) "Local jurisdiction" means a county service district established under ORS chapter 451 to provide an emergency communications system, an emergency communications district created under ORS 401 807 to 401 847 or a group of public or private safety agencies who have agreed in writing to jointly plan an emergency telephone system [1981 c 533 §1, 1987 c 525 §5, 1987 c 671 §15]

Note The amendments to 401 710 by section 125 chapter 447, Oregon Laws 1987, take effect July 1, 1989 See section 143, chapter 447, Oregon Laws 1987 The text is set forth for the user's convenience

401 710 As used in ORS 307 215 and 401 710 to 401 790, unless the context requires otherwise

(1) "Account" means the Emergency Communications Account

(2) "Division" means the Emergency Management Division of the Executive Department

(3) "Department" means the Department of Revenue

(4) "Exchange access services" means

(a) Telephone exchange access lines or channels which provide local access from the premises of a subscriber in this state to the local telecommunications network to effect the transfer of information, and

(b) Unless a separate tariff rate is charged therefor, any facility or service provided in connection with the services described in paragraph (a) of this subsection

(5) "Public or private safety agency" means any unit of state or local government a special-purpose district or a private firm which provides or has authority to provide fire-fighting, police, ambulance or emergency medical services

(6) "Subscriber" means a person who receives telephone exchange access services

(7) "Provider" means a telecommunications utility which provides telephone exchange access services

(8) "Local jurisdiction" means a county service district established under ORS chapter 451 to provide an emergency communications system, an emergency communications district created under ORS 401 807 to 401 847 or a group of public or private safety agencies who have agreed in writing to jointly plan an emergency telephone system

401.720 Emergency telephone systems mandatory; requirements; "911" as primary emergency number; alternate numbers required. (1) The primary emergency telephone number within the state shall be 911, but a public or private safety agency shall maintain both a separate seven-digit secondary emergency number for use by the telephone company

operator and a separate seven-digit non-emergency number

(2) Every public and private safety agency in this state shall establish or participate in an emergency telephone system before January 1, 1991

(3) No emergency telephone number other than 911 shall be published on the emergency listing page of a telephone book for any local jurisdiction where a 911 emergency telephone system has been adopted

(4) The emergency telephone system shall include at a minimum

(a) A 24-hour communications facility automatically accessible anywhere in the local jurisdiction service area by dialing 911,

(b) Central dispatch of public and private safety services in the 911 service area or relay or transfer of 911 calls to an appropriate public or private safety agency, and

(c) Two 911 circuits from each telephone company central office to each 24-hour communications facility for fire-fighting, police, ambulance and emergency medical services [1981 c 533 §2]

401.730 Emergency Management Division duties and powers. (1) The Emergency Management Division shall

(a) Adopt rules in accordance with ORS 183 310 to 183 550 relating to the planning and administration of emergency telephone systems established pursuant to ORS 401 720

(b) Upon request of a local jurisdiction, assist in planning an emergency telephone system

(c) Report biennially to the Legislative Assembly the progress made in implementing ORS 307 215 and 401 710 to 401 790

(2) Notwithstanding subsection (1) of this section, the division shall not require by rule or otherwise that a proposed or established emergency telephone system of a local jurisdiction meet any technical standards in addition to those provided in ORS 401 720 [1981 c 533 §3]

401.740 Submission of preliminary plans by local jurisdictions; review; cost estimates. (1) A local jurisdiction shall submit a preliminary plan to establish an emergency telephone system in accordance with ORS 401 720 by January 1, 1987, to

(a) The Emergency Management Division,

(b) Public and private safety agencies in the local jurisdiction, and

(c) Public utilities which provide telephone service in the local jurisdiction service area

(2) The division shall review the preliminary plan for compliance with ORS 401 720 and rules adopted pursuant to ORS 401 730 and report its approval or disapproval to the local jurisdiction within 90 days of receipt of the plan

(3) A public utility which provides telephone service in the local jurisdiction service area shall provide the local jurisdiction within 90 days of receipt of the plan with a good faith estimate of the cost to the local jurisdiction of implementing the plan [1981 c 533 §4]

401.750 Submission of final plans; exception; approval of plans. (1) A local jurisdiction shall submit a proposed final plan to establish an emergency telephone system pursuant to ORS 401 720 by July 1, 1988, to

(a) The Emergency Management Division,

(b) Public and private safety agencies in the local jurisdiction, and

(c) Public utilities which provide telephone service in the local jurisdiction service area

(2) In addition to other matters required by ORS 401 720 or rules adopted pursuant to ORS 401 730, the final plan shall include a description of all capital and recurring costs for the proposed emergency telephone system

(3) The division shall determine whether the final plan complies with ORS 401 720 and rules adopted pursuant to ORS 401 730. If the division determines that the plan complies, it shall approve the plan. If the division determines that the plan does not comply, it shall disapprove the plan

(4) The division shall approve or disapprove the final plan of the local jurisdiction and inform the local jurisdiction of its decision within 180 days of receipt of the plan by the division

(5) Neither preliminary nor final plans shall be required of local jurisdictions which have 911 emergency telephone number systems which are operational on or before December 31, 1981. A description of the system shall be filed with the division in the manner prescribed by the division [1981 c 533 §5]

Note The amendments to 401 750 by section 127, chapter 447, Oregon Laws 1987, take effect July 1, 1989. See section 143, chapter 447, Oregon Laws 1987. The text is set forth for the user's convenience

401 750 (1) A local jurisdiction shall submit a proposed final plan to establish an emergency telephone system pursuant to ORS 401 720 by July 1, 1988, to

(a) The Emergency Management Division,

(b) Public and private safety agencies in the local jurisdiction, and

(c) Telecommunications utilities which provide telephone service in the local jurisdiction service area

(2) In addition to other matters required by ORS 401 720 or rules adopted pursuant to ORS 401 730, the final plan shall include a description of all capital and recurring costs for the proposed emergency telephone system

(3) The division shall determine whether the final plan complies with ORS 401 720 and rules adopted pursuant to ORS 401 730. If the division determines that the plan complies, it shall approve the plan. If the division determines that the plan does not comply, it shall disapprove the plan

(4) The division shall approve or disapprove the final plan of the local jurisdiction and inform the local jurisdiction of its decision within 180 days of receipt of the plan by the division

(5) Neither preliminary nor final plans shall be required of local jurisdictions which have 911 emergency telephone number systems which are operational on or before December 31, 1981. A description of the system shall be filed with the division in the manner prescribed by the division

401.760 Requirement for approval of final plan; division to compel compliance.

(1) The division shall not approve the preliminary or final plan of a local jurisdiction unless the plan is accompanied by written approval of the governing bodies of all public and private safety agencies included in the local jurisdiction

(2) Notwithstanding subsection (1) of this section, if the division determines that a public or private safety agency has not established or agreed to participate in an emergency telephone system pursuant to ORS 401 720 by January 1, 1991, the division may take action as provided under ORS 401 790 to compel compliance with ORS 401 720 [1981 c 533 §6]

401.770 Pay phones to be converted to allow emergency calls without charge. Any person, partnership, corporation, company or association which provides telephone service through a coin or credit card operated pay station telephone in an area served by an emergency telephone system established pursuant to ORS 401 720 shall convert every coin or credit pay station telephone to permit dialing 911 and the telephone company operator without depositing a coin or other charge to the caller. Conversion shall be completed at or before the time the emergency telephone system is operational [1981 c 533 §7, 1985 c 633 §6]

401.780 Agreements among safety agencies for rendering emergency services. Public or private safety agencies which share common boundaries may enter into agreements which provide that an emergency unit dispatched by an emergency telephone system

established pursuant to ORS 401 720 shall render emergency services without regard to jurisdictional boundaries [1981 c 533 §8]

401 790 Division to assure compliance; proceedings authorized. (1) The Emergency Management Division may institute proceedings against a public or private safety agency, a local jurisdiction or other person to compel compliance with or to restrain further violation of ORS 307 215 and 401 710 to 401 790 or rules adopted pursuant to ORS 401 730

(2) Proceedings authorized by subsection (1) of this section may be instituted without division notice, hearing or order provided in ORS 183 310 to 183 550, provided, however, that proceedings brought against a public utility shall be brought before the Public Utility Commissioner as provided by ORS chapter 756 [1981 c 533 §9]

Note The amendments to 401 790 by section 128, chapter 447 Oregon Laws 1987, take effect July 1, 1989 See section 143 chapter 447 Oregon Laws 1987 The text is set forth for the user's convenience

401 790 (1) The Emergency Management Division may institute proceedings against a public or private safety agency a local jurisdiction or other person to compel compliance with or to restrain further violation of ORS 307 215 and 401 710 to 401 790 or rules adopted pursuant to ORS 401 730

(2) Proceedings authorized by subsection (1) of this section may be instituted without division notice hearing or order provided in ORS 183 310 to 183 550, provided, however, that proceedings brought against a telecommunications utility shall be brought before the Public Utility Commission as provided by ORS chapter 756

Note Sections 10 to 20 of chapter 533, Oregon Laws 1981, as amended by chapter 16 Oregon Laws 1982 (first special session) and section 1, chapter 218, Oregon Laws 1987 provide

Sec 10 (1) There is imposed on the amount charged for exchange access services a tax equal to three percent of the amount charged

(2) The subscriber paying for exchange access services shall be liable for the tax imposed by this section

(3) The amounts of tax collected by the provider shall be considered as payment by the subscriber for that amount of tax

(4) Any return made by the provider collecting the tax shall be accepted by the Department of Revenue as evidence of payments by the subscriber of amounts of tax so indicated upon the return

(5) This section shall apply to taxable years beginning on or after January 1 1982 but before January 1 1992 [1981 c 533 §10]

Sec 11 The tax imposed by section 10 of this Act does not apply to

(1) Services which the state is prohibited from taxing under the Constitution or laws of the United States or the Constitution or laws of the State of Oregon

(2) Amounts paid by depositing coins in a public telephone [1981 c 533 §11]

Sec 12 Every provider responsible for the collection of the tax imposed by sections 10 to 16 of this Act shall keep records, render statements, make returns and comply with rules adopted by the Department of Revenue with respect to the tax Whenever in the judgment of the department it is necessary, the department may require the provider or subscriber, by notice served upon that person by first-class mail, to make returns, render statements or keep records sufficient to show whether there is tax liability under sections 10 to 16 of this Act [1981 c 533 §12]

Sec 13 (1) The provider is responsible for collecting the tax under section 10 of this Act and shall file a return with the department on or before the last day of the month following the end of each calendar quarter, reporting the amount of tax due on exchange access services during the quarter The department shall prescribe the form of the return required by this section and section 12 of this Act The rules of the department shall require that returns be made under penalties for false swearing

(2) When a return of the tax is required under section 12 of this Act or subsection (1) of this section, the provider required to make the return shall pay the tax due to the department at the time fixed for filing the return

(3) A provider described in subsection (1) of this section may elect to pay the tax based on either of the following

(a) The amount actually collected as payment for exchange access services during the quarter, or

(b) The net amount billed for exchange access services during the quarter The net amount billed for exchange access services equals the gross amount billed for such services less adjustments for uncollectible accounts, refunds, incorrect billings and other appropriate adjustments

(4) Once a provider has made an election under subsection (3) of this section, the provider may not change the method of payment and reporting unless the provider first obtains the permission of the department [1981 c 533 §13]

Sec 14 (1) If the amount paid by the provider to the department under section 13, chapter 533, Oregon Laws 1981, exceeds the amount of tax payable, the department shall refund the amount of the excess with interest thereon at the rate established under section 2 of this 1982 Act [305 220] for each month or fraction of a month from the date of payment of the excess until the date of the refund No refund shall be made to a provider who fails to claim the refund within two years after the due date for filing of the return with respect to which the claim for refund relates

(2) If a subscriber's billing for telephone services is adjusted by the provider, the provider shall also make appropriate adjustments to the amount of the subscriber's tax liability under section 10, chapter 533, Oregon Laws 1981 However, a subscriber's exclusive remedy in a dispute involving such tax liability shall be to file a claim with the department [1981 c 533 §14 1982 ss c 16 §22]

Sec 15 (1) Every provider required to collect the tax imposed by sections 10 to 16 of this Act shall be deemed to hold the same in trust for the State of Oregon and for the payment thereof to the department in the manner and at the time provided by section 13 of this Act

(2) At any time the provider required to collect the tax fails to remit any amount deemed to be held in trust for the State of Oregon or if the subscriber fails to pay the tax, the department may enforce collection by the issuance of a distraint warrant for the collection of the delinquent amount and all penalties, interest and collection charges accrued thereon. Such warrant shall be issued, docketed and proceeded upon in the same manner and shall have the same force and effect as is prescribed with respect to warrants for the collection of delinquent income taxes [1981 c 533 §15]

Sec 16 Unless the context requires otherwise, the provisions of ORS chapters 305, 314 and 316 as to the audit and examination of reports and returns, determination of deficiencies, assessments, claims for refunds, penalties, interest, jeopardy assessments, warrants, conferences, appeals to the Director of the Department of Revenue and appeals to the Oregon Tax Court, and procedures relating thereto, shall apply to sections 10 to 16 of this Act the same as if the tax were a tax imposed upon or measured by net income. All such provisions apply to the subscriber liable for the tax and to the provider required to collect the tax. As to any amount collected and required to be remitted to the department, the tax shall be considered a tax upon the provider required to collect the tax and that provider shall be considered a taxpayer [1981 c 533 §16]

Sec 17 The Emergency Communications Account is established in the General Fund in the State Treasury. All moneys received by the Department of Revenue pursuant to sections 10 to 16 of this Act and interest thereon shall be paid to the State Treasurer to be held in a suspense account established under ORS 293 445. After payment of refunds, the balance of the moneys received shall be paid into the State Treasury and credited to the Emergency Communications Account. All moneys in the account are appropriated continuously to the Emergency Management Division and shall be used for the purposes described in section 18 of this Act [1981 c 533 §17]

Sec 18 The Emergency Management Division shall distribute quarterly the entire amount of the moneys in the Emergency Communications Account beginning in June 1982. The division shall pay the following amounts from the account:

(1) Administrative costs incurred during the preceding calendar quarter by the Department of Revenue in carrying out sections 10 to 16, chapter 533, Oregon Laws 1981. The amount paid to the department shall not exceed one percent of the amount in the account on the date of distribution, or actual expenses incurred by the department, whichever is less.

(2) Administrative costs incurred during the preceding calendar quarter by the Emergency Management Division in carrying out its duties under chapter 533, Oregon Laws 1981. The amount paid to the division shall not exceed three percent of the amount in the account on the date of distribution, or actual expenses incurred by the division, whichever is less.

(3) Costs incurred during the preceding calendar quarter by each public utility which provides telephone service in areas served or to be served by an emergency telephone system established pursuant to section 2, chapter 533, Oregon Laws 1981. Such payments may be made after application by the public utility to the Public Utility Commission for items in

paragraphs (a) and (b) of this subsection and to the division for items in paragraph (c) of this subsection. The commission shall audit all such applications applicable to paragraphs (a) and (b) of this subsection for appropriateness of costs claimed by the public utility and shall forward the results of such audits to the Emergency Management Division. The costs payable under this section are only those incurred for:

(a) Modification of central office switching and trunking equipment for emergency telephone service,

(b) Conversion of pay station telephones required by section 7, chapter 533, Oregon Laws 1981, and

(c) Collection of the tax imposed by sections 10 to 16, chapter 533, Oregon Laws 1981.

(4) After all amounts under subsections (1) to (3) of this section have been paid, the balance of the account to cities on a per capita basis and to counties on a per capita basis of each county's unincorporated area, for distribution to local jurisdictions within the city or county, but each county shall receive a minimum of three-fifths of one percent of the balance of the account after the amounts under subsections (1) to (3) of this section have been paid. A local jurisdiction whose 911 service area includes more than one city or county shall be eligible to receive funds from each city or county involved. No local jurisdiction shall be eligible to receive operating funds until the jurisdiction has submitted a letter of intent signed by the affected public and private safety agencies in the area of jurisdiction. The letter of intent to participate shall be filed with the division and shall include an estimate for planning, installation, operation and improvement of the emergency telephone system. The local jurisdiction shall submit an annual revised estimate of the financial items outlined in the letter of intent until such time as the final plan for the jurisdiction has been approved by the division [1981 c 533 §18, 1987 c 218 §1]

Sec 19 The division may prepare a proposed final plan for a local jurisdiction which fails to file a proposed final plan by July 1, 1988. Costs incurred by the division shall be paid from funds which would otherwise have been available to the local jurisdiction under section 18 of this Act [1981 c 533 §19]

Sec 20 (1) Except as provided in subsection (2) of this section, moneys received under subsection (4) of section 18 of this Act may be used only to pay for planning, installation, operation and improvement of an emergency telephone system.

(2) Moneys not then being used may be invested by a city or county. The income from the investments shall be used for the purposes described in subsection (1) of this section [1981 c 533 §20]

401 805 [1955 c 679 §1, 1967 c 595 §5, 1969 c 247 §3, 1975 c 379 §13, repealed by 1980 s s c 19 §6]

EMERGENCY COMMUNICATIONS DISTRICTS

401.807 Definitions for ORS 401.807 to 401.847. As used in ORS 401 807 to 401 847, unless the context requires otherwise:

(1) "District" means an emergency communications district formed under ORS 401 807 to 401 847.

(2) "District board" or "board" means the governing body of a district

(3) "Emergency communications system" includes an emergency telephone system established under ORS 401 720

(4) "Local jurisdiction" has the meaning given that term by ORS 401 710

(5) "Public or private safety agency" has the meaning given that term by ORS 401 710 [1987 c 671 §1]

Note 401 807 to 401 847 were enacted into law by the Legislative Assembly but were not added to or made a part of ORS chapter 401 or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation

401 810 [1955 c 679 §§2 3 repealed by 1980 s s c 19 §6]

401.812 Formation of emergency communications district; boundaries; approval of formation by safety agencies (1) An emergency communications district may be created as provided in ORS 198 705 to 198 955 and 401 807 to 401 847

(2) An emergency communications district shall consist of all the telephone exchange service areas located wholly or partly within a designated local jurisdiction's service area that is served by a public safety answering point. A district may include more than one city and county

(3) Before a petition for formation of a district is filed with the county board of the principal county under ORS 198 800, it shall be approved by indorsement thereon by the governing bodies of all public or private safety agencies included within the proposed district. A county governing body shall not adopt an order under ORS 198 835 for the formation of a district unless the governing body first obtains written approval for the formation of the district from the governing bodies of all public or private safety agencies included within the proposed district [1987 c 671 §2]

Note See note under 401 807

401 815 [1955 c 679 §11, repealed by 1980 s s c 19 §6]

401.817 Application of ORS chapter 255 to district. (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 [1987 c 671 §5]

Note See note under 401 807

401 820 [1955 c 679 §5 1980 s s c 19 §3, renumbered 401 210]

401.822 Officers of district, qualifications. (1) The officers of the district shall be a board of five members elected by the electors of the district

(2) Any elector residing within the district is qualified to serve as a district board member [1987 c 671 §3]

Note See note under 401 807

401 825 [1955 c 679 §18, 1967 c 595 §6 repealed by 1980 s s c 19 §6]

401.827 Board as governing body of district; president of board. (1) The district board shall be the governing body of the district and shall exercise all powers thereof

(2) At its first meeting or as soon thereafter as may be practicable, the board shall choose one of its members as president [1987 c 671 §6]

Note See note under 401 807

401 830 [1955 c 679 §20, 1967 c 595 §7, 1980 s s c 19 §4 renumbered 401 215]

401.832 Election of board members at formation election; terms of office. (1) Five district board members shall be elected at large by position number at the election for district formation. Nominating petitions shall be filed with the county governing body

(2) If the effective date of the formation of the district occurs in an odd-numbered year, two district board members shall be elected for four-year terms and the other three district board members shall be elected for two-year terms. If the effective date of the formation occurs in an even-numbered year, two district board members shall be elected for three-year terms and the other three district board members shall be elected for one-year terms

(3) Each district board member shall hold office until election and qualification of a successor

(4) Each district board member elected shall take an oath of office and shall hold office from July 1, next following election

(5) The district board shall fill any vacancy on the board as provided in ORS 198 320

(6) The term of a district board member is four years [1987 c 671 §4]

Note See note under 401 807

401 835 [1955 c 679 §4, 1957 c 353 §1, 1973 c 466 §1 repealed by 1980 s s c 19 §6]

401.837 Advisory committee; duties and powers; appointment by district board; terms and qualifications of members. (1) A district board shall appoint an advisory committee to advise and assist the board in carrying out the purposes of ORS 401 807 to 401 847. An advisory committee shall consist of one representative from each public or private safety agency included within the district. A member of the advisory committee shall reside within the district.

(2) A member of an advisory committee shall serve for a term of two years. Of the members first appointed, however, one-half of the members shall serve for a term of one year. The respective terms of the members shall be determined by lot at the first meeting of the advisory committee.

(3) The advisory committee shall meet not less than four times a year to review the policies and practices of the district board. The advisory committee shall also meet on the call of the district board. The advisory committee may adopt rules for the conduct of its proceedings.

(4) The advisory committee may propose changes to any of the board's rules, policies or practices as it deems necessary or desirable. In addition to its other functions and duties, the advisory committee shall review the annual budget of the district. The advisory committee shall meet with the district board and may make such recommendations relating to the budget as the committee considers necessary or prudent [1987 c 671 §7]

Note See note under 401 807

401 840 [1955 c 679 §9, repealed by 1980 s s c 19 §6]

401.842 General district powers. A district shall constitute a municipal corporation of this state, and a public body, corporate and politic, exercising public power. Every district shall have power

(1) To have and use a common seal

(2) To sue and be sued by its name

(3) To make and accept any and all contracts, deeds, leases, releases and documents of any kind which, in the judgment of the board, are necessary or proper to the exercise of any power of the district, and to direct the payment of all lawful claims or demands

(4) To assess, levy and collect taxes to pay the cost of acquiring sites for and constructing, reconstructing, altering, operating and maintaining an emergency communications system or any lawful claims against the district, and the operating expenses of the district

(5) To employ all necessary agents and assistants

(6) To call elections after the formation of the district

(7) To enlarge the boundaries of the district as provided by ORS 198 705 to 198 955

(8) Generally to do and perform any and all acts necessary and proper to the complete exercise and effect of any of its powers or the purposes for which it was formed [1987 c 671 §8]

Note See note under 401 807

401 845 [1955 c 679 §10, repealed by 1980 s s c 19 §6]

401.847 Levy of taxes. Each year the district board shall determine and fix the amount of money to be levied and raised by taxation, for the purposes of the district. The total amount of taxes levied in each year under this section shall not exceed one-tenth of one percent (.001) of the true cash value of all taxable property within the district computed in accordance with ORS 308 207 [1987 c 671 §9]

Note See note under 401 807

Note Sections 12 to 14, chapter 671, Oregon Laws 1987, provide

Sec 12 Section 9 of this Act [ORS 401 847] is repealed and section 13 of this Act is enacted in lieu thereof [1987 c 671 §12]

Sec 13 Each year the district board shall determine and fix the amount of money to be levied and raised by taxation, for the purposes of the district. [1987 c 671 §13]

Sec 14 Sections 12 and 13 of this Act first become operative on the first day of the first tax year to which section 10, chapter 533, Oregon Laws 1981, does not apply [1987 c 671 §14]

401 850 [1955 c 679 §§6, 7, 1965 c 285 §80, repealed by 1980 s s c 19 §6]

401 855 [1955 c 679 §17, repealed by 1980 s s c 19 §6]

401 860 [1955 c 679 §8, repealed by 1980 s s c 19 §6]

401 865 [1955 c 679 §12, 1967 c 335 §48, 1967 c 637 §§9, 9a, repealed by 1980 s s c 19 §6]

401 870 [1955 c 679 §15, repealed by 1980 s s c 19 §6]

401 875 [1955 c 679 §21, repealed by 1980 s s c 19 §6]

401 880 [1955 c 679 §19, repealed by 1980 s s c 19 §6]

401 885 [1955 c 679 §16, repealed by 1980 s s c 19 §6]

401 890 [1955 c 679 §14, repealed by 1980 s s c 19 §6]

PENALTIES

401.990 Penalties. Any person knowingly violating any provision of ORS 401 015 to 401 105, 401 260 to 401 325 and 401 355 to 401 580, or any of the rules, regulations or orders adopted and promulgated under those sections, shall, upon conviction thereof, be guilty of a Class

C misdemeanor [1967 c 480 §8, 1977 c 248 §4, 1983 c 586 §41]

CHAPTERS 402 TO 405
[Reserved for expansion]