

# Chapter 334

1991 EDITION

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**EDUCATION AND CULTURAL FACILITIES**

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**GENERAL**

**334.005 Purpose.** (1) It is the purpose of this chapter to provide maximum excellence in education and as nearly equal educational opportunities for all the children of this state as is feasible under optimum local control. In order to accomplish this purpose the Legislative Assembly intends that the education service districts established under the provisions of ORS 334.010 shall succeed the rural school district.

(2) In its state role, the education service district serves to assist the State Board of Education, through contract, in providing state-level services and support of state laws and state minimum standards.

(3) At the local level, the education service district shall provide professional services and facilities in education and shall furnish such services and facilities, on a cooperative basis with local districts, as may further the intent and purposes of this chapter. [1963 c.544 §1; 1975 c.477 §1; 1983 c.610 §2]

**334.010 Education service district; inapplicability of certain statutes to certain boards.** (1) There is created in each county not operating under ORS chapter 333, and which has more than one school district, a district to be known as the education service district and a governing body thereof to be known as the education service district board.

(2) There is created in any county which ceases to operate under ORS chapter 333 and which has more than one school district a district to be known as the education service district and a governing body thereof to be known as the education service district board.

(3) The education service district board of education service districts formed under subsection (2) of this section shall consist of the members of the school boards of all school districts within the county.

(4) The provisions of ORS 334.025, 334.035, 334.045 and 334.090 shall not apply to school boards established by subsection (2) of this section. [Amended by 1961 c.153 §1; subsections (3) and (4) enacted as 1961 c.153 §2; 1963 c.544 §29; 1965 c.100 §170; 1977 c.481 §1]

**334.020 Composition of education service district.** (1) Except as the boundaries of an education service district may be changed by merger under ORS 334.710 to 334.770 or other provision of law, the education service district consists of the common or union high school districts within or part of the education service district on September 2, 1963.

(2) Where a boundary change or formation of a common school or union high

school district results in a joint school district, the joint school district shall be included in the education service district in which the joint district's administrative office is located. [Amended by 1957 c.678 §2; 1963 c.544 §30; 1965 c.100 §171; 1975 c.770 §39]

**EDUCATION SERVICE DISTRICT BOARD**

**334.025 Number of board members; election from zones.** (1) The board of directors of an education service district shall consist of seven members.

(2) In education service districts, not more than five and not less than two of the seven directors shall be elected, one from each of the zones established under ORS 334.032, and at least two shall be elected from the district at large.

(3) In an education service district which has fewer than five common school districts, one director shall be elected from each of the common school districts and the additional directors shall be elected from the district at large. [1957 c.678 §4; 1961 c.323 §1; 1965 c.100 §172; 1981 c.131 §1]

**334.030** [Repealed by 1957 c.678 §1]

**334.032 Zones.** The district boundary board shall divide each education service district into not more than five zones as nearly equal in census population as may be practicable, measured along common school district boundary lines except that zones may be established using voting precinct boundaries in order to achieve greater equality of population. The district boundary board may readjust the boundaries of such zones once each year and shall readjust the boundaries of the zones immediately upon any change of the boundaries of the education service district. [1965 c.100 §173; 1975 c.206 §1; 1981 c.131 §2]

**334.035 Nomination of candidates.** (1) In education service districts having a population of less than 300,000 according to the latest federal census, a candidate for the district board shall be nominated in accordance with ORS 255.235 except as provided in this section. When a candidate is nominated from a zone by a nominating petition, the nominating petition must be signed by electors registered in the zone in which the candidate is a resident and who are qualified to vote in their respective common school districts. When a candidate is nominated at large by a nominating petition, the nominating petition must be signed by electors of the district. A candidate for education service district board member must be qualified to vote in the election in which the individual is a candidate.

(2) In education service districts having a population of 300,000 or more according to

the latest federal census, the name of any qualified person nominated as provided by ORS 255.235 shall be placed on the ballot as a candidate for the office of director of the education service district. [1957 c.678 §5; 1963 c.544 §32; 1965 c.100 §174; 1973 c.796 §47; 1974 s.s. c.45 §5; 1981 c.131 §3; 1983 c.83 §66; 1983 c.350 §180]

**334.040** [Amended by 1957 c.310 §15; repealed by 1957 c.678 §1]

**334.045 Election procedure.** (1) In education service districts having a population of less than 300,000 according to the latest federal census, members of the board shall be elected at the time of the regular school election for the term commencing July 1 as provided in ORS 334.090. For this purpose a district election shall be held in such districts in those zones from which a member or members of the board are to be elected, and in the district as a whole when a member or members at large are to be elected.

(2) In any education service district which has a population of 300,000 or more according to the latest federal census, members of the board shall be elected at the regular biennial election for the term commencing July 1 as provided in ORS 334.090. The registrar of elections of the county in which such district is located shall be the election officer for such elections.

(3) The education service district shall pay the actual cost of printing ballots and tally sheets for each election under subsection (2) of this section, and the cost of checking signatures on certificates of nomination, together with such proportionate part of the general expenses of such election as may be agreed upon by the board and the governing body of the county.

(4) All elections of members of the board shall be held as provided in ORS chapter 255. [1957 c.678 §3; 1963 c.544 §33; 1965 c.100 §175; 1973 c.796 §48; 1975 c.647 §29b; 1977 c.149 §3; 1981 c.131 §4; 1983 c.350 §181]

**334.050** [Repealed by 1957 c.678 §1]

**334.060** [Amended by 1957 c.622 §8; repealed by 1957 c.678 §1]

**334.070** [Amended by 1957 c.678 §6; repealed by 1965 c.100 §456]

**334.080** [Repealed by 1957 c.678 §1]

**334.090 Term of office; eligibility; election of successors; vacancies.** (1) The term of office of director of an education service district shall be four years.

(2) The term of office of each director of an education service district shall begin on July 1 next following the date of election. A director shall serve until June 30 next following the election of a successor.

(3) A director of an education service district must qualify by taking an oath of office before assuming the duties of office.

(4) A newly appointed director of an education service district shall take office at the meeting of the education service district board next following the appointment.

(5) A person is not eligible to serve as a director of an education service district unless the person is an elector of the district and has resided therein for a period of one year immediately preceding the election or appointment.

(6) No employee of an education service district is eligible to serve as a director of the education service district by which the employee is employed.

(7) A regular district election shall be held in a district to fill any vacancy and to elect a successor for any director whose term expires June 30 next following the election. A successor shall be elected as follows:

(a) If the director was elected from a zone established under ORS 334.032, a successor from the same zone shall be elected by the electors of the zone.

(b) If the director was elected at large a successor shall be elected at large by the electors of the district.

(8) Notwithstanding subsection (7) of this section, in any district having a population of 300,000 or more according to the latest federal census that becomes zoned according to ORS 334.032, the board shall determine prior to the nomination of school directors which positions shall be from zones and which positions shall be at large.

(9) Any vacancy on the board from any zone shall be filled by the remaining directors from among the qualified persons in that zone. Any such vacancy from the district at large shall be filled by the remaining directors from among the qualified persons in the district. However, if vacancies occur in a majority of the positions on the board, the governing body of the county in which the administrative office of the district is located shall fill the vacancies from among the qualified persons of the zones, if any, or from among other persons who are qualified to serve. The period of service of an appointee under this subsection expires June 30 next following the next regular district election at which a successor is elected. The successor shall be elected to serve the remainder, if any, of the term for which the appointment was made. If the term for which the appointment was made expires June 30 after the election of the successor, the successor shall be elected to a full term. In either case, the successor shall take office July 1 next following the election. [Amended by 1957 c.678 §9; 1965 c.100 §176; 1971 c.47 §4; 1973 c.796 §49; 1975 c.770 §40; 1981 c.131 §5; 1983 c.350 §182; 1983 c.379 §8]

**334.095 Declaration of vacancy in office of director; removal; recall.** (1) The education service district board shall declare the office of director vacant upon the happening of any of the following:

- (a) When an incumbent dies or resigns;
- (b) When an incumbent is removed from office or the election thereto has been declared void by the judgment or decree of any competent court;
- (c) When an incumbent ceases to be a resident of the education service district;
- (d) Subject to the provision of subsection (2) of this section, when an incumbent ceases to be a resident of the zone from which nominated;
- (e) When an incumbent ceases to discharge the duties of office for two consecutive months unless prevented therefrom by sickness or other unavoidable cause; or
- (f) When an incumbent is recalled.

(2) A director nominated from a zone who changes permanent residence from one zone to another zone in which another director resides shall continue to serve as director until the next regular election when a successor shall be elected to serve for the remainder of the unexpired term.

(3) A director guilty of misfeasance or malfeasance in office, by the appropriate proceeding, may be removed from office by a court of competent jurisdiction.

(4) Members may be recalled in the manner provided for recall of directors of school district boards. [1981 c.131 §§7, 8]

**334.100 Organization of board; meetings; quorum; compensation.** (1) Each education service district board shall meet during July and organize by electing one of its members chairman and one vice chairman, each of whom shall serve until a successor is elected and qualified. No member shall serve as chairman for more than two years in succession.

(2) Regular meetings of an education service district board shall be held on meeting dates determined by the board. Special meetings may be held on dates to be determined by the board.

(3) Members of the education service district board shall receive no compensation for their services, but shall be reimbursed for all traveling and other expenses necessarily incurred in performing their duties as members of the board.

(4) A majority of the members of the education service district board shall constitute a quorum. A lesser number may meet and adjourn from time to time and compel the presence of absent members. The affirmative

vote of a majority of members of the board is required to transact any business.

(5) Any duty imposed upon the education service district board as a body must be performed at a regular or special meeting and must be made a matter of record. The consent to any particular measure obtained of individual members when the board is not in session is not an act of the board and is not binding upon the district. [Amended by 1963 c.544 §34; 1965 c.100 §177; 1975 c.477 §8; 1975 c.647 §29c; 1975 c.770 §41a; 1981 c.131 §5]

**334.110** [Repealed by 1965 c.100 §456]

**334.120** [Amended by 1957 c.678 §10; 1963 c.544 §35; 1965 c.100 §183; renumbered 334.225]

## STATUS AND POWERS

**334.125 Status and power of board.** (1) The education service district is a body corporate.

(2) The education service district board is authorized to transact all business coming within the jurisdiction of the education service district and may sue and be sued.

(3) The education service district board shall perform all duties required by law, including but not limited to:

(a) Distribution of such school funds as it is empowered to apportion;

(b) Conduct of audits;

(c) Duties as district boundary board;

(d) Budget and tax levying duties;

(e) Curriculum improvement; and

(f) Special education programs.

(4) The education service district board may employ and fix the compensation of such personnel as it considers necessary for carrying out duties of the board.

(5) The education service district board:

(a) May locate, buy, accept by gift or lease such land, buildings and facilities as may be required for district purposes. Leases authorized by this section may be for a term of up to 30 years and include lease-purchase agreements whereunder the district may acquire ownership of the leased property. Lease-purchase agreements shall be subject to the provisions of ORS 334.175 (2).

(b) May acquire personal property by a lease-purchase agreement or contract of purchase for a term exceeding one year. A lease-purchase agreement is one in which the rent payable by the district is expressly agreed to have been established to reflect the savings resulting from the exemption from taxation, and the district is entitled to ownership of the property at a nominal or other price which is stated or determinable by the terms of the agreement and was not intended to reflect the true value of the property.

(c) May lease, sell and convey property of the district as the board considers unnecessary to such purposes.

(d) May purchase relocatable structures in instalment transactions in which deferred instalments of the purchase price are payable over not more than 10 years from the date of delivery of the property to the district and are secured by a security interest in the property. The transactions may take the form of, but are not limited to, lease-purchase agreements.

(e) May accept money or property donated for the use or benefit of the district and use the money or property for the purpose for which it was donated.

(6) The education service district board may make rules it considers necessary to carry out the duties of the board. [1965 c.100 §179; 1975 c.477 §6; 1977 c.56 §1; 1981 c.406 §1; 1983 c.133 §1; 1983 c.187 §3; 1985 c.457 §1]

**334.127 Title of real property when district ceases.** Whenever an education service district ceases to exist, its real property shall pass to the successor district, which is authorized to treat such property in the same manner as its predecessor district did. [1975 c.477 §7]

**334.130** [Repealed by 1957 c.678 §1]

**334.135** [1963 c.544 §50k; 1965 c.100 §184; renumbered 334.235]

**334.140** [Repealed by 1957 c.678 §1]

**334.145 Office space provided by county; payment of rent; additional space; purchase of required space.** (1) At the discretion of the county court or board of county commissioners, the county may provide space for the board, superintendent and staff of the education service district and may charge the district a reasonable sum as rent for this space.

(2) The board of an education service district may rent such space as may be required when the space offered by the county is considered to be inadequate. Subject to ORS 334.125, the board may purchase such required space. [1967 c.379 §2, 3; 1975 c.477 §5; 1977 c.56 §2]

**334.150** [Repealed by 1957 c.678 §1]

**334.160** [Amended by 1963 c.544 §36; repealed by 1965 c.100 §456]

**334.170** [Repealed by 1957 c.678 §1]

**334.175 Special services and facilities within district.** (1) The education service district or a combination of education service districts or a school district under contract with an education service district or districts may provide services and facilities, including but not limited to central purchasing, library, curriculum material, special teachers and special programs under ORS chapter 343 to all school districts which are a part of the

education service district or districts. If the education service district owns a planetarium, the district may promote public events and may sell tickets for public events at the planetarium.

(2) The extent and nature of such facilities and services must be:

(a) Agreed upon on or before March 1 by resolution of two-thirds of the common and union high school districts which are a part of the education service district or districts and which have at least a majority of the pupils included in the average daily membership of the education service district or districts, as determined by the reports of such school districts for the preceding year, enrolled in the schools of the districts; and

(b) Within the authority of the interested districts.

(3) Notwithstanding subsection (2) of this section, the education service district or a school district under contract with an education service district may provide facilities and services of the type specified in subsection (1) of this section by agreement and on a reimbursable basis to any school district or combination thereof within the education service district.

(4) Subject to subsections (1) and (2) of this section and ORS 334.185, the education service district may establish or participate in all programs under ORS chapter 343. [1963 c.544 §§10, 12; 1965 c.100 §180; 1967 c.542 §16; 1985 c.200 §1; 1991 c.280 §1]

**334.180** [Repealed by 1957 c.678 §1]

**334.185 Special services and facilities outside district.** (1) Facilities and services authorized under ORS 334.175 (1) may be provided to common and union high school districts which are not a part of the education service district or districts by agreement on a reimbursable basis. The pupils residing in such districts shall not be included in the computation of the percentage required by ORS 334.175 (2)(a).

(2) Expenditures by the education service district board for special services and facilities provided on a reimbursable basis under this section are limited to the moneys received from the participating common or union high school districts for the purpose specified and are not subject to the Local Budget Law (ORS 294.305 to 294.520, 294.555 and 294.565).

(3) Budget estimates of expenditures for special services and facilities provided on a reimbursable basis under this section must show the estimates of moneys receivable from participating common and union high school districts and must be shown as offsetting revenue items. [1965 c.100 §181]

**334.190** [Repealed by 1957 c.678 §1]

**334.200** [Repealed by 1957 c.678 §1]

**334.205** [1953 c.390 §2; renumbered 334.510 and then 334.310]

**334.210** [Amended by 1957 c.678 §18; renumbered 334.520 and then 334.320]

**334.215 Gifts for guidance clinics.** An education service district board may accept gifts and bequests of money for the establishment and conduct of child guidance clinics. The board shall deposit any such money received in a special fund with the county treasurer and the money shall be expended under the direction of the board for the purposes for which it was donated. [Formerly 343.925]

**334.217 Standards of adequacy of services; plans for substandard districts; effect of failure to comply.** (1) The State Board of Education by rule shall establish standards to determine the adequacy of services and facilities provided by the education service districts. In establishing such standards, the state board shall consider the most economic method of providing services and facilities, the quality of the services and facilities according to the best educational standards, and the needs of the students.

(2) The State Board of Education, in accordance with the provisions of ORS 183.310 to 183.550, shall establish rules for a determination that an education service district is substandard. When the board determines pursuant to such rules that an education service district is substandard, the district designated substandard shall file a plan to meet standards over a specified period of time. The board may accept, reject or modify the plan and order the substandard district to comply with the plan as approved by the board. The board shall establish by rule appropriate sanctions for noncompliance; such sanctions may include mandatory merger of the substandard education service district with a contiguous education service district that is standard. [1975 c.477 §3; 1989 c.491 §21]

**334.220** [Renumbered 334.530 and then 334.330]

## SUPERINTENDENT

**334.225 Superintendent; duties; compensation.** (1) The education service district board shall employ a superintendent who must hold an administrative license as a superintendent. The superintendent shall serve as the board's executive officer, give an official bond or an irrevocable letter of credit issued by a commercial bank as defined in ORS 706.005, and have the duties prescribed by the board and the laws of this state. The board shall fix the term and compensation of the superintendent, provide office room for the superintendent and allow all of the superintendent's necessary traveling expenses.

(2) The education service district board shall designate the superintendent as the district clerk. The board may appoint qualified persons as deputies to the superintendent to perform the duties required of the district clerk by law or by the board. [Formerly 334.120; 1975 c.278 §9; 1975 c.477 §9a; 1983 c.379 §9; 1985 c.195 §1; 1991 c.331 §56]

**334.230** [Amended by 1953 c.429 §2; 1957 c.678 §19; renumbered 334.540 and then 334.295]

**334.235** [Formerly 334.135; repealed by 1975 c.770 §49]

## BUDGET AND TAX LEVIES

**334.240 District budget.** (1) The education service district board shall be subject in all respects to the Local Budget Law (ORS 294.305 to 294.520, 294.555 and 294.565), except that in addition to other qualifications, members of the budget committee who are not members of the education service district board shall be members of common school and union high school district boards within the education service district.

(2) The board of the education service district is authorized to prepare and adopt a budget for its own expenses, including expenses for travel, for providing the board with professional and clerical assistance, and for such services, equipment and supplies as the board may require. The board's expenses may include amounts necessary to provide special services and facilities authorized by ORS 334.175 (1) and (2). [1957 c.678 §12; 1963 c.544 §37; 1965 c.100 §185; 1981 c.131 §10]

**334.250** [1957 c.678 §13(1); 1957 s.s. c.4 §1(1); 1965 c.100 §186; repealed by 1977 c.840 §19]

**334.260** [1957 c.678 §13(2); 1957 s.s. c.4 §1(2); 1965 c.100 §187; repealed by 1977 c.840 §19]

**334.262 Tax levy.** (1) Unless otherwise authorized by a vote of the people, in its budget prepared for each fiscal year, each education service district to which this section and ORS 334.270 apply shall compute a tax levy for its operational, administrative and resolution services expenses budget prepared under ORS 334.240 in an amount not to exceed the sum of:

(a) The greatest amount levied for those same purposes in any one of the last four years plus six percent thereof, not including the amount levied in paragraph (b) of this subsection; plus

(b) The amount levied for purposes of subsection (2) of this section plus an amount equal to six percent thereof in the year used in the computation in paragraph (a) of this subsection.

(2) The amount realized under paragraph (b) of subsection (1) of this section must be used by each education service district in that fiscal year pursuant to ORS 334.175 for support of cost for providing services and

programs for children with disabilities, for the talented and gifted or for bilingual or English as a second language education as these programs are defined in ORS 336.074, 336.079, 343.035, 343.397 and 343.830.

(3) If the tax levy authorized under subsection (1) of this section for any fiscal year is not sufficient to fund the operational, administrative and resolution services approved for that fiscal year the education service district may submit to the electors of the district the question of a tax levy in addition to the levy authorized under subsection (1) of this section necessary to balance the budget for that fiscal year. The amount of such levy, if approved by the electors, shall be added to and become a part of the levy authorized under subsection (1) of this section. [1977 c.840 §12; 1981 c.836 §1; 1983 c.610 §3]

**334.263** [1977 c.840 §13; 1979 c.445 §1; repealed by 1983 c.610 §8]

**334.264** [1977 c.840 §14; repealed by 1983 c.610 §8]

**334.270 Levy of tax.** Subject to section 11, Article XI, of the Oregon Constitution, for the school year commencing on July 1 of each year, each education service district to which ORS 334.262 and this section apply shall levy a tax in an amount which, together with any other funds available to it for the purposes set forth in this section and ORS 334.285, shall equal the amount of the education service district board's own budget, prepared and adopted pursuant to ORS 334.240, plus the amount certified under ORS 334.262. [1957 c.678 §13(3); 1957 s.s. c.4 §1(3); 1965 c.100 §188; 1977 c.840 §10]

**334.280** [1957 c.678 §13(4); 1957 s.s. c.4 §1(4); 1965 c.100 §189; repealed by 1977 c.840 §19]

**334.285 Apportionment of levy; split between elementary and secondary school purposes.** (1) Before July 15 of each year, the education service district board shall certify the amount of its tax levy and the apportionment to the county assessor. The county assessor shall extend the levy on the assessment and tax roll as the levy of the education service district board, applicable at a uniform rate or rates to all taxable property within the education service district, including joint districts in adjacent counties that are included in the district.

(2) Notwithstanding subsection (1) of this section, the education service district board shall split its total levy into separate levies for elementary and high school purposes where necessary in order to avoid double taxation. The levy for elementary purposes shall amount to two-thirds of the total levy and the levy for high school purposes shall amount to one-third of the total levy. Before July 15 of such year, the board shall certify to the county assessor the amount of its levy

for elementary purposes and the amount of its levy for high school purposes. The county assessor shall extend the levies for elementary and high school purposes on the assessment and tax rolls as levies of the education service district board, applicable at a uniform rate or rates to all taxable property within the education service district, including joint districts in adjacent counties that are included in the education service district. The levy for elementary purposes shall apply to all taxable property in the district for which elementary education is provided by a school district within the education service district. The levy for high school purposes shall apply to all taxable property in the district for which high school education is provided by a school district within the education service district. [1979 c.689 §23]

**334.290** [1957 c.678 §13(5), (6); 1957 s.s. c.4 §1(5), (6); 1961 c.356 §1; 1965 c.100 §190; repealed by 1977 c.840 §19]

**334.295** [Formerly 334.230 and then 334.540; amended by 1965 c.100 §191; repealed by 1977 c.840 §19]

**334.300** [1957 c.678 §14; 1963 c.576 §41; 1965 c.100 §192; repealed by 1977 c.840 §19]

**334.310** [Formerly 334.205 and then 334.510; repealed by 1977 c.840 §19]

**334.320** [Formerly 334.210 and then 334.520; 1973 c.796 §50; 1975 c.477 §10; 1977 c.2 §1; 1977 c.156 §1; repealed by 1977 c.840 §19]

**334.330** [Formerly 334.220 and then 334.530; repealed by 1977 c.840 §19]

## BUDGET AND TAX LEVIES IN CERTAIN COUNTIES

**334.350 Tax equalization procedure in Grant, Wallowa and Wheeler Counties.** ORS 334.350 to 334.400 apply to:

(1) Every education service district which immediately prior to August 20, 1957, included the territory of every first class school district as defined in ORS 330.020 (1963 Replacement Part) and of every union high school district and any county high school district located within the boundaries of the education service district; and

(2) Any other education service district voting after August 20, 1957, as provided in ORS 334.450, to adopt the procedure provided for in ORS 334.350 to 334.400. [1957 c.678 §15(1); 1965 c.100 §196]

**334.360 Preparation of budget for local school district or school unit; when levy on such budget may be made by local district.** (1) Immediately following a public meeting as provided by law on the budget for each fiscal year of any school district within an education service district to which ORS 334.350 to 334.400 apply, and in any event not later than March 15 of such year, the responsible officer of the district shall deliver or transmit the budget to the education service district board.

(2) No tax levy based on such budget shall be made by the school district other than the tax levy outside the constitutional limitation for the particular purposes specified in ORS 334.410.

(3) The education service district board may prepare a budget for any school district which fails to submit a budget to the education service district board by March 15. [1957 c.678 §15(2); 1965 c.100 §197]

**334.370 Budget may include an emergency aid fund.** The education service district board may include in its own budget, adopted pursuant to ORS 334.240, an emergency aid fund for use, at the discretion of the board, in aiding school districts within the education service district with emergency expenses unforeseen at the time of making the budget of such districts. The emergency aid fund shall not exceed five percent of the combined budget of all districts included in such education service district. [1957 c.678 §15(2); 1965 c.100 §198]

**334.380 Education service district board powers and duties as to budgets of local districts; levy of tax.** (1) The board of each education service district to which ORS 334.350 to 334.400 apply shall examine and audit or cause to have examined and audited the budgets of the school districts within such education service district. The education service district board may approve or reject, increase or reduce any item or amount in any such budget. Where necessary, the education service district board shall determine from the budgets submitted the amounts to be levied for elementary and high school purposes and make separate levies for the same. On or before April 10 the board of every school district within the education service district shall be notified in writing of any contemplated changes in the district school board's budget. On request of the district school board, it shall be entitled to a hearing by the education service district board on the budget submitted by the district school board. The education service district board shall set times and places for such hearings which shall be open to the public.

(2) After the budget hearing required by subsection (1) of this section and after careful consideration of all the budgets, the board of each education service district to which ORS 334.350 to 334.400 apply shall determine the final amount of the budget of each school district which shall be included in the tax levies to be made by it and shall notify each school district of its action on or before April 20 of the then current year.

(3) The board of each education service district to which ORS 334.350 to 334.400 apply shall levy for each fiscal year a tax in the amount equal to the total of the levies,

so determined and approved, of the several school districts within such education service district. There shall be added to each levy the budget for the expenditures of the education service district board and of the superintendent for the education service district as prepared and adopted pursuant to ORS 334.240, including therein any amounts provided for emergency aid to districts as authorized in ORS 334.370. This tax levy shall apply at uniform rate or rates for elementary and high school purposes to all property within such education service district taxable for such purposes. [1957 c.678 §15(3), (4); 1965 c.100 §199; 1991 c.780 §20]

**Note:** The amendments to 334.380 by section 20, chapter 780, Oregon Laws 1991, become operative June 30, 1992. See section 38, chapter 780, Oregon Laws 1991. The text (1989 Edition) is set forth for the user's convenience.

**334.380** (1) The board of each education service district to which ORS 334.350 to 334.400 apply shall examine and audit or cause to have examined and audited the budgets of the school districts within such education service district. The education service district board may approve or reject, increase or reduce any item or amount in any such budget, but shall not reduce the total budgeted expenditures of a district below the maximum program established in ORS 327.075. Where necessary, the education service district board shall determine from the budgets submitted the amounts to be levied for elementary and high school purposes and make separate levies for the same. On or before April 10 the board of every school district within the education service district shall be notified in writing of any contemplated changes in the district school board's budget. On request of the district school board, it shall be entitled to a hearing by the education service district board on the budget submitted by the district school board. The education service district board shall set times and places for such hearings which shall be open to the public.

(2) After the budget hearing required by subsection (1) of this section and after careful consideration of all the budgets, the board of each education service district to which ORS 334.350 to 334.400 apply shall determine the final amount of the budget of each school district which shall be included in the tax levies to be made by it and shall notify each school district of its action on or before April 20 of the then current year.

(3) The board of each education service district to which ORS 334.350 to 334.400 apply shall levy for each fiscal year a tax in the amount equal to the total of the levies, so determined and approved, of the several school districts within such education service district. There shall be added to each levy the budget for the expenditures of the education service district board and of the superintendent for the education service district as prepared and adopted pursuant to ORS 334.240, including therein any amounts provided for emergency aid to districts as authorized in ORS 334.370. This tax levy shall apply at uniform rate or rates for elementary and high school purposes to all property within such education service district taxable for such purposes.

**334.390 Certification and extension of district tax levy.** On or before July 15 of each year, the board of each education service district to which ORS 334.350 to 334.400 apply shall certify to the county assessor and to the county treasurer the total amount of the tax levy made by it and also shall certify to the county treasurer the amount in which

the budget of each school district within the education service district is included in the tax levy. The county assessor shall extend the tax levy or levies on the assessment and tax roll as the property tax levy or levies of the education service district board, applicable at uniform rates to all taxable property within the district, including joint districts in adjacent counties that are included in the education service district. [1957 c.678 §15(5); 1965 c.100 §200]

**334.400 Apportionment of levy proceeds.** After deducting the estimated expenses provided in the budget of the education service district board pursuant to ORS 334.240, the board of each education service district to which ORS 334.350 to 334.400 apply shall apportion the remainder of the levy extended in the proportion that the original levy, as determined and included by the education service district board for each district, is of the total of all such levies in the district. [1957 c.678 §15(6); 1963 c.544 §38; 1965 c.100 §201]

**334.410 District tax powers; tax powers retained by districts.** All power to levy taxes otherwise by law vested in any school district within an education service district to which ORS 334.350 to 334.400 apply, or otherwise vested in the board of any such school district, is transferred to the education service district. However, each such school district shall retain the power to levy a tax each year for:

(1) Payment of principal and interest of its bonded or negotiable interest-bearing warrant indebtedness;

(2) Payment of capital expenditures and current expenditures not provided for in the budget of the district by the education service district board; and

(3) Any supplementary budget items which have been specifically authorized by the electors of the district as outside the limitation of section 11, Article XI, Oregon Constitution. [1957 c.678 §16; 1965 c.100 §202; 1975 c.770 §43]

#### METHOD OF CHANGING FINANCIAL OPERATING PROCEDURE

**334.450 Method of changing financial operating procedure.** (1) The following questions regarding the financial operating procedure of an education service district shall be decided by election as provided in this section:

(a) The question whether an education service district to which ORS 334.262 and 334.270 apply shall discontinue the financial operating procedure provided under ORS 334.262 and 334.270 and adopt instead the al-

ternative procedure under ORS 334.350 to 334.410.

(b) The question whether an education service district to which ORS 334.350 to 334.400 applies shall discontinue the financial operating procedure provided under ORS 334.350 to 334.410 and adopt instead the alternative procedure under ORS 334.262 and 334.270.

(2) The board of an education service district to which subsection (1) of this section applies:

(a) May order the election on its own resolution.

(b) Shall order the election when a petition is filed as provided in this section.

(3) The requirements for preparing, circulating and filing a petition under this section shall be as provided for an initiative petition under ORS 255.135 to 255.205.

(4) If the question under paragraph (b) of subsection (1) of this section is submitted to election, the board also may submit at the same election the question whether the education service district shall have a tax base as will enable it to make a levy in the next succeeding year in the amount required by ORS 334.262 and 334.270. However, if a tax base is to be created the election must be held at a regular statewide general or primary election. [1957 c.678 §17; 1965 c.100 §203; 1983 c.350 §183; 1983 c.610 §5a]

**Note:** The amendments to 334.450 by section 75, chapter 267, Oregon Laws 1987, are repealed January 1, 1994. See section 82, chapter 267, Oregon Laws 1987. The text, as amended, is set forth for the user's convenience.

**334.450.** (1) The following questions regarding the financial operating procedure of an education service district shall be decided by election as provided in this section:

(a) The question whether an education service district to which ORS 334.262 and 334.270 apply shall discontinue the financial operating procedure provided under ORS 334.262 and 334.270 and adopt instead the alternative procedure under ORS 334.350 to 334.410.

(b) The question whether an education service district to which ORS 334.350 to 334.400 applies shall discontinue the financial operating procedure provided under ORS 334.350 to 334.410 and adopt instead the alternative procedure under ORS 334.262 and 334.270.

(2) The board of an education service district to which subsection (1) of this section applies:

(a) May order the election on its own resolution.

(b) Shall order the election when a petition is filed as provided in this section.

(3) The requirements for preparing, circulating and filing a petition under this section shall be as provided for an initiative petition under ORS 255.135 to 255.205.

(4) If the question under paragraph (b) of subsection (1) of this section is submitted to election, the board also may submit at the same election the question whether the education service district shall have a tax base as will enable it to make a levy in the next succeeding year in the amount required by ORS 334.262 and 334.270. However, if a tax base is to be created the

election must be held at a regular statewide general or biennial primary election.

**334.460 Effective date of change.** If a majority of the votes cast at any election under ORS 334.450 favors discontinuation of the former financial operating procedure and adoption of the alternative procedure, the discontinuation of the former procedure and adoption of the alternative procedure shall be effective as of July 1 of the next calendar year, as shall be the establishment of an adequate tax base if this is included in the question voted upon. The budgets of the education service district board and of the school districts within its boundaries for the year commencing on that July 1 shall be prepared pursuant to the newly adopted procedure. [1983 c.610 §5b]

**334.510** [Formerly 334.205; 1965 c.100 §193; renumbered 334.310]

**334.520** [Formerly 334.210; 1965 c.100 §194; renumbered 334.320]

**334.530** [Formerly 334.220; 1965 c.100 §195; renumbered 334.330]

**334.540** [Formerly 334.230; 1963 c.544 §39; renumbered 334.295]

### MERGER

**334.710 Petition; review by state board; notice; hearing.** (1) Whenever two or more education service districts desire to join together for the purpose of forming one education service district, a petition from each such district shall be presented to the State Board of Education. The petition shall contain the signatures of at least 100 electors of the district or a number of electors of the district equal to at least five percent of the electors of each proposing district, whichever is less.

(2) The State Board of Education shall review the petition and within 15 days after the board meeting at which the petition is reviewed, shall notify the education service district boards of each district designated by the petition, fix the date of and be responsible for supervising the giving of notices as provided in ORS 330.400 and conducting the public hearings in each proposing district to discuss the proposal contained in the petition. [1963 c.544 §50b; 1965 c.100 §204; 1983 c.83 §67; 1983 c.284 §12]

**334.720 Election; effective date.** (1) At the public hearings the State Board of Education shall cause to have discussed the effect of the proposed district and any resident of the affected districts may be heard with reference to the proposal.

(2) If, after the hearings, the State Board of Education determines that the proposal is feasible, the question of the proposed district shall be submitted to the electors of each education service district at the next regular

district election after the board's determination.

(3) The votes cast in each education service district shall be counted separately and if a majority of the votes cast by the electors of each district within the boundaries of the proposed district is in favor of the formation of the proposed district, the new education service district shall be organized in the manner provided in ORS 334.730 to 334.770. If the majority of the votes cast in any education service district is opposed to the formation of the new district, the districts shall remain as they were prior to the election.

(4) When two or more education service districts join together in the manner provided in this section, the new district shall come into existence effective May 31 of the year following the election. [1963 c.544 §§50c, 50d; 1965 c.100 §205; 1983 c.83 §68; 1983 c.350 §186]

**334.725 Consolidation in education service districts over 300,000.** (1) When one education service district proposing consolidation has a population of 300,000 or more, according to the latest federal census, the election under ORS 334.720 shall be held on the date of the primary election and the election held in all proposing education service districts shall be held pursuant to ORS 332.138 but the votes in each education service district shall be counted separately.

(2) The new district formed under this section shall come into existence effective May 31 of the year following the election.

(3) The laws applicable to an education service district with a population of 300,000 or more, according to the latest federal census, shall apply to new districts formed under this section. [1965 c.100 §207; 1983 c.350 §187]

**Note:** The amendments to 334.725 by section 76, chapter 267, Oregon Laws 1987, are repealed January 1, 1994. See section 82, chapter 267, Oregon Laws 1987. The text is set forth for the user's convenience.

**334.725.** (1) When one education service district proposing consolidation has a population of 300,000 or more, according to the latest federal census, the election under ORS 334.720 shall be held on the date of the biennial primary election and the election held in all proposing education service districts shall be held pursuant to ORS 332.138 but the votes in each education service district shall be counted separately.

(2) The new district formed under this section shall come into existence effective May 31 of the year following the election.

(3) The laws applicable to an education service district with a population of 300,000 or more, according to the latest federal census, shall apply to new districts formed under this section.

**334.730 Joint meeting; zoning; election of new directors.** (1) Immediately after the election to join two or more education service districts together, if the election supported such action, the boards of directors of all education service districts within the

boundaries of the new district shall meet together upon the call of the chairman of the board of the most populous district. Except as provided in ORS 334.725, and notwithstanding ORS 334.025 or ORS chapter 255, the joint board of directors shall divide the new district into as many zones as the board considers necessary, but not fewer than seven nor more than 11. The zones shall be as nearly equal in population as may be practicable.

(2) Within 90 days after the zones required in subsection (1) of this section are established, the joint board of directors shall call a special election in the new district for the purpose of electing directors, one of whom shall be elected from each zone established under subsection (1) of this section by the electors of the zone. [1963 c.544 §50e; 1965 c.100 §208; 1967 c.145 §1; 1975 c.770 §44; 1983 c.350 §188]

**334.740 Nomination.** Except as provided in ORS 334.725, the nomination of a candidate to serve as a director of the new education service district from a zone, when made by a petition, shall be signed by electors registered in the zone in which the candidate is a resident. The nomination of a candidate to serve as a director of the new education service district at large, when made by a petition, shall be signed by electors of the district. A candidate must be qualified to vote in the election in which the individual is a candidate and must be qualified to hold office as a director of an education service district. [1963 c.544 §50f; 1965 c.100 §209; 1973 c.796 §51; 1983 c.83 §69; 1983 c.350 §189]

**334.750 Term of office.** (1) The board of directors of the new education service district shall take office on July 1 of the year following its election.

(2) If the new education service district has a population of 300,000 or more, according to the latest federal census, the minority of directors shall serve terms expiring June 30 next following the first regular district election and the majority of directors shall serve terms expiring June 30 next following the second regular district election.

(3) If the new education service district has a population of less than 300,000, according to the latest federal census, and if the number of directors elected is seven, eight or nine:

(a) Two directors shall serve terms expiring June 30 next following the fourth regular district election.

(b) Two directors shall serve terms expiring June 30 next following the third regular district election.

(c) Two directors shall serve terms expiring June 30 next following the second regular district election.

(d) The remaining director or directors shall serve a term expiring June 30 next following the first regular district election.

(4) If the new education service district has a population of less than 300,000, according to the latest federal census, and if the number of directors elected is 10 or 11:

(a) Three directors shall serve terms expiring June 30 next following the fourth regular district election.

(b) Three directors shall serve terms expiring June 30 next following the third regular district election.

(c) Two directors shall serve terms expiring June 30 next following the second regular district election.

(d) The remaining directors shall serve a term expiring June 30 next following the first regular district election.

(5) The directors first elected shall determine by lot the length of term each shall hold office.

(6) Notwithstanding any other provisions of law, the term of office of boards of directors of preexisting education service districts shall terminate on the date in which the new education service district comes into existence and its new board of directors qualifies to hold office. [1963 c.544 §§50h, 50j; 1965 c.100 §210; 1967 c.145 §2; 1971 c.47 §5; 1975 c.647 §30; 1985 c.808 §80]

**334.760 Power of new board prior to existence of new district.** During the period following their election and prior to the date the new education service district comes into existence, the board of directors of the new education service district may take such action as is essential in order that the new district may carry out its required functions when it comes into existence, including the preparation and adoption of a budget for the new district. Expenditures of the board under this section shall be paid from the budgets of the component education service districts on a prorated basis. [1963 c.544 §50i; 1965 c.100 §211]

**334.770 Power of new board generally.** The board of directors of the new education service district shall have the same duties and exercise the same authority over the district as does the board of directors of every education service district. [1963 c.544 §50g]