

# Chapter 401

1991 EDITION

## Emergency Services; Search and Rescue; Emergency Telephone Systems; Communications Districts

- EMERGENCY MANAGEMENT AND SERVICES**  
(Generally)
- 401.015 Statement of policy and purpose  
401.025 Definitions for ORS 401.015 to 401.580  
401.035 Responsibility for emergency services systems  
401.045 Application of federal law  
(Powers of Governor)  
401.055 Declaration of state of emergency procedure  
401.065 Police powers during state of emergency; suspension of agency rules  
401.074 Providing temporary housing during emergency  
401.085 Management of resources during emergency  
401.085 Effect of rules and orders during emergency; scope; effect; termination  
401.105 Termination of state of emergency  
401.115 Additional powers during emergency  
401.125 Authority concerning federal financial assistance to political subdivision  
401.135 Authority concerning federal financial assistance to individuals or families  
401.145 Authority over removal of disaster debris or wreckage; unconditional authorization of community; liability for injury or damage  
401.155 Rules to carry out ORS 401.125 to 401.145 and 401.335  
(Emergency Management Division)  
401.260 Emergency Management Division; administrator; employees  
401.270 Duties of administrator  
401.280 Federal grants for emergency management and services; authority of division  
(Powers of Local Governments)  
401.305 Emergency management agency of city or county; emergency program manager  
401.315 City or county authorized to incur obligations for emergency services; county determination of emergency  
401.325 Emergency management agency appropriation; tax levy  
401.335 Temporary housing for disaster victims; political subdivision's authority  
(Seismic Safety)  
401.337 Seismic Safety Policy Advisory Commission; members; term; Senate confirmation  
401.343 Mission of commission  
401.345 Officers; quorum; meetings; compensation and expenses  
401.347 Support services
- 401.353 Advisory and technical committees; expense reimbursement  
(Emergency Service Workers)  
401.355 Eligibility of emergency service worker for benefits for injury sustained in emergency service  
401.365 Registration and qualification of emergency management agencies  
401.375 "Emergency service" defined; service not in violation of child labor laws  
401.385 Record of enrollment of emergency service workers  
401.395 Benefits for injury sustained in emergency service  
401.405 Benefits not assignable; exempt from execution, attachment and garnishment  
401.415 Benefits as exclusive remedy  
401.425 Claims for benefits  
401.435 Appeal  
401.445 Allocation of necessary funds  
401.455 Benefits limited by availability of funds; priority among claimants  
401.465 Obtaining public or private insurance with available funds  
(Miscellaneous)  
401.480 Cooperative assistance agreements  
401.490 Mutual use of supplies and services  
401.500 Reimbursement by state for services provided by local government employees  
401.505 Acceptance of aid for emergency services  
401.515 Nonliability for emergency services; exception  
401.525 Use of moneys and property for emergency services authorized  
401.535 Emergency Management Revolving Account; source; use  
401.537 Entry and inspection of earthquake-damaged structures; warrant enforcement; order to vacate; rehabilitation of historic structures  
401.539 Unsafe condition resulting from earthquake damage; abatement of nuisance
- SEARCH AND RESCUE**  
(Generally)
- 401.550 Duties of Search and Rescue Coordinator  
401.560 Search and rescue activities; responsibilities of sheriff; delegation of sheriff's duties  
401.570 Restriction of access to search and rescue area  
401.573 County sheriff to adopt search and rescue plan; contents; annual review  
401.576 Critique of search and rescue mission required; filing with Emergency Management Division  
401.580 Search and rescue mission number

## MILITARY AFFAIRS; EMERGENCY SERVICES

### (Equipment and Signaling Devices)

- 401.605 Definitions for ORS 401.605 to 401.635
- 401.615 Assumption of risk of wilderness travel or mountain climbing; use and effect of signal devices
- 401.625 Required equipment when guiding children above timberline
- 401.627 Exemption from liability for electronic signaling device; exceptions
- 401.635 Electronic signaling devices; rulemaking authority of state police; advisory committee

### EMERGENCY TELEPHONE SYSTEMS

- 401.710 Definitions for ORS 401.710 to 401.790
- 401.715 Exemption from liability for 9-1-1 providers
- 401.720 9-1-1 emergency reporting systems mandatory; requirements; "9-1-1" as primary emergency number; alternate numbers required; enhancement requirements
- 401.730 Emergency Management Division duties and powers
- 401.733 Efficiency study of 9-1-1 system
- 401.735 Minimum standards for public safety telecommunications personnel; operative date; training program
- 401.755 Submission of revised plan; review; cost estimates; approval of plan
- 401.765 When blocking of telephone numbers prohibited; confidential information; exemption from liability for supplying information to emergency service providers; when supplying information not required
- 401.770 Pay phones to be converted to allow emergency calls without charge
- 401.773 Use of 9-1-1 system by hearing or speech impaired users
- 401.775 Jurisdictions to provide disaster recovery plan
- 401.780 Agreements among certain safety agencies for rendering emergency services
- 401.785 Mediation of disputes; arbitration; costs
- 401.790 Division to assure compliance; proceedings authorized

### ENHANCED 9-1-1 SERVICE PLANS

(Temporary provisions relating to enhanced 9-1-1 service plans are compiled as notes following ORS 401.790.)

### TAX FOR EMERGENCY COMMUNICATIONS

(Temporary provisions relating to a tax for emergency communications are compiled as notes following ORS 401.790.)

### EMERGENCY COMMUNICATIONS DISTRICTS

- 401.807 Definitions for ORS 401.807 to 401.857
- 401.812 Formation of emergency communications

district; boundaries; approval of formation by safety agencies

- 401.817 Application of ORS chapter 255 to district
- 401.822 Officers of district; qualifications
- 401.827 Board as governing body of district; president of board
- 401.832 Election of board members at formation election; terms of office
- 401.833 Changing number of board members; election; notice to Secretary of State
- 401.834 Continuing schedule of biennial elections after change in number of board members
- 401.836 Manner of electing board members
- 401.838 Election of board members
- 401.839 Changing manner of electing board members; requirements; election
- 401.841 Changing number and manner of electing board members at same election; separate questions
- 401.842 General district powers
- 401.847 Levy of taxes
- 401.852 Boundaries of zones for board members; adjustment for population and boundary changes
- 401.857 Advisory committee; duties and powers; appointment by district board; terms and qualifications of members

### PENALTIES

- 401.990 Penalties

### CROSS REFERENCES

- Administrative procedures and rules of state agencies, 183.310 to 183.550
- Emergency Conflagration Act, 476.510 to 476.610
- Immediate dispatch of public emergency telegrams, 165.480, 165.990
- Notice to administrator of derailment or fire involving transporting of hazardous materials, 761.405
- Nuclear power accidents, evacuation procedures, health rules, 469.533
- Partial tax exemption of radiation fall-out shelters, 307.169
- State agencies generally, Ch. 182
- 401.065
- Disaster area tax deferral, 311.740 to 311.780
- Emergency expenditures, 291.326
- Expenditures without allotment prohibited in certain cases, 291.238
- Ordering organized militia into active service and declaring martial law, 399.065
- Urban renewal plans for disaster areas, 457.160
- 401.355 to 401.465
- Volunteers, air search and rescue, compensation for death or injury, 837.035
- 401.535
- Aeronautical Search and Rescue Account, 837.035

**EMERGENCY SERVICES & TELEPHONES; SEARCH & RESCUE**

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**401.550**

Public employee's wages as affected by absence to engage in search or rescue operation, 652.250

**401.550 to 401.580**

Air search and rescue, duty of Aeronautics Division, 835.075



401.010 [Repealed by 1983 c.586 §49]

**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 401.580.** 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) "Commission" means the Seismic Safety Policy Advisory Commission established under ORS 401.337.

(4) "Division" means the Emergency Management Division of the Executive Department.

(5) "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, crisis influx of migrants unmanageable by the county, civil disturbance, riot, sabotage and war.

(6) "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.

(7) "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.

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

(9) "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.

(10) "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 State Defense Force acting in support of the emergency services system.

(11) "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).

(12) "Emergency services system" means that system composed of all agencies and organizations involved in the coordinated delivery of emergency services.

(13) "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.

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

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

(16) "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.

(17) "Sheriff" means the chief law enforcement officer of a county. [1983 c.586 §2; 1985 c.733 §21; 1987 c.373 §84; 1989 c.361 §8; 1991 c.418 §1; 1991 c.956 §10]

**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 procedure.** (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) All requests by a county governing body that the Governor declare an emergency shall be sent to the Emergency Management Division of the Executive Department. Cities must submit requests through the governing body of the county in which the majority of the city's property is located. Requests from counties shall be in writing and include the following:

(a) A certification signed by the county governing body that all local resources have been expended; and

(b) A preliminary assessment of property damage or loss, injuries and deaths.

(3)(a) If, in the judgment of the Director of the Executive Department, the Governor cannot be reached by available communications facilities in time to respond appropriately to an emergency, the director shall notify the Secretary of State or, if the Secretary of State is not available, the State Treasurer that the Governor is not available.

(b) After notice from the director that the Governor is not available, the elected state official so notified may declare a state of emergency pursuant to the provisions of subsections (1) and (2) of this section.

(c) If the Director of the Executive Department is unavailable to carry out the duties described in this subsection, such duties shall be performed by a person designated in writing by the Governor, the designation to be filed with the Secretary of State.

(4) Any state of emergency declared by the Secretary of State or State Treasurer pursuant to this section has the same force and effect as if issued by the Governor, except that it must be affirmed by the Governor as soon as the Governor is reached. However, if the Governor does not set aside the proclamation within 24 hours of being reached, the proclamation shall be considered affirmed by the Governor.

(5) 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; 1991 c.605 §1]

**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, employees 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 willful misconduct, gross negligence or bad faith, any state employee 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; employees.** (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 employees 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 Management 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; county determination of emergency.** 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. A county shall assess whether an emergency exists. [1983 c.586 §13; 1991 c.418 §2]

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]

#### (Seismic Safety)

**401.337 Seismic Safety Policy Advisory Commission; members; term; Senate confirmation.** (1) There is established a Seismic Safety Policy Advisory Commission consisting of the following members:

(a) The chief officer or the chief officer's designee of the following agencies:

(A) Building Codes Agency;

(B) State Department of Geology and Mineral Industries;

(C) Department of Human Resources;

(D) Department of Land Conservation and Development;

(E) Department of Transportation;

(F) Emergency Management Division of the Executive Department;

(G) Water Resources Department; and  
 (H) State System of Higher Education;  
 and

(b) Seven members appointed by the Governor as follows:

(A) Two members of the Legislative Assembly;

(B) One person certified under ORS 672.020 with expertise in structural engineering;

(C) One representative of a school district or community college;

(D) One representative of utilities;

(E) One member representing city government; and

(F) One member representing county government.

(2) The term of office of each member appointed under subparagraphs (B) to (F) of paragraph (b) of subsection (1) of this section is four years, but a member serves at the pleasure of the Governor. The term of office of a member of the Legislative Assembly expires at the end of the term for which the member is elected. Before the expiration of the term of a member, the Governor shall appoint a successor whose term begins on July 1 next following. A member is eligible for reappointment. If there is a vacancy for any cause, the Governor shall make an appointment to become immediately effective for the unexpired term.

(3) Appointments to the commission under subparagraphs (B) to (F) of paragraph (b) of subsection (1) of this section are subject to confirmation by the Senate in the manner prescribed in ORS 171.562 and 171.565. [1991 c.956 §2]

**401.340** [Amended by 1953 c.394 §10; repealed by 1983 c.586 §49]

**401.343 Mission of commission.** (1) The mission of the Seismic Safety Policy Advisory Commission shall be to reduce exposure to earthquake hazards in Oregon by:

(a) Developing and influencing policy at the federal, state and local levels;

(b) Facilitating improved public understanding and encouraging identification of risk;

(c) Supporting research and special studies;

(d) Implementation of appropriate mitigation; and

(e) Preparing for response and recovery.

(2) The commission shall utilize and influence existing agencies and institutions in meeting its goals and is in no way intended to replace or compete with existing authorities relative to earthquakes. Emphasis shall

be on coordination and linking of existing resources and authorities.

(3) To improve public understanding of earthquake hazards, reduce such hazards and mitigate the possible effects of potentially damaging earthquakes, the commission shall review and advise the Governor and the Legislative Assembly concerning all plans and proposals addressing seismic hazards in the areas of:

(a) Any legislative proposals deemed advisable.

(b) Plans and proposals of statewide impact.

(c) Lists of recommendations for actions and potential rule changes specifically by state agency. [1991 c.956 §4]

**401.345 Officers; quorum; meetings; compensation and expenses.** (1) The commission shall select one of its members as chairperson and another as vice chairperson, for such terms and with duties and powers necessary for the performance of the functions of such offices as the commission determines.

(2) A majority of the members of the commission constitutes a quorum for the transaction of business.

(3) The commission shall meet at least once every two months at a place, day and hour determined by the commission. The commission also shall meet at other times and places specified by the call of the chairperson or of a majority of the members of the commission.

(4) Each member of the commission appointed under ORS 401.337(1)(b)(B) to (F) shall receive compensation and expenses as provided in ORS 292.495. A legislative member shall receive compensation and expenses as provided in ORS 171.072. [1991 c.956 §§5, 6, 7]

**401.347 Support service.** The Emergency Management Division shall provide technical, clerical and other necessary support services to the commission. The Building Codes Agency, the Department of Human Resources, the State Department of Geology and Mineral Industries, the Department of Land Conservation and Development, the Department of Transportation, the Water Resources Department and the State System of Higher Education shall provide assistance, as required, to the commission to enable it to meet its objectives. [1991 c.956 §8]

**401.350** [Amended by 1953 c.394 §10; repealed by 1983 c.586 §49]

**401.353 Advisory and technical committees; expense reimbursement.** (1) To aid and advise the commission in the performance of its functions, the commission may establish such advisory and technical

committees as it considers necessary. These committees may be continuing or temporary. The commission shall determine the representation, membership, terms and organization of the committees and shall appoint their members.

(2) Members of the committees are not entitled to compensation, but in the discretion of the commission may be reimbursed from funds available to the commission for actual and necessary travel and other expenses incurred by them in the performance of their official duties, subject to ORS 292.495. [1991 c.956 §9]

#### **(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 employees, 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 State Defense Force shall be maintained by the Military Department of the State of Oregon. [Formerly 401.215; 1989 c.361 §9]

**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 ad-

ministrator 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 willful 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 willful misconduct, gross negligence or bad faith of such person or the servants, agents or employees 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 employees 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 contributions, 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]

**401.537 Entry and inspection of earthquake-damaged structures; warrant enforcement; order to vacate; rehabilitation of historic structures.** (1) For the purposes of enforcement of this chapter the building inspector or any person appointed by the Building Codes Agency, after showing official identification and, if necessary, a warrant issued to the building owner or agent of the owner under subsection (2) of this section, may:

(a) Enter, at reasonable times, any property that is known to be damaged, or for which there are reasonable grounds to believe that the structure has been damaged, as a result of an earthquake.

(b) Inspect, at reasonable times, within reasonable limits and in a reasonable manner property that is known to be damaged, or for which there are reasonable grounds to believe that the structure has been damaged, as a result of an earthquake.

(2) If entry is refused, the building inspector or any duly appointed representative of the Building Codes Agency may appear before any magistrate empowered to issue warrants and request such magistrate to issue an inspection warrant, directing it to any peace officer, as defined in ORS 161.015 to enter the described property to remove any person or obstacle and assist the building inspector or representative of the agency inspecting the property in any way necessary to complete the inspection. [1991 c.310 §4]

**Note:** 401.537 and 401.539 were added to and made a part of 401.015 to 401.535 by legislative action but were not added to any smaller series therein. See Preface to Oregon Revised Statutes for further explanation.

**401.539 Unsafe condition resulting from earthquake damage; abatement of nuisance.** (1) All buildings or portions thereof which are determined after inspection by a building inspector or a representative of the Building Codes Agency to be in unsafe condition as a result of earthquake damage may be declared to be a public nuisance and shall be abated by repair, rehabilitation, demolition or removal in accordance with the procedure specified by rules adopted by the agency.

(2) Any building declared to be in unsafe condition under subsection (1) of this section

shall be made to comply with one of the following:

(a) The building shall be repaired in accordance with the current building code or other current code applicable to the type of substandard conditions requiring repair;

(b) The building shall be demolished if the owner of the building consents; or

(c) The building may be vacated, secured and maintained against entry if the building does not constitute an immediate danger to the life, limb, property or safety of the public.

(3) If the building or structure is in such condition as to make it immediately dangerous to the life, limb, property or safety of the public or its occupants, the Building Codes Agency or representative of the agency shall order it to be vacated.

(4) If the structure, in whole or in part, is listed on or is eligible for listing on the National Register of Historic Places, established and maintained under the National Historic Preservation Act of 1966 (P.L. 89-665), or if the National Register of Historic Places ceases accepting nominations, is approved for listing on an Oregon register of historic places, or is a locally designated landmark protected by ordinance against demolition without due process, alternative compliance with the provisions of paragraphs (a) and (c) of subsection (2) of this section shall be allowed if the repaired or rehabilitated building is no more hazardous than it would be if repaired or rehabilitated in accordance with paragraph (a) of subsection (2) of this section. [1991 c.310 §5]

**Note:** See note under 401.537.

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 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 leg-

islative 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 unpredictable 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.

**401.627 Exemption from liability for electronic signaling device; exceptions.** No person may maintain an action against the manufacturer, distributor or supplier of an electronic signaling device for any loss or damage incurred during wilderness travel or mountain climbing, based on a claim that such a device failed to function successfully unless the person shows that the failure resulted from willful or wanton misconduct of the defendant or from the defendant's distributing or supplying such a device having actual knowledge that it fails to meet the specifications referred to in ORS 401.635. [1987 c.915 §3]

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) "Central office" means a utility facility that houses the switching and trunking equipment serving telephones in a defined area.

(3) "Department" means the Department of Revenue.

(4) "Division" means the Emergency Management Division of the Executive Department.

(5) "Emergency call" means a telephone request that results from a situation where prompt service is essential to preserve human life or property.

(6) "Enhanced 9-1-1 telephone service" means 9-1-1 telephone service consisting of a network, data base and on-premises equipment that provides automatic display at the designated public safety answering point of the address and telephone number at the time of receiving an incoming 9-1-1 call.

(7) "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.

(8) "Governing body" means the board of county commissioners of a county, city council of a city, other governing body of a city or county, board of directors of a special district or a 9-1-1 jurisdiction.

(9) "Local government" has the meaning given that term in ORS 190.710.

(10) "Provider" means a utility, vendor or supplier of telecommunications services and equipment who provides network system equipment; enhanced 9-1-1 data base development, installation or maintenance; or local exchange access services within a 9-1-1 service area.

(11) "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.

(12) "Public safety answering point" means a 24-hour communications facility established as an answering location for 9-1-1 calls originating within a given service area. A "primary public safety answering point" receives all calls directly from the public. A "secondary public safety answering point" only receives calls from a primary public safety answering point on a transfer or relay basis.

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

(14) "Telecommunications device for the deaf or TDD/TTY" means a telephone-typewriter used by a hearing or speech impaired person to communicate with another device or individual.

(15) "Utility" means a utility as defined in ORS 759.005, a telephone cooperative or a municipality or any provider of exchange access services.

(16) "Vendor" means any corporation, company, individual or association, providing telephone customer premise equipment or equipment specific to the operation of enhanced 9-1-1 telephone service.

(17) "9-1-1 emergency reporting system" means a telephone service which provides the users of a public telephone system the ability to reach a primary public safety answering point by calling 9-1-1.

(18) "9-1-1 jurisdiction" means an entity created under ORS chapter 190, 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 401.857 or a group of public or private safety agencies who have agreed in writing to jointly plan the installation, maintenance, operation or improvement of a 9-1-1 emergency reporting system.

(19) "9-1-1 service area" means the geographical area that contains the entire central office serving area from which the primary public safety answering point will have the capability to answer calls placed to 9-1-1. [1981 c.533 §1; 1987 c.447 §125; 1987 c.525 §5; 1987 c.671 §15; 1989 c.793 §2; 1991 c.743 §1]

**401.715 Exemption from liability for 9-1-1 providers.** No provider or any subsidiary of a provider or any other person that supplies 9-1-1 emergency reporting system equipment, or enhanced 9-1-1 telephone service equipment or services, or the employees or agents thereof, or the 9-1-1 jurisdiction or the employees or agents thereof, shall be held civilly liable for the installation, performance, provision or maintenance of a 9-1-1 emergency reporting system or enhanced 9-1-1 telephone service if the provider, subsidiary or other supplier, or the employees

or agents thereof, or the 9-1-1 jurisdiction or the employees or agents thereof, act without willful or wanton conduct. Nothing in this section shall affect any liability a 9-1-1 jurisdiction may have for operator or operator-supervisor negligence in receiving calls from the public and rendering dispatch services to the public. [1989 c.793 §5; 1991 c.743 §2]

**401.720 9-1-1 emergency reporting systems mandatory; requirements; "9-1-1" as primary emergency number; alternate numbers required; enhancement requirements.** (1) The primary emergency telephone number within the state shall be 9-1-1, 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 nonemergency number.

(2) Every public and private safety agency in this state shall participate in a 9-1-1 emergency reporting system.

(3) No emergency telephone number other than 9-1-1 shall be published on the top three-quarters of the emergency listing page of a telephone book. The remainder of the page may be used to list the Oregon Poison Center, Federal Bureau of Investigation, a designated mental health crises service and United States Coast Guard, where applicable. If there is more than one mental health crises service in a jurisdiction, the county health department shall decide which mental health crises service to list by using the criteria of a 24-hour staffed service, nonprofit organization, and non-9-1-1 participating agency. Referral to the community services section will be made for other numbers.

(4) The 9-1-1 emergency reporting system shall include at a minimum:

(a) A primary public safety answering point automatically accessible anywhere in the 9-1-1 jurisdiction service area by calling 9-1-1;

(b) Central dispatch of public and private safety services in the 9-1-1 service area or relay or transfer of 9-1-1 calls to an appropriate public or private safety agency; and

(c) Two 9-1-1 circuits from each utility central office to each primary public safety answering point.

(5) Every public and private safety agency in this state shall establish or participate in a 9-1-1 emergency reporting system using enhanced 9-1-1 telephone service before January 1, 2000. In addition to the requirements set forth in subsection (4) of this section, enhanced 9-1-1 telephone service shall include:

(a) Two call-taker stations with staffing required for one;

(b) Automatic display at the designated public safety answering point of the address and telephone number at the time of receiving an incoming 9-1-1 call;

(c) A network which is developed to transport address and telephone number information to the designated public safety answering point automatically upon a person placing a call to 9-1-1; and

(d) Emergency telephone service in which no more than one call in 100 attempts will receive a busy signal on the first attempt during the average busiest hour or a minimum of two 9-1-1 circuits to the primary public safety answering point. [1981 c.533 §2; 1989 c.793 §8; 1991 c.743 §3]

**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, administration and funding of 9-1-1 emergency reporting systems established pursuant to ORS 401.720.

(b) Upon request of a 9-1-1 jurisdiction, local government or governing body, assist in planning 9-1-1 emergency reporting systems. In addition, the division may at the request of a 9-1-1 jurisdiction act as an agent of the 9-1-1 jurisdiction for the purposes of purchasing and maintaining equipment and services required to fulfill the requirements of ORS 401.720.

(c) Report biennially to the Legislative Assembly the progress made in implementing ORS 307.215 and 401.710 to 401.790. The report shall include financial information concerning all revenues collected, distributed and expended by state agencies and 9-1-1 jurisdictions, and all account and subaccount balances, for the purposes of complying with ORS 401.710 to 401.790 and sections 10 to 20, chapter 533, Oregon Laws 1981.

(2) Notwithstanding subsection (1) of this section, the division shall not require by rule or otherwise that the proposed or established 9-1-1 emergency reporting system of a 9-1-1 jurisdiction meet any technical standards in addition to those provided in ORS 401.720.

(3) The division may establish advisory committees and study groups to study and advise on the planning and administration of 9-1-1 emergency reporting systems, multijurisdictional 9-1-1 emergency reporting systems and issues impacting 9-1-1 emergency reporting systems throughout the state. [1981 c.533 §3; 1989 c.793 §9; 1991 c.743 §4]

**401.733 Efficiency study of 9-1-1 system.** The division with the assistance of an appropriate advisory committee or study group appointed pursuant to ORS 401.730,

shall conduct a study of the efficiency of the 9-1-1 emergency reporting system in this state. The study shall include, but not be limited to, the following matters:

(1) Transfer and relay methods of 9-1-1 call processing allowed under ORS 401.720 (4)(b).

(2) Secondary public safety answering point involvement.

(3) Coordination of procedures between public safety answering points.

(4) Equipment used to link together public safety answering points for the purpose of transferring 9-1-1 calls from one public safety answering point to another.

(5) Assessment of the optimal number of public safety answering points necessary to support 9-1-1 telephone service on a state-wide basis.

(6) Development of rules to govern the funding of addressing systems required to deploy enhanced 9-1-1 services.

(7) The role of the Oregon State Police regarding 9-1-1 telephone service throughout the state.

(8) The status of the 9-1-1 standards and training program as administered by the Board on Public Safety Standards and Training. [1991 c.743 §24]

**401.735 Minimum standards for public safety telecommunications personnel; operative date; training program.** (1) The Emergency Management Division, by rule, shall adopt minimum standards for public safety telecommunications personnel, including but not limited to emergency telephone workers, as defined in ORS 243.736. In developing the standards, the division shall address the necessary multiagency support, coordination, planning, administration and ongoing maintenance of a certification program which includes testing to determine whether workers subject to the standards are in compliance.

(2) The standards referred to in subsection (1) of this section shall not become operative until the Board on Public Safety Standards and Training determines that there has been an adequate personnel training period to permit compliance with the standards.

(3) The Board on Public Safety Standards and Training shall develop a recommended training program and a plan for implementing the training program to provide workers that are subject to the minimum standards referred to in subsection (1) of this section with the training necessary to comply with the standards. The implementation plan shall address the cost considerations of the train-

ing program both to state and local government agencies whose workers are subject to the minimum standards. [1989 c.793 §9a; 1991 c.742 §12]

**401.740** [1981 c.533 §4; repealed by 1989 c.793 §17]

**401.750** [1981 c.533 §5; 1987 c.447 §127; repealed by 1989 c.793 §17]

**401.755 Submission of revised plan; review; cost estimates; approval of plan.**

(1) Each 9-1-1 jurisdiction shall submit to the Emergency Management Division in writing within 30 days any change made to the 9-1-1 emergency telephone system which alters the final plan or system description on file with the division. Such changes may include but are not limited to, the address of the public safety answering point, telephone numbers used to satisfy requirements set forth in ORS 401.720, director changes, agencies served by the 9-1-1 jurisdiction and method used to direct the 9-1-1 call once received by the primary public safety answering point.

(2) If an established 9-1-1 jurisdiction proposes to move its 9-1-1 emergency reporting system from one public safety answering point to another or a governing body proposes to establish a new 9-1-1 jurisdiction with a new primary public safety answering point and if either of these proposals will result in control of the 9-1-1 emergency reporting system by an agency or agencies other than as identified in the final plan approved by the division under ORS 401.750 (1987 Replacement Part), section 7, chapter 743, Oregon Laws 1991, or the system description filed with the division under ORS 401.750 (5) (1987 Replacement Part), the 9-1-1 jurisdiction or governing body shall submit a plan setting forth these changes to:

(a) The Emergency Management Division;

(b) Public and private safety agencies in the 9-1-1 service area; and

(c) Utilities which provide telephone service in the 9-1-1 service area.

(3) In addition to meeting the requirements of ORS 401.720 and rules adopted pursuant to ORS 401.730, the plan shall include a description of all capital and recurring costs for the proposed 9-1-1 emergency reporting system.

(4) The division shall review the revised plan for compliance with this section, ORS 401.720 and rules adopted pursuant to ORS 401.730 and, if the division determines that the plan is in compliance, the division shall approve the plan.

(5) The division shall not approve a plan submitted under this section unless the plan is accompanied by written approval of the governing bodies of all public and private safety agencies affected by or providing ser-

vice in the 9-1-1 service area. [1989 c.793 §4; 1991 c.743 §8]

401.760 [1981 c.533 §6; 1989 c.793 §10; repealed by 1991 c.743 §22]

**401.765 When blocking of telephone numbers prohibited; confidential information; exemption from liability for supplying information to emergency service providers; when supplying information not required.** (1) Each telecommunications utility, telephone cooperative or municipality that provides exchange access service or radio communications service and that provides automatic telephone number identification to public safety answering points shall not block the number of the calling party from being forwarded on 9-1-1 calls.

(2) Automatic telephone number identifications received by public safety answering points are confidential and shall not be subject to public disclosure unless and until an official report is written by the public or private safety agency and that agency does not withhold the telephone number under ORS 192.410 to 192.505 or other state and federal laws. Nonpublished and nonlisted telephone numbers shall not be included in official reports of public safety answering points and public and private safety agencies or otherwise be subject to public disclosure without the permission of the subscriber.

(3) Any telecommunications utility that in good faith provides confidential or nonpublic information, including nonpublished and nonlisted subscriber information, to emergency services providers who are responding to emergency calls placed to a 9-1-1 or an enhanced 9-1-1 emergency reporting system shall not be subject to an action for civil damages as a result thereof. Nothing in this subsection shall compel any telecommunications utility to provide nonpublished and nonlisted subscriber information directly to emergency services providers or law enforcement agencies prior to placement of an emergency call to a 9-1-1 or an enhanced 9-1-1 emergency reporting system without process of law. Any subscriber information acquired by a 9-1-1 jurisdiction for the purpose of enhancing a 9-1-1 emergency reporting system shall not be subject to public disclosure or be used by other public agencies prior to receipt of a 9-1-1 call. [1991 c.751 §2]

**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 a 9-1-1 emergency reporting system established pursuant to ORS 401.720 shall convert

every coin or credit pay station telephone to permit calling 9-1-1 and "O"-operator without depositing a coin or other charge to the caller. Conversion shall be completed at or before the time the 9-1-1 emergency reporting system is operational. [1981 c.533 §7; 1985 c.633 §6; 1989 c.793 §11]

**401.773 Use of 9-1-1 system by hearing or speech impaired users.** All public safety answering points shall be capable of receiving 9-1-1 emergency calls from the hearing or speech impaired through a telecommunications device for the deaf. [1989 c.793 §6]

**401.775 Jurisdictions to provide disaster recovery plan.** Each 9-1-1 jurisdiction shall have a disaster recovery plan prepared for its 9-1-1 emergency reporting system by January 1, 1992. The disaster recovery plan shall include at a minimum:

(1) Recovery procedures for service which is interrupted from the serving central office to and including the primary public safety answering point and corresponding secondary public safety answering points. This may include, but is not limited to, a hard-wired alternative route or a plan on file with the provider designating alternative routes or answering points.

(2) A plan to switch public safety answering point operations to an alternate site in the event the primary public safety answering point becomes inoperable.

(3) 24-hour emergency numbers for the providers serving the 9-1-1 jurisdiction. [1989 c.793 §7; 1991 c.743 §10]

**401.780 Agreements among certain safety agencies for rendering emergency services.** Public or private safety agencies may enter into agreements which provide that an emergency unit dispatched by a 9-1-1 emergency reporting system established pursuant to ORS 401.720 shall render emergency services without regard to jurisdictional boundaries. [1981 c.533 §8; 1989 c.793 §12; 1991 c.743 §11]

**401.785 Mediation of disputes; arbitration; costs.** (1) All disputes between a governing body, 9-1-1 jurisdiction and public or private safety agency regarding a 9-1-1 system, not otherwise resolved in accordance with a written agreement shall be mediated. When a governing body or 9-1-1 jurisdiction obtains knowledge that a dispute exists and cannot be resolved by the agencies, it shall notify the division of the dispute in writing. Within 30 days of this notification, the disputing agencies shall mutually select a mediator and notify the division in writing of this selection. If a mediator is not mutually selected by the agencies within this period, the administrator of the division shall select a mediator from the list of mediators

established under subsection (3) of this section. Once selected, the mediator shall establish a schedule for the mediation process. The disputing agencies shall have 60 days from the date the mediator is agreed upon or selected to mediate the dispute unless the agencies mutually agree in writing to an extension of this deadline. A copy of all extensions shall be submitted to the division.

(2) When the mediation process in subsection (1) of this section ends, the mediator shall notify the division in writing of the outcome of the mediation. If the agencies are not able to resolve their dispute through mediation, the 9-1-1 jurisdiction or governing body and public or private safety agency or agencies shall submit the dispute to arbitration. The agencies shall have 30 days from the end of the mediation to select an arbitrator. If the disputing agencies are unable to mutually select an arbitrator within this period, the administrator of the division shall request the presiding judge of the county in which the 9-1-1 system is located to select an arbitrator. The arbitrator shall have 30 days from selection to hear and decide the dispute unless the agencies mutually agree in writing to an extension of this deadline. Except as provided for in ORS 36.350 to 36.365, the decision of the arbitrator shall be final.

(3) The division shall establish a roster of mediators qualified to mediate disputes under subsection (1) of this section. This list may be used by the disputing agencies when selecting a mediator.

(4) Unless otherwise agreed upon, the costs of the mediation or arbitration, including the mediator's or arbitrator's fees, shall be divided equally among the disputing agencies. [1991 c.743 §9]

**401.790 Division to assure compliance; proceedings authorized.** (1) The Emergency Management Division may institute proceedings against a public or private safety agency, a 9-1-1 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. [1981 c.533 §9; 1987 c.447 §128; 1989 c.793 §13]

### ENHANCED 9-1-1 SERVICE PLANS

**Note:** Sections 6 and 7, chapter 743, Oregon Laws 1991, provide:

**Sec. 6.** (1) A 9-1-1 jurisdiction shall submit a preliminary plan for enhanced 9-1-1 telephone service in accordance with ORS 401.720 by January 4, 1994, to:

- (a) The Emergency Management Division;
- (b) Public and private safety agencies in the 9-1-1 service area; and
- (c) Utilities which provide local exchange access service within the proposed 9-1-1 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 9-1-1 jurisdiction within 90 days of receipt of the plan.

(3) A utility which provides telephone service in the 9-1-1 service area shall provide the 9-1-1 jurisdiction and Emergency Management Division within 90 days of receipt of the plan with a good faith cost estimate of the cost of implementing the plan. The utility shall include all costs associated with the provision of enhanced 9-1-1 telephone service including customer provided equipment and the modification of central office trunking and switching equipment required to meet ORS 401.720. A utility which provides telephone service in the 9-1-1 service area shall not be required to provide enhanced 9-1-1 in less than an entire central office serving area. [1991 c.743 §6]

**Sec. 7.** (1) Each 9-1-1 jurisdiction shall submit a final plan for enhanced 9-1-1 telephone service pursuant to ORS 401.720 by July 1, 1995, to:

- (a) The Emergency Management Division;
- (b) Public and private safety agencies in the 9-1-1 service area; and
- (c) Utilities which provide local exchange access service in the 9-1-1 service area.

(2) In addition to requirements set forth in ORS 401.720 and rules established pursuant to ORS 401.730, the final plan shall include a description of all capital and recurring costs for the proposed enhanced 9-1-1 telephone service, including the addressing, if required.

(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 9-1-1 jurisdiction and inform the 9-1-1 jurisdiction of its decision within 90 days of receipt of the plan by the division. [1991 c.743 §7]

### TAX FOR EMERGENCY COMMUNICATIONS

**Note:** Sections 10 to 20 of chapter 533, Oregon Laws 1981, as amended by chapter 16, Oregon Laws 1982 (first special session), section 1, chapter 218, Oregon Laws 1987, chapter 793, Oregon Laws 1989, and chapter 743, Oregon Laws 1991, provide:

**Sec. 10.** (1) There is imposed on the amount charged for exchange access services a tax equal to five 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 utility shall be considered as payment by the subscriber for that amount of tax.

(4) Any return made by the utility 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) The three percent telephone tax imposed by section 10, chapter 533, Oregon Laws 1981, shall remain in effect for all exchange access services provided before January 1, 1992, when the tax will change to a five percent telephone tax. The five percent tax shall continue until January 1, 2000. [1981 c.533 §10; 1989 c.793 §1; 1991 c.743 §12]

**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 utility responsible for the collection of the tax imposed by sections 10 to 16, chapter 533, Oregon Laws 1981, 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 utility 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, chapter 533, Oregon Laws 1981. [1981 c.533 §12; 1991 c.743 §13]

**Sec. 13.** (1) The utility is responsible for collecting the tax under section 10, chapter 533, Oregon Laws 1981, 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 local exchange access services during the quarter. The department shall prescribe the form of the return required by this section and section 12, chapter 533, Oregon Laws 1981. 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, chapter 533, Oregon Laws 1981, or subsection (1) of this section, the utility required to make the return shall remit the tax due to the department at the time fixed for filing the return.

(3) A utility 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 utility has made an election under subsection (3) of this section, the utility may not change the method of payment and reporting unless the utility first obtains the permission of the department. [1981 c.533 §13; 1991 c.743 §14]

**Sec. 14.** (1) If the amount paid by the utility 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 ORS 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 utility 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 utility, the utility 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 s.s. c.16 §22; 1991 c.743 §15]

**Sec. 15.** (1) Every utility required to collect the tax imposed by sections 10 to 16, chapter 533, Oregon Laws 1981, 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, chapter 533, Oregon Laws 1981.

(2) At any time the utility 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; 1991 c.743 §16]

**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, chapter 533, Oregon Laws 1981, 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 utility 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 utility required to collect the tax and that utility shall be considered a taxpayer. [1981 c.533 §16; 1991 c.743 §17]

**Sec. 17.** (1) 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, chapter 533, Oregon Laws 1981, 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, chapter 533, Oregon Laws 1981.

(2) The Enhanced 9-1-1 Subaccount is established as a subaccount of the Emergency Communications Account. Thirty-five percent of the amount in the Emergency Communications Account on the date of distribution shall be credited to the Enhanced 9-1-1 Subaccount. All moneys in the account are continuously appropriated to the Emergency Management Division and shall be used for the purposes described in section 18 (3) and (4), chapter 533, Oregon Laws 1981.

(3) The Contingency 9-1-1 Subaccount is established as a subaccount of the Emergency Communications Account. Two and one-half percent of the amount in the Emergency Communications Account shall be credited to the Contingency 9-1-1 Subaccount. All moneys in the account are continuously appropriated to the Emergency Management Division and shall be used for the purposes described in section 18 (6), chapter 533, Oregon Laws 1981. [1981 c.533 §17; 1991 c.743 §18]

**Sec. 18.** The Emergency Management Division shall distribute quarterly the entire amount of the moneys in the Emergency Communications Account be-

ginning 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-half of 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 four percent of the amount in the account on the date of distribution, or actual expenses incurred by the division, whichever is less.

(3) Funds in the Enhanced 9-1-1 Subaccount shall be used to pay for costs incurred during the preceding calendar quarter for enhanced 9-1-1 telephone service established pursuant to ORS 401.720. Enhanced 9-1-1 subaccount funds shall not be disbursed to a 9-1-1 jurisdiction which does not have an approved final plan as required in section 7 of this 1991 Act. Payments shall be made only after a reimbursement request has been submitted to the Emergency Management Division in the manner prescribed by the division. Reimbursement requests for recurring and nonrecurring charges necessary to enable the 9-1-1 jurisdiction to comply with ORS 401.720 shall be submitted directly 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;

(b) Network development, operation and maintenance;

(c) Data base development, operation and maintenance;

(d) On-premise equipment procurement, maintenance and replacement;

(e) Conversion of pay station telephones required by section 7, chapter 533, Oregon Laws 1981 [401.770];

(f) Collection of the tax imposed by sections 10 to 16, chapter 533, Oregon Laws 1981; and

(g) Addressing if the reimbursement request is consistent with rules adopted by the division.

(4) 9-1-1 jurisdictions who have enhanced 9-1-1 telephone service operational prior to December 31, 1991, shall receive funding based on cost information provided in their final plan required in section 7 of this 1991 Act. Plans submitted which meet the minimum requirements set forth in ORS 401.720 (2) and (4) shall be approved. Funding for costs incurred prior to the preceding calendar quarter shall be limited to charges associated with data base development, network and on-premise equipment which satisfy the requirements of ORS 401.720 (2) and (4). Funding under this section shall be in the manner prescribed by the division and subject to the availability of funds therefor.

(5) Any amounts remaining in the Enhanced 9-1-1 Subaccount shall be retained by the Emergency Management Division and may be distributed in any subsequent quarter for those purposes set forth in subsections (3) and (4) of this section.

(6) The Contingency 9-1-1 Subaccount shall serve as a stabilization fund to be used by the Emergency Management Division to provide 9-1-1 jurisdictions with a stable stream of revenue to carry out the provisions of ORS 401.710 to 401.790 and sections 10 to 20, chapter 533, Oregon Laws 1981. If at any time unexpended and unobligated balances in the subaccount exceed \$500,000, such excess amount shall be transferred and credited to the Emergency Communications Account and shall be used for the purposes otherwise provided by law. Distributions to 9-1-1 jurisdictions shall be made from the

Contingency 9-1-1 Subaccount by the division when revenues received by the 9-1-1 are inadequate for the 9-1-1 jurisdictions to carry out the provisions of ORS 401.710 to 401.790 and sections 10 to 20, chapter 533, Oregon Laws 1981.

(7) The commission shall review reimbursement requests for modification of central office switching and trunking equipment, conversion of pay station telephones, and network development, operation and maintenance costs necessary to comply with ORS 401.720 for the appropriateness of the costs claimed. The commission shall forward a copy of the review results to the division. The division shall approve or disapprove the reimbursement requests.

(8) The division shall review reimbursement requests for data base development, operation and maintenance, and on-premise equipment procurement, maintenance and replacement costs necessary to comply with ORS 401.720 for the appropriateness of the costs claimed.

(9) After all amounts under subsections (1) and (2) of this section and section 17 (2) and (3), chapter 533, Oregon Laws 1981, have been paid, the balance of the Emergency Communications Account shall be distributed to cities on a per capita basis and to counties on a per capita basis of each county's unincorporated area, for distribution to 9-1-1 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) and (2) of this section and section 17 (2) and (3), chapter 533, Oregon Laws 1981, have been paid. A 9-1-1 jurisdiction whose 9-1-1 service area includes more than one city or county shall receive funds from each city or county involved.

(10) Notwithstanding subsection (9) of this section, a city or county may have its quarterly distribution made payable and sent to the 9-1-1 jurisdiction responsible for providing the services required in ORS 401.720.

(11) 9-1-1 jurisdictions shall submit an accounting report to the division annually. The report shall be provided in the manner prescribed by the division, and shall include but not be limited to:

(a) Funds received and expended under subsection (9) or (10) of this section for the purposes of fulfilling the requirements of ORS 401.720;

(b) Local funds received and expended for the purposes of fulfilling the requirements of ORS 401.720; and

(c) Local funds received and expended for the purposes of providing emergency communications services. [1981 c.533 §18; 1987 c.218 §1; 1989 c.793 §14; 1991 c.743 §19]

**Sec. 19.** The division may prepare a proposed final plan for a 9-1-1 jurisdiction that has failed to file a proposed final plan pursuant to section 7 of this 1991 Act, by July 1, 1995. Costs incurred by the division shall be paid from funds which would otherwise have been available to the 9-1-1 jurisdiction under section 18, chapter 533, Oregon Laws 1981. [1981 c.533 §19; 1989 c.793 §15; 1991 c.743 §20]

**Sec. 20.** (1) Except as provided in subsection (2) of this section and rules adopted under ORS 401.730 (1)(a), moneys received under section 18 (9), chapter 533, Oregon Laws 1981, may be used only to pay for planning, installation, maintenance, operation and improvement of a 9-1-1 emergency reporting system as it relates to getting the call from the citizen to the primary public safety answering point and in transmitting the information from the primary public safety answering point to the secondary public safety answering point or responding police, fire, medical or other emergency unit by telephone, radio or computerized means.

(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; 1989 c.793 §16; 1991 c.743 §21]

**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 401.857.** As used in ORS 401.807 to 401.857, unless the context requires otherwise:

(1) "District" means a 9-1-1 communications district formed under ORS 401.807 to 401.857.

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

(3) "9-1-1 emergency reporting system" means a system established under ORS 401.720.

(4) "9-1-1 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; 1989 c.793 §21]

*Note:* 401.807 to 401.857 were enacted into law by the Legislative Assembly but were not added to or made a part of ORS chapter 401 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) A 9-1-1 communications district may be created as provided in ORS 198.705 to 198.955 and 401.807 to 401.857.

(2) A 9-1-1 communications district shall consist of all the telephone exchange service areas located wholly or partly within a designated 9-1-1 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.

(4) In addition to other required matters, the petition for formation shall state the number of district board members for the proposed district and the method of election of the board of the proposed district from

among the methods described in ORS 401.836. [1987 c.671 §2; 1989 c.793 c.22; 1989 c.1063 §1]

*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 or seven 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; 1989 c.1063 §2]

*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 or seven district board members, determined by the number of board members set forth in the petition for formation, shall be elected at the election for district formation. Nominating petitions shall be filed with the county governing body.

(2) When the petition for formation provides for a five-member district board, 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) When the petition for formation provides for a seven-member district board, if

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

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

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

(6) The district board shall fill any vacancy on the board as provided in ORS 198.320.

(7) Except as otherwise provided in this section or in ORS 401.833, the term of a district board member is four years.

(8) The terms of the members first elected to a district board shall be determined by lot. [1987 c.671 §4; 1989 c.1063 §3]

Note: See note under 401.807.

**401.833 Changing number of board members; election; notice to Secretary of State.** (1) This section establishes the procedure for determining the following questions:

(a) Whether a district having a five-member board shall increase the number of members to seven.

(b) Whether a district having a seven-member board shall decrease the number of members to five.

(2) The question of increasing or decreasing the membership of the district board shall be determined at a regular district election. The district board, by resolution, may order the question to be submitted to the electors of the district. The district board shall order the question to be submitted to the electors when a petition is filed with the secretary of the board requesting that the electors of the district be permitted to vote on the question. The requirements for preparing, circulating and filing the petition shall be as provided for an initiative petition in ORS 255.135 to 255.205. The board shall be increased to seven members or decreased to five members if a majority of the votes cast on the question favors the increase or decrease. At an election to increase the membership, electors shall vote for candidates to fill the additional positions.

(3) When a district is situated entirely within one county, if the electors approve the increase or decrease in board membership, not later than the 30th day after the

election, the district board shall adjust and stagger the terms of the board members as necessary in order to continue biennial elections of board members in accordance with ORS 401.834. The district board shall take into consideration and, as much as possible, provide for the continued method of representation adopted by the district under ORS 401.836.

(4) When a district includes territory in more than one county, not later than the 40th day before the regular district election at which a question under this section will be submitted, the district election authority shall notify the Secretary of State. If the electors favor the increase or decrease in board membership, not later than the 30th day after the election, the Secretary of State by rule shall adjust and stagger the terms of the board members as necessary in order to continue biennial elections of board members in accordance with ORS 401.834. The Secretary of State shall take into consideration and, as much as possible, provide for the continued method of representation adopted by the district under ORS 401.836. [1989 c.1063 §5]

Note: See note under 401.807.

**401.834 Continuing schedule of biennial elections after change in number of board members.** When a district expands the membership of its district board from five to seven members or reduces the membership of its board from seven to five members:

(1) If the board is reduced to five members, at least two members shall be elected at each regular district election.

(2) If the board is expanded to seven members, at least three members shall be elected at each regular district election. [1989 c.1063 §6]

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]

**401.836 Manner of electing board members.** (1) The district board members may be elected in one of the following methods:

(a) Elected by the electors of the district from zones as nearly equal in population as possible according to the latest federal census. Each elector of the district shall be entitled to vote for candidates for election from all the zones in the district.

(b) Elected by the electors of the district from zones as nearly equal in population as possible according to the latest federal census. Each elector of the district shall be entitled to vote only for candidates for election from the zone in which the elector resides.

(c) Except for one district board member-at-large, elected by the electors of

the district from zones as nearly equal in population as possible according to the latest federal census. The district board member-at-large shall be elected from the entire district. Each elector of the district shall be entitled to vote for the district board member-at-large and for candidates for election from the zone in which the elector resides.

(d) Elected at large by position number by the electors of the district.

(2) Candidates for election from zones shall be nominated by electors of the zones. Candidates for election at large shall be nominated by electors of the district.

(3) Each candidate for election from a zone shall be a resident of that zone. [1989 c.1063 §7]

Note: See note under 401.807.

401.837 [1987 c.671 §7; renumbered 401.857]

**401.838 Election of board members.** At the regular district election, successors to the board members whose terms expire shall be elected as follows:

(1) In an unzoned district, if two board members are to be elected, the candidates receiving the first and second highest vote shall be elected. If three or four board members are to be elected, the candidates receiving the first, second or third or first, second, third and fourth highest vote shall be elected.

(2) In a district that is zoned under ORS 401.836:

(a) If a board member is to be elected by the electors of a zone, the candidate who receives the highest vote from the zone shall be elected.

(b) If a board member is to be elected by the electors of the entire district, the candidate receiving the highest vote among the candidates nominated from the same zone shall be elected. [1989 c.1063 §8]

Note: See note under 401.807.

**401.839 Changing manner of electing board members; requirements; election.**

(1) This section establishes the procedure for determining whether the method adopted in a district for nominating and electing board members should be changed to another method. The question shall be decided by election. The district board:

(a) May order the election on its own resolution; or

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

(2) Except as otherwise provided in this section, the requirements for preparing, circulating and filing a petition under this sec-

tion shall be as provided for an initiative petition in ORS 255.135 to 255.205.

(3) If the question proposes creation of zones or a change in the boundaries of existing zones, the following requirements shall apply:

(a) The petition shall contain a map indicating the proposed zone boundaries. The map shall be attached to the cover sheet of the petition and shall not exceed 14 inches by 17 inches in size.

(b) Notwithstanding ORS 250.035, the statement of chief purpose in the ballot title shall not exceed 150 words. The statement:

(A) Shall specify the method of nomination and election of board members from among the methods described in ORS 401.836.

(B) Shall include a general description of the proposed boundaries of the zones, using streets and other generally recognized features.

(c) The order calling the election shall contain a map of the proposed zone boundaries and a metes and bounds or legal description of the proposed zone boundaries. The map and description shall be prepared by the county surveyor or county assessor and shall reflect any adjustments made in the boundaries under subsection (6) of this section.

(4) The map to be contained in the petition under subsection (3) of this section shall be prepared by the county surveyor or county assessor. The chief petitioners shall pay the county for the cost of preparing the map, as determined by the county surveyor or county assessor. The county clerk shall not accept the prospective petition for filing until the chief petitioners have paid the amount due.

(5) Subsection (3) of this section does not apply if the question proposes abolition of all zones.

(6) Before submitting to election a question to which subsection (3) of this section applies, the district board shall adjust the proposed boundaries of the zones to make them as nearly equal in population as feasible according to the latest federal census. The district board shall amend the ballot title as necessary to reflect its adjustment of the boundaries.

(7) If the electors of the district approve the establishment of zones or a change in the boundaries of existing zones, board members shall continue to serve until their terms of office expire. As vacancies occur, positions to be filled by nomination or election by zone shall be filled by persons who reside within zones which are not represented on the board. If more than one zone is not repre-

sented on the board when a vacancy occurs, the zone entitled to elect a board member shall be decided by lot. [1989 c.1063 §9]

Note: See note under 401.807.

401.840 [1955 c.679 §9; repealed by 1980 s.s. c.19 §6]

**401.841 Changing number and manner of electing board members at same election; separate questions.** A question of changing the method of nominating and electing district board members under ORS 401.839 and a question of increasing or decreasing the number of district board members under ORS 401.833 may be submitted to the electors of a district at the same regular district election. However, the questions shall be submitted to the electors as separate questions. [1989 c.1063 §10]

Note: See note under 401.807.

**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 a 9-1-1 emergency reporting 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; 1989 c.793 §23]

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 real market value of all taxable property within the district

computed in accordance with ORS 308.207. [1987 c.671 §9; 1991 c.459 §396]

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, (see note following 401.790) 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]

**401.852 Boundaries of zones for board members; adjustment for population and boundary changes.** The board shall adjust zones established within a district as necessary to make them as nearly equal in population as is feasible according to the latest federal census. The board also shall adjust boundaries of zones as necessary to reflect boundary changes of the district. [1989 c.1063 §11]

Note: See note under 401.807.

401.855 [1955 c.679 §17; repealed by 1980 s.s. c.19 §6]

**401.857 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 401.857. 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. [Formerly 401.837]

**Note:** See note under 401.807.

**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]

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## **CHAPTERS 402 TO 405**

**[Reserved for expansion]**

