Chapter 268

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Metropolitan Service Districts

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GENERAL PROVISIONS

268.010 Short title. This chapter may be referred to as the Metropolitan Service District Act of 1969. [1969 c.700 §1]

268.015 Policy. The Legislative Assembly hereby finds that there exists a proliferation of regional governments in the Portland metropolitan area, leading to duplication of public services, overlapping jurisdictions and a confusion and unfamiliarity by citizens as to the governmental decisions affecting their lives and property; and hereby declares that the purpose of ORS 249.056, 268.015 to 268.030, 268.060, 268.150 to 268.190, 268.310, 268.312, 268.320, 268.335, 268.342, 268.360, 268.380 to 268.390, 268.505, 268.512, 268.513 and 268.517 is to provide for the consolidation of those regional governments and to establish an elected governing body and thereby to increase the accountability and responsiveness of regional government officials to the citizenry through the election process. [1977 c.665 §1]

Note: 268.015 was enacted into law by the Legislative Assembly but was not added to or made a part of ORS chapter 268 or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

268.020 Definitions. As used in this chapter:

(1) "Council" means the governing body of a district.

(2) "District" means a metropolitan service district established under this chapter.

(3) "Executive officer" means the official responsible for the executive and administrative functions of the district.

(4) "Metropolitan area" means that area which lies within the boundaries of Clackamas, Multnomah and Washington Counties.

(5) "Improvement" means the facilities and other property constructed, erected or acquired by and to be used in the performance of services authorized to be performed by a district.

(6) "Metropolitan significance" means having major or significant district-wide impact.

(7) "Person" means the state or a public or private corporation, local government unit, public agency, individual, partnership, association, firm, trust, estate or any other legal entity. [1969 c.700 §2; 1977 c.665 §2; 1979 c.531 §3; 1987 c.349 §1]

268.030 Purpose of chapter; limitation on use; purpose of districts. (1) This chapter is enacted in order to provide a method of making available in metropolitan areas public services not adequately available through previously authorized governmental agencies.

(2) To this end not more than one district may be established under this chapter in any metropolitan area.

(3) Subject to the limitations of state law, the district may provide:

(a) Metropolitan aspects of sewerage, solid and liquid waste disposal, control of surface water, public transportation, water supply, human services, parks and recreation, cultural facilities, libraries, correctional facilities and correctional programs; and

(b) Metropolitan zoo facilities; and

(c) Local aspects of those public services authorized by paragraphs (a) and (b) of this subsection that are transferred to the district by agreement between the district and other public corporations, cities or counties; and

(d) By contract, metropolitan and local aspects of services authorized under this chapter to areas outside the district boundaries.

(4) A district, where formed, shall provide for those aspects of land use planning having metropolitan significance. [1969 c.700 §3; 1975 c.510 §1; 1977 c.95 §16; 1977 c.665 §3; 1977 c.782 §3]

268.040 Exemption from public utility regulation. Transportation facilities operated by a district, including the rates and charges made by the district and the equipment operated by the district, and transportation facilities operated for a district by a private operator pursuant to a contract between the operator and the district, including the rates and charges made by the operator pursuant to the contract, and the equipment operated pursuant to the contract, shall not be subject to the laws of this state regulating public utilities, including those laws administered by the Public Utility Commission of Oregon. [1969 c.700 §31]

268.050 Initiative and referendum. (1) The electors of a district may exercise the powers of the initiative and referendum with reference to legislation of the district in accordance with ORS 255.135 to 255.205.

(2) The council may refer any ordinance to the electors for their approval or rejection at any election date prescribed in ORS 255.345.

(3) Upon petition of the electors of the district filed with the district election officer, the council shall call an election for the purpose of referring legislation or submitting initiative legislation to the electors for their approval or rejection. [1969 c.700 §28; 1981 c.173 §40; 1983 c.350 §129; 1989 c.328 §2]

268.060 Costs of elections. (1) The cost of elections to nominate or elect councilors or the executive officer shall be paid by the district.

(2) When a district election is held on a district measure, the election shall be conducted under ORS chapter 255. [1977 c.665 §6a (enacted in lieu of 268.200)]

FORMATION

268.070 Authority to determine organization of district government; voter approval; authority to supersede statutes. (1) Subject to subsection (2) of this section, the council or the electors of the district may by ordinance prescribe the organization of the district government. However, an ordinance prescribing the organization of the district government that is enacted by the council shall receive the approval of the electors of the district before taking effect. An ordinance prescribing the organization of district government may provide for the number, election or appointment, qualifications, tenure, compensation, powers and duties of such officers as the district considers necessary. Such officers shall among them exercise all the district's powers and perform all the district's duties as required by the laws of this state.

(2) The council or the electors of the district may supersede ORS 268.150, 268.160, 268.170, 268.180, 268.190, 268.210 and 268.215 by enacting an ordinance authorized by this section. Until superseded by a district ordinance, such provisions shall remain in effect in the district. [1989 c.321 §7]

268.100 Initiation of proceedings to establish district; petition or resolution for election; tax base. (1) In addition to initiatory action authorized by ORS 198.705 to 198.955, proceedings to establish a district may be initiated by:

(a) A resolution adopted by the governing body of the most populous city in the proposed district and filed with the county governing body, petitioning that body to call the election; or

(b) A resolution adopted by the county governing body of the most populous county in a metropolitan area on its own motion and declaring its intention to call the election.

(2) The petition or resolution initiating formation may request that the election to establish the district be held at the same time as an election at which it is permissible to establish a tax base within the meaning of section 11, Article XI of the Oregon Constitution. If the petition or resolution does so, the election shall be held at such time. The petition or resolution may also request that the proposition to be voted on at such an election include a proposed tax base for the district within the meaning of section 11, Article XI of the Oregon Constitution. If the petition or resolution does so, the proposition to be voted on at the election shall include a proposed tax base for the district, in accordance with the petition or resolution. [1969 c.700 §4; 1971 c.727 §97]

268.110 [1969 c.700 §5(1), (2); repealed by 1971 c.727 §203]

268.115 [1969 c.700 §5(3), (4); repealed by 1971 c.727 §191]

268.120 Establishing district tax base. A tax base within the meaning of section 11, Article XI of the Oregon Constitution may be established for a district at the same election at which the district is established. If the petition or resolution for initiating proceedings to establish the district contains both requests authorized by ORS 268.100 (2), the county governing body that calls the election shall confer about the proposed tax base with the governing bodies of all counties and cities having territory in the proposed district and shall then determine the tax base to be proposed for the district. The proposition submitted to the electors of the district for the purpose of establishing the district shall propose the tax base specified by the county governing body. The tax base so proposed shall be the initial tax base of the district within the meaning of section 11, Article XI of the Oregon Constitution, if the district is established at the election. [1969 c.700 §6; 1971 c.727 §99]

268.125 [1977 c.665 §14; repealed by 1991 c.15 §8]

268.130 [1969 c.700 §7; repealed by 1971 c.727 §191]

COUNCIL; EXECUTIVE OFFICER

268.150 Councilors; qualifications; terms; election. (1) The governing body of a district shall be a council consisting of 13 part-time councilors, each elected on a nonpartisan basis from a single subdistrict within the boundaries of the metropolitan service district. Each councilor shall be a resident and elector of the subdistrict from which the councilor is elected and shall not be an elected official of any other public body. Each councilor shall be a resident of the subdistrict from which the councilor is elected for not less than one year before taking office. The term of office for a councilor shall be four years beginning on the first Monday in January of the year next following the election. Councilors shall be divided into two classes so that one-half, as nearly as possible, of the number of councilors shall be elected biennially. A vacancy in office shall be filled by a majority of the remaining members of the council. The councilor, before taking office, shall take an oath to support the Constitution of the United

States, and the Constitution and laws of this state. Candidates for councilor positions shall be nominated and elected at the primary and general elections as provided in subsection (6) of this section.

(2) The council shall by legislative enactment reapportion the subdistricts after the data of each United States decennial census are compiled and released. The reapportionment shall provide for substantially equal population in each subdistrict. Area within each subdistrict shall be contiguous. In apportioning subdistricts the council shall give consideration to existent precincts, maintaining historic and traditional communities and counties as opposed to following existent city or special district boundaries or the political boundaries of state representative or state senate election districts except when these political boundaries coincide with natural boundaries. Any councilor whose term continues through the primary election following reapportionment shall be specifically assigned to a subdistrict. The reapportionment shall be enacted by a vote of a majority of the members of the council and shall be effective upon its enactment. The reapportionment shall become operative on the 250th day before the date of the next primary election.

(3) Upon the petition of any elector of the district filed with the Supreme Court not later than the 45th day after the enactment date of reapportionment, original jurisdiction is vested in the Supreme Court to review the reapportionment and the record made by the council. If the Supreme Court determines that the reapportionment thus reviewed complies with subsection (2) of this section, it shall dismiss the petition. If the Supreme Court determines that the reapportionment does not comply with subsection (2) of this section, the reapportionment shall be void. The Supreme Court shall return the reapportionment to the council accompanied by a written opinion specifying with particularity how the reapportionment fails to comply. The opinion shall further direct the council to correct the reapportionment in those particulars, and in no others, and file the corrected reapportionment with the Supreme Court. The Supreme Court shall review the corrected reapportionment when received to assure its compliance with subsection (2) of this section and may further correct the reapportionment if the court considers correction to be necessary. When the Supreme Court requires correction of a reapportionment under this subsection, the corrected reapportionment shall become operative on the 250th day before the date of the next primary election.

(4) For the purposes of section 18, Article II, Oregon Constitution, a councilor whose term continues through the next primary election following a reapportionment is subject to recall by the electors of the subdistrict to which the councilor is assigned and not by the electors of the subdistrict existing before the latest reapportionment.

(5) For the purposes of filling a vacancy in office under subsection (1) of this section, the vacancy shall be deemed to have occurred in the subdistrict to which the councilor is assigned and not the subdistrict existing before the latest reapportionment. This subsection shall apply only to a vacancy in office occurring after the primary election next following a reapportionment and before a person has been elected and qualified to fill the vacancy.

(6) ORS chapters 249 and 254, relating to the nomination and election of nonpartisan candidates for office, apply to the nomination and election of councilors except as provided in subsection (1) of this section and except that a candidate shall be nominated from the subdistrict in which the candidate resides. The number of signatures within the subdistrict required for a nomination is that required under ORS 249.072 (2), but the requirement that the petition contain signatures of persons residing in a number of precincts shall not apply. [1977 c.665 §5 (enacted in lieu of 268.200); 1979 c.804 §7; 1981 c.353 §3a; 1981 c.375 §3; 1983 c.350 §130; 1985 c.808 §78; 1989 c.10 §1; 1989 c.321 §1]

268.160 Rules of procedure; officers; compensation and expenses. The council may adopt and enforce rules of procedure governing its proceedings in accordance with this chapter. At its first meeting after January 1 of each year, one councilor shall be elected by the council to serve as its presiding officer for the ensuing year.The council shall meet upon the request of the presiding officer or that of a majority of the council. Notwithstanding the provisions of ORS 198.190, councilors shall receive no other compensation for their office than a per diem for meetings, plus necessary meals, travel and other expenses as determined by the council. [1977 c.665 §6 (enacted in lieu of 268.200); 1979 c.804 §8]

268.170 Advisory committees to council; reimbursement to members. To assist it in the performance of its duties, the council shall appoint advisory committees comprised of local government officials from the metropolitan area and any other areas receiving services from the district in accordance with this chapter. Members of the advisory committees shall serve without compensation but shall be reimbursed for

their reasonable expenses as determined by the council. [1977 c.665 §20]

268.180 Executive officer to administer district; qualifications; election; term; salary; subordinates. (1) District business shall be administered, and district rules and ordinances shall be enforced, by an executive officer.

(2) The executive officer shall be elected in the same manner provided under ORS 268.150, but the officer shall be elected from the district-at-large on a nonpartisan basis. The number of signatures within the district required for nomination is that required under ORS 249.072 (2), but the requirement that the petition contain signatures of persons residing in a number of precincts shall not apply. The executive officer shall be a resident and elector of the district and shall not be an elected official of any other public body. The executive officer shall be a resident in the district for not less than one year before taking office. The term of office for an executive officer shall be four years beginning on the first Monday in January on the next year following the election. A vacancy in office shall be filled by appointment by a majority of the council. The executive officer, before taking office, shall take an oath to support the Constitution of the United States and the Constitution and laws of this state.

(3) The executive officer shall serve full time and shall not be employed by any other person or governmental body while serving the district. The executive officer shall not serve as a member of the council.

(4) The salary and employment benefits of the executive officer shall be set by the council upon the recommendation of a salary commission to be appointed by the council, but shall not be less than that of a district court judge of this state.

(5) The executive officer may employ or dismiss any personnel and contract with any person or governmental agency to assist in carrying out the duties and powers of the executive officer, subject to the personnel and contract ordinances adopted by the council. [1977 c.665 §7 (enacted in lieu of 268.200); 1979 c.804 §9; 1981 c.375 §4; 1983 c.350 §131; 1987 c.349 §2]

268.190 Council and executive officer relationships; veto. (1) The council is responsible for the legislative functions of the district and such other duties as the law prescribes.

(2) The executive officer shall present to the council plans, studies and reports prepared for district purposes and may propose to the council for adoption such measures as deemed necessary to enforce or carry out the powers and duties of the district, or to the efficient administration of the affairs of the district.

(3) The executive officer shall keep the council fully advised as to its financial condition, and shall prepare and submit to the council the district's annual budget for its approval, and any other financial information the council requests.

(4) The executive officer shall administer the district and enforce the ordinances enacted by the council.

(5) Any legislative enactment of the council may be vetoed by the executive officer within five working days after its enactment. The veto may be overridden by an affirmative vote of two-thirds of the council not later than 30 days after the veto. [1977 c.665 §8 (enacted in lieu of 268.200); 1987 c.349 §5]

268.200 [1969 c.700 §9; repealed by 1977 c.665 §4 (268.060, 268.150, 268.160, 268.180, 268.190 and 268.312 enacted in lieu of 268.200)]

268.210 Employing assistance. The council of a district may employ or dismiss any personnel and contract with any person or governmental agency to assist in carrying out the duties and powers of the council, subject to the personnel and contract ordinances adopted by the council. [1969 c.700 §27; 1987 c.349 §6]

268.215 Personnel system; adoption by council; council confirmation of executive officer appointments. The executive officer shall submit for council adoption a personnel system for the district. The personnel system shall provide that employees in the office of the executive officer and department directors shall serve at the pleasure of the executive officer and that staff employed by the council shall serve at the pleasure of the council. The council by ordinance may require appointments and reappointments of department directors made by the executive officer to be subject to confirmation by the council. [1987 c.349 §4]

268.220 Employees' rights when district assumes a function of another public corporation, city or county. Except as otherwise provided by ORS 268.230, a district shall offer to employ every person who, on the date the district takes over a function of a public corporation, city or county in the district, is employed by the corporation, city or county to carry on the function. Where the district employs such a person, the employee shall remain an employee of the corporation, city or county for purposes of any pension or retirement plan the employee has been included in by the corporation, city or county and shall continue to have rights and benefits thereunder as if the person had remained an employee of the corporation, city or county, until the district provides a simi-

lar plan for its employees and the employee is included in the plan. Until the employee is so included, the district shall deduct from the compensation of the employee the amount the employee is required to pay under the plan of the corporation, city or county; shall pay that amount to the corporation, city or county, which shall credit the amount to the employee under the plan; and shall make whatever payments the plan calls for the employer to make. [1969 c.700 §30]

268.225 Employee withdrawal from PERS. Notwithstanding any contrary provision of ORS chapter 237, any employee of the district who is a member of the state Public Employes' Retirement System on October 3, 1979, may elect to withdraw from that system. Upon withdrawal, the rights of a district employee shall be governed by ORS 237.111 and shall be the same as those of any other employee who is a member of the system and is separated therefrom for any reason other than death or disability. [1979 c.804 §2]

268.230 District to protect employees' rights when an operating public transportation system is acquired. When the district acquires an operating public transportation system, it shall make fair and equitable arrangements to protect the interests of employees and retired employees of the system. Such protective arrangements shall include, but shall not be limited to:

(1) Preservation of rights, privileges and benefits, including continuation of pension rights and payment of benefits, existing under collective bargaining agreements, or otherwise;

(2) Continuation of collective bargaining rights;

(3) Protection of individual employees against a worsening of their positions with respect to their employment; and

(4) Assurance of employment to persons employed by the mass transportation system acquired and priority of reemployment to persons previously employed. [1969 c.700 §29a]

268.240 PERS membership for specified classes of district employees; conditions. (1) A district that is not participating in the Public Employes' Retirement System may, by application to the board, include any class of employees of the district in the system established by ORS chapter 237 without entering into a contract of integration with the board under ORS 237.051.

(2) The board shall consider an application received under this section to be an application to become a participating employer under ORS chapter 237 but only to the extent of providing membership for the class of employees described in the application.

(3) The board, upon such terms as are set forth in a contract between the board and the employer, shall allow every employee in the specified class to become members of the Public Employes' Retirement System in accordance with ORS 237.001 to 237.315.

(4) When a district enters into a contract with the board under subsection (3) of this section, the district shall agree to eventually extend coverage under ORS chapter 237 to all eligible district employees through successive contracts with the board.

(5) All employees who have completed the period of service with the public employer that is required under ORS 237.011 shall become members of the system on a date specified by the board. All other employees in the described class shall become members upon completion of the required period of service.

(6) As used in this section, "board" means the Public Employes' Retirement Board established under ORS 237.251. [1989 c.879 §2]

POWERS

268.300 Existence, status and general powers of district; where vested. (1) A district shall constitute a municipal corporation of this state, and a public body, corporate and politic, exercising public power. It shall have full power to carry out the objectives of its formation and to that end may have and use a seal, have perpetual succession, sue and be sued in its own name, and enter into contracts.

(2) For purposes of its authorized functions, a district may contract with the United States or with any county, city, state or public body, or any of their departments or agencies.

(3) Except as this chapter provides to the contrary, the powers of the district shall be vested in the governing body of the district. [1969 c.700 §§8,26; 1977 c.95 §1]

268.310 Powers of district. A district may, to carry out the purposes of this chapter:

(1) Acquire, construct, alter, maintain and operate interceptor, trunk and outfall sewers and pumping stations and facilities for treatment and disposal of sewage as defined in ORS 468B.005 and engage in local aspects of sewerage transferred to the district by agreement with other public corporations, cities or counties in accordance with this chapter.

(2) Subject to the requirements of ORS 459.005 to 459.045, 459.065 to 459.105, 459.205 to 459.385, 459.992 (1) and (2) and 466.995 (1),

dispose, and provide facilities for disposal, of solid and liquid wastes.

(3) Control the flow, and provide for the drainage, of surface water, by means of dams, dikes, ditches, canals and other necessary improvements or by enlarging, improving, cleaning or maintaining any natural or artificial waterway or by requiring property owners to install and maintain water control or retention systems.

(4) Provide public transportation and terminal facilities for public transportation, including local aspects thereof transferred to the district by one or more other public corporations, cities or counties through agreements in accordance with this chapter.

(5) Acquire, construct, alter, maintain, administer and operate metropolitan zoo facilities.

(6) Acquire, construct, alter, maintain, administer and operate major cultural, convention, exhibition, sports and entertainment facilities. However, unless the electors of the district first approve the financing of the facilities, the district shall not:

(a) Construct new facilities; or

(b) Except for facilities acquired by means of an intergovernmental agreement, acquire existing facilities.

(7) Notwithstanding ORS 268.312, provide planning for metropolitan and local aspects of criminal and juvenile justice. Funds derived from municipal corporations under ORS 268.513 may be used as matching funds to obtain federal or state grants for those planning purposes. [1969 c.700 §10; 1971 c.648 §22; 1975 c.510 §2; 1977 c.95 §17; 1977 c.665 §10; 1977 c.782 §5; 1979 c.804 §4; 1987 c.844 §1]

268.312 Additional powers of district; preconditions. (1) Subject to prior approval by the electors of the district, a district may:

(a) Acquire, develop, construct, alter, maintain and operate metropolitan aspects of water supply and distribution systems including local aspects of systems of persons, public corporations, cities or counties transferred to the district by agreement in accordance with this chapter.

(b) Plan, coordinate and evaluate the providing of human services, including but not limited to, programs for the aging, health care, manpower, mental health and children and youth.

(c) Acquire, develop, maintain and operate a system of parks, open space, and recreational facilities of metropolitan significance.

(d) Provide facilities for metropolitan aspects of criminal and juvenile detention and programs for metropolitan aspects of adult and juvenile justice and, by agreement, local aspects of jails, corrections programs and juvenile justice in accordance with this chapter.

(e) Provide metropolitan aspects of library activities including, but not limited to, book acquisition and technical assistance for local libraries.

(2) For the purposes of this section, prior approval by the electors of a district includes approval of any measure which authorizes the district to exercise any power or function described in subsection (1) of this section or any measure relating to district finances which authorizes financing or identifies funds to be used for the exercise of such power or function. [1977 c.665 §10a (enacted in lieu of 268.200); 1977 c.782 §6; 1985 c.204 §1]

268.315 Authority of district to levy ad valorem tax. For the purpose of performing the functions set forth in ORS 268.310 (5), the district, when authorized at any properly called election held for such purpose, shall have the power to levy an ad valorem tax on all taxable property within its boundaries not to exceed in any one year one-half of one percent (.005) of the real market value of all taxable property within the boundaries of such district, computed in accordance with ORS 308.207. [1975 c.510 §3; 1991 c.459 §368]

Note: 268.315 was enacted into law by the Legislative Assembly but was not added to or made a part of ORS chapter 268 or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

268.317 Solid and liquid waste disposal powers. For purposes of solid and liquid waste disposal, a district may:

(1) Build, construct, acquire, lease, improve, operate and maintain landfills, transfer facilities, resource recovery facilities and other improvements, facilities or equipment necessary or desirable for the solid and liquid waste disposal system of the district. Leases authorized by this section include lease-purchase agreements whereunder the district may acquire ownership of the leased property at a nominal price. Such leases and lease-purchase agreements may be for a term of up to 30 years.

(2) Sell, enter into short or long-term contracts, solicit bids, enter into direct negotiations, deal with brokers or use other methods of sale or disposal for the products or by-products of the district's facilities.

(3) Require any person or class of persons who generate solid or liquid wastes to make use of the disposal, transfer or resource recovery sites or facilities of the district or disposal, transfer or resource recovery sites or facilities designated by the district.

(4) Require any person or class of persons who pick up, collect or transport solid or liquid wastes to make use of the disposal, transfer or resource recovery sites or facilities of the district or disposal, transfer or resource recovery sites or facilities designated by the district.

(5) Regulate, license, franchise and certify disposal, transfer and resource recovery sites or facilities; establish, maintain and amend rates charged by disposal, transfer and resource recovery sites or facilities; establish and collect license or franchise fees; and otherwise control and regulate the establishment and operation of all public or private disposal, transfer and resource recovery sites or facilities located within the district. Licenses or franchises granted by the district may be exclusive. Existing landfills authorized to accept food wastes which, on March 1, 1979, are either franchised by a county or owned by a city are exempt from the district's franchising and rate regulation.

(6) Prescribe a procedure for the issuance, administration, renewal or denial of contracts, licenses or franchises granted under subsection (5) of this section.

(7) Regulate the service or services provided by contract, license or franchise and order modifications, additions or extensions to the equipment, facilities, plan or services as shall be in the public interest.

(8) Receive, accept, process, recycle, reuse and transport solid and liquid wastes. [1977 c.95 §3; 1979 c.531 §4]

268.318 Council approval required for disposal, transfer or resource recovery site or facility; criteria. (1) No public or private disposal, transfer or resource recovery site or facility in the district shall be established, modified or extended without the prior approval of the council. The council may deny an application for the establishment, modification or extension of a site or facility if pursuant to its solid waste management plan the district has either:

(a) Entered into contracts obligating the district to supply or direct minimum quantities of solid wastes to sites or facilities designated in the contract in order that those sites or facilities will operate economically and generate sufficient revenues to liquidate any bonded or other indebtedness incurred by reason of those sites or facilities; or

(b) Adopted a franchise system for the disposal of solid or liquid wastes.

(2) In considering an application for the establishment, modification or extension of a site or facility, the council may take into account the location and number of existing sites or facilities and their remaining capacities, whether the proposed establishment, modification or extension complies with the district's solid waste management plan and whether the applicant has complied with all other applicable regulatory requirements. [1979 c.531 §2]

268.320 Elector approval of district actions; assumption of local aspects of functions. (1) The electors of a district may, from time to time, and in exercise of their power of the initiative, or by approving a proposition referred to them by the governing body of the district, authorize the district to assume additional functions and determine the number, qualifications and manner of selecting members of the governing body of the district.

(2) Local aspects of the functions authorized by subsection (1) of this section may be assumed only on the basis of agreements between the district and other public corporations, cities or counties.

(3) The electors of a district may, in exercise of their power of initiative, or by approving a proposition referred to them by the governing body of the district, authorize a transfer of all the duties, functions and powers of the boundary commission formed within the metropolitan area under ORS 199.410 to 199.519 to the district. [1969 c.700 §11; 1977 c.95 §18; 1977 c.665 §11]

268.330 Powers when providing local aspects of service; powers for public transportation; tax refunds. (1) To provide a local aspect of a public service the district may take over facilities and functions of another public corporation, city or county, and may exercise powers of the corporation, city or county, in accordance with the agreement by which the district assumes the functions of the other corporation, city or county.

(2) For purposes of public transportation, a district may:

(a) Contract with the United States or with any county, city or state, or any of their departments or agencies, for the construction, preservation, improvement, operation or maintenance of any mass transit system.

(b) Build, construct, purchase, improve, operate and maintain, subject to other applicable provisions of law, all improvements, facilities or equipment necessary or desirable for the mass transit system of the district.

(c) Enter into contracts and employ agents, engineers, attorneys and other persons and fix their compensation.

(d) Fix and collect charges for the use of the transit system and other district facilities.

(e) Construct, acquire, maintain and operate passenger terminal facilities and motor

vehicle parking facilities in connection with the mass transit system within or outside the district.

(f) Use a public thoroughfare in a manner mutually agreed to by the governing bodies of the district and of the thoroughfare or, if they cannot so agree upon how the district may use the thoroughfare, in a manner determined by an arbitrator appointed by the Governor.

(g) Do such other acts or things as may be necessary or convenient for the proper exercise of the powers granted to a district by this chapter.

(3) A district shall be entitled to tax refunds under ORS 319.831, as if the district were a city. [1969 c.700 §12; 1979 c.344 §3; 1983 c.740 §69]

268.335 Authority to establish service districts. (1) A metropolitan service district may establish service districts as provided by ORS chapter 451 and this chapter. For the purposes of ORS chapter 451, a metropolitan service district shall be considered a county and the district council created by ORS 268.150 shall be considered a county court.

(2) Notwithstanding those districts authorized under ORS 451.010, a metropolitan service district may create service districts only for purposes authorized by this chapter. [1977 c.665 §21]

268.340 Acquisition of property; condemnation procedure; authority to lease and dispose of property; right of entry to survey lands. (1) To the extent necessary to provide a metropolitan aspect of a public service, a district may acquire by purchase, condemnation, devise, gift or grant real and personal property or any interest therein within and without the district, including property of other public corporations. In so doing the district may proceed under ORS chapter 35.

(2) A district may lease and dispose of property in accordance with ORS 271.300 to 271.360.

(3) For purposes of surveys necessary for its proper functioning, a district may enter upon land, after giving the owner thereof reasonable advance notice of the entry. [1969 c.700 §§13,14,15; 1979 c.804 §5; 1985 c.443 §3]

268.342 Acquisition of water rights. (1) A district may appropriate and acquire water and water rights within and without the district for the purpose of providing metropolitan aspects of water supply and distribution.

(2) Subsection (1) of this section is not to be construed to affect or impair the vested rights of any person, public corporation, city or county to the use of water or rights in the use of water. [1977 c.665 §23]

268.345 Limitation on condemnation power for certain facilities. Notwithstanding any power of condemnation, the district shall not acquire existent major cultural, convention, exhibition, sports or entertainment facilities owned by a public or municipal corporation without the consent of the governing body of that corporation. [1977 c.782 §2]

268.350 Contracts of district. A district may contract with any public or private agency for the agency to operate any facility or perform any function that the district is authorized to operate or perform. By contract the district may assume any function of any public corporation, city or county in the district that the district has power to assume under this chapter. [1969 c.700 §23]

268.355 Limited participation by local government in Washington in council deliberations; contract. (1) Notwithstanding any other law, a district council may contract with any local government outside this state which shares a common boundary with the district for the participation of that local government in the council's deliberations.

(2) No contract under subsection (1) of this section shall allow a local government jurisdiction outside the State of Oregon a vote on a district council. A contract may grant the participating local government the limited right to object to a measure before a council insofar as that measure directly affects the participating local government. The contract may provide that when an objection is made by the participating local government to a measure the measure shall not apply to the participating local government unless it receives a not less than two-thirds affirmative vote of the members of the council.

(3) A contract under subsection (1) of this section may require a participating local government to pay assessments in the manner provided under ORS 268.513. [1979 c.804 §3]

268.357 Authority to sell certain information; marketing agreements; confidentiality; use of sales fees. (1) A district may impose and collect reasonable fees based on market prices or competitive bids for geographic data that have commercial value and are an entire formula, pattern, compilation, program, device, method, technique, process, data base or system developed with a significant expenditure of public funds. A district may enter into agreements with private persons or entities to assist with marketing such products. Notwithstanding any other provision of law, district software product programming source codes, object codes and geographic data bases or systems are confidential and exempt from public dis-

closure under ORS 192.502. Nothing in this section authorizes a district to restrict access to public records through inclusion of such records in a geographic data base or system.

(2) Fees collected under subsection (1) of this section shall be used:

(a) For maintenance of the formula, pattern, compilation, program, device, method, technique, process, data base or system; and

(b) To provide services through the formula, pattern, compilation, program, device, method, technique, process, data base or system to public bodies paying a service charge to the district pursuant to ORS 268.513. [1989 c.476 §2]

268.360 Authority to exercise police power; ordinances; effective dates; enforcement. (1) For purposes of its authorized functions a district may exercise police power and in so doing adopt such ordinances as a majority of the members of its council considers necessary for the proper functioning of the district. All legislative acts shall be by ordinance and all such ordinances shall be adopted in the manner provided in ORS chapter 198, except where in conflict with this section.

(2) Unless otherwise specified by the council in the ordinance, an ordinance shall become effective on the 90th day after its adoption. If an ordinance is vetoed by the executive officer and the veto is overridden by the council, the date of adoption shall be the date on which the veto is overridden. Except as provided in ORS 268.465 and 268.507, the council by a majority vote of its members may declare that an emergency exists in which case an ordinance may take effect immediately or in less than 90 days. The council by a majority vote of its members may prescribe that an ordinance take effect later than the 90th day after its adoption. If the council refers an ordinance to the electors, the ordinance shall become effective on the 30th day after its approval by a majority of the electors voting on the measure or on a later date specified in the ordinance. If a referendum petition, other than a petition referring an ordinance declaring an emergency, is filed with the filing officer not later than the 90th day after the adoption of the ordinance and before the ordinance takes effect, the effective date of the ordinance shall be suspended. An ordinance referred by a proper referendum petition shall become inoperative and shall not take effect if a majority of the electors voting on the measure reject the ordinance.

(3) In addition to the provisions of ORS 268.990, violation of the district's ordinances may be enjoined by the district upon suit in a court of competent jurisdiction.

(4) In addition to any other penalty provided by law, any person who violates any ordinances or order of the district pertaining to one or more of its authorized functions shall incur a civil penalty not to exceed $500 a day for each day of violation.

(5) The civil penalty authorized by subsection (4) of this section shall be established, imposed and collected in the same manner as civil penalties are established, imposed and collected under ORS 468.135. [1969 c.700 §24; 1977 c.95 §4; 1977 c.665 §12; 1981 c.173 §41; 1981 c.353 §4; 1983 c.350 §132; 1991 c.15 §4; 1991 c.734 §16]

268.370 Authority to take over transit system of mass transit district; effect of transfer order. When a metropolitan service district organized under this chapter functions in a mass transit district organized under ORS 267.010 to 267.390, the governing body of the metropolitan district may at any time order transfer of the transit system of the transit district to the metropolitan district, whereupon:

(1) The governing body of the transit district shall transfer title to, and possession of, the transit system and of all books, records, files, documents, and other property of the district to the metropolitan district.

(2) The metropolitan district shall be responsible for all the liabilities and obligations imposed upon or assumed by the transit district.

(3) For purposes of mass transit the metropolitan district shall have all the rights, powers, privileges, and immunities, and be subject to all the duties and obligations, of a mass transit district under ORS 267.010 to 267.390, insofar as those rights, powers, privileges, immunities, duties, and obligations are consistent with this chapter.

(4) The boundaries of the metropolitan district shall, for purposes of mass transit, be extended to encompass all the territory of the transit district.

(5) The transit district shall be dissolved and the offices of its directors terminated. [1969 c.700 §32]

268.380 Land-use planning goals and activities; coordination; review of local plans. A district council shall:

(1) Adopt land-use planning goals and objectives for the district consistent with goals adopted under ORS 195.020 to 195.040 and 197.005 to 197.465;

(2) Review the comprehensive plans in effect on January 1, 1979, or subsequently adopted by the cities and counties within the district and recommend or require cities and

counties, as it considers necessary, to make changes in any plan to assure that the plan conforms to the district's metropolitan area goals and objectives and the statewide goals;

(3) Coordinate the land-use planning activities of that portion of the cities and counties within the district; and

(4) Coordinate its activities and the related activities of the cities and counties within the district with the land-use planning development activities of the Federal Government, other local governmental bodies situated within this state or within any other state and any agency of this state or another state. [1977 c.665 §17; 1979 c.804 §11]

268.385 District as regional planning coordinator. (1) For the purposes of ORS 195.025, the district formed under this chapter shall exercise within the district the review, advisory and coordinative functions assigned under ORS 195.025 (1) to each county and city that is within the district.

(2) ORS 195.025 (3) and (4) shall not apply to a district formed under this chapter. [1977 c.665 §19]

268.390 Planning for activities and areas with metropolitan impact; review of local plans; urban growth boundary. A district council shall:

(1) Define and apply a planning procedure which identifies and designates areas and activities having significant impact upon the orderly and responsible development of the metropolitan area, including, but not limited to, impact on:

(a) Air quality;

(b) Water quality; and

(c) Transportation.

(2) Prepare and adopt functional plans for those areas designated under subsection (1) of this section to control metropolitan area impact on air and water quality, transportation and other aspects of metropolitan area development the council may identify.

(3) Adopt an urban growth boundary for the district in compliance with applicable goals adopted under ORS chapters 195, 196 and 197.

(4) Review the comprehensive plans in effect on January 1, 1979, or subsequently adopted by the cities and counties within the district which affect areas designated by the council under subsection (1) of this section or the urban growth boundary adopted under subsection (3) of this section and recommend or require cities and counties, as it considers necessary, to make changes in any plan to assure that the plan and any actions taken under it conform to the district's functional plans adopted under subsection (2) of this section and its urban growth boundary adopted under subsection (3) of this section. [1977 c.665 §18; 1979 c.402 §1; 1983 c.827 §53; 1985 c.565 §40]

268.395 Commissions to implement powers and functions of district; creation by ordinance. (1) A metropolitan service district may create by ordinance commissions for all powers or functions of a metropolitan service district as prescribed by law and including those in ORS 268.310, 268.312 and 268.370.

(2) The ordinance shall describe the powers of the commission which may include all powers of the council of the metropolitan service district, except that the power to adopt ordinances and all budget, revenue and planning authority remain in the council of the metropolitan service district.

(3) The ordinance shall describe the number of members of the commission, qualifications of members, terms of office and method of appointment. [1985 c.785 §2]

268.400 Review of final order or action by council. Any person adversely affected or aggrieved by a final order or other final action of a commission created under this section and ORS 268.395 is entitled to review of that order or action by the council of the district. The council shall review actions of a commission in accordance with procedures established by the council. [1985 c.785 §3]

SPECIAL ASSESSMENT DISTRICTS

268.460 Notice of intent to establish special assessment district; contents. (1) Before construction or acquisition of a facility or the furnishing of a service which the district is authorized to furnish and for which facility or service the district intends to establish a special assessment district, the governing body of the district shall adopt an ordinance that:

(a) Describes the facility to be constructed or acquired or the service to be furnished and the part of the work to be undertaken immediately;

(b) Contains a preliminary estimate of the probable cost of the facility or service;

(c) Determines the manner of financing the construction or acquisition of the facility or the furnishing of the service. The governing body may provide that the cost of such construction, acquisition or service shall be paid in part by assessments against the property directly benefited or property contributing to the problem that the construction, acquisition or service is designed to correct and in part out of general funds, ad valorem tax levies, the proceeds of the sale of bonds, service charges or any combination of such sources. The determination of

the governing body as to the proportion of cost allocation shall be based on its sound discretion;

(d) Describes one or more assessment districts containing the properties against which the cost of the facility or service will be assessed; and

(e) Contains provision for notices to be mailed to affected property owners announcing the intention of the governing body of the district to construct or acquire the facility or to furnish the service and to assess benefited property or property contributing to the problem that the construction, acquisition or service is designed to correct for a part or all of the cost.

(2) The ordinance may also:

(a) Provide that notices mailed under this subsection shall be sent with response cards so that the affected property owners can indicate approval of, or opposition to, the proposed facility or service;

(b) Provide for a hearing not sooner than 20 days after the mailing of the notices described in paragraph (e) of subsection (1) of this section at which affected property owners may appear to support or object to the implementation of the proposed facility or service and return their response cards; and

(c) Provide, when the response cards received by the district not later than the end of the district's usual business hours on the 14th day immediately following the hearing held under paragraph (b) of this subsection indicate opposition to the proposed facility or service by more than half of those owners returning response cards, who also own more than half of the land owned by those owners returning response cards, the proposed facility or service will not be established. [1981 c.641 §2]

268.465 Authority to levy special assessments; notice of intent; hearing; effect of response cards. (1) Unless the proposed facility or service described in the ordinance required under ORS 268.460 is halted pursuant to a vote of affected property owners under ORS 268.460 (2)(c), a district may levy special assessments against the property within the district in proportion to the benefits such property might have or receive on account of the construction or acquisition of that facility or the furnishing of that service or in proportion to the degree to which the property contributes or has contributed to the problem that the construction, acquisition or service is designed to correct. However, the governing body of the district shall, before proceeding to construct or acquire the facility or to furnish the service, adopt an ordinance providing for the method of assessment, for the recording of assessment liens on such property and for the making of supplemental assessments and rebates. The ordinance shall also:

(a) Contain provision for a notice to be mailed to each affected property owner announcing the intention of the governing body of the district to construct or acquire a facility or to furnish a service, to create one or more assessment districts and to assess benefited property for a part or all of the cost. The notice shall contain an estimate of the amount of the assessment proposed on the property of the owner receiving the notice. The ordinance shall also require that a notice mailed under this subsection shall be sent with a response card so that the affected property owners can indicate approval of, or opposition to, the proposed assessments.

(b) Provide for a hearing not sooner than 20 days after the mailing of the notices described in paragraph (a) of this subsection at which affected property owners may appear to support or object to the proposed assessment. Any such objection shall state the grounds thereof. The district council shall consider such objections and may adopt, correct, modify or revise the proposed assessments.

(c) Provide that, when the response cards received by the district not later than the end of the district's usual business hours on the 14th day immediately following the hearing held under paragraph (b) of this subsection indicate opposition to the proposed assessments by more than half of those owners returning response cards, who also own more than half of the land owned by those owners returning response cards, the assessments will not be made.

(2) Assessments in the district shall, so far as practicable, be apportioned within the district in accordance with the special and peculiar benefit each lot or parcel of land receives from the construction or acquisition of a facility or the furnishing of the service or in proportion to the degree to which the property contributes or has contributed to the problem that the construction, acquisition or service is designed to correct.

(3) Where parcels of land, or portions thereof, are undeveloped, the governing body of the district may, in its discretion, defer assessing or imposing all or any portion of such special assessments for facilities or services on such parcels until the parcels are served by the facilities or services. [1981 c.641 §3]

268.470 Authority to join certain requirements in single ordinance; effect of response cards. A district, in its discretion, may adopt a single ordinance satisfying the

requirements of ORS 268.460 and 268.465. When a district adopts an ordinance under this section, if the response cards returned to the district indicate opposition to the proposed facility or service, and the assessments therefor, by more than half of those owners returning response cards, who also own more than half of the land owned by those owners returning response cards, the facility or service shall not be established. [1981 c.641 §4]

268.475 Purposes of special assessment district. Special assessment districts authorized under ORS 268.460 to 268.490 may be established for, and limited to, financing the costs of planning and engineering required for the construction or acquisition of a facility or the furnishing of a service which the district is authorized to construct, acquire or furnish. [1981 c.641 §5]

268.480 Response cards; contents; deadline for return; effect. (1) A response card mailed by the district under ORS 268.460 to 268.490 shall contain on one side the printed mailing address of an office of the district. On the other side, the response card shall contain a simple and understandable statement of the district's proposed action for which the property owner's approval is sought, a question relating to approval or disapproval which is phrased so that an affirmative response to the question corresponds to an affirmative vote for the proposed district action and clear instructions for making an affirmative or negative response. Each response card shall be coded to identify the parcel of property owned and shall specify that it must bear the signature of the property owner in order to be counted.

(2) Response cards shall be returned by mail or otherwise to the district not later than the 14th day after the hearing held under ORS 268.460 to 268.490.

(3) Response cards shall be counted and the results tabulated at a district meeting open to the public.

(4) Response cards shall be retained by the district and made available for public inspection during usual business hours at an office of the district for not less than 90 days after the hearing held under ORS 268.460 to 268.470.

(5) For the purposes of ORS 268.460 to 268.490, "owner" or "property owner" means the legal owner as indicated in the records maintained by the appropriate county assessor. If there is multiple ownership in a parcel of land, the multiple owners of the parcel are entitled to only one joint vote under ORS 268.460 to 268.470. If one person is the owner of more than one parcel in the proposed assessment district, that person is entitled to only one vote under ORS 268.460 to 268.470. [1981 c.641 §6]

268.485 Installment payment of assessment; rights pertaining to assessments. Any owner of property which has been assessed in the sum of $100 or more for part of the cost of the construction or acquisition of a facility or the furnishing of a service which the district is authorized to furnish shall have the right to pay the assessment in installments. The property owner and the district shall have the respective rights, duties and powers pertaining to assessments as are given to property owners and cities respectively under ORS 223.205 and 223.210 to 223.295. [1981 c.641 §7]

268.490 Reassessment. ORS 223.405 to 223.485, relating to reassessment, apply to the district, where applicable, in connection with assessments made for the construction or acquisition of a facility or the furnishing of a service which the district is authorized to furnish. [1981 c.641 §8]

268.495 Improvement warrant provisions applicable to special assessments. If the cost, or any portion of the cost, of a service or facility is to be assessed under ORS 268.460 to 268.490 against the property directly benefited, the provisions of ORS 287.502 to 287.515 relating to the issuance of improvement warrants by cities apply insofar as practicable. Such warrants may be issued only after an assessment district has been formed to pay part or all of the costs of the service or facility to be provided. [1981 c.353 §2; 1983 c.740 §70]

FINANCES

268.500 Levy, collection, enforcement of ad valorem taxes; limitation; classification of property; allocation of tax base to specific district functions. (1) A district may levy annually an ad valorem tax on all taxable property within its boundaries not to exceed in any one year one-half percent (.005) of the real market value of all taxable property within the boundaries of such district, computed in accordance with ORS 308.207. The district may also annually assess, levy and collect a special tax upon all such property in an amount sufficient to pay the yearly interest on bonds previously issued by the district and then outstanding, together with any portion of the principal of such bonds maturing within the year. The special tax shall be applied only in payment of the interest and principal of bonds issued by the corporation, but the corporation may apply any funds it may have towards the payment of principal and interest of any such bonds.

(2) Such taxes shall be levied in each year and returned to the county officer whose duty it is to extend the tax levy by the time required by law for city taxes to be levied and returned. All taxes levied by the district shall become payable at the same time and be collected by the same officer who collects county taxes and shall be turned over to the district according to law. The county officer whose duty it is to extend the county levy shall extend the levy of the district in the same manner as city taxes are extended. Property shall be subject to sale for nonpayment of taxes levied by the corporation in like manner and with like effect as in the case of county and state taxes.

(3) In taxation a district may classify property on the basis of services received from the district and prescribe different tax rates for the different classes of property.

(4) If the council proposes a tax base measure to the voters of the district, it may perpetually allocate the proposed base to functions or activities of the district. To be binding, the allocation must be stated both in the ordinance or resolution which submits the measure to the voters and in the ballot title. Any constitutionally authorized increase in the tax base subsequently levied by the council shall be apportioned to the functions or activities specified by the council in the ballot title in the same proportion as the original allocation. If the district reduces or ceases to provide a function or activity for which the tax base has been allocated, then the council may use that portion of the tax base for any lawful purpose of the district.

(5) If the statement in the resolution or ordinance and in the measure submitted includes an allocation of the proposed base to functions or activities of the district, the statement in the ballot title for the measure must include the following statement, which shall not be counted as part of the 175-word limit established under ORS 310.390 (1)(c):

Any constitutionally authorized increase in the tax base subsequently levied by the council shall be apportioned to the functions or activities specified by the council in the ballot title in the same proportion as the original allocation. If the district reduces or ceases to provide a function or activity for which the tax base has been allocated, then the council may use that portion of the tax base for any lawful purpose of the district.

[1969 c.700 §17; 1987 c.816 §1; 1991 c.459 §369; 1993 c.18 §48]

268.503 Vehicle registration fees. Subject to ORS 801.040 to 801.042, 801.237 and 803.445, for the purpose of providing any service that the district, as defined in ORS 801.237, has power to provide, the district may impose registration fees on vehicles under ORS 803.445. [1989 c.864 §13]

268.505 Income tax; rate limitation; elector approval required. (1) To carry out the purposes of this chapter, a district may by ordinance impose a tax:

(a) Upon the entire taxable income of every resident of the district subject to tax under ORS chapter 316 and upon the taxable income of every nonresident that is derived from sources within the district which income is subject to tax under ORS chapter 316; and

(b) On or measured by the net income of a mercantile, manufacturing, business, financial, centrally assessed, investment, insurance or other corporation or entity taxable as a corporation doing business, located, or having a place of business or office within or having income derived from sources within the district which income is subject to tax under ORS chapter 317 or 318.

(2) The rate of the tax imposed by ordinance adopted under authority of subsection (1) of this section shall not exceed one percent. The tax may be imposed and collected as a surtax upon the state income or excise tax.

(3) Any ordinance adopted pursuant to subsection (1) of this section may require a nonresident, corporation or other entity taxable as a corporation having income from activity both within and without the district taxable by the State of Oregon to allocate and apportion such net income to the district in the manner required for allocation and apportionment of income under ORS 314.280 and 314.605 to 314.675.

(4) If a district adopts an ordinance under this section, the ordinance shall be consistent with any state law relating to the same subject, and with rules and regulations of the Department of Revenue prescribed under ORS 305.620.

(5) Any ordinance adopted by the district under subsection (1) of this section shall receive the approval of the electors of the district before taking effect. [1977 c.665 §22]

268.507 Excise taxes; effective date of tax ordinance; limitation on tax revenues. (1) To carry out the executive, legislative and administrative powers, functions and duties of the district described in this chapter and to study the potential exercise of all the powers and functions specified in ORS 268.312, a district may by ordinance impose excise taxes on any person using the facilities, equipment, systems, functions, services

or improvements owned, operated, franchised or provided by the district.

(2) An ordinance imposing or increasing an excise tax shall not become effective until the 90th day after the date of adoption by the district.

(3) The total revenues from all excise taxes imposed by a district under this section shall not exceed in any fiscal year six percent of the gross revenues collected or received by the district during the fiscal year. [1989 c.332 §§3,4]

268.509 Use of excise tax revenues. It is the intent of the Legislative Assembly that a substantial portion of the revenues derived by the metropolitan service district from the imposition of excise taxes shall be used to reduce overhead charges assessed to and transferred from the operating funds of the district for its central executive, legislative and administrative functions. [1989 c.332 §2]

268.510 [1969 c.700 §18; repealed by 1981 c.641 §9]

268.512 Public lands within water control project subject to assessments and fees. Any land situated within a surface water control project undertaken by the district, the title to which is vested in the state or any county, city or town, shall be subject to assessment and imposition of service fees by the district. The full amount of assessments or service fees due against such land shall be paid to the district at the same times and in the same manner as other district assessments and service fees. [1977 c.665 §23a]

268.513 Service charge for planning functions of district. (1) The council shall consult with the advisory committee appointed under ORS 268.170 before determining whether it is necessary to charge the cities and counties within the district for the services and activities carried out under ORS 268.380 and 268.390. If the council determines that it is necessary to charge cities and counties within the district for any fiscal year, it shall determine the total amount to be charged and shall assess each city and county with the portion of the total amount as the population of the portion of the city or county within the district bears to the total population of the district provided, however, that the service charge shall not exceed the rate of 51 cents per capita per year. For the purposes of this subsection the population of a county does not include the population of any city situated within the boundaries of that county. The population of each city and county shall be determined in the manner prescribed by the council.

(2) The council shall notify each city and county of its intent to assess and the amount it proposes to assess each city and county at least 120 days before the beginning of the fiscal year for which the charge will be made.

(3) The decision of the council to charge the cities and counties within the district, and the amount of the charge upon each, shall be binding upon those cities and counties. Cities and counties shall pay their charge on or before October 1 of the fiscal year for which the charge has been made.

(4) When the council determines that it is necessary to impose the service charges authorized under subsection (1) of this section for any fiscal year, each mass transit district organized under ORS chapter 267 and port located wholly or partly within the district shall also pay a service charge to the district for that fiscal year for the services and activities carried out under ORS 268.380 and 268.390. The charge for a mass transit district or port shall be the amount obtained by applying, for the population of the mass transit district or port within the boundaries of the district, a per capita charge that is 12-1/2 percent of the per capita rate established for cities and counties for the same fiscal year. Subsections (2) and (3) of this section apply to charges assessed under this subsection.

(5) This section shall not apply to a fiscal year that begins on or after July 1, 1993. [1977 c.665 §16; 1979 c.804 §10; 1981 c.353 §5; 1985 c.210 §1; 1989 c.327 §2]

268.514 Alternatives to service charges for planning. (1) It is the intent of the Legislative Assembly in continuing the service charges authorized by ORS 268.513 that the metropolitan service district, in consultation with the committee appointed under ORS 268.170 and other appropriate state and local officials, shall analyze, consider and propose alternative means of providing the necessary financial support for carrying out certain of the activities and services of the district under ORS 268.380 and 268.390.

(2) The metropolitan service district and the committee shall consider proposals for additional direct resources for the district, as well as additional resources for the local governments that are subject to the service charges. [1989 c.327 §1]

268.515 Service and user charges; grants; loans. (1) A district may impose and collect service or user charges in payment for its services or for the purposes of financing the planning, design, engineering, construction, operation, maintenance, repair and expansion of facilities, equipment, systems or improvements authorized by this chapter.

(2) A district may seek and accept grants of financial and other assistance from public and private sources.

(3) A district may, with the approval of a majority of members of its governing body, borrow money from any county or city with territory in the district.

(4) A district may, by entering into loan or grant contracts or by the issuance of bonds, notes or other obligations with the approval of a majority of members of its governing body, borrow money from the state or its agencies or departments, including without being limited to, money from the Pollution Control Fund.

(5) Notwithstanding ORS 294.305 to 294.520, 294.555 and 294.565, the authority to borrow granted under this section includes the authority to enter into agreements to repay such money subject to such terms and conditions as the parties may agree.

(6) A district may provide that its borrowing of money be secured by a lien and pledge of all or any part of the revenues derived by the district from the facilities constructed from the proceeds of the moneys borrowed.

(7) Except in an emergency, the imposition of or increase in a service or user charge shall not become effective until 65 business days after approval by the governing body. As used in this subsection, business days mean Monday through Friday. [Formerly 268.540]

268.517 Fiscal year. The fiscal year of the district shall commence on July 1 of each year and end on June 30 of the following year. [1977 c.665 §15]

GENERAL OBLIGATION BONDS

268.520 Authority to issue bonds; limitation; conditions; advertisement and sale. (1) For the purpose of performing any service that the district has power to perform, the district, when authorized at any properly called election held for such purpose, shall have the power to borrow money by the issuance and sale of general obligation bonds. Such bonds shall never exceed in the aggregate 10 percent of the real market value of all taxable property within the district computed in accordance with ORS 308.207. The bonds shall be so conditioned that the district shall promise and agree therein to pay the bearer at a place named therein, the principal sum with interest at a rate named therein payable semiannually in accordance with the tenor and terms of the interest coupons attached. The bonds shall mature serially not to exceed 30 years from the date of issue.

(2) All general obligation bonds shall be advertised for sale and sold in the manner prescribed in ORS 287.014 to 287.026 for the sale of bonds of cities. [1969 c.700 §19; 1977 c.782 §7; 1983 c.347 §21; 1991 c.459 §370]

268.525 Refunding bonds. Refunding bonds of the same character and tenor as those replaced thereby may be issued pursuant to a resolution adopted by the district governing body without submitting to the electors the question of authorizing the issuance of the bonds. [1969 c.700 §19a]

268.530 Bond elections. Elections for the purpose of voting on the question of borrowing funds by issuance and sale of general obligation bonds shall be called by the governing body. [1969 c.700 §20; 1971 c.647 §63a; 1977 c.782 §8]

268.540 [1969 c.700 §§16,21,22; 1977 c.95 §5; renumbered 268.515]

REVENUE BONDS

268.590 Credit enhancement of district bonds and other obligations. (1) As used in ORS 268.600 to 268.660:

(a) "Credit enhancement agreement" means the agreement pursuant to which a credit enhancement device is provided, given or issued.

(b) "Credit enhancement device" means any letter of credit, line of credit, municipal bond insurance or other device given or provided as security for the payment of the principal of, premium, if any, or interest on revenue bonds or bond anticipation notes issued under ORS 268.600 to 268.660 or as security for the payment or performance of any of the district's obligations under or with respect to such revenue bonds or bond anticipation notes.

(c) "Credit enhancement provider" means the person or entity providing or issuing a credit enhancement device.

(2) In connection with the issuance of revenue bonds or bond anticipation notes under ORS 268.600 to 268.660, a district may arrange for a credit enhancement device to be given, issued or provided as security for the payment of the principal of, premium, if any, or interest on such revenue bonds or bond anticipation notes or as security for the payment or performance of the district's obligations under or with respect thereto.

(3) A district may enter into a credit enhancement agreement with a credit enhancement provider setting forth the respective rights, duties and obligations of the district and the credit enhancement provider under or with respect to such credit enhancement device, which agreement may contain such terms, covenants and conditions as shall be approved by the governing body of the district and which are not inconsistent with the provisions of ORS 268.600 to 268.660.

(4) The obligations of the district under or with respect to any credit enhancement device or credit enhancement agreement shall not in any manner or to any extent be general obligations of the district nor a charge upon any other revenues or property of the district not specifically pledged thereto.

(5) In the ordinance authorizing the issuance of revenue bonds or bond anticipation notes under ORS 268.600 to 268.660, the governing body may pledge as security for the payment or performance of the district's obligations under or with respect to the related credit enhancement device or credit enhancement agreement all or any portion of the district's revenues, regardless of the source from which derived, then existing or which thereafter come into existence. In addition, in such ordinance the governing body may pledge or mortgage as security for the payment or performance of its obligations under or with respect to such credit enhancement device or credit enhancement agreement any property of the district. Any such pledge or mortgage of revenues or other property may be on such terms as the governing body shall determine, including but not limited to a pledge or mortgage on a parity basis with the pledge or mortgage of such revenues or other property as security for revenue bonds or bond anticipation notes issued under ORS 268.600 to 268.660 or on a subordinated basis. In the ordinance creating such pledge or mortgage, the district may reserve the right to pledge or mortgage from time to time on a parity or subordinated basis all or any part of such pledged or mortgaged revenues or other property as security for the payment or performance of the district's obligations under or with respect to any one or more series of revenue bonds or bond anticipation notes or credit enhancement device or credit enhancement agreement thereafter issued, given, provided or entered into by the district. [1987 c.623 §7]

268.600 Issuance of revenue bonds; use of proceeds; status of bonds. For the purpose of carrying into effect all or any of the powers granted to metropolitan service districts, a district may from time to time issue and sell revenue bonds without the necessity of the electors of a district authorizing the bonds. Proceeds from the sale of such bonds may be used to cover the costs incurred in issuing such bonds, and preliminary work incident to carrying out such purposes and powers, including but not limited to planning, engineering, inspection, accounting, fiscal, legal and trustee expenses, the costs of issuance of bonds, engraving, printing, advertising and other similar expenses, and to pay interest on the outstanding bonds issued for any project during the period of actual construction and for such period thereafter as a district may determine, and to establish, maintain or increase any reserves for debt service on the bonds. Such revenue bonds shall not in any manner or to any extent be a general obligation of a district nor a charge upon any other revenues or property of a district not specifically pledged thereto. A district may issue revenue bonds pursuant to ORS 268.600 to 268.660 for the purpose of financing landfills, transfer facilities, resource recovery facilities and other improvements, facilities and equipment necessary or desirable for the solid and liquid waste disposal system of the district regardless of whether such improvements, facilities or equipment are to be owned by the district or any other public or private agency or person and regardless of whether such improvements, facilities or equipment are to be located within or without the district. In connection with the issuance of revenue bonds to finance any such improvements, facilities or equipment which are to be owned by any other public or private agency or person, the district shall enter into a lease-purchase, installment sale or loan agreement with such public or private agency or person providing for lease-purchase, installment sale or loan payments which, together with other revenues pledged for the payment of such revenue bonds as provided in ORS 268.610, shall be sufficient to pay when due the principal of, premium, if any, and interest on such revenue bonds. [1977 c.95 §9; 1987 c.623 §1]

268.610 Ordinance authorizing revenue bonds; content; special trust funds; trustees; enforcement. (1) Revenue bonds issued under ORS 268.600 to 268.660 shall be authorized at a meeting by ordinance of the governing body. The ordinance may provide for the creation of special trust funds and may authorize the appointment of a trustee to administer the funds, and may obligate a district to set aside and pay into a special trust fund for the purpose of securing revenue bonds, all or any portion of its revenues, regardless of the source from which derived, then existing or which thereafter come into existence. The governing body may, in addition thereto, pledge or mortgage for the payment of the principal of and interest on and premium, if any, of any issue of such bonds any property of a district. Notice that action upon the bond ordinance will be taken at the designated meeting of the governing body, shall be given for a period of not less than two consecutive weeks, prior to such meeting, by publication thereof once each week in a newspaper of general circulation, published within the corporate boundaries of the district or, if there be no such newspaper, by posting such notice for a pe-

riod of not less than two weeks in three public places in the district.

(2) The money in a special trust fund created by an ordinance authorizing an issue of revenue bonds shall be used solely for the purposes provided therefor by the ordinance.

(3) The ordinance may obligate the district, and the district shall have power to fix, levy and collect such rates, rentals, fees and other charges for the use and services of all or any of its facilities, which revenues may be pledged to the payment of the principal of and interest on and premium, if any, of the revenue bonds or any of them and if so pledged shall be sufficient to produce revenues, along with other lawfully available funds, adequate to pay the costs of the operation, maintenance and repair of any or all district properties; to pay or provide for the payment of the principal of and interest on, and premium, if any, of such revenue bonds or any of them, including any reserves for such payment; and to produce such additional amount of revenues therefrom as the district may covenant with the holders of such revenue bonds.

(4) The ordinance may provide that in the event the money in a special trust fund is insufficient to pay the revenue bonds to be paid out of the fund, such revenue bonds shall be payable out of any part or all of other nonpledged revenues of the district. Whenever all bonds and expenses thereof have been paid so that no charge remains upon such special fund, the governing body may, by ordinance, transfer any balance remaining in such fund to its general fund, discharge the trustee, if any, and dissolve the special fund. Any trustee authorized to administer the fund may, subject to approval of the governing body, invest and reinvest moneys in the special fund in any security or securities in which the State of Oregon may by law invest.

(5) If the governing body fails to set aside and pay revenues into a special trust fund as required by the ordinance authorizing the issuance and sale of the bonds secured by the fund, a holder of any of such bonds may bring suit against the district to compel compliance with the provisions of the ordinance in the circuit court of the county in which the district has its principal office.

(6) In the ordinance authorizing the issuance of revenue bonds under ORS 268.600 to 268.660 and pledging all or any portion of the district's revenues to the payment of such revenue bonds:

(a) The district may reserve the right to pledge from time to time on a parity basis all or any part of such pledged revenues as security for any one or more series of revenue bonds thereafter issued by the district, and in the event the right so reserved by the district is exercised all revenue bonds secured by such pledged revenues shall be equally and ratably secured thereby without preference or priority of any kind of any bond or series of bonds secured thereby over any other bond or series of bonds secured thereby; and

(b) The district may reserve the right to pledge from time to time on a subordinated basis all or any part of such pledged revenues as security for any one or more series of revenue bonds thereafter issued by the district.

(7) Any pledge of revenues by a district made pursuant to this section or ORS 268.590 shall be valid, binding and fully perfected from and after the date of issuance of the revenue bonds secured thereby and the revenues pledged shall be immediately subject to the lien of such pledge without the physical delivery thereof, the filing of any notice or any further act. The lien of any such pledge shall be valid, binding and fully perfected against all persons having claims of any kind against the district whether in tort, contract or otherwise, irrespective of whether such persons have notice thereof. [1977 c.95 §10; 1987 c.623 §2]

268.620 Form and content of bonds; redemption. The revenue bonds issued and sold under ORS 268.600 to 268.660:

(1) Shall be deemed to be for all purposes negotiable instruments, subject only to the provisions of the bonds for registration, and need not comply with requirements of the Uniform Commercial Code.

(2) May be issued in one or more series, bear such date or dates, mature at such times and in such amounts, be in such denomination or denominations, be payable at a designated place or places within or without the State of Oregon or at the fiscal agency of the State of Oregon, be equally and ratably secured without priority or be entitled or subject to such priorities on all or any portion of the revenues of the district and, notwithstanding any other provision of law to the contrary, bear such rate or rates of interest, including a variable rate of interest to be determined at such times, in such manner and by such agent appointed for such purpose or according to such formula as the governing body may determine, and contain such other terms, conditions and covenants, all as the governing body may determine.

(3) Shall contain a recital that principal of and interest on and premium, if any, on the revenue bonds are payable solely out of revenues and property of the district pledged

to the payment thereof by the ordinance of the governing body authorizing the issue of which the bonds are a part.

(4) May be in coupon form with or without privilege of registration or may be in registered form, or both, with the privilege of converting and reconverting from one form to another.

(5) May contain covenants of the district to protect and safeguard the security and rights of holders of any such bonds and such other terms and conditions, in conforming with ORS 268.600 to 268.660 which the governing body in its discretion determines are necessary or desirable to protect the district or increase the marketability of the bonds. ORS 268.600 to 268.660 and any such ordinance which constitutes a contract with the holders of the bonds and the provisions thereof shall be enforceable by any holder or any number of holders of the bonds, as the governing body may determine.

(6) Shall be in the form prescribed by the governing body and the bonds and the coupons, if any, attached to the bonds shall be signed by the presiding officer of the governing body and by the executive officer of the district, either manually or by means of their printed, engraved or lithographed signature, with the seal of the district or a facsimile thereof printed, engraved or lithographed thereon or affixed thereto. However, in the event the bonds are to be signed by means of the printed, engraved or lithographed facsimile signatures of both the presiding officer of the governing body and the executive officer of the district, the ordinance authorizing the issuance of such bonds shall provide that no bond shall be valid or obligatory for any purpose or be entitled to the benefits of or security provided by the ordinance unless and until such bond has been authenticated by means of the manual signature of a duly authorized officer of the bond trustee, paying agent, registrar or other agent appointed for such purpose. Pending the preparation and delivery of definitive bonds, a district may issue interim certificates or temporary bonds, exchangeable for definitive bonds when such bonds shall have been executed and are available for delivery. Such interim certificates or temporary bonds may contain such terms and conditions as the governing body may determine.

(7) May be issued with the right reserved to the governing body to redeem the bonds at par or at par plus a premium, in such order, and at such time or times prior to the final maturity date or dates of the bonds, as the ordinance may provide or as otherwise determined by the governing body, upon publication, at least 30 days before the redemption date, of at least one notice of the intended redemption in one issue of a newspaper specializing in financial matters published in any of the cities of New York, New York; Chicago, Illinois; or San Francisco, California; as the governing body may provide in the ordinance, and of one such notice in one issue of a newspaper of general circulation published within the corporate boundaries of the district; provided that if a bond to be redeemed is then registered, notice of the intended redemption of such bond may be given by the mailing, at least 40 days before the redemption date, of at least one such notice to the registered owner, in lieu of the publication thereof. However, failure to so mail such notice shall not affect the proceedings for such redemption. [1977 c.95 §11; 1987 c.623 §3]

268.630 Borrowing in anticipation of bond sale; bond anticipation notes; content; sale of notes. (1) A district shall have the power, at any time and from time to time after the issuance of bonds under ORS 268.600 to 268.660 have been authorized, to borrow money for the purposes for which such bonds are to be issued in anticipation of the receipt of the proceeds of the sale of such bonds and within the authorized maximum amount of such bond issue.

(2) Bond anticipation notes shall be issued for all moneys so borrowed under the provisions of this section. Such notes may be issued for a period not to exceed three years and may be renewed or refunded from time to time for periods of not exceeding three years, but each such note, including renewals, shall mature and be paid not later than the fifth anniversary of the date the original note was issued. Such notes shall be authorized by ordinance of the governing body and shall be in such denomination or denominations, shall bear interest at such rate or rates approved by the governing body, shall be in such form and shall be executed in such manner, all as the governing body shall prescribe. Such notes may be sold at public or private sale in the manner and at such price or prices as the governing body shall determine, provided that if such notes be renewal notes, they may be exchanged for notes then outstanding on such terms as the governing body shall determine. [1977 c.95 §12; 1987 c.623 §4]

268.640 Sale of revenue bonds. The governing body may from time to time sell revenue bonds authorized to be issued and sold pursuant to ORS 268.600 to 268.660 at public or private sale, in the manner and at such price or prices as it shall determine. [1977 c.95 §13]

268.650 Bonds as obligation of a political subdivision. Revenue bonds, including refunding revenue bonds and bond antic-

ipation notes issued under ORS 268.600 to 268.660, shall be considered to be bonds or obligations of a political subdivision of the State of Oregon for the purposes of all laws of the state. [1977 c.95 §14; 1987 c.623 §5]

268.660 Effect of ORS 268.600 to 268.660. ORS 268.600 to 268.660 are additional, alternative and supplemental authority for a district and shall not abrogate any power, right or authority otherwise granted by law to a district. [1977 c.95 §15]

268.700 [1969 c.700 §29; repealed by 1971 c.727 §203]

DISTRICT CHARTER

268.710 Electors of county may adopt, amend, revise or repeal district charter. (1) The electors of any metropolitan service district, by majority vote of such electors voting thereon at any legally called election, may adopt, amend, revise or repeal a charter for the district. The charter, or legislation passed by the district pursuant thereto, shall provide a method whereby the electors of the district, by majority vote of such electors voting thereon at any legally called election, may amend, revise or repeal the charter.

(2) A charter of a metropolitan service district shall prescribe the organization of the district government and shall provide directly, or by its authority, for the number, election or appointment, qualifications, tenure, compensation, powers and duties of such officers as the district considers necessary. Such officers shall among them exercise all the powers and perform all the duties, as granted to, imposed upon or distributed among district officers by the Constitution or laws of this state, by the district charter or by its authority.

(3) As used in this section, "legally called election" means an election held on the same date as any biennial primary or regular general election held throughout this state. [1991 c.72 §1]

Note: 268.710 to 268.740 were enacted into law by the Legislative Assembly but were not added to or made a part of ORS chapter 268 or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

268.715 District charter committee; members; residence requirements; appointment. (1) A district charter for a metropolitan service district may be proposed by a committee of 16 members appointed as provided in this subsection. The members shall be selected so that not fewer than four residents from each county situated wholly or partly within the boundaries of the district are appointed to the committee. Of the members of a district charter committee:

(a) One member shall be a state Senator appointed by the President of the Senate. The member appointed under this paragraph must be a resident of the metropolitan service district.

(b) One member shall be a state Representative appointed by the Speaker of the House of Representatives. The member appointed under this paragraph must be a resident of the metropolitan service district.

(c) One member shall be appointed by the board of county commissioners of each county that is situated wholly or partly within the boundaries of the district. A member appointed under this paragraph must be a resident of the same county governed by the board of county commissioners making the appointment.

(d) One member shall be appointed jointly by the governing bodies of all of the cities located within the district and within the same county. A member appointed under this paragraph must be a resident of the same county in which are situated the cities whose governing bodies make the appointment.

(e) One member shall be appointed by each pair of district councilors designated by the council as provided in this paragraph. The council of the metropolitan service district shall divide the entire council into pairs of councilors, designate the councilors in each pair by subdistrict number and require each pair of councilors to appoint one member of the district charter committee. When the council contains an odd number of councilors, the council shall be divided into pairs and one group of three councilors for the purpose of appointing members under this paragraph. A member appointed under this paragraph must be a resident within one of the subdistricts from which the councilors making the appointment are elected.

(f) Two members shall be appointed by the executive officer of the metropolitan service district. The members appointed under this paragraph must be residents of the metropolitan service district. The executive officer shall not make the appointments required under this paragraph until all the other appointing authorities have appointed committee members under this subsection. If the other appointing authorities fail to appoint at least four residents from each county in the district to the district charter committee, the executive officer shall make appointments so as to satisfy that requirement of this subsection. Unless appointment of two members who are residents of the same county is necessary to have at least four residents from each county on the district charter committee, the executive officer shall not appoint two members who are residents of the same county. The executive officer shall designate one of the members appointed

under this section as chairperson of the district charter committee.

(2) When an appointing authority described in subsection (1) of this section consists of two or more individuals, a majority of the members of the appointing authority shall make the appointments to the district charter committee.

(3) A member of an appointing authority or any individual who is an elected or appointed officer or employee of a city, county or district described in ORS 198.010 shall not be eligible to serve as a member of a district charter committee.

(4) Only one district charter committee appointed under this section is to be in existence at any given period of time.

(5) Any vacancy occurring on a district charter committee, in a position for which an initial appointment has been made, shall be filled by appointment for the unexpired term by the appointing authority that was entitled to make the initial appointment of the member whose position is vacant.

(6) An initial appointment, or an appointment to fill a vacancy, is made by delivering to the election officer of the metropolitan service district written notice of the name and address of the person appointed, signed by the person duly authorized to act for the appointing authority. [1991 c.72 §2]

Note: See note under 268.710.

268.720 Additional qualifications of committee members; terms; organization; meetings. (1) All members of the district charter committee appointed under ORS 268.715 must be electors of the metropolitan service district. No member of the district charter committee shall be engaged, directly or indirectly, in any business with the metropolitan service district which is inconsistent with the conscientious performance of duties as a member of the committee.

(2) The terms of district charter committee members run from the date on which the written notice of the appointment is delivered to the election officer of the metropolitan service district under ORS 268.715. The terms expire on the day of the election at which the committee's proposed charter is voted upon or within two years from the date the terms began, whichever is the sooner, unless, in the case where a proposed charter is not submitted at an election held within such two-year period, the council of the metropolitan service district by resolution filed with the election officer of the metropolitan service district before the expiration of the terms extends them until the day of the election on the proposed charter or for another two years, whichever is the sooner.

(3) Not later than 30 days after the terms of committee members begin to run as provided in subsection (2) of this section, the members of the district charter committee shall meet and organize. The member appointed by the executive officer of the metropolitan service district and designated as chairperson shall serve as chairperson of the committee. A majority of the committee constitutes a quorum for the transaction of business. The committee may adopt such rules as it deems necessary for its operation. However, the committee may not prohibit the public from attending any of its meetings. [1991 c.72 §3]

Note: See note under 268.710.

268.725 District funds for charter committee; committee staff; district officials to cooperate. (1) Notwithstanding ORS 294.305 to 294.520, 294.555 and 294.565, the metropolitan service district, acting through the council, shall cause to be made available from funds of the district an amount equal at least to $100,000 for the purpose of paying the expenses of the committee in the preparation of the charter. Members of the committee shall serve without pay. The committee, within the limit of funds available to it, may employ such persons, or contract for their services, as it may deem necessary to aid it in the performance of its functions. Persons employed by the committee are exempt from civil service. The metropolitan service district, acting through the council, shall cause to be furnished free of charge to the committee adequate office space and, notwithstanding ORS 294.305 to 294.520, 294.555 and 294.565, may cause money, in addition to the required minimum amount, to be appropriated for the committee. The committee shall submit to the metropolitan service district a budget covering estimates of its expenditures. With respect to expenditures in excess of the minimum amount of money required to be made available, the budget as approved or revised and approved by the council shall represent the authorized limits of the committee's expenditures. Any balance remaining unexpended shall be transferred to the general fund of the metropolitan service district unless other provisions were made at the time of the appropriation to the committee. The metropolitan service district is authorized to disburse funds of the committee on its order.

(2) The district charter committee may conduct interviews and make investigations which to it seem necessary in order to draft a charter. To the fullest extent practicable, metropolitan service district officials and employees shall cooperate with the committee and provide it with information, advice and assistance. [1991 c.72 §4]

Note: See note under 268.710.

268.730 Submission of proposed charter to electors after public hearing; approval of conflicting charters. (1) A district charter committee shall submit its proposed charter to the election officer of the metropolitan service district not later than the 90th day before the election at which the proposed charter is to be voted upon. Before the proposed charter is submitted to the election officer, the committee shall conduct at least one public hearing on the proposed charter in each county that is situated wholly or partly within the boundaries of the district. Notice of each public hearing shall be published in newspapers of general distribution in the county in which the hearing takes place. After the proposed charter is submitted to the election officer, the election officer shall submit the proposed charter to the district attorney of the county in which the administrative office of the metropolitan service district is located for a ballot title as provided in ORS 255.145 (2). The ballot title is subject to judicial review as provided in ORS 255.155.

(2) The charter proposed by the committee shall take effect on the day fixed therein if approved by majority vote of the electors of the metropolitan service district voting thereon.

(3) If two or more conflicting district charters are approved at the same election, the one receiving the greatest number of affirmative votes shall be adopted. [1991 c.72 §5]

Note: See note under 268.710.

268.735 Subsequent charter committee appointed after filing of resolution or petition; sufficiency of petition; notice to persons entitled to make appointments to committee. (1) If the charter proposed by the district charter committee appointed under this Act is rejected by the electors of the district and if no other district charter has been approved by the electors of the district, a district charter may be proposed by a committee appointed in the manner described in ORS 268.715 after the filing with the election officer of the metropolitan service district of:

(a) A resolution requesting appointment of the committee, adopted by a majority of the council of the metropolitan service district; or

(b) A petition requesting appointment of the committee, signed by such number of the electors of the metropolitan service district as is equal to at least four percent of the whole number of votes cast within the district for all candidates for Governor at the most recent election at which a candidate for Governor was elected to a full term. The petition shall be substantially in such form as the election officer of the metropolitan service district may prescribe.

(2) The election officer of the metropolitan service district, not later than the fifth day after the filing of the resolution of the council of the metropolitan service district, shall give written notice thereof to those persons entitled to participate in the appointment of a member of the district charter committee.

(3) Upon the filing with the election officer of the metropolitan service district of a petition requesting the appointment of a committee, the election officer, not later than the 15th day after the filing of the petition, shall verify the signatures and certify to the council of the metropolitan service district the findings as to the sufficiency of the petition. If the petition is found to be sufficient, the election officer immediately shall give written notice thereof to those persons entitled to participate in the appointment of a member of the district charter committee. [1991 c.72 §8]

Note: See note under 268.710.

268.740 Severability of charter provisions. When preparing a charter for a metropolitan service district, a district charter committee appointed under ORS 268.710 to 268.740 shall draft the charter so as to declare the intent that, if any part of the charter is held unconstitutional by any court, the remaining parts shall remain in force. [1991 c.72 §7]

Note: See note under 268.710.

PENALTIES

268.990 Penalties; jurisdiction. (1) Violation of any ordinance, rule or regulation adopted by a district shall be punishable by a fine of not more than $500 or by imprisonment in a county jail for not more than 30 days or by both.

(2) Any penalty for such a violation may be imposed or enforced by the district in the district or circuit court of the state for the county where the violation takes place. [1969 c.700 §25]

CHAPTER 269

[Reserved for expansion]