

Chapter 391

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Mass Transportation

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LIGHT RAIL TRANSIT

391.090 Legislative findings; use of lottery moneys for light rail project; policy and intent. The Legislative Assembly finds that:

(1) The development, acquisition and construction of light rail systems and their attendant rights of way, equipment and facilities in the urban and metropolitan areas of the State of Oregon do and will accomplish the purpose of creating jobs and furthering economic development in Oregon by, among other advantages:

(a) Providing an important element of the public infrastructure that provides the basic framework for continuing and expanding economic activity in this state;

(b) Increasing the economy and efficiency of public transportation, improving the attractiveness of urban and metropolitan areas to new businesses and supporting the operations and prosperity of existing businesses in those areas by making those businesses more accessible to their customers and employees;

(c) Alleviating the inefficiencies of congestion and crowding associated with, and reducing the burdens of expansion and maintenance of, existing public transportation systems and facilities, as well as reducing energy consumption and air pollution fostered by the use of motor vehicles; and

(d) Creating employment opportunities in urban and metropolitan areas through the funding of projects for the development and construction of the light rail systems.

(2) Additionally, the provision of state and local moneys for the proposed Westside corridor light rail project identified in ORS 391.120 (2)(a) will encourage the contribution of otherwise unavailable federal matching grant moneys, the use of which will, for the reasons stated in subsection (1) of this section, forward the purpose of creating jobs and furthering economic development in Oregon.

(3) Based on the legislative findings described in this section, the use of net proceeds from the operation of the state lottery for the support of the Westside corridor light rail project, as provided in ORS 391.130, is an appropriate use of state lottery funds under section 4 (3), Article XV of the Oregon Constitution and ORS 461.510.

(4) It is the intent and policy of the Legislative Assembly to insure the funding and support of the Westside corridor light rail project identified in ORS 391.120 (2)(a) in the manner provided in ORS 391.130 to 391.150, to the extent required for the state to realize

the benefit of all federal matching funds made available for that project, and to the extent necessary to complete the project. [1991 c.575 §1]

391.100 Light Rail Construction Fund; purpose; requirements for expenditures from fund.

(1) There is created as a fund the Light Rail Construction Fund separate and distinct from the General Fund. The moneys in the fund and the interest earnings of the fund are appropriated continuously to the Department of Transportation for the purpose of financing that part of the Banfield Transitway Project that includes construction of a light rail system from the City of Portland to the City of Gresham to be routed along the corridor in which the Banfield Freeway, Interstate Highway 205 and East Burnside Street are located.

(2) No moneys shall be expended for construction from the fund created by subsection (1) of this section unless the Director of Transportation determines that the following conditions have occurred no later than the last day of June 1983:

(a) The United States Department of Transportation, subject to the appropriations process and to the satisfaction of the Joint Committee on Ways and Means or the Emergency Board, if the Legislative Assembly is not in session, has committed sufficient moneys to complete the Banfield Transitway Project; and

(b) The Tri-County Metropolitan Transportation District has entered into a binding, enforceable agreement with the State of Oregon in which:

(A) During the construction of the Banfield Transitway Project, the district agrees not to request or accept any state General Fund moneys for the light rail construction portion of that project other than those moneys appropriated to the fund created in this section by the Sixtieth Legislative Assembly;

(B) The district agrees to provide not less than \$2,930,000 of the total funding for the light rail construction part of the Banfield Transitway Project; and

(C) In any instance where the actual expenditures for the light rail portion of the Banfield Transitway Project fall short of the estimated expenditures for the project, those moneys, other than federal moneys, that are not required for the project shall remain in the fund established by this section.

(3) The Director of Transportation shall certify the unobligated balance of the fund created by this section and that unobligated balance shall revert to the General Fund in accordance with the following:

(a) If at any time the Director of Transportation determines that the conditions required under subsection (2) of this section will not occur within the required time under that subsection, the director shall certify the unobligated balance of the fund and the unobligated balance shall revert.

(b) If the Director of Transportation determines that the conditions required under subsection (2) of this section have occurred and moneys from the fund are expended on the Banfield Transitway Project, the director shall certify the unobligated balance after the project is accepted by the Director of Transportation and all claims, suits and actions arising out of the project have been resolved. [1979 c.586 §1; 1981 c.262 §1]

391.110 Legislative findings; policy; Regional Light Rail Extension Construction Fund. (1) The Legislative Assembly finds that economic growth and livability depend on a solid transportation infrastructure to aid in the production and distribution of goods and services and the efficient movement of people.

(2) The Legislative Assembly also finds that an efficient surface transportation system in our metropolitan areas must balance highways and arterial roads with mass transit and light rail facilities. Mass transit and light rail improvements can lessen the cost of highway expansion, reconstruction and maintenance by significantly decreasing traffic flow.

(3) Therefore, the Legislative Assembly shall establish the Regional Light Rail Extension Construction Fund as a means of facilitating the development of a balanced surface transportation system that includes the appropriate application of highways, light rail and mass transit. [1989 c.868 §2]

391.120 Regional Light Rail Extension Construction Fund; purpose; requirements for expenditures from fund; reversion of unobligated balance. (1) The Regional Light Rail Extension Construction Fund, separate and distinct from the General Fund, is established in the State Treasury. All moneys in the fund are appropriated continuously to the Department of Transportation for the purposes specified in this section. Interest received on moneys credited to the Regional Light Rail Extension Construction Fund shall accrue to and become part of the Regional Light Rail Extension Construction Fund.

(2) The Department of Transportation may expend moneys in the Regional Light Rail Extension Construction Fund to finance the preliminary engineering phase, final design phase, advanced right of way acquisition phase or construction and acquisition of

equipment and facilities phase of projects for extensions to the Tri-County Metropolitan Transportation District's light rail system, as designated in the Regional Transportation Plan adopted by the metropolitan service district in 1989, as amended from time to time. The Director of Transportation may enter into written agreements with the Tri-County Metropolitan Transportation District that commit the department to pay anticipated funds from the Regional Light Rail Extension Construction Fund to the district for the purpose of financing such costs of extending the district's light rail system, including servicing any obligations entered into by the district to finance the costs of extending the district's light rail system, which written agreements may provide for the remittance of such funds on such periodic basis, in such amounts, over such period of years and with such priority over other commitments of such funds as the director shall specify in the commitment. Any such written agreements or commitments, when executed by the director and accepted by the district, shall be solely conditioned upon actual funds available in the Regional Light Rail Extension Construction Fund and shall be valid, binding and irrevocable in accordance with its terms, subject only to the requirements of subsection (3) of this section. The extensions to the light rail system for which projects may be authorized and financed from the Regional Light Rail Extension Construction Fund include:

- (a) The Westside corridor.
- (b) The Interstate 5 North corridor.
- (c) The Interstate 205 corridor.
- (d) The Milwaukie corridor.
- (e) The Barbur corridor.
- (f) The Lake Oswego corridor.

(g) Appropriate branches to the Banfield corridor.

(h) Appropriate branches to the corridors specified in paragraphs (a) to (f) of this subsection.

(3) Notwithstanding any written agreement entered into by the Director of Transportation under subsection (2) of this section, no moneys shall be expended from the Regional Light Rail Extension Construction Fund for the preliminary engineering phase, final design phase, advanced right of way acquisition phase or construction and acquisition phase of projects unless the Director of Transportation determines:

(a) That all state and local approvals are in place for the phase of the specific project for which funding is being sought;

(b) That assurances are in place for obtaining all moneys, other than moneys for

which the determination is being made, necessary to enable completion of the phase of the specific project for which funding is being sought and that the Tri-County Metropolitan Transportation District has agreed to provide an amount of money equal to that being provided by the Regional Light Rail Extension Construction Fund for the phase of the specific project for which money is being sought;

(c) With respect to the phase of the specific project for which funding is being sought, that the body of local officials and state agency representatives designated by the metropolitan service district which functions wholly or partially within the Tri-County Metropolitan Transportation District and known as the Joint Policy Advisory Committee on Transportation has certified that the phase of the specific project is a regional priority; and

(d) With respect to construction phases of any project, the elements of the project that are designated for state participation and an estimated total amount of the state's funding obligation.

(4) When the actual expenditures for a phase of a specific light rail project fall short of the estimated expenditures for the project, those moneys, other than federal moneys, that are not required for that phase of the project shall remain in the Regional Light Rail Extension Construction Fund for use in completing other projects described in subsection (2) of this section.

(5) On or before August 31 in each year, the Director of Transportation shall certify to the Governor and the State Treasurer whether or not there existed, as of the end of the immediately preceding fiscal year, an unobligated balance of moneys in the Regional Light Rail Extension Construction Fund that was derived from the moneys required to be transferred to the Regional Light Rail Extension Construction Fund under ORS 391.130. If the Director of Transportation certifies that there existed such an unobligated balance of moneys derived from the moneys required to be transferred to the Regional Light Rail Extension Construction Fund under ORS 391.130, an amount equal to the unobligated balance as of the end of the immediately preceding fiscal year shall revert to the Executive Department Economic Development Fund created by ORS 461.540, and the State Treasurer shall credit such amount to that fund on or before the September 15 next following the date of the certification by the Director of Transportation.

(6) The Director of Transportation shall certify the unobligated balance of the Regional Light Rail Extension Construction Fund, and that unobligated balance shall re-

vert to the Executive Department Economic Development Fund created by ORS 461.540 if the Director of Transportation determines that all projects referred to in subsection (2) of this section have been completed and the projects have been accepted by the Director of Transportation and all claims, suits and actions arising out of the projects have been resolved.

(7) For purposes of subsections (5) and (6) of this section, moneys in the Regional Light Rail Extension Construction Fund derived from the moneys required to be transferred to the Regional Light Rail Extension Construction Fund under ORS 391.130 shall be obligated to the extent such moneys are needed to fund the amounts committed to be paid in the current or any future fiscal year under any written agreement or commitment entered into by the Director of Transportation under subsection (2) of this section or to pay any amounts owing under or with respect to any revenue bonds issued under ORS 391.140.

(8) The Department of Transportation may deduct from the Regional Light Rail Extension Construction Fund the costs associated with administering the fund. [1989 c.868 §3; 1991 c.575 §6]

391.125 Regional Light Rail Extension Bond Account; purpose. (1) The Regional Light Rail Extension Bond Account is created as a separate and distinct subaccount in the Regional Light Rail Extension Construction Fund. In each fiscal year in which any amounts of principal or interest are due and payable on any revenue bonds issued under ORS 391.140, the Director of Transportation shall cause to be transferred from the Regional Light Rail Extension Construction Fund to the Regional Light Rail Extension Bond Account an amount, which, when added to the moneys on deposit in the account that are available to be used for such purpose, shall be sufficient to pay when due all amounts of principal and interest coming due on such bonds in that fiscal year.

(2) All moneys on deposit from time to time in the Regional Light Rail Extension Bond Account, together with all investment earnings thereon, shall be pledged and are continuously appropriated to the payment of the bonds issued under ORS 391.140. All investment earnings on moneys on deposit from time to time in the Regional Light Rail Extension Bond Account shall be retained in that account and applied to pay the principal of and interest on bonds issued under ORS 391.140. [1991 c.575 §3]

391.130 Allocation of lottery moneys to Regional Light Rail Extension Construction Fund; authorized expenditures; end of allocations upon certification by

Director of Transportation. (1) In each fiscal year beginning with the fiscal year commencing July 1, 1991, there is allocated, from the Executive Department Economic Development Fund created by ORS 461.540, the amount of \$8 million. However, commencing with the first fiscal year next following the fiscal year in which bonds are first issued under ORS 391.140, there shall be allocated from such fund the amount of \$10 million in each fiscal year. In each fiscal year after bonds are first issued, the Director of Transportation shall certify any funds allotted in excess of amounts necessary to pay the annual debt service on the outstanding bonds and to fund the amounts committed to be paid in the current or any future fiscal year under any written agreement or commitment entered into by the Director of Transportation pursuant to ORS 391.120 (2). The certified amount shall immediately be returned to the Executive Department Economic Development Fund. All amounts allocated under this section shall be transferred to the Regional Light Rail Extension Construction Fund established by ORS 391.120.

(2) The annual amounts required to be transferred to the Regional Light Rail Extension Construction Fund under subsection (1) of this section, together with all investment earnings on the amounts on deposit from time to time in the Regional Light Rail Extension Construction Fund, are continuously appropriated only for the purposes of:

(a) Funding the Westside corridor extension of light rail referred to in ORS 391.120; and

(b) Paying the principal and interest on revenue bonds issued under ORS 391.140.

(3) Except as provided in subsection (4) of this section, and notwithstanding any other provision of law, the annual allocation made by this section shall be satisfied and credited as and when net proceeds from the operation of the state lottery are received and before any other allocation, appropriation or disbursement of the net proceeds from the operation of the state lottery is made in the applicable fiscal year.

(4) For purposes of this section, net proceeds from the operation of the state lottery in each fiscal year include all revenues derived from the operation of the state lottery in each fiscal year less:

(a) The revenues used in that fiscal year for the payment of prizes and the expenses of the state lottery as provided in section 4 (4)(e), Article XV of the Oregon Constitution, ORS 461.500 (2) and 461.510 (3) and (4); and

(b) The revenues required to be applied, distributed or allocated as provided in ORS 461.543.

(5) The transfer of moneys to the Regional Light Rail Extension Construction Fund authorized by this section shall cease when the Director of Transportation certifies in writing that transfers of moneys under this section are no longer necessary because:

(a) Moneys in the Regional Light Rail Extension Construction Fund are sufficient for the payment of all amounts committed to be paid under all written agreements or commitments entered into between the Director of Transportation and the Tri-County Metropolitan Transportation District pursuant to ORS 391.120 with respect to the Westside corridor extension of light rail referred to in ORS 391.120 (2)(a), and to pay all amounts of principal of and interest on the outstanding revenue bonds issued under ORS 391.140; and

(b) The Westside corridor extension of light rail referred to in ORS 391.120 (2)(a) has been completed and such project has been accepted by the Department of Transportation, and all claims, suits and actions arising out of such project that could create a liability payable out of the moneys in the Regional Light Rail Extension Construction Fund have been resolved.

(6) The Director of Transportation shall deliver a copy of such certification to the Governor and the State Treasurer. Upon receipt of the director's written certification that transfer of moneys to the Regional Light Rail Extension Construction Fund under this section is no longer necessary, the State Treasurer shall thereafter credit moneys received by the Regional Light Rail Extension Construction Fund under this section to the Executive Department Economic Development Fund created by ORS 461.540. [1991 c.575 §2; 1993 c.18 §92]

391.140 Revenue bonds for specified light rail project; amount; purpose; issuance by State Treasurer; pledge of revenues. (1) In accordance with any applicable provisions of ORS 286.010, 286.020, 286.105 to 286.135 and ORS chapter 288, the State Treasurer, at the request of the Director of Transportation, shall issue revenue bonds from time to time in an aggregate amount not to exceed:

(a) The principal sum of \$115 million;

(b) The costs incurred in connection with the issuance of the bonds and other administrative expenses of the State Treasurer in connection with the issuance of the bonds; and

(c) The amount of any reserves determined to be necessary or advantageous in connection with the revenue bonds.

(2) The Director of Transportation shall submit to the State Treasurer from time to

time written requests to issue the revenue bonds in amounts sufficient to provide in a timely fashion the moneys required to fund the obligations of the Department of Transportation under any written agreements or commitments entered into under ORS 391.120 (2) for the purpose of financing the state share of the costs of the Westside corridor light rail project identified in ORS 391.120 (2)(a).

(3) Moneys received from the issuance of revenue bonds, including any investment earnings thereon, may be expended only for the purpose of financing the costs of development, acquisition and construction of the Westside corridor light rail project identified in ORS 391.120 (2)(a), and to pay the costs of issuing the bonds and other administrative expenses of the State Treasurer in carrying out the provisions of ORS 391.120 and this section, including the funding of any reserves determined to be necessary or advantageous in connection with the revenue bonds.

(4) Notwithstanding ORS 288.825 or any other provision of law, revenue bonds issued under this section, regardless of whether issued in one or more issues, shall be secured equally and ratably by the pledge of moneys described in this subsection and ORS 391.130. The bonds shall be secured by a pledge of, and a lien on, and shall be secured and payable only from, moneys on deposit from time to time in the Regional Light Rail Extension Construction Fund established by ORS 391.120. The revenue bonds shall not be a general obligation of this state, and shall not be secured by or payable from any funds or assets of this state other than the moneys on deposit from time to time in the Regional Light Rail Extension Construction Fund.

(5) The moneys in the Regional Light Rail Extension Bond Account shall be used and applied by the Director of Transportation to pay when due the principal of and interest on any revenue bonds issued under this section.

(6) The interest on all revenue bonds issued under this section and on any refunding and advance refunding bonds issued under ORS 286.051 is exempt from personal income taxation imposed by this state under ORS chapter 316.

(7) The proceeds derived from the issuance and sale of the revenue bonds, including any proceeds required to fund any reserves determined to be necessary or advantageous in connection with the revenue bonds, shall be deposited in a special, segregated subaccount of the Regional Light Rail Extension Construction Fund. The moneys on deposit from time to time in the subaccount, including any investment earnings thereon, shall be disbursed as needed for the purposes de-

scribed in subsection (3) of this section upon the written request of the Director of Transportation. [1991 c.575 §4]

391.150 Joint management of specified light rail project; contracting procedures.

(1) The Department of Transportation and the Tri-County Metropolitan Transportation District shall jointly manage the construction phases of the Westside corridor light rail project. The final project management plans of the managing agencies shall provide that the district shall manage and oversee construction of the light rail right of way and facilities and that the department shall manage and oversee the construction of highway improvements related to the extension of the light rail system. The department and the district shall describe in a memorandum of understanding or grant agreement the functions and responsibilities assigned to each of the managing agencies and shall establish an organizational and management system for the project under which significant actions during the construction phase occur only with the knowledge of both of the managing agencies.

(2) Subject to ORS chapter 279 and any applicable prohibitions against preferences in contracts related to the construction phase of the Westside corridor light rail project, the managing agencies shall develop procedures that afford qualified businesses in Oregon the opportunity to compete for project contracts to the maximum extent feasible and consistent with federal laws and regulations governing Federal Transit Administration grants.

(3) The managing agencies shall seek the cooperation and assistance of contracting and construction associations in this state when establishing the contracting procedures for the Westside corridor light rail project. The managing agencies shall also establish and implement programs to provide contracting and construction businesses with information relating to the project.

(4) The managing agencies, to the maximum extent feasible, shall encourage disadvantaged business enterprises to bid for contracts and to otherwise participate in the Westside corridor light rail project. [1991 c.575 §5; 1993 c.741 §65]

MASS TRANSPORTATION FINANCING AUTHORITY

391.500 Declaration of policy; construction of statutes. (1) The Legislative Assembly of the State of Oregon finds and declares that:

(a) It is in the public interest to provide methods of financing the costs of mass transit facilities; and

(b) The method of financing provided in ORS 267.227 and 391.500 to 391.660 is in the public interest and serves a public purpose.

(2) The purpose of ORS 267.227 and 391.500 to 391.660 is to create an authority to provide financial assistance to mass transit districts.

(3) ORS 267.227 and 391.500 to 391.660 shall be liberally construed. [1977 c.662 §2]

391.510 Definitions for ORS 391.500 to 391.660. As used in ORS 267.227 and 391.500 to 391.660, unless the context otherwise requires:

(1) "Acquire" or "acquisition" means the acquisition, by purchase, lease, gift, grant, devise, construction, installation, reconstruction, repair and alteration, and the equipment, improvement and extension of mass transit facilities.

(2) "Authority" means the Oregon Mass Transportation Financing Authority created by ORS 267.227 and 391.500 to 391.660.

(3) "Board" means the members of the authority created in ORS 391.520.

(4) "District" means a mass transit district established under ORS 267.010 to 267.390.

(5) "Finance" or "financing" means the issuance of revenue bonds pursuant to ORS 391.570 by the authority for the purpose of providing financial assistance to districts.

(6) "Financial assistance" means the providing of methods of financing of costs of mass transit facilities under ORS 267.227 and 391.500 to 391.660.

(7) "Mass transit facility" or "facilities" means any or all property constituting a mass transit system, or any portion thereof, in any manner owned, used, leased or operated by a district and which is located wherever a district is authorized to operate. [1977 c.662 §3]

391.520 Financing authority created; membership. The Oregon Mass Transportation Financing Authority is hereby created as a public instrumentality of the State of Oregon and the exercise by the authority of the powers conferred by ORS 267.227 and 391.500 to 391.660 is the performance of an essential public function. The authority shall consist of the chairman of the Oregon Transportation Commission, the State Treasurer, or designee, the chairman of the Oregon Investment Council, or designee, and a representative designated by the board of directors of each district. [1977 c.662 §4]

391.530 Meetings; quorum; expenses. The members shall select a chairman from among themselves and may select such other officers as they consider necessary. Any

member may call a meeting of the board. A majority of the members of the authority shall constitute a quorum for all purposes. Members of the authority shall receive no compensation for services but shall be entitled to the necessary expenses incurred in the discharge of their duties. [1977 c.662 §5]

391.540 Bylaws; secretary's duties, power. The authority may adopt and amend appropriate bylaws for the regulation of its affairs and the conduct of its business and may elect a secretary who need not be a member. The secretary shall perform such duties as the board shall designate and may give certificates under the official seal of the authority, and all persons dealing with the authority may rely on such certificates. [1977 c.662 §6]

391.550 Powers of Mass Transportation Financing Authority. The authority shall have the following powers together with all powers incidental thereto or necessary for the performance thereof:

(1) To have perpetual succession as a public instrumentality of the State of Oregon;

(2) To sue and be sued and to prosecute and defend, at law or in equity, in any court having jurisdiction of the subject matter and of the parties;

(3) To have and to use a corporate seal and to alter the same at pleasure;

(4) To maintain an office at such place or places as it may designate;

(5) To acquire, own, finance, lease and dispose of any mass transit facility and to enter into contracts for any and all of such purposes; provided, that title to or in any mass transit facility so financed may in the discretion of the authority remain in a district and provided, further, that the district shall not itself operate any mass transit facility, except as lessor;

(6) To lease or sell to a district any or all of the mass transit facilities upon such terms and conditions as the board shall deem proper, and to charge and collect rent or other payments therefor and to terminate any such lease or sales agreement upon the failure of the district to comply with any of the obligations thereof; and to include in any such lease, if desired, provisions that the district shall have options to renew the term of the lease for such period or periods and at such rent as shall be determined by the board or to purchase any or all of the mass transit facilities for a nominal amount or otherwise or that at or prior to the payment of all of the indebtedness incurred by the authority for the financing of such mass transit facilities the authority may convey

any or all of the mass transit facilities to the district with or without consideration;

(7) By resolution of a majority of the members of the authority, to issue bonds in the aggregate principal sum of not to exceed \$250 million par value for any of its corporate purposes and to refund the same, subject to the provisions of ORS 267.227 and 391.500 to 391.660;

(8) To employ or to contract with other state or municipal agencies for such employees and agents as may be necessary in its judgment;

(9) To receive and accept from any public agency loans or grants for aid in the acquisition of any mass transit facility and any portion thereof, and to receive and accept grants, gifts or other contributions from any source;

(10) To refund outstanding obligations incurred by any district including obligations incurred, undertaken or completed prior to or after October 4, 1977;

(11) To receive and to pledge as security for the payment of any bonds issued under ORS 267.227 and 391.500 to 391.660, any lease, purchase agreement, note, bond or other obligation by or on behalf of any district;

(12) To make loans to any district for the purpose of providing financial assistance to such district in accordance with an agreement between the authority and such district; and

(13) To do all things necessary and convenient to carry out the purpose of ORS 267.227 and 391.500 to 391.660. [1977 c.662 §7; 1983 c.306 §1]

391.560 Lease terms for facility financed by bonds. Any lease of a mass transit facility entered into pursuant to the provisions of ORS 267.227 and 391.500 to 391.660 shall be for a term not shorter than the longest maturity of any bonds issued to finance such mass transit facility or a portion thereof and shall provide for income, revenues and rentals from all sources pledged to the payment of such bonds adequate to pay the principal, interest and premiums, if any, on such bonds as the same fall due and to create and maintain such reserves and accounts for depreciation, if any, as the board in its discretion shall determine to be necessary. [1977 c.662 §8]

391.570 Bonds; form; conditions; issuance; refunding. (1) Bonds may be issued as serial bonds or as term bonds or a combination of both types. The board may provide that such bonds:

(a) May be executed and delivered by the authority at any time and from time to time

in such amounts including all necessary and incidental expenses, together with all necessary initial bond and interest reserves and applicable interest during the period of acquisition;

(b) May be in such form and denominations and of such terms and maturities;

(c) May be in fully registered form or in bearer form registerable either as to principal or interest or both;

(d) May bear such conversion privileges and be payable in such installments and at such time or times not exceeding 40 years from the date thereof;

(e) May be payable at such time or times and at such place or places whether within or without the State of Oregon and evidenced in such manner;

(f) May be made optional for redemption prior to maturity at such price or prices and on such terms and conditions;

(g) May be executed by the manual or facsimile signatures of such officers of the authority; and

(h) May contain such other provisions not inconsistent with ORS 267.227 and 391.500 to 391.660.

(2) Any bonds of the authority may be sold for such price and in such manner and from time to time as may be determined by the board. The board shall publish notice of its intent to sell bonds, at least once, at least two days prior to the date of sale, in a newspaper of general circulation in each district which is to receive financial assistance from the proceeds of the bonds. The notice shall state the general purposes for which the bonds are to be sold. Issuance by the authority of one or more series of bonds for one or more purposes shall not preclude it from issuing other bonds in connection with the same mass transit facility or any other mass transit facility or for any other purpose, but the proceedings where any subsequent bonds may be issued shall recognize and protect any prior pledge made for any prior issue of bonds. Refunding bonds may be issued whether the bonds to be refunded are then subject to redemption or are thereafter subject to redemption or maturity, and regardless of the purpose for which the bonds to be refunded were issued by the authority. All such bonds and the interest coupons applicable thereto, if any, are made and shall be construed to be negotiable instruments. [1977 c.662 §9]

391.580 Pledges for bonds. The principal, interest and premiums, if any, on any bonds issued by the authority shall be secured solely by a pledge of the income, revenues and receipts out of which the same

shall be made payable and may also be secured by and payable out of proceeds from the sale of the mass transit facility acquired or financed by the proceeds of such bonds. In addition, the district which is to lease or purchase the mass transit facilities financed out of the proceeds of any bonds issued by the authority may, by resolution of the district board, pledge all or any part of the revenues of the district derived from any taxes which the district is authorized to levy as security for the payment of the principal, interest and premiums, if any, on the bonds issued by the authority to finance such mass transit facilities. In the resolution of the district board pledging all or any part of its tax revenues as security for any bonds issued by the authority, the district may reserve the right to pledge from time to time on a parity basis all or any part of its tax revenues as security for any one or more series of bonds issued thereafter by the authority or the district, and in the event the right so reserved by the district is exercised all bonds secured by a pledge of such tax revenues shall be equally and ratably secured by such tax revenues without preference or priority of any kind of any bond or series of bonds secured thereby over any other bond or series of bonds secured thereby. A pledge of tax revenues by a district as a security for the payment of any bonds issued by the authority shall not be considered to be the incurring of bonded indebtedness by the district. Any pledge made pursuant to this section shall be valid and binding from and after the date of issuance of the bonds secured thereby and the income, revenues, receipts or taxes pledged shall be immediately subject to the lien of such pledge without the physical delivery thereof, the filing of any notice or any further act. The lien of any such pledge shall be valid and binding against all persons having claims of any kind against the pledgor whether in tort, contract or otherwise, irrespective of whether such persons have notice thereof. The resolution under which the bonds are authorized to be issued and any indenture executed as security for the bonds, may contain any agreements and provisions with respect to the maintenance of the properties covered thereby, the fixing and collection of rents for any portions leased by the authority to a district, the pledge of the agreement of the district to make such payments as shall be necessary to pay principal, interest and premiums, if any, on the bonds, the creation and maintenance of special funds from such revenues, and the rights and remedies available in the event of default, designation of a trustee, and any other provision the board shall deem advisable. Each pledge and agreement made for the benefit or security of any of the bonds of the au-

thority shall continue effective until the principal, interest and premiums, if any, on the bonds for the benefit of which the same were made shall have been fully paid or provision for such payment duly made. [1977 c.662 §10; 1985 c.655 §1]

391.590 Bonds not general obligation of state. All bonds issued by the authority under the provisions of ORS 267.227 and 391.500 to 391.660 shall not constitute a debt, liability or general obligation of this state, or a pledge of the faith and credit of this state, but shall be payable solely from the income revenues, receipts or assets pledged for their payment. Each bond issued shall contain on the face a statement that the State of Oregon or the authority shall not be obligated to pay the same nor the interest thereon except from the income revenues, receipts or assets pledged therefor, and that neither the general obligation, full faith and credit nor the taxing power of this state is pledged to the payment of the principal of or the interest on such bond. [1977 c.662 §11]

391.600 Tax exempt status of income, property and bond interest. (1) The income and, to the extent permitted by the Constitution, the property of the authority shall be exempt from all taxation in the State of Oregon. For purposes of the Oregon Securities Law, bonds issued by the authority shall be deemed to be securities issued by an instrumentality or a political subdivision of the State of Oregon.

(2) Interest payable on bonds of the authority shall be exempt from taxes imposed on income by the State of Oregon. [1977 c.662 §12]

391.605 Limitations on transfer to metropolitan service district. (1) No transfer authorized by ORS 267.020 of a mass transit district system to a metropolitan service district shall take effect while bonds issued by the authority to finance mass transit facilities for the district are outstanding until a plan designed to repay any outstanding bonds when due is prepared by the governing body of the metropolitan service district and approved by:

(a) The chairperson of the Oregon Transportation Commission or the chairperson's designee;

(b) The State Treasurer or State Treasurer's designee; and

(c) The chairperson of the Oregon Investment Council or the chairperson's designee.

(2) Persons given authority to approve a transfer under subsection (1) of this section may only refuse to approve a transfer for reasons relating to the financial effect of the transfer. [1983 c.306 §3]

391.610 Expenses of authority; borrowed funds. All expenses of the authority incurred in carrying out the provisions of ORS 267.227 and 391.500 to 391.660 shall be payable solely from funds provided under the authority of ORS 267.227 and 391.500 to 391.660. For the purposes of meeting the necessary expenses of initial organization and operation until such date as the authority derives moneys from funds provided hereunder, the authority shall be empowered to borrow moneys from districts, and districts are empowered to lend money to the authority as may be required and agreed for such necessary expenses of organization and operation. Expenses incurred by the authority in connection with any application by a district for financial assistance under ORS 267.227 and 391.500 to 391.660 shall be paid by such district as provided in ORS 267.200 (10), or, in the alternative and in the discretion of the authority, may be paid from the proceeds of bonds issued by the authority. [1977 c.662 §13]

391.620 Limitation on transfer of property rights. The authority shall not convey its right, title and interest in mass transit facilities to any district, prior to the time the bonds secured thereby are fully paid, unless the authority has determined that adequate provision has been made for the payment of principal, interest and premiums, if any, on the bonds as they become due. [1977 c.662 §14]

391.630 Investments of surplus moneys. The authority may invest any surplus moneys in investments permitted by ORS 294.035. [1977 c.662 §15]

391.640 Investment in authority's bonds authorized. The state and all counties, cities and other municipal corporations, all banking institutions and building and loan associations, savings and loan associations, investment companies, insurance companies and associations, and all personal representatives, guardians, trustees and other fiduciaries may legally invest any sinking funds, moneys or other funds belonging to them or within their control in any bonds issued pursuant to ORS 267.227 and 391.500 to 391.660. [1977 c.662 §16]

391.650 Severability of ORS 391.500 to 391.660. If any one or more sections or provisions of ORS 267.227 and 391.500 to 391.660, or the application thereof to any person or circumstance, shall ever be held by any court of competent jurisdiction to be invalid, the remaining provisions of ORS 267.227 and 391.500 to 391.660 and the application thereof to persons or circumstances other than those to which it is held to be invalid, shall not be affected thereby, it being the intention of this Legislative Assembly to enact the re-

maining provisions of ORS 267.227 and 391.500 to 391.660 notwithstanding such invalidity. [1977 c.662 §19]

391.660 Short title. ORS 267.227 and 391.500 to 391.660 may be referred to and cited as the "Oregon Mass Transportation Financing Act." [1977 c.662 §1]

ELDERLY AND DISABLED TRANSPORTATION

391.800 Elderly and Disabled Special Transportation Fund. (1) There is established in the State Treasury, separate and distinct from the General Fund, the Elderly and Disabled Special Transportation Fund. All moneys in the Elderly and Disabled Special Transportation Fund are appropriated continuously to the Department of Transportation for payment of the department's administrative costs of the program and payment to mass transit districts, transportation districts and counties as provided in ORS 391.810.

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

(a) Moneys transferred to the fund under ORS 323.455 (3);

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

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

(3) Moneys in the Elderly and Disabled Special Transportation Fund, with the approval of the State Treasurer, may be invested as provided by ORS 293.701 to 293.820, and the earnings from such investments shall be credited to the Elderly and Disabled Special Transportation Fund. [1985 c.816 §9; 1987 c.62 §1; 1989 c.224 §66]

391.810 Distribution of funds to districts and counties. (1) The Department of Transportation shall distribute three-quarters of the moneys in the Elderly and Disabled Special Transportation Fund, including the interest attributable thereto, to mass transit districts organized under ORS 267.010 to 267.390, transportation districts organized under ORS 267.510 to 267.650 and to those counties in which no part of a mass transit district or transportation district is located as follows:

(a) Each such district shall receive that share of the moneys as the population of the counties in which the district is situated, determined under ORS 190.510 to 190.610 last preceding such apportionment, bears to the total population of the state. However, if two or more districts are situated in a single county, distribution of moneys under this subsection shall be determined as though only the mass transit district is located in

that county or, if there are two or more transportation districts in the county, as though only the transportation district with the highest population is located in that county.

(b) Each county in which no part of a mass transit district or transportation district is located shall receive that share of the moneys as its population, determined under ORS 190.510 to 190.610 last preceding such apportionment, bears to the total population of the state.

(2) After the requirements of subsection (1)(a) and (b) of this section have been met, the remainder of the moneys in the Elderly and Disabled Special Transportation Fund shall be distributed to the districts and counties described in subsection (1) of this section by the Department of Transportation as follows:

(a) Each such district or county that receives a share of the moneys in proportion to population under subsection (1) of this section shall receive an amount, which shall be fixed by the Oregon Transportation Commission by rule, but not in excess of \$2,000 annually, to be used to defray the administrative expenses of the district or county in carrying out its functions under ORS 391.800 to 391.830.

(b) Each such district or county that receives a share of the moneys in proportion to population under subsection (1) of this section shall receive for each fiscal year a minimum amount, to be determined by the Oregon Transportation Commission by rule, which minimum amount shall be distributed to providers of transportation for use as specified under ORS 391.830 (4).

(c) Each such district or county shall receive any money distributed to it from the discretionary grant account established under ORS 391.815.

(d) After the requirements of paragraphs (a) to (c) of this subsection have been met, if any moneys remain in the Elderly and Disabled Special Transportation Fund they shall be set aside and transferred to a discretionary grant account established under ORS 391.815.

(3) The Department of Transportation shall not distribute moneys to a mass transit district, transportation district or county under this section unless the district or county has appointed an advisory committee under ORS 391.820.

(4) The Department of Transportation shall adopt rules necessary for the administration of ORS 391.800 to 391.830.

(5) Each district or county described in subsection (1) of this section is specifically

authorized to enter into an agreement with another or other such districts or counties under ORS 190.003 to 190.110 in order to facilitate the performance of the functions authorized under ORS 391.830. [1985 c.816 §10; 1989 c.224 §67; 1989 c.866 §8]

391.815 Discretionary grant account; purpose; application for grant; grant approval; distribution of moneys. (1) After the requirements of ORS 391.810 have been satisfied, the remainder of the moneys in the Elderly and Disabled Special Transportation Fund shall be set aside and transferred to a discretionary grant account, which account is established as an account in the Elderly and Disabled Special Transportation Fund.

(2) The moneys in the discretionary grant account established under subsection (1) of this section are continuously appropriated to the Department of Transportation for the purpose of distribution for ultimate use for transportation and services to the elderly and disabled as described under ORS 391.830 (4). However, only such of the moneys that are specifically directed by the Oregon Transportation Commission under subsection (4) of this section, to be distributed to a district or county as described in ORS 391.810 (1), shall be distributed to that district or county.

(3)(a) Any district or county described in ORS 391.810 (1) may make application to the Department of Transportation for a distribution from the discretionary grant account established under subsection (1) of this section. The application shall describe the purposes for which the grant is to be used and the monetary amount that is required to carry out those purposes.

(b) Upon receipt of an application, the Department of Transportation shall cause the application to come to the attention of the Oregon Transportation Commission, which shall, after consideration, approve or deny the application, in whole or in part.

(c) The Oregon Transportation Commission shall approve only those grants applied for under paragraph (a) of this subsection that are for use for the purposes set forth in ORS 391.830 (4).

(4) Upon approval of an application, in whole or in part, the Oregon Transportation Commission shall direct the Department of Transportation to distribute the dollar amount approved to the applying district or county. [1989 c.866 §10]

391.820 Advisory committees; membership; duties. (1) The governing body of each mass transit district, transportation district and county that is eligible to receive moneys from the Elderly and Disabled Special Transportation Fund under ORS 391.810

shall appoint an advisory committee to advise and assist the governing body in carrying out the purposes of ORS 391.800 to 391.830. The number and terms of the members of an advisory committee appointed under this section shall be determined by the appointing governing body.

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

(a) A person who is an elderly or disabled individual and uses transportation services in the district or county;

(b) A person who is an elderly or disabled individual and lives in an area of the district or county where there are no public transportation services;

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

(d) A representative of elderly individuals; or

(e) A representative of disabled individuals.

(3) An advisory committee appointed under this section shall review the distribution of moneys by the governing body of a district or county under ORS 391.830. The advisory committee may propose any changes to the policies or practices of the governing body relating to the distribution that the advisory committee considers necessary or desirable. [1985 c.816 §11; 1987 c.532 §1; 1989 c.224 §68]

391.830 Use of funds to finance and improve transportation for elderly and disabled. (1)(a) Each mass transit district and transportation district that receives moneys from the Department of Transportation under ORS 391.810 (1) or (2)(b), after providing for costs of administration in an amount determined under ORS 391.810 (2)(a), shall distribute those moneys to providers of transportation for the purpose of financing and improving transportation programs and services for the elderly and disabled residents of the district and the county in which all or a portion of the district is located. The moneys received under ORS 391.810 (1) and (2)(b) and distributed to providers of transportation in areas within the counties in which the district is located but outside the boundaries of the district shall be that share of all moneys received by the district as the population of those counties residing outside the district, as determined by the last federal

decennial census, bears to the total population of the counties.

(b) Each county that receives moneys from the Department of Transportation under ORS 391.810 (1) or (2)(b), after providing for costs of administration in an amount determined under ORS 391.810 (2)(a) shall distribute those moneys to providers of transportation for the purpose of financing and improving transportation programs and services for the elderly and disabled residents of the county.

(2) The governing body of a district or county, after consultation with the advisory committee it appointed under ORS 391.820, shall determine the amount of money to be distributed to a provider of transportation and the purposes for which the money must be used. Moneys received under ORS 391.810 (2)(c) shall be used for the purposes for which received as indicated in the directive from the Oregon Transportation Commission as described under ORS 391.815.

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

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

(a) Maintenance of existing transportation programs and services for the elderly or disabled.

(b) Expansion of such programs and services.

(c) Creation of new programs and services.

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

(5) Except in the case of a uniform budget reduction or upon order or other authorization of the Department of Transportation, the increase in moneys received under ORS 391.810 under this section and ORS 323.030, 323.086 to 323.091, 323.455, 391.810 and 391.815 shall not be used to supplant moneys currently appropriated by counties or districts for elderly and disabled transportation projects.

(6) As used in this section, "provider of transportation" includes a city, county, dis-

trict or any other person or agency, whether public or private, that maintains, operates or sponsors vehicles and facilities for the transportation of passengers for profit or on a nonprofit or voluntary basis. [1985 c.816 §12; 1989 c.224 §69; 1989 c.866 §11]

CHAPTERS 392 TO 395

[Reserved for expansion]