

Chapter 835

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Chapter 835

1999 EDITION

Aviation Administration

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Note: References to the Department of Transportation have been changed in ORS chapters 835, 836 and 837 to the Oregon Department of Aviation; references to the Director of Transportation have been changed in ORS chapters 835, 836 and 837 to the Director of the Oregon Department of Aviation; and references to the Oregon Transportation Commission have been changed in ORS chapters 835, 836 and 837 to the State Aviation Board. The changes become operative on July 1, 2000. See sections 40 and 41, chapter 935, Oregon Laws 1999. References to the department, the director and the commission in this chapter use the names and the title that become operative on July 1, 2000.

GENERAL PROVISIONS

835.005 Definitions. As used in this chapter and ORS chapters 836 and 837, unless the context requires otherwise:

(1) “Board” means the State Aviation Board.

(2) “Department” means the Oregon Department of Aviation.

(3) “Director” means the Director of the Oregon Department of Aviation. [Formerly 491.002; 1993 c.741 s.90; 1999 c.935 s.32]

Note: The amendments to 835.005 by section 32, chapter 935, Oregon Laws 1999, become operative July 1, 2000. See section 41, chapter 935, Oregon Laws 1999. The text that is operative until July 1, 2000, is set forth for the user's

convenience.

835.005. As used in this chapter and ORS chapters 836 and 837, unless the context requires otherwise:

- (1) "Commission" means the Oregon Transportation Commission.
- (2) "Department" means Department of Transportation.
- (3) "Director" means Director of Transportation.
- (4) "Manager" means the manager for the aeronautics functions of the department.

835.009 Aviation advisory committee; members; qualifications; expenses. (1) The State Aviation Board shall appoint an aviation advisory committee to advise the Oregon Department of Aviation on aviation policy matters. The board shall appoint persons with broad public and aviation interests and backgrounds. The committee shall consist of nine members who shall serve for a term of four years. One member shall be appointed from each congressional district in the state and the remaining four shall be appointed at large. Not more than three members shall be from any one congressional district. Members are eligible for reappointment.

(2) Members of the committee may receive reimbursement for actual and necessary travel or other expenses incurred in the performance of their official duties as provided in ORS 292.495 (2). [1993 c.741 s.92b]

835.010 [Formerly 491.005; repealed by 1993 c.741 s.147]

835.015 Development of aviation. The State Aviation Board with the advice of the Oregon Department of Aviation shall incorporate as part of its program a definite plan for the development of airports, state airways, airplane industries and aviation generally. It shall through the department cooperate with and assist the federal government, the municipalities of the state, and other persons in the development of aviation activities. Municipalities are authorized to cooperate with the department in the development of aviation and aviation facilities in this state, and shall notify the department of, and allow the department to participate in an advisory capacity in, all municipal airport or aviation system planning. [Formerly 491.050]

835.020 Contracts. The Director of the Oregon Department of Aviation may enter into any contracts authorized by the State Aviation Board and necessary to the execution of the powers granted by this chapter. All contracts made by the director, either as the agent of the state or as the agent of any municipality, shall be made pursuant to the laws of the state governing the making of like contracts; however, where the planning, acquisition, construction, improvement, maintenance or operation of any airport, or any navigation facility is financed wholly or in part with federal money, the director as the agent of the state or any municipality may let contracts in the manner prescribed by the federal authorities acting under the laws of the United States and any rules or regulations made thereunder. [Formerly 491.060]

835.025 Use and administration of federal and other moneys. The Director of the Oregon Department of Aviation as authorized by the State Aviation Board may accept, receive, receipt for, disburse and expend federal moneys and other moneys, public or private, made available to accomplish in whole or in part the acquisition, construction, improvement, maintenance and operation of airports, and other aviation facilities in this state. All federal moneys accepted under this section and ORS 836.070 shall be accepted and transferred or expended upon such terms and conditions as are prescribed by the United States. All moneys received pursuant to this section and ORS 836.070 shall be deposited in the State Treasury and, unless otherwise prescribed by the authority from which such moneys were received, shall be kept in separate funds designated according to the purposes for which the moneys were made available, and held by the state in trust for such purposes. All such moneys hereby are appropriated for the purposes for which the same were made available, to be disbursed or expended in accordance with the terms and conditions upon which they were made available. [Formerly 491.070]

835.030 Employment of personnel. So far as is possible, all employees of the Oregon Department of Aviation shall be situated in the same building. [Formerly 491.090; 1993 c.741 s.90a; 1999 c.935 s.33]

Note: The amendments to 835.030 by section 33, chapter 935, Oregon Laws 1999, become operative July 1, 2000. See section 41, chapter 935, Oregon Laws 1999. The text that is operative until July 1, 2000, is set forth for the user's convenience.

835.030. (1) The manager, subject to the approval of the Director of Transportation, shall employ such experts,

field and office assistants, clerks and other employees as may be required and authorized for the proper discharge of the functions of the Department of Transportation related to aeronautics.

(2) So far as is possible, all employees of the department who are engaged in aeronautics planning and operations shall be situated in the same building.

835.035 General board powers; United States facilities exempt from board orders. (1) The State Aviation Board may perform such acts, adopt or amend and issue such orders, rules and regulations, and make, promulgate and amend such minimum standards, all consistent with the provisions of this chapter, as it considers necessary to carry out the provisions of this chapter and to perform its duties thereunder.

(2) No such rule, regulation or order of the board shall apply to airports or air navigation facilities owned or operated by the United States.

(3) All authority, power and duty delegated to the board by the provisions of this section shall be exercised and performed in all respects commensurate with and for the purpose of protecting and insuring the general public interest and safety, the safety of persons receiving instruction concerning, or operating, or using or traveling in aircraft, and of persons or property on land or water, and to develop and promote aviation in this state.

(4) Promulgation of rules, conduct of hearings and issuance and judicial review of rules and orders shall be in accordance with ORS 183.310 to 183.550. [Formerly 491.100]

835.040 Limitations on rules and regulations. All rules and regulations prescribed by the State Aviation Board under authority of the aviation laws of this state shall be kept in conformity with, and limited to, as nearly as may be, the then current federal legislation governing aviation, the regulations duly promulgated thereunder, and rules and standards issued from time to time pursuant thereto. [Formerly 491.110]

835.045 [Formerly 491.120; 1995 c.79 s.384; 1995 c.655 s.10; 1999 c.935 s.34; renumbered 835.205 in 1999]

835.050 [Formerly 491.130; repealed by 1995 c.79 s.385]

835.055 [Formerly 491.140; 1993 c.741 s.91; repealed by 1999 c.935 s.39]

Note: 835.055 is repealed July 1, 2000. See sections 39 and 41, chapter 935, Oregon Laws 1999. 835.055 (1997 Edition) is set forth for the user's convenience.

835.055. (1) The Director of Transportation shall administer the provisions of this chapter and the rules, regulations and orders established thereunder and all other laws of the state relative to aeronautics. The manager shall be responsible to the director for the preparation of reports and the collection and dissemination of data and other public information relating to aeronautics. At the direction of the director the manager shall execute all contracts entered into by the director which are legally authorized. The director may, by written order filed in the office of the director, delegate to the manager any of the powers or duties vested in or imposed upon the director by this chapter. Such delegated powers and duties may be exercised by the manager in the name of the Department of Transportation.

(2) The manager, under the supervision of the director, shall oversee planning, operations, maintenance and improvement of state-owned airports of the Oregon aviation system and of the aviation equipment, planes and property of the department. The duties of the manager shall be carried out in the most cost-effective manner possible.

835.060 State Aviation Account; appropriation; use. (1) All fees and other moneys received by the Oregon Department of Aviation under ORS chapter 835, 836 or 837, except moneys received under the provisions of ORS 835.025, 836.070 and 837.035, shall be paid into the State Treasury monthly. The State Treasurer shall credit such payments to the State Aviation Account in the General Fund. Payments so made shall constitute, and hereby are made, an appropriation of such sums from the General Fund for the purpose of carrying out the provisions of this chapter. None of the funds in this section appropriated or hereafter made available for aviation purposes shall be expended upon any aviation project that is not carried out under the supervision and direction of the State Aviation Board. Fees paid into the account pursuant to ORS 837.045 shall be expended only for airport maintenance and capital construction and for payment of expenses of air search and rescue.

(2) The fiscal officer of the department shall keep a true and accurate account of all sums received and all vouchers issued by the department under this section. [Formerly 491.150; 1991 c.186 s.6; 1993 c.741 s.92; 1995 c.733 s.77; 1997 c.263 s.4; 1999 c.935 s.35]

Note: The amendments to 835.060 by section 35, chapter 935, Oregon Laws 1999, become operative July 1, 2000. See section 41, chapter 935, Oregon Laws 1999. The text that is operative until July 1, 2000, is set forth for the user's convenience.

835.060. (1) All fees and other moneys received by the Department of Transportation under ORS chapter 835, 836 or 837, except moneys received under the provisions of ORS 835.025, 836.070 and 837.035, shall be paid into the State Treasury monthly. The State Treasurer shall credit such payments to the State Aeronautic Account in the General Fund. Payments so made shall constitute, and hereby are made, an appropriation of such sums from the General Fund for the purpose of carrying out the provisions of this chapter. None of the funds in this section appropriated or hereafter made available for aeronautic purposes shall be expended upon any aeronautics project which is not carried out under the supervision and direction of the Oregon Transportation Commission. Fees paid into the account pursuant to ORS 837.045 shall be expended only for airport maintenance and capital construction and for payment of expenses of air search and rescue.

(2) The fiscal officer of the department shall keep a true and accurate account of all sums received and all vouchers issued by the department under this section.

835.065 Audit and payment of expenses. All necessary expenses of the Oregon Department of Aviation incurred in carrying out the provisions of this chapter shall be audited by the Secretary of State and paid from the State Aviation Account in the same manner as other claims against the state are paid, after due approval thereof by the Director of the Oregon Department of Aviation, or as provided by law. [Formerly 491.160]

835.070 Accounts. The Director of the Oregon Department of Aviation shall keep a true and accurate account of all sums received and of vouchers issued by the Oregon Department of Aviation. [Formerly 491.170]

835.075 [Formerly 491.190; 1997 c.263 s.1; renumbered 401.555 in 1997]

835.080 [1995 c.655 s.7; renumbered 835.200 in 1999]

835.085 [1995 c.655 s.8; renumbered 835.210 in 1999]

OREGON DEPARTMENT OF AVIATION

835.100 Oregon Department of Aviation established; director. (1) The Oregon Department of Aviation is established.

(2) The department is under the supervision and control of a director, who is responsible for the performance of the duties, functions and powers of the department.

(3) For purposes of administration, subject to the approval of the State Aviation Board, the director may organize and reorganize the department as the director considers necessary to conduct properly the work of the department. [1999 c.935 s.2]

Note: 835.100 becomes operative July 1, 2000. See section 41, chapter 935, Oregon Laws 1999.

835.102 State Aviation Board; members. (1) There is established the State Aviation Board consisting of five members appointed by the Governor, subject to confirmation by the Senate pursuant to ORS 171.562 and 171.565. The Governor shall appoint members of the board in compliance with all of the following:

(a) Members shall be appointed with consideration of the different geographic regions of the state, with one member being a resident of the area east of the Cascade Range.

(b) Not more than three members shall belong to the same political party. Party affiliation shall be determined by the appropriate entry on official election registration cards.

(2) The term of office of each member is four years. Before the expiration of the term of a member, the Governor shall appoint a successor whose term begins on July 1 next following. A member is eligible for reappointment. In case of a vacancy for any cause, the Governor shall appoint a person to fill the office for the unexpired term.

(3) A member of the board is entitled to compensation and expenses as provided by ORS 292.495. [1999 c.935 s.2a]

Note: 835.102 becomes operative July 1, 2000. See section 41, chapter 935, Oregon Laws 1999.

835.104 Board officers; quorum; meetings. (1) The Governor shall appoint one member of the State Aviation Board as chairperson and another member as vice chairperson. The chairperson and vice chairperson shall have such terms, duties and powers as the board determines are necessary for the performance of such offices.

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

(3) The board shall meet at least once a month, at a time and place determined by the board. The board shall also meet at such other times and places as are specified by the call of the chairperson or of a majority of the board.

(4) No vacancy shall impair the right of the remaining board members to exercise all the powers of the board, except that three members of the board shall constitute a quorum for the conduct of business of the board, and, in case the board members are unable to agree, the Governor shall have the right to vote as a member of the board.

(5) The board may provide an official seal. [1999 c.935 s.2b]

Note: 835.104 becomes operative July 1, 2000. See section 41, chapter 935, Oregon Laws 1999.

835.106 Director of Oregon Department of Aviation; appointment; duties and powers. (1) The Governor shall appoint the Director of the Oregon Department of Aviation, subject to confirmation by the Senate pursuant to ORS 171.562 and 171.565, who holds office at the pleasure of the Governor.

(2) The Governor may not appoint a person as director unless the person has experience in airport operations or management.

(3) Subject to policy direction by the State Aviation Board, the director shall:

(a) Be the administrative head of the department;

(b) Have power, within applicable budgetary limitations, and in accordance with ORS chapter 240, to hire, assign, reassign and coordinate personnel of the department and prescribe their duties and fix their compensation, subject to the State Personnel Relations Law;

(c) Administer the laws of the state concerning aviation; and

(d) Intervene, as authorized by the board, pursuant to the rules of practice and procedure, in the proceedings of state and federal agencies that may substantially affect the interests of the consumers and providers of aviation services within Oregon.

(4) In addition to duties otherwise required by law, the director shall prescribe regulations for the government of the department, the conduct of its employees, the assignment and performance of its business and the custody, use and preservation of its records, papers and property in a manner consistent with applicable law.

(5) The director may delegate to any of the employees of the department the exercise or discharge in the director's name of any duty, function or power of whatever character, vested in or imposed by law upon the director, including duties, functions or powers delegated to the director by the board. The official act of any person acting in the director's name and by the authority of the director shall be considered to be an official act of the director.

(6) The director shall have authority to require a fidelity bond of any officer or employee of the department who has charge of, handles or has access to any state money or property, and who is not otherwise required by law to give a bond. The amounts of the bonds shall be fixed by the director, except as otherwise provided by law, and the sureties shall be approved by the director. The department shall pay the premiums on the bonds.

(7) The director shall prepare and submit to the board on or about December 31 of each year an annual report for the 12 months ending the prior June 30. The annual report shall set forth all that the department has done during the year. The report shall contain a statement of the parts of the state aviation system that were constructed, reconstructed or improved during the period, together with a statement showing in a general way the status of the state aviation system. [1999 c.935 s.3]

Note: 835.106 becomes operative July 1, 2000. See section 41, chapter 935, Oregon Laws 1999.

835.108 Director's salary; expense reimbursement. The Director of the Oregon Department of Aviation shall receive such salary as may be provided by law or as fixed by the State Aviation Board. In addition to salaries, the director, or any deputy directors or assistant directors, subject to the limitations otherwise provided by law, shall be reimbursed for all reasonable expenses necessarily incurred in the performance of official duties. [1999 c.935 s.4]

Note: 835.108 becomes operative July 1, 2000. See section 41, chapter 935, Oregon Laws 1999.

835.110 Oaths, depositions and subpoenas. The Director of the Oregon Department of Aviation and specially authorized representatives of the director may administer oaths, take depositions and issue subpoenas to compel the attendance of witnesses and the production of documents or other written information necessary to carry out the functions of the department. If any person fails to comply with a subpoena issued under this section or refuses to testify on matters on which the person lawfully may be interrogated, the procedure set out in ORS 183.440 shall be followed to compel obedience. [1999 c.935 s.6]

Note: 835.110 becomes operative July 1, 2000. See section 41, chapter 935, Oregon Laws 1999.

835.112 Rules. In accordance with applicable provisions of ORS 183.310 to 183.550, the Director of the Oregon Department of Aviation may adopt rules necessary for the administration of the laws that the department is charged with administering. [1999 c.935 s.5]

Note: 835.112 becomes operative July 1, 2000. See section 41, chapter 935, Oregon Laws 1999.

835.114 Exception to rulemaking authority. Except as required under ORS 197.180, the Oregon Department of Aviation may not adopt any rules intended primarily to implement ORS chapter 197, 215 or 227. The department shall comply with the land use planning goals and guidelines adopted under ORS 197.225 and rules adopted under ORS 197.040. The department may make recommendations to the Department of Land Conservation and Development regarding land use issues. [1999 c.935 s.38a]

Note: 835.114 becomes operative July 1, 2000. See section 41, chapter 935, Oregon Laws 1999.

Note: 835.114 was enacted into law by the Legislative Assembly but was not added to or made a part of ORS chapter 835 or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

SEAPLANE REGULATION

835.200 Rules for operation and safety. (1) The State Aviation Board, pursuant to ORS 835.035 and utilizing the definitions contained in ORS 830.005:

(a) Shall adopt rules governing seaplane safety and operations on state waters, as defined in ORS 830.005, that shall be applicable to all seaplanes except when inconsistent with any applicable laws or regulations of an agency of the United States.

(b) May adopt rules governing seaplane safety and operations on waters of this state, as defined in ORS 830.005, that shall be applicable to all seaplanes except when inconsistent with any applicable laws or regulations of an agency of the United States.

(2) The State Aviation Board shall adopt the rules in subsection (1) of this section in consultation with the State Marine Board and the State Parks and Recreation Department.

(3) The rules in subsection (1) of this section shall include identification of zones and bodies of water on which seaplanes may not land, take off or operate.

(4) As used in this section and ORS 830.605 and 835.210, "seaplane" means an aircraft equipped to land on water. [Formerly 835.080]

835.205 Seaplane regulation. For purposes of ORS 830.175, 830.180, 830.185 and 830.195, the Oregon Department of Aviation, in cooperation with the State Marine Board, shall regulate boats that are seaplanes as provided in ORS 830.605 and 835.200 and section 4, chapter 655, Oregon Laws 1995. [Formerly 835.045]

Note: The amendments to 835.205 [formerly 835.045] by section 34, chapter 935, Oregon Laws 1999, become operative July 1, 2000. See section 41, chapter 935, Oregon Laws 1999. The text that is operative until July 1, 2000, is set forth for the user's convenience.

835.205. (1) The manager shall be appointed with due regard to fitness, by aeronautical education and by knowledge of and recent practical experience in aeronautics, for the efficient dispatch of the powers and duties duly

vested in and imposed upon the manager. The manager shall devote the entire time of the manager to the duties of office and shall not be actively engaged or employed in any other business, vocation or employment, nor shall the manager have a pecuniary interest in or any stock in or bond of any civil aeronautics enterprise. The manager shall receive such compensation as the Oregon Transportation Commission may determine. The manager shall be reimbursed as provided by ORS 292.495 for all travel and other expenses incurred by the manager in the discharge of official duties.

(2) For purposes of ORS 830.175, 830.180, 830.185 and 830.195, the Department of Transportation, in cooperation with the State Marine Board, shall regulate boats that are seaplanes as provided in ORS 830.605 and 835.200 and section 4, chapter 655, Oregon Laws 1995.

835.210 Application by political subdivision for special regulation. (1) The governing body of a political subdivision of this state may apply to the State Aviation Board for special regulations relating to the operations of seaplanes on waters within the territorial limits of the political subdivision. These regulations may include, but need not be limited to, the establishment of limits on the areas of operations, hours and time of operations, and the prohibition of seaplane landings and takeoffs. Within a reasonable time, the board shall act upon the application in accordance with ORS 183.310 to 183.550.

(2) For purposes of regulation, no political subdivision of this state may enact or enforce any law or other regulation for purposes of subsection (1) of this section. [Formerly 835.085]
