

Chapter 401

2005 EDITION

Emergency Services and Communications

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401.010 [Repealed by 1983 c.586 §49]

**EMERGENCY MANAGEMENT
AND SERVICES**
(Generally)

401.015 Statement of policy and purpose. (1) The general purpose of ORS 401.015 to 401.105, 401.260 to 401.325 and 401.355 to 401.580 is to reduce the vulnerability of the State of Oregon to loss of life, injury to persons or property and human suffering and financial loss resulting from emergencies, and to provide for recovery and relief assistance for the victims of such occurrences.

(2) It is declared to be the policy and intent of the Legislative Assembly that preparations for emergencies and governmental responsibility for responding to emergencies be placed at the local government level. The state shall prepare for emergencies, but shall not assume authority or responsibility for responding to such an event unless the appropriate response is beyond the capability of the city and county in which it occurs, the city or county fails to act, or the emergency involves two or more counties. [1983 c.586 §1]

401.020 [Amended by 1975 c.379 §8; repealed by 1983 c.586 §49]

401.025 Definitions. As used in ORS 401.015 to 401.105, 401.260 to 401.325 and 401.355 to 401.580, unless the context requires otherwise:

(1) "Beneficiary" has the meaning given that term in ORS 656.005.

(2) "Commission" means the Seismic Safety Policy Advisory Commission established under ORS 401.337.

(3) "Emergency" includes any human caused or natural event or circumstance causing or threatening loss of life, injury to person or property, human suffering or financial loss, and includes, but is not limited to, fire, explosion, flood, severe weather, drought, earthquake, volcanic activity, spills or releases of oil or hazardous material as defined in ORS 466.605, contamination, utility or transportation emergencies, disease, blight, infestation, crisis influx of migrants unmanageable by the county, civil disturbance, riot, sabotage and war.

(4) "Emergency management agency" means an organization created and authorized under ORS 401.015 to 401.105, 401.260 to 401.325 and 401.355 to 401.580 by the state, county or city to provide for and assure the conduct and coordination of functions for comprehensive emergency program management.

(5) "Emergency program management" includes all the tasks and activities necessary to provide, support and maintain the ability of the emergency services system to

prevent or reduce the impact of emergency or disaster conditions which includes, but is not limited to, coordinating development of plans, procedures, policies, fiscal management, coordination with nongovernmental agencies and organizations, providing for a coordinated communications and alert and notification network and a public information system, personnel training and development and implementation of exercises to routinely test the emergency services system.

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

(7) "Emergency service agency" means an organization within a local government which performs essential services for the public's benefit prior to, during or following an emergency. This includes, but is not limited to, organizational units within local governments, such as law enforcement, fire control, health, medical and sanitation services, public works and engineering, public information and communications.

(8) "Emergency service worker" means an individual who, under the direction of an emergency service agency or emergency management agency, performs emergency services and:

(a) Is a registered volunteer or independently volunteers to serve without compensation and is accepted by the Office of Emergency Management or the emergency management agency of a county or city; or

(b) Is a member of the Oregon State Defense Force acting in support of the emergency services system.

(9) "Emergency services" includes those activities provided by state and local government agencies with emergency operational responsibilities to prepare for and carry out any activity to prevent, minimize, respond to or recover from an emergency. These activities include, without limitation, coordination, preparedness planning, training, interagency liaison, fire fighting, oil or hazardous material spill or release cleanup as defined in ORS 466.605, law enforcement, medical, health and sanitation services, engineering and public works, search and rescue activities, warning and public information, damage assessment, administration and fiscal management, and those measures defined as "civil defense" in section 3 of the Act of January 12, 1951, P.L. 81-920 (50 U.S.C. 2252).

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

(11) "Injury" means any personal injury sustained by an emergency service worker by accident, disease or infection arising out of

and in the course of emergency services or death resulting proximately from the performance of emergency services.

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

(13) "Major disaster" means any event defined as a "major disaster" under 42 U.S.C. 5122(2).

(14) "Oregon emergency management plan" means the state emergency preparedness operations and management plan. The Office of Emergency Management is responsible for coordinating emergency planning with government agencies and private organizations, preparing the plan for the Governor's signature, and maintaining and updating the plan as necessary.

(15) "Search and rescue" means the acts of searching for, rescuing or recovering, by means of ground or marine activity, any person who is lost, injured or killed while out of doors. However, "search and rescue" does not include air activity in conflict with the activities carried out by the Oregon Department of Aviation.

(16) "Sheriff" means the chief law enforcement officer of a county. [1983 c.586 §2; 1985 c.733 §21; 1987 c.373 §84; 1989 c.361 §8; 1991 c.418 §1; 1991 c.956 §10; 1993 c.187 §1; 1999 c.935 §29; 2005 c.825 §9]

401.030 [Amended by 1967 c.595 §1; 1969 c.80 §8; 1975 c.379 §9; 1975 c.624 §1; repealed by 1983 c.586 §49]

401.035 Responsibility for emergency services systems. (1) The Governor is responsible for the emergency services system within the State of Oregon.

(2) The executive officer or governing body of each county or city of this state is responsible for the emergency services system within that jurisdiction.

(3) In carrying out their responsibilities for emergency services systems, the Governor and the executive officers or governing bodies of the counties or cities may delegate any administrative or operative authority vested in them by ORS 401.015 to 401.105, 401.260 to 401.325 and 401.355 to 401.580 and provide for the subdelegation of that authority. [1983 c.586 §3]

401.040 [Amended by 1963 c.528 §1; 1967 c.419 §33; 1969 c.80 §9; 1975 c.379 §10; 1975 c.624 §2; 1981 c.615 §4; repealed by 1983 c.586 §49]

401.041 Short title. ORS 401.043 may be cited as the Emergency Management Assistance Compact. [2002 s.s.1 c.7 §1]

Note: 401.041 and 401.043 were enacted into law by the Legislative Assembly but were not added to or made a part of ORS chapter 401 or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

401.043 Emergency Management Assistance Compact. The Governor shall participate on behalf of the State of Oregon with other states legally joining in the compact in a form substantially as follows:

EMERGENCY MANAGEMENT ASSISTANCE COMPACT

Article I - Purposes and Authorities

This compact is made and entered into by and between the participating member states which enact this compact, hereinafter called party states. For the purposes of this compact, the term "states" is taken to mean the several states, the Commonwealth of Puerto Rico, the District of Columbia, and all U.S. territorial possessions.

The purpose of this compact is to provide for mutual assistance between the states entering into this compact in managing any emergency or disaster that is duly declared by the Governor of the affected state(s), whether arising from natural disaster, technological hazard, man-made disaster, civil emergency aspects of resources shortages, community disorders, insurgency, or enemy attack.

This compact shall also provide for mutual cooperation in emergency-related exercises, testing, or other training activities using equipment and personnel simulating performance of any aspect of the giving and receiving of aid by party states or subdivisions of party states during emergencies, such actions occurring outside actual declared emergency periods. Mutual assistance in this compact may include the use of the states' National Guard forces, either in accordance with the National Guard Mutual Assistance Compact or by mutual agreement between states.

Article II - General Implementation

Each party state entering into this compact recognizes many emergencies transcend political jurisdictional boundaries and that intergovernmental coordination is essential in managing these and other emergencies under this compact. Each state further recognizes that there will be emergencies which require immediate access and present procedures to apply outside resources to make a prompt and effective response to such an emergency. This is because few, if any, individual states have all the resources they may need in all types of emergencies or the capability of delivering resources to areas where emergencies exist.

The prompt, full, and effective utilization of resources of the participating states, including any resources on hand or available from the Federal Government or any other source, that are essential to the safety, care, and welfare of the people in the event of any emergency or disaster declared by a party state, shall be the underlying principle on which all articles of this compact shall be understood.

On behalf of the Governor of each state participating in the compact, the legally designated state official who is assigned responsibility for emergency management will be responsible for formulation of the appropriate interstate mutual aid plans and procedures necessary to implement this compact.

Article III - Party State Responsibilities

A. It shall be the responsibility of each party state to formulate procedural plans and programs for interstate cooperation in the performance of the responsibilities listed in this article. In formulating such plans, and in carrying them out, the party states, insofar as practical, shall:

(1) Review individual state hazards analyses and, to the extent reasonably possible, determine all those potential emergencies the party states might jointly suffer, whether due to natural disaster, technological hazard, man-made disaster, emergency aspects of resource shortages, civil disorders, insurgency, or enemy attack.

(2) Review party states' individual emergency plans and develop a plan which will determine the mechanism for the interstate management and provision of assistance concerning any potential emergency.

(3) Develop interstate procedures to fill any identified gaps and to resolve any identified inconsistencies or overlaps in existing or developed plans.

(4) Assist in warning communities adjacent to or crossing the state boundaries.

(5) Protect and assure uninterrupted delivery of services, medicines, water, food, energy and fuel, search and rescue, and critical lifeline equipment, services, and resources, both human and material.

(6) Inventory and set procedures for the interstate loan and delivery of human and material resources, together with procedures for reimbursement or forgiveness.

(7) Provide, to the extent authorized by law, for temporary suspension of any statutes or ordinances that restrict the implementation of the above responsibilities.

B. The authorized representative of a party state may request assistance of another

party state by contacting the authorized representative of that state. The provisions of this compact shall only apply to requests for assistance made by and to authorized representatives. Requests may be verbal or in writing. If verbal, the request shall be confirmed in writing within 30 days of the verbal request. Requests shall provide the following information:

(1) A description of the emergency service function for which assistance is needed including, but not limited to, fire services, law enforcement, emergency medical, transportation, communications, public works and engineering, building, inspection, planning and information assistance, mass care, resource support, health and medical services, and search and rescue.

(2) The amount and type of personnel, equipment, materials and supplies needed, and a reasonable estimate of the length of time they will be needed.

(3) The specific place and time for staging of the assisting party's response and a point of contact at that location.

C. There shall be frequent consultation between state officials who have assigned emergency management responsibilities and other appropriate representatives of the party states with affected jurisdictions and the United States Government, with free exchange of information, plans, and resource records relating to emergency capabilities.

Article IV - Limitations

Any party state requested to render mutual aid or conduct exercises and training for mutual aid shall take such action as is necessary to provide and make available the resources covered by this compact in accordance with the terms hereof; provided that it is understood that the state rendering aid may withhold resources to the extent necessary to provide reasonable protection for such state. Each party state shall afford to the emergency forces of any party state, while operating within its state limits under the terms and conditions of this compact, the same powers except that of arrest unless specifically authorized by the receiving state, duties, rights, and privileges as are afforded forces of the state in which they are performing emergency services. Emergency forces will continue under the command and control of their regular leaders, but the organizational units will come under the operational control of the emergency services authorities of the state receiving assistance. These conditions may be activated, as needed, only subsequent to a declaration of a state of emergency or disaster by the Governor of the party state that is to receive

assistance or upon commencement of exercises or training for mutual aid and shall continue so long as the exercises or training for mutual aid are in progress, the state of emergency or disaster remains in effect or loaned resources remain in the receiving state(s), whichever is longer.

Article V - Licenses and Permits

Whenever any person holds a license, certificate, or other permit issued by any state party to the compact evidencing the meeting of qualifications for professional, mechanical, or other skills, and when such assistance is requested by the receiving party state, such person shall be deemed licensed, certified, or permitted by the state requesting assistance to render aid involving such skill to meet a declared emergency or disaster, subject to such limitations and conditions as the Governor of the requesting state may prescribe by executive order or otherwise.

Article VI - Liability

Officers or employees of a party state rendering aid in another state pursuant to this compact shall be considered agents of the requesting state for tort liability and immunity purposes. No party state or its officers or employees rendering aid in another state pursuant to this compact shall be liable on account of any act or omission in good faith on the part of such forces while so engaged or on account of the maintenance or use of any equipment or supplies in connection therewith. Good faith in this article shall not include willful misconduct, gross negligence, or recklessness.

Article VII - Supplementary Agreements

Inasmuch as it is probable that the pattern and detail of the machinery for mutual aid among two or more states may differ from that among the states that are party hereto, this compact contains elements of a broad base common to all states, and nothing herein shall preclude any state from entering into supplementary agreements with another state or affect any other agreements already in force between states. Supplementary agreements may comprehend, but shall not be limited to, provisions for evacuation and reception of injured and other persons and the exchange of medical, fire, police, public utility, reconnaissance, welfare, transportation and communications personnel, and equipment and supplies.

Article VIII - Compensation

Each party state shall provide for the payment of compensation and death benefits to injured members of the emergency forces of that state and representatives of deceased members of such forces in case such members sustain injuries or are killed while rendering aid pursuant to this compact, in the same manner and on the same terms as if the injury or death were sustained within their own state.

Article IX - Reimbursement

Any party state rendering aid in another state pursuant to this compact shall be reimbursed by the party state receiving such aid for any loss or damage to or expense incurred in the operation of any equipment and the provision of any service in answering a request for aid and for the costs incurred in connection with such requests; provided, that any aiding party state may assume in whole or in part such loss, damage, expense, or other cost, or may loan such equipment or donate such services to the receiving party state without charge or cost; and provided further, that any two or more party states may enter into supplementary agreements establishing a different allocation of costs among those states. Article VIII expenses shall not be reimbursable under this provision.

Article X - Evacuation

Plans for the orderly evacuation and interstate reception of portions of the civilian population as the result of any emergency or disaster of sufficient proportions to so warrant, shall be worked out and maintained between the party states and the emergency management/services directors of the various jurisdictions where any type of incident requiring evacuations might occur. Such plans shall be put into effect by request of the state from which evacuees come and shall include the manner of transporting such evacuees, the number of evacuees to be received in different areas, the manner in which food, clothing, housing, and medical care will be provided, the registration of the evacuees, the providing of facilities for the notification of relatives or friends, and the forwarding of such evacuees to other areas or the bringing in of additional materials, supplies, and all other relevant factors. Such plans shall provide that the party state receiving evacuees and the party state from which the evacuees come shall mutually

agree as to reimbursement of out-of-pocket expenses incurred in receiving and caring for such evacuees, for expenditures for transportation, food, clothing, medicines and medical care, and like items. Such expenditures shall be reimbursed as agreed by the party state from which the evacuees come. After the termination of the emergency or disaster, the party state from which the evacuees come shall assume the responsibility for the ultimate support of repatriation of such evacuees.

Article XI - Implementation

A. This compact shall become operative immediately upon its enactment into law by any two (2) states; thereafter, this compact shall become effective as to any other state upon its enactment by such state.

B. Any party state may withdraw from this compact by enacting a statute repealing the same, but no such withdrawal shall take effect until 30 days after the Governor of the withdrawing state has given notice in writing of such withdrawal to the Governors of all other party states. Such action shall not relieve the withdrawing state from obligations assumed hereunder prior to the effective date of withdrawal.

C. Duly authenticated copies of this compact and of such supplementary agreements as may be entered into shall, at the time of their approval, be deposited with each of the party states and with the Federal Emergency Management Agency and other appropriate agencies of the United States Government.

Article XII - Validity

This compact shall be construed to effectuate the purposes stated in Article I hereof. If any provision of this compact is declared unconstitutional, or the applicability thereof to any person or circumstances is held invalid, the constitutionality of the remainder of this compact and the applicability thereof to other persons and circumstances shall not be affected thereby.

Article XIII - Additional Provisions

Nothing in this compact shall authorize or permit the use of military force by the National Guard of a state at any place outside that state in any emergency for which the President is authorized by law to call into federal service the militia, or for any

purpose for which the use of the Army or the Air Force would in the absence of express statutory authorization be prohibited under 18 U.S.C. 1385.

[2002 s.s.1 c.7 §2]

Note: See note under 401.041.

401.045 [1983 c.586 §18; 1993 c.187 §2; repealed by 2002 s.s.1 c.7 §3]

401.050 [Amended by 1963 c.528 §2; 1967 c.419 §34; 1967 c.595 §2; 1969 c.80 §10; 1969 c.314 §32; 1981 c.615 §5; repealed by 1983 c.586 §49]

(Powers of Governor)

401.055 Declaration of state of emergency; procedures. (1) The Governor may declare a state of emergency by proclamation at the request of a county governing body or after determining that an emergency has occurred or is imminent.

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

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

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

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

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

(c) If the Superintendent of State Police is unavailable to carry out the duties described in this subsection, such duties shall be performed by the Director of the Office of Emergency Management.

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

reached, the proclamation shall be considered affirmed by the Governor.

(5) Any proclamation of a state of emergency must specify the geographical area covered by the proclamation. Such area shall be no larger than necessary to effectively respond to the emergency. [1983 c.586 §4; 1991 c.605 §1; 1993 c.187 §3]

401.060 [Amended by 1963 c.528 §4; 1967 c.595 §3; 1969 c.80 §11; repealed by 1983 c.586 §49]

401.064 [1975 c.379 §3; repealed by 1983 c.586 §49]

401.065 Police powers during state of emergency; suspension of agency rules. During a state of emergency, the Governor shall:

(1) Have complete authority over all executive agencies of state government and the right to exercise, within the area designated in the proclamation, all police powers vested in the state by the Oregon Constitution in order to effectuate the purposes of ORS 401.015 to 401.105, 401.260 to 401.325 and 401.355 to 401.580;

(2) Have authority to suspend provisions of any order or rule of any state agency, if the Governor determines and declares that strict compliance with the provisions of the order or rule would in any way prevent, hinder or delay mitigation of the effects of the emergency; and

(3) Have authority to direct any agencies in the state government to utilize and employ state personnel, equipment and facilities for the performance of any activities designed to prevent or alleviate actual or threatened damage due to the emergency, and may direct the agencies to provide supplemental services and equipment to local governments to restore any services in order to provide for the health and safety of the citizens of the affected area. [1983 c.586 §5]

401.066 [1975 c.379 §2; 1977 c.248 §3; repealed by 1983 c.586 §49]

401.068 [1975 c.379 §4; repealed by 1983 c.586 §49]

401.070 [Repealed by 1983 c.586 §49]

401.074 Providing temporary housing during emergency. Whenever the Governor has declared a state of emergency under ORS 401.015 to 401.105, 401.260 to 401.325 and 401.355 to 401.580 or the President of the United States has declared an emergency or a major disaster to exist in this state, the Governor, with the concurrence of the Joint Committee on Ways and Means or the Emergency Board, if the Legislative Assembly is not in session, is authorized:

(1) To enter into purchase, lease or other arrangements with any agency of the United States for temporary housing units to be occupied by disaster victims and to make the units available to local governments of the state.

(2) To assist any local government of this state which requires temporary housing for disaster victims following the declaration of a state of emergency to acquire and prepare a site to receive and utilize temporary housing units by:

(a) Advancing or lending funds available to the Governor from any appropriation made by the Legislative Assembly or from any other source; and

(b) Passing through funds made available by any public or private agency. [1983 c.586 §6]

401.075 [1977 c.248 §2; repealed by 1983 c.586 §49]

401.080 [Amended by 1953 c.6 §4; 1967 c.595 §4; 1975 c.379 §11; repealed by 1983 c.586 §49]

401.085 Management of resources during emergency; rules. Whenever the Governor has declared a state of emergency under ORS 401.015 to 401.105, 401.260 to 401.325 and 401.355 to 401.580, the Governor shall be authorized to issue, amend and enforce rules and orders to:

(1) Control, restrict and regulate by rationing, freezing, use of quotas, prohibitions on shipments, price fixing, allocation or other means, the use, sale or distribution of food, feed, fuel, clothing and other commodities, materials, goods and services;

(2) Prescribe and direct activities in connection with use, conservation, salvage and prevention of waste of materials, services and facilities, including, but not limited to, production, transportation, power and communication facilities training, and supply of labor, utilization of industrial plants, health and medical care, nutrition, housing, rehabilitation, education, welfare, child care, recreation, consumer protection and other essential civil needs; and

(3) Take any other action that may be necessary for the management of resources following an emergency. [1983 c.586 §7]

401.090 [Repealed by 1983 c.586 §49]

401.095 Effect of rules and orders during emergency; scope; effect; termination. (1) All rules and orders issued under authority conferred by ORS 401.065 to 401.085 shall have the full force and effect of law both during and after the declaration of a state of emergency. All existing laws, ordinances, rules and orders inconsistent with ORS 401.065 to 401.085 shall be inoperative during the period of time and to the extent such inconsistencies exist.

(2) The authority exercised under ORS 401.065 to 401.085 may be exercised with respect to the entire territory over which the Governor has jurisdiction, or to any specified part thereof.

(3) When real or personal property is taken under power granted by ORS 401.085,

the owner of the property shall be entitled to reasonable compensation from the state.

(4) The powers granted to the Governor by ORS 401.065 to 401.085 shall continue until termination of the state of emergency. The powers granted to the Governor by ORS 401.074 may continue beyond the termination of the state of emergency and shall be terminated by proclamation of the Governor or by joint resolution of the Legislative Assembly. [1983 c.586 §8]

401.100 [Repealed by 1983 c.586 §49]

401.105 Termination of state of emergency. (1) The Governor shall terminate the state of emergency by proclamation when the emergency no longer exists, or when the threat of an emergency has passed.

(2) The state of emergency proclaimed by the Governor may be terminated at any time by joint resolution of the Legislative Assembly. [1983 c.586 §9]

401.110 [Amended by 1975 c.379 §12; repealed by 1983 c.586 §49]

401.115 Additional powers during emergency. During the existence of an emergency, the Governor may:

(1) Assume complete control of all emergency operations in the area specified in a proclamation of a state of emergency issued under ORS 401.055, direct all rescue and salvage work and do all things deemed advisable and necessary to alleviate the immediate conditions.

(2) Assume control of all police and law enforcement activities in such area, including the activities of all local police and peace officers.

(3) Close all roads and highways in such area to traffic or by order of the Governor limit the travel on such roads to such extent as the Governor deems necessary and expedient.

(4) Designate persons to coordinate the work of public and private relief agencies operating in such area and exclude from such area any person or agency refusing to cooperate with and work under such coordinator or to cooperate with other agencies engaged in emergency work.

(5) Require the aid and assistance of any state or other public or quasi-public agencies in the performance of duties and work attendant upon the emergency conditions in such area. [Formerly 401.530]

401.120 [Repealed by 1983 c.586 §49]

401.125 Authority concerning federal financial assistance to political subdivision. Whenever, at the request of the Governor, the President of the United States has declared a major disaster to exist in this state, the Governor is authorized:

(1) Upon determination that a political subdivision of the state will suffer a substantial loss of tax and other revenues from a major disaster and has demonstrated a need for financial assistance to perform its governmental functions, to apply to the federal government, on behalf of the political subdivision, for a loan; and to receive and disburse the proceeds of any approved loan to any applicant political subdivision.

(2) To determine the amount needed to restore or resume its governmental functions, and to certify the same to the federal government, provided, however, that no application amount shall exceed 25 percent of the annual operating budget of the applicant political subdivision for the fiscal year in which the major disaster occurs.

(3) To recommend to the federal government, based upon the review of the Governor, the cancellation of all or any part of repayment when, in the first three full fiscal year period following the major disaster, the revenues of the political subdivision are insufficient to meet its operating expenses, including additional disaster-related expenses of a municipal operation character. [Formerly 401.630]

401.130 [Repealed by 1983 c.586 §49]

401.135 Authority concerning federal financial assistance to individuals or families. Whenever the President of the United States, at the request of the Governor, with the concurrence of the Emergency Board or Joint Ways and Means Committee of the Legislative Assembly, has declared a major disaster to exist in this state, the Governor is authorized:

(1) Upon determination that financial assistance is essential to meet disaster-related necessary expenses or serious needs of individuals or families adversely affected by a major disaster that cannot be otherwise adequately met from other means of assistance, to accept a grant by the federal government to fund such financial assistance, subject to such terms and conditions as may be imposed upon the grant.

(2) To enter into an agreement with the federal government, or any officer or agency thereof, pledging the state to participate in the funding of the assistance authorized in subsection (1) of this section in an amount not to exceed 25 percent thereof.

(3) To make financial grants to help meet disaster-related necessary expenses or serious needs of individuals or families adversely affected by a major disaster which cannot otherwise adequately be met from other means of assistance. [Formerly 401.640; 1997 c.14 §1]

401.140 [Repealed by 1983 c.586 §49]

401.145 Authority over removal of disaster debris or wreckage; unconditional authorization of community; liability for injury or damage. (1) Whenever the Governor has declared a disaster emergency to exist under the laws of this state, or the President of the United States, at the request of the Governor, has declared a major disaster or emergency to exist in this state, the Governor is authorized:

(a) Through the use of state departments or agencies, or the use of any of the state's instrumentalities, to clear or remove from publicly or privately owned land or water, debris and wreckage which may threaten public health or safety, or public or private property.

(b) To accept funds from the federal government and utilize such funds to make grants to any political subdivision for the purpose of removing debris or wreckage from publicly or privately owned land or water.

(2) Authority under subsection (1) of this section shall not be exercised unless the affected political subdivision, corporation, organization, or individual shall first present an unconditional authorization for removal of such debris or wreckage from public and private property and, in the case of removal of debris or wreckage from private property, shall first agree to indemnify the state government against any claim arising from such removal.

(3) Whenever the Governor provides for clearance of debris or wreckage pursuant to subsections (1) and (2) of this section, employees of the designated state agencies or individuals appointed by the Governor are authorized to enter upon private lands or waters and perform any tasks necessary to the removal or clearance operation.

(4) Except in cases of willful misconduct, gross negligence or bad faith, any state employee or individual appointed by the Governor authorized to perform duties necessary to the removal of debris or wreckage shall not be liable for death of or injury to persons or damage to property. [Formerly 401.650]

401.150 [Repealed by 1983 c.586 §49]

401.155 Rules to carry out ORS 401.125 to 401.145 and 401.335. The Governor is authorized to make rules and regulations as are necessary to carry out the purposes of ORS 401.125 to 401.145 and 401.335. [Formerly 401.660]

401.160 [Amended by 1953 c.6 §4; 1955 c.451 §1; repealed by 1983 c.586 §49]

401.170 [Amended by 1963 c.179 §1; 1971 c.766 §1; repealed by 1983 c.586 §49]

401.180 [Repealed by 1983 c.586 §49]

401.190 [Amended by 1963 c.528 §5; repealed by 1983 c.586 §49]

401.195 [1981 c.763 §2; repealed by 1983 c.586 §49]

401.200 [1981 c.763 §3; 1983 c.586 §27; renumbered 401.355]

401.205 [1981 c.763 §4; 1983 c.586 §28; renumbered 401.365]

401.210 [Formerly 401.820; 1983 c.586 §29; renumbered 401.375]

401.215 [Formerly 401.830; 1983 c.586 §30; renumbered 401.385]

401.220 [1981 c.763 §5; 1983 c.586 §31; renumbered 401.395]

401.225 [1981 c.763 §6; 1983 c.586 §32; renumbered 401.405]

401.230 [1981 c.763 §7; 1983 c.586 §33; renumbered 401.415]

401.235 [1981 c.763 §8; 1983 c.586 §34; renumbered 401.425]

401.240 [1981 c.763 §9; 1983 c.586 §35; renumbered 401.435]

401.245 [1981 c.763 §10; 1983 c.586 §36; renumbered 401.445]

401.250 [1981 c.763 §11; 1983 c.586 §37; renumbered 401.455]

401.255 [1981 c.763 §12; 1983 c.586 §38; renumbered 401.465]

(Office of Emergency Management)

401.260 Office of Emergency Management; director; employees. (1) The Emergency Management Division that has operated under this chapter is continued as the Office of Emergency Management within the Department of State Police and is made the emergency management agency for the State of Oregon. The office shall be under the supervision of a director appointed by the Superintendent of State Police with the approval of the Governor. The appointee shall serve at the pleasure of the superintendent, shall not be subject to the State Personnel Relations Law and shall be qualified by education, training and experience in the emergency management profession. The office shall be responsible administratively to the superintendent, shall retain direct access to the Governor and shall simultaneously notify the Governor and the superintendent of all emergencies.

(2) The Superintendent of State Police, with the approval of the Governor, may employ, subject to the applicable provisions of the State Personnel Relations Law, such personnel as are necessary to carry out the purposes of ORS 401.015 to 401.105, 401.260 to 401.325, 401.355 to 401.580 and 401.710 to 401.816, and shall fix their compensation in accordance with the compensation plan for classified employees and make expenditures within the appropriation therefor or from other funds made available to the office for purposes of emergency program management.

(3) The continued mission of the Office of Emergency Management is to execute the Governor's responsibilities to maintain an

emergency services system as prescribed in this chapter by planning, preparing and providing for the prevention, mitigation and management of emergencies or disasters that present a threat to the lives and property of citizens of and visitors to the State of Oregon. [1983 c.586 §10; 1993 c.187 §4]

401.270 Duties of director; rules. The Director of the Office of Emergency Management shall be responsible for coordinating and facilitating emergency planning, preparedness, response and recovery activities with the state and local emergency services agencies and organizations, and shall, with the approval of the Superintendent of State Police or as directed by the Governor:

(1) Make rules that are necessary and proper for the administration and implementation of ORS 401.015 to 401.105, 401.260 to 401.325, 401.355 to 401.580 and 401.706;

(2) Coordinate the activities of all public and private organizations specifically related to providing emergency services within this state;

(3) Maintain a cooperative liaison with emergency management agencies and organizations of local governments, other states and the federal government;

(4) Have such additional authority, duties and responsibilities authorized by ORS 401.015 to 401.105, 401.260 to 401.325 and 401.355 to 401.580 or as may be directed by the Governor;

(5) Administer grants relating to emergency program management, seismic rehabilitation, emergency services for the state and the statewide 2-1-1 system as provided in ORS 401.294;

(6) Provide for and staff a State Emergency Operations Center to aid the Governor and the Office of Emergency Management in the performance of duties under ORS 401.015 to 401.105, 401.260 to 401.325, 401.355 to 401.580 and 401.706;

(7) Serve as the Governor's authorized representative for coordination of certain response activities and managing the recovery process;

(8) Establish training and professional standards for local emergency program management personnel;

(9) Establish task forces and advisory groups to assist the office in achieving mandated responsibilities;

(10) Enforce compliance requirements of federal and state agencies for receiving funds and conducting designated emergency functions;

(11) Oversee the design, implementation and support of a statewide 2-1-1 system as provided under ORS 401.288; and

(12) Coordinate the activities of state and local governments to enable state and local governments to work together during domestic incidents as provided in the National Incident Management System established by the Homeland Security Presidential Directive 5 of February 28, 2003. [1983 c.586 §11; 1993 c.187 §5; 2003 c.556 §2; 2005 c.526 §10; 2005 c.813 §3; 2005 c.825 §10]

401.275 System for notification of emergencies; emergency management coordinators; rules.

(1) The Department of State Police shall maintain a system for the notification and interagency coordination of state resources in response to natural and technological emergencies and civil disorder involving multijurisdictional cooperation between the various levels of government and private business entities.

(2) The notification system shall be managed by the Office of Emergency Management as a continuously available communications network and a component of the state's emergency operations center.

(3) The notification system shall be the primary point of contact by which any public agency provides the state notification of an emergency or disaster, or requests access to state and federal resources.

(4) Each department of state government, and those agencies of state government identified in the Oregon emergency management plan with emergency service or administrative responsibilities, shall appoint an emergency management coordinator as their representative to work with the office on the development and implementation of emergency plans and procedures.

(5) The Department of State Police shall adopt rules relating to the planning, administration and operation of the notification system maintained under this section. [1993 c.187 §8]

401.280 Federal grants for emergency management and services; authority of office.

(1) The Office of Emergency Management is designated as the sole agency of the State of Oregon for the purpose of negotiating agreements with the Federal Emergency Management Agency or other appropriate federal agency, on behalf of the state, for the acquisition of federal funds for the purpose of providing emergency program management and emergency services. All city or county emergency management programs, emergency service agencies and state agencies applying for such funds shall coordinate with the Office of Emergency Management on development of proposals and shall submit applications to the agency to be reviewed or processed, or both.

(2) The office is authorized to accept and receive on behalf of the state, counties and cities federal funds for purpose of emergency program management and emergency services, to deposit such funds in the Emergency Management Revolving Account and to authorize the disbursement and distribution of these funds in accordance with the applicable agreement. [1983 c.586 §22; 1993 c.187 §6]

(2-1-1 Telecommunications System)

401.282 Legislative findings. The Legislative Assembly finds that:

(1) The implementation of a single, easy-to-use telephone number, 2-1-1, will benefit the residents of this state by providing easier access to available health and human services and services after an emergency, by reducing inefficiencies in connecting people with desired service providers and by reducing duplication of efforts.

(2) In a time of reduced resources for the provision of health and human services, establishing a cost-effective means to continue to inform the public about available services is a priority.

(3) An integrated statewide system of local information and referral service providers will build upon an already existing network of experienced service providers without the necessity of creating a new agency or department. [2005 c.526 §1]

Note: 401.282 was enacted into law by the Legislative Assembly but was not added to or made a part of ORS chapter 401 or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

401.284 Definitions for ORS 401.284 to 401.296. As used in ORS 401.284 to 401.296:

(1) "2-1-1" means the abbreviated dialing code assigned by the Federal Communications Commission for consumer access to community information and referral services.

(2) "2-1-1 service" means a telephone service that provides information about and referral to health and human services and services after an emergency.

(3) "2-1-1 service area" means an area in the state of Oregon where a 2-1-1 service provider provides 2-1-1 services.

(4) "2-1-1 service provider" means a public or nonprofit agency or organization that provides 2-1-1 services.

(5) "2-1-1 system facilitator" means an Oregon nonprofit organization that is devoted to creating a statewide 2-1-1 system. [2005 c.526 §3]

401.286 Public referral and information telephone number. 2-1-1 is created as the official state dialing code for public referral to and information about health and

human services and services after an emergency. [2005 c.526 §4]

401.288 Contract for 2-1-1 system facilitator. (1) Subject to subsection (3) of this section, the Office of Emergency Management shall enter into a contract with a 2-1-1 system facilitator to design, implement and support a statewide 2-1-1 system.

(2) The contract shall ensure that the 2-1-1 system facilitator:

(a) Creates a structure for a statewide 2-1-1 resources database that:

(A) Meets standards for information and referral systems databases established by a nationally recognized corporation devoted to improving access to services through a mechanism of information and referral; and

(B) Will be integrated with local resources databases maintained by approved 2-1-1 service providers;

(b) Develops a statewide resources database for the 2-1-1 system; and

(c) Maintains public information provided by state agencies and programs that provide health and human services for access by 2-1-1 service providers.

(3) In awarding the contract under subsection (1) of this section, the office shall ensure that the 2-1-1 system facilitator has the funds and the financial capacity to carry out the terms of the contract and that the contract is cost-neutral to the office. [2005 c.526 §5]

401.290 Approval of 2-1-1 service providers. (1) The 2-1-1 system facilitator shall recommend 2-1-1 service providers to the Office of Emergency Management based on the following criteria:

(a) The ability of the proposed 2-1-1 service provider to meet the national 2-1-1 standards recommended by a nationally recognized corporation devoted to improving access to services through a mechanism of information and referral;

(b) The financial stability of the proposed 2-1-1 service provider;

(c) The community support for the proposed 2-1-1 service provider;

(d) The relationships of the proposed 2-1-1 service provider with other information and referral services; and

(e) Other criteria that the 2-1-1 system facilitator deems appropriate.

(2) The office shall approve 2-1-1 service providers based on the recommendations of the 2-1-1 system facilitator. Only a 2-1-1 service provider approved by the office may provide 2-1-1 services. [2005 c.526 §6]

401.292 Use of 2-1-1 system by state agencies providing health and human services. Before a state agency that provides health and human services establishes a new public information hotline, the state agency shall consult with the Office of Emergency Management about using the 2-1-1 system to provide public access to the information. [2005 c.526 §7]

401.294 Contributions to support establishment of 2-1-1 system; use of contributions. (1) The Office of Emergency Management may accept contributions of moneys and assistance from the federal government or its agencies or from any other source, public or private, and agree to conditions placed on the moneys not inconsistent with the purpose of establishing a statewide 2-1-1 system.

(2) The office may, from contributions of moneys received under subsection (1) of this section:

(a) Provide grants to approved 2-1-1 service providers for the design, development, and implementation of 2-1-1 for their 2-1-1 service areas;

(b) Provide grants to approved 2-1-1 service providers to enable the provision of 2-1-1 services on an ongoing basis; and

(c) Provide grants to approved 2-1-1 service providers to enable the provision of 2-1-1 services 24 hours a day, seven days a week. [2005 c.526 §8]

401.296 2-1-1 Account. The 2-1-1 Account is established in the State Treasury, separate and distinct from the General Fund. All moneys received by the Office of Emergency Management for the 2-1-1 system under ORS 401.294 shall be deposited into the account and are continuously appropriated to the Office of Emergency Management to be used only for the implementation and support of the 2-1-1 system. [2005 c.526 §9]

(Seismic Rehabilitation)

401.300 Grant program for seismic rehabilitation of certain facilities. (1) The Director of the Office of Emergency Management, pursuant to the authority to administer grant programs for seismic rehabilitation provided in ORS 401.270, shall develop a grant program for the disbursement of funds for the seismic rehabilitation of critical public buildings, including hospital buildings with acute inpatient care facilities, fire stations, police stations, sheriffs' offices, other facilities used by state, county, district or municipal law enforcement agencies and buildings with a capacity of 250 or more persons that are routinely used for student activities by kindergarten through grade 12 public schools, community colleges, educa-

tion service districts and institutions of higher education. The funds for the seismic rehabilitation of critical public buildings under the grant program are to be provided from the issuance of bonds pursuant to the authority provided in Articles XI-M and XI-N of the Oregon Constitution.

(2) The grant program shall include the appointment of a grant committee. The grant committee may be composed of any number of persons with qualifications that the director determines necessary. However, the director shall include persons with experience in administering state grant programs and representatives of entities with responsibility over critical public buildings. The director shall also include as permanent members representatives of:

(a) The Department of Human Services;

(b) The State Department of Geology and Mineral Industries;

(c) The Seismic Safety Policy Advisory Commission; and

(d) The Oregon Department of Administrative Services.

(3) The director shall determine the form and method of applying for grants from the grant program, the eligibility requirements for grant applicants, and general terms and conditions of the grants. The director shall also provide that the grant committee review grant applications and make a determination of funding based on a scoring system that is directly related to the statewide needs assessment performed by the State Department of Geology and Mineral Industries. Additionally, the grant process may:

(a) Require that the grant applicant provide matching funds for completion of any seismic rehabilitation project.

(b) Provide authority to the grant committee to waive requirements of the grant program based on special circumstances such as proximity to fault hazards, community value of the structure, emergency functions provided by the structure and storage of hazardous materials.

(c) Allow an applicant to appeal any determination of grant funding to the director for reevaluation.

(d) Provide that applicants release the state, the director and the grant committee from any claims of liability for providing funding for seismic rehabilitation.

(e) Provide separate rules for funding rehabilitation of structural and nonstructural building elements.

(4) Subject to the grant rules established by the director and subject to reevaluation by the director, the grant committee has the responsibility to review and make determi-

nations on grant applications under the grant program established pursuant to this section. [2005 c.813 §2]

(Powers of Local Governments)

401.305 Emergency management agency of city or county; emergency program manager; coordination of emergency management functions. (1) Each county of this state shall, and each city may, establish an emergency management agency which shall be directly responsible to the executive officer or governing body of the county or city.

(2) The executive officer or governing body of each county and any city which participates shall appoint an emergency program manager who shall have responsibility for the organization, administration and operation of such agency, subject to the direction and control of the county or city.

(3) The local governing bodies of counties and cities that have both city and county emergency management programs shall jointly establish policies which provide direction and identify and define the purpose and roles of the individual emergency management programs, specify the responsibilities of the emergency program managers and staff and establish lines of communication, succession and authority of elected officials for an effective and efficient response to emergency conditions.

(4) Each emergency management agency shall perform emergency program management functions within the territorial limits of the county or city and may perform such functions outside the territorial limits as required under any mutual aid or cooperative assistance agreement or as authorized by the county or city.

(5) The emergency management functions shall include, as a minimum:

(a) Coordination of the planning activities necessary to prepare and maintain a current emergency operations plan, management and maintenance of emergency operating facilities from which elected and appointed officials can direct emergency and disaster response activities;

(b) Establishment of an incident command structure for management of a coordinated response by all local emergency service agencies; and

(c) Coordination with the Office of Emergency Management to integrate effective practices in emergency preparedness and response as provided in the National Incident Management System established by the Homeland Security Presidential Directive 5 of February 28, 2003. [1983 c.586 §12; 1993 c.187 §9; 2005 c.825 §11]

401.309 Declaration of state of emergency by local government; procedures; mandatory evacuations. (1) Each county, city or other municipal corporation in this state may, by ordinance or resolution, establish procedures to prepare for and carry out any activity to prevent, minimize, respond to or recover from an emergency. The ordinance or resolution shall describe the conditions required for the declaration of a state of emergency within the jurisdiction and the agency or individual authorized to declare that a state of emergency exists.

(2) An ordinance or resolution adopted under this section may designate the emergency management agency, if any, or any other agency or official of the county, city or municipal corporation as the agency or official charged with carrying out emergency duties or functions under the ordinance.

(3) A county, city or municipal corporation may authorize an agency or official to order mandatory evacuations of residents and other individuals after a declaration of a state of emergency within the jurisdiction is declared. An evacuation under an ordinance or resolution authorized by this section shall be ordered only when necessary for public safety or when necessary for the efficient conduct of activities that minimize or mitigate the effects of the emergency.

(4) Nothing in this section shall be construed to affect or diminish the powers of the Governor during a state of emergency declared under ORS 401.055. The provisions of ORS 401.015 to 401.105, 401.115 and 401.125 to 401.145 supersede the provisions of an ordinance or resolution authorized by this section when the Governor declares a state of emergency within any area in which such an ordinance or resolution applies.

(5) As used in this section, "emergency" has the meaning given that term in ORS 401.025. [1997 c.361 §2]

401.310 [Amended by 1953 c.394 §10; 1969 c.80 §12; repealed by 1983 c.586 §49]

401.315 City or county authorized to incur obligations for emergency services; county determination of emergency. In carrying out the provisions of ORS 401.015 to 401.105, 401.260 to 401.325 and 401.355 to 401.580, counties or cities may enter into contracts and incur obligations necessary to mitigate, prepare for, respond to or recover from emergencies or major disaster. A county shall assess whether an emergency exists. [1983 c.586 §13; 1991 c.418 §2]

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

401.325 Emergency management agency appropriation; tax levy. (1) Each county and city may make appropriations, in the manner provided by law for making appropriations for the expenses of the county or city, for the payment of expenses of its emergency management agency and may levy taxes upon the taxable property within the county or city.

(2) An appropriation made under subsection (1) of this section shall be budgeted so that it is possible to identify it as a distinguishable expense category. [1983 c.586 §14]

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

401.335 Temporary housing for disaster victims; political subdivision's authority. Any political subdivision of this state is expressly authorized to acquire, temporarily or permanently, by purchase, lease, or otherwise, sites required for installation of temporary housing units for disaster victims, and to enter into arrangements necessary to prepare or equip such sites to utilize the housing units. [Formerly 401.620]

(Seismic Safety)

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

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

(A) Department of Consumer and Business Services;

(B) State Department of Geology and Mineral Industries;

(C) Department of Land Conservation and Development;

(D) Department of Transportation; and

(E) Office of Emergency Management of the Department of State Police; and

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

(A) One representative of local government;

(B) Six members representing the public interest, including:

(i) One representative of a school district, community college or university;

(ii) Two members of the Legislative Assembly; and

(iii) Three members of the general public; and

(C) Six members representing affected industries or stakeholders.

(2) The term of office of each member, except a member of the Legislative Assembly,

appointed under subsection (1)(b) of this section is four years, but a member serves at the pleasure of the Governor. The term of office of a member of the Legislative Assembly expires at the end of the term for which the member is elected. Before the expiration of the term of a member, the Governor shall appoint a successor whose term begins on July 1 next following. A member is eligible for reappointment. If there is a vacancy for any cause, the Governor shall make an appointment to become immediately effective for the unexpired term. [1991 c.956 §2; 1993 c.187 §10; 1995 c.511 §1; 1997 c.520 §§1,1a]

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

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

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

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

(c) Supporting research and special studies;

(d) Supporting appropriate mitigation;

(e) Supporting response and recovery; and

(f) Supporting and assisting in the coordination of a grant program for the disbursement of funds for seismic rehabilitation of schools and emergency facilities.

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

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

(a) Any legislative proposals.

(b) Plans and proposals of statewide impact.

(c) Lists of recommendations for actions and potential rule changes specifically by state agency. [1991 c.956 §4; 1997 c.520 §2; 2005 c.813 §4]

401.345 Officers; quorum; meetings; compensation and expenses. (1) The Seismic Safety Policy Advisory Commission shall select one of its members as chairperson and another as vice chairperson, for two-year

terms and with duties and powers necessary for the performance of the functions of such offices as the commission determines.

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

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

(4) Each member of the commission, except a member of the Legislative Assembly, appointed under ORS 401.337 (1)(b) shall receive compensation and expenses as provided in ORS 292.495. A legislative member shall receive compensation and expenses as provided in ORS 171.072. [1991 c.956 §§5,6,7; 1995 c.511 §2; 1997 c.520 §3]

401.347 Support services. The Office of Emergency Management shall provide technical, clerical and other necessary support services to the commission. The Department of Consumer and Business Services, the Department of Human Services, the State Department of Geology and Mineral Industries, the Department of Land Conservation and Development, the Department of Transportation, the Water Resources Department and the Oregon University System shall provide assistance, as required, to the commission to enable it to meet its objectives. [1991 c.956 §8]

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

401.353 Advisory and technical committees; expense reimbursement. (1) To aid and advise the Seismic Safety Policy Advisory Commission in the performance of its functions, the commission may establish such advisory and technical committees as it considers necessary. These committees may be continuing or temporary. The commission shall determine the representation, membership, terms and organization of the committees and shall appoint their members.

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

(Emergency Service Workers)

401.355 Eligibility of emergency service worker for benefits for injury sustained in emergency service. (1) An emergency service worker may apply for and

may receive benefits as provided in ORS 401.355 to 401.465 for injury sustained in emergency service performed within or without the state:

(a) Where the injury is proximately caused by or in the course of emergency service, with or without negligence of the emergency service worker.

(b) Where the injury is not caused by the voluntary intoxication of the emergency service worker.

(c) Where the injury is not intentionally self-inflicted.

(2) No emergency service worker or beneficiary is eligible for benefits under ORS 401.355 to 401.465:

(a) If the emergency service worker is entitled to receive benefits under the workers' compensation laws of this state or similar statutes in other states or under any disability, retirement or liability insurance program of the worker's regular employer who has contributed to the cost thereof, or under any federal or local program for compensation of injuries of public employees, in those cases where the injury is compensable because it arose out of and in the course of emergency service duties performed as part of the regular employment of the emergency service worker.

(b) If the emergency service worker is a member of a federal emergency management or emergency service agency or an emergency management or emergency service agency of another state or foreign nation who is performing emergency services in this state. [Formerly 401.200]

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

401.365 Registration and qualification of emergency management agencies. All state and local emergency management agencies may register and qualify to come within the provisions of ORS 401.355 to 401.465. [Formerly 401.205]

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

401.375 "Emergency service" defined; service not in violation of child labor laws. Emergency service shall not be deemed employment in violation of any laws of this state relating to labor by minors. "Emergency service" includes all activities authorized and carried on pursuant to ORS 401.015 to 401.105, 401.260 to 401.325 and 401.355 to 401.580, including such training as is necessary and proper to engage in such activities. [Formerly 401.210]

401.380 [1953 c.394 §8; 1959 c.403 §1; 1983 c.586 §39; renumbered 401.535]

401.385 Record of enrollment of emergency service workers. Each emergency program manager of an emergency management agency shall maintain a record of enrollment of emergency service workers who are personnel of the agency. Each record shall contain the name and address of the worker, the name of the employer of the worker, date of enrollment and authorized classification of assignment to duty, including the times of assigned duty, as well as changes in enrollment. The record forms shall be supplied by the Office of Emergency Management. Records of membership in the Oregon State Defense Force shall be maintained by the Military Department of the State of Oregon. [Formerly 401.215; 1989 c.361 §9; 1993 c.187 §11]

401.395 Benefits for injury sustained in emergency service. If an emergency service worker sustains an injury, benefits shall be paid in the same manner as provided for injured workers under the workers' compensation laws of this state, except that:

(1) If the injury results in temporary partial disability, no benefits shall accrue to the injured emergency service worker on account of loss of wages due to such disability.

(2) Costs of rehabilitation services to disabled emergency service workers shall be paid from funds specifically appropriated therefor in an amount approved by the Office of Emergency Management, which shall be the reasonable and necessary cost of such services, including services of a physician or rehabilitation facility specially qualified to render rehabilitation services. Expenses of rehabilitation may include travel, board and room, when necessary.

(3) The maximum amount payable for medical, surgical or hospital expenses, compensation and rehabilitation on any one claim shall not exceed \$20,000. [Formerly 401.220; 1993 c.187 §12]

401.405 Benefits not assignable; exempt from execution, attachment and garnishment. No benefits payable under ORS 401.355 to 401.465 are subject to assignment prior to their receipt by the person entitled thereto, nor shall they pass by operation of law. These benefits and the right to receive them are also exempt from seizure on execution, attachment or garnishment, or by the process of any court. [Formerly 401.225]

401.410 [1967 c.480 §1; repealed by 1983 c.586 §49]

401.415 Benefits as exclusive remedy. The filing of claims for benefits under ORS 401.355 to 401.465 is the exclusive remedy of an emergency service worker or beneficiary for injuries compensable under ORS 401.355 to 401.465 against the state or its political

subdivision or any emergency management agency or other person acting under governmental authority in furtherance of emergency service activities, regardless of negligence. [Formerly 401.230]

401.420 [1967 c.480 §2; repealed by 1983 c.586 §49]

401.425 Claims for benefits. (1) Claims for benefits under ORS 401.355 to 401.465 shall be filed by application with the Office of Emergency Management in the manner provided by rules of the Department of State Police.

(2) The right to benefits under ORS 401.355 to 401.465 shall be barred unless written claim is filed with the office within 90 days after the injury, or, if death results therefrom, within 90 days after death. However, if death occurs more than one year after the injury, the right shall be barred unless prior written claim based on the injury has been timely filed. The requirements of this subsection may be waived by the office on the ground that, for good and sufficient reason, claim could not be filed on time. [Formerly 401.235; 1993 c.187 §13]

401.430 [1967 c.480 §3; repealed by 1983 c.586 §49]

401.435 Appeal. Any question of law or fact may be appealed to the circuit court of the county where the injury occurred within 30 days from the date of mailing of the final decision by the Office of Emergency Management, if the emergency service worker is dissatisfied with the final decision. [Formerly 401.240; 1993 c.187 §14]

401.440 [1967 c.480 §4; repealed by 1983 c.586 §49]

401.445 Allocation of necessary funds. If funds are not available to the Office of Emergency Management to pay claims approved under ORS 401.355 to 401.465, the Department of State Police shall request allocation of necessary funds from the Emergency Board if the unavailability occurs during the interim between sessions of the Legislative Assembly. If the unavailability occurs during a session, the Department of State Police shall request the Joint Committee on Ways and Means to submit legislation necessary to provide such funds. [Formerly 401.245; 1993 c.187 §15]

401.450 [1967 c.480 §5; repealed by 1983 c.586 §49]

401.455 Benefits limited by availability of funds; priority among claimants. Liability of the State of Oregon or any agency thereof for the payment of benefits under ORS 401.355 to 401.465 is contingent upon and limited by the availability of funds. In the event that funds are not sufficient to meet the benefit claims for a given period, priority among claimants shall be determined according to the time of filing of the claim. [Formerly 401.250]

401.460 [1967 c.480 §6; repealed by 1983 c.586 §49]

401.465 Obtaining public or private insurance with available funds. Funds available for purposes of ORS 401.355 to 401.465 may be used to effect insurance or reinsurance with any authority or instrumentality, public or private, or otherwise to distribute the liability for compensation payable to emergency service workers. [Formerly 401.255; 1993 c.187 §16]

401.470 [1967 c.480 §7; repealed by 1983 c.586 §49]

(Miscellaneous)

401.480 Cooperative assistance agreements. The state, counties and cities may, in collaboration with public and private agencies, enter into cooperative assistance agreements for reciprocal emergency aid and resources. [1983 c.586 §15]

401.485 Leaves of absence for disaster relief volunteers; requirements; maximum period; effect on status of employees. (1) State agencies and political subdivisions described in ORS 243.325 (2) to (6) may grant leaves of absence to any public employee who is a certified disaster services volunteer of the American Red Cross to participate in disaster relief services in the State of Oregon. Cumulative leave granted shall not exceed 15 work days in any 12-month period. Such leave granted shall not result in a loss of compensation, seniority, vacation time, sick leave or accrued overtime for which the employee is otherwise eligible. Compensation to an employee granted leave under this section shall be at the employee's regular rate of pay for those regular work hours during which the employee is absent from work.

(2) As used in this section, "disaster" means those disasters designated at level II and above by the American Red Cross. [1995 c.70 §1]

Note: 401.485 was enacted into law by the Legislative Assembly but was not added to or made a part of ORS chapter 401 or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

401.490 Mutual use of supplies and services. In carrying out the provisions of ORS 401.015 to 401.105, 401.260 to 401.325 and 401.355 to 401.580, the Governor and the executive officers or governing bodies of the counties and cities may request and utilize the services, equipment, supplies and facilities of existing departments, offices and agencies of the state and of local governments. The officers and personnel of all local government departments, offices and agencies may cooperate with, and extend such services and facilities to the Governor, to the Office of Emergency Management and to emergency management agencies and emergency service agencies upon request. [1983 c.586 §16]

401.500 Reimbursement by state for services provided by local government employees. The state shall reimburse a local government for the compensation paid and the actual and necessary travel, subsistence and maintenance expenses of employees of the local government while actually serving at the direction of the Governor or the Director of the Office of Emergency Management in a state function or capacity. [1983 c.586 §17]

401.505 Acceptance of aid for emergency services. Whenever any organization, agency, person, firm, corporation or officer thereof offers to the state or to any county or city, services, equipment, supplies, material or funds by way of gift, grant or loan for purposes of emergency program management or emergency services, the state, acting through the Governor, or the county or city, acting through its executive officer or governing body, may accept the offer. Upon acceptance, the Governor or executive officer or governing body of a county or city, as the case may be, may authorize any officer thereof to receive the services, equipment, supplies, materials or funds on behalf of the state, county or city, subject to the terms of the offer and any rules of the agency making the offer. [1983 c.586 §19]

401.510 [Repealed by 1983 c.586 §49]

401.515 Nonliability for emergency services; exception; emergency service workers as agents of state or local governments. (1) During the existence of an emergency, the state and any local government, any agent thereof or emergency service worker engaged in any emergency services activity, while complying with or attempting to comply with ORS 401.015 to 401.105, 401.260 to 401.325 and 401.355 to 401.580 or any rule adopted under those sections, is not, except in cases of willful misconduct, gross negligence or bad faith, liable for the death or injury of any person, or damage or loss of property, as a result of that activity.

(2) There shall be no liability on the part of a person who owns or maintains any building or premises which has been designated by any emergency management agency or emergency service agency or any public body or officer of this state or the United States as a fallout shelter or a shelter from destructive operations or attacks by enemies of the United States for the death of or injury to any individual or damage to or loss of property while in or upon the building or premises as a result of the condition of the building or premises or as a result of any act or omission, except willful misconduct, gross negligence or bad faith of such person or the servants, agents or employees of the person

when the dead or injured individual entered or went on or into the building or premises for the purpose of seeking refuge therein during or in anticipation of destructive operations or attacks by enemies of the United States or during tests ordered by lawful authority.

(3) The provisions of ORS 401.015 to 401.105, 401.260 to 401.325 and 401.355 to 401.580 do not affect the right of any person to receive benefits or compensation to which the person would otherwise be entitled under ORS 401.015 to 401.105, 401.260 to 401.325 and 401.355 to 401.580, under ORS chapter 656, under any pension or retirement law or under any act of Congress.

(4) Emergency service workers, in carrying out, complying with or attempting to comply with any order or rule issued under ORS 401.015 to 401.105, 401.260 to 401.325 and 401.355 to 401.580 or any local ordinance, or performing any of their authorized functions or duties or training for the performance of their authorized functions or duties, shall have the same degree of responsibility for their actions and enjoy the same immunities as officers and employees of the state and its local governments performing similar work.

(5) This section does not excuse any governmental agency from liability for intentional confiscation or intentional destruction of private property.

(6) A person who complies with a lawful order of the Governor under ORS 401.015 to 401.105, 401.260 to 401.325 and 401.355 to 401.580 incurs no liability for damages resulting from compliance.

(7)(a) An officer, employee or agent of the federal government or another state, or an agency or political subdivision of another state, who is accepted by the Office of Emergency Management to act as an emergency service worker is an agent of this state for the purposes of this section and ORS 30.260 to 30.300.

(b) An officer, employee or agent of the federal government or another state, or an agency or political subdivision of another state, who is accepted by a local government emergency management agency to act as an emergency service worker is an agent of the local government emergency management agency for the purposes of this section and ORS 30.260 to 30.300. [1983 c.586 §20; 2005 c.825 §12]

401.520 [Repealed by 1983 c.586 §49]

401.525 Use of moneys and property for emergency services authorized. (1) The expenditure of necessary money and use of state property by any agency in performing duties in an emergency is authorized.

Moneys so expended shall be deemed an administrative expense of the agency.

(2) If the Governor finds that funds regularly appropriated to state and local governments are not sufficient to cope with a particular emergency, the Governor may, with the concurrence of the Joint Committee on Ways and Means or the Emergency Board, when the Legislative Assembly is not in session, transfer and expend moneys appropriated for other purposes. [1983 c.586 §21]

401.530 [Amended by 1983 c.586 §39a; renumbered 401.115]

401.535 Emergency Management Revolving Account; source; use. There is created in the General Fund in the State Treasury an account to be known as the Emergency Management Revolving Account. All contributions, grants-in-aid or other moneys received or collected by the Office of Emergency Management of the Department of State Police, and any other funds contributed, granted or appropriated for transfer to the revolving account under authority of law shall be placed in the General Fund and credited to the Emergency Management Revolving Account. Moneys in the Emergency Management Revolving Account are continuously appropriated to the Office of Emergency Management for the purpose of this section. The office may use the revolving account to pay for the purchase of organizational and mobile support equipment and surplus property, for shelter construction, administration and personal services, when the purchase or expense is incurred pursuant to the office's agreements with the federal government, other state agencies or political subdivisions of the state. [Formerly 401.380; 1993 c.187 §17; 2005 c.755 §30]

401.537 [1991 c.310 §4; renumbered 455.448 in 1995]

EMERGENCY RESPONSE DRILLS

401.538 State and local agency emergency response drills. (1) Each state or local agency shall drill agency employees working in office buildings on emergency procedures so that the employees may respond to an earthquake emergency without confusion or panic. The agencies shall conduct the drills in accordance with Office of Emergency Management rules. The drills must include familiarization with routes and methods of exiting the building and methods of "duck, cover and hold" during an earthquake. An agency shall conduct the drills annually. The Office of Emergency Management may, by rule or on application, grant exemptions from the drill requirement for good cause.

(2) As used in this section, "state or local agency" means a state or local office, department, division, bureau, board or commis-

sion that is assigned, renting, leasing, owning or controlling office space for carrying out its duties. "State or local agency" includes the Legislative Assembly when in regular session. [2001 c.366 §1]

Note: 401.538 to 401.546 were enacted into law by the Legislative Assembly but were not added to or made a part of ORS chapter 401 or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

401.539 [1991 c.310 §5; renumbered 455.449 in 1995]

401.540 [Repealed by 1983 c.586 §49]

401.543 Private employer emergency response drills; exemptions. A person employing 250 or more full-time employees within this state shall drill employees working in office buildings on emergency procedures so that the employees may respond to an earthquake emergency without confusion or panic. The person shall conduct the drills in accordance with Office of Emergency Management rules. The drills must include familiarization with routes and methods of exiting the building and methods of "duck, cover and hold" during an earthquake. The employer shall conduct the drills annually during the month of April. The Office of Emergency Management may, by rule or on application, grant exemptions from the drill requirement for good cause. [2001 c.366 §2]

Note: See note under 401.538.

401.546 Conduct of earthquake emergency drills; rules. The Office of Emergency Management, in consultation with the State Department of Geology and Mineral Industries, shall adopt rules governing the conduct of earthquake emergency drills required by ORS 401.538 and 401.543. In addition to the office submitting the rules for publication pursuant to ORS 183.360, the office and the department shall each post the rules on an electronic bulletin board, home page or similar site. [2001 c.366 §3]

Note: See note under 401.538.

SEARCH AND RESCUE (Generally)

401.550 Search and Rescue Coordinator; appointment; duties. The Director of the Office of Emergency Management shall appoint a Search and Rescue Coordinator to:

(1) Coordinate the search and rescue function of the Office of Emergency Management;

(2) Coordinate the activities of state and federal agencies involved in search and rescue;

(3) Establish liaison with the Oregon State Sheriffs' Association and other public and private organizations and agencies involved in search and rescue;

(4) Provide on-scene search and rescue coordination when requested by an authorized person;

(5) Coordinate and process requests for the use of emergency service workers and equipment;

(6) Assist in developing training and outdoor education programs;

(7) Gather statistics in search and rescue operations; and

(8) Gather and disseminate resource information of personnel, equipment and materials available for search and rescue. [1983 c.586 §23; 1993 c.18 §93]

401.555 Program for air search and rescue. The Office of Emergency Management of the Department of State Police shall establish and maintain a program for the air search and rescue of lost aircraft and persons and for the air support of other emergency situations. The program established under this section may include, but shall not be limited to, the following:

(1) The formation of a volunteer air search and rescue organization and provision of appropriate training to this organization.

(2) Directing, coordinating and performing air activities in conjunction with air search and rescue and other emergency situations.

(3) Entering into agreements with private persons, volunteer organizations, and federal, state and local agencies for air search and rescue and other emergency activities.

(4) Such other related activities as may be deemed necessary and appropriate by the Director of the Office of Emergency Management. [Formerly 835.075]

401.560 Search and rescue activities; responsibilities of sheriff; delegation of sheriff's duties. (1) The sheriff of each county has the responsibility for search and rescue activities within the county. The duty of a sheriff under this subsection may be delegated to a qualified deputy or emergency service worker.

(2) If the sheriff does not accept the responsibility for search and rescue activities, the chief executive of the county shall designate the county emergency program manager to perform the duties and responsibilities required under ORS 401.015 to 401.105, 401.260 to 401.325 and 401.355 to 401.580.

(3) The sheriff or authorized person of each county shall notify the Office of Emergency Management of each search and rescue in the county and shall request the assignment of incident numbers therefor.

(4) The sheriff or authorized person of each county shall work with the county

emergency program manager in coordinating search and rescue activities in the county of the sheriff and in registering emergency service workers. [1983 c.586 §25; 1993 c.187 §18]

401.570 Restriction of access to search and rescue area. The sheriff of each county, the county emergency program manager performing the sheriff's duties under ORS 401.560 or duly assigned military or state police personnel may restrict access to a specific search and rescue area. No unauthorized person shall then enter into a restricted area or interfere with a search and rescue. Provision shall be made for reasonable access by members of the media in the performance of newsgathering and reporting. Access shall be restricted for a reasonable period of time necessary to accomplish the search and rescue. [1983 c.586 §24; 1993 c.187 §19]

401.573 County sheriff to adopt search and rescue plan; contents; annual review.

(1) The sheriff of each county shall adopt a search and rescue plan for the county. The search and rescue plan shall set forth search and rescue policies for the county and shall describe procedures for implementing those policies. A county search and rescue plan shall list and describe materials, equipment and personnel available within the county for search and rescue incidents. The plan shall also include:

(a) A detailed description of activities and circumstances that constitute search and rescue in the county.

(b) Identification of volunteer organizations available to the county for use for search and rescue.

(c) Procedures for contacting and requesting assistance from volunteer organizations during search and rescue activities.

(d) Procedures for contacting and requesting available assistance from other agencies and groups.

(e) Minimum standards for individuals whose technical or professional skills may be required for search and rescue.

(2) A county search and rescue plan adopted under this section shall require a person in charge of a search and rescue to complete a fact sheet for the incident. The fact sheet shall contain the incident number assigned under ORS 401.580 for search and rescue and such other information required under the search and rescue plan of the county.

(3) The sheriff of each county shall review and, if necessary or desirable, revise the search and rescue plan annually. After the initial adoption of a search and rescue plan under this section and after each annual review or revision of the plan, the sheriff shall

submit the plan to the Search and Rescue Coordinator appointed under ORS 401.550.

(4) The Office of Emergency Management, after consultation with the Oregon State Sheriffs' Association, may establish guidelines for county search and rescue plans.

(5) The Office of Emergency Management shall annually publish and distribute to the sheriff of each county a search and rescue resource inventory, which shall include materials, equipment and personnel available from counties, agencies and the State of Oregon for use in search and rescue incidents. [1985 c.470 §2; 1993 c.18 §94; 1993 c.187 §20]

401.576 Critique of search and rescue incident required; filing with Office of Emergency Management.

After a search and rescue that, in the opinion of the sheriff, is other than routine or upon request for a critique from an individual directly involved in the incident, the sheriff of the county in which the search and rescue took place shall conduct a critique of the incident. As part of the critique, the sheriff shall examine the search and rescue report and may receive testimony and information from persons involved in the incident. When a critique of a search and rescue is conducted under this section, the sheriff shall prepare findings of fact concerning the search and rescue and may prepare recommendations for the conduct of future incidents or propose amendments to the search and rescue plan under which the search and rescue was conducted. If amendments to the search and rescue plan are proposed and adopted, the sheriff shall file the amended search and rescue plan with the Office of Emergency Management. [1985 c.470 §3; 1993 c.187 §21]

401.580 Search and rescue incident number. (1) An incident number shall be assigned to each search and rescue reported by an authorized person under ORS 401.015 to 401.105, 401.260 to 401.325 and 401.355 to 401.580.

(2) The incident number assigned shall be referenced for:

(a) The payment of workers' compensation benefits for those persons participating in search and rescue activities; and

(b) The dispatch and request for state, federal and cooperative assistance resources. [1983 c.586 §26; 1993 c.187 §22]

401.590 Reimbursement of public body for search and rescue by benefited persons; amount; exceptions. (1) A public body may collect an amount specified in this section as reimbursement for the cost of search and rescue activities when the public body conducts search and rescue activities for the benefit of hikers, climbers, hunters

and other users of wilderness areas or unpopulated forested or mountainous recreational areas in this state.

(2) The public body may collect moneys as authorized by this section from each person for whose benefit search and rescue activities are conducted. The public body may not collect more than \$500 from an individual under this section and may not collect more than the actual cost of the search and rescue activities from all of the individuals for whose benefit the activities are conducted.

(3) A public body may obtain reimbursement under this section only when:

(a) Reasonable care was not exercised by the individuals for whose benefit the search and rescue activities are conducted; or

(b) Applicable laws were violated by such individuals.

(4) Any individual who is charged a fee for reimbursement under this section may appeal the charge or the amount of the fee to the public body that charged the fee.

(5) For the purposes of subsection (3) of this section, evidence of reasonable care includes:

(a) The individuals possessed experience and used equipment that was appropriate for the known conditions of weather and terrain.

(b) The individuals used or attempted to use locating devices or cellular telephones when appropriate.

(c) The individuals notified responsible persons or organizations of the expected time of departure and the expected time of return and the planned location or route of activity.

(d) The individuals had maps and orienteering equipment and used trails or other routes that were appropriate for the conditions.

(6) As used in this section, "public body" means any unit of state or local government that conducts or has authority to conduct search and rescue activities. [1995 c.570 §1]

Note: 401.590 was enacted into law by the Legislative Assembly but was not added to or made a part of ORS chapter 401 or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

401.600 [1975 c.624 §4; repealed by 1983 c.586 §49]

(Equipment and Signaling Devices)

401.605 Definitions for ORS 401.605 to 401.635. As used in ORS 401.605 to 401.635:

(1) "Electronic signaling device" includes, but is not limited to, a system consisting of an instrument which emits a radio signal, designed to be carried on the person, an instrument for locating the source of such signal, designed to be utilized by searchers

and such instruments as may be employed for testing and maintaining the same.

(2) "Inherent risks of wilderness travel and mountain climbing" includes, but is not limited to, those dangers or conditions, the risk of which is an integral part of these activities, such as becoming lost, incapacitated or for some other reason being unable to return safely without outside assistance. "Inherent risks" include the activities associated with search and rescue, due to the unpredictable circumstances under which search and rescue operations are conducted.

(3) "Wilderness travel" includes, but is not limited to, travel in areas not served by roads suitable for ordinary motor vehicles, whether or not such areas have been officially designated as wilderness areas. [1987 c.915 §1; 1993 c.18 §95]

Note: 401.605 to 401.635 were enacted into law by the Legislative Assembly but were not added to or made a part of ORS chapter 401 or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

401.610 [1975 c.624 §5; repealed by 1983 c.586 §49]

401.615 Assumption of risk of wilderness travel or mountain climbing; use and effect of signal devices. (1) In accordance with ORS 31.600 and notwithstanding ORS 31.620 (2), an individual who engages in wilderness travel or mountain climbing accepts and assumes the inherent risks of wilderness travel or mountain climbing.

(2) The Legislative Assembly recognizes that the use of electronic signaling devices can aid in locating wilderness travelers or mountain climbers who require search and rescue, but that the use of such devices may be required in unpredictable circumstances which may not result in successful function of such devices. [1987 c.915 §2]

Note: See note under 401.605.

401.620 [1975 c.624 §6; renumbered 401.335]

401.625 Required equipment when guiding children above timberline. A person who guides for compensation an organized group that includes children under 18 years of age on any mountain above the timberline must carry an altimeter, a contour map of the area and a compass. [1987 c.915 §4]

Note: See note under 401.605.

401.627 Exemption from liability for electronic signaling device; exceptions. No person may maintain an action against the manufacturer, distributor or supplier of an electronic signaling device for any loss or damage incurred during wilderness travel or mountain climbing, based on a claim that such a device failed to function successfully unless the person shows that the failure resulted from willful or wanton misconduct of

the defendant or from the defendant's distributing or supplying such a device having actual knowledge that it fails to meet the specifications referred to in ORS 401.635. [1987 c.915 §3]

Note: See note under 401.605.

401.630 [1975 c.624 §7; renumbered 401.125]

401.635 Electronic signaling devices; rulemaking authority of state police; advisory committee. The Department of State Police by rule shall adopt specifications and distribution procedures applicable to electronic signaling devices described in ORS 401.605 to 401.635. The department may appoint an advisory committee to advise it on the specifications and procedures. [1987 c.915 §5; 1993 c.18 §96]

Note: See note under 401.605.

GOVERNOR'S NONEMERGENCY AUTHORITY TO ASSIGN COUNTY, CITY OR DISTRICT RESOURCES

401.638 Assignment by Governor of local resources under direction of State Fire Marshal. (1) The Governor may assign and make available for use and duty in any county, city or district, under the direction and command of the State Fire Marshal or a designee of the State Fire Marshal, any personnel or equipment resources of a county, city or district for the purpose of responding to the structural collapse, or the threat of imminent structural collapse, of a fixture to real property. This section does not authorize the Governor to assign and make available the fire-fighting resources of a fire district that possesses only one self-propelled pumping unit.

(2) The Governor may assign and make available local resources under this section without declaring a state of emergency and without regard to the criteria established in ORS 401.015 for assuming authority or responsibility for responding to an event. The State Fire Marshal, or a designee of the State Fire Marshal, may direct and command the use of the local resources made available by the Governor under this section regardless of whether the county, city or district to which the resources are made available has declared a state of emergency under ORS 401.309.

(3) The State Fire Marshal shall prepare plans for effectively carrying out this section and shall provide advice and counsel to the Governor for the most practical utilization of local resources under this section. [2005 c.651 §1]

Note: 401.638 to 401.645 were enacted into law by the Legislative Assembly but were not added to or made a part of ORS chapter 401 or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

401.639 Powers and duties of local personnel acting under direction of State Fire Marshal. If county, city or district personnel are assigned and used under ORS 401.638 to respond to a structural collapse or threat of imminent structural collapse in another county, city or district, the personnel have the same powers, duties, rights, privileges and immunities as they have when performing their duties in the county, city or district in which they are normally employed. [2005 c.651 §2]

Note: See note under 401.638.

401.640 [1975 c.624 §11; renumbered 401.135]

401.641 Liability for expenses incurred and for loss or damage to local equipment; filing claim. (1) If county, city or district equipment is assigned and used under ORS 401.638 to respond to a structural collapse or threat of imminent structural collapse in another county, city or district, the state:

(a) Is liable for any resulting loss of, or damage to, the equipment.

(b) Shall pay any expense incurred by the responding county, city or district for transportation, performance or maintenance of the equipment.

(2) A claim for loss, damage or expense under subsection (1) of this section must be filed within 60 days after the loss, damage or expense is incurred, or within any extension of time for filing the claim granted by the Department of State Police. The claim must include an itemized notice of the claim, signed under oath, and be served by mail or personally upon the department. An accepted claim for loss, damage or expense shall be payable from moneys made available under ORS 401.355 to 401.465. [2005 c.651 §3]

Note: See note under 401.638.

401.643 Liability for expenses incurred using local personnel. If county, city or district personnel are assigned and used under ORS 401.638 to respond to a structural collapse or threat of imminent structural collapse in another county, city or district and the response prevents the personnel from performing their duties in the county, city or district in which the personnel are normally employed, the state shall reimburse the county, city or district supplying the personnel for the compensation paid to the personnel during the response. The state shall also defray the actual travel and maintenance expenses for responding personnel incurred as a result of the response. [2005 c.651 §4]

Note: See note under 401.638.

401.645 Immunity from liability for local personnel acting in line of duty; exception. Personnel assigned under ORS

401.638, the state or a county, city or district is not liable for any injury to person or property resulting from the performance of any duty under ORS 401.638 or an assignment, use or response under ORS 401.638. However, this section does not confer immunity from liability for injury to person or property resulting from intentional misconduct or gross negligence. The immunity from liability provided to responding personnel under this section is in addition to any immunity available to responding personnel under ORS 401.639. [2005 c.651 §5]

Note: See note under 401.638.

401.650 [1975 c.624 §§8,9,10; renumbered 401.145]

EMERGENCY HEALTH CARE SERVICES

401.651 Definitions for ORS 401.651 to 401.670. As used in ORS 401.651 to 401.670:

(1) "Health care facility" means a health care facility as defined in ORS 442.015 that has been licensed under ORS chapter 441.

(2) "Health care provider" means an individual licensed, certified or otherwise authorized or permitted by the laws of this state to administer health care services in the ordinary course of business or practice of a profession. [2003 c.298 §2]

401.654 Registry of emergency health care providers. (1) The Department of Human Services may establish a registry of emergency health care providers who are available to provide health care services during an emergency or crisis. The department may require training related to the provision of health care services in an emergency or crisis as a condition of registration.

(2) The department shall issue identification cards to health care providers included in the registry established under this section that:

- (a) Identify the health care provider;
- (b) Indicate that the health care provider is registered as an Oregon emergency health care provider;
- (c) Identify the license or certification held by the health care provider; and
- (d) Identify the health care provider's usual area of practice if that information is available and the department determines that it is appropriate to provide that information.

(3) The department by rule shall establish a form for identification cards issued under subsection (2) of this section.

(4) The department shall support and provide assistance to the Office of Emergency Management in emergencies or crises involving the public health or requiring emergency medical response. [2003 c.298 §3]

401.657 Emergency health care facility; emergency operations plan; credentialing plan; rules. (1) The Department of Human Services may designate all or part of a health care facility or other location as an emergency health care center. Upon the Governor declaring a state of emergency under ORS 401.055, or proclaiming a state of impending public health crisis after determining that a threat to the public health is imminent and likely to be widespread, life-threatening and of a scope that requires immediate medical action to protect the public health, emergency health care centers may be used for:

- (a) Evaluation and referral of individuals affected by the emergency or crisis;
- (b) Provision of health care services; and
- (c) Preparation of patients for transportation.

(2) The department may enter into cooperative agreements with local public health authorities that allow local public health authorities to designate emergency health care centers under this section.

(3) An emergency health care center designated under this section must have an emergency operations plan and a credentialing plan that governs the use of emergency health care providers registered under ORS 401.654 and other health care providers who volunteer to perform health care services at the center under ORS 401.651 to 401.670. The emergency operations plan and credentialing plan must comply with rules governing those plans adopted by the department. [2003 c.298 §4]

401.660 [1975 c.624 §12; 1983 c.586 §40; renumbered 401.155]

401.661 Voluntary provision of health care services. Upon the Governor declaring a state of emergency under ORS 401.055, or proclaiming a state of impending public health crisis after determining that a threat to the public health is imminent and likely to be widespread, life-threatening and of a scope that requires immediate medical action to protect the public health:

(1) The Department of Human Services may direct emergency health care providers registered under ORS 401.654 who are willing to provide health care services on a voluntary basis to proceed to any place in this state where health care services are required by reason of the emergency or crisis; and

(2) Any emergency health care provider registered under ORS 401.654 or other health care provider may volunteer to perform health care services described in ORS 401.657 at any emergency health care center or health care facility in the manner provided by ORS 401.664. [2003 c.298 §5]

401.664 Emergency operations plan; credentialing plans. (1) Emergency health care providers registered under ORS 401.654 and other health care providers who volunteer to perform health care services under ORS 401.651 to 401.670 must provide those services in accordance with the emergency operations plan and credentialing plan adopted by the emergency health care center or by the health care facility at which the services are rendered.

(2) An emergency health care center or health care facility may determine the services to be provided by any emergency health care provider registered under ORS 401.654 or other health care provider who volunteers to perform health care services under ORS 401.651 to 401.670. [2003 c.298 §6]

401.667 Agency of emergency health care providers and emergency health care facilities for purposes of ORS 30.260 to 30.300; rules. (1) Emergency health care providers registered under ORS 401.654 and other health care providers who volunteer to perform health care services without compensation under ORS 401.651 to 401.670 are agents of the state under ORS 30.260 to 30.300 for the purposes of any claims arising out of those services.

(2) Health care facilities and other persons operating emergency health care centers designated under ORS 401.657 are agents of the state under ORS 30.260 to 30.300 for the purposes of any claims arising out of services provided without compensation through those centers or facilities under ORS 401.651 to 401.670.

(3) An emergency health care provider registered under ORS 401.654 participating in training authorized by the Department of Human Services under ORS 401.651 to 401.670 is an agent of the state under ORS 30.260 to 30.300 for the purposes of any claims arising out of that training.

(4) The provisions of subsections (1) and (2) of this section apply only to emergency health care centers or health care facilities that have adopted emergency operations plans and credentialing plans that govern the use of emergency health care providers registered under ORS 401.654 and other health care providers who volunteer to perform health care services under ORS 401.651 to 401.670. An emergency operations plan and a credentialing plan must comply with rules governing those plans adopted by the Department of Human Services. [2003 c.298 §7]

401.670 Rules. The Department of Human Services shall adopt all rules necessary for the implementation of ORS 401.651 to 401.670. [2003 c.298 §8]

EMERGENCY TELECOMMUNICATIONS SYSTEMS

401.706 Policy; deployment of broadband telecommunications services. It is the policy of the State of Oregon to encourage and support the rapid deployment of broadband telecommunications services in areas of the state where such services do not exist, to support redundancy of critical telecommunications assets in order to ensure homeland security protections in the state and to ensure that a secure conduit is available for emergency communications and public safety networks in all Oregon communities. [2003 c.556 §1]

Note: 401.706 was enacted into law by the Legislative Assembly but was not added to or made a part of ORS chapter 401 or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

401.710 Definitions for ORS 305.823 and 401.710 to 401.816. As used in ORS 305.823 and 401.710 to 401.816, unless the context requires otherwise:

(1) "Account" means the Emergency Communications Account.

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

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

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

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

(6) "Exchange access services" means:

(a) Telephone exchange access lines or channels that provide local access by a subscriber in this state to the local telecommunications network to effect the transfer of information; and

(b) Unless a separate tariff rate is charged therefor, any facility or service provided in connection with the services described in paragraph (a) of this subsection.

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

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

(9) "Office" means the Office of Emergency Management of the Department of State Police.

(10) "Provider" means a utility or other vendor or supplier of telecommunications service or equipment that provides telecommunications with access to the 9-1-1 emergency reporting system through local exchange service, cellular service or other wired or wireless means.

(11) "Public or private safety agency" means any unit of state or local government, a special-purpose district or a private firm that provides or has authority to provide fire-fighting, police, ambulance or emergency medical services.

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

(13) "Subscriber" means a person who has telecommunication access to the 9-1-1 emergency reporting system through local exchange service, cellular service or other wired or wireless means.

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

(15) "Utility" means a utility as defined in ORS 759.005, a telecommunications carrier as defined in ORS 133.721 or a municipality or any provider of exchange access services.

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

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

(18) "9-1-1 jurisdiction" means an entity created under ORS chapter 190, a county service district established under ORS chapter 451 to provide an emergency communications system, an emergency communications district created under ORS 401.818 to 401.857 or a group of public or private safety agencies who have agreed in writing to jointly plan the installation, maintenance, operation or improvement of a 9-1-1 emergency reporting system.

(19) "9-1-1 service area" means the geographical area that contains the entire central office serving area from which the primary public safety answering point will have the capability to answer calls placed to 9-1-1. [1981 c.533 §1; 1987 c.447 §125; 1987 c.525 §5; 1987 c.671 §15; 1989 c.793 §2; 1991 c.743 §1; 1993 c.187 §23; 1995 c.276 §1; 1999 c.1093 §13]

401.715 Exemption from liability for 9-1-1 providers. No provider or any subsidiary of a provider or any other person that supplies 9-1-1 emergency reporting system equipment, or enhanced 9-1-1 telephone service equipment or services, or the employees or agents thereof, or the 9-1-1 jurisdiction or the employees or agents thereof, shall be held civilly liable for the installation, performance, provision or maintenance of a 9-1-1 emergency reporting system or enhanced 9-1-1 telephone service if the provider, subsidiary or other supplier, or the employees or agents thereof, or the 9-1-1 jurisdiction or the employees or agents thereof, act without willful or wanton conduct. Nothing in this section shall affect any liability a 9-1-1 jurisdiction may have for operator or operator-supervisor negligence in receiving calls from the public and rendering dispatch services to the public. [1989 c.793 §5; 1991 c.743 §2]

401.720 9-1-1 emergency reporting systems mandatory; requirements; "9-1-1" as primary emergency number; alternate numbers required; enhancement requirements. (1) The primary emergency telephone number within the state shall be 9-1-1, but a public or private safety agency shall maintain both a separate seven-digit secondary emergency number for use by the telephone company operator and a separate seven-digit nonemergency number.

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

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

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

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

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

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

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

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

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

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

(d) Emergency telephone service in which no more than one call in 100 attempts will receive a busy signal on the first attempt during the average busiest hour or a minimum of two 9-1-1 circuits to the primary public safety answering point. [1981 c.533 §2; 1989 c.793 §8; 1991 c.743 §3; 1999 c.241 §1]

401.730 Office of Emergency Management duties and powers; rules. (1) The Office of Emergency Management shall:

(a) Adopt rules in accordance with ORS chapter 183 relating to the planning, administration and funding of 9-1-1 emergency reporting systems established pursuant to ORS 401.720.

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

(c) Report biennially to the Legislative Assembly the progress made in implementing ORS 305.823 and 401.710 to 401.816. The report shall include financial information concerning all revenues collected, distributed

and expended by state agencies and 9-1-1 jurisdictions, and all account and subaccount balances, for the purposes of complying with ORS 401.710 to 401.816.

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

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

401.733 [1991 c.743 §24; 1993 c.808 §5; repealed by 1995 c.79 §205]

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

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

(3) The Board on Public Safety Standards and Training shall develop a recommended training program and a plan for implementing the training program to provide workers that are subject to the minimum standards referred to in subsection (1) of this section with the training necessary to comply with the standards. The implementation plan shall address the cost considerations of the training program both to state and local government agencies whose workers are subject to the minimum standards. [1989 c.793 §9a; 1991 c.742 §12]

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

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

401.755 Submission of revised plan; review; cost estimates; approval of plan. (1) Each 9-1-1 jurisdiction shall submit to the Office of Emergency Management in writing within 30 days any change made to the 9-1-1

emergency telephone system which alters the final plan or system description on file with the office. Such changes may include but are not limited to, the address of the public safety answering point, telephone numbers used to satisfy requirements set forth in ORS 401.720, director changes, agencies served by the 9-1-1 jurisdiction and method used to direct the 9-1-1 call once received by the primary public safety answering point.

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

- (a) The Office of Emergency Management;
- (b) Public and private safety agencies in the 9-1-1 service area; and
- (c) Utilities which provide telephone service in the 9-1-1 service area.

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

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

(5) The office shall not approve a plan submitted under this section unless the plan is accompanied by written approval of the governing bodies of all public and private safety agencies affected by or providing service in the 9-1-1 service area. [1989 c.793 §4; 1991 c.743 §8]

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

401.765 When blocking of telephone numbers prohibited; confidential information; exemption from liability for supplying information to emergency service providers; when supplying information not required. (1) Each telecommunications utility or municipality that provides exchange access service or radio communica-

tions service and that provides automatic telephone number identification to public safety answering points may not block the number of the calling party from being forwarded on 9-1-1 calls.

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

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

- (a) To respond to a 9-1-1 call; or

(b) If a telecommunications utility provides subscriber information to a 9-1-1 jurisdiction or emergency services provider, the 9-1-1 jurisdiction or emergency services provider may use the information to notify the public of an emergency by utilizing an automated telephone notification system. [1991 c.751 §2; 1999 c.1093 §14; 2003 c.382 §1]

401.770 Pay phones to be converted to allow emergency calls without charge. Any person, partnership, corporation, company or association which provides telephone service through a coin or credit card operated pay station telephone in an area served by a 9-1-1 emergency reporting system established pursuant to ORS 401.720 shall convert every coin or credit pay station telephone to permit calling 9-1-1 and "O"-operator without depositing a coin or other charge to the caller. Conversion shall be completed at or before the time the 9-1-1 emergency reporting

system is operational. [1981 c.533 §7; 1985 c.633 §6; 1989 c.793 §11]

401.773 Use of 9-1-1 system by hearing or speech impaired users. All public safety answering points shall be capable of receiving 9-1-1 emergency calls from the hearing or speech impaired through a TTY. [1989 c.793 §6; 1995 c.276 §11]

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

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

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

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

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

401.785 Mediation of disputes; arbitration; costs and fees. (1) All disputes between a governing body, 9-1-1 jurisdiction and public or private safety agency regarding a 9-1-1 system, not otherwise resolved in accordance with a written agreement shall be mediated. When a governing body or 9-1-1 jurisdiction obtains knowledge that a dispute exists and cannot be resolved by the agencies, it shall notify the Office of Emergency Management of the dispute in writing. Within 30 days of this notification, the disputing agencies shall mutually select a mediator and notify the office in writing of this selection. If a mediator is not mutually selected by the agencies within this period, the director of the office shall select a mediator from the list of mediators established under subsection (3) of this section. Once selected, the mediator shall establish a schedule for the mediation process. The dis-

puting agencies shall have 60 days from the date the mediator is agreed upon or selected to mediate the dispute unless the agencies mutually agree in writing to an extension of this deadline. A copy of all extensions shall be submitted to the office.

(2) When the mediation process in subsection (1) of this section ends, the mediator shall notify the office in writing of the outcome of the mediation. If the agencies are not able to resolve their dispute through mediation, the 9-1-1 jurisdiction or governing body and public or private safety agency or agencies shall submit the dispute to arbitration. The agencies shall have 30 days from the end of the mediation to select an arbitrator. If the disputing agencies are unable to mutually select an arbitrator within this period, the director of the office shall request the presiding judge for the judicial district in which the 9-1-1 system is located to select an arbitrator. The arbitrator shall have 30 days from selection to hear and decide the dispute unless the agencies mutually agree in writing to an extension of this deadline. A party to an arbitration under this subsection may seek confirmation, vacation, modification or correction of the arbitrator's decision as provided in ORS 36.700, 36.705 and 36.710. A court may vacate a decision only if there is a basis to vacate the decision as described in ORS 36.705 (1)(a) to (d). The court may modify or correct a decision only for the grounds given in ORS 36.710.

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

(4) Unless otherwise agreed upon, the costs of the mediation or arbitration, including the mediator's or arbitrator's fees, shall be divided equally among the disputing agencies. [1991 c.743 §9; 1995 c.781 §42; 2003 c.598 §43]

401.790 Office to ensure compliance; proceedings authorized. (1) The Office of Emergency Management may institute proceedings against a public or private safety agency, a 9-1-1 jurisdiction or other person to compel compliance with or to restrain further violation of ORS 305.823 and 401.710 to 401.816 or rules adopted pursuant to ORS 401.730.

(2) Proceedings authorized by subsection (1) of this section may be instituted without office notice, hearing or order provided in ORS chapter 183; provided, however, that proceedings brought against a telecommunications utility shall be brought before the Public Utility Commission as provided by ORS chapter 756. [1981 c.533 §9; 1987 c.447 §128; 1989 c.793 §13]

TAX FOR EMERGENCY COMMUNICATIONS

401.792 Imposition of tax; rate. (1)

There is imposed on each paying retail subscriber who has telecommunication services with access to the 9-1-1 emergency reporting system a tax equal to 75 cents per month. The tax shall be applied on a telecommunications circuit designated for a particular subscriber. One subscriber line shall be counted for each circuit that is capable of generating usage on the line side of the switched network regardless of the quantity or ownership of customer premises equipment connected to each circuit. For providers of central office based services, the tax shall be applied to each line that has unrestricted connection to the switched network. Those central office based service lines that have restricted connection to the switched network shall be charged based on software design in the central office that restricts the number of station calls to and from the network. For cellular, wireless or other radio common carriers, the tax shall apply on a per instrument basis and only if the subscriber's place of primary use, as defined and determined under 4 U.S.C. 116 to 126, is within this state.

(2) The subscriber shall be liable for the tax imposed by this section.

(3) The amounts of tax collected by the provider shall be considered as payment by the subscriber for that amount of tax.

(4) Any return made by the provider collecting the tax shall be accepted by the Department of Revenue as evidence of payments by the subscriber of amounts of tax so indicated upon the return. [1981 c.533 §10; 1989 c.793 §1; 1991 c.743 §12; 1993 c.808 §1; 1995 c.276 §2; 2001 c.740 §2; 2002 s.s.1 c.5 §1]

Note: Section 4 (1), chapter 5, Oregon Laws 2002 (first special session), provides:

Sec. 4. (1) Taxes imposed under section 10, chapter 533, Oregon Laws 1981 [401.792], as amended by section 1, chapter 793, Oregon Laws 1989, section 12, chapter 743, Oregon Laws 1991, section 1, chapter 808, Oregon Laws 1993, section 2, chapter 276, Oregon Laws 1995, section 2, chapter 740, Oregon Laws 2001, and section 1, chapter 5, Oregon Laws 2002, apply to subscriber bills issued on or after January 1, 2002, and before January 1, 2008. [2002 s.s.1 c.5 §4(1); 2002 s.s.3 c.4 §1(1)]

401.794 Exemptions. The tax imposed by ORS 401.792 does not apply to:

(1) Services that the state is prohibited from taxing under the Constitution or laws of the United States or the Constitution or laws of the State of Oregon.

(2) Interconnection between telecommunications utilities and competitive access providers certified pursuant to ORS 759.020, radio common carriers and interexchange carriers. [1981 c.533 §11; 1995 c.276 §3]

401.796 Duties of providers. Every provider responsible for the collection of the tax imposed by ORS 401.792 to 401.804 shall keep records, render statements, make returns and comply with rules adopted by the Department of Revenue with respect to the tax. Whenever in the judgment of the department it is necessary, the department may require the provider or subscriber, by notice served upon that person by first-class mail, to make returns, render statements or keep records sufficient to show whether there is tax liability under ORS 401.792 to 401.804. [1981 c.533 §12; 1991 c.743 §13; 1995 c.276 §4]

401.798 Returns; payment of tax; election; rules. (1) The provider is responsible for collecting the tax under ORS 401.792 and shall file a return with the Department of Revenue on or before the last day of the month following the end of each calendar quarter, reporting the amount of tax due for access to the 9-1-1 emergency reporting system during the quarter. The department shall prescribe the form of the return required by this section and ORS 401.796. The rules of the department shall require that returns be made under penalties for false swearing.

(2) When a return of the tax is required under ORS 401.796 or subsection (1) of this section, the provider required to make the return shall remit the tax due to the department at the time fixed for filing the return.

(3) A provider described in subsection (1) of this section may elect to pay the tax based on either of the following:

(a) The amount of tax actually collected during the quarter; or

(b) The net amount of tax billed during the quarter. The net amount billed equals the gross amount of tax billed less adjustments for uncollectible accounts, refunds, incorrect billings and other appropriate adjustments.

(4) Once a provider has made an election under subsection (3) of this section, the provider may not change the method of payment and reporting unless the provider first obtains the permission of the department. [1981 c.533 §13; 1991 c.743 §14; 1993 c.808 §2; 1995 c.276 §5]

401.800 Refunds. (1) If the amount paid by the provider to the Department of Revenue under ORS 401.798 exceeds the amount of tax payable, the department shall refund the amount of the excess with interest thereon at the rate established under ORS 305.220 for each month or fraction of a month from the date of payment of the excess until the date of the refund. No refund shall be made to a provider who fails to claim the refund within two years after the due date for filing of the return with respect to which the claim for refund relates.

(2) A subscriber's exclusive remedy in a dispute involving tax liability shall be to file a claim with the department. [1981 c.533 §14; 1982 s.s.1 c.16 §22; 1991 c.743 §15; 1993 c.808 §3; 1995 c.276 §6]

401.802 Amounts collected held in trust; enforcement. (1) Every provider required to collect the tax imposed by ORS 401.792 to 401.804 shall be deemed to hold the same in trust for the State of Oregon and for the payment thereof to the Department of Revenue in the manner and at the time provided by ORS 401.798.

(2) At any time the provider required to collect the tax fails to remit any amount deemed to be held in trust for the State of Oregon or if the subscriber fails to pay the tax, the department may enforce collection by the issuance of a distraint warrant for the collection of the delinquent amount and all penalties, interest and collection charges accrued thereon. Such warrant shall be issued and proceeded upon in the same manner and shall have the same force and effect as is prescribed with respect to warrants for the collection of delinquent income taxes. [1981 c.533 §15; 1991 c.743 §16; 1995 c.276 §7; 2005 c.22 §268]

401.804 Application of other laws. Unless the context requires otherwise, the provisions of ORS chapters 305, 314 and 316 as to the audit and examination of reports and returns, determination of deficiencies, assessments, claims for refunds, penalties, interest, jeopardy assessments, warrants, conferences and appeals to the Oregon Tax Court, and procedures relating thereto, shall apply to ORS 401.792 to 401.804 the same as if the tax were a tax imposed upon or measured by net income. All such provisions apply to the subscriber liable for the tax and to the provider required to collect the tax. As to any amount collected and required to be remitted to the Department of Revenue, the tax shall be considered a tax upon the provider required to collect the tax and that provider shall be considered a taxpayer. [1981 c.533 §16; 1991 c.743 §17; 1995 c.276 §8; 1995 c.650 §53]

401.805 [1955 c.679 §1; 1967 c.595 §5; 1969 c.247 §3; 1975 c.379 §13; repealed by 1980 c.19 §6]

401.806 Emergency Communications Account; subaccounts. (1) The Emergency Communications Account is established separate and distinct from the General Fund in the State Treasury. All moneys received by the Department of Revenue pursuant to ORS 401.792 to 401.804 and interest thereon shall be paid to the State Treasurer to be held in a suspense account established under ORS 293.445. After payment of refunds, the balance of the moneys received shall be paid into the State Treasury and credited to the Emergency Communications Account. All earnings on investment of moneys in the Emergency Communications Account shall

accrue to that account. All moneys in the account are appropriated continuously to the Office of Emergency Management and shall be used for the purposes described in ORS 401.808.

(2) The Enhanced 9-1-1 Subaccount is established as a subaccount of the Emergency Communications Account. Thirty-five percent of the amount in the Emergency Communications Account on the date of distribution shall be credited to the Enhanced 9-1-1 Subaccount. All moneys in the account are continuously appropriated to the Office of Emergency Management and shall be used for the purposes described in ORS 401.808 (3), (4) and (5).

(3) The Enhanced 9-1-1 Equipment Replacement Subaccount is established as a subaccount of the Emergency Communications Account. Two and one-half percent of the amount in the Emergency Communications Account shall be credited to the Enhanced 9-1-1 Equipment Replacement Subaccount. All moneys in the account are continuously appropriated to the Office of Emergency Management and shall be used for the purposes described in ORS 401.808 (7). [1981 c.533 §17; 1991 c.743 §18; 1993 c.808 §4; 1995 c.276 §9; 2001 c.740 §2a]

401.807 [1987 c.671 §1; 1989 c.793 §21; renumbered 401.818 in 2003]

401.808 Distribution of account proceeds; uses; reimbursement request review; reports. The Office of Emergency Management shall distribute quarterly the entire amount of the moneys in the Emergency Communications Account beginning in June 1982. The office shall pay the following amounts from the account:

(1) Administrative costs incurred during the preceding calendar quarter by the Department of Revenue in carrying out ORS 401.792 to 401.804. The amount paid to the department shall not exceed one-half of one percent of the amount in the account on the date of distribution, or actual expenses incurred by the department, whichever is less.

(2) Administrative costs incurred during the preceding calendar quarter by the Office of Emergency Management in carrying out its duties under ORS 305.823 and 401.710 to 401.816. The amount paid to the office shall not exceed four percent of the amount in the account on the date of distribution, or actual expenses incurred by the office, whichever is less. The office may provide funding under this subsection for the Oregon Emergency Response System in an amount not to exceed 15 percent of the legislatively approved budget for the Oregon Emergency Response System. Funding provided to the Oregon Emergency Response System under this subsection shall be in the manner prescribed by

the office and shall be subject to the availability of funds for such funding.

(3) Funds in the Enhanced 9-1-1 Subaccount shall be used to pay for costs incurred during the preceding calendar quarter for enhanced 9-1-1 telephone service established pursuant to ORS 401.720. Enhanced 9-1-1 subaccount funds shall not be disbursed to a 9-1-1 jurisdiction which does not have an approved final plan as required in section 7, chapter 743, Oregon Laws 1991. Payments shall be made only after a reimbursement request has been submitted to the Office of Emergency Management in the manner prescribed by the office. Reimbursement requests for recurring and nonrecurring charges necessary to enable the 9-1-1 jurisdiction to comply with ORS 401.720 shall be submitted directly to the Office of Emergency Management. The costs payable under this section are only those incurred for:

(a) Modification of central office switching and trunking equipment;

(b) Network development, operation and maintenance;

(c) Database development, operation and maintenance;

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

(e) Conversion of pay station telephones required by ORS 401.770;

(f) Collection of the tax imposed by ORS 401.792 to 401.804; and

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

(4) 9-1-1 jurisdictions who have enhanced 9-1-1 telephone service operational prior to December 31, 1991, shall receive funding based on cost information provided in their final plan required in section 7, chapter 743, Oregon Laws 1991. Plans submitted which meet the minimum requirements set forth in ORS 401.720 (2) and (4) shall be approved. Funding for costs incurred prior to the preceding calendar quarter shall be limited to charges associated with database development, network and on-premises equipment which satisfy the requirements of ORS 401.720 (2) and (4). Funding under this section shall be in the manner prescribed by the office and subject to the availability of funds therefor.

(5) 9-1-1 jurisdictions may use funds distributed to the jurisdiction from any account described in ORS 401.806 to repay loans from the Special Public Works Fund if the loans were used for purposes that are allowable under ORS 401.710 to 401.816.

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

(7) The Enhanced 9-1-1 Equipment Replacement Subaccount shall be used by the Office of Emergency Management to provide funds to replace and upgrade equipment to carry out the provisions of ORS 401.710 to 401.816. If at any time unexpended and unobligated balances in the subaccount exceed \$500,000, such excess amount shall be transferred and credited to the Emergency Communications Account and shall be used for the purposes otherwise provided by law.

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

(9) The office shall review reimbursement requests for database development, operation and maintenance, and on-premises equipment procurement, maintenance and replacement costs necessary to comply with ORS 401.720 for the appropriateness of the costs claimed.

(10) After all amounts under subsections (1) and (2) of this section and ORS 401.806 (2) and (3) have been paid, the balance of the Emergency Communications Account shall be distributed to cities on a per capita basis and to counties on a per capita basis of each county's unincorporated area, for distribution to 9-1-1 jurisdictions within the city or county, but each county shall receive a minimum of one percent of the balance of the account after the amounts under subsections (1) and (2) of this section and ORS 401.806 (2) and (3) have been paid. A 9-1-1 jurisdiction whose 9-1-1 service area includes more than one city or county shall receive funds from each city or county involved.

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

(12) 9-1-1 jurisdictions shall submit an accounting report to the office annually. The report shall be provided in the manner prescribed by the office, and shall include but not be limited to:

(a) Funds received and expended under subsection (10) or (11) of this section for the purposes of fulfilling the requirements of ORS 401.720;

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

(c) Local funds received and expended for the purposes of providing emergency communications services. [1981 c.533 §18; 1987 c.218 §1; 1989 c.793 §14; 1991 c.743 §19; 1993 c.707 §11; 1995 c.276 §10; 2001 c.740 §2b]

401.810 [1955 c.679 §§2,3; repealed by 1980 c.19 §6]

401.812 [1987 c.671 §2; 1989 c.793 c.22; 1989 c.1063 §1; 1993 c.441 §1; renumbered 401.821 in 2003]

401.814 Use or investment of moneys.

(1) Except as provided in subsection (2) of this section and rules adopted under ORS 401.730 (1)(a), moneys received under ORS 401.808 (10) may be used only to pay for planning, installation, maintenance, operation and improvement of a 9-1-1 emergency reporting system as it relates to getting the call from the citizen to the primary public safety answering point and in transmitting the information from the primary public safety answering point to the secondary public safety answering point or responding police, fire, medical or other emergency unit by telephone, radio or computerized means.

(2) Moneys not then being used may be invested by a city or county. The income from the investments shall be used for the purposes described in subsection (1) of this section. [1981 c.533 §20; 1989 c.793 §16; 1991 c.743 §21; 2001 c.740 §2c]

401.815 [1955 c.679 §11; repealed by 1980 c.19 §6]

401.816 Primary public safety answering points; rules. (1) The Director of the Office of Emergency Management shall establish by administrative rule the minimum standards for a primary public safety answering point.

(2) If a primary public safety answering point does not meet the minimum standards established under subsection (1) of this section within 45 days after receipt of written notice from the Office of Emergency Management, the office shall designate an alternate primary public safety answering point that meets the minimum standards and cause calls to be rerouted to the designated primary public safety answering point. [2001 c.740 §6]

401.817 [1987 c.671 §5; renumbered 401.823 in 2003]

EMERGENCY COMMUNICATIONS DISTRICTS

401.818 Definitions for ORS 401.818 to 401.857. As used in ORS 401.818 to 401.857, unless the context requires otherwise:

(1) “District” means a 9-1-1 communications district formed under ORS 401.818 to 401.857.

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

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

(4) “9-1-1 jurisdiction” has the meaning given that term by ORS 401.710.

(5) “Public or private safety agency” has the meaning given that term by ORS 401.710. [Formerly 401.807]

Note: 401.818 to 401.857 were enacted into law by the Legislative Assembly but were not added to or made a part of ORS chapter 401 by legislative action. See Preface to Oregon Revised Statutes for further explanation.

401.820 [1955 c.679 §5; 1980 c.19 §3; renumbered 401.210]

401.821 Formation of emergency communications district; boundaries; approval of formation by safety agencies.

(1) A 9-1-1 communications district may be created as provided in ORS 198.705 to 198.955 and 401.818 to 401.857.

(2) A 9-1-1 communications district shall consist of all the telephone exchange service areas located wholly or partly within a designated 9-1-1 jurisdiction’s service area that is served by a public safety answering point. A district may include more than one city and county.

(3) Before a petition for formation of a district is filed with the county board of the principal county under ORS 198.800, it shall be approved by indorsement thereon by two-thirds of the governing bodies of all public or private safety agencies representing two-thirds of the population included within the proposed district. A county governing body shall not adopt an order under ORS 198.835 for the formation of a district unless the governing body first obtains written approval for the formation of the district from two-thirds of the governing bodies of all public or private safety agencies representing two-thirds of the population included within the proposed district.

(4) In addition to other required matters, the petition for formation shall state the number of district board members for the proposed district and the method of election of the board of the proposed district from among the methods described in ORS 401.836. [Formerly 401.812]

Note: See note under 401.818.

401.822 Officers of district; qualifications. (1) The officers of the district shall be a board of five or seven members elected by the electors of the district.

(2) Any elector residing within the district is qualified to serve as a district board member. [1987 c.671 §3; 1989 c.1063 §2]

Note: See note under 401.818.

401.823 Application of ORS chapter 255 to district. (1) ORS chapter 255 governs the following:

(a) The nomination and election of district board members.

(b) The conduct of district elections.

(2) The electors of a district may exercise the powers of the initiative and referendum regarding a district measure, in accordance with ORS 255.135 to 255.205. [Formerly 401.817]

Note: See note under 401.818.

401.825 [1955 c.679 §18; 1967 c.595 §6; repealed by 1980 c.19 §6]

401.827 Board as governing body of district; president of board. (1) The district board shall be the governing body of the district and shall exercise all powers thereof.

(2) At its first meeting or as soon thereafter as may be practicable, the board shall choose one of its members as president. [1987 c.671 §6]

Note: See note under 401.818.

401.830 [1955 c.679 §20; 1967 c.595 §7; 1980 c.19 §4; renumbered 401.215]

401.832 Election of board members at formation election; terms of office. (1) Five or seven district board members, determined by the number of board members set forth in the petition for formation, shall be elected at the election for district formation. Nominating petitions shall be filed with the county governing body.

(2) When the petition for formation provides for a five-member district board, if the effective date of the formation of the district occurs in an odd-numbered year, two district board members shall be elected for four-year terms and the other three district board members shall be elected for two-year terms. If the effective date of the formation occurs in an even-numbered year, two district board members shall be elected for three-year terms and the other three district board members shall be elected for one-year terms.

(3) When the petition for formation provides for a seven-member district board, if the effective date of the formation of the district occurs in an odd-numbered year, three district board members shall be elected for four-year terms and the other four district board members shall be elected for two-year terms. If the effective date of the formation occurs in an even-numbered year, three district board members shall be elected for three-year terms and the other four district board members shall be elected for one-year terms.

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

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

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

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

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

Note: See note under 401.818.

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

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

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

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

(3) When a district is situated entirely within one county, if the electors approve the increase or decrease in board membership, not later than the 30th day after the election, the district board shall adjust and stagger the terms of the board members as necessary in order to continue biennial elections of board members in accordance with ORS 401.834. The district board shall take into consideration and, as much as possible, provide for the continued method of representation adopted by the district under ORS 401.836.

(4) When a district includes territory in more than one county, not later than the 40th day before the regular district election at which a question under this section will be submitted, the district elections authority

shall notify the Secretary of State. If the electors favor the increase or decrease in board membership, not later than the 30th day after the election, the Secretary of State by rule shall adjust and stagger the terms of the board members as necessary in order to continue biennial elections of board members in accordance with ORS 401.834. The Secretary of State shall take into consideration and, as much as possible, provide for the continued method of representation adopted by the district under ORS 401.836. [1989 c.1063 §5]

Note: See note under 401.818.

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

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

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

Note: See note under 401.818.

401.835 [1955 c.679 §4; 1957 c.353 §1; 1973 c.466 §1; repealed by 1980 c.19 §6]

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

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

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

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

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

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

Candidates for election at large shall be nominated by electors of the district.

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

Note: See note under 401.818.

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

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

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

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

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

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

Note: See note under 401.818.

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

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

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

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

(2) Except as otherwise provided in this section, the requirements for preparing, circulating and filing a petition under this section shall be as provided for an initiative petition in ORS 255.135 to 255.205.

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

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

(b) Notwithstanding ORS 250.035, the statement summarizing the measure and its

major effect in the ballot title shall not exceed 150 words. The statement:

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

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

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

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

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

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

(7) If the electors of the district approve the establishment of zones or a change in the boundaries of existing zones, board members shall continue to serve until their terms of office expire. As vacancies occur, positions to be filled by nomination or election by zone shall be filled by persons who reside within zones which are not represented on the board. If more than one zone is not represented on the board when a vacancy occurs, the zone entitled to elect a board member shall be decided by lot. [1989 c.1063 §9; 1995 c.79 §206; 1995 c.534 §17]

Note: See note under 401.818.

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

401.841 Changing number and manner of electing board members at same election; separate questions. A question of changing the method of nominating and electing district board members under ORS 401.839 and a question of increasing or de-

creasing the number of district board members under ORS 401.833 may be submitted to the electors of a district at the same regular district election. However, the questions shall be submitted to the electors as separate questions. [1989 c.1063 §10]

Note: See note under 401.818.

401.842 General district powers. A 9-1-1 communications district has the power:

(1) To have and use a common seal.

(2) To sue and be sued in its name.

(3) To make and accept any and all contracts, deeds, leases, releases and documents of any kind which, in the judgment of the board, are necessary or proper to the exercise of any power of the district, and to direct the payment of all lawful claims or demands.

(4) To assess, levy and collect taxes to pay the cost of acquiring sites for and constructing, reconstructing, altering, operating and maintaining a 9-1-1 emergency reporting system or any lawful claims against the district, and the operating expenses of the district.

(5) To employ all necessary agents and assistants.

(6) To call elections after the formation of the district.

(7) To enlarge the boundaries of the district as provided by ORS 198.705 to 198.955.

(8) Generally to do and perform any and all acts necessary and proper to the complete exercise and effect of any of its powers or the purposes for which it was formed. [1987 c.671 §8; 1989 c.793 §23; 2001 c.104 §139; 2003 c.802 §111]

Note: See note under 401.818.

401.844 Authority to issue general obligation bonds; elector approval required; bond debt limit. (1) For the purpose of carrying into effect the powers granted by ORS 401.818 to 401.857, as well as refunding outstanding obligations, a 9-1-1 communications district, when authorized by a majority of the votes cast at an election by electors of the district, may borrow money and sell and dispose of general obligation bonds.

(2) The general obligations outstanding at any one time shall never exceed in aggregate principal amount one percent of the real market value of all taxable property within the district computed in accordance with ORS 308.207.

(3) The bonds shall mature serially not more than 30 years from the issue date and shall be issued and sold in the manner prescribed in ORS 287.014 to 287.028. [1995 c.333 §36]

Note: See note under 401.818.

401.845 [1955 c.679 §10; repealed by 1980 c.19 §6]

401.847 Levy of taxes. (1) Each year the district board shall determine and fix the amount of money to be levied and raised by taxation, for the purposes of the district. The total amount of taxes levied in each year under this section shall not exceed one-tenth of one percent (0.001) of the real market value of all taxable property within the district computed in accordance with ORS 308.207.

(2) Each year a district shall also assess, levy and collect a special tax upon all such property, real and personal, in an amount sufficient to pay the yearly interest and principal due on any outstanding general obligation bonds for such year. [1987 c.671 §9; 1991 c.459 §396; 1995 c.333 §33]

Note: See note under 401.818.

Note: Sections 12 to 14, chapter 671, Oregon Laws 1987, provide:

Sec. 12. Section 9 of this Act [ORS 401.847] is repealed and section 13 of this Act is enacted in lieu thereof. [1987 c.671 §12]

Sec. 13. (1) Each year the district board shall determine and fix the amount of money to be levied and raised by taxation, for the purposes of the district.

(2) Each year a district shall also assess, levy and collect a special tax upon all taxable property within the district in an amount sufficient to pay the yearly interest and principal due on any outstanding general obligation bonds for such year. [1987 c.671 §13; 1995 c.333 §34]

Sec. 14. Sections 12 and 13 of this Act first become operative on the first day of the first tax year to which section 10, chapter 533, Oregon Laws 1981 [401.792], does not apply. [1987 c.671 §14]

401.850 [1955 c.679 §§6,7; 1965 c.285 §80; repealed by 1980 c.19 §6]

401.852 Boundaries of zones for board members; adjustment for population and boundary changes; filing boundary change with county assessor and Department of Revenue. (1) The board shall adjust zones established within a district as necessary to make them as nearly equal in population as is feasible according to the latest federal census. The board also shall adjust boundaries of zones as necessary to reflect boundary changes of the district.

(2) For purposes of ad valorem taxation, a boundary change must be filed in final approved form with the county assessor and the Department of Revenue as provided in ORS 308.225. [1989 c.1063 §11; 2001 c.138 §26]

Note: See note under 401.818.

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

401.857 Advisory committee; duties and powers; appointment by district board; terms and qualifications of members. (1) A district board shall appoint an advisory committee to advise and assist the board in carrying out the purposes of ORS 401.818 to 401.857. An advisory committee shall consist of one representative from each

public or private safety agency included within the district. A member of the advisory committee shall reside within the district.

(2) A member of an advisory committee shall serve for a term of two years. Of the members first appointed, however, one-half of the members shall serve for a term of one year. The respective terms of the members shall be determined by lot at the first meeting of the advisory committee.

(3) The advisory committee shall meet not less than four times a year to review the policies and practices of the district board. The advisory committee shall also meet on the call of the district board. The advisory committee may adopt rules for the conduct of its proceedings.

(4) The advisory committee may propose changes to any of the board's rules, policies or practices as it deems necessary or desirable. In addition to its other functions and duties, the advisory committee shall review the annual budget of the district. The advisory committee shall meet with the district board and may make such recommendations relating to the budget as the committee considers necessary or prudent. [Formerly 401.837]

Note: See note under 401.818.

401.860 [1955 c.679 §8; repealed by 1980 c.19 §6]

TSUNAMI INUNDATION ZONE

401.861 Definitions. (1) As used in this section:

(a) "Transient lodging facility" means a hotel, motel, inn, condominium, any other dwelling unit or a public or private park that is made available for transient occupancy or vacation occupancy as those terms are defined in ORS 90.100.

(b) "Tsunami inundation zone" means an area of expected tsunami inundation, based on scientific evidence that may include geologic field data and tsunami modeling, determined by the governing board of the State Department of Geology and Mineral Industries, by rule, as required by ORS 455.446 (1)(b) and (c).

(2) The Office of Emergency Management, in consultation and cooperation with the State Department of Geology and Mineral Industries, shall:

(a) Develop and adopt by rule tsunami warning information and evacuation plans for distribution to transient lodging facilities located in a tsunami inundation zone; and

(b) Facilitate and encourage broad distribution of the tsunami warning information and evacuation plans to transient lodging facilities and other locations within tsunami inundation zones frequented by visitors to the area.

(3) The office is not required to carry out the duties assigned under subsection (2) of this section if sufficient moneys are not available under ORS 401.864. [2005 c.819 §1]

Note: 401.861 to 401.864 were enacted into law by the Legislative Assembly but were not added to or made a part of ORS chapter 401 or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

401.863 Uniform tsunami warning signal; rules. (1) The Office of Emergency Management, in consultation with the State Department of Geology and Mineral Industries, shall establish by rule a uniform tsunami warning signal, including rules specifying the type, duration and volume of the warning signal and the location of warning signal delivery devices, for use on the Oregon coast.

(2) The office is not required to carry out the duties assigned under subsection (1) of this section if sufficient moneys are not available under ORS 401.864. [2005 c.819 §2]

Note: Section 3, chapter 819, Oregon Laws 2005, provides:

Sec. 3. Except as provided in sections 1 (3) and 2 (2) of this 2005 Act [401.861 (3) and 401.863 (2)], the Office of Emergency Management shall adopt the rules required by sections 1 (2)(a) and 2 (1) of this 2005 Act [401.861 (2)(a) and 401.863 (1)] not later than March 1, 2006. [2005 c.819 §3]

Note: See note under 401.861.

401.864 Contributions to finance tsunami warning system. The Office of Emergency Management or the State Department of Geology and Mineral Industries may seek and accept gifts, grants and donations from any source to finance all or part of the duties assigned under ORS 401.861 and 401.863. [2005 c.819 §4]

Note: See note under 401.861.

401.865 [1955 c.679 §12; 1967 c.335 §48; 1967 c.637 §§9,9a; repealed by 1980 c.19 §6]

401.870 [1955 c.679 §15; repealed by 1980 c.19 §6]

STATE INTEROPERABILITY EXECUTIVE COUNCIL

401.871 State Interoperability Executive Council. (1) The State Interoperability Executive Council is created within the Office of Emergency Management. The membership of the council shall consist of:

(a) Two members from the Legislative Assembly, as follows:

(A) The President of the Senate shall appoint one member from the Senate with an interest in public safety communications infrastructure; and

(B) The Speaker of the House of Representatives shall appoint one member from the House of Representatives with an interest in public safety and wireless communications infrastructure.

(b) The following members appointed by the Governor:

(A) One member from the Department of State Police;

(B) One member from the Office of Emergency Management;

(C) One member from the State Forestry Department;

(D) One member from the Department of Corrections;

(E) One member from the Department of Transportation;

(F) One member from the Oregon Department of Administrative Services;

(G) One member from the Department of Human Services;

(H) One member from the Oregon Military Department;

(I) One member from the Department of Public Safety Standards and Training;

(J) One member of an Indian tribe as defined in ORS 97.740;

(K) One member from a nonprofit professional organization devoted to the enhancement of public safety communications systems; and

(L) One member from the public.

(c) The following members appointed by the Governor with the concurrence of the President of the Senate and the Speaker of the House of Representatives:

(A) One member from the Oregon Fire Chiefs' Association;

(B) One member from the Oregon Association Chiefs of Police;

(C) One member from the Oregon State Sheriffs' Association;

(D) One member from the Association of Oregon Counties;

(E) One member from the League of Oregon Cities; and

(F) One member from the Special Districts Association of Oregon.

(2) Each agency or organization identified in subsection (1)(b)(A) to (I) and (1)(c) of this section shall recommend a person from the agency or organization for membership on the council.

(3) Members of the council are not entitled to compensation, but in the discretion of the Director of the Office of Emergency Management may be reimbursed from funds available to the Office of Emergency Management for actual and necessary travel and other expenses incurred by them in the performance of their official duties in the manner and amount provided in ORS 292.495.

(4) Members of the Legislative Assembly appointed to the council are nonvoting members and may act in an advisory capacity only. [2005 c.825 §3]

Note: 401.871 to 401.874 were enacted into law by the Legislative Assembly but were not added to or made a part of ORS chapter 401 or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

401.872 Duties of council. The State Interoperability Executive Council created under ORS 401.871 shall:

(1) Work with public safety agencies in the state to develop a Public Safety Wireless Infrastructure Replacement Plan as provided under section 2, chapter 825, Oregon Laws 2005.

(2) Develop an Oregon Interoperable Communication Plan. The goal of the plan shall be to achieve statewide interoperability within six years of September 2, 2005. In developing the plan, the council shall:

(a) Recommend strategies to improve wireless interoperability among state and local public safety agencies;

(b) Develop standards to promote consistent development of existing and future wireless communications infrastructures;

(c) Identify immediate short-term technological and policy solutions to tie existing wireless communications infrastructures together into an interoperable communications system;

(d) Develop long-term technological and policy recommendations to establish a statewide public safety radio system to improve emergency response and day-to-day public safety operations; and

(e) Develop recommendations for legislation and for the development of state and local policies to promote wireless interoperability in Oregon.

(3) Approve, subject to approval by the Director of the Office of Emergency Management, investments by the State of Oregon in public safety communications systems.

(4) Coordinate state and local activities related to obtaining federal grants for support of interoperability.

(5) Develop and provide technical assistance, training and, if requested, appropriate dispute resolution services to state and local agencies responsible for implementation of the Oregon Interoperable Communication Plan.

(6) Report, in the manner required by ORS 192.245, to the Legislative Assembly on or before February 1 of each odd-numbered year on the development of the Oregon Interoperable Communication Plan and the council's other activities.

(7) Adopt rules necessary to carry out its duties and powers. [2005 c.825 §4]

Note: See note under 401.871.

Note: Sections 1 and 2, chapter 825, Oregon Laws 2005, provide:

Sec. 1. (1) The Oregon Legislative Assembly finds that:

(a) The public safety communications infrastructure of the State of Oregon is rapidly aging, outdated and at severe risk of failure;

(b) The adopted policies and standards and specific deadlines mandated by the Federal Communications Commission will require replacement of statewide public safety communications infrastructure in the State of Oregon;

(c) The reliability of mission-critical public safety communications infrastructure during a man-made or natural disaster is crucial to saving lives and property and to protecting the public during an emergency;

(d) The deteriorating condition of our public safety radio systems is of immediate concern because it compromises the safety and well-being of the citizens of the State of Oregon who depend upon lifesaving communications systems used by first responders;

(e) The majority of the communications systems in the State of Oregon are unreliable, greatly increasing the danger to first responders and law enforcement officers in carrying out their duty to protect the citizens and property of the State of Oregon;

(f) It is in the public interest of Oregonians to plan for improvement of the public safety communications infrastructure to ensure long-term stability; and

(g) Federal funding for homeland security may be available to facilitate all or part of the development and implementation of a plan for improvement of the public safety communications infrastructure in the State of Oregon.

(2) It is the policy of the State of Oregon:

(a) To develop, finance, maintain and operate a single emergency response wireless communications infrastructure that supports both the communications needs of all state agencies and ensures communications interoperability among all state, local, tribal and federal public safety agencies, thereby maximizing shared use of this invaluable public asset.

(b) To meet Federal Communications Commission mandates for the conversion of public safety communications frequencies and spectrum allocation by 2013. [2005 c.825 §1]

Sec. 2. (1) Under the direction of the Governor, the Office of Emergency Management shall coordinate the work of public safety agencies in the state and the State Interoperability Executive Council, created under section 3 of this 2005 Act [401.871], to develop a Public Safety Wireless Infrastructure Replacement Plan that:

(a) Guides consolidation of existing radio infrastructure;

(b) Provides for future management of the infrastructure;

(c) Details the engineering and technology specifications for replacement and modernization of the public safety communications infrastructure, allowing for alternative options and phased system development; and

(d) Describes the overall benefits and cost of the system including, but not limited to, specific descriptions of:

(A) The capability of the system to facilitate interconnections among state, local and federal systems;

(B) How the system will comply with Federal Communications Commission requirements; and

(C) Avoided costs the shared system can provide.

(2) The Office of Emergency Management shall:

(a) Submit reports on the progress of plan development to the Emergency Board and the Joint Legislative Committee on Information Management and Technology on or before November 30, 2005, and June 30, 2006.

(b) Submit the final plan to the Governor, the President of the Senate and the Speaker of the House of Representatives on or before January 12, 2007.

(c) Concurrent with submission of the final plan, submit to the Legislative Assembly one or more proposals for financing implementation of the plan that include consideration of the following financial resources:

(A) Federal funding sources;

(B) Existing or new fee income or excise taxes; and

(C) Cooperative local and state financing components. [2005 c.825 §2]

401.874 Oregon Interoperability Communication Plan. (1) The Director of the Office of Emergency Management shall advise the State Interoperability Executive Council on the implementation of the Oregon Interoperable Communication Plan and coordinate interoperability among all state agencies.

(2) State agencies that own or operate public safety communications systems shall coordinate their efforts and investments to achieve the statewide interoperability goal set by the council and implement the Oregon Interoperable Communication Plan approved by the director. [2005 c.825 §5]

Note: See note under 401.871.

401.875 [1955 c.679 §21; repealed by 1980 c.19 §6]

401.880 [1955 c.679 §19; repealed by 1980 c.19 §6]

OREGON HOMELAND SECURITY COUNCIL

401.881 Oregon Homeland Security Council. (1) The Oregon Homeland Security Council is created within the Office of Emergency Management. The council shall:

(a) Receive briefings on security matters for which the office is responsible at least annually from state agencies and organizations as determined by the council; and

(b) Advise state agencies with responsibility for security matters on the future direction of the office's planning, preparedness, response and recovery activities.

(2) The membership of the council shall consist of:

(a) Four members from the Legislative Assembly appointed as follows:

(A) Two members from the Senate appointed by the President of the Senate; and

(B) Two members from the House of Representatives appointed by the Speaker of the House of Representatives;

(b) The Governor;

(c) The Adjutant General;

(d) The Superintendent of State Police;

(e) The Director of the Office of Emergency Management; and

(f) Additional members appointed by the Governor who the Governor determines necessary to fulfill the functions of the council, including state agency heads, elected state officials, local government officials, a member of the governing body of an Indian tribe and representatives from the private sector.

(3) Each member appointed to the council under subsection (2)(a) and (f) of this section serves at the pleasure of the appointing authority. The membership of a public official ceases upon termination of the office held by the official at the time of appointment to the council.

(4) The Governor shall be chairperson of the council.

(5) Members of the council are not entitled to compensation but, at the discretion of the director, may be reimbursed, in the manner and amount provided in ORS 292.495, from funds available to the office for actual and necessary travel and other expenses incurred in the performance of their duties as members of the council. [2005 c.825 §8]

Note: 401.881 was enacted into law by the Legislative Assembly but was not added to or made a part of ORS chapter 401 or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

401.885 [1955 c.679 §16; repealed by 1980 c.19 §6]

401.890 [1955 c.679 §14; repealed by 1980 c.19 §6]

PENALTIES

401.990 Penalties. Any person knowingly violating any provision of ORS 401.015 to 401.105, 401.260 to 401.325 and 401.355 to 401.580, or any of the rules, regulations or orders adopted and promulgated under those sections, shall, upon conviction thereof, be guilty of a Class C misdemeanor. [1967 c.480 §8; 1977 c.248 §4; 1983 c.586 §41]

CHAPTERS 402 TO 405

[Reserved for expansion]