

APPENDIX C Relevant Oregon Statutes

The following Oregon statutes are related to jurisdictional transfers. The text below is from the statutes in effect in the year 2001. Please consult the Legislative Website for updated text at www.leg.state.or.us/ors.

State Highways - ORS 366

Oregon statutes give the Commission power to “select, establish, adopt, lay out, locate, alter, relocate, change and realign primary and secondary state highways.” (**ORS 366.215**)

The statutes also give the ODOT the power to add or remove roads from the state highway system. In the selection of highways to add to the state system, the department shall select those roads that will best promote the completion of an adequate system of state highways.

ORS 366.290 “Adding to or removing roads from state highway system; responsibility for construction and maintenance. (1) The Department of Transportation may select, locate, establish, designate, improve and maintain out of the highway fund a system of state highways, and for that purpose may, by mutual agreement with several counties, select county roads or public roads. By an appropriate order entered in its records the department may designate and adopt such roads as state highways. Thereafter the construction, improvement, maintenance and repair of such roads shall be under the jurisdiction of the department.

(2) In the selection of highways or roads to comprise the state highway system the department shall give consideration to and shall select such county roads or public roads as will contribute to and best promote the completion of an adequate system of state highways.

(3) With the written consent of the county in which a particular highway or part thereof is located, the department may, when in its opinion the interests of the state will be best served, eliminate from the state highway system any road or highway or part thereof. Thereafter the road or highway or part thereof eliminated shall become a county road or highway, and the construction, repair, maintenance or improvement, and jurisdiction over such highway shall be exclusively under the county in which such highway is located.

(4) The construction, maintenance and repair of state highways shall be carried on at the sole expense of the state or at the expense of the state and the county by mutual agreement between the department and the county in which any particular state highway is located.”

Pursuant to **ORS 366.300**, if an eliminated section of a state highway is needed by the service of persons living thereon or community served, it shall be maintained by the state or by the county or by the state and county. If the eliminated sections of old right of way are valuable for public road use, then the department shall preserve the section for public road use. If the section is no longer needed for public road purposes and is not owned in fee, the department shall abandon such eliminated sections and they shall revert to the abutting owner or owners.

ORS 366.300 “Treatment of sections eliminated when highway relocated. (1) Whenever the Department of Transportation relocates or realigns a state highway or a section thereof, and by reason of such relocation or realignment there is eliminated from the original route of the highway a section thereof, the eliminated section shall, if needed for the service of persons living thereon or for a community served thereby, be maintained by the department at state expense, or by the county or by the state and the county on such terms and conditions as may be agreed upon.

(2) If such eliminated sections of old right of way, or any part thereof, in the judgment of the department, are needed or valuable for public road use, then the department shall, by appropriate action, declare the purpose of the department to preserve the same for public road use.

(3) If the department determines under subsection (2) of this section that the eliminated sections are merely parts of the old right of way which are no longer needed or valuable for highway right of way purposes or any other public road use, then if such eliminated sections are not owned by the department in fee, the department shall abandon such eliminated sections and such sections shall, except as otherwise provided in this section, revert to and title thereto shall vest in the abutting owner or owners.”

ORS 366.340 establishes the highway purposes that ODOT may have for acquiring real property:

366.340 “Acquisition of real property generally. The Department of Transportation may acquire by purchase, agreement, donation or by exercise of the power of eminent domain real property, or any right or interest therein, including any easement or right of access, deemed necessary for:

(1) Construction of shops, equipment sheds, office buildings, maintenance sites, patrolmen accommodations, snow fences, quarry sites, gravel pits, storage sites, stock pile sites, weighing stations and broadcasting stations.

(2) Appropriation, acquisition or manufacture of road-building materials, approach or hauling roads, connecting roads, frontage road, highway drainage and drainage tunnels.

(3) Maintenance of an unobstructed view of any state highway so as to provide for the safety of the traveling public.

(4) Any other use or purpose deemed necessary for carrying out the purposes of this Act.

(5) Elimination or prevention of hazardous or undesirable points of entry from adjacent property to state highways.”

Pursuant to **ORS 366.395**, the state may relinquish title to any of its property not needed for highway purposes to any other governmental body or political subdivision within the State of Oregon, subject to such restrictions, if any, imposed by deed or other legal instrument or otherwise imposed by the state.

ORS 366.395 “Disposition or leasing of property; sale of forest products. (1)

The Department of Transportation may sell, lease, exchange or otherwise dispose or permit use of real or personal property, including equipment and materials acquired by the department, title to which real or other property may have been taken either in the name of the department, or in the name of the state, and which real or personal property is, in the opinion of the department, no longer needed, required or useful for department purposes, except that real property may be leased when, in the opinion of the department, such real property will not be needed, required or useful for department purposes during the leasing period.

(2) The department may sell, lease, exchange or otherwise dispose of such real or personal property in such manner as in the judgment of the department will best serve the interests of the state and will most adequately conserve highway funds or the department’s account or fund for the real or personal property. In the case of real property, interest in or title to the same may be conveyed by deed or other instrument executed in the name of the state, by and through the department. All funds or money derived from the sale or lease of any such property shall be paid by the department to the State Treasurer with instructions to the State Treasurer to credit such funds or moneys:

(a) To the highway fund: or

(b) To the department account or fund for the property. . . .”

State Highways Through Cities - ORS 373

Pursuant to **ORS 373.010**, when the route of a state highway passes through a city, the state may locate, relocate, reroute, abandon, alter, or change such routing when in its opinion the interests of the motoring public will be better served.

ORS 373.010 “Whenever the route of any state highway passes through the corporate limits of any city of this state, the Department of Transportation:

- (1) Shall select and designate streets of the city over which the state highway shall be routed.
- (2) Shall erect and maintain such road and other signs on and along such streets at such places and of such material and design as it may select.
- (3) May alter or change such routing when in its opinion the interests of the motoring public will be better served.”

Pursuant to **ORS 373.015**, before the Department of Transportation acquires, relocates or abandons any right of way through a city, the department must notify the city and, if there are objections, must hold a public hearing.

ORS 373.015 “**Notice and hearing before location, relocation or abandonment of state highway through cities.** Before the Department of Transportation acquires within any incorporated city any new rights of way, or relocates or abandons any existing state highway within any incorporated city, the department shall by letter notify the mayor of such city of the action contemplated by the department, and, if any remonstrances or objections thereto are made by the mayor or the council of such city within 10 days after receipt of such letter, the department, or its designated representative, shall hold a public hearing at the city hall in such city, after having first given written notice thereof to the mayor at least 10 days prior thereto, and, at such public hearing, persons who favor or oppose the contemplated action shall be given an opportunity to be heard.”

Pursuant to **ORS 373.020**, jurisdiction of streets taken over by the Department of Transportation extends from curb to curb or over the portion of the right of way utilized by the department for highway purposes.

ORS 373.020. “Jurisdiction over streets taken over for state highway routing through cities; effect on public utility duties. (1) Complete jurisdiction and control of streets taken over by the Department of Transportation as provided in ORS chapter 366 and ORS 105.760, 373.010, 373.015, 373.030 and this section, is vested in the department and extends from curb to curb, or, if there is no regular established curb, then such control extends over such portion of the right of way as may be utilized by the department for highway purposes. Responsibility for and jurisdiction over all other portions of the street or road remains in the city.”

The other portions of the section involve public utility duties.