



# Agenda

--- REGULAR COUNCIL MEETING

METROPOLITAN SERVICE DISTRICT 527 S.W. HALL ST., PORTLAND, OREGON 97201 503 221-1646  
Providing Zoo, Transportation, Solid Waste and other Regional Services

Date: DECEMBER 1, 1983

Day: THURSDAY

Time: 7:30 P.M.

Place: COUNCIL CHAMBER

Approx.  
Time

Presented By

7:30 CALL TO ORDER  
ROLL CALL

1. Introductions.
2. Councilor Communications.
3. Executive Officer Communications.
4. Written Communications to Council on Non-Agenda Items.
5. Citizen Communications to Council on Non-Agenda Items.
6. ORDINANCE

7:45 6.1 Reconsideration of Ordinance No. 83-163, relating to Solid Waste Disposal Charges and User Fees; amending Metro Code Sections 5.02.020, 5.02.025 and 5.02.050; and declaring an emergency.

Hansen/Durig

7. OTHER BUSINESS

8:00 7.1 Ratification of appointments to Council Task Force on Metro/Tri-Met.

Banzer

8:10 7.2 Future Funding -- Recommendations of the Council Coordinating Committee.

Kirkpatrick

8:30 7.3 Project Initiatives Program--Drainage Report.

Kafoury/Barker

8:45 7.4 Discussion of Metro Mission, including 18-month work plan and 5-year work plan.

Banzer

8. Committee Reports

9:15 ADJOURN

WASTE FLOW AT CTRC  
(tons)

<u>1983</u>	<u>COMMERCIAL</u>	<u>PUBLIC</u>	<u>TOTAL</u>
April 11-30	5274	2115	7389
May	6501	2733	9234
June	14357	2811	17168
July	16360	3556	19916
August	19170	3467	22637
September	18380	3171	21550
October	16135	2714	18849
November			19116

1983 Actual is averaging 7% above 1984 plan

Commercial is 84% of total - same as 1984 plan

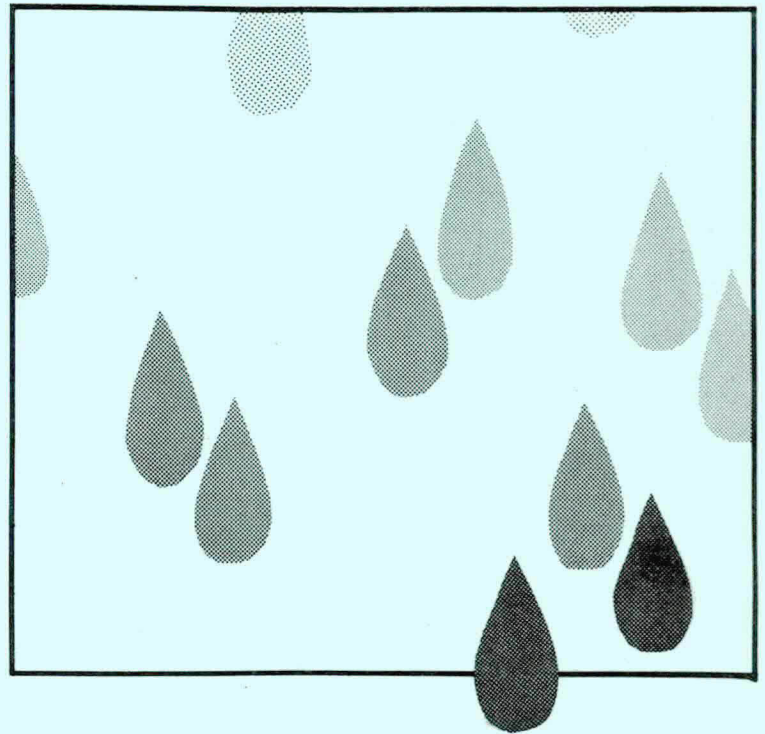
Ed Stuhr  
12-1-83

Preliminary

*Project Initiatives Program*  
**DRAINAGE REPORT**

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*November 1983*



**METROPOLITAN SERVICE DISTRICT**  
*Providing Zoo, Transportation, Solid Waste and  
other Regional Services*



PROJECT INITIATIVES PROGRAM  
DRAINAGE REPORT  
FOR THE COUNCIL OF THE  
METROPOLITAN SERVICE DISTRICT

Prepared by  
Ray Barker, Council Assistant

November 1983



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PROJECT INITIATIVES PROGRAM  
DRAINAGE REPORT

EXECUTIVE SUMMARY

Relatively rapid population growth has occurred throughout much of the Portland region during the last five to ten years. This growth is one of the major factors that have contributed to drainage problems throughout the metropolitan area. When you consider that single family development typically creates 25 times more impervious area than the vacant land that preceded it, it is not surprising that the area is experiencing drainage problems--problems such as flooding, erosion, sedimentation and a reduction of water quality.

Drainage problems in the region frequently cross jurisdictional boundaries. For example, the Fanno Creek Drainage Basin alone involves six cities and three counties. Recognizing the regional nature of drainage problems, and recognizing the complexity of the interjurisdictional relationships, the history of flooding within various drainage basins and the potential for additional flooding as urbanization continues, the Metropolitan Service District Council decided to conduct a limited study of drainage issues in the region.

Purpose of Study

The purpose of the study is to provide the Metro Council with information to assess the current level of drainage services in the region; determine existing and anticipated future drainage problems and needs in the region; and determine if Metro should play a role in planning, coordinating or managing drainage services in the Metro area.

Scope of Study

The scope of the study includes the following tasks:

- Prepare a description of existing drainage services in the region.
- Analyze Metro's ability to solve or mitigate drainage problems.
- Determine level of support for Metro's involvement in drainage services.
- Determine if Metro should become involved in drainage services.
- Develop a strategy for Metro involvement in drainage services (assumes a decision is made by the Metro Council to become involved).

This preliminary report includes the first task only, the task of preparing a description of existing drainage services in the region. It should be noted that the first task must be reviewed and approved by the Metro Council before any further tasks are undertaken. Also, the public will be given an opportunity to give input throughout the study process.

It should be pointed out how this study relates to Metro's Project Initiatives Program (see Section 1 and Appendix A of this report). The Work Plan for the Project Initiatives Program includes seven major tasks. Five of those tasks are included in the scope of this study. The remaining two tasks, if authorized, will be conducted by Metro's Public Affairs Department and Metro's Development Services Department. The two tasks are as follows:

- Grantsperson (Public Affairs Department) to search for funds to finance preparation of a program management plan (assumes decision has been made by Metro Council to become involved in a specific program).
- Preparation of a detailed regional program management plan to deliver services. Work to be conducted by Development Services (assumes funds have been obtained to finance work; no work to commence without approval of Metro Council).

### Findings

While explained in more detail in the body of this report, the principal findings are summarized as follows:

1. Sixteen cities and two counties in the region currently have drainage master plans for their jurisdiction. Three cities and one county have partial drainage plans.
2. Twenty-one cities and three counties in the region have comprehensive drainage ordinances.
3. Lack of funding for construction and maintenance of drainage facilities is currently the number one drainage problem identified by 24 of the region's 27 jurisdictions. Other major problems include:
  - inadequate storm drains throughout jurisdiction; and
  - minor and major flooding.
4. Cities and counties in the region identified the following as the major drainage problems they will face in the future:
  - impact of additional development, both within and outside their jurisdictional boundaries;
  - increase in maintenance costs for drainage facilities;
  - existing problems will get worse; and
  - pollution of rivers and streams.

5. Drainage problems frequently cross jurisdictional boundaries. Nineteen cities and three counties indicated this was the case with their jurisdiction.
6. Only seven jurisdictions in the region have agreements with another jurisdiction to help solve drainage problems or provide drainage services.
7. Cities and counties are funding the construction and maintenance of their drainage systems from a variety of revenue sources. Most jurisdictions are using a combination of sources which include: local improvement districts, road funds, property taxes, system development charges, and user fees.
8. Eight cities and two counties indicated state drainage law is unclear--that there is a need to define the responsibilities of downstream and upstream property owners. - 14 said no.
9. A regional approach to drainage management is seen as a need by 24 of the region's 27 jurisdictions.
10. Twenty-one cities and three counties indicated that Metro should play a role in drainage management. The majority of the region's jurisdictions, however, would limit Metro's role to that of coordination and planning.
11. Few trends in drainage management were identified by the cities and counties in the region. The trend most frequently stated by city officials is a relatively new method of financing drainage systems by forming a drainage utility and collecting service fees.

### Recommendations

The following recommendations are based on the findings of Task 1 of the study:

1. Metro should undertake the second task of the Project Initiatives Program. That task is to analyze Metro's ability to solve or mitigate drainage problems.
2. Assuming Metro has the legal, financial, political and organizational ability to solve or mitigate drainage problems, Metro should play a planning and coordinating role in drainage management within the region. Until there is strong support in the region for it to do otherwise, Metro's planning and coordinating activities should be limited to the following:
  - a. Provide a forum for evaluating and refining the existing Regional Stormwater Management Plan.
  - b. Provide technical drainage information when requested by local jurisdictions if funds are available to do so.

- c. Provide local jurisdictions with information regarding funding sources for drainage projects when funding is available from federal and/or state agencies.
  - d. Obtain information from other regions throughout the country regarding their activities in drainage management.
3. Metro should not become involved in the ownership and maintenance of a drainage system until it is evident that substantial support exists in the region for it to do so.

## SECTION 1. INTRODUCTION, CONCLUSIONS AND RECOMMENDATIONS

During the past year there has been considerable discussion in the region concerning the funding of parks, libraries, correctional facilities and other public services. Such interest has raised the question of whether or not there is a role for a regional response to these public service needs.

Some have suggested the possible involvement of Metro in the areas of parks, libraries, correctional facilities, drainage and other services. It appeared that Metro should respond to these service needs in some manner. It was proposed that the first step be a relatively low-key, systematic study of various service areas to determine existing needs and possible roles Metro should play.

During Metro's FY 1983-84 budget process it was determined that a Project Initiatives Program would be implemented during the 1983-84 fiscal year. Four projects were identified for study: drainage, parks, correctional facilities and libraries. A work plan for the Project Initiatives Program was approved by the Metro Council on June 23, 1983. It was referred to the Regional Development Committee to recommend to the Council which project would be studied first.

After discussion and recommendation by the Development Committee, the Metro Council decided on August 4, 1983, to study the area of drainage first.

### Background

A review of Metro files, memoranda, ordinances and reports indicates that during the past four or five years considerable work has been done by Metro to develop a Regional Stormwater Plan and to address various stormwater problems.

### Design Manual

In the spring of 1980, Metro produced a Stormwater Management Design Manual to provide drainage management guidance to public officials, planning and engineering staffs and interested citizens in the Portland-Vancouver metropolitan area.

The manual is composed of two independently produced drainage management and runoff control studies. The main text of the manual, which outlines the general requirements of drainage/runoff management programs, is the "Drainage Management Planning Manual" published by the U.S. Army Engineer Corps of Engineers, Portland District.

The appendices in the manual were prepared for Metro by Mathematical Sciences Northwest, Inc. This portion of the document contains the design data specific to the Metro

area and recommended design and management standards for drainage/runoff management.

#### Five-Year Plan

In October 1980, Metro published an Operational Plan for a five-year period. Included in the plan is a section on drainage. The plan states that currently "Metro is conducting studies with federal and local agencies to identify major problems and solutions; preparing a regional plan to manage stormwater, limit erosion, and improve water quality; and establishing local improvement districts in major drainage basins to secure funds for solving specific problems."

The plan states that during the next five years "Metro will adopt a regional drainage and stormwater plan, coordinate basinwide drainage management between local governments, and establish funding mechanisms to construct and operate drainage facilities throughout the region. It will also develop a regional capital improvements program including drainage."

#### Stormwater Management Plan

On March 4, 1982, the Metro Council adopted Ordinance No. 82-128 for the purpose of adopting and implementing a Regional Stormwater Management Plan.

The Regional Stormwater Management Plan was published by Metro in February 1982. The plan includes the plan text, the eight Regional Drainage Basin Maps, and the following support documents:

- Regional Stormwater Management Inventory, Metro, April 1980.
- Technical Supplement 13, Stormwater Management Design Manual, Metro, Spring 1980.
- Technical Report #1, Basic Data Report, Portland State University, 1981.
- Technical Report #2, Instream Water Quality, Portland State University, 1981.
- Technical Report #3, Effectiveness of Selected Management Practices, Portland State University, 1981.
- Technical Report #4, Regional Drainage Basins Report, Portland State University, 1981.
- Technical Report #5, Monitoring Report, Portland State University, 1981.

The plan identifies eight drainage basins for the region:

- Beaver/Kelly Creek
- Fairview Creek
- Kellogg/Mt. Scott Creek

- Tryon Creek
- Fanno Creek
- Beaverton/Cedar Mill Creek
- Rock Creek
- Johnson Creek

These basins were selected because they encompass three or more local jurisdictions and they currently have stormwater management problems or a high potential for such problems.

The plan contains four major policies:

1. To minimize on-site erosion during site preparation and construction.
2. To minimize streambank and channel erosion by controlling the amount and rate of stormwater runoff.
3. To manage the 100-year floodplain and floodway in order to protect their natural function and minimize water quality degradation and property damage.
4. To protect and enhance the capacity of urban streams to provide habitat for fish and other aquatic organisms.

The Regional Stormwater Management Plan designates drainage responsibilities as follows:

- Regionwide planning and coordination shall be done by Metro.
- Regional drainage basin management should be coordinated within each of the eight basins by the appropriate jurisdictions, e.g., Tryon Creek Basin: Lake Oswego, Portland, Clackamas County and Multnomah County.

In December 1981, a group of planners, engineers, consultants, state and local government representatives and representatives of citizen groups met to discuss Metro's role in regional drainage issues. Their recommendations, included in the Regional Stormwater Management Plan, are as follows:

1. Metro needs to generate uniform regional policies to facilitate consistency.
2. Metro should evaluate and expand on the mechanisms in Appendix H of the Stormwater Design Manual (soil types, erosion control, etc.).



3. Metro should provide information about its experiences so that others can learn from them.
4. Metro should compile data on all of the basins within the region. For example, flow data for all the creeks is needed but lacking.
5. Metro should collect and make available examples of stormwater runoff, drainage and erosion control ordinances developed by other jurisdictions around the country.
6. Public education to build a drainage constituency is necessary.
7. Metro should investigate the legal liability of individual jurisdictions with respect to drainage.

#### Johnson Creek

In an effort to solve a very old flooding problem in the Johnson Creek Basin, Metro declared the Johnson Creek an area of regional concern. Metro established a Local Improvement District (LID) on June 27, 1980, to assess property owners within the LID for flood improvements. Citizen reactions against this financing approach were formidable and on October 22, 1981, the Metro Council voted to dissolve the Johnson Creek LID (Ordinance No. 81-114 repealed Ordinance No. 80-91 which authorized the formation of the LID).

#### Powers of District

According to ORS 268.310 a "district may, to carry out the purposes of this chapter...(3) Control the flow and provide for the drainage of surface water by means of dams, dikes, ditches, canals and other necessary improvements or by enlarging, improving, cleaning or maintaining any natural or artificial waterway or by requiring property owners to install and maintain water control or retention systems.

Metro is not mandated to manage drainage in the region facilities; the statutory authority is permissive.

#### Financing

Metro can presently finance drainage services through special assessments (LIDs/Bancroft Bonding) (ORS 268.460), revenue bonds (ORS 268.600) and federal/state assistance. In order to levy ad valorem taxes, the District would have to be authorized by its voters at a properly called election held for such purpose.

## State Drainage Law

It appears that state-authorizing legislation for drainage programs in Oregon was developed for the most part in a different time and for different purposes than the present situation in the Portland metropolitan area. Drainage control in particular seems to be oriented toward the typical needs of rural and agricultural areas. The legislative emphasis in drainage control was placed on draining and protecting lands to facilitate agricultural uses. This is reflected in several sections of the authorizing statutes.

Another major area of drainage control legislation focuses on irrigation, again with an agricultural emphasis. With this focus on agricultural drainage needs, it is not surprising that local jurisdictions in the region have had a difficult time implementing programs to solve drainage problems in urbanizing areas.

It should be noted that state legislation authorizing drainage control efforts through local governments has focused almost entirely on control of flow. Regulatory legislation at the federal and state levels in the past decade is beginning to change this focus. It should be anticipated that an added emphasis will be placed on the water quality aspects of stormwater control in the future.

The following is a list of the chapters in the Oregon Revised Statutes (ORS) which pertain directly or indirectly to drainage:

Chapter 198	Special Districts Generally
224	City Sewers and Sanitation
225	Municipal Utilities
268	Metropolitan Service District
450	Sanitary Districts and Authorities
451	County Service Facilities
468	Pollution Control
545	Irrigation Districts
547	Drainage Districts
548	Provisions Applicable Both to Irrigation and to Drainage Districts
549	Drainage and Flood Control Generally
551	Diking Districts
553	Water Control Districts
554	Corporations for Irrigation, Drainage, Water Supply or Flood Control

More detailed information regarding the above chapters appears in Appendix B of this report.

## Study Description

Most of the drainage information contained in the findings section of this report was obtained from city and county officials in the Portland region. The author personally interviewed representatives from all 24 cities in the region and the three counties. In most instances, it was the public works director or city engineer that was interviewed. In two cities it was the city administrator, and in one very small city it was the city recorder.

Additional information was obtained from reviewing the drainage plans and studies of several cities and two counties in the region.

Task 1 of the study was very limited in scope. No attempt was made to interview elected officials or citizens of the region. It is anticipated that input will be received from them during subsequent stages of the study.

To avoid a duplication of effort, no attempt was made to obtain detailed information regarding revenues and expenditures for drainage facilities within the region. The Development Services Department of Metro is currently gathering this information as part of a survey of projected infrastructure development and maintenance needs in the region.

The following is a list of the 24 cities and three counties located within the boundaries of the region and included in this study:

<u>City</u>	<u>1980 Population</u>	<u>City</u>	<u>1980 Population</u>
Beaverton	33,640	Maywood Park	1,070
Cornelius	4,880	Milwaukie	17,720
Durham	700	Oregon City	14,610
Fairview	1,745	City of Portland	368,100
Forest Grove	11,910	Rivergrove	325
Gladstone	9,680	Sherwood	2,500
Gresham	34,375	Tigard	18,000
Happy Valley	1,480	Troutdale	6,545
Hillsboro	1,480	Tualatin	9,400
Johnson City	355	West Linn	12,380
King City	1,860	Wilsonville	3,390
Lake Oswego	22,810	Wood Village	2,510
<u>County</u>	<u>1980 Population</u>		
Clackamas	245,100		
Multnomah	564,500		
Washington	259,700		

## Conclusions

1. The majority of the cities and counties within the boundaries of the Metropolitan Service District have a very good understanding of what their drainage problems are. They have drainage master plans and drainage ordinances. They know what they need to do to improve their drainage systems and solve their drainage problems, but they do not have the funds to carry out their plans. Lack of financing is currently their major problem in mounting successful drainage programs.
2. Because stormwater flows do not respect jurisdictional boundaries, cities and counties in the region should work together to improve their drainage systems and solve their drainage problems. They need to approach their problems on at least a basinwide basis and not as individual jurisdictions. What one city does in the way of development, and what drainage measures they undertake to solve their problems can greatly affect the cities downstream.

The majority of the region's jurisdictions agree that there is a need for a regional approach to drainage management. They further agree that Metro should play a role.

3. While there is substantial support for Metro to play some role in drainage management in the region, that support appears to be for a very limited involvement. The majority of the city and county support is for Metro to be involved in a planning and coordinating capacity. This is the role that is assigned to Metro in the Regional Stormwater Management Plan adopted in February 1982.

It appears that no support exists within the region for Metro to become involved in owning and maintaining a drainage system.

## Recommendations

Based on the findings from Task 1 of this study the following recommendations seemed appropriate:

1. Metro should undertake the second task of the Project Initiatives Program. That task is to analyze Metro's ability to solve or mitigate drainage problems.
2. Assuming Metro has the legal, financial, political and organizational ability to solve or mitigate drainage problems, Metro should play a planning and coordinating role in drainage management within the region. This is currently the responsibility assigned to Metro in the Regional Stormwater Management Plan adopted in 1982.

Until there is strong support in the region for it to do otherwise, Metro's planning and coordinating activities should be limited to the following:

- a. Provide a forum for evaluating and refining the existing Regional Stormwater Management Plan.
  - b. Provide technical drainage information when requested by local jurisdictions if funds are available to do so.
  - c. Provide local jurisdictions with information regarding funding sources for drainage projects when funding is available from federal and/or state agencies.
  - d. Obtain information from other regions throughout the country regarding their activities in drainage management.
3. Metro should not become involved in the ownership and maintenance of a drainage system until it is evident that substantial support exists in the region for it to do so.

## SECTION 2. CURRENT DRAINAGE MANAGEMENT

### Drainage Plans

The direct benefits of adequate drainage planning are the reduction of damages to property and hazards to life due to flooding. By doing drainage planning on a long-range basis, it is possible to avoid a continuation of the common practice of "catching up with the problem," the piecemeal construction or enlargement of conduits and channels yielding only partial solutions to drainage problems. Long-range planning facilitates cost-effective solutions to drainage problems and can prevent drainage from becoming a "problem" in developing areas.

In order to determine the status of drainage planning in the region, the following question was asked each of the 24 cities and three counties:

Does your jurisdiction have a comprehensive drainage management plan (also referred to as a drainage or stormwater master plan)? If yes, when was it adopted?

Sixteen cities and two counties indicated they currently have drainage master plans. This is 67 percent of all cities and counties in the Metropolitan Service District. Eight cities do not presently have a drainage master plan, but three of these cities have partial plans or studies and are currently working toward completion of a drainage master plan. One county does not have a drainage master plan, but does have studies and plans for portions of the county and are working to complete a master plan.

It should be noted that all jurisdictions in the region, except one, have maps which indicate the location of their existing storm drains, although they may not have a drainage master plan.

The jurisdictions with drainage master plans adopted their plans during the period from 1974 to October 1983. The majority of the plans were adopted from 1980 to 1983. Three plans were adopted in 1981, the most for any single year. It should be noted that most of the jurisdictions with old drainage master plans are in the process of updating their plans.

### Drainage Ordinances

Drainage ordinances are used to help prevent or reduce drainage problems. They typically include the following: land use and zoning regulations, subdivision regulations, drainage regulations and floodplain controls.

Each of the 27 jurisdictions were asked this question: Does your jurisdictions have a comprehensive drainage ordinance? All but three of the cities responded in the affirmative. All three counties indicated they have drainage ordinances. The three cities without ordinances are very small communities with populations between 350 and 1,750.

### Current Problems

Unless development and the drainage system serving it are properly planned, four basic drainage problems increasingly occur: flooding, erosion, sedimentation and water quality degradation.

Flooding is usually the first to draw the attention of the public. Flooding of streets, basements and along streams is a drainage problem that is readily identified. Flood damage is characterized by damage to material things such as homes, automobiles and buildings.

Erosion of land cleared for development is also a problem. Rainfall on unprotected soil easily erodes the material and the runoff carries it into the stream system. Erosion of stream channels is a natural process but as runoff increases, so does the rate of erosion.

Sedimentation is the settling of the eroded soil particles and debris to the bottom of a stream. It is the end result of erosion. The immediate damage of sedimentation is the reduction of the system's capacity to carry water, therefore, causing additional flooding.

Urban runoff also degrades water quality. The amount of suspended material in the stream is greatly increased by runoff due to urbanization and is the most easily identified water quality problem. Fertilizer nutrients, settled air pollutants, oil, grease, and other contaminants introduced into a stream can quickly reduce water quality.

Cities and counties within the Metropolitan Service District were asked this question: What are your jurisdiction's current drainage problems? Their responses were as follows:

1. Lack of funding for construction and maintenance of drainage facilities. Twenty-four of the 27 jurisdictions in the District indicated that this was a major problem. No other problem was stated as often as this one. Fifteen jurisdictions added that funding was their number one problem.
2. Inadequate storm drains (size and/or lack of storm drains throughout jurisdiction). Nine jurisdictions indicated this is one of their drainage problems.

3. Flooding (minor and/or major). Seven jurisdictions stated this as a problem. While flooding certainly occurs in more than seven jurisdictions within the District, only seven indicated flooding was a problem.

4. Specific problem areas (locations) identified within the jurisdiction.

Twelve jurisdictions, three counties and nine cities, identified specific locations within their boundaries where they had a drainage problem. The problems included flooding of a particular stream, need for drainage pipe, drainage ditch improvements required, detention required, etc. More detailed information regarding specific problems and their locations can be found in the drainage plans and studies of the various jurisdictions in the region.

5. Difficulty forming drainage districts. This problem was stated by two cities and one county.

6. Other. The following problems were identified by one jurisdiction each:

- lack of a drainage master plan for the city
- number of jurisdictions within the drainage basin
- no formal storm sewer system in the city
- high water table in the city
- state drainage law is unclear
- impact from property development outside the city's boundary
- piecemeal drainage system in their city
- limited or no access to drainage--ways to maintain them in various sections the county.

#### Future Problems

Cities and counties within the District were asked the question: What future drainage problems does your jurisdiction anticipate? Their responses were as follows:

1. Impact of additional development within the city and/or outside the city's boundaries. Six cities identified this as a future problem.
2. Increase in maintenance costs for drainage facilities. Three cities and two counties cited this as a future problem.
3. Existing problems will get worse. Two cities and one county responded in this manner.
4. Pollution of rivers and streams. Two cities identified this as a future problem.



5. Need to separate combined sanitary/stormwater sewer system. One city stated this as a problem they would have to deal with in the future.
6. Need for drainage facilities in their industrial area. One city cited this as a future problem.
7. Need to form drainage districts. This future problem was indicated by one county.

Eleven cities indicated they did not anticipate any new problems in the future.

#### Jurisdictional Boundaries

Drainage problems frequently cross jurisdictional boundaries. The Regional Stormwater Management Plan, adopted by Metro in March 1982, identifies eight major drainage basins in the region. All of these basins involve at least four different jurisdictions. Johnson Creek Basin, for example, involves four cities and two counties, and Fanno Creek involves six cities and three counties.

The 24 cities and three counties in the region were asked the following question: Do your drainage problems cross jurisdictional boundaries?

Nineteen cities and three counties indicated their drainage problems went beyond their boundaries, and five cities stated their drainage problems are within their own boundaries.

#### Agreements Between Jurisdictions

Because drainage problems cross local government boundaries, an effort was made to determine if jurisdictions were contracting with each other to help solve their drainage problems. The following question was asked: What agreements does your jurisdiction currently have with other jurisdictions regarding drainage management?

Six cities and one county indicated they have drainage-related agreements with another jurisdiction. These agreements include arrangements for one jurisdiction to provide another with drainage services and sewer services in some sections of that jurisdiction (three cases); participate in the costs of a specific project (two cases); and agreements for city or county to take over certain roads and maintain them (includes drainage maintenance responsibilities; there are currently two of these agreements).

#### Financing Drainage Facilities

A number of options currently exist for cities and counties to finance the construction and maintenance of drainage

facilities. The following is a summary of some of the options available:

Property Taxes. Property taxes for general revenues are a major source of financing for cities and counties. Property taxes, however, are used very little in the region for drainage purposes. When used for drainage they are primarily used for maintenance and not for capital improvements.

User Charges. User charges are based on services provided. They are usually repetitive and at fairly regular intervals. User charges are being used more and more for financing stormwater management. In order to utilize user charges for drainage purposes, local governments are forming drainage utilities, similar to a water or sewer utility.

Local Improvement Districts. Probably more street, water, sewer, and drainage improvements have been funded through LIDs than through any other single method. LIDs are usually financed through special assessments on property based on factors such as lot frontage and gross area.

System Development Charges. System Development Charges have been increasingly employed by cities and counties to offset the impact of new development. They are usually applied to the private developer through fees associated with subdivision approvals, the issuance of building permits or upon connection with utilities.

General Obligation Bonds. G.O. bonds are used primarily for major capital improvements and are backed by the full credit of the government agency issuing them. Property tax revenues are usually "pledged" to the retirement of these bonds over a number of years.

Revenue Bonds. Bonds repaid by revenues generated through means other than property taxes, usually user charges, are an alternative for funding drainage programs. Revenue bonds do not require a vote, but they are not backed by the full credit of the local government. As a result, revenue bonds must pay a higher interest rate than G.O. bonds.

The following question was asked each of the cities and counties in the District:

How does your jurisdiction currently finance construction and maintenance of drainage facilities?

Several of the cities are funding their drainage systems by using a combination of revenue sources. Eleven cities indicated they use two or more of the following sources:

LIDs, state road funds, property taxes (general fund), revenue-sharing, system development charges, user fees. Property taxes were the least used source of revenue.

State road funds are being used exclusively by nine jurisdictions to finance drainage improvements. Their drainage work is usually conducted while making other improvements to the streets, and the capacity of the storm drains installed is limited to that which is necessary to handle stormwater from the roadway itself. Road funds cannot be used to install oversized drains to handle stormwater from parking lots and other sources outside the roadway.

Three cities are utilizing user charges. Two of them have formed drainage utilities, and one city charges a user's fee to support a combined sanitary/storm sewer system.

LIDs are the only source of drainage revenue for two jurisdictions.

Two jurisdictions currently fund drainage improvements from private funds.

Revenue-sharing funds is the only source being used by one city.

#### State Drainage Law

As urbanization continues in the region, drainage rights and responsibilities are drawing more attention. Some have expressed a need to expand existing Oregon drainage law to define the rights and responsibilities of upstream and downstream property owners in dealing with the increased drainage flows and concentrations caused by development. State drainage law has also been labeled by some as vague and unclear. Some cities and counties have been sued for various drainage measures they have undertaken. See Appendix B for those chapters of ORS which pertain directly or indirectly to drainage.

The cities and counties in the region were asked this question regarding state drainage law:

Does current state drainage law need to be revised? If yes, what changes need to be made?

Eight cities and two counties indicated state drainage law needs to be revised. They stated that the law needs to be made more clear, that it is currently too vague. The law needs to define the responsibilities of downstream and upstream property owners.

Fourteen cities and one county indicated they did not see a need for state drainage law to be revised. Three cities did not have an opinion on the subject.

### Regional Approach to Drainage Management

Because drainage problems cross so many jurisdictional boundaires, because of its complexity and other reasons, it has been suggested that drainage management is regional in nature and that a regional agency could better provide drainage services to the area.

Cities and counties in the Metropolitan Service District were asked the following questions regarding a regional approach to drainage management.

Is there a need for a regional approach to drainage management? Should Metro play a role in drainage management? If yes, what should that role be?

The responses to these questions are as follows:

Twenty-four of the 27 jurisdictions in the region indicated that there is a need for a regional approach to drainage management. Only three cities stated there is no need. Three cities indicated that while there was a need for a regional approach to drainage, that need did not exist within their particular community.

Twenty-five of the 27 jurisdictions in the area indicated that Metro should play a role in drainage management. Two cities stated Metro should not play a role.

When asked what role Metro should play in drainage management, several different responses were received:

1. The majority of the jurisdictions (16) stated that Metro should play a planning and coordinating role.
2. Four jurisdictions (two cities and two counties) indicated Metro should help acquire funds for cities/counties to construct drainage facilities.
3. Standardization of drainage policies, and facilities throughout the region is a role that two cities and one county indicated Metro should perform.
4. Three cities indicated Metro should share drainage information with the region's jurisdictions. Information such as rainfall data for various drainage basins; the details of forming a drainage utility; and how to determine user charges.

5. One city and one county stated that Metro should take steps to make it easier to form drainage districts.
6. Two cities and one county indicated that Metro should help make the state drainage law more clear.
7. Each of the following roles were suggested by one city (a different city in each case):

Metro should give technical assistance to the cities and counties; Metro should help provide a mechanism for funding drainage improvements; Metro should develop a drainage management plan for the Johnson Creek Basin; help negotiate multijurisdictional agreements to solve drainage problems; play the role of a mediator in drainage problems.

#### Trends in Drainage Management

The region's cities and counties were asked what trends they could identify in the area of drainage management. The following responses were received:

1. Method of financing drainage facilities by forming a drainage utility and collecting a service charge. Eleven cities identified this as a trend.
2. An agency such as the Unified Sewerage Agency providing drainage services for several jurisdictions. This trend was identified by two cities and one county.
3. Looking at basin-wide problems/solutions, not just city problems/solutions. Two cities and one county identified this as a trend.
4. The public is becoming more aware of drainage problems and needs. Two cities made this observation.
5. Use of greenways for drainage conveyance. One city identified this as a trend.
6. Preserving natural areas--less use of drainage pipe. One city made this statement.

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**APPENDIX A**  
**PROJECT INITIATIVES PROGRAM**

- e. Current problems/issues
- f. Existing contracts, charter
- g. Existing users/supporters of service
- h. Identify trends
- i. Existing political boundaries
- j. Existing policies
- k. Rural versus urban aspects.

Report findings to Council. Opportunity for public input at Council meetings. Council approval necessary before beginning Task 2.

Task 2 Analyze Metro's ability to solve or mitigate problems.

Work to be performed by Council Assistant supported by Deputy Executive Officer, Executive Administrative Assistant, General Counsel and appropriate technical staff.

The analysis should address the following:

a. Political Aspects

- power
- authority
- boundaries
- policies
- goals

b. Legal Aspects

- existing statutes
- legislation required
- contracts required
- vote required

c. Economics

- tax levy
- grants
- user fees
- costs
- Metro's resources

d. Social

e. Environmental Aspects

f. Organizational Aspects (Metro structure)

Present findings and recommendations to Council. Opportunity for public input at Council meetings. Council approval necessary to proceed with Task 3.

## APPENDIX A

### PROJECT INITIATIVES PROGRAM

#### PRINCIPLES

It is recommended that the following principles be adopted and followed throughout the PIP:

1. Metro will look at approaches to solving or mitigating regional problems within the parameters of ORS 268.
2. Metro will work closely with local governments and constituent groups to develop a regional perspective on key issues.
3. Metro will determine the appropriate level of resources necessary to address the problem professionally and identify the potential sources of funding, both internally and externally.
4. Metro will develop a regional program management plan which includes a specific financing strategy.

#### PROGRAM SELECTION

The Council has indicated its intent to look at specific programs during FY 1983-84 including: parks, correctional facilities, libraries and drainage. Inasmuch as there are insufficient resources to review all four of these program areas at the same time, it is recommended that the Council determine the order in which they will be reviewed. The ranking could be based upon the perceived need, timeliness and external support for the program areas.

#### WORK PROGRAM

Task 1 Prepare a description of existing service for one of the following: parks, correctional facilities, libraries or drainage.

Work to be performed primarily by Council Assistant with support from Deputy Executive Officer, Executive Administrative Assistant and appropriate technical staff.

The description of existing service should include the following information:

- a. Organization/Structure
- b. Current needs for this service
- ✓ c. Existing costs/budgets
- ✓ d. Existing resources (funding sources, people, buildings, property, etc.)



Task 3 Determine level of support for Metro's involvement in program.

Work to be performed by Council Assistant supported by Deputy Executive Officer, Executive Administrative Assistant, Metro Council. Metro could also consider contracting with a consultant to conduct a survey.

a. Surveys

- local officials
- community leaders
- special interest groups

b. Interviews

- local officials
- community leaders
- special interest groups

c. Editorials, Correspondence, etc.

Report results to Council. Opportunity for public input at Council meetings.

Task 4 Determine if Metro should become involved in program. Decision to be made by Metro Council. Support from Council Assistant, Executive Management, General Counsel, Public Affairs, Development Services. Opportunity for public input at Council meetings.

Task 5 Development of a strategy for Metro involvement (assumes decision has been made to become involved in program). Opportunity for public input at Council meetings.

Task 6 Resources Development

Task 7 Preparation of a regional program management plan to deliver services. (Assumes a grant has been obtained to finance study. No work to commence if funding is not available.) Conducted by Development Services Department. Council reviews first draft. Opportunity for public input at Council meetings. Plan completed then presented to Council. Another opportunity for public input.

**APPENDIX B**

**CHAPTERS OF OREGON REVISED STATUTES  
PERTAINING TO DRAINAGE**

## **CITIES**

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poses specified in ORS 224.310 to 224.420, 450.303

### **224.320**

Financing sewerage systems of sanitary districts, 450.250 to 450.300

### **224.390**

Bonds of sanitary districts purchased by state, principal repaid to state and credited to General Fund, 450.303  
Transfer of moneys to State Sanitary District Sewer Bond Fund, 450.285

# Chapter 224

## 1981 REPLACEMENT PART

### City Sewers and Sanitation

#### CONSTRUCTION OF SEWER SYSTEM; ASSESSMENT PLAN

- 224.010 Definitions for ORS 224.010 to 224.170
- 224.020 Authority of city to construct sewage system
- 224.030 Authority of city to alter water flow; limitations
- 224.040 Assessment of property; collection
- 224.050 Rights of owners outside city limits
- 224.065 Writ of review
- 224.080 Record and effect of judgment
- 224.090 Assessment lien on property outside city limits; priority
- 224.100 Records and indexes of transcripts; effect of review
- 224.110 Enforcing liens on property outside city limits
- 224.120 Sale without foreclosure
- 224.130 Assessment of property in drainage district
- 224.140 Authority to control sewer system
- 224.150 Federal aid
- 224.160 Procurement of funds for construction
- 224.170 Laws and charter provisions applicable to reassessments

#### CONSTRUCTION OF SEWER SYSTEM; BOND PLAN

- 224.232 Bond elections; Environmental Quality Commission order; court enforcement; issuance of bonds without voter approval
- 224.270 Validation of bond issues

#### SEWER CONSTRUCTION IN CITIES OF 3,500 OR LESS

- 224.310 Definitions for ORS 224.310 to 224.420
- 224.320 Municipalities eligible for state help in financing sewer systems
- 224.330 Conditions precedent to financing application
- 224.340 Bonds; form; interest; sale price
- 224.350 General powers of the State Treasurer under ORS 224.310 to 224.420
- 224.370 Municipality not to assume further obligations
- 224.380 Limitations on authority of State Treasurer to purchase bonds
- 224.390 State Sewer Bond Revolving Fund
- 224.400 Control of State Treasurer over rates, collection of charges and delinquent assessments; budget approval
- 224.410 Authority to appoint receiver and withhold earmarked moneys on default
- 224.420 Duty of local treasurer to keep funds separate and withhold bond payments; liability of treasurer
- 224.450 Validation of revenue bonds issued by cities of less than 100,000; sale of bonds to the Federal Government

#### SEWAGE CHARGE ON WATER USERS

- 224.510 Sewage charge on water users

#### CROSS REFERENCES

Assessments for local city improvements, 223.387 to 223.399  
City-state agreements concerning sanitation of certain state institutions, 276.250, 276.252  
Conformance to state water resources policy required, 536.300 to 536.400  
Cooperative effort in sewage disposal problems between incorporated and unincorporated areas, 450.705, 451.140  
Fish protection required, 509.130, 509.505  
Port of Portland, improvements generally, 778.025  
Purchase of general obligation bonds of sanitary districts, 450.303  
Sanitary districts which include cities, Ch. 450  
Sewage disposal generally, Ch. 451  
Sewer financing under Bancroft Bonding Act, 223.210  
Sewerage or sanitary districts, transfer of assets and liabilities to incorporating or annexing cities, 451.585  
Variances from rules pertaining to subsurface sewage disposal granted by city upon agreement with Department of Environmental Quality, 454.725

224.020  
Condemnation by cities, Ch. 223  
Condemnation procedure, Ch. 35  
Condemnation procedure to be followed, 281.010

224.050  
Bancroft Bonding Act, 223.205

224.110  
Additional methods of enforcing liens, 223.270, 223.275, 223.510

224.140  
City-county cooperation on sewage disposal, 451.140, 451.560  
Municipal plumbing work standards, 447.080  
Water supply system; operation, regulation, inspection, protection, penalties, 448.205 to 448.325, 448.990

224.170  
Reassessments generally, 223.410  
Rebonding and reinstatement of city obligations, 223.705  
Refinancing of city obligations generally, Ch. 287

224.232  
Municipal sewage disposal systems, Ch. 454

224.270  
Municipal sewage disposal systems, Ch. 454

224.310  
Bonds authorized and issued in compliance with ORS 450.005 to 450.245, proceeds of to be used for pur-

not prevent the filing, recording and indexing of such transcript, but upon final determination of the review a further transcript shall be filed showing the amount of the assessment. A notation shall be made upon the margin of the record of the first transcript showing that it has been merged into the second transcript. The second transcript shall be indexed and recorded and the same shall, for the amount specified therein, have the same force and effect as the first transcript would have had.

[Amended by 1967 c.280 §4]

**224.110 Enforcing liens on property outside city limits.** The city, through its council, may collect and enforce or provide for collecting and enforcing payment of liens created by virtue of ORS 224.090 or 224.100 by a sale of the property in the same manner and with the same force and effect as is or may be provided with respect to property within the city, or a proceeding in court to foreclose such liens.

**224.120 Sale without foreclosure.** In case of a sale without a foreclosure in court a duplicate certificate of sale shall be made by the city official making the sale and filed with the county clerk or other officer having charge of mortgage records of the county, who shall enter a memorandum of the sale upon the margin of the record where the lien is recorded. In case of redemption or issuance of a deed upon such certificate of sale a further certificate of such fact shall be made by the proper city official and shall be filed in the same manner and noted upon the margin of the mortgage records.

**224.130 Assessment of property in drainage district.** Nothing contained in ORS 224.010 to 224.170 shall authorize the city to assess any property now included in any drainage district organized under ORS 547.005 to 547.030 and beyond the limits of the city unless the owner of such property or the officers of such district consent thereto. However, if the owner of property in such district at any time desires to connect with and utilize any sewer or drain constructed pursuant to ORS 224.020, a just and equitable assessment may be made and charged against the property owned by him and especially and peculiarly benefited by such connection.

**224.140 Authority to control sewer system.** A city, through its council, may enact and enforce such ordinances and other provisions as may be necessary or essential for the

proper policing, protection, management and control of sewers, ditches, canals and other works beyond the city limits and constructed by the city under or by virtue of ORS 224.010 to 224.170. The city may construct extensions, laterals and branches to such sewer system upon the terms and provisions applicable to original construction.

**224.150 Federal aid.** The city may negotiate and obtain from the Federal Government financial aid in construction referred to in ORS 224.140 by a work relief program, grant, loan or other means of like or different nature.

**224.160 Procurement of funds for construction.** Pending the making of an assessment for all or part of any construction referred to in ORS 224.140, the city may make temporary loans or advances from the fund legally available under its charter in order to procure the federal aid or perform such construction, or both. Such loan shall be refunded from a local assessment when made and collected. If the city is without adequate funds to make such temporary loan it may from time to time borrow funds therefor and give its certificate of indebtedness for the money so borrowed. This certificate shall be paid only from funds collected from the local assessment authorized to be made for the construction. The rate of interest upon the certificates of indebtedness shall not exceed six percent per annum and no greater amount shall be borrowed than the amounts necessary for the purposes of construction.

**224.170 Laws and charter provisions applicable to reassessments.** The provisions of the city charter applicable to curative measures or reassessments shall be applicable to property without the city limits as well as to the property within the city. The owners of property beyond the city limits shall have like rights of objection, remonstrances, hearing and other remedies as the owners of property within the city or town. The right of review of any reassessment by the circuit court as provided by ORS 224.065 relative to an original assessment, and the provisions of ORS 224.065, 224.080 and 224.100 relative to review of an original assessment shall be applicable to review of a reassessment. [Amended by 1967 c.280 §5]

## CONSTRUCTION OF SEWER SYSTEM; ASSESSMENT PLAN

**224.010 Definitions for ORS 224.010 to 224.170.** As used in ORS 224.010 to 224.170, unless the context requires otherwise:

(1) "City" means any incorporated city or town.

(2) "Council" means the council or other municipal authority of a city.

**224.020 Authority of city to construct sewage system.** Whenever the council of any city deems it necessary or expedient to construct a sewer partially within and partially without the city, or to construct a sewer outlet, or do any other work, acts or things without the city for proper disposal of sewerage and drainage, the city, through its council, may acquire by purchase, condemnation or otherwise, any property rights of way, easement and other rights without the city as may be needed or deemed essential for the construction of the sewer, sewer outlet, or other works. It may also provide for and do all things which may be necessary or deemed essential for proper construction of such sewer, sewer outlet, and for other works, acts and things which may be deemed necessary or essential for the proper disposal of sewerage and drainage from the city and adjacent territory.

**224.030 Authority of city to alter water flow; limitations.** A city, through its council, may divert water and waterways, fill or drain lakes, ponds or other waters, increase or diminish the flow of waters in natural channels or dam channels and do such other acts and things as may be found necessary or essential for the matters provided for in ORS 224.010 to 224.120 and in ORS 224.170. However, no property rights or other vested rights shall be taken without agreement with the owner or a proceeding of condemnation.

**224.040 Assessment of property; collection.** The council may provide for and make a local assessment for benefits against any and all property whether within or without the city or partially within or partially without the city and enforce a collection of such assessments.

**224.050 Rights of owners outside city limits.** The owners of property without the city shall be given like notice and shall have like opportunities of remonstrance and have

all other rights and remedies which the owners of property within the city may have or be given, including the privileges of the Bancroft Bonding Act or similar charter provisions relating to bonding of assessments.

**224.060** [Amended by 1959 c.220 §1; repealed by 1967 c.280 §1 (224.065 enacted in lieu of 224.060)]

**224.065 Writ of review.** Notwithstanding any of the provisions of ORS 224.010 to 224.170, owners of any property against which an assessment for a local improvement under this chapter has been imposed may seek a review thereof under the provisions of ORS 34.010 to 34.100. [1967 c.280 §2 (enacted in lieu of 224.060 and 224.070)]

**224.070** [Amended by 1959 c.220 §2; repealed by 1967 c.280 §1 (224.065 enacted in lieu of 224.070)]

**224.080 Record and effect of judgment.** Upon final determination of the review a transcript of the judgment shall be filed with the auditor, clerk or other official of the city having charge of the assessment records, whereupon it shall be entered in the records of the city and other records as provided in ORS 224.090 and 224.100 and shall constitute the assessment against the property. It shall bear interest from the date that other assessments for such sewer or work bear interest and shall be enforced and collected in like manner as the assessment is collected against other property which may have been assessed for such sewer or other work. In case the judgment on appeal is for the same amount as the assessment, no entries need be made of the transcript. [Amended by 1967 c.280 §3]

**224.090 Assessment lien on property outside city limits; priority.** No assessment under ORS 224.040 against property beyond the limits of the city shall be a lien on the property until a certified transcript of the assessment in so far as it affects such property has been filed with the county clerk or other person having custody and charge of the mortgage records of the county. From the date of such filing the assessment shall be a lien and charge against the property upon which it is imposed, prior and superior to all other liens and encumbrances whatsoever thereon, except general taxes.

**224.100 Records and indexes of transcripts; effect of review.** The clerk or officer referred to in ORS 224.090 shall record the transcript referred to in that section in the mortgage records of the county and properly index it. The issuance of a writ of review shall

adopt plans, specifications and estimates for a sanitary disposal of sewage with or without following any previous plans, specifications, estimates or methods.

### **SEWER CONSTRUCTION IN CITIES OF 3,500 OR LESS**

**224.310 Definitions for ORS 224.310 to 224.420.** As used in ORS 224.310 to 224.420, unless the context requires otherwise:

(1) "Municipality" means a duly incorporated city or town having a population of not more than 3,500 inhabitants as determined from the latest official enumeration of inhabitants, either federal or state, made prior to the date of authorization of the construction and establishment by the municipality of a sewerage system or of an extension to an existing sewerage system.

(2) "Sewerage system" means complete or primary sewage treatment and disposal facilities, sewer mains, pumping stations, and all equipment and appurtenances necessary, useful or convenient for the treatment or disposal of sewage, or any portion of such a system, whether within or without the corporate limits of a municipality. [Amended by 1953 c.287 §9; 1959 c.157 §4]

**224.320 Municipalities eligible for state help in financing sewer systems.** Municipalities that have been certified by the Environmental Quality Commission as being in need of sewerage systems and that are unable to sell bonds upon the public market, or are unable to obtain satisfactory offers for bonds upon such market, for the purpose of financing the costs of construction thereof may apply to the State Treasurer for the purpose of financing such costs under ORS 224.310 to 224.420. The Environmental Quality Commission shall furnish to the State Treasurer in writing a list of the municipalities that are in the greatest need of sewerage and sanitation facilities. [Amended by 1955 c.593 §1]

**224.330 Conditions precedent to financing application.** A municipality shall not apply to the State Treasurer for financing under ORS 224.320 unless:

(1) It submits to the State Treasurer plans and specifications prepared by competent licensed engineers setting forth the type or character of sewer system or sewerage facilities proposed for the particular municipality

and the estimated cost of the system and of the appurtenances thereto.

(2) It submits to the State Treasurer the proposed plan of the municipality for liquidation of indebtedness to be incurred for financing the cost of such system or facilities.

[Amended by 1953 c.287 §9]

**224.340 Bonds; form; interest; sale price.** Notwithstanding the provisions of any other Act or of any city charter, the bonds issued by municipalities pursuant to ORS 224.350 and 224.370 shall bear such dates, be in such form, run for such periods of time, bear such rates of interest, and be sold by the municipalities at such prices as the State Treasurer may determine. [Amended by 1953 c.287 §9; 1955 c.593 §2; 1981 c.94 §12]

**224.350 General powers of the State Treasurer under ORS 224.310 to 224.420.**

(1) The State Treasurer shall be the sole judge as to whether state funds shall be invested in the project and as to which undertakings shall first be financed. The decision of the State Treasurer on the subject of investment and priority shall be final.

(2) The State Treasurer may enlist the technical services of any state officer or department in a study of the feasibility and cost of the sewerage project.

(3) The State Treasurer, in his discretion, may purchase, with funds subject to investment by the State Treasurer, or with moneys from the revolving fund as provided in ORS 224.390, general obligation sewerage system bonds of any municipality including bonds issued under statutory or charter authority pursuant to applications to pay assessments in instalments. To facilitate the construction of a sewerage system for a municipality, the state may purchase at current market prices with such funds the outstanding water system bonds of the municipality. After the purchase of such bonds, the State Treasurer may agree with the municipality as to allocation of the net revenues of the water system of the municipality to the payment of the principal of and the interest upon the water system bonds, and upon the sewerage system bonds of the municipality. If the State Treasurer deems it expedient in the acquisition and construction of a sewerage system for a municipality to furnish sewerage service for territory that is contiguous to a municipality, or for territory outside the municipality that, in the judgment of the State Treasurer, can conveniently be served by the sewerage system thereof, the

## CONSTRUCTION OF SEWER SYSTEM; BOND PLAN

224.210 [Repealed by 1973 c.213 §9]

224.220 [Amended by 1971 c.573 §1; repealed by 1973 c.213 §9]

224.230 [Amended by 1967 c.427 §1; repealed by 1973 c.213 §9; amended by 1973 c.835 §162 (see 224.232)]

**224.232 Bond election; Environmental Quality Commission order; court enforcement; issuance of bonds without voter approval.** (1) The governing body of the municipality, by proposed charter amendment or ordinance, may refer the question of acquiring and constructing the facilities to a vote of its qualified electors, and after approval thereof by a majority of such electors, may authorize the issuance of and cause to be issued bonds of the municipality for such purposes. The bonds may be general obligation, limited obligation or self-liquidating in character in a sum not more than the amount authorized at such election. The bonds may provide for payment of principal and interest thereon from service charges to be imposed by the governing body for services to be extended through employment and use of the facilities. If service charges are imposed to be paid as provided in ORS 224.220 (1971 Replacement Part), such portion thereof as may be deemed sufficient shall be set aside as a sinking fund for payment of interest on the bonds and the principal thereof at maturity.

(2) When the Environmental Quality Commission of the State of Oregon enters an order pursuant to ORS 468.090 that requires the acquisition or construction of facilities in a municipality for compliance, the governing body of the municipality must refer to its qualified electors the question of a bond issue in an amount sufficient to finance the necessary acquisition or construction of such facilities. The election must be held within one year of the date on which the order of the Environmental Quality Commission becomes final.

(3) If, within eight months after the final order of the Environmental Quality Commission becomes final, the governing body of the municipality has not called an election in compliance with subsection (2) of this section, the Environmental Quality Commission may apply to the circuit court of the county in which the municipality is located or to the circuit court of Marion County for an order compelling the holding of an election.

(4) If the electors do not approve the bond issue, submitted pursuant to subsection (2) or (3) of this section, the Environmental Quality Commission may apply to the circuit court of the county in which the municipality is located or to the circuit court of Marion County for an order directing that self-liquidating bonds of the municipality be issued and sold pursuant to ORS 224.210 to 224.260 (1971 Replacement Part), and directing that the proceeds be applied to the acquisition or construction of facilities required to comply with the order of the Environmental Quality Commission. If the court finds that the facilities required by the order of the Environmental Quality Commission are necessary to the public health under the minimum standards of the Environmental Quality Commission, it shall issue an order directing that such bonds be issued and sold without voter approval in such an amount as the court finds necessary to acquire or construct such facilities, and that the proceeds be applied for such purposes.

(5) Any court proceeding authorized by subsection (3) or (4) of this section shall be advanced on the court docket for immediate hearing. [1973 c.835 §162]

Note: 224.232 was enacted into law by the Legislative Assembly but was not added to or made a part of ORS chapter 224 or any series therein by legislative action. See the Preface to Oregon Revised Statutes for further explanation.

224.240 [Amended by 1965 c.283 §1; repealed by 1973 c.213 §9]

224.250 [Amended by 1967 c.293 §23; 1967 c.427 §2; repealed by 1973 c.213 §9]

224.260 [Repealed by 1973 c.213 §9]

**224.270 Validation of bond issues.** All proceedings and elections had prior to March 9, 1935, in cities of less than 100,000 population under ORS 224.232 and 224.270 are validated. All bonds voted prior to March 9, 1935, by any municipality, as defined in ORS 224.210 (1971 Replacement Part), for a sanitary disposal of sewage under ORS 224.210 to 224.260 (1971 Replacement Part) shall, when issued and sold, be legal and binding obligations of the municipality if the issuance of bonds for that purpose has been authorized and approved by a majority vote of the electors voting on the question and regardless of whether the question was submitted to the voters by the council or other governing body by resolution, ordinance or by charter amendment. The governing body of the municipality may, either before or after issuing the bonds,



issued for other utilities that are self-supporting or self-liquidating or are approximately so, does not exceed 15-3/8 percent of the true cash value of the property within the limits of the municipality. This limitation shall include the ratios of indebtedness to true cash value of other subdivisions that overlap the municipality to an extent of more than 12-1/2 percent of the true cash value of all the taxable property of the municipality. [Amended by 1953 c.287 §9; 1955 c.593 §4; 1967 c.293 §26]

**224.390 State Sewer Bond Revolving Fund.** The State Sewer Bond Revolving Fund is created for investment under authority of ORS 224.310 to 224.420 and for payment of costs of the State Treasurer in carrying out the provisions of those sections. The State Treasurer may engage such assistance and incur such expenses as may be necessary for that purpose. The earnings of the revolving fund shall accrue to the General Fund, and the amounts received in payment of the principal of investments thereof shall be credited to the General Fund, to be available for the payment of general governmental expenses. [Amended by 1963 c.341 §3]

**224.400 Control of State Treasurer over rates, collection of charges and delinquent assessments; budget approval.** (1) Each municipality financing the cost of a sewerage system under authority of ORS 224.310 to 224.420 shall submit to the State Treasurer for approval a schedule of its rates and proposed method of collection of its sewerage charges. The rates shall be such as, in the judgment of the State Treasurer, shall provide sufficient funds with other revenues, if any, and ad valorem property taxes to liquidate, during the period approved by the State Treasurer, the indebtedness incurred by the municipality to defray the cost of the sewerage system and its appurtenances. Should the rates prove to be insufficient for such purpose, the State Treasurer may direct the municipality to increase the rates to the point at which the sewerage project becomes self-liquidating, and the municipality shall establish forthwith the rates prescribed by the State Treasurer.

(2) If the State Treasurer so directs, delinquent assessments for sewerage charges shall be certified to the assessor of the county in which the municipality is located and shall be entered upon the tax rolls of the county and be collected and accounted for in the same manner in which city taxes are collected and accounted for. The charges shall constitute liens

against the real property of the person against whom they are assessed.

(3) If required by the State Treasurer, the municipality shall obtain from the State Treasurer approval of the annual budgets and tax levies of the municipality, before they are certified to the clerk and assessor of the county in which the municipality is located, for extension upon the county tax rolls. [Amended by 1955 c.593 §5]

**224.410 Authority to appoint receiver and withhold earmarked moneys on default.** If any municipality fails to meet, when due, any obligation sold to the state under authority of ORS 224.310 to 224.420, the State Treasurer, with the approval of the circuit court of the county in which the major portion of the assessed valuation of the municipality is located, may appoint a receiver to operate the system. The receiver shall act in his capacity so long as the circuit court deems receivership necessary to protect the interests of the state and of the municipality. In order to insure prompt payment of interest or principal of bonds acquired by the State Treasurer pursuant to ORS 224.380, the State Treasurer may withhold and apply to the payment of such obligations, any moneys which may accrue to the municipality from state sources. Moneys so withheld shall be repaid to the municipality when the funds with which to meet the obligations for the payment of which funds were withheld are paid by the municipality to the state. The right to withhold said moneys for the purpose provided in this section shall exist only so long as any of the sewage bonds of the municipality are owned by the state.

**224.420 Duty of local treasurer to keep funds separate and withhold bond payments; liability of treasurer.** The treasurer of each municipality and of each sanitary district that finances the cost of a sewerage system or facilities under authority of ORS 224.310 to 224.420 shall keep collections or assessments for sewerage service separate and distinct from other funds of the municipality and shall withhold from tax receipts not less often than quarterly the full amounts proportionate to the elapsed portion of the tax year that have been levied for the payment of interest on and the principal of the sewerage system bonds of the city or sanitary district. For failure to account for sewerage revenues and taxes as provided in this section, such treasurers shall be liable upon their official

state may purchase the sewerage system bonds of a sanitary district or districts comprising such territory, or any part thereof, provided the public indebtedness for all purposes within said sanitary district or districts shall not exceed 12-1/2 percent of the true cash value of all taxable property therein.

(4) The State Treasurer may authorize municipalities or sanitary districts, or both, to issue sewerage system bonds with the right reserved to them to redeem bonds at par value and accrued interest prior to the final maturity dates of the bonds.

(5) The State Treasurer, in his discretion, may authorize deferment of payment of interest upon the sewerage bonds of the municipality or district for a period not exceeding three years, and may provide for the issuance of such bonds with graduated rates of interest.

(6) The State Treasurer may adopt rules and regulations specifying the procedure to be followed by a municipality or sanitary district in availing itself of the provisions of ORS 224.310 to 224.420. [Amended by 1953 c.287 §9; 1967 c.293 §25]

224.360 [Amended by 1953 c.287 §9; 1955 c.593 §3; repealed by 1967 c.335 §60]

**224.370 Municipality not to assume further obligations.** So long as any of the sewerage bonds of the municipality or district are owned by the state, the municipality or district shall not issue other bonds of any character without prior written approval of the State Treasurer. [Amended by 1953 c.287 §9]

**224.380 Limitations on authority of State Treasurer to purchase bonds.** The State Treasurer may purchase sewerage bonds from a municipality or sanitary district at private sale if the municipality or district does not receive any bids for the bonds, or if bids received therefor are unsatisfactory. General obligation sewer bonds or sewerage system bonds, other than those issued pursuant to applications to pay assessments in instalments, may be purchased by the State Treasurer under the provisions of ORS 224.310 to 224.420 only if the revenues of the sewerage system of the issuing municipality or district, or both, after the payment of operation and maintenance expenses, are pledged wholly to the payment of the principal of and the interest upon the said bonds, and the municipality and the sanitary district, if any, served by the sewerage system of a municipality covenant to levy ad valorem taxes upon all of the taxable

property within their corporate limits to meet deficiencies in such revenues for such purposes, and only if the combined indebtedness for all public purposes, other than state or federal, within the boundaries of the municipality, including the proposed sewerage system indebtedness, but excluding obligations issued for other utilities that are self-supporting or self-liquidating or are approximately so, does not exceed 12-1/2 percent of the true cash value of all property that is by law assessable for state and county purposes within the limits of the municipality. Notwithstanding that such revenues may have been pledged to the payment of the principal of and the interest upon a particular issue of general obligation bonds owned by the state, the same revenues, with the approval of the State Treasurer, may be pledged to the payment of the principal of and the interest on additional issues of such bonds purchased by the state from the municipality or district. The additional issues shall be on a parity with previous issues as to the pledge of such revenues for such purposes. Municipalities may provide that receipts from the payment of assessments levied under authority of chapter 593, Oregon Laws 1955, and the interest thereon shall be applied to payment of the principal of and the interest upon their general sewerage system bonds issued under authority of chapter 593, Oregon Laws 1955, rather than issue Bancroft or assessment bonds pursuant to such assessments. In order to complete the financing of a sewerage system, the State Treasurer may purchase issues of general obligation sewerage system bonds of municipalities or sanitary districts, payable only from ad valorem property taxes, provided the issues do not exceed the debt limits specified in this section. If, in addition to the net revenues of the sewerage system of the issuing municipality, the net revenues of the municipality-owned water system of the municipality that may become available in not more than five years from the issue date of the sewerage system bonds also are pledged to the said bonds, and the municipality further covenants to levy ad valorem taxes upon all the taxable property within its corporate limits to meet deficiencies in sewerage system and water system revenues for such purposes, the sewerage system bonds of the municipality may be purchased by the State Treasurer, provided the combined indebtedness for all purposes within the boundaries of the municipality, including the proposed sewerage system indebtedness, but excluding obligations

bonds. [Amended by 1953 c.287 §9]

**224.450 Validation of revenue bonds issued by cities of less than 100,000; sale of bonds to the Federal Government.** All bonds or other obligations issued prior to November 15, 1936, by any city or town of less than 100,000 population, for the purpose of financing in whole or in part the construction, enlargement, extension, repair or improvement of a sewer system, including a sewage treatment or disposal plant and all facilities appurtenant to such system or connected therewith, where such bonds or other obligations are payable or will be payable solely from the gross or net revenues of such sewer system or any part thereof, including the revenues of improvements, additions and extensions thereto which may thereafter be constructed or acquired, as well as the revenues of the existing sewer systems, plants or properties, if any, so enlarged, extended, repaired or improved, and all proceedings for the authorization and issuance of such bonds or other obligations and the sale, execution and delivery thereof, hereby are validated, ratified, approved, authorized and confirmed, notwithstanding that the amount of such bonds or other obligations, together with the amount of bonds or other obligations of such city or town outstanding at the time of the issuance thereof, exceeds or will exceed any limitation or restriction on the amount or percentage of indebtedness or of outstanding bonds or other obligations of such city or town contained in the charter of such city or town or in any general or special law, and notwithstanding any defects or irregularities in such proceedings, and without regard to the fact

that such bonds or other obligations may have been issued pursuant to the charter of such city or town or pursuant to any general or special law. Notwithstanding any provision in such proceedings that such bonds or other obligations shall be issued in manner and form satisfactory to the Reconstruction Finance Corporation, or that such bonds or other obligations shall be sold to the Reconstruction Finance Corporation, such bonds or other obligations may be sold to the United States of America, through the appropriate federal officer, agency or instrumentality in manner and form satisfactory to such officer, agency or instrumentality. The bonds or other obligations issued and sold prior to November 15, 1936, are the binding and legal obligations of the city or town issuing them in the actual form in which those bonds and obligations have been issued.

#### **SEWAGE CHARGE ON WATER USERS**

**224.510 Sewage charge on water users.** (1) Unless prohibited by its charter, a city may impose on the users of water a sewage charge which shall be billed and collected by the city. The proceeds of the sewage charge may be used for paying, in whole or in part, the cost of planning, constructing or operating a sewage disposal system.

(2) The sewage charge shall be established and the rate fixed by the city's governing body. [1957 c.400 §1]

## CITIES

<p style="text-align: center;"><b>225.290</b></p> <p>Vested and inchoate rights not affected by 1955 amendment, 536.580</p> <p style="text-align: center;"><b>225.300</b></p> <p>Application of water power project license laws to cities, 543.150</p> <p>Vested and inchoate rights not affected by 1955 amendment, 536.580</p> <p style="text-align: center;"><b>225.330</b></p> <p>Condemnation procedure, see Cross References under 225.020</p>	<p style="text-align: center;"><b>225.360</b></p> <p>City bonds generally, Ch. 287 City improvement financing, Ch. 223 Earnings of city water system pledged to bond payments, 287.354</p> <p style="text-align: center;"><b>225.370</b></p> <p>Procedure for sale of city bonds, 287.014 to 287.026</p> <p style="text-align: center;"><b>225.490</b></p> <p>ORS 287.014 to 287.026 applicable if bonds sold publicly, 287.028</p>
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# Chapter 225

## 1981 REPLACEMENT PART

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#### 225.230

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(3) Cities and other municipal corporations may also issue, sell and otherwise dispose of their bonds or other securities for the purposes of this section.

**225.070 Use of surplus city waters for federal military purposes.** The governing body of any city may contract with and permit the United States of America to use for military purposes within or without the boundaries of such city the surplus waters thereof and such use shall be deemed to be for municipal purposes.

**225.080 Financing costs of municipal water works or water system; benefit assessments.** (1) In order to finance the cost of installing any improvement for water works or water systems authorized by ORS 225.020, a city council may provide for and make a local assessment for benefits, for all or part of the cost of such construction, against any and all property whether within or without the city or partially within or partially without the city and enforce collection of such assessments. An assessment shall not be levied under this section against property located outside the city, however, unless the governing body of the county where such property is located, by resolution, approved the assessment of the property to be assessed.

(2) ORS 224.010 to 224.170, applying to assessments for construction of sewer systems, apply to assessments authorized by this section. [1971 c.269 §2]

### TELEPHONE SYSTEM

**225.110 Ownership and operation of telephone system within or without city limits.** When authorized by its charter or act of incorporation, a city may purchase, build, own, operate and/or maintain telephone or telegraph systems within or without its boundaries, for the benefit and use of its inhabitants at cost or for profit.

**225.120 Interconnections; cooperation with state.** For the purposes of ORS 225.110, a city may interconnect by agreement or otherwise with other public or private telephone systems and conduct both a local and long distance telephone business or it may cooperate with the state at any time that the state undertakes to handle the long distance telephone service for its cities, telephone districts or both.

**225.130 Right to acquire property.** For any of the purposes of ORS 225.110 and 225.120, a city may acquire rights of way, easements and real property within or without its boundaries.

**225.140 Condemnation of private property for telephone system.** Except as provided in ORS 225.150 and 225.160, in exercising the powers granted by ORS 225.110 to 225.130, a city may bring actions for condemnation or taking of any private property necessary for such public use, in the manner provided or permitted by law for private corporations, notwithstanding that the property may already be devoted to a public use.

**225.150 Compensation.** The city shall pay compensation by deposit in court of an order drawn on the city treasurer for the amount of compensation fixed by the court in the condemnation proceeding.

**225.160 Alternate condemnation proceeding.** In lieu of proceeding under ORS 225.140, a city may elect to proceed with condemnation in the manner provided by law for condemnation of land for highway or other purposes by this state.

### MUNICIPAL LIGHT AND POWER SYSTEM

**225.210 Compliance with rate regulations.** Each city which owns and operates an electric light and power system or which distributes electric energy for hire, shall charge such rates therefor as meet the requirements of ORS 225.220 to 225.300.

**225.220 Enforcement of statutory requirements.** (1) The requirements of ORS 225.210 to 225.300 shall be enforced and observed by that officer who by the charter is charged with the administration of any electric light and power plant or distributing system owned or operated by the city.

(2) As used in this section, "officer" includes board or other public authority of the city.

**225.230 Rates set in accordance with estimates of annual expenses.** (1) The officer referred to in ORS 225.220 shall annually before January 1, make a written estimate of the probable expense of maintaining and conducting the electric light plant or distributing system during the next ensuing year, including the cost of any contemplated altera-

## **MUNICIPAL OWNERSHIP AND OPERATION OF PUBLIC UTILITIES GENERALLY**

**225.010 Definition.** As used in this chapter, unless the context requires otherwise, "city" means any incorporated city or town.

**225.020 Authority of cities to acquire, own and operate utilities within and without city limits.** (1) When the power to do so is conferred by or contained in its charter or act of incorporation, any city may build, own, operate and maintain waterworks, water systems, railways and railroads, electric light and power plants, within and without its boundaries for the benefit and use of its inhabitants and for profit. To that end it may:

(a) Acquire water systems and use, sell and dispose of its water for domestic, recreational, industrial, and public use and for irrigation and other purposes within and without its boundaries.

(b) Build, acquire, own and operate railways operated by steam, electric or other power within and without its boundaries and running from such city to other towns, cities and points without its boundaries.

(c) Acquire right of way, easements or real property within and without its boundaries for any such purpose.

(2) In exercising such powers, any city may bring actions for the condemnation or taking of private property for public use in the same manner as private corporations are now authorized or permitted by law to do. [Amended by 1967 c.306 §1]

**225.030 Utility may provide services outside city limits.** Any city owning, controlling or operating a system of waterworks or electric light and power system for supplying water or electricity for its inhabitants and for general municipal purposes, and any person, persons, or corporation controlling or operating any water system or electric light and power system under contract, lease or private ownership, may sell, supply and dispose of water or electricity from such system to any person, persons, or corporation within or without the limits of the city in which the water or electric light and power system is operated, and may make contracts in reference to the sale and disposal of water or electricity from such system, for use within or without the corporate limits.

**225.040 Validation of prior municipal contracts.** All contracts or agreements made prior to May 20, 1911, and in effect as of that date, for sale and disposal of water or electricity by any city, person, persons or corporation operating, controlling or owning water or electric light and power systems, to any person, persons or corporations within or without the limits of the city in which the system is operated, are ratified and declared legal and valid contracts in so far as the right of the city to contract with reference to same is concerned.

**225.050 Joint acquisition, ownership and operation of waterworks; joint financing.** (1) Any or all cities may construct, own or operate jointly, in such proportion as they may agree, waterworks and water pipe lines, water rights and water.

(2) For the purposes of subsection (1) of this section, the cities may:

(a) Purchase, own, hold, appropriate and condemn land, rights of way, water or water rights in their own names or in the name of a joint or other commission or agency.

(b) Purchase one from the other or others waterworks, water pipe lines, water rights or water or any interest therein or in either of them.

(c) Provide joint or other commissions or agencies for construction, operation or control of the matters listed in this section.

(d) Issue, sell or otherwise dispose of bonds or other securities of the city for the purpose of carrying out any of the provisions of this section.

**225.060 Joint ownership, operation and financing of municipal utilities with another state.** (1) Whenever authorized by their charter or incorporation law, cities and other municipal corporations may, either severally or in joint agreement, purchase, own, operate and maintain any works in an adjoining state necessary or pertinent to the furnishing of water supply or electric power, or both, for the benefit and use of their inhabitants and for profit, in so far as authorized and permitted by the laws of the adjoining state.

(2) For the purposes stated in subsection (1) of this section, and subject to its limitations, cities and other municipal corporations may purchase, own, appropriate and condemn land, rights of way, and water or water rights or both.

decree of a court of competent jurisdiction, be released and discharged from the filing. Proceedings in court for the determination of whether or not the filing by any city exceeds its reasonable present and future requirements may be instituted by the State of Oregon, by the Water Policy Review Board in the name of and for the State of Oregon, or by any other applicant for the right to use the waters involved. [Amended by 1955 c.707 §33]

### **IRRIGATION AND FIRE PROTECTION SYSTEM**

**225.310 Definitions for ORS 225.310 to 225.400.** As used in ORS 225.310 to 225.400, unless the context requires otherwise, "facilities" means a water supply for irrigation and for fire protection of property within the city together with a distribution system therefor, reservoirs, pumps, mains, stations, with all appurtenances necessary, useful or convenient for the treatment, storage and distribution of water supply.

**225.320 Ownership and operation of irrigation and fire protection facilities.** Any city may own, acquire, construct, equip, operate and maintain within or without its statutory or corporate limits, in whole or in part, facilities for irrigation and fire protection.

**225.330 Acquisition of property for the facilities.** (1) For the purposes of ORS 225.320, the city may acquire by gift, grant, purchase or condemnation necessary lands and rights of way within or without its statutory or corporate limits.

(2) For the purpose of acquiring property under subsection (1) of this section, the city may invoke and shall have the rights, powers and privileges granted public corporations by laws pertaining to this subject.

**225.340 Fixing of rates.** The city governing body may establish just and equitable rates or charges to be paid for the use of the irrigation and fire protection facilities by each person, firm or corporation whose premises are served thereby, or upon subsequent service thereto.

**225.350 Recovery and collection of service charges.** If the service charges established under ORS 225.340 are not paid when due, the amounts thereof, together with such penalties, interests and costs as may be provided by the city governing body, may be

recovered in an action at law, or may be certified to the tax assessor of the county in which the city is situated and be by him assessed against the premises serviced and shall thereupon be collected and paid over in the same manner as other taxes are certified, assessed, collected and paid over.

**225.360 Approval, issuance, payment of bonds.** For the purposes of ORS 225.320, the city governing body may, after referring the question of acquiring and constructing the facilities to a vote of the qualified electors of the city and after approval thereof by a majority of the electors, authorize the issuance of and cause to be issued bonds of the city for such purposes, either general obligation, limited obligation or self-liquidating in character, in a sum not more than the amount authorized at such election and subject to the provisions of ORS 225.370 and 225.380. Bonds so authorized and issued may provide for payment of both principal and interest thereon from service charges to be imposed by the city governing body for services to be extended and through employment and use of the irrigation and fire protection facilities. If service charges are imposed to be so paid, such portion thereof as may be deemed sufficient shall be set aside as a sinking fund for payment of interest on the bonds and the principal thereof at maturity.

**225.370 Character, maturities, sale price of bonds.** The city governing body may determine the maturities and tenor of bonds issued under ORS 225.360. However, such bonds shall be serial in character and in accordance with any provisions of law or charter. They shall be payable in not to exceed 30 years from the date of issuance thereof. They shall be sold at a price to net the city not less than the par value thereof with accrued interest, and shall bear interest at not to exceed six percent per annum.

**225.380 Application of debt limitations.** The amount of any self-liquidating bonds issued under ORS 225.360 shall not be within any limitation of indebtedness fixed by law or charter, but shall be in addition to the amount of the bonds within the limitation. However, the aggregate of the bonds, after deducting sinking funds applicable to payment of principal of the bonds, shall not exceed two and one-half percent of the latest true cash value of the issuing city. [Amended by 1967 c.293 §27; 1981 c. 804 §74]



tions, improvements, additions or extensions, together with the probable amount necessary for redemption of any unpaid warrants and the interest thereon, as well as the amount required for payment of interest and maturing principal on any outstanding bonds of the city issued for or in connection with any such electric light plant or distributing system.

(2) The officer shall thereupon ascertain and prescribe as near as can conveniently be done an electric current rate or rates for the ensuing year which will create a fund sufficient to meet all requirements in subsection (1) of this section.

(3) The officer may also include a further amount sufficient to create such fund, as in his judgment may be desirable or necessary to meet requirements of future contemplated additions, improvements or extensions to the plant or system.

**225.240 Exclusive authority to set rates.** The officer referred to in ORS 225.220 shall be the sole judge of what rates or charges shall be exacted for the electric current furnished for use of street lighting and other public purposes for the city.

**225.250 Application of earnings.** The earnings of the electric plant or distributing system shall be applied and used in payment of warrants and interest thereon issued in connection with operation of any such plant or system, and also in payment for alterations, improvements, additions or extensions and for redemption and retirement of outstanding bonds, together with interest thereon, and shall be expended only in connection with and for improving such plant or system and not for other municipal purposes, except as otherwise provided in ORS 225.270.

**225.260 Use of proceeds of bond issues.** The proceeds of bond issues issued after June 6, 1931, by authority of charter provisions of the city for the purpose of creating, acquiring, building, improving, enlarging, altering or repairing the plant or system referred to by ORS 225.210 shall be used exclusively for the purposes for which such bonds were authorized and issued.

**225.270 Use of surplus earnings.** When any city which owns or operates a municipal electric power plant or system or distributing system, has paid principal and interest to date on all indebtedness incurred in connection therewith, and has created and accumulated an adequate depreciation and

replacement reserve in the judgment of the officer having control of such plant or system, the city shall, for the purpose of reducing general property taxes within such city, pay to itself not less than three percent of the annual gross operating revenue of such plant or system.

**225.280 Warrants on future income; limitations; retirement.** (1) When authorized by the city charter, the officer referred to in ORS 225.220 as having charge of the electric plant or distributing system may execute its warrants upon the city treasurer, drawn against the funds created by and for the benefit of such plant or system in excess of the current cash on hand but not in an amount exceeding one-half of the estimated annual income for the next ensuing year, from such plant or system. The estimate of annual income shall be made by the officer referred to in ORS 225.220.

(2) Warrants so drawn in excess of the cash on hand in any such fund shall be stamped "Not Paid for Want of Funds" by the city treasurer, shall bear the legal interest from the date of such indorsement until the date of payment and shall be paid from the current receipts of the plant or system. The warrant indebtedness shall not be considered or construed to be within the charter limitations respecting any municipal debt.

(3) Warrants issued pursuant to this section shall be retired in the order of their presentation for indorsement "Not Paid for Want of Funds" as funds are available.

**225.290 Use of unappropriated state waters.** Any city which is authorized by its charter or by law to construct, acquire, maintain or operate an electric generating plant or distributing system may acquire in its own name the right to use the unappropriated waters of this state in accordance with laws of this state. [Amended by 1955 c.707 §32]

**225.300 Privilege of filing for use of state waters; limitations; determination of reasonable needs.** Any filing made by any city upon the unappropriated waters of this state for use in the future development of a hydroelectric plant by such city shall be reserved to such city and shall not be subject to appropriation by any other person, municipality or corporation unless it is judicially determined that the filing exceeds the reasonable present and future requirements of such city. In that event the surplus or excess may, by

its interest or share of the revenues derived from the common facilities and any additions or betterments thereto, in order to pay its respective share of the cost of the planning, financing, acquisition, construction and the initial fuel costs thereof. All moneys paid or property supplied by any such city for the

purpose of carrying out the powers conferred by ORS 225.450 to 225.490 are declared to be for a public purpose. [1967 c.603 §6; 1969 c.341 §1]

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**225.390 Preparation and examination of plans.** Before calling any election for the purposes set forth in ORS 225.360, the city governing body shall cause to be prepared plans, specifications and estimates of costs of any proposed facilities to be voted upon, which may be examined by any qualified elector of the city.

**225.400 Scope of municipal authority.** The authority given by ORS 225.310 to 225.390 shall be in addition to and not in derogation of any power existing in any city under any constitutional, statutory or charter provisions.

### MUNICIPAL OWNERSHIP OF THERMAL POWER FACILITIES

**225.450 Definitions for ORS 225.450 to 225.490.** As used in ORS 225.450 to 225.490, unless the context requires otherwise:

(1) "City" means a city organized under the law of California, Idaho, Montana, Nevada, Oregon or Washington and owning and operating an electric light and power system.

(2) "Common facilities" means any works and facilities necessary or incidental to the generation of electric power and energy by nuclear, geothermal, solar, wind or other means, and for the transmission thereof.

(3) "District" means a people's utility district organized under ORS chapter 261 or a similar public utility district organized under the law of California, Idaho, Montana, Nevada or Washington.

(4) "Electric cooperative" means a cooperative corporation organized under the law of California, Idaho, Oregon, Montana, Nevada or Washington and owning and operating an electric distribution system. [1967 c.603 §2; 1979 c.151 §1]

**225.460 Policy; construction.** (1) The Legislative Assembly finds and declares it to be in the public interest and for a public purpose that cities, districts, electric cooperatives, and electric utility companies described in ORS 225.470, participate as authorized in ORS 225.450 to 225.490 to:

(a) Achieve economies of scale in the generation of electricity; and

(b) Meet the future power needs of this state and its inhabitants.

(2) ORS 225.450 to 225.490 shall be construed liberally to effectuate the purposes set out in subsection (1) of this section. [1967 c.603 §3]

**225.470 Authority of city to acquire interest in thermal power facilities.** In addition to the powers otherwise conferred on cities of this state, such a city owning and operating an electric light and power system may plan, finance, construct, acquire, operate, own and maintain an undivided interest in common facilities within or without the state jointly with one or more other cities, with one or more districts, with one or more electric cooperatives or with one or more privately owned electric utility companies subject to regulation by the Public Utility Commissioner of Oregon or the equivalent officer or commission of California, Idaho, Montana, Nevada or Washington, or with any combination of such cities, districts, electric cooperatives or companies in this or such other states, and may make such plans and enter into such contracts and agreements as are necessary or appropriate for such joint planning, financing, construction, acquisition, operation, ownership or maintenance. [1967 c.603 §4; 1979 c.151 §2]

**225.480 City liability; application of moneys; use of power of eminent domain prohibited.** (1) In carrying out the powers granted in ORS 225.470, a city of this state shall be liable only for its own acts with regard to the planning, financing, construction, acquisition, operation, ownership or maintenance of common facilities. No moneys or other contributions supplied by a city of this state for the planning, financing, construction, acquisition, operation or maintenance of common facilities shall be credited or applied otherwise to the account of any other participant in the common facilities.

(2) A city shall not exercise its power of eminent domain to acquire a then existing thermal power plant or any part thereof. [1967 c.603 §5]

**225.490 Use of municipal money or property; revenue bonds.** Any city of this state participating in common facilities under ORS 225.450 to 225.490 may furnish money and provide property, both real and personal, and to the extent and in the manner provided by its charter issue and notwithstanding any other provision of law, sell, either at public or privately negotiated sale, revenue bonds pledging revenues of its electric system and

## PUBLIC HEALTH AND SAFETY

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# Chapter 450

## 1981 REPLACEMENT PART

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ber shall be four years, and until his successor is elected and qualified.

(3) Vacancy in the membership of the board shall occur by reason of the occurrence of any event listed in ORS 236.010 or, unless excused, by failure to attend three successive regular board meetings. [Amended by 1955 c.442 §7; 1967 c.439 §1; 1969 c.563 §§11, 29; 1969 c.669 §9; 1975 c.647 §35]

450.057 [1961 c.438 §2; 1967 c.609 §9; repealed by 1971 c.647 §149]

**450.060 Nomination and election of directors.** (1) An election shall be held in the district, on the date fixed by ORS 255.335, to elect a successor to the office of each board member whose term expires.

(2) If one board member is to be elected, the candidate receiving the highest vote shall be elected. If two board members are to be elected, the candidates receiving the first and second highest vote shall be elected.

(3) Each officer elected shall take office on the first day of July following his election. [Amended by 1955 c.442 §8; 1967 c.137 §2; 1971 c.647 §84; 1973 c.796 §63; 1975 c.647 §37]

**450.062 Increase of board membership from three to five members.** (1) A district having a three member board may vote to increase the number of members on the board to five at the annual election referred to in ORS 450.060. The question of increased membership shall be placed on the ballot when a petition, signed by 10 registered voters in the district, is filed with the secretary of the board requesting that the voters of the district be permitted to vote on the question. The board shall be increased to five members if, and only if, a majority of the votes cast on the question of increasing the number of board members favors the increase.

(2) At the same election at which the question of increasing the board from three to five members is voted upon, the voters shall vote for three board members. The terms of board members elected shall commence, as provided in ORS 450.060. If a majority of the votes cast on the question of increasing the number of members on the board favors the increase, the qualified nominees or write-in candidates receiving the first and second highest vote shall be elected for a period of three years and the qualified nominee or write-in candidate receiving the third highest vote shall be elected for a term of two years. If less than a majority of the votes cast on the

question of increasing the number of members on the board favors the increase, only the qualified nominee or write-in candidate receiving the highest number of votes shall be elected. [1955 c.442 §5; 1971 c.647 §85]

**450.065 Election of president; appointment, duties and compensation of secretary.** (1) At its first regular meeting each year, or as soon thereafter as practicable, the board shall choose one of its members as president and appoint a secretary.

(2) The secretary shall receive such compensation as is fixed by the order of the board.

(3) The secretary shall perform all duties required by the board and those prescribed in ORS 450.005 to 450.245.

(4) Within 30 days following the entry of the order establishing a district, the secretary of the district shall file a written report with the Environmental Quality Commission, stating the name of the district, the date of its formation and the names and addresses of the board members, and shall furnish with his report a map showing the district boundaries. [Amended by 1957 c.671 §1; 1969 c.345 §9; 1971 c.727 §121]

**450.070 Meetings of board.** (1) The board shall hold such meetings either in the day or evening, as may be convenient, but must hold one regular monthly meeting at a stated time and public place, at which, so far as practicable, district business shall be conducted.

(2) In case of the absence or inability of the president or secretary to act, the board may, by order entered in its minutes, choose a president pro tempore, or secretary pro tempore, or both.

(3) Special meetings may be called by the president or two members of the board by giving notice of time and place of the meeting six hours in advance.

#### (Powers)

**450.075 Powers of sanitary district.** Every sanitary district may:

(1) Have and use a common seal.

(2) Sue and be sued by its name.

(3) Acquire, construct, reconstruct, alter, enlarge, renew, replace, operate and maintain such sewage collection and disposal systems as in the judgment of the board are necessary and proper for the area of the district. In the

**SANITARY DISTRICTS  
GENERALLY**

**450.005 Definitions for ORS 450.005 to 450.245.** As used in ORS 450.005 to 450.245, unless the context requires otherwise:

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

(2) "County board" means the county court or board of county commissioners of the county.

(3) "County" means the county in which the district, or the greater portion of the taxable assessed value of the district or proposed district, is located.

(4) "District" means a sanitary district formed in one or more counties and outside the corporate limits of any city pursuant to ORS 450.005 to 450.245 or pursuant to any law which those sections supersede.

(5) "Owner" means the holder of the record title to real property or the vendee under a land sale contract, if there is such a contract.

(6) "Secretary" means the secretary of the district.

(7) "Treasurer" means the treasurer of the county.

(8) "Voter" means a registered voter of the state who resides in the district or proposed district. [Amended by 1969 c.563 §1]

**(Formation)**

**450.009 Formation purposes; petition.** Sanitary districts may be formed for the purpose of providing sanitation facilities and services. In addition to the other matters, a petition for formation of a sanitary district shall state the number of members, three or five, on the district board. [1955 c.442 §2 (enacted in lieu of 450.010); 1969 c.563 §2; 1971 c.727 §119; 1975 c.647 §36]

**450.010** [Repealed by 1955 c.442 §1 (450.009 enacted in lieu of 450.010)]

**450.015** [Amended by 1969 c.563 §3; repealed by 1971 c.727 §203]

**450.017** [1955 c.442 §4; 1969 c.563 §4; repealed by 1971 c.647 §149 and by 1971 c.727 §203]

**450.020** [Amended by 1955 c.111 §1; 1969 c.563 §5; repealed by 1971 c.727 §203]

**450.025** [Amended by 1969 c.563 §6; repealed by 1971 c.727 §203]

**450.030** [Amended by 1969 c.563 §7; repealed by 1971 c.727 §203]

**450.035** [Repealed by 1971 c.647 §149]

**450.040** [Amended by 1961 c.438 §3; repealed by 1971 c.647 §149]

**450.045 Board; powers; nomination; qualification; terms; election.** (1) The power and authority given a sanitary district, except as otherwise provided, shall be exercised by a board of three or five members, according to the number set forth in the petition for formation.

(2) To be qualified to be a member of the board, a person must be a registered voter and freeholder within the area of the district.

(3) If a three-member board is to be elected:

(a) The candidate receiving the highest or the second highest vote shall be elected for a term of four years.

(b) The candidate receiving the third highest vote shall be elected for a term of two years.

(4) If a five-member board is to be elected:

(a) The candidate receiving the first, second or third highest vote shall be elected for a term of four years.

(b) The candidate receiving the fourth or fifth highest vote shall be elected for a term of two years.

(5) The terms of office of the first directors shall expire in two or four years from the first day of July next succeeding their election. [Amended by 1955 c.442 §6; 1971 c.647 §83; 1971 c.727 §§120, 195; 1973 c.796 §62; 1975 c.647 §34]

**450.050** [Amended by 1969 c.563 §8; repealed by 1971 c.727 §203]

**450.052** [1955 c.107 §1; 1969 c.563 §9; repealed by 1971 c.727 §203]

**450.054** [1955 c.594 §2; 1969 c.563 §10; repealed by 1971 c.727 §203]

**(Officers and Elections)**

**450.055 Board officers; term; vacancy.** (1) The officers of the district shall be the district board, consisting of three or five members, and a secretary appointed by the board.

(2) Except as to those members of the board who are elected on formation and those members who are elected at an election when the number of board members is increased to five, the term of office of each elective mem-



transact business as an insurance company or hospital association in this state.

(4) Expenses incurred by a district in establishing programs or providing benefits authorized by ORS 450.082 and this section are expenses for which a district may levy taxes as provided by ORS 450.170. [1967 c.439 §§3, 5]

**450.085 Adoption of regulations and ordinances.** Any general regulation or ordinance of a district board shall be adopted in accordance with ORS 198.510 to 198.600. Orders not establishing a general regulation need not be posted or published. [Amended by 1971 c.268 §16]

#### (District Finances)

**450.090 County treasurer's duties in regard to district funds; other deposits.** (1) The county treasurer shall be custodian of all sanitary district funds and shall pay out moneys of the district only upon written order of the board, signed by the president and countersigned by the secretary.

(2) The order shall specify the name of the person to whom the money is to be paid, the fund from which it is to be paid, and shall state generally the purpose for which payment is to be made.

(3) The order shall be entered in the minutes of the board. The county treasurer shall keep the order as his voucher and shall keep account of his receipts and disbursements of money for the sanitary district.

(4) Notwithstanding the provisions of subsections (1) to (3) of this section, any funds of the district other than taxes may be deposited, at the discretion of the board, in one or more banks or savings and loan associations to be designated by the board. Funds deposited in a bank or savings and loan association shall be withdrawn or paid out only upon proper order and warrant or check signed by the president and countersigned by the secretary. [Amended by 1977 c.318 §1]

**450.095 Bond election.** (1) At any time after the district is organized, the board, by order entered in its minutes, may, when in its judgment it is advisable, and must, upon a petition of 15 percent of the registered voters residing in the district, call an election and submit to the voters of the district the question whether bonds of the district, either general obligation, revenue or a combination of

both, shall be issued and sold to raise money for the purposes set forth in ORS 450.075 (3).

(2) The order calling a bond election shall be approved by not less than a majority of the members of the board. The board may submit to the voters as one proposal the question of issuing bonds to make all outlays, or so many of them as may be selected. Or the board may submit as separate questions the issuance of bonds for any of the outlays singly or in such combinations as the order calling the election may direct.

(3) However, when an election is called pursuant to a petition of registered voters, the proposal must conform with the proposal of the petition, if within the powers of the district.

(4) If a majority of the votes cast at a bond election is in favor of the issuance of bonds, the board may issue and dispose of the bonds proposed in the order calling the election. [Amended by 1957 c.671 §2; 1969 c.563 §13]

**450.100** [Repealed by 1971 c.647 §149]

**450.105** [Amended by 1961 c.438 §4; repealed by 1971 c.647 §149]

**450.110 District bonds; denomination; interest.** (1) General obligation or revenue bonds shall be of such denominations as the board determines, except that no bonds shall be of a denomination greater than \$5,000.

(2) All bonds shall be payable in lawful money of the United States at the office of the county treasurer, and shall bear interest at a rate determined by the board, payable semiannually. [Amended by 1969 c.563 §14; 1981 c.94 §37]

**450.115 Use of proceeds of bond sale.** The proceeds of the sale of bonds shall be deposited with the county treasurer and shall be by him placed in the sanitary district fund called the Sewer Construction Fund of \_\_\_\_\_ (naming it) Sanitary District. The money in the fund shall be used for the purpose indicated in the order calling for election upon the question of the issuance of the bonds, and for no other purpose. However, if those purposes are entirely fulfilled, any balance remaining in the fund shall be used for payment of the principal and interest of the bonds.

**450.120 Debt limitations.** The total outstanding district bonds of all types, including improvement bonds of the kind authorized by ORS 223.205 and 223.210 to 223.295, shall

performance of these functions, either in or out of the district, it may join with any county, city or other district or governmental agency in the joint establishment, maintenance and operation of such works, and may contract therefor within the limits of authority conferred by ORS 450.005 to 450.245.

(4) Permit the use, by lease or otherwise, of any property of the district by any other district, city or other governmental agency.

(5) Acquire by purchase, gift, devise, condemnation proceedings or otherwise, such real and personal property and rights of way, either within or without the limits of the district, as in the judgment of the board are necessary or proper to the exercise of its powers, and to pay for and hold the same.

(6) Make and accept contracts, deeds, releases and documents that, in the judgment of the board, are necessary or proper in the exercise of any of the powers of the district.

(7) Issue bonds as provided in ORS 450.095 to 450.125.

(8) Determine the rate of levy of taxes in the district, and fix sewer rentals, charges and assessments as provided in ORS 450.130 to 450.175.

(9) Employ and pay necessary agents, employees and assistants.

(10) Lay its sewers and drains in any public street or road in the county, and for this purpose enter upon it and make all necessary and proper excavations, restoring it to its proper condition. However, the consent of the proper city, county or state authorities, as the case may be, shall first be obtained and the conditions of such consent complied with.

(11) Maintain and operate disposal sites and solid waste collection and disposal systems in compliance with ORS 459.005 to 459.285 and 459.992 (1), (2) and (3).

(12) Call and conduct all necessary or proper elections.

(13) Compel all residents and property owners in the district to connect their houses and structures requiring sewage or drainage disposal with adjacent street sewers, drains or other sewage disposal system of the district.

(14) Do any act necessary or proper to the complete exercise and effect of any of its powers or for the purposes for which it was formed.

(15) Make and enforce all necessary and proper regulations for:

(a) The cleanliness of roads and streets of the district.

(b) All other sanitary purposes not in conflict with the laws of this state.

(16) Make and enforce necessary and proper regulations governing the storage, collection, transportation and disposal of solid wastes where such regulations are supplemental to the requirements of the Environmental Quality Commission adopted pursuant to ORS 459.045 and are necessary to meet special local conditions. [Amended by 1967 c.428 §13; 1969 c.563 §12; 1969 c.593 §38; 1971 c.36 §6; 1971 c.647 §86; 1971 c.648 §25]

**450.080 Signatures on contracts and other documents.** All contracts, deeds, warrants, releases, receipts and documents shall be signed in the name of the district by its president and countersigned by its secretary.

**450.082 District may contract for employee health care services or insurance.** (1) The district board may enter into contracts for medical or any other remedial care recognized under state law and hospital services or insurance covering employees of the district for remedial care and hospital benefits. Failure to obtain insurance or service contracts shall not be construed as negligence or lack of diligence on the part of the board or the members thereof.

(2) As used in this section "remedial care" includes services rendered by a person licensed to practice one or more of the healing arts within the scope of his license. [1967 c.439 §4]

**450.084 Payment for services or insurance by district.** (1) The district may agree to pay none, part or all of the premiums or charges on insurance or service contracts, and it may collect from the salary of any employee covered by the contract the percentage of the premiums or charges the employee is required to provide pursuant to the contract. Contributions for premiums or charges by employees shall be only on a voluntary basis.

(2) The board may negotiate more than one contract with one or more companies or associations if necessary to obtain optimum coverage at minimum cost.

(3) No premium or other periodic charge on any insurance or service contract shall be paid unless the insurer or hospital association issuing such policy or contract is authorized to

(3) If two-thirds of the owners of the property directly benefited by the proposed improvements do not file written remonstrances against the improvement, the board may proceed with the making of the improvement.

**450.155 Instalment payment of improvement costs; assessment of public property benefited; issuance of improvement warrants and bonds.** If the cost, or any portion of the cost, of sewers, drains or sewage treatment plants is assessed against the property directly benefited, the provisions of ORS 223.205 and 223.210 to 223.295, in regard to the payment of assessments in instalments, the provisions of ORS 223.770, relating to the assessment of public property benefited by public improvements for the cost of such improvements, and the provisions of ORS 287.502 to 287.510, relating to the issuance of improvement warrants by cities, shall apply in so far as practicable and applicable in the district. Where, in ORS 223.205, 223.210 to 223.295, 223.770 and 287.502 to 287.510 officials of cities are referred to, the corresponding officials of sanitary districts where applicable shall perform the required functions. The district may issue improvement bonds in the total amount of the valid applications it received to pay assessments in instalments as provided in ORS 223.205 and 223.210 to 223.295. [Amended by 1953 c.649 §2; 1955 c.19 §1]

**450.160 Collection and enforcement of delinquent liens; reassessment.** (1) In case the whole or any portion of the cost of sewers, drains or sewage treatment plants is assessed against the property directly benefited and the owner of the property fails to pay the amount of the lien, or any portion thereof, or the interest thereon, when they become due, the board may proceed to foreclose the lien in any manner provided by law for the collection of liens by municipalities and may provide by ordinance a general procedure for the collection of liens in any manner not inconsistent with law.

(2) The provisions of ORS 223.405 to 223.485 relating to reassessment shall be available to sanitary districts where applicable.

**450.165 Preparation and approval of plans for drains and sewer installations.**

(1) Whenever the board deems it expedient or necessary to cause to be constructed sewers,

drains or sewage treatment plants, the cost of which, in whole or in part, is to be paid either by the proceeds of the sale of bonds by the district or assessed against the property directly benefited or by both methods in proportion, the board shall retain a registered professional engineer to prepare plans and specifications for the sewers, drains or sewage treatment plants, which plans and specifications shall be filed in the office of the secretary of the district.

(2) The district board may, however, adopt any plans and specifications they see fit, provided the plans have been prepared by a registered professional engineer and have been approved by the Health Division and the Environmental Quality Commission.

**450.170 Levy of taxes.** (1) Assessment and collection of property taxes within the district shall be made by the county officers charged with assessment and collection of other property taxes in the county in which the property lies.

(2) The district board shall fix the amount of money to be raised by taxation for district purposes and for the payment of the principal and interest of outstanding indebtedness of the district which will become due during the year.

(3) The district board shall, in the manner and time prescribed by law, transmit to the county assessor a statement of such taxes. If the board fails to levy a direct ad valorem tax sufficient to pay the interest on and the maturing principal of all outstanding general obligation bonds, the county board of any county in which any portion of the district is included shall levy such tax which shall be extended and collected the same as all other sanitary district taxes. [Amended by 1969 c.563 §16]

**450.175 Collection of taxes.** (1) Taxes levied under ORS 450.170 shall be collected at the same time and in the same manner as county taxes are collected, and when collected shall be paid to the county treasurer for the account of the district.

(2) The taxes shall be a lien upon the property against which they are levied in the sanitary district and shall be of the same force and effect as other liens for taxes. Their collection shall be enforced by the same means as provided for the enforcement of liens for state and county taxes.

at no time exceed in the aggregate 13 percent of the true cash value of all taxable property within the district, computed in accordance with ORS 308.207. [Amended by 1955 c.612 §1; 1963 c.9 §27]

**450.125 When voter approval is required to issue bonds.** (1) The district may, when authorized by the voters of the district at any general or special election, issue general obligation or revenue bonds for any of the purposes set forth in ORS 450.075 (3).

(2) All general obligation and revenue bonds shall be paid within a period of 30 years and in annual instalments of such amounts as will make the combined amount of principal and interest payable each year as nearly equal as practicable during the years of payment.

(3) Improvement bonds may be issued in the manner provided by ORS 223.205 and 223.210 to 223.295 without submitting the question of their issuance to the voters of the district. [Amended by 1955 c.612 §2; 1969 c.563 §15]

**450.130 Sewer service charges; collection and enforcement.** (1) The sanitary board may enact ordinances levying sewer service charges within the district, for the purpose of financing the construction, operation and maintenance of the sewage collection and disposal system.

(2) The board may contract with any city or district serving water in such area to collect such service charges with the water bills, and the serving agency may cut off water for nonpayment of such service charges. The board may pay the water serving agency for the reasonable cost of such collection services.

(3) Service charges may also be collected and enforced as provided in ORS 454.225. [Amended by 1975 c.247 §1]

**450.135 Ordinance declaring method of payment.** (1) For the purposes specified in ORS 450.075 (3), a district may declare by ordinance before doing the same that the cost, or any portion thereof, shall be assessed against the property directly benefited. Or it may provide in the ordinance that the cost shall be paid partly by assessment against the property directly benefited and partly out of the general funds of or sewer service charges collected by the district.

(2) The determination of the board as expressed in the ordinance as to the proportion of the cost shall be based upon an exercise of the board's sound discretion.

**450.140 Assessment ordinance.** If any of the cost of sewers, drains or sewage treatment plants is assessed against the property directly benefited thereby, the board shall, before attempting to make the improvement or assessment, adopt a general ordinance providing for the method of assessment. The ordinance shall:

(1) Contain provision for notice to property owners of intention to make the assessment and improvement.

(2) Provide that notice shall be not less than 20 days before action is taken thereon.

(3) Provide an opportunity for property owners to appear before the board for the purpose of remonstrating against assessments.

(4) Provide for the general method of assessing the property directly benefited and of the recording of liens against the property directly benefited, and of making supplementary assessments and rebates.

**450.145 Entry of assessments in lien docket; lien docket as public record.** (1) When assessments are made they shall be entered into a permanent lien docket which shall be kept in the office of the district and wherein shall be shown the amount of each lien, property against which it has been assessed, the owner thereof and such additional information as is required to keep a permanent and complete record of the lien and the payments thereon.

(2) The lien docket shall be a public record kept by the secretary and shall be open to inspection during all business hours established by the district.

**450.150 Hearing of objections to proposed improvements.** (1) The board shall appoint a time for the hearing of remonstrances or objections against any proposed improvement regardless of the method of payment. At the time appointed all objectors or remonstrators shall have the right to be heard.

(2) If two-thirds or more of the owners of the property directly benefited, which is liable for any of the cost of the sewers, drains or sewage disposal plants, file written remonstrances objecting to the proposed improvement, the board shall sustain the remonstrances, and no further proceedings in the matter of proposed improvements shall be had for a period of six months.

filing of resolution. (1) At the elections if a majority of the votes cast in each affected district is in favor of merger or consolidation, the board of the district having the highest assessed valuation for taxation purposes shall call a joint meeting of the boards of the affected districts. The meeting shall be held at a time and place designated by the board calling the meeting, not later than 10 days after the canvass of the vote in the district last canvassed. The secretary of the board calling the meeting shall give notice by certified mail of the time and place of the meeting to each member of the boards of the affected districts.

(2) At the joint meeting, a majority of the members of the board of each affected district constitute a quorum for the transaction of business. The board members so assembled shall from among the members elect five persons to serve as board members of the surviving or successor district until the next general election. The board so elected shall immediately meet and organize as provided by ORS 450.065 and shall by resolution declare the districts merged or consolidated, as the case may be. From the date of adoption of the resolution the merger or consolidation is complete. The board shall cause certified copies of the resolution to be filed with the Environmental Quality Commission and the county clerk and county assessor of each county in which the affected districts are located. [1971 c.532 §7]

**450.202 Election of board members for surviving or successor district; terms.** At the first regular election held in the surviving or successor district, five district board members shall be elected. The terms of office of the members elected shall be determined in the manner provided by ORS 450.045. [1971 c.532 §8]

#### (Annexation)

**450.205** [Amended by 1957 c.671 §3; 1969 c.563 §17; repealed by 1971 c.727 §203]

**450.207** [1957 c.671 §5; 1969 c.563 §18; repealed by 1971 c.727 §203]

**450.210** [Amended by 1957 c.671 §6; 1969 c.563 §19; repealed by 1971 c.727 §203]

**450.215 Plans for division and disposal of properties.** (1) If territory proposed to be annexed is within the limits of another sanitary district, the board of the district to which annexation is proposed and the board of such other district shall meet with each other

prior to the hearing on the annexation petition to agree upon a division and disposal of the properties of the other district that lie within the territory proposed to be annexed. An agreement between the boards is effective only in the event the proposed annexation is approved by the voters.

(2) The plan of division of properties provided for in subsection (1) of this section shall be arrived at by giving consideration to the assessed valuation of the other district as a whole, the assessed valuation of the territory to be annexed, the types of properties and their location and intended use. If a plan of division of properties is agreed upon, the plan shall be reduced to writing and, if the proposed annexation is approved by the voters, shall be binding upon the districts party to the plan and upon all other interested persons.

[Amended by 1957 c.671 §7; 1969 c.563 §20; 1971 c.727 §123]

**450.220** [Amended by 1957 c.671 §8; 1969 c.563 §21; repealed by 1971 c.727 §203]

**450.225 Effective date of annexation; disposition of properties in territory; liabilities and indebtedness of territory; filing of report.** (1) If the territory annexed to the district was, prior to the vote on the petition for annexation, within the limits of another sanitary district, the effective date of the annexation shall be the effective date of the withdrawal from the other district of the territory previously within its limits.

(2) Unless a plan for division of properties has been agreed upon as provided in ORS 450.215 (2), the district from which the territory has been withdrawn shall proceed to turn over to the district to which the territory has been annexed, its properties in the territory withdrawn. The provisions of ORS 222.560 shall govern the method and procedure by which such division of properties shall be made.

(3) Notwithstanding subsection (2) of this section, the district to which the territory was annexed may, in the sound discretion of its board, assume such obligations if the obligations do not bring the total of the district's obligation above any applicable limitations prescribed by law or otherwise. When the district assumes such obligations, it shall be liable to the other district, as provided by ORS 222.520 (2)(a) or (b), at the option of the annexing district. After the district agrees to make the payments referred to in this subsection, neither the annexing district nor the

**(Merger; Consolidation)**

**450.178 Merger; approval by voters required; status of surviving district.** (1) One district or more may merge with another district if the merger is approved by the voters as provided by ORS 450.186 to 450.202. The districts included in the merger shall be considered annexed by and absorbed into the surviving district.

(2) If the merger is approved, the district boards and officers of the merging districts shall turn over to the board of the surviving district all funds, property, contracts and records of the merging districts. Upon the effective date of the merger, the surviving district shall:

(a) Succeed to all the property, contracts, rights and powers of the merging districts, and shall constitute and be a regularly organized district as if originally organized in the manner provided by ORS 450.005 to 450.245;

(b) Uncollected taxes, assessments or charges levied by the merging districts shall become the property of the surviving district and upon collection shall be credited to the account of the surviving district; and

(c) Subject to any debt distribution plan adopted under ORS 450.190, the surviving district shall become liable for all the obligations, legal or contractual, of the merging districts. [1971 c.532 §2]

**450.182 Consolidation; approval by voters required; status of successor district.** (1) Two or more districts may consolidate and form a new district if the consolidation is approved by the voters as provided by ORS 450.186 to 450.202. The districts included in the consolidation shall be considered joined into a single new district.

(2) If the consolidation is approved, the district boards and officers of the consolidating districts shall turn over to the board of the successor district all funds, property, contracts and records of the consolidating districts. Upon the effective date of the consolidation, the successor district shall:

(a) Succeed to all the property, contracts, rights and powers of the consolidating districts, and shall constitute and be a regularly organized district as if originally organized in the manner provided by ORS 450.005 to 450.245;

(b) Uncollected taxes, assessments or charges levied by the consolidating districts

shall become the property of the successor district and upon collection shall be credited to the account of the successor district; and

(c) Subject to any debt distribution plan adopted under ORS 450.190, the successor district shall become liable for all the obligations, legal or contractual, of the consolidating districts. [1971 c.532 §3]

**450.186 Petitions; election.** (1) When the voters of two or more districts wish to merge or consolidate, they may initiate proceedings by filing duplicate petitions with the boards of the districts to be merged or consolidated, stating the names of the affected districts, and the name of the surviving or successor district. Merger or consolidation may also be initiated by resolution adopted or approved by two or more district boards. The resolution shall contain all the matters required to be stated in a petition to merge or to consolidate.

(2) When proceedings have been initiated, the board of each affected district shall call an election in its district at which there shall be submitted to the voters of the districts the question:

(a) In a merger, of whether the districts shall merge, stating the name by which the surviving district shall be known.

(b) In a consolidation, of whether the districts shall consolidate, stating the name of the successor district. [1971 c.532 §4]

**450.190 Debt distribution plans; levy of taxes and assessments to liquidate prior existing indebtedness.** (1) A petition for merger or consolidation may include a debt distribution plan to be voted upon as a part of the proposal. Such plan may provide for any distribution of indebtedness and may require that merging or consolidating districts remain solely liable for all or any portion of any indebtedness outstanding at the time of the merger or consolidation.

(2) If the merger or consolidation is approved, the district board of the successor or surviving district shall, in accordance with the plan, levy taxes and assessments for the liquidation of any prior existing indebtedness. Such a levy shall be subject to ORS 450.005 to 450.245. [1971 c.532 §5]

450.194 [1971 c.532 §6; repealed by 1975 c.647 §53]

**450.198 Meeting of boards of affected districts; notice; quorum; election of board for surviving or successor district;**

are sold publicly upon competitive bids. [1955 c.577 §4; 1981 c.94 §38]

**450.270 Powers of State Treasurer in connection with ORS 450.250 to 450.300.**

(1) The State Treasurer shall be the sole judge as to whether state funds shall be invested in the bonds of a district and as to which undertakings shall first be financed. The decision of the State Treasurer on the subject of investment and priority shall be final.

(2) The State Treasurer may enlist the technical services of any state officer or department in a study of the feasibility and cost of the sewerage project. The State Treasurer further may employ licensed engineers, at the cost of the district, to make such a study for the district and for the State Treasurer.

(3) The State Treasurer, in his discretion, may purchase with moneys from the revolving fund provided by ORS 450.250 to 450.300, general obligation sewerage system bonds of any district, issued under authority of ORS 450.250 to 450.300. If the State Treasurer deems it expedient in the acquisition and construction of a sewerage system for a district to furnish sewerage service for territory that is contiguous to or outside the boundaries of the district, the State Treasurer may authorize the district to furnish such service and to construct part of its system outside its boundaries for such purpose.

(4) The State Treasurer may authorize districts to issue sewerage system bonds with the right reserved to them to redeem bonds at par value and accrued interest prior to the final maturity dates of the bonds.

(5) The State Treasurer, in his discretion, may authorize deferment of payment of interest upon the sewerage bonds of the district for a period not exceeding three years, and may provide for the issuance of such bonds with graduated rates of interest.

(6) The State Treasurer may specify the procedure to be followed by a district in availing itself of the provisions of ORS 450.250 to 450.300. [1955 c.577 §5]

**450.275 State Treasurer approval of other bond issues by a district whose bonds are owned by state.** So long as any of the sewerage bonds of the district are owned by the state, the district shall not issue other bonds of any character without prior written approval of the State Treasurer. [1955 c.577 §6]

**450.280 Circumstances and conditions under which State Treasurer may purchase sewerage system bonds.** (1) The State Treasurer may purchase from a district at private sale sewerage system bonds bearing interest at a rate agreed upon by the State Treasurer and the district. The bonds shall qualify for investment by the state only if the sewer connection charges and revenues of the sewerage system of the issuing district, after the payment of operation and maintenance expenses, are pledged wholly to the payment of the principal of and interest upon the bonds, and the issuing district shall covenant to levy ad valorem taxes upon all of the taxable property within its boundaries to meet deficiencies in the charges and revenues pledged, and only if the combined indebtedness for all public purposes, other than state or federal, within the boundaries of the district, including the proposed sewerage system indebtedness, but excluding obligations issued for other utilities that are self-supporting or self-liquidating or are approximately so, does not exceed 25 percent of the total true cash value of all taxable property within the district as reflected in the assessment roll last equalized. The limitation shall apply only to districts that finance the costs of their sewerage systems under ORS 450.250 to 450.300. The limitation shall include the ratios of indebtedness to the total valuation, determined in like manner, of other subdivisions that overlap the district to an extent of more than 50 percent of the total value of the district. Indebtedness within the 25 percent limitation may be incurred by a district if approved by the voters of the district at an election called and held for that purpose. Notwithstanding that revenues may have been pledged to the payment of the principal of and the interest upon a particular issue of general obligation bonds owned by the state, the same revenues, with the approval of the State Treasurer, may be pledged to the payment of the principal of and the interest on additional issues of bonds purchased by the state from the district. The additional issues shall be on a parity with previous issues as to the pledge of charges and revenues. In order to complete the financing of a sewerage system, after bonds payable as to principal and interest from revenues and ad valorem taxation have been issued, the State Treasurer may purchase issues of general obligation sewerage system bonds of districts, payable only from ad valorem property taxes, provided such issues, together with other obligations of

annexed territory shall be charged by the other district with any future liabilities, obligations or functions of the other district.

(4) Within 30 days after the effective date of the county board's order of annexation, the secretary of the annexing district shall file a written report with the Environmental Quality Commission, stating the name of the district and the date of the county board's order of annexation, and shall furnish with his report a map of the district boundaries as they are after the annexation. [Amended by 1957 c.671 §10; 1969 c.563 §22; 1971 c.727 §124]

**450.227** [1957 c.112 §§2, 3, 4; 1967 c.137 §1; 1969 c.563 §23; repealed by 1971 c.727 §203]

**450.228** [1957 c.671 §9; 1969 c.563 §24; repealed by 1971 c.727 §203]

**450.230** [Amended by 1957 c.671 §11; 1969 c.563 §25; repealed by 1971 c.727 §203]

**450.235** [Amended by 1969 c.563 §26; repealed by 1971 c.727 §203]

**450.237** [1961 c.679 §§2, 3; repealed by 1971 c.727 §203]

**450.239** [1961 c.679 §§4, 5; 1969 c.563 §27; repealed by 1971 c.727 §203]

**450.240** [Repealed by 1957 c.401 §6]

**450.242** [1961 c.679 §§6, 7, 8; 1969 c.563 §28; repealed by 1971 c.727 §203]

#### (Miscellaneous)

**450.245 Application of ORS 450.005 to 450.245 to districts organized under former laws; savings clause.** (1) Sanitary districts organized under chapter 385, Oregon Laws 1935, which were exercising the functions of sanitary districts on July 16, 1949, are vested with all rights, powers and obligations prescribed in ORS 450.005 to 450.245 and, after July 16, 1949, shall conduct their business in accordance with and be subject to those sections.

(2) No right or obligation incurred by the formation of a sanitary district pursuant to the provisions of chapter 385, Oregon Laws 1935, as amended by chapter 402, Oregon Laws 1941, is affected by the repeal of those provisions.

#### (Districts with Valuation Less Than \$250,000)

**450.250 Definitions for ORS 450.250 to 450.300.** (1) "District" means a sanitary district duly organized under the provisions of ORS 450.005 to 450.245, having an assessed valuation of not more than \$250,000.

(2) "Sewerage system" means complete or primary sewage treatment and disposal facilities, sewer mains, pumping stations, and all equipment and appurtenances necessary, useful or convenient for the treatment or disposal of sewage, or any portion of such a system, whether within or without the boundaries of a district. [1955 c.577 §1; 1959 c.157 §9]

**450.255 Districts eligible for state help in financing sewerage systems.** Districts that have been certified by the Environmental Quality Commission as being in need of sewerage systems may apply to the State Treasurer for the financing of such costs under authority of ORS 450.250 to 450.300. The Environmental Quality Commission shall certify to the State Treasurer, in writing, a list of the districts that are in dire need of sewerage and sanitation facilities. [1955 c.577 §2; 1959 c.574 §1]

**450.260 Conditions precedent to financing application.** A district shall not apply to the State Treasurer for financing under ORS 450.250 to 450.300 unless:

(1) It submits to the State Treasurer plans and specifications prepared by competent licensed engineers setting forth the type or character of sewer system or sewerage facilities proposed for the particular district and the estimated cost of the system and of the appurtenances thereto.

(2) It submits to the State Treasurer the proposed plan of the district for liquidation of indebtedness to be incurred for financing the cost of such system or facilities. [1955 c.577 §3]

**450.265 Bonds issued by district pursuant to ORS 450.250 to 450.300 are subject to State Treasurer control; refunding bonds issuable.** The bonds issued by districts pursuant to ORS 450.250 to 450.300 shall bear such dates, be in such form, run for such periods of time, bear such rates of interest, and be sold by the districts at such prices as the State Treasurer may determine. Refunding bonds of like obligation may be issued to replace outstanding bonds, provided the refunding bonds



the district, do not exceed the debt limits specified in this section.

(2) All bonds heretofore issued under authority of ORS 450.250 to 450.300 and sold to the state, and the proceedings under which they were issued, are approved, validated, ratified, and confirmed, and the bonds are the valid and legally binding general obligations of the issuing district. [1955 c.577 §7; 1957 c.121 §1; 1959 c.574 §2; 1971 c.647 §91; 1981 c.94 §39; 1981 c.804 §101]

**450.285 State Sanitary District Sewer Bond Fund.** There hereby is created in the State Treasury a fund, separate and apart from the General Fund, to be known as "State Sanitary District Sewer Bond Fund," for investment under authority of ORS 450.250 to 450.300, and for payment of costs of the State Treasurer in connection therewith for which purposes such fund hereby is appropriated. The State Treasurer may engage such assistance and incur such expenses to carry out the purposes of ORS 450.250 to 450.300 as may be necessary. The earnings of the fund shall accrue to the General Fund, and the amounts received in payment of the principal of investments thereof shall be credited to the General Fund, to be available for the payment of general governmental expenses. [1955 c.577 §8; 1957 c.702 §1; 1957 s.s. c.14 §1; 1963 c.341 §4]

**450.290 Provisions concerning liquidation of indebtedness incurred by district financing a sewerage system under ORS 450.250 to 450.300.** (1) Each district financing the cost of a sewerage system under authority of ORS 450.250 to 450.300 shall submit to the State Treasurer for approval, a schedule of its rates and sewer connection charges, and proposed method of collection thereof. The rates and charges shall be such as, in the judgment of the State Treasurer, are sufficient to pay the operation and maintenance costs of the system and to liquidate, during the period approved by the State Treasurer, the indebtedness incurred by the district in the construction of the system. The State Treasurer may further require as part of his agreement to purchase the bonds of the district, that the district levy and collect assessments in the manner provided by ORS 450.005 to 450.245, and that it pledge the receipts from such assessments, both principal and interest, to the payment of its bonds and the interest thereon. The district shall be fully authorized to levy and collect such assessments against properties within or without

the boundaries of the district, that will be benefited by the sewerage system of the district. Should the receipts of the district prove inadequate to pay such costs and such indebtedness, the State Treasurer may direct the district to increase its rates and charges to make the sewerage project self-supporting and self-liquidating, and the district thereupon shall establish the rates and charges prescribed by the State Treasurer.

(2) If the State Treasurer so directs, delinquent charges for use of or connection with a sewerage system shall be certified to the assessor of the county or counties in which the district is located and shall be entered upon the tax rolls of the county and be collected and accounted for in the same manner in which city taxes are collected and accounted for. The said charges shall constitute liens upon the real property of the corporation or person against whom they are assessed.

(3) The district shall obtain from the State Treasurer approval of its annual budgets and tax levies before they are certified to the clerk and assessor of the county in which the district is located, for extension upon the county tax rolls. [1955 c.577 §9]

**450.295 Refinancing indebtedness of district; court-appointed receiver may operate system.** If any district fails to meet, when due, any obligations sold to the state under authority of ORS 450.250 to 450.300, the State Treasurer and the district may agree upon and put into effect, any plan they may consider expedient for refinancing the indebtedness of the district, or the State Treasurer, with the approval of the circuit court of the county in which the major portion of the assessed valuation of the district is located, may appoint a receiver to operate the sewerage system. The receiver shall act as such so long as the circuit court deems receivership necessary to protect the interests of the state and of the district. [1955 c.577 §10]

**450.300 Duty of treasurer to keep funds separate and to withhold tax receipts for bond payments; liability of treasurer.** The treasurer of each district that finances the cost of a sewerage system or facilities under authority of ORS 450.250 to 450.300 shall keep collections or assessments for sewerage service and sewer connection fees separate and distinct from other funds of the district and shall withhold from tax receipts not less often than quarterly the full amounts proportionate to the elapsed portion

of the tax year that have been levied for the payment of interest on and the principal of the sewerage system bonds of the district. For failure to account for sewerage revenues and taxes as provided in this section, such treasurers shall be liable upon their official bonds. [1955 c.577 §11]

**(Sanitary District Sewerage System Revolving Fund)**

**450.303 Purchase of general obligation bonds of sanitary districts; Sanitary District Sewerage System Revolving Fund.** (1) Any sanitary district in the state having an actual value in excess of \$750,000, that has not been able to sell its general obligation bonds on the market upon competitive bids or has not been able to obtain a bid for its bonds pursuant to notice of sale of the bonds published in a newspaper of general circulation printed and published for a period of two consecutive weeks in the county in which the major portion of the assessed value of the district is located, may sell its bonds to the State of Oregon, if the bonds are approved for investment by the State Treasurer. For the purposes of this section, actual value shall be determined in the manner prescribed by ORS 450.120. Bonds issued under authority of this section, together with other outstanding indebtedness of the district, shall not exceed in the aggregate 15 percent of the actual value of the district. For the purposes of this section, the 15 percent limitation shall supersede the limitation imposed by ORS 450.120 or any other law in conflict with this section. Only bonds authorized and issued in compliance with ORS 450.005 to 450.080, 450.085 to 450.115, 450.125 to 450.245 and the provisions of this section may be purchased by the State of Oregon as investments of the fund designated in subsection (2) of this section.

(2) A fund in the State Treasury, separate and apart from the General Fund, to be known as the "Sanitary District Sewerage System Revolving Fund," hereby is created. The moneys in the Sanitary District Sewerage System Revolving Fund are available for investment under the authority of this section for which purposes such fund hereby is appropriated. The interest paid on the investments purchased pursuant to this section shall be credited to the General Fund of the State of Oregon, and the principal, as it is repaid to the state by sanitary districts, shall be credited to the General Fund to be available for the

payment of general governmental expenses. The State Treasurer is authorized to sell at not less than cost, the bonds, in whole or in part, that have been purchased under the authority of this section. The proceeds of sale of the bonds shall be credited to the General Fund to be available for the payment of general governmental expenses. [1959 c.425 §§1, 2; 1963 c.341 §5; 1981 c.94 §40]

450.305 [Repealed by 1969 c.25 §1]

450.310 [Repealed by 1969 c.25 §1]

450.315 [Repealed by 1969 c.25 §1]

450.320 [Repealed by 1969 c.25 §1]

450.325 [Repealed by 1969 c.25 §1]

450.330 [Repealed by 1969 c.25 §1]

450.335 [Repealed by 1969 c.25 §1]

450.340 [Repealed by 1969 c.25 §1]

450.345 [Repealed by 1969 c.25 §1]

450.350 [Repealed by 1969 c.25 §1]

450.355 [Repealed by 1969 c.25 §1]

450.360 [Repealed by 1969 c.25 §1]

450.365 [Repealed by 1969 c.25 §1]

450.370 [Repealed by 1969 c.25 §1]

450.375 [Repealed by 1969 c.25 §1]

450.380 [Repealed by 1969 c.25 §1]

450.385 [Repealed by 1969 c.25 §1]

450.390 [Repealed by 1969 c.25 §1]

450.395 [Repealed by 1969 c.25 §1]

450.400 [Repealed by 1969 c.25 §1]

450.405 [Repealed by 1969 c.25 §1]

450.410 [Repealed by 1969 c.25 §1]

450.415 [Repealed by 1969 c.25 §1]

450.420 [Repealed by 1969 c.25 §1]

450.425 [Repealed by 1969 c.25 §1]

450.430 [Repealed by 1969 c.25 §1]

450.435 [Repealed by 1969 c.25 §1]

450.440 [Repealed by 1969 c.25 §1]

450.445 [Repealed by 1969 c.25 §1]

450.450 [Repealed by 1969 c.25 §1]

450.455 [Repealed by 1969 c.25 §1]

450.460 [Repealed by 1969 c.25 §1]

450.465 [Repealed by 1969 c.25 §1]

450.470 [Repealed by 1969 c.25 §1]

450.475 [Repealed by 1969 c.25 §1]

450.480 [Repealed by 1969 c.25 §1]

450.485 [Repealed by 1969 c.25 §1]  
 450.490 [Repealed by 1969 c.25 §1]  
 450.495 [Repealed by 1969 c.25 §1]  
 450.500 [Repealed by 1969 c.25 §1]  
 450.505 [Repealed by 1969 c.25 §1]  
 450.510 [Repealed by 1969 c.25 §1]  
 450.515 [Repealed by 1969 c.25 §1]  
 450.520 [Repealed by 1969 c.25 §1]  
 450.525 [Repealed by 1969 c.25 §1]  
 450.530 [Repealed by 1969 c.25 §1]  
 450.535 [Repealed by 1969 c.25 §1]  
 450.540 [Repealed by 1969 c.25 §1]  
 450.545 [Repealed by 1969 c.25 §1]  
 450.550 [Repealed by 1969 c.25 §1]  
 450.555 [Repealed by 1969 c.25 §1]  
 450.560 [Repealed by 1969 c.25 §1]  
 450.565 [Repealed by 1969 c.25 §1]  
 450.570 [Repealed by 1969 c.25 §1]  
 450.575 [Repealed by 1969 c.25 §1]  
 450.580 [Repealed by 1969 c.25 §1]

### **WATER SUPPLY AUTHORITIES**

**450.675 Formation of water supply authorities from areas within one or more counties.** Any portion of one or more counties, including both incorporated and unincorporated areas as well as areas within domestic water supply districts, county service districts for water supply works and other districts may be formed into a water supply authority under ORS 450.675 to 450.980. Such areas need not be contiguous. [1971 c.504 §3]

**450.680 Formation of water supply authorities by cities and water districts.** In addition to the manner of formation provided by ORS 450.715 and 450.785 the governing bodies of one or more cities or water districts or both may, when they consider it necessary for the public health, safety and welfare, on their own motion initiate the formation of a water supply authority. The procedure for hearing and election, and notice thereof, in ORS 450.730 to 450.780 (1969 Replacement Part) shall be followed, so far as applicable with necessary adaptations, in forming a water supply authority initiated under this section. [1971 c.504 §4]

**450.685 Application of certain provisions to water supply authorities.** (1) Except as provided by subsection (2) of this section, ORS 450.675 to 450.980 apply to a water supply authority.

(2) ORS 450.810 (1), 450.815 (7), (8) and (9), 450.820 and 450.835 do not apply to a water supply authority.

(3) ORS 264.306 to 264.314, regarding water service charges and regulation of water users, are applicable to a water supply authority. [1971 c.504 §5]

### **SANITARY AUTHORITIES (Generally)**

**450.705 Policy; construction.** (1) It hereby is recognized and declared that the sewage disposal, drainage, insect control and related problems in many of the areas of the state where the population is rapidly expanding can best be solved through the cooperative and integrated effort and support of unincorporated and incorporated areas. It is the purpose of ORS 450.675 to 450.980 to provide a means whereby such cooperation and integration can be achieved and ORS 450.675 to 450.980 is to be construed liberally to accomplish this purpose.

(2) It is recognized also that potable water supply problems in many areas of the state where the population is rapidly expanding can best be solved through the cooperative and integrated effort and support of unincorporated and incorporated areas. It is the purpose of ORS 450.675 to 450.980 to provide a means whereby water supply authorities can be formed and such cooperation and integration can be achieved and ORS 450.675 to 450.980 is to be construed liberally to accomplish that purpose. [1955 c.614 §1; 1971 c.504 §1]

**450.710 Definitions for ORS 450.675 to 450.980.** As used in ORS 450.675 to 450.980 unless the context clearly indicates otherwise:

(1) "Authority" means a sanitary authority established under ORS 450.675 to 450.980.

(2) "Board" means the sanitary authority board under ORS 450.675 to 450.980.

(3) "Construction" includes the acquisition of land or other property for the construction of an installation and the improvement, enlargement, alteration and reconstruction of an installation and the acquisition of existing sewage disposal or drainage systems, or portions thereof.

(4) "Governing body" means the county court or board of county commissioners of a county.

(5) "Owner of land" or "landowner" means a vendee under a recorded land sale contract or if there is no such contract the holder of the record title to the land in which vendee or holder has a present interest equal to or greater than a life estate.

(6) "Qualified elector" means a registered voter of the state. [1955 c.614 §2; 1971 c.647 §92]

#### (Formation)

**450.715 Areas which may be formed into sanitary authorities.** Any portion of one or more counties, including both incorporated and unincorporated areas as well as areas within sanitary, drainage or other districts, may be formed into a sanitary authority under ORS 450.675 to 450.980. Such areas need not be contiguous. [1955 c.614 §3]

450.720 [1955 c.614 §4; repealed by 1971 c.727 §203]

450.725 [1955 c.614 §5; repealed by 1971 c.727 §203]

450.730 [1955 c.614 §6; repealed by 1971 c.727 §203]

450.735 [1955 c.614 §7; repealed by 1971 c.727 §203]

450.740 [1955 c.614 §8; repealed by 1971 c.727 §203]

450.745 [1955 c.614 §9; repealed by 1971 c.727 §203]

450.750 [1955 c.614 §10; repealed by 1971 c.727 §203]

450.755 [1955 c.614 §11; repealed by 1971 c.647 §149 and by 1971 c.727 §203]

450.760 [1955 c.614 §12; repealed by 1971 c.647 §149 and by 1971 c.727 §203]

450.765 [1955 c.614 §13; 1967 c.609 §10; repealed by 1971 c.647 §149]

450.770 [1955 c.614 §14; repealed by 1971 c.647 §149 and by 1971 c.727 §203]

450.775 [1955 c.614 §15; repealed by 1971 c.647 §149 and by 1971 c.727 §203]

450.780 [1955 c.614 §16; repealed by 1971 c.727 §203]

**450.785 Initiation of formation of a district by governing body without petition.** In addition to other methods of initiating proceedings for the formation of a sanitary authority under ORS 450.705 to 450.945 and when they consider it necessary for the protection of the public health, safety and welfare, the governing bodies of one or more counties may on their own motion initiate the formation of a sanitary authority. ORS 450.765 (1969 Replacement Part) shall be followed, so

far as applicable and with necessary adaptations, in forming a sanitary authority initiated under this section. [1955 c.614 §17; 1971 c.727 §126]

#### (Board and Elections)

**450.790 Sanitary authority board.** (1) The officers of the authority shall be a board of five members elected as provided in ORS 450.795 and 450.800, a chairman of the board appointed under ORS 450.806 and a manager appointed by the board under ORS 450.806.

(2) Any qualified elector residing within the proposed authority is qualified to be a member of the board of the authority. [1955 c.614 §18]

**450.795 Nomination and election of first board members; terms.** (1) The five persons receiving the highest number of votes shall be elected as members of the board.

(2) The terms of two of the members so elected shall expire two years from the first day of July following the date of the first election in the authority. The terms of three of the members shall expire four years from the first day of July following the date of the first election in the authority. The respective terms of the first members shall be determined by lot at their first meeting after their election. [1955 c.614 §19; 1971 c.647 §97; 1971 c.727 §§127, 196; 1973 c.796 §64; 1975 c.647 §38]

**450.800 Annual and special elections in the authority.** (1) The date of the regular election in an authority is the date fixed by ORS 255.335. The board may call special elections in the authority to be held on a date specified in ORS 255.345.

(2) At each regular election held in the authority there shall be elected a successor to any member whose term expires on the first day of July following such election date and a successor to fill any vacancy. At such election the person, or two persons if two members are to be elected, receiving the highest number of votes shall be elected to serve for a four-year term and until his successor is elected and qualified.

(3) The board may submit to the voters at the regular election any measure which may properly be submitted to the voters. [1955 c.614 §20; 1969 c.669 §10; 1971 c.647 §98; 1973 c.796 §65; 1975 c.647 §39]

450.802 [1955 c.614 §21; repealed by 1971 c.403 §18]

450.804 [1955 c.614 §22; repealed by 1969 c.669 §21]

**(Powers)**

**450.806 General powers of board; selection of board chairman; appointment of authority manager.** (1) The board shall be the governing body of the authority and shall exercise all powers thereof.

(2) The board shall every two years appoint one of its members as chairman to serve for a two-year term. A chairman so appointed is eligible for reappointment as chairman.

(3) The board shall appoint a professionally qualified person as manager of the authority. He shall serve at the pleasure of the board and receive such compensation as is fixed by the board.

(4) All contracts, deeds, warrants, releases, receipts and documents of every kind shall be signed in the name of the authority by the chairman of the board and shall be countersigned by the manager of the authority. [1955 c.614 §23]

**450.808 General duties of authority manager.** The manager of the authority shall, subject to the direction and control of the board, serve as the administrator and supervisor of the functions and operations of the authority and shall perform all duties prescribed by the board. [1955 c.614 §24]

**450.810 Board may adopt and enforce ordinances for sanitary purposes.** (1) The district board may, for the protection of the health, safety and general welfare of the authority, adopt and enforce all necessary and proper regulations or ordinances for:

(a) The control of sewage disposal and drainage.

(b) The storage, collection, transportation and disposal of solid wastes where such regulations are supplemental to the requirements of the rules of the Environmental Quality Commission adopted pursuant to ORS 459.045, and are necessary to meet special local conditions.

(c) The cleanliness of roads and streets in the authority.

(d) The control of mosquitoes and other insects.

(e) All other sanitary purposes not in conflict with the laws of this state.

(2) Any general ordinance of the district board shall be enacted in accordance with

ORS 198.510 to 198.600. [1955 c.614 §26; 1967 c.428 §14; 1969 c.593 §39; 1971 c.268 §17; 1971 c.648 §26; 1973 c.835 §163]

**450.815 General powers of authority.** For the purpose of carrying out the powers granted to the authority under other provisions of ORS 450.675 to 450.980 and in addition thereto, the authority may:

(1) Have and use a common seal.

(2) Sue and be sued by its name.

(3) Permit the use, by lease or otherwise, of any property of the authority by any other authority, district, city or other governmental agency.

(4) Acquire by purchase, gift, devise, condemnation proceedings or otherwise, such real and personal property and rights of way, either within or without the authority, as in the judgment of the board are necessary or proper to the exercise of its powers, and to pay for and hold the same.

(5) Make and accept contracts, deeds, releases and documents which, in the judgment of the board, are necessary or proper in the exercise of any of the powers of the authority.

(6) Employ and pay necessary agents, employees and assistants.

(7) Lay its sewers and drains in any public street, highway or road in the county, and for this purpose enter upon it and make all necessary and proper excavations, restoring it to its proper condition. However, the consent of the proper city, county or state authorities, as the case may be, shall first be obtained and the conditions of such consent complied with.

(8) Compel all residents and property owners in the authority to connect their houses and structures requiring sewage disposal with adjacent sewers within the authority.

(9) Fix sewer charges and rentals.

(10) Do any act necessary or proper to effect and carry out the purposes for which the authority was formed pursuant to ORS 450.675 to 450.980. [1955 c.614 §25]

**450.820 Authority may maintain garbage collection system and engage in insect control activities.** In addition to other powers granted to it under ORS 450.675 to 450.980, the authority may:

(1) Maintain and operate disposal sites and garbage collection systems in compliance

with the requirements of ORS 459.005 to 459.285 and 459.992 (1), (2) and (3).

(2) Engage in mosquito and other insect control activities. [1955 c.614 §27; 1967 c.428 §15; 1969 c.593 §40; 1971 c.648 §27]

**450.825 Plan for sewage disposal and drainage to be developed by authority.** As soon as practicable after the election of the first members of the board, the board shall make a study and survey of the existing sewage disposal facilities and systems in the authority and of its sewage disposal needs, both present and future, and prepare an overall coordinated plan for the authority which incorporates, so far as practicable, existing sewage disposal and drainage systems, future sewage treatment plants, including connecting trunk and lateral sewers, and future drainage systems. Such plan shall be revised from time to time as circumstances may require. In preparing the plan or revisions thereto, the board shall take into consideration expected fluctuations in population and in business and industrial activity. [1955 c.614 §28]

**450.830 Authority may construct and operate sewage disposal and drainage systems; operation beyond authority boundaries.** The sanitary authority may construct, maintain or operate sewage disposal and drainage systems, including sewage treatment plants, trunk and lateral sewers and drains, or any combination thereof, for any area within the authority. Portions of such systems may be constructed outside the authority where necessary or expedient. The authority may furnish sewage disposal service to areas outside the authority on a contract basis. [1955 c.614 §29]

**450.835 Contract for or purchase of sewage disposal and drainage systems.** The authority may, in performing the powers conferred by ORS 450.830:

(1) Contract with any city or county, any district organized for a public purpose, any other governmental agency or any person, partnership, association or corporation for the use or joint operation of all or any portion of any sewage disposal or drainage system owned or controlled by such city, county, district, agency, person, partnership, association or corporation; or

(2) Purchase all or any portion of any sewage disposal or drainage system from such city, county, district, agency, person, partner-

ship, association or corporation on such terms as are fair and reasonable. Where the area served by such system, or part thereof, is situated within the authority, the authority may agree, on such terms as are fair and reasonable, to furnish sewage disposal or drainage functions for the area then served by such sewage disposal or drainage system. Under this subsection, as a part of the purchase agreement and on such terms as are fair and reasonable, the authority may assume liability for any outstanding bonded or other indebtedness incurred prior to the time of purchase in connection with the facilities to be purchased. [1955 c.614 §30]

#### (Finances)

**450.840 Costs for construction and operation of systems and general expenses of authority, how borne.** (1) The cost of construction of a sewage disposal system, including treatment plants and trunk or lateral sewers, or a drainage system shall be borne by the area directly benefited by the system. The property within such area shall bear such cost in the manner provided in ORS 450.855.

(2) The cost of operation and maintenance of sewage disposal systems and drainage systems shall be borne by the area directly benefited by such systems. The property within such area shall bear such cost in the manner provided in ORS 450.880.

(3) The costs and expenses of the authority which are not chargeable under ORS 450.675 to 450.980 to any particular area within the authority such as over-all planning, expenses of the board, conduct of elections and hearings and mosquito and other insect control shall be borne by the entire authority in the manner provided in ORS 450.885 (1)(a). [1955 c.614 §31]

**450.845 Areas needing sewerage installations to be determined and plans for installations to be made.** Whenever the board deems it expedient or necessary for the protection of the public health, safety and welfare to cause to be constructed treatment plants or trunk or lateral sewers or drains, or any combination thereof, the board shall determine the proposed boundaries of the area to be directly benefited thereby and have a registered professional engineer prepare plans and specifications for such plants, sewers or drains. Such plans and specifications must be approved by the Health Division and the Environmental Quality Commission and shall

be filed in the office of the authority. Parcels of land which may be served practicably by lateral sewers or drains connected with treatment plants or trunk sewers or drains and are not adequately served by existing plants, sewers or drains, as the case may be, are considered to be directly benefited by the plants, sewers or drains of the authority. If all or any portion of the cost of construction is to be specially assessed against individual property, the engineer shall include in the plans and specifications, a description of the location and assessed value of each lot, tract or parcel of land, or portion thereof, to be specially benefited by the improvement, with the names of the record owners thereof and an estimate of the unit cost of the improvement to the specially benefited property. [1955 c.614 §32]

**450.850 Hearing on board's proposed construction plans and estimated special assessments; notice of hearing.** (1) After plans and specifications have been prepared and filed as provided in ORS 450.845, the board shall hold a hearing within the authority and may adjourn the hearings from time to time.

(2) The board shall post notice of the time and place of the hearing in at least three conspicuous places in the area directly benefited, for two weeks prior to the hearing and publish such notice in a newspaper of general circulation printed and published in the area once a week for two successive weeks prior to the hearing or, if there is no such newspaper, in a newspaper of general circulation printed and published in the county in which the area, or the largest portion thereof, is situated. Such notice shall contain a statement that the board proposes to construct a sewage treatment plant or trunk or lateral sewers or drains, or any combination thereof, for the area and a statement, if special assessments are to be levied against property specially benefited, showing the estimated total cost of the improvement which is to be paid for by special assessment of benefited property and the engineer's estimated unit cost of the improvement to the specially benefited property, clearly indicating that this is an estimate and not an assessment; and set forth the proposed boundaries of the area and that all interested persons may appear and be heard. [1955 c.614 §33; 1973 c.399 §1]

**450.855 Action board may take at hearing concerning boundaries, installations to be constructed, costs and financing.** At the hearing under ORS 450.850 the board may:

(1) Modify the proposed boundaries of the area directly benefited by and to pay for the proposed installations except that no land in the authority which could not be directly benefited by the proposed installation may be included and no land in the authority which could be directly benefited by the proposed installation may be excluded. If it appears that land should be included in the area which was not included within the boundaries designated in the notice of the hearing and that the owners of such land have not appeared at the hearing the board shall adjourn the hearing and give notice to such owners by registered mail or by posting and publishing notice in the area to be included in substantially the same manner that notice is given under ORS 450.850 (2). If the notice is given by registered mail, the notice shall be mailed at least 10 days prior to the date fixed for the further hearing. The notice shall contain the date, time and place of the adjourned hearing, a statement that the board proposes to construct sewage treatment plants or trunk or lateral sewers or drains for an area within the authority, a description of the additional area to be included within such area and a statement that all persons interested may appear and be heard.

(2) Determine what installations shall be constructed and the total cost of the construction. The cost of making engineering plans and specifications shall be borne by the area directly benefited by the installation as a part of the construction costs.

(3) Determine the manner in which the property within the area shall bear the cost of the proposed installations. The board may provide, in its sound discretion, that the cost shall be borne by assessments against the property directly benefited, by sewer connection charges, by collection of sewer service charges in the area or, if general obligation bonds are to be issued and sold to finance the construction of the installations, by annual levies of taxes against property in the area, or by any combination of these methods. If all or a part of the cost of the proposed installations are to be borne by assessments against the property directly benefited, the board may, in its sound discretion, levy the assessments in an amount based upon the engineer's estimate

of the cost, or may delay the assessments until the total cost of the installation is determined. Such cost shall be apportioned, so far as practicable, in accordance with the special and peculiar benefit each parcel of land in the area could receive from the installation. Where parcels of land in the area are partially or wholly undeveloped or are devoted to uses which in no way require sewage disposal service, the board may, in its sound discretion, defer assessing, imposing or levying all or any part of the assessments, sewer service charges or taxes against such parcels until the parcels or the undeveloped portions thereof are connected with the installations.

(4) Determine the method of financing the construction of the proposed installations and the amount and type of bonds, if any, to be issued and sold under ORS 450.895 to 450.920 to finance the construction of the proposed installations. [1955 c.614 §34; 1973 c.399 §2; 1977 c.621 §1]

**450.860 Portion of installation construction costs in an authority chargeable to area benefited.** When in providing sewage disposal or drainage systems for an area within the authority the board determines that any portion of sewage treatment plants or trunk or lateral sewers or drains constructed or acquired, or being constructed or acquired, by the authority, will be used by the area, a fair and equitable portion of the original cost of such plants, sewers or drains and of improvements thereto, less depreciation, shall be charged to the area on an assessment or sewer service charge basis, or any combination thereof. The proceeds of such assessments or charges shall be used by the board, in its discretion, for payment of bonds issued to construct such plants, sewers or drains or for future improvements or additions to or maintenance of such plants, sewers or drains. The determination made under this section shall be made at the hearing of the board in connection with any proposed construction of sewage disposal or drainage systems for the area. [1955 c.614 §57]

**450.865 Ordinance specifying action of board at hearing may be adopted; remonstrances thereto.** (1) After the board has concluded the hearing under ORS 450.850 and 450.855 it may adopt an ordinance specifying the installations to be constructed for the area, the boundaries of the area, the method of apportioning the construction cost to the area directly benefited, whether by assess-

ment, by sewer connection charges, by sewer service charges or annual levy, or combinations thereof, and the method of financing the construction of the installations. A copy of the ordinance shall be published once a week for two successive weeks in a newspaper of general circulation printed and published in the area directly benefited or, if there is no such newspaper, in a newspaper of general circulation printed and published in the county in which the area, or the largest portion thereof, is situated.

(2) If within 30 days after the last publication of such ordinance written remonstrances against the proposed construction are filed in the office of the authority by a majority of the owners of the land in the area directly benefited, no further proceedings shall be had in connection with the proposed construction. However, a modified proposal may be initiated within six months thereafter.

(3) If such remonstrances are not filed by a majority of the owners of the land in the area directly benefited, the board may proceed with the construction of the installation in accordance with the ordinance. [1955 c.614 §35; 1973 c.399 §3]

**450.867 Election on ordinance adopted under ORS 450.865.** (1) If the ordinance adopted under ORS 450.865 specifies that all or a part of the cost of construction of the installation is to be financed through the sale of general obligation bonds of the authority to be repaid by annual levies of taxes against property in the area, the board may, in its sound discretion, call a special election within the area to be directly benefited by the construction on the question of whether or not the construction and financing plan adopted by the ordinance should be implemented by the board. Notice of the date of the election, the polling places therefor, the hours the polls shall be open and a brief description of the proposition to be voted upon may be incorporated in the ordinance adopted under ORS 450.865 and publication of such ordinance containing such notice shall satisfy the requirements for publication of notice of election contained in ORS 255.085 and 255.095.

(2) If a majority of the qualified voters voting on the question at the election vote against the proposal, there shall be no further proceedings in connection with the proposed construction. However, a modified proposal may be initiated within six months after the date of the election.



(3) If a majority of the qualified voters voting at the election approve the proposal, the board may proceed with the construction of the installation in accordance with the ordinance, subject to the right of property owners within the area to remonstrate under ORS 450.865. [1973 c.399 §6; 1975 c.647 §40]

**450.870 Assessments against benefited property.** (1) All assessments made pursuant to ORS 450.855 (3) shall be determined and made by an order of the board adopted in accordance with such procedures as shall be established by a general ordinance adopted by the board. Such general ordinance shall establish a procedure for assessing property directly benefited by the installation, making supplementary assessments and rebates, notice of the proposed assessment, provide for correction of errors, establish the form of the assessment order and such other procedures as are necessary to the adoption of the assessment order. It shall not be necessary to issue a separate order for each parcel of land, and any number of parcels in the same area and the same county may be included in one order. A copy of the order making an assessment, certified and acknowledged by the manager of the authority, shall be filed with the county clerk of the county in which the land is located. Upon being filed, the assessment shall constitute a lien against the land assessed.

(2) Notice of all assessments levied by an authority shall be given to the landowner by mail and shall be payable on the 30th day after such notice is mailed unless agreements for payment of such instalments are made pursuant to ORS 450.940. All assessments shall be paid to the county treasurer who is custodian of the funds of the authority and a receipt shall be issued therefor. From time to time the board shall order the satisfaction of the liens against lands on which assessments have been paid, and a copy of such order shall be filed with the county clerk of the county in which the lands are located. [1955 c.614 §36; 1973 c.399 §4; 1977 c.621 §2]

**450.875 Collection of delinquent assessments by lien foreclosure procedure; reassessment procedure.** (1) In case the whole or any portion of the cost of sewage treatment plants, trunk or lateral sewers or drains is assessed against property directly benefited and the owner of the property fails to pay the amount of the lien, or any portion thereof, or the interest thereon, when due, the board may proceed to foreclose the lien in any

manner provided by law for the collection of liens by municipalities and may provide by ordinance a general procedure for the collection of liens in any manner not inconsistent with law.

(2) The provisions of ORS 223.405 to 223.485 relating to reassessment shall be available to sanitary authorities where applicable. [1955 c.614 §37]

**450.880 Sewer service charges.** (1) The authority may adopt ordinances imposing sewer service charges within an area within the authority, for the purpose of financing the improvement, operation and maintenance of a sewage disposal or drainage system acquired or constructed by the authority for the area.

(2) The board may contract with any city or district serving water in such area to collect such service charges with the water bills, and the serving agency may cut off water for nonpayment of such service charges. The board may pay the water-serving agency for the reasonable cost of such collection services.

(3) Service charges may also be collected and enforced in substantially the manner provided in ORS 224.220 (1971 Replacement Part). [1955 c.614 §38]

**450.885 Tax levies on all or only part of the property in the authority; budget for authority required.** (1) The authority may, annually as provided in this section:

(a) Levy a tax on all the property in the authority to provide funds with which to pay expenses of the authority and pay general obligation bonds of the authority which expenses and bonds are not chargeable under ORS 450.675 to 450.980 to any particular area in the authority.

(b) Levy an additional tax on the property in any particular area within the authority to provide funds with which to pay any part of the principal and interest on general obligation bonds which are to be paid by such area where sewer service charges or assessments will not be sufficient to pay such principal and interest.

(2) Assessment and collection of taxes levied on property within the authority shall be made by the county officers charged with assessment and collection of other property taxes in the county in which the property lies.

(3) Each year, immediately after his necessary records are made, the county assessor of each county in which the authority is situ-

ated shall transmit to the board a statement in writing, showing the total value of all property within the authority and within each area within the authority which is subject to levy under paragraph (b) of subsection (1) of this section as ascertained for that year from the assessment rolls of each county in which property of the authority lies, as equalized and corrected by the county board of equalization.

(4) The board shall prepare a budget in the form, manner and time prescribed in the Local Budget Law and in accordance therewith fix the amount of money to be raised by taxation for carrying out its functions and activities and for the payment of the principal and interest of outstanding indebtedness of the authority which will become due during the year. The board shall determine the amount of taxes to be raised from the entire authority and the additional amount to be raised from each of the areas within the authority which are directly benefited by particular installations.

(5) The board shall, in the manner and time prescribed by law, transmit to the county assessor of each county a statement of taxes which are to be collected in such county. If the board fails to levy taxes under this section sufficient to pay the interest on and the maturing principal of all outstanding general obligation bonds of the entire authority or on property in areas which are primarily obligated to pay the bonds, the governing body of the counties in which the authority is situated shall cause such taxes to be levied, extended and collected and, if necessary, cause a tax on all the property in the authority to be levied, extended and collected to pay general obligation bonds of the authority. However, any levy against all property in the authority under this subsection shall not alter or limit the obligation of the area primarily obligated on the bonds as between such area and the authority. [1955 c.614 §39]

**450.890 Collection of taxes; taxes are liens on property.** (1) Taxes levied under ORS 450.885 shall be collected at the same time and in the same manner as county taxes are collected and, when collected, shall be paid to the county treasurer and deposited to the credit of the sanitary authority fund. Taxes collected to pay expenses or obligations of a particular area shall be credited to separate accounts or funds of the authority to be used for such purposes.

(2) The taxes shall be a lien upon the property against which they are levied and shall be of the same force and effect as other liens for taxes. Their collection shall be enforced by the same means as provided for the enforcement of liens for county property taxes. [1955 c.614 §40; 1975 c.122 §1]

**450.895 Bonds, general obligation or revenue or combination of both; bonds to mature serially and be paid in instalments.** The authority may, when authorized by a majority of the votes cast at an election by voters of the authority, issue general obligation bonds or revenue bonds, or a combination of both, for the purpose of paying the cost of acquisition or construction, operation and maintenance of sewage treatment plants or trunk or lateral sewers or drains for any area or areas within the authority or to carry out any other purpose authorized under ORS 450.675 to 450.980. Each issue of general obligation bonds shall be the general obligation of the entire authority but shall be the primary obligation of the area directly benefited by the sewage treatment plant or trunk or lateral sewers or drains constructed with the proceeds of each issue of such bonds and paid by assessment, annual levy or sewer service charges, or combinations thereof, as determined by the board under ORS 450.855. Revenue bonds shall be payable solely out of designated revenues of the authority and shall not be deemed to be a general obligation of the authority or a charge upon its tax revenues. All bonds issued shall mature serially within not to exceed 30 years from date of issue, and shall be paid in annual instalments of such amounts as will make the combined amount of principal and interest payable each year as nearly equal as practicable during the years of payment. [1955 c.614 §41]

**450.897 Bancroft Bonding Act applicable.** Sanitary authorities organized under ORS chapter 450 which are in existence on November 1, 1981, are authorized to use the bonding provisions of ORS 223.205 to 223.295. [1981 c.351 §1]

**Note:** 450.897 was enacted into law by the Legislative Assembly but was not added to or made a part of ORS chapter 450 or any series therein by legislative action. See the preface to Oregon Revised Statutes for further explanation.

**450.900 Election on bond issues; limitation on indebtedness.** (1) Before issuing any bonds under ORS 450.895, the board shall at a regular meeting call an election and

submit to the voters in the authority the question whether bonds of the authority, either general obligation, revenue, or a combination of both, shall be issued and sold to raise money for the construction of sewage treatment plants or trunk or lateral sewers or drains for any area or areas within the authority.

(2) The order calling a bond election shall be signed by not less than four members of the board and may submit to the voters as one proposal the question of issuing bonds to finance one or more sewage treatment plants or trunk or lateral sewers or drains; or the order may submit as separate questions the issuance of bonds for any sewage treatment plants or trunk or lateral sewers or drains in such combinations as the order may direct.

(3) The authority's total outstanding bonds of all kinds, including improvement bonds of the kind authorized by ORS 223.205 and 223.210 to 223.295, and revenue bonds shall at no time exceed in the aggregate 13 percent of the true cash value of all property by law assessable for state and county purposes within the authority as reflected in the assessment roll last equalized. [1955 c.614 §42; 1981 c.804 §102]

**450.905 Notice of bond election.**  
Notice of a bond election shall contain:

(1) The information required by ORS 255.085 (2).

(2) If general obligation bonds, which are to be paid by particular areas in the authority, are to be issued, a statement that the bonds will be the general obligation of the entire authority but will be the primary obligation of the areas in the authority which will be directly benefited by the sewage treatment plants or trunk or lateral sewers or drains constructed with the proceeds of the bonds and paid through assessment, annual levy, or sewer service charges, or combinations thereof, as determined by the board under ORS 450.855 and designating specifically the boundaries of such area or areas.

(3) If revenue bonds are to be issued, a statement that the bonds will be payable solely out of designated revenues of the authority and will not be a general obligation of the authority or a charge upon the tax revenues of the authority. [1955 c.614 §43; 1971 c.647 §99; 1975 c.647 §41]

**450.910** [1955 c.614 §44; repealed by 1971 c.647 §149]

**450.915 Bonds, issuance and sale.** (1) If, at the bond election, a majority of the votes cast is in favor of the issuance of bonds, the board may issue and sell the bonds as provided in this section.

(2) The bonds shall be in such denominations of \$500 or \$1,000, or multiples thereof, as the board determines.

(3) All bonds shall be payable in lawful money of the United States at the office of the county treasurer of the county in which the authority, or the largest area thereof, is situated.

(4) If the bonds are revenue bonds, the bonds shall contain a statement that such bonds are payable solely out of designated revenues of the authority and are not general obligations of the authority or a charge upon the tax revenues of the authority.

(5) The bonds shall be signed by the chairman of the board and countersigned by the manager of the authority. However, the printed or lithographed facsimile signatures of the chairman and manager may be affixed to coupons, if any, on the bonds. In accordance with ORS 208.200, each bond payable at the office of the county treasurer shall be registered with the county treasurer who is the custodian of the funds of the authority under ORS 450.945 prior to delivery of the bonds to the bond purchaser.

(6) All legally authorized and issued general obligation bonds or revenue bonds shall be advertised and sold in the manner prescribed in ORS 287.014 to 287.026. [1955 c.614 §45; 1969 c.694 §11; 1975 c.642 §24; 1977 c.188 §4; 1981 c.526 §6]

**450.920 Disposition of proceeds of the sale of bonds.** The proceeds of the sale of bonds shall be deposited with the county treasurer who is custodian of the funds of the authority and shall be placed by him in the sanitary authority fund and credited to a special account or accounts which are designated for use for the particular purpose or purposes for which the bond proceeds are to be used. The proceeds of such bonds shall be used solely for the purpose or purposes indicated in the order calling for election upon the question of the issuance of the bonds and for no other purpose. However, the proceeds of the sale of the bonds may be used for payment of the principal and interest of such bonds and expenses of the formation of the authority. [1955 c.614 §46]

**450.925 Refunding bonds may be issued.** (1) The board may, without authorization from the voters, issue refunding bonds for the purpose of refunding outstanding bonds issued under ORS 450.895 to 450.920.

(2) The provisions of ORS 450.915 (2) to (6) are applicable to refunding bonds issued and sold under this section.

(3) The refunding bonds may be issued to refund bonds originally issued or to refund bonds previously issued for refunding purposes and for no other purpose. [1955 c.614 §47]

**450.930 Redemption of bonds before maturity dates.** In its discretion, the board may issue bonds of the authority with reservation of the right to redeem them for retirement or refunding purposes prior to the final dates of maturity in the manner provided in ORS 287.008. [1955 c.614 §48]

**450.935 Short-term financing.** The provisions of ORS 287.402 to 287.432 relating to short-term financing hereby are made applicable to sanitary authorities formed under ORS 450.675 to 450.980. [1955 c.614 §49]

**450.940 Payment of assessments in instalments; issuance of improvement warrants and bonds.** When the cost, or any portion thereof, of sewage treatment plants or trunk or lateral sewers or drains is assessed against the property directly benefited, the provisions of ORS 223.205 and 223.210 to 223.295, relating to the payment of assessments in instalments, and the provisions of ORS 287.502 to 287.510, relating to the issuance of improvement warrants by cities, shall apply to the authority in so far as practicable and applicable. Where in ORS 223.205, 223.210 to 223.295 and 287.502 to 287.510 officials of cities are referred to, the corresponding officials who perform similar services for the authority where applicable shall perform the required functions. The authority may issue improvement bonds in the total amount of the valid applications it has received to pay assessments in instalments as provided in ORS 223.205 and 223.210 to 223.295. [1955 c.614 §50]

**450.945 Custody and disbursement of authority funds by county treasurer.** (1) The county treasurer of the county in which the authority, or the largest area thereof, is situated shall be custodian of all sanitary authority taxes paid to the county treasurer in accordance with ORS 450.890 and such other funds that the authority may pay to the coun-

ty treasurer for deposit to the credit of the authority. The county treasurer shall pay out moneys of the authority only upon written order of the board, signed by the chairman of the board and countersigned by the manager of the authority. However, where the board has authorized the manager to approve and order the payment of claims in the amount of \$500 or less, the treasurer shall pay out moneys of the authority on such orders of the manager.

(2) The order shall specify the name of the person to whom the money is to be paid, the fund from which it is to be paid and shall state generally the purpose for which payment is to be made.

(3) A copy of the order shall be filed in the records of the board. The county treasurer shall keep the order as his voucher and shall keep account of his receipts and disbursements of money for the sanitary authority.

(4) The county treasurer shall keep separate accounts and funds, where necessary, to segregate the various operations and construction projects of the authority.

(5) Notwithstanding the provisions of subsections (1) to (4) of this section, any funds of the authority other than taxes may be deposited, at the discretion of the board, in one or more banks or savings and loan associations to be designated by the board. Funds deposited in a bank or savings and loan association shall be withdrawn or paid out only upon proper order and warrant or check signed by the chairman and countersigned by the manager. [1955 c.614 §51; 1975 c.122 §2]

#### (Programs for Employees)

**450.947 Contracts for medical, dental and hospital services; insurance for employees; effect of failure to contract.** (1) An authority may enter into contracts for medical, dental and hospital services or insurance covering employees of the authority for life, accidental death and dismemberment, weekly wage indemnity during disability, dental care, remedial care and hospital benefits. Failure to obtain insurance or service contracts shall not be construed as negligence or lack of diligence on the part of the board or the members thereof.

(2) As used in this section, "remedial care" includes services rendered by a person licensed to practice one or more of the healing arts within the scope of his license or any

other remedial care recognized under the law of this state. [1973 c.399 §8]

**450.949 Payment of contract costs by authority and by employee; multiple contracts; qualification of insurer or hospital association.** (1) The authority may agree to pay none, part or all of the premiums or charges on insurance or service contracts, and it may collect from the salary of any employee covered by the contract the percentage of the premiums or charges the employee is required to provide pursuant to the contract. Contributions for premiums or charges by employees shall be only on a voluntary basis.

(2) The authority may negotiate more than one contract with one or more companies or associations if necessary to obtain optimum coverage at minimum cost.

(3) No premium or other periodic charge on any insurance or service contract shall be paid unless the insurer or hospital association issuing such policy or contract is authorized to transact business as an insurance company or hospital association in this state. [1973 c.399 §9]

**450.950** [1955 c.614 §52; repealed by 1971 c.727 §203]

**450.955** [1955 c.614 §53; repealed by 1971 c.727 §203]

**450.960** [1955 c.614 §54; repealed by 1971 c.727 §203]

**450.963 Employees' retirement system.**

(1) An authority may establish an employees' retirement system pursuant to ORS 450.963 to 450.973. The authority may enter into agreements necessary to establish the system and carry out the plan and may agree to modifications of such agreements from time to time.

(2) The retirement plan may provide for retirement benefits measured on the basis of services rendered or to be rendered by an employee, either before or after the date on which such employee first becomes a member of the retirement plan. The retirement plan may provide for a minimum of years of service and a minimum and maximum age of retirement for the employee. [1973 c.399 §10]

**450.965** [1955 c.614 §55; repealed by 1971 c.727 §203]

**450.967 Funding of retirement plan.** The authority may budget and provide for payment into the fund of the retirement plan an amount sufficient:

(1) To provide, on an actuarial reserve basis, the amortized level premium cost of the

retirement benefits which, under the provision of the retirement system, are to be provided by the authority to its employees who attain the retirement age or retire in accordance with the terms of the retirement plan.

(2) To meet the actuarially computed costs of retirement benefits measured on the basis of services rendered or to be rendered by an employee before or after the date on which such employee becomes a member of the retirement plan. [1973 c.399 §11]

**450.970** [1955 c.614 §56; repealed by 1971 c.727 §203]

**450.971 Employee contribution.** The authority may collect, as a contribution from any employee, that percentage of the salary received by the employee which is necessary to fund on an actuarial reserve basis the cost of retirement benefits which the employee is required to provide pursuant to the provisions of the retirement plan. [1973 c.399 §12]

**450.973 Eligibility for retirement plan.** Nothing in ORS 450.947 to 450.977 authorizes the authority to budget, provide for payments or collect contributions to fund retirement benefits for an individual who is not in the employment of the authority at the time of the creation of a membership status under a retirement plan. [1973 c.399 §13]

**450.975** [1955 c.614 §58; repealed by 1971 c.727 §203]

**450.977 Tax levy to finance programs under ORS 450.947 to 450.977.** Expenses incurred by a district in establishing programs or providing benefits authorized by ORS 450.947 to 450.977 are expenses for which an authority may levy taxes as provided in ORS 450.885. [1973 c.399 §7]

#### (Miscellaneous)

**450.980 Procedure for testing proceedings and acts of sanitary authorities.** The provisions of ORS 261.605 to 261.630 relating to court proceedings to test the validity of acts and proceedings of People's Utility Districts hereby are made applicable, so far as practicable, to the proceedings and acts of sanitary authorities. [1955 c.614 §59]

**450.985 Authority of South Suburban Sanitary District of Klamath Falls to incur indebtedness.** (1) Subject to subsections (3) to (6) of this section, the South Suburban Sani-

tary District of Klamath Falls, Oregon, may incur indebtedness by borrowing money from financial institutions or issuing revenue bonds and using real property of the district to secure the loan or provide security for payment of the bonds.

(2) No recourse shall be had for payment of a loan made under this section, or interest thereon, against the general fund of the district, nor shall the credit or taxing power of the district be deemed to be pledged thereto.

(3) The governing body of the district, prior to borrowing money or issuing revenue bonds under subsections (1) and (2) of this section, must find that the real property tendered as security for the loan or bonds is:

(a) Not designated for use as park or open space land; and

(b) Surplus to the needs of the district.

(4) Prior to incurring indebtedness under subsections (1) and (2) of this section, the governing body of the district shall adopt an ordinance authorizing the indebtedness and shall submit the ordinance to the voters of the district for approval. The ordinance shall take effect and the indebtedness shall be incurred only upon approval of the ordinance by a majority of those voting upon the question.

(5) Loans made or revenue bonds issued under subsections (1) and (2) of this section and secured by real property of the district shall bear interest at the rate per annum fixed by the governing body of the district after consultation with the State Treasurer.

(6) Prior to foreclosure of real property used to secure a loan made or revenue bonds

issued under subsections (1) and (2) of this section, the governing body of the district shall submit to the voters of the district the question of levying upon the taxable property within the district a sum sufficient to pay the principal and interest due on a loan made or revenue bonds issued under subsections (1) and (2) of this section. Upon approval by a majority of those voting on the question, the governing body shall levy the tax and pledge the revenues derived therefrom toward the discharge of the obligation incurred under subsections (1) and (2) of this section.

(7) As used in this section:

(a) "District" means the South Suburban Sanitary District of Klamath Falls, Oregon.

(b) "Financial institution" means a state or national bank, a mutual savings bank or a savings association. [1981 c.284 §1 to 6]

Note: 450.985 was enacted into law by the Legislative Assembly but was not added to or made a part of ORS chapter 450 or any series therein by legislative action. See the preface to Oregon Revised Statutes for further explanation.

## PENALTIES

**450.990 Penalties.** Violation of any regulation or ordinance under ORS 450.085 is punishable, upon conviction, by a fine of not more than \$100 or imprisonment of not more than one month, or both.

# Chapter 451

## 1981 REPLACEMENT PART

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**GENERAL PROVISIONS**

**451.010 Facilities and services counties may provide by service districts.** (1) Master plans and service districts may be established as provided by this chapter regarding:

(a) Sewage works, including all facilities necessary for collecting, pumping, treating and disposing of sanitary or storm sewage.

(b) Drainage works, including all facilities necessary for collecting, pumping and disposing of storm and surface water.

(c) Street lighting works, including all facilities necessary for the lighting of streets and highways.

(d) Public parks and recreation facilities, including land, structures, equipment, supplies, and personnel necessary to acquire, develop, and maintain such public park and recreation facilities and to administer a program of supervised recreation services.

(e) Diking and flood control works, including all facilities necessary for diking and control of water courses.

(f) Water supply works and service, including all facilities necessary for tapping natural sources of domestic and industrial water, treating and protecting the quality of the water and transmitting it to the point of sale to any person, city, domestic water supply corporation or other public or private agency for domestic, municipal and industrial water supply service.

(g) Solid waste disposal. This paragraph does not apply in Clackamas, Multnomah and Washington Counties.

(h) Public transportation, including public depots, public parking and the motor vehicles and other equipment necessary for the transportation of persons together with their personal property.

(i) Agricultural educational extension services.

(j) Emergency medical services, including ambulance services.

(k) Library services.

(2) Within the geographical jurisdiction of any local government boundary commission established by or pursuant to ORS 199.410 to 199.519, master plans and service districts may be established as provided by this chapter regarding:

(a) Fire prevention and protection.

(b) Enhanced law enforcement services provided by contract with the sheriff of the county.

(c) Hospital and ambulance services.

(d) Vector control.

(e) Cemetery maintenance.

(f) Roads.

(g) Weather modification. [1963 c.515 §2; 1965 c.246 §1; 1967 c.538 §1; 1971 c.674 §1; 1971 c.687 §1; 1973 c.211 §1; 1973 c.785 §1; 1975 c.630 §1; 1977 c.60 §1; 1977 c.287 §1; 1979 c.221 §1]

**MASTER PLANS**

**451.110 Definitions for ORS 451.110 to 451.140.** As used in ORS 451.110 to 451.140, unless the context indicates otherwise:

(1) "County court" includes the board of county commissioners.

(2) "Service facilities" means public service installations, works or services provided within a county for any or all of the purposes specified in ORS 451.010. [1955 c.509 §1; 1963 c.515 §3; 1967 c.249 §1; 1973 c.785 §2]

**451.120 Master plans for development of service facilities in unincorporated areas.** The county court of any county may, for the protection of the health, safety and general welfare, prepare and adopt coordinated master plans for the development of service facilities to serve unincorporated areas in the county. [1955 c.509 §2; 1961 c.576 §1; 1963 c.515 §4; 1973 c.785 §3]

**451.130 Conformity to master plan; approval.** After a coordinated master plan has been adopted under ORS 451.120, the county court may enforce such plan by requiring that plans for the installation or operation of service facilities in areas under county jurisdiction outside the boundaries of cities be submitted to the county court for approval, and that such installation or operation shall conform to the master plan. [1955 c.509 §3; 1961 c.576 §2; 1963 c.515 §5; 1969 c.646 §1]

**451.140 Powers of county court under ORS 451.110 to 451.140.** In carrying out the powers granted to the county court under ORS 451.110 to 451.140, the county court may:

(1) Conduct such surveys and investigations as may be necessary to develop coordinated master plans as provided in ORS 451.120.

(2) Provide for the administration and enforcement of such master plans by engineering analysis, inspection or other appropriate means.

(3) Enter into contracts or agreements with cities, other counties or county service districts for public transportation, the Federal Government, state agencies, the special districts enumerated in ORS 451.573 or any person or private corporation for a period not to exceed 30 years for the cooperative financing of the preparation and enforcement of coordinated master plans as provided in ORS 451.120 and 451.130.

(4) Levy and collect taxes for the purpose of providing funds to prepare and enforce coordinated master plans as provided in ORS 451.120 and 451.130.

(5) Expend funds for such surveys, investigations and studies as may be necessary for the preparation and enforcement of such master plans. [1955 c.509 §4; 1961 c.576 §3; 1963 c.515 §6; 1973 c.211 §2; 1973 c.785 §4]

### SERVICE DISTRICTS

**451.410 Definitions for ORS 451.410 to 451.600.** As used in ORS 451.410 to 451.600, unless the context indicates otherwise:

(1) "County court" includes the board of county commissioners.

(2) "District" means a municipal corporation established under ORS 451.410 to 451.600 to provide service facilities in a county or counties.

(3) "Service facilities" means public service installations, works or services provided within a county or counties for any or all of the purposes specified in ORS 451.010.

(4) "Owner" shall be deemed to be the record owner of real property or holder of a duly recorded contract for purchase of real property within the district.

(5) "Formation" has the meaning given that term by ORS 198.705 (9).

(6) "Change of organization" has the meaning given that term by ORS 198.705 (5).

(7) "County" has the meaning given that term by ORS 198.705 (16). [1955 c.685 §1; 1961 c.576 §4; 1963 c.515 §7; 1967 c.538 §2; 1973 c.785 §5; 1975 c.630 §2]

**451.420 District may construct and operate service facilities.** When authorized as provided in ORS 451.410 to 451.600 a dis-

trict may construct, maintain and operate any or all of the service facilities specified in ORS 451.010. [1955 c.685 §2; 1963 c.515 §8; 1973 c.785 §6]

**451.430** [1955 c.685 §3; 1961 c.576 §5; 1963 c.515 §9; 1967 c.249 §2; 1969 c.646 §2; 1971 c.291 §4; 1971 c.727 §129; repealed by 1973 c.785 §32]

**451.435 Law governing district formation or change.** (1) All district formation and change of organization proceedings shall be initiated, conducted and completed as provided by ORS 198.705 to 198.955 except that no county or portion thereof shall be included within a district which is to provide services in more than one county without the consent of the governing body of the affected county.

(2) In the case of sewage works, upon certification to the county court by the Environmental Quality Commission or the county health officer that an emergency exists the county court shall initiate the formation of a district in the manner specified in ORS 198.835, or annexation to an existing district in the manner specified in ORS 198.850 (3), whichever is most appropriate.

(3) A petition or order initiating the formation or change or organization of a district shall, in addition to the requirement specified by ORS 198.705 to 198.955, state which of the service facilities specified by ORS 451.010 the district shall be authorized to construct, maintain and operate.

(4) A final order in a formation or change of organization proceeding of a district shall, in addition to the requirements specified by ORS 198.705 to 198.955, state which of the service facilities specified by ORS 451.010 the district shall be authorized to construct, maintain and operate. [1973 c.785 §8; 1975 c.630 §3]

**451.440 Plans for service facilities.** (1) Prior to initiation of the formation of a district, the county court may cause engineering plans to be prepared. The plans may include:

(a) Preliminary plans for the service facilities to be constructed.

(b) Estimated costs of construction, maintenance and operation.

(c) Recommendations as to boundaries of the district.

(d) Recommendations as to use of any portion of the proposed service facilities for areas in the county outside the district at some future date and the portion of the cost of such works which should be borne by such

areas when use is made of any portion of the facilities.

(e) Recommendations as to the extent to which the proposed service facilities may be integrated into other service facilities constructed or being constructed by other districts under ORS 451.410 to 451.600 or by other public agencies and the fair and equitable amount of the cost of construction of such other facilities the district should bear.

(2) If a district is formed, the county court may require the district to reimburse the county for the cost of engineering plans prepared in accordance with this section. [1955 c.685 §4; 1961 c.576 §6; 1963 c.515 §10; 1971 c.291 §5; 1971 c.727 §130; 1973 c.785 §9]

**451.445 Formation of district upon finding of health hazard; financing.** (1) When certified copy of the findings of the Assistant Director for Health is filed with the county court as provided by ORS 431.740 or 431.750, the county court shall, subject to ORS 198.792, proceed to form the district to provide the facilities described in the findings and shall enter an order in accordance with ORS 451.485.

(2) The county court shall, within one year after making its order under ORS 451.485, prepare plans and specifications for the service facilities proposed to be provided within the district and proceed in accordance with the time schedule to construct or install the facilities.

(3) Notwithstanding the provisions of ORS 451.487, the order of the county court under ORS 451.485 is not subject to referendum if it is adopted in accordance with subsection (1) of this section and as a result of proceedings conducted under ORS 431.705 to 431.760.

(4) Notwithstanding ORS 451.495, when service facilities are to be constructed for the purpose of removing or alleviating a danger to public health and as a result of proceedings conducted by ORS 431.705 to 431.760, if any portion of the cost of the service facilities is to be assessed against the property directly benefited, ORS 451.495 (1)(c) does not apply to the general ordinance providing for the method of assessment which must be adopted under ORS 451.495. [1973 c.361 §18; 1981 c.452 §3]

**451.450** [1955 c.685 §5; 1961 c.576 §7; 1963 c.515 §11; repealed by 1971 c.727 §203]

**451.460** [1955 c.685 §6; 1963 c.515 §12; repealed by 1971 c.727 §203]

**451.462** [1963 c.515 §12b; 1969 c.646 §3; repealed by 1971 c.727 §203]

**451.465** [1961 c.576 §§9, 11, 12, 13; 1963 c.515 §12c; repealed by 1971 c.727 §191]

**451.467** [1961 c.576 §10; 1963 c.515 §13; 1969 c.646 §4; 1971 c.727 §132; repealed by 1973 c.785 §32]

**451.469** [1969 c.646 §6; repealed by 1971 c.647 §149]

**451.470** [1955 c.685 §7; repealed by 1961 c.576 §24]

**451.472 County court to construct only authorized service facilities; additional authorizations.** A district may construct, maintain and operate only those service facilities specified by ORS 451.010 which were authorized upon formation. However, additional authority regarding service facilities may be given to a district by a proceeding initiated, conducted and completed in the same manner as is provided for in the original formation of a district. [1963 c.515 §13b; 1969 c.646 §7; 1971 c.727 §133; 1973 c.785 §10]

**451.476** [1963 c.515 §13c; repealed by 1969 c.646 §18]

**451.480** [1955 c.685 §8; repealed by 1961 c.576 §24]

**451.485 Governing body of district; order preliminary to construction work.** The county court shall be the governing body of any district established under ORS 451.410 to 451.600. Such district shall be a municipal corporation known by the name or number specified in the order declaring its formation and by that name shall exercise and carry out the corporate powers and objects conferred and declared in this chapter. Before proceeding to construct or provide any service facilities authorized by this chapter, the governing body of the district shall make an order:

(1) Determining the service facilities to be constructed, maintained and operated and the part of the work to be undertaken immediately.

(2) Determining the manner of financing the construction, maintenance and operation of the service facilities.

(3) Determining the method by which the district shall bear the share of the cost of construction of the service facilities which is to be apportioned to the district.

(4) Where it appears that any service facilities to be constructed will provide service to areas outside the district at some future date, determining the equitable and fair share of the cost of construction of such facilities which should be borne by such areas, which share shall be borne by the revolving fund established under ORS 451.540, by funds

obtained by the county under ORS 280.055 or by any other method of financing described by ORS 451.490 until such areas are served by the facilities.

(5) Where the service facilities of the district are to be integrated into other service facilities constructed or being constructed by another district or by other public agencies, determining the fair and equitable amount the district should assume as its share of the construction of such other service facilities, which amount shall be paid to the other district or public agencies upon terms and conditions to which the governing body of the district has agreed.

(6) In the case of sewage works, where trunk or interceptor sewers, treatment plants and similar facilities are to be charged to all property within the district while lateral sewers, street mains and similar facilities are to be charged only to property to be served immediately by the system, determining the fair and equitable share of the total cost to be charged to areas within the district.

(7) If any of the cost of the work is to be assessed against benefited property, describing portions of the district, if any, within which service facilities will not be financed by assessment. [1961 c.576 §14; 1963 c.515 §14; 1969 c.646 §8; 1973 c.785 §11; 1981 c.570 §1]

**451.487 Referendum on order; election; results.** The order required by ORS 451.485 and any order which amends that order shall be subject to referendum vote within the district, notwithstanding the prior authorization of such service facilities by election during formation proceedings. The referendum may be ordered by resolution of the governing body of the district, or by petition submitted within 60 days after the date of the order and signed by 10 percent of the voters of the district. An election shall be held on a date specified in ORS 255.345 as soon as practicable after the date the resolution is adopted or petition filed. If a majority of those voting approve the order required by ORS 451.485, the governing body of the district shall so declare by order entered in its journal. If a majority of those voting disapprove the order, the results shall be entered in the journal. [1963 c.515 §14a; 1971 c.647 §103; 1973 c.785 §12; 1973 c.796 §66a; 1975 c.647 §42; 1981 c.570 §2]

**451.490 Methods of financing service facilities.** The district may, in accordance with the order adopted under ORS 451.485, finance the construction, operation or maintenance

of service facilities for a district by:

(1) Use of funds from a fund established under ORS 280.055 or 451.540 to be repaid by the district without interest.

(2) Assessments against the property in the district with or without issuance of bonds or warrants authorized under ORS 451.530.

(3) Service or user charges in the district.

(4) Connection charges.

(5) District ad valorem taxes.

(6) Sale of bonds.

(7) Funds obtained under ORS 280.040, 280.050 and 280.060 to 280.140.

(8) Any combination of the provisions of subsections (1) to (7) of this section. [1955 c.685 §9; 1961 c.576 §15; 1963 c.515 §15; 1969 c.646 §9; 1973 c.785 §13]

**451.495 Ordinance governing certain assessments.** (1) If the cost, or any portion of the cost, of service facilities for a district is to be assessed under ORS 451.490 against the property directly benefited, the governing body of the district shall, before attempting to implement the service facilities, adopt a general ordinance providing for the method of assessment. The ordinance shall:

(a) Contain provision for notice to affected property owners of intention to implement described service facilities and to assess benefited property for a part or all of the cost.

(b) Provide for a hearing at which affected property owners may appear to object to the implementation of the proposed service facilities.

(c) Provide that if the district receives written objections prior to the conclusion of the hearing signed by more than 50 percent of the affected property owners representing more than 50 percent of the affected property the proposed service facilities will not be implemented.

(d) Provide for notice of and a hearing on proposed assessments which notice and hearing may be combined with the notice and hearing described in paragraphs (a) and (b) of this subsection.

(e) Provide for the general method of assessing the property directly benefited and of the recording of liens against the property directly benefited, and of making supplementary assessments and rebates.

(f) Provide for establishing the boundaries of each assessment district as work is proposed.

(2) Assessments in the district shall, so far as practicable, be apportioned within the district in accordance with the special and peculiar benefit each lot or parcel of land receives from the service facilities.

(3) Where parcels of land, or portions thereof, are undeveloped, the governing body of the district may, in its discretion, defer assessing or imposing all or any portion of such assessments on such parcels until such parcels are served by the facilities. [1973 c.785 §15; 1981 c.570 §3]

**451.500 Charges and fees for financing service facilities.** The district may by order or by ordinance, for the purpose of paying the costs of operation and maintenance of service facilities, and for the repayment of bonds, impose user charges on property served by the service facilities. The district may, from time to time when necessary, use moneys from the revolving fund for such maintenance and operation on a reimbursable basis. User charges, connection fees or service charges shall be based upon the costs of operation, maintenance and supervision of service facilities and the costs of bond repayment. [1955 c.685 §10; 1969 c.646 §10; 1973 c.785 §16]

**451.510 Collection of service charges.**

(1) The district may contract with any city or water or other district serving water in the district to collect service or user charges with the water bills, and the serving agency may cut off water for nonpayment of such service or user charges. The district may pay the water-serving agency a reasonable charge for such collection services.

(2) Assessments of less than \$25 and service or user charges may also be collected and enforced as provided in ORS 224.220 (1971 Replacement Part). [1955 c.685 §11; 1969 c.646 §11; 1973 c.785 §17]

**451.520 Assessments to be entered on lien docket; foreclosure for failure to pay; reassessments.** (1) When assessments are made under ORS 451.410 to 451.600 they shall be entered in a permanent lien docket which shall be kept in the office of the county clerk of the county. The docket shall show the amount of each lien, property against which it has been assessed, the owner thereof and such additional information as is required to keep a

permanent and complete record of the assessment and the payments thereon.

(2) If the owner of the property against which an assessment has been made fails to pay the assessment, or any portion thereof, or the interest thereon, when due, the district may proceed to foreclose the lien in any manner provided by law for the collection of liens by municipalities or may provide by ordinance a general procedure for the collection of such liens in any manner not inconsistent with law.

(3) The provisions of ORS 223.405 to 223.485 relating to reassessment shall be available to the district, where applicable, in connection with assessments made under ORS 451.410 to 451.600.

(4) In addition to the procedure provided by subsections (1), (2) and (3) of this section, the provisions of ORS 372.170 and 372.180 shall be available to the district, where applicable, in connection with assessments made under ORS 451.410 to 451.600. [1955 c.685 §12; 1963 c.515 §16; 1973 c.622 §1; 1973 c.785 §18]

**451.530 Assessment of property; issuance of improvement warrants and bonds.** (1) If the cost, or any portion of the cost, of service facilities for a district is to be assessed under ORS 451.490 against the property directly benefited, the following provisions apply in so far as practicable to the district:

(a) ORS 223.205 and 223.210 to 223.295 relating to the assessment of property benefited by public improvements and to the issuance of bonds and other obligations;

(b) ORS 223.770 relating to the assessment of public property benefited by public improvements for the cost of such improvements; and

(c) ORS 287.502 to 287.510 relating to the issuance of improvement warrants by cities.

(2) The warrants authorized by paragraph (c) of subsection (1) of this section may be issued following implementation of proposed service facilities but prior to assessment of property benefited thereby, if the hearing required by ORS 451.495 (1)(d) has been held.

(3) Where the provisions listed in subsection (1) of this section refer to officials of cities, the corresponding officials of the county shall perform the required functions, unless otherwise provided by order of the governing body of the district.

(4) The district may issue improvement bonds in the total amount of the valid applica-

tions it has received to pay assessments in instalments as provided in ORS 223.205 and 223.210 to 223.295. [1955 c.685 §13; 1961 c.576 §16; 1963 c.515 §17; 1965 c.227 §2; 1971 c.325 §4; 1973 c.785 §19]

**451.540 Tax levy for financing service facilities; hearing.** (1) The county court may, for the purpose of establishing a revolving fund to provide money to finance the construction under ORS 451.410 to 451.585 of those service facilities in the county that may be necessary and in implementation of the master plans provided for in ORS 451.120, levy an ad valorem tax of not to exceed 50 cents per year, for a period not to exceed five years, for each \$1,000 of true cash value of taxable property within all areas of the county, to be served by the facilities included in the master plan. The revenues derived from the taxes shall be deposited with the county treasurer and credited to the revolving fund. Moneys in the revolving fund shall be disbursed by the county treasurer on order of the county court and used solely for the purposes authorized in ORS 451.410 to 451.600.

(2) The boundaries of the territory within which the tax authorized by subsection (1) of this section may be levied shall be determined by the county court after a public hearing. The county court shall direct the county clerk to publish notice of such hearing once a week for two successive weeks prior to the hearing in a newspaper of general circulation published within the proposed boundaries of the territory or, if there is no such newspaper, in a newspaper of general circulation in the county. Any registered voter or any owner of property within the territory may appear at the hearing to protest inclusion of the property of the voter within the territory, but the county court shall not exclude land which, in its judgment, will be served by the facilities included in the master plan. [1955 c.685 §14; 1961 c.576 §17; 1963 c.515 §18; 1967 c.538 §5; 1981 c.804 §103]

**451.545 Bond issue for financing service facilities.** (1) The district may, when authorized by a majority of the votes cast at an election by voters of the district, issue general obligation bonds for the purpose of paying the cost of acquisition or construction of service facilities. Each issue of general obligation bonds shall be the general obligation of the district and the principal and interest on the bonds shall be paid by the district by assessments, charges, or ad valorem

taxes imposed or levied within the district as may be determined by the governing body of the district under ORS 451.490. Bonds authorized by this section shall be issued in accordance with ORS 287.052 to 287.074, except as otherwise provided in this section.

(2) In addition to the authority to issue general obligation bonds, the district, when authorized at any properly called election, shall have the power to sell and dispose of revenue bonds, and to pledge as security for the bonds all or any part of the unobligated net revenue of the district to purchase, acquire, lay out, construct, reconstruct, extend, enlarge or improve service facilities. The revenue bonds shall be issued in the same manner and form as are general obligation bonds of the district, but they are payable, both as to principal and interest from revenues only, as specified by this section. The revenue bonds are not subject to the percentage limitation applicable to general obligation bonds and are not a lien upon any of the taxable property within the boundaries of such district, but are payable solely from such part of the revenues of the district as remain after payment of obligations having a priority and of all expenses of operation and maintenance of the district. All revenue bonds shall contain a clause reciting that both the principal and interest are payable solely from operating revenues of the district remaining after paying such obligations and expenses.

(3) The district's total outstanding bonds of all kinds, including improvement bonds of the kind authorized by ORS 223.205 and 223.210 to 223.295, shall at no time exceed in the aggregate 13 percent of the true cash value of all property by law assessable for state and county purposes within the district as reflected in the assessment roll last equalized. [1961 c.576 §19; 1963 c.515 §19; 1969 c.646 §12; 1973 c.785 §20; 1981 c.804 §104]

**451.547 Tax levies authorized.** A district may vote to establish a tax base in accordance with Article XI, section 11, Constitution of the State of Oregon, and thereafter the district may levy ad valorem taxes on property within the district for the purposes authorized by ORS 451.410 to 451.600. If a district has voted a tax base in accordance with this section, the provisions of ORS 294.305 to 294.520 shall apply to the district. [1961 c.576 §20; 1963 c.515 §19a; 1971 c.647 §104; 1973 c.785 §21]

**451.550 Powers of district under ORS 451.410 to 451.600.** For the purpose of carrying out the powers granted to the district under other provisions of ORS 451.410 to 451.600, the district may:

(1) Supervise, manage, control, operate and maintain service facilities.

(2) Compel all residents and property owners in a district to connect their houses and structures requiring sewage disposal or surface drainage with adjacent sewers or other sewage or drainage disposal facilities in the district.

(3) Acquire by purchase, gift, devise, condemnation proceedings or by any other means, such real and personal property and rights of way, either within or without the county, as in the judgment of the governing body of the district are necessary or proper in the exercise of the powers of the district, and to pay for and hold the same.

(4) Make and accept contracts, deeds, releases and documents which, in the judgment of the governing body of the district, are necessary or proper in the exercise of the powers of the district.

(5) Employ and pay necessary agents, employees and assistants.

(6) Construct service facilities in and on any public street, highway or road and for this purpose enter upon the street, highway or road, make all necessary and proper excavations, and thereafter restore the street, highway or road to its proper condition. However, the consent of the appropriate city, county or state authorities, as the case may be, shall first be obtained and the conditions of such consent complied with.

(7) Exercise the authority vested in counties under ORS 549.710 to 549.990.

(8) Exercise the authority granted to domestic water supply districts under ORS 264.306 to 264.330.

(9) Do any act necessary or proper to the complete exercise and effect of any of its powers under ORS 451.410 to 451.600. [1955 c.685 §15; 1963 c.515 §20; 1965 c.305 §1; 1973 c.785 §22]

**451.555 Districts formed to provide comprehensive planning services; adoption of land use plans; advisory committees.** (1) County service districts for the purpose of providing comprehensive planning for land use and public facilities for a district in the county may be formed in the manner provided by ORS 451.410 to 451.600 for estab-

lishing county service districts for other purposes.

(2) A district formed to provide comprehensive planning may, in accordance with ORS 215.050 to 215.213, 215.215 to 215.233, adopt comprehensive plans for land use and public facilities within the district. The district shall be subject to ORS 451.120 to 451.140, 451.485 and 451.550 to 451.560. The activities of the district may be financed by any method authorized by ORS 451.490 and 451.520 to 451.547. Plans adopted by the district may be enforced as provided by ORS 451.130.

(3) The district governing body shall appoint an advisory committee of not less than 11 members who are registered voters resident in the district or owners of land in the district. The committee shall advise the governing body in carrying out the provisions of this section. It shall meet with the governing body at the times and places determined by the committee and governing body jointly.

[1971 c.674 §4]

**451.560 Agreements for cooperative financing of service facilities or for use, lease or joint operation of service facilities.** (1) The district may enter into agreements with any city, any county, the Federal Government, the state or any of its agencies, any district organized for a public purpose or any person for a period not to exceed 30 years for the cooperative financing of the construction, maintenance and operation of service facilities.

(2) The district may enter into agreements with any county, city, district organized for a public purpose or person for the use, lease or joint operation of any service facilities, or any portion thereof. [1955 c.685 §16; 1963 c.515 §21; 1973 c.785 §23]

**451.562** [1963 c.515 §21b; 1965 c.475 §1; 1967 c.248 §4; 1969 c.646 §13; 1971 c.291 §1; 1971 c.727 §134; repealed by 1973 c.785 §32]

**451.563** [1967 c.248 §2, 3; repealed by 1969 c.646 §18]

**451.564** [1967 c.538 §4; repealed by 1971 c.727 §203]

**451.565** [1961 c.576 §21; 1965 c.304 §1; repealed by 1969 c.646 §18]

**451.566** [1971 c.291 §3; repealed by 1973 c.785 §32]

**451.568 Public transportation facilities and services of district exempt from certain regulations.** Public transportation facilities and services provided by, or pur-

suant to a contract with, a county service district created for the purpose of public transportation are exempt from the provisions of ORS chapter 767. [1973 c.211 §4]

**451.570 Regulations for sewage disposal, solid waste disposal, street cleaning and authorized purposes.** (1) For the protection of the public health, safety and general welfare, the district may adopt and enforce reasonable and necessary regulations for:

(a) The control of sewage disposal in the district.

(b) The storage, collection, transportation and disposal of solid wastes within the district where such regulations are supplemental to the requirements of the regulations of the Environmental Quality Commission adopted pursuant to ORS 459.045 and are necessary to meet special local conditions.

(c) The cleanliness of roads and streets of the district.

(d) All other purposes consistent with the type of service facilities the district is authorized to construct, operate and maintain and not in conflict with the laws of this state.

(2) Such regulations shall be adopted in accordance with ORS 198.510 to 198.600.

[1955 c.685 §17; 1967 c.428 §9; 1969 c.593 §41; 1971 c.268 §18; 1971 c.648 §28; 1973 c.785 §24]

**451.572 Certain special districts excluded from water supply county service districts.** No part of the territory of a district proposed to be formed for the purposes authorized in ORS 451.010 (1)(f) as amended by section 1, chapter 287, Oregon Laws 1977, shall include territory within the boundaries of a district formed to supply water under ORS chapter 198, 261, 264 or 450 unless the governing bodies of the affected districts, by resolution, approve the inclusion of their territories prior to the hearing held under ORS 198.805 for formation of the new district. [1977 c.287 §2]

**Note:** 451.572 was enacted into law by the Legislative Assembly but was not added to or made a part of ORS chapter 451 or any series therein by legislative action. See the Preface to Oregon Revised Statutes for further explanation.

**451.573 Definitions for ORS 451.573 to 451.577.** As used in ORS 451.573 to 451.577:

(1) "Special district" means any one of the following districts:

(a) A drainage district organized under ORS chapter 547.

(b) A park and recreation district organized under ORS chapter 266.

(c) A highway lighting district organized under ORS chapter 372.

(d) A sanitary district organized under ORS chapter 450.

(e) A diking district organized under ORS chapter 551.

(2) "Special district" also means one of the following, if the special district is within the geographical jurisdiction of a local government boundary commission formed by or pursuant to ORS 199.410 to 199.519:

(a) A domestic water supply district organized under ORS chapter 264.

(b) A cemetery maintenance district organized under ORS chapter 265.

(c) A special road district organized under ORS 371.305 to 371.360.

(d) A road assessment district organized under ORS 371.405 to 371.535.

(e) A health district organized under ORS 440.305 to 440.410.

(f) A vector control district organized under ORS 452.020 to 452.180.

(g) A rural fire protection district organized under ORS chapter 478.

(h) A weather modification district organized under ORS 558.200 to 558.440.

(i) A geothermal heating district organized under ORS chapter 523.

(3) "District" means, in addition to the meaning given that term by ORS 451.410 (2), a county service district organized under the authority of a county charter. [1965 c.475 §4; 1969 c.646 §14a; 1971 c.674 §2; 1973 c.785 §25; 1975 c.782 §52]

**451.575 Excluding or including special districts from or in county service districts.** (1) The area within a special district described by ORS 451.573 (1)(a) shall not be included in or annexed to a district if prior to or at the hearing on the formation of or annexation to such district the governing body of the special district files with the governing body of the district a resolution withdrawing the area within the special district.

(2) When the formation of or annexation to a district is initiated, and the area to be incorporated or annexed includes the entire area within a special district, the governing board of the special district and the governing body of the district shall meet with each other



to agree on a debt distribution plan to be a part of the proposed incorporation or annexation. The debt distribution plan may require that the property within the special district remain solely liable for all bonded indebtedness outstanding at the time of incorporation or annexation or it may provide for any other distribution of indebtedness between the district and the special district. If the governing boards do not agree on a debt distribution plan or if the area within the special district remains liable under the plan for any portion of the indebtedness outstanding at the time of the incorporation or annexation, and dissolution and transfer, the governing body of the district shall be the ex officio board of the dissolved special district for the purpose of levying taxes in such area until the bonded and other indebtedness of the dissolved special district is paid.

(3) The consent of all the known holders of valid indebtedness against the special district shall be obtained or provision made in the debt distribution plan for the payment of the nonassenting holders. The area within the boundaries of the special district shall not by reason of the incorporation or annexation and dissolution and transfer be relieved from liabilities and indebtedness previously contracted by the dissolving special district.

(4) The district officers of the special district, upon the effective date of the incorporation or annexation, shall forthwith deliver to the governing body of the district, the assets and records of the special district. Uncollected taxes, assessments or charges thereof levied by the special district shall become the property of the district and upon collection shall be credited to the account of such district. [1969 c.646 §15; 1973 c.785 §26]

**451.577 Dissolution of special district; service district to succeed.** (1) Subject to ORS 451.575, upon the effective date of the formation of a district or of an annexation of territory to a district, a special district lying within the district shall be extinguished and dissolved and the district shall succeed to all the assets and become charged with all the liabilities, obligations and functions of the special district.

(2) Subsection (1) applies:

(a) If the entire area of a special district is incorporated in or annexed to a district; and

(b) If the district has the authority to provide the same service as the special district. [1965 c.475 §3; 1969 c.646 §14; 1973 c.785 §27]

**451.580 Disposition of moneys received under ORS 451.410 to 451.600.** Except as otherwise provided in ORS 451.410 to 451.600, all moneys received by a district shall be paid to the county treasurer and deposited by him in an appropriate district fund. The county treasurer, when ordered by a district governing body, shall establish separate accounts in the district fund or separate funds in the county treasury for the segregation of sinking or reserve funds or accounts, of operating funds or accounts or of any other funds or accounts found necessary or expedient by the district. However, no moneys received by a district shall be used for any purpose other than for carrying out the purposes of ORS 451.410 to 451.600 and all funds, facilities, personnel or supplies of the county used for those purposes shall be charged to the appropriate district fund or account. [1955 c.685 §18; 1963 c.515 §21c; 1973 c.785 §28]

**451.585 Duty of city when all or part of district annexed or incorporated.** (1) Whenever the entire area of a district is incorporated in or annexed to a city in accordance with law, the district shall be extinguished and the city shall upon the effective date of such annexation succeed to all the assets and become charged with all the liabilities, obligations and functions of the district. The district officers shall forthwith deliver to the city officers the district assets and records. Uncollected taxes theretofore levied by such district shall become the property of the city and be delivered to it by the county treasurer upon collection.

(2) Whenever a part less than the whole of a district becomes incorporated in or annexed to a city in accordance with law, the city may at any time after such incorporation or annexation cause that part to be withdrawn from such district in the manner set forth in ORS 222.524, and the provisions of ORS 222.510 to 222.580 shall be applicable to such withdrawal except that in case the district and the city cannot agree upon a division of assets or obligations and liabilities, then and in such case, either the district or the city may petition the circuit court for the county in which the city has its legal situs to determine such division. [1961 c.576 §§22, 23]

**451.590 Entry upon privately owned lands to survey or lay out service facilities.** Officers and employes of a county or of a district may enter upon privately owned lands

to survey or lay out service facilities by direction of the county court or governing body of the district. However, the county court or governing body of the district shall cause notification to be given to each occupant of the lands, either by registered or certified mail or by other lawful means. This notice shall be given at least five days before the county or district officers or employees enter upon the lands. No officer or employee of a county or district entering privately owned lands pursuant to this section shall damage or destroy trees, shrubs, buildings or other items of value on that land without first obtaining the consent of the owner. [1959 c.673 §1; 1963 c.515 §22; 1973 c.785 §29]

**451.600 Restrictions on altering, repairing or connecting with a service facility.** No person shall alter, repair or make a connection with any service facility maintained by a district, unless that person:

(1) Obtains permission from the district that maintains the facility, and pays all deposits, charges or fees required by the district for granting such permission, before undertaking the work; and

(2) When appropriate, complies with ORS 447.010 to 447.160 in performing the work. [1959 c.673 §2; 1961 c.576 §18; 1963 c.515 §23; 1973 c.785 §30]

### PENALTIES

**451.990 Penalties.** Violation of ORS 451.600 or any regulation adopted pursuant to ORS 451.570 is a misdemeanor. [1959 c.673 §3; 1973 c.785 §31]

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# Chapter 547

## 1981 REPLACEMENT PART

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**ORGANIZATION OF  
DRAINAGE DISTRICTS;  
SCOPE OF LAW**

**547.005 Authority to form drainage district.** The persons shown by the records of the county to be the owners of 50 percent of the acreage in any contiguous body of swamp, wet or overflowed lands or irrigated lands, waters from which contribute to the swamp, wet or overflowed conditions of those or other lands, situated in one or more counties of the state, may form a drainage district for the purpose of having such lands reclaimed and protected by drainage or otherwise from the effects of water, for sanitary or agricultural purposes, or when the same may be conducive to the public health, convenience and welfare or of public utility or benefit.

**547.010 Petition to form district; contents.** For the purpose mentioned in ORS 547.005, the owners may prepare and sign a petition in which shall be stated:

- (1) The name proposed for the district.
- (2) The boundary lines of the district, or a description of all the lands included therein, with an allegation that such lands constitute a contiguous body of swamp, wet or overflowed lands, or irrigated lands the waters from which contribute to the swamp, wet or overflowed condition of those or other lands.
- (3) The total acreage included in the district, and if land in more than one county is included, then the acreage in each county.
- (4) The names of the owners of land in the district as shown by the county records, and the acreage owned by each owner.
- (5) An allegation that the proposed reclamation or protection is for sanitary or agricultural purposes, or both, and that the proposed reclamation or protection will be conducive to the public health or welfare or of public utility or benefit.
- (6) An allegation that all the lands included in the proposed district are properly included, and will be beneficially affected by the operations of the proposed district.
- (7) An allegation that the benefits of the proposed reclamation or protection will exceed the damage to be done and that the best interests of the land included and of the owners of such land as a whole, and of the public at large, will be promoted by the formation and proposed operations of the district.

(8) An allegation that the formation of a drainage district under the provisions of this chapter is a proper and advantageous method of accomplishing the reclamation and protection of the lands included therein.

(9) A brief, general, informal statement of a proposed plan of reclamation or protection and such general facts as will enable the court to determine that there is a reasonable probability that the objects sought by the formation of the district may be accomplished.

(10) An agreement that the signers will pay any expenses incurred and any taxes that may be levied against their lands, for the purpose of paying the expense of organizing or attempting to organize the proposed district.

(11) A prayer asking that the lands described, or such of them as may be found by the court to be properly included in the proposed district, either permanently or until further investigation and surveys may permit elimination, shall be declared organized into a drainage district.

**547.015 Verification and filing of petition.** The petition shall be verified by one or more of the petitioners to the effect that they have read the petition and believe the allegations to be true. It shall be filed in the office of the county clerk of the county in which the lands described are situated. If the lands are situated in more than one county it shall be filed in the office of the county clerk of the county in which more of the lands are situated than in any other county.

**547.020 Fixing time and place of hearing; notice; jurisdiction over district.**

(1) Upon presentation of the petition, the county court shall fix the time and place for hearing the petition. Thereupon the clerk in whose office the petition was filed shall give notice in the following manner:

(a) He shall cause notice to be published once each week for four consecutive weeks in some newspaper published in each county in which are situated lands of the district, the last insertion to be made at least 15 days prior to the meeting of the county court at which the petition is to be heard. The notice shall be substantially in the following form and shall be deemed sufficient for all purposes of the Drainage District Act:

Notice of Hearing on Petition to  
Form Drainage District.

In the County Court of the State of Oregon,  
for the County of \_\_\_\_\_.

Notice is given that hearing on the following petition will be held at the courthouse in the city of \_\_\_\_\_, County of \_\_\_\_\_, State of Oregon, on the \_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_, for the purpose of determining whether the prayer of the petition shall be granted.

All persons owning or claiming an interest in lands described in the petition are notified to appear at that place on that date and show cause, if any there be, why the prayer in the petition should not be granted.

\_\_\_\_\_  
Clerk of the County Court

(b) Immediately following the notice and as a part thereof, there shall be published the petition in full, including the signatures thereto.

(2) The county court of the county in which the petition has been filed shall thereafter maintain and have original and exclusive jurisdiction coextensive with the boundaries and limits of the district without regard to county lines, for all purposes of the Drainage District Act.

**547.025 Filing of objections.** On or before the date set for the hearing, any person objecting to the organization and incorporation of the district may appear and file a writing setting forth specifically and definitely his objections thereto.

**547.030 Evidence at hearing; findings; appeal.** (1) At the hearing the court shall hear and consider any evidence that may be presented for or against the petition or any objection thereto.

(2) Thereupon the court shall make its findings upon the facts alleged in the petition or objections and any other facts necessary and proper for the determination of the propriety of the organization of the district, which findings shall be entered on the journal of the court.

(3) If it appears to the court that the prayer of the petition should be granted, the court shall, by its order entered of record, declare the drainage district organized.

(4) If it appears to the court that the prayer of the petition should not be granted, the

proceedings shall be dismissed and the costs adjudged against the signers of the petition in proportion to the acreage represented by each.

(5) In making such findings and decision, the court shall disregard any error, irregularity or omission which does not affect substantial rights, and no such error, irregularity or omission shall affect the validity of the organization or any proceedings taken thereon.

(6) Appeal may be taken de novo from the decision of the court to the circuit court.

[Amended by 1979 c.284 §168]

547.035 [Repealed by 1975 c.326 §5]

**547.040 Application of Act of 1915 and amendments to districts organized under earlier laws.** All drainage districts organized before February 14, 1921, in pursuance of any law relating to drainage districts passed prior to the enactment of chapter 340, Oregon Laws 1915, shall have all the powers and be subject to all the provisions of the Drainage District Act, except in so far as the organization of the district is concerned.

**547.045 State lands within district; authority to sign petition or objections; liability of lands; assessments.** (1) Whenever any diking or drainage district is sought to be created and organized or is created and organized in the manner provided by law, within the boundaries of which are located any lands belonging to the state that have been acquired or used by or for any state institution, the administrator, as defined in ORS 179.010, of the division having jurisdiction over the institution may sign any petition or objections thereto for the organization of such district and exercise on behalf of the state with respect to the district and the land therein belonging to the state, all the rights and privileges of a landowner within the district.

(2) Whenever any such district or proposed district includes any lands belonging to any public body created under the laws of this state, the presiding officer of such public body, or other member of the governing body of such public body, when thereto authorized by a resolution of the governing body thereof, may sign such petition or objection thereto on behalf of the public body, and exercise with respect to the district and the land therein belonging to the public body, all the rights and privileges of a landowner in the district, including the right to be a supervisor of the district.

(3) Such lands belonging to the state or to a public body shall be subject to the same burdens and liabilities and entitled to the same benefits as lands in the district belonging to private individuals. The division having jurisdiction over the institution may pay from any appropriations made for the operation and maintenance of any institution, the lands of which have been included in any diking or drainage district, any assessments levied against such lands by the diking or drainage district. [Amended by 1959 c.380 §1; 1969 c.597 §61]

**547.050 Signing of petition by Governor.** The signing of the petition by the Governor for the organization of a diking or drainage district on behalf of the state shall be deemed to constitute compliance with the provisions of ORS 547.005 to 547.015, and any previous such action by the Governor is hereby ratified and confirmed. [Amended by 1969 c.597 §62]

**547.055 Attack on validity or boundaries of district; time for commencement of suit.** No action, suit or proceeding, under ORS 30.570 or otherwise, shall be maintained for the purpose of avoiding, setting aside or otherwise questioning or affecting the validity of the organization of any district organized under the Drainage District Act, unless such action, suit or proceeding is commenced within nine months from the date of the proclamation in such matter made by the county judge; nor for the purpose of questioning the legality of the boundaries established for such corporation in such proclamation unless similarly commenced within nine months therefrom; nor for the purpose of questioning the legality of any altered boundaries of the district which may be subsequently established as provided for by ORS 547.250 to 547.260 unless commenced within nine months from the date of the decree.

**547.060 Scope of Drainage District Act.** As used in this chapter, "Drainage District Act" means ORS 547.005 to 547.030, 547.105 to 547.150, 547.205 to 547.240, 547.250 to 547.265, 547.310, 547.315, 547.455 to 547.475, and 547.555 to 547.580.

**BOARD OF SUPERVISORS;  
ADMINISTRATION; SURETY  
BONDS; WARRANTS**

**547.105 Election of supervisors; qualifications and terms of office; quorum for transaction of business at owners' meetings.** Within 30 days after any drainage district has been organized under the provisions of the Drainage District Act, the county clerk of the county in which the petition was filed shall call a meeting of the owners of land situated in the district for the purpose of electing a board of three supervisors. Notice of the meeting shall be given by publication in some newspaper published in each county in which lands of the district are situated, at least 10 days before the date of the meeting. The supervisors shall be owners of land in the district. The landowners, assembled at the place and time required by the notice, shall organize by the election of a chairman and secretary of the meeting who shall conduct the election. Each owner is entitled to one vote in person or by proxy for each acre of land owned by him in the district. The three persons receiving the highest number of votes shall be declared elected as supervisors. They shall immediately by lot determine the terms of their office, which shall be, respectively, one, two and three years. They shall serve until their successors are elected and qualified. The majority of the acreage represented shall be necessary to constitute a quorum for the transaction of business at all landowners' meetings; provided, however, that when in any year a district shall fail to have a quorum at its annual meeting called pursuant to ORS 547.110 then the quorum for the annual meeting for the succeeding year shall be at least 35 percent of the acreage represented. [Amended by 1959 c.379 §1]

**547.110 Annual meeting; election of supervisor; land entitled to vote.** In the same month of each year after the election of the first board of supervisors, the board shall call a meeting of the owners of land in the district, after giving notice in the manner provided for in ORS 547.105. The owners shall meet at the time and place fixed by the board and elect one supervisor in the manner prescribed in ORS 547.105, who shall hold office for three years and until his successor is elected and qualified. However, after the report of the commissioners has been confirmed by the court under the provisions of ORS 547.235, only the land having benefits assessed against it shall be entitled to vote at the annual meetings held under the provisions of this section. [Amended by 1969 c.669 §14]



**547.115 Supervisor's oath of office.**

Each supervisor before entering upon his official duties shall take and subscribe to an oath before some officer authorized by law to administer oaths, that he will honestly, faithfully and impartially perform the duties devolving upon him in office as supervisor of the drainage district in which he was elected, and that he will not neglect any of the duties imposed upon him by the Drainage District Act.

**547.120 Board of supervisors; officers; secretary; seal; record of proceedings; report.** The board of supervisors immediately after its election shall choose one of its number president of the board, and elect some suitable person secretary, who may or may not be a member of the board. The board shall adopt a seal with a suitable design, and shall keep a record of all its proceedings. The board shall report to the landowners at the annual meeting held under the provisions of ORS 547.110 what work has been done, either by the engineers or otherwise. Notwithstanding the provisions of ORS 198.190, if the secretary is a member of the board he shall be entitled to compensation as provided for in ORS 547.125. [Amended by 1971 c.403 §10; 1973 c.794 §28]

**547.125 Secretary as treasurer; duties; audit of books and report to landowners; compensation.** (1) The secretary of the board of supervisors in any drainage district shall hold the office of treasurer of the district, except as otherwise provided in this chapter.

(2) The treasurer shall receipt for all moneys received by him and shall keep all funds received by him from any source deposited at all times in some bank or trust company to be designated by the board of supervisors. All interest accruing on such funds shall, when paid, be credited to the district.

(3) The board of supervisors shall audit or have audited the books of the treasurer each year and make report thereof to the landowners at the annual meeting and publish a statement within 30 days thereafter, showing the amount of money received, the amount paid out during the year, and the amount in the treasury at the beginning and end of the year.

(4) The treasurer shall pay out funds of the district only on warrants signed by the president of the board and attested by the signature of the secretary and treasurer.

(5) The secretary shall receive as compensation for performing the duties of secretary-treasurer such salary as may be fixed and directed to be paid by resolution of the board.

[Amended by 1969 c.345 §14]

**547.130 Record of meetings, proceedings, certificates, bonds, acts.** The board of supervisors of any district organized under the Drainage District Act shall cause to be kept a well-bound book, entitled "Record of Proceedings of Board of Supervisors of \_\_\_\_\_ District," in which shall be recorded minutes of all meetings, proceedings, certificates, bonds given by all employees, and any and all corporate acts, which record shall at all times be open to the inspection of anyone interested, whether taxpayer or bondholder.

**547.135 Removal of employees.** The board of supervisors may at any time remove any officer, attorney or other employee appointed or employed by the board.

**547.140 Levy of tax by supervisors to pay expenses of organizing district, surveys, assessing benefits and damages; lien; collection; surplus funds; refunding in case of dissolution.** (1) The board of supervisors of any district organized under the provisions of the Drainage District Act shall, as soon as elected and qualified, levy a uniform tax of not more than \$1 per acre upon each acre of land within the district, to be used for the purpose of paying expenses incurred or to be incurred in organizing the district, making surveys of the same, and assessing benefits and damages, and to pay other expenses necessary to be incurred before the board shall be empowered by other provisions of the Drainage District Act, to provide funds to pay the total cost of works and improvements of the district. In case the boundary lines of the district are extended so as to include lands not described and contained in the petition, the same uniform tax shall be made on such lands as soon as they are annexed and included in the district.

(2) The tax shall be due and payable as soon as assessed, and if not paid within 60 days thereafter it shall become delinquent. It shall become a lien on the land against which it is assessed and shall be collected in the same manner as the annual instalment tax.

(3) In case the sum received from such assessment exceeds the total cost of items for which levied, the surplus shall be placed in the general fund of the district and used to

pay cost of construction. Upon dissolution of the district, any amount of surplus remaining shall be prorated and refunded to the landowners who paid the tax.

547.145 [Repealed by 1969 c.345 §20]

**547.150 Payment of claims; warrants; nonpayment; interest-bearing warrants; levy of tax to pay.** All claims against the district shall be paid by warrants drawn on the district treasurer and signed by the president and secretary of the board. When any warrant is not paid when presented to the treasurer because of lack of funds in the treasury, such fact shall be indorsed on the back of the warrant, and such warrant shall draw interest thereafter at the rate of six percent per annum until there is money on hand to pay the amount of the warrant and the interest then accumulated. No interest shall be allowed on warrants after sufficient funds are in the treasury to pay the indorsed warrants and interest. The secretary shall give notice by publication whenever sufficient funds are available to pay outstanding warrants. The board shall make a levy each year of a sufficient amount of money to pay the outstanding warrants of the district to the extent permitted within the constitutional limitation.

#### **ENGINEER; PLAN FOR RECLAMATION; COMMISSIONERS; ASSESSMENT OF BENEFITS**

**547.205 Appointment of engineer; duties; surveys; report; maps.** Within 30 days after organizing, the board of supervisors shall appoint a competent civil engineer as chief engineer, who may be an individual, partnership or corporation, and who shall engage such assistants as the board of supervisors may approve. The chief engineer shall:

(1) Have control of the engineering work in the district.

(2) Make all necessary surveys of the lands within the boundary lines of the district, as described in the petition, and of all lands adjacent thereto that may or will be improved or reclaimed in part or in whole by any system of drainage or levees that may be outlined and adopted.

(3) Make a report in writing to the board of supervisors with maps and profiles of the surveys, which report shall contain a plan for draining and reclaiming the lands described in the petition or adjacent thereto from over-

flow of or damage by water, and which maps and profiles shall indicate so far as necessary the physical characteristics of the lands, and location of any public roads, railroads and other rights of way, roadways and other property or improvements located on such lands.

**547.210 Engineer's report; adoption by supervisors; report constitutes "Plan for Reclamation"; exclusion of lands not benefited; certain irrigated lands deemed to be benefited.** (1) The chief engineer shall make a report in writing to the board of supervisors whenever the board requires. Upon receipt of the final report of the engineer concerning surveys made of the lands contained in the district, and plans for reclaiming the same, the board shall adopt the report or any modification thereof approved by the chief engineer. The adopted report shall be the plan for draining and reclaiming such lands from overflow or damage by water, and shall be known and designated as the "Plan for Reclamation." The plan shall be filed with the secretary of the board of supervisors and by him copied into the records of the district.

(2) Any lands included in the district, which will not be reclaimed or benefited by the construction of the work as specified in the plan for reclamation, may be excluded from the district by order of the county court, and any tax levied thereon shall be refunded to the person paying the same. However, any irrigated lands contributing to the wet, swamp or overflowed condition of any lands of the district, the waste or seepage waters from which lands will be carried by and disposed of through the works specified in the plan for reclamation, shall be deemed benefited by the construction of the works as specified in the plan.

**547.215 Commissioners; appointment; qualifications; quorum; continuing existence.** Upon adoption of the plan for reclamation, the county judge shall, by order, appoint three commissioners (who shall not be landowners in the district nor of kin within the fourth degree of consanguinity to any person owning land in the district), one of whom shall be a civil engineer and two of whom shall be freeholders residing within the state. A majority of the commissioners shall constitute a quorum and shall control the action of the board on all questions. Such commissioners shall constitute a body which shall continue in office and may be convened at any time by the county court for the purpose of correcting any

errors, omissions or other mistakes that shall have been discovered in its original report as the same may have been amended and supplemented from time to time or for any other good cause shown. The court shall fill any vacancy occurring in such body of commissioners by appointment of a person who has the qualifications required by this section of the commissioner he is to replace. Whenever said body of commissioners has been reconvened by the court, it shall thereafter make its report in response to the directions of the court and such report when completed shall be subject to ORS 547.245, with reference to a hearing thereon and a confirmation thereof by order or decree of the court before such supplemental report shall go into effect. [Amended by 1953 c.434 §2]

**547.220 Notice of appointment of commissioners; meeting; secretary of board of supervisors to furnish certain information; oath; officers.** The county clerk upon the filing of the order of appointment shall notify each commissioner of his appointment by written or printed notice, and in the notice he shall state the time and place for the first meeting of the commissioners. The secretary of the board of supervisors shall attend the meeting, and shall furnish the commissioners a complete list of all lands in the district, and the names of the owners thereof, as were contained in the petition, at the date of the decree of the court incorporating the district. The secretary shall also furnish the commissioners a copy of the plan for reclamation, with maps and profiles in his office. The commissioners at the meeting, or within 10 days thereafter, shall each take and subscribe to an oath that they will faithfully and impartially discharge their duties as commissioners and make a true report of the work done by them. They shall also at the meeting elect one of their own number chairman. The secretary of the board of supervisors shall be ex officio secretary of the commissioners.

**547.225 Assessment of benefits and damages by commissioners; report; compensation.** (1) Within 30 days after qualifying, the commissioners shall begin their duties. The chief engineer shall accompany them at all times, and render his opinion in writing when called for.

(2) The commissioners shall proceed to view the premises and determine the value of all lands within or without the district to be acquired and used for rights of way, holding

basins or other works set out in the plan for reclamation. They shall assess the amount of benefits and the amount of damages, if any, that will accrue to each parcel of land, including irrigated lands, irrigation ditches and canals which contribute to the swampy, wet or overflowed condition of those lands, or any lands, public highways, railroads and other rights of way, roadways and other property which will be affected by the proposed reclamation work.

(3) For the purpose of determining benefits under the provisions of this section, all irrigated lands having an available water supply for irrigation that are adjacent to and on a higher level than other lands within the district and which fall naturally within the same watershed as the land within the district, shall be deemed contributing to the wet, swampy or overflowed condition of the lands of the district, and shall be deemed benefited by the construction of the works as specified in the plan for reclamation.

(4) The commissioners shall give due consideration and credit to any other drains, ditches, levees or other systems of reclamation which already have been constructed and which afford partial or complete protection to any tract or parcel of land in the new district.

(5) The public highways, railroads and other rights of way, roadways and other property shall be assessed according to the increased physical efficiency and decreased maintenance cost thereof by reason of the protection to be derived from the proposed works and improvements.

(6) The commissioners shall have no power to change the plan for reclamation.

(7) The commissioners shall prepare a report of their findings, which shall be signed by at least a majority of the commissioners and filed in the office of the county clerk of the county in which the district is organized. The secretary of the board of supervisors shall accompany the commissioners while engaged in their duties, and shall perform all clerical work of the board. The commissioners shall report to the board of supervisors the number of days each was employed and the actual expenses incurred. Each commissioner shall be paid \$5 per day for his services, and necessary expenses in addition thereto.

**547.230 Notice of report of commissioners; publication; form.** (1) Upon the filing of the report of the commissioners, the county clerk shall give notice thereof by publi-

cation once a week for three consecutive weeks in some newspaper published in each county in the district. It shall not be necessary for the notice to name the parties interested. The notice shall be in small type, in substantially the following form:

Notice of Filing of  
Commissioners' Report for  
——— Drainage District

Notice is given to all persons interested in the land included within the ——— drainage district, ——— County (or counties), Oregon, (here describe land or give boundaries of district) that the commissioners heretofore appointed to assess benefits and damages to the property and lands situate in the drainage district and to appraise the cash value of the land necessary to be taken for rights of way, holding basins and other works of the district within or without its limits, filed their report in this office on the — day of ———, 19—, and you are notified that you may examine the report and file exceptions to all or any part thereof, on or before the — day of ———, 19—.

County Clerk of ——— County, Oregon.

(2) Where lands in different counties are contained in the report, the notice shall be published in some newspaper in each county in which the lands so affected are situated.

**547.235 Exceptions to report or assessment; hearing by court; modifications; transmission of decree and report to supervisors and county clerks; appeal from decree.** The drainage district or any owner of land in the district may file exceptions to the report or to any assessment of either benefits or damages, within 10 days after the last day of publication of the notice provided for in ORS 547.230. All exceptions shall be heard by the court and such amendments and modifications made to the report of the commissioners as may in the court's judgment be equitable. When it appears to the satisfaction of the court, after having heard and determined all the exceptions, that the estimated cost of the improvement contemplated in the plan for reclamation is less than the benefits to be derived therefrom, the court shall approve and confirm the commissioners' report, as so amended and modified. The county clerk shall transmit a certified copy of the court decree

and copy of the commissioners' report, as confirmed or amended by the court, to the secretary of the board of supervisors of the district and to the clerk of each county having lands in the district, or affected by the report, where the same shall become a permanent record. Each such county clerk shall receive a fee of \$3.75 for receiving, filing and preserving the same. Any person may appeal from the judgment of the court. [Amended by 1971 c.621 §39; 1975 c.607 §42; 1979 c.833 §34; 1981 c.835 §16]

**547.240 Dissolution of district if cost exceeds benefits; obligations and expenses; tax levies.** If after determining the objections made to the commissioners' report, the court finds that the estimated costs of works and improvements as reported by the commissioners, or as amended by the court, exceed the estimated benefits, the court shall then render its decree, declaring the incorporation of the district to be dissolved as soon as all costs incurred, which shall include court costs and all obligations and expenses incurred in behalf of the district by the board of supervisors, are paid. If the uniform tax levied under the provisions of ORS 547.140 is found insufficient to pay all such costs, the board of supervisors shall make such additional uniform tax levies as will be necessary to pay the deficiency.

**547.245 Reassessment of benefits.** At any time after the expiration of five years from the confirmation of the report of the commissioners, as provided by ORS 547.235, and upon the filing of a petition with the county clerk signed by at least one-tenth of the owners of the lands within the drainage district or the owners of at least one-tenth of the lands within such district, setting forth that the original assessments or benefits are inequitable and unjust, the county court shall appoint three commissioners, as provided by ORS 547.215, to reassess the benefits in the district. The commissioners shall report the reassessment to the court. Upon the filing of the report of the commissioners, the county clerk shall give notice of hearing thereon by publication once a week for three consecutive weeks in some newspaper published in each county in the district, the last insertion to be made at least 15 days prior to the hearing. At least 10 days before the day set for hearing, exceptions may be filed by any interested person, and upon hearing the same the court shall approve the report or direct how it shall be modified and, when so modified or ap-

proved, shall confirm it. The assessment as confirmed shall take the place of all prior assessments; provided, that in no case shall the total amount of assessments be less than the outstanding obligations. The county clerk shall transmit a certified copy of the court's decree and copy of the commissioners' report, as confirmed or amended by the court, to the secretary of the board of supervisors of the district and to the county clerk of each county having lands in the district.

**547.250 Changes in plan for reclamation; petition for amendment of plan; notice.** The board of supervisors shall have power to make any change in the plan for reclamation by action of the board until such time as the commissioners have filed their report. After that all changes shall be made as follows:

(1) The board of supervisors, for and in behalf of the district, or the owners of land adjacent to the district, may file a petition in the office of the clerk of the court which organized the district, praying the court to amend its former decree incorporating the district, by correcting the names of landowners, by striking out any such names, by adding, striking out or correcting the descriptions of any lands within or alleged to be within the boundary lines of the district, or in any other manner.

(2) The petition may ask permission of the court to amend or change the plan for reclamation or to correct any errors, omissions or other mistakes that have been discovered in the plan or may ask that the boundary lines of the district be extended so as to include lands not described by and included in the petition and decree of the court incorporating the district. However, in no case shall any lands be included in the district other than the lands described in the original petition for the creation of the district and in the decree of the court incorporating it, unless the persons shown by the records of the county to be the owners of not less than 60 percent of the acreage sought to be brought within the boundary lines of the district and not described in and included in the original petition and decree of the court incorporating such district, shall first sign and file with the court a petition therefor.

(3) If the petition asks that the lines of the district be in any manner changed, it shall also ask the court to appoint three commissioners, as provided for under ORS 547.215, to

appraise the land that shall be taken for rights of way, holding basins, or other works, or assess the benefits and damages to any lands, public highways, railroad and other property already in the district, or that may be annexed to the district by the proposed amendments and changes to the plan for reclamation or the proposed change in the boundary lines. As soon as the petition is filed the clerk of the court shall give notice in the manner and for the time provided for in ORS 547.020, the notice to be substantially in the following form:

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**Notice of Drainage Hearing.**

To the owners and all persons interested in the lands corporate and other property in and adjacent to \_\_\_\_\_ Drainage District:

You are notified that (here state by whom petition was filed) has filed in the office of the county clerk of \_\_\_\_\_ County, \_\_\_\_\_, a petition praying the county court for permission to (here insert the prayer of the petition), and unless you show cause to the contrary on or before the first day of the next term of the \_\_\_\_\_ County Court to be held on the \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_, the prayer of the petition may be granted.

\_\_\_\_\_  
County Clerk of \_\_\_\_\_ County.

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**547.255 Objections to petition; findings; decree; recording.** Any owner of land located in the district, or any owner of land located outside of the district that will be affected by the proposed changes, amendments, and corrections enumerated in the petition, may file objections to the granting of the prayer of the petition, on or before the first day of the term of court at which the petition is to be heard. The court shall hear the petition and all objections filed against it in a summary manner and enter its decree according to its findings. The clerk of the court shall, within 15 days after the granting of the decree, transmit a certified copy of the decree and of the petition to the secretary of the board of supervisors, and to the recorder of deeds of each county having land in the district. Each such recorder shall file and preserve the same in the recorder's office, for which the recorder shall receive a fee of \$3.75. [Amended by 1971 c.621 §40; 1975 c.607 §43; 1979 c.833 §35; 1981 c.835 §17]

**547.260 Appointment of commissioners when plan amended; subsequent proceedings; court costs.** (1) If the decree of the court provides that the plan for reclamation may be amended, changed or corrected or the boundary lines of the district extended, the court shall appoint three commissioners, possessing the same qualifications as the commissioners appointed under ORS 547.215, to appraise property to be taken, assess benefits and damages, and estimate the cost of improvements the same as is required of commissioners acting under ORS 547.225. The commissioners shall make their report in writing and file it with the county clerk, after which the case shall be proceeded with in the same manner as is provided for the organization of drainage districts.

(2) If the petition is dismissed the district shall pay the cost; but if the petition is sustained in whole or in part the objectors shall pay the court costs.

**547.265 Amendment of plan where works or tax insufficient; additional levy.** Where the works set out in the plan for reclamation of any drainage district are found insufficient to reclaim in whole or in part any or all of the land of the district, the board of supervisors may formulate new or amended plans containing new ditches, levees or other works, and additional assessments may be made in conformity with the provisions of ORS 547.225, the same to be made in proportion to the increased benefits accruing to the lands because of the additional works. If it should be found at any time that the amount of total tax levied under the provisions of ORS 547.455 to 547.485 is insufficient to pay the cost of works set out in the plan for reclamation or additional work done under the provisions of this section, the board of supervisors may make an additional levy to provide funds to complete the work, provided the total of all levies of such tax does not exceed the total amount of benefits assessed.

## WORKS AND IMPROVEMENTS OF DISTRICT

**547.305 Entry on land; acquisition of property; water filings and appropriations; condemnation of property devoted to public use; right of way across state lands.** (1) The officers and employees of any drainage district shall have the right to:

(a) Enter upon any land to make surveys.

(b) Locate the necessary drainage or irrigation works and the necessary branches for the same, on any lands which may be deemed best for such location.

(c) Acquire, either by lease, purchase, condemnation or other legal means, all lands, rights of way, easements and other property necessary for the construction, operation or maintenance of any drainage or irrigation works, including the enlargement, improvement or extension of any natural or artificial waterway for such purposes.

(d) Make all necessary water filings or appropriation of water under the general laws of Oregon for irrigation of lands within such district.

(2) The property, the right to condemn which is hereby given, shall include property already devoted to public use which is less necessary than the use for which it is required by the district, whether used for drainage, irrigation or any other purpose. The right of way is hereby given, dedicated and set apart to locate, construct and maintain such drainage or irrigation works over and through any of the lands which are now or may be the property of this state.

(3) In the acquisition of property or rights by condemnation, proceedings under the provisions of this section shall be brought in the name of the district under the provisions of the laws of Oregon.

**547.310 Supervisors' authority regarding reclamation works; contracts; engineer's duties.** (1) The board of supervisors shall have full power and authority to:

(a) Build, construct and complete any works and improvements needed to carry out the plan of reclamation.

(b) In the name of the district, make all necessary water filings and appropriations of water for the subsequent irrigation of the lands within the district.

(c) Construct, operate and maintain irrigation works for the irrigation of the lands within the district.

(d) Hire men and teams and purchase machinery, equipment and supplies.

(2) The board may after advertising for bids, let a contract for construction of the whole or any part of the drainage or irrigation works to the lowest responsible bidder, which contract shall be in writing. The complete plans and specifications prepared by the chief engineer and approved by the Water Re-

sources Director for the drainage or irrigation of the lands shall be attached to and made a part of each contract. Good and sufficient bond, running in favor of the district, shall be required of each contractor, conditioned that he will well and truly comply with all the provisions of the contract and perform all work in accordance with the terms thereof.

(3) The chief engineer shall be superintendent of all the works and improvements and shall, whenever required, and at least once each year, make a full report to the board of all work done and improvements and make such suggestions and recommendations to the board as he deems proper.

**547.315 Connecting existing improvements; procedure; connection with improvements outside district.** (1) At the time of the construction in any district of the plan for reclamation, all ditches or systems of drainage already constructed in the district and all watercourses shall, if necessary to the drainage of any lands in the district, be connected with and made a part of the works and improvements of the plan of drainage of the district. But no ditches, drains or systems of drainage constructed in the district shall be connected therewith, unless the consent of the board of supervisors is first obtained. This consent shall be in writing and shall particularly describe the method, terms and conditions of such connection, and shall be approved by the chief engineer. The connections, if made, shall be in strict accord with the method, terms and conditions laid down in the consent.

(2) If the landowners wishing to make such connection are refused by the board of supervisors or decline to accept the consent granted, such owners may file a petition for such connection in the circuit court having jurisdiction in the district, and the matter in dispute shall in a summary manner be decided by the court, whose decision shall be final and binding on the district and landowners.

(3) No connection with the works or improvements of the plan of drainage of the district or with any ditch, drain or artificial drainage wholly within the district shall be made, caused or effected by any landowner, company or corporation, municipal or private, by means of or with any ditch, drain, cut, fill, roadbed, levee, embankment or artificial drainage wholly without the limits of the district, unless such connection is consented to

by the board of supervisors, or in the manner hereinbefore provided.

**547.320 Powers of districts regarding irrigation works; bonds.** Whenever it appears necessary, proper or beneficial to irrigate any of the lands within any drainage district, whether or not the drainage works have been actually acquired or constructed, the district may cause irrigation reservoirs, canals, ditches, and other works to be constructed, operated and maintained. To this end the district shall in all respects have the same power and authority as is conferred respecting drainage, and all powers conferred upon drainage districts by ORS 547.305, 547.310, 547.355 and 547.360 with respect to drainage shall be construed to include irrigation. However, any bonds issued solely for irrigation purposes shall be known as "Irrigation bonds of ——— drainage district."

**547.325 Powers of districts under 1,000 acres regarding domestic water supply.** (1) Any drainage district embracing less than 1,000 acres may:

(a) Within and adjacent to the district, own, construct, install, contract to use and to receive service from, and buy and sell, wells, reservoirs, pumps, pipe lines and other equipment used to supply water from wells for domestic purposes and for watering lawns and gardens.

(b) Buy and sell, deliver, supply and dispose of water for domestic purposes and for watering lawns and gardens, for profit, to any person within the limits of such drainage district or adjacent thereto.

(c) Fix and collect the rates and charges therefor.

(2) The board of supervisors may act for such district in exercising the power and authority herein provided.

## CONTRACTS WITH UNITED STATES FOR RECLAMATION

**547.355 Contracts with United States for reclamation by drainage or irrigation authorized.** The board of supervisors of any drainage district, whenever it is determined by the board that it is for the best interests of the district, may enter into a contract with the United States for the reclamation by drainage or irrigation of the lands within the boundaries of the district, under the provisions of the Act of Congress of June 17, 1902 (32 Stat.

388), and Acts amendatory thereof and supplementary thereto, and especially the Act of Congress approved August 13, 1914, entitled, "An act extending the period of payment under reclamation projects, and for other purposes," commonly known as the "Twenty-Year Extension Act."

**547.360 Payment of amounts due; assessments on lands; lien thereof; collection.** The board of supervisors of any such drainage district shall provide by a resolution, adopted at a regular meeting or at a special meeting called for that purpose, for the payment of the amounts to become due under such contract with the United States, according to the provisions of the contract, by assessment upon the lands which are to be benefited by the drainage or irrigation. The assessments shall be a lien upon the lands of the district to the same extent as other assessments under the drainage laws of this state, and shall be collected by the tax collector of the county within which the lands are situated the same as other taxes are collected.

#### **DISTRICTS WEST OF CASCADES; CONSTRUCTION AND MAINTENANCE OF DITCHES**

**547.405 Districts west of Cascades; control of supervisors over improvements.** The boards of supervisors of all drainage districts lying west of the Cascade Mountains, whether or not organized under the Drainage District Act, shall have supervision and control of all drainage ditches, laterals, drains, canals, sloughs, waterways or conduits within the boundaries of their districts and may prescribe the width and grade thereof. They may construct and maintain ditches, laterals, drains, canals, sloughs, waterways or conduits within the boundaries of their districts.

**547.410 Maintaining improvements; notice to owner or occupant of premises.** (1) Whenever the engineer or secretary of such a drainage district notifies the supervisors that any ditch, lateral, drain, canal, slough, waterway or conduit is less efficient, by reason of the failure of the owner of the premises upon which it is situated to repair, clean or grade the same, the board of supervisors shall serve or cause to be served upon such owner, if he is known and residing within the county in which the district is situated, or if not a resident of the county, then upon

the occupant of the premises, a notice in writing notifying the owner or occupant of the clogged or obstructed condition of the ditch, lateral, drain, canal, slough, waterway or conduit.

(2) The notice shall be served by delivering to the owner, occupant or person in charge of the premises a copy thereof certified to be such by the person serving it, or if there is no occupant or the owner is not a resident of the county, then the notice shall be served by posting a copy of it in a conspicuous place upon the premises. Immediately after serving or posting the notice, the person serving it, by authority of the board of supervisors, shall file the original notice with the county clerk of the county in which service is made, together with a return on the notice stating the time and manner of making service. The notice and return, when so filed, shall be retained as a public record of the county.

**547.415 Failure of owner or occupant to act; maintenance by supervisors.** If the owner or occupant of the premises upon which the clogged or obstructed ditch, lateral, drain, canal, slough, waterway or conduit is situated fails for 10 days after being notified of the existence of such clogged or obstructed condition, to repair, clean or grade the ditch, lateral, drain, canal, slough, waterway or conduit or remove the obstruction therefrom, the board of supervisors shall immediately repair, clean or grade the same and cause it to be promptly placed in a proper and efficient condition.

**547.420 Liability for cost of work; entry of statement on lien docket; foreclosure; sale of land.** Upon completion of the work the board of supervisors shall cause to be filed with the county clerk an itemized statement of the expense necessarily incurred in the repair, grading or cleaning of the canal, ditch, lateral, drain, slough, waterway or conduit, verified by the oath of one member of the board or the secretary of the drainage district. When the statement is filed the county clerk shall cause it to be entered upon a lien docket prepared for that purpose. The amount of the charges and expense, when so docketed, shall constitute a first lien upon the lands or premises, except as to taxes. If the charges and expenses are not paid and the lien discharged by the owner or occupant within 90 days from the date the lien is docketed, suit or action may be brought in the name of the drainage district for the foreclosure of the



lien. The suit or action shall be brought by the district attorney, or, at the option of the board, by an attorney employed by the board. The lands affected thereby shall be sold under execution for the payment and satisfaction of the lien and of the costs and disbursements incurred in connection with the prosecution of the suit or action.

**547.425 Prohibited practices.** No person shall:

(1) Throw, dump or place or allow to be thrown, dumped or placed, any rubbish, refuse or any article or thing in any ditch, lateral, canal, slough, waterway or conduit used as a part of or in connection with any drainage works or drainage plant or drainage system or any waterway under the control of any drainage district lying west of the Cascade Mountains; or

(2) Befoul or pollute or allow to be befouled or polluted any such ditch, lateral, canal, slough, waterway or conduit; or

(3) In any manner obstruct or permit to be obstructed by stock any such waterway, canal, ditch, lateral, slough or conduit.

**547.430 Civil liability for expense of removal of filth or obstruction; recovery by action.** Any person who throws, dumps or places or allows to be thrown, dumped or placed, any rubbish, refuse, or any article or thing in any such ditch, lateral, canal, slough, waterway or conduit shall, in addition to the penalty provided in ORS 547.990, also be liable to the owner of the ditch, lateral, canal, slough, waterway or conduit, or other person or district having control, charge or supervision of the same, for all expense legitimately occasioned or incurred by such person or district in the removal of any such rubbish, refuse or other article or thing or the prevention of such befoulment or pollution, and for all damage that may be done or occasioned to the ditch, lateral, canal, slough, waterway or conduit by reason of such dumping, throwing or placing of the rubbish, refuse or article or thing, or the befoulment or pollution. The sum may be recovered in a civil action brought in the name of the person or district having control of or using the ditch, lateral, canal, slough, waterway or conduit that was injured, damaged, befouled, polluted or obstructed.

## ASSESSMENTS AND TAXES

**547.455 Annual assessment; computation; apportionment; liability of state lands; payment of assessments by bonds, coupons or warrants.** (1) The board of supervisors shall each year make a computation of the whole amount of money to be raised by the district through assessments for the ensuing year for any purposes whatsoever in carrying out the provisions of the Drainage District Act, including maintenance and operation and estimated delinquencies on assessments. This amount when determined by the board shall constitute an assessment upon all the land included in the district and shall be apportioned by the board in accordance with the report of the commissioners as confirmed or amended by the court as provided for in ORS 547.235.

(2) Any land owned by any person totaling less than one acre shall be assessed as one acre.

(3) Any land, the title to which is vested in the state, or state lands sold under contract in any drainage district, shall be subject to taxation by the district, and the full amount of assessment due against such lands shall be paid to the district at the same times and in the same manner as other drainage district assessments are paid.

(4) The tax collector shall receive any past due bond of the drainage district or any past due interest coupon from any bond of the district in payment of any assessment made for the purpose of paying bonds or bond interest of the district, and shall receive in payment of assessments levied for operation and maintenance purposes any warrants drawn upon the operation and maintenance fund, such warrants received in payment of assessments to be in order of issuance. [Amended by 1953 c.446 §3]

**547.460 County, city and town lands subject to taxation and assessment.** Any land situated within a drainage district, the title to which is vested in any county, city or town, shall be subject to taxation and assessment by the district. The full amount of taxes or assessments due against such lands shall be paid to the district at the same times and in the same manner as other drainage district taxes and assessments.

**547.465 Assessment of low lands used for growing crops.** Whenever lands located in a drainage district which, because of their

low elevation, were not assessed benefits in accordance with ORS 547.225, are used for growing crops, the board of supervisors may levy an annual assessment against such lands for maintenance and operation, not to exceed 100 percent of the rate levied against assessed lands in the district having the lowest elevation. The assessments shall be collected in the same manner as other assessments for maintenance and operation in drainage districts are collected.

**547.470 Extra assessment for lake drainage.** When, in the judgment of the board of supervisors of any drainage district, it is deemed necessary or expedient to drain any lake, which entails extra or additional work in excess of that required in the drainage of lands of higher elevation and where the cost of maintenance and pumping to maintain drainage of such lake will be in excess of that necessary for the reclamation and maintenance of lands within the district other than such lake, an extra assessment for such additional work or a higher rate for such pumping and maintenance may be charged and made against the lands covered by such lake, to the extent of the respective additional benefits to such lands over lands of a higher elevation in the district and benefited thereby.

**547.475 List of assessments and apportionments.** The board of supervisors shall prepare a list or record of assessments and apportionments, giving the description of the ownership or holdings of each person therein assessed, which shall be certified by the board not later than June 15 of each year to the county assessor of each county in which lands of the district are situated. The county assessor shall enter the assessment upon the county assessor's roll against the property therein described, in the same manner as other municipal taxes are entered by him. [Amended by 1963 c.168 §1]

**547.480 Collection of tax; disposition.** The collection of the tax shall be coincident with collection of the state and county tax, and shall be governed by the laws relating thereto, except that the tax collector shall collect and account for the tax for operation and maintenance separate from the taxes levied by the district for other purposes. When paid to the county treasurer all taxes or assessments levied and collected for operation and maintenance shall be carried in a fund to be known as the operation and maintenance fund. All warrants issued in payment for

operation and maintenance, as provided in ORS 547.150, shall be drawn against and paid out of this fund. The county treasurer shall make returns to the secretary of the board of supervisors, and shall pay over and account for all moneys collected thereon quarterly to the treasurer of the district. [Amended by 1973 c.305 §19]

**547.485 County court to make assessment and levy upon failure of supervisors to do so.** In case of neglect or refusal of the board of supervisors to cause such assessment and levy to be made, the assessment and levy shall be made and equalized by the county court or board of county commissioners of the county in which the office of the board of supervisors is situated, sitting for the transaction of county business, in the same manner that the court or board levies county taxes. The levy and assessment shall contain the apportionments and description of ownership holdings of each person assessed in the same manner as provided in ORS 547.475 and shall be certified to the assessor not later than July 15. All expenses incident thereto shall be borne by the district. The levy and assessment shall be entered on the county tax roll by the county assessor in the manner provided in ORS 547.475. [Amended by 1963 c.168 §2]

**547.490 Waiver of penalty or interest by certain districts.** All drainage districts containing not more than 2,000 acres, organized under the provisions of the Drainage District Act, may waive payment of penalty or interest, or both, on district assessments. County tax collecting officers are authorized to collect and receipt for assessments levied by any such drainage district, waiving payment of penalty or interest, or both, when presented with a certified copy of resolution or other action of the drainage district waiving such payment.

**547.495 Crops bound by lien; exceptions.** All drainage districts organized pursuant to the provisions of the Drainage District Act shall have a lien on all crops grown on lands within such districts for that portion of the annual assessments, levied against the lands on which the crops are grown, that is for maintenance and operation of such districts. This lien shall be prior to every other lien, mortgage or encumbrance on the crop, except labor liens now granted by the laws of Oregon and crop mortgages given by landowners in the district to federal or state loaning agencies set up by the Federal Government or the state

to secure loans, the proceeds of which are used in the production of crops of such landowners, provided such loaning agencies certify to the districts that such loans cannot otherwise be made to the landowners. The lien shall be in addition to any other lien securing the payment of maintenance and operation assessments, and shall be a continuing one and shall bind the crops after, as well as before, they have been gathered; provided, that the share of any tenant who has leased such lands on a share rent basis shall be exempt from the lien to the extent of three-fourths of the entire crop.

**547.500 Notice or claim of crop lien; filing; contents.** The board of supervisors of every drainage district which may elect to claim the benefits of ORS 547.495 to 547.515 shall file with the county clerk of the county in which the land is located, any time before the removal of the crop upon which a lien is desired, a statement verified by the oath of the secretary of the board or some person having knowledge of the facts, setting forth the amount of that portion of the annual assessments for maintenance and operation levied against the land on which the crop is grown and for which a lien is desired, with a description of the land sufficient for identification, the name of the owner of the crop, or reputed owner if known, and the name of the owner of the land on which the crop is grown.

**547.505 Recording of crop lien claim by clerk; indexing.** The county clerk shall record the claim in a book kept for that purpose. The record shall be indexed as the record of chattel mortgages is kept and indexed.

**547.510 Form of crop lien claim; foreclosure.** (1) A claim for lien substantially in the following form shall be sufficient:

#### NOTICE OF LIEN UPON CROPS

Notice is given that \_\_\_\_\_, a drainage district organized under and pursuant to the provisions of ORS chapter 547, claims a lien upon that certain crop of \_\_\_\_\_ growing on the following described lands located in the drainage district in \_\_\_\_\_ County, Oregon: \_\_\_\_\_, for that portion of the annual assessments levied by the above-named drainage district against lands on which the crop is growing, for maintenance and operation of the district, in the sum of \$\_\_\_\_; that the name of

the owner or reputed owner of the crop is \_\_\_\_\_; that the owner of the land on which the crop is growing is \_\_\_\_\_; that no part of the assessment for which a lien herein is claimed has been paid, except \$\_\_\_\_; and that there now is due and remaining unpaid thereon, after deducting all just credits and offsets, the sum of \$\_\_\_\_.

\_\_\_\_\_, Claimant.

State of Oregon, )  
 ) ss.

County )  
of \_\_\_\_\_ )

I, \_\_\_\_\_, being first duly sworn, on oath say that I am \_\_\_\_\_ of the drainage district named in the foregoing claim, that I have personal knowledge of the facts therein set out; that I know the contents thereof, and believe the same to be true.

Subscribed and sworn to before me this \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_.

Notary Public for Oregon  
(Seal) My commission expires \_\_\_\_\_.

(2) The lien so created may be foreclosed in the manner provided in ORS 79.5010 to 79.5070. [Amended by 1961 c.726 §418]

**547.515 Removal of crops to another county; recording of notice in latter county; rights of purchasers and mortgagees.** When such crops are removed from the county in which the notice of lien is recorded, the lien shall be suspended as to subsequent purchasers and mortgagees thereof in good faith and for a valuable consideration, from and after 30 days from the time of such removal, unless within 30 days from the time of such removal the notice of lien is recorded in the county to which the property is removed. The lien shall remain suspended until the notice of lien is recorded in the county to which the crop is removed; but shall be a lien upon the crop while it is in any county in which the notice of the lien is recorded.

**547.520 Delinquent ad valorem taxes prior to 1939; cancellation or compromise.** (1) The county court or board of county commissioners may cancel or compromise any delinquent ad valorem taxes assessed and levied against lands located in a drainage district for the year 1938 and prior years, upon the written recommendation of the Water Resources Director, when:

(a) Such district is refunding its outstanding indebtedness; or

(b) Such district was in default on December 31, 1938, in the payment of its bonded or other indebtedness, and such default continues to exist; or

(c) Such district is seeking a compromise of its indebtedness through the bankruptcy laws of the United States; or

(d) Such district is affecting a compromise upon its indebtedness conformable to provisions of law therefor or recognized by law.

(2) The county court or board of county commissioners may fix the terms of payment upon any tax compromised under the provisions hereof. After a compromise of taxes has been made hereunder, and the terms of payment have been fixed, the county court shall make or cause to be made appropriate notation of the same upon the tax records of the county.

### BONDS OF DISTRICT

**547.555 Bonds; issuance; interest; place of payment; maturities.** (1) The board of supervisors may, if in its judgment it seems best, issue bonds of the district for any purpose necessary or convenient to carry out the provisions of the Drainage District Act, including refunding of outstanding bonds, in denominations of not less than \$100, bearing interest from date at a rate not to exceed seven percent per annum, payable semi-annually, to mature at annual intervals within 40 years, commencing after a period of years not later than five years, to be determined by the board of supervisors. Both principal and interest being payable at some convenient bank or trust company to be named in the bonds. Principal and interest, including principal, interest and premium payments made to redeem bonds under ORS 547.580, may be payable at the office of the county treasurer of the county in which proceedings for the formation of the district were conducted.

(2) The bonds shall be signed by the president of the board, attested with the seal of the district and by the signature of the secretary of the board. They may be issued so as to mature serially in annual amounts so as to be approximately equal, principal and interest, and may be issued so as to include a sum sufficient to pay the first four years' interest, or less, to accrue on the bonds. Each bond

payable at the office of the county treasurer shall be signed by, and registered in accordance with ORS 208.200 with, the county treasurer referred to in subsection (1) of this section. [Amended by 1969 c.694 §36; 1977 c.188 §8]

**547.560 Sale of bonds; procedure.** The board of supervisors may sell, from time to time, the bonds which have been authorized, in such quantities as may be necessary and most advantageous. Before making any sale, the board shall, at a meeting, by resolution, declare its intention to sell a specified amount of bonds and the day, hour and place of such sale, and shall cause notice thereof to be given by publication for at least 30 days in three newspapers published in Oregon, one of which shall be a newspaper published in the county in which the office of the board is situated, if there is a newspaper published in that county, and in any other newspaper at its discretion. The notice shall state that sealed proposals will be received by the board of supervisors at its office for the purchase of bonds until the day and hour named in the resolution. At the time appointed, the board shall open the proposals and may reject any and all bids. After offering the bonds for sale, if no satisfactory bid is received the board may use them for any purpose for which the proceeds from the sale of bonds may be used, but the board shall in no event sell or dispose of any of said bonds for less than 90 percent of the face value thereof. Nothing in this section shall inhibit the district from providing for the drainage of lands within the district, in units or portions, from time to time.

**547.565 Payment of bonds from assessments.** The bonds and the interest thereon and all obligations for the payment of money authorized and incurred by such district shall be paid by the revenue derived from the annual assessments upon the real property within the district. All the real property within the district shall be liable to be assessed for such payments under and subject to the provisions of ORS 547.455 to 547.485.

### **547.570 Bond proceeds; depository.**

(1) The treasurer shall account for and pay over as required by law and as ordered by the board, any money received by him on the sale of the bonds.

(2) If the board deems it more expedient, the board may, by resolution, select some suitable bank or other depository as temporary treasurer to receive the money derived

from the sale of bonds, and to hold and disburse the moneys on the orders of the board as the work progresses, until the fund is exhausted or transferred to the treasurer by order of the board of supervisors. [Amended by 1969 c.345 §15]

**547.575 Bond fund account; general fund.** The treasurer shall keep a bond fund account into which shall be covered all moneys arising from the sale of refunding bonds and sufficient money arising from assessment and levy to meet the next instalment of principal and interest upon the bonds of the district. From the fund he shall pay the principal and interest on bonds as they mature and the bonds and interest coupons are presented. Moneys received from the sale of bonds other than refunding bonds, and otherwise for the construction and acquisition of works and all other moneys whatsoever shall be covered into a general fund from which shall be defrayed all obligations of the district other than those in this section above described.

**547.580 Retirement of bonds before maturity; call provisions.** (1) After five years from the issuance of bonds the board may direct the district treasurer or pay the county treasurer referred to in ORS 547.555 if bonds are payable at his office to pay such an amount of the bonds not due as the surplus funds in the general fund will redeem at the lowest value at which they may be offered for liquidation, or call bonds at a premium of three percent. Notwithstanding anything contained in ORS 547.555 to 547.580, the board may call for payment and retire before maturity any bonds issued in accordance with ORS 547.555 to 547.580. The board may transfer to the county treasurer sufficient district funds to pay principal and accrued interest and a premium of three percent upon the principal. The county treasurer shall make the payments at his office.

(2) Notice of intention to call bonds for payment before maturity shall be given by the district board by publication in a newspaper published and regularly circulated in the counties in which the district lands lie, at least once a week for four successive weeks, beginning not less than 90 days prior to an interest-paying period. The notice shall state the number and amount of the bonds to be retired, the price to be paid, and the date and place where the same are to be paid.

(3) Bonds shall be retired in numerical order, and not otherwise. No bonds shall be

retired under this section except on a day when interest is payable by the terms of the bonds and on and after the date named in the published notice. Interest on bonds described therein shall cease after the date named in the published notice. [Amended by 1969 c.694 §39]

## FUNDING AND REFUNDING OF DEBT UNDER 1909 ACT

**547.605 Funding and refunding of debt; bonds.** The board of trustees of any drainage or levee district having an outstanding indebtedness of not less than \$3 per acre for each acre of land included in the district, evidenced by bonds or warrants of the district, may, if the board considers it for the best interests of the district, fund or refund the same or any part thereof and issue bonds of the district therefor in sums of not less than \$100 nor more than \$1,000, each having not more than 20 years to run, and bearing a rate of interest determined by the board of trustees, payable semiannually. Both principal and interest may be made payable at the office of the county treasurer referred to in ORS 547.555. The bonds shall be negotiable in a form to be selected by the board of trustees, numbered consecutively, signed by the president of the board and countersigned by the clerk of the county in which payable, who shall thereto affix the official seal. Interest coupons shall be attached to each bond. The bonds shall then be delivered to the treasurer of the district, who shall stand charged upon the official bond for all bonds delivered to the treasurer and the proceeds thereof. Each bond payable at the office of the county treasurer shall be signed by, and registered in accordance with ORS 208.200 with, the county treasurer referred to in ORS 547.555. [Amended by 1969 c.694 §40; 1977 c.188 §9; 1981 c.94 §46]

**547.610 Sale or exchange of bonds; application of proceeds; cancellation of retired obligations; record of transactions.**

(1) The board of trustees shall sell or exchange the bonds so issued, on the best available terms, for any legal indebtedness of the district. If the sale is made for money, the proceeds shall be applied to the payment of liabilities existing against the district at that time. When the bonds are exchanged for bonds or warrants or other legal evidence of district indebtedness, the county treasurer shall at once cancel the evidence of indebtedness by indorsing thereon the amount for which they

were received, the word "canceled" and the date of cancellation.

(2) The district treasurer or the county treasurer if bonds are payable at his office shall keep a record of all bonds issued, sold or exchanged under subsection (1) of this section by number, date of issuance, date of sale, amount, date of maturity, rate of interest, the name and post-office address of the purchaser, and if exchanged, what evidence of indebtedness was received therefor. This record shall be open at all times for public inspection.

[Amended by 1969 c.694 §41]

**547.615 Tax for payment of interest and principal; sinking fund; deposit of proceeds of levy.** The board of trustees shall cause to be assessed and levied each year upon the assessable property of the district, in addition to the levy authorized for other purposes, a sufficient sum to pay the interest on outstanding bonds issued in conformity with the provisions of ORS 547.605 to 547.620, accruing before the next annual levy, and such proportion of the principal as in their judgment will be for the best interests of the district, to create and raise a sinking fund to retire the bonds and to be used for no other purpose whatever. If the bonds are payable at the office of the county treasurer, the proceeds of the levy shall be transferred to the county treasurer of the county referred to in ORS 547.555. [Amended by 1969 c.694 §42]

**547.620 Retirement of outstanding bonds; notice to bondholders to submit propositions; premium; calling of bonds.** (1) Whenever there is in the sinking fund a surplus of \$500 or more, over and above the interest maturing before the next levy, the district treasurer shall give notice for two weeks in one or more newspapers of general circulation printed and published in the county in which the district was first organized. The notice shall state the amount of such surplus and that on the day and hour named in the notice, sealed propositions will be received at his office or at the office of the county treasurer referred to in ORS 547.555 for surrender of bonds of the district.

(2) The district treasurer shall, at the time and place named, open the propositions and accept the lowest bid. However, no bid shall be accepted for an amount exceeding the par value of the bonds with accrued interest thereon and seven percent premium. If bids are not offered at that figure, or less, sufficient to exhaust the amount of surplus on hand, the

board of trustees may then call in any bonds of the district, giving the numbers thereof in the exact order of their issuance beginning with the lowest or first number, and redeem the same at par value and five percent premium with accrued interest to date of such recall. Thereafter interest thereon ceases and the amount due shall be set aside for payment of the bonds whenever presented. [Amended by 1969 c.694 §43]

### **ALTERNATIVE METHOD OF REFUNDING INDEBTEDNESS OR ISSUING BONDS**

**547.655 Authority to adopt alternative procedure.** Any drainage district desiring to refund its outstanding indebtedness or issue bonds for any purposes may, in lieu of the procedure otherwise provided by law, elect to adopt the procedure provided by ORS 547.660 to 547.695.

**547.660 Exchange of refunding bonds for outstanding indebtedness.** The board of supervisors of any drainage district desiring to issue refunding bonds to replace or in satisfaction or discharge of any outstanding indebtedness may exchange such refunding bonds for the outstanding indebtedness in full compromise, satisfaction and discharge thereof, and shall issue the bonds in such denominations and in such amounts to the several holders of the indebtedness as may be found expedient and necessary in funding or refunding the indebtedness. The bonds may be serial, on the level payment plan or each of the bonds may be amortized, as the board of supervisors may by resolution determine. When the bonds so issued do not exceed in principal and rate of interest the indebtedness to be satisfied and for which the bonds are to be exchanged, it shall not be necessary for the board of supervisors to advertise their sale or to offer them at public sale.

**547.665 Numbering; maturities; negotiability; interest; places of payment; denominations; execution; registration; authority to retire bonds.** (1) The bonds shall be numbered consecutively, beginning with number 1 and following in numerical order. They shall mature in the manner provided by ORS 547.660, in annual amounts of principal and interest approximately equal, in not less than five nor more than 40 years from the date of issue, as the board of supervisors may determine. They shall be negotiable in form.

The bonds shall bear interest at a rate determined by the board, payable annually or semi-annually on dates determined by the board. Payment of principal and interest shall be at the place designated in the bonds and coupons which may be the office of the county treasurer referred to in ORS 547.555. The bonds, except as otherwise provided in ORS 547.655 to 547.695, shall be each of the denomination of not less than \$100 nor more than \$1,000, shall be signed by the president and secretary, and the seal of the board of supervisors shall be affixed thereto.

(2) Each bond shall bear on its back the registration certificate of the county treasurer or the treasurer of the district. Coupons for interest or for interest and principal, as the case may be, shall be attached to each bond and shall bear the facsimile signature of the secretary of the district. The county or district treasurer shall register the bonds in a book kept in the office of the treasurer for that purpose, in which shall be stated the number, date of issue and of sale, amount of the bond, time and place of payment, rate of interest, number of coupons attached, and any other description proper for future identification of each bond. However, the board of supervisors may call for payment and retire before maturity any bonds issued in accordance with ORS 547.655 to 547.695, on payment of the principal remaining unpaid at the date of call, together with earned interest to and including the date of the call for payment.

(3) The board of supervisors may stipulate that during the first period of the bond term, not exceeding five years, there shall be no payment of principal or interest. [Amended by 1969 c.694 §44; 1981 c.94 §47]

**547.670 Offer by holders of indebtedness to surrender evidences thereof or accept proportional payment; sale of bonds; notice; publication.** (1) Before authorizing the issuance of such bonds, the board of supervisors shall require that the known holders, or their representatives, of all evidences of indebtedness to be refunded, shall submit to the board for its acceptance an offer to deliver and surrender all such evidences of indebtedness in exchange for bonds not exceeding the amount of the claim or debt owned by such creditor, or in lieu thereof, to accept in full payment of all such outstanding indebtedness so held by any such creditor a sum of money representing the proportion which the proposed refunding bond issue shall

bear to the total outstanding indebtedness proposed to be refunded, compromised, satisfied and discharged, based on the par value of such proposed refunding bonds; the creditors and owners of the indebtedness to agree to absorb the loss between the amount of the outstanding indebtedness to be refunded and the amount of the refunding bonds at par and to receive such refunding bonds in full payment, satisfaction and discharge of the outstanding indebtedness.

(2) The offer shall be in writing and shall, upon being submitted to the board, be irrevocable until such time as the board, under ORS 547.655 to 547.695, has a reasonable opportunity to issue, sell and deliver such refunding bonds to replace and discharge the outstanding indebtedness on acceptance of the offer; provided, that the offer shall not be revoked while any suit, action or proceeding involving the issuance, sale or delivery of such refunding bonds is in process of determination nor until a reasonable time after the final determination of such suit, action or proceeding.

(3) When authorized by a majority vote of the electors of the district, the exchange may be made on a basis of less than par for the refunding bonds, in which event the board of supervisors shall, in its resolution declaring its intention to sell the refunding bonds, also require the secretary of the board to give notice of the proposed sale by publication thereof for four consecutive weeks in three newspapers within the state, one of which shall be in the county in which the district is situated.

**547.675 Lien on land assessed for bond payment.** (1) Upon delivery of the bonds, the secretary of the district shall furnish to the county clerk of each county in which lands of the district are situated:

(a) A certified copy of the resolution of the board authorizing the bonds, of the resolution of the board fixing the annual per acre payments to be made in payment of the principal and interest of the bonds, and of the district treasurer's registration record;

(b) A certified statement of the lands within the district liable under the bonds, described in subdivisions of 40 acres except where the individual ownership thereof requires a description in lesser subdivisions or by metes and bounds or by calls; and

(c) A certified statement of the total amount of refunding bonds charged against each parcel of land, the amount of the annual

payment thereof, the date of payment and the rate of interest.

(2) The county clerk shall record such information in a book to be provided by him for that purpose, which shall then be a bond lien docket of the drainage district for the lands of the district within the county and shall constitute the total of such charges or assessments and the maximum of the lien against the lands by reason of the bonds. This sum shall not be increased or enlarged by any subsequent assessment because of any delinquencies in payment of the bond lien and interest charge against any other tract or parcel of land in the district. Unpaid annual assessments or charges docketed therein shall bear interest at the rate of six percent per annum. All unpaid annual payments, principal and interest, shall remain a lien on the tract or parcel of land in favor of the district and shall have priority over all other liens and encumbrances except the lien of state, county and municipal taxes.

(3) Any time after issuance of the bonds, the owner of any tract or parcel of land may relieve the tract or parcel of the lien by paying to the county clerk, for the benefit of the district, the amount of the principal and interest remaining unpaid thereon. The clerk shall thereupon pay the money over to the district treasurer, or the county treasurer referred to in ORS 547.555 if bonds are payable at his office, to be credited to the district's bond fund. The clerk shall note on his bond lien record the fact of such payment and of the satisfaction and discharge of the lien. Upon such payment of the lien on any tract or parcel of land, the tract or parcel shall forever thereafter be relieved from taxation or assessment for the payment of the bonds or of any bonds issued to refund the bonds, except for such assessment or charge as may be levied by the board of supervisors to create an emergency fund, as provided in ORS 547.680.

(4) The collector of the district's assessment and taxes shall receive any past due bond of the district or any past due coupon on any bond of the district in payment of any of the charges and payments referred to in this section.

(5) The lien of the annual payments or charges shall be foreclosed as other drainage district liens are foreclosed. [Amended by 1969 c.694 §45]

**547.680 Emergency fund; assessments for; use of.** (1) In addition to the annual payments for retirement of the bonds, the board of supervisors shall, during the first five years after the issuance of the refunding bonds, levy an annual assessment of 20 cents per acre upon each acre within the district. Thereafter, whenever there is any default in payment of any assessment levied by the district or in any of the annual payments referred to in ORS 547.675, the board shall levy an assessment of not to exceed 20 cents per acre, which shall be the same upon each acre within the district and shall be levied and collected at the time and in the manner provided by ORS 547.455 to 547.485.

(2) All moneys received from such assessments shall be placed by the treasurer of the district in a special fund designated "Emergency Fund." The emergency fund shall be used for two purposes only: First, and to the extent of not to exceed 10 cents per acre per annum, for supplementing the bond fund in case of deficiency due to accident, delinquency or other contingencies and, second, for the purpose of foreclosure of delinquent tax certificates issued for taxes against lands within the district. The emergency fund shall be disbursed by the treasurer upon order of the board of supervisors.

**547.685 Retirement of bonds before maturity; notice of call; date of payment; cessation of interest.** Notice of the call of bonds before maturity shall be given in the manner provided for retirement of irrigation district bonds before maturity. No bond issued under ORS 547.655 to 547.695 shall be called for payment before maturity except upon the day for payment of interest, or interest and principal, on the bond and on or after the day specified in the notice of call. All interest on bonds described in the notice shall cease after the day of the call, provided that on that date there are sufficient funds in the bond fund of the district to pay the call bonds.

**547.690 Judicial confirmation.** Bonds authorized and issued under ORS 547.655 to 547.685 may be confirmed by a court of competent jurisdiction in the manner provided by ORS 548.105 to 548.115.

**547.695 Sale of lands for delinquent charges; district as purchaser; resale; payment of proceeds into emergency fund; district to bid at tax sale.** The district



shall appear as a bidder at the sale of any lands for delinquent annual charges or assessments made under ORS 547.655 to 547.690 or any other statute, and may purchase and take title to the lands and thereafter dispose of the same. On any sale by the district of lands so purchased, the proceeds, after payment of the expenses thereof, shall be paid into the emergency fund. At any tax sale where there is no other bidder, the district shall bid the full acreage of the tract or parcel of land for the amount of the delinquency, penalty and interest; provided, the district shall never bid less than the full acreage of the tract or parcel of land against the amount of the delinquency penalty.

**547.697 Bond fund with county treasurer; expenditure of district general fund.** (1) When bonds are payable at the office of the county treasurer, the district treasurer shall transfer to the county treasurer referred to in ORS 547.555 all money arising from the sale of refunding bonds, and sufficient money arising from assessment and levy to meet the next instalment of principal and interest on the bonds of the district. The county treasurer shall keep the money in a bond fund. From the bond fund the county treasurer shall pay the principal on bonds as they mature and the interest when the coupons are presented.

(2) Except as otherwise provided by subsection (1) of this section, all money received by the district, including money from the sale of bonds other than refunding bonds and for the construction and acquisition of works, shall be credited to a general fund. The dis-

trict treasurer shall use the general fund to pay all obligations of the district other than those described by subsection (1) of this section. [1969 c.694 §38]

### WITHDRAWAL

**547.755 Part of district annexed to city to be withdrawn from district only by consent of voters.** No part of a drainage district annexed to a city shall be withdrawn from the district, except upon the consent of the voters of that part of the district. The votes shall be counted in the same manner as in elections for officers of the district. If three-fourths of those voting in that part of the district favor withdrawal from the district the withdrawal is effective, subject to ORS 222.520 (2), ORS 222.528 and 222.560 relating to division of assets and liabilities upon withdrawal from sanitary districts. [Amended by 1963 c.419 §1]

**547.760** [Amended by 1955 c.359 §1; repealed by 1973 c.415 §14]

### PENALTIES

**547.990 Penalties.** Violation of ORS 547.425 is punishable, upon conviction, by a fine of not less than \$25 nor more than \$500, or by imprisonment in the county jail for not more than 100 days, or both.

# Chapter 548

## 1981 REPLACEMENT PART

### Provisions Applicable Both to Drainage Districts and to Irrigation Districts

#### ORGANIZATION; SALE OF LANDS; TRANSFER OF FUNDS

- 548.005 Organization of irrigation, drainage or flood control district by owners of lands subject to assessment by district improvement company or improvement district; assumption of obligations
- 548.010 Sale or disposal of lands not needed
- 548.015 Board of directors to transfer unnecessary funds

#### INSURANCE FOR EMPLOYEES

- 548.050 Insurance for district employees

#### DETERMINING LEGALITY OF ORGANIZATION AND PROCEEDINGS

- 548.105 Authority of directors to maintain proceedings for judicial determination as to organization of district and other matters; scope of inquiry; determination is prerequisite to bond issue
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- 548.115 Individual's right to maintain proceedings; procedure; exclusiveness of remedy
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#### CERTIFICATION OF BONDS

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- 548.610 Foreclosure of certificate
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## ORGANIZATION; SALE OF LANDS; TRANSFER OF FUNDS

**548.005 Organization of irrigation, drainage or flood control district by owners of lands subject to assessment by district improvement company or improvement district; assumption of obligations.** Where any lands are subject to assessment by a corporation under the provisions of ORS 554.010 to 554.340, or by a corporation organized before March 4, 1937, under the provisions of chapter 172, Oregon Laws 1911, and Acts amendatory thereof, the owners of the lands or any part thereof and the owners of any additional lands adjacent thereto may proceed to organize irrigation districts or drainage districts or flood control districts under the laws of Oregon. Any of such districts when organized may assume any of the valid outstanding liens or obligations of the district improvement company or improvement district and refund the same and issue district bonds therefor.

**548.010 Sale or disposal of lands not needed.** Whenever any drainage or irrigation district has acquired any lands, by gift, purchase, eminent domain or otherwise, for the uses and purposes of the district, and thereafter by reason of a change of its plans or for any other reason determines that all or any part thereof is no longer necessary for the uses or purposes for which it was acquired, the district may sell or dispose of the lands or any part thereof, either at private or public sale. The officers of the district otherwise authorized to execute conveyances have authority to make such conveyance.

**548.015 Board of directors to transfer unnecessary funds.** When the necessity for maintaining any fund of an irrigation or drainage district has ceased to exist and a balance remains in the fund, the governing board of the district shall so declare by proper resolution. The balance shall then forthwith be transferred to the credit of either the operation and maintenance fund or the general fund of the district, as designated in the resolution.

## INSURANCE FOR EMPLOYEES

**548.050 Insurance for district employees.** (1) The board of directors of an irrigation district or the board of supervisors of a drainage district may enter into contracts of insurance covering district officers and employees for medical, or any other type of remedial care recognized under state law, surgical, hospital and related services and supplies, life insurance, annuities and other retirement benefits and monthly indemnity for loss of time due to accident or sickness. Contributions for premiums therefor by officers or employees shall only be on a voluntary basis. Failure to procure such insurance shall not be construed as negligence or lack of diligence on the part of the board or the members thereof.

(2) The district may agree to pay none, part or all of the premiums on contracts of insurance entered into pursuant to this section.

(3) This section is part of the Irrigation District Act, as defined in ORS 545.002, in so far as it applies to irrigation districts, and part of the Drainage District Act, as defined in ORS 547.060, in so far as it applies to drainage districts.

(4) As used in this section the words "related services" shall include the services of a person duly licensed to practice chiropractic in the State of Oregon. [1959 c.435 §1; 1967 c.281 §1]

## DETERMINING LEGALITY OF ORGANIZATION AND PROCEEDINGS

**548.105 Authority of directors to maintain proceedings for judicial determination as to organization of district and other matters; scope of inquiry; determination is prerequisite to bond issue.** (1) The board of directors of an irrigation district organized under the provisions of the Irrigation District Act (as defined in ORS 545.002), or the board of supervisors of a drainage district organized under the provisions of the Drainage District Act (as defined in ORS 547.060), may by petition commence special proceedings in the circuit court of the county in which the office of the district is located for the purpose of having a judicial examination and judgment of the court as to the regularity and legality of:

(a) The proceedings in connection with the organization of the district.

(b) The proceedings of the board and of the district, providing for and authorizing the issue and sale of bonds of the district, whether bonds have or have not been sold or disposed of.

(c) Any action or proceeding of the county court declaring the organization of the district, or declaring the result of any election therein.

(d) An order of the governing board of the district including or excluding any lands in or from the district, or declaring the result of any election, general or special.

(e) An order of such board levying any assessment, general or special.

(f) An order of such board ordering the issue of any bonds for any purpose, or determining any bond issue, or providing for the same.

(g) The authorization of contract with the United States, and the validity of the contract, whether or not it has been executed, and whether or not bonds are to be deposited with the United States.

(2) All the proceedings of an irrigation district or drainage district may be judicially examined and determined by the court in one special proceeding, or any part thereof may be separately examined and determined upon by the court. No bond issue or any part thereof shall be sold or offered for sale unless it has been confirmed under the provisions of this section.

**548.110 Nature of proceedings; notice; contest; judgment; appeal; nonprejudicial errors; costs.** (1) The proceedings shall be in the nature of a proceeding in rem. The practice and procedure therein shall follow the practice and procedure of an action not triable by right to a jury, so far as they are consistent with the determination sought to be obtained, except as otherwise provided in ORS 548.105 to 548.115. The jurisdiction of the irrigation district or drainage district and of all the freeholders, assessment payers and legal voters therein shall be obtained by publication of notice directed to the district, and to "all freeholders, legal voters and assessment payers within the district," without naming them individually. The notice shall be served on all parties in interest by publication for at least once a week for three successive weeks in some newspaper of general circulation published in the county where the proceeding is

pending. Jurisdiction shall be complete within 10 days after full publication.

(2) Any person interested may at any time before the expiration of the 10 days appear and contest the validity of the proceeding, or of any of the acts or things therein enumerated. The proceedings shall be speedily tried and judgment rendered declaring the matter so contested to be either valid or invalid. Any order or judgment in the course of the proceeding may be made and rendered by the judge of the court in vacation. For the purpose of any such order or judgment the court shall be deemed at all times to be in session, and the act of the judge in making such order or judgment shall be the act of the court.

(3) Any party may appeal to the Court of Appeals at any time within 30 days after rendition of the final judgment. The appeal must be heard and determined within three months from the time of taking the appeal.

(4) The court, in inquiring into the regularity, legality or correctness of any of the proceedings, must disregard any error, irregularity or omission which does not affect the substantial rights of the parties to the court proceedings, and may approve the proceedings in part and disapprove and declare invalid other or subsequent proceedings in part. The costs of the court proceedings may be allowed and apportioned between the parties in the discretion of the court. [Amended by 1979 c.284 §169]

**548.115 Individual's right to maintain proceedings; procedure; exclusiveness of remedy.** (1) Any freeholder, legal voter or assessment payer within an irrigation district or drainage district may, within 30 days after the entry of any order or the performance of any act mentioned in ORS 548.105, for which a contest is by that section provided, may bring a like proceeding in the circuit court of the county where the lands embraced within such district, or the majority thereof, are situated, to determine the validity of such order or act. In such proceedings the board of directors shall be made parties defendant.

(2) Service of summons shall be made on the members of the board personally if within the county where the district, or any part thereof is situated. As to any directors not within the county, service may be had by publication of summons for a like time, and in like manner, as is provided by ORS 548.110. Service shall be deemed complete within 10 days from the date of personal service, or

within 10 days from the date of completion of publication, as the case may be.

(3) The proceedings shall be tried and determined in the same manner as proceedings brought by the irrigation district or drainage district itself.

(4) No contest of any proceeding, matter or thing provided by ORS 548.105 to be had or done by the board of directors or supervisors or by the district, or by the county court, or by any freeholder, legal voter or assessment payer within the district, shall be had or maintained at any time or in any matter except as provided in ORS 548.105 to 548.115.

**548.120 Validation of decrees entered in proceedings by directors.** In all cases where the board of directors of any irrigation district or the board of supervisors of any drainage district has instituted proceedings for the purpose of having an adjudication of the court as to the regularity and legality of the proceedings in connection with any of the matters specified in ORS 548.105, and where notice has been published directed to the parties specified by ORS 548.110, for the length of time specified by that section, and the full time provided by that section has elapsed after publication before any decree has been entered therein, all such decrees so rendered by the courts hereby are validated and declared to be effective and sufficient for all purposes, notwithstanding any other defects in the proceedings and notice upon which such decrees are based.

### CERTIFICATION OF BONDS

**548.205 Resolution for bond issue; filing with Water Resources Director.** Whenever the board of directors of an irrigation district or the board of supervisors of a drainage district declares by resolution that it deems it desirable that any contemplated or outstanding bonds of the district, including any of its bonds authorized but not sold, shall be made available for the purposes provided for in ORS 548.230, the board shall file a certified copy of such resolution with the Water Resources Director.

**548.210 Investigation by Water Resources Director of affairs of district; report.** (1) The Water Resources Director, on receipt of a certified copy of the resolution, shall without delay make or cause to be made an investigation of the affairs of the district,

and a report in writing upon such matters as he may deem essential.

(2) In case the application is filed by an irrigation district, the investigation and report shall be particularly upon the following points:

(a) The supply of water available for the project and the right of the district to so much of the water as may be needed.

(b) The nature of the soil as to its fertility and susceptibility to irrigation, the probable amount of water needed for its irrigation and the probable need of drainage.

(c) The feasibility of the district's irrigation system and of the specific project for which the bonds under consideration are desired or have been used, whether such system and project are constructed, projected or partially completed.

(d) The reproduction cost less depreciation of the canals, reservoirs, reservoir sites or other irrigation works owned by such district or to be acquired, or the actual cost of the works to be constructed by it with the proceeds of any such bonds.

(e) The reasonable market value of the irrigable land included within the boundaries of the district.

(f) Whether or not the aggregate amount of the bonds under consideration, and any other outstanding bonds of the district, including bonds authorized but not sold, exceeds 30 percent of the aggregate market value of the irrigable lands within the district and of the reproduction cost less depreciation of the canals, reservoirs, reservoir sites and other irrigation works owned or to be acquired or the actual cost of the works to be constructed with the proceeds of any of the bonds, by the district, as determined by paragraphs (d) and (e) of this subsection.

(g) The numbers, date or dates of issue and denomination of the bonds, if any, which the commission finds are available for the purposes provided for in ORS 548.230, and if the investigation has covered contemplated bonds, the total amount which the district can issue without exceeding the limitation expressed in paragraph (f) of this subsection.

(3) In case the application is filed by a drainage district, the investigation and report shall be particularly upon the following points:

(a) The nature of the soil as to its fertility and productivity after drainage.

(b) The feasibility of the plan of reclamation.

(c) The reproduction cost less depreciation of the works owned by such district or to be acquired or the actual cost of the works to be constructed by the proceeds of any such bonds.

(d) The reasonable market value of the land included within the boundaries of the district which will be benefited by the drainage works.

(e) Whether or not the aggregate amount of the bonds under consideration and any other outstanding bonds of the district, including bonds authorized but not sold, exceeds 30 percent of the aggregate market value of the lands within the district which will be benefited by the drainage works and the reproduction cost less depreciation of the works owned by such district or to be acquired or the actual cost of the works to be constructed by the proceeds of any such bonds, as determined by paragraphs (c) and (d) of this subsection.

(f) The numbers, date or dates of issue and denomination of the bonds, if any, which the director finds are available for the purposes provided for in ORS 548.230, and, if the investigation has covered contemplated bonds, the total amount of bonds which the district can issue without exceeding the limitation expressed in paragraph (e) of this subsection.

**548.215 Filing report of investigation; certification of bonds of district; supplemental report; subsequent issues of bonds; record of reports and bonds.** (1) The written report of the investigation provided for in ORS 548.210 shall be filed in the office of the Secretary of State and a copy of the report shall be forwarded by the Water Resources Director to the secretary of the district for which the investigation was made. If the director finds, as set out in the report, that the irrigation or drainage system of the district and the specific project for which the bonds under consideration are desired or have been issued, whether such project is constructed, projected or partially completed, are feasible, and that the aggregate amount of the bonds under consideration and any other outstanding bonds of the district, including bonds authorized but not sold, does not exceed 30 percent of the aggregate market value of the irrigable lands or the lands which will be benefited by drainage within the district and of the reproduction cost less depreciation of the canals, reservoirs, reservoir sites and other irrigation or drainage works, as the case

may be, owned or to be acquired or constructed with the proceeds of any such bonds by the district, then the bonds of such irrigation or drainage district, as described and enumerated in the report filed with the Secretary of State, shall be certified by him, as provided for in ORS 548.220.

(2) If the Water Resources Director is notified by the board of directors of any district, whose irrigation or drainage system has been found in such report to be feasible, that the district has issued bonds, and the director finds that the bonds are for any project approved in the report and that the amount of the bonds does not exceed the limitation stated in the report, the director shall prepare and file with the Secretary of State a supplementary report giving the numbers, dates of issue and denominations of the bonds, which shall then be entitled to certification by the Secretary of State.

(3) Subsequent issues of bonds may be made available for the purposes specified in ORS 548.230 upon like proceedings by the district. But after any of the bonds of an irrigation or drainage district have been enumerated and described as entitled to certification by the Secretary of State, the district shall not issue bonds not entitled to such certification, except that bonds issued by any irrigation or drainage district to refund bonds which it has theretofore issued, and which have been certified, may be issued without certification or may be certified upon the same basis as the original bonds which are to be retired by such refunding bonds.

(4) The certificate on each bond so certified shall contain the words: "This bond is not an obligation of the State of Oregon."

(5) The Secretary of State shall provide for filing and preserving the reports mentioned in this section and shall make and keep a record of the bonds certified by him, in accordance with the provisions of ORS 548.220, including the date of certification, the legal title of the district, the number of each bond, its par value, and the date of its issue and of its maturity.

**548.220 Form of certificate; modification; signature; seal; fee payable to Secretary of State.** (1) Whenever there is presented to the Secretary of State any bond of an irrigation or drainage district, including any bond authorized but not sold, which is eligible to certification under ORS 548.215, the Secretary of State shall cause to be attached thereto

a certificate in substantially the following form:

I, \_\_\_\_\_, Secretary of State of Oregon, certify that the within bond No. \_\_\_\_\_ of the \_\_\_\_\_ district, issue \_\_\_\_\_ (insert date), is, in accordance with sections 548.205 to 548.230 of the Oregon Revised Statutes, a legal investment for all trust funds and for the funds of all insurance companies, banks, both commercial and savings, trust companies, and bonding companies, and any funds which may be invested in county, municipal or school district bonds, and it may be deposited as security for the performance of any act whenever the bonds of any county, city, school district or other municipality may be so deposited, it being entitled to such privileges by virtue of an examination by the Water Resources Director in pursuance of said statutes. The within bond may also be used as security for the deposit of public money in the banks of this state. This bond is not an obligation of the State of Oregon.

Secretary of State of Oregon.

(2) In case of a change in the constitution of any of the laws of this state relating to the bonds of irrigation or drainage districts, the Secretary of State shall, if necessary, modify the above certificate so it shall conform to the facts.

(3) A facsimile of the signature of the Secretary of State, printed or otherwise impressed upon the certificate, shall be a sufficient signing thereof; provided, that the imprint of the Secretary of State's seal shall appear upon both the certificate and the bond over and through the printed signature. A fee of 25 cents shall be paid to the Secretary of State for each bond so certified by him under the provisions of this section.

**548.225 Expenses of investigation and report; use by Water Resources Director of results of investigation; supervision by Water Resources Director of bonds, proceeds and work.** All necessary expenses incurred in making the investigation and report provided for in ORS 548.210 and 548.215 shall be paid as the Water Resources Director may require by the irrigation or drainage district whose property has been investigated and reported on. However, the benefit of any services that may have been performed and any data that may have been

obtained by the director or by any other public official in pursuance of the requirements of any law other than ORS 548.205 to 548.230 shall be available for the use of the director without charge to the district whose affairs are under investigation. The director may exercise such supervision and control over certified bonds, or the expenditure of funds arising therefrom, or the construction work to be paid for therewith, as he deems the interest of the district and the state demands.

**548.230 Certified bonds as investments; purchase by trustees, banks and others.** All bonds certified in accordance with the terms of ORS 548.205 to 548.230 shall be legal investments for all trust funds and for the funds of all banks, both commercial and savings and trust companies, and whenever any money or funds may by law be invested in bonds of cities, counties, school districts or other municipalities in the state, such money or funds may be invested in such bonds of irrigation or drainage districts. Whenever bonds of cities, counties, school districts or municipalities may by law be used as security for the performance of any act, bonds of irrigation or drainage districts under the limitations provided in ORS 548.205 to 548.230 may be so used, and may also be used as security for the deposit of public money in the banks of this state. The certification of any bonds under and in pursuance of the provisions of sections 42 to 48, chapter 357, Oregon Laws 1917 (now repealed), made prior to May 29, 1919, shall have the same force and effect as if made in pursuance of the provisions of ORS 548.205 to 548.230. [Amended by 1967 c.359 §695]

**548.235 Validation of outstanding bonds.** All bonds of irrigation and drainage districts within the state, issued and outstanding on March 7, 1935, which were sold for a price not less than that authorized by law and the purchase price paid to the district, or which were exchanged for outstanding bonds or warrants of the district on a par value basis, or on a basis of par value plus accrued interest, hereby are validated and declared to be legal and binding obligations of such irrigation or drainage districts, notwithstanding that the bonds were not advertised for sale as required by law nor confirmed in the manner provided by ORS 548.105 to 548.120, or were not or are not entitled to certification in the manner provided by ORS 548.205 to 548.230.



### GOVERNMENT LOANS TO IRRIGATION AND DRAINAGE DISTRICTS

**548.305 Contracts for loans; purposes for which authorized; amount of loan.** (1) The board of supervisors of any drainage district or the board of directors of any irrigation district may, whenever it is determined by such board that it is for the best interests of the district, enter into a contract with any governmental agency of the United States, for a loan:

(a) For the refunding of any or all of its outstanding indebtedness;

(b) For the refunding of any state, county and municipal ad valorem taxes or special assessments levied by such district; and

(c) For the financing of any improvement or supplemental works which may be needed to reclaim lands in the district or for maintenance or operation, and for the payment or repayment thereof, upon such terms or conditions as may be agreed upon in the contract.

(2) In no case shall the total of any loan made by such governmental agency exceed in the aggregate the total amount of the outstanding indebtedness of such district so refunded, but this limitation shall not apply to any loan or any part of any loan which may be made by such governmental agency for any purpose herein provided other than refunding such outstanding indebtedness.

**548.310 Validation of prior contracts and bonds.** All contracts entered into before November 15, 1935, by any drainage district or irrigation district with any governmental agency of the United States, and any bonds issued before or after November 15, 1935, pursuant to such contract, for any of the purposes provided by ORS 548.305 to 548.325, which comply with the provisions of ORS 548.305 and are otherwise regular and duly made and issued according to law, are declared valid, notwithstanding that the total amount of any such loan so provided to be made by the governmental agency exceeds in the aggregate the total amount of the outstanding indebtedness of such district in any case where all or any part of such loan is for purposes other than refunding the outstanding indebtedness of such district.

**548.315 Issuance of bonds; provisions thereof; funds for payment; assessments; release of land from lien; relief from payment of assessments.** For the purpose of

carrying into effect provisions contained in any contract so to be executed, the board of such district may, without the vote of the electors of the district, issue bonds in any denomination, bearing interest from date at a rate determined by the board, and to mature in not more than 40 years. The bonds shall be general obligations of the district and shall be paid by the revenue derived from the annual assessments upon the real property within the district, which assessments shall be made in accordance with the terms of the contract. All the real property within the district shall be liable to be assessed for such payments; provided, however, that the contract may contain a provision permitting the release of any land in the district from the lien to secure the payment of such bonds, or relieving any lands in the district from any obligation to pay any assessments thereafter levied for the purpose of paying the bonds or the interest accruing thereon, by payment to the district of an amount provided in the contract. [Amended by 1981 c.94 §48]

**548.320 Lien on lands; lien docket; priority; sale of land for taxes not to extinguish lien.** The contract may provide for a lien docket which shall be furnished by the district to the county clerk of each county in which lands of the district are situated, and in which shall be set forth a description of the lands within the district and liable under such bonds, described under the present individual ownership by metes and bounds or by calls or by reference to recorded deeds, together with the total amount of refunding bonds charged against each parcel of land, the amount of annual payments thereof, the date of such payment and the rate of interest. This charge shall remain a lien on such tract or parcel of land in favor of the district and shall have priority over all other liens and encumbrances except the lien of state, county and municipal taxes. If the contract does not provide for a lien docket nothing in this section shall be construed to prevent an irrigation or drainage district from providing a lien docket as prescribed by law. In case any lands located within an irrigation or drainage district are sold for taxes such sale shall not operate to extinguish any lien appearing on the lien docket and payable at a future time.

**548.325 Assessments; emergency fund; approval of contracts by Water Resources Director.** In addition to the annual assessments provided for in ORS 548.315, and

in addition to the assessments authorized by law for the maintenance and operation of drainage and irrigation districts, such contract may provide that the board shall levy an annual assessment not to exceed 50 cents per acre upon each acre in the district. All moneys received from such assessment shall be placed by the treasurer of the district in a fund to be designated as the "emergency fund." The emergency fund shall be used for supplementing the bond fund in case of deficiency due to accident, delinquency or other contingencies and for the purpose of foreclosure of delinquent tax certificates issued for taxes or assessments levied against lands in the district. The fund shall be disbursed by the treasurer upon the order of the board. All contracts entered into under the provisions of ORS 548.305 to 548.325 shall be approved by the Water Resources Director.

**548.330 Bonds for refunding indebtedness; validity not affected by irregularities of refunded obligations.** All bonds of any irrigation or drainage district authorized or issued by the district in the manner provided by ORS 548.305 to 548.325, for the purpose of refunding any outstanding bonds or warrants of the district in accordance with the terms and provisions of a contract therefor between the district and any governmental agency of the United States, which contract has been approved by the Water Resources Director shall constitute legal and binding obligations of the district, notwithstanding any irregularities or defects in the authorization of or issuance of any of the bonds or warrants to be refunded.

**548.335 Consent of holders of outstanding indebtedness; initiation of proceedings to obtain constructive consent.** When any irrigation or drainage district has adopted a plan for refunding and compromising any or all of its outstanding indebtedness, and pursuant to ORS 548.305 to 548.325 has entered into a contract with any governmental agency for a loan for the purpose of carrying out such plan, and the board of directors or board of supervisors for the purpose of carrying into effect the provisions contained in the contract have authorized the issuance of bonds of the district pursuant to ORS 548.315, and such plan of refinancing and compromise has been accepted in writing by the holders of more than 90 percent of such outstanding indebtedness to be refunded and compromised, such irrigation or drainage district may com-

mence and prosecute a proceeding in rem for the purpose of obtaining constructive consent, to the plan, of the unknown holders of the evidences of the indebtedness to be refunded and compromised, and of the known holders of such evidences of indebtedness who have not so given their consent in writing. The proceeding shall be commenced in the circuit court of the county in which the office of the district is located, by filing a petition verified by the oath of the president or secretary of the district.

**548.340 Averments of petition.** The petition shall set forth the plan for refunding and compromising the indebtedness and shall further recite what percentage in amount of the holders of the evidences of indebtedness to be refunded or retired have filed their written consent to the proposed plan, which percentage shall not be less than 90 percent, and shall further set forth what steps have been taken to obtain the consent of all nonconsenting holders of the evidences of indebtedness. The petition shall also state the name and place of residence of all of the holders of the evidences of indebtedness who are known to the district, and shall show that diligent efforts have been made to ascertain the names and residences of all the holders.

**548.345 Notice; failure of holder to object constitutes consent.** (1) Upon presentation of the petition to the judge of the court, either in open court or in chambers, he shall, if it appears that diligent efforts have been made by the irrigation or drainage district to ascertain the names and places of residence of all the holders of the evidences of indebtedness so to be refunded and compromised, authorize the district to publish, and it shall publish for at least four consecutive weeks in three newspapers published within the state, to be by the court designated, one of which papers shall be published in the county in which the office of the board of directors or board of supervisors is situated, a notice specifying the particular indebtedness which it is proposed to refund and compromise, together with the plan which has been adopted by the district for the refunding and compromising; also, a general description of the refunding bonds, if any, which it is proposed to issue to the holders of the indebtedness. The notice shall require all holders of the evidences of indebtedness so to be refunded or compromised to file in the matter of the petition in the circuit court their written dissent from or

objection to the proposed plan of refunding and compromise. The notice shall also state that any holders who fail to file their dissent and protest to the plan shall be deemed to have consented thereto.

(2) The district shall also cause the notice to be served in the manner provided by law for service of summons in civil actions upon all the holders whose names and places of residence are known to the district and who reside within Oregon. The notice shall also be served upon the Water Resources Director. The district shall also deposit a copy of the notice in the United States mail addressed to each of the known holders who reside without the state, with postage prepaid.

(3) Dissent in writing must be filed in the court and cause within 90 days from the date of the first publication of the notice; or, in the case of holders whose names and places of residence are known to the district and who reside within the state, within 90 days from the date of service of the notice upon them; or, in the case of holders whose names and places of residence are known to the district and who reside without the state, within 90 days from the date of mailing the notice.

(4) After the expiration of said period of 90 days the holders so failing to file their objection and protest with the court shall be deemed to have consented to the refunding and compromise of the indebtedness under the terms set forth in the notice, and such failure shall be equivalent to the offer in writing signed by the known consenting holders.

**548.350 Hearing; decree; Water Resources Director as trustee.** (1) After the expiration of 90 days from the date of the first publication of the notice and the service and mailing thereof, as set forth in ORS 548.345, the district shall file in the proceeding in the circuit court its verified return of its acts under the order of the court theretofore made, attaching thereto affidavits of the publication of the notice in three newspapers, and proof of service thereof upon the Water Resources Director and upon the holders of the evidences of indebtedness whose names and places of residence are known to the district and who reside within the state, and of the mailing thereof to such known holders residing without the state.

(2) Thereupon the court, or the judge in chambers, shall forthwith hear the cause and shall enter a decree adjudging that all the holders of the evidences of indebtedness to be

refunded and compromised by the plan or proceeding of the district, who within 90 days after the date of the first publication of the notice and the serving and mailing thereof did not file in the court their written dissent and objections to the proceedings, have consented that their evidences of indebtedness be refunded and compromised under the proposed plan.

(3) In the decree the court shall direct the officers of the district to deposit with the director, as trustee for the persons entitled thereto, the cash or refunding bonds which under the plan of refunding and compromise belong to the holders of the evidences of indebtedness whose consent was so obtained by the court proceedings. The decree shall further provide that upon the payment of said money or bonds to the director as trustee, the evidences of indebtedness so held by the holders shall be deemed paid and no longer shall be an obligation of the district; and that upon the surrender to the director of the evidences of indebtedness, together with any unpaid interest coupons belonging to the same, the director shall pay on demand to the holders the money or bonds so deposited with him as trustee, and shall mark the evidences of indebtedness canceled and deliver them to the district. All holders of the evidences of indebtedness to be refunded and compromised shall be deemed to have notice of all steps and proceedings had.

**548.355 Nature of proceedings; appeal; nonprejudicial errors; costs.** The procedure in the circuit court under the provisions of ORS 548.340 to 548.350 shall be in the nature of an action in rem not triable by right to a jury. Any holders of any evidences of indebtedness affected by any such court procedure provided for in those sections, or any other interested party, may appeal to the Court of Appeals at any time within 30 days after the rendition of the judgment of the circuit court. The court inquiring into the regularity, legality or correctness of any of such proceedings shall disregard any error, irregularity or omission which does not affect the substantial rights of the parties, and may approve the proceedings in part and disapprove the remainder. Costs in the proceeding may be allowed and apportioned between the parties in the discretion of the court. [Amended by 1979 c.284 §170]

**548.360 Moneys and securities; custody; authority of Water Resources Director and State Treasurer.** The Water Resources Director may deposit with the State Treasurer for safekeeping all moneys and securities which come into his possession pursuant to the provisions of ORS 548.350. When so deposited with the State Treasurer he shall safely keep the same, subject to call of the director.

**548.365 Depositary for bonds, warrants; authority of Water Resources Director.** Whenever any governmental agency of the United States has authorized a loan to or for the benefit of any irrigation or drainage district in Oregon for the purpose of refinancing the outstanding indebtedness of the district, the Water Resources Director is authorized to act as depositary for the bondholders and other creditors of the district and as such may do all things that may be conferred upon such board by the bondholders and other creditors of such district or their representatives duly authorized, in connection with the delivery and transfer of title of deposited bonds, warrants and other evidences of indebtedness. All acts of the State Reclamation Commission had before March 4, 1935, in connection with any such loans authorized before that date, are ratified and confirmed. [Amended by 1955 c.707 §67]

**548.370 Assessments; cancellation or compromise by districts refunding indebtedness through federal agencies.** The board of supervisors of any drainage district or the board of directors of any irrigation district may cancel or compromise any special assessment assessed and levied by such district and for which delinquent certificates have been issued to the district, and any special assessments assessed and levied by such board on lands within the district, upon the written recommendation of the Water Resources Director, where such district is refunding its outstanding indebtedness through any governmental agency of the United States. When such assessments are canceled or compromised the board may make appropriate notation of same upon the proper records.

#### **SECURITIES AND MONEYS DEPOSITED WITH WATER RESOURCES DIRECTOR**

**548.400 Deposit of bonds, warrants and other evidence of indebtedness of irrigation and drainage districts being**

**reorganized.** (1) The Water Resources Director may accept deposits of bonds, warrants or other evidences of indebtedness of irrigation and drainage districts under the process of reorganization, pursuant to the provisions of ORS 536.570, 545.278 to 545.290, and 548.810, or as may otherwise be provided by law.

(2) The director shall deposit such bonds, warrants or other evidences of indebtedness with the State Treasurer, to be held by him in safekeeping subject to the direction of the director. [Formerly 544.040]

**548.405 Loss of certificates or receipts issued by Water Resources Director for securities; surrender of securities by Water Resources Director.** Whenever one claiming to be a lawful owner of a certificate of deposit or receipt issued by the Water Resources Director, covering securities issued by an irrigation or drainage district, satisfies the director that such certificate of deposit or receipt has been lost, stolen or destroyed and that he is the owner thereof, the director may surrender the securities evidenced by such certificate of deposit or receipt, or deliver any securities or moneys on deposit with the director received in payment for the securities evidenced by such certificate of deposit or receipt to the claimant, upon his filing a surety bond as provided in ORS 548.415.

**548.410 Surrender of securities to claimant to whom certificate or receipt has not been issued or assigned.** Whenever one in possession of a certificate of deposit or receipt issued by the Water Resources Director as evidence of the deposit of securities issued by an irrigation or drainage district, who is neither the one to whom such certificate of deposit or receipt was issued nor one to whom it has been properly assigned, but who claims to be the owner of such certificate of deposit or receipt, shall satisfy the director that he is entitled to receive securities evidenced by such certificate or receipt, or receive moneys or other securities deposited with the director in refunding the securities evidenced by such certificate or receipt, the director may surrender such securities or pay such moneys or deliver such other securities so deposited with him to the claimant upon his surrendering the certificate of deposit or receipt and filing a bond as provided in ORS 548.415.

**548.415 Surety bond; amount thereof; conditions.** The surety bond to be filed under ORS 548.405 or 548.410 shall be for double the amount of the face value of the securities described in such certificate of deposit or receipt, if the securities are to be surrendered, or double the amount the claimant is to receive from moneys or securities deposited with the Water Resources Director, with two or more sureties, qualified and who must justify as in the case of sureties for bail; provided that surety bonds of companies licensed to transact surety business in Oregon may be accepted for the face amount of the securities if the securities are to be returned, or the face amount of any moneys or securities to be paid or delivered by the director to the claimant. Every such surety bond shall be conditioned upon indemnifying the director, and his employees making the payment, and all rightful owners of the securities, against any loss or expenses, including interest or other damage or liability, resulting from such payment or delivery.

#### **RELEVY OF ERRONEOUS OR VOID ASSESSMENTS**

**548.505 Relevy and reassessment; manner and time.** If any drainage or irrigation district assessment levied on any property liable thereto is prevented from being collected for any year by reason of any erroneous proceeding, or if such levy is adjudged void for want of form or manner of procedure, or otherwise, the same may be collected, relisted, reassessed and relevied in the manner and at the times provided for the collection, relisting and reassessment of taxes by the provisions of ORS 311.120.

**548.510 Decree declaring assessments void; reassessment and relevy of similar assessments; time; crediting payments under void assessment.** If any such levy of assessment is declared void by a court of competent jurisdiction, then all similar assessments levied in the same or other years by the drainage or irrigation district which under the decision of the court are also void, may be reassessed, relisted and relevied against the property affected, in the manner provided by law and in conformity with such court decree, within five years from the date of the rendition of the decree of the court declaring such assessment void. In the case of a relisting or relevying of such drainage or irrigation district assessment on any property affected

thereby, proper credit in the collection of the same shall be given to all owners of any such property for all payments theretofore made by them on the void assessments.

**548.515 Manner of relevy and reassessment; officers authorized.** The relevy and reassessment of drainage and irrigation district assessments provided for by law shall be made in the same manner, and by the same officers who, at the time the new listing or levy is made, are authorized by law to list property and compute, levy and assess taxes or assessments against property in the drainage or irrigation district.

**548.520 Cancellation or compromise.** The provisions of ORS 548.370 relating to the authority of drainage and irrigation districts to cancel or compromise any special assessment shall apply to any relevy or reassessment by a drainage or irrigation district which is provided by law.

#### **CERTIFICATES OF DELINQUENCY; FORECLOSURE**

548.605 [Repealed by 1969 c.595 §17]

**548.610 Foreclosure of certificate.** The holder of such certificate may, at any time after the expiration of one year from the first date of delinquency of any tax included in such certificate of delinquency, foreclose the same in the manner provided by the general laws of this state for the foreclosure of such certificates. The irrigation or drainage district shall foreclose all certificates of delinquency so issued to it within 10 years from the first date of delinquency of any tax or assessment included therein. The holder of such certificate may recover the costs and disbursements and expenses in the foreclosure, including a reasonable attorney's fee.

**548.615 Issuance of certificate to district for district taxes only, without payment of other taxes; form and effect of certificate.** Any time after the expiration of six months from the date of delinquency, where any taxes or assessments levied upon real property by an irrigation or drainage district are delinquent, the tax collector shall, on demand of such irrigation or drainage district and without payment of any of the taxes or assessments levied against such land, make out and issue to such irrigation or drainage district a certificate of delinquency

against the property for the full amount of the taxes or assessments levied by the irrigation or drainage district, with penalties and interest accrued at the time, such certificate to be in such form and to have the same legal effect, except as otherwise specified, as is provided by the general laws covering certificates of delinquency.

**548.620 Foreclosure of certificate issued under ORS 548.615.** The irrigation or drainage district may, at any time after the expiration of one year from the first date of delinquency of any tax included in such certificate of delinquency, foreclose the same in the manner provided by the general laws of the state for the foreclosure of delinquency certificates by individuals. The district may include in one foreclosure suit and may foreclose by that suit as many certificates of delinquency as it may hold. The holder of such certificate may recover as a part of the judgment the costs, disbursements and expenses in such foreclosure, including a reasonable attorney fee at trial and on appeal as determined by the court. [Amended by 1981 c.897 §62]

**548.625 Outstanding taxes; title of purchaser subject thereto; lien not affected by foreclosure; compromise of amount by county court.** The purchaser of any property sold on foreclosure of any certificate of delinquency issued and foreclosed pursuant to the provisions of ORS 548.615 and 548.620 shall take title subject to all outstanding taxes other than taxes or assessments levied by such irrigation or drainage district, and the lien of such taxes shall not be affected by the foreclosure proceedings. However, where any such lands are bid in at any foreclosure sale held pursuant to ORS 548.620 in the name of the irrigation or drainage district, the county court may make such equitable compromise or abatement in the amount of the outstanding taxes upon the property as it may deem just and equitable.

**548.630 Rights under ORS 548.610 not affected.** ORS 548.615 to 548.625 do not affect the rights conferred by ORS 548.610.

**548.635 Additional rights as to foreclosure of certificates issued for nonpayment of assessments or charges before 1936.** In addition to the other methods provided by law for the foreclosure of certificates of delinquency of irrigation or drainage districts, any irrigation or drainage district may foreclose any certificate of delinquency held by it

and issued for nonpayment of any assessments, tolls or charges of the district levied, assessed or charged subsequent to the year 1936 upon lands within the district for district purposes, together with any tax paid by the district upon the lands, by suit in equity in the circuit court of the county in which the lands described in the certificate are situated.

**548.640 Laws governing foreclosure suit.** Such suit shall be governed by the provisions of the laws relating to suits in equity in so far as they are applicable, except as otherwise provided in ORS 548.635 to 548.670.

**548.645 Parties defendant.** In any such suit all persons having or claiming some right, title, lien or interest in or to the real property or any part thereof involved in and described in the suit, including unknown claimants of any right, title, estate, lien or interest in such property, may be made parties defendant.

**548.650 Pleading.** In any such suit it shall be deemed and held a sufficient allegation of jurisdictional facts authorizing the irrigation or drainage district to make and levy any assessment, toll or charge included in or foreclosed with any such certificate of delinquency if the complaint alleges in general terms that such certificate of delinquency was issued and the assessments, tolls or charges or tax included therein and foreclosed therewith were made and done in the manner and as provided by law relating to the issuance of certificates of delinquency, and the levying, making or charging of such assessments, tolls or charges by such irrigation or drainage district for district purposes. It shall not be necessary in any such complaint to set forth specifically any proceeding of the district relating thereto.

**548.655 Certificates of delinquency and receipts as evidence.** The certificate of delinquency and all receipts for assessments, charges or tolls paid by the irrigation or drainage district subsequent thereto shall be prima facie evidence in the suit that the real estate described in the certificate and receipts was located in the irrigation or drainage district and was subject to be assessed or charged by the district for district purposes, and that the assessments, tolls or charges were regularly levied as provided by law, and were not paid except by such irrigation or drainage district.

**548.660 Recovery of attorney fees and cost of issuance of certificate; lien.** In any such suit the irrigation or drainage district shall be entitled to recover, as a part of the moneys to be paid therein, such sum as the court may adjudge reasonable as attorney fees at trial and on appeal, and any payment required for the issuance of the certificate. Such sums shall be a lien upon the property.

[Amended by 1981 c.897 §63]

**548.665 Execution sale; district may purchase; deed; no redemption; no deficiency judgment.** The irrigation or drainage district may be a bidder and purchaser of the property on the sale on execution of the property involved in such suit. No publication of notice of sale on execution shall be required. Upon such sale, and without any order of confirmation thereof, the sheriff immediately shall issue a deed to the property sold, and no right of redemption thereafter shall exist. No deficiency judgment shall be entered in any such suit against the owner of the property or other person named as defendant therein.

**548.670 Proceedings where assessment, etc., determined invalid; amount district entitled to; lien; inclusion in foreclosure.** If in any such suit the validity of any assessment, toll or charge sought to be foreclosed is in issue, and the court determines the lien thereof to be invalid, or such amounts as may be so assessed, levied or charged are prevented from being collected by reason of any erroneous proceeding, and if upon such further proceedings as the court deems proper, it appears to the court that such lands were assessable or chargeable for such year or years for district purposes, and if otherwise the district is entitled to a decree in such proceedings, the court shall find and determine the amount for such year or years the district would have been entitled to assess or charge upon such lands for district purposes. Such amount, with interest thereon, from the date the same would have become delinquent if properly levied, assessed or charged, at the rate of eight percent per annum, shall be a lien upon such real property and included in the foreclosure of the certificate of delinquency.

**548.675 Hypothecation of certificates of delinquency.** Whenever any irrigation or drainage district acquires any certificates of delinquency pursuant to the general laws of this state, the district may borrow money for any purpose for which the money evidenced

and represented by the certificates could, when collected, be used, and may hypothecate and pledge the certificates for the repayment of such loans.

### **COMPOSITION; BANKRUPTCY; REFUNDING AGREEMENTS**

**548.705 Irrigation or drainage district may file bankruptcy petition; confirmation of proceedings; composition of debts.** At any time subsequent to default in the payment of principal or interest upon the bonded or warrant indebtedness of any irrigation or drainage district of this state, the board of directors or board of supervisors may cause a petition to be filed in the Federal District Court pursuant to the provisions of the Federal Bankruptcy Act. The consent of the state is given to any proceedings instituted or attempted before February 16, 1939, by any such district under the Federal Bankruptcy Act. The state also authorizes and confirms any proceedings by any such district to effect a plan of composition or of readjustment of its debts in accordance with the provisions and terms of that Act, and authorizes the consummation of any such proceedings.

**548.710 Bonds of district; use and delivery thereof to creditors.** Whenever any irrigation or drainage district files its petition in bankruptcy pursuant to the provisions of the Act of Congress approved May 24, 1934, authorizing bankruptcy proceedings by municipalities and other political subdivisions of any state, the district may, for the purpose of carrying out any plan of readjustment of its indebtedness which has been submitted and approved in the bankruptcy proceeding, use and deliver to its creditors in such bankruptcy proceeding any of its bonds authorized or issued pursuant to the provisions of ORS 548.305 to 548.325, and which bonds are not required for the purpose of carrying into effect the provisions of the contract with the governmental agency of the United States for which they primarily were authorized.

**548.715 Debt refunding agreements; obtaining consent of unknown or nonconsenting creditors.** Whenever any irrigation or drainage district engaged in the refunding of its indebtedness has entered into a contract for such purposes with 80 percent or more of the owners or holders of its bonds, warrants or other evidences of indebtedness, such district



may proceed to obtain the constructive consent of the unknown or nonconsenting owners or holders of such evidences of indebtedness to such contract, as provided by ORS 545.320 to 545.328.

### REHABILITATION PLANS

**548.810 Investigation of affairs of irrigation and drainage districts by Water Resources Director; approval of plans for rehabilitation.** (1) The Water Resources Director may investigate the affairs of any irrigation or drainage district. The investigation may include all physical, financial and economic conditions of the district, including available water supply, topography value and condition of reclamation works, soils and productive value of lands, and capacity to meet financial obligations, including costs of operation and maintenance and indebtedness to the state by reason of certificates of indebtedness theretofore issued. The director may cooperate with the Oregon experiment stations, the U. S. Department of Agriculture and the U. S. Bureau of Reclamation in such investigations in regard to soils, productive value of the land, and capacity to meet financial obligations on the basis of production.

(2) Based upon the results of the investigation, the director shall make findings of fact and recommendations of any plan for rehabilitation of the district, and shall endeavor to bring together all interests with a view to formulation of a definite plan and policy under which the affairs of the district may successfully be worked out.

(3) During the pendency of the investigation, which shall be pursued with due diligence, the board of directors of the district under investigation shall make available to the director all records and information pertaining to the district, shall assist the director in carrying out his recommendations, and shall enter into no contract and perform no act of omission or commission which will hinder or impede the investigation.

(4) All expenses incurred by the director under the provisions of this section shall be paid from the General Fund upon vouchers approved by the director. [Formerly 544.030]

### REORGANIZATION AND DISSOLUTION

**548.900 Definitions for ORS 548.900 to 548.955.** As used in ORS 548.900 to 548.955, except as otherwise expressly provided:

(1) "District" means an irrigation district organized under ORS chapter 545 or a drainage district organized under ORS chapter 547.

(2) "District board" means the board of directors of an irrigation district, or the board of supervisors of a drainage district. [1973 c.415 §1]

**548.905 Petition for dissolution or reorganization; contents; effect of dissolution or reorganization on creditors.** (1) A majority of the qualified electors and landowners of a district, representing at least one-half of the acres of land assessed by the district, may by petition propose a plan for the dissolution or reorganization of the district.

(2) The petition shall state:

(a) That the petition is filed under ORS 548.900 to 548.955.

(b) The name of the district.

(c) The nature, terms and conditions of the dissolution or reorganization plan.

(d) The estimated cost of the dissolution or reorganization.

(e) A description of the assets of the district.

(f) A description of all outstanding indebtedness, including bonds and coupons and the holders thereof, so far as known, and the provisions to be made for payment of nonassenting holders.

(3) No dissolution or reorganization or any term or condition thereof shall impair the rights of any creditor of a district and each creditor may enforce his rights in the same manner and to the same extent as if the change, term or condition had not been made. [1973 c.415 §2]

**548.910 Manner of signing petition; form of petition; withdrawal of signature after filing of petition prohibited.** (1) Each person signing a petition shall add after his signature the date of signing and his place of residence, giving street and number or a designation sufficient to enable the place of residence to be readily ascertained, and the number of acres of land owned by the signer. The name of the county whose assessment roll is used for the purpose of determining the right



of the signer to vote shall be stated in the body of the petition or indicated opposite his signature. If the signer is a legal representative of the owner, his signature shall be accompanied by a certified copy of his authority to sign as a legal representative.

(2) After a petition has been offered for filing, a person may not withdraw his name therefrom.

(3) A petition may designate not more than three persons as chief petitioners, setting forth their names and mailing addresses. A petition may consist of a single instrument or separate counterparts. [1973 c.415 §3]

**548.915 Determining qualified petition signatures; certificate of county clerk and district secretary.** (1) A petition shall not be accepted for filing unless the signatures thereon have been secured within six months of the date on which the first signature on the petition was affixed. Petitions shall be filed with the secretary of the district board. It is not necessary to offer all counterparts of a petition for filing at the same time, but all counterparts when certified as provided by subsection (3) of this section shall be filed at the same time.

(2) Within 10 days after the date a petition is offered for filing, the county clerk and the district secretary shall examine the petition and determine whether it is signed by the requisite number of qualified signers. If the requisite number of qualified signers have signed the petition the district secretary shall file the petition. If the requisite number have not signed, the secretary shall so notify the chief petitioners and may return the petition to the petitioners.

(3) A petition shall not be filed unless the certificate of the county clerk and the district secretary is attached thereto certifying that they have compared the signatures of the signers with the appropriate records, that they have ascertained therefrom the number of qualified signers appearing on the petition, and that the petition is signed by the requisite number of qualified signers. [1973 c.415 §4]

**548.920 Notice of petition filing; contents; election petition; signature requirements.** (1) If the petition is accepted and filed by the district secretary, the secretary shall, within 30 days thereafter, cause a notice of the filing to be published in one or more newspapers of general circulation within the district or, if there is no such newspaper, in a

newspaper of general circulation in each county in which the district is located. The secretary may also cause the notice to be published by radio and television stations broadcasting in the district as provided by ORS 193.310 to 193.320.

(2) The published notice shall state:

(a) That a petition proposing a plan for the dissolution or reorganization of the district, as the case may be, has been filed with the district secretary.

(b) That a copy of the petition is available at a reasonable fee for each person who desires a copy.

(c) That unless a petition signed by not less than 10 percent of the qualified electors and landowners of the district requesting that an election be called by the district board is filed with the district secretary within 30 days of the date of the publication of the notice, the district board will file its petition in circuit court as provided by ORS 548.930 (2).

(3) A petition requesting an election must be signed in the manner provided by ORS 548.915 (1) and shall be subject to the examination and requirements provided by ORS 548.915 (2) and (3). [1973 c.415 §§5, 6]

**548.925 Special election; notice; ballot form.** (1) Within 10 days after the filing of a petition that meets the requirements of ORS 548.920 (3) and 548.920 (2)(c), the district board shall call a special election to be held not less than 30 or more than 60 days after date the petition is filed.

(2) The board shall cause notice of the election to be published once a week for three successive weeks, being three publications in all, in one or more newspapers meeting the requirements of ORS 548.920 (3). In addition, notice may be published by radio and television stations broadcasting in the district as provided by ORS 193.310 and 193.320.

(3) The notice shall state the date of the election, and the fact that there will be submitted to the voters a proposal to dissolve or reorganize the district, as the case may be.

(4) The election shall be held and the results determined and declared in all respects as nearly as practicable in conformity with the provisions governing the election of officers in irrigation districts. At the election, the ballot shall contain the words, "dissolution (or reorganization, as the case may be) of the district — Yes," or "Dissolution (or reorgan-

ization) of the district — No,” or words equivalent thereto. [1973 c.415 §7]

**548.930 Vote result requirements; filing petition with circuit court if vote favors reorganization or dissolution or if no election petition is filed.** (1) Upon canvass of the votes, if it is found and declared by the district board that a majority of the qualified electors and landowners of the district, representing at least one-half of the acres of land assessed by the district, voted against the dissolution or reorganization of the district, the petition for dissolution or reorganization shall be denied and no further action shall be taken upon it. However, if it is found and declared that the majority voted for the dissolution or reorganization of the district, the district board shall, within 60 days after the date of the election, file in the circuit court of the county in which the registered office of the district is located, a petition requesting the court to examine and determine the regularity and legality and correctness of the proceedings and to determine and adjudicate the rights and liabilities of all interested parties in a manner which is equitable, reasonable and in the best interests of the parties. There shall be attached to and made a part of the district board petition a copy of the petition for dissolution or reorganization, as the case may be, of the electors and landowners as filed with the district secretary.

(2) If a petition for election is not filed as provided by this section within 30 days after the date of publication of notice as provided by ORS 548.920 (1) and (2), the district board shall file its petition in the circuit court within 90 days after the date notice is published. [1973 c.415 §8]

**548.935 Circuit court proceeding on petition; contents of court order.** Proceedings in the circuit court upon the petition shall be in the nature of a proceeding in rem and shall be conducted as an action not triable by right to a jury and any judgment or final order of the circuit court shall be subject to appeal in the same manner as other cases in equity. The court may appoint masters or referees as it considers desirable and shall have complete jurisdiction to approve, disapprove, amend or change the plan proposed or to adopt any amendments, changes or other plans proposed by any interested party which the court finds to be equitable and reasonable to protect the rights of any party, or may direct that the district shall continue in existence and operation without dissolution or

reorganization. The judgment may include provisions for sale, transfer or conveyance of all or part of the assets of the district to corporations, other districts, municipal corporations or governmental bodies or agencies then in existence, or to be organized in accordance with the terms of the judgment, which will continue to furnish some or all of the services furnished by the district. As a condition of such sale, transfer or conveyance the court may require such transferee or transferees to assume part or all of the indebtedness of the district. The court may determine the validity of any sales or assessments, the amount of any assessments due upon the various parcels and lots of real estate within the district, the amounts of any assessments theretofore paid upon such parcels and lots and may determine and adjust the liabilities of all parties. The court may adjudicate any water rights of the district and the lands therein and may direct the sale of any assets of the district, either in one lot or in parcels, at public or private sale, as the court finds best. The judgment shall make provision for the payment of all indebtedness of the district. [1973 c.415 §9; 1979 c.284 §172]

**548.940 Jurisdiction of parties; service of summons and petition; Water Resources Director as party.** (1) Jurisdiction of all interested parties may be had by the publication of summons in the manner provided by ORCP 7. Copies of the summons and the petition of the district shall be mailed to each qualified elector and landowner at the mailing address as shown by the records of the county clerk, the county tax collector and the county assessor, and to all known creditors of the district.

(2) The Water Resources Director shall be a necessary party and shall be served with a copy of the summons and petition. [1973 c.415 §1; 1979 c.284 §172]

**548.945 Written assent of Secretary of Interior required before final decree if district has federal contract.** If a contract authorized by law has been made between the district and the United States for the construction, operation or maintenance of necessary works or for a water supply, a final decree may not be entered by the court until written assent to the decree by the Secretary of the Interior has been filed with the court. [1973 c.415 §11]

**548.950 Appearance of interested parties; costs and disbursements.** Any interested party may appear in the proceedings. Costs and disbursements may be allowed and divided between the parties or taxed to the losing party or parties in the discretion of the court. [1973 c.415 §12]

**548.955 Contents of final decree; filing with county treasurer and assessor, Secretary of State and Water Resources**

**Director.** The final decree of the court shall order the clerk of the court to file certified copies of the decree with the county treasurer and the county assessor of each county in which any property located within or assessed by the district is located, and with the Secretary of State and the Water Resources Director. [1973 c.415 §13]

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# Chapter 549

## 1981 REPLACEMENT PART

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**CONTRACTS WITH FEDERAL AGENCIES AS TO FLOOD CONTROL**

**549.010 Definitions for ORS 549.020 and 549.030.** As used in ORS 549.020 and 549.030, unless a different meaning appears from the context:

(1) "Federal agency" includes the United States, the President of the United States, and any agency or instrumentality of the United States which is designated, granted or authorized to engage in the building, construction and maintaining of flood control projects on any lakes, rivers or streams within Oregon.

(2) "Board of commissioners" means the governing body of any county in the state, whether the same consists of two county commissioners and the county judge or three commissioners.

(3) "Contract" includes contracts and agreements in the customary form; also a commitment by a federal agency by which it undertakes to make or engage in the construction of works for the purpose of controlling floods, and the terms, conditions and restrictions therein set forth.

(4) "Flood control project" means any plan, system, manner or means for the control, diversion, conservation or abatement of flood waters or any excessive or unusual accumulation of water in any natural or artificial stream or body of water, or for protection of life and property against danger, menace, injury or damage resulting therefrom.

**549.020 Contracts between counties and federal agencies.** Any county may make contracts with any federal agency containing such terms, provisions and conditions as, in the discretion of the board of commissioners, may be necessary, proper or advisable for the purpose of meeting the conditions necessary in the construction of flood control projects as provided in any federal flood control Acts wherein the Federal Government is entirely financing such projects.

**549.030 Agreement by two or more counties with federal agency.** If two or more counties in the state desire jointly or severally to make any agreement with federal agencies relative to flood control, they may enter into such agreements with any agency named in ORS 549.010 in accordance with all the provisions stated in ORS 549.010 and 549.020 that will facilitate cooperative action between boards of commissioners and federal

agencies to meet conditions of any federal flood control Acts wherein the Federal Government is entirely financing such projects.

**DITCHES TO DRAIN LAND; FLOOD CONTROL MEASURES**

**549.110 Application to county court for authority to build drainage ditch or levee, or to widen or straighten a stream.**

(1) When any person owns land which requires draining, or any incorporated city in which there is any ditch, standing water or surplus water requiring draining has no means of draining such ditch, standing water or surplus water, and objection is made by the owners of adjacent land to the construction thereon or thereover of necessary means of drainage, such person or city may make application in writing to the county court of the county in which such land or city is situated, for the right of way or privilege to cut or dig or construct sufficient means of drainage over the adjacent land.

(2) Likewise any person or municipal corporation whose land is so situated that it is injured or liable to be injured by flood waters from any natural stream flowing through or near the land may make application to the county court for the right to enlarge or straighten the bed of such natural stream, or strengthen or build up the banks so as to protect such lands from overflow or injury.

**549.120 Procedure; appointment of commissioners; order to commissioners.** Thereupon the court shall appoint three disinterested householders of the county as a commission and shall issue an order directing them to meet on a day named in the order, after subscribing to an oath or affirmation to faithfully and impartially discharge the duties of their appointment. At least three days' notice of the time and place of the meeting shall be given to all persons through whose lands the ditch is to be located or upon whose lands the natural stream is to be straightened, enlarged, or its banks are to be strengthened or built up.

**549.130 Commissioner's oath.** In the absence of an officer authorized to administer oaths, the commissioners may administer the oath to each other.

**549.140 Duties of commissioners.** The commissioners shall proceed to locate and mark out the route of the ditch so as to do the

least damage to the lands the ditch passes through, or to designate the location, character and extent of the work to be done in straightening the bed or building up the banks of the stream, and shall at the same time assess the damages sustained by the person owning the land.

**549.150 Considering benefits in assessing damages.** In assessing damages, the commissioners shall take into consideration all benefits which will accrue to the lands from the work contemplated.

**549.160 Report of commissioners to county court; payment to landowner; recording report; construction of improvement.** The commissioners, or a majority of them, shall make a report to the county court at the next regular session thereof, stating the location of the ditch or other work contemplated, the name of the person entitled to damage, and the amount, if any is assessed. If the county court is satisfied that the report is just, and after payment by the applicant for the right of way of all costs of locating such ditch or other work, and the damages, if any are assessed, the court shall cause the same to be recorded. The applicant then may proceed to make such ditch, or do such work of straightening the stream or building up or straightening the banks thereof, doing as little damage to the land it passes through as possible.

**549.170 Appeal to circuit court from assessment of damages.** Any person aggrieved by the assessment of damages may appeal within 20 days to the circuit court.

**549.180 Bringing additional water into ditch without payment of compensation prohibited; civil liability.** No person shall tap or bring additional water into any drainage district or drainage district ditch already dug without paying a reasonable compensation therefor and securing the written permission of district officials. The criminal penalty for violation of this section shall not relieve the defendant from civil liability for damages.

**549.190 Other rights protected.** ORS 549.110 to 549.180 shall not be construed so as to interfere with the rights of companies or individuals for mining, manufacturing, or watering towns or cities.

## IMPROVEMENT OF WATERCOURSES OR DRAINS WEST OF CASCADES

**549.310 Alternative nature of law; application restricted to west of Cascades.** ORS 549.320 to 549.400 shall not be construed to interfere with or to prevent the right or power to construct drainage ditches under any other statute of this state, and shall apply only to that portion of the state lying west of the Cascade Mountains.

**549.320 Petition by landowners to drain lands or improve drains.** Whenever 60 percent or more of the owners of land contiguous to and crossed by some watercourse or drain desire to have such lands drained or such natural course or drain straightened, altered, widened or deepened, they may petition the county court of the county in which the land is situated for such improvement, describing all property affected thereby and giving the names of the owners thereof. Upon the filing of the petition the county court shall ascertain whether 60 percent or more of the owners of land affected have signed the petition, and if so, shall make a finding to that effect.

**549.330 Survey of work; plats, plans; estimates of cost; assessment of damages; hearing and determination by county court.** The county court shall direct the county surveyor, or county engineer if the county employs a registered professional engineer, to make a survey of the work contemplated to be done and prepare plats, plans, profiles and estimates of cost of the work to be done, and shall assess the damage sustained by any person owning any land affected by such improvement, taking into consideration all benefits which will accrue from the work contemplated to be done to the land. The county surveyor, or county engineer, shall file with the county clerk his plats, plans, profiles, estimates of cost, and assessment of damages. Not less than 30 nor more than 60 days after the county surveyor, or county engineer, has filed his data with the county clerk, the county court shall hold a hearing, of which at least 10 days' notice shall be given to all landowners affected, and to the authority which maintains any highway and to the owners of any railroad or tramway through which or under which any conduit is to be constructed, by publishing the same once a week for two successive weeks in a newspaper of general circulation in the county. At the hearing the coun-

ty court shall hear evidence in support of the petition and in support of any protest or objection thereto, and after consideration shall determine whether it is to the interest and benefit of the land affected and conducive to the public welfare to grant the petition for the improvement. [Amended by 1965 c.287 §1]

**549.340 Construction; functions of county surveyor or county engineer; performance by landowner.** If the county court authorizes the improvement, it shall be done under the direction and supervision of the county surveyor, or the county engineer, who shall set all necessary grade stakes and bench marks. The owner of any of the lands through which or on which any portion of the improvement is to be constructed may himself, at his own expense, perform such construction work under the supervision of the county surveyor, or the county engineer. If the owner does not elect to do such work, it shall be done by the county under the direction and supervision of the county surveyor, or the county engineer. [Amended by 1965 c.287 §2]

**549.350 Report as to work done; assessment of costs; entry on tax rolls; collection.** On the completion of the work by the county the county surveyor, or the county engineer, shall make and file with the county clerk a report showing in detail the work done on each parcel of land separately owned, the names of the owners, and the amount of costs to each such parcel of land, which cost shall be assessed against the lands by the county court in the same manner as other taxes and assessments for county purposes, and shall be certified to the county assessor and entered on the tax rolls and collected in the same manner as other county taxes. [Amended by 1965 c.287 §3]

**549.360 Extension of work across or under highway or railroad; duty as to construction and maintenance; cost.** The drainage work may be extended across or under any highway and may also be carried under or through any railroad or tramway. The authority which maintains the highway through which the conduit crosses shall construct and maintain the same in good condition and repair, free from obstruction, at its own expense. The owner of the railroad or tramway under or through which the conduit is to be constructed shall construct and maintain the same in good condition and repair, free from obstruction, at its own expense.

**549.370 Maintenance of work; inspection; notice to landowners; when work ordered; assessment of cost.** At least one member of the county court in the fall of each year shall inspect the improvements constructed under the provisions of ORS 549.310 to 549.400, for the purpose of ascertaining whether or not they have been properly maintained and are in a good and serviceable condition. If it is found that the works are not properly maintained or are not in a good and serviceable condition either in whole or in part, the county court shall give notice in writing to the owner of land upon which it was found that the works are not properly maintained or are not in a good and serviceable condition, which notice shall set forth the necessary work to be done and the time of beginning and completion of the same. In the event the owner fails to comply with the conditions set forth in the notice, the county court shall order the necessary work to be done and assess the cost against the land upon which the work was done in the manner provided in ORS 549.350.

**549.380 Acquisition of property necessary to improvement; condemnation; prior payment of compensation unnecessary.** Whenever a county court finds it necessary, in order to carry out any of the purposes mentioned in ORS 549.310 to 549.370, to condemn, acquire or appropriate any land, property or right of any nature, it shall so declare its intention by resolution spread on the records of the court, setting out the necessity that exists. If it is unable to agree with the owner for the purchase of such land, property or right, the district attorney for the county, upon request of the county court, shall commence and prosecute in any court of competent jurisdiction, in the name of the county, any necessary suit, action or proceeding for the condemnation of such land, property or right, for such public use. The procedure in such suit, action or proceeding shall be, as far as applicable, the procedure provided by law for the condemnation of lands or rights of way by public or quasi-public corporations for public use or for corporate purposes; provided, nothing in this section shall be construed to require the county to make or tender compensation prior to the condemnation and taking possession of such land, property or right.

**549.390 Appeal from order authorizing work or assessing damages.** Any person aggrieved by any order pursuant to the provi-



sions of ORS 549.310 to 549.400 authorizing any construction work or by the assessment of any damages, may appeal to the circuit court within 20 days from the date when the county court approved such improvement. From the judgment of the circuit court an appeal to the Court of Appeals may be taken in the manner provided for appeals in civil proceedings.

[Amended by 1979 c.562 §26]

**549.400 Obstruction, befoulment or pollution of ditch prohibited.** No person shall throw, dump, place or allow to be thrown, dumped or placed, any rubbish, refuse or any article or thing in any ditch, lateral, canal, slough, waterway or conduit constructed, operated or maintained under the provisions of ORS 549.310 to 549.390, or befoul, pollute or allow to be befouled or polluted any such ditch, lateral, canal, slough or conduit.

### REPAIR OF DIKES

**549.510 Repair of dikes protecting contiguous tracts of different owners; refusal of one owner to repair; reconstruction by other; recovery of expense.** Whenever two or more contiguous tracts of land, not in a diking district, the property of separate owners, have been protected by a common dike or by separate dikes so constructed as to afford a common benefit to the lands affected thereby, or upon which the dike has been constructed, and any portion of the dike has become broken or destroyed or in such condition of repair that the lands intended to be benefited and protected by the dike are being injured by reason of its broken, destroyed or other bad condition, and the owner of the land upon which the broken or destroyed dike is located refuses to rebuild, repair, reconstruct or otherwise improve the same so as to afford the proper protection and benefit to the land, the owners of the other contiguous tracts may attempt to agree with the owner of the land upon which the dike in question is located, with reference to its repair, reconstruction or rebuilding. If the owner refuses to rebuild, reconstruct or repair the dike, the owners of the other contiguous tracts of land affected by the dike and upon whose land the dikes are in a good condition of repair, may reconstruct, rebuild or repair the broken or destroyed dike and shall be entitled, by action in any court having jurisdiction, to recover from the delinquent owner the reasonable value of the material furnished and labor used in rebuilding, reconstructing or repairing

the same, together with the cost and disbursements of such action. The action shall be prosecuted in the name of the owners and against the delinquent party. Any party to the action is entitled to a jury trial.

**549.520 Complaint to county judge of neglect to repair; notice; examination; findings; direction to delinquent owner to repair dike.** If anyone neglects to repair, rebuild or reconstruct a dike as specified in ORS 549.510, the owners of the contiguous tracts of land may complain to the county judge of the county in which the lands or some portion thereof are situated, who, after due notice, shall examine the premises. If he determines that the dike is in need of reconstruction, rebuilding or repair, and that the dike is of sufficient benefit to the lands affected thereby to warrant its maintenance, and if he finds that the dikes on the other contiguous tracts owned by the persons complaining are in a good state of repair, he shall so signify in writing and shall cause to be served upon the delinquent owner a copy of such finding and shall direct him to rebuild, reconstruct or repair the dike within such time as the judge determines to be reasonable.

**549.530 Entry on land by complainant to repair dike; recovery of cost of repair.** If such dike is not repaired or rebuilt accordingly, the complainants may repair or rebuild the dike, and for that purpose may go upon the premises where the destroyed or broken dike is located, doing as little damage as possible thereto, and may recover the value or cost of rebuilding, reconstructing or repairing the dike from the delinquent owner, before any court having jurisdiction.

**549.540 Dikes constructed under agreement excepted.** The provisions of ORS 549.510 to 549.530 shall not apply to dikes constructed under agreement between the owners of contiguous tracts of land, under which agreement the maintenance of the dike is provided for.

### FEDERAL FLOOD CONTROL PROJECTS

**549.605 Definitions for ORS 549.605 to 549.645.** As used in ORS 549.605 to 549.645, unless the context requires otherwise:

(1) "Board" means the Water Policy Review Board.

(2) "Federal flood control projects" includes all authorized federal projects located wholly or partially within this state which the board determines would be beneficial to this state as flood control measures.

(3) "Federal Government" means the United States, or any agency or instrumentality of the United States which is designated or authorized to engage in flood control projects within Oregon. [1957 c.466 §1]

**549.610 Water Policy Review Board to participate on behalf of state in federal flood control projects; powers and duties of board.** The board is directed to carry out, for and on behalf of the state, the state's participation in federal flood control projects. In discharging this responsibility, the board, or one or more of its members or employees designated by the board to represent it, may sign agreements with the Federal Government and other persons, to integrate, if possible, into the federal project necessary or desirable state or local features and works, to relocate facilities displaced by such projects and to perform all other acts connected with and necessary to such participation. Work to be done by the state may be carried out by contract or by available state forces or by a combination of these two methods. If the board deems it to be in the public interest, they may agree with public or quasi-public bodies and other persons affected by such projects to have such bodies or persons perform the work. The board shall, in all instances, carry out the powers and duties imposed upon it by ORS 549.605 to 549.645 in a manner which will comply with federal flood control legislation and rules and regulations promulgated pursuant to such legislation. [1957 c.466 §2]

**549.615 Entering upon land.** The board and its agents and employees may enter upon lands to gather information when necessary for the performance of those duties imposed upon them by ORS 549.605 to 549.645. [1957 c.466 §3]

**549.620 Acquisition of property.** The board may acquire property, as defined in ORS 281.210 (1), by purchase, donation or condemnation in the manner provided in ORS 281.210 to 281.260, when necessary to carry out the duties assigned it by ORS 549.610. [1957 c.466 §4]

**549.625 Powers of board with respect to its property.** As to any property acquired pursuant to ORS 549.605 to 549.645, the

board may sell, donate, exchange or lease it or grant easements thereon, on terms which are beneficial to the state and meet all federal flood control project requirements; and the board, or one or more of its members or employees designated by the board to represent it, may execute and deliver, in the name of the State of Oregon, a lease, deed or other instrument of conveyance of such property. These leases, deeds and instruments may contain such reservations as the board deems necessary to protect the interests of the state in flood control. [1957 c.466 §5]

**549.630 Operation and maintenance of projects.** After the completion of a flood control project or a portion thereof and, in the case of projects constructed by the Federal Government, after such project or a useful portion thereof has been turned over to the state by the Federal Government, such projects may be operated and maintained by the board for the primary purpose of flood control; or, when the board deems such action to be in the public interest, the board may enter into agreements with public or quasi-public bodies and other persons to operate and maintain such projects. [1957 c.466 §6]

**549.635 Agreements by board with Federal Government, public and quasi-public bodies or other persons for joint participation or aid.** The board may enter into agreements with the Federal Government, public and quasi-public bodies, including but not limited to drainage and irrigation districts organized under the laws of Oregon, water control districts and subdistricts formed under ORS chapter 553 and district improvement companies formed under ORS chapter 554, and other persons for the purpose of participating jointly with such bodies or persons in federal flood control projects or aiding such bodies or persons in meeting obligations imposed upon them in connection with federal flood control project agreements. The board shall not aid or agree to aid any public or quasi-public body or person unless such body or person is meeting satisfactorily or to the best of its ability all obligations imposed upon it under such agreements. [1957 c.466 §7]

**549.640 Disposition of moneys received by board.** Except as provided in ORS 536.500, all moneys received by the board under the provisions of ORS 549.605 to 549.645, including any allotment of moneys from the Federal Government to reimburse the state for expenditures made in connection

with a flood control project, shall be turned over to the State Treasurer to be placed in the State Treasury to the credit of the General Fund. [1957 c.466 §8]

**549.645 Waiver of state's immunity to suit or action.** Except upon contracts providing for arbitration under the provisions of ORS 33.210 to 33.340, a suit or action may be maintained against the State of Oregon through and in the name of the Water Policy Review Board for an injury to the rights of the plaintiff arising from some act or omission attributable to the Water Policy Review Board acting as authorized by ORS 549.605 to 549.645. [1957 c.466 §9]

### POWERS OF CERTAIN COUNTIES WITH RESPECT TO WATER CONSERVATION AND FLOOD CONTROL

**549.710 Powers of counties over 50,000 population with respect to water conservation and flood control.** In any county having a population in excess of 50,000, according to the latest federal decennial census, the county court or board of county commissioners may:

(1) Carry out surveys and plan and engage in projects relating to water conservation and flood control.

(2) Contract and cooperate with federal and state agencies, with other counties and with other public corporations in making surveys and planning and engaging in projects relating to water conservation and flood control.

(3) Provide lands and rights of way, operate and maintain flood control projects and do such other things as are necessary for county participation in federal flood control and water conservation projects.

(4) Remove or destroy drifts and drifting material in rivers and streams or on land that has been flooded. [1957 c.296 §1]

**549.720 Procedure for removing or destroying drifts and drifting materials.** When removing or destroying drifts or drifting material in rivers or streams or on land that has been flooded the county shall:

(1) Have the right to enter upon any land for purposes of inspection, removal and destruction of drifts and drifting material.

(2) Give reasonable notice to owners of salvable material that the county has salvaged their property and that if such property has not been reclaimed or arrangements made for its removal within a reasonable time but in no event less than 30 days the county will dispose of the property by sale and, after deducting the amount necessary to reimburse the county for removal costs, hold the balance for one year for the owner. If, at the end of that time, the balance remains unclaimed it shall be placed in the general fund of the county. The county may hold any salvable material until the owner has reimbursed the county for removal costs. [1957 c.296 §2]

**549.730 Budgeting and appropriating money for water conservation and flood control.** The county court of each county may include in its budget and appropriate out of moneys in the general fund of the county not otherwise appropriated, an amount for the purposes of ORS 549.710 to 549.730. Out of the amount so appropriated the county court may set aside an amount, not to exceed one-half of the annual appropriation, to be placed in a special fund to be expended for emergency purposes or for future water conservation and flood control programs. [1957 c.296 §3; 1981 c.416 §11]

**Note:** The amendment to 549.730 by section 11, chapter 416, Oregon Laws 1981, takes effect July 1, 1982. See section 12, chapter 416, Oregon Laws 1981. 549.730 (1979 Replacement Part) is set forth for the users' convenience.

The county court of each county may include in its budget and appropriate out of moneys in the general fund of the county not otherwise appropriated, an amount of money not to exceed \$50,000 annually for the purposes of ORS 549.710 to 549.730. Out of the amount so appropriated the county court may set aside an amount, not to exceed one-half of the annual appropriation, to be placed in a special fund to be expended for emergency purposes or for future water conservation and flood control programs.

### PENALTIES

**549.990 Penalties.** (1) Violation of ORS 549.180 is punishable, upon conviction, by a fine of not more than \$100 and costs, and the violator shall be compelled to restore the drainage to the condition previously existing.

(2) Violation of ORS 549.400 is punishable, upon conviction, by a fine of not less than \$10 nor more than \$25, or by imprisonment in the county jail for not more than 10 days, or both. Justices of the peace shall have

concurrent jurisdiction with the circuit court  
over violations of ORS 549.400.

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# Chapter 551

## 1973 REPLACEMENT PART (1981 reprint)

### Diking Districts

- |         |   |         |                                      |
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| 551.010 | "Lands" does not include improvements; railroads subject to taxation; duties of surveyor and engineer   | 551.170 | Appeals from county court            |
| 551.020 | Petition for formation of district; bond  | 551.180 | Dissolution conditions and procedure |
| 551.030 | Publication of petition; order to show cause; viewers to investigate proposed works; Water Resources Director to assist county surveyor       |         |                                      |
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| 551.050 | Hearing; postponement; decision of court; relation of benefits to expenditures; record of proceedings; assessment of cost of preliminary work |         |                                      |
| 551.060 | Cost of dikes and dams; apportionment among landowners; placing on assessment roll; collection; crediting to special fund                     |         |                                      |
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| 551.100 | Superintendent; compensation; powers and duties; estimate of maintenance costs as basis for annual tax levy                                   |         |                                      |
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### CROSS REFERENCES

- Agreements with ports for improvements within port districts, 777.112  
Budget law for districts, Ch. 294  
County master plan may include diking facilities, 451.010  
Court proceedings to test validity of organization or proceedings of a district, 33.710, 33.720  
Dissolution of inactive districts, 198.335 to 198.365  
Federal Watershed Protection and Flood Prevention Act, district-federal agreements, 190.150  
Intergovernmental arbitration, 190.710 to 190.800  
Population, determination, 190.520  
Release of water from impoundment or diversion structure, notice of by Water Resources Director if hazard results, 541.510 to 541.545  
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State or municipal lands within proposed diking district; authority of officers to sign petitions or objections; liability for assessments, 547.045, 547.050  
Tax limitations for districts, Const. Art. XI, §11  
Water improvement district, inclusion of territory within, without consent of city or certain special districts, 552.113  
Water resources policy, state, conformance with required, 536.300 to 536.400  
Watershed protection and flood prevention projects, cooperative studies, 542.750
- 551.040**
- Structure, pipeline or ditch on right of way of state highway or county road, permission for construction, 374.305 to 374.325

**551.010 "Lands" does not include improvements; railroads subject to taxation; duties of surveyor and engineer.** (1) When the term "lands" is used in this chapter in reference to taxation, it shall not be held to include improvements thereon; but the road-bed of railway lines within diking districts shall be subject to taxation for diking purposes.

(2) For purposes of this chapter, duties prescribed for the county surveyor may also be performed by the county engineer if the county employs a registered professional engineer.  
[Amended by 1965 c.286 §1]

**551.020 Petition for formation of district; bond.** One-half or more of the owners of lands which may be conveniently embraced in one diking district and which are subject to overflow by tide waters or freshets, and who represent one-half or more of the area of the lands embraced within the proposed diking district, may present a petition to the county court of the county in which the lands are situated, reciting therein that it is desired to form a diking district for the purpose of improving by diking or damming the lands contained therein, which are subject to overflow by tide water or by freshets, as the case may be, and further giving by legal subdivisions, or by metes and bounds, the description of such lands as are desired to be included in the district, and stating that the petitioners are the owners of one-half or more of the acreage to be embraced in the district. If, upon consideration of the petition, the county court finds the statements therein are substantially correct, the court shall require the petitioners to give a bond sufficient to cover the preliminary expenses of the proceedings.

**551.030 Publication of petition; order to show cause; viewers to investigate proposed works; Water Resources Director to assist county surveyor.** (1) The county court shall then have the petition published in the official county paper once each week for four consecutive weeks, together with an order citing all interested parties to appear before the court on a given date, after the time of publication of the notice has expired, and show cause why the petition should not be granted.

(2) The court shall appoint three disinterested viewers, nonresidents of the proposed district, together with the county surveyor, to view out the proposed dikes and dams, along the most practical route to accomplish the

object desired, at the least possible cost and expense; provided, that the Water Resources Director or a competent representative of his office shall, upon order of the county court, assist the county surveyor in making such survey and plans for the proposed improvement, and such order shall be made by the county court if requested so to do in the petition. The fees of the Water Resources Director shall be included as a part of the costs of the improvement.

**551.040 Procedure to be same as for establishment of roads; duties of surveyors and viewers; plans, estimate of costs and report.** The routine of procedure under this chapter shall be as far as practicable the same as prescribed by the road law of the state for survey, location and establishment of county roads. The surveyors and viewers appointed shall meet as prescribed by the county court. They shall trace upon the ground the line of the dikes and dams necessary, and shall keep an accurate record of the magnetic bearings and the distances upon the same. They shall designate the width of the right of way through which the dikes and dams shall pass, which right of way, if the petition is granted, shall be the property of the district in so far as is necessary for the purpose of building and maintaining the works. The surveyors and viewers shall also define the boundaries of the district, and make an accurate list, by legal subdivision, of the lands embraced therein, and the names of the owners thereof. They shall further make plans for, and estimate the cost of, the proposed dikes and dams, and shall file with the county clerk, at least one week before the day set for a hearing, a complete report of their works. Their report shall be open to public inspection.

**551.050 Hearing; postponement; decision of court; relation of benefits to expenditures; record of proceedings; assessment of cost of preliminary work.** At the time advertised for the hearing of interested parties, the court may postpone the hearing as may be necessary in order to allow the viewers more time in which to report, or for other good cause. If, upon the final hearing, the county court, from the report of the viewers and the testimony of interested persons, believes that the benefits to be derived from forming a diking district are not sufficiently great to justify the expenditure which will be incurred, the petition and report shall be dismissed at

the cost of the petitioners. If the court believes that the proposed improvement will be for the general public good, and that the increase in the taxable value of the land will be greater than the cost, or that destruction of or damage to property equal to the cost will be prevented, the petition shall be granted and the district formed, a number given by which it shall be designated in future proceedings, the report of the viewers adopted and incorporated in the court records, and the cost of the preliminary work assessed upon the district.

**551.060 Cost of dikes and dams; apportionment among landowners; placing on assessment roll; collection; crediting to special fund.** After the petition has been granted and the proceedings had as specified in ORS 551.050, the court shall apportion the estimated cost of the dikes and dams among the landowners of the proposed district, in proportion to the valuation of the lands therein, according to the estimated value placed upon the respective tracts by the viewers. The cost thus apportioned shall be a tax upon the land and shall be placed upon the assessment roll of the county for the current year. Such taxes for diking purposes shall have the same legal effect and be collected in a like manner as other state and county taxes upon the assessment roll. The moneys collected on the assessment for diking purposes shall be paid to the county treasurer and by him held as a special fund for the credit of the diking district, to be paid out in accordance with the provisions hereinafter specified in this chapter.

**551.070 Work proposed; advertisement for bids; contracts; bond; relation of expenditure to tax; personal subscriptions; modification of plan.** When the tax has been collected or the application filed as provided in ORS 551.080, the county court shall advertise for bids on the proposed work, either as a whole or in parts, as may be deemed most economical. The advertisement for bids shall be published in the official county paper once each week for two successive weeks previous to letting the contracts. The contracts shall be drawn in such terms as will insure the district against loss, and a bond required of the contractor such as will insure the completion of the work in case of his failure to comply with his agreement. No contract shall be awarded which calls for an expenditure of a sum of money greater than the tax levied for the purpose; provided, that the

difference may be made up by personal subscriptions; and provided also, the court may modify the plan so as to bring the cost of work within the tax levy, if such modification can be made without material detriment to the improvements.

**551.080 Payment of assessments in instalments.** After the assessments have been made, the owner of any property assessed for such improvement in a sum not less than \$50 may, at any time within 10 days after the cost of such diking district has been apportioned, file with the clerk of the county court a written application to pay the assessment in instalments. The application shall state that the applicant waives all irregularities or defects, jurisdictional or otherwise, in the proceedings to create the diking district, and in the assessment and apportionment of costs. The application shall contain a provision that the applicant agrees to pay the assessment in five annual instalments with interest at the rate of six percent per annum. But no such application shall be received and accepted where the assessment exceeds the assessed valuation of the property on the tax roll of the county. The instalments shall be paid annually from the time of the apportionment of the costs. In case of default in the payment of any instalment for 20 days after it becomes payable, the whole of the remaining unpaid sum shall be collected as a tax against the property assessed for the same.

**551.090 Meetings of landowners; procedure; selection of advisory board and superintendent.** (1) Within 10 days after the petition has been granted, the petitioners shall call a meeting of the landowners of the district, to be held in the district at a time and place by them designated, for the purpose of choosing three landowners as an advisory board and nominating one landowner for superintendent of the district. Notice of the meeting shall be signed by at least three of the petitioners and posted in three public places in the district five days before the date of the meeting.

(2) At the meeting and at all subsequent district meetings one-half of the landowners in the district being the record owners of at least one-half of the number of acres of land therein shall constitute a quorum competent to transact business, and each landowner present shall be entitled to one vote for each acre of land in the district of which he is at the time the record owner. All meetings shall

**551.130 Organization of repair and maintenance district for land already diked; levy in proportion to benefits; credit for original cost.** Owners of land already diked may organize districts for the repair and maintenance of the dikes and dams thereof by complying with the procedure prescribed in this chapter, except that the petition need not be signed by more persons than the owners of more than one-half of the acreage embraced in the limits of the proposed district. The board of viewers shall provide for placing the dikes and dams in thorough repair and up to a uniform standard, and shall levy the cost of such repairs in the first instance, not upon the assessed valuation of the lands, but in proportion to the benefits conferred. The value of the dikes and dams as they stand shall be estimated and due credit given to the lands which have borne the original cost of construction; provided, such credit shall entitle the land to no consideration greater than release from the cost of repairs in the first instance.

**551.140 Realignment of dikes by landowner.** Any person through whose lands a dike has been constructed under this chapter may be allowed to construct a dike upon new lines between any two points on the original line. In such case the owner shall file application with the county court, giving a plat of the proposed change, and indorsed by the superintendent of the district. If the court is satisfied that the change is not detrimental to the district, the application shall be granted. The applicant shall construct the new dike at his own expense; and up to the standard of the original, of which fact the superintendent shall be the judge. The dike thus constructed shall become the property of the district in the same manner as the original, and subject to the same regulation, and the right of way of the original dike shall thereupon become vacated.

**551.150 Vacation of right of way; reversion to original owner.** The county court may vacate the right of way through which the dikes and dams pass, in the same manner in which county roads are vacated, and the right of way shall thereupon revert to the original owner.

**551.160 County authority as to dikes and dams.** The governing body of any county shall have the powers provided for it in this chapter to regulate the building and maintenance of dikes and dams for the purpose of reclaiming and improving submersible lands as defined in ORS 274.005, or lands subject to overflow by freshets, and for the purpose of protecting lands from overflow where great damage is liable to be caused thereby. [Amended by 1969 c.594 §60]

**551.170 Appeals from county court.** Appeals may be taken from the action of the county court in carrying out the provisions of this chapter in like manner as appeals are provided for under the road law. Any judgment resulting therefrom shall be an expense upon the district, and not upon the county, and shall be provided for in the tax levy upon the district.

**551.180 Dissolution conditions and procedure.** (1) A diking district may be dissolved in accordance with ORS 198.920 to 198.955 if:

(a) Either an existing drainage district formed under ORS chapter 547 or an existing water control district formed under ORS chapter 553 agrees to continue to provide operation and maintenance of the levees and perform other flood control and related works and improvements to the inhabitants of the diking district; and

(b) Any other sponsoring governmental agency to which the district owes an obligation under a contract or agreement consents to the dissolution and turnover to the successor district; and

(c) The dissolving district has no outstanding indebtedness.

(2) The dissolution may be initiated by the board of county commissioners of the county in which the district is located notwithstanding the provisions of ORS 198.920 (3)(a) and (b). If the proposal meets all the conditions described by subsection (1) of this section, the board of county commissioners shall dispense with the election required by ORS 198.935.

[1973 c.665 §2]



be organized by selecting a chairman and secretary. The secretary shall certify all proceedings taken and file the same with the county court of the county within five days after any meeting.

(3) The advisory board shall assist the superintendent with its advice and counsel concerning the necessity of work and the manner thereof and in the repair and maintenance of the dikes and dams in the district. The members of the advisory board shall hold office until the next annual meeting and until their successors are elected and qualified.

(4) There shall be an annual meeting of the landowners of the district on the first Monday in November of each year at 11 a.m., at which time, or at an adjourned meeting thereof, three landowners of the district shall be chosen for the advisory board, and a superintendent shall be nominated for the next calendar year, whose selection shall be certified to the county court on or before January 1 each year. The county court shall appoint for superintendent of dikes in each district the person so nominated by the landowners. Should the district fail to file with the county court a certificate of the nomination of a superintendent, then the county court shall make its own selection from the landowners in the district and appoint him superintendent. In either case the superintendent shall serve until the next annual appointment and until his successor is appointed, subject to removal by the court for neglect of duty, incapacity or other good cause. In case of vacancy in the superintendent's office the county court may, on consultation with the advisory board, fill the vacancy until the next annual selection.

**551.100 Superintendent; compensation; powers and duties; estimate of maintenance costs as basis for annual tax levy.**

(1) The superintendent:

(a) Shall receive such pay for his services as the court may allow, but shall be paid only for the time actually employed, and in no case shall the rate of pay exceed that allowed by the county surveyor.

(b) Shall oversee the construction and repair of dikes and dams.

(c) Shall see that all contracts are faithfully executed, and the work done in a thorough manner.

(d) After the dikes are completed, may employ the labor necessary to maintain them at the usual rate of wages allowed to laborers

on the county road; provided, that in an emergency the county court may allow a higher rate of wages; and provided, further, that the county court may, with the approval of the advisory board, allow work on maintenance to be done by contract.

(2) The superintendent shall also, not less than 15 nor more than 30 days prior to the beginning of each fiscal year, file with the county court an estimate of the money required for the maintenance of the dikes and dams for the succeeding year. Such estimates added to any indebtedness there may be against the district shall be the basis of the tax for next year. The advisory board also shall file with the county court, on or before the 15th day preceding the beginning of each fiscal year, an estimate of the money required for the maintenance of the dikes and dams for the next succeeding year with a statement of the work in its opinion, required to be done, which estimates the court may consider in making its levy.

**551.110 Payment of claims; warrants.**

All bills against the district for labor performed, material furnished, or on other accounts, shall first be indorsed by the superintendent, and when approved by the county court shall be paid by a warrant drawn by the county clerk upon the fund of the district upon deposit with the county treasurer. The clerk shall keep a separate account of all warrants drawn by him upon the fund of the district, giving the date of the warrant, the number and the account for which drawn. All warrants drawn upon the fund of the district shall be receivable for taxes due on account of that fund. The warrants shall be subject to the same regulations in reference to payment and interest as are warrants drawn upon the general fund of the county.

**551.120 Damages; recovery by landowner.** If, in locating and establishing the dikes and dams provided for in this chapter, an owner of land through which they pass is aggrieved on the score of right of way or other causes, he shall have proper damage. In such cases claims for damages shall be filed and the amount thereof determined in accordance with the general road law in like cases. The damages allowed shall be assessed against the lands of the district in the same manner as the tax for construction, and paid to the aggrieved parties in the same manner in which other claims are paid.

## WATER LAWS

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- 553.750 Loan contracts with state or federal agencies; obligation of district; recording certificates  
553.760 When land benefited by irrigation project

### APPEALS

- 553.815 Judicial review of tax or assessment

### DISSOLUTION

- 553.850 Dissolution upon majority vote

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### CROSS REFERENCES

- Agreements with ports for improvements within ports, 777.112  
Bonds of district officers and directors, 198.220  
Diking district dissolution, assumption of duties, 551.180  
Dissolution of special districts, 451.577  
District election procedures, Ch. 255  
District liability for seepage and leakage from water or flood control works; limitation on commencement of action, 541.055  
Federal flood control projects, cooperation with Water Policy Review Board, 549.635  
Federal Watershed Protection and Flood Prevention Act, district-federal agreements, 190.150  
Intergovernmental arbitration, 190.710 to 190.800  
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- Local Budget Law applicable to districts levying ad valorem tax, 294.316  
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Soil and water conservation districts, activities for water control, 568.552  
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Water improvement district, inclusion of territory within, without consent of city or certain special districts, 552.113  
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### 553.020

- Annexation of district by city, 222.510 to 222.580  
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### 553.550

- Borrowing and bonds of districts, 287.010, 287.012  
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### 553.640

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# Chapter 553

## 1981 REPLACEMENT PART

### Water Control Districts

#### DEFINITIONS; ORGANIZATION; POWERS OF DISTRICT

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in which the lands within a district or subdistrict are located.

(14) "Qualified voter" means a resident of the district, subdistrict or proposed district who is registered under the general election laws; however, in a district, subdistrict or proposed district in which there are no residents, "qualified voter" means a landowner.

[Amended by 1961 c.186 §4; 1965 c.623 §1; 1969 c.691 §1]

**553.020 Creation of water control districts; purposes; limits.** (1) Water control districts may be created as provided in this chapter for the purpose of acquiring, purchasing, constructing, improving, operating and maintaining drainage, irrigation, and flood and surface water control works in order to prevent damage and destruction of life and property by floods, to improve the agricultural and other uses of lands, and to improve the public health, welfare and safety.

(2) A water control district, organized for one or more of the purposes provided by subsection (1) of this section, may also acquire, purchase, construct, improve, operate and maintain works and facilities for the secondary purposes of domestic, municipal and industrial water, recreation, wildlife, fish life and water quality enhancement. However, a water control district may not be created solely for one or more of the purposes provided by this subsection. [Amended by 1969 c.691 §2]

**553.030** [Amended by 1965 c.623 §2; repealed by 1971 c.727 §203]

**553.040** [Amended by 1965 c.623 §2a; repealed by 1971 c.727 §203]

**553.050** [Repealed by 1971 c.727 §203]

**553.060** [Amended by 1965 c.623 §3; repealed by 1971 c.727 §203]

**553.065** [1965 c.623 §8a; 1969 c.691 §3; repealed by 1971 c.727 §203]

**553.070 Change of boundaries; consent of contracting agency or vendor.** If any contract has been entered into between the district and the United States or the State of Oregon or any agency of either of them, or if the district has contracted to purchase any existing works and the purchase price has not been paid in full, no change shall be made in the boundaries of the district without the written consent of such contracting agency or the vendor of such existing works. [Amended by 1965 c.623 §4; 1971 c.727 §170]

**553.080** [Amended by 1959 c.71 §1; 1967 c.609 §12; 1969 c.691 §3a; repealed by 1971 c.647 §149]

**553.090 Nature and powers of district.** A water control district formed under the provisions of this chapter shall constitute a governmental subdivision of this state, and a public body, corporate and politic, exercising public power. It shall have full power to carry out the objects of its creation and to that end may:

(1) Have and use a seal.

(2) Have perpetual succession.

(3) Sue and be sued in its own name.

(4) Acquire by condemnation, purchase, devise, gift or voluntary grant real and personal property or any interest therein, located inside or outside of the boundaries of the district.

(5) Contract with the United States or with any county, city or state, or public district, or any of their departments or agencies, for the construction, preservation, improvement, operation or maintenance of any works.

(6) Build, construct, purchase, improve, operate and maintain, subject to other applicable provisions of law, all works and improvements necessary or desirable under any engineering plan adopted by the district.

(7) Enter into contracts and employ agents, engineers and attorneys.

(8) Appropriate and acquire water and water rights and sell, lease and deliver water for irrigation and other purposes both inside and outside the district.

(9) Create special assessment districts, hereinafter referred to as subdistricts, for the purpose of levying assessments against lands benefited by works constructed by the district or ad valorem taxes on all taxable property within the subdistrict.

(10) Levy assessments against lands benefited by works constructed by the district or, in lieu of all assessments provided for by ORS 553.510 (2), (3) and (4), levy ad valorem taxes on all taxable property within the subdistrict in order to provide funds for the construction, purchase, improvement, operation or maintenance of such works.

(11) Borrow money and issue notes, bonds, and other indebtedness secured by mortgage liens, pledge of special assessments as provided in ORS 553.510, or pledge of other income or revenue of the district, or any combination thereof.

(12) Do such other acts or things as may be necessary for the proper exercise of the

**DEFINITIONS;  
ORGANIZATION; POWERS OF  
DISTRICT**

**553.010 Definitions.** As used in this chapter, except where the context clearly indicates a different meaning:

(1) "Board" means the board of directors of a water control district created under the provisions of this chapter.

(2) "District" means a water control district created under this chapter.

(3) "Court" means the county court having jurisdiction over a water control district and includes the board of county commissioners.

(4) "Land" or "tract of land" means real property, together with improvements thereon, whether publicly or privately owned, within a district.

(5) "Landowner," "owner," "owner of land" and "owner in fee" are synonymous and mean a person, firm, private corporation, association, municipal corporation, public corporation, county, the State of Oregon, or the Federal Government or any agency thereof, owning a tract of land situated within a district, or within the boundaries of a proposed district. The vendee named in a bona fide contract of sale of a tract of land situated within a district shall be considered as a landowner to the exclusion of the vendor. Whenever two or more persons own a tract of land as tenants in common or by entirety, each such person shall be regarded as a landowner. The guardian, administrator or executor authorized to act as such of a person or estate owning land within a district shall be considered a landowner.

(6) "Works" means dams, storage reservoirs, canals, ditches, dikes, levees, revetments, and all other structures, facilities, improvements and property necessary or convenient for draining land, controlling flood or surface waters, or supplying lands with water for irrigation, domestic or other purposes.

(7) "Notice by publication" means the giving of notice by publication in a newspaper defined as a legal publication under the laws of Oregon in each county in which lands within a district are located. A notice of a hearing to be held before the board of a district or the court shall be published once each week for four consecutive weeks making four publications and the last publication of such notice shall be at least 10 days before the date set for

the hearing. All other notices required to be published under the provisions of this chapter shall be published once each week for two consecutive weeks making two publications, and the last publication shall be at least five days before the date of the event for which the notice is given.

(8) "Engineering plan" means the plans and specifications for the works to be constructed or purchased within any subdistrict, including such maps, profiles, plans and other data as may be necessary to set forth the location, character of the work, the property benefited, taken or damaged; showing any and all rights of way or other property which may be required for the construction of any works, together with the estimates of the cost of the works and an estimate of the benefits and damages which will accrue to each tract of land within a subdistrict upon the construction or purchase of the works. A project work plan prepared for a subdistrict in cooperation with a soil and water conservation district may be adopted as the engineering plan, even though such project work plan is not the final construction plan, and does not give an estimate of the benefits and damages which will accrue to each tract.

(9) "Apportion" means to determine the proportionate share of any assessment which is to be borne by a tract of land subject to assessment. Such determination shall be made by calculating the percentage ratio of the appraised benefits of a tract of land to the total appraised benefits accruing to all tracts of land subject to the assessment and allocating to the tracts of land the same percentage of the total sum of money to be raised by the assessment.

(10) "New assessed valuation" means the assessed valuation of a tract of land as assessed by the county assessor for the county in which the land is located for the year in which an adjustment of benefits is made by a district.

(11) "Original appraised benefits" means the benefits determined to accrue to a tract of land by an appraisal.

(12) "Original assessed valuation" means the assessed valuation of a tract of land as assessed by the county assessor for the county in which the land is located for the year in which the original benefits were determined.

(13) "Record" means to file a document for recording with the county clerk of each county

(4) The board of directors or 10 or more landowners may petition the county court to change the number of directors on the board of directors. If the court acts favorably on the petition, it shall enter an order which designates the terms of office of the five, seven or nine directors in general accordance with the provisions of this section so that the number remaining on the board will be divided into two equal or approximately equal groups as to terms. The change in the number of board members shall take place on the first day of July next following the order. [Amended by 1961 c.186 §5; 1965 c.623 §6; 1969 c.669 §15; 1969 c.691 §§4, 18; 1971 c.647 §120; 1971 c.727 §171; 1971 c.727 §198; 1973 c.796 §70; 1975 c.647 §46]

**553.220 Organization meeting; officers; duties; meetings.** As soon as possible after an election of directors, the directors shall meet for the purpose of qualifying all persons elected as directors and for the purpose of electing officers of the district. Each director shall qualify by subscribing to an oath of office. The directors shall elect from their number a president and vice president and shall appoint a secretary-treasurer. Such officers shall have such authority and duties as may be given to them by the board. The board shall hold such meetings as may be necessary or convenient. [Amended by 1971 c.403 §12]

**553.230 Powers and duties of board.** The board shall:

- (1) Manage and conduct the affairs of the district.
- (2) Adopt a seal.
- (3) Make and execute all necessary contracts.
- (4) Employ and appoint such agents, officers and employes as may be required, and prescribe their duties and fix their compensation.
- (5) Establish reasonable rules and regulations for the administration of the affairs of the district.
- (6) Withhold deliveries of water to lands upon which there are delinquent assessments.
- (7) Levy assessments for special benefits and apportion the same among the lands within the district liable therefor as provided in this chapter.
- (8) Acquire water rights for the purposes of the district or subdistrict and the lands served thereby.

(9) Establish and maintain funds and accounts for the funds of the district and of any subdistrict within the district.

(10) Obtain an annual audit of the books of the district.

(11) Fix the location of the principal office of the district at some convenient place within or without the district.

(12) Keep a record of all of the proceedings of the board.

(13) Furnish a record book to the county clerk of each county in which lands within the district are located, in which shall be recorded all contracts, orders levying assessments and creating subdistricts, and other documents required by law to be recorded.

(14) Levy special assessments as provided in ORS 553.510 and set charges, fees and tolls for use of services and facilities made available by the district or subdistrict.

(15) Issue notes, bonds and other evidence of indebtedness incurred in connection with the construction, acquisition, improvement, or operation and maintenance of works authorized by this chapter. [Amended by 1965 c.623 §7; 1969 c.345 §16]

**553.240 County court as governing body.** (1) The county court may be established as the governing body of a water control district in the manner provided by this section.

(2) Upon the creation of a water control district, the boundaries of which are conterminous with the boundaries of the county, the qualified voters of the district shall, at the time for the election of the first governing body, have the option of electing the county court or a board of directors as the governing body of the district.

(3) If a majority of the votes cast at the election is in favor of the county court as the governing body of the district, all duties, functions and powers granted to a board of directors of a water control district are vested in the county court which shall exercise those duties, functions and powers. The county court shall be the governing body of the water control district until the district is dissolved. [1957 c.606 §2; 1971 c.647 §121; 1971 c.727 §174; 1971 c.727 §199]

**553.250 Authority to acquire and dispose of water works; sale of water.** (1) Notwithstanding any other provisions of this chapter, any water control district, whenever

powers herein granted. [Amended by 1965 c.623 §5]

**553.095 Entry upon land; notice.** The board of directors, its officers, agents or employees shall have the right to enter upon any land to make surveys for the purposes of the district, upon giving the owners of such land notice of any such surveys reasonably in advance thereof. [1965 c.623 §9]

**553.100** [Repealed by 1975 c.326 §5]

**553.105 Districts created coterminous with 1969 districts and existing districts abolished.** (1) There hereby is created a water control district territorially coterminous with each water control district existing on June 16, 1969, if such district was at that time a valid district but for the fact that its electorate was restricted to property owners. In determining the boundaries of districts created by this subsection, full effect shall be given to annexations, withdrawals and consolidations effected by districts prior to June 16, 1969, under this chapter or other statutes authorizing or purporting to authorize such action.

(2) Water control districts territorially coterminous with the districts created by subsection (1) of this section hereby are abolished.

(3) Water control districts created by this section shall be governed by this chapter. [1969 c.691 §16]

**553.107 Status of districts created by ORS 553.105.** Each water control district created by ORS 553.105 shall in all respects succeed to and replace the territorially coterminous water control district abolished by ORS 553.105. Without limiting the foregoing:

(1) A successor district is:

(a) The owner of the property of the succeeded district, including real property and funds on deposit with the county treasurer or banks.

(b) Successor party to the contracts of the succeeded district.

(c) Successor party to the court proceedings of the succeeded district.

(d) Successor obligor on the indebtedness of the succeeded district.

(2) The directors and officers of the succeeded district are the directors and officers of the successor district. Each director and officer shall hold office for a term equal to the

term of his office in the succeeded district. [1969 c.691 §17]

**553.110 Vested water rights protected; consent of other districts or owners of lands to inclusion in district or assessment.** (1) This chapter shall not be construed to affect, amend or repeal any other law of Oregon or to affect or impair the vested rights of any person, municipal corporation, irrigation district, drainage district, the state, or any county to the use of water or rights in the use of water.

(2) No lands located within the boundaries of any municipal corporation, irrigation district or drainage district shall be included within the boundaries of a water control district without the consent of such municipal corporation, irrigation district or drainage district.

(3) No lands publicly owned and no lands of any railroad or public utility shall be assessed without the consent of the owner thereof.

## GOVERNING BODY

**553.210 Election of directors; qualified voters; terms; vacancies; change in number of directors.** (1) The qualified voters of a district shall elect a board of directors whose number shall be fixed by the county court during formation proceedings at either five, seven or nine. Directors shall be owners of land within the district; however, the directors need not reside within the district.

(2) Each director shall be elected for a term of four years, commencing on the first day of July, except the directors elected at the first election immediately following creation of the district. Of the directors first elected, the terms are to be decided by lot. If there are nine directors, the terms of four shall expire in two years and five in four years. If there are seven directors, the terms of three shall expire in two years and four in four years. If there are five directors, the terms of two shall expire in two years, and three in four years. The terms of the first directors shall expire in two or four years from the first day of July next succeeding their election.

(3) An election shall be held in each district, on the date fixed by ORS 255.335, to fill vacancies and to elect a successor for any director whose term will expire the following July.

recorded in each county in which lands within the subdistrict are located.

(2) Notwithstanding subsection (1) of this section, a subdistrict created under provisions of this chapter can be formed in the formation proceedings if:

(a) The petition for formation states the purposes for which the petitioners request formation of both the district and subdistrict;

(b) The boundaries of both the district and subdistrict are coterminous;

(c) The description of the boundaries of the proposed subdistrict are certified as to complete and sufficient legal description by a qualified engineer or surveyor; and

(d) Owners of more than 50 percent of the acreage of the land in the proposed district and subdistrict sign the petition to form the water control district and subdistrict.

(3) After the creation of a subdistrict as provided by this chapter, the boundaries thereof may be changed by the inclusion of lands outside of the subdistrict upon the petition of the owners of 50 percent of the lands desiring to be included in the subdistrict. The lands to be added to the subdistrict must be contiguous to the subdistrict and within the boundaries of the district. The petition shall state the boundaries of the lands to be included in the subdistrict, the reason for adding the lands to the subdistrict, the names and addresses of each person signing the petition and a prayer asking that the lands described by the petition be annexed to the subdistrict. The petition shall be filed with the board of directors. A certificate containing a description of the boundaries of the subdistrict after the proposed addition, certified to as a complete and sufficient legal description of the subdistrict after the proposed annexation by a certified engineer or land surveyor, shall be filed with the board at the time the petition is filed. The board of directors shall enter an order fixing a time and place for a hearing on the petition and shall either give notice by publication of the hearing or a notice by mail to all landowners within the boundaries of the lands proposed for inclusion in the subdistrict. At the hearing or at any time and place to which the hearing may be adjourned, the board shall determine what lands proposed to be included within the subdistrict will be benefited by inclusion in the subdistrict, and the new boundaries of the subdistrict shall be described by the order. [Amended by 1961 c.186 §6; 1969 c.691 §5; 1971 c.727 §172]

**553.320 Engineering plan; notice of completion; inspection; hearing; changes in plan; approval; rejection upon objections of landowners.** After the creation of a subdistrict, the board shall secure an engineering plan for the improvements requested in the petition for the creation of the subdistrict. The board may adopt as an engineering plan for a subdistrict any plans theretofore made by any department or agency of the Federal Government or the State of Oregon or a project work plan proposed for any soil and water conservation district in which lands within the subdistrict are located, or the board may employ a qualified engineer to make such engineering plan. Upon completion of the plan the board shall cause notice thereof to be given to the owners of the tracts of land within the subdistrict and shall permit the inspection of the plan at the office of the subdistrict by all landowners. The notice may be given by mail or by publication, as may be determined by the board. The notice shall fix a time and place for a hearing before the board of all objections to the plan, which hearing shall be held not less than 20 nor more than 30 days after the date of mailing or the date of the last publication of the notice. At the hearing the board shall make such changes in the engineering plan as it deems necessary in the light of any objections or suggestions made by any person appearing at the hearing. After the hearing, the board shall approve the plan as corrected or changed, by adopting an order of approval. However, if the owners of more than 50 percent of the lands within the subdistrict file written objections to the order approving the engineering plan with the secretary of the district within 15 days after the date of such order, no further action shall be taken under the order and the plan shall be considered to have been rejected by the landowners. Whenever an engineering plan for a subdistrict is so rejected by the landowners the board may obtain a new engineering plan and present it to the landowners in the manner above provided or the board may dissolve the subdistrict. [Amended by 1961 c.186 §7]

**553.330 Cost of works assessed in proportion to benefits; lands in subdistrict to be charged.** The cost of building, constructing, purchasing, operating, maintaining and improving the works described in an engineering plan for a subdistrict shall be assessed against the lands to be benefited by the works in proportion to the benefits to be received by each tract of land. Only the lands



it appears necessary, proper or beneficial to its inhabitants, may acquire, construct, reconstruct, equip, own, maintain, operate, sell, lease and dispose of domestic, industrial and municipal water works or systems and property and all appurtenances incident thereto.

(2) Any such water control district may furnish water for domestic, industrial and municipal uses to premises and inhabitants within its district, and in connection therewith, may supply, furnish and sell any surplus water storage or carrying capacity over and above the domestic, industrial and municipal needs of its inhabitants to persons, corporations, incorporated communities, water districts or other municipal or quasi-municipal districts, either within or without the district; provided, however, that the power to furnish water for domestic, industrial and municipal uses herein conferred will not be exercised in such a manner as to impair the service of the district in furnishing water for its inhabitants. [1963 c.363 §2]

553.260 [1963 c.363 §3; repealed by 1969 c.691 §13]

**553.270 Procedure on condemnation; property subject to and exempted from condemnation.** The right to condemn property, given pursuant to ORS 553.090 (4) shall include property already devoted to public use, including state and county property, which is less necessary than the use for which it is required by the district. In the acquisition of property or rights by condemnation, the board shall proceed in the name of the district under the provisions of the laws of Oregon. However, the right of condemnation may not be exercised against the lands or water rights of an irrigation district organized under ORS chapter 545, a drainage district organized under ORS chapter 547, a flood control district organized under ORS chapter 550, a diking district organized under ORS chapter 551, a water conservation district organized under ORS chapter 552, a corporation for the use and control of water organized under ORS chapter 554 or a domestic water supply corporation organized under ORS chapter 264, or against property of the State of Oregon used for highway purposes. [1965 c.623 §10]

**553.280 Undertaking prior to entry as part of condemnation proceedings.** Prior to any party, officer or agent of a water control district entering upon any land sought to be condemned, there shall be furnished to the landowner a sufficient undertaking, either by surety bond, personal bond, cash or other

security, in an amount sufficient to indemnify the landowner for the value of the land sought to be condemned, together with all costs and attorney fees to which he may be entitled. This undertaking shall be conditioned that the district seeking to condemn the land shall pay to the owner all damages, costs and attorney fees that he may suffer by reason of the entry, or which may be awarded to him by a jury upon a trial of the cause. [1965 c.623 §11]

**553.290 Possession of land after commencement of proceedings.** At any time after the board of directors of a water control district has commenced proceedings to acquire title to any land necessary for rights of way, or for construction, alteration, repair or reservoir purposes, the district may enter into possession of such lands and begin such work as may be necessary to the development of the district. [1965 c.623 §12]

#### CONSTRUCTION OF WORKS IN SUBDISTRICTS; DETERMINATION OF BENEFITS

**553.310 Petition for creation of sub-district; change of boundaries by inclusion of land in subdistrict.** (1) Whenever the owners of more than 50 percent of the acreage, exclusive of state and federally owned land, in any contiguous body of land located within a district desire to have the district undertake the construction or purchase of works and facilities for purposes as set forth in ORS 553.020 which will benefit their lands, they shall petition the board for the creation of a subdistrict. The petition shall state the boundaries proposed for the subdistrict; the name and address of each person signing the petition; a brief general statement as to the works the petitioners desire to have constructed or purchased; and a prayer asking that the lands described be organized as a subdistrict. The description of the boundaries of the proposed subdistrict shall be certified to as a complete and sufficient legal description by a qualified engineer or land surveyor and such certificate shall be filed with the board at the time the petition is filed. The petition shall be considered by the board at its next meeting, and if it meets with the approval of the board, the board shall adopt an order creating the subdistrict in which shall be described the boundaries of the subdistrict. A subdistrict may include all or any part of the lands within a district. A copy of the order shall be

any determination of benefits or damages on or before the date set for the hearing.

(2) The district or any person owning or having any interest in the lands described, or the owner of any tract of land within the subdistrict for which the appraisals were made, may file exceptions to the report of the appraisers or to any determination of benefits or damages determined to accrue to lands upon the construction of the proposed works or to the determination of the cash value of the lands necessary to be taken for rights of way or other works.

(3) The court shall hear all objections and make such amendments and modifications to the report of the appraisers as to the court may seem equitable. Upon the conclusion of the hearing the court shall enter its order in which shall be given the description of each tract of land appraised, the value of the benefits and damages which the court determines will accrue to each tract, and the value of lands necessary to be taken for rights of way and other works.

(4) Any party interested may take an appeal from such order in the manner set forth in ORS 553.815. The order shall be filed in the office of the county clerk of the county in which the court is situated, and a certified copy of the order shall be filed with the county clerk of each other county in which lands within the subdistrict are located. [Amended by 1969 c.691 §7]

**553.370 Reappraisal after construction of works; when authorized.** In the event that it is determined, after the construction of any works within a subdistrict, that any lands within the subdistrict are benefited and the benefits accruing to such lands were not determined by the board or by appraisal or the benefits determined by the board are less than the benefits actually accruing to the property, or in case any person makes use of or profits by the works within any subdistrict to a degree not compensated for in the original determination of benefits by the board or by appraisal, or in case the directors of the district find it necessary to take or damage any additional property, the directors shall petition the court for appointment of a board of appraisers to appraise or reassess the benefits accruing to any tract of land within the subdistrict or to appraise the damages to or value of any property taken. After the appraisers file their report, the court shall act thereon in

the manner provided for the approval by the court of the original appraisal.

**553.380 Reduction of benefits.** In the event that it is determined after the construction of any works within a subdistrict that the benefits received by any tract of land are materially less than the appraised benefits, the board may, upon the petition of any owner of a tract of land, hold a hearing on the question of whether the benefits should be reduced. The board shall give notice by mail 30 days prior to such hearing to all other owners of land within the subdistrict. After hearing evidence for and against the reduction of benefits assessed against the tract of land in question, the board shall make an order reducing the amount of assessed benefits or dismissing the petition.

### ASSESSMENTS; CLAIMS; EQUALIZATION

**553.510 Special assessments.** In order to raise the funds required by a district for the construction, purchase, operation, maintenance and improvement of works and facilities for purposes set forth in ORS 553.020 in any subdistrict, and in order to pay the general overhead and other expenses of a district which are not chargeable directly to any subdistrict, the lands benefited by any or all of such types of works and by the operation of the district shall be subject to special assessments of the following classes:

(1) A preliminary assessment, which shall be levied for the purpose of defraying the expenses incurred by the district for organization of the district, for organization of subdistricts, and for defraying overhead costs and other expenses including purchases of rights of way, acquisition of land and payment of fees and services as may be incurred by the district prior to the time that construction assessments are levied or a tax is levied. A preliminary assessment shall be apportioned on the basis of the assessed valuation of property in the district. A preliminary assessment shall be not more than five-hundredths of one percent (.0005) of the true cash value of all taxable property within the district computed in accordance with ORS 308.207. No district shall levy a preliminary assessment for more than three years.

(2) A construction assessment, which shall be levied for the purpose of defraying the cost of constructing or purchasing the works in

within a subdistrict shall be liable for, charged with or in any manner assessed or taxed for the payment of judgments, claims, damages, costs, expenses, debts or other liabilities of or against a district that accrue from, arise out of or are incurred in the building, constructing, purchasing, operating, maintaining or improving the works of such subdistrict.

**553.340 Determination of benefits; board of appraisers; exception.** (1) The board, with such assistance as it deems necessary, shall prepare a benefit roll and determine the benefits that will accrue to each tract of land located within a subdistrict upon the construction of the works described in the engineering plan for the subdistrict. After such determination is made each landowner shall be given written notice thereof by registered mail. If the landowner does not file written objections thereto within 30 days of the date the notice is mailed, he shall be deemed to have consented to the allocation of benefits to his lands. If a landowner files objections within 30 days, the determination of the benefits that will accrue to his lands shall be referred to a board of appraisers. A board of three appraisers shall be appointed by the court, upon the petition of the board of directors, whenever one or more landowners within the subdistrict files an objection. Each of the appraisers shall, before assuming his duties, take and subscribe to an oath that he will faithfully and impartially discharge his duties as an appraiser and will make a true report of all work done by him. The court may, by order, remove any appraiser at any time and shall fill all vacancies on the board of appraisers or may appoint a new board as the case may require. The appraisers shall receive such compensation as the board of directors, with the approval of the court, determines, and shall be reimbursed for the expenses they incur in the exercise of their duties.

(2) Subsection (1) of this section shall not apply if the benefits to be determined are set forth in an irrigation project contract which has been executed by the owner pursuant to ORS 553.760. [Amended by 1969 c.691 §6]

**553.350 Assessment of benefits and damages by appraisers; benefits less than costs; recommendation to amend engineering plan; final report and certificate.**

(1) The appraisers shall assess the amount of benefits and the amount of damages, if any, that will accrue to each tract of land which

they are directed by the board of directors to appraise, and shall determine the value of any lands to be acquired and used for rights of way and other purposes by the subdistrict. The appraisers shall determine the benefits to the lands themselves and to any buildings and other structures erected on such lands. The appraisers shall take into consideration the agricultural or other uses of such lands, the increase in value thereof upon the completion of the proposed works, and the increased income which will be derived from the lands upon the construction of the works. In making their appraisal, the appraisers shall give due consideration and credit to any works that have already been constructed and which benefit any tract of land they are appraising. The appraisers shall have no power to change the engineering plan.

(2) Whenever it appears to the appraisers that the benefits to all the lands within the subdistrict will be less in value than the cost of the proposed works, the appraisers shall file a preliminary report of their work with the board of directors and recommend to the board that the engineering plan be amended so that the proposed works can be constructed at a cost less than the benefits to be derived therefrom. If the board obtains an amended engineering plan, the appraisers shall proceed with their work.

(3) Upon completing their work, the appraisers shall file a final report with the court and certify that the appraisal has been completed and that there is nothing further for them to do in regard to the matter.

**553.360 Hearing on report of appraisers; exceptions; entry of order; appeal.**

(1) After the filing of the report of the appraisers, the court shall enter an order fixing the time and place for a hearing on the report and directing the secretary of the district to give notice of the hearing by publication. The notice shall contain a description of each tract of land appraised, together with the names of the owners, if known, and shall state that the appraisers appointed to assess the benefits and damages to the lands described and to appraise the cash value of the lands necessary to be taken for rights of way and other works within or without the limits of the subdistrict, have filed their report with the court and that the owner of each tract of land included therein is given notice that he may examine the report and file objections to the report or to

board. The order shall state the description of the land assessed, the name of the owner of the land as such name appears on the records of the district, or the records of the county assessor, the type and kind of assessment, the amount of the assessment due, and the due date. It shall not be necessary to issue a separate order for each tract of land in a subdistrict, and any number of tracts in the same subdistrict and the same county may be included in one order. A copy of the order levying an assessment, certified and acknowledged by the secretary of the district, shall be filed with the county clerk of the county in which the land is located. Upon being filed, the assessment shall constitute a lien against the land assessed, prior in time to any other liens, rights or interests in the tracts of land described except liens for taxes levied by the state or county.

(2) Notice of all assessments levied by a district shall be given to the landowner by mail and shall be payable on the 30th day after such notice is mailed. All assessments paid after the due date shall be charged interest at the rate of not more than 12 percent per annum. All assessments shall be paid to the secretary-treasurer of the district and a receipt shall be issued therefor. From time to time the board shall order the satisfaction of the liens against lands on which assessments have been paid, and a copy of such order shall be filed with the county clerk of the county in which the lands are located. [Amended by 1961 c.186 §9; 1981 c.122 §1]

**553.550 Loans; assignment of assessments as security for.** A district may borrow money and secure repayment of the same by the assignment of any assessments theretofore levied. Whenever a levied assessment is assigned to secure the repayment of any sum of money borrowed, the assessment shall be paid to the assignee thereof or his agent.

**553.560 Foreclosure of assessment; procedure; district may bid and purchase; deed; right of redemption.** (1) After the date fixed as the time when an assessment shall become due, the board, by resolution, shall direct that all delinquent assessments then unpaid, whether for operation and maintenance, improvement, construction, or other purposes, shall be foreclosed by the district. Such foreclosure shall follow the general procedures of a suit in equity and shall be filed in the circuit court of the county in which the land to be foreclosed is situated. If

land in two or more counties is to be foreclosed, separate proceedings shall be commenced in each county as to the lands therein. The district may recover in such suit the costs and disbursements and other expenses of foreclosure, together with a reasonable sum as attorney fees at trial and on appeal to be allowed by the court. Any number of tracts of lands, whether they are delinquent for the same or any number of assessments or for the same or several years, may be foreclosed in the same suit.

(2) The decree in such suit shall order the sale of such property and fix the time for holding the sale, which shall be not more than four weeks from the date of the decree, and shall order the sheriff of the county to hold the same as other foreclosure sales, upon giving notice thereof for two consecutive weeks prior to the day of sale, by publication of notice once each week in a newspaper published in the county in which the land to be sold is situated and by posting notices in three public and conspicuous places in the county at least two weeks prior to the day of sale.

(3) The district may be a bidder and purchaser of property upon such sale. Upon such sale the sheriff immediately shall issue a deed to the property sold, and no right of redemption shall exist. [Amended by 1981 c.897 §64]

**553.570 Withdrawal of land from foreclosure sale; payment of lien, taxes and proportion of costs.** At any time prior to sale or at the time of sale as provided by ORS 553.560, the former owner, assessment payer or holder of legal or equitable title or lien upon or to any tract of land included in the foreclosure and decree may pay the amount of the lien foreclosed, together with such amount of state and county taxes as the district may have paid and a proportionate amount of the costs incurred in such foreclosure proceedings, and withdraw the tract of land from the foreclosure sale. If made prior to the decree, the payment shall be tendered to the clerk of the court, together with a written appearance in the suit. If made after the decree is entered, the payment shall be tendered to the sheriff ordered to hold the sale. If payment is made before decree, the tract of land then shall be excluded from the foreclosure proceedings. If payment is made after decree, the district shall issue satisfaction of lien to such former owner, assessment payer or holder of equitable or legal title upon the tract of land and file the same for record.

each subdistrict. The construction assessment shall be levied as soon as the board is able to determine the probable cost of constructing or purchasing the works described in the engineering plan for a subdistrict or a construction assessment may be levied for the construction or purchase of works in accordance with any loan agreement with the government of the United States or the State of Oregon for money to be used in the construction or purchase of such works or in accordance with a purchase agreement entered into with the seller of such works. All construction assessments shall be paid in 10 equal annual instalments and shall bear interest at a rate not to exceed six percent per annum until paid from the date the first instalment of the assessment is due. Any landowner may make advance payments on the construction assessment levied against his lands. The board may, in its discretion, decrease the amount of any annual instalment and spread the payment of the construction assessment over a period longer than 10 years. Such decrease shall apply uniformly to all lands within the subdistrict. Whenever the board determines that the original construction assessment is not in an amount sufficient to pay the cost of constructing or purchasing the works described in the engineering plan for the subdistrict, the board shall assess a second construction assessment.

(3) A maintenance and operation assessment, which shall be levied for the purpose of defraying the cost of maintaining and operating the works constructed within any subdistrict. On or before November 1 of each year the board shall determine the probable cost of maintaining and operating the works within each subdistrict during the ensuing calendar year.

(4) An improvement assessment, which shall be levied for the purpose of defraying the cost of making improvements within a subdistrict. On or before November 1 of each year the board shall determine the probable cost of making any necessary improvements to any completed works within each subdistrict. No improvement assessment levied in any one year shall be greater in amount than one percent of all construction assessments levied against the same tract of land. In case of an emergency the board may, upon the approval of the owners of over half of the lands affected, levy, assess and collect a special improvement assessment. The board may, in its discretion, levy an improvement assessment within the limitations above provided in order

to accumulate a fund to make improvements in future years. [Amended by 1959 c.605 §1; 1961 c.186 §8; 1965 c.623 §13; 1969 c.691 §8]

**553.520 Apportioning assessments; adjustment of benefits.** (1) After determining the sum of money to be raised by any assessment, except a preliminary assessment, the board shall apportion the same among the lands liable therefor. Benefits used as a basis for apportioning maintenance and operation assessments and improvement assessments, except assessments levied for the operation, maintenance and improvement of irrigation works, may be adjusted from year to year in such manner that the adjusted benefits are in the same proportion to the new assessed valuation of the tract of land as the original appraised benefits are in proportion to the original appraised benefits plus the original assessed valuation of such tract of land.

(2) Adjusted benefits shall be made the basis for apportioning the maintenance and operation assessments and the improvement assessment, and shall not be used as a basis for apportioning construction assessments or preliminary assessments. Benefits determined to be accruing to lands upon the construction of irrigation works shall not be adjusted in any manner.

**553.530 Disposition of funds received.**

(1) All sums of money received by a district in payment of any assessment shall be kept in a separate fund for each subdistrict from which the assessment is collected. All funds remaining unexpended in any construction fund after the payment of all costs incurred for the construction of works in any subdistrict shall be paid into the improvement fund for such subdistrict, and any funds remaining on hand in any maintenance and operation fund for any year for any subdistrict shall likewise be paid into the improvement fund of that subdistrict.

(2) The district shall maintain a general fund in which shall be kept all funds received by the district for paying the general overhead and other expenses of the district. The district shall pay into the general fund such portion of each of the special assessments levied against lands within subdistricts as is necessary to pay the general expenses and overhead of the district.

**553.540 Assessments to be levied by order of board; filing copy thereof; notice; lien; time for payment; interest.** (1) All assessments shall be levied by an order of the

**553.580 Payment of state and county taxes by district.** At any time after any assessment levied under this chapter becomes delinquent, the district may pay any state and county taxes due or delinquent against such tracts of land as are delinquent in the payment of the district assessment, and add such amount to and foreclose the same as part of the lien of the district against such tracts of land.

**553.585 Claims; presentation; payment.** All claims against the district shall be presented to the district board for allowance or rejection. Upon allowance, the claim shall be attached to a voucher verified by the claimant or his agent, approved by the president of the board and countersigned by the secretary, and directed to the treasurer of the district for the issuance of a check for payment of the claim against the proper fund in the custody of the district. Each claim presented and approved by the board shall have indorsed upon it the particular fund from which it is to be paid by the treasurer. Claims against the district for administrative expense and for any costs or expenses which are not properly chargeable directly to a particular subdistrict shall, when allowed by the district board, be paid from the general fund of the district. [Formerly 553.590]

**553.590** [Renumbered 553.585]

**553.592 Board as board of equalization; notice; meeting; assessment list and record open to inspection.** Not more than 30 nor less than 10 days before the first Tuesday in May of each year, the secretary of the board of directors shall give notice of the time and place the board, acting as a board of equalization, will meet for the purpose of reviewing and correcting its assessment as provided in ORS 553.595, by publishing the same not less than one time in a newspaper published in each county in which the district is situated. The board shall meet for this purpose on the first Tuesday of May following. In the meantime the assessment list and record shall remain in the office of the secretary of the board, for the inspection of all persons interested. All persons shall be presumed to have notice of the time of the meeting, whether they received actual notice or not. [1965 c.623 §42]

**553.595 Hearings by board as board of equalization; changes in assessments and apportionment; duties of secretary.**

On the first Tuesday of May of each year the board of directors shall meet as a board of equalization, and continue in session from day to day, as long as necessary, to hear and determine any objections by any interested persons to the assessments and apportionment thereof made pursuant to the Water Control District Law, and any other matters connected therewith that may come before them. The board shall change its assessments and apportionment and the list and record of the same as to benefited acreage, description and amount of assessment due in any respect and manner as may be necessary to make the same just and in accordance with the facts. The secretary of the board shall be present during these sessions, and shall note all changes made in such assessment, apportionments, lists and records, and in the names of the persons whose property is listed. [1965 c.623 §43]

**553.600 Levy following equalization procedure.** After the board has completed its equalization of the assessment, it shall proceed to levy its assessments according to ORS 553.540 or 553.615. [1965 c.623 §44]

## BONDS

**553.610 Assessments or taxes upon bond issue.** Any water control district issuing bonds may, after an affirmative vote at any regular or special election called or held pursuant to the Water Control District Act, proceed to levy and collect assessments or ad valorem taxes as provided in subsections (1) and (2) of this section.

(1) A water control district may proceed to levy and collect assessments for any purposes of the water control district on a benefited basis as provided in ORS 553.330 and as determined under ORS 553.340 to 553.380. However, no change in method of assessment shall be made except with the consent of the holders of outstanding bonds.

(2) In lieu of the provisions of subsection (1) of this section and not in addition thereto, a water control district may proceed to levy an ad valorem tax for the purpose of paying the principal and interest on bonded indebtedness when it becomes due. [1965 c.623 §14a]

**553.615 Assessments by order of board.** In lieu of the provisions contained in ORS 553.540 to 553.580, a district may levy any one or all of the assessments provided in this chapter by an order of the board. The order shall state the description of the land

assessed, the name of the owner of the land as such description and name appears on the records of the county assessor, the type and kind of assessment, the amount of the assessment due, which shall be certified by the board not later than July 15 of each year to the county assessor of each county in which lands of the district are situated. The county assessor shall enter the assessment upon the county assessor's roll against the property therein described, in the same manner as other municipal taxes are entered by him. The collection of the assessment shall be coincident with collection of the state and county tax, and shall be governed by the laws relating thereto. [1965 c.623 §15]

**553.620 Ad valorem tax in lieu of assessment.** (1) A water control district may, in lieu of any or all of the assessments provided in this chapter, levy an ad valorem tax upon all taxable property situated within the boundaries of the district or subdistricts for a purpose of purposes expressed therein. A levy of an ad valorem tax for a given purpose shall not be in addition to any other assessments by a water control district for that purpose.

(2) As used in this section, "purpose" means the type of service to be performed by the district, or subdistrict, as set forth in ORS 553.020 (1) and (2). When the construction of an improvement serves more than one purpose, the cost of construction or the cost of maintenance shall be allocated between the two or more purposes on the basis of engineering studies. [1965 c.623 §16; 1969 c.691 §9]

**553.625 Levy and collection of tax authorized by ORS 553.620.** The ad valorem tax provided for in ORS 553.620 shall be levied and collected in the manner otherwise provided by law for the levy and collection of real property taxes. The board shall prepare a budget in the form, manner and time prescribed in ORS 294.305 to 294.520 (the Local Budget Law), for the district and for each subdistrict for which taxes are to be levied and assessed, and in accordance therewith shall fix the amount of money to be raised by taxation for the district and for each subdistrict. Thereafter the levy shall be equalized and the tax collected and turned over to the district as otherwise provided by law for public corporations. [1965 c.623 §17]

**553.630 Terms and conditions of bonds; bond register.** (1) The bonds issued shall be numbered consecutively, commencing

with number 1. They shall mature serially in annual amounts so as to be approximately equal, principal and interest, commencing not more than five years and extending not more than 50 years after the date of issue, as the board of directors may determine, or in case the board deems it advisable to submit the question of maturities at the bond election, then as the electors may determine. They shall be negotiable in form. The bonds may be issued when so authorized by the electors so as to include a sum sufficient to pay the first four years' interest, or less, to accrue on the bonds.

(2) The bonds shall bear interest at a rate of not to exceed six percent per annum, payable semiannually on the first day of January and July of each year. The principal and interest shall be payable at the places designated in the bonds and coupons. The bonds shall be signed by the president and secretary. Coupons for interest shall be attached to each bond, and may be signed with the printed, lithographed or engraved facsimile signature of the secretary.

(3) The secretary of the district shall register the bonds in books kept in his office for that purpose, and therein must be stated the number, date, amount of bond, time and place of payment, rate of interest, number of coupons attached, and any other description proper for future identification of each bond. This section shall not be construed to provide that any bond of the district shall bear a registration certificate by the secretary. [1965 c.623 §20; 1969 c.691 §10]

**553.635 Provisions in contracts and bonds to pay government construction charges.** The contract provisions for the payment of construction charges to the United States, and the bonds securing the payment of the same, if any are issued and deposited, may be of such denomination and may call for the payment of such interest not exceeding six percent per annum, may provide for such instalments and for repayment of the principal at such times, as may be required by the federal laws and as may be agreed upon between the board and the appropriate federal agency. [1965 c.623 §21]

**553.640 Sale of bonds; cancellation.** (1) The board may sell from time to time the bonds which have been authorized by the electors and in such quantities as may be necessary and most advantageous. Before making any sale the board shall, at a meeting,



by resolution, declare its intention to sell a specified amount of bonds, and the day, hour and place of such sale, and shall cause the resolution to be entered on the minutes. Notice of sale shall be given by publication. The notice shall state that sealed proposals will be received by the board at its office for the purchase of the bonds until the day and hour named in the resolution. At the time appointed, the board shall open the proposals and may reject any or all bids. After offering the bonds for sale, as above provided, if no satisfactory bid is received, the board may use the bonds for any purpose for which the proceeds from the sale of bonds may be used, but the board shall in no event sell or dispose of any bonds for less than 90 percent of their face value.

(2) The board may by resolution entered on its records cancel any bonds which may have been voted or issued which have not been sold or deposited as security for funds advanced or to be advanced, and which the state, United States or any person has no claim to or equity in. After such cancellation, the bonds shall not be sold or otherwise disposed of; they shall be invalid and of no effect; and the board may not replace them without authorization of the electors. [1965 c.623 §22]

**553.643 Form and terms of bonds given for federal loan.** After advertising for bids on bonds pursuant to ORS 553.640, if there are no bids or if the bids received offer interest at a rate higher than that offered by the United States or an agency thereof, ORS 553.630 shall not apply. The district may borrow from the United States or an agency thereof, by furnishing the agency with a single bond or other evidence of indebtedness in such form and on such terms as are required by the federal laws and as may be agreed upon between the board and the federal agency. [1969 c.691 §12]

**553.645 Bonds and payments due government to be paid from annual taxes and assessments.** The bonds and the interest thereon and all payments due or to become due to the United States under any contract between the district and the United States, accompanying which bonds of the district have not been deposited with the United States, and all obligations for the payment of money authorized and incurred under this chapter, shall be paid by the revenue derived from the annual taxes or assessments upon the land in the subdistrict. All the lands in the

subdistrict shall be and remain liable to be taxed or assessed for such payments as provided in the Water Control District Act and under and subject to the provisions thereof. [1965 c.623 §23]

**553.650 Property liable for indebtedness of district.** In addition to the provisions for the payment of bonds and interest by taxation and other provisions of this chapter, all the property of the subdistrict, including irrigation and other works, shall be liable for the indebtedness of the subdistrict. The holder of the bonds, or the United States in case contract has been executed by the United States, may, in case of default in the payment of interest or principal on the bonds, or the amount due on the contract, upon the order of the circuit court, take possession of the works of the subdistrict and operate the same until the amount in default is fully paid. [1965 c.623 §24]

**553.655 Bond elections in subdistricts.** (1) Upon order of the board, an election shall be held in the subdistrict to determine whether bonds in any amount the board may deem necessary shall be issued for any purpose necessary or convenient in carrying out the provisions of this chapter, including the refunding of outstanding bonds.

(2) If a majority of the votes cast at the election approve the issuance of the bonds, the board shall cause bonds in that amount to be issued, or such portion thereof as may be necessary from time to time. If the majority of the votes cast disapprove issuance of the bonds, the result of the election shall be entered of record.

(3) Whenever thereafter the board in its judgment deems it for the best interest of the subdistrict that the question of the issuance of bonds in any amount shall be submitted to the electors, it shall so declare of record in its minutes, and may thereupon submit such questions to the electors in the same manner and with like effect as at the previous election. [1965 c.623 §§18, 19; 1971 c.647 §122]

**553.660 Tax or assessment as lien on property.** Any tax or assessment upon land shall be a lien against the property assessed or taxed, and such lien for all payments due or to become due under any contract with the United States or for the payment of principal or interest of bonds deposited with the United States shall be a preferred lien to any assessments for bonds issued subsequent to the date



of such contract or the issuance of the bonds deposited with the United States. No subdistrict tax or assessment lien shall be removed until the assessments or tax is paid with interest and penalties or the property sold for the payment thereof. [1965 c.623 §25]

**553.665 Bond Fund; Bond and United States Contract Fund; Construction Fund; General Fund.** The treasurer shall keep a "Bond Fund" account or a "Bond and United States Contract Fund" account, as the case may be, into which shall be deposited all moneys arising from the sale of refunding bonds and from assessments, taxes and levies until there is sufficient money in the fund to meet the next instalment of principal and interest upon bonds of the subdistrict and to meet all payments for construction and other purposes to the United States. From the fund he shall pay moneys due as principal and interest on bonds as they mature and the bonds and coupons are presented and as payments to the United States fall due. Moneys received from the sale of bonds and otherwise for construction or acquisition of works by the subdistrict shall be deposited into a "Construction Fund." All other moneys received by the subdistrict shall be deposited into a fund known as the "General Fund," from which shall be defrayed all obligations of the subdistrict other than those in this section described. The Bond and United States Contract Fund accounts shall be devoted to the obligations of the subdistrict payable therefrom in the order of the priority of the creation of the obligations. [1965 c.623 §26]

**553.670 Bonds issued with option to redeem; notice of redemption.** Notwithstanding anything contained in this section, the board in its discretion may issue any bonds with the option reserved to the district of redeeming the bonds on and after certain interest-paying dates specified by the board therein, upon publication of notice thereof at least 30 days prior to redemption date, in one issue of a newspaper printed and published in the county where the bonds were issued and in a newspaper published in the City of Portland. [1965 c.623 §27]

#### **CONTRACTS WITH OTHER GOVERNMENTAL UNITS FOR CONSTRUCTION OF WORKS**

**553.710 Contracts with other governmental agencies or units; levy of tax to meet obligations.** After the creation of a subdistrict, a water control district may enter into a contract with the Government of the United States or with the State of Oregon or with any agency or subdivision thereof or with any municipal corporation for the construction of works within the subdistrict or outside of the subdistrict for the benefit of lands within the subdistrict. If by reason of any such contract a district becomes obligated to contribute all or any part of the cost of constructing such works or to furnish rights of way or to pay for the cost of improvements to be made in conjunction with the construction of such works or to maintain and operate the works after the construction thereof, the district may levy an ad valorem tax against the lands within the subdistrict for the purpose of raising funds with which to discharge its contract obligations and to pay the costs and expenses incurred by the district in connection therewith. The levy of an ad valorem tax for such purposes shall be in lieu of and not in addition to any other method of levying assessments by a water control district.

**553.720 Manner of collecting tax; budget; equalizing levy.** The ad valorem tax provided for in ORS 553.710 shall be levied and collected in the manner otherwise provided by law for the levy and collection of real property taxes. The board shall prepare a budget in the form, manner and time prescribed in ORS 294.305 to 294.520 (the Local Budget Law), for each subdistrict for which taxes are to be levied and assessed, and in accordance therewith shall fix the amount of money to be raised by taxation for each subdistrict. Thereafter the levy shall be equalized and the tax collected and turned over to the district as otherwise provided by law for public corporations.

**553.730 Limitation on tax levy.** No levy of an ad valorem tax under ORS 553.710 for any one year shall exceed one-half of one percent (.005) of the true cash value of all taxable property within the subdistrict, computed in accordance with ORS 308.207. If the total sum of money required to be raised under the terms of a contract entered into by a district, together with the sum of money to be raised to pay the costs and expenses of the district incurred in connection therewith, exceeds such limitation, a levy for each year thereafter shall be made by the district until

the entire contract obligation has been discharged. [Amended by 1963 c.9 §31]

**553.740 Issuance of warrants.** After the amount of a levy under ORS 553.710 is determined and turned over to the county assessor, a district may issue warrants to an amount not in excess of 75 percent of the amount of the levy. The warrants shall be serially numbered and shall bear interest of not more than six percent and shall be paid by the treasurer of the district in the order of issuance upon receipt of funds from the county treasurer.

**553.750 Loan contracts with state or federal agencies; obligation of district; recording certificates.** (1) Whenever a district has adopted, as the engineering plan for a subdistrict, a project work plan prepared for the subdistrict by a department of the Federal Government, and in connection with the development of such plan desires to borrow money from any state or federal agency, such district may, in lieu of levying a preliminary assessment, enter into a loan contract with such agency.

(2) The loan contract shall be in such form and shall contain such terms as may be agreed upon by the agency and the district; the district may agree to levy a construction assessment against each tract of land benefited within the subdistrict, to do all acts and things necessary therefor, to assign to the lending agency the construction assessments as security for the loan and to perform all such acts within such period of time as may be agreed to between the district and the state or federal lending agency.

(3) In the event that a state or federal lending agency pays over money to a district pursuant to the terms of a loan contract and the district fails, refuses or neglects to levy the construction assessments, to obtain or prepare a benefit roll, to assign the construction assessments, or in any other manner not to perform as it agreed to under the loan contract, the state or federal lending agency shall have the right, at its election, to apply to the circuit court for the county in which is located the largest part of the lands within the subdistrict for a writ of mandamus, or any other order or writ, to require the district, its directors, officers and agents to do such acts and things as the district agreed to do under the terms of the loan contract. All costs, charges and expenses pertaining to the issuance and execution of any such writ or order shall be

charged to and collected from the lands subject to the construction assessments in addition to such construction assessments.

(4) Upon the execution of a loan contract, the district shall record with the county clerk for the county in which the lands within the subdistrict are located, a certificate which shall state the date of the loan contract, the maximum amount of the loan, the recording data pertaining to the recorded order creating the subdistrict, the term of the loan and the rate of interest. Such certificate shall give notice that all lands within the subdistrict determined to be benefited by the construction of the works referred to in the engineering plan will be subject to construction assessments thereafter to be levied. [1961 c.186 §2]

**553.760 When land benefited by irrigation project.** No tract of land shall be considered to be benefited by the construction, operation, maintenance or improvement of irrigation works unless the owner of such land enters into an irrigation contract with the district. The irrigation contract shall be in such form as shall be prescribed by the district. Upon being executed the contract shall be recorded with the county clerk of the county in which such lands are located and the recording of the contract shall constitute notice that such lands are subject to all maintenance and operation assessments thereafter levied and all other assessments thereafter or theretofore levied by the district. [1961 c.186 §3]

## APPEALS

553.810 [Repealed by 1969 c.691 §13]

**553.815 Judicial review of tax or assessment.** Owners of any property against which an assessment or tax has been levied may seek a review thereof under ORS 34.010 to 34.100. [1969 c.691 §15]

553.820 [Repealed by 1969 c.691 §13]

## DISSOLUTION

**553.850 Dissolution upon majority vote.** Any water control district may be dissolved whenever a majority vote of the qualified voters of the district voting at an election for such purpose favors the dissolution. [1965 c.623 §28]

553.855 [1965 c.623 §29; repealed by 1971 c.727 §203]

553.860 [1965 c.623 §30; repealed by 1971 c.727 §203]

553.865 [1965 c.623 §31; repealed by 1971 c.647 §149]

553.870 [1965 c.623 §32; repealed by 1971 c.727 §203]

553.875 [1965 c.623 §33; repealed by 1971 c.727 §203]

553.880 [1965 c.623 §34; repealed by 1971 c.727 §203]

553.885 [1965 c.623 §§35, 36; repealed by 1971 c.727 §203]

553.890 [1965 c.623 §37; repealed by 1971 c.727 §203]

553.895 [1965 c.623 §38; repealed by 1971 c.727 §203]

553.900 [1965 c.623 §39; repealed by 1971 c.727 §203]

553.905 [1965 c.623 §40; repealed by 1971 c.727 §203]

553.910 [1965 c.623 §41; repealed by 1971 c.727 §203]

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# Chapter 554

## 1981 REPLACEMENT PART

### Corporations for Irrigation, Drainage, Water Supply or Flood Control

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**GENERALLY**

**554.010 Incorporation authorized for irrigation, drainage, water supply or flood control.** Any number of landowners not less than three may incorporate themselves for the purpose of irrigating or draining their land or furnishing same with water for domestic use or protecting same by flood control or for any and all of such purposes in the manner provided in ORS 554.020 to 554.340.

**554.020 Articles of incorporation; filing.** Such persons shall make, subscribe and verify written articles of incorporation in triplicate, and file the original of such articles in the office of the Corporation Commissioner, a copy in the county clerk's office of the county where the land incorporated is situated, and retain the other copy in the possession of the corporation. [Amended by 1971 c.200 §8]

**554.030 Evidence of corporate existence.** The articles of incorporation or a certified copy of the one filed with the Corporation Commissioner or county clerk shall be prima facie evidence of the existence of the corporation.

**554.040 Contents of articles.** The articles of incorporation shall specify:

(1) The duration of the corporation, if limited.

(2) The name assumed by the corporation and by which it shall be known, which name must include the words "district improvement company," except that a corporation organized under ORS 554.010 to 554.340 but not organized for profit, or a corporation incorporated before March 4, 1937, under chapter 172, Oregon Laws 1911, which amends its articles to state that the corporation shall not operate for profit and also to state the matters provided in ORS 554.050, may omit the word "company" from the name and adopt a name using the words "improvement district" combined with other appropriate words to designate the name of such district.

(3) The particular land to be improved by the works of the corporation, describing the land by legal subdivisions so far as possible and otherwise by tracts or lots of duly platted land or by metes and bounds, with the acreage thereof and the names of the respective owners as shown by the records of the county, and the total number of acres.

(4) In general but clear language, the purpose and intent of the corporation, and

describe in general language the proposed plan of improvement whether for one or more of the purposes named in ORS 554.010.

(5) The number of directors, not less than three nor more than nine, and the names of those first holding such office, and the mode and times of the election of their successors in office.

(6) The location of the principal office of the corporation for the transaction of business, which must be in a county where at least a portion of the land to be improved is situated.

(7) Whether or not such corporation is organized for profit to the corporation or to its members other than the benefits accruing from such improvements which are referred to in ORS 554.050.

**554.050 Nonprofit corporations; further statements in articles.** If the corporation is not formed for the purpose of operating the business for profit either to the corporation or its members other than from the benefits to accrue from the improvements and operation and maintenance hereinafter named, it may be further stated in the articles of incorporation that:

(1) The proposed improvement is for sanitary or agricultural purposes or both and that the proposed improvement will be conducive to the public health or welfare or public utility or benefit.

(2) The benefits of the proposed improvement will exceed the damage to be done and that the best interests of the land therein described and of the owners of such land as a whole and of the public at large will be promoted by the formation and proposed improvement and operation of such district.

(3) The formation of a corporate district under the provisions of ORS 554.010 to 554.340 is a proper and advantageous method of accomplishing the improvement and protection of the lands described therein.

(4) All revenue and income of such corporation, from whatsoever source, shall be received, held, used and expended exclusively for payment of the cost and expense of the improvements and the maintenance of same and the payment of indebtedness, interest, cost and expense of the corporation incurred therefor, and for the operation, maintenance and necessary expense of such corporation in the conduct of its business for the purposes

thereof as stated in the articles of incorporation according to law.

(5) Neither the corporation nor its members shall profit from the business of the corporation other than from the benefits of improvement of the land for which the corporation is formed.

(6) It is the intention and desire of all persons owning or having any interest in any of the described lands to organize such corporation as a public corporation of Oregon under the provisions of ORS 554.010 to 554.340 with the rights and privileges of a public corporation, by the unanimous voluntary consent of all persons.

(7) For the purpose named, all the landowners and persons having any interest in any of the lands do consent and join in such corporation by subscribing their respective names thereto.

**554.060 Verification of articles; attack on organization; defects or omissions.**

(1) If a corporation is formed pursuant to the provisions of ORS 554.050 for the purpose named therein, in addition to the requirements for execution and filing prescribed in ORS 554.020, the articles shall be verified by one or more of the subscribers thereto to the effect that they have read the same and believe the allegations thereof to be true, and the same shall be prima facie evidence of the matters and things therein stated.

(2) No action, suit or proceeding shall be maintained for the purpose of avoiding, setting aside or otherwise questioning or affecting the validity of the organization of such a corporation unless the action, suit or proceeding is commenced within three months from the date of the filing of the articles of incorporation in the office of the Corporation Commissioner and in the office of the county clerk of the county wherein the land is situated, nor for the purpose of questioning the sufficiency or correctness of any statement therein when the provisions of ORS 554.010 to 554.340 with respect thereto have been substantially complied with.

(3) No error in the description of any tract or parcel of land included in such district or in naming the owner thereof shall affect the incorporation or relieve the land from the same unless the owner has been materially prejudiced, misled or injured thereby, and has instituted proceedings because of same within three months after actual notice in any manner brought to him. Notwithstanding any

error, defect or omission in the articles of incorporation in such case, the corporation is hereby declared to be a legally organized corporation under ORS 554.010 to 554.340 as to all such owners.

**554.070 Membership; meetings; voting; proxies; voting trusts; quorum; removal of officers.** (1) Every owner of land described in the articles of incorporation is a member of the corporation, and membership is lost or gained through a sale or purchase of any of said land, as the case may be, by which the legal title is transferred. In case of sale or purchase under contract without transfer of legal title, the parties may agree with respect to voting such land as provided in the bylaws, and unless so agreed and determined pursuant thereto the holder of the legal title shall be entitled to vote. Corporate owners may by resolution of their board of directors appoint and designate a proxy as provided by the bylaws.

(2) At all meetings of the members of the corporation each member who attends in person, or by proxy appointed in writing, shall be entitled to vote the amount of acreage of the land owned by him on the basis of one vote for each acre of land. Nothing in the laws of Oregon shall be construed to prevent any owners of land, or members of the corporation, from joining in a voting trust or from giving a proxy or power of attorney to vote such membership for a term of years or until the happening or performance of a named contingency or condition. A majority of the acreage shall be necessary to constitute a quorum for the transaction of business at all landowners' meetings, and a majority vote shall govern in all cases except as otherwise specially provided by law.

(3) At any meeting of the members of the corporation any officer may be removed and another elected in his place. There must be at least one regular meeting of the members in each year, to be fixed by the bylaws, and there shall be such other meetings as may be called under the provisions of the bylaws.

**554.080 Corporate existence; powers of corporation.** Upon making and filing the articles of incorporation, the persons appointed in the articles as directors, and their successors in office, associates and assigns, by the name assumed in such articles, shall thereafter be deemed a body corporate with power:

(1) To sue and be sued.

- (2) To contract and be contracted with.
- (3) To have and use a corporate seal and to alter the same at pleasure.
- (4) To purchase, condemn by the power of eminent domain, possess and dispose of such real and personal property as may be necessary and convenient to carry into effect the objects of the corporation, and to take, hold, possess and dispose of all real and personal property donated to such corporation by the United States or by any state, territory, county, city or other municipal corporation or by any person, for the purpose of aiding in the objects of such corporation.
- (5) To appoint such subordinate officers, employees and agents as the business of the corporation may require, and prescribe their duties and compensation.
- (6) To make, establish or amend bylaws, rules and regulations, not inconsistent with the laws of the state, the articles of incorporation, or the covenants and provisions of the landowners' notice provided in ORS 554.170 to 554.190, if any is filed, prescribing the manner and mode of conducting the business of the corporation, distributing and using water in domestic use, irrigation, usage of any drainage or flood control works, and enforcing the collection of rates, tolls, charges, fees, fines and assessments, but such bylaws, rules and regulations must be ratified by two-thirds of the votes of the members of the corporation.
- (7) To prescribe, fix, make, assess, and charge and collect rates, tolls, fees, fines and charges for the use of water, or for the use of any of the works of the corporation, or for violation of any of the bylaws, rules and regulations of the corporation; such rates, tolls, fines, fees and charges shall be a lien on the crops produced as prescribed in ORS 545.104, and also upon the land to which the water or drainage was furnished, subject to the limitations, restrictions and provisions of the landowners' notice if any is filed.
- (8) To make, levy and collect any assessment either ratably or in proportion to the benefits received as the bylaws or recorded landowners' notice may provide, upon the lands described in the articles of incorporation, for the purpose of providing the amount of money required to be raised by the corporation through such assessments for any purposes whatsoever, including maintenance and operation, estimated delinquencies on assessments, principal and interest of maturing indebtedness, and such reserve as may be

necessary or provided by the bylaws, subject to the limitations, restrictions and provisions of the recorded landowners' notice.

**554.090 Directors; qualifications; president; seal; secretary-treasurer; exercise of corporate powers.** (1) No person is eligible to the office of director unless he is a member of the corporation. The directors named in the articles of incorporation and thereafter when elected by the members shall promptly qualify and thereupon meet and organize and elect one of their number president who shall preside at their meetings and at the meetings of the members. The board shall adopt a seal with a suitable design.

(2) The board shall elect a secretary who shall keep a fair and correct record of all its proceedings and the official business of the corporation, which shall be open to the inspection of all members as well as to all other interested persons. The secretary may or may not be a member of the board and shall hold the office of treasurer of the corporation and shall receive and receipt for all moneys received by him.

(3) From the first meeting of the directors, the powers vested in the corporation shall be exercised by them or by their officers or agents under their direction except as otherwise specially provided by law. [Amended by 1969 c.345 §17]

**554.100 Oath of office.** Each director shall, before entering upon his official duties, take and subscribe to an oath before some officer authorized by law to administer oaths, that he will honestly, faithfully and impartially perform the duties devolving upon him in his office as director, and that he will not neglect any of the duties imposed upon him by law.

**554.110 Powers of directors.** The board of directors shall have full power and authority to:

(1) Build, construct and complete any works and improvements needed to carry out the plan of improvement of the lands described in the articles of incorporation.

(2) In the name of the corporation, make all necessary water filings and appropriations of water for every purpose of the articles of incorporation.

(3) Operate and maintain such works as are necessary, convenient or beneficial for said purposes.



(4) Hire men and teams and purchase machinery, equipment and supplies.

(5) Generally contract with reference to any of said matters as the board may determine for the purposes and within the scope of the powers granted in ORS 554.010 to 554.340 for improving the land.

**554.120 Records of proceedings of directors; lien docket; deposit of moneys; segregation of funds; accounting; warrant and bond register.** (1) The board of directors shall cause to be kept a well-bound book entitled "Records of Proceedings of Board of Directors," in which shall be recorded minutes of all meetings, proceedings, certificates, bonds, and any and all corporate acts, which records shall be at all times open to the inspection of anyone interested, whether members or creditors.

(2) A lien docket shall also be provided, in which, as to every tract of each owner, all assessments or liens shall be charged and all payments shall be credited, and in which interest on any assessments in arrears shall be charged at time of payment of any instalment, to the end that such record shall show the true condition of all liens and the amount thereof.

(3) Except as otherwise provided by ORS 554.160 (2), all money of the corporation shall be deposited with a convenient bank or trust company in the name of the corporation, and all funds provided to be segregated and held separate shall be so kept, and an accounting of each of such funds upon the books of the corporation shall be correctly kept.

(4) A warrant register shall be provided in which shall be separately kept a record of all warrants issued, the number, date and amount thereof with the name of payee, and the date paid, showing principal and interest separately. The corporation, or the county treasurer of the county where the principal office of the corporation is located if bonds are payable at his office, shall keep a register of all bonds with a description thereof, the date thereof and when issued, and generally such a record as shall show all outstanding bonds separately of the several issues and kinds of payments. [Amended by 1969 c.694 §46]

**554.130 Assessments; certification; collections; lien; foreclosure; service charges; disposition of proceeds.** (1) The board of directors shall each year on or before a day fixed in the bylaws of the corporation, and if not therein fixed then on or before

September 1 of each year, make a computation of the whole amount of money to be raised by the corporation through assessments for the ensuing year for any purposes whatsoever, including maintenance and operation, estimated delinquencies on assessments, principal and interest of indebtedness maturing, and such reserves as may be necessary or provided by the bylaws of the corporation.

(2) This amount when so determined by the board shall be an assessment upon all the land described in the articles of incorporation and apportioned to each and every acre thereof as provided in the bylaws of the corporation or the recorded landowners' notice subject to its limitations, restrictions and provisions. The assessments shall become due and payable in quarter-annual instalments, the first of which shall become due three months after the date fixed for the assessment in the bylaws, and if not fixed therein such assessment shall become due within three months after September 1 of each year, and shall bear interest at the rate of two-thirds of one percent per month from the maturity of each instalment until paid. Any unpaid assessment and the lien thereof as provided in this section shall be delinquent after the date of maturity of the last instalment thereof and may be enforced and foreclosed. Upon the sale of any lands on such foreclosure the corporation or any member thereof or any creditor of the corporation or other person may be a bidder and purchaser. When the bylaws provide rates, tolls, charges, fees, fines and assessments for the use of water or for the use of any of the works of the corporation, the bylaws shall also provide for the time and manner of collection thereof.

(3) Notwithstanding the provisions of subsection (2) of this section, the board may certify the assessments including any interest thereon to the county assessor of the county in which the assessed lands lie. Such assessments, if certified and presented after July 15 and on or before the following July 15, shall be assessed against the premises serviced on the next assessment and tax roll prepared after July 15 by the tax assessor of the county in which the corporation is situated. The assessments shall thereupon be collected by the assessor or tax collector, whoever has possession of the roll, and paid over to the treasurer of the nonprofit corporation as other taxes are certified, assessed, collected, and paid over.

(4) The treasurer of the nonprofit corporation shall keep the proceeds of the assess-

ments in appropriate accounts depending upon the purpose of the assessments, and disbursements for the expenses of the corporation shall be paid out of the appropriate account. [Amended by 1971 c.436 §1; 1973 c.93 §1]

**554.140 Directors' duty to institute proceedings to enforce lien.** (1) The board of directors shall institute proceedings to enforce the lien of any assessment when the last instalment of such assessment is delinquent for more than three months. If the board fails to promptly institute and diligently prosecute in good faith proceedings for enforcement of a lien after that time and any member or creditor of the corporation shall give written notice to the board of such delinquency and request that such procedure be instituted and the board neglects for 30 days thereafter in good faith to bring suit to enforce the lien, the members of the board so failing shall each be jointly and severally liable to the corporation in the amount of the delinquent assessment.

(2) Any member or creditor of the corporation may bring an action on behalf of the corporation in its name against any such directors to enforce the payment thereof; however, no directors shall be personally liable for payment of a delinquent assessment if:

(a) The record of proceedings of a duly constituted meeting of the board held prior to the commencement of such action show either that such director presented or voted in favor of a resolution presented and voted upon by the board calling for the prompt commencement of such enforcement proceedings; or

(b) If no meeting of the board was held between the time prescribed for enforcement of a delinquent assessment lien and the commencement of an action against the directors by a member or creditor of the corporation, that such director duly requested a special meeting of the board of directors be called for the purpose of adopting such a resolution and that the proposed resolution was submitted with the request.

(3) In any legal proceeding instituted by the board of directors of the corporation as provided in this section, the court shall allow, in addition to the costs and disbursements of such proceedings, a reasonable attorney fee at trial and on appeal to the corporation if it prevails. [Amended by 1963 c.549 §1; 1981 c.897 §65]

**554.150 Action to compel assessment.** If the board of directors neglects to make any assessment provided by ORS 554.010 to 554.340 for 30 days after the time when it is required to be made, any member of the corporation or any creditor thereof who is likely to be injured thereby may bring an action to compel the assessment to be made. In any such case the costs and expenses thereof may be assessed to the directors who were wilfully negligent in failing to make the same and judgment rendered against them jointly and severally by the court in the same action. In such action the corporation and the directors shall be parties defendant. [Amended by 1979 c.284 §173]

**554.160 Assessments to provide funds to meet obligations; custody, disbursement and disposal of funds; general operating expenses.** (1) When any bonds or obligations of the corporation are payable from revenue of assessments pledged for the payment thereof, the board of directors shall, at the time of creating such indebtedness or issuing such bonds or obligations or at any time thereafter when assessments therefor are made, designate such fund by appropriate name and shall at the time of making each assessment thereafter determine the amount and portion of the assessment in dollars which is required to be then made for revenue of such fund. In determining and levying every assessment provided in ORS 554.010 to 554.340 the board of directors shall provide separately for the amount to be so raised for each of the several funds so designated and named including the general operation and maintenance fund.

(2) The revenues apportioned to the funds pledged to the payment of bonds and obligations shall be separately held and kept and accounted for. The corporation or the county treasurer shall disburse the funds only for the purposes for which levied until the indebtedness and obligation for which the assessment was made is fully paid with interest, whereupon the remainder shall be transferred to the general fund of the corporation for the payment of expenses of the corporation and its operation and maintenance. At the time of making assessments the board of directors shall first determine the estimated amount necessary for the expenses of operation and maintenance and then the several amounts for the respective funds, and determine that the whole amount thereof is within the limitations, restrictions and provisions of the land-

owners' notice provided for in ORS 554.170 to 554.190. [Amended by 1969 c.694 §47]

**554.170 Covenants by landowners; effect.** Owners of all the land described in the articles of incorporation or amendments thereto may at any time after the adoption of the plans and specifications for improving the land as provided in ORS 554.210, mutually covenant and agree for the purpose of binding their respective lands, as provided in ORS 554.180. Such covenants and agreements shall attach to and run with the land for the purpose of limiting, restricting and governing the conduct of the corporation. Such covenants, limitations, restrictions and agreements must not be inconsistent with the articles of incorporation, and after the recording of the same as provided in ORS 554.190 they may not be altered, amended, modified or rescinded during the life of such corporation without the consent of landowners representing two-thirds of the lands in the district and persons having an interest in such lands and the corporation and its creditors if any there are. After the recording, the bylaws of the corporation and every act and proceeding of such corporation must be in accordance with and subject to the limitations, restrictions and provisions thereof. [Amended by 1965 c.427 §1]

**554.180 Landowners' notice; contents.** (1) If the owners of all the land desire to enter into such covenant with respect to matters hereinafter provided they shall make, subscribe and acknowledge before some person authorized to take acknowledgment of deeds, a notice to whom it may concern, which notice shall contain:

(a) A description of the land with the same particularity as is provided for in the articles of incorporation.

(b) A statement that the owners of the described land have incorporated themselves under ORS 554.010 to 554.340 under the corporate name of (stating such name), and that the land will be improved as described in the articles of incorporation which are (or will be) filed in the office of the Corporation Commissioner and in the office where deeds and other instruments affecting the title to real property are recorded in the county where the land is situated.

(c) A statement either that the land shall be subject to any indebtedness incurred by the corporation, or that the land shall be subject to the lien of any assessments prorated and apportioned upon the acreage thereof by the

corporation for its works and the improvement of the land as described in the articles of incorporation under the provisions of ORS 554.010 to 554.340.

(2) If all the landowners desire, they may therein further limit, restrict and provide with respect to said matters and the conduct of the corporation with regard to the described land by mutually determining and stating therein any or all of the following:

(a) Whether all the land is uniformly and in like amount per acre thereof benefited by the improvements; and if not so benefited they may by agreement determine and apportion the relative amount of benefits per acre between the several parcels and portions describing the same with the same particularity as is provided for the articles of incorporation.

(b) The whole amount of benefit per acre which will accrue from the works and improvement proposed in the articles of incorporation. If the lands are not uniformly benefited they may determine and appraise the benefits as to the several parcels and portions of all of the land and in that case particularly describe the same and state the amount of benefits accruing to the respective portions and parcels thereof per acre in dollars, which shall in such case be the maximum amount per acre as a lien thereon for any purpose of the corporation other than for operation and maintenance.

(c) The whole amount in dollars of annual benefits which will accrue per acre from the works and improvement described in the articles of incorporation. If it has been determined that all the land is not so uniformly and equally benefited they shall in such case determine and state the amount in dollars of the annual benefit per acre of the several parcels and portions of all the land particularly describing the same, which amount of annual benefits so determined shall be the maximum amount of assessments by the corporation per acre made and apportioned according to such determination as a lien upon the land payable per annum inclusive of the operation and maintenance assessments, and the assessment of any land in any year in excess of these annual benefits is to the extent of such excess void.

**554.190 Recording notice; effect; lien on land; priority.** (1) The notice shall be recorded in the office where deeds and other instruments affecting the title to real property

are recorded in the county where the land is situated. From the recording thereof such notice shall be a covenant to and with the corporation and its members and creditors, attaching to and running with the described land and every part thereof, granting the rights, privileges and liens as in ORS 554.010 to 554.340 provided and in the notice stated with respect thereto.

(2) If it is stated in the notice that the land described in the articles of incorporation and the notice shall be subject to any indebtedness incurred by the corporation, all debts and obligations of the corporation theretofore and thereafter created shall be a lien upon the land described in the notice prior to every other lien attaching to the land subsequent to the time of recording of the notice, except state, county and school taxes, whether such debt or obligation of the corporation is in existence at the time the latter lien attaches or is created afterward. Such lien shall not be personal but shall be an obligation upon the land and run with the land.

(3) If, however, the landowners state in the notice that the land described in the articles of incorporation shall be subject to the lien of assessments by such corporation for the works and improvement of the land, then all the debts and obligations of the corporation shall be a direct obligation of the corporation with the irrevocable right of the creditors and obligees to have assessments made by the corporation for the payment of such debts and obligations pursuant to the provisions of ORS 554.010 to 554.340 and within the limitations, restrictions and provisions of the landowners' notice. In such case every debt and obligation of the corporation created within the limitations and restrictions of the landowners' notice is with the implied or express covenant that the corporation will make the assessments necessary to be made for the payment thereof as same may mature and be payable, and will prorate and apportion the same to all the described lands in accordance with the provisions of ORS 554.010 to 554.340 and the notice. Every assessment made pursuant to this subsection and the landowners' notice by the corporation and prorated and apportioned pursuant to such notice within the limitations, restrictions and provisions thereof shall be a lien upon the acreage of such land as so assessed by the corporation, and the lien shall relate back, vest and attach thereto as of the time of filing for record of the landowners' notice. Every other lien, right, title, interest

and estate attaching, vesting or in any manner accruing or acquired subsequent to the filing of such landowners' notice, whether before or after such assessment, except state, county and school taxes, shall be inferior and subject to the lien of such assessment.

#### **554.200 Incurring indebtedness before notice recorded; scope of notice.**

When any corporation is organized pursuant to ORS 554.010 to 554.340, the board of directors and the corporation may not lawfully incur any indebtedness or obligation of such corporation, except as otherwise provided in said sections, before the landowners' notice has been executed and recorded. When the notice is so recorded the same shall be notice to the world of the facts therein stated. It shall not be necessary, for the purpose of the lien of any assessment or indebtedness of the corporation upon any of the lands described therein, to file or record in the office where deeds and other instruments affecting the title to real property are recorded, any resolution of the corporation or notice of assessment, indebtedness or lien; but as to all said matters upon the recording of the landowners' notice every person interested in any of the land therein described or dealing with respect thereto is put upon inquiry respecting the same and bound to inform himself and ascertain from the corporation the extent and amount of such indebtedness, assessment and lien upon the land.

**554.210 Plans and specifications; how adopted.** (1) Owners of all the land described in the articles of incorporation may by unanimous agreement in writing, subscribed and acknowledged by them, cause to be prepared and approve and adopt detailed plans and specifications for the works and improving of the lands under the plan described in the articles of incorporation, and make a report upon the same, including an estimate of the probable cost thereof, and shall thereupon file the same with the secretary of the corporation. In such case the board of directors shall adopt a resolution briefly reciting the facts thereof and accepting, approving and adopting the same as the plan of improvement of the land described in the articles of incorporation. Such plans and specifications and report shall be the plans of the corporation for the works and improvement of the land. If the landowners do not so adopt plans and specifications and a report thereon by unanimous consent, such plans and specifications and report may

be adopted by resolution at a meeting of members as provided in subsection (2) of this section.

(2) In such case, the board of directors at any meeting of the board may adopt a resolution designating and authorizing the expenditure of a certain amount of money for preliminary investigation and report upon the plans and cost of works and construction, or repair or reconstruction of the same, or purchasing or acquiring any property, ditches, dikes, levees, plants, improvements, easements, rights of way, water rights, or other things necessary, advantageous or beneficial for improving the land under the plan described in the articles of incorporation; or they may by resolution determine and declare that such preliminary investigation and the expense thereof is unnecessary. The directors shall then secure a competent engineer, if they determine that it is necessary or desirable, who shall make such investigation, and prepare detailed plans and specifications and make a report upon the same, including an estimate of the probable cost thereof, or they may prepare detailed plans and specifications and report with an estimate of the probable cost thereof without securing an engineer. The directors shall submit the detailed plans and specifications and report to a meeting of the members of the corporation for adoption. Adoption must in that case be made by resolution passed by a two-thirds vote of all the votes to which the members may be entitled.

**554.220 Bonds; denominations; interest; maturities; execution; coupons; amortized instalment obligations.** (1) At any time after recording the landowners' notice as provided in ORS 554.190 and adoption of a plan for improvement of the land described in the articles of incorporation as provided in ORS 554.210, the board of directors may, if in their judgment it seems best, and subject to the limitations, restrictions and provisions of the landowners' notice, issue bonds or other obligations of the corporation necessary or convenient for improving the lands, including the refunding of outstanding bonds and any indebtedness of the corporation.

(2) The bonds shall be in such denominations as the board may determine, and bear interest from date at a rate determined by the board, payable semiannually, to mature at intervals to be determined by the board, both principal and interest being payable at some convenient bank or trust company to be

named in the bonds or at the office of the county treasurer referred to in ORS 554.160. Each bond, if payable at the office of the county treasurer, shall be registered at the office of the county treasurer in accordance with ORS 208.200 prior to delivery of the bonds to the bond purchaser. The bonds shall be signed by the president of the corporation and attested with the seal of the corporation and the signature of the secretary. They may be issued so as to mature serially in annual amounts so as to be approximately equal, principal and interest, and may be issued so as to include a sum sufficient to pay the first four years' interest, or less, to accrue on the bonds, and be numbered serially in the order in which they mature. Each such bond shall have interest coupons attached bearing the serial number of the bond, which coupons shall be serially numbered in the order of maturity.

(3) If the directors so determine, they may issue for the purposes stated in this section, or as provided in ORS 554.270 and 554.280, one or more amortized instalment obligations of the corporation constituting a designated series of such bonds as particularly described in ORS 554.280, all of which obligations shall be evenly and ratably paid as the attached instalments mature as determined by the board of directors and as described in ORS 554.280. The latter bonds and coupons shall be executed and attested as provided by subsections (1) and (2) of this section for bonds of the corporation. [Amended by 1969 c.694 §48; 1977 c.188 §10; 1981 c.94 §49; 1981 c.526 §7]

**554.230 Bonds; recitals; payment; liability of land.** (1) Bonds or obligations of the corporation shall refer therein to ORS 554.010 to 554.340 and to the resolution of the board of directors authorizing the same, and shall briefly recite the purpose for which issued. If they constitute a lien on the land described in the articles of incorporation they shall so state therein; otherwise they shall state that they and the interest thereon are payable by the revenue derived from the annual assessments by the corporation upon the land described in the articles of incorporation and the landowners' notice, which assessments are lien-apportioned to every acre of such land and assessed for a fund pledged for the payment thereof, and that the corporation covenants to and with the holder thereof to make such assessments as required by the laws of Oregon and to pay the obligation (or bond) at the maturity therein provided, and further that the assessment required to be

made for the payment thereof at maturity will not together with all other assessments required for payment of the debts and obligations, operation and maintenance, and other charges, exceed the limitations prescribed in the landowners' notice.

(2) Upon the issue of any bond or obligation payable by revenue derived from assessment by the corporation upon the land for a fund designated in the resolution authorizing such issue, the land described in the articles of incorporation and the landowners' recorded notice shall thereafter be and remain liable to be assessed for such payments as provided in and subject to the provisions of ORS 554.010 to 554.340.

**554.240 Retirement of bonds; conditions of sale; resolution authorizing bond issue; surrender of bonds in payment of assessments; debts not to exceed assessments or benefits.** (1) The corporation may provide that bonds or any of them may be retired at the option of the corporation on any interest-paying date after the expiration of a time determined and fixed therein.

(2) Bonds and obligations shall not be sold for less than 90 percent of their face value, and may be issued all at the same time or in such amounts as the board deems necessary. Before issuing any bonds or obligations the board shall first pass a resolution authorizing the same and provide the whole amount thereof and the purpose of same and if payable from a separate fund shall designate the same. The resolution shall prescribe the form and substance of the bonds or obligations and provide with respect thereto the matters and things otherwise prescribed therefor in ORS 554.010 to 554.340.

(3) When any bond, obligation or coupon is payable from revenue by assessment to constitute a fund for the payment thereof, any such bond, obligation or coupon may at or after its maturity be surrendered to the corporation in payment of such assessment, but not in payment of any assessment for operation and maintenance expense or any other fund separately pledged for payment of other obligations, bonds or debts of the corporation. Bonds and obligations received in payment of any obligation shall be numbered consecutively and the lowest numbers paid off first.

(4) No obligations of the corporation shall be issued by the board unless it is determined that the annual assessment which will be required for the payment thereof as same

matures together with other assessments which will be necessary for maintenance and operation expense and other purposes will not exceed in the whole the maximum amount of annual benefits which may be assessed and apportioned in any one year. Nor shall debts be incurred and obligations issued the aggregate amount of which will exceed the limitation determined by the determined benefits as stated in the recorded landowners' notice.

**554.250 Refunding bonds.** The board of directors may issue bonds for the purpose of refunding or satisfying any of the bonded or other indebtedness of the corporation, whether or not due, or which has or may become payable at the option of the corporation, or by consent of the holders of the indebtedness, or by any lawful means, whether such bonded or other indebtedness is now existing or may hereafter be created, and there are not funds in the treasury of the corporation available for the payment of the same and unpaid interest thereon.

**554.260 Contracts with governmental agencies or others for financial assistance or cooperative action.** Whenever the board of directors of the corporation shall by resolution determine it to be for the best interest of the corporation, the board may enter into contract with the United States or its duly constituted agencies, or any municipal or other corporation of Oregon, or any person, for the purpose of procuring or receiving a loan or financial assistance for any works or improvement of the corporation, or for the maintenance and operation of any works or improvement of the corporation or of such other party, or for the purpose of acquiring jointly or controlling and managing in conjunction with such other party any works or improvement or any easement or right of way necessary for such improvement or work; and may bind the corporation for the maintenance, support and operation of the whole or any part thereof after construction of the same; and may agree that any works or improvement of the United States or any constituted governmental agency embracing any part of the works or improvement of the corporation or serving any purpose thereof shall be subject to the control, rules and regulations of the United States or any of its constituted agencies or officers as any law or regulation of the United States may require; and may agree to protect the United States and its constituted governmental agencies or officers from any loss or dam-

age by reason of any works or improvement for or in behalf of the corporation as any law may require as a condition thereof; and may contract with the United States to furnish without cost such easements and rights of way and other property as shall be necessary for the proposed improvement and works of the corporation and their maintenance and operation, as required or provided by law as a condition thereof.

**554.270 Purchase or lease of works and water rights; provision as to payment; serial coupon obligations.** (1) Whenever the board of directors of the corporation shall by resolution determine that it is to the best interest of the corporation, the board may enter into contracts for the purchase or option to purchase or lease, upon such terms as it determines to the best interest of the corporation, any ditch, works, improvement, easement, right of way, water right or other thing required or advantageous to the corporation for the works and improvement of the land described in the articles of incorporation within the scope of the purposes therein named.

(2) In any such case the board may by such contract provide for spreading the payments over such period as may be agreed upon and may issue therefor serial instalment coupon obligations in such number and denominations as it may determine, inclusive of interest at such rate as the board may provide on all unpaid assessments, together with an amount sufficient to pay a proportionate part of the cost of administering the bond assessment program and issuing the bonds authorized under ORS 554.220 and 554.250, including, but not limited to, legal, printing and consultant's fees, such amount to be determined by the governing body. The instalment coupons shall be of such amount and stated maturity as will pay and retire all instalment coupon obligations of such designated series evenly, justly and ratably from year to year at the same time, and shall be general obligations of the corporation, payable from a fund as provided in ORS 554.280. [Amended by 1981 c.322 §9]

**554.280 Resolution for serial coupon obligations; maturities; interest; retirement; recitals; fund for payment; assessments.** (1) For the purpose stated in ORS 554.270, the board of directors shall by resolution determine and declare that the same is to the best interest of the corporation; briefly describe the purpose and object thereof and

the amount of money required therefor; provide for, authorize and direct issuing the instalment coupon obligations, describing and fixing the number of such obligations constituting the series and the denominations thereof; and shall adopt and prescribe the form and substance of such obligations. Each obligation shall bear the same series designation and be separately serially numbered, which series designation and serial number shall likewise appear upon each instalment coupon attached. Coupons of each obligation shall be serially numbered in the order of their maturity and shall be so payable at a place designated in the bonds which may be the office of the county treasurer referred to in ORS 554.160. The obligation, if payable at the office of the county treasurer, shall be registered at the office of the county treasurer in accordance with ORS 208.200 prior to delivery of the bonds to the bond purchaser.

(2) Interest at a rate determined by the board may be included and amortized for the retirement of both principal and interest as provided in the resolution and in this section. Every obligation shall recite that it is issued pursuant to such resolution and payable from a fund derived from annual assessments of the lands described in the articles of incorporation for such purpose, the proceeds of which are pledged for the payment, and that the corporation covenants to levy such assessments according to law and the resolution in amount sufficient, inclusive of estimated delinquencies, to pay the instalment coupons thereto attached as they mature.

(3) The resolution shall appropriately designate the fund. The board of directors shall thereafter on or before the time fixed in the bylaws determine and assess the amount necessary to be assessed at such time for payment of the instalment coupons as they mature. Proceeds from such assessment shall constitute a fund which is pledged for payment of such obligations. The treasurer shall segregate and keep separate the proceeds of every assessment for such funds, and shall deposit the same in a bank in a separate account designating such fund, or if the obligations are payable at the office of the county treasurer, the treasurer shall transfer them to the county treasurer. The district or county treasurer shall not disburse the same except as provided in this section. [Amended by 1969 c.694 §49; 1977 c.188 §11; 1981 c.94 §50; 1981 c.526 §8]



**554.290 Warrants to pay claims; interest; assessments to pay warrants; limitation on amount of warrants.** All claims against the corporation shall be paid by warrants drawn on the treasurer of the corporation and signed by the president and secretary of the board of directors. If any warrant is not paid when presented to the treasurer of the board of directors, because of lack of funds in the treasury, that fact shall be indorsed on the warrant and the warrant shall draw interest thereafter at a rate determined by the board until there is money in hand to pay the amount of the warrant and the interest then accumulated. No interest shall be allowed on warrants after sufficient funds are in the treasury to pay the indorsed warrants and interest. The secretary of the board shall give notice to the payee or other holder if known whenever sufficient funds are available to pay outstanding warrants. Warrants shall be numbered, drawn against the proper fund, and paid from such fund in the order of issuance. The board of directors shall levy an assessment each year of sufficient amount of money to pay the outstanding warrants. No warrants shall be issued the payment of which in the ensuing year inclusive of the assessments required for all other purposes will exceed the annual assessment limit fixed in the landowners' recorded notice, or the aggregate indebtedness of which with all other indebtedness for other purposes than operation and maintenance will exceed the total benefits to accrue to the land described in the articles of incorporation as stated in the recorded landowners' notice. [Amended by 1981 c.94 §51]

**554.300 Amendment of articles to include or exclude land; dissolution of corporation; inclusion of lands by irrigation, drainage or flood control district.** (1) The articles of incorporation of any corporation organized under ORS 554.010 to 554.340 may at any time be amended so as to include other land, or exclude any part theretofore included. Such amendment shall not affect the date of priority of the lien of the corporation upon any land, but as to any new land included by such amendment the lien shall attach from the date of the recording of the amended notice. No land can be excluded until its proportionate share of all existing debts of the corporation has been paid.

(2) Any such corporation may be dissolved and its affairs terminated as provided in subsections (3) and (4) of this section; provided,

however, that no corporation may be dissolved before payment or release of all debts and obligations of the corporation, including every contract and agreement with the federal or the state government, or its or their constituted governmental authorities or agencies, or the assumption of its obligations by another with the consent of all parties.

(3) The board of directors of the corporation shall cause notice to be given of a meeting of the members, which notice shall contain a statement to the effect that the dissolution of the corporation will be considered at the meeting, and a brief statement of the reasons why dissolution is deemed advisable. The question of whether or not the corporation shall be dissolved may be presented at the meeting, and if two-thirds or more of the votes of the members present or by proxy are cast in favor of dissolution, the board shall proceed to dissolve the corporation and liquidate its affairs. The board shall constitute a board of trustees and as such shall dispose of the property of the corporation and pay its debts and obligations or procure releases thereof; provided, that in case an irrigation district, drainage district or flood control district is organized to include the lands in the corporation or any part thereof, the board of directors of the corporation, or the board of trustees in case the corporation has voted to dissolve, shall convey to such irrigation, drainage or flood control district any and all irrigation works or other property owned by such corporation, upon the assumption by the irrigation, drainage or flood control district of the obligations of the corporation.

(4) Upon completing the liquidation of the corporation, the trustees shall execute and sign a verified statement that the corporation has been dissolved and its affairs liquidated, which statement shall be forwarded to the Corporation Commissioner, together with a dissolution fee of \$2. Upon receipt of such statement, the Corporation Commissioner shall notify the county clerk of the county in which the corporation had its principal place of business, that the corporation has been legally dissolved, and the clerk shall record the notice in the records of his office. [Amended by 1971 c.200 §9]

**554.310 Organization fee; annual license fee; exemption of nonprofit corporations; annual report; powers after dissolution.** (1) Every corporation organized under



the provisions of ORS 554.010 to 554.340 shall pay to the Corporation Commissioner upon presentation of its articles of incorporation for filing, an organization fee of \$2 for every 1,000 acres or fraction thereof described in the articles of incorporation. However, the fee shall in no case be less than \$5.

(2) Any such corporation which states in the articles of incorporation that it is not organized for profit and also states what is required to be stated in ORS 554.050, is not required to pay any annual license fee either at the time of presentation of its articles of incorporation for filing or thereafter so long as it is not operated for profit.

(3) Every corporation organized under the provisions of ORS 554.010 to 554.340 for purposes of profit or which does not state in the articles of incorporation the things provided in ORS 554.050 shall, at the time of presentation of its articles of incorporation for filing, pay in addition to the organization fee an annual license fee for the succeeding fraction of the fiscal year. The license fee is \$2 for every 1,000 acres or fraction thereof described in the articles of incorporation. After the first payment, the license fee shall be paid every year in advance to the Corporation Commissioner as other corporate license fees are paid.

(4) Every corporation organized under the provisions of ORS 554.010 to 554.340 shall file with the Corporation Commissioner an annual report in such form as the commissioner may designate. The report shall be filed on or before June 30 of each year. A copy of the report shall be filed with the county treasurer referred to in ORS 554.160.

(5) Every corporation involuntarily dissolved under the provisions of ORS 57.585 shall continue to exist as a body corporate for the purpose of the performance or enforcement of any debt or obligation under contract or agreement with the federal or state government, including the power to levy and collect assessments for such purpose. [Amended by 1963 c.358 §1; 1969 c.694 §50]

**554.320 Exemption from taxation.** The property and income of a corporation organized under the provisions of ORS 554.010 to 554.340, but not for profit, the articles of incorporation of which recite the things mentioned in ORS 554.050, shall be exempt from taxation. The property and income of corporations which were incorporated under chapter 172, Oregon Laws 1911, and which amend their articles to state that the corporation

shall not operate for profit and also to state the matters provided in ORS 554.050, shall also be exempt from taxation.

554.330 [Repealed by 1969 c.345 §20]

**554.340 Judicial determination of legality of proceedings.** (1) The board of directors of any corporation organized under the provisions of ORS 554.010 to 554.340, or of any corporation organized before March 4, 1937, which amends its articles and landowners' notice pursuant to the provisions of ORS 554.420, may, after adopting a resolution adjudging the same to be to the interest of the corporation and authorizing the same, by petition commence special proceedings in the circuit court of the county in which the office of the corporation is located, for the purpose of having a judicial examination and judgment of the court as to the regularity and legality:

(a) Of the proceedings in connection with the organization of the corporation; or

(b) Of the proceedings of the board and corporation providing for and authorizing the issue or sale of any bonds or obligations of the corporation whether or not theretofore sold or disposed of; or

(c) Of any action or proceeding for the inclusion or exclusion of land, or declaring the result of any election, or of any order levying any assessment or ordering the issue of any bonds or obligations for any purpose; or

(d) Of any plan of improvement of lands described in the articles of incorporation or of any proposed works and improvement for which bonds or obligations are authorized to be issued; or

(e) Of the authorization of any contract with the United States or any municipality or corporation or person, and as to the validity of such contract whether or not it has been executed.

(2) All or any of the proceedings of the corporation may be judicially examined and determined by the court in one proceeding as prayed in the petition. The provisions of ORS 548.110 shall apply to the proceedings provided in this section, and jurisdiction of the corporation shall be obtained in the manner provided for irrigation or drainage districts in that section.

(3) Any landowner or person having an estate or interest therein or member of the corporation or assessment payer may, within 30 days after the entry of any order or the performance of any of the acts or things men-

tioned in subsection (1) of this section for which a contest is provided, bring a proceeding to determine the validity thereof, in which case the board of directors shall be made parties defendant and service of the summons shall be had upon the members of the board in the manner provided in ORS 548.115 for irrigation and drainage districts. The proceedings shall be tried and determined in the same manner as provided in subsections (1) and (2) of this section for proceedings brought by the corporation itself.

(4) No contest of any proceeding or matter or thing by this section provided to be had or done shall be had or maintained at any time or in any manner except as provided in this section.

**554.350 Service to lands outside district authorized; required findings; tax exemption.** (1) A corporation organized pursuant to ORS 554.010 to 554.340 may obligate itself by written contract to utilize the corporation's delivery system to deliver water for irrigation or domestic use on lands not described in its articles of incorporation, if its board of directors by resolution determines that such action does not impair the corporation's ability to service the lands described in its articles of incorporation. In furtherance of such arrangement the corporation may:

(a) Adopt plans and specifications pursuant to ORS 554.210 for the construction of works and improvements on lands described in its articles of incorporation or on lands not described therein and thereafter to construct the same; and

(b) Pursuant to ORS 554.260, jointly acquire, control and manage any works, improvements, easement or right of way necessary to fulfill its contractual obligations and bind itself for the maintenance, support and operation of the whole or any part thereof.

(2) The delivery of water, the collection of charges for such delivery and the ownership of property pursuant to this section shall not subject the corporation's income and property, wherever located, to taxation if its property and income are otherwise exempt pursuant to ORS 554.320. [1979 c.180 §2]

## **CORPORATIONS ORGANIZED UNDER 1911 ACT**

**554.410 Applicability of ORS 554.010 to 554.340 to corporations organized under 1911 Act.** Nothing in ORS 554.010 to 554.340 shall be so construed as to affect the validity of any district improvement company organized before March 4, 1937, under the provisions of chapter 172, Oregon Laws 1911, or its rights in or to property, or any of its rights or privileges of whatsoever kind or nature; but such corporations hereby are made subject to the provisions of ORS 554.010 to 554.340 so far as applicable. The provisions of ORS 554.010 to 554.340 shall not affect, impair or discharge any contract, obligation, lien or charge for or upon which such a company was or might become liable or chargeable had those sections not been passed; nor shall they affect the validity of any bonds issued prior to March 4, 1937; nor shall they affect any action then pending. All such corporations organized after March 4, 1937, shall be organized under the provisions of ORS 554.010 to 554.340 and not otherwise. Any corporation organized before March 4, 1937, under the provisions of chapter 172, Oregon Laws 1911, which amends its articles of incorporation and landowners' notice as provided in ORS 554.420, shall thereafter be subject to the provisions of ORS 554.010 to 554.340.

**554.420 Amendment of articles, and landowners' notice, of corporation organized under 1911 Act.** (1) Articles of incorporation of any district improvement company organized before March 4, 1937, under the provisions of chapter 172, Oregon Laws 1911, and the recorded notice of the owners of the lands described in such articles of incorporation, may be amended as provided in this section.

(2) If the members desire to amend the articles of incorporation they shall make, subscribe and verify, the amended articles, stating therein that such articles are for the purpose of amending articles of the same corporation theretofore filed in the office of the Corporation Commissioner and in the county where the land therein described is situated; that the amended articles are executed by such corporation by its president and secretary by authority of a resolution of the board of directors; and that such articles as amended and adopted are as therein set out. The amended articles shall specify as provided in ORS 554.040 and may determine and state

the matters provided in ORS 554.050, in which case the articles must be verified. The amended articles must describe the land with particularity and state the owners thereof and the persons having any interest therein. The board of directors shall determine whether all landowners and persons having any interest in the lands have duly executed the same. The articles shall be executed in triplicate.

(3) If satisfied therewith the board of directors may, upon the execution by all landowners of the amended landowners' notice and being satisfied therewith and that all have executed the same, by resolution authorize the president and secretary to execute the same on behalf of the corporation and attest the same with the corporate seal. Thereupon one copy of the amended articles shall be filed with the Corporation Commissioner, one in each county where the land is situated, and the third in possession of the corporation. The landowners' amended notice shall be executed and recorded in the manner provided in ORS 554.180 and 554.190.

(4) From the filing thereof the amended articles and landowners' notice shall be effective instruments for every purpose; provided that such amended notice shall in no manner affect any lien, encumbrance, interest or estate in any of the lands attached, fixed or vested at the time of filing the same, or the priority thereof. If in such amendments it appears that the corporation is not for profit and it is so stated therein as provided in ORS 554.050, the corporation shall thereafter be exempt from payment of any license fee otherwise required. (Amended by 1971 c.200 §10)

**554.430 Applicability of 1911 Act, as amended, to corporations organized under that Act.** To the extent only that, by reason of the provisions of ORS 554.410, they have not been superseded, sections 2, 3, 4, 6, 7, 8, 9, 11 and 12 of chapter 172, Oregon Laws 1911, as amended by section 2, chapter 101, Oregon Laws 1917, and by chapters 267 and 420, Oregon Laws 1927, and as supplemented by section 2, chapter 164, Oregon Laws 1923, shall remain applicable to corporations organized before March 4, 1937, under the provisions of chapter 172, Oregon Laws 1911.

**554.440 Malheur Improvement Company; exclusion or inclusion of land.** (1) Any person holding land within the Malheur Improvement Company district created under chapter 172, Oregon Laws 1911, who desires to have his land excluded from the Malheur

Improvement Company district, may file a petition with the secretary of such district. The petition shall be in writing, verified, and shall set forth the description of the lands desired to be excluded, and the reasons for such exclusion. Likewise, any person owning lands without such district who desires to have his lands included within the district, may file a petition with the secretary, which petition shall be in writing, verified, and shall set forth the reasons why the land should be included in the district, and further, that the lands are susceptible of irrigation or drainage, as the case may be, from the system of works of the district.

(2) The secretary shall present any such petition at the next meeting of the board of directors of the improvement company. The board shall fix a time for the hearing thereof, either at a special meeting of the members of the corporation called for the purpose, or at the next regular annual meeting of the members. At such meeting, the petitioners may present witnesses and be represented either in person or by attorney, to establish the allegations set forth in the petition. Upon such hearing, the matter of including or excluding such lands from the district shall be put to a vote of the members, and if a majority vote of the members owning lands in the district is in favor of the relief asked for in the petition, then an order shall be made in the minutes in accordance with such vote.

(3) The secretary shall thereupon make a certificate certifying to the fact of the filing of such petition and the hearing thereon, and the action taken by the members of the district, and in such certificate shall describe the land included or excluded from the district, as the case may be. From and after the filing of such certificate, one with the Corporation Commissioner and one with the county clerk of the county where the lands are situated, the land described in the certificate shall be included or excluded, as the case may be, in or from the improvement company district.

(4) The articles of incorporation of the Malheur Improvement Company shall upon the filing with the Corporation Commissioner and county clerk of a certificate as aforesaid, and without any procedure other than as in this section provided, be deemed amended to include or exclude, as the case may be, the lands described in such certificate; provided, however, that any land within such improvement company district, and excluded therefrom on petition, shall not be relieved from

(2) Lands excluded shall not be chargeable with a lien for any obligation incurred after the date of filing the articles of amendment with the Corporation Commissioner, providing for the exclusion of such lands. [1963 c.103 §8]

**554.580 Condition of approval of inclusion.** (1) As a condition to approval of an application, if the meeting is on an application to include lands, the members may require the applicant to agree to pay a pro rata share of all unpaid obligations incurred for improvements which the applicant would have been required to pay if his land had been in the corporation from its formation or from the time the obligations were incurred.

(2) From the date of filing articles of amendment with the Corporation Commissioner, providing for the inclusion of such lands they shall be liable for obligations incurred and assessments levied. [1963 c.103 §9]

**554.590 Executing articles of amendment.** If an application to include or exclude lands is approved, articles of amendment shall be executed and verified in triplicate by the corporation by its president and by its secretary, and shall set forth:

(1) The name of the corporation.

(2) A reference to the provision in the original or amended articles of the corporation affected and a statement of the particular land by legal subdivisions so far as possible and otherwise by tracts or lots of duly platted land or by metes and bounds, with the acreage thereof and the name of the owner as shown

by the records of the county, included or excluded by the amendment.

(3) The date the members approved the inclusion or exclusion of the land. [1963 c.103 §10; 1971 c.200 §11]

**554.600 Filing articles of amendment; issuing and recording certificate of amendment.** (1) The articles of amendment, in triplicate, shall be delivered to the Corporation Commissioner. If the Corporation Commissioner finds that the articles of amendment conform to law he shall:

(a) Indorse on each of such triplicate originals the word "Filed," and the month, day and year of the filing thereof.

(b) File one of such triplicate originals in his office.

(c) Issue a certificate of amendment in duplicate which he shall affix to the other triplicate originals.

(2) Each certificate of amendment together with a triplicate original of the articles of amendment affixed thereto by the Corporation Commissioner shall be returned to the corporation or its representative. The corporation shall file one copy of the certificate of amendment with the triplicate original of the articles of amendment affixed thereto with the county recording officer of the county where the land included or excluded by the amendment is situated. [1963 c.103 §11]

the payment of its proportion of any bonded indebtedness created and outstanding of the company, prior to the exclusion of such lands therefrom. Lands without the improvement company district, and included therein by petition, shall be subject to any assessment thereafter levied by the company, whether for bonded indebtedness or otherwise.

### INCLUSION AND EXCLUSION OF LAND

**554.510 Authority to include or exclude lands.** A corporation formed under ORS 554.010 to 554.340 may amend its articles of incorporation to include or exclude land as provided in ORS 554.510 to 554.600. [1963 c.103 §2]

**554.520 Application for inclusion or exclusion; approval of members.** When a corporation receives an application of one or more landowners either to include his lands in or exclude his lands from the corporation, the application shall be acted upon at a meeting of the members. If at the meeting the members present approve the application of the landowner by a majority vote, articles of amendment shall be executed by the corporation and filed with the Corporation Commissioner and from the date of such filing the lands described in the amendment, as recited in the amendment, shall either be included or excluded from the corporation. [1963 c.103 §3]

**554.530 Application; contents; deposit; filing.** The application of the landowner shall:

- (1) Be in writing and certified by the applicant.
- (2) State the legal description of the land the applicant wishes either included in or excluded from the corporation.
- (3) Contain a brief statement of the reason for request of the inclusion or exclusion of his lands, and if the request is to include lands, a statement that the lands will be benefited by being included in the corporation.
- (4) Be accompanied by a deposit in an amount to be determined by the corporation to pay the expenses of holding a meeting of the members to consider the application, including the cost of publishing notice of the meeting. After payment of such expenses, the balance of such deposit, if any, shall be returned to the applicant by the corporation.

(5) Be filed with the officer or clerk in charge of the principal office of the corporation. [1963 c.103 §4]

**554.540 Board to set meeting date.** At the next meeting of the board of directors of the corporation after an application is filed and the deposit for expenses paid, the secretary of the corporation shall present the application to the board of directors. The board shall fix a date and time for the members to consider the application at a meeting at the principal office of the corporation, which shall be either a special meeting called for that purpose or the next regular annual meeting of the members. [1963 c.103 §5]

**554.550 Notice of meeting.** The secretary as directed by the board shall cause notice of the meeting to be published once each week for three successive weeks prior to the meeting in a newspaper published within the boundaries of the corporation, if any, or in a newspaper of general circulation in the county, where the principal office of the corporation is situated. The notice shall state the date of filing the application, the name of the applicant, a description of the land sought to be included or excluded, and the reason therefor given by the applicant. The notice shall state that all members, creditors of the corporation and other interested persons may attend the meeting, and be heard concerning the application. [1963 c.103 §6]

**554.560 Quorum for meeting.** Notwithstanding the provision of ORS 554.070 (2) providing for a quorum to do business, the members of the corporation present shall constitute a quorum to approve or reject the application to include land in, or exclude land from, the corporation. [1963 c.103 §7]

**554.570 Effect of exclusion on existing debts.** (1) An amendment to exclude land shall not relieve any land from any lien existing at the time of the exclusion of the land, affect the date of priority of any lien of the corporation upon any land or relieve any landowner from any obligation to pay any valid outstanding bonds or indebtedness of the corporation; but the land shall continue to be subject to the lien and chargeable with all obligations outstanding at the time of the exclusion. For the purpose of enforcing any lien for such obligations, lands excluded shall be considered part of the corporation as if the exclusion had never been accomplished.



CONSIDERATION AND RECOMMENDATION OF THE DISPOSAL RATE  
STRUCTURE TO BE CHARGED AT THE ST. JOHNS LANDFILL AND  
THE CLACKAMAS TRANSFER AND RECYCLING CENTER

---

Date: September 1, 1983

Presented by: Ed Stuhr

FACTUAL BACKGROUND AND ANALYSIS

The 1984 rate study for solid waste transfer and disposal has examined the cost of operating the St. Johns Landfill and the Clackamas Transfer and Recycling Center (CTRC). A rate schedule was calculated in accordance with Metro rate policy set last year. Under that policy, base rates are the same at both facilities. The cost of operating CTRC is borne by all users in the region by means of a regional transfer charge, and by CTRC users by means of a convenience charge which is added to CTRC base rates. In addition to the new rate schedule, the study recommended that the convenience charge be changed as needed to accomplish flow control, independent of the yearly rate revision process.

The study and schedule were presented to the Rate Review Committee for a recommendation. The committee recommended that the rate study be accepted with the provision that the convenience charge not be allowed to increase during the year.

The rate study and the recommended rate schedule were presented to the Metro Solid Waste Policy Alternatives Committee. Upon consideration of the rate schedule, some members of the committee expressed dissatisfaction with the regional transfer charge approach to funding CTRC. Upon this basis, a motion was made to reject the 1984 rate study. The motion was defeated on a tie vote, and the committee adjourned without making either a formal recommendation or specific plans for further consideration of the matter.

EXECUTIVE OFFICER'S RECOMMENDATION

The Executive Officer recommends that the rate structure be adopted as proposed in the 1984 Rate Study. Additionally, it is recommended that RSC authorize the executive officer to analyze the rates for considering adjusting the convenience charge to monitor flow.

COMMITTEE CONSIDERATION AND RECOMMENDATION

The Regional Services Committee made no formal recommendation on the proposal. Staff was directed to develop alternatives to the proposal:

- (1) Effects on rates if commercial regional transfer charge was not changed.
- (2) Effects on rates if commercial convenience charge was not changed.
- (3) Effect on CTRC revenue requirements at tonnage rates from 650 to 800 tons per day, in 50 ton steps.

STAFF REPORT

The Regional Services Committee met again on October 11 to consider proposed language in the rate ordinance which would waive minimum charges for those bringing in recyclables to CTRC and St. Johns. The committee recommended to the council that the waiver be included for the public in the 1984 rate ordinance, provided that one-half cubic yard of acceptable material is recycled. As recommended, the paragraph would read:

The minimum charge for commercial vehicles shall be for one ton of solid waste. The minimum charge for private trips shall be two and one-half cubic yards for pickup trucks, vans and trailers and two cubic yards for cars. The minimum charge for private trips shall be waived for any person delivering one-half cubic yard or more of acceptable recyclable materials. Such persons shall be charged for the actual amount of waste delivered at the extra yardage rate.

BEFORE THE COUNCIL OF THE  
METROPOLITAN SERVICE DISTRICT

AN ORDINANCE RELATING TO SOLID	)	ORDINANCE NO. 83-163
WASTE DISPOSAL CHARGES AND USER	)	
FEES; AMENDING METRO CODE SECTIONS	)	
5.02.020, 5.02.025 AND 5.02.050;	)	
AND DECLARING AN EMERGENCY	)	

THE COUNCIL OF THE METROPOLITAN SERVICE DISTRICT HEREBY ORDAINS:

Section 1. Metro Code Section 5.02.020 is Amended to Read as

Follows:

"(a) A base disposal rate of [\$10.33] \$9.80 per ton of solid waste delivered is established for disposal at the St. Johns Landfill. Said rate shall be in addition to fees, charges and surcharges established pursuant to Sections 8, 9 and 10 of this ordinance. [The minimum charge for commercial vehicles shall be for one ton of solid waste.]

"(b) The minimum charge for commercial vehicles shall be for one ton of solid waste. The minimum charge for private trips shall be two and one-half cubic yards for pickup trucks, vans and trailers and two cubic yards for cars. The minimum charge for private trips shall be waived for any person delivering one-half cubic yard or more of acceptable recyclable materials. Such persons shall be charged for the actual amount of waste delivered at the extra yardage rate.

[(b)] (c) The following disposal charges shall be collected by the Metropolitan Service District from all persons disposing of solid waste at the St. Johns Landfill:



## ST. JOHNS LANDFILL

<u>Vehicle Category</u>	<u>Base Rate</u>		<u>Metro User Fee</u>		<u>Regional Transfer Charge</u>		<u>Total Rate</u>	
	<u>\$/ton</u>	<u>\$/cy</u>	<u>\$/ton</u>	<u>\$/cy</u>	<u>\$/ton</u>	<u>\$/cy</u>	<u>\$/ton</u>	<u>\$/cy</u>
<u>COMMERCIAL</u>								
Compacted	\$9.80	\$2.90	\$1.68	\$0.43	\$2.00	\$0.52	\$13.48	\$3.85
Uncompacted	9.80	1.23	1.68	0.25	2.00	0.30	13.48	1.78

	<u>Base Rate</u>		<u>Metro User Fee</u>		<u>Regional Transfer Charge</u>		<u>Total Rate</u>	
	<u>Per Trip</u>		<u>Per Trip</u>		<u>Per Trip</u>		<u>Per Trip</u>	
<u>PRIVATE</u>								
Cars <sup>1</sup>	\$4.62		\$0.54		\$1.34		\$6.50	
Station Wagons <sup>1</sup>	4.62		0.54		1.34		6.50	
Vans <sup>2</sup>	5.37		0.54		1.34		7.25	
Pickups <sup>2</sup>	5.37		0.54		1.34		7.25	
Trailers <sup>2</sup>	5.37		0.54		1.34		7.25	
Extra Yards	2.30		0.27		0.68		3.25	

	<u>Base Rate</u>		<u>Metro Fee</u>		<u>Regional Transfer Charge</u>		<u>Total Rate</u>	
<u>TIRES<sup>3</sup></u>								
Passenger (up to 10 ply)	\$0.25						\$0.25	
Passenger Tire (on rim)	1.00						1.00	
Tire Tubes	0.25						0.25	
Truck Tires	2.75						2.75	
(20" diameter to 48" diameter on greater than 10 ply)								
Small Solids	2.75						2.75	
Truck Tire (on rim)	7.75						7.75	
Dual	7.75						7.75	
Tractor	7.75						7.75	
Grader	7.75						7.75	
Duplex	7.75						7.75	
Large Solids	7.75						7.75	

<sup>1</sup>Based on a minimum load of two cubic yards.<sup>2</sup>Based on a minimum load of two and one-half cubic yards.<sup>3</sup>Cost per tire is listed.

Section 2. Metro Code Section 5.02.025 is Amended to Read as Follows:

"(a) A base disposal rate of [~~\$10.33~~] \$9.80 per ton of solid waste delivered is established for solid waste disposal at the Clackamas Transfer & Recycling Center.

(b) A convenience charge of [~~\$1.49~~] \$2.25 per ton of solid waste delivered is established to be added to the base disposal rate at Clackamas Transfer & Recycling Center.

(c) The base disposal rate and convenience charge established by this section shall be in addition to fees, charges and surcharges established pursuant to Sections 8, 9 and 10 of this ordinance. [The minimum charge for commercial vehicles shall be for one ton of solid waste.]

"(d) The minimum charge for commercial vehicles shall be for one ton of solid waste. The minimum charge for private trips shall be two and one-half cubic yards for pickup trucks, vans and trailers and two cubic yards for cars. The minimum charge for private trips shall be waived for any person delivering one-half cubic yard or more of acceptable recyclable materials. Such persons shall be charged for the actual amount of waste delivered at the extra yardage rate.

[(d)] (e) The following disposal charges shall be collected by the Metropolitan Service District from all persons disposing of solid waste at the Clackamas Transfer & Recycling Center:

<u>Vehicle Category</u>	<u>Base Rate</u>		<u>Metro User Fee</u>		<u>Regional Transfer Charge</u>		<u>Convenience Charge</u>		<u>Total Rate</u>	
	<u>\$/ton</u>	<u>\$/cy</u>	<u>\$/ton</u>	<u>\$/cy</u>	<u>\$/ton</u>	<u>\$/cy</u>	<u>\$/ton</u>	<u>\$/cy</u>	<u>\$/ton</u>	<u>\$/cy</u>
<u>COMMERCIAL</u>										
Compacted	\$9.80	\$2.90	\$1.68	0.43	\$2.00	\$0.52	\$2.25	\$0.57	\$15.73	\$4.42
Uncompacted	9.80	1.23	1.68	0.25	2.00	0.30	2.25	0.33	15.73	2.11

<u>Vehicle Category</u>	<u>Base Rate</u>		<u>Metro User Fee</u>		<u>Regional Transfer Charge</u>		<u>Convenience Charge</u>		<u>Total Rate</u>	
	<u>Per Trip</u>	<u>Per Trip</u>	<u>Per Trip</u>	<u>Per Trip</u>	<u>Per Trip</u>	<u>Per Trip</u>	<u>Per Trip</u>	<u>Per Trip</u>	<u>Per Trip</u>	<u>Per Trip</u>
<u>PRIVATE</u>										
Cars <sup>1</sup>	\$4.62		\$0.54		\$1.34		\$0.75		\$7.25	
Station Wagons <sup>1</sup>	4.62		0.54		1.34		0.75		7.25	
Vans <sup>2</sup>	5.37		0.54		1.34		0.75		8.00	
Pickups <sup>2</sup>	5.37		0.54		1.34		0.75		8.00	
Trailers <sup>2</sup>	5.37		0.54		1.34		0.75		8.00	
Extra Yards	2.31		0.27		0.68		0.35		3.60	

<u>Vehicle Category</u>	<u>Base Rate</u>		<u>Metro Fee</u>		<u>Regional Transfer Charge</u>		<u>Total Rate</u>	
	<u>\$/ton</u>	<u>\$/cy</u>	<u>\$/ton</u>	<u>\$/cy</u>	<u>\$/ton</u>	<u>\$/cy</u>	<u>\$/ton</u>	<u>\$/cy</u>
<u>TIRES<sup>3</sup></u>								
Passenger (up to 10 ply)	\$0.50						\$0.50	
Passenger Tire (on rim)	1.25						1.25	
Tire Tubes	0.25						0.25	
Truck Tires	3.75						3.75	
(20" diameter to 48" diameter on greater than 10 ply)								
Small Solids	3.75						3.75	
Truck Tire (on rim)	8.75						8.75	
Dual	8.75						8.75	
Tractor	8.75						8.75	
Grader	8.75						8.75	
Duplex	8.75						8.75	
Large Solids	8.75						8.75	

<sup>1</sup>Based on a minimum load of two cubic yards.

<sup>2</sup>Based on a minimum load of two and one-half cubic yards.

<sup>3</sup>Cost per tire is listed.

Section 3. Metro Code Section 5.02.050 is Amended to Read as Follows:

"(a) There is hereby established a regional transfer charge which shall be a charge to the operators of solid waste disposal facilities for services rendered by Metro in administering and operating solid waste transfer facilities owned, operated or franchised by Metro. Such charge shall be collected and paid in the form of an add-on to user fees established by Section 8 of this ordinance.

"(b) The following regional transfer charges shall be collected and paid to Metro by the operators of solid waste disposal facilities, whether within or without the boundaries of Metro, for the disposal of solid waste generated, originating or collected within Metro boundaries:

- (1) For noncompacted solid waste, [~~\$0.22~~] \$0.30 per cubic yard delivered; [~~\$1.47~~] \$2.00 per ton delivered.
- (2) For compacted solid waste, [~~\$0.38~~] \$0.52 per cubic yard delivered; [~~\$1.47~~] \$2.00 per ton delivered.
- (3) For all material delivered in private cars, station wagons, vans, single and two wheel trailers, trucks with rated capacities of less than one (1) ton, [~~\$0.80~~] \$0.68 per cubic yard with a minimum charge of [~~\$1.60~~] \$1.34 per load."

Section 4: The Council finds that, in order to recoup sufficient revenue to operate disposal facilities and programs for FY 1984, it is necessary that the rates established herein be effective by January of 1984. Therefore, an emergency is hereby declared to exist pursuant to ORS 268.515(7), and the rates, fees and charges established by this ordinance shall be effective on and after January 1, 1984.

ADOPTED by the Council of the Metropolitan Service District  
this \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_.

\_\_\_\_\_  
Presiding Officer

ATTEST:

\_\_\_\_\_  
Clerk of the Council

AJ/gl  
0014C/353

STAFF REPORT

Agenda Item No. 7.3

Meeting Date December 1, 1983

CONSIDERATION OF PROJECT INITIATIVES PROGRAM  
DRAINAGE REPORT.

---

Date: November 1, 1983

Presented by: Ray Barker

FACTUAL BACKGROUND AND ANALYSIS

During Metro's FY 1983-84 budget process it was determined that a Project Initiatives Program (PIP) would be implemented during the 1983-84 fiscal year. Four projects were identified for study: drainage, parks, correctional facilities and libraries. After discussion and recommendation by the Development Committee, the Metro Council decided on August 4, 1983 to conduct a limited study of drainage issues in the region.

Task number one of the PIP Work Plan was undertaken by the Metro Council Assistant. The task was to prepare a description of existing drainage services in the region.

The preliminary report for task number one is presented to the Development Committee for review and consideration. The report includes the results of a survey of drainage issues in the 24 cities and 3 counties in the region.

Based upon the findings, the report includes a recommendation that Metro proceed with task number two of the PIP. That task is to analyze Metro's ability to solve or mitigate drainage problems in the region.

The other major recommendation is for Metro to limit its role in drainage to that of planning and coordination.

EXECUTIVE OFFICER'S RECOMMENDATION

The Executive Officer recommends that Metro proceed with Task Two of the Project Initiatives Program.

COMMITTEE CONSIDERATION AND RECOMMENDATION

On November 7, 1983, the Regional Development Committee recommended Council approval to proceed with Task Two of the Project Initiatives Program.

RB:tj



Tektronix, Inc.  
P.O. Box 500  
Beaverton, Oregon 97077

Phone: (503) 627-7111  
TWX: 910-467-8708  
TLX: 15-1754

October 17, 1983

**RECEIVED**  
OCT 19 1983

Mr. Richard C. Waker  
MSD Councilor, District 2  
11080 SW Allen Boulevard  
Beaverton, Oregon 97005

Dear Dick:

Thank you for forwarding to me a copy of the relevant portions of the MSD Council meeting of August 25 at which the Westside Light Rail Transit project was discussed and acted upon by the Council.

I also would like to thank you for your thoughtful and timely remarks on this project before the Washington County Public Affairs Forum.

My purpose in writing is to underscore our interest in seeing an independent professional review of the statistical baseline information and the fundamental assumptions used to justify the Westside LRT project. Our hope is that this independent analysis, approved as an amendment to Resolve No. 3, could begin before irreversible commitments are made on preliminary engineering studies of the Westside LRT.

There have been recent stories indicating federal approval of engineering studies for the Westside LRT which confirms the point I made in my testimony before the Council about "project creep." This situation cries out for solid facts and for clear decisions.

It was not clear to me based on what I heard at the August 25 meeting of the MSD Council how the independent analysis of this project would be undertaken. Therefore, I would encourage you to press for such a study at the earliest possible time.

While I believe it is important for this study to be truly independent, I am willing to make myself available in any role that you and others may feel appropriate.

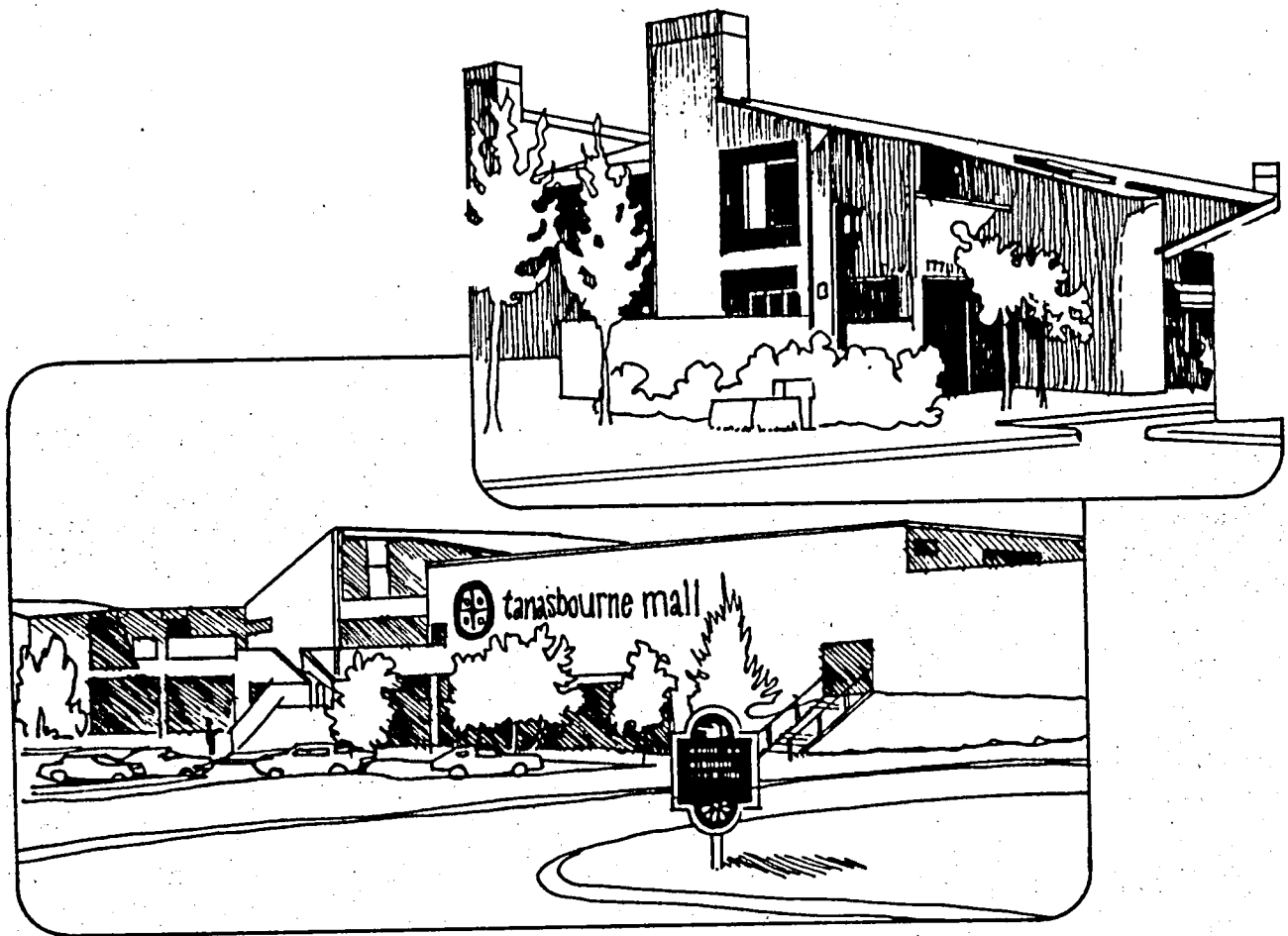
Thank you again for your leadership in this issue. I look forward to hearing from you.

With warm regards,

Sincerely,

GARY L. CONKLING  
Manager, Government Relations

# WASHINGTON COUNTY COMPREHENSIVE PLAN



## VOLUME XI SUNSET WEST COMMUNITY PLAN BACKGROUND DOCUMENT ORDINANCE NOS. 278, 280

A buspool is a special express bus service for people who start to work earlier or later than normal commuter hours when buses are available. Buspools are generally initiated by a large employer or a group of employers, organized with the help of Tri-Met staff.

Tektronix also is operating vanpools for its employees. Under Tri-Met's guidance, Tektronix has purchased vans for the use of commuting employees who wish to rideshare. Riders are charged a monthly fee which is applied toward payment of the van.

Carpools may be organized through employers or independently through the Tri-Met CARPOOL service. Three or more persons sharing a ride and gas constitutes a carpool. This service is provided throughout the planning area.

### Sunset Light Rail Transit

The Sunset LRT was endorsed as the region's preferred transitway alternative on the westside of the Portland region. Washington County has participated throughout the examination of various transitway alternatives in the Westside Corridor and in March, 1983, endorsed the Sunset LRT as the Westside Corridor preferred alternative (Resolution and Order #83-46).

The Sunset LRT will directly serve the Sunset West planning area to 185th Avenue. Figure 17 shows the alignment of the Sunset LRT. The final design and engineering of the Sunset LRT will commence in October, 1983. Construction of the Sunset LRT could begin as early as 1985/86, depending on funding availability.

As a part of the Sunset LRT project bus service will be reoriented in the Sunset West planning area to serve the transit stations that are built in conjunction with the light rail.

### Bicycle/Pedestrian Paths

The Washington County Transportation Plan adopted a bicycle route system as an element of the overall County transportation system. The bicycle route system is basically a refinement of the 1975 Washington County Bicycle-Pedestrian Pathway Master Plan. Figure 18 shows the bicycle route system in the Sunset West planning area. Two types of routes are shown: 1) off-right-of-way routes that note transmission line easements on flood plain areas that may be suitable for paths; and 2) roadway routes that follow the alignments of existing roads. Both types of routes have been determined to be suitable for either recreational or commuter use by bicycles and/or pedestrians.

The Transportation Plan includes design criteria for the construction of bicycle routes based upon expected use and road type. Although a number of routes have been designated in the planning area, the completion rate for bikeway construction has been slow due to funding limitations. Many of the bike routes will be formally established as a part of road improvements in the planning area.





METRO

METROPOLITAN SERVICE DISTRICT  
527 S.W. HALL ST., PORTLAND, OR. 97201, 503/221-1646

## MEMORANDUM

Date: October 27, 1983

To: Metro Council

From: Rick Gustafson, Executive Officer *RG*

Regarding: REPORT ON RESOLUTION NO. 83-249--Establishing  
a Study Commission on Metropolitan Governance  
in the Greater Portland Area

This memo is in response to the above numbered Resolution adopted by the Council on October 6, 1983. The Resolution requires me to report on the level of community interest in forming such an organization.

There are several efforts presently commencing to study various aspects of regional governance. The City Club has established a committee to investigate the structure, financing and public acceptability of Metro. The committee will commence work in November and will continue for a one year period.

Another effort underway is establishment of a Legislative Task Force on Metropolitan Governance. The Task Force will be chaired by Representative Otto and members include Representatives Calouri, Hooley, Lindquist, Shiprack, Smith and Zajonc. The work program has not been adopted but in initial discussions with Representative Otto, the Task Force will review Metro's structure and financing, Tri-Met and Regional Jails.

Additionally, I have discussed the need for regional government review with the leadership of the Metropolitan Citizens League and the Columbia-Willamette Futures Forum. Both bodies have indicated interest in participating in some manner in conducting a review of regional level government.

I recommend that Metro encourage any interested group in undertaking study projects covering regional government structure, functions and financing. I also recommend that such efforts be focused toward the Legislative Task Force of Metropolitan Governance. The Task Force can serve a useful purpose as the ultimate coordinating body of all the individual efforts. The Task Force could attempt to establish a cooperative effort with various interested civic groups. I support such an effort and will continue to work with Rep. Otto to create a cooperative citizens review body.

RG:ef



METROPOLITAN SERVICE DISTRICT  
527 S.W. HALL ST., PORTLAND OR. 97201, 503/221-1646

## A G E N D A --- REGULAR COUNCIL MEETING

Date: OCTOBER 27, 1983

Day: THURSDAY

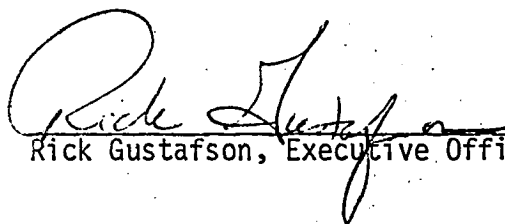
Time: 7:30 P.M.

Place: COUNCIL CHAMBER

### C O N S E N T   A G E N D A

The following business items have been reviewed by the staff and an officer of the Council. In my opinion, these items meet with the Consent List Criteria established by the Rules and Procedures of the Council. The Council is requested to approve the recommendations presented on these items.

- 6.1 Minutes of the meetings of July 7, September 8, and September 29, 1983.
- 6.2 Resolution No. 83-432, for the purpose of submitting the Areawide Water Management Plan for recertification.

  
Rick Gustafson, Executive Officer

MINUTES OF THE COUNCIL OF THE  
METROPOLITAN SERVICE DISTRICT

EXECUTIVE SESSION  
JULY 7, 1983

Councilors Present: Councilors Banzer, Bonner, Deines,  
Etlinger, Hansen, Kafoury, Kelley,  
Kirkpatrick, Oleson, Van Bergen, Waker,  
and Williamson.

Also Present: Rick Gustafson, Executive Officer.

Staff Present: Andrew Jordan, Donald Carlson, and Ray  
Barker.

An Executive Session of the Council of the Metropolitan Service District was convened at 6:30 p.m., under the provisions of ORS 192.161(h) for the purpose of discussing labor negotiations with the Zoo Employees Union. The Executive Session adjourned at 7:10 p.m.

MINUTES OF THE COUNCIL OF THE  
METROPOLITAN SERVICE DISTRICT

REGULAR MEETING  
JULY 7, 1983

Councilors Present: Councilors Banzer, Bonner, Deines,  
Etlinger, Hansen, Kafoury, Kelley,  
Kirkpatrick, Oleson, Van Bergen, Waker,  
and Williamson.

Also Present: Rick Gustafson, Executive Officer.

Staff Present: Donald Carlson, Andrew Jordan, Ray Barker,  
Dan Durig, Norm Wietting, Dan LaGrande,  
Sonnie Russill, Diane Dimon, Dennis O'Neil,  
Mark Brown, Andy Cotugno, Jennifer Sims.

Testifiers: Michael Shinn, Peter Staples, Frances  
Hyson, Dr. John Anthony, Vern Rifer,  
Geraldine Ball, Ken Bunker, Jeanne Orcutt,  
and Beth Blunt.

A regular meeting of the Council of the Metropolitan Service District was called to order at 7:21 p.m. by Presiding Officer Banzer.

1. Introductions.

There were no introductions.

2. Councilor Communications.

There were no Councilor communications.

3. Executive Officer Communications.

Mr. Gustafson reported that RP&I Construction Company, the prime contractor on the Penguinarium Project and the joint venture prime contractor on the Alaska Tundra Project, had filed for reorganization under Chapter 11 of the Federal Bankruptcy Act.

Mr. Andrew Jordan, Legal Counsel, presented a memo regarding the Alaska and Penguinarium contracts (attached to the agenda of the meeting). He said Metro's interest was protected by bonds and if RP&I was not able to complete the projects, the surety companies would retain a new contractor to complete them.

Mr. Gustafson then reported that the Land Use Board of Appeals (LUBA) had remanded the Wildwood Landfill Conditional Use permit back to Multnomah County.

Mr. Jordan presented a memo regarding the LUBA decision and the reasons why LUBA decided the landfill did not comply with County standards (a copy of the memorandum is attached to the agenda of the meeting).

Councilor Hansen requested that members of the Council receive a copy of the LUBA decision.

Dan Durig, Solid Waste Director, presented a staff report which included Metro's landfill siting history and a copy of Resolution No. 81-252 which designated Wildwood as the regional landfill site for the area (a copy of the staff report is attached to the agenda of the meeting). He outlined the options available to Metro given LUBA's recent decision:

- a. Appeal the LUBA decision to the Court of Appeals;
- b. Request that Multnomah County modify its Comprehensive Plan and zoning ordinance so that its landfill siting criteria are possible to meet when strictly interpreted;
- c. Request that the Oregon Department of Environmental Quality site the landfill under terms of state law; and
- d. Investigate, locate, and obtain permits for an alternate landfill site.

Mr. Gustafson said his recommendation was that Metro simultaneously pursue the appeal of the LUBA decision to the Court of Appeals and urge that Multnomah County modify its relevant land use standards and reapprove the conditional use permit.

Councilor Kelley asked if it was known what the effect would be if the Multnomah County Comprehensive Plan were changed. Mr. Jordan responded that LUBA did not say that the standards in the zoning ordinance were inappropriate across the board; only that they were inappropriate for the job of siting a regional landfill. He said the question before the County could be very narrow--whether there ought to be a different standard for siting a regional landfill. He said he thought the question could easily be handled by the County without substantially revising other provisions of the Comprehensive Plan.

Motion:

Councilor Kirkpatrick moved adoption of the Executive Officer's recommendation to simultaneously pursue the appeal of the LUBA decision to the Court of Appeals and urge that Multnomah County modify its relevant land use standards and the conditional use permit. Councilor Kafoury seconded the motion.

Motion to substitute: Councilor Deines moved to substitute the main motion with the following:

That the question of the LUBA decision be referred to the Regional Services Committee meeting of July 12th for public hearing and to make a recommendation to the Council at the July 26th meeting. Councilor Bonner seconded the motion.

Michael Shinn, Route 1, Box 120EEE, Portland, 97231, President, West Hills & Island Neighbors, recommended that the Council members read the LUBA opinion before making any decision. He said he disagreed with Mr. Jordan that LUBA indicated Multnomah County should amend its Comprehensive Plan. He said the site was inappropriate for a landfill and Metro should look for an alternate site.

Peter Staples, 12847 N.W. Alderview, Portland, said he read the LUBA decision differently than Mr. Jordan. His interpretation was that LUBA had decided Metro couldn't site a landfill in that particular area given Multnomah County's ordinances. He said he opposed changing the Multnomah County Comprehensive Plan to allow a regional landfill.

Frances Hyson, 17607 S.E. Mill Street, asked how much had been spent on the Wildwood site. Presiding Officer Banzer responded that approximately \$500,000 had been spent selecting the Wildwood site. Ms. Hyson stated that \$500,000 was too much and wrong for one site. She said Metro should look at other sites for a landfill.

Councilor Kirkpatrick stated that she had no objection to the issue going to the Services Committee but emphasized that the Council knew from the beginning that they would have to go to this point.

Presiding Officer Banzer commented she believed the LUBA decision was an overstrict interpretation of the Comprehensive Plan; that it was appropriate to pursue the change to Multnomah County's standards; and that she supported the appeal to the Court of Appeals.

Councilor Etlinger said he didn't think there was any indication that Multnomah County was going to change their Comprehensive Plan to accommodate a landfill for Metro and would be surprised if they did.

Vote on  
substitute  
motion:

The vote on the motion to refer LUBA's decision on the Wildwood Landfill to the Regional Services Committee resulted in:

Ayes: Councilors Banzer, Bonner, Deines, Etlinger, Hansen, Kafoury, Kelley, Oleson, Waker, and Williamson.

Nays: Councilors Kirkpatrick and Van Bergen.

Motion carried.

4. Written Communications to Council on Non-Agenda Items.

There were no written communications to Council on Non-Agenda items.

5. Citizen Communications to Council on Non-Agenda Items.

There were no citizen communications to Council on Non-Agenda items.

6. Presentation of Energy Recovery Review Task Force Report.

Dr. John Anthony, Chairman, Energy Recovery Review Task Force, said the purpose of the Task Force was to assist the Council and Executive Officer in addressing policy issues related to an independent community review of the energy recovery facility proposal. He said they were asked to look at three specific areas: environmental aspects; legal responsibilities related to the construction; and the financing methods. He said subcommittees reviewed air quality modeling, health impacts, and recycling. He stated their general conclusions were:

- a. The Energy Recovery Project proposal was an appropriate method for the disposal of solid waste in the region.
- b. If built under the conditions as outlined by the task force, the Energy Recovery proposal would provide a reliable, legally and financing feasible, and environmentally sound facility that could be sited in the metropolitan area in a manner which served the public interest.
- c. The Oregon City site was a suitable location for such a facility.

He said in addition to their general conclusions, the task force report contained twenty-six specific recommendations to Metro regarding the energy recovery facility.

Councilor Deines asked what were the feelings about the environmental impacts.

Mr. Vern Rifer, member of the task force, responded that it was the unanimous conclusion of the task force that recycling, landfilling and energy recovery were necessary to make a combined program in the metropolitan area. He said the environmental impacts from landfilling were no worse nor better than from energy recovery and that the effects were controllable.

Councilor Oleson asked that given their conclusions, would the task force want Metro to pursue an energy recovery facility.

Dr. Anthony responded that it was not their position to make a recommendation one way or another. However, he reiterated it was the consensus of the Committee that all three types of waste disposal were needed and that an energy recovery facility was an appropriate, and necessary, facility for the region.

Mr. Gustafson expressed his gratitude to Dr. Anthony, Mr. Rifer, and members of the task force for their work.

Councilor Deines requested that the Presiding Officer write letters of appreciation to the members of the task force on behalf of the Council.

(A copy of the report of the task force is attached to the agenda of the meeting.)

7.1 Consideration of Resolution No. 83-416, for the purpose of amending the pay plan and awarding additional personal holidays.

Councilor Kirkpatrick stated that the resolution was the result of a recommendation of the Budget Committee and she supported its adoption.

Motion: Councilor Kirkpatrick moved adoption of Resolution No. 83-416. Councilor Hansen seconded the motion.

Councilor Deines stated he was going to vote against the resolution because he was opposed to the five personal holidays awarded to the employees.



Vote: The vote on the motion resulted in:

Ayes: Councilors Banzer, Bonner, Etlinger,  
Hansen, Kafoury, Kelley, Kirkpatrick,  
Oleson, and Waker.

Nays: Councilors Deines, Van Bergen, and  
Williamson.

Motion carried, Resolution adoption.

8.1 Consideration of Ordinance No. 83-158, amending the Metro Urban  
Growth Boundary in Multnomah County for Contested Case No.  
81-6. (Jenne Lynd Acres) (Second Reading)

Mark Brown, Development Services Planner, briefly reviewed the staff report, as contained in the agenda of the meeting. He stated that no new information had been received since the first reading of the ordinance.

The ordinance was read a second time, by title only.

Frances Hyson, 16507 S.E. Mill Street, stated that at the meeting of June 23rd when the ordinance was read the first time, a letter from Bruce Brewmeister was entered into the record but not actually read into the record. She said it should have been and proceeded to read the letter into the record.

Councilor Kelley said she was not on the Council when the initial decisions were made on the proposal and she could not support the ordinance.

Vote: The vote on the motion to adopt Ordinance No. 83-158, made by Councilors Etlinger and Kirkpatrick on June 23, 1983, resulted in:

Ayes: Councilors Banzer, Bonner, Deines,  
Etlinger, Hansen, Kirkpatrick, Oleson,  
Van Bergen, Waker, and Williamson.

Nays: Councilors Kafoury and Kelley.

Motion carried, Ordinance adopted.

8.2 Consideration of Ordinance No. 83-157, adopting a codification of Metro Ordinances and repealing Ordinance No. 30. (First Reading)

Councilor Kirkpatrick reported that the Council Coordinating Committee unanimously recommended Council adoption of the ordinance.

Motion: Councilor Kirkpatrick moved adoption of Ordinance No. 83-157. Council Deines seconded the motion.

The ordinance was read a first time, by title only.

Geraldine Ball, 11515 S.W. 91st, Tigard, representing herself and D.J.B., Inc., submitted and read testimony requesting an interpretation of the Urban Growth Boundary (UGB) section of the Code and whether a trade could be affected which would remove property from the UGB and therefore lower the price of the property.

Mr. Jordan responded that the existing Metro ordinances provided that a trade may be made whereby land would come into the UGB in exchange for other land that would go out of the UGB. However, he said, it would be illegal to trade a piece out for the purpose of condemnation and a trade couldn't occur without the agreement of the property owners.

Ken Bunker, 1825 N.E. 125th Avenue, asked several questions regarding the Personnel section of the Code. He specifically questioned how long personnel had to work before they qualified for a leave, with or without pay. Mr. Jordan responded to Mr. Bunker's questions.

Councilor Kirkpatrick pointed out that the issue before the Council was the codification of existing ordinances and not specific elements of the ordinances to be codified.

Presiding Officer Banzer said it would be appropriate for the Council Coordinating Committee to review the specific concerns of Mr. Bunker regarding the Personnel section of the Code and asked Councilor Kirkpatrick to place the issue on her Committee's agenda.

The ordinance was passed to second reading on July 26, 1983.

8.3 Consideration of Ordinance No. 83-159, for the purpose of creating a reserve fund, amending Ordinance No. 82-153, and declaring an emergency.

Councilor Kirkpatrick reported that because of the nature of the ordinance and its timing, the Council Coordinating Committee had not had an opportunity to review the ordinance.

Motion: Councilor Kirkpatrick moved adoption of Ordinance No. 83-159. Councilor Waker seconded the motion.

Jennifer Sims, Budget and Administrative Services Manager, said that at the June 23rd when the Council adopted the budget ordinance there were changes proposed which would have amended the ordinance. Those recommended changes, she said, were not included as formal amendments at that time. She said the amending ordinance before the Council would rectify the omission. She said the emergency clause was necessary in order to meet the State's July 15th deadline for presentation of the budget.

The ordinance was then read by title only.

Councilor Deines stated he objected to the size of the Solid Waste Capital Fund but because the ordinance needed to be passed he would not participate in the voting.

Vote: The vote on the motion to adopt the ordinance resulted in:

Ayes: Councilors Banzer, Bonner, Etlinger, Hansen, Kafoury, Kelley, Kirkpatrick, Oleson, Van Bergen, Waker, and Williamson.

Nays: None.

Absent: Councilor Deines.

Motion carried, Ordinance adopted.

At this time, the Council recessed for five minutes.

9. Consideration of Metro/Tri-Met Relationship.

9.1 Resolution No. 82-407, for the purpose of declaring the Metropolitan Service District Council's intent to develop a plan and bring about the merger of Metro and Tri-Met.

- 9.2 Resolution No. 83-408, for the purpose of declaring the Metropolitan Service District Council's intent to do nothing toward the merger of the Tri-County Metropolitan Transportation District and the Metropolitan Service District.
- 9.3 Resolution No. 83-409, for the purpose of declaring the Metropolitan Service District Council's intent to commence the evaluation of combined Metro/Tri-Met functions.
- 9.4 Resolution No. 83-415, for the purpose of supporting the creation of a study commission to investigate and make recommendations on governance at metropolitan level including Tri-Met/Metro relationship.

Motion: Councilor Oleson moved adoption of Resolution No. 83-421, A Resolution for the purpose of supporting the intent of State Policy regarding transit operation in the Portland Metropolitan area and establishing a cooperative process to implement the state policy. Councilor Waker seconded the motion.

Presiding Officer Banzer then opened the public hearing.

Jeanne Orcutt, 12831 S.E. Morrison, 97233, spoke in opposition to Metro's take-over of Tri-Met. She cited examples of what she believed was Metro's inability to respond to the public. She also complained that former Councilors and public officials were allowed to testify prior to citizens at the initial public hearing on the Metro/Tri-Met relationship despite the order in which the sign-up cards were submitted.

Frances Hyson, 16507 S.E. Mill Street, testified in opposition to a Metro take-over of Tri-Met. She said the citizens were not listened to by the Metro Council.

Beth Blunt, President, Columbia River Region Inter-League Organization of the League of Women Voters, 45210 S.E. Coalman Road, Sandy, 97055, submitted and read a letter indicating support of Resolution No. 83-415 which would establish a metropolitan commission, independent of the Council, to "develop realistic recommendations for improvements to our metropolitan governance system" and did not support a Metro merger with Tri-Met at this time (a copy of the letter is attached to the agenda of the meeting).

Councilor Kafoury said the problem with Resolution 83-415 was that she was not comfortable with one organization being charged with the responsibility. She said she believed the discussion should involve as many organizations and citizens as are interested in the region. Ms. Blunt said she understood the role the Metropolitan Citizens League would play would be one of making nominations to the Commission.

Ken Bunker, 1825 N.E. 125th Avenue, said Councilor Kafoury brought up good points and that a good group of citizens from all over was needed if a study was conducted. He also expressed concern about the funding for a study.

Councilor Deines said he was not prepared to vote that evening given the introduction of a new resolution and amendments which were being proposed at the last minute. He suggested that a time be set after which no more additions would be considered and then make a final decision.

Councilor Bonner withdrew his Resolution, No. 83-407 from consideration and indicated support for Resolution No. 83-421.

Councilor Hansen said he supported Resolution No. 83-421 and if it was adopted, there was no reason to consider his Resolution No. 83-409 or any of the other resolutions proposed.

Motion to Councilor Kafoury moved to substitute  
Substitute: Resolution No. 83-415 for Resolution No.  
83-421. Councilor Williamson seconded the  
motion.

Councilor Kafoury said the problem with Resolution No. 83-421 was that it assumed a take-over of Tri-Met which she couldn't support and believed that the general study proposed by the Metropolitan Citizens League was the more appropriate step to take.

Councilor Kelley said she agreed with Councilor Kafoury. She said she believed the legislation provided for Metro operating Tri-Met but that merged operations should only occur when it was in the best interests of the region.

Councilor Van Bergen stated he was opposed to Resolution No. 83-421. He said he was disturbed that the resolution was introduced only that evening with seven Councilors sponsoring it.

Councilor Etlinger stated the intent of Resolution No. 83-421 was very simple--affirming the state's policy to provide for the consolidation of regional governments and establish an elected governing body. He said the "do nothing" position would change state policy and turn the clock back. He said a study should occur which would look at Metro's future structure, funding and other functional issues, but was a separate issue than the Tri-Met issue.

Councilor Williamson said he had been Chair of JPACT for 4-1/2 years and that transportation was one of the areas where Metro had performed well. He expressed concern that any action on a Tri-Met take over might hinder Metro's relationship with the jurisdictions in the region. He said he was opposed to Resolution No. 83-421, but could support a broad based study which looked at Metro's functions including Tri-Met. He said Metro's track record indicated it was not ready to take over Tri-Met.

Councilor Waker said the issue was simple--that Tri-Met was an agency which used tax dollars to provide services and citizens should have the choice of who should spend those tax dollars. He said he would vote for Resolution No. 83-421 when the opportunity arose. He then read into the record a letter from State Representative Delna Jones which summarized the results of a survey of the Washington County legislative delegation regarding the Tri-Met and Metro relationship (a copy of the letter is attached to the agenda of the meeting).

Councilor Kirkpatrick commented that the question before the Council was probably the toughest the Council had faced. She said she believed philosophically that Metro should run Tri-Met, but not at this time. She said whatever the decision was that it should be a clear indication of Metro's philosophy and they should work toward its achievement.

Mr. Gustafson said he supported Resolution No. 83-421 based on two understandings: 1) that it was the intent of the majority of the Council to conduct a review of the Metro/Tri-Met relationship; and 2) that the door be left open for Tri-Met or other groups to influence how the process was undertaken to review the relationship. He pointed out that Resolve No. 1 in Resolution No. 83-421 could be misinterpreted and that it was his interpretation that it was a statement of support of state policy to eventually, without a time certain, have the transit operation under an elected board. He said he still supported the Metropolitan Citizens League proposal because it would not only study the Tri-Met issue, but other Metro related issues as well.

Vote: The vote on the motion to substitute Resolution No. 83-421 with Resolution No. 83-415, resulted in:

Ayes: Councilors Etlinger, Kafoury, Kelley, Kirkpatrick, and Williamson.

Nays: Councilors Banzer, Bonner, Hansen, Oleson, Van Bergen, and Waker.

Absent: Councilor Deines.

Motion failed.

Presiding Officer Banzer said the original motion to adopt Resolution No. 83-421 was now before the Council for consideration.

Motion to  
Amend:

Councilor Kafoury moved to delete Resolve Nos. 1, 2 and 3 from Resolution No. 83-421 and substitute the following:

1. That the Council of the Metropolitan Service District will initiate a review of the Metro/Tri-Met relationship and will encourage and provide opportunities for participation in such review by all interested citizens in the region.
2. That the Council of the Metropolitan Service District directs the Presiding Officer and the Executive Officer to meet with Tri-Met officials and other interested parties to invite their active participation in such a review; and to submit a progress report to the Metro Council in 60 days.
3. That the results of such a review will serve as the basis for developing a permanent organizational relationship between Metro and Tri-Met.

Councilor Kirkpatrick seconded the motion.

Councilor Kafoury said she proposed the amendments because she couldn't support the language in the existing resolution. She

said her amendments indicated that a review was needed and would encourage that such a review take place with input from Tri-Met, citizens and other interested groups; and that the review would form the basis for making further decisions about a permanent relationship between the organizations.

Vote on  
motion  
to amend:

The vote on the motion to amend Resolution No. 83-421 resulted in:

Ayes: Councilors Kafoury, Kelley, Kirkpatrick, and Williamson.

Nays: Councilors Banzer, Bonner, Etlinger, Hansen, Oleson, Van Bergen, and Waker.

Absent: Councilor Deines.

Motion failed.

Motion to  
Substitute:

Councilor Van Bergen moved that Resolution No. 83-408 be substituted for Resolution No. 83-421. Councilor Williamson seconded the motion.

Vote:

The vote on the motion to substitute Resolution No. 83-408 for Resolution No. 83-421 resulted in:

Ayes: Councilors Kirkpatrick, Van Bergen, and Williamson.

Nays: Councilors Banzer, Bonner, Etlinger, Hansen, Kafoury, Kelley, Oleson, and Waker.

Absent: Councilor Deines.

Motion failed.

Motion:

Councilor Oleson moved to eliminate debate and vote on Resolution No. 83-421. Councilor Hansen seconded the motion.

Vote:

A show of hands indicated that the motion failed (4 ayes and 7 nays).

Mr. Gustafson reiterated that the Council needed to be clear on the intent of Resolution No. 83-421.



Presiding Officer Banzer said that as the Chair of the Council her interpretation of the resolution was: Resolve No. 1 -- a reiteration of state policy; Resolve No. 2 -- that the Executive Officer and Presiding Officer are to begin a cooperative process to evaluate the relationship and report back to the Council.

She said if there was a misinterpretation or confusion regarding the intent, a motion to amend was in order.

There was there considerable Council discussion regarding the intent of Resolves 1 and 2 of Resolution No. 83-421.

Motion to Amend:

Councilor Kirkpatrick moved to amend Resolution No. 83-421 by deleting Resolve No. 2 and substituting the following language:

2. That the Metro Council intends to initiate a review of the Tri-Met and Metro relationship and conduct it in such a manner that all interested citizens have an opportunity to participate.

Councilor Kafoury seconded the motion.

Vote:

The vote on the motion to amend Resolution No. 83-421 resulted in:

Ayes: Councilors Banzer, Bonner, Hansen, Kafoury, Kelley, Kirkpatrick, Oleson, and Williamson.

Nays: Councilors Etlinger, Van Bergen, and Waker.

Absent: Councilor Deines.

Motion carried.

Motion to amend:

Councilor Kafoury moved to amend Resolve No. 1 of Resolution No. 83-421, as follows:

1. That the Metro Council supports in principle the intent of current state policy with respect to a Tri-Met/Metro relationship. (that the transit operation in the Portland metropolitan area should be under the general direction of the elected Metro Council.)

Councilor Kelley seconded the motion.

Vote: The vote on the motion to amend Resolution No. 83-421, resulted in:

Ayes: Councilors Kafoury, Kelley, Kirkpatrick, and Williamson.

Nays: Councilors Banzer, Bonner, Etlinger, Hansen, Oleson, Van Bergen, and Waker.

Absent: Councilor Deines.

Motion failed.

Motion: Councilor Oleson moved to call for the previous question. Councilor Bonner seconded.

Vote: The vote on the motion resulted in:

Ayes: Councilors Banzer, Bonner, Hansen, Kirkpatrick, Oleson, Van Bergen, Waker, and Williamson.

Nays: Councilors Etlinger, Kafoury, and Kelley,

Absent: Councilor Deines.

Motion carried.

Vote: The vote on the motion to adopt Resolution No. 83-421, as amended, resulted in:

Ayes: Councilors Banzer, Bonner, Etlinger, Hansen, Kirkpatrick, Oleson, and Waker.

Nays: Councilors Kafoury, Kelley, Van Bergen, and Williamson.

Absent: Councilor Deines.

Motion carried, Resolution adopted as amended.

#### 10. Committee Reports.

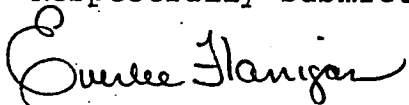
Councilor Kirkpatrick announced there would be no Council Coordinating Committee meeting in July.

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July 7, 1983  
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Presiding Officer Banzer reminded Council members that the second meeting of July would be held on Tuesday, July 26th.

There being no further business, the meeting adjourned at 10:30 p.m.

Respectfully submitted,

A handwritten signature in cursive script, appearing to read "Everlee Flanigan".

Everlee Flanigan  
Clerk of the Council

0041C/313  
ef

MINUTES OF THE COUNCIL OF THE  
METROPOLITAN SERVICE DISTRICT

EXECUTIVE SESSION  
SEPTEMBER 8, 1983

Councilors Present: Councilors Banzer, Bonner, Deines,  
Etlinger, Hansen, Kafoury, Kelley,  
Kirkpatrick, Oleson, Van Bergen, and  
Williamson.

Councilors Absent: Councilor Waker.

Also Present: Rick Gustafson, Executive Officer.

Staff Present: Donald Carlson, Andrew Jordan, and Ray  
Barker.

An Executive Session of the Council of the Metropolitan Service District was convened at 7:12 p.m., under the provisions of ORS 192.161(h), for the purpose of discussing labor negotiations with the Zoo Employees Union. The Executive Session adjourned at 7:40 p.m.

Written by Everlee Flanigan

0136C/313

MINUTES OF THE COUNCIL OF THE  
METROPOLITAN SERVICE DISTRICT

REGULAR MEETING  
SEPTEMBER 8, 1983

Councilors Present: Councilors Banzer, Bonner, Deines,  
Etlinger, Hansen, Kafoury, Kelley,  
Kirkpatrick, Oleson, Van Bergen, and  
Williamson.

Councilors Absent: Councilor Waker.

Also Present: Rick Gustafson, Executive Officer.

Staff Present: Donald Carlson, Andrew Jordan, Mark Brown,  
Ray Barker, Dan LaGrande, and Tom O'Connor.

A regular meeting of the Council of the Metropolitan Service District was called to order at 7:55 p.m. by Presiding Officer Banzer.

1. Introductions.

There were no introductions.

2. Councilor Communications.

Presiding Officer Banzer said the issue of Council expenses and guidelines had been tabled by a 4-2 vote at the Council Coordinating Committee meeting. She said since that meeting Councilors Kirkpatrick and Kafoury had prepared a resolution and proposed guidelines for Councilor expenditures for Council consideration that evening. She suggested in lieu of considering the resolution that night that the proposed guidelines be referred to the Council Coordinating Committee for a special meeting and that the full Council deliberate on the issue at their first meeting in October.

Councilors Kafoury and Kirkpatrick indicated that they preferred that the Council as a whole discuss the proposed guidelines.

Presiding Officer Banzer suggested that a special Council meeting be held on September 29th (prior to the regular Council meeting) to discuss the guidelines. She indicated that since

Councilor Waker was out of town and had expressed an interest in participating in the discussion, that the Council should wait until all members could be present.

Councilor Oleson stated he preferred to have the issue discussed initially by the Council Coordinating Committee.

There was then Council discussion on the preferred way to handle the issue. A majority of the members agreed that a special meeting of the Council should be held on September 29th at 5:00 p.m. and that the proposal by Councilors Kafoury and Kirkpatrick as well as the existing administrative guidelines be used as the basis for discussion.

3. Executive Officer Communications.

There were no Executive Officer Communications.

4. Written Communications to Council on Non-Agenda Items.

There were no written communications to Council on non-agenda items.

5. Citizen Communications to Council on Non-Agenda Items.

There were no citizen communications to Council on non-agenda items.

6. Consent Agenda.

The Consent Agenda consisted of the following item:

6.1 Minutes of the meetings of August 4, 1983.

Motion: Councilor Deines moved adoption of the Consent Agenda. Councilor Williamson seconded the motion.

Vote: The vote on the motion resulted in:

Ayes: Councilors Banzer, Bonner, Deines, Etlinger, Kafoury, Kelley, Kirkpatrick, Oleson, Van Bergen, and Williamson.

Nays: None.

Absent: Councilors Hansen and Waker.

Motion carried.

7.1 Ordinance No. 83-160, amending the Metro Urban Growth Boundary in Clackamas County for Contested Case No. 82-1. (Second Reading)

The ordinance was read a second time, by title only.

Mark Brown, Development Services Planner, reported there had been no new information received since the first reading of the ordinance.

Vote: The vote on the motion made by Councilors Deines and Kafoury on August 25, 1983 to adopt Ordinance No. 83-160 resulted in:

Ayes: Councilors Banzer, Bonner, Deines, Etlinger, Hansen, Kafoury, Kelley, Kirkpatrick, Oleson, Van Bergen, and Williamson.

Nays: None.

Absent: Councilor Waker.

Motion carried, Ordinance adopted.

Councilor Williamson noted that he had to leave early and wanted to inform Council members of a Special JPACT meeting to be held on Wednesday, September 14, 1983 at 7:30 p.m. for the purpose of considering ODOT's Six-Year Plan.

8.1 Future Funding.

Rick Gustafson, Executive Officer, presented a memo regarding "Long-Range Financial Policies for Metro" (a copy of the memo is attached to the agenda of the meeting). He outlined four recommended long-range goals for funding sources for general government, local assistance, support services and direct operations, as follows:

1. General Government--a goal to finance general government activities with a general tax source and make the general

government functions fully self-supporting through their own source of revenue.

2. Local Assistance--a goal to finance local assistance activities through funds obtained directly from local governments that receive the services.
3. Support Services--a goal to establish support services on a fee-for-service basis charged to the user of the centrally provided service.
4. Direct Operations--a policy that all direct operations obtain their own financing based on available revenue sources. He said this policy already existed for the Zoo and Solid Waste operations and was proposed to be applied to all future direct operations of Metro.

He said he was not recommending that the Council adopt these particular goals at this meeting, but hoped that after further discussion on future funding options the Council would adopt long-range financial policies.

Donald Carlson, Deputy Executive Officer, presented his memo of September 8, 1983 entitled "Five-Year Projections for the General Fund" (attached to the agenda of the meeting). He outlined the assumptions behind the projections for the general government, support services and local assistance functions, as follows:

1. The current General Fund activities and level of service would be continued as well as the current organizational structure.
2. A 4% annual growth rate (for inflation) for all expenditures except or the Data Resource Center. DRC's five year projections for support service activities increase on an average of 6.8% per year and for local assistance activities, 17% per year.
3. The projected allocations for interfund transfers (Planning, Zoo and Solid Waste) to pay for support service costs were based on the 1983-84 cost allocation plan.
4. General government will assume a share of support service costs beginning in FY 1985-86 based upon an analysis of the FY 1983-84 cost allocation plan. General government's allocation includes an appropriate share of Finance & Administration and Public Affairs costs plus general costs



such as Boundary Commission dues, NARC dues and election expenses. The 1983-84 amount was projected forward with annual 4% increases.

5. A general tax source will be found starting 1985-86 to fund general government direct costs as well as indirect costs for support services.
6. Revenue from local governments will be received starting in 1985-86 at a reduced level to fund local assistance activities.

He then described the activities associated with each of the three functions, and detailed the funding projections.

Councilor Kafoury requested that when the funding options for a general tax was prepared strategies and timing needs for each option be included in the report.

Councilor Bonner suggested that an option which should be considered was one that tied general government and support services to operating revenues (solid waste, zoo and overhead from federal grants) rather than to a general tax. He said that option would use transfers for general government and support services expenditures instead of a general tax. He said it wasn't an easy choice to either assess the taxpayer or the garbage hauler and zoo patron.

Councilor Kirkpatrick said the choice didn't yet need to be made. She said when the options paper was presented, they would then have to decide which financing option they wanted to pursue.

Councilor Etlinger said without a five-year operation plan for Metro he couldn't support any general government funding options.

Councilor Kafoury said that she had done a lot of thinking about the purpose of Metro and that the question which should be asked was not what was the purpose of Metro, but what was the purpose of regional government. She said Metro was not a regional government, it was a metropolitan service district and so defined by statute. She said what was needed was the participation of the people in the region to wrestle with the issue of regional government and how services fit into that.

Mr. Gustafson concluded that he would be meeting with each of the members of the Council regarding the proposed policies and to gather thoughts they might have regarding Future Funding.

## 8.2 Special Legislative Session

Tom O'Connor, Legislative Liaison, presented his memorandum regarding the 1983 Special Legislative Session (attached to the agenda of the meeting) which outlined a tax reform package by Governor Atiyeh and Senator Fadeley as well as a proposal by the Local Government/Business Coalition. He said his recommendation was that the Metro Council oppose the Atiyeh/Fadeley package and support the proposal by the Local Government/Business Coalition.

Councilor Kirkpatrick asked why Mr. O'Connor needed the Metro Council to take a position. Mr. O'Connor responded that it was important to be able to respond when a legislator asked him what was Metro's position.

Motion: Councilor Kirkpatrick moved that the Metro Council go on record as opposed to the Atiyeh/Fadeley proposal because of what it would do to Metro's Zoo and Solid Waste activities. Councilor Kafoury seconded the motion.

Vote: The vote on the motion resulted in:

Ayes: Councilors Bonner, Deines, Etlinger, Hansen, Kafoury, Kirkpatrick, and Oleson.

Nays: None.

Absent: Councilors Banzer, Kelley, Van Bergen, Waker, and Williamson.

Motion carried.

Motion: Councilor Bonner moved that the Metro Council support a package which would include a sales tax but have a net tax reduction. Councilor Deines seconded the motion.

Councilor Etlinger argued that the Council had not talked to their constituents; that they should take a position they could defend, and should not open themselves politically to taking sides on the issue.

Councilor Bonner withdrew his motion.

Councilor Kirkpatrick said she could not support a motion as suggested because it was important that they deal with proposals as they related to Metro business. She said they needed to look at proposals as they were made and react to them as they affected the zoo and solid waste activities.

Councilors Oleson and Hansen commented that they supported Mr. O'Connor's recommendation to support the Local Government/Business Coalition proposal.

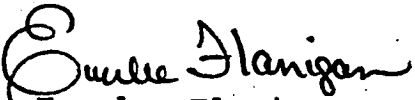
9. Committee Reports.

Councilor Hansen noted that the Regional Services Committee would meet on Tuesday, September 13th.

Councilor Kafoury noted that the Regional Development Committee would meet on Monday, September 12th.

There being no further business, the meeting adjourned at 9:40 p.m.

Respectfully submitted,

  
Everlee Flanigan  
Clerk of the Council

MINUTES OF THE COUNCIL OF THE  
METROPOLITAN SERVICE DISTRICT

SPECIAL MEETING  
SEPTEMBER 29, 1983

Councilors Present: Councilors Banzer, Bonner, Deines,  
Etlinger, Hansen, Kafoury, Kelley,  
Kirkpatrick, Oleson, Van Bergen, Waker,  
and Williamson.

Also Present: Rick Gustafson, Executive Officer.

Staff Present: Andrew Jordan, Ray Barker, and Dan LaGrande.

A special meeting of the Council of the Metropolitan Service District was called to order at 5:16 p.m. by Presiding Officer Banzer for the purpose of discussing Guidelines for Council Expenditures.

She stated a resolution introduced by Councilors Kirkpatrick and Kafoury along with an Exhibit "A" outlining proposed guidelines had been distributed previous to the meeting. She also indicated that a new Exhibit "A" had been prepared and distributed as the result of a meeting with Executive Officer Gustafson, Councilors Kirkpatrick, Oleson and herself. She said the new Exhibit would be used as the basis for the discussion. (A copy of the exhibit is attached to the agenda of the meeting.)

COUNCILOR PER DIEM

Proposed Guidelines:

1. Each Councilor is authorized to receive up to \$2,160 (72 meetings per year) each fiscal year in per diem from the Council Per Diem account.
2. Per diem shall be paid at a rate of \$30 per meeting [, up to six meetings per month].

Councilor Kirkpatrick stated that inserting "72 meetings per year" in place of "up to six meetings per month" as originally proposed, would allow Councilors to receive per diem for meetings in excess of six per month. For example, she said, during the budget process, more than six meetings a month were usually held. She said the intent of the change in No. 1 was to delete the words "up to six meetings per month" from No. 2.

Councilor Hansen suggested that the number of meetings be limited to 36 meetings per half year. He said this would allow a new Councilor arriving in January to receive half the allocation.

Councilor Williamson proposed that No. 1 be amended to read as follows: "Each Councilor is authorized to receive up to \$2,160 (36 meetings per one-half year, i.e., June-December/January-June) each fiscal year in per diem from the Council Per Diem Account".

A consensus of the Council agreed with the change suggested by Councilor Williamson.

Proposed Guideline:

3. Per diem shall be authorized for attendance at regular and special Council meetings, and regular and special Council committee and task force meetings to which a Council has been assigned by the Council. Per diem may also be collected for attendance at a Council committee, [or] task force meeting [to which a Councilor has been invited in writing to attend by the Chair of that committee or task force] or function approved in writing by the Presiding Officer or Chair of Committee.

Councilor Waker said the business of Metro was not just conducted at the Metro offices and that meetings with other officials were just as valuable to their constituents. He said he preferred that the individual Councilors have the prerogative to determine the use of per diem for any meeting they attend.

Councilor Kafoury clarified that meetings outside Metro were allowable under the proposed guideline if a Councilor had been invited in writing to attend by the appropriate officer of the Council.

Councilor Kelley expressed concern that the language prohibited Councilors from receiving per diem for attending committee meetings they were not assigned to unless a written approval had been received. She argued that if an issue was germane to a Councilor's district, they should not have to get permission to attend a meeting to get information. She said they should be able to make the judgment on which meetings to receive per diem.

Councilor Kirkpatrick said the language in the first sentence had been proposed by Councilor Deines in 1981 and was intended to strengthen the committee system.

Councilor Williamson stated that attendance at meetings of the body was the only type of meeting for which per diem should be received. He said the organization may be open to criticism if per diem was claimed for any meeting they attended.

Presiding Officer Banzer stated the state statute was vague in its definition of meetings and that she believed when the agency was established, per diem was intended as compensation for their work.

Motion: Councilor Bonner moved to amend No. 3, second sentence, to read as follows: Per diem may also be collected for attendance at a Council committee, task force meeting, or function approved by the Presiding Officer.

Councilor Hansen seconded the motion.

Councilor Kafoury urged that the Council oppose the motion because there was a public need for documentation of their activities and charges against the per diem and expense accounts. She said the Accounting Division needed to have clear direction about what was allowed and not allowed.

Councilor Bonner said they already provided the documentation when they submitted their statements for reimbursement and they would continue to do that with the Presiding Officer approving the requests for reimbursement.

Motion to amend: Councilor Kelley moved to amend the main motion to delete the following words from the first sentence of No. 3: "to which a Councilor has been assigned by the Council".

Councilor Bonner accepted the proposal as a friendly amendment to the main motion.

Councilor Kafoury noted that the changes being proposed would make the guidelines less clear than the original Deines guidelines.

Councilor Banzer stated that the two sentences of No. 3 would be voted on separately.

Vote: The vote on the motion to amend sentence one of No. 3, resulted in:

Ayes: Councilors Banzer, Bonner, Deines, Etlinger, Hansen, Kelley, Oleson, and Waker.

Nays: Councilors Kafoury, Kirkpatrick, Van Bergen, and Williamson.

Motion carried.

Vote: The vote on the motion to amend sentence two of No. 3, resulted in:

Ayes: Councilors Banzer, Bonner, Etlinger, Hansen, Oleson, and Waker.

Nays: Councilors Kafoury, Kirkpatrick, Van Bergen, and Williamson.

Abstention: Councilors Deines and Kelley.

Motion failed.

Councilor Kelley said in order to clarify the second sentence, in light of the motion which had carried, the words "at a Council committee" should be deleted.

Motion: Councilor Kelley moved that sentence two of No. 3 be amended to read as follows:

Per diem may also be collected for attendance at a task force meeting or function approved by the Presiding Officer.

Councilor Etlinger seconded the motion.

Councilor Van Bergen said when he came on board as a member of the Council he was amazed there was per diem at all. He said his only expectation was to be reimbursed for out-of-pocket expenses. He suggested that if Councilors expected compensation, they should receive a monthly stipend of \$180, for those who wanted it, and that would take care of the pressure on the staff to try to figure out what was authorized and what was not.

Andrew Jordan, Legal Counsel, pointed out that the statute did not permit a stipend for the Councilors.

Vote: The vote on the motion to amend sentence two of No. 3 resulted in:

Ayes: Councilors Banzer, Bonner, Etlinger, Hansen, Kelley, Oleson, and Waker.

Nays: Councilors Deines, Kafoury, Kirkpatrick, Van Bergen, and Williamson.

Motion carried.

Proposed Guideline:

4. Payments within these limits shall be authorized by the fiscal officer of the Metropolitan Service District.

Motion: Councilor Etlinger moved to amend No. 4 to substitute "Presiding Officer" for "fiscal officer". Councilor Bonner seconded the motion.

Councilor Deines said he disagreed with the motion. He said that was the worst thing they could do audit wise was to have someone authorizing things who was themselves a participant. He said the Presiding Officer should not be in the position of authorizing payments for themselves.

Councilor Kirkpatrick said the intent of No. 4 was to clarify the role of the Presiding Officer--that the Presiding Officer was not an administrative person.

Councilor Bonner asked what the fiscal officer would do if the Presiding Officer approved the attendance at meetings. Councilor Deines responded that he interpreted it to mean the fiscal officer would check for the necessary documentation.

Councilors Etlinger and Bonner withdrew the motion and second.

COUNCILOR EXPENSES

Proposed Guideline:

1. Each Councilor is authorized to receive up to \$1,500 each fiscal year as reimbursement for authorized expenses incurred for necessary Council-related activities.

There were no amendments to this guideline.

Proposed Guideline:

2. Each request for reimbursement must be accompanied by supporting documentation which shall include the nature and purpose of the activity, the names and titles of all persons for whom the expense was incurred, [the duration of the activity,] and receipts justifying the expense as required by the Internal Revenue Service. [No reimbursement shall be authorized for any expense submitted without the above-required documentation.] Any deviation of this requirement, such as lost receipts will require a written explanation and approval by the Presiding Officer or Council Coordinating Committee before any reimbursement will be made.



Councilor Kirkpatrick stated that the intent of the proposed language was to set up a procedure to allow for reimbursement of an expense if a receipt were lost. She said she believed it was appropriate that approval for such a reimbursement in excess of \$10.00 be determined by the Council Coordinating Committee.

Motion: Councilor Kirkpatrick moved that No. 2 be amended to read as follows:

Each request for reimbursement must be accompanied by supporting documentation which shall include the nature and purpose of the activity, the names and titles of all persons for whom the expense was incurred, and receipts justifying the expense as required by the Internal Revue Service. An deviation of this requirement, such as lost receipts, will require a written explanation and approval by the Council Coordinating Committee before any reimbursement will be made.

Councilor Kafoury seconded the motion.

Councilor Bonner noted that if a receipt was lost, the IRS wouldn't allow the expense. Councilor Kirkpatrick said the originally proposed language would not have allowed reimbursement if there were no receipt. She said she would withdraw her motion if there was support for the original language. Councilor Bonner said he would second such a motion.

Councilors Kirkpatrick and Kafoury withdrew their motion and second.

Motion: Councilor Kafoury moved to amend No. 2 to read as follows:

Each request for reimbursement must be accompanied by supporting documentation which shall include the nature and purpose of the activity, the names and titles of all persons for whom the expense was incurred, and receipts justifying the expense as required by the Internal Revenue Service. No reimbursement shall be authorized for any expense submitted without the above-required documentation.

Councilor Bonner seconded the motion.

Councilors Waker and Banzer argued that there may be circumstances where a receipt was lost or stolen and the expense should be reimbursed without the receipt.

Councilor Kafoury said the Accounting Department must have proper justification in order to approve payment. She said it was good business practice to require receipts for reimbursement and the Council should use good business practices when using public funds.

Vote: The vote on the motion to amend No. 2 resulted in:

Ayes: Councilors Banzer, Bonner, Deines,  
Etlinger, Hansen, Kafoury, Kelley,  
Kirkpatrick, Van Bergen, and Williamson.

Nays: Councilors Oleson and Waker.

Motion carried.

Proposed Guideline:

3. In addition to necessary Council-related travel, meals, and lodging expenses, expenses may include:
  - a. Advance reimbursement for specific expenses, provided that any advance reimbursement in excess of actual expenses incurred shall be returned or shall be deducted from subsequent expense reimbursement requests:
  - b. Up to \$200 per year for memberships in non-partisan community organizations.
  - c. Expenses to publish and distribute a Council-related district newsletter, provided that any such newsletter may not be mailed within 90 days of an election in which a Councilor is a candidate, and further provided that no Metropolitan Service District staff shall assist in the production and distribution of such newsletter;
  - d. Council business-related books, publications and subscriptions; [and]
  - e. Meeting or conference registration fees[.], and
  - f. Child care costs for Metro business with documentation as outlined in No. 2 of this section, including duration of the activity.

Councilor Kirkpatrick said No. 3 was a listing of authorized expenses the Accounting Department would approve without any question for Councilor Expense accounts. She said as a result of the meeting

with Mr. Gustafson, Councilors Oleson and Banzer, and herself, they moved child care from the unauthorized expenses list to the authorized expense list. She said the intent was to allow child care costs for Metro-related business.

Councilor Etlinger said that he was concerned about the language in (c) which would disallow the use of Metro staff in producing or distributing newsletters. He said if it was a newsletter which was about Metro business, staff should be involved at least as far as providing information, proofing, printing and distribution.

Motion: Councilor Hansen moved to adopt Section 3 with an amendment to (c) to delete the following: "and further provided that no Metropolitan Service District Staff shall assist in the production and distribution of such newsletter".

Councilor Oleson seconded the motion.

Councilor Hansen said the staff was protected inasmuch as any request for assistance would have to be approved by the Executive Officer under current policy. He said he would not want to spend tax dollars for a Metro-related newsletter and not be able to have the staff's input as to its accuracy.

Councilor Kafoury asked for an interpretation of Metro business as it related to subsection (f).

Presiding Officer Banzer responded that her interpretation was that it was for the costs incurred in carrying out Metro business, such as meetings for which she would put in for per diem, meetings she was invited to as a Metro Councilor or as the Presiding Officer; i.e., going to the legislature and working on the Tri-Met legislation. She said that for the last year and one-half she had kept a log of both the days she had been at Metro and the meetings she had attended. She said she also had an expense book which listed the duration of the activities and coincided with the expenses she had submitted for child care costs.

Councilor Kafoury said in reading (f) it was still unclear and undefined what "Metro business" was.

Councilor Waker offered a definition which would define "Metro business" as any business that any Councilor believed was in the best interest of the Metropolitan Service District and their constituents.

Councilor Deines said each Councilor would have a different interpretation of what "Metro business" was and that the issue needed to be addressed. He said he intended to address it by supporting language later in the guidelines which would not allow the Presiding Officer to have a call on any other funds than their own per diem and expense accounts.

Motion: Councilor Oleson moved the previous question and end debate. Councilor Hansen seconded the motion.

Vote: The vote on the motion resulted in:

Ayes: Councilors Banzer, Deines, Hansen, Oleson, Van Bergen, and Waker.

Nays: Councilors Bonner, Etlinger, Kafoury, Kelley, Kirkpatrick, and Williamson.

Motion failed.

Councilor Williamson said he personally did not feel that child care costs should be paid for with public funds; that they were a personal expense.

Motion to  
amend:

Councilor Kirkpatrick moved to amend the main motion to change the word "business" in (f) to "meetings", which would be consistent with the Councilor per diem language in No. 3 of the Councilor Per Diem section.

Councilor Kafoury seconded the motion.

At this time, the Council recessed for five minutes.

Councilor Deines suggested that the word "necessary" be placed in subsection (f) before "Metro business" as a further clarification and definition of that subsection.

Councilor Kirkpatrick noted that she had received a letter from the president of the Women's Political Caucus supporting the idea of reimbursing child care costs but not for extensive use; and that it was important that the public realize that it was not to be misused.

Vote: The vote on the motion to amend the main motion to substitute the word "meetings" for "business" in (f) resulted in:

Ayes: Councilors Deines, Kafoury, Kirkpatrick,  
and Williamson.

Nays: Councilors Banzer, Bonner, Etlinger,  
Hansen, Kelley, Oleson, Van Bergen, and  
Waker.

Motion to amend failed.

Motion to  
amend:

Councilor Deines moved to amend the main motion  
to add the word "necessary" before "Metro busi-  
ness" in subsection (f)

Councilor Williamson seconded the motion.

Vote:

The vote on the motion to amend the main motion  
resulted in:

Ayes: Councilors Banzer, Bonner, Deines,  
Etlinger, Hansen, Oleson, Waker,  
Williamson.

Nays: Councilors Kafoury, Kirkpatrick, and  
Van Bergen.

Absent: Councilor Kelley.

Motion carried.

Motion to  
amend:

Councilor Williamson moved to amend the main  
motion to change 90 days to 120 days in subsec-  
tion (c). Councilor Hansen seconded the motion.

Vote:

The vote on the motion to amend the main motion  
resulted in:

Ayes: Councilors Banzer, Bonner, Deines,  
Etlinger, Hansen, Kafoury,  
Kirkpatrick, Oleson, Van Bergen,  
Waker, and Williamson.

Nays: None.

Absent: Councilor Kelley.

Motion carried.

Vote: The vote on the main motion, as amended, resulted in:

Ayes: Councilors Banzer, Bonner, Deines,  
Etlinger, Hansen, Oleson, Van Bergen, and  
Waker.

Nays: Councilors Kafoury, Kirkpatrick, and  
Williamson.

Absent: Councilor Kelley.

Motion carried.

Proposed Guideline:

4. Reimbursement shall not be authorized for the following:
  - a. Alcoholic beverages;
  - b. [Laundry or dry cleaning costs] Parking tickets or citations for traffic violations;
  - c. [Parking tickets or citations for traffic violations] Contributions to political campaigns of any kind;
  - d. [Child care costs;]
  - e. [Contributions to political campaigns of any kind] Parking tickets or citations for traffic violations;
  - f. Contributions to fund-raising efforts of any kind;
  - g. Home entertaining or other social functions; or
  - h. Any other costs or purchases considered to be of a personal nature, such as supplies for personal use.

Councilor Kirkpatrick said the original intent of listing things that were not authorized was simply to provide guidelines for the Councilors. She said if there were requests for reimbursement, the original language would have required the Council Coordinating Committee's approval for reimbursement. She asked that the Legal Counsel identify those items which were clearly illegal.

Mr. Jordan responded as follows:

- Alcoholic beverages; clearly illegal.
- Laundry and dry cleaning was borderline--that if a Councilor spilled coffee on their clothing during a Council meeting, there may be an argument for reimbursement.
- Parking tickets or citations for traffic violations; clearly illegal.
- Contributions to political campaigns of any kind; clearly illegal.
- Contributions to fund-raising efforts of any kind--as long as the fund-raising effort had anything to do with a Metro related power, it could be appropriate.
- Home entertaining or other social functions--social functions were probably illegal, home entertaining might be legal if it was related to Metro business.
- Any other costs or purchases considered to be of a personal nature; clearly illegal.

Motion: Councilor Kirkpatrick moved adoption of Section 4, to read as follows:

Reimbursement shall not be authorized for the following:

- a. Alcoholic beverages;
- b. Laundry or dry cleaning costs;
- c. Parking tickets or citations for traffic violations;
- d. Contributions to political campaigns of any kind;
- e. Contributions to fund-raising efforts of any kind;
- f. Home entertaining or other social functions; or
- g. Any other costs or purchases considered to be of a personal nature, such as supplies for personal use.

Councilor Kafoury seconded the motion.

Councilor Oleson said the list should only include those items which were clearly illegal. He asked if there was a state statute prohibiting alcohol. Mr. Jordan responded there was no state statute prohibiting but that the Council was bound to spend public funds only on authorized expenditures; that is, expenditures authorized by statute, and expenditures for a public purpose. He said if they had to go to court on a particular expenditure, they would have to show that it met the test of being authorized by state statute and that it met with a public purpose. He said he didn't believe alcohol could meet the test.

Motion to  
amend:

Councilor Oleson moved to amend the main motion to list only those items which were clearly illegal:

Parking tickets or citations for traffic violations; and Contributions to political campaigns of any kind.

Councilor Hansen seconded the motion.

Councilor Kafoury said she was opposed to the amendment. She said it would signal to Councilors that it was permissible to buy alcohol for the home and charge it to Metro; that it was permissible to have a party in the home, unspecified for what purpose, and charge it to Metro; and permissible to purchase personal items and charge it to Metro.

Councilor Oleson responded that he did not agree with Councilor Kafoury's interpretation. He said the underlying theme was they had the public trust and an obligation to use good judgement. He said he resented trying to codify every possible circumstance.

Councilor Kafoury countered that they were writing policy for eventuality and for possible misinterpretation and misuse. She urged the Council to vote against the amendment.

Vote:

The vote on the motion to amend resulted in:

Ayes: Councilors Hansen, Oleson, and Waker.

Nays: Councilors Banzer, Bonner, Etlinger, Kafoury, Kirkpatrick, Van Bergen, and Williamson.

Absent: Councilors Deines and Kelley.

Motion to amend failed.

Motion to  
amend:

Councilor Bonner moved to amend the main motion to list the following items:

- a. Parking tickets or citations for traffic violations.
- b. Contributions to political campaigns of any kind.
- c. Home entertaining or other social functions.
- d. Any other costs or purchases to be of a personal nature, such as supplies for personal use.

Councilor Oleson seconded the motion.



Councilor Hansen asked if Councilor Bonner would accept a friendly amendment to delete the word "Home" from "Home entertaining and other social functions". Councilor Bonner agreed to the friendly amendment.

Councilor Etlinger commented that the list the Council approved should be consistent with the guidelines for the staff. He said alcohol as well as other items were not a reimbursable expense for staff.

Vote: The vote on the motion to amend the main motion resulted in:

Ayes: Councilors Banzer, Bonner, Hansen, Oleson, and Waker.

Nays: Councilors Etlinger, Kafoury, Kirkpatrick, Van Bergen, and Williamson.

Absent: Councilors Deines and Kelley.

Motion to amend failed.

Motion to amend: Councilor Etlinger moved to amend the main motion to delete the word "Home" from (g). Councilor Hansen seconded.

Councilor Van Bergen asked if home entertaining would be allowed by deleting home from (g). Mr. Jordan responded that no entertaining, home or otherwise, would be allowed if the motion carried. He said a dinner was entertainment but if it was coincident to business, it was legitimate.

Vote: The vote on the motion to amend the main motion resulted in:

Ayes: Councilors Banzer, Bonner, Etlinger, Hansen, Kafoury, Kirkpatrick, Van Bergen, and Williamson.

Nays: Councilor Oleson.

Absent: Councilor Deines, Kelley, and Waker.

Motion to amend carried.

Vote: The vote on the main motion, as amended, resulted in:

Ayes: Councilors Banzer, Bonner, Et-  
Hansen, Kafoury, Kirkpatrick, Oleson, Van  
Bergen, and Williamson.

Nays: None.

Absent: Councilors Deines, Kelley, and Waker.

Motion carried.

Proposed Guideline:

5. Payments within these limits shall be authorized by the fiscal officer of the Metropolitan Service District. Other requests for documented Council-related business must be approved by the Council Coordinating Committee or Presiding Officer.

Councilor Bonner said that Councilor Kelley had asked him to make a pitch on her behalf on No. 5. She was concerned that it appeared that a Councilor would have to make the expenditure and then document it and then go to the Council Coordinating Committee. He said she suggested that the second sentence be amended to delete the word "documented" and substitute "Metro-related" for "Council-related".

Motion: Councilor Kirkpatrick moved adoption of Section 5 as follows:

Payments within these limits shall be authorized by the fiscal officer of the Metropolitan Service District. Other requests for Metro-related business must be approved by the Council Coordinating Committee.

Councilor Kafoury seconded.

Councilor Etlinger argued that the Presiding Officer should be the authorized person instead of the Council Coordinating Committee to approve the requests, other than the Presiding Officer's requests which should go to the Council Coordinating Committee.

Vote: The vote on the motion to adopt Section 5 resulted in:

Ayes: Councilors Banzer, Bonner, Hansen, Kafoury,  
Kirkpatrick, Van Bergen, and Williamson.

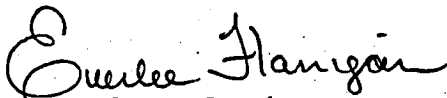
Nays: Councilors Etlinger and Oleson.

Absent: Councilors Deines, Kelley, and Waker.

Motion carried.

Inasmuch as the special meeting was running into the time scheduled for the regular Council meeting, the special meeting was adjourned at 7:40 p.m. and an additional special meeting was scheduled for 5:30 p.m. on October 6, 1983 to consider the remainder of the guidelines.

Respectfully submitted,

  
Everlee Flanigan  
Clerk of the Council

CONSIDERATION OF RESOLUTION NO. 83-432 SUBMITTING  
THE REGIONAL WATER QUALITY MANAGEMENT PLAN TO THE  
DEPARTMENT OF ENVIRONMENTAL QUALITY (DEQ), THE  
GOVERNOR AND TO THE U.S. ENVIRONMENTAL PROTECTION  
AGENCY (EPA) FOR RECERTIFICATION.

---

Date: September 16, 1983

Presented by: Marion Hemphill

FACTUAL BACKGROUND AND ANALYSIS

The first element of the Areawide Water Quality Management Plan called for under the Clean Water Act of 1977 (P.L. 95-217) was adopted in October of 1980 when Council adopted the Regional Waste Treatment Management Plan. The final element of the Plan was adopted by Council Ordinance in February 1982 in the form of the Regional Stormwater Management Plan. Taken as a whole the Plan and its supporting technical documents represent a comprehensive strategy for sewer system development, sewage treatment plant siting, drainage and stormwater management, and water quality maintenance in the Metro region.

An ongoing requirement of the Act is that the Plan be maintained as an accurate statement of the region's water quality management problems and the short- and long-term solutions to those problems. The Plan is used as the basis for allocating federal funds for such things as sewers and sewerage treatment plants. In order to satisfy this requirement, federal guidelines call for an annual review and, if necessary, an annual update and amendment to the Plan.

The Plan was developed under the technical review of a Council appointed body of experts called the Water Resources Policy Alternatives Committee (WRPAC). The WRPAC is composed of individuals representing the cities of region, the three counties, certain state agencies directly interested in water quality, the Corps of Engineers, soil and water conservation districts, sanitary districts, laymen representing the interests of the public-at-large, and representatives of businesses and industries directly affected by water quality management issues. The Council has maintained WRPAC as the advisory body on water quality management issues and to facilitate the maintenance of the Plan.

On September 14, 1983 WRPAC held its annual meeting to review the Plan and make its recommendations on recertification of the Plan. The conclusion of the review was that there were no

amendments or modifications to the Plan required this year. A vote by a quorum of the committee resulted in the unanimous recommendation that the Metro Council request state and federal recertification of the Plan without any new amendments.

EXECUTIVE OFFICER'S RECOMMENDATION

The Executive Officer recommends approval of the attached Resolution to submit the Areawide Water Quality Management Plan to the DEQ, the Governor and to the EPA for recertification.

COMMITTEE CONSIDERATION AND RECOMMENDATION

On October 10, 1983, the Regional Development Committee recommended Council adoption of Resolution No. 83-432.

MH/gl  
0018C/353  
10/11/83

BEFORE THE COUNCIL OF THE  
METROPOLITAN SERVICE DISTRICT

FOR THE PURPOSE OF SUBMITTING THE )  
AREAWIDE WATER QUALITY MANAGEMENT )  
PLAN FOR RECERTIFICATION )

RESOLUTION NO. 83-432

) Introduced by the Regional  
) Development Committee  
)

WHEREAS, The Regional Waste Treatment Management Plan and the Areawide Water Quality Management Plan must be recertified annually to preserve the region's eligibility for federal sewerage and water quality management assistance; and

WHEREAS, The Water Resources Policy Alternatives Committee of the Metropolitan Service District has reviewed the Plans and found that no amendments or modifications are required in Fiscal Year 1984; now, therefore,

BE IT RESOLVED,

That the Council of the Metropolitan Service District shall forward the Regional Waste Treatment Management Plan and the Areawide Water Quality Management Plan to the Oregon Department of Environmental Quality, to the Governor of the State of Oregon, and to the U.S. Environmental Protection Agency for recertification.

ADOPTED by the Council of the Metropolitan Service District this \_\_\_\_\_ day of \_\_\_\_\_, 1983.

\_\_\_\_\_  
Presiding Officer

MH/srb  
0018C/353  
09/21/83

RESOLUTION NO. 83-432



Meeting Date: October 27, 1983

CONSIDERATION AND RECOMMENDATION OF THE DISPOSAL RATE  
STRUCTURE TO BE CHARGED AT THE ST. JOHNS LANDFILL AND  
THE CLACKAMAS TRANSFER AND RECYCLING CENTER

---

Date: September 1, 1983

Presented by: Ed Stuhr

FACTUAL BACKGROUND AND ANALYSIS

The 1984 rate study for solid waste transfer and disposal has examined the cost of operating the St. Johns Landfill and the Clackamas Transfer and Recycling Center (CTRC). A rate schedule was calculated in accordance with Metro rate policy set last year. Under that policy, base rates are the same at both facilities. The cost of operating CTRC is borne by all users in the region by means of a regional transfer charge, and by CTRC users by means of a convenience charge which is added to CTRC base rates. In addition to the new rate schedule, the study recommended that the convenience charge be changed as needed to accomplish flow control, independent of the yearly rate revision process.

The study and schedule were presented to the Rate Review Committee for a recommendation. The committee recommended that the rate study be accepted with the provision that the convenience charge not be allowed to increase during the year.

The rate study and the recommended rate schedule were presented to the Metro Solid Waste Policy Alternatives Committee. Upon consideration of the rate schedule, some members of the committee expressed dissatisfaction with the regional transfer charge approach to funding CTRC. Upon this basis, a motion was made to reject the 1984 rate study. The motion was defeated on a tie vote, and the committee adjourned without making either a formal recommendation or specific plans for further consideration of the matter.

EXECUTIVE OFFICER'S RECOMMENDATION

The Executive Officer recommends that the rate structure be adopted as proposed in the 1984 Rate Study. Additionally, it is recommended that RSC authorize the executive officer to analyze the rates for considering adjusting the convenience charge to monitor flow.

COMMITTEE CONSIDERATION AND RECOMMENDATION

The Regional Services Committee made no formal recommendation on the proposal. Staff was directed to develop alternatives to the proposal:

- (1) Effects on rates if commercial regional transfer charge was not changed.
- (2) Effects on rates if commercial convenience charge was not changed.
- (3) Effect on CTRC revenue requirements at tonnage rates from 650 to 800 tons per day, in 50 ton steps.

STAFF REPORT

The Regional Services Committee met again on October 12 to consider proposed language in the rate ordinance which would waive minimum charges for those bringing in recyclables to CTRC and St. Johns. The committee recommended to the council that the waiver be included for the public in the 1984 rate ordinance, provided that one-half cubic yard of acceptable material is recycled. As recommended, the paragraph would read:

The minimum charge for commercial vehicles shall be for one ton of solid waste. The minimum charge for private trips shall be two and one-half cubic yards for pickup trucks, vans and trailers and two cubic yards for cars. The minimum charge for private trips shall be waived for any person delivering one-half cubic yard or more of acceptable recyclable materials. Such persons shall be charged for the actual amount of waste delivered at the extra yardage rate.



# 1984 RATE STUDY

For Solid Waste Transfer and Disposal  
August, 1983

Prepared by the  
DEPARTMENT OF SOLID WASTE

Project Manager Ed Stuhr

## ACKNOWLEDGEMENTS

Director  
Engineering Manager  
Operations Manager  
Facility Supervisor  
Solid Waste Technician  
Word Processing

Dan Durig  
Doug Drennen  
Norm Wietting  
Eric Dutson  
Evelyn Brown  
Gloria Logan

## COMMITTEES

Rate Review Committee  
Solid Waste Policy Alternative  
Committee

George Hubel, Chair  
John Trout, Chair

Section: 1

INTRODUCTION

PURPOSE

This study has been conducted to determine the solid waste disposal rates which will yield sufficient 1984 revenue to operate the St. Johns Landfill and the Clackamas Transfer & Recycling Center (CTRC). These facilities are operated by the Metropolitan Service District (Metro). The disposal rates are reviewed and adjusted annually to reflect changes in operating costs in accordance with established budgeting principles.

METHODOLOGY

Rate adjustments are determined by the following process:

1. Determine historic solid waste quantities for the period from July 1982 through June 1983.
2. Project solid waste quantities for calendar year 1984.
3. Estimate costs related to each facility.
4. Allocate costs to commercial and public users of the solid waste system.
5. Calculate disposal rates for commercial wastes, public wastes and vehicle tires.

The balance of this study is arranged in this order.

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Section: 2

QUANTITIES OF SOLID WASTE

Metro assumed operation of the St. Johns Landfill in North Portland from the City of Portland in June 1980. Since the closure of Rossman's Landfill in Oregon City in June 1983, St. Johns is the only general purpose landfill in the Portland Metropolitan area. About 72 percent of the solid waste generated in the Metro area is disposed of at the St. Johns Landfill.

The CTRC was opened by Metro in April 1983 to make up part of the loss of disposal capacity resulting from the closure of Rossman's Landfill. The CTRC receives solid waste from the southern portion of the region. Waste is loaded into large trailers for transport to the St. Johns Landfill. The CTRC's operating capacity has been limited by the Oregon City Planning Commission to 800 tons per day.

HISTORIC QUANTITIES

St. Johns Landfill

The monthly quantities of solid waste delivered to St. Johns Landfill from July 1982 through June 1983 are shown in Table 2-1 (p. 5). The total amount of solid waste landfilled during that period was 356,619 tons, which includes 49,317 tons of sludge. These tonnage figures were determined from actual net weights of commercial vehicles and public transfer station drop boxes, as calculated and recorded by an automated computer-weighing system. For convenience, the public is charged on a volume basis, rather than their vehicles being weighed in and out as are commercial vehicles. The public dumps into drop boxes at a transfer station. Filled boxes are hauled to the working area via the scale, which records the weight for the purpose of the operations contract payment. This allows for an accurate conversion from volume to weight. The sludge quantities were entirely comprised of treated wastewater sludge from the City of Portland's Columbia Boulevard Sewage Treatment Plant. The last sludge deliveries were in April 1983.

Clackamas Transfer & Recycling Center and Rossman's Landfill

Rossman's Landfill, which disposed of about 50 percent of the region's waste, closed on June 10, 1983. During the period after CTRC opened on April 11 until June 10, waste that normally went to Rossman's was divided between the two facilities. Local commercial haulers and the public used CTRC and haulers from other parts of the region continued to use Rossman's. This enabled the landfill to be completed according to approved plans. Waste delivered to CTRC was transferred to the St. Johns Landfill. The amount of waste going to these two sites during the last 12 months is presented in Table 2-2 (p. 6).

This data will assist in projecting future waste flows, expected to be delivered to the CTRC. The quantities of waste delivered to Rossman's by the public are estimated from the number of trips based on an average load of 500 lbs./trip. The public quantities at CTRC during the three months operation are based on the difference between tonnage transferred and measured commercial tonnage.

TABLE 2-2  
CLACKAMAS TRANSFER & RECYCLING CENTER<sup>1</sup>  
AND  
ROSSMAN'S LANDFILL<sup>2</sup>

HISTORIC SOLID WASTE QUANTITIES

	<u>COMMERCIAL</u>			<u>PUBLIC</u>		
	<u>Rossman's</u>	<u>CTRC</u>	<u>Trips<sup>3</sup></u>	<u>Rossman's</u>	<u>CTRC</u>	<u>Trips<sup>3</sup></u>
July	20,531	0	4,303	3,414	0	12,715
August	21,121	0	4,282	3,182	0	12,000
September	21,128	0	4,086	2,701	0	10,037
October	18,917	0	3,809	2,353	0	8,908
November	19,393	0	3,860	1,848	0	6,991
December	20,214	0	4,070	1,834	0	6,866
January	18,586	0	3,779	2,129	0	7,607
February	17,344	0	3,571	1,922	0	6,922
March	21,269	0	4,177	2,665	0	9,518
April	15,318	5,274	4,030	860	2,115	8,282
May	15,404	6,501	4,220	0	2,733	7,174
June	<u>4,999</u>	<u>14,357</u>	<u>3,914</u>	<u>0</u>	<u>2,808</u>	<u>7,824</u>
Total	214,224 (tons)	26,132 (tons)	48,101	22,908 (tons)	7,656 (tons)	104,844

<sup>1</sup> CTRC began operating on April 11, 1983.

<sup>2</sup> Rossman's Landfill closed on June 10, 1983. Total waste landfilled during the previous 12 months was 237,132.

<sup>3</sup> Total trips at both sites.

TABLE 2-1

## ST. JOHNS LANDFILL

## HISTORIC SOLID WASTE QUANTITIES

	<u>Commercial Tons</u>	<u>Transfer Tons from CTRC</u>	<u>Public Tons</u>	<u>Sludge Tons</u>	<u>Total Tons</u>
July 1982	20,655	0	1,717	3,925	26,297
August	25,349	0	1,620	4,463	31,432
September	22,250	0	1,671	4,753	28,674
October	20,774	0	1,434	4,939	27,147
November	20,381	0	1,079	5,120	26,580
December	25,874	0	1,091	7,304	34,269
January 1983	18,602	0	1,505	5,916	26,023
February	17,206	0	1,439	5,170	23,815
March	20,279	0	2,100	5,790	28,169
April	18,923	7,389	2,177	1,937	30,426
May	19,518	9,234	2,544	0	31,296
June 1983	<u>23,076</u>	<u>17,165</u>	<u>2,250</u>	<u>0</u>	<u>42,491</u>
Total Tons	252,887	33,788	20,627	49,317	356,619
Total Trips	61,753		49,744		

### PROJECTED QUANTITIES

The total amount of waste generated in the Metro region during FY 1982-83 was about 745,000 tons. Based on an analysis of recent regional flows, it is reasonable to expect that the improving economy will increase the waste flow to 755,000 tons. It is estimated, based on historic records, that of the total waste to be disposed of at landfills, 86% or 649,300 tons will be delivered by commercial haulers. The remaining 14% or 105,700 tons will be brought in by the public.

The amount of waste disposed of at St. Johns Landfill will increase substantially because of the Rossman's closure. Projected quantities are shown in Table 2-3 (p. 8). Of importance is the amount of waste that is directly hauled to St. Johns by haulers rather than by transfer trailers via CTRC. Direct haul is assumed to increase by almost 52,000 tons. This waste was previously going to Rossman's.

Projected quantities for CTRC are presented in Table 2-4 (p. 9). A total of 216,600 tons are projected to be delivered and processed at CTRC. The amount brought in by commercial haulers is 182,400 which is less than went to Rossman's and CTRC last year. (See Table 2-2, p. 6.) The public quantities are based on the actual weight data at CTRC, projected for one year.



TABLE 2-3

## ST. JOHNS LANDFILL

## PROJECTED SOLID WASTE QUANTITIES

<u>1984</u>	<u>Commercial Tons</u>	<u>Transfer Tons from CTRC</u>	<u>Public Tons</u>	<u>Total Tons</u>
January	23,870	16,940	1,520	42,330
February	23,430	16,630	1,500	41,560
March	26,360	18,700	1,680	46,740
April	25,430	18,050	1,620	45,100
May	25,760	18,280	1,640	45,680
June	26,410	18,740	1,690	46,840
July	27,420	19,450	1,750	48,620
August	26,250	18,640	1,680	46,570
September	26,530	18,840	1,690	47,060
October	25,320	17,970	1,620	44,910
November	23,270	16,520	1,490	41,280
December	<u>25,140</u>	<u>17,840</u>	<u>1,600</u>	<u>44,580</u>
Total Tons	305,190	216,600	19,480	541,270
Total Trips	61,340		54,290	

TABLE 2-4  
CLACKAMAS TRANSFER & RECYCLING CENTER  
PROJECTED SOLID WASTE QUANTITIES

<u>1984</u>	<u>Commercial Tons</u>	<u>Public Tons</u>	<u>Total Transfer Tons</u>
January	14,260	2,680	16,940
February	14,000	2,630	16,630
March	15,750	2,950	18,700
April	15,200	2,850	18,050
May	15,400	2,880	18,280
June	15,780	2,960	18,740
July	16,390	3,060	19,450
August	15,700	2,940	18,640
September	15,860	2,980	18,840
October	15,130	2,840	17,970
November	13,910	2,610	16,520
December	<u>15,020</u>	<u>2,820</u>	<u>17,840</u>
Total Tons	182,400	34,200	216,600
Total Trips	36,660	95,316	131,976
Total Transfer Trips (at 24 tons per trip)			9,025

## Section 3

### EXPENDITURES AND OTHER COST FACTORS

#### ST. JOHNS LANDFILL EXPENDITURES

The expenditures relating to the St. Johns Landfill are summarized in Table 3-3 (p. 15). The following paragraphs discuss each type of expenditure.

#### 1. Operation Contract

##### Disposal Expense

Genstar Conservation Systems, Inc., through a bid process, was awarded a five-year contract to operate the St. Johns Landfill by Metro in June 1980. Genstar performs most of the refuse handling tasks, including the operation of the public transfer station and the commercial dumping area. The determination of payment to Genstar is based on a variable scale of per ton disposal rates. As the volume of waste handled increases, the cost per ton generally decreases. Conversely, lower disposal volumes entail higher disposal rates.

The Genstar Conservation Systems, Inc. operations contract disposal cost for 1984 is projected to be \$3,457,320 (see Table 3-1, p. 11). The operations contract is adjusted annually on October 1 to reflect inflationary effects. Based on trends of the index used, adjustments of 8% in October 1983 and 8% in October 1984 have been projected.

TABLE 3-1  
ST. JOHNS LANDFILL  
OPERATIONS CONTRACT  
PROJECTED DISPOSAL COSTS

<u>1984</u>	<u>Total Tons Disposal</u>	<u>Disposal Rate Per Ton</u>	<u>Disposal Cost</u>
January	42,330	6.47	273,875
February	41,560	6.56	272,634
March	46,740	6.16	287,918
April	45,100	6.23	280,973
May	45,680	6.23	284,586
June	46,840	6.16	288,534
July	48,620	6.03	293,178
August	46,570	6.16	286,871
September	47,060	6.10	287,066
October	44,910	6.81*	305,835
November	41,280	7.08	292,262
December	<u>44,580</u>	<u>6.81*</u>	<u>303,590</u>
	541,270		3,457,320

\* Includes projected 8% increase in operations contract

## Final Improvements

It is expected that by January 1, 1984, the final cover will be completed in subarea 2 and approximately 14 acres of subarea 3. During the period covered by this rate study, the balance of subarea 3, representing 40 acres will receive final cover, seeding and final road improvements. Based on the contract prices to perform this work the total expenditures will be \$1,050,000. The fund balance at end of 1983 is estimated to be \$530,000 which includes \$190,000 obtained from the City of Portland. Therefore, the balance of \$520,500 needs to be recovered through rates in 1984.

Total Expenditures (1984)	\$1,050,500
Final Cover Fund Balance	<u>530,000</u>

Total Revenue Requirements      \$ 520,500

## 2. Other Expenses

### a. Land Lease

Metro leases the land for the St. Johns Landfill from the City of Portland. Currently Metro and the City are revising the lease payment as per our agreement. For the purpose of establishing the rates the lease payments for 1984 are estimated to total \$227,400. This represents an increase of 15%.

### b. Environmental Control Sinking Funds

Two sinking funds have been established to accumulate reserve funds during the remaining operating life of the landfill. Their purpose is to finance post-closure expenditures at the landfill site. The Annual Maintenance fund will be used for grading, compacting and reseeding portions of the landfill after its anticipated closure in 1988. The Perpetual Maintenance fund will be used for the operation and maintenance of leachate pretreatment equipment and for the transportation of leachate effluent to the City of Portland wastewater treatment plant.

The sinking fund contributions are calculated to provide sufficient resources over the period that the maintenance will be required, and are unchanged from last year. The Annual Maintenance fund payment of \$51,800 will ensure that enough will be available to meet costs over the life of the activity (1987-1992). The costs are expected to rise from \$51,000 in 1987 to \$81,000 in 1992. The Perpetual Maintenance fund payment of \$120,000 will provide enough resources to support expenditures rising from \$32,000 in 1989 to \$163,000 in the year 2004.

c. Debt Service

Metro has a long-term loan/grant agreement with the State of Oregon Department of Environmental Quality for St. Johns capital improvements. The terms of the loan contract require two payments in 1984, one on April 1 and one on October 1. The total 1984 payment is \$209,940. The proceeds from this loan were used to offset the cost of constructing the landfill expansion area, gatehouse, public vehicle transfer station, and related engineering fees. Until the expansion area comes into use in approximately May 1984, its portion of the debt service will be paid by user fees. The amount to be recovered by rates, therefore, is \$198,480.

d. General Fund Transfer

This expenditure is to cover Metro and Solid Waste Department expenses which support operations at the St. Johns Landfill. Overhead services include personnel time and materials provided by other divisions or departments, including accounting, personnel, printing, word processing and general administration. The cost of these services in 1984 is estimated to be \$97,520.

f. Contractual Services

Professional services are expected to require \$42,400 in 1984. These include such services as site life update, periodic landfill inspection reports, perimeter design study, engineering services, land appraisals, legal services, bridge inspections and other miscellaneous consulting services.

g. Metro Operating Costs

The St. Johns Landfill gatehouse is operated by Metro employees 24 hours a day. They issue commercial and public transaction receipts and perform commercial accounts receivable billing. In addition to gatehouse operations, some staff activities can be assigned directly to St. Johns. These include administration of the operations contract and the land lease contract with the City of Portland, water quality monitoring and operation of the recycling center.

Metro operating costs assigned to St. Johns include \$220,000 for personnel expenses, \$27,000 for equipment maintenance and repair, \$87,100 for materials and services and \$7,500 for capital acquisition. The personnel expenses include funds for three full-time and three part-time gatehouse attendants, and partial funding of the facilities supervisor, operations manager and other engineering, technical and administrative support. The

maintenance and repair funds will be applied to the landfill access bridge, the weighing system, water monitoring boat, the expansion area, janitorial services and gatehouse equipment. Materials and services expenses include printing of transaction invoices, automobile expenses, permits, utilities, telephone costs, office supplies, data processing and insurance. The capital funds will be applied to weighing and billing system improvements.

In addition, DEQ will be establishing a fee to be paid by St. Johns as a result of this past legislative session. The fees will cover monitoring and inspection cost. Fees are estimated to be \$5,000 for six months. This fee schedule will not be levied until July 1, 1984.

h. Contingency

In order to protect the level of service at the St. Johns Landfill from unforeseeable changes in its operating environment, an amount equal to 6% of revenue needs is set aside. Risks which this is intended to protect against include possible changes in compliance regulations that would require substantial improvements or modifications to the site, damage to the site or facilities or a reduction in waste volumes which would increase the unit cost of the solid waste disposal contract.

TABLE 3-3

## ST. JOHNS LANDFILL

## PROJECTED 1984 EXPENDITURES

## Operations Contract

Disposal Expense	\$3,457,320
Final Improvements	<u>520,500</u>

Subtotal	\$3,977,820
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Land Lease	227,400
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Environmental Control  
Sinking Funds

Annual Maintenance	\$51,800
Perpetual Maintenance	<u>120,000</u>

Subtotal	171,800
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Debt Service	198,480
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General Fund Transfer (S.W. Overhead)	97,520
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Recycling	3,730
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Contractual Services	42,400
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## Metro Operating Cost

Personnel	220,000
Maintenance & Repair	27,000
Materials & Services	87,100
DEQ Fees	5,000
Capital Outlay	<u>7,500</u>

Subtotal	<u>346,600</u>
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Contingency	300,000
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Total Expenditures	\$5,365,750
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## CLACKAMAS TRANSFER & RECYCLING CENTER EXPENDITURES

The expenditures relating to the CTRC are summarized in Table 3-5, p. 20. The following paragraphs discuss each type of expenditure.

### 1. Operating Contract

Genstar Conservation Systems, Inc. was awarded the CTRC operations contract by Metro in July 1982. Genstar operates the transfer station and transfers the collected waste to the St. Johns Landfill, and operates the CTRC. The determination of payment to Genstar is based on a variable scale of per ton transfer rates. As the volume of waste increases, the cost per ton decreases. Conversely, lower transfer volumes entail higher transfer rates.

The Genstar Conservation Systems, Inc. operations contract cost for CTRC is projected to be \$1,671,850 in 1984 (see Table 3-4, p. 17). The operations contract is adjusted annually on April 1 to reflect inflationary effects. Based on trends of the index used, an adjustment of 8% in 1984 has been projected.

TABLE 3-4

## Clackamas Transfer &amp; Recycling Center

## Operating Contract

## Transfer costs

<u>1984</u>	<u>Total Transfer Tons</u>	<u>Transfer Rate Per Ton</u>	<u>Transfer Cost</u>
January	16,940	7.96	134,842
February	16,630	7.96	132,375
March	18,700	7.56	141,372
April	18,050	7.56	136,457
May	18,280	7.56	138,196
June	18,740	7.56	141,674
July	19,450	7.56	147,042
August	18,640	7.56	140,917
September	18,840	7.56	142,430
October	17,970	7.96	143,041
November	16,520	7.96	131,498
December	<u>17,840</u>	<u>7.96</u>	<u>142,006</u>
	216,600		\$1,671,850

## 2. Other Expenses

### a. Debt Service

Metro has a long-term loan/grant agreement with the State of Oregon Department of Environmental Quality for preparation of the CTRC and Energy Recovery Facility site, and for construction of the CTRC facility. The terms of the loan contract require two payments in 1984, one on February 1 and one on August 1. The total 1984 payment is \$403,139. The portion related to CTRC site development and construction (\$258,000) will be recovered by rates. The remainder will be recovered through user fees. Site development costs were assessed on a per-acre basis: CTRC is developed on 3.2 acres of the 10.12-acre site.

### b. General Fund Transfer

This expenditure is to cover Metro and Solid Waste Department expenses which support operations at CTRC. Overhead services include personnel time and materials provided by other divisions or departments, including accounting, personnel, printing, word processing and general administration. The cost of these services in 1984 is estimated to be \$97,560.

### c. Metro Operating Costs

The CTRC gatehouse is operated by Metro employees 12 hours a day. In addition to gatehouse operations, some staff activities can be assigned directly to CTRC. These include administration of the operations contract, and operation of the recycling center.

Metro operating costs assigned to CTRC include \$112,580 for personnel expenses, \$25,140 for equipment maintenance and repair, \$41,070 for materials and services and \$4,000 for capital acquisition. The personnel expenses include funds for one full-time and two part-time gatehouse attendants, and partial funding of the facilities supervisor, operations manager, and other engineering, technical and administrative support.

DEQ fees will also be levied against the CTRC operation. However, because it is not a landfill, the fees are expected to be substantially less: \$1,000 for the six-month period.

### d. Contingency

In order to protect the level of service at CTRC from unforeseeable changes in its operating environment, an amount equal to 4.5% of revenue needs is set aside. Risks which this is intended to protect against include possible

changes in compliance regulations that would require substantial improvements or modifications to the facility, damage to the facility or an increase in waste flow that would result in higher cost to transport to St. Johns.

TABLE 3-5  
CLACKAMAS TRANSFER & RECYCLING CENTER  
PROJECTED 1984 EXPENDITURES

Operations Contract		\$1,671,850
Debt Service		258,000
General Fund Transfer (S.W. Overhead)		97,560
Recycling		3,500
Metro Operating Costs		
Personnel	\$112,580	
Maintenance & Repairs	25,140	
Materials & Services	41,070	
DEQ Fees	1,000	
Capital Outlay	<u>4,000</u>	
Subtotal		183,790
Contingency		<u>100,000</u>
Total Expenditures		\$2,314,660

## OTHER COST FACTORS

The preceeding sections described the expenditures which are covered by disposal fees. In addition to these fees, Metro imposes a region-wide user fee. A region-wide Regional Transfer Charge is also collected to pay most of the cost of the CTRC. Users of the CTRC pay an additional "convenience charge", and out-of-state users of Metro solid waste facilities pay a surcharge.

### User Fee

The user fee is collected at all solid waste facilities in the Metro region. Proceeds from the user fee are applied to debt service and to fund solid waste programs at Metro. No new debt has been incurred this year.

### Out-of-State Surcharge

The State of Oregon has provided support for Metro's solid waste activities through the State Pollution Control Fund. The State generates revenue for the Pollution Control Fund through the sale of general obligation bonds. The money from this fund has been distributed to Metro in the form of a 70% loan/30% grant package. The loan portions are repaid, with interest, to the State. The grant money, of which Metro has received \$2,506,530 to date, is not repaid to the State. Therefore, the State funds the grant portions. It does this through income tax collections.

Metro received \$583,230 in grant money from the fund for expansion at St. Johns, for the development of the Energy Recovery Facility and CTRC site and for the construction of CTRC. If the State had not granted these funds Metro would need to pay \$280,000 every year through 1987 to generate an equivalent amount of capital. From 1988 to 2001, the annual amount would drop to about \$190,000. These estimates assume the same retirement schedules and interest rates as the two loan agreements. When the \$280,000 annual amount is allocated to the total volume to be received at Metro facilities during 1984, it can be determined that the State subsidizes each ton by \$0.54. This means that Oregon residents are actually paying less through rates at Metro facilities than what it actually costs to dispose of the solid waste. The State's grant money is subsidizing them. Therefore, users who transport out-of-state waste to Metro facilities are charged \$.54 per ton as an out-of-state surcharge.

## Section 4

### COST ALLOCATIONS

In order to calculate solid waste disposal rates, it is necessary to allocate the costs incurred by Metro to specific user classes (commercial and public), in a manner by which each user pays for as much and only as much as is required to serve that user class.

Costs that are incurred as a function of volume of waste handled (such as the disposal cost at the landfill) are allocated according to the volume contributed by each user class. Other costs are related to the number of vehicles handled. They are allocated according to the number of vehicle trips by each user class. Another group of costs can be identified specifically to a single user and are allocated accordingly.

In the following section, costs to be met by rate revenue are described for each of the Metro facilities. The results are summarized in terms of total dollars in Tables 4-2 and 4-5 (p. 24 and p. 27) and in terms of dollars per ton in Tables 4-3 and 4-6 (p. 25 and p. 28).

### ST. JOHNS LANDFILL COST ALLOCATIONS

All of the projected expenses for St. Johns Landfill are allocated on the basis of tons received from each user class, with the exception of a few costs which can be isolated and directly allocated to a single user class. The results are summarized in Table 4-2, p. 24.

Of the 541,270 tons expected at St. Johns Landfill, commercial wastes comprise about 96 percent and public waste about 4 percent. The expenses not directly allocated are apportioned by these percentages.

Metro operates a public receiving area where all waste is dumped into drop boxes and hauled to the working face of the dumping area. This receiving area is necessary both for safety and for efficiency. The cost of the public receiving area is projected to be \$115,590, and is allocated exclusively to public users, as is \$8,285 in debt service for this facility.

The weighing system costs of \$44,840 are allocated entirely to commercial users.

Recycling expenses are allocated directly to the public. Costs related to hauling the glass, tin, newspaper and other paper boxes are recovered by marketing the recycled material. The tire box hauling costs are allocated according to the number and size of tires (see Table 4-1, p. 23). The larger truck and heavy equipment tires displace about the same volume in the tire box as four passenger vehicle tires, so the hauling costs are allocated

accordingly. Rims inside tires do not displace any more volume than a tire off-rim, so hauling costs are not allocated to mounted rims. Disposal costs are allocated according to the tire disposal fees charged by the processing facility.

TABLE 4-1

ST. JOHNS LANDFILL  
TIRE COST ALLOCATION

	<u>Car Tires</u>	<u>Car Rims</u>	<u>Truck Tires</u>	<u>Truck Rims</u>	<u>Total</u>
Hauling Costs	\$849	\$0	\$111	\$0	\$960
Disposal Costs	0	375	210	150	735
Amounts to be Recovered by Rates	849	375	321	150	1,695
Quantity	3,670	500	120	30	4,320
Unit Cost	0.24	0.75	2.68	5.00	
Unit Rate	0.25	0.75	2.75	5.00	



TABLE 4-2

## ST. JOHNS LANDFILL

## COST ALLOCATIONS IN DOLLARS

	<u>Commercial &amp; Transfer</u>	<u>Public</u>	<u>Total</u>	<u>Basis</u>
Operations Contract	\$3,707,741	\$270,079	\$3,977,820	3
Land Lease	218,304	9,096	227,400	1
Sinking Funds	164,928	6,872	171,800	1
Debt Service	182,587	15,893	198,480	4
Genl. Fund Transfer	93,619	3,901	97,520	1
Recycling	-	3,730	3,730	2
Contract. Services	40,704	1,696	42,400	1
Metro Operating Costs	334,532	12,068	346,600	5
Contingency	<u>288,000</u>	<u>12,000</u>	<u>300,000</u>	1
Total	\$5,030,415	\$335,335	\$5,365,750	
Projected Tonnage	521,790	19,480	541,270	

## Bases:

1. Tonnage: 96% Commercial & Transfer, 4% Public
2. Identified to a single user all related to cost to public
3. \$115,590 to public for transfer station expenses, remainder by tonnage
4. \$8,285 to public for transfer station debt service, remainder by tonnage
5. \$44,890 to commercial & transfer for weighing system costs, remainder by tonnage

TABLE 4-3

## ST. JOHNS LANDFILL

## COST ALLOCATION IN DOLLARS PER TON

	<u>Commercial &amp; Transfer</u>	<u>Public</u>
Operations Contract	\$7.10	\$13.86
Land Lease	0.42	0.47
Sinking Funds	0.32	0.35
Debt Service	0.35	0.82
Genl. Fund Transfer	0.18	0.20
Recycling	-	0.19
Contract Service	0.08	0.09
Metro Operating Costs	0.64	0.62
Contingency	<u>0.55</u>	<u>0.62</u>
Total Cost per Ton	\$9.64	\$17.21 <sup>1</sup>

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1 The cost of service fee for the public is converted to a rate per trip.

### CTRC COST ALLOCATIONS

The projected expenses at CTRC are allocated in a variety of ways. The results are summarized in Table 4-5, p. 27. The operations contract and General fund transfer expenses are allocated according to the relative tonnage of commercial and public wastes. The operations contract was bid on a per-ton basis, and it is allocated accordingly.

The recycling expenses include hauling and disposal of vehicle tires, and are recovered by tire disposal rates (see Table 4-4).

TABLE 4-4

#### CLACKAMAS TRANSFER & RECYCLING CENTER TIRE COST ALLOCATION

	<u>Car Tires</u>	<u>Car Rims</u>	<u>Truck Tires</u>	<u>Truck Rims</u>	<u>Total</u>
Hauling Costs	\$5,412	\$0	\$708	\$0	\$6,120
Disposal Costs	0	1,125	630	450	2,205
Amounts to be Recovered by Rates	5,412	1,125	1,338	450	8,325
Quantity	11,010	1,500	360	90	12,960
Unit Cost	0.50	0.75	3.72	5.00	
Unit Rate	0.50	0.75	3.75	5.00	

Since this facility is designed to accommodate a large number of vehicles at 21 dumping stalls, the Debt Service for construction is allocated based on the number of trips by each user class. The Metro operating costs are also allocated by number of trips because the cost of the service provided (e.g., the gatehouse operation) is more closely related to transactions than to tons. Because the public is expected to make 95,316 of the 131,976 trips (Table 2-4, p. 9) made in 1984, they are allocated a higher share of the costs.

The commercial weighing system cost of \$18,760 is directly allocated to commercial users.

TABLE 4-5

## CLACKAMAS TRANSFER &amp; RECYCLING CENTER

## COST ALLOCATION IN DOLLARS

	<u>Commercial</u>	<u>Public</u>	<u>Total<sup>1</sup></u>	<u>Basis</u>
Operations Contract	\$1,404,354	\$267,496	\$1,671,850	1
Debt Service	72,240	185,760 *	258,000	2
Genl. Fund Transfer	81,917	15,603	97,520	1
Recycling	-	3,500	3,500	3
Metro Operating Costs	64,968	118,822	183,790	4
Contingency	<u>84,000</u>	<u>16,000</u>	<u>100,000</u>	
Total	<u>\$1,707,479</u>	<u>\$607,181</u>	<u>\$2,314,660</u>	
Projected Tonnage	182,400	34,200	216,600	
Projected Trips	36,660	95,316	131,976	

## Bases:

1. Tonnage: 84% commercial, 16% public
2. Trips: 28% commercial, 72% public
3. Identified to a single user
4. \$18,760 to commercial for weighing system costs, remainder by trips

\* this number will be used in CTRC public rate calculation only - not in regional transfer charge calculation.

TABLE 4-6

## CLACKAMAS TRANSFER &amp; RECYCLING CENTER

## COST ALLOCATION IN DOLLARS PER TON

	<u>Commercial</u>	<u>Public</u>
Operations Contract	\$7.69	7.82
Debt Service	0.40	5.43
Genl. Fund Transfer	0.45	0.45
Recycling	-	0.10
Metro Operating Costs	0.36	3.47
Contingency	<u>0.46</u>	<u>0.47</u>
Total Cost per Ton	\$9.36	\$17.75

These are the cost of service rates at CTRC.

## Section 5

### RATE COMPUTATIONS

Solid waste disposal rates for Metro facilities are determined in a series of steps designed to charge users in as equitable a manner as possible. The calculations which follow express the Metro policy that base rates at Metro facilities should be uniform, and that the operational cost of CTRC should be paid by all users in the region. Discussions will be presented in the following order for each rate element: commercial rates, convenience charge, Regional Transfer Charge and public rates.

#### 1. Commercial Rates

The commercial rate at both facilities is calculated by dividing the costs allocated to commercial users of the St. Johns facility (Table 4-2, p. 24) by the projected commercial and transfer tonnage (Table 2-3, p. 8, first two columns):

	<u>Commercial</u>
Net Revenue Requirement	\$5,030,415
Projected Waste Flow (tons)	521,790
Uniform Rate	<u>\$9.64</u>

It has been recommended that the construction and operation of the truck wash rack at CTRC be charged to all Metro facility commercial users. These costs, estimated at \$15,000 for operation and \$15,000 for debt service (for each of five years), would result in an increase to the commercial rate of \$0.06 per ton (\$9.70 per ton total).

#### 2. Convenience Charge

Users of the CTRC facility are charged an extra fee in recognition of the cost savings they realize by not being required to transport their waste to St. Johns. For the initial year of operation at CTRC, the convenience charge was \$1.49 per ton. In spite of the cost difference that was created between CTRC and St. Johns, commercial flows to CTRC have been substantially higher than predicted. This has increased the overall cost of disposing of the area's solid waste and so has placed upward pressure on disposal rates and on the Regional Transfer Charge for commercial users. It is recommended that the convenience charge at CTRC be raised to \$2.25 per ton to adjust the flow patterns between the Metro facilities to a more efficient balance. It is also recommended that it be made possible to raise or lower the convenience charge at times independent of the yearly rate adjustment so that it can be effectively used as a flow control device as needed to provide the lowest cost overall service.

3. Regional Transfer Charge (see Table 5-1, p. 32)

The Regional Transfer Charge is the means by which all waste disposal facility users in the Metro region are charged to pay equally for the operation of the CTRC. The debt service for the public portion of the CTRC is not included in the costs to be recovered through the Regional Transfer Charge, nor is the convenience charge (described on the preceeding page).

Net CTRC expenses identified to commercial and public users are divided by the expected tonnage of waste to be generated by each user class.

Because of flow restrictions anticipated last year, commercial flow was limited in the rate study. These restrictions have been lifted, and an additional 80,000 tons of commercial waste is expected at CTRC as a result. Therefore, the Regional Transfer Charge for commercial users is higher than last year, and the Regional Transfer Charge for public users is lower than last year.

4. Public Rates

The public base rate at both Metro facilities is equal to the net expenses assigned to the public at both Metro facilities, divided by the number of public trips made to those facilities.

Calculation of the public base rate is described as follows. The net expenses assigned to the public are those which remain after the amounts covered by the public Regional Transfer Charge and the public convenience charge are taken out. The public convenience charge is then added to the base rate to arrive at the CTRC public rate. While all rate calculations are done using tonnage as the base units for the sake of consistency, rates for the public are administered in terms of trips. The translation from tons to trips has historically been based on the assumption that it took four average trips for the public to deliver one ton of waste. More recent data indicate a trend toward heavier loads, and so fewer trips per ton. A multiple of three trips per ton is now a more correct measure.

Calculation of the public rates in accordance with the above discussion follows.

The net CTRC operating cost is calculated thus:

Total CTRC Cost	\$607,181
Less: Regional Transfer Charge (1.34 x 261,000 trips)	(349,740)
Less: Convenience Charge (0.75 x 95,316 trips)	<u>(71,487)</u>
Net CTRC Operating Costs	\$185,954

The net CRTC cost is then combined with the cost of disposal and divided by total public trips to derive the Metro public rate:

St. Johns Public Disposal	\$335,335
CTRC Public Disposal	329,688
Net CTRC Operating Costs	<u>185,954</u>
Total Public Cost	\$850,977
Divide by Public Trips	<u>149,606</u>
Metro Public Rate (average)	\$5.68

The last step in the process is to recognize the revenue which will come from charges for extra yards. The result is a recommended public rate of \$4.62 for cars and \$5.37 for trucks.

This is accomplished by reducing the revenue to be generated through public rates by the amount anticipated to come from extra yard charges (\$57,730), and then reducing the average public rate to meet the lower revenue needs. Actual rates to be charged to the public are then set, recognizing that about 90 percent of public trips are by pickup or similar vehicle.



TABLE 5-1

## REGIONAL TRANSFER CHARGE

	<u>Commercial</u>	<u>Public</u>
CTRC Expenses	\$1,707,479	\$607,181
Less: Public Debt Service		(185,760)
Less: Convenience Charge @ 2.25/ton	(410,400)	(71,500)
Net CTRC Expenses	1,297,079	349,921
Divide by: Regional Tonnage/Trips	<u>649,300</u>	<u>261,000</u>
Regional Transfer Charge	\$2.00 per ton	\$1.34 per trip

Section: 6

RECOMMENDED RATES (commercial per ton, public per trip)

	<u>Base Rate</u>	<u>User Fee</u>	<u>Regional Transfer Charge</u>	<u>Convenience Charge</u>	<u>Total Rate</u>
<u>St. Johns Landfill</u>					
Commercial	\$9.64	\$1.68	\$2.00	-	\$13.32
Public:					
Cars (2 cu yds)	4.62	0.54	1.34	-	6.50
Trucks, etc. (2-1/2 cu yds)	5.37	0.54	1.34	-	7.25
Extra Yards	2.31	0.27	0.67	-	3.25
<u>CTRC</u>					
Commercial	\$9.64	\$1.68	\$2.00	\$2.25	\$15.57
Public:					
Cars	4.62	0.54	1.34	0.75	7.25
Trucks, etc.	5.37	0.54	1.34	0.75	8.00
Extra Yards	2.31	0.27	0.67	0.35	3.60

User fees in the above recommendation are unchanged from 1983. The following are the recommended tire disposal rates:

	<u>St. Johns</u>	<u>CTRC</u>
Car Tires	\$0.25	\$0.50
Car Rims	0.75	0.75
Truck Tires	2.75	3.75
Truck Rims	5.00	5.00

Section: 7

### FINANCIAL ANALYSIS

The purpose of this section is to demonstrate that, given the proposed rate structure and projected solid waste flows, enough revenue will be generated to satisfy the requirements created by Metro facilities. Rate-derived revenues are generated by three major mechanisms: disposal charges, regional transfer charges and convenience charges. Some revenue can also be predicted from charges for additional yards of solid waste brought in by the public. Within each category, waste flows (in tons or trips as appropriate) are multiplied by proposed rates for the category to derive revenues. Total revenues are then compared with total requirements. As can be seen in the following chart, revenues and requirements closely match.

	<u>Units</u>	<u>Rate</u>	<u>Revenue</u>
<u>Disposal</u>			
Commercial (tons)	487,590	\$9.64	\$4,700,368
Public (trips)	149,606		
Cars	14,961	4.62	69,120
Pickups, etc.	134,645	5.37	723,045
<u>Regional Transfer Charge</u>			
Commercial (tons)	649,300	2.00	1,298,600
Public (trips)	261,000	1.34	349,740
<u>Convenience Charge</u>			
Commercial (tons)	182,400	2.25	410,400
Public (trips)	95,316	.75	71,487
<u>Additional Yards</u>			
Public	25,100	2.30	57,730
Total Revenue			\$7,680,490
Total Requirements			<u>\$7,680,410</u>
			\$80

ES/gl  
9107B/357  
8/16/83

BEFORE THE COUNCIL OF THE  
METROPOLITAN SERVICE DISTRICT

AN ORDINANCE RELATING TO SOLID )      ORDINANCE NO. 83-163  
WASTE DISPOSAL CHARGES AND USER )  
FEES; AMENDING METRO CODE SECTIONS )  
5.02.020, 5.02.025 AND 5.02.050; )  
AND DECLARING AN EMERGENCY )

THE COUNCIL OF THE METROPOLITAN SERVICE DISTRICT HEREBY ORDAINS:

Section 1. Metro Code Section 5.02.020 is Amended to Read as  
Follows:

"(a) A base disposal rate of [\$10.33] \$9.64 per ton of solid waste delivered is established for disposal at the St. Johns Landfill. Said rate shall be in addition to fees, charges and surcharges established pursuant to Sections 8, 9 and 10 of this ordinance. [The minimum charge for commercial vehicles shall be for one ton of solid waste.]

"(b) The minimum charge for commercial vehicles shall be for one ton of solid waste. The minimum charge for private trips shall be two and one-half cubic yards for pickup trucks, vans and trailers and two cubic yards for cars. The minimum volume shall be waived for any person delivering one-half cubic yard or more of recyclable materials. Such persons shall be charged for the actual amount of waste delivered at the extra yardage rate.

[(b)] (c) The following disposal charges shall be collected by the Metropolitan Service District from all persons disposing of solid waste at the St. Johns Landfill:

## CHART DELETED

Vehicle Category	[Base Rate		Metro User Fee		Regional Transfer Charge		Total Rate	
	\$/ton	\$/cy	\$/ton	\$/cy	\$/ton	\$/cy	\$/ton	\$/cy
<u>COMMERCIAL</u>								
Compacted	\$10.33	\$3.05	\$1.68	\$0.43	\$1.47	\$0.38	\$13.48	\$3.88
Uncompacted	10.33	1.30	1.68	0.25	1.47	0.22	13.48	1.77

PRIVATE	Base Rate		Metro User Fee		Regional Transfer Charge		Total Rate	
	Per Trip		Per Trip		Per Trip		Per Trip	
Cars <sup>1</sup>	\$3.36		\$0.54		\$1.60		\$5.50	
Station Wagons <sup>1</sup>	3.36		0.54		1.60		5.50	
Vans <sup>2</sup>	4.11		0.54		1.60		6.25	
Pick-ups <sup>2</sup>	4.11		0.54		1.60		6.25	
Trailers <sup>2</sup>	4.11		0.54		1.60		6.25	
Extra Yards	1.68		0.27		0.80		2.75	

TIRES <sup>3</sup>	Base Rate		Metro Fee		Regional Transfer Charge		Total Rate	
Passenger (up to 10 ply)	\$0.20						\$0.20	
Passenger Tire (on rim)	\$0.90						\$0.90	
Tire Tubes	\$0.55						\$0.55	
Truck Tires	\$2.00						\$2.00	
(20" diameter to 48" diameter on greater than 10 ply)								
Small Solids	\$2.00						\$2.00	
Truck Tire (on rim)	\$7.00						\$7.00	
Dual	\$7.00						\$7.00	
Tractor	\$7.00						\$7.00	
Grader	\$7.00						\$7.00	
Duplex	\$7.00						\$7.00	
Large Solids	\$7.00						\$7.00	

<sup>1</sup>Based on a minimum load of two cubic yards.

<sup>2</sup>Based on a minimum load of two and one-half cubic yards.

<sup>3</sup>Cost per tire is listed.]

0014C/353-A

ST. JOHNS LANDFILL

Vehicle Category	Base Rate		Metro User Fee		Regional Transfer Charge		Total Rate	
	\$/ton	\$/cy	\$/ton	\$/cy	\$/ton	\$/cy	\$/ton	\$/cy
<u>COMMERCIAL</u>								
Compacted	\$9.64	\$2.85	\$1.68	\$0.43	\$2.00	\$0.52	\$13.32	\$3.80
Uncompacted	9.64	1.21	1.68	0.25	2.00	0.30	13.32	1.76

Vehicle Category	Base Rate		Metro User Fee		Regional Transfer Charge		Total Rate	
	Per Trip		Per Trip		Per Trip		Per Trip	
<u>PRIVATE</u>								
Cars <sup>1</sup>	\$4.62		\$0.54		\$1.34		\$6.50	
Station Wagons <sup>1</sup>	4.62		0.54		1.34		6.50	
Vans <sup>2</sup>	5.37		0.54		1.34		7.25	
Pickups <sup>2</sup>	5.37		0.54		1.34		7.25	
Trailers <sup>2</sup>	5.37		0.54		1.34		7.25	
Extra Yards	2.30		0.27		0.68		3.25	

Vehicle Category	Base Rate		Metro Fee		Regional Transfer Charge		Total Rate	
<u>TIRES<sup>3</sup></u>								
Passenger (up to 10 ply)	\$0.25						\$0.25	
Passenger Tire (on rim)	1.00						1.00	
Tire Tubes	0.25						0.25	
Truck Tires	2.75						2.75	
(20" diameter to 48" diameter on greater than 10 ply)								
Small Solids	2.75						2.75	
Truck Tire (on rim)	7.75						7.75	
Dual	7.75						7.75	
Tractor	7.75						7.75	
Grader	7.75						7.75	
Duplex	7.75						7.75	
Large Solids	7.75						7.75	

<sup>1</sup>Based on a minimum load of two cubic yards.

<sup>2</sup>Based on a minimum load of two and one-half cubic yards.

<sup>3</sup>Cost per tire is listed.

0014C/353-C

Section 2. Metro Code Section 5.02.025 is Amended to Read as Follows:

"(a) A base disposal rate of [~~\$10.33~~] \$9.64 per ton of solid waste delivered is established for solid waste disposal at the Clackamas Transfer & Recycling Center.

(b) A convenience charge of [~~\$1.49~~] \$2.25 per ton of solid waste delivered is established to be added to the base disposal rate at Clackamas Transfer & Recycling Center.

(c) The base disposal rate and convenience charge established by this section shall be in addition to fees, charges and surcharges established pursuant to Sections 8, 9 and 10 of this ordinance.  
[The minimum charge for commercial vehicles shall be for one ton of solid waste.]

"(d) The minimum charge for commercial vehicles shall be for one ton of solid waste. The minimum charge for private trips shall be two and one-half cubic yards for pickup trucks, vans and trailers and two cubic yards for cars. The minimum volume shall be waived for any person delivering one-half cubic yard or more of recyclable materials. Such persons shall be charged for the actual amount of waste delivered at the extra yardage rate.

[(d)] (e) The following disposal charges shall be collected by the Metropolitan Service District from all persons disposing of solid waste at the Clackamas Transfer & Recycling Center:

CHART DELETED

Vehicle Category	Base Rate		Metro User Fee		Regional Transfer Charge		Convenience Charge		Total Rate	
	\$/ton	\$/cy	\$/ton	\$/cy	\$/ton	\$/cy	\$/ton	\$/cy	\$/ton	\$/cy
<b>COMMERCIAL</b>										
Compacted	\$10.33	\$3.05	\$1.68	0.43	\$1.47	\$0.38	\$1.49	\$0.38	\$14.97	\$4.24
Uncompacted	10.33	1.30	1.68	0.25	1.47	0.22	1.49	0.22	14.97	1.99
Vehicle Category	Base Rate		Metro User Fee		Regional Transfer Charge		Convenience Charge		Total Rate	
	Per Trip		Per Trip		Per Trip		Per Trip		Per Trip	
<b>PRIVATE</b>										
Cars <sup>1</sup>	\$4.86		\$0.54		\$1.60		\$0.50		\$7.50	
Station Wagons <sup>1</sup>	4.86		0.54		1.60		0.50		7.50	
Vans <sup>2</sup>	5.61		0.54		1.60		0.50		8.25	
Pickups <sup>2</sup>	5.61		0.54		1.60		0.50		8.25	
Trailers <sup>2</sup>	5.61		0.54		1.60		0.50		8.25	
Extra Yards	2.43		0.27		0.80		0.25		3.75	
Vehicle Category	Base Rate		Metro Fee		Regional Transfer Charge		Total Rate			
<b>TIRES<sup>3</sup></b>										
Passenger (up to 10 ply)	\$0.20						\$0.20			
Passenger Tire (on rim)	0.90						0.90			
Tire Tubes	0.55						0.55			
Truck Tires	2.00						2.00			
(20" diameter to 48" diameter on greater than 10 ply)										
Small Solids	2.00						2.00			
Truck Tire (on rim)	7.00						7.00			
Dual	7.00						7.00			
Tractor	7.00						7.00			
Grader	7.00						7.00			
Duplex	7.00						7.00			
Large Solids	7.00						7.00			

<sup>1</sup>Based on a minimum load of two cubic yards.

<sup>2</sup>Based on a minimum load of two and one-half cubic yards.

<sup>3</sup>Cost per tire is listed.]

0014C/353-B



## CHART ADDED

## CTRC

Vehicle Category	Base Rate		Metro User Fee		Regional Transfer Charge		Convenience Charge		Total Rate	
	\$/ton	\$/cy	\$/ton	\$/cy	\$/ton	\$/cy	\$/ton	\$/cy	\$/ton	\$/cy
<u>COMMERCIAL</u>										
Compacted	\$9.64	\$2.85	\$1.68	0.43	\$2.00	\$0.52	\$2.25	\$0.57	\$15.57	\$4.37
Uncompacted	9.64	1.21	1.68	0.25	2.00	0.30	2.25	0.33	15.57	2.09
	Base Rate		Metro User Fee		Regional Transfer Charge		Convenience Charge		Total Rate	
	Per Trip		Per Trip		Per Trip		Per Trip		Per Trip	
<u>PRIVATE</u>										
Cars <sup>1</sup>	\$4.62		\$0.54		\$1.34		\$0.75		\$7.25	
Station Wagons <sup>1</sup>	4.62		0.54		1.34		0.75		7.25	
Vans <sup>2</sup>	5.37		0.54		1.34		0.75		8.00	
Pickups <sup>2</sup>	5.37		0.54		1.34		0.75		8.00	
Trailers <sup>2</sup>	5.37		0.54		1.34		0.75		8.00	
Extra Yards	2.31		0.27		0.68		0.35		3.60	
	Base Rate		Metro Fee		Regional Transfer Charge		Total Rate			
<u>TIRES<sup>3</sup></u>										
Passenger (up to 10 ply)	\$0.50						\$0.50			
Passenger Tire (on rim)	1.25						1.25			
Tire Tubes	0.25						0.25			
Truck Tires	3.75						3.75			
(20" diameter to 48" diameter on greater than 10 ply)										
Small Solids	3.75						3.75			
Truck Tire (on rim)	8.75						8.75			
Dual	8.75						8.75			
Tractor	8.75						8.75			
Grader	8.75						8.75			
Duplex	8.75						8.75			
Large Solids	8.75						8.75			

<sup>1</sup>Based on a minimum load of two cubic yards.<sup>2</sup>Based on a minimum load of two and one-half cubic yards.<sup>3</sup>Cost per tire is listed.

0014C/353-D

Section 3. Metro Code Section 5.02.050 is Amended to Read as Follows:

"(a) There is hereby established a regional transfer charge which shall be a charge to the operators of solid waste disposal facilities for services rendered by Metro in administering and operating solid waste transfer facilities owned, operated or franchised by Metro. Such charge shall be collected and paid in the form of an add-on to user fees established by Section 8 of this ordinance.

"(b) The following regional transfer charges shall be collected and paid to Metro by the operators of solid waste disposal facilities, whether within or without the boundaries of Metro, for the disposal of solid waste generated, originating or collected within Metro boundaries:

- (1) For noncompacted solid waste, [~~\$0.22~~] \$0.30 per cubic yard delivered; [~~\$1.47~~] \$2.00 per ton delivered.
- (2) For compacted solid waste, [~~\$0.38~~] \$0.52 per cubic yard delivered; [~~\$1.47~~] \$2.00 per ton delivered.
- (3) For all material delivered in private cars, station wagons, vans, single and two wheel trailers, trucks with rated capacities of less than one (1) ton, [~~\$0.80~~] \$0.68 per cubic yard with a minimum charge of [~~\$1.60~~] \$1.34 per load."

Section 4: The Council finds that, in order to recoup sufficient revenue to operate disposal facilities and programs for FY 1984, it is necessary that the rates established herein be effective by January of 1984. Therefore, an emergency is hereby declared to exist pursuant to ORS 268.515(7), and the rates, fees and charges established by this ordinance shall be effective on and after January 1, 1984.

ADOPTED by the Council of the Metropolitan Service District  
this \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_.

\_\_\_\_\_  
Presiding Officer

ATTEST:

\_\_\_\_\_  
Clerk of the Council

AJ/gl  
0014C/353

STAFF REPORT

Agenda Item No. 7.2

Meeting Date October 27, 1983

CONSIDERATION OF ORDINANCE NO. 83-164 FOR THE  
PURPOSE OF AMENDING THE FY 1983-84 BUDGET AND  
APPROPRIATIONS SCHEDULE AND AMENDING ORDINANCE  
NO. 83-153 TO PROVIDE FOR LEGAL SERVICES.

---

Date: October 11, 1983

Presented by: J. Sims

FACTUAL BACKGROUND AND ANALYSIS

This proposed budget and appropriations amendment is for the General fund, Executive Management Department only. It requests no net change, but provides for the reallocation of \$9,775 from Personal Services to Materials and Services.

This action is necessary due to the resignation of Metro's General Counsel. A transfer of funding to Materials and Services will allow for continued legal services on a contractual basis. This interim measure should provide adequate services while the Council and Executive Officer assess options for the provision of legal services in the future.

EXECUTIVE OFFICER'S RECOMMENDATION

The Executive Officer recommends adoption of Ordinance No. 83-164.

COMMITTEE CONSIDERATION AND RECOMMENDATION

On October 17, 1983, the Council Coordinating Committee recommended adoption of Ordinance No. 83-164.

JS/gl  
0130C/353  
10/11/83

BEFORE THE COUNCIL OF THE  
METROPOLITAN SERVICE DISTRICT

AN ORDINANCE RELATING TO THE )  
FY 1983-84 BUDGET AND APPROPRIA- )  
TIONS SCHEDULE; AND AMENDING )  
ORDINANCE NO. 83-153 )

ORDINANCE NO. 83-164

THE COUNCIL OF THE METROPOLITAN SERVICE DISTRICT HEREBY ORDAINS:

The amendments to the FY 1983-84 Budget of the Metropolitan Service District (Metro) attached hereto as Exhibit "A" and amendments to the FY 1983-84 Appropriations attached hereto as Exhibit "B" to this Ordinance are hereby adopted.

ADOPTED by the Council of the Metropolitan Service District  
this \_\_\_\_\_ day of \_\_\_\_\_, 1983.

\_\_\_\_\_  
Presiding Officer

ATTEST:

\_\_\_\_\_  
Clerk of the Council

JS/gl  
0130C/353

ORDINANCE NO. 83-164

EXHIBIT "A"

Amendments to the FY 1983-84 Adopted Budget  
General Fund, Executive Management Department

	Current Budget	Amendment	Revised Budget	Reason
Personal Services				
General Counsel	\$ 42,915	(7,500)	\$ 35,415	Transfer
Fringe	49,889	(2,275)	47,614	Transfer
All Other Accounts	<u>133,419</u>	<u>0</u>	<u>133,419</u>	
Total Personal Services	\$226,223	(9,775)	\$216,448	
Materials & Services				
Contractual Services	\$ 2,500	\$ 9,775	\$ 12,275	Legal
All Other Accounts	<u>10,300</u>	<u>0</u>	<u>10,300</u>	Services
Total M&S	\$ 12,800	\$ 9,775	\$ 22,575	
Total Capital Outlay	\$ 1,350	0	\$ 1,350	
TOTAL EXECUTIVE MANAGEMENT DEPARTMENT	\$240,373	0	\$240,373	

ORDINANCE NO. 83-164

EXHIBIT "A"

General Fund, Executive Management Department

	<u>Current Appropriation</u>	<u>Amemdment</u>	<u>Revised Appropriation</u>
Personal Services*	\$226,223	(9,775)	\$216,448
Materials & Services	12,800	9,775	22,575
Capital Outlay	<u>1,350</u>	<u>0</u>	<u>1,350</u>
TOTAL DEPARTMENT	\$240,373	\$0	\$240,373

STAFF REPORT

Agenda Item No. 8.1

Meeting Date October 27, 1983

CONSIDERATION OF CONTRACT FOR THE DESIGN,  
PRODUCTION AND INSTALLATION OF EXHIBIT MODULES  
FOR THE ZOO'S ELEPHANT MUSEUM

Date: October 7, 1983

Presented by: Jack Delaini

FACTUAL BACKGROUND AND ANALYSIS

The Elephant Museum has been approved by the Council as part of the Zoo's 1983-84 Capital Improvement Program. A request for proposals (RFP) to design, produce and install seven exhibit modules for the Zoo's Elephant Museum was mailed to some 15 firms deemed qualified to perform the work and was also published on August 1, 1983 in the Daily Journal of Commerce.

Five responses to the RFP were received and rated according to pre-determined criteria by the Zoo's Educational Services Manager and Graphics & Exhibits Specialist. Two firms virtually tied for the highest score: Color & Design and All West Display. Therefore, staff requested representatives of those two firms to appear for interviews on August 25, 1983. Both firms were rated according to pre-determined criteria and as a result of these interviews, staff recommends awarding the contract of \$102,500 to All West Display for the following reasons:

1. All West Display will devote a higher percentage of the project budget to the production phase - staff feels this is the most important phase of the project.
2. All West Display presented a more thorough, better prepared RFP and interview.
3. Joe Maricich, All West's design subconsultant, has a proven record of successful cooperation with Zoo staff.
4. Telephone inquiries made to previous All West Display clients (Weyerhaeuser Corporate Headquarters and the Western Forestry Center) verified the durability and quality of previous exhibits.
5. All West's design approach and their proposed designs for the Elephant Museum were more than satisfactory to staff.

Of the five responses received, no firm is certified as an MBE, and no firm anticipated any subcontracting possibilities.

EXECUTIVE OFFICER'S RECOMMENDATION

The Executive Officer recommends approval of the contract with All West Display.

COMMITTEE CONSIDERATION AND RECOMMENDATION

On October 17, 1983, the Council Coordinating Committee recommended Council approval of the Contract.