

## Chapter 263

### Artesian Well Districts

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### CROSS REFERENCES

Cooperative or joint action by districts, 190.010; by public corporations, 190.110

Municipal districts given powers of peoples' utility district, 261.310

263.080  
Constitutional limitations on taxing power, Const. Art. XI, § 11  
Voted tax for improvements, 280.060  
263.110  
Control of flow of artesian wells, 537.580



**263.010 Artesian well defined.** For the purpose of this chapter an artesian well is any artificial hole made in the ground not less than six inches in diameter at the bottom, through which water naturally flows from subterranean sources to the surface of the ground for any length of time.

**263.020 Petition to county court for creation of district; exclusion of land from district; district area to be compact.** Whenever the majority of the owners of real estate representing also the majority of the number of acres of land of any proposed district in any county desire to bore for the purpose of securing artesian water, they shall present a petition to the county court of the county asking the county court to create a district large enough to include land owned by all such petitioners where such district is proposed to be created. The petition shall describe by land subdivisions or by metes and bounds, as the case may be, the exact number of acres in the proposed district, shall show the assessed value as assessed by the county assessor at the last annual assessment, and shall propose the number of mills to be levied for the purpose of securing the artesian well. The county court shall, upon the objection of the owner of any land within the proposed district naturally or artificially irrigated or having thereon springs, lakes, streams or other water courses from which the same can be supplied with water, exclude such land therefrom. The district shall be as compact in form as practicable.

**263.030 Order for election in proposed district; notice of election.** When the petition is filed, the county court shall thereafter, at its regular session, or at any special session called for that purpose, if upon thorough examination such court shall find the petition to be regular, order an election in said district, naming the place of election and the time when the election shall be held, which shall not be until after notice thereof is given as provided in ORS 263.040.

**263.040 Form of notices of election; posting.** (1) At least 30 days previous to any election provided for in this chapter the county court shall deliver to the sheriff of the county at least five notices of the election to be held in any county or in any proposed district in any county voting on the

question. Said notices shall be substantially in the following form:

**Artesian Well Election Notice**

Notice hereby is given, that on—, the —day of—, 19—, at the— in the County of —, an election will be held to determine whether the owners of real estate within the following described bounds (here insert the description of the proposed district), desire to bore within the prescribed bounds for the purpose of securing artesian water, which election shall be held at — o'clock in the morning, and will continue until — o'clock in the afternoon of the said day.

Dated this —day of —, 19—.

\_\_\_\_\_,  
County clerk of — County, Oregon.

(2) The sheriff at least 30 days before any election hereunder shall post the notices in public places within the proposed district, one to be posted at the place designated by the county court as the polling place.

**263.050 Election ballots; form.** Before the election the county clerk shall arrange the ballots and have them printed in substantially the following form:

Ballot upon the question of boring for artesian water [date of election].

Vote for or against boring for artesian water.

Mark X between number and answer voted for.

12. For artesian well tax. Yes.

13. For artesian well tax. No.

**263.060 Qualifications of voters.** No person shall be allowed to vote at any election held under the provisions of this chapter who is not an owner of real estate in the district proposed to be created.

**263.070 General election laws applicable.** In all elections provided for and in all matters and proceedings not specified in this chapter the provisions of the general election laws of the state shall apply so far as the same are applicable.

**263.080 Canvass of vote; tax levy.** Within 30 days after the election the county court at a regular or special session called for that purpose shall canvass the vote, and if it is found that a majority of the votes cast is in favor of the tax for boring for artesian water, the court will then include

the tax in the next general tax levy upon the real property within the district.

**263.090 Determining location of well; contract with landowner.** (1) After 50 per cent of the special tax has been paid into the county treasury the county court shall call into consultation the State Engineer, who, together with the county judge and county commissioners, shall proceed to locate the well in the proposed district, taking into consideration the following:

(a) Centralization of location.

(b) Location with reference to altitude and the possibilities of a successful well serving the greatest number of people within the district.

(c) Location relative to indications for securing artesian water.

(d) After 10 days' notice by posting in three conspicuous places within the district, bids from various property owners as a bonus for location of a successful well.

(e) Location with reference to bids for the well if it is not artesian, if it furnishes a sufficient supply of water by pumping for the land upon which it is located.

(2) After taking into consideration the above inducements and consulting the State Engineer as to the most advantageous point, and taking into consideration the amount of money to be paid for the point, the county judge, with the county commissioners, shall decide upon the point of location. The well shall be located at the point so selected if the party owning the land enters at once into a contract with the county judge and the county commissioners permitting them to enter upon such lands, giving them good and sufficient room for their drills, wells, machinery, camps, stables and residences until the well is completed, and if such owner refuses to enter into such a contract, then the well shall be placed at the next most advantageous point selected by the county court, where the owner of such land is willing to enter into such a contract with the court. The county court hereby is authorized to enter into a contract with the party offering the bonus for the location of the artesian well.

**263.100 Reservation of right in contract to appropriate water.** Whenever a contract is entered into by the county court with any person under the provisions of this chapter,

the county court shall at the same time, and in a manner not inconsistent with the other provisions of this chapter, reserve for the benefit of the public the right, in case the artesian well is a success and artesian water is found, to appropriate sufficient water from the well for the purpose of the watering of livestock and for such other uses as may by the court be deemed essential. The intention so to appropriate shall be made by the county court, and any contract or agreement made under ORS 263.090 shall be made with reference to such specified reservation and right of appropriation by the county court for public uses.

**263.110 Adoption of rules and regulations for distributing water.** Whenever a tax is levied and a well bored under the provisions of this chapter, and the well is a success, the county court shall adopt such rules and regulations governing the distribution of water as may be deemed for the best interest of the whole district wherein the well is situated for the general supervision and control of such wells and the water flowing therefrom. Such regulation, supervision and control shall not be inconsistent with any contract or agreement entered into by the county court with any individual as provided for in ORS 263.090.

**263.120 Taxation for second or adjacent well.** After any tract of land has been taxed under the provisions of this chapter no other tax for the location of a second well or adjacent wells shall be levied against said lands under the provisions of this chapter within one year after the first levy.

**263.130 Disposal of unused balance of moneys collected.** Should any balance in excess of \$1,000 be left of the money collected by the county treasurer, or of the moneys collected for the bonus mentioned in ORS 263.090 and not otherwise expended in perfecting any artesian well, then this balance shall be credited the following year to the general taxes of such property as had paid the special tax collected under the provisions of this chapter in proportion to the assessed value when the levy was made. If the sum should be \$1,000 or less, then the balance of the fund shall be turned over to the county court to be expended upon the highways within the artesian well district.