# Chapter 262

# Cooperative Telephone Districts


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## CROSS REFERENCES

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Municipal districts given power of people's utility district, 261.310

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Annual statement to State Tax Commission, 308.520
Federal Act citation, 49 U.S.C.A. § 20

## GENERAL PROVISIONS

**262.010 Short title.** This chapter shall be known as the Cooperative Telephone District Law.

**262.020 Definitions.** When used in this chapter and unless otherwise required by the context:

(1) "Cooperative telephone district" or "district" means an incorporated cooperative district, created under this chapter for transaction of a cooperative telephone business on the cooperative plan.

(2) "Municipality" means an incorporated city or town with a council or legislative body.

(3) "Board of directors," "directors" or "board" means the governing body of a cooperative telephone district, elected and functioning under this chapter.

(4) "Parcel of territory" means a portion of unincorporated territory that is not a part of a district or that is included in the description of a petition filed with a county court, but not acted on, in pursuance of this chapter.

(5) "Voters' petition" means a petition containing the signatures of qualified voters equal to not less than 15 percent of the greatest number of votes any individual candidate received for Judge of the Supreme Court at the last preceding biennial election within the boundaries of the territory, municipality or district referred to therein, and which asks a county court to call an election to be held within such boundaries for formation of a district, annexation of a parcel of territory or a municipality to a district or consolidation of two or more districts. When the boundaries described in any petition include a part only of a precinct, the vote of the entire precinct shall be used as a basis in computing the percentage of signatures required on a voters' petition.

(6) "Municipal petition" means a petition of a municipality, or of a district organized under this chapter, requesting the county court of the county in which the municipality or district is located to call an election to be held within the boundaries of a municipality, district and parcel of territory, or any of them, for the purpose of creating a district, annexation of a parcel of territory or a municipality to a district or consolidation of two or more districts.

(7) "Qualified voter" means a registered voter residing in the precinct where registered.

(8) "County court" includes board of county commissioners.

**262.030 Charter provisions of cities and towns not affected.** Nothing in this chapter modifies in any way any charter provision of any incorporated city or town.

**262.040 Procedure in absence of specific provision.** Where the procedure for formation of a district, or annexation of territory to a district, or consolidation of two or more districts, or issuance of bonds, or holding of elections, or any other matter in connection with organization and operation of cooperative telephone districts, is not specifically provided for in this chapter, any suitable method or proceeding may be adopted which may appear most conformable to the spirit of this chapter.

**262.050 to 262.100** [Reserved for expansion]

## CREATION OF DISTRICT; ANNEXATION AND CONSOLIDATION

**262.110 Authority to create telephone districts; exemption from interference by regulatory body; territory in district; vote to authorize inclusion of territory.** (1) Cooperative telephone districts may be created as provided in this chapter; and when so created, may, without interference by any regulatory body of the state, exercise all powers conferred by this chapter.

(2) Cooperative telephone districts may consist of contiguous territory in one or more counties, or of one or more municipalities, with or without unincorporated territory. No municipality shall be divided in formation of any such district. The name of any municipality shall be sufficient description of any district. When a district is formed of a parcel of territory the boundaries of the district shall follow governmental township lines or the governmental subdivisions of such townships.

(3) No municipality or parcel of territory shall be included in creation of any district without the affirmative vote of at least a majority of the qualified voters therein, voting at an election on such proposition. In an election for creation of a cooperative telephone district, the vote of each parcel of territory and municipality included in the proposed district shall be counted separately.

**262.120 Voters' petition for creation of district.** When not less than 15 percent of the qualified voters of a parcel of territory or of a municipality wish to create a district under this chapter, they shall file a voters' petition with the county court of each county in which the parcel of territory or municipality is located as provided in this chapter, asking that an election be held for formation of a district under this chapter.

**262.130 Municipal petition for creation of district.** The legislative body of any municipality may proceed to create a district within the municipality by filing with the county court of the county in which the municipality is located, a municipal petition asking that an election be held for formaton of a district. Upon receipt of the petition by the county court, the same procedure shall be followed as is prescribed in this chapter for handling of voters' petitions, and an election shall be held at which there shall be submitted to the qualified voters the question of whether or not there shall be created a district within the municipality, as prayed for in the petition.

**262.140 Petitions to unite municipality and territory to form district.** Whenever the voters of a municipality, or the governing body of a municipality, and the voters of a parcel of territory wish to unite to form a district under this chapter, they shall file with the county court either a voters' petition or a municipal petition from the municipality, and a voters' petition from the parcel of territory. Substantially the same procedure shall be thereafter followed as in annexation of a parcel of territory to an existing district.

**262.150 Petitions to annex parcel of territory to existing district.** When not less than 15 percent of the qualified voters of an existing district wish to annex a parcel of territory to the district, a voters' petition from the district and also a voters' petition from the parcel of territory shall be filed with the county court of each county affected. The petition shall ask that an election be held at which the question of whether or not the parcel of territory shall be annexed to the district shall be submitted to the qualified voters of the district and of the parcel of territory. Nothing in this section prevents the filing of a municipal petition by the district, and a voters' petition for the parcel of territory, asking for annexation of the parcel of territory to the district.

**262.160 Petitions to annex municipality to existing district.** Any municipality may be annexed to and become consolidated with an existing district, in substantially the same manner as provided in this chapter for annexation of a parcel of territory to an existing district. The petitions asking that an election be held to determine whether or not the annexation shall take place, may be voters' petitions or municipal petitions, or part voters' petitions and part municipal petitions.

**262.170 Petitions to consolidate existing districts.** Cooperative telephone districts may be consolidated by filing with the county court voters' petitions or municipal petitions from the districts, or voters' petitions from one or more districts and municipal petitions from the remainder of the districts, asking that an election be held to determine the question of whether or not the consolidation shall take place. Substantially the same procedure is to be followed as in annexing a municipality to an existing district.

**262.180 Form of voters' petition; verification.** (1) All voters' petitions shall be in substantially the following language, to wit:

To the Honorable County Court of the State of Oregon for the County of .....:

We, the undersigned qualified voters of the State of Oregon and of the County of ..... and of the district herein described, present the following petition: (Then follows a statement as to whether or not the petitioners wish to form a cooperative telephone district, or to annex territory to an existing district, or to consolidate two or more existing districts, a description of the territory sought to be included therein, the name by which such district is to be known and any other information that will make plain the purpose of the petition. The foregoing statement shall be printed upon each page of petition, and underneath such statement sufficient space shall be left for 20 signatures, and opposite the name of each signature a space for the residence and postoffice address of the signers of the petition, and the number of their voting precincts.)

(2) Each sheet of such petition containing signatures shall be verified in substanti-

ally the following form by the person who circulated such sheet, to wit:

STATE OF OREGON, }ss.
County of..... }

I, ....., being duly sworn, say: That every person who signed this sheet of the foregoing petition signed his or her name thereto in my presence; that I believe that each of said signers has stated his or her name, residence and postoffice address correctly, and that each signer is a qualified voter of the State of Oregon, and of the County of ..... and a resident of the territory hereinbefore described in this petition.

(Signature and postoffice address of affiant)

Subscribed and sworn to before me this .....day of ....., A.D. 19.....

(Signature and title of the officer before whom oath is made and his postoffice address.)

**262.190 Bond of petitioner.** Before any petition for creation, annexation or consolidation of any cooperative telephone district, municipality or parcel of territory is filed, the county court of each county within which any of such territory is located shall require the petitioner or petitioners to execute and file a satisfactory bond for payment of the costs of any such election.

**262.200 Examination of petition; time and place of election; question submitted.** Upon the filing of a petition with the county court of the county in which the territory described in the petition, or the greater part thereof, is located, the county court shall forthwith examine the petition, and if it is found to conform to this chapter, set a time and place or places when and where an election shall be held. At the election there shall be submitted to the qualified voters within the territory affected the question of whether or not there shall be created a district as prayed for in the petition, or the annexation of territory prayed for, or the consolidation of two or more existing districts, or other matter prayed for in the petition.

**262.210 Qualifications, nomination and election of directors for first board.** At all elections where the creation of districts is authorized, five directors shall be elected to manage the business of the district. Candidates for the office of director at such election must be qualified voters of this state, must have resided in the proposed district continuously for not less than three years next preceding the date of the election and must continue to reside in the district during their term of office. Candidates shall be nominated by petition signed by not less than five percent of the qualified voters, and be filed with the county court not less than 50 days nor more than 60 days before the date of the election. Upon expiration of the time for filing candidates' nomination petitions, the county court shall notify the county clerk of each county in which the proposed district is located of the names of the candidates for the office of director, and such county clerks shall place the names of the candidates upon the official ballot for formation of the district. All qualified voters of the proposed district shall have the right to vote for five candidates at such election.

**262.220 Election ballot; election officials.** The ballot at any election to determine whether or not a district shall be created, a parcel of territory or a municipality shall be annexed to an existing district, or two or more districts shall be consolidated, shall be a separate ballot, and so prepared by the county clerks that the question submitted may be decided by a "yes" or "no" vote. The county court shall appoint one judge and two clerks for each voting precinct.

**262.230 Count, return and canvass of vote; certification to county court; proclamation.** (1) The judges and clerks of election shall forthwith count and return the vote for organization of a district and for directors thereof, or for annexation or consolidation, together with the ballots to the county clerk of each county in which the election is held. Thereupon such county clerks shall canvass the vote and certify to the county court of the county in which the district, or the larger part therof, is located, the number of votes cast at the election in favor of and against the formation of a district and the election of directors thereof, and such other matters as were voted on. If a majority of the votes cast at the election is in favor of the formation of a district, the annexation of a parcel of territory or a municipality to an existing district, or of the consolidation of two or more districts, the county court shall issue a proclamation accordingly and file a certified copy thereof with the county clerk of each county where the district or any portion thereof is located.

(2) The proclamation for formation of a

district shall be in substantially the following form:

Whereas at an election duly and regularly held on the —— day of —— A. D. 19—, within the County of —— (or Counties of ——), State of Oregon, there was submitted to the qualified voters thereof the question whether or not a cooperative telephone district composed of (insert description of territory) shall be incorporated as the (insert name of district) under and pursuant to the provisions of ORS chapter 262, known as the Cooperative Telephone District Law; and

Whereas at the election so held —— votes were cast in favor of incorporation, and —— votes were cast against incorporation; and

Whereas the incorporation of the (insert name of) district received the affirmative votes of a majority of the votes cast at the election;

Now, therefore, the undersigned county court does hereby proclaim and declare that all that part of the State of Oregon, described as (insert description) has been duly and legally incorporated as the —— Cooperative Telephone District under and pursuant to the Constitution and laws of the State of Oregon.

——————County Court
By ———, County Judge.

The proclamation for annexation of a parcel of territory or a municipality to an existing district or consolidation of two or more existing districts shall be adaptations of the above proclamation.

**262.240 Certificates of election to directors.** If a district is formed, the county court shall issue certificates of election as directors of the district, to the five candidates receiving the highest votes cast at the election for formation of the district, declaring they are to serve until the second Monday in January following formation of the district.

**262.250 Payment of election expenses.** If a majority of votes cast at the election is in favor of the forming of a district, the annexation of a parcel of territory or a municipality to an existing district or the consolidation of two or more districts, expenses of the election and any election of a board of directors held therewith shall be paid by the district; otherwise the expenses of any such election shall be collected from the bond filed as security therefor as provided by ORS 262.190.

**262.260 When district formed; designation of district.** From the date of the proclamation relative to the formation of a district, the territory shall be a separate district to be known as the district named and specified in the proclamation, and the inhabitants thereof shall be a corporation by the name and style of the cooperative telephone district specified in the proclamation, and as such shall have perpetual succession, and by that name exercise and carry out the corporate powers and objects conferred and declared in this chapter.

**262.270 Mandamus to compel county court to perform duties.** If a county court refuses to accept and file any petition provided for in this chapter, or refuses to call an election as provided in this chapter, or refuses to declare the results of an election or issue the required proclamation, any qualified voter may apply within 10 days after such refusal to the circuit court for the county in which the proposed district or the larger part thereof is located, for a writ of mandamus to compel the county court to perform the duty imposed upon it by this chapter.

**262.280 to 262.300** [Reserved for expansion]

## DISTRICT BOARD OF DIRECTORS

**262.310 Management of district vested in board of directors; qualifications of directors.** The management of cooperative telephone districts shall be vested in boards of five directors. Directors shall be qualified voters of the district who are taxpayers therein, and shall have resided within the district continuously for three years next preceding the date of their election as directors. Directors shall continue to reside within the district so long as they serve as directors.

**262.320 Terms of office of directors.** Of the first board of directors elected after the creation of the district, three shall hold office for two years, and two shall hold office for four years and until their successors are elected and qualified. The length of the respective terms of office of this board shall be determined by lot. Thereafter, directors equal in number to those whose terms of office expire, shall be elected for four

years and until their successors shall be elected and qualified. The terms of office of directors shall begin immediately after they are elected and qualified.

**262.330 Duties, powers and proceedings of board.** (1) The board shall choose one of its members president, and one vice president. The board shall choose a treasurer and a secretary of the district, who may or may not be members of the board. The office of treasurer and that of secretary may be combined and be held by one person.

(2) The duties of the board other than as specified in this chapter shall be such as usually devolve upon boards of business enterprises, including the hiring of such personnel as they consider necessary to insure proper operations of the properties and proper conduct of the business of the district.

(3) A majority of the members of the board shall constitute a quorum for the transaction of business. The decision of a majority of the board shall be deemed to be the act and decision of the board. No vacancy of less than a majority of the board members shall impair the right of the remaining members of the board to exercise all rights and powers of the board.

(4) The board shall adopt rules to govern its meeting. All legislative sessions of the board, whether regular or special, shall be open to the qualified voters of the district.

(5) The board shall fix such rates for service rendered and transact the business of the district so as to provide revenue sufficient to pay all operating expenses, provide for amortization of any bonded or other indebtedness, and for a replacement fund.

**262.340 Legislative activity of the board.** The board of directors shall constitute the legislative body of the district, and shall determine all questions of policy. All legislative acts of the board shall be expressed in written resolutions or ordinances. Every ordinance shall be preceded by an enacting clause substantially as follows: "Be it enacted by the ——— Cooperative Telephone District." Except as provided in this section, all ordinances shall require the affirmative votes of a majority of the board at a regular or special meeting, or at an adjourned regular or special meeting. All ordinances except emergency ordinances shall be subject to the referendum and, if not referred, shall become effective 30 days after the date of their passage, unless a later date is fixed in the ordinance itself, in which event the ordinance shall take effect at date so fixed. Emergency ordinances shall contain a statement that an emergency exists, and specify clearly the facts and reasons that constitute the emergency. The unanimous vote of all members present at the meeting shall be necessary to pass an emergency ordinance. No emergency ordinance shall be passed with less than four directors present and voting. All ordinances shall be voted upon by an "aye" and "nay" vote, which vote shall be recorded and become a part of the record of the meeting.

**262.350 Compensation of directors.** The board may provide by ordinance for per diem compensation of the board members, including necessary transportation expenses. Board members shall receive no other compensation.

**262.360 Recall of directors.** All directors of districts shall be subject to recall by vote of the qualified voters of their districts in the manner provided in ORS 262.370 and 262.380.

**262.370 Recall petition; notice to director; recall election; director as candidate.** When a recall petition containing the signatures of 20 percent of the qualified voters of the district, asking that a director of the district be recalled from office and setting forth the reason for the recall, has been filed with the secretary of the district, the secretary shall at once notify the director whose recall is asked in the recall petition and furnish him with a copy of the recall petition. In accordance with the provisions of this chapter for holding of election, an election shall be held to determine whether or not the director shall be recalled from office and a successor elected to serve the remainder of the term of office for which the director was originally elected. If the director sought to be recalled does not resign within four days after the date he is notified, he shall be considered a candidate to serve the remainder of the term for which elected, and his name shall be placed on the ballot as a candidate to be submitted at the election.

**262.380 Nomination of candidates at recall election.** At all recall elections candidates to succeed the director sought to be recalled may be nominated by being named in the recall petition or they may be nomi-

nated by petition signed by five qualified voters, which must be filed with the secretary within 10 days after the filing of the recall petition with the secretary.

**262.390 to 262.400** [Reserved for expansion]

## POWERS OF DISTRICT AND EXERCISE THEREOF

**262.410 General powers of district.** Cooperative telephone districts provided for in this chapter shall have power:

(1) To have perpetual succession.

(2) To sue and be sued, to plead and be impleaded.

(3) To adopt a seal and alter it at pleasure.

(4) To acquire and hold real and other property necessary or incident to the business of the district, within or without, or partly within and partly without, the district.

(5) (a) To exercise the power of eminent domain for the purpose of acquiring any property necessary or incident to carrying on the business for which the district exists. In any action or proceeding in eminent domain brought by a district under this chapter, the procedure in the action or proceeding shall be the procedure provided by the laws of this state for condemnation of real and other property, or real or other property, by the state or any subdivision thereof for use of the public.

(b) Where a district is created, annexed, or consolidated and there is an existing competing telephone system furnishing service within such district or any substantial part thereof, the board of directors of the district shall first offer to purchase the property, plant, equipment, rights, privileges and franchises situated within the district of any firm, person or corporation furnishing telephone or telegraph service within the district. If the owner and the directors of the district are unable to agree upon the price to be paid therefor by the district, the district may offer to pay the price which shall be determined by a board of arbitration to be selected as follows: One arbitrator shall be selected by the owners of the property, rights, privileges and franchises, and one arbitrator shall be selected by the directors of the district, and the two arbitrators thus chosen shall select the third arbitrator. If they are unable to agree upon the third arbitrator, the third arbitrator shall be the Public Utility Commissioner of Oregon. The price of the property thus determined shall be deemed its fair valuation and the district shall make payment therefor.

(6) To borrow money and incur indebtedness; to issue, sell and assume evidences of indebtedness and to execute mortgages or trust deeds to secure the same. No indebtedness shall be incurred by the board in excess of the annual income and revenue of the district without the approval of a majority of the qualified voters of the district voting on the proposition to incur such indebtedness. The aggregate indebtedness of the district shall never at any time exceed three and one-half percent of the assessed valuation of the property of the district.

(7) To transact a cooperative telephone business on the cooperative plan.

(8) To make contracts, employ labor, and do all things necessary or convenient, or both, for full exercise of the powers granted in this chapter.

(9) To construct works across or along any street or public highway in the district, or over any lands now owned or that may become the property of the state, or any subdivision thereof, and to have the same rights and privileges appertaining thereto as are granted to municipalities within this state.

(10) To elect a board of directors to manage its affairs.

**262.420 Accounts and audit of district.** The accounts of the district shall be kept in accordance with the rules prescribed by the Interstate Commerce Commission for class A companies first issue in accordance with section 20 of the Act of Congress of Feburary 4, 1887, as amended, to regulate commerce. An annual audit of the district shall be made by an auditor approved by the county court of the county in which the district, or the greater part thereof, is located. A copy of the audit report, in substantially the same form as that required by the State Tax Commission from private enterprise telephone companies, shall be filed with the county clerk of the county, where it shall remain a public record in the office of the county clerk.

**262.430 Sale and disposal of revenue certificates.** The board of directors may sell and dispose of revenue certificates that shall be secured by and payable out of the revenue derived from the operation of a telephone system operated by the district, but

not otherwise. The aggregate amount of the revenue certificates issued in any one fiscal year shall not exceed the debt provisions of subsection (6) of ORS 262.410.

**262.440 Letting contracts for supplies and materials.** All purchases of material and supplies in excess of $500 shall be made by contract to be let to the lowest responsible bidder, after advertising for bids at least two times within 10 days immediately preceding the date fixed for opening of bids, in a newspaper of general circulation. The board may reject any or all bids and re-advertise for further bids.

**262.450 Employment of labor by districts.** (1) All labor employed by districts, directly or indirectly, shall be employed under and pursuant to the provisions of ORS 279.334, 279.336, 279.340 and 279.342.

(2) The minimum scale of wages to be paid by any cooperative telephone district or by any contractor or subcontractor for such district shall be not less than the prevailing wage for the same kind and quality of work in the locality where the district is located. This minimum scale of wages shall be fixed by the board prior to call for bids on work to be let by contract.

(3) The board of any district and its employes may make and maintain agreements concerning working conditions and rates of pay. Notice of any intended change in working conditions or rates of pay shall be given by either party in writing. Each proposed change shall be referred to a conference between the board and representatives of the employes. If conference does not result in an amicable agreement, the question at issue may be referred to the State Board of Conciliation by either the board or the representatives of the employes.

**262.460 Interest of district officers and employes in contracts prohibited; penalty.** No officer or employe of any district shall have any pecuniary interest, directly or indirectly, in any contract awarded by the district or any of its officers or agents, or in the profits to be derived therefrom. Any officer or employe, when convicted of violation of this section, shall cease to be an officer or employe of the district; and shall be punished by a fine not exceeding $500, or by imprisonment in the county jail not exceeding six months, or both.

**262.470 Approval of certain contracts by county court.** Prior to completion or purchase of any plant or structure for district use, no expressed or implied contract involving an obligation on the part of the district in excess of $2,000 shall become binding until approved by the county court. The board shall not make any payment under any such contract until it has been approved by the county court.

**262.480 to 262.500** [Reserved for expansion]

## ELECTIONS AFTER FORMATION OF DISTRICT

**262.510 Special elections.** When any district organized under this chapter, desires to hold a special election for the purpose of submitting to the qualified voters of the district any question that may be lawfully submitted to them, the board may by resolution call a special election to be held not less than 60 days after the passage of the resolution. The resolution may designate and describe in general terms the question to be submitted at the election.

**262.520 Notice of special election; election officials.** Notice of special elections, when not held concurrently with a general election, shall be given by the board by posting notice for a period of not less than 30 days immediately preceding the date of election in not less than five public places in each voting precinct in the district and by publication thereof in one or more newspapers of general circulation within the boundaries of the district not less than once each week for two weeks immediately prior to date of election. The notice shall state the date of holding the election, give a general description of the question or questions to be voted upon, and designate the polling places for the election. At the elections there shall be one election judge and two clerks at each precinct to be appointed by the board. They shall receive such compensation as shall be agreed upon by the election officials and the board, which shall be paid by the board.

**262.530 Certification of questions and ballot title to county clerk in certain cases.** When an election of the district is concurrent with a general election held within each county in which a district or any part thereof is located, at least 45 days before the election the board shall cause to be certified

to the county clerk of each such county the questions which are to be voted upon, with the form of ballot title. The county clerks shall thereupon cause the questions to be placed upon the ballot.

**262.540 Election officials where district election held with other election.** In any election held under this chapter, whether called by a county court or by a board of directors, if held concurrently with an election in a municipality or county containing in whole or part the same territory as the district, the judges and clerks of such election shall serve as election officials of the district election.

**262.550 Election provisions as cumulative.** The provisions of this chapter are additional and cumulative to the provisions of any other law now or hereafter existing for the holding of elections in districts.

**262.560 to 262.600** [Reserved for expansion]

## DISSOLUTION OF DISTRICT

**262.610 Petition for dissolution.** A majority of the qualified voters of a district may propose a dissolution of the district and petition the board of directors asking that an election be held to submit to the qualified voters of the district the question whether or not the district shall be dissolved. The petition shall state the total assets of the district in detail, the total liabilities of every kind in detail, the individual creditors, as far as known, and the amount owed each, and the estimated cost of dissolution of the district. Any suggested plan of settling the business of the district may be included in the petition asking for dissolution.

**262.620 Election for dissolution.** Upon the filing of the petition with the board, an election shall be held, at which shall be submitted to the qualified voters of the district the question whether or not the district shall be dissolved, its indebtedness liqidated, and its assets distributed in accordance with any plan proposed by a creditor or by the board in the notice of election. No such election shall be held until the assent of all holders of valid indebtedness against the district shall be obtained or provision made for payment of nonassenting holders. The election to pass on dissolution and allied questions shall be called and conducted in accordance with the provisions of this chapter for the holding of elections of districts. The ballot in the election shall contain "Dissolution of district—Yes," or "Dissolution of district—No," or words to that effect.

**262.630 Votes necessary for dissolution; proceedings after dissolution election.** If a majority of the votes cast at the election is for dissolution, the board of directors shall declare the district dissolved, but this declaration shall not be made until all claims and obligations of every kind have been settled in full, satisfied and canceled. The board shall certify to the county clerk of each county in which the district is located, stating the number of signers of the dissolution petition, that the election was held on (give date) and that there were —— votes for dissolution and —— votes against dissolution. Such statement shall be signed by the president and secretary of the district and bear the seal of the district. The statement shall become a part of the permanent records of such county clerks. If within 60 days from date of filing the statement, an appeal is not taken to the circuit court of the county, the dissolution shall be final. If a majority of the votes cast at the election is against dissolution, the board shall declare the proposal lost, and shall cause the result of the vote to be entered and made a part of the records of the district.