Chapter 371

1957 REPLACEMENT PART

Road Districts and Road Assessment Plans

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GENERAL PROVISIONS

371.005 "County court" defined. As used in this chapter, unless the context requires otherwise, "county court" includes board of county commissioners.

371.010 to 371.050 [Reserved for expansion]

COUNTY ROAD DISTRICTS

371.055 Establishment of road districts by county court. The county courts shall divide their respective counties or any part thereof into numbered road districts, formed from contiguous territory, and cause a brief description of the districts to be entered upon the county records. Each county court, at the September 1933 term, shall arrange the road districts of the county to conform to this section and ORS 371.060.

371.060 Drainage districts and cities as separate road districts. Every drainage district consisting of 5,000 acres or more, and every incorporated city, shall constitute a separate road district. The county court shall not divide such territory to include any of it in any other road district unless the people of the drainage district or incorporated city shall, by majority vote at a municipal election held pursuant to law, vote that their municipal territory be included by the county court in a road district established by the county court. The county court may include in the road district of any drainage district contiguous property adjoining or adjacent to such drainage district, but in no event shall the total area added by the county court be more than 50 percent of the area of the drainage district.

371.065 Construction, maintenance and repair in drainage road district; tax levy. Any construction, maintenance and repairs on roads, highways and bridges within the boundaries of a drainage road district shall be only on such public roads, as defined in ORS 368.010, highways and bridges within the district as are designated by order of the board of supervisors of the drainage district. The board of supervisors of such drainage district may cooperate with the county court in construction, maintenance and repairs on roads within the boundaries of the drainage district, and for this purpose may levy in any one year a tax on every acre of land in the district in the proportion that the acre is benefited by the proposed construction, maintenance or repair, but in no event to exceed $1 for any one acre. The amount of the tax shall be certified to the county assessor of each county in which lands of the district are situated, and thereafter collected in the same manner as the annual instalment of drainage tax is certified and collected.

371.070 Islands as separate road districts. Any island or part thereof exceeding in area 12 square miles and located in any one county hereby is constituted a separate and distinct road district of the county.

371.075 Petition for road improvement or grade change; investigation and report; granting petition. Upon the petition of 12 or a majority of the resident freeholders of any road district, approved by the roadmaster, praying for a change in grade or other extensive improvements as defined in ORS 368.010, the county court shall instruct the county surveyor, engineer or roadmaster to proceed as soon as convenient to the place named in the petition and make such investigations, surveys or estimates as the county court requires and report the same in writing to the county court, setting forth all material matters necessary to fully advise the county court. If the county court determines in favor of such improvement, it shall grant the petition and proceed to make the change in grade or improvements.

371.080 Road district meetings; how called and conducted; chairman; secretary. (1) Whenever three freeholders of any road district petition the county court of the county wherein the road district is located to call a road district meeting of the legal voters of the district and state in their petition the object for which the meeting is desired, the county court shall fix a time and place for holding the meeting and cause notice thereof to be posted, published or given as provided by ORS 371.085.

(2) All road district meetings shall be conducted in a decent and orderly manner and shall be governed by the rules of order known as Robert's Rules of Order.

(3) The district road meeting shall elect a chairman and a competent secretary from among their own members who are resident taxpayers of the road district. The chairman shall preside over the deliberations of the meeting and sign the minutes prepared by the secretary, after they have been submit-

ted to and approved by him. The secretary shall keep the minutes of the meeting, submit them to the chairman for his approval or correction and, after being approved and signed by the chairman and secretary, certify and transmit them to the clerk of the county court who shall preserve them on file with other records of the road district.

371.085 Notice of meeting. (1) Notices of any meeting of the legal voters of any road district shall be prepared by the county court, signed by the county judge or a county commissioner and shall set forth the purposes of such meeting and the time and place it is to be held.

(2) The county court shall cause such notices to be posted, at least 10 days before the time stated therein for holding the meeting, in the customary place for posting notices at the courthouse in the county wherein the road district lies. [Amended by 1953 c.480 §3]

371.090 Right to vote at meetings; laws governing meetings. Any legal voter of this state who has been a bona fide resident of the road district 30 days immediately preceding the meeting or election, shall be entitled to vote at any road district meeting. In all other regards the laws of this state governing school district meetings shall control at all road district meetings.

371.095 Authority for additional special tax. The resident taxpayers of any road district in any county of the state may vote an additional tax not to exceed 10 mills on the dollar on all taxable property of the road district, if the county court first approves such additional tax by indorsement to that effect upon the petition for a road district meeting to be held for the purpose of determining whether an additional tax not exceeding 10 mills is necessary or desirable, determining the amount of the tax in dollars and calling an election. [Amended by 1953 c.480 §3]

371.100 Election on question of levying additional tax; conduct of election; levy and collection of tax. (1) If at any meeting called for the purpose of determining whether or not a tax should be levied it is determined that such a tax is necessary, that result together with the amount of the levy in dollars determined to be necessary shall be certified to the county court. The county court shall, at its next regular session, call an election in said district and shall specify the place of holding the election and shall give notice of the election as provided in ORS 371.085, which notice shall specify the place of holding the election within the district and shall declare that the polls shall be open from 4 p.m. to 8 p.m. on the day set and shall set forth that the question to be determined at said election is whether or not a levy of ———— dollars shall be made.

(2) All elections called under this section shall be held at such place within the district as the county court has directed, and the polls shall be kept open from 4 p.m. until 8 p.m. Voting shall be by a secret printed ballot, and the question submitted to the people shall be, "Shall Road District No. ———— of ———————— County, Oregon, levy a tax of ———— dollars for the year ———? ———Yes. ———No."

(3) All elections under this section shall be held and the votes canvassed under the supervision of the chairman and secretary of the meeting which submitted the question of the levy to the county court. Such officers shall certify the result of the election to the county clerk by furnishing him with a certified copy of the minutes of the meeting calling the election, proof of posting and publishing all notices of said meeting and election and the certificate of the chairman and secretary as to the votes cast. If a majority of the votes cast is in favor of the levy of the additional tax, the county clerk shall furnish a certified copy of the results of the election to the county assessor who shall compute and extend the levy therefor on the assessment roll for that year, the same as other taxes are extended.

(4) The tax collector shall collect such taxes in money and turn the same over to the county treasurer in the same manner as other taxes are collected and turned over. [Amended by 1953 c.480 §3; 1957 c.70 §1]

371.105 Additional tax as special fund; use of fund. (1) The tax moneys mentioned in subsection (3) of ORS 371.100 shall be credited and kept as a special fund by the county treasurer to the account of the road district. No part of such fund shall be transferred or loaned, and, except as provided in subsection (2) of this section, the whole amount thereof shall be expended under the supervision of the county court upon roads within the road district boundary of the district voting the tax as the boundaries existed at the time the tax was voted, and not else-

where, and within one year from the collecting of the tax.

(2) The fund collected from taxes levied and assessed by a road district comprising and constituted from an incorporated city, and from property situated within such municipal corporation, shall be expended under the supervision of the governing body of the incorporated city and not under the supervision of the county court. This fund shall be paid over to the incorporated city by the county treasurer when collected.

371.110 Effect of change of district boundaries on road tax levy. If the boundaries of any road district are changed after the levy of any road tax in or for such road district and before the expenditure of the tax, provision shall be made by the county court for such expenditure in the localities contemplated at the time of levy, notwithstanding the change in boundaries.

371.115 to 371.200 [Reserved for expansion]

JOINT COUNTY ROAD BUILDING DISTRICTS

371.205 Establishment of road building districts by counties. Any two or more counties may create, join in and constitute a road building district for the purpose of locating and building any public highway within the boundaries of the district. The counties participating may appropriate and contribute, and shall contribute equally to the cost of any such highway unless otherwise mutually agreed and entered in the order provided for in ORS 371.215.

371.210 Manner of establishing road. The final establishment of a road mentioned in ORS 371.205 or any part thereof shall be by the county court of the county traversed by the road in the manner provided by law, except that any road building district created under ORS 371.205 shall first determine and fix the initial and terminal points of the whole road and the final route thereof between such points.

371.215 Agreement between counties on establishment of district; orders ratifying agreement. (1) The county courts of the counties desiring to enter into and create any such road building district shall meet in joint session at the county seat of any one of the counties participating and make and enter into an agreement in which they shall agree to the creation of such road building district.

(2) The county courts shall enter in the agreement:

(a) The names of the counties participating.

(b) The approximate location of the initial and terminal points and in general the route of the road proposed to be built between such points.

(c) The sums of money to be contributed by each county.

(d) The character of road to be built.

(e) Such other matters as may be deemed necessary and not in conflict with law.

(3) Each of the county courts shall thereafter meet in their respective counties, as by law provided, and make and enter an order embodying in full and ratifying the agreement. A copy of each order, certified by the county clerk, shall be filed with the Secretary of State.

(4) Such orders entered in the journals and filed with the Secretary of State shall be conclusive of the regularity of all the procedure of the county courts and counties up to and including the making of the orders, and shall bind each of the counties participating to expend the sums of money accredited to them in the orders, or so much thereof as may be necessary to the full completion of the highway in the manner specified in the orders.

371.220 Fixing final road location; additional joint meetings. (1) At the meeting provided for in ORS 371.215, the final location of the road and the terminals thereof may be made and fixed and embraced in the agreement, or may be determined, agreed upon, entered, certified and filed as provided in ORS 371.215, and with like effect as to regularity, at a subsequent meeting of the county courts to be held at such time and place within the district as they mutually choose.

(2) The county courts of the participating counties may hold any additional joint meetings in like manner and at such times and places as they select within the district that they deem requisite or convenient for the proper carrying into execution of the purposes of ORS 371.205 to 371.240.

371.225 Joint surveys, engineering and action; entering proceedings in journals. (1) The counties may join in all preliminary and final surveys and engineering required for

the undertaking which may be involved under ORS 371.205 to 371.240, and any other action or proceeding necessary or convenient for the full and economical execution of the purposes of ORS 371.205 to 371.240.

(2) All the proceedings had at any such meetings shall be entered and approved in full in the journals of the county courts participating.

371.230 Surveys, engineering services, supervision by highway commission. Any road building district, organized under ORS 371.205, with the mutual assent of all the county courts of the counties participating, may:

(1) Procure preliminary and other surveys and engineering services from the inception to the completion of any road or highway building undertaken under ORS 371.205 to 371.240, or any part of such services, from the State Highway Department.

(2) On such terms as may be desired, have all or any portion of any such highway work performed under the direction or control of the State Highway Commission.

371.235 Procedure where work carried on under highway commission. In case work mentioned in ORS 371.230 is carried on under the direction or control of the State Highway Commission, the usual procedure of the commission in the matter of plans, specifications, details, advertising for bids, letting of contracts and supervision of the work shall be followed, except that the character of the road, including percent of grade, shall be determined as provided in ORS 371.215. The commission shall select a competent engineer to make required surveys, prepare plans, specifications, details and all other necessary data, and thereafter proceed as nearly as applicable or practicable in accordance with the provisions of chapter 142, Oregon Laws 1913. The engineer selected shall supplant the county surveyor or roadmaster mentioned in chapter 142, Oregon Laws 1913.

371.240 Procedure where work undertaken by counties jointly. In case any work mentioned in ORS 371.230 is undertaken through the joint action of the counties participating, without the direction or control of the State Highway Commission, the county courts shall select a competent engineer to make required surveys, prepare plans, specifications, detail and all other necessary data and thereafter proceed as nearly as applicable or practicable in accordance with the provisions of chapter 142, Oregon Laws 1913. The engineer selected shall supplant the county surveyor or roadmaster mentioned in chapter 142, Oregon Laws 1913.

371.245 to 371.300 [Reserved for expansion]

SPECIAL ROAD DISTRICTS

371.305 Authority to establish special road districts. Contiguous territory lying within any county and not incorporated within the limits of any incorporated city may be formed into a special road district in the manner and under the provisions of ORS 371.310 to 371.370.

371.310 Petition to establish special road district; court order. (1) When 25 percent or more of the holders of title or evidence of title to lands lying in one body, and whose names appear as such upon the latest county assessment roll, present a petition to the county court of any county setting forth the boundaries of the proposed district and asking that the district be formed into a special road district for the purpose of improving certain public roads named in the petition, not legally established as county roads lying in the district, and for the levy of a tax not exceeding 10 mills, in an amount named in the petition, for the improvement of the roads, the county court shall make an order declaring its intention to form or organize the territory into a special road district, naming the district and describing its boundaries.

(2) The order shall:

(a) Fix the time and place for the hearing of the matter not less than 30 days after the adoption of the order.

(b) Direct the clerk of the county court to publish the notice of intention of the county court to form the special road district and of the time and place fixed for the hearing.

(c) Designate some newspaper of general circulation published in the county and circulated in the proposed district.

371.315 Notice of hearing. The notice mentioned in ORS 371.310 shall:

(1) Be headed, "Notice of Proposed Formation of Special Road District ....., (stating the name of the proposed district and the name of the county)."

(2) State the fact that the county court has fixed a time and place, which shall be stated in the notice, for a hearing on the matter of the formation of a special road district.

(3) Describe the territory and specify the boundaries of the territory proposed to be organized into a special road district.

(4) Be published once a week for two successive weeks prior to the time fixed for the hearing designated by the county court.

371.320 Objections to establishment of district. At the time and place fixed for the hearing mentioned in ORS 371.315, or at any time and place to which the hearing may be continued or postponed, any person interested may appear and present objections to the granting of the petition and the formation of the district, which shall be heard by the county court.

371.325 Changes in boundaries of districts. If after a full hearing it is of the opinion that the boundaries of the district should be changed by reducing the area of the proposed district, or if prior to the date of the hearing a petition signed by 50 percent or more of the holders of title to lands in any area adjacent to the district is filed with it praying for the inclusion of such lands in the proposed district, the county court may change such boundaries and, subject to ORS 371.335, determine whether such petition should be granted.

371.330 Granting petition for establishment of district. If the county court determines to grant such petition it shall enter upon its journal an order so declaring. This order shall set forth the name of the district, a description of the territory embraced therein and that the special road district is to be established. The order shall not include within the special road district any lands except such as will be served and directly benefited by the roads named in such petition.

371.335 Denying petition for establishment of district. If written objections, signed by 50 percent of the owners of real property in the proposed district, are, prior to the holding of the hearing under ORS 371.310 to 371.330, or at such hearing, presented to it, remonstrating against the establishment of the proposed road district, the county court shall deny the petition for the establishment of the special road district.

371.340 Special election for tax to improve roads in district. Upon the establishment of the special road district, the county court shall order a special election to be held within the boundaries of the district and the submission to the qualified electors owning real property within the district of the question of whether a special road district tax in the amount of millage named in the petition, but not to exceed 10 mills, shall be levied upon all the real and personal property within the district as shown by the next succeeding assessment roll of the county. This tax shall be levied for the purpose of providing for the improvement of the public roads named in the petition for the organization of the special road district.

371.345 Election proceedings; ballots; judges; clerks; polls; notice; voter qualifications. (1) The county clerk shall:

(a) Prepare the ballots for the election mentioned in ORS 371.340.

(b) Appoint three judges and three clerks of election, who shall be electors within the district.

(c) Name the places for holding the election, which places shall be within the boundaries of the proposed district.

(2) Should any of the judges or clerks of election fail to attend, their places shall be filled in the manner provided by law in case of general elections. The polls shall be kept open between the hours provided for in the case of general elections, and notice of the special election shall be posted in like manner as provided in case of general elections. The procedure for such elections, except as otherwise specifically set out, shall be as provided for in case of general elections. No person is authorized to vote at such an election unless he is an elector of the state, has resided in the district for a period of not less than 90 days last preceding the election and has the other qualifications provided in ORS 371.340.

371.350 Canvass of vote; certification of tax levy to county assessor. The judges and clerks shall return the canvass of the vote, together with the ballot cast to the county clerk of the county in which the election mentioned in ORS 371.340 is held. At its next regular meeting, the county court shall order a special session and proceed to canvass the vote. If upon the canvass it appears that a majority of the votes cast at the special election is in favor of the levy of the tax, the county court shall by order entered in its journal direct that the tax

levy authorized at the election be certified to the county assessor for extension upon the next assessment roll of the county.

371.355 Compensation of judges and clerks; deposit of election expense. (1) Each judge and clerk of election shall receive for his services $4 from the county clerk from the funds for that purpose.

(2) At the time of filing the petition for the formation of the district there shall be deposited with the county clerk by the petitioner $30 to pay the expense of the election.

371.360 Tax proceeds as special fund. The proceeds of the tax levied under ORS 371.350 shall be kept by the county treasurer in a special fund to be designated as a special fund of the road district, from which shall be paid the cost of improving the roads designated in the petition for the formation of the district.

371.365 Plans and specifications for road improvement; improvement methods. (1) After the levy of the tax mentioned in ORS 371.350, the county court shall by order direct that the roadmaster of the county prepare plans and specifications for the improvement of the roads described in the petition. These plans and specifications shall be approved by the county court. After the approval of the plans the roadmaster shall proceed with the improvement of the roads in accordance with the plans and specifications.

(2) The roads may be improved either by letting contracts as provided by law for the improvement of county roads or by the county's own employes.

371.370 Further improvement of roads. If, at any time after the establishment of the road district and after the improvement of the roads described in the petition for establishment, the inhabitants of the district desire further improvement of the roads or the improvement of additional roads therein, petitions for the submission of the question of additional tax levies therefor may be presented to the county court. Proceedings shall thereafter be had as provided in ORS 371.305 to 371.365 for the original establishment of the district and the improvement of the roads.

371.375 to 371.400 [Reserved for expansion]

ROAD ASSESSMENT DISTRICTS (IN COUNTIES WITH 19,000 TO 25,000 POPULATION)

371.405 "County court" and "elector" defined. As used in ORS 371.410 to 371.535:

(1) "County court" means the county judge and county commissioners sitting for the transaction of general county business.

(2) "Elector" means a resident owner of taxable property within the district, as shown by the last county assessment roll, on which he is liable or subject to pay a tax, and who has resided within the boundaries of the proposed district for more than 30 days immediately prior to the time of election. [Amended by 1955 c.227 §1]

371.410 Petition to establish road assessment district; contents; bond; presentment. (1) Whenever, in any county having a population of 19,000 and not more than 25,000, as shown by the decennial federal census, 25 or a majority of the owners of land lying in a contiguous body, having an area of more than 20,000 acres or an assessed valuation of taxable property therein of not less than $1 million, according to the last county assessment roll, desire to provide for the improvement, repair or reconstruction of the public roads within such area of land, they may propose the organization of a road assessment district under ORS 371.405 to 371.535 by signing and presenting a petition to the county court of the county in which the proposed district is to be organized.

(2) The petition shall:

(a) Set forth and particularly describe the boundaries of the proposed district.

(b) State that it is the purpose of the petitioners to organize a road assessment district under ORS 371.405 to 371.535.

(c) Pray that the district be organized.

(d) Show whether the proposed district boundaries include an incorporated city.

(e) Show the assessed valuation of all the taxable property within the boundaries of the proposed district according to the most recent assessment roll of the county assessor, and also the assessed valuation of all the taxable property within any incorporated city within the proposed boundaries of the district.

(f) Show the acres of land situated within the proposed boundaries of the district.

(g) Show the proposed name of the dis-

trict, which name shall include the words, "Road Assessment District."

(3) The petitioners shall accompany the petition with a good and sufficient bond, to be approved by the county court, in an amount not less than the amount of the probable cost of organizing the district, upon the condition that the bondsmen will pay all the costs in the event the organization is not effected.

(4) The petition shall be presented at a regular meeting of the county court, or at any special meeting called to consider and act upon the petition. [Amended by 1955 c.227 §2]

371.415 Time and place for hearing on petition; published notice; contents of notice. Upon the filing of the petition, the county court shall fix a time and place for the hearing thereof and shall give notice of the hearing by publication at least once a week for two successive weeks in a newspaper published within the boundaries of the district, but if there is no such newspaper, then by similar publication in a newspaper published in the county. The notice shall state that a petition has been filed with the county court praying for the formation of a road assessment district, stating the boundaries of the proposed district, the time and place of such hearing and requiring all persons objecting to the proposed boundaries of the district or to the inclusion of any lands therein, to appear at the hearing and set forth their objections.

371.420 Hearing objections; determining district boundaries; ordering organization election. At the time and place set by the county court for the hearing of the petition, the county court shall hear objections, if any, to the boundaries of the proposed district or to the inclusion of any lands therein, and the testimony of witnesses with respect thereto. Upon the hearing the county court shall by order entered in its journal determine the boundaries of the proposed district, excluding therefrom any lands which it finds would not be directly benefited by the improvement of roads therein, but the boundaries shall not be so changed as to reduce the area to less than 20,000 acres or the assessed valuation to less than $1 million. The county court shall order an election to be held within the proposed district upon the question of whether the district shall be organized under ORS 371.405 to 371.535.

371.425 Published notice of organization election; contents. The county clerk shall give notice of the election to be held, by publication of notice of election once each week for at least four consecutive weeks prior to the time for the election, in a newspaper published within or having a general circulation within the boundaries of the proposed district. The notice as published shall:

(1) Describe the boundaries of the proposed district.

(2) Designate the name of the proposed district.

(3) Notify the electors that they will be required to cast ballots containing the words "Road Assessment District—Yes" and "Road Assessment District—No," or words equivalent thereto.

(4) Give notice of the time and place where the election will be held.

371.430 Organization election in city within district. If the proposed district includes within its boundaries an incorporated city, the county court shall cause to be served upon the city a certified copy of the order of election on the question of the proposed district. The proper officers of the city thereupon shall submit to the legally qualified electors of the city at the next regular or special election to be held in the city the question of whether the city shall be included within the proposed road assessment district. The proper officers of the city shall certify to the county court the result of the election.

371.435 Conduct of district elections. All elections within the district, including the organization election, shall be held and conducted as nearly as practicable in accordance with the general election laws of the state, but the provisions of the general election laws relating to the form of ballot and to the nomination of candidates shall not apply.

371.440 Nomination of district officers. (1) Nominations for the officers mentioned in ORS 371.450 shall be made by petition, signed by at least 10 qualified electors within the proposed district. This nominating petition shall, upon the organization election, be filed with the county clerk at least 10 days prior to the time of the election, and the county clerk shall cause the names of the persons so nominated to be placed on the ballots as candidates for the respective offices for which they have been

nominated. The ballots shall contain a blank line for the voter to write in the name of any candidate voted for.

(2) The county clerk at the time of the filing of any nominating petition, as provided in this section, shall deliver a copy thereof to the proper officers of any incorporated city included within the boundaries of the proposed district, and the name of the candidate nominated for the office of director of the district shall be submitted to the voters of the city at the same election as the question of the inclusion of the city within the road assessment district.

371.445 Canvass and declaration of result of organization election; orders based on election results; filing order. (1) At its next meeting following the election the county court shall canvass the votes cast and enter an order declaring the result of the election.

(2) If, upon the canvass, it appears that a majority of the votes cast in any incorporated city within the district, as well as in the remaining area of the district, were "Road Assessment District—Yes," the county court shall, by its order entered in its minutes, declare the district organized under the name therein designated.

(3) If the proposed district includes an incorporated city or town and the majority of the votes cast by the electors within the city or town are "Road Assessment District —No," but the majority of votes cast within the remaining area of the proposed district are "Road Assessment District—Yes," the county court by its order shall declare the district, excluding the incorporated city, to be organized under the name therein designated.

(4) The county court by its order shall declare the persons receiving the highest number of votes for the several officers to be elected to the offices.

(5) Immediately the court shall cause a copy of the order to be filed in the office of the county clerk. From the date of filing the order the organization of the district shall be complete, and the officers thereof, as soon as they qualify by taking an oath of office, shall be entitled to enter upon the duties of their respective offices, and they shall hold their offices, respectively, until their successors are elected and qualified.

371.450 Election of district directors; terms; vacancies; oath; qualifications. (1) At the election for organization of the district there shall be elected three directors whose terms shall expire in one, two and three years, respectively, from the first Monday in July next succeeding their election. Their respective terms shall be decided by lot.

(2) An election shall be held in each district on the second Tuesday in April of each year, except in the year next succeeding the organization of the district, at which one director shall be elected for a term of three years.

(3) Any vacancy occurring in the office of director shall be filled by appointment by the remainder of the board until the next annual election, when a successor shall be elected to serve out the unexpired term.

(4) Within 10 days after receiving the certificate of election under ORS 371.465, the directors shall take and file their official oath, which shall be filed in the office of the directors.

(5) All directors shall be qualified electors as defined in ORS 371.405.

371.455 Published notice of annual election; election judges; place of election; nomination of district directors; single nominee to be declared elected. (1) The secretary of the district board of directors in each year shall give notice of the annual election by publication of notice in a newspaper printed and published, or of general circulation, within the district once each week for three consecutive weeks prior to the time of election.

(2) Prior to the time of giving the notice the board of directors shall appoint three judges of election, who shall constitute the board of election and, in case of absence or inability of such judges to act, shall appoint substitutes.

(3) The board of directors shall, in its order appointing the board of election, designate the place within the district where the election shall be held.

(4) Candidates may be nominated for any annual election in the same manner as candidates are nominated at the organization election. All nominations shall be filed with the secretary of the board of directors at least 10 days prior to the date of the election. The secretary of the board of directors shall cause the names of all persons nominated to be printed on ballots as candidates for the respective offices for which they have been nominated.

(5) If, after expiration of the time for

filing nominations under subsection (4) of this section, it appears that only one qualified candidate has been nominated, it is not necessary to hold an election, and the board of directors, within 10 days after expiration of the time for filing nominations, shall declare such candidate elected. The secretary of the board of directors immediately thereafter shall make out and deliver to such person elected a certificate of election, signed by him. [Amended by 1955 c.227 §3]

371.460 Chairman of election judges; administering of oaths; polls; conduct of election. The judges of election shall elect a chairman, who may administer all oaths required in the progress of the annual election and appoint judges if, during the progress of an election, any judge fails to act. Any member of the board of election may administer and certify oaths required to be administered during the progress of the election. Before opening the polls each member of the board of election must take and subscribe an oath faithfully to perform the duties imposed upon him by law. Any elector of the district may administer and certify such oath. The polls shall be open from 9 a.m. until 6 p.m., at which time they must be closed. The elections held under ORS 371.405 to 371.535 shall be held and conducted, as nearly as practicable, in accordance with the general election laws of the state, but the provisions of the general election laws relating to the form of ballot shall not apply.

371.465 Canvass of annual election returns; certificates of election; election informality. (1) At the next regular meeting, or special meeting called for the purpose, of the board of directors after the time of election, the board of directors shall meet and canvass the returns of the annual election. The canvass shall be made in public and by opening the returns, computing the vote of the district for each person voted for and declaring the result. No list, tally or certificate shall be set aside or rejected for want of form if it can be satisfactorily understood.

(2) The board of directors shall declare elected the persons having the highest number of votes given for each office. The secretary of the board of directors immediately shall make out and deliver to the persons elected a certificate of election, signed by him.

(3) No informalities in conducting it shall invalidate any election if it otherwise has been conducted fairly.

371.470 Selection of board of directors' president and secretary; record of proceedings; compensation; meetings. (1) Within the first 10 days of July in each year next following their election, excepting the year immediately after the election upon organization, the board of directors shall meet and choose one of their number president of the board and elect some suitable person as secretary. The secretary, who may or may not be a member of the board of directors, shall hold office during the pleasure of the board.

(2) The board of directors shall keep a record of all its proceedings, which shall be open to the inspection of all owners of property within the district.

(3) The members of the board of directors shall not receive any compensation for their time, but may receive any necessary expenses incurred upon the business of the district. The secretary shall be paid such amount as the board of directors shall fix.

(4) The board of directors shall hold a regular monthly meeting at a time fixed by it and entered in its records and such special meetings as may be required for the proper transaction of business. Written notice of each special meeting shall be given to each member of the board at least 24 hours prior to the time of meeting, stating the particular business to come before such meeting. No business shall be transacted at special meetings other than as specified in the notice, unless by agreement of all the directors entered in the minutes. [Amended by 1955 c.227 §4]

371.475 General powers of board of directors. The board of directors has the following powers and authority, which are not exclusive but are a general outline of powers to be construed liberally:

(1) To examine, supervise, order, construct, direct and control the repair, construction, maintenance and reconstruction of all the roads and highways within the district, except primary and secondary state highways and other highways under the exclusive jurisdiction of the State Highway Commission, to the end that such roads and highways shall be kept in the best condition and state of repair possible within their power, authority and the financial condition of the district.

(2) To levy and collect assessments as provided in ORS 371.500 and 371.505.

(3) To have surveys, estimates and plans made for improvement, maintenance and reconstruction of the roads of the district.

(4) To request the county court of the county in which the district is situated to provide to the district the services of the county engineer for the work of the district, and, if the county court does not provide for such district a duly qualified engineer, registered by the state, who has had not less than two years' experience in the construction and maintenance of roads and highways, to employ a qualified engineer registered by the state, who has had not less than two years' experience in the construction and maintenance of roads and highways, until such time as the county court may comply with the request of the district.

(5) To designate roads within the district for construction, improvement or repair, to request the county court of the county in which the district is situated to provide the right of way for the roads and to construct, repair and improve the roads in accordance with the plans formulated by the engineer employed by the directors. If the board of directors certifies to the county court that funds are available to defray the cost of acquiring such rights of way and the construction, improvement or repair of the road, the county court thereupon shall acquire the necessary right of way and proceed with the necessary construction, repair or improvement at the expense of the road assessment district.

(6) To contract under subsection (1) of ORS 366.770 or ORS 366.775 with the approval of the county court of the county in which the district is situated.

(7) To disburse by order signed by the president and the secretary the funds of the district in payment of the expenses of the district or for the costs of road improvement, maintenance or reconstruction.

(8) To sue or be sued in the name of the district.

(9) Any and all authority and power necessary to carry out the particular powers and purposes of ORS 371.405 to 371.535.

371.480 Contracts as to streets in incorporated cities. The board of directors may contract with any incorporated city within or adjacent to the district for the repair, improvement and reconstruction of streets or public ways within the incorporated city, where the improvement of the streets is a part of the general road system of the district. The contract shall be upon terms mutually agreeable to the board of directors of the district and the governing body of the city.

371.485 Authority of district over roads and highways. The district has authority over all roads and highways within the district, except state primary and secondary highways, and streets, alleys or public ways within an incorporated city within the district other than as provided by ORS 371.480.

371.490 Interest of officers in contracts prohibited. No director or any other officer named in ORS 371.405 to 371.535 shall in any manner be interested in any contract awarded or to be awarded by the board of directors, or in the profits to be derived therefrom.

371.495 Declaration of legislative intent. It is the intent of the legislature that the districts authorized by ORS 371.405 to 371.535 shall be special assessment districts and all taxable properties therein located shall be benefited in proportion to the assessed valuations of the various taxable properties therein as from time to time determined by the county assessment roll of the property. [Amended by 1955 c.227 §5]

371.500 Computing money to be raised by assessment; apportionment; assessment limited; tax not to interfere with others. (1) The board of directors, in each fiscal year, shall make a computation of the total amount of money to be raised by the district through assessments for the ensuing fiscal year of July 1 to June 30, next following, for any and all purposes whatsoever in carrying out the provisions of ORS 371.405 to 371.535, including estimated delinquencies on assessments. This amount of money, when determined by the board of directors, shall be and constitute an assessment upon all the taxable property in the district and shall be apportioned by the board of directors to the property owned or held by each person, firm or corporation in proportion to the assessed valuation of all taxable property in the district as determined by the assessment roll of the county assessor last prepared.

(2) The assessment shall not exceed one

percent of the assessed valuation of the property unless authorized by a majority of those voting upon the proposition at an annual election, but by such election no assessment in excess of one percent of the assessed valuation of any property, over and above the one percent assessment above referred to, shall be levied in any one year.

(3) The levy of any tax under this section, ORS 371.505 or 371.515 shall not interfere with or prevent the county court from levying any tax for road purposes it may have the authority and power to do under any other law. [Amended by 1955 c.227 §6]

371.505 Copy of assessment resolution to county assessor; duty of assessor; collection and accounting; separate fund. (1) The secretary of the board of directors shall, after the apportionment of the assessment, certify a copy of the resolution levying and apportioning the assessment, to the county assessor of the county in which the district is situated.

(2) The county assessor shall extend the assessment so made against all taxable property within the district in the same manner as county taxes are entered by him on the assessment roll.

(3) The assessments shall be collected and accounted for and the collection enforced in the same manner as the taxes of the county, except that the sheriff shall collect and account for the district assessments separately.

(4) When paid by the sheriff to the county treasurer such moneys shall be held and carried in a fund to be designated "—— Road Assessment Fund." All warrants of the district shall be drawn against and shall be paid from this fund. [Amended by 1955 c.227 §7]

371.510 County assessor to furnish certificate of assessed valuation. The county assessor, upon request of the board of directors, shall furnish from time to time a certificate showing the total assessed valuation, according to the last completed assessment roll, of all the taxable property within the district. [Amended by 1955 c.227 §8]

371.515 District to pay county for expenses; proceedings on default. The district shall pay the county for all the actual expenses and salary of the county engineer while he is engaged in work for and at the request of the board of directors, and for the cost of all work done by the county in the district at the request of the board of directors, which shall be the amount agreed upon between the county court and board of directors prior to the time such work is commenced or, if no agreement is made, the actual cost of the work done by the county, including a reasonable charge for depreciation of county equipment used. If, after written demand by the county court, the district fails to provide sufficient funds by taxation for the payment of all sums owing to the county, the county court may, by its order entered in its records, extend a special assessment against all the taxable property within the district in an amount sufficient to pay the amounts due the county. This assessment shall be extended upon the county tax roll and shall be assessed and collected in the same manner as the assessments levied by the district, but shall be credited by the county treasurer, when received, to a special fund, to be held for the payment of the indebtedness of the district to the county until such indebtedness is paid from this fund or other funds of the district. [Amended by 1955 c.227 §9]

371.520 District excluded from other districts; certain unexpended funds to district; city within district may make levies. (1) Upon the organization of the district the entire area thereof shall be excluded by such organization from any existing road district theretofore existing and shall not be included within any other road district thereafter created during the life of the road assessment district.

(2) Upon the organization of the district there shall be credited to it the portion of all special road district levies unexpended in the county treasurer's office, or levied upon and uncollected, derived from the area within the road assessment district, except the amounts levied upon and remaining uncollected, or remaining unexpended in the county treasurer's office, derived from assessments upon property within an incorporated city included within the district, which shall be paid to the city as provided by law prior to June 16, 1945, for use by the city upon its local streets.

(3) The inclusion of an incorporated city within the district shall not prevent the incorporated city from levying general or special taxes or assessments upon the property within the city for the purpose of improvement, maintenance, repair or recon-

struction of the city streets as authorized or permitted by law or the charter of the city.

371.525 Inclusion of adjoining land in district. Whenever the owners of more than 50 percent of the area of a contiguous body of land adjoining the district petition the board of directors for inclusion of such body of land in the district, the matter shall be submitted to the electors of the district and to the electors within the area of land petitioned for inclusion. Upon a majority vote of the electors voting in the district and a majority vote of the electors within the petitioned area, voting in favor of inclusion, the area shall be included within the district and thereafter shall be subject to assessments of the district.

371.530 Exclusion of land area from district. (1) Whenever the owners of more than 50 percent of the area of a contiguous body of land that is a part of the district petition the board of directors for exclusion of such body of land from the district, the matter shall be submitted to the electors in the district at the next annual election for their vote upon the matter of exclusion, but only if the exclusion of the area petitioned for does not reduce the remaining area of the district to less than an area of 20,000 acres and not less than $1 million assessed valuation of taxable property according to the most recent assessment roll prepared by the county assessor.

(2) Any area so excluded shall waive any claim to funds and property of the district, but shall be relieved from any further liability for assessments of the district made after exclusion, although they shall not be relieved from liability for assessments made prior to the time of exclusion. As a condition to submitting the matter of exclusion to an election, the board of directors may require that the lands petitioned shall have paid all assessments up to the date of the election.

(3) Upon two-thirds vote in the entire district, as well as in the area to be excluded, the petitioned area shall be excluded by order of the board of directors. [Amended by 1955 c.227 §10]

371.535 Discontinuance of district; disposal of funds. Whenever the board of directors deems the continuance of the district inadvisable, or upon request of the county court or whenever the owners of 25 percent of the area of land within the district petition for dissolution, the board of directors shall submit the matter of dissolution to the electors at the next annual election. Upon a majority vote of the electors voting at the election in favor of dissolution, the district shall be dissolved. All funds then on hand or proceeds of assessments theretofore levied shall be held by the county court for the benefit of the roads within the area theretofore within the boundaries of the district.

371.540 to 371.600 [Reserved for expansion]

IMPROVEMENT OF STREETS AND ROADS IN UNINCORPORATED AREAS

371.605 Definitions for ORS 371.605 to 371.660. As used in ORS 371.605 to 371.660, unless the context requires otherwise:

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

(2) "Engineer" means the county engineer, roadmaster, surveyor or other engineer selected by the county court.

(3) "Improvement" means and includes surveying, clearing, draining, grading, paving, surfacing and constructing a road, street, curbs or sidewalks within the right of way of a county road, dedicated public road or platted street.

(4) "Sidewalk" means a public way primarily intended for the use of pedestrians within the right of way of a county road, dedicated public road or platted street. [Amended by 1955 c.773 §1]

371.610 Application of ORS 371.605 to 371.660. (1) ORS 371.605 to 371.660 do not apply to any state highway.

(2) The county court may designate any road or street improved under ORS 371.605 to 371.660 as a county road without invalidating the assessments levied for the purpose of the improvements.

(3) Whenever in ORS 371.605 to 371.660 any power or duty is imposed upon the county sheriff or auditor, such power or duty shall be exercised by the auditor alone in those counties having such an officer. [Amended by 1955 c.773 §2]

371.615 Petition for improvement of roads in unincorporated areas. If in an unincorporated area the owners of land abut-

ting on a platted street, dedicated public road or county road desire to improve the road or street, they may present a petition signed by not less than 70 percent of the owners of the land representing not less than 70 percent of the land abutting on the proposed improvement to the county court praying for the improvement. The petition shall describe the road, street, curbs or sidewalk to be improved or constructed, designating where the improvement shall be made and defining the nature of the improvement desired. [Amended by 1955 c.773 §3]

371.620 Signers of petition and objection in event of cotenancies. In case of tenants by the entireties, joint tenants or tenants in common the parcel of land is considered as having one owner, which owner shall be deemed to have signed the petition provided for in ORS 371.615 or the objection provided for in ORS 371.630 only if every cotenant of the parcel has signed.

371.625 Investigation and estimation of cost of improvement by engineer. When the petition for improvement of a platted street, dedicated public road or county road is filed with it, the county court shall refer the petition to the engineer, who shall investigate the proposed improvement. If in his judgment the improvement is feasible, the engineer shall make an estimate of the cost of the improvement and report the same to the county court.

371.630 Notice to owner of engineer's report; filing objections. (1) If the engineer makes a favorable report on the proposed improvement, the county court shall mail to the owner of each parcel of land abutting on the proposed improvement, at his address as shown on the petition or on the latest tax roll of the county, a written notice of the favorable report, the estimated cost of the improvement and the estimated amount of the assessment against his land. The notice shall require the owner to file with the county court within 20 days after the mailing of the notice, his written objection, if any, to the further prosecution of the improvement.

(2) If objections are received by the county court signed by more than 50 percent of the owners of land representing more than 50 percent of the land abutting on the proposed improvement, the proposed improvement shall be declared abandoned and no new petition may be filed for the improvement within a period of one year thereafter. [Amended by 1955 c.773 §4]

371.635 Court order for improvement; recording; vacation of order and removal of lien. (1) If the number of objections mentioned in ORS 371.630 is not received, the county court may order the improvement by contract, or by force account. If by contract, it shall be awarded in the same manner as provided for other contracted county road improvement.

(2) The county court shall record the order for the improvement with the county clerk. The recorded order is notice that the land abutting on the improvement to be made is subject to a lien of an assessment for the cost of the improvement, in an amount to be determined later by an order of the county court. The county clerk shall indorse upon the order the date of the filing thereof, and shall record and index the same in a lien docket in the office of the county clerk.

(3) If the proposed improvement described in the order of the county court is not commenced within two years after the order for the improvement is recorded, the county court may by a new order vacate its former order for the proposed improvement. The county court shall record with the county clerk the order vacating the former order for the proposed improvement. Thereupon the land abutting upon the proposed improvement shall be free of such lien and the effect of the former order. The county clerk shall indorse upon the new order the date of the filing thereof, and shall record and index the same in the lien docket referred to in subsection (2) of this section. [Amended by 1955 c.549 §1; 1955 c.773 §5]

371.640 Engineer to compile improvement cost; source of payment; reimbursement of source; additional work. (1) After the improvement has been made, inspected by the engineer and accepted by the county court, the engineer shall compile the total cost of the improvement. He may add up to 10 percent of the total cost for engineering and administration.

(2) Payment of the improvement shall be made from the general road funds or from any funds available for the construction or improvement of county roads.

(3) The fund expended for the improvement shall be reimbursed by an assessment against the land abutting on the improvement, but no assessment shall be made

against any operating railroad right of way without the consent of the owner thereof. Each landowner shall be assessed a percentage of the entire cost of the improvement corresponding to the relative percentage of his ownership abutting on the improvement to the total frontage of ownership abutting on the improvement.

(4) The cost of improvements within intersections connected with any improvement under ORS 371.605 to 371.660 may be borne by the county.

(5) Unless notified to the contrary by the owner prior to the acceptance of bids for improvements under ORS 371.605 to 371.660, an existing driveway shall be reconstructed to the property line to conform with the new grade. Additional driveways or other road connections, including retaining walls, may be constructed simultaneously with the improvements, when a written request is filed with the county court prior to the acceptance of bids by the affected abutting landowners. The cost of the driveway and all requested work shall be charged to the abutting owner and added to the assessment against his land. [Amended by 1953 c.573 §2; 1955 c.773 §6]

371.642 Costs of sidewalk or curb construction and other improvements, borne by whom. Notwithstanding any provision to the contrary in ORS 371.605 to 371.660, the cost of construction of sidewalks or curbs under those sections shall be borne, in the manner provided in those sections, by the owners of land abutting on the side of the street or road on which the sidewalks or curbs are constructed and fronting on such sidewalks or curbs. The cost of construction of all other improvements under those sections shall be borne, in the manner provided in those sections, by the owners of land abutting on both sides of the road or street and fronting on the improvements. [1955 c.773 §12]

371.645 Engineer to ascertain assessment; hearing on objections; court order. (1) The engineer shall ascertain the amount of the assessment against each parcel of land abutting on the improvement and report the same to the county court.

(2) The county court by order shall thereupon set the time, not less than 10 days after the filing of the report, and place for a hearing of objections to the assessments as fixed in the report of the engineer.

(3) Not less than five days prior to the date of the hearing, the county court shall mail to the owner of each parcel of land proposed to be assessed, at his address as shown on the petition or on the latest tax roll of the county, a written notice of the time and place for the hearing of objections and of the amount of the proposed assessment against his land.

(4) After hearing objections, the county court shall by order find and determine from the evidence submitted the amount of assessment against each individual parcel of land. [Amended by 1955 c.773 §7]

371.650 Certification of assessment; recording order; lien. (1) The county court shall certify to the county sheriff or auditor a list and description of the ownership, stating the amount of assessment against each individual parcel of land, and shall record the order with the county clerk, who shall indorse thereon the date of the filing thereof and record and index it in the lien docket referred to in subsection (2) of ORS 371.635.

(2) The assessments and interest are a lien upon the land against which the same are assessed from the date of the filing with the county clerk of the order of the county court for the improvement, as provided in ORS 371.635. Each parcel of land is deemed to be benefited by the improvement to the full amount of the assessment levied thereon. No transfer, sale or division of any such parcel, or change in the legal description thereof, in any way divests the lien from the original parcel and the whole thereof. Failing to enter the name of the owner or a mistake in the name of the owner does not in any way render void any assessment and does not in any way affect the lien on the land described. The lien has priority over all other liens and encumbrances whatsoever, except tax liens.

(3) Upon payment of the assessment in full, the county sheriff or auditor shall satisfy the same by a notation in the lien docket referred to in subsection (2) of ORS 371.635, and the parcel of land charged with such assessment is thereby discharged from the lien. [Amended by 1955 c.773 §8]

371.655 When assessment due, payable and delinquent; interest; by whom collected. (1) Thirty days after the assessment is certified to the county sheriff or auditor, the entire amount against each parcel of land

shall be due and payable at the office of the county sheriff or auditor and, if not so paid, shall be delinquent from that date and shall bear interest at the rate of six percent per annum until paid.

(2) The county court may spread the assessment in equal amounts over a period of not to exceed 10 years and in such case the instalments subsequent to the first year shall bear interest at the rate of six percent per annum from the date of the assessment until paid.

(3) If the assessment is spread over several years, 30 days after the assessment is certified to the county sheriff or auditor the first annual instalment of the assessment against each parcel of land shall be due and payable at the office of the county sheriff or auditor. If not so paid the first annual instalment shall be delinquent from such date. All subsequent instalments of the assessment are serially due and payable annually thereafter and, if not paid, shall be delinquent.

(4) The county sheriff or auditor shall collect the assessment certified to and shall credit the same to the fund expended for the improvement. [Amended by 1955 c.773 §9]

371.660 Delinquent list; execution and sale. (1) One year from the date an assessment for improvements under ORS 371.605 to 371.660 is delinquent, or, in case the assessment has been spread in annual instalments, one year from the date any annual instalment of the assessment is delinquent, the county sheriff or auditor shall prepare a delinquent list of all assessments not wholly paid. The list shall contain a description of the land, the name of the person to whom assessed and the amount of the assessment and interest due.

(2) The county sheriff or auditor shall transmit the list to the county clerk, who shall issue a writ of execution thereon, directed to the sheriff of the county.

(3) The sheriff shall proceed to collect the unpaid assessments named in the list by advertising and selling each parcel of land in the manner provided by law for the sale of real property on execution, but no parcel shall be sold for a sum less than the amount of the unpaid assessment plus interest thereon and the cost of advertising and sale. [Amended by 1955 c.773 §10]

CERTIFICATE OF LEGISLATIVE COUNSEL

Pursuant to ORS 173.170, I, Sam R. Haley, Legislative Counsel, do hereby certify that I have compared each section printed in this chapter with the original section in the enrolled bill, and that the sections in this chapter are correct copies of the enrolled sections, with the exception of the changes in form permitted by ORS 173.160 and other changes specifically authorized by law.

Done at Salem, Oregon,
on December 2, 1957.

Sam R. Haley
Legislative Counsel