Chapter 545

1957 REPLACEMENT PART

Irrigation Districts

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DEFINITIONS; ORGANIZATION OF IRRIGATION DISTRICTS; ELECTIONS

545.002 Definitions; voting rights. (1) As used in the Irrigation District Act, "owner of land" or "elector" includes every person over the age of 21 years, whether a resident of the district or state or not, who is a bona fide owner of two acres or more of land situated within and assessed by the district whose deed has been recorded in the county deed records more than six months, or, in case of a bona fide contract of sale of two acres or more of land situated within, and assessed by, the district, which contract has been recorded in the county deed records more than six months, the vendee named in the contract shall be considered the elector to the exclusion of the vendor; provided, that in any irrigation district contracting with the United States for a water supply the qualifications of a voter shall be ownership of four or more acres of land situate within and assessed by the district or the holding of an uncompleted title or contract to purchase state or Carey Act lands; provided, further, that where ownership is in estates by the entirety, tenants in common, or in other cases of multiple ownership, only one vote shall be allowed in behalf of all the owners under each multiple ownership. The vote may be cast by any one of the multiple owners whose interest is the equivalent of an undivided one-half interest or greater, or who holds an authorization in writing from one or more of the other owners whose interests, when added to his interest, are the equivalent of an undivided one-half interest or greater. Where two persons would be entitled to vote under this provision, only the vote of the one who first casts his vote shall be recognized. Entrymen upon public lands of the United States shall be considered as landowners for the purpose of the Irrigation District Act, and shall be qualified petitioners for the organization of an irrigation district, and shall share all the privileges and obligations of landowners within the district, including the right to vote or hold office, subject to the terms of the Act of Congress entitled "An act to promote reclamation of arid lands," approved August 11, 1916. Any corporation shall be entitled to vote as a single landowner through any officer or agent duly authorized in writing under the seal of the corporation. Any guardian, administrator or executor authorized to act as such of a person or estate owning land within the district shall be considered a landowner for the purposes of the Irrigation District Act, where the owner in fee is not otherwise entitled to vote.

(2) As used in this chapter, "Irrigation District Act" means ORS 545.002 to 545.016, 545.026 to 545.040, 545.062 to 545.092, 545.102, 545.106, 545.192 to 545.216, 545.432 to 545.440, 545.448 to 545.454, 545.458, 545.562, 545.582 to 545.598, 545.602 to 545.622, and 545.990.

545.004 Irrigation district may be organized; petition of landowners; bond; publication of petition and notice. (1) Whenever 50 or a majority of the owners of land irrigated or susceptible of irrigation desire to provide for the construction of works for irrigation of the same, or desire to provide for the reconstruction, betterment, extension, purchase, operation or maintenance of works already constructed, or for the assumption as principal or guarantor of indebtedness on account of district lands to the United States under the federal reclamation laws, they may propose the organization of an irrigation district under the provisions of the Irrigation District Act by signing a petition and presenting it to the county court of the county in which the land, or the greater portion thereof, is situated.

(2) The petition shall set forth and particularly describe the boundaries of the proposed irrigation district and shall state that it is the purpose of the petitioners to organize an irrigation district under the provisions of the Irrigation District Act, and shall pray that the same be organized thereunder. The petitioners shall accompany the petition with a good and sufficient bond, to be approved by the county court, in double the amount of the probable cost of organizing the district, conditioned that the bondsman will pay all such costs in case the organization is not effected.

(3) The petition shall be presented at a regular meeting of the county court, or at any special meeting called to consider and act upon it. It shall be published once each week for at least four successive weeks before the time it is to be presented, in some newspaper printed and published in the county where the petition is presented, together with a notice stating the time of the meeting at which the petition will be presented. If any portion of the proposed dis-

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trict lies within other counties, then the petition and notice shall be published in a newspaper published in each county in the same time and manner.

545.006 Hearing of petition by county court; authority as to boundaries of district; lands included; order; determination as to number of petitioners and publication of petition and notice; appeal. (1) When the petition is presented the county court shall hear it and may adjourn the hearing from time to time, not exceeding four weeks in all. In the final hearing the court may make such change in the proposed boundaries as the court may find proper, and shall establish and define the boundaries, subject to the following provisions:

(a) No incorporated city, town or platted subdivision or part thereof adjacent thereto chiefly available for residence purposes shall be included in an irrigation district; but this proviso is expressly limited to residence property, and all lands, whether wholly or partially within any incorporated city or town, used or suitable for agricultural or horticultural purposes and not platted in tracts of less than one acre, may be included.

(b) The court shall not modify the boundaries so as to except any territory within the boundaries of the district proposed by the petitioners which is susceptible of irrigation by the same system of works applicable to other lands in the proposed district.

(c) Any person whose lands are susceptible to irrigation from the same system of works may, in the discretion of the court, upon written application of the owner of the land, have such lands included in the district.

(2) On the final hearing the court shall make and enter an order determining whether the requisite number of owners of the land within the proposed district have petitioned for its formation, and whether the petition and notice of the time of presentation thereof have been duly published. The order as so made and entered shall be conclusive evidence of the facts found by the court, subject to an appeal to the circuit court within 10 days from the entry of the order.

545.008 Naming and division of districts; election precincts. (1) The court in the order shall designate the name of the district, which name may be changed by the court at any time thereafter upon petition of the board of directors of the district accompanied with the consent, in writing, of a majority of the owners of lands within the district or accompanied with the certificate of the secretary of the district that, at a regular or special election called and held in the district for any purpose provided by law, the proposed change of name was approved by a majority of the electors voting upon the question of change of name. The secretary of the district shall cause a certified copy of the order to be recorded in the office of the recorder of conveyances or county clerk of the county or counties in which the district is located.

(2) The court shall, if the petition so directs, divide the district in three divisions of as nearly equal size as may be practicable, which divisions shall be numbered first, second and third; and shall establish a convenient number of election precincts in the proposed district, and define their boundaries. The precincts may thereafter be changed by the board of directors of the district.

545.010 Notice of election for determining organization of district; contents; publication; mailing; notices of elections generally. (1) The county court shall forthwith give notice of an election to be held in the proposed district for the purpose of determining whether or not it shall be organized under the provisions of the Irrigation District Act. The notice shall describe the boundaries established, unless the county court, in the order defining the boundaries, orders that they need not be described in the notice, but that in lieu thereof the notice shall refer to and make a part thereof the boundaries as defined in the order of the county court defining them, on file in the office of the recorder of conveyances or county clerk of the county in which the district is located. The notice shall designate the name of the proposed district, and shall be published once each week for at least four consecutive weeks prior to the election in a newspaper published within the county. If any portion of the district lies within another county, then the notice shall be published in a newspaper published within each county in the same time and manner. The notice shall require the electors to cast ballots which contain the words "Irrigation District—Yes," and "Irrigation District—No," or words equivalent thereto. The county clerk shall at the same time send a copy of the

notice by registered mail to each landowner not joining in the petition for organization of the district in so far as their names and addresses can be reasonably ascertained. The provisions hereof as to mailing notices are directory and not jurisdictional.

(2) It shall not be necessary in the holding of any election in any irrigation district to embody in the notice of or calling such election any description of the lands within or the boundaries of the district, if the county court or board of directors of the district in calling the election orders that such descriptions shall not be included in the notice, but that reference to the order calling the election and in which the descriptions are contained shall be sufficient.

545.012 Election; how conducted; order of court declaring result; inclusion of portion of district in another district; commencement of duties by officers; term. (1) The election shall be conducted, as nearly as practicable, in accordance with the general election laws of the state, except that no particular form of ballot shall be required, and the provisions of the election laws as to the form of ballot and as to the nomination of candidates shall not apply. Nominations for officers may be made by petition, signed by at least 10 electors in the proposed district or division, qualified to vote for the officers nominated by them, or at an assembly of not less than 25 electors, which nominations by petition or by assembly shall be filed with the county clerk at least 10 days next preceding the date of election. The county clerk shall have the names of all persons nominated placed on the ballots as candidates for the offices for which they have been nominated. Such ballots shall have a blank line under the names printed, wherein may be written the name of any candidate voted for.

(2) The county court shall meet on the Monday next succeeding the election and canvass the votes cast, and enter an order declaring the result of the election. If upon the canvass it appears that at least three-fifths of the votes cast are "Irrigation District—Yes," the court shall, by an order entered on its minutes, declare the territory organized as an irrigation district, under the name and style theretofore designated, and shall declare the persons receiving, respectively, the highest number of votes for the several offices to be elected to such offices. The court shall cause a copy of the order, duly certified, to be immediately filed for record in the office of the recorder of conveyances of each county in which any portion of the lands is situated, and shall also immediately forward a copy thereof to the clerk of the county court of each county in which any portion of the district may lie.

(3) No county court of any county including any portion of the district shall, after the date of organization of the district, allow another district to be formed including any lands in that district, without first securing consent thereof.

(4) From and after the date of such filing, the organization of the district shall be complete, and the officers may enter immediately upon the duties of their offices upon qualifying as provided by law. They shall hold office until their successors are elected and qualified.

545.014 Directors; elections; terms of office; vacancies; oath. (1) At the election for the organization of an irrigation district one director, who is a resident of Oregon and a bona fide owner of land situated in the division, shall be elected from each division into which the district has been divided by the county court, or the directors shall be elected from the district at large if no division has been made. Terms of the directors so elected shall expire in one, two and three years, respectively, from the first Tuesday in January 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 November of each year, excepting the second Tuesday in November next succeeding the organization of the district, at which one director shall be elected. The person receiving the highest number of votes for any office to be filled shall be elected, and shall hold office from the first Tuesday in January next after the election for three years and until his successor is elected and qualified.

(3) In the case of districts organized prior to May 21, 1917, a director shall be elected from each of the three divisions into which the board of directors may have divided the district, or, if the board of directors has so ordered, the directors shall be elected from the district at large.

(4) Any vacancy occurring in the office of director shall be filled by appointment by the remainder of the board until the next election, when his successor shall be elected

to serve out the unexpired term; provided, that where more than one vacancy occurs in the office of director or for any reason more than one member of the board is disqualified to act as such, the county court shall fill the vacancies by appointment and the appointees shall hold office until their successors are elected.

(5) Within 10 days after receiving the certificate of election provided for in ORS 545.036, the official shall take the official oath and file it in the office of the board of directors.

545.016 Bonds of directors and treasurer. (1) Each member of the board of directors shall provide a good and sufficient surety bond, by an authorized surety company, in the sum of $1,000, the premium on which shall be paid by the district. The bond shall be approved by the county judge, and shall be recorded in the office of the county clerk and filed with the secretary of the board. All official bonds herein provided for shall be in the form prescribed by law for official bonds of county officials.

(2) In case any district organized under the Irrigation District Act is appointed fiscal agent of the United States, or by the United States is authorized to make collections of moneys for and on behalf of the United States in connection with any federal reclamation project, the treasurer and each director shall execute an additional official bond in such sum as the Secretary of the Interior may require, conditioned upon the faithful discharge of the duties as fiscal or other agent of the United States under any such appointment or authorization. Such bonds may be sued upon by the United States or any person injured by failure of the treasurer or a director of the district to fully, promptly and completely perform his duties.

545.018 Increase in number of directors upon determination of board or petition for election on increase. Whenever an irrigation district comprises within its boundaries 40,000 or more acres of irrigable land, it may increase the number of its board of directors from three to five members. The number of directors may be increased to five whenever, in the judgment of the board of directors, it is necessary or beneficial to the welfare of the district, or whenever a petition of 50 or more qualified electors within the district is filed with the board requesting an election for such purpose. The board shall immediately thereafter order a special election upon the question and proceed according to ORS 545.026 to 545.038, and at the same time two directors shall be elected to serve as such in the event the electors, by a majority of votes cast at the election, increase the number of the board.

545.020 Election on increase; terms of office. If, upon canvass of the returns, as provided in ORS 545.034, there is any change voted, the person receiving the highest number of votes for the office of director at the election shall serve as director of the district at large for a three-year term next succeeding the last previous general election, and the person receiving the next highest number of votes shall serve as director of the district at large for a term of two years next succeeding the last previous general election.

545.022 Redivision of district upon increase in directors; representation of divisions; voting qualifications. Upon increase of the number of directors from three to five, the board shall divide the district into five divisions of as nearly equal area as may be practicable, defining and particularly describing their boundaries and making use, in so far as may be desirable, of such natural boundaries as may exist in the district. The divisions shall be numbered first, second, third, fourth and fifth. As the terms of the present members of the board of directors expire, one director who is a resident of Oregon and a bona fide owner of land situated in the division, shall be elected from each division, as representative of that division on the board of directors. Voting for director of each division shall be by qualified electors within the division, but the qualified electors of any district may, by a majority vote, determine that voting for directors shall be by the qualified electors of the entire district. If an elector is an owner in two or more divisions and resides in one of them, he shall vote in the division of his residence; but if a nonresident of the district, he may elect to vote in any one division in which he is an owner. [Amended by 1953 c.233 §2]

545.024 Decrease in number of directors; redivision of district; terms of office. The number of directors may be decreased to three substantially in the same manner as that provided for the increase of directors. Thereafter the board shall redivide the district into three divisions. The existing

board shall continue in office until the expiration or sooner termination of their terms, successors being appointed or elected only in divisions where representation will terminate with the term of such director. Only a sufficient number of directors shall thereafter be appointed or elected as shall fulfill the requirements of the decrease in membership of the board, and so that the term of one director will expire each year.

545.026 Elections subsequent to organization of district; notices; board of election; place of holding election; nomination of candidates; certificate of election to sole candidate; ballots. (1) Ten days before any election held under the provisions of the Irrigation District Act, subsequent to the organization of any district, the secretary of the board of directors shall cause notices to be posted in three public places in each election precinct of the time and place of holding the election, and shall post a general notice of the same in the office of the board, which shall be established and kept at some fixed place to be determined by the board, specifying the polling places of each precinct.

(2) Prior to posting the notices, the board must appoint for each precinct, from the electors thereof, three judges of election, who shall constitute a board of election for the precinct. If the board fails to appoint a board of election, or the members appointed do not attend at the opening of the polls on the morning of election, the electors of the precinct at that hour may appoint the board, or supply the places of the absent members. The board of directors must, in its order appointing the board of election, designate the house or place within the precinct where the election is to be held.

(3) Candidates may be nominated for any such election in the same manner as candidates may be nominated at the organization election. All nominations shall be filed with the secretary of the board at least 15 days before the date of the election; and in districts having more than 25 electors, no person shall be elected as a member of the board of directors unless he has been nominated either by petition or assembly 15 days prior to the election date.

(4) If, after expiration of the date for nomination, it appears that only one qualified candidate has been nominated for the office to be filled, it shall not be necessary to hold an election, and the board of directors shall within 15 days after expiration of the time for filing nominating petitions declare such candidate elected as director. The secretary immediately shall make out and deliver to such person a certificate of election signed by him and authenticated with the seal of the board.

(5) The secretary shall cause the names of all persons nominated to be printed on ballots as candidates for the offices for which they have been nominated.

545.028 Board of election; powers and duties; ballots not governed by election law. The judges shall elect a chairman of the board who may administer all oaths required in the progress of an 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 election. Before opening the polls each member of the board must take and subscribe an oath faithfully to perform the duties imposed upon him by law. Any elector of the precinct may administer and certify such oath. The polls shall be opened at 8 a.m. on the day of the election and be kept open until 5 p.m., when they must be closed. The provisions of the general election laws of Oregon concerning the form of ballot shall not apply to the elections held under the Irrigation District Act.

545.030 Conduct of election governed by general election laws; counting ballots. Voting may commence as soon as the polls are open and may continue during all the time the polls remain open, and shall be conducted as nearly as practicable in accordance with the general election laws. As soon as the polls are closed the judges shall open the ballot box and shall commence counting the votes. In no case shall the ballot box be removed from the room in which the election is held until all ballots have been counted. The counting of the ballots shall in all cases be public. The ballots shall be taken out one by one, by the chairman of the board of election, or one of the judges, who shall open them and read aloud the name of each person contained thereon, and the office for which he is voted. The judges shall keep an accurate account of the votes by tallies in duplicate and the counting shall continue without adjournment until all votes have been counted.

545.032 Certificate of vote; stringing of ballots; sealing of returns; delivery to secretary of board; recount. As soon as all the

votes are read off and counted, a certificate shall be drawn up on each of the papers containing the tallies, or attached thereto, stating the number of votes each one voted for has received, and designating the office to fill which he was voted for, which number shall be written in words and figures at full length. Each certificate shall be signed by all the members of the board of election. One of the certificates and the tally paper to which it is attached shall be retained by the chairman of the board of election and preserved by him for at least six months. The ballots shall be strung on a cord or thread by the chairman, during the counting, in the order in which they are entered upon the tally lists. The ballots, together with the other certificate and tally papers to which it is attached and a poll list of the voters voting at the election, shall be sealed by the chairman in the presence of the other judges, indorsed "Election returns of [naming the precinct] precinct," and directed to the secretary of the board of directors, and shall be immediately delivered by the chairman, or by other safe and responsible carrier designated by him, to the secretary. The ballots shall be kept unopened for at least six months. If any person is of the opinion that the vote of any precinct has not been correctly counted he may appear on the day appointed by the board of directors to open and canvass the returns and demand a recount of the precinct that is claimed to have been incorrectly counted.

545.034 Canvass of returns; list, etc., not rejected for want of form; canvass to be in public. No list, tally paper or certificate returned from any election shall be set aside or rejected for want of form if it can be satisfactorily understood. The board of directors shall meet at its usual place of meeting on the first Monday after each election to canvass the returns. If, at the time of meeting, the returns of each precinct in which polls have been opened have been received, the board of directors shall then and there canvass the returns; but if all the returns have not been received, the canvass shall be postponed from day to day until all the returns have been received, or until six postponements have been had. The canvass shall be made in public and by opening the returns and computing the vote of the district for each person voted for, and declaring the result.

545.036 Statement of result; contents; certificate of election; informalities not to invalidate election. (1) The secretary of the board of directors shall, as soon as the result is declared, enter on the records of the board a statement of the result, which statement must show:

(a) The whole number of votes cast in the district and in each division of the district.

(b) The names of the persons voted for.

(c) The office to fill which each person was voted for.

(d) The number of votes given in each precinct to each person.

(e) The number of votes given for the office of director.

(2) The board of directors shall declare elected the person having the highest number of votes given for each office. The secretary shall immediately make out and deliver to such person a certificate of election, signed by him and authenticated with the seal of the board. No informalities in conducting any election shall invalidate it if the election has been otherwise fairly conducted.

545.038 Contest of election; procedure; appeal. Any election held under the provisions of the Irrigation District Act may be contested by any person owning property within the proposed district liable to assessment. The directors of the district, or in case the election for organization of the district has failed, the county court, shall be made parties defendant. The contest shall be brought in the circuit court of the county where the petition for organization is filed; provided, that if more than one contest is pending they shall be consolidated and tried together. The court having jurisdiction shall speedily try the contest and determine, upon the hearing, whether the election was fairly conducted and in substantial compliance with the requirements of ORS 545.010 to 545.036, and enter its judgment accordingly. The contest must be brought within 60 days after the canvass of the vote and declaration of the result. The right of appeal is given to either party to the record within 30 days after entry of judgment. This appeal shall speedily be heard and determined by the Supreme Court. After the expiration of the period of 60 days allowed for bringing a contest, no action or suit shall be commenced or maintained or defense made affecting the validity of any election held under the provisions of the Irrigation District Act.

545.040 Districts organized before May 21, 1917; validity and rights not affected; applicability of provisions; validation of organization of districts, bonds, etc. Nothing in chapter 357, Oregon Laws 1917, shall be so construed as to affect the validity of any district organized before May 21, 1917, under the laws of this state, or its rights in or to property, or any of its rights or privileges. But said districts hereby are made subject to the provisions of the Irrigation District Act so far as applicable. The Act of 1917 shall not affect, impair or discharge any contract, obligation, lien, or charge for or upon which such a district was or might become liable or chargeable had not the Act of 1917 been passed; nor shall said Act affect the validity of any bonds which had been issued but not sold; nor shall it affect any action which was pending as of May 21, 1917. But all irrigation districts organized after May 21, 1917, shall be organized under the provisions of the Irrigation District Act and not otherwise. Where, before May 21, 1917, districts were organized, or bonds authorized, issued or sold or any proceedings undertaken on the theory that under the laws as they then existed, assessments might be assessed, levied or collected as provided in the Irrigation District Act, said organization, authorization, issuance or sale of bonds and all such proceedings hereby are validated, cured and confirmed, and said districts shall, after May 21, 1917, be governed, and all bonds shall be issued, in accordance with the provisions of the Irrigation District Act.

545.042 to 545.060 [Reserved for expansion]

BOARD OF DIRECTORS; ORGANIZATION, POWERS AND DUTIES

545.062 Organization of board; officers; collection, custody and disbursement of moneys; bond of secretary. On the first Tuesday in January next following their election the board of directors shall meet and organize as a board, elect a president from their number, and appoint a secretary, who shall each hold office during the pleasure of the board. The county treasurer of the county in which the petition for the organization of the district was filed shall be ex officio treasurer of the district, and any moneys collected by other county treasurers on behalf of the district shall be forthwith transmitted to the district treasurer, together with a statement specifying the fund into which it is to be deposited. However, if the secretary of the irrigation district is authorized to collect operation and maintenance assessments or emergency assessments, as provided in this chapter, he shall disburse the same upon orders of the board of directors of the district. The secretary, before receiving any such funds of the irrigation district, shall give a good and sufficient bond of not less than $5,000 by an authorized surety company, for the faithful performance of his duties, which bond shall be approved by the board of directors. The premium thereon shall be paid by the irrigation district. Any county treasurer having in his custody or control funds of an irrigation district shall be responsible for them on his official bond as county treasurer.

545.064 Powers and duties of board as to management of district; water deliveries; water acquired from United States. (1) The board shall:

(a) Manage and conduct the business and affairs of the district.

(b) Make and execute all necessary contracts, employ and appoint such agents, officers and employes as may be required, and prescribe their duties.

(c) Establish equitable bylaws, rules and regulations for the distribution and use of water among the landowners.

(d) Generally perform all acts necessary to fully carry out the purposes of the Irrigation District Act.

(2) The bylaws, rules and regulations may, in the board's discretion, designate, either generally or particularly, the points of delivery within the district to which the district will make water deliveries for the use and benefit of member users at district expense. Water deliveries so made shall be in full and complete discharge of the district's obligation of water deliveries to member users under the Irrigation District Act.

(3) Any water, the right to use of which is acquired by the district under any contract with the United States, shall be distributed and apportioned by the district in accordance with the Acts of Congress and rules and regulations of the Secretary of the Interior and the provisions of the contract in relation thereto.

545.066 Compensation and expenses of board, officers and employes; membership fees in associations. The directors shall each receive not to exceed $15 per day and mile-

age at the rate of 10 cents per mile, in attending meetings, and actual and necessary expenses paid while engaged in official business under the order of the board. The board shall fix the compensation to be paid to the other officers and employes of the district. Attendance upon an irrigation congress and the meetings of other organizations where in the judgment of the board the interests of the district may be involved shall be regarded as official business of the district. The board may pay, from the funds of the district, annual membership fees and assessments to the National Reclamation Association and Oregon Reclamation Congress, but in no event shall such dues and assessments exceed $250 a year. [Amended by 1957 c.128 §1]

545.068 Meetings of board; quorum; public inspection of records. The board of directors shall hold a regular monthly meeting, in its office, the time of which meeting shall be fixed by resolution of the board at the regular annual meeting required by ORS 545.062. Special meetings required for the proper transaction of business may be held when ordered by a majority of the board, by order entered of record, five days' notice of which meeting must be given by the secretary to each member not joining in the order. The order must specify the business to be transacted, and none other than that specified may be transacted at such special meeting, unless all the members are present. All meetings of the board must be public, and a majority of the members shall constitute a quorum for the transaction of business; but on all questions requiring a vote there shall be concurrence of a majority of the board. All records of the board shall be open to public inspection during business hours.

545.070 Contracts; conveyances; suits; judicial knowledge concerning district; audit of accounts; approval of contracts by State Engineer. (1) The board of directors may:

(a) Enter into contracts and take conveyances or other assurances for all property acquired by it under the uses and provisions of the Irrigation District Act, in the name of the irrigation district, to and for the purposes expressed in that Act.

(b) Institute and maintain all actions and proceedings, suits at law or in equity necessary or proper in order to fully carry out the provisions of the Irrigation District Act, or to enforce, maintain, protect or preserve rights, privileges and immunities created by that Act, or acquired in pursuance thereof.

(2) In all courts, acts, suits or proceedings the board may sue, appear and defend in person or by attorneys, in the name of the irrigation district. The court shall in all actions, suits or other proceedings take judicial knowledge of the organization and boundaries of all irrigation districts.

(3) The board shall cause an audit to be made once each year by an auditor designated by the State Engineer, which audit shall show the receipts and disbursements of the district. A copy of the audit shall be filed with the county clerk of the county in which the greater part of the lands in the district is located, and shall remain a record in his office. The county clerk shall prepare and file with the State Engineer a certified copy of the audit.

(4) Prior to the completion of the purchase or construction of the reclamation works of an irrigation district, no contract involving an obligation on the part of the district in excess of $5,000 shall become binding until approved by the State Engineer, and it shall be unlawful for the board of directors to make any payment under any such contract until after it has been so approved.

545.072 Surveys, plans, etc.; appointment of engineer; approval of State Engineer. Before beginning the construction of any irrigation or other works the board of directors shall cause surveys, plans and specifications to be prepared, and for this purpose shall appoint a competent irrigation engineer; or the board may secure and adopt in whole or in part any surveys, plans and specifications which may have been made or prepared. The plans and specifications, when completed or adopted by the board, shall be submitted to the State Engineer for his approval, together with a general report showing the feasibility of the project and an estimate of the cost of the works. The State Engineer shall within 90 days approve or disapprove the same. He may make such field investigations as he may deem necessary on behalf of the state before his final approval or disapproval of the plans and specifications.

545.074 Advertisement for bids; letting of contract; construction by district; bond of contractor; approval of State Engineer; contracts between districts and United States. After the approval of plans and specifications and before beginning the construction of any works, the board of directors shall give notice, by publication and otherwise, as it may deem advisable, calling for bids for the construction of such works, or any portion thereof. The notice shall state that plans and specifications can be seen at the office of the board, that the board will receive sealed proposals therefor, and that the contract will be let to the lowest responsible bidder; and shall give the time and place for opening the proposals, which, at the time and place appointed, shall be opened in public. As soon as convenient thereafter the board shall let the work, either in portions or as a whole, to the lowest bidder; or they may reject any or all bids and re-advertise for proposals, or may construct the work under their own superintendence. Any person to whom a contract is awarded shall enter into a bond, with good and sufficient sureties to be approved by the board, payable to the district for its use, for not less than 25 percent of the amount of the contract price, conditioned for the faithful performance of the contract. The work shall be done under the direction of a competent irrigation engineer. The work, when completed, shall be approved by the State Engineer. The provisions of this section shall not apply in the case of a contract between a district and the United States.

545.076 Obligations or contracts with United States under Reclamation Act; acquisition of federal lands. (1) For the purpose of acquiring control over government land within the district and of complying with the provisions of the Act of Congress entitled "An act to promote reclamation of arid lands," approved August 11, 1916, the board of directors may make such investigations, and, based thereon, such representations and assurances to the Secretary of the Interior as may be requisite. The board may enter into any obligation or contract with the United States for the construction, operation and maintenance of the necessary works for the delivery and distribution of water under the provisions of the Federal Reclamation Act and the rules and regulations established thereunder, and may contract for the refusal of water service to any lands which are in default in the payment of any assessment levied to carry out any contract between the district and the United States, or for the assumption, as principal or guarantor, of indebtedness to the United States on account of district lands. Or the board may contract with the United States for a water supply or drainage works under any Act of Congress providing for or permitting such contract.

(2) In case a contract is made with the United States, as herein provided, bonds of the district may be deposited with the United States, at 90 percent of their par value, to the amount to be paid by the district to the United States under any such contract. The interest on the bonds, if bearing interest, shall be provided for by assessment and levy, as in the case of other bonds of the district, and regularly paid to the United States to be applied as provided in the contract. If the bonds of the district are not so deposited, the board of directors shall include, as part of any levy or assessment provided for in the Irrigation District Act, an amount sufficient to meet each year all payments accruing under the terms of any such contract.

(3) The board may accept, on behalf of the district, appointment of the district as fiscal agent of the United States, or authorization of the district by the United States to make collections of money for or on behalf of the United States in connection with any federal reclamation project, whereupon the district shall be authorized to so act and to assume the duties and liabilities incident to such action, and the board shall have full power to do all things required by the federal statutes enacted in connection therewith, and all things required by the rules and regulations established by any department of the Federal Government in regard thereto.

545.078 Conveyance of lands to United States. Any property acquired by the district may be conveyed to the United States in so far as the same may be needed by the United States for the construction, operation and maintenance of works for the benefit of the district under any contract that may be entered into with the United States pursuant to ORS 545.076 or 545.080.

545.080 Obligations or contracts with United States under Fact Finders' Act. The board of directors may also enter into any

obligation or contract with the United States for the construction, operation and maintenance of the necessary works for the delivery and distribution of water under the provisions of the Act of Congress of December 5, 1924, entitled "An act making appropriations to supply deficiencies in certain appropriations for the fiscal year ending June 30, 1924, and prior fiscal years, to provide supplemental appropriations for the fiscal year ending June 30, 1925, and for other purposes," and in such contract may provide for payment of charges to the United States upon the basis authorized by said Act of Congress, which is commonly known as the "Fact Finders' Act," and under such rules and regulations as may be promulgated by the Bureau of Reclamation of the United States.

545.082 Right to enter upon and acquire lands and water rights; right of condemnation. (1) The board of directors and its agents and employes shall have the right to enter upon any land to make surveys, and may locate the necessary irrigation or drainage works and the line for any canals and the necessary branches for the same on any lands which may be deemed best for such location. The board also shall have the right to acquire, by lease, purchase, condemnation or other legal means, all lands, water, water rights, rights of way, easements and other property, including canals and works and the whole of irrigation systems or projects constructed or being constructed by private owners, necessary for the construction, use, supply, maintenance, repair and improvement of any canals and works proposed to be constructed by the board. The board also shall have the right so to acquire lands, and all necessary appurtenances, for reservoirs, and the right to store water in constructed reservoirs, for the storage of needful waters, or for any other purpose reasonably necessary for the purposes of the district.

(2) The property, the right to condemn which hereby is given, shall include property already devoted to public use which is less necessary than the use for which it is required by the district, whether used for irrigation or any other purpose, and any other properties owned by the state or any of its departments or commissions. In the acquisition of property or rights by condemnation, the board shall proceed in the name of the district under the provisions of the laws of Oregon.

545.084 Bond as condition of immediate possession in condemnation by irrigation or drainage district. Prior to any party, officer or agent of an irrigation or drainage district entering upon any land sought to be condemned, there shall be furnished to the landowner a sufficient undertaking, either by surety bond, personal bond, cash or other security, in an amount sufficient to indemnify the landowner for the value of the land sought to be condemned, together with all costs and attorney fees to which he may be entitled. This undertaking shall be conditioned that the district seeking to condemn the land shall pay to the owner all damages, costs and attorney fees that he may suffer by reason of the entry, or which may be awarded to him by a jury upon a trial of the cause.

545.086 Right to immediate possession in condemnation proceeding. At any time after the board of directors of an irrigation district or board of supervisors of a drainage district has commenced proceedings to acquire title to any land necessary for rights of way, or for construction, alteration, repair or reservoir purposes, the district may enter into possession of such lands and begin such work as may be necessary to the development of the district.

545.088 Right to condemn for irrigation purposes is a superior right. The use of all water required for the irrigation of the lands of any district formed under the provisions of the Irrigation District Act, together with all water rights and rights to appropriate water, rights of way for canals and ditches, sites for reservoirs, and all other property required in fully carrying out the provisions of the Irrigation District Act, is declared to be a public use more necessary and more beneficial than any other use, either public or private, to which the water, water rights, rights to appropriate water, lands or other property have been or may be appropriated within the district.

545.090 Title to and rights in property acquired. The legal title to all property acquired under the provisions of ORS 545.082 to 545.088 immediately and by operation of law shall vest in the irrigation district and shall be held by it in trust for and hereby

is dedicated and set apart to the uses and purposes set forth in the Irrigation District Act; and the board is authorized and empowered to hold, use, acquire, manage, occupy, possess and dispose of said property as therein provided. The title acquired by an irrigation district under the provisions of ORS 545.082 to 545.088 shall be the fee simple or such lesser estate as shall be designated in the decree of appropriation.

545.092 Interest of director or officer in contracts prohibited. No director or any other officer named in the Irrigation District Act shall in any manner be interested in any contract awarded or to be awarded by the board, or in the profits to be derived therefrom.

545.094 to 545.100 [Reserved for expansion]

POWERS OF DISTRICTS

545.102 Furnishing water and electric power in or out of district; status of district as public utility; contract with state under Carey Act; organization as water users' association. An irrigation district may provide for and furnish water for lands not included within the district and for lands within the district but not subject to assessment thereby, upon receiving proper compensation. The district may dispose of and furnish electric power in or out of the district upon receiving proper compensation; provided, that any district shall be deemed a public utility within the meaning of ORS 757.005, as to electric power so furnished outside the district. An irrigation district may acquire, assume or exercise any rights, property, powers or obligations of a contractor with the state under the Carey Act and may be organized in lieu of a water users' association required either by statute or contract.

545.104 Lien on crops for water supplied for irrigation on lands outside district, and within district but not subject to assessment; enforcement. (1) Any person or irrigation district who shall supply water to any person or irrigation district for irrigation of crops shall, upon complying with subsection (2) of this section, have a lien upon all crops raised by the use of such water for the reasonable value of the water supplied as of the date when the water was first supplied for the crops. The lien shall be a continuing one and shall bind the crops after, as well as before, they have been gathered, and shall be preferred to all other liens or encumbrances upon the crops, except mortgages given to the state for the purchase of seed wheat.

(2) The person or irrigation district so supplying water, within 40 days after the water has been furnished, or within 40 days after the close of the irrigation season, shall file with the county clerk of the county in which the lands, or some part thereof, are situated and where such water has been furnished, a claim containing a true statement of the account due for such water after deducting all just credits and offsets; the date when the water was first supplied; the name of the owner of the crops, or reputed owner, if known; the name of the person to whom the water was furnished; and a description of the lands upon which the crops were grown sufficient for identification. The claim shall be verified by oath of some person having knowledge of the facts and shall be filed with and recorded by the county clerk in the book kept for the purpose of recording liens claimed under ORS 87.035. The record shall be indexed as deeds and other conveyances are required by law to be indexed, and the clerk shall receive the same fees as required by law for recording deeds and other instruments.

(3) The lien may be enforced by a suit in equity, and upon decree of foreclosure the court shall allow as a part of the costs a reasonable sum as attorney's fees; but this remedy shall not be deemed to abrogate any other remedy provided by law for the collection of dues, charges or assessment for water furnished.

(4) If the crop, or any part thereof, has been sold prior to the filing of the lien, or possession delivered to an agent, broker, cooperative agency or other person to be sold or otherwise disposed of, and its identity lost or destroyed, or the crop commingled with its like kind so that it cannot be segregated, and if the purchaser, agent, broker, cooperative agency or other person was notified of the filing of the lien by being furnished with a certified copy thereof, then the lien shall attach to the proceeds of sale remaining in the possession of the purchaser, agent, broker, cooperative agency or other person at the time of the notice, and shall be as effective against the proceeds as against the crop itself.

545.106 Drainage works; construction authorized; powers of districts; designation of bonds. Any irrigation district, whenever

it appears necessary, proper or beneficial to drain any of the lands within the district, whether for the benefit of the lands actually requiring drainage or for the protection of other lands within the district, and whether or not the irrigation works have been actually acquired or constructed, may cause drainage canals and works to be constructed. To this end the district shall in all respects have the same power and authority as is conferred respecting irrigation, and all powers in the Irrigation District Act conferred upon irrigation districts with respect to irrigation shall be construed to include drainage. However, any bonds issued solely for drainage purposes shall be known as "Drainage Bonds of —— Irrigation District."

545.108 Tolls and charges for water supply; rates; collections and disbursements; basis of charges; unpaid charges and interest to be part of assessment; lien on land. (1) For the purpose of defraying the expenses of the organization of the district, and of the care, operation and management, repair and improvement of such portions of the canals and works as are completed and in use, including salaries of officers and employes, the board shall fix rates of tolls and charges, for irrigation and other public uses, and may by resolution provide for collecting them from all irrigable land in the district and from all persons using the canals for irrigation and other purposes, and requiring such collection to be made by the secretary of the board and disbursed by the secretary on order of the board.

(2) The board may designate the time and manner of making collections, and may require them to be paid in advance of the delivery of water, and may accept short-term interest-bearing notes for any portion of the charges. The board may base such charges upon the quantity of water to be delivered, and may fix a minimum charge to be paid by each acre of land in the district, or in each unit thereof as provided in ORS 545.444, which shall represent the delivery of a stated quantity of water in acre-feet, with a uniform or graduated charge for each additional acre-foot delivered.

(3) Any tolls or charges remaining unpaid at the time the board of directors completes its equalization of the succeeding annual assessment, together with interest thereon at the rate of two-thirds of 1 percent per month, or fraction of a month, computed by the board from the date when the board shall declare such assessments to be due and payable, and extending from that date until such taxes or assessments are payable to the tax collector of the county in which the irrigation district is located, shall be added to the assessment list and become a part of the annual assessment levied upon the land upon which such tolls and charges were made and shall constitute a lien on the land and be certified and collected as provided by ORS 545.452 and 545.454.

545.110 Authority of irrigation district to acquire domestic or municipal water works; assumption of obligations; sale of surplus water; impairment of irrigation service forbidden. Any irrigation district, when it appears necessary, proper or beneficial to its inhabitants and whenever it has been authorized by the electors of the district as provided in ORS 545.116, may acquire by gift, lease, purchase, condemnation or other legal means, domestic and municipal water works or water systems and property incident thereto, including reservoirs, pumps, mains, stations, water, water rights and all appurtenances; and may, as a part of any such transaction of acquisition, assume any outstanding obligations thereon, provided that no right of condemnation shall be granted against any property of any incorporated city. The irrigation district may also construct, reconstruct, equip, own, maintain, operate, sell, lease and dispose of, domestic and municipal water works or systems and property, and all appurtenances incident thereto. Any such irrigation district may furnish water for domestic and municipal uses to premises and inhabitants within its district, and in connection therewith may supply, furnish and sell, for the uses mentioned in this section, any surplus water over and above the domestic and municipal needs of its inhabitants, to persons, incorporated communities, water districts, or other municipal or quasi-municipal districts either within or without the district; provided, however, that the power to furnish water for domestic and municipal uses herein conferred will not be exercised in such a manner as to impair the service of the district in furnishing water for irrigation purposes.

545.112 Financing acquisition of water works; contracts with Federal Government; approval by electors. In carrying out and executing the powers conferred in ORS

545.110 to 545.122, the irrigation district may borrow money and issue bonds or other evidences of indebtedness therefor. The district may contract with the United States or any agency thereof for the acquisition, construction, reconstruction, maintenance and operation, or any of them, of a domestic and municipal water system or part thereof. The foregoing powers shall not be exercised in any case without the prior approval of a majority of the electors of the district at an election conducted as declared in ORS 545.116; however, no authority granted before March 5, 1945, to any irrigation district by a majority of the electors thereof at an election held pursuant to any other law shall be limited or otherwise affected by ORS 545.110 to 545.122.

545.114 Water works system to be self-sustaining; payment of indebtedness; rates; separate accounts. (1) The district shall charge consumers for the water furnished in amounts so that the domestic and municipal water system shall be self-sustaining. All indebtedness incurred in the acquisition, construction, maintenance, operation and disposition thereof shall be paid from the revenues so collected and from the proceeds of the disposition of the whole or any part of said water system. The board of directors may establish rates or charges to be paid by each person whose premises are served. The rates or charges may be fixed and classified according to the type of use and according to the amount of water used, and according to whether the property serviced lies within or without the boundaries of the district.

(2) The district shall establish and maintain separate accounts covering the acquisition, construction, reconstruction, maintenance, operation and disposition of the domestic and municipal water system. All moneys collected from the operation and disposition of the whole or any part of said water system shall be deposited in a special fund to be designated "Domestic Water Fund," and such moneys shall be disbursed from the fund only in connection with the water system.

545.116 Election concerning acquisition of water works. Whenever the board of directors of an irrigation district has determined by resolution that it is to the best interests of its inhabitants that it exercise any of the powers mentioned in ORS 545.110, including the refunding of outstanding bonds, it shall, by resolution, specify the particular powers it proposes to exercise and order an election to be conducted. Upon such order being entered, an election shall be held by the qualified electors of the district to determine whether or not bonds in any amount designated by the board in such order shall be issued for any purpose necessary or convenient in carrying out the provisions of ORS 545.110 to 545.122, and whether or not the board shall proceed to exercise the powers, or any of them, specified in the resolution. Notice of the election shall be given in the manner provided in ORS 545.192, and the provisions of that section shall apply to all subsequent proceedings under ORS 545.110 to 545.122.

545.118 Employment of hydraulic engineer; plans and specifications; approval of State Engineer required; exception. Before commencing the construction of any domestic and municipal water system as provided in ORS 545.110 to 545.122, or before acquiring the whole or any part of any such water system then in existence, the board of directors shall employ a qualified hydraulic engineer and have plans and specifications prepared. The plans and specifications, when prepared and approved by the board, shall be submitted to the State Engineer for his approval, together with a report by the engineer employed by the district showing the feasibility of the project, an estimate of the cost, the area to be served and the sufficiency and potability of the water supply. The State Engineer shall, within 90 days, approve or disapprove the project, and he may make such investigation as he deems necessary on behalf of the state before his final approval or disapproval. No irrigation district shall acquire any domestic and municipal water system, or undertake the construction thereof, until the plans and specifications have been approved by the State Engineer. The provisions of this section shall not apply in the event the district contracts with the United States or any agency thereof for the acquisition or construction of such system.

545.120 Bids and contracts for water works. In the event the State Engineer approves the project and the district desires to proceed with the construction or reconstruction of the whole or any part of a domestic and municipal water system, the

estimated cost of which exceeds $500, the provisions of ORS 545.074 shall apply and control as to the announcement and call for bids and the entering into contracts for such construction or reconstruction.

545.122 Personal interest in water works contracts forbidden. The provisions of ORS 545.092 and 545.990 shall apply to all contracts awarded or to be awarded under the provisions of ORS 545.110 to 545.120.

545.124 Joinder of districts in acquisition or construction of irrigation or other water use works. (1) Two or more irrigation districts or other water users' organizations, organized under the laws of this state or of any adjoining state, may enter into agreements with each other and with the United States for the joint acquisition, operation, maintenance, management, control, construction, care, repair or improvement of works for diverting, impounding, distributing, irrigating or draining of lands within the boundaries of the districts or other water users' organizations, and, subject to ORS 545.110, may include in such agreements provisions to furnish water for domestic and municipal uses to premises and inhabitants within the boundaries of such districts or other water users' organization.

(2) Agreements entered into pursuant to this section may be evidenced by written contracts executed on behalf of the board of directors or trustees of each district or water users' organization or by resolutions entered upon their minutes. The contracts or certified copies of them and certified copies of the resolutions may be recorded in the office in which deeds are recorded in each county in which is situated any of the land, works or other real property of the district or other water users' organization.

(3) Agreements made pursuant to this section may provide for joint ownership, several ownership, or ownership in common of the property convenient for the joint purposes and may provide for the terms under which the property or respective portions thereof shall be held.

(4) Any rights or disputes arising out of or from the agreements may be tried before and enforced by any court of competent jurisdiction in this state.

(5) The districts or other water users' organizations joined in any agreement under this section are jointly granted the same power of condemnation as is now possessed by one district or organization alone.

(6) Any meeting of the governing board of a district or other water users' organization of this state, regularly adjourned to or called substantially in the manner for calling special meetings, may be held in another state, in conjunction with the board of a cooperating district or organization of such other state, with the same validity as if held in the office of the district or organization in this state.

(7) In carrying out cooperative action pursuant to this section, between a district or other water users' organization of this state and one of an adjoining state, either district or organization may divert water from either or both states, for impounding in the adjoining state, or for distribution to the land of either or both of the cooperating districts or organizations, or for both such purposes.

(8) So far as necessary for carrying out the purposes of this section, a cooperating district or other water users' organization in an adjoining state may hold title to property in this state, and a cooperating district or organization in this state may hold title to property in the adjoining state.

545.126 to 545.140 [Reserved for expansion]

SALE OF PROPERTY OF DISTRICT

545.142 Property acquired by district; leasing, operation or sale; prohibition of interest therein on part of member of board or employe. Any irrigation district foreclosing or otherwise acquiring any real property may lease, operate or sell the same upon such terms and taking such security for the rental or purchase price as the board of directors may deem advisable. No member of the board of directors or employe of the irrigation district shall purchase or be interested in any contract for purchase of lands sold by the district.

545.144 Authorization of sale of property, excess water, or hydroelectric power; procedure. (1) Whenever the board of directors of an irrigation district deems it for the best interests of the district to sell any property owned by the district and not required for district purposes, including excess storage or carrying capacity, surplus water or water rights, or to dispose by contract, lease or sale of any undeveloped hydroelectric power, it shall adopt and enter in

the minutes of its proceedings a resolution stating in substance:

(a) General description of property to be sold.

(b) The amount of such excess capacity and of surplus water owned by such district, and the amount proposed to be sold.

(c) That such sale can be made without impairing the security of the outstanding bonds.

(2) Within 30 days after passage of the resolution, the board shall file with the State Engineer a petition of the district setting forth the resolution adopted by the board and praying that he investigate and determine the amount of excess capacity and surplus water which the district may sell. Within 60 days after receipt of the petition, or as soon thereafter as practicable, the State Engineer shall file his report thereon in writing with the secretary of the board. The board may thereupon sell upon such terms as it deems for the best interests of the district the excess capacity and surplus water to an amount not exceeding the amount found available for sale by the State Engineer, and may, from time to time, sell such further amounts as may be determined in the same manner.

545.146 Release of lien of bonds; form; acknowledgment by bondholders; copy of release as evidence. The board of directors may then proceed to obtain releases of the lien of all outstanding bonds against the property it is proposed to sell. Release of the lien shall be in writing and acknowledged by the holders of the bonds in substantially the same manner and form as is required in the case of a conveyance of land, but the notary or other officer taking the acknowledgment shall include in his certificate of acknowledgment, or in another appropriate certificate, the fact that the bonds described in the instrument were exhibited to him by the bondholder making the acknowledgment. The acknowledgment shall have the same force and effect as evidence as has the acknowledgment of a conveyance. The certificate of the officer taking the acknowledgment that such bonds were exhibited shall be conclusive evidence of the ownership of the bonds by the person executing and acknowledging the release. The acknowledged release shall be filed with the board and recorded in its minutes. The minutes, or a copy thereof certified by the secretary of the board, shall be admissible in evidence with the same effect as the original of the acknowledged release.

545.148 Consent of bondholders; notice requiring presentation of objections; implication of consent; hearing of objections by directors. The board may obtain constructive consent and shall publish for at least four consecutive weeks in three newspapers published in Oregon, one of which shall be a newspaper published in the county in which the office of the board of directors is situated, if there is one, a notice describing the property to be released from the lien of outstanding bonds, and requiring all holders of bonds against the district to present in writing their dissent from or objection to release of the lien of all bonds against the property to be sold. Any holders who fail to file objection or dissent within 90 days from the date of the first publication of the notice shall be deemed to have released the lien of their bonds on such property and the board shall enter its order to the effect that the lien of all such bonds has been released from the property to be sold, for the purpose of such sale. If any objection or dissent is filed within the time required by the notice, the board shall fix a time for a hearing thereon and at such hearing shall determine whether or not the sale can be made without impairing the security of the bonds. If the board determines that the sale can be made, it shall enter its order to that effect and may proceed to sell the property; otherwise it may postpone the sale until the objection is removed.

545.150 Proceeds of sale; special fund; uses of moneys. All proceeds from the sale of property owned by the district and subject to the lien of outstanding bonds shall be held in a special fund to be applied, first, in the construction or reconstruction of such drainage or other works of the district as may be required by the United States as one of the conditions for the purchase of any such property of the district by the United States; and second, as may be agreed between the district, the holders of the bonds and the State Engineer, except that in case any of such funds are applied to bonded indebtedness, such application shall be made to payment on the outstanding bonds as their interests may appear.

545.152 Purchaser's rights; power of directors respecting contracts and instruments relating to transfer. No sale of excess

storage or carrying capacity or of surplus water or water rights by the board shall give the purchaser any prior or superior right in the water rights, water supplies, reservoir or irrigation works of the district over the rights retained by the district for lands within the district. The board may enter into all such contracts and execute such instruments as may be necessary to transfer such property, including excess storage and carrying capacity, and surplus water and water rights, or the right to the use of the quantity of water so sold or such interest in the reservoir and other irrigation works of the district, and for the joint management and operation of any and all of such works, if they are deemed advantageous to the district, and have been released from the lien of outstanding bonds and approved by the State Engineer.

545.154 Adjudication of legality of proceedings. All acts, actions and proceedings under ORS 545.144 to 545.154 by the board of directors, State Engineer or bondholders shall be subject to confirmation and approval by the courts on proceedings in rem taken and had in conformity to the provisions of ORS 548.105 to 548.115, so far as applicable. Such proceedings may be maintained by the district, its board of directors and freeholders, assessment payers and legal voters. In such proceedings jurisdiction of all freeholders, assessment payers, legal voters and owners and holders of outstanding bonds of the district shall be had by publication of notice, as provided in ORS 548.110, and judgment in the proceedings shall be binding on all such persons on whom jurisdiction is so had.

545.156 to 545.170 [Reserved for expansion]

DEVELOPMENT OF LANDS BY UNITED STATES

545.172 Authority to transfer land to government for development and colonization; repayment of expenditures; levy of assessments; funds; contracts with government. Any irrigation district organized pursuant to the laws of Oregon may turn over to the Federal Government, or any agency thereof, any lands owned or controlled by the district, for the purpose of development and colonization by the Federal Government or agency thereof, and may levy assessments for repayment to the Federal Government or agency of the sum expended in the development of such lands, with interest thereon not to exceed six percent per annum. The district may also assess the lands to cover repayment to the district of its cost, with interest thereon not to exceed six percent per annum, and shall deposit the same in the "Bond Fund" account, or the "United States Contract Fund" account, or the "Bond and United States Contract Fund" account, as the case may be. The latter assessments shall be in addition to the assessments which may be levied to meet the reclamation charges, interest thereon and maintenance. Irrigation districts may enter into such contracts and assume such obligations with the Federal Government, or any agency thereof, as may be necessary, expedient or desirable to bring about the development of lands in the irrigation district.

545.174 Acquisition of lands from owners; crediting of value on charge against remainder of land. In order to make the lands available for development by the Federal Government, or any agency thereof, as provided in ORS 545.172, any irrigation district may accept from any landowner within the district title to any part of the land of such landowner and allow him credit to the extent of the reasonable value thereof on the reclamation charge against the remainder of his land. However, no credit shall be allowed so as to entirely extinguish the reclamation charge against any land in the district, nor shall any land be accepted by the district or credit allowed until a contract has been executed by the district and the Federal Government, or some agency thereof, for development of the lands.

545.176 Proceedings on extension or cancelation of payments due government. Where any irrigation district under contract with the United States has levied any assessment for collection of money payable to the United States under such contract, and the Secretary of the Interior has, by agreement with the board of directors of the district, authorized the extension or cancelation of any payments due the United States by the cancelation of assessments already levied therefor but remaining unpaid, the board of directors shall certify to the sheriff of the county in which the land is located a statement of the year and amounts assessed against each tract for which such cancelation has been authorized. The sheriff

upon receipt of the certificates shall, where the assessment remains unpaid, indorse upon the district's assessment roll, "Corrected under certificate of board of directors," and shall deduct and cancel from the assessment against each such tract the amount of the assessment so authorized to be canceled. However, in cases where delinquent certificates have been issued, and the time for redemption has not expired, such cancelation shall not be made until the district pays the sheriff, for the owner of any such certificate, the amount so canceled, with accrued penalty and interest as provided by law. Such payment by the district shall operate to reduce the amount of the certificate proportionately, but shall not otherwise affect it. In cases where delinquent certificates have been issued and the time for redemption has expired, no such cancelation shall be made.

545.178 Districts east of Cascades; contracts with government for flood control works. (1) Whenever it is determined, by the board of directors of any irrigation district situated in any county east of the Cascade Range, that it is for the best interest of the district that the flood waters of any stream that enters upon the district or whose waters are used in the irrigating of any of the lands in the district be controlled, the board may enter into a contract with the United States Government, or any of its agencies which may be empowered to construct flood works, contracting and agreeing on the part of the irrigation district:

(a) To provide without cost to the United States all lands, easements and rights of way necessary for such control project or works.

(b) To hold and save harmless the United States or any of its agencies or officers from loss or damage by reason of the construction of such flood control project and works.

(c) To maintain and operate all the works after construction in accordance with any regulations prescribed by the United States or its agencies or officers.

(2) The contract shall not be binding upon the district until it has been approved by the legal voters of the district as provided by ORS 545.192 and 545.194. When the contract has been so executed and approved the board shall carry out fully the provisions of the contract.

545.180 to 545.190 [Reserved for expansion]

BOND ISSUES, GENERALLY; FUNDS; CONTRACTS WITH UNITED STATES

545.192 Authorization of bonds, including refunding bonds; contract with United States; election; notice. (1) Upon order of the directors duly entered, an election shall be held to determine whether bonds in any amount the board may deem necessary shall be issued for any purpose necessary or convenient in carrying out the provisions of the Irrigation District Act, including the refunding of outstanding bonds, or whether the right to enter into an obligation or contract with the United States, except as provided in ORS 545.194, shall be authorized.

(2) Notice of the election must be given by posting notices in three public places in each election precinct in the district for at least 15 days prior to the election, and also by publication of the notice in some newspaper published in the county where the office of the board of directors is kept, once a week for at least four successive weeks prior to the election. Such notices must specify the time of holding the election and the amount of bonds to be issued; or where contract is to be made with the United States and bonds are not to be deposited, the maximum amount of money payable to the United States for construction purposes, or in the assumption of liability for district lands for such purposes, exclusive of penalties and interest.

(3) The election shall be held and the result determined and declared in all respects as nearly as practicable in conformity with the provisions of this chapter governing the election of officers. No informalities in conducting such election shall invalidate the same, if the election has been otherwise fairly conducted. The ballot shall contain the words "Bonds—Yes" and "Bonds—No," or "Contract with the United States—Yes" and "Contract with the United States—No," or other words equivalent thereto. If a majority of the votes cast are "Bonds—Yes," the board shall cause bonds in that amount to be issued, or such portion thereof as may be necessary from time to time. If a majority of the votes cast are "Contract with the United States—Yes," the board may negotiate and execute a contract with the United States. If the majority of the votes cast are "Bonds—No," or "Con-

tract with the United States—No," as the case may be, the result of such election shall be so declared and entered of record.

545.194 Resubmission of questions to electors; contracts not requiring vote. Whenever thereafter the board in its judgment deems it for the best interests of the district that the question of the issuance of bonds, or the question of contract with the United States, in any amount, shall be submitted to the electors, it shall so declare of record in its minutes, and may thereupon submit such questions to the electors in the same manner and with like effect as at the previous election. However, an irrigation district may, without a vote of its electorate, enter into a contract with the United States which does not create or increase a construction charge indebtedness and which, in the judgment of the district board, is for the best interest of the district, and such contracts heretofore made without a vote of the district electorate are hereby ratified.

545.196 Bonds; numbering; maturities; negotiability; interest; place of payment; execution; coupons; registration. (1) The bonds issued shall be numbered consecutively, commencing with number 1. They shall mature serially in annual amounts so as to be approximately equal, principal and interest, in not less than five years nor more than 50 years after the date of issue, as the board of directors may determine, or in case the board deems it advisable to submit the question of maturities at the bond election, then as the electors may determine. They shall be negotiable in form. The bonds may be issued when so authorized by the electors so as to include a sum sufficient to pay the first four years' interest, or less, to accrue on the bonds.

(2) The bonds shall bear interest at a rate of not to exceed six percent per annum, payable semiannually on the first day of January and July of each year. The principal and interest shall be payable at the places designated in the bonds and coupons. The bonds shall be signed by the president and secretary, the seal of the board of directors shall be affixed thereto and each bond shall bear on the back the registration certificate of the county treasurer, who shall sign as county treasurer and as ex officio treasurer of the district. Coupons for interest shall be attached to each bond, and shall be signed with the engraved facsimile of the secretary.

(3) The county treasurer and the secretary of the district shall register the bonds in books kept in their offices for that purpose, and therein must be stated the number, date, amount of bond, time and place of payment, rate of interest, number of coupons attached, and any other description proper for future identification of each bond. This section shall not be construed to provide that any bond of the district shall bear a registration certificate by the secretary.

545.198 Bonds securing payments to United States. The contract provisions for the payment of construction charges to the United States, and the bonds securing the payment of the same, if any are issued and deposited, may be of such denomination and may call for the payment of such interest not exceeding six percent per annum, may provide for such instalments and for repayment of the principal at such times, as may be required by the federal laws and as may be agreed upon between the board and the Secretary of the Interior.

545.200 Surety bonds of district officers. Each irrigation district officer who receives money for or on behalf of an irrigation district shall furnish to the irrigation district a good and sufficient surety bond by an authorized surety company for the protection of the funds in his possession or under his control, or in any bank or trust company. The premium upon the surety bond shall be paid by the irrigation district. The bond shall be filed with the board of directors of the district.

545.202 Sale of bonds; resolution of board; notice of sale; bids; use of bonds by board; provision for irrigation or drainage in portions from time to time; cancelation of bonds. (1) The board may sell from time to time the bonds which have been authorized by the electors and in such quantities as may be necessary and most advantageous. Before making any sale the board shall, at a meeting, by resolution, declare its intention to sell a specified amount of bonds, and the day, hour and place of such sale, and shall cause the resolution to be entered on the minutes. Notice of sale shall be given by publication at least 30 days in three newspapers published in Oregon, one of which shall be a newspaper published in

the county in which the office of the board is situated, if there is a newspaper published in that county, and in any other newspaper, at its discretion. The notice shall state that sealed proposals will be received by the board at its office for the purchase of the bonds until the day and hour named in the resolution. At the time appointed, the board shall open the proposals and may reject any or all bids. After offering the bonds for sale, as above provided, if no satisfactory bid is received, the board may use the bonds for any purpose for which the proceeds from the sale of bonds may be used, but the board shall in no event sell or dispose of any bonds for less than 90 percent of their face value.

(2) Nothing in this section shall inhibit the district from providing for the irrigation or drainage or either alone in units or portions from time to time.

(3) The board may by resolution entered on its records cancel any bonds which may have been voted or issued which have not been sold or deposited as security for funds advanced or to be advanced, and which the state, United States or any other person has no claim to or equity in. After such cancelation, the bonds shall not be sold or otherwise disposed of; they shall be invalid and of no effect; and the board may not replace them without authorization of the electors.

545.204 Bonds and payments due United States are payable from assessments; liability of lands. The bonds and the interest thereon and all payments due or to become due to the United States under any contract between the district and the United States, accompanying which bonds of the district have not been deposited with the United States, and all obligations for the payment of money authorized and incurred under the Irrigation District Act, shall be paid by the revenue derived from the annual assessments upon the land in the district. All the lands in the district shall be and remain liable to be assessed for such payments as provided in the Irrigation District Act and under and subject to the provisions thereof.

545.206 Increase of assessments to meet defaults; property liable for indebtedness; possession of works upon default. In case the amount assessed against any tract of land is not paid, the next assessment against the land in the district shall be so increased as to take care of the default. In addition to the provisions for the payment of bonds and interest by taxation and other provisions of the Irrigation District Act, all the property of the district, including irrigation and other works, shall be liable for the indebtedness of the district. The holder of the bonds, or the United States in case contract has been executed by the United States, may, in case of default in the payment of interest or principal on the bonds, or the amount due on the contract, upon the order of the circuit court, take possession of the irrigation and other works of the district and operate the same until the amount in default is fully paid.

545.208 Lien against assessed lands; priority. Any assessment upon land shall be a lien against the property assessed, and such lien for all payments due or to become due under any contract with the United States or for the payment of principal or interest of bonds deposited with the United States shall be a preferred lien to any assessments for bonds issued subsequent to the date of such contract or the issuance of the bonds deposited with the United States. No district assessment lien shall be removed until the assessments are paid with interest and penalties or the property sold for the payment thereof.

545.210 Sale of lands for delinquency; purchase by district. The district shall appear as a bidder at the sale of any lands for delinquent district or other taxes and may purchase and take title to the lands and dispose of the same like any other purchaser. To protect its assessments, the district, at a tax sale where there is no other bid for the full amount of the delinquencies, including interest and penalties, shall bid and buy in the land; provided, the district shall never bid or pay a greater sum than the total of all taxes against the land with interest and penalties; and provided further, when purchasing any land at a tax sale, the district shall pay cash for all taxes, interest and penalties including the district taxes, like other purchasers. Such expenditures shall be deemed operating expenses of the district and may be assessed as maintenance charges.

545.212 Bond sinking funds; other funds. The treasurer shall keep a "Bond Fund" account or a "United States Contract Fund" account, or a "Bond and United States Contract Fund" account, as the case may be,

into which shall be covered all moneys arising from the sale of refunding bonds and from assessments and levies until there is sufficient money in the fund to meet the next instalment of principal and interest upon bonds of the district and to meet all payments for construction and other purposes to the United States. From the fund he shall pay moneys due as principal and interest on bonds as they mature and the bonds and coupons are presented and as payments to the United States fall due. Moneys received from the sale of bonds and otherwise for construction or acquisition of works by the district shall be covered into a "Construction Fund." All other moneys received by the district shall be covered into a fund known as the "General Fund," from which shall be defrayed all obligations of the district other than those in this section described. The bond and United States contract fund accounts shall be devoted to the obligations of the district payable therefrom in the order of the priority of the creation of the obligations.

545.214 Retirement of bonds prior to maturity; call provisions. (1) Whenever, after 10 years from the issuance of bonds, the appropriate fund amounts to $10,000, the board of directors may direct the treasurer to pay such an amount of the bonds not due as the money in the fund will redeem at the lowest value at which they may be offered for liquidation, or may call bonds at a premium of three percent, as provided in subsection (2) of this section.

(2) The board may call for payment and retire before maturity any bonds issued in accordance with ORS 545.192 to 545.202, on paying principal and accrued interest and a premium of three percent upon the principal. Notice of intention so to do shall be given by publication in a newspaper published and regularly circulated in the county in which the district lands lie, at least once a week for four successive weeks, beginning not less than 90 days prior to an interest-paying period. The notice shall state the number and amount of the bonds to be retired, with the price to be paid, and the date and place where the same are to be paid. Bonds shall be retired in numerical order. No bonds shall be retired under this provision except on a day when interest is payable by the terms of such bonds and on and after the date named in the published notice. Interest on bonds described therein shall cease after funds are available as provided in subsection (1) of this section.

(3) Notwithstanding anything contained in this section, the board in its discretion may issue any bonds with the option reserved to the district of redeeming the bonds on and after certain interest-paying dates specified by the board therein, upon publication of notice thereof at least 30 days prior to redemption date, in one issue of a newspaper printed and published in the county where the bonds were issued and in a newspaper published in the City of Portland.

545.216 Determination of liability of individual tracts for bonded indebtedness; acceptance of bonds and cash in payment. (1) The board of directors of any irrigation district upon application of any owner of a tract of land therein may determine the proportionate part of the liability of such tract for assessment in payment of the outstanding bonded indebtedness. In determining the amount of liability, the board shall take the total amount of bonds outstanding and divide this sum by the total irrigable acres and multiply the quotient by the total irrigable acres in such tract. In any district in which the cost has been divided into units, the board shall determine the proportionate amount of liability in the same manner, using the total amount of bonded indebtedness apportioned to the unit and the irrigable area therein. After determining the total apportioned part of the liability of such tract for the payment of bonded indebtedness, the board of directors may accept the bonds of the district in payment of the total amount of such liability of any tract of land within the district, provided that an additional cash payment of not less than five percent of the total amount of liability on the tract shall be tendered and paid to the district at the time of delivery of the bonds.

(2) The board of directors may enter into an agreement with the owner of the tract of land making such payment, relieving, except in case of default of the district, said tract of all existing assessments and liens, except warranted indebtedness, state interest, and operation and maintenance. The transaction shall be recorded in the minutes of the board of directors of the district.

(3) The finding of the board of directors in fixing the proportionate part of liability of any tract of land and the amount of addi-

tional cash payment shall be approved by the State Engineer before final action is taken. The additional cash payment collected by the board shall be deposited with the treasurer of the district and placed in a separate fund, which shall be used only for the retirement of bonds.

545.218 Bonds of districts organized before 1925 with indebtedness of $50,000; retirement of outstanding bonds as condition of further indebtedness; authorization and sale of refunding bonds; application of proceeds; redemption. (1) No irrigation district organized prior to 1925 which has an outstanding bonded debt in excess of $50,000, and in which no actual construction of irrigation works has been commenced, shall ever create a further bonded debt, except in the issuance of refunding bonds, until the bonds now outstanding and bonds issued to refund the same have been called and redeemed, or further refunded as a part of new proceedings taken to finance the construction of irrigation works.

(2) The district may issue refunding bonds bearing not to exceed six percent per annum interest to redeem or replace any of its bonds which have matured or which hereafter shall mature. The district shall sell such bonds for not less than par value, pursuant to notice published for at least two weeks in a newspaper printed and published within the county in which the district is located. The proceeds of the sale shall be applied in payment of the matured or maturing bonds. If the district receives no qualifying bids for the refunding bonds they may be exchanged on a par-for-par basis for the matured or maturing bonds. Such refunding bonds shall have such serial maturity dates, not exceeding 20 years from issue date, as the board of directors shall specify; but the board, in its discretion, may issue the bonds with optional dates of redemption, providing for their calling and retirement upon such interest payment dates as are indicated therein. Notice of intention to redeem the bonds shall consist of a notice thereof from the secretary of the district published in one issue of a newspaper printed and published within the county in which the district is located, or of a direct notice from the secretary to the owner of the bonds, if known. The issuance of bonds for such refunding purposes shall not require an election of the voters of the district but shall be done pursuant to a resolution of the board of directors.

545.220 Validation of obligations for refunding, or obtaining loans from Reconstruction Finance Corporation. All bonds or other obligations issued before November 15, 1935, or bonds authorized before that date and issued within one year after that date, by irrigation districts, for the purpose of refinancing or refunding prior outstanding bond issues and other obligations of such irrigation districts, or for the purpose of obtaining loans from the Reconstruction Finance Corporation under the provisions of section 36, part 4 of the Emergency Farm Mortgage Act of 1933, as amended, relating to agricultural projects, where the proceedings for the issuance of such bonds have been adjudicated and confirmed under the provisions of ORS 548.105 to 548.115, hereby are validated; and all bonds so issued and approved and all bonds authorized before November 15, 1935, and issued within one year after that date, and the proceedings therefor so confirmed and approved under the provisions of ORS 548.105 to 548.115, hereby are declared to be legal and a binding obligation upon such irrigation district for all purposes.

545.222 Bonds sought to be validated by judicial decree. All bond issues voted before June 5, 1933, by any irrigation district of this state, for the purpose of refunding outstanding warrants, or other purposes, and for which bonds an action was thereafter instituted in any circuit court of this state for confirmation and validation, and for which the circuit court entered a decree confirming and validating the same, from which no appeal was taken to the Supreme Court, hereby are validated and declared legal and binding obligations of the district.

545.224 Investment of surplus funds in United States bonds. The board of directors of every irrigation district, whenever there are any surplus funds not necessary for the payment of current obligations in any construction fund, operation and maintenance fund, sinking fund, United States Contract Fund, emergency fund, or any other fund of the district, may invest the same in bonds of the United States of America. The district may hold and dispose of the bonds at such times as may be necessary to the conduct of the business and affairs of the district.

545.226 Release of districts from payment of indebtedness to state, under former Article XI-B of Oregon Constitution. Whenever there is filed with the State Engineer evidence satisfactory to him that all or a sufficient number of the creditors of an irrigation district, other than the state, have entered into an agreement which will reduce the district's obligations to an amount which the State Engineer finds is within the ability of the district to pay, or have accepted in lieu of the evidences of indebtedness of the district held by such creditors, refunding bonds of the district which are satisfactory to the State Engineer in amount, maturities and interest rates, then the State Engineer shall file with the State Treasurer a report, and shall direct him to cancel in whole or in part the certificates of indebtedness executed by the district, prior to June 5, 1933, under the provisions of Article XI-B, Oregon Constitution (now repealed), as the State Engineer shall direct. The State Engineer shall also release the district from the performance or observance of any agreement entered into by such district with the state or with the commission created by said article for the payment of interest on the bonds of the district pursuant to said article.

545.228 to 545.240 [Reserved for expansion]

ALTERNATIVE METHOD OF ISSUING BONDS OR REFUNDING INDEBTEDNESS

545.242 Refunding indebtedness; issuing bonds; procedure; resolution of district directors; investigation and report by State Engineer; election to determine issuance of bonds; definition of "benefits." (1) Any irrigation district desiring to refund its outstanding indebtedness or issue bonds for any purpose may in lieu of other procedures provided by law elect to adopt the procedure provided by ORS 545.242 to 545.276. Before any election may be made to issue bonds under those sections the board of directors shall enter a resolution stating for what purpose the bonds are to be issued and, if the bonds are to be used for refunding indebtedness, describing the bonds and indebtedness to be retired by the refunding bonds or from the proceeds of the sale thereof, and requesting the State Engineer to make an investigation.

(2) Upon filing a copy of the resolution with the State Engineer, the State Engineer may make a complete, thorough and careful investigation and analysis of the district as to all matters touching its feasibility, including soil survey, water supply, topography, economic conditions, and productive value of each legal subdivision or other described tract if held in separate ownership, and shall make a determination of the total benefits accruing to each legal subdivision or other described tract if held in separate ownership from the existing or proposed improvement, and fixing the assessment according to the productive value of water and land prepared to receive water, but not including permanent improvements such as buildings or orchards, and with proper deductions for partial water rights appurtenant to any tract of land within the district not furnished by the district, together with easements, rights of way, water rights or other property required by the district. The determination of benefits shall include a description of the land, name of the ownership, number of irrigable acres of each legal subdivision or tract, and such other data as may be necessary to identify the ownership; provided, that the district board may elect to assess according to a classification and benefits as herein set forth, or on the basis of irrigable area.

(3) Upon completion of the investigation, the State Engineer shall file with the board of directors a written report showing the results. If the State Engineer finds it necessary or expedient to submit the question of issuance of bonds to the district, he shall authorize the board of directors to provide for an election to determine whether bonds in an amount not exceeding the total amount as determined by the State Engineer shall be issued for the desired purpose. The election shall be conducted in the manner provided by ORS 545.192 for elections for bonds by irrigation districts.

(4) Wherever the term "benefits" or "total benefits" is used in ORS 545.242 to 545.276, it means the benefits or total benefits accruing to the land by virtue of the existing or proposed improvement exclusive of any benefits to accrue from the future operation and maintenance of the improvement.

545.244 Determination of liability for taxes to pay bonds, on basis of irrigable area or benefits. After bonds have been

authorized under ORS 545.242 to 545.276 but before they are offered for sale, the board of directors shall make a preliminary determination of the area and description of irrigable land in each legal subdivision or other described tract if held in separate ownership within the district and the proportionate share or liability of each tract for taxation in payment of the total amount of the bonds issued. This determination shall be for the purpose of fixing the irrigable area or, if the assessment is based on benefits, the total benefits accruing from the existing or proposed improvement to each ownership and tract, and of fixing the assessment in proportion to such benefits, or irrigable area. The determination of benefits or irrigable area shall include a description of the land, name of the ownership, number of irrigable acres of each tract, proposed assessment against each tract, and such other data as may be necessary to identify the land and ownership.

545.246 Amounts paid to owners for rights of way, water rights, etc. In fixing the proportionate part of the cost of reclamation that each owner of land shall pay, the amount to be paid to any owner for easements, rights of way, water rights, or other property or rights required by the district, shall be shown in a separate column and deducted from the amount that the owner would otherwise be required to pay, and assessments for the payment of the cost of such reclamation and interest thereon made accordingly.

545.248 Notice of directors' determination; publication; notice of hearing of objections, etc. The board of directors shall give notice by publication of the preliminary determination provided for in ORS 545.244, once a week for four successive weeks in a newspaper published in each county in which the district lands lie, and also by posting a notice in three public places in the district at least 30 days prior to the date of hearing. The notice shall state the time and place for hearing objections or remonstrances and entertaining suggestions as to the proposed assessment; the proposed determination of the benefits accruing from the existing or proposed improvement; the place where the record of such determination may be inspected; and that upon conclusion of the hearing the board will by resolution, subject to approval of the State Engineer, determine the proper assessment within the limits of the proposed bond issue to be charged against each legal subdivision or other described tract if held in separate ownership and the total benefit accruing to each such legal subdivision or other described tract if held in separate ownership, from the existing or proposed improvement, but excluding from such determination of benefits any benefits to accrue from the future operation and maintenance of the improvement.

545.250 Equalization of assessments; hearings. The board of directors shall sit as a board of equalization at the time and place stated in the notice, and shall continue in session from day to day as long as may be necessary to hear and determine any objections, remonstrances or suggestions by any interested persons to the proposed assessment and apportionment or to the proposed determination of the total benefits accruing. The board shall change its assessments and apportionment or determination of the total benefits accruing as it shall find legal and proper in any respect and in such manner as to make the same just and in accordance with the facts. The secretary of the board shall be present during these sessions and shall note all changes made in such assessments or determination of total benefits.

545.252 Order determining benefits; approval by State Engineer; final order of assessment. (1) Upon completion of the hearing the board of directors shall enter an order approving and adopting such determination of benefits but excluding any benefits to accrue from the future operation and maintenance of the improvement, and shall forward the same to the State Engineer for examination, approval or correction. Upon such examination, approval or correction, the State Engineer shall return the order with his action to the board of directors for final action. The board of directors shall then by resolution make and enter an order fixing the proposed assessments and the amount thereof against, and the total of the amount of benefits accruing to, each legal subdivision or other tract if held in separate ownership, resulting from the existing or proposed improvement in accordance with and as corrected by the State Engineer and as finally agreed upon between the State Engineer and the board of directors.

(2) The resolution shall describe the

lands assessed; the name of the reputed owner thereof (but an error in the name of the owner shall not affect the validity of such action); the total amount of tax, which shall be the proper pro rata of the lands based upon such total proposed assessment; the instalments in which the tax may be paid; the rate of interest it shall bear; the amount of the total benefit which will accrue to each legal subdivision or other described tract if held in separate ownership; the amount of the excess of the benefits accruing to each such subdivision or other described tract, over and above the assessment against each (which excess shall be known as "the benefit surplus"); and any other matters pertinent or necessary or deemed expedient by the board of directors.

545.254 Notice of proceedings; appeal to circuit court; notice and summons. (1) All persons interested in any lands within the district shall be charged with notice of all proceedings at the hearing and subsequent thereto. Any person or landowner aggrieved by such action of the board of directors shall have the right within 30 days from the entry of such resolution to appeal to the circuit court of the county in which the lands lie. If the district lies in two or more counties and an appeal is taken to the circuit court of each county, then all such appeals shall be consolidated in one suit for trial, and if the counties lie in more than one judicial district, the presiding judge of the Supreme Court shall direct in which judicial district the appeal shall be tried. The appeal shall be taken by giving a notice in writing and leaving a true copy thereof with the secretary of the irrigation district and the State Engineer.

(2) Upon the expiration of the time for service and filing of such notices of appeal to the circuit court, in case an appeal is taken, the circuit judge of the county in which the case is to be tried shall make an order directing the clerk of the court to have published once a week for four consecutive weeks in each county in which the lands in the district are situated, a notice and summons reading substantially as follows:

In the Circuit Court of.....
County, State of Oregon
In the matter of Bonds and Assessments of .....
Irrigation District.
} Notice

All persons owning or claiming to own any lands within the above named irrigation district are notified that appeal has been made to the above entitled court from that certain resolution made and entered by the board of directors of the irrigation district on the ..... day of ....., 19....., wherein an assessment was made against certain lands in the district and described in the resolution together with a determination of the benefits accruing to such lands, and that bonds may be issued in the sum of ..... by said district. All persons owning lands within the district affected by the assessment or bonds are required to appear before this court on or before the ..... day of ....., 19....., and show cause, if any, why the assessment or determination of benefits should not be approved and bonds issued.

.....
County Clerk of ..... County.

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(3) The date required for appearance in the cause shall be a date to be fixed by the court, adjudged reasonable, and not less than 30 days from the date of the first publication of the notice. The proceeding shall be a proceeding in rem. All persons owning or claiming any interest in lands in the irrigation district shall appear and show cause why the assessment or determination of benefits should not be ratified and approved, and shall be bound by all subsequent decrees and orders made in the cause, without further notice.

545.256 Pleadings; trial; appeal to Supreme Court; finality of assessment order. (1) The appellant and all persons appearing shall make a statement in writing of the grounds of appeal, and no further pleadings shall be necessary. The cause shall be tried in one suit by the circuit court as a suit in equity.

(2) Upon the entry of final decree any person aggrieved by the decree may appeal to the Supreme Court in the manner provided in suits in equity. Notice of appeal shall be served on those appearing in the circuit court or their attorneys. The cause shall be tried de novo by the Supreme Court as expeditiously as possible after such appeal is perfected. Upon return of the mandate from the Supreme Court, the circuit court shall enter such decree as is directed by the Supreme Court.

(3) If the resolution of the board of directors is affirmed it shall be deemed an assessment against all the lands described

therein for the amount of the assessment and payable at the times therein specified, as well as a final determination of the total benefits accruing to the parcels of land described therein from the existing or proposed improvements. If the resolution is modified in any respect the court shall specify the proper resolution to be entered, which shall be entered accordingly. If no appeal is taken from any such resolution, it shall become final.

545.258 Assessment instalments. When amortizing bonds are issued as authorized by ORS 545.260, the instalments in which the tax is to be paid shall be in fixed amounts including both principal and interest, and only the principal portions of the instalments shall be charged against total benefits in determining benefit surplus, as defined in ORS 545.252.

545.260 Bonds; issuance; purposes; form; amortization; maturities; negotiability; numbering; interest; denomination; registration; amount maturing annually; retirement. (1) When the assessments have become final the board of directors may authorize the issuance of bonds to refund the indebtedness of the district, including warrant indebtedness, bond indebtedness and interest certificates of indebtedness issued to the state, or for the construction or acquisition of irrigation works. The bonds may be issued either in serial form or in a form providing for the annual payment of interest and principal in a single amount represented by coupons, provided the board of directors and the State Engineer so agree, and provided further that the amortization of both interest and principal on such refunding bonds must be accomplished within a period of not to exceed 50 years after date. All refunding bonds issued under ORS 545.242 to 545.276 shall be negotiable in form. If in serial form the bonds issued shall be numbered consecutively, commencing with number 1. They shall mature serially in annual amounts so as to be approximately equal, principal and interest, in not less than five years nor more than 50 years after date of issue, as the board of directors may have determined, or, in case the board of directors deemed it advisable to submit the question of maturities at the bond election, then as the electors determined.

(2) The bonds shall bear interest at a rate not to exceed six percent per annum, payable semiannually on the first day of January and July of each year. The principal and interest shall be payable at the places designated in the bonds and coupons. Except as hereinafter provided, the bonds shall be each of the denomination of not less than $100 nor more than $1,000; shall be signed by the president and secretary; the seal of the board of directors shall be affixed thereto; and each bond shall bear on the back the registration certificate of the county treasurer, who shall sign as county treasurer and as ex officio treasurer of the district. Coupons for interest shall be attached to each bond and shall be signed with the engraved facsimile signature of the secretary. The county treasurer and the secretary of the district shall register the bonds in books kept in their offices for that purpose, wherein shall be stated the number, date, amount of bond, time and place of payment, rate of interest, number of coupons attached, and any other description proper for future identification of each bond. This section shall not be construed to provide that any bond of the district shall bear a registration certificate by the secretary.

(3) In no event shall the total sum of bonds maturing in any one year, together with the interest due, exceed the total of the maximum annual assessment for the retirement of the bonds and the payment of interest as determined by the State Engineer. The board of directors may call for payment and retire before maturity any bond issued in accordance with ORS 545.242 to 545.276, on the payment of the principal at par value. No bonds shall be sold for less than par without the consent of the State Engineer.

545.262 Recording of assessments; bond lien docket; payment by bonds or coupons; interest on unpaid assessments; lien on land; priority. (1) Upon delivery of the bonds, the secretary of the irrigation district shall furnish to the recorder of conveyances of each county in which lands of the district are situated, a duly certified copy of the resolution of assessment, which resolution shall be recorded in the records of deeds of the county. The recorder of conveyances shall record in a book, to be by him provided for that purpose and which shall be deemed a bond lien docket of the irrigation district for the lands situated in that county, the matters contained in the

resolution, by setting forth, in separate columns, the description of the lands assessed, the total amount of the assessment, the yearly instalments, when the same shall become due, and the rate of interest any such instalments shall bear, the amount of the total benefit which shall accrue to each legal subdivision or other described tract if held in separate ownership, and the amount of the excess of the benefits accruing to each such subdivision or other described tract over and above the assessment against each of the same, which excess shall be known as "the benefit surplus."

(2) The bond lien docket shall stand thereafter as a docket of liens and shall constitute the total assessment against the lands by reason of the bonds. The sum shall not be increased or added to by subsequent assessments because of any delinquency of the owner of any other tract or parcel of land in the payment of his assessment, except as provided in ORS 545.266. The bond lien docket shall also stand thereafter as conclusive evidence of the total benefits accruing to each legal subdivision or other described tract held in separate ownership, by reason of the improvement.

(3) The tax collector shall receive any past-due bond of the irrigation district or any past-due interest coupon from any bond of the district in payment of any assessment made for the purpose of paying any instalment which is due or past due and appearing on the bond lien docket. All unpaid assessments therein docketed except instalments designed for the payment of amortizing bonds shall bear interest at the rate of six percent per annum until the assessments and interest are paid. All unpaid assessments and interest shall remain a lien on each tract or parcel of land in favor of the irrigation district, and shall have priority over all other liens and encumbrances whatsoever, except the liens of state, county and municipal taxes.

545.264 Payment of assessment; relief from further assessment. Any time after issuance of the bonds any landowner may relieve his land from payment of the principal and interest assessed against him by securing from the county clerk, on a form to be provided by him for that purpose, a certificate showing the lands assessed and the amount due thereon. The certificate shall be signed and certified by the clerk under his seal of office. Upon its presentation to the county treasurer and payment to him of the amount due, either in cash or matured or unmatured bonds of the district, the treasurer shall receipt for payment of the sum, on the certificate. Upon presentation by the owner of the certificate so receipted to the recorder of conveyances, the recorder shall insert in a column of the bond lien docket provided for that purpose, a notation showing the payment and satisfaction of the assessment in full with interest. Upon such payment of the lien on any tract or parcel of land, the tract or parcel shall thereafter forever be relieved from taxation for the payment of irrigation bonds issued prior to the date of such payment, except for such taxation as may be levied by the board of directors of the irrigation district for an emergency fund, not exceeding the amount specified in ORS 545.266.

545.266 Five-year additional assessment; emergency assessments; emergency fund. (1) In addition to the assessments provided for in ORS 545.242 to 545.262, the board of directors, during the first five years after the determination of assessments, shall levy against each legal subdivision or other tract if held in separate ownership within the district, as set forth in the bond lien docket, an annual assessment in an amount equal to 25 percent of the regular yearly instalment of the assessment for principal and interest.

(2) Thereafter, whenever there is any default in the payment of any assessment levied by the district, the board shall levy against each such legal subdivision or other tract in the district, an assessment in an amount not to exceed 25 percent of the regular yearly instalment of the assessment for principal and interest for that year, as shown in the bond lien docket. The latter assessment shall be known as the "Emergency Assessment," and shall be levied and collected at the time provided in ORS 545.432 to 545.440, 545.448, 545.452 and 545.454. All moneys received from such assessment shall be placed by the county treasurer in a special fund to be known as the "Emergency Fund."

(3) The emergency fund shall be a revolving fund and shall be used only for purchase and foreclosure of delinquent tax certificates, or for temporarily supplementing the bond fund in case of deficiencies due to accident, delinquency or other contingency. The emergency fund shall be disbursed by

the treasurer upon order of the board of directors.

(4) The emergency assessment shall be levied against each legal subdivision or other described tract of land held in separate ownership within the district as shown on the bond lien docket, notwithstanding the same may have been relieved from taxation for the payment of irrigation bonds in accordance with the provisions of ORS 545.264. In no event shall the amount of the emergency assessment for any year levied against any such legal subdivision or other tract exceed 25 percent of the amount of the assessment of that year levied against such legal subdivision or other tract for bond interest and principal, or which would have been levied against the same for those purposes had the same not been relieved from taxes as aforesaid. Nor shall the aggregate net amount levied against any such legal subdivision or other tract exceed the benefit surplus of such legal subdivision or other tract as shown by the bond lien docket. The net amount of every such assessment shall be determined by discounting the sum so levied at the rate of six percent per annum for the time that has elapsed between the date of the final resolution determining total benefits and the date of the levy of the assessment.

(5) The net amount of all assessments levied against any legal subdivision or other tract under this section shall be duly entered in an appropriate column in the bond lien docket, and each such net amount when paid shall be deducted from the amount of the benefit surplus or balance thereof of the legal subdivision or other tract affected.

545.268 Entry on assessment roll; lien on land; collection; disposal of moneys collected; liability of land sold for taxes; applicability of law to bonds heretofore issued. (1) The county clerk shall furnish to the county assessor not later than December 1 of each year a copy of all assessments against property in the irrigation district in his county shown on the bond lien docket, which shall become due and payable during the coming calendar year. The assessor shall enter such assessments on the assessment roll in the same manner as other assessments of the district are entered. The assessments so entered shall continue as a lien against the tracts and parcels of land described therein and shall be collected in the same manner and at the same time that other taxes are collected. If unpaid, the procedure for their collection shall be the same as that provided by law for the collection of irrigation taxes and assessments. Except as otherwise provided, all moneys paid to the county treasurer on any assessments provided by ORS 545.242 to 545.276, and all moneys collected by the tax collector in any county on such assessments, shall be paid to the county treasurer and kept by him in a special bond fund for the payment of the principal and interest on bonds as the same become due. The purchaser of any tracts or parcels of land at a sale for any delinquent state, county or municipal taxes, or irrigation assessments, shall take the same free and clear of any assessment which has been entered upon the assessment roll pursuant to this section and which has been included in the amount for which the tract was sold, but the lien of such portion of the assessment created by ORS 545.262 as has not been so entered and included, as herein provided, shall not in any manner be affected by the sale, and every purchaser shall take such lands subject to that lien.

(2) None of the provisions embodied in ORS 545.242 to 545.276 by virtue of the amendments made by chapter 162, Oregon Laws 1933, shall apply to or in any way affect any bonds theretofore authorized or issued by any irrigation district, or any assessments theretofore levied for the payment thereof.

545.270 Retirement of bonds before maturity. Notwithstanding anything contained in ORS 545.242 to 545.276, the board of directors of any irrigation district may call for payment and retire before maturity any bonds issued in accordance with ORS 545.242 to 545.276. Whenever sufficient funds are available therefor in the special bond fund, the board may direct the treasurer to pay such an amount of bonds not due as the money in the fund will redeem at the lowest value at which they may be offered for liquidation, or call bonds for par. The par value of all amortization bonds shall be deemed to be the present worth of the unpaid instalments thereon, discounted to the date they are called at the rate of six percent per annum. Notice of intention to call in any bonds shall be given by the board of directors by publication in a newspaper published and regularly circulated in the county in which the district lands lie, at

least once each week for four successive weeks beginning not less that 90 days prior to any interest payment period. The notice shall state the number and amount of bonds to be retired, the price to be paid, and the date and place where the same are to be paid. The bonds so called shall be retired in numerical order and not otherwise. No bond shall be retired under this section except on a day when interest is payable under the terms of such bond and on and after the date given in the published notice. The interest on bonds described therein shall cease after funds are available therefor, and notice published as herein provided.

545.272 Sale of land for delinquent assessments; district as purchaser; payment of proceeds into emergency fund; purchase price paid by district. The district shall appear as a bidder at the sale of any lands for delinquent assessments made under ORS 545.242 to 545.276, and may purchase and take title to the lands and dispose of them like any other purchaser. On any sale by the district the proceeds from such sale, after the payment of expenses thereof, shall be paid into the emergency fund. To protect its assessment the district at a tax sale where there is no other bidder for the full amount of the delinquency, including interest and penalties, shall bid and buy in the land; provided, the district shall never bid or pay a greater sum than the total of all assessments levied under ORS 545.242 to 545.276 with interest and penalties, and delinquent general taxes.

545.274 Exchange of refunding bonds for outstanding indebtedness; approval of State Engineer; exchange of interest certificates for bonds. The board of directors of any irrigation district proceeding under ORS 545.242 to 545.276, desiring to issue refunding bonds to replace or in a satisfaction or discharge of any outstanding indebtedness, may, by and with the consent and approval of the State Engineer, instead of retiring such outstanding indebtedness from the proceeds of the sale of such bonds, exchange the refunding bonds for the outstanding indebtedness and in full compromise, satisfaction and discharge thereof, and shall issue the bonds in such denominations and to the several holders thereof as may be found necessary and expedient in the retirement of such outstanding indebtedness. The State Engineer, on behalf of the state, may negotiate and arrange terms for exchange of interest certificates of indebtedness issued to the state by the district for district refunding bonds on the same terms as such bonds are accepted by other creditors.

545.276 Judgment of confirmation. Bonds authorized or issued under ORS 545.242 to 545.276 shall be subject to judgment of confirmation and may be confirmed in the manner provided by ORS 548.105 to 548.115.

545.278 Declaration of intent to dispose of bonds; resolution; notice of sale; publication. Before selling or otherwise disposing of any bonds as provided for in ORS 545.242 to 545.276, the board of directors shall at a meeting declare its intention of selling or otherwise disposing of the same and shall cause the resolution to be entered on the minutes, and notice of sale or other disposition to be given by publication at least once a week for four consecutive weeks in three newspapers published in Oregon, one of which shall be a newspaper published in the county in which the office of the board of directors is situated.

545.280 Consent to refunding of indebtedness, by percentage of known creditors. (1) Before authorizing the issuance of bonds under ORS 545.242 to 545.276, the board of directors, with the consent of the State Engineer, shall require that the known holders or their representatives of not less than 80 percent of the total in amount of all evidences of indebtedness, whether warrants, bonds or certificates, which are to be retired or refunded, shall submit to the board of directors for its acceptance an offer:

(a) To deliver and surrender up all such evidences of indebtedness in exchange for bonds or cash, or both, not exceeding the maximum amount of the total assessment, or

(b) To accept in full payment of such outstanding indebtedness a sum of money or refunding bonds, or both, representing the proportion which the total proposed refunding payment bears to such total outstanding indebtedness proposed to be refunded, based on the par value of the proposed refunding payment; such creditors agreeing to absorb the loss between the amount of the total outstanding indebtedness and the amount of the refunding payment, and to receive the refunding bonds or

cash, or both, in full payment, satisfaction and discharge of such outstanding indebtedness; and such creditors further agreeing to make such proper pro rata distribution of the refunding payment as shall be required to retire and discharge the total outstanding indebtedness proposed to be refunded.

(2) The offer shall be in writing and shall be irrevocable when once submitted to the board of directors until after the board of directors has had the opportunity to authorize the issuance, sale and delivery of refunding bonds to replace and discharge the outstanding indebtedness on acceptance of such offer. Any litigation which is sought to or which will restrain or prevent the board of directors from issuing and delivering the refunding bonds shall not subject the offer to revocation until after the same is concluded and the board of directors has a reasonable time thereafter in which to issue, sell and deliver the refunding bonds. The offer shall be deemed accepted by the board of directors upon such delivery.

545.282 Obtaining constructive consent of unknown or dissenting creditors; petition for. For the purpose of obtaining the constructive consent of the unknown holders of the evidences of indebtedness, and of holders who have not given their consent in writing, the board of directors shall file in the circuit court of the county in which is located the office of the irrigation district a petition in rem, verified by the oath of the president or secretary of the district, in which shall be set forth the plan adopted by the district for retiring or refunding such evidences of indebtedness. The petition shall further recite what percentage in amount (which percentage shall be not less than 80 percent, of the holders of the evidences of indebtedness to be retired or refunded) have filed their written consent to the proposed plan; and shall further set forth what steps have been taken to attain the consent of all nonconsenting holders.

545.284 Notice of court proceeding to obtain constructive consent; failure to file objection imputes consent. (1) Upon presentation of the petition to the judge of the circuit court, either in open court or in chambers, he shall authorize the district to publish, and the district shall cause to be published, for at least four consecutive weeks in three newspapers published within Oregon, to be by the court designated, and one of which shall be published in the county in which the office of the board of directors is situated, a notice describing the substance of the terms of settlement under which the evidences of indebtedness of the district are to be surrendered, refunded, satisfied, compromised, exchanged or discharged under the provisions of ORS 545.242 to 545.276. A certified copy of the notice and petition shall forthwith be served upon the State Engineer.

(2) The notice shall contain a general description of the evidences of indebtedness to be refunded and retired, the amount thereof, and a general description of the refunding bonds to be issued; shall require all holders of such evidences of indebtedness to file in the proceeding their written dissent from, or objection to, the proposed plan of settlement; and shall state that if such dissent in writing is not filed in the court within 90 days from the date of the first publication of the notice, the holders failing to file dissent or objection shall be deemed to have consented to the refunding, compromise or settlement of the indebtedness under the terms and conditions set forth in the notice.

(3) After 90 days from the date of the first publication of the notice, the holders failing to file their objections and protests with the court shall be deemed to have consented to the refunding, compromise or settlement of the indebtedness under the terms set forth in the notice. Such failure shall be deemed the equivalent of the offer in writing signed by known consenting holders.

545.286 Hearing on petition; decree; State Engineer to act as trustee. (1) After the expiration of 90 days from the date of the first publication of the notice, the district shall file in the proceeding in the circuit court its verified return of its acts under the order of the court theretofore made, attaching thereto affidavits of the publication of the notice in three newspapers. Thereupon the court, or the judge in chambers, shall forthwith hear the cause and shall enter a decree adjudging that all the owners and holders of the evidences of indebtedness to be retired or refunded by the plan of the district, who have not within 90 days after the date of the first publication of the notice filed in the court their written dissent and objections to the proceedings, have consented that their evidences of in-

debtedness be retired or refunded under the proposed plan.

(2) In the decree the court shall direct the officers of the district to deposit with the State Engineer, as trustee for the persons entitled thereto, the pro rata part of the cash or refunding bonds, or both, which, under the settlement, belongs to the holders of the evidences of indebtedness whose consent was obtained by the court proceedings. The decree shall further provide that upon such payment to the State Engineer as trustee, the evidences of indebtedness shall be deemed paid and no longer shall be an obligation of the district; and that upon the surrender to the State Engineer of the bonds, together with the unpaid interest coupons belonging to same, the State Engineer shall pay on demand to the holders their pro rata part of the moneys or bonds deposited with him as trustee, and shall mark the bonds canceled and deliver them to the irrigation district.

(3) All holders of evidences of indebtedness to be retired or refunded shall be deemed to have notice of all steps and proceedings had.

545.288 Nature of proceeding; appeal; nonprejudicial errors; costs. The procedure in the circuit court under the provisions of ORS 545.278 to 545.286 shall be in the nature of an equitable proceeding in rem. Any holder of evidences of indebtedness affected by any such court procedure, or any other interested party, may appeal to the Supreme Court at any time within 30 days after the rendition of the decree of the circuit court. The appeal must be heard and determined within three months from the time of taking the appeal. The court, in inquiring into the regularity, legality or correctness of the proceedings, shall disregard any error, irregularity or omission which does not affect the substantial rights of the parties and may approve the proceedings in part and disapprove the remainder. The costs of the proceedings may be allowed and apportioned between the parties in the discretion of the court.

545.290 Proceedings in case of previously refunded indebtedness; petition by district; objections to refunding; decree of court. Any irrigation district which, before February 18, 1931, refunded and compromised and settled its indebtedness under the provisions of ORS 545.242 to 545.276, with the consent of not less than 80 percent in amount of its known holders, but who did not constitute all the holders of the indebtedness refunded, compromised or settled by such proceedings, may file in the circuit court the petition provided for in ORS 545.282 and have such proceedings thereunder as are provided and set forth in ORS 545.282 to 545.286. Those holders who fail to file in the court, within 90 days from the date of the first publication of the notice, their protests and objections to the refunding, compromise or settlement of evidences of indebtedness of the district so compromised or settled under the proceedings had before February 18, 1931, will be deemed to have consented to the refunding, compromise and settlement and be bound by such proceedings theretofore had. The court shall take such steps and enter such decree in the premises as provided in ORS 545.286.

545.292 to 545.310 [Reserved for expansion]

ALTERNATIVE METHOD OF LIQUIDATING INDEBTEDNESS

545.312 Contract providing plan of liquidation; resolution for; investigation by and approval of State Engineer. Any irrigation district desiring to become a party to any contract providing a plan for the liquidation in any manner of its outstanding bonded or other indebtedness, or any part thereof, whether then due or not due, may in lieu of other procedure provided by law elect to adopt the procedure provided by ORS 545.312 to 545.332. Before becoming a party to any such contract the board of directors shall enter a resolution substantially describing all the terms and conditions of the proposed contract and requesting the State Engineer to make an investigation, upon receipt by him of a copy of the resolution, of all matters, physical, economic and financial, relating to the district and the irrigable acreage of each legal subdivision or other described tract if held in separate ownership, with particular reference to the ability of the district or the landowners therein to perform the obligations of the proposed contract, which investigation the State Engineer shall then make. If, after such investigation, the State Engineer determines that the contract may wisely be executed by the district, the State

Engineer shall enter his resolution to that effect advising the district thereof.

545.314 Terms of contract; parties; execution. (1) Such contract may provide any plan of liquidation of any indebtedness by the district, with terms of discount of the principal or interest, times and manner of payment, and apportionment of the burdens thereof over the irrigable or other lands and the water rights appurtenant thereto within the district, as the parties may agree to, notwithstanding any other statute expressly or impliedly limiting the powers of the parties herein named to enter into any such contract. All parties named in subsection (2) of this section hereby are authorized and empowered to become party to, sign, seal, execute and deliver any such contract so agreed upon, according to the provisions of ORS 545.312 to 545.332.

(2) The parties to the contract shall include:

(a) The county courts of the counties in which the lands are located.

(b) The owners or holders of at least 80 percent in amount of the then outstanding bonds or other evidences of indebtedness of the district, liquidation of which is the purpose of the contract; provided, that the owners or holders jointly may become party thereto through the agency of a protective committee selected for that purpose by them, whose authority in the premises shall sufficiently be evidenced by the deposit at the instance of such protective committee, with the State Engineer, of at least 80 percent in amount of the bonds or other evidences of indebtedness pursuant to a deposit and agency agreement between the owners or holders and the protective committee.

(c) All persons who own any lands in the district or whose deeds would be required under law in order to convey such title as then is outstanding in private ownership to any lands included in the district or whose transfer of any government or state lands would be required or permitted under law in order to convey such interests then outstanding in private ownership in the lands; provided, that the lands described in and covered by the contract may be all or such part of the lands within the district upon which all of the parties thereto agree.

(3) The contract shall be executed by all parties with such formalities as will entitle it to be recorded.

545.316 Recordation of contract; inception of obligation; pre-eminence of contract with respect to rights and liabilities. Upon the execution and delivery of the contract, the board of directors shall cause it to be recorded in the records of mortgages in the counties in which any part of the lands covered thereby are located. Thereupon the contract shall become effective in accordance with its terms as of the effective date agreed upon therein, and the rights, privileges, liabilities and obligations of all parties thereto, as therein described, shall, as of the effective date, govern and control all parties in lieu of all statutory rights, privileges, liabilities and obligations theretofore governing and controlling the parties in the premises.

545.318 New contract in lieu of previous contract. Any time after the execution, delivery and recording of a contract as described and authorized in ORS 545.314 and 545.316, the irrigation district and all other parties thereto, their successors, heirs, executors, administrators and assigns, may become parties in accordance with the provisions of ORS 545.312 to 545.332 to any new contract in like manner, in lieu of the contract then in effect.

545.320 Constructive consent of holders of outstanding indebtedness; procedure for obtaining consent; petition. (1) For the purpose of obtaining constructive consent to a contract executed in accordance with ORS 545.312 to 545.332, of the unknown owners or holders of the bonds or other evidences of indebtedness the liquidation of which is the purpose of the contract, who have not either personally or through a protective committee become party to the contract, the board of directors shall file in the circuit court of the county in which is located the district office a petition in rem verified by the oath of the president or secretary of the district, in which shall substantially be described the terms and conditions of the contract executed by the district for the liquidation of the bonds or other evidences of indebtedness.

(2) The petition shall further allege what percentage in amount (which percentage shall be not less than 80 percent of the owners or holders of the bonds or other evidences of indebtedness) have become parties to the contract, and shall further set forth what steps have been taken to get the consent of all nonconsenting owners or holders

of the bonds or other evidences of indebtedness.

545.322 Notice of petition and terms of contract; failure to file dissent; effect. (1) Upon presentation of the petition to the judge of the court, either in open court or in chambers, he shall authorize the district to publish and the district shall cause to be published, for at least four consecutive weeks in three newspapers published within Oregon, to be by the court designated, and one of which shall be published in the county in which the office of the board is situated, a notice describing in substance the terms and conditions of the contract. A certified copy of the notice and petition forthwith shall be served upon the State Engineer.

(2) The notice shall contain a general description of the evidences of indebtedness to be liquidated, and the amount thereof; shall require all holders of the evidences of indebtedness to file in the proceeding their written dissent from or objection to the contract; and shall state that if such dissent is not filed in writing in the court within 90 days from the date of the first publication of the notice, the owners or holders of the evidences of indebtedness so failing to file shall be deemed to have consented to all the terms and conditions of the liquidation of the indebtedness as provided in the contract. Failure within said 90 days to file dissent and objections with the court shall be the equivalent of the signing, execution and delivery of the contract either personally or through the agency of the protective committee by the known consenting owners or holders of the evidences of indebtedness.

545.324 Hearing on petition; decree; State Engineer as trustee. (1) After 90 days from the date of the first publication of the notice the district shall file in the proceeding in the circuit court its verified return of its acts under the order of the court theretofore made, attaching thereto affidavits of the publication of the notice in three newspapers. Thereupon, the court, or the judge in chambers, forthwith shall hear the cause and shall enter a decree adjudging that all the owners or holders of the evidences of indebtedness who have not, within 90 days after the date of the first publication of the notice, filed in the court their written dissent and objections to the proceedings and contract, have consented that their evidences of indebtedness be liquidated in accordance with the terms and provisions of the contract.

(2) In the decree the court shall direct the officers of the district, or the landowners within the district, or the protective committee acting for the consenting owners or holders, or any or all of them, as the court may adjudge most expedient and practicable under the terms of the contract, to deposit with the State Engineer as trustee for the persons entitled thereto, the pro rata part of the cash as received which, under the contract, belongs to the owners or holders of the evidences of indebtedness whose consent was so obtained by the court proceedings.

(3) The decree shall provide further that, upon the payment of the money to the State Engineer as trustee, the evidences of indebtedness held by said owners or holders shall be deemed paid and no longer shall be an obligation as provided in the contract; and that upon surrender to the State Engineer of the bonds with the unpaid interest coupons or other evidences of indebtedness, the State Engineer shall pay on demand to the owners or holders their pro rata part of the moneys deposited with him as trustee, and when paid in accordance with the contract, shall mark the evidences of indebtedness canceled and deliver same to the district.

(4) All owners or holders of the evidences of indebtedness to be liquidated shall be deemed to have notice of all steps and proceedings had.

545.326 Nature of proceeding; appeal; nonprejudicial errors; costs. The procedure in the circuit court under the provisions of ORS 545.312 to 545.324 shall be in the nature of an equitable proceeding in rem. Any owner or holder of evidences of indebtedness affected by any such court procedure, or any other interested party, may appeal to the Supreme Court at any time within 30 days after rendition of the decree of the circuit court. The appeal must be heard and determined within three months from the time of taking the appeal. The court, in inquiring into the regularity, legality or correctness of the proceedings, shall disregard any error, irregularity or omission which does not affect the substantial rights of the parties, and may approve the proceedings in part and disapprove the remainder. The costs of the proceedings may be allowed and apportioned between the parties in the discretion of the court.

545.328 Proceedings for approval of liquidation agreement executed prior to June 1933. Any irrigation district which before June 14, 1933, became a party to a contract or was on that date in the process of negotiating a contract substantially in accordance with ORS 545.312 to 545.332, with the consent of not less than 80 percent in amount of its known owners or holders but who did not constitute all the owners or holders of the evidences of indebtedness of the district, may file in the circuit court the petition provided for in ORS 545.320 and have such proceedings thereunder as are provided in ORS 545.320 to 545.326 for securing the constructive consent of owners or holders of evidences of indebtedness not parties to the liquidation contract. Those owners or holders who fail to file in the court, with 90 days from the date of the first publication of the notice, their protests and objections to the contract executed or in the course of negotiation for liquidation of the evidences of indebtedness, shall be deemed to have consented to the contract and be bound by such proceedings had and to be had in accordance with ORS 545.320 to 545.324 to secure constructive consent. The court shall take such steps and enter such decree in the premises as provided in ORS 545.324.

545.330 Pre-existing contracts; validation. Where any irrigation district before June 14, 1933, became, or on that date was in the process of becoming party to any contract providing a plan for the liquidation in any manner of its outstanding indebtedness, with parties and procedure substantially equivalent to the parties and procedure described and authorized in ORS 545.312 to 545.326, such contract and the proceedings by which it was executed hereby are validated, ratified and confirmed, and held to be of the same force and effect as though originally done pursuant to ORS 545.312 to 545.326.

545.332 Moneys and securities; custody and transfer; authority of State Engineer and State Treasurer. The State Engineer may act as depository for any purposes under the provisions of ORS 545.312 to 545.330, and may transfer all warrants, bonds or other evidences of indebtedness deposited with the State Engineer to the State Treasurer for safekeeping, who may act as custodian of any securities or moneys so transferred to him, subject to the direction of the State Engineer.

545.334 to 545.350 [Reserved for expansion]

ADDITIONAL METHOD OF LIQUIDATING INDEBTEDNESS

545.352 Contract providing plan of liquidation; resolution of directors. Any irrigation district desiring to become a party to any contract providing a plan for the liquidation in any manner of its outstanding bonded or other indebtedness or any part thereof whether then due or not due, may in lieu of other procedure provided by law, elect to adopt the procedure provided by ORS 545.354 to 545.360. Before becoming a party to any such contract the board of directors shall enter a resolution substantially describing all the terms and conditions of the proposed contract.

545.354 Terms of contract. The contract may provide any plan of liquidation of any indebtedness by the district, with terms of discount of the principal and interest, times and manner of payment thereof, and apportionment of the burdens thereof over the irrigable or other lands. It may also provide for the manner and method of making assessments for payment of the principal and interest agreed to be paid, and the issuance of certificates or other evidences of participation in the contract by the owners or holders of evidences of indebtedness of the district. The contract may contain a provision permitting the release of any land in the district from any lien created by the contract to secure the payment of the obligations thereof as to such lands, or relieving any land in the district from any obligation to pay any assessment thereafter levied for the purpose of meeting the obligations or interest accruing under the contract, by payment to the district of such amount, or delivery of such bonds or coupons or other evidence of participation in the contract, as may be provided in the contract and to which all the parties may agree, notwithstanding any other statute expressly or impliedly limiting the powers of the parties named in ORS 545.356 to enter into any such contract.

545.356 Parties to contract; execution. (1) All parties described in this section hereby are authorized and empowered to become party to, sign, seal, execute and deliver any

such contract agreed upon according to the provisions of ORS 545.352 to 545.360. The parties shall include:

(a) The irrigation district; and

(b) The owners or holders of at least 66⅔ percent in amount of the then outstanding bonds or other evidences of indebtedness of the district, the liquidation of which is the purpose of the contract; provided, that the owners or holders of any of them jointly may become party thereto through the agency of a protective or bondholders' committee selected for that purpose by them.

(2) The contract shall be executed by all parties with such formalities as will entitle it to be recorded.

545.358 Election authorizing directors to enter into contract. The contract provided for in ORS 545.352 to 545.356 may be entered into by the district by its board of directors with a majority vote of the electors of the district authorizing the same.

545.360 Recordation of contract; inception of obligation; pre-eminence of contract with respect to rights and liabilities. Upon execution and delivery of the contract the board of directors shall cause it to be recorded in the records of mortgages in the counties in which the lands covered thereby are located. Thereupon the contract shall become effective in accordance with its terms as of the effective date agreed upon therein, and the rights, privileges, liabilities and obligations of all parties thereto, as therein described, shall, as of the effective date, govern and control all the parties in lieu of all statutory rights, privileges, liabilities and obligations theretofore governing and controlling the parties in the premises.

545.362 to 545.380 [Reserved for expansion]

CONTRACTS WITH UNITED STATES

545.382 Contract with United States; annual assessments to meet. Whenever any irrigation district has entered into any contract with any governmental agency of the United States for a loan pursuant to the provisions of ORS 548.305 to 548.325, the board of directors of the district shall levy annually assessments upon the lands in the district necessary to carry out and comply with the terms and provisions of the contract.

545.384 Deposit of moneys in special fund; uses. All moneys realized from any assessments levied under ORS 545.382 shall be covered by the treasurer of the district into a special fund, which shall be used solely for the purpose of carrying out and complying with the terms of the contract and the payment of instalments of principal and interest falling due upon any bonds issued pursuant thereto.

545.386 to 545.400 [Reserved for expansion]

IMPROVEMENTS; WATER DISTRIBUTION

545.402 Petition to construct improvements for irrigation; assent of petitioners to assessment of cost of improvement. The holders of title, or evidence of title, representing a majority of the acreage of any body of land within any irrigation district, may file with the board of directors of the district a petition in writing, praying for the construction of any improvement necessary or expedient for the efficient irrigation of the lands. The petition shall in a general way describe the proposed improvement and shall describe the tracts, or body of land, owned by the petitioners, and shall contain a description of the exterior boundaries of the land for which the proposed improvement is to be constructed, and describing therein any lands that are to be excepted from the benefit or use of the proposed improvement. The petition shall also contain an agreement on the part of the petitioners that the cost of construction of the improvement shall constitute a lien upon the lands within the exterior boundaries of the land described in the petition, except the lands that are therein excepted from the benefit or use of the proposed improvement, and that the lands shall be assessed for and pay the cost of the improvement. The petition shall be deemed to give assent of the petitioners to construction of the improvement and shall authorize the assessment of the cost of such improvement upon and against the lands described in the petition and not specifically therein excepted. The petition shall be acknowledged in the same manner that conveyances of land are required to be acknowledged.

545.404 Elections to determine question as to construction of improvement; resolution of directors. (1) The board of direc-

tors, if they deem it for the best interest of the district that the proposed improvement be constructed, may by resolution call an election to be held within the boundaries of the land described in the petition for the purpose of submitting the question as to whether or not the proposed improvement shall be constructed. The board shall in the resolution fix the time and place of holding the election, and specify the polling place, and shall also appoint three judges who shall constitute a board of election. The resolution shall also contain the ballot title to be used at the election, which title shall contain such information as in the judgment of the board will advise the owners of the land to be charged with the cost of the proposed improvement as to the general nature of the improvement and the estimated cost.

(2) The board at the time of calling the election within the land described in the petition shall also by resolution call an election to be held within the district at large for the purpose of submitting the question as to whether or not the proposed improvement shall be constructed. This resolution shall contain provisions identical with those provided for in subsection (1) of this section. The election in the district at large shall be held on the same day that the election within the territory described in the petition is held. The election shall be conducted, as nearly as practicable, in accordance with the general election laws of the state applicable to irrigation districts.

545.406 Majority of votes as determinative; construction of improvement; cost; apportionment; assessment. If a majority of the votes cast by the electors within the boundaries of the land described in the petition are "Improvement—Yes," and if a majority of the votes cast by the electors in the district at large are "Improvement—Yes," then, but not otherwise, the board shall construct the improvement. The cost of construction shall be apportioned by the board to the lands within the boundaries described in the petition, so that each acre of irrigable land therein shall be assessed and required to pay the same amount. In all other respects the assessment and its levy and collection shall be, as nearly as practicable, in accordance with the assessment, levy and collection of other assessments and taxes levied upon lands within the district.

545.408 Subdivisions within districts purchasing water from United States; directors may construct works, levy assessments, etc. Whenever any parcels of land lying within an irrigation district that has entered into a contract with the United States Government for the purchase of water therein, are subdivided into lots, blocks, or tracts or subdivisions of four acres or less, and the owners thereof have made no provision which in the opinion of the board of directors is adequate for the proper distribution of water thereto, the board may, whenever the interest or convenience of such lots, blocks, tracts or subdivisions may require the construction or repair of any ditch, flume, dike, aqueduct or other structure, construct such improvement, and levy and collect an assessment upon all such lots, blocks, tracts or subdivisions specially benefited thereby, to defray the whole or any portion of the cost and expense thereof. The board may determine what lands are specially benefited by such construction, and the amount to which each lot or parcel is benefited.

545.410 Apportionment of water to lots or tracts; employment of person to distribute water; assessment of cost of services; lien on land. Whenever a parcel of land lying within an irrigation district that has entered into a contract with the United States Government for the purchase of water is subdivided into lots, blocks or tracts of land of four acres or less, and plats of such subdivision are filed as provided by law, and the owners fail properly to apportion the water to their various lots, blocks or tracts in the subdivision, the board of directors may employ some competent person to distribute and apportion water for such subdivision and the lots, blocks or tracts therein. The reasonable cost of such services shall be apportioned each year by the board to such lots, blocks or tracts. The cost of such services shall be assessed by the board as a special charge to the lots, blocks or tracts in the same manner as other assessments are made and extended upon the tax rolls of the county in which the irrigation district lies. The assessments so levied and apportioned shall be a lien upon the lots, blocks or tracts, and shall be collected in the same manner as all other assessments are levied and collected by the board.

545.412 Resolution for water distribution works or services; hearing of objections; construction of improvement; apportionment of costs; assessment. Whenever the board of directors shall deem it expedient or necessary to construct ditches, flumes, dikes or aqueducts as provided in ORS 545.408, or to employ the services of some competent person to distribute and apportion water for any subdivision, as provided in ORS 545.410, the board shall declare such necessity by resolution. The resolution shall be posted in three public places in the subdivision for five days. Within 10 days from the date when the resolution is posted, the owner of any property within the subdivision may file with the secretary a written remonstrance against the proposed improvement or employment. The board hearing such remonstrances may, in its discretion, overrule any remonstrance and by a resolution order construction of the improvements, in which case the board may either enter into a contract to complete the improvement, or, in its discretion, complete the improvement under its own supervision. After the improvement is completed the board shall, by resolution, apportion the costs of the improvement to the various lots, blocks or tracts of land lying within the subdivision, and shall declare an assessment upon each lot, block or tract benefited and liable for the costs of the improvement or employment, which assessments shall be final and conclusive.

545.414 Procedure for levy and collection of special assessment; appeal. Whenever the board of directors has levied a special assessment against the various lots, blocks or tracts of land within each subdivision, as provided in ORS 545.412, it shall be extended against the lots, blocks or tracts of land in the same manner as other assessments are levied and extended upon the tax rolls of the county in which the district is located. The assessments shall be collected in the same manner as other assessments are collected; provided, however, that an appeal may be taken from the action of the board to the circuit court of the county in which the land is situated. The appeal shall be taken, perfected and prosecuted in the same manner as an appeal from the justice court. On appeal the matter shall be tried de novo.

545.416 to 545.430 [Reserved for expansion]

TAXES AND ASSESSMENTS GENERALLY

545.432 Annual assessments; computation of amount to be raised; apportionment; determination of acreage and assessments; credit for water rights. (1) The board of directors shall, on or before the first Tuesday in April of each year, make a computation of the whole amount of money necessary to be raised by the district for the ensuing year for any purpose whatsoever in carrying out the provisions of the Irrigation District Act, including estimated delinquencies on assessments, and may provide for a reasonable maintenance and operation reserve fund. The amount, when so determined by the board, shall constitute an assessment upon all the land included in the district, and shall be apportioned by the board to the lands owned or held by each person so that each acre of irrigable land in the district shall be assessed and required to pay the same amount, except as otherwise provided in ORS 545.432 to 545.440.

(2) The board of directors shall determine the number of irrigable acres owned by each landowner in the district and the proportionate assessments as nearly as may be from available information. Should it be found that a substantial error has been made in such determination, proper adjustment may be made at the next equalization of the annual assessment by increasing or decreasing the amount any landowner shall pay. Any lands owned by any person totaling less than one acre in area shall be assessed as one acre.

(3) Until such time as the water rights appurtenant to any tract of land within an irrigation district are acquired by the district, the assessments against such land, except for operation, maintenance and drainage, shall be in the same proportion to a full assessment as the additional water right to be supplied to such tract bears to a full water right. For operation, maintenance and drainage, each irrigable acre in the district shall be assessed the same, except as otherwise provided in ORS 545.434 to 545.440.

545.433 Certain lands may be assessed at different amounts. Notwithstanding any provision of ORS 545.432 to the contrary, an irrigation district which assesses land in the district under the provisions of ORS 545.432 may assess any land within

the district to which the district furnishes or supplies water for irrigation purposes which:

(1) Lies above the level of the canals or ditches of the district and is irrigated by pumping by the landowner, or

(2) Is irrigated by a partial, supplemental or intermittent supply of water from the district, or

(3) Is irrigated by impounded water of the district, or

(4) Is irrigated by water of the district which is subject to prior use by other lands within the district,

in such amount as the board determines to be just, taking into consideration the benefit to the land assessed and extra expenses, if any, of the landowner or holder, in using such water, but such amount may not exceed the amount assessed against irrigable acres lying below the level of the canals or ditches of the district. [1955 c.361 §2]

545.434 Assessment on benefit basis; determination of benefits. Any district issuing bonds may, after an affirmative vote at any regular or special election called or held pursuant to the Irrigation District Act, proceed to levy and collect assessments for any purposes of the irrigation district on a benefit basis instead of on the basis of the number of irrigable acres. The valuation of such lands for determination of benefits shall be placed thereon by three competent, disinterested viewers appointed by the State Engineer, who shall classify the lands included in each ownership or smallest legal subdivision and fix the assessments according to the productive value of water and land prepared to receive water, but not including permanent improvements, such as buildings or orchards, and with proper deductions for partial water rights appurtenant to any tract of land within the district not furnished by the district. However, no change in method of assessment shall be made except with the consent of the holders of outstanding bonds.

545.436 Deduction for rights of way, water rights, etc., required by district; assessments pending construction. (1) In fixing the proportionate part of the cost of the reclamation that each owner of land shall pay, the amount to be paid to any owner for easements, rights of way, water rights or other property or rights required by the district, may be deducted from the amount that the owner of such property or rights would otherwise be required to pay, and assessments for payment of the cost of such reclamation and interest thereon may be made accordingly. Property and rights so acquired shall not be vested in the district until bonds have been disposed of or means otherwise provided for reclamation of the land in the district.

(2) The board may, before completion of the project, so adjust the assessment that the lands to which the district delivered water or could on demand have delivered water, during the preceding irrigation season, shall, in addition to their pro rata share of the remainder of the assessment, pay for the operation and maintenance of the constructed or partially constructed works through which such lands receive water.

545.438 Assessments for contracts with United States. (1) Where contract has been made with the United States, in addition to the amount determined and apportioned as provided in ORS 545.432 to 545.436, the board shall also fix the amount payable by each tract within the district, in accordance with the federal reclamation laws and the public notices, orders and regulations issued thereunder, and in compliance with any contract made by the United States with the owners of the lands, and in compliance with the contracts between the district and the United States. In case of such contract lands having appurtenant thereto a partial water right or partial rights in a system of irrigation, or irrigation and drainage, the amounts payable shall be according to the benefits, making due allowances for existing rights. The amounts so determined, fixed and apportioned shall constitute an assessment upon the lands of the district.

(2) In irrigation districts which enter into a contract with the United States providing for the payment of charges to the United States upon the basis authorized by the Act of Congress of December 5, 1924, entitled "An act making appropriations to supply deficiencies in certain appropriations for the fiscal year ending June 30, 1924, and prior fiscal years, to provide supplemental appropriations for the fiscal year ending June 30, 1925, and for other purposes," annual levies of assessments for the purpose of making payment to the United States under such contract may be made by the board on the basis provided for in that Act and the contract thereunder, either

before or after judicial confirmation of apportionment of benefits. In such districts annual levies for the purpose of making construction payments to the United States may be made on the basis of the gross average annual acre-income of the lands of the district or divisions thereof, or classes of lands therein, as such gross average annual acre-income is determined by the Secretary of the Interior, until the amount apportioned against each tract has been fully paid.

545.440 Record of assessments and apportionments; error in description; evidence. The board shall prepare a list or record of the assessments and apportionments in duplicate, giving the description of the ownership or holdings of each person therein assessed or apportioned, one of which shall be a permanent record in the office of the board. Any irregularity or error in the description shall not be deemed jurisdictional, or render the assessment void, if the land assessed can be identified. The assessment and apportionment made by the board of directors is prima facie evidence that all the requirements of the law in relation thereto have been complied with and that the same are liens against the property to the same extent as other taxes lawfully levied.

545.442 Resolution concerning assessments for payment to United States; publication; collection by county officers. The board of directors of any irrigation district which has entered into a contract with the United States providing for payment to the United States under any federal reclamation law may, at any regular meeting, not later than its meeting on the second Tuesday of September of any year, enter a resolution fixing the date upon which computation shall be made of the necessary funds to be raised as provided in ORS 545.438, and the date when the board shall convene as a board of equalization. The board of directors may, in such resolution, authorize such discounts as may be provided for in the contract between the district and the United States, for payment of assessments in full on or before December 31 of the year in which the assessments are made, and shall make the levy of assessments in such amount that the discount can be allowed without reducing collections below the required amount. The resolution shall be published for two consecutive weeks in a newspaper in the county wherein the office of the district is located. The resolution thereafter shall remain in full force and effect until revoked by the board. In case the district does not collect its own assessments, the assessment shall be completed and the levy filed with the county assessor prior to November 30 of the year in which the assessment is made. After receipt of a certified copy of the resolution, the county officers charged with the collection of irrigation district assessments shall collect the same in accord with the provisions of the resolution.

545.444 Development of district by units; apportionment of assessments; inclusion of noncontiguous land; assessment of unirrigated lands for district obligations; approval of plan by State Engineer. Any irrigation district may provide for the reclamation, improvement or irrigation of the lands therein in units, in which event the assessments against the lands in the district may be apportioned by the board of directors to the lands owned or held by each person so that the lands in each unit shall pay the cost of reclaiming, improving, maintaining and operating the same. Within the units the assessments shall be apportioned pursuant to the provisions of ORS 545.432 to 545.440. Land noncontiguous to an irrigation district may be included in the district as a unit at the time of the organization of the district or subsequent thereto. Prior to the completion of the works for the reclamation of any units the lands therein may be assessed as appears equitable to the board, subject to the rights of land owners in the district to have the assessments adjusted by the board of equalization and to appeal therefrom. However, all lands, whether irrigated or not, shall be subject to assessment for the payment of any obligation of the district. No plan of reclamation or assessment by units shall be adopted by any irrigation district until after such plan has been approved by the State Engineer.

545.446 Districts developed by units; validation. The reclamation, division, improvement and assessment of lands within any irrigation district in units, made before June 2, 1927, are hereby validated.

545.448 Equalization of assessment and apportionment of taxes; notice; time of meeting of board; public inspection of list. Not more than 30 nor less than 10 days before the first Tuesday in May of each

year, the secretary of the board of directors shall give notice of the time the board, acting as a board of equalization, will meet for the purpose of reviewing and correcting its assessment and apportionment of taxes, as provided in ORS 545.450, by publishing the same not less than one time in a newspaper published in each county in which the district is situated. The board shall meet for this purpose on the first Tuesday of May following. In the meantime the assessment list and record shall remain in the office of the secretary of the board, for the inspection of all persons interested. All persons shall be presumed to have notice of the time of the meeting, whether they received actual notice or not.

545.450 Meeting of board of equalization; duration; hearing and determination of objections to assessments and apportionment; changes. On the first Tuesday of May of each year the board of directors shall meet as a board of equalization, and continue in session from day to day, as long as necessary, to hear and determine any objections by any interested persons to the assessments and apportionment thereof made pursuant to the Irrigation District Act, and any other matters connected therewith that may come before them. The board shall change its assessment and apportionment and the list and record of the same as to irrigable acreage, description, etc., in any respect and manner as may be necessary to make the same just and in accordance with the facts. The secretary of the board shall be present during these sessions, and shall note all changes made in such assessment, apportionments, lists and records, and in the names of the persons whose property is listed.

545.452 Certification of assessments to county assessors; entry on assessment roll; collection of taxes; deposit of sums collected; disbursements from fund; taxation of state and federal lands. (1) After the board has completed its equalization of the assessment, it shall certify one of the copies or duplicates thereof, made by it during that year, to the county assessor of each county in which district lands lie. The county assessor shall enter the apportionment upon the county assessment roll against the property therein described, in the same manner that other municipal assessments are entered by him, except that the sum apportioned to and charged for operation and maintenance, and the sums apportioned for all other purposes, shall be entered by the assessor separately on the assessment roll as the irrigation district taxes against the same.

(2) The taxes shall be collected and accounted for in the same manner as other municipal taxes, and the collection enforced in the same manner as the other taxes of the county, except that the sheriff shall collect and account for the tax for operation and maintenance separate from the taxes levied by the district for other purposes. When paid by the sheriff to the county treasurer, all taxes or assessments levied and collected for operation and maintenance shall be carried in a fund to be known as the operation and maintenance fund. All warrants issued in payment for operation and maintenance shall be drawn against and paid out of that fund.

(3) Any land, title to which is vested in the state, including lands segregated under the Carey Act or state lands sold under contract, in any irrigation district, shall be subject to taxation by the district. The full amount of assessments due against the lands shall be paid to the district before the same is sold, resold or contract for sale executed. The public lands of the United States within the district, whether entered or unentered, shall be subject to taxation under the Act of Congress of August 11, 1916.

(4) The amendments provided for in this section shall be effective as of January 1, 1955. [Amended by 1955 c.93 §1]

545.454 Nonperformance by board; assessment, levy and equalization by county court. In case of neglect or refusal of the board of directors to have the assessment and levy made, the assessment and levy shall be made and equalized by the county court or board of county commissioners of the county in which the office of the board of directors is situated, sitting for the transaction of county business, in the same manner that the court or board levies county taxes, with like effect as the board of directors is required to make the same. All expenses incident thereto shall be borne by the district. The levy and assessment shall be entered on the county tax roll by the county assessor in the manner provided in ORS 545.452.

545.456 Validation of assessments; defective entry on assessment roll; lands partly outside district. All assessments made

before May 24, 1933, against real property within any irrigation district by the board of directors of the district, which assessments were made substantially in accordance with the provisions of ORS 545.432 to 545.440, are hereby validated, and any such assessments shall be a lien upon the real property therein described, notwithstanding that they were not entered on the county assessment roll against the property described in the manner and as provided by ORS 545.452. Any assessment levied against lands partly within and partly without the boundaries of any irrigation district shall not be void by reason thereof, but shall constitute a valid assessment against that portion of the lands described in the assessment lying within the boundaries of the irrigation district.

545.458 Misnomer or mistake relating to ownership not to affect sale. When land is sold for assessments correctly imposed as the property of a particular person, no misnomer of the owner or supposed owner, or other mistake relating to the ownership, shall affect the sale or render it void or voidable.

545.460 Withholding water while assessments are unpaid; accepting security for payment of assessments. The board of directors of any irrigation district may, in its discretion, withhold delivery of water to any land within the district until such time as unpaid assessments appearing on the county tax rolls levied against the lands for any prior year or years, as the board may direct, are paid. Any board of directors may accept promissory notes, chattel or real property mortgages or other security, as security for the payment of any delinquent assessments.

545.462 Cancelation or compromise of assessment liens on lands acquired by county for taxes. The board of directors of any irrigation district may, in its discretion, cancel or compromise any liens for unpaid assessments of the district on lands which have been acquired for taxes by a county.

545.464 Order to sheriff to cancel or change liens; correction of delinquent tax rolls. In the event the board of directors deems it for the best interests of the district to compromise or cancel any unpaid assessments of the district on lands acquired by a county for taxes, the board shall make an order to the sheriff of the county in which the lands are situated to cancel or change the existing irrigation liens. Thereupon the sheriff shall correct the delinquent tax rolls in accordance with the order of the board.

545.466 Effect of ORS 545.462 and 545.464 on existing laws. ORS 545.462 and 545.464 shall not be deemed to repeal or amend any existing law relating to the manner of collection of unpaid irrigation district assessments.

545.468 to 545.480 [Reserved for expansion]

DISTRICTS CONTRACTING WITH FEDERAL GOVERNMENT; ALTERNATIVE METHOD OF LEVYING AND COLLECTING ASSESSMENTS

545.482 Authorization of method for levying and collecting assessments. When any irrigation district has entered into contract with the United States for a supply or partial or supplemental supply of irrigation water, or for construction of an irrigation project or system by the United States, under the provisions of the Act of Congress of June 17, 1902, known as the Reclamation Act, or Acts amendatory or supplemental thereto, or when any irrigation district has entered into contract with any agency of the United States for refunding of indebtedness of the district, the board of directors may provide by resolution for the levy and collection of assessments of the district in the manner provided in ORS 545.484 to 545.508, in lieu of the method provided for in ORS 545.432 to 545.440, 545.444 to 545.454 and 545.562. The resolution may apply to assessments for operation and maintenance, or construction or other charges payable to the United States under the terms of the contracts of the district with the United States, whether before or after the district has commenced to deliver water through all or any part of its canal or distribution system, and if the consent of all the holders of outstanding bonds of the district has been obtained, the resolution may provide for the collection of all assessments for the purpose of retiring bonds and payment of interest on such bonds, or any part thereof.

545.484 Computation of amount to be raised; assessment; lien on land; fixing time for equalizing assessments. Any time

during the year the board of directors of an irrigation district that has provided for the collection of its own assessments as provided by ORS 545.482 to 545.508, and in any event at least once each year, shall, by resolution, make a computation and assessment of the amounts of money necessary to be raised by the district, including an allowance for delinquencies in collections, for the purpose of care, operation and maintenance, repairs, bond or interest payments, or payments due or to become due to the United States under any contract of the district with the United States, or other expenses of the district. When so determined and assessed the same shall be a lien against all the lands within the district. At the time of levying any assessment, the board shall fix a time not more than two months from the date of levying such assessment, when the board will sit as a board of equalization to review and correct the assessment roll as prepared.

545.486 Determination of irrigable acreage and assessments; assessment roll; public inspection; permanent record. The board of directors of an irrigation district that has determined to collect its own assessments as provided by ORS 545.482 to 545.508 shall determine the number of irrigable acres owned by each land owner or assessment payer in the district and the proportionate assessments to be charged against such tract. The assessment roll after preparation and levy shall remain in the office of the secretary of the district until the time fixed for equalization thereof, and shall be available and open for examination and inspection by all interested persons during office hours of each business day. At the option of the board the assessment roll may be a permanent tract record for each legal subdivision or farm unit, upon which the name of the owner, the property description, assessments made, and collection record shall be kept from year to year.

545.488 Equalization; notice; publication. Upon levy of assessment and entry of the order fixing the time for meeting as a board of equalization, as provided by ORS 545.484, the secretary of the board of directors shall give notice by publication in a newspaper published in each county in which lands of the district may be situated, for three consecutive weeks, and by four publications, next preceding the time fixed for such meeting, notifying all land owners, assessment payers and other interested persons of the time and place fixed for the meeting. All persons shall be presumed to have notice of the time of such meeting, whether they receive actual notice or not.

545.490 Meeting of equalization board; hearing and determination of objections to assessments and apportionments; changes. On the day and at the time and place fixed for such meeting, the board of directors shall meet and sit as a board of equalization and continue in session from day to day, as long as necessary to hear and determine any objections by any interested persons to the assessments and apportionments, and any other matter connected therewith that may come before them. The board shall change its assessment and apportionment, and the list and record of the same, in any respect and manner necessary to make the same just and in accordance with the facts. The secretary of the board shall be present and shall note all changes made in the assessment, apportionment, lists and record, and in the names of all persons whose property is listed.

545.492 Appeal from order of board; procedure. Any person interested in or affected by the order may appeal, to the circuit court for the county in which the land affected is situated, from any order of the board of directors of an irrigation district sitting as a board of equalization affecting such land. The appeal shall be taken by notice in writing, duly verified, stating the grounds of appeal, filed with the secretary of the irrigation district, and accompanied by a good and sufficient personal or surety bond conditioned upon payment, by the party appealing, of all costs incurred upon the appeal. Within five days after filing of such notice and bond, the secretary shall prepare and cause to be filed with the clerk of the circuit court a certified copy of the resolution levying the assessment, such portions of the assessment as are complained of, the order equalizing the same, the appeal bond, and any other order affecting the matter. The notice of appeal shall be given by the objecting party within five days of the date of entry of the order appealed from. The circuit court shall hear the appeal in summary manner, either in term time or out, in chambers or in open court, at the earliest possible time after perfecting such appeal, and may direct that

such witnesses and documents as may be necessary to a complete determination of the matter may be heard and evidence taken.

545.494 Certification of resolutions to county clerks; lien on land; priority respecting other liens and claims. After completion of equalization of the assessment as provided by ORS 545.490, the secretary of the irrigation district shall certify copies of the resolutions and orders levying and equalizing the same to the county clerk of each county in which lands of the district are situated, and shall file the originals in the office of the district. Upon such filing, the assessment shall become a lien upon all lands therein described in the amounts set forth opposite each tract of land. The lien shall be prior to all encumbrances of whatever kind or nature, whether executed before or after the lien of the irrigation district is created, or whether recorded or registered or not; except that the lien of the irrigation district upon each tract of land shall be subject to all lawful taxes levied and assessed for state and county purposes by the county in which the land lies, but shall not be subject or inferior to any claim, lien or assessment of any other taxing district, whether municipal, public, or other corporation, whenever levied, or whether extended on the county tax rolls for collection or not.

545.496 Collection; determination of time and place of payment; withholding of water until payment. Assessments under ORS 545.482 to 545.494 shall be collected by the secretary of the district, and shall become due and payable at such time and place as the board of directors may determine. The board may withhold delivery of water from any tract of land until the assessment is paid, whether such assessment is for operation and maintenance, repairs, construction, or other purposes, or if any tract of land is delinquent in the payment of any assessment theretofore levied and due, whether for irrigation water delivered, or charges for any purpose becoming due, in and for the year in which such water is desired, or in prior years.

545.498 Surety bond to be given by secretary prior to collection. Before collection of any assessments as provided in ORS 545.482 to 545.508, or handling or receiving any funds, the secretary of the district shall give a good and sufficient surety bond in an authorized surety company, in such amount as the board of directors may determine, the cost of the bond to be paid by the district. The bond shall be approved by the board and filed in the office of the district. The amount of the bond may be varied from time to time by order of the board.

545.500 Resolution to fix time and place of payment and date of delinquency. The board of directors, in the resolution levying any assessment under ORS 545.482 to 545.508, shall fix the time when the assessment shall become due and payable, and also shall fix a time after which the assessment shall become delinquent, which time shall be at any time within one year from the date the assessment becomes due and payable.

545.502 Foreclosure; procedure. Immediately, or at any time after the delinquency date fixed by the board of directors, the board by resolution may direct that all delinquent assessments then unpaid, whether for operation and maintenance, construction, bond or interest, or other purpose, shall be foreclosed by the district. The foreclosure shall follow the general procedure of a suit in equity, and shall be filed in the circuit court for the county in which the land to be foreclosed is situated. If land in two or more counties is to be foreclosed, separate proceedings shall be commenced in each county as to the lands therein. In addition to such assessments being foreclosed, the district may recover in the suit the costs and disbursements and expenses of foreclosure, together with a reasonable sum as attorney fee to be allowed by the court. Any number of tracts of land, whether they are delinquent for the same or different assessments, or for the same or several years, may be foreclosed in the same suit. The decree shall order the sale of the property and fix the time for holding the sale, which shall not be more than four weeks from the date of the decree, and shall order the sheriff of the county to hold the same as other foreclosure sales upon giving notice thereof for two consecutive weeks prior to the day of sale by publication of notice once each week in a newspaper published in the county in which the land to be sold is situated, and by posting notices in three public and conspicuous places within the county at least two weeks prior to the day of sale. The irrigation district may be a bidder and purchaser of the

property upon the sale. Upon the sale the sheriff shall issue deed to the property immediately. No right of redemption thereafter shall exist.

545.504 Redemption of land upon or prior to foreclosure sale. At any time prior to sale, or at the time of sale, as provided by ORS 545.502, the former owner, assessment payer, or holder of legal or equitable title or lien upon or to any tract of land included in the foreclosure and decree may pay the amount of the lien foreclosed, together with such amount of state and county taxes as the irrigation district may have paid, and a proportionate amount of the costs incurred in the foreclosure proceeding, and withdraw the tract of land from the foreclosure and sale. Such payment shall be tendered to the clerk of the court, together with written appearance in the suit, if made prior to decree, and to the sheriff ordered to hold such sale, if after decree is entered. If payment is made before decree, the tract shall be dismissed from the foreclosure proceeding. If payment is made after decree, the district shall issue satisfaction of lien to the former owner, assessment payer, or holder of legal or equitable title or lien upon the tract, and file the same for record.

545.506 Payment of taxes by district and foreclosure thereof as part of lien. At any time after any assessment levied under ORS 545.482 to 545.508 becomes delinquent, the irrigation district may pay any state and county taxes due or delinquent against such tracts of land as are delinquent in the payment of the irrigation district assessment, and add such amount to and foreclose the same as a part of the lien of the district against such tracts.

545.507 Borrowing for payment of operation and maintenance costs. An irrigation district whose board of directors has provided for the levy and collection of assessments of the district in the manner provided in ORS 545.484 to 545.508 may, when authorized by resolution of its board of directors:

(1) Borrow moneys for payment of its operation and maintenance costs and expenses in an amount not to exceed (a) $5 per acre for each acre within the district or (b) the amount of its uncollected assessments for operation and maintenance, whichever is greater; and

(2) Issue and deliver as evidence of such indebtedness the promissory notes of such district bearing interest at not to exceed six percent per annum. The promissory notes shall be payable at such time as its board of directors shall determine and may contain provisions for payment of the attorney's fees of the holder of the notes in the event suit or action is commenced for the collection of the notes. The district may agree that all or any part of such uncollected assessments shall be applied in payment of such promissory notes when collected. [1955 c.362 §2]

545.508 Moneys collected; deposit; separation of funds; disbursements; security for deposits. Any irrigation district collecting assessments as provided in ORS 545.482 to 545.506 shall deposit all moneys so collected in such banks as the board of directors may determine. The amounts collected for operation and maintenance, construction, bond principal, interest, or other purposes shall be kept in separate funds and accounted for separately. Such funds shall be paid out only upon order of the board by checks or drafts signed by the president and secretary of the board. All deposits of any irrigation district in any bank in excess of the amount protected by Federal Deposit Insurance Corporation insurance shall be secured by deposit of bonds of the United States.

545.510 to 545.520 [Reserved for expansion]

ASSESSMENTS TO PAY FOR BONDS AND INTEREST; COLLECTION BY SECRETARY

545.522 Provision for collection of assessments by secretary; payment in advance of delivery of water; entry of unpaid tolls, etc., on assessment list; lien on land; collection. For the purpose of providing funds for payment of the bonds of an irrigation district and interest thereon, the board may by resolution provide for the collection of its assessments from the irrigable land within the district and require such collection to be made by the secretary of the board and paid over by him on the first of each month following the collection to the county treasurer of the county in which the office of the district is located. The board may direct the time and manner of making such collection and may require the same to be

paid in advance of the delivery of water. Any tolls, charges or assessments remaining unpaid on any land within the district at the time the board completes its equalization of the succeeding annual assessment shall be placed upon an assessment list in accordance with the provisions of ORS 545.432 to 545.454. Such assessments shall constitute a lien upon the land and shall be collected as provided by ORS 545.452 and 545.454.

545.524 Objections by bondholders; payment from funds otherwise obtained. In the event that any irrigation district provides for the collection of funds for the payment of bonds and bond interest at the office of the district and if thereafter any holder of bonds of the district objects in writing, the district shall pay such bonds from funds obtained in the manner provided in ORS 545.204 to 545.210.

545.526 Surety bond of secretary; approval by directors; payment of premium. In the event that any irrigation district collects its assessments, rates, tolls and charges at the office of the district, the secretary of the district shall give a good and sufficient bond in a sum to be fixed by the board of directors, by an authorized surety company, for the faithful performance of his duties and for prompt payment of all funds collected for bonds and bond interest to the county treasurer of the county in which the office of the district is located. The bond shall be approved by the board and the premium thereon paid by the district.

545.528 to 545.540 [Reserved for expansion]

ASSESSMENT TO RETIRE OUTSTANDING OPERATION AND MAINTENANCE WARRANTS

545.542 Districts providing for collection of charges by secretary; levy of percentage of annual rates. Any irrigation district which has provided for collection of operation and maintenance charges by the secretary of the board in accordance with provisions of ORS 545.108, and which has outstanding operation and maintenance warrants that have been issued for more than one year, may, upon approval of the board of directors, levy a charge not to exceed 20 percent of the annual rates fixed for operation and maintenance, such charges to be levied and collected for the purpose of retiring outstanding operation and maintenance warrants of the district.

545.544 Lands subject to assessment. Any assessment made under the provisions of ORS 545.542 to 545.548 for the purpose of providing funds for the retirement of outstanding warrants shall be assessed against all the irrigable lands within and a part of the district. Such charge shall not be made as a part of the tolls or charges to be collected from lands lying outside the district.

545.546 Collection of charges; acceptance of district warrants; disposal of moneys collected. Any irrigation district which levies any tolls or charges in accordance with the provisions of ORS 545.542 to 545.548 for the purpose of retiring operation and maintenance warrants shall collect such charges in the same manner as the annual tolls and charges for operation and maintenance are collected, except that the district shall accept warrants of the district in payment of assessments made for the purpose of retiring warrants. Upon the receipt of any moneys levied for the purpose of retiring warrants the secretary of the board shall immediately pay the same over to the treasurer of the district, who shall place such funds in an operation and maintenance fund.

545.548 Provisions not exclusive nor operative to relieve district of duty respecting obligations. The provisions of ORS 545.542 to 545.546 shall not be deemed exclusive and shall not relieve any irrigation district from the duty of levying sufficient sums for the payment of all outstanding obligations as otherwise provided by law.

545.550 to 545.560 [Reserved for expansion]

CLAIMS AGAINST DISTRICT

545.562 Submission of claims to board; drawing of warrants; payment; lack of funds; interest on warrants; debts payable by warrants; receipt of warrants, bonds and interest coupons in payment of charges; amount of outstanding warrants; monthly report of district finances. (1) Claims against the district shall be submitted to the board upon vouchers. Upon order of the board the president and secretary shall draw warrants in payment thereof. The

county treasurer shall pay such warrants, if there are funds available for that purpose. If no funds are available, the treasurer shall so indorse the warrants. From the date of such indorsement the warrants shall bear interest at the rate of not to exceed six percent per annum until paid or until notice has been given that funds are available for payment of such warrants. The warrants shall be drawn in payment of any debt, liability or obligation incurred in carrying out the provisions of the Irrigation District Act, except such payments as may be made by irrigation district bonds.

(2) The warrants shall be receivable by the tax collector when tendered in payment of maintenance charges levied against lands in the district where the warrants are issued. The tax collector shall also receive any past due bond or any past due interest coupon from any bond of the district in payment of any assessment made for the purpose of paying the bonds or bond interest of the district. The total amount of outstanding warrants for the payment of which there are no funds available shall not exceed $5 per acre for each acre in the district.

(3) The county treasurer shall report to the board, in writing, on the first Tuesday in each month, the amount of money in the several funds of the district, the amount of receipts for the month preceding, and the amount of items of expenditures. The report shall be verified and filed with the secretary of the board. [Amended by 1955 c.360 §1]

545.563 Establishing bank account for payment of labor and emergency expenses. (1) The board of directors of any irrigation district may withdraw from any moneys deposited on behalf of the district an amount designated by the board and deposit it in an account with any bank approved by the board to be maintained in the name of the district for the purposes set forth in subsection (2) of this section.

(2) The account established in this section shall be used for the payment of any claims arising out of labor and emergency expenses incurred by the district during any month. Moneys may be withdrawn from the account by check signed by a person authorized to do so by the board of directors. The expenditures so made shall be ratified and audited by the board at each regular meeting. [1955 c.286 §2]

545.564 Warrants prior to 1933; overissuance; validation. All outstanding warrants issued before June 5, 1933, by any irrigation district having outstanding warrants in excess of $2 for each acre within the district, shall constitute a valid obligation of the district as of the respective dates of issue thereof, notwithstanding that such outstanding warrants exceed the limitation provided in ORS 545.562. The provisions of this section shall not be construed to validate any warrants issued before June 5, 1933, by any such irrigation district, which warrants were otherwise illegally issued.

545.566 to 545.580 [Reserved for expansion]

CHANGE OF BOUNDARIES; MERGER; DIVISION OF DISTRICTS

545.582 Change of boundaries authorized; effect on existing rights and liabilities; approval of Secretary of Interior, when required; liens on land excluded from district. (1) Subject to the provisions of subsection (2) of this section, the boundaries of any irrigation district organized under the Irrigation District Act may be changed in the manner prescribed in ORS 545.584 to 545.622. But such change shall not impair or affect its organization, or its right in or to property, or any of the rights or privileges of whatever kind or nature, nor shall it affect, impair or discharge any contract, obligation, lien or charge for or upon which it was liable or chargeable had such change of its boundaries not been made.

(2) In case contract has been made between the district and the United States as provided in the Irrigation District Act, no change shall be made in the boundaries of the district, and the board of directors shall make no order changing the boundaries of the district, unless the written assent of the Secretary of the Interior has been obtained and filed with the board of directors. Upon such assent any lands excluded from the district shall be discharged from all liens in favor of the United States under contract with the United States or under bonds deposited with its agents.

545.584 Petition for inclusion of lands within district. The holders of title, or evidence of title, representing a majority of the acreage of any body of land adjacent to the boundaries of any irrigation district (which body of land may include or consist of one or more parcels of less than one acre, whether or not the same are city or town

lots or tracts of a platted subdivision, or chiefly available for residence purposes) may file with the board of directors of the district a petition in writing, praying that such lands be included in the district. When the body of land is located within the boundary of an incorporated city, the petition shall be approved by the governing body thereof before presentation to the board of directors. The petition shall describe the tracts or body of land owned by the petitioners, in manner and form as prescribed in this chapter for original petitions for the formation of an irrigation district. The petition shall be deemed to give assent of the petitioners to the inclusion in the district of the lands described in the petition. The petition must be acknowledged in the same manner that conveyances of land are required to be acknowledged.

545.586 Notice of petition; publication; deposit for costs. The secretary of the board of directors shall cause notice of the filing of the petition to be given and published once each week, for three successive weeks, in a newspaper published in the county where the office of the board is situated. The notice shall state the filing of the petition, the names of the petitioners, a description of the lands mentioned in the petition, and the prayer of the petitioners, giving notice to all persons interested to appear at the office of the board at a time named in the notice and show cause, if any they have, why the petition should not be granted. The time specified in the notice at which it is required to show cause shall be the regular meeting of the board next after the expiration of the time for publication of the notice. The petitioners shall advance to the secretary sufficient money to pay the estimated cost of all proceedings under the petition before the secretary shall be required to give notice.

545.588 Hearing on petition. The board of directors, at the time and place mentioned in the notice, or at such time to which the hearing of the petition may adjourn, shall hear the petition and all objections thereto presented in writing by any person, showing cause why the petition should not be granted. The failure of any person interested to show cause shall be taken as an assent on his part to the inclusion of such land in the district as prayed for in the petition.

545.590 Liability of petitioners for obligations of district. The board of directors to whom the petition is presented may require as a condition precedent to the granting of the same that the petitioners shall severally pay, contract to pay or become liable to the district for such sums, as nearly as they can be estimated by the board, as the petitioners or their grantors would have been required to pay to the district, for assessments for the payment of their pro rata share of all bonds and the interest thereon previously issued by the district, had such lands been included in the district at the time it was originally formed or when the bonds were so issued.

545.592 Acceptance or rejection of petition; election where owner objects to inclusion. The board of directors, if they deem it is not for the best interest of the district to include therein the lands mentioned in the petition, shall, by order, reject the petition, but, if they deem it for the best interest of the district that the lands or any part thereof be included, the board may order that the district be so changed as to include therein the lands or any part thereof mentioned in the petition. But the board, in making any such change, shall not include in the district the lands of any owner objecting thereto without calling an election in the territory proposed to be included in which shall be submitted the question of "Inclusion—Yes," and "Inclusion—No." The election shall be conducted in the same manner as the election for organization of an irrigation district is conducted, with the irrigation district having the same powers as are conferred upon the county court in respect thereto. The election shall be decided by three-fifths of the vote cast. The order shall describe the boundaries of the land included with such exceptions as may be made.

545.594 Recording of order including lands in district; effect of order; appeal. (1) Upon the allowance of the petition and in case no protest has been filed with the board within 30 days after entry of the order, a certified copy of the order of the board of directors making such change shall be filed for record in the office of the county recorder of each county in which are situated any lands of the district. The district as so changed and all lands therein shall be liable for all existing obligations and indebtedness of the organized district.

(2) From the action on a protest an appeal may be taken in the same manner as is provided in case of proceedings affecting the organization of a district. If the protest is not made within 30 days and appeal taken to the circuit court from action on the protest within 30 days after final hearing, the order of inclusion shall be deemed lawful and conclusive against all persons and thereafter shall not be in any manner questioned in any proceedings.

545.596 Record of petition; admissibility in evidence. Upon the filing of the copies of the order, as mentioned in ORS 545.594, the secretary shall record in the minutes of the board the petition. The minutes, or a certified copy thereof, shall be admissible in evidence with the same effect as the petition.

545.598 Redivision of district; appointment of directors. In case of the inclusion of any land within any district by proceedings under ORS 545.584 to 545.596 the board of directors shall, at least 30 days after the final order making such inclusion, make an order redividing the district into three divisions, as nearly equal in size as may be practicable. If none of the directors is qualified to act as a director from any newly created division, then the office of the director having the least time left to serve shall become vacant, and the remaining directors shall appoint some person qualified to act as a director from that division until the next election of officers in the district. In the event of two such vacancies the same procedure shall be followed. One director shall thereafter be elected from each division, or they may be elected from the district at large, as provided in ORS 545.014.

545.600 Validation of previous inclusions of land. All inclusions of land within irrigation districts that were made before June 2, 1927, wherein the order of inclusion failed to describe the entire boundaries of the district as changed by the inclusion, or wherein the order of inclusion was not recorded or filed for record in the office of the county clerk of the county in which the district is situated, are hereby validated.

545.602 Exclusion of tracts; effect on status of district, rights and liabilities. The boundaries of any irrigation district organized under the provisions of the Irrigation District Act may be changed, and tracts of land which were included within the boundaries of such district at or after its organization may be excluded therefrom, in the manner prescribed in ORS 545.604 to 545.620, but neither such change of the boundaries of the district nor such exclusion of lands from the district shall impair or affect its organization, or its right in or to property, or any of its rights or privileges of whatever kind or nature; nor shall it affect, impair, or discharge any contract, obligation, lien, or charge for or upon which the district would be liable or chargeable, had such change of its boundaries not been made, or had such land not been excluded from the district.

545.604 Petition for exclusion of lands from district. The owners in fee of one or more tracts of land or the holders of an uncompleted title to government or state lands which constitute a portion of an irrigation district may jointly or severally file with the board of directors a petition praying that such tracts, and any other tracts contiguous thereto, be excluded and taken from the district. The petition shall state the grounds and reason upon which it is prayed that the lands be excluded, and shall describe the boundaries thereof and the lands of the petitioners which are included within such boundaries, but the description of such lands need not be more particular or certain than is required when the lands are entered in the assessment book by the county assessor.

545.606 Notice of petition; publication. The secretary of the board of directors shall cause a notice of the filing of the petition to be published once a week for at least two weeks in some newspaper published in the county where the office of the board is situated. If any portion of the territory to be excluded lies within another county, then the notice shall be so published in a newspaper published within each county. The notice shall state the filing of the petition, the names of the petitioners, a description of the lands mentioned in the petition, and the prayers of the petitioners, and it shall notify all persons interested in, or who may be affected by such change of the boundaries of the district, to appear at the office of the board at a time named in the notice, and show cause in writing, if any they have, why the change in boundaries proposed in the petition should not be made. The time to be

specified in the notice at which they shall be required to show cause shall be the regular meeting of the board next after the expiration of the time for publication of the notice.

545.608 Hearing on petition and objections; payment of expenses. The board of directors, at the time and place mentioned in the notice, or at the time to which the hearing of the petition may be adjourned, shall hear the petition, all evidence or proofs that are introduced by or on behalf of the petitioners, all objections to the petition that are presented in writing by any person showing cause, and all evidence and proofs that are introduced in support of the objections. The failure of any person interested in the district (other than holders of bonds thereof outstanding at the time of filing the petition with the board) to show cause, in writing, why the tracts of land mentioned in the petition should not be excluded from the district, shall be taken as an assent by him to exclusion of the tracts of land, or any part thereof, from the district. The filing of the petition with the board shall be taken as an assent by each petitioner to the exclusion from the district of the lands mentioned in the petition, or any part thereof. The expenses of giving the notice and of the aforesaid proceedings shall be paid by the persons filing the petition.

545.610 Allowance or rejection of petition; exclusion of lands not benefited; appeal. If, upon the hearing of any such petition, no evidence or proofs in support thereof are introduced, or if the evidence fails to sustain the petition, or if the board deems it not for the best interests of the district that the lands, or some portion thereof, mentioned in the petition, be excluded from the district, the board shall order that the petition be denied as to such lands. If the board deems it for the best interests of the district that the lands mentioned in the petition, or some portion thereof, be excluded from the district, and if no person interested in the district shows cause, in writing, why the exclusion should not be made, or if, having shown cause, withdraws the same, or upon hearing fails to establish his objections, then the board shall forthwith make an order that the lands mentioned and described in the petition, or some defined portion thereof, be excluded from the district. However, the board shall order, upon petition therefor, that all lands so petitioned to be excluded from the district shall be excluded therefrom which cannot be irrigated from, or which are not susceptible to, or would not, by reason of being permanently devoted to uses other than agricultural, horticultural, viticultural, or grazing, be directly benefited by actual irrigation from a common source, or by the same system of works with the other lands of the district, or from the source selected, chosen or provided, or the system adopted for irrigation of the lands of the district, or which are already irrigated, or entitled to be irrigated, from another source or by another system of irrigation works. Any such order of the board shall be subject to appeal to the circuit court within 10 days from the date of its entry.

545.612 Assent of bondholders required. If there are outstanding bonds of the district at the time of the filing of the petition, the holders may give their assent, in writing, to the effect that they severally consent that the lands mentioned in the petition, or such portion thereof as may be excluded from the district by order of the board, may be excluded from the district. If such lands, or any portion thereof, are thereafter excluded from the district, they shall be released from the lien of such outstanding bonds. The assent must be acknowledged by the bondholders in the same manner and form as is required in case of a conveyance of land, and the acknowledgment shall have the same force and effect as evidence as the acknowledgment of a conveyance. The assent shall be filed with the board and be recorded in the minutes of the board. The minutes, or a copy thereof certified by the secretary of the board, shall be admissible in evidence with the same effect as the assent. The certified copy may be recorded in the office of the county recorder of the county wherein the lands are situated.

545.614 Recording minutes of board; status of district. In the event the board of directors excludes any lands from the district upon petition therefor, the board shall make an entry in its minutes describing the boundaries of the district, if the exclusion changes the boundaries of the district. For that purpose the board may have a survey made of such portions of the district as it deems necessary. A certified copy of the entry of the minutes of the board excluding any land, certified by the secretary of the

board, shall be filed for record in the recorder's office of each county within which is situated any land of the district. The district, notwithstanding such exclusion, shall remain an irrigation district as fully, to every intent and purpose, as it would have been had no change been made in its boundaries, or had the lands excluded therefrom never constituted a portion of the district.

545.616 Filling vacancy in director's office. If the lands excluded from any district under ORS 545.602 to 545.614 embrace the greater portion of any division of the district, then the office of director for that division shall become vacant at the expiration of 10 days from the final order of the board excluding the lands. The vacancy shall be filled by appointment by the county court of the county where the office of the board is situated, from the district at large. A director appointed as above provided shall hold his office until the next regular election for the district, and until his successor is elected and qualified.

545.618 Redivision of district. At least 30 days before the next general election of such district, the board of directors shall make an order dividing the district into three divisions as nearly equal in size as may be practicable, which shall be numbered first, second and third, and one director shall be elected by each division. For the purpose of elections in such district the board of directors must establish a convenient number of election precincts, and define the boundaries thereof, which precincts may be changed from time to time as the board may deem necessary. This section shall not apply to any irrigation district in which the directors, at the time of such exclusion, have been elected by the district at large.

545.620 Liability of excluded lands for district's obligations. Nothing in ORS 545.602 to 545.618 shall in any manner operate to release any lands so excluded from the district from any obligation to pay, or any lien thereon, of any valid outstanding bonds or other indebtedness of the district at the time of the filing of the petition for exclusion of the lands, but on the contrary said lands shall be held subject to the lien, and answerable and chargeable for and with the payment and discharge of all outstanding obligations at the time of the filing of the petition, as fully as though the petition were never filed and the order of exclusion never made. For the purpose of discharging the outstanding indebtedness, the lands so excluded shall be deemed and considered as part of the irrigation district. All provisions which might have been resorted to, to compel the payment by the land of its quota or portion of the outstanding obligation, had the exclusion never been accomplished, may, notwithstanding the exclusion, be resorted to, to compel and enforce the payment on the part of the land of its quota or portion of the outstanding obligations of the irrigation district for which it is liable. But the land so excluded shall not be held answerable or chargeable for any obligation incurred after the filing of the petition for exclusion. The provisions of this section shall not apply to any outstanding bonds or other obligations or indebtedness the holders of which have assented to the exclusion of such lands from the district.

545.622 Union or merger of districts; petition; approval of board; election; indebtedness. An irrigation district may be united, merged and included within another irrigation district by the board of directors causing a petition showing the indebtedness of the district and the boundaries thereof to be presented to the board of directors of the district in which it is desired to be included. The petition may be accepted or rejected by the latter board in its discretion. If accepted, an election shall be ordered by such board in the district desiring to be included, in which shall be submitted the questions, "Merger—Yes," and "Merger—No," which questions shall be determined by a majority vote of the qualified voters. The election shall be conducted in the same manner as an election for the organization of an irrigation district, and the board shall have the same powers and authority in conducting the same as are possessed by the county court in organizing an irrigation district. If the vote is "Merger—Yes," the indebtedness of each district shall be determined and entered upon the records and a division of such indebtedness ordered which shall be binding in the future. Thereafter the districts shall be one district, the lands therein included to the same extent and effect in all respects as if originally included.

545.624 Division of district; petition for; order of directors; election of directors from divisions. Whenever, in any irrigation district having an area in excess of 50,000

irrigable acres, a petition signed by legal voters of the district equaling in number at least 20 percent of the number of votes cast at the last preceding general election for the office of director in the district is filed with the secretary of the board of directors of the district, requesting the division of the district, the board, at least 30 days before the next general election of the district, shall make an order dividing the district into three divisions as nearly equal in size as practicable, and defining and particularly describing their boundaries, making use in so far as practicable of such natural boundaries as may exist in the district. The divisions shall be numbered first, second and third. One director shall be elected from each division to the board of directors of the district, as by law provided for irrigation districts so divided; provided that nothing in ORS 545.624 to 545.628 shall be construed to prevent the present directors from serving out the unexpired portion of their terms.

545.626 Election of directors from newly created divisions. At the general election of the district next following any such division, the office of the director whose term expires the following January shall be filled by election of a director from the newly created division which is without representation on the board, and if there are two such divisions, then from the newly created division without representation on the board that contains the largest number of electors, in which event the other newly created division shall elect a director at the second general election following the division, which director shall take office at the expiration of the term of the second retiring member of the board.

545.628 Election precincts in divisions; alteration. For the purpose of elections in such district, the board of directors must establish a convenient number of election precincts in the divisions and define the boundaries thereof. The precincts may be changed from time to time as the board deems necessary.

545.630 to 545.650 [Reserved for expansion]

DISSOLUTION OF DISTRICTS

545.652 Petition of voters to dissolve district. A majority of the qualified voters in any irrigation district, and a majority in value of the property according to the equalized assessment roll of the district for the year last preceding upon which any assessment has been made, may propose dissolution of the district by a petition signed by such majority. The petition shall set forth the amount of the outstanding bonds, coupons and other indebtedness, together with a general description of the same, and the holders, so far as known, showing the amount of each description of indebtedness and the ownership, so far as known, of the same; also, the estimated cost of the dissolution. The petition shall also state the assets of the district, including irrigation system, if any, dams, reservoirs, canals, franchises, water rights, a detailed statement of all lands sold to the district for assessments, and the amount of the assessments on each parcel of land sold, also all assessments unpaid, and the amount upon each lot or tract of land, and all other assets of the district. In case any proposition has been made by the holders of the indebtedness to settle the same, the proposition, together with any plan proposed to carry the same into execution, shall be included in the petition.

545.654 Election to determine dissolution; assent of holders of indebtedness; notice of election; procedure; ballots; districts contracting with United States; consent of Secretary of Interior to dissolution. (1) Upon the filing of the petition with the board of directors, the board shall call a special election, at which shall be submitted to the electors of the district the question whether or not the district shall be dissolved, its indebtedness liquidated, and its assets distributed in accordance with the plan proposed, or, in case no plan has been proposed, then in accordance with a plan which shall be proposed by the board in the notice of the election. But no election shall be called until the assent of all the known holders of valid indebtedness against the district is obtained or provision is made in the plan for the payment of nonassenting holders.

(2) Notice of the election must be given by posting notices in three public places in each election precinct in the district for at least 20 days, and by publication of the notice in some newspaper published in the county where the office of the board is kept, once a week for at least three successive weeks before the election. The notices must

specify the time of holding the election, the fact that it is proposed to dissolve the district, and a brief summary of the plan proposed for liquidating indebtedness and disposing of assets.

(3) The election shall be held and the result determined and declared in all respects as nearly as practicable in conformity with the provisions governing the election of officers in irrigation districts. At the election the ballot shall contain the words, "Dissolution of the district—Yes," or "Dissolution of the district—No," or words equivalent thereto.

(4) If a contract authorized by law has been made between the district and the United States for the construction, operation and maintenance of the necessary works for the delivery of water or for a water supply, the district shall not be dissolved and no proceeding shall be entertained by any court or otherwise looking to the dissolution of such district, until the written assent of the Secretary of the Interior is given to such dissolution.

545.656 Judicial determination of validity of dissolution; proceeding in rem; notice; contest of validity; scope of determination; appeal. If upon canvass of the votes it is found and declared by the board of directors that two-thirds of the votes cast at such election were cast in favor of "Dissolution of the district—Yes," then the board shall file a petition in the circuit court of the county wherein is located the office of the board, to determine the validity of the proceeding had and of the proposed plan for dissolution of the district. Such action shall be in the nature of a proceeding in rem. Jurisdiction of all parties interested may be had by publication of a notice of the pendency of the proceeding at least once a week for three weeks in a newspaper within the district, or, if there is no newspaper in the district, in the newspaper nearest to the district within the county in which the district is located. If the property of the district is situated in more than one county, publication shall be made in one paper in each county, such papers to be designated by the court having jurisdiction of the proceeding. Jurisdiction shall be complete in 30 days after completion of the notice in the manner herein provided. Anyone interested may at any time before the expiration of said 30 days appear and contest the validity of the proceedings already had and of the plan proposed for dissolution of the district, or any portion thereof, including the validity of any portion of the indebtedness set out in the petition. The court may determine the validity of any sales or assessments; may determine the amount of any assessment due upon the various parcels and lots of real estate within the district; may determine the amount of any assessments theretofore paid upon the various parcels and lots of real estate therein; and may adjust and determine the rights and liabilities of all parties. The action shall be speedily tried and judgment rendered. Either party may appeal at any time within 30 days after the entering of judgment. The appeal must be heard and determined within three months after the taking of the appeal.

545.658 Contents of petition; hearing; nonprejudicial errors; general rules of pleading and practice; costs; exclusiveness of remedy. The petition to the circuit court shall set forth the facts required to be set forth in the petition to the board of directors and all proceedings therein. At the hearing the court shall hear and determine the regularity, legality and correctness of all proceedings, and in doing so shall disregard any error, irregularity or omission which does not affect the substantial rights of the parties. The general rules of pleading and practice not inconsistent with the provisions of ORS 545.652 to 545.666 are made applicable to the proceedings. The cost of any contest may be allowed and proportioned between the parties or taxed to the losing party in the discretion of the court. No contest of any matter or thing provided for in ORS 545.652 to 545.666 shall be made other than in the time and manner specified in those sections.

545.660 Individual's right to maintain suit; parties; service; procedure. If no such proceedings are filed by the board of directors within 30 days after the canvass of the vote, then any district assessment payer may bring an action in the circuit court of the county wherein the office of the board is located. The board of directors shall be made a party defendant. Notice shall be served on the members of the board personally, if they can be found in the state; if not, then service by publication as provided in ORS 545.656 shall be sufficient. Proceedings shall be had in the same manner and with the same effect as if brought by the board.

545.662 Decree; provisions. The court in its decree may make the orders necessary to carry out the proposition for discharge of the indebtedness and distribution of the property of the district, including the right to apportion any indebtedness found due, making proper allowance for credits given for partial water rights or property acquired from landowners for which credit on assessments was given by the district, and to declare those portions liens upon the various parcels and lots of land within the district; and may decree a sale of its assets in such manner as may effectuate the proposition and as the court may judge best, either in one lot or in such parcels as may be provided; and may provide for conveyance of the irrigation system, including dams, reservoirs, canals, franchises and water rights and of any other assets of the district, including lands sold thereto and the assessments due it.

545.664 Lien of assessments and for sales; foreclosure; redemption from lien. The amounts of any assessments found due upon the various parcels and lots of real estate within the district, and the amounts for which sales have been made, which sales have been determined to be valid by the court, together with legal interest from the date of the sales and from the time when the assessments become delinquent, shall be liens on the lots and parcels affected thereby. The purchaser at the sale may foreclose them by action in the circuit court, and shall in the action join all lots, assessments and sales which may have been purchased by him and which remain unredeemed. A redemption may be made at any time by payment of the amount due to the clerk of the court for the use of the district, if before sale, and for the use of the purchaser, if after sale. The clerk shall thereupon enter a minute of the payment, which payment shall be in discharge of the lien. Redemption from the lien created for any portion of the indebtedness can be had in this manner.

545.666 Moneys remaining after payment of obligations; distribution to assessment payers; decree of dissolution. When all the property of the irrigation district has been disposed of, and all the indebtedness and obligations thereof have been discharged, the balance of the money of the district shall be distributed to the assessment payers in the district upon the last assessment roll in the proportion in which each has contributed to the total amount of the assessment. The court shall then enter a final decree declaring the district dissolved.

545.668 to 545.988 [Reserved for expansion]

PENALTIES

545.990 Penalties. Any violation of ORS 545.092 by any officer is punishable, upon conviction, by a fine of not more than $500 or by imprisonment in the county jail for not more than six months, or both. The conviction shall work a forfeiture of the offender's office.

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

CHAPTER 546

[Reserved for expansion]