

Chapter 451

1961 REPLACEMENT PART

Sewage Disposal Generally

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451.010 to 451.100 [Reserved for expansion]

451.110 Definitions for ORS 451.110 to 451.140. As used in ORS 451.110 to 451.140, "governing body" means the county court or board of county commissioners. [1955 c.509 §1]

451.120 Master plans for sewage disposal in unincorporated urban areas. The governing body of any county may, for the protection of the health, safety and general welfare, prepare and adopt coordinated master plans for the collection, transportation, disposal and treatment of sanitary or storm sewage to serve present and future unincorporated urban areas in the county. [1955 c.509 §2; 1961 c.576 §1]

451.130 Conformity to master plan; approval. After a coordinated master plan has been adopted under ORS 451.120, the governing body may enforce such plan by requiring that plans for the installation of any sanitary or storm sewerage system or sewage treatment works in areas under county jurisdiction outside the boundaries of cities be submitted to the county court for approval, and that such installation shall conform to the master plan. [1955 c.509 §3; 1961 c.576 §2]

451.140 Powers of governing body of county under ORS 451.110 to 451.140. In carrying out the powers granted to the governing body of a county under ORS 451.110 to 451.140, the governing body may:

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

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

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

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

(5) Expend funds for such surveys, investigations and studies as may be necessary

for the preparation and enforcement of such master plans.

[1955 c.509 §4; 1961 c.576 §3]

451.150 to 451.400 [Reserved for expansion]

451.410 Definitions for ORS 451.410 to 451.585. As used in ORS 451.410 to 451.585, unless the context indicates otherwise:

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

(2) "District" means any area in a county for which the county court provides sewage works under ORS 451.410 to 451.585.

(3) "Emergency" means a combination of circumstances or conditions relating to sewage disposal which requires immediate action to protect the public health, safety and general welfare.

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

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

[1955 c.685 §1; 1961 c.576 §4]

451.420 County may construct and operate sewage works. When authorized as provided in ORS 451.410 to 451.585 the county court may construct, maintain and operate sewage works for any district in the county.

[1955 c.685 §2]

451.430 Hearing to be held on proposal to construct and operate sewage works. The county court shall hold a public hearing on a proposal to construct, maintain and operate sewage works for a district in the county upon:

(1) Adoption of a resolution by the county court; or

(2) The receipt of a petition signed by 60 percent or more of the owners of real property in a district in the county requesting that the county court construct, maintain and operate sewage works for the district and defining the boundaries of the district; or

(3) Certification to the county court by the State Sanitary Authority or the county health officer that an emergency exists in the district.

[1955 c.685 §3; 1961 c.576 §5]

451.440 Plans for sewage works required prior to hearing. Prior to a hearing on a proposal to construct, maintain and

operate sewage works for a district, the county court shall cause engineering plans to be prepared. The plans shall include:

(1) Preliminary plans for the sewage works to be constructed.

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

(3) Recommendations as to boundaries of the district.

(4) Recommendations as to use of any portion of the proposed sewage works for areas in the county outside the district at some future date and the portion of the cost of such works which should be borne by such areas when use is made of any portion of the works.

(5) Recommendations as to the extent to which the proposed sewage works may be integrated into other sewage works constructed or being constructed by the county court under ORS 451.410 to 451.585 or by other public agencies and the fair and equitable amount of the cost of construction of such other works the district should bear.

[1955 c.685 §4; 1961 c.576 §6]

451.450 Notice of hearing required; contents of notice. (1) Prior to the hearing on a proposal to construct, operate and maintain sewage works for a district, the county court shall direct the county clerk to post notice of the hearing for two successive weeks prior to the hearing in three conspicuous places within the proposed boundaries of the district as determined by the county court and publish such notice once a week for two successive weeks prior to the hearing in a newspaper of general circulation published within the proposed boundaries of the district or, if there is no such newspaper, in a newspaper of general circulation published in the county.

(2) The notice of hearing shall contain:

(a) The date, time and place of the hearing.

(b) The name or number and proposed boundaries of the district.

(c) A statement that the county court proposes to construct, maintain and operate sewage works for the district.

(d) A statement that all interested persons may appear and be heard.

[1955 c.685 §5; 1961 c.576 §7]

451.460 Boundary determination; notice required when additional territory is included. At the hearing, or any continuance

thereof, on a proposal to construct, operate and maintain sewage works for a district, the county court may modify the proposed boundaries of the district. However, the county court may not include land which, in its judgment, will not be directly benefited by the proposed sewage works and may not exclude any land which, in its judgment, will be directly benefited by the proposed sewage works. If land is to be included which was not included in the boundaries set forth in the notice of hearing and the owners of such land have not appeared at the hearing, the hearing shall be adjourned and notice shall be given to the nonappearing landowners by mailing to the address of such owners as shown by the current assessment rolls of the county. The notice shall be mailed at least 10 days prior to the date to which the hearing was adjourned. In lieu of such mailing, notice may be given to nonappearing landowners by publication in the manner provided in ORS 451.450. The notice shall contain a general description of the land proposed to be included in the district and the time, place and purpose of the hearing.

[1955 c.685 §6]

451.465 Election required to form district; qualification of voters; judges; costs.

(1) No district shall be formed under the provisions of ORS 451.410 to 451.585 without submitting the issue to the voters of the proposed district as provided in ORS 451.467.

(2) No person is authorized to vote at any election held under ORS 451.467 unless he is an elector of the State of Oregon and has resided in the proposed district a period of not less than 90 days next preceding the election.

(3) The county clerk shall appoint three judges for each polling place designated for an election to be held under ORS 451.467. The judges shall be electors within the proposed district. Expenses of the election shall be paid by the county, but if the district is approved, it shall reimburse the county general fund for the cost thereof from the proceeds of any taxes or charges levied by it.

(4) Polling hours and other matters of procedure relating to elections authorized under ORS 451.467 shall be in accordance with the provisions of law relating to general elections, except as otherwise specifically provided in this chapter.

[1961 c.576 §§9, 11, 12, 13]

451.467 Duty of county court to hold election and proclaim result; limitation on contesting formation of district. If the county court determines, after a hearing as provided in ORS 451.430, that construction, maintenance and operation of certain sewage works is necessary for the protection of the public health, safety and general welfare, and that a district requiring approval of the voters under subsection (1) of ORS 451.465 should be formed, the county court shall:

(1) Issue an order assigning an identifying name or number to the proposed district, describing its exterior boundaries and fixing a date, not less than 30 nor more than 50 days from the date of the order, on which an election shall be held in the proposed district relating to its formation.

(2) Select one or more polling places in the proposed district and make necessary arrangements for the election.

(3) Direct the county clerk to post a copy of the order for four successive weeks prior to the election in three places within the proposed district.

(4) Direct the county clerk to publish a copy of the order for four successive weeks prior to the election in a newspaper of general circulation published in the proposed district. If there is no such newspaper, the notice shall be published in some newspaper published and of general circulation in the county in which the proposed district lies.

(5) Within 30 days after the election, issue a proclamation declaring whether a majority of the votes cast at the election favored or rejected the formation of the proposed district.

(6) If the proclamation issued under subsection (5) of this section indicates that a majority of the voters favored the formation of the district, the county court shall issue at the same time an order, to be entered in its journal, declaring the district established. No proceedings may be maintained contesting the validity of the formation of such district unless instituted within 30 days after the entry of such order.

[1961 c.576 §10]

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

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

451.485 Governing body of district; duties preliminary to any construction work. The county court shall be the governing body of any district established under subsection

(1) of ORS 451.465 and ORS 451.467. Such district shall be known by the name or number specified in the order declaring its formation and by that name shall exercise and carry out the corporate powers and objects conferred and declared in this chapter. Before proceeding to construct any public works or facilities authorized by this chapter, the court shall make an order:

(1) Determining the facilities to be constructed, maintained and operated.

(2) Determining the manner of financing the construction of the sewage works.

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

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

(5) Where the facilities of the district are to be integrated into other facilities constructed or being constructed by the county court under ORS 451.410 to 451.585 or by other public agencies, determining the fair and equitable amount the district should pay toward the construction of such other facilities, which amount shall be paid to the revolving fund if the other facilities were constructed or are being constructed by the county court under ORS 451.410 to 451.585 or to such other public agencies upon terms and conditions to which the county court has agreed if the facilities were constructed or are being constructed by another public agency.

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

[1961 c.576 §14]

451.490 Methods of financing sewage works; financing by assessments; objections to assessments to be heard. (1) The county court may, in its sound discretion, finance the construction, operation or maintenance of sewage works for a district by:

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

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

(c) Sewer service charges in the district.

(d) Connection charges.

(e) Ad valorem taxes.

(f) Sale of bonds.

(g) Any combination of the provisions of paragraphs (a) to (f) of subsection (1) of this section.

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

(3) Where parcels of land, or portions thereof, in the district are undeveloped, the county court may, in its discretion, defer assessing or imposing all or any portion of such assessments on such parcels until such parcels are connected with the facilities.

(4) The county court shall afford an opportunity for hearing of individual objections or remonstrances to assessments under this section.

[1955 c.685 §9; 1961 c.576 §15]

451.500 Sewer service charges for financing sewage works. The county court may by ordinance, for the purpose of paying the costs of operation and maintenance of sewage works constructed under ORS 451.410 to 451.585, impose sewer service charges on property served by sewage works constructed under ORS 451.410 to 451.585. The county court may, from time to time when necessary, use moneys from the revolving fund for such maintenance and operation on a reimbursable basis. Sewer service charges for operation and maintenance shall be based upon the costs of operation, maintenance and supervision of sewage works serving the property charged.

[1955 c.685 §10]

451.510 Collection of sewer service charges. (1) The county court may contract with any city or water or other district serving water in a district established under ORS 451.410 to 451.585 to collect sewer service charges with the water bills, and the serving agency may cut off water for nonpayment of such sewer service charges. The county court may pay the water-serving agency a reasonable charge for such collection services.

(2) Sewer service charges may also be collected and enforced as provided in ORS 224.220.

[1955 c.685 §11]

451.520 Assessments to be entered on lien docket; foreclosure for failure to pay; reassessments. (1) When assessments are made under ORS 451.480 and 451.490 they shall be entered in a permanent lien docket which shall be kept in the office of the county clerk of the county. The docket shall show the amount of each lien, property against which it has been assessed, the owner thereof and such additional information as is required to keep a permanent and complete record of the assessment and the payments thereon.

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

(3) The provisions of ORS 223.405 to 223.485 relating to reassessment shall be available to the county court, where applicable, in connection with assessments made under ORS 451.410 to 451.585.

[1955 c.685 §12]

451.530 Payment of assessments in instalments; assessment of public property; issuance of improvement warrants and bonds. If the cost, or any portion of the cost, of sewage works for a district is assessed against the property directly benefited under ORS 451.490, the provisions of ORS 223.205 to 223.385, relating to the payment of assessments in instalments, the provisions of ORS 223.770 relating to the assessment of public property benefited by public improvements for the cost of such improvements, and the provisions of ORS 287.502 to 287.510, relating to the issuance of improvement warrants by cities, shall apply in so far as practicable to the county in providing sewage works for a district under ORS 451.410 to 451.585. Where, in ORS 223.205 to 223.385, 223.770 and 287.502 to 287.510 officials of cities are referred to, the corresponding officials of the county shall perform the required functions, unless otherwise provided by order of the county court. The county court may issue

improvement bonds in the total amount of the valid applications it has received to pay assessments in instalments as provided in ORS 223.205 to 223.385.

[1955 c.685 §13; 1961 c.576 §16]

451.540 Tax levy for financing sewage works; revolving fund. The county court may, for the purpose of establishing a revolving fund to provide money to finance the construction under ORS 451.410 to 451.585 of such sewage works in the county as may be necessary and in implementation of the master plans provided for in ORS 451.120, levy an ad valorem tax of not to exceed one-half mill per year, for a period not to exceed five years, on each dollar of true cash value of taxable property within a district established under ORS 451.410 to 451.585. The revenues derived from such taxes shall be deposited with the county treasurer and credited to such revolving fund. Moneys in the revolving fund shall be disbursed by the county treasurer on order of the county court and used solely for the purposes authorized in ORS 451.410 to 451.585.

[1955 c.685 §14; 1961 c.576 §17]

451.545 Bond issue for financing sewage works. (1) The county may, when authorized by a majority of the votes cast at an election by voters of a district established under ORS 451.410 to 451.585, issue general obligation bonds for the purpose of paying the cost of acquisition or construction of sewage works. Each issue of general obligation bonds shall be the general obligation of the district and the principal and interest thereon shall be paid by such district by assessments, charges, or ad valorem taxes imposed or levied within the district as may be determined by the county court under ORS 451.490. Bonds authorized by this section shall be issued in accordance with ORS 287.052 to 287.074, except as otherwise provided in this section.

(2) The district's total outstanding bonds of all kinds, including improvement bonds of the kind authorized by ORS 223.205 to 223.300, shall at no time exceed in the aggregate 13 percent of the true cash value of all property by law assessable for state and county purposes within the district. The true cash value shall be determined by dividing the assessed value of the property within the district by the assessment ratio or ratios for the county in which the district is located. The assessed value shall be the value used in

computing the taxes for the district in the certification made pursuant to ORS 311.105 for the most recent fiscal year. The assessment ratio or ratios shall be taken from the statement filed by the State Tax Commission pursuant to ORS 309.370 for the most recent fiscal year.

[1961 c.576 §19]

451.547 Tax base election and tax levies authorized. A district created under ORS 451.410 to 451.585 may vote to establish a tax base in accordance with Article XI, section 11, Constitution of the State of Oregon, and thereafter the county court, acting as the levying authority of the district, may levy ad valorem taxes on property within the district for the purposes authorized by ORS 451.410 to 451.585. An election to establish a tax base may be called by the county court and held in the same manner provided by law for the calling and holding of an election to establish a new tax base. If a district has voted a tax base in accordance with this section, the provisions of ORS 294.305 to 294.415 shall apply to the district.

[1961 c.576 §20]

451.550 Powers of county court under ORS 451.410 to 451.585. For the purpose of carrying out the powers granted to the county court under other provisions of ORS 451.410 to 451.585, the county court may:

(1) Supervise, manage, control, operate and maintain sewage works constructed under ORS 451.410 to 451.585.

(2) Compel all residents and property owners in a district established under ORS 451.410 to 451.585 to connect their houses and structures requiring sewage disposal with adjacent sewers or other sewage disposal facilities in the district.

(3) Acquire by purchase, gift, devise, condemnation proceedings or by any other means, such real and personal property and rights of way, either within or without the county, as in the judgment of the county court are necessary or proper in the exercise of its powers under ORS 451.410 to 451.585, and to pay for and hold the same.

(4) Make and accept contracts, deeds, releases and documents which, in the judgment of the county court, are necessary or proper in the exercise of the powers of the county court under ORS 451.410 to 451.585.

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

(6) Lay its sewers in any public street,

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

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

[1955 c.685 §15]

451.560 County court may make agreements for cooperative financing of sewage works, or for use, lease or joint operation of sewage works. (1) The county court may enter into agreements with any city, any county, the Federal Government, the state or any of its agencies, any district organized for a public purpose or any person for a period not to exceed 30 years for the cooperative financing of the construction, maintenance and operation of sewage works constructed under ORS 451.410 to 451.585.

(2) The county court may enter into agreements with any county, city, district organized for a public purpose or person for the use, lease or joint operation of any sewage works, or any portion thereof.

[1955 c.685 §16]

451.565 Transfer of assets and liabilities of sanitary district to county. A sanitary district formed under ORS 450.005 to 450.303 may be dissolved and its property and other assets and liabilities transferred to the county for administration as a district under ORS 451.410 to 451.585 in the manner prescribed by ORS 264.610 to 264.630 for domestic water supply corporations. Transfer of assets and liabilities and assumption of obligations by the county for administration as a district under this section shall be in the same manner as prescribed for irrigation districts under subsection (3) of ORS 264.630.

[1961 c.576 §21]

451.570 County may adopt and enforce regulations for sewage disposal, garbage removal, street cleaning and sanitary purposes; publication of regulations required. (1) For the protection of the public health, safety and general welfare, the county court may adopt and enforce reasonable and necessary regulations for:

(a) The control of sewage disposal in a district established under ORS 451.410 to 451.585.

(b) The removal of garbage and other deleterious substances in such district.

(c) The cleanliness of roads and streets of such districts.

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

(2) Such regulations shall not be effective until copies thereof are posted for at least two successive weeks in three conspicuous places in a district and published once a week for two successive weeks in a newspaper of general circulation published in the district or, if there is no such newspaper, in a newspaper of general circulation published in the county.

[1955 c.685 §17]

451.580 Disposition of moneys received under ORS 451.410 to 451.585. Except as otherwise provided in ORS 451.410 to 451.585, all moneys received by the county court under ORS 451.410 to 451.585 shall be paid to the county treasurer and deposited by him in the county sanitary fund. The county court may, by ordinance, establish separate accounts in the county sanitary fund or separate funds in the county treasury for the segregation of sinking or reserve funds or accounts, of operating funds or accounts for the various districts established under ORS 451.410 to 451.585 or of any other funds or accounts found necessary or expedient by the county court. However, no moneys received under ORS 451.410 to 451.585 shall be used for any purpose other than for carrying out the purposes of ORS 451.410 to 451.585.

[1955 c.685 §18]

451.585 Duty of city when all or part of district annexed or incorporated. (1) Whenever the entire area of a district is incorporated in or annexed to a city in accordance with law, the district shall be extinguished and the city shall upon the effective date of such annexation succeed to all the assets and become charged with all the liabilities, obligations and functions of the district. The district officers shall forthwith deliver to the city officers the district assets and records. Uncollected taxes theretofore levied by such district shall become the property of the city and be delivered to it by the county treasurer upon collection.

(2) Whenever a part less than the whole

of a district becomes incorporated in or annexed to a city in accordance with law, the city may at any time after such incorporation or annexation cause that part to be withdrawn from such district in the manner set forth in ORS 222.524, and the provisions of ORS 222.510 to 222.580 shall be applicable to such withdrawal except that in case the district and the city cannot agree upon a division of assets or obligations and liabilities, then and in such case, either the district or the city may petition the circuit court for the county in which the city has its legal situs to determine such division.

[1961 c.576 §§22, 23]

451.590 Entry upon privately owned lands by county to survey or lay out sewage disposal facilities. Officers and employes of a county may enter upon privately owned lands to survey or lay out sewage disposal facilities by direction of the county court or board of county commissioners. However, the county court or board of county commissioners shall cause notification to be given to each occupant of the lands, either by registered or certified mail or by other lawful means. This notice shall be given at least

five days before the county officers or employes enter upon the lands. No officer or employe of a county entering privately owned lands pursuant to this section shall damage or destroy trees, shrubs, buildings or other items of value on that land without first obtaining the consent of the owner.

[1959 c.673 §1]

451.600 Restrictions on altering, repairing or connecting with a county sewage disposal facility. No person shall alter, repair or make a connection with any sewage disposal facility maintained by a county, unless that person:

(1) Obtains permission from the county court or board of county commissioners of the county that maintains the facility, and pays all deposits, charges or fees required by the county for granting such permission, before undertaking the work; and

(2) Complies with ORS 447.010 to 447.140 in performing the work.

[1959 c.673 §2; 1961 c.576 §18]

451.610 to 451.980 [Reserved for expansion]

451.990 Penalties. Violation of ORS 451.600 is a misdemeanor.

[1959 c.673 §3]

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 1, 1961.

Sam R. Haley
Legislative Counsel