TITLE 45

WATER RESOURCES: IRRIGATION, DRAINAGE, FLOOD CONTROL, RECLAMATION

Chapter 536. State Engineer; State Water Resources Board
537. Appropriation of Water Generally
538. Withdrawal of Certain Waters from Appropriation; Special Municipal and County Water Rights
539. Determination of Water Rights Initiated before February 24, 1909
540. Distribution of Water; Watermasters; Change in Use, Transfer or Abandonment of Water Rights
541. Miscellaneous Provisions as to Water Rights and Uses
542. Water Resource Surveys and Projects; Compacts
543. Hydroelectric Power Projects
545. Irrigation Districts
547. Drainage Districts
548. Provisions Applicable Both to Drainage Districts and to Irrigation Districts
549. Drainage and Flood Control Generally
550. Flood Control Districts (Island School Districts)
551. Diking Districts
552. Water Conservation Districts
553. Water Control Districts
554. Corporations for Irrigation, Drainage, Water Supply or Flood Control
555. Reclamation Projects
558. Weather Modification

Chapter 536

1961 REPLACEMENT PART

State Engineer; State Water Resources Board

STATE ENGINEER

536.010 Appointment of State Engineer; term; qualifications; duties; powers; facilities; expenses; reports
536.030 Bond and oath
536.035 Deputy state engineer
536.040 Public records; copies as evidence
536.050 Fees collected by State Engineer
536.060 Appeal from State Engineer
536.070 Legal advice and services
536.080 Effect of records of former State Water Board and State Water Superintendent

STATE WATER RESOURCES BOARD

536.210 Definitions for ORS 536.210 to 536.550
536.220 Legislative declaration of policy regarding water resources
536.230 State Water Resources Board created; appointment, terms and qualifications of members
536.240 Mileage and expenses of board members

536.250 Officers of board; quorum; offices
536.260 Meetings of board
536.270 State Engineer as engineer for board; special assistants
536.280 Attorney General as legal adviser of board; special assistants
536.290 Secretary and other personnel of board
536.300 Formulation of state water resources policy
536.310 Purposes and policies to be considered in formulating state water resources policy
536.320 Limitation of powers of board
536.330 Water resources Act supplemental to existing statutes
536.340 Classification of water as to highest and best use; enforcement of laws concerning loss of water rights; prescribing preferences for particular uses in future
536.350 Delivery of copy of water resources policy statement to state agencies and public corporations affected
536.360 State agencies and public corporations to conform to statement of state water resources policy
536.370 Exercise of power in conflict with state water resources policy not effective until approved by board
536.380 Filing notification of proposed exercise of power involving water resources with board; review and determination by board
536.390 Approval without filing notification
536.400 Application to court to compel compliance with state water resources policy
536.410 Withdrawal of unappropriated waters from appropriation by board order
536.420 Board to represent state in preparing, entering into and carrying out compacts and agreements with other states or the Federal Government concerning water resources, including Goose Lake
536.430 Board to devise plans and programs for development of water resources
536.440 Investigations and studies
536.450 Assistance by board to other persons and agencies
536.460 Preparation and submission of information or recommendations to other persons or agencies
536.470 Coordination of local, state, interstate and federal programs
536.480 Making available information concerning water resources
536.490 Attendance at conferences and meetings
536.500 Acceptance and expenditure of moneys from public and private sources
536.510 Conduct of board hearings
536.520 State agencies and public corporations furnishing information and services to board
536.530 Biennial report
536.540 Approval of voucher claims
536.550 Rules and regulations
536.560 Appeal from order, rule or regulation of board

MISCELLANEOUS PROVISIONS

536.570 Moneys and securities of irrigation districts in possession of State Engineer; deposit with State Treasurer
536.580 Rights acquired prior to August 3, 1955, not affected
536.590 Rights acquired prior to January 1, 1956, not affected

CROSS REFERENCES

Administrative procedures and rules of state agencies, Ch. 183

536.010

Committee on Natural Resources, State Engineer to serve on, 184.410
Hydroelectric projects, Ch. 543
Klamath River Basin Compact, duties of State Engineer in connection with, 542.620, 542.630
Public utility districts, duties regarding, Ch. 261
Release of water from impoundment or diversion structures, 541.510 to 541.545
Rights prior to January 1, 1956, not affected, 536.590
Salary of State Engineer, 292.585
Sanitary Authority, State Engineer to serve on, 449.015
Soil conservation districts, water conservation, 568.552
Traveling expenses, 292.210 to 292.298
Watermasters, 540.071
Water Resources Board, State Engineer as engineer for, 536.270
Watershed protection and flood prevention projects, cooperative studies, 542.750
Water well contractors and operators, licensing, 537.747 to 537.759

536.030

Premium on bond, allowance for cost of, 747.110

536.040

Report of well driller before commencing construction, confidentiality of, 537.762

536.050

Fees to be paid into State Treasury promptly, 291.436
Watermasters, handling funds collected for, 540.135

STATE WATER RESOURCES BOARD

Fishway or hatchery facilities, review of requirement of, 498.732, 509.645

536.220

Planning and development of resources, 184.110, 184.120
Policy with reference to ground water, 537.525

536.240

Traveling expenses, 292.210 to 292.298

536.280

Attorney, employment by state agency, 180.220, 180.230

536.290

Attorney, restriction on employment of, 180.220, 180.230
Salary of secretary, 292.785

536.300

Coordination of research on power, 184.170
Klamath River Basin Compact, 542.620
Test stream and watershed study by Agricultural Experiment Station of Oregon State University, 542.710

536.340

Cancellation of abandoned water right by State Engineer, 540.631, 543.730

536.380

Fishway or hatchery facilities, approval, 498.732, 509.645

536.420

Klamath River Basin Compact, State Engineer as representative, 542.630
Water pollution control agreements by State Sanitary Authority, 449.092

536.570

Depository of moneys and securities of irrigation districts, State Engineer to act as, 545.332, 548.400
Surrender of securities, payment of money deposited with State Engineer, 548.405 to 548.415

STATE ENGINEER

536.010 Appointment of State Engineer; term; qualifications; duties; powers; facilities; expenses; reports. (1) The Governor, with the approval of the State Water Resources Board, shall appoint as State Engineer a hydraulic engineer qualified by training and experience, who shall serve for a term of four years unless sooner removed by the Governor.

(2) The State Engineer shall perform the duties prescribed by law for him.

(3) He may employ assistants, provide material and supplies and incur expenses, necessary for the proper conduct of the business of his office. His office shall be located in the state capital.

(4) He and his authorized assistants and agents may enter upon any private property for the performance of their duties, doing no unnecessary injury thereto.

(5) He shall receive actual traveling and other necessary expenses incurred in the discharge of his official duties.

(6) He shall prepare and deliver to the Governor, on or before November 30 of the year preceding the regular session of the legislature and at other times when required by the Governor, a full report of the work of his office, including a detailed statement of expenditures, with recommendations for legislation he deems advisable.
[Amended by 1955 c.707 §66]

536.020 [Repealed by 1955 c.707 §75]

536.030 Bond and oath. Before entering upon the duties of his office the State Engineer shall give bond to the state with sufficient sureties in the sum of $5,000 for the faithful performance of his duties. The bond shall be approved by and filed in the office of the Secretary of State, together with the following oath of office:

I, ———, being duly sworn, say that I am the duly appointed State Engineer of Oregon, and that I will faithfully and honestly perform the duties of such office, and that I am not directly or indirectly, pecuniarily or otherwise interested with any person using or to use any of the waters of the state for any beneficial purpose, in such use thereof, and will not during my term of office become so interested therein or receive any pecuniary aid or benefit therefrom, and shall not permit any assistant employed by me to be so interested or receive any pecuniary aid or benefit from such person while so employed.

536.035 Deputy state engineer. The State Engineer shall appoint a deputy state engineer who shall hold office at the pleasure of the State Engineer. In the absence of the State Engineer or while the office of State Engineer is vacant, the deputy state engineer has the power to do and perform all the acts and duties that are authorized or required to be performed by the State Engineer. Unless otherwise provided by ORS 292.505 to 292.790, the State Engineer shall fix the salary of the deputy state engineer.
[1955 c.513 §1]

536.040 Public records; copies as evidence. The records of the office of the State Engineer are public records and shall remain on file in his office and be open to the inspection of the public at all times during business hours. The records shall show in full all maps, profiles, and engineering data relating to the use of water, and certified copies thereof shall be admissible as evidence in all cases where the original would be admissible as evidence.

536.050 Fees collected by State Engineer. The following fees shall be collected by the State Engineer in advance, and paid by him into the General Fund of the State Treasury:

(1) For examining an application for permit to appropriate water, $10.

(2) For filing and recording permit to appropriate water:

(a) For irrigation purposes, $5 for the first 30 acres, or fraction thereof, to be irrigated; 15 cents for each acre in excess of 30 acres up to and including 100 acres; five cents for each acre in excess of 100 up to and including 1,000 acres; and one cent for each acre in excess of 1,000 acres.

(b) For power purposes, 25 cents for each theoretical horsepower to be developed up to and including 100; 10 cents for each horsepower in excess of 100 up to and including 1,000; and five cents for each horsepower in excess of 1,000.

(c) For storage, a minimum fee of $5 for the first 100 acre-feet; one cent for each acre-foot in excess of 100 up to and including 1,000 acre-feet; one-half cent for each acre-foot in excess of 1,000 up to and including 20,000 acre-feet; and one-tenth cent per acre-foot for all in excess of 20,000 acre-feet.

(d) For any other purpose, $10 for the first second-foot or fraction thereof and $2 for each additional second-foot.

(3) For filing or recording any other water right instrument, $1 for the first 100 words and 10 cents for each additional 100 words or fraction thereof.

(4) For making copy of any document recorded or filed in his office, 10 cents for each 100 words or fraction thereof; but where the amount exceeds $5, then only the actual cost in excess of that amount shall be charged.

(5) For certifying to copies, documents, records, or maps, $1 for each certificate.

(6) For blueprint copy of any map or drawing, 10 cents per square foot or fraction thereof. For such other work as may be required of his office, actual cost of the work.

(7) For examining an application for approval of a change in point of diversion, or a change in place of use or change in use of water, $10.

(8) For filing each application to transfer water rights for irrigation from one tract of land to another or to transfer to irrigation use from any other use, a minimum fee of $5 for the first 30 acres or fraction thereof; 15 cents for each acre in excess of 30 acres up to and including 100 acres; five cents for each acre in excess of 100 acres up to and including 1,000 acres; and one cent for each acre in excess of 1,000 acres, such fees to be based upon the number of acres to which the water right is transferred.

(9) For filing each application for change in point of diversion, $5.

(10) For filing each application for a change in the use theretofore made of the water where the use is other than irrigation, $10.

(11) For filing any protest with the State Engineer, $2.

(12) For filing an application for extension of time within which irrigation or other works shall be completed or the right perfected, $2.

[Amended by 1961 c.187 §3]

536.060 Appeal from State Engineer. Any person who deems himself aggrieved by any order or regulation of the State Engineer may appeal from the same to the circuit court of the county in which the property affected thereby, or any part thereof, is situated. The appeal may be carried from the circuit court to the Supreme Court, and shall be governed by the practice in suits in equity.

536.070 Legal advice and services. The Attorney General, and the district attorney of the county in which legal questions arise, shall be the legal advisors of the State Engineer, and shall perform all legal duties necessary in connection with his work, without other compensation than their salaries as fixed by law.

536.080 Effect of records of former State Water Board and State Water Superintendent. The transfer of functions from the former State Water Board and State Water Superintendent to the State Engineer, effected by chapter 283, Oregon Laws 1923, shall not impair the legal force and effect in any water right adjudication, suit, action or other proceeding before the State Engineer, or in the courts or other tribunals of the state, of the official records of, or any evidence filed with, said State Water Board or State Water Superintendent.

536.090 to 536.200 [Reserved for expansion]

STATE WATER RESOURCES BOARD

536.210 Definitions for ORS 536.210 to 536.550. As used in ORS 536.210 to 536.550, unless the context requires otherwise:

(1) "Board" means the State Water Resources Board created by ORS 536.230.

(2) "Public corporation" includes any city, county or district organized for public purposes.

(3) "State agency" includes any office, board, commission or department of a state government.

(4) "State water resources policy" means the water resources policy provided for in ORS 536.300 to 536.350.

(5) "Water resources of this state" or "waters of this state" means any surface or ground waters located within or without this state and over which this state has sole or concurrent jurisdiction.

(6) "Existing rights" or "vested rights" or words of similar import include inchoate rights to the use of water to the fullest extent that the same are recognized, defined or declared by any court within this state or by the State Engineer.

[1955 c.707 §2]

536.220 Legislative declaration of policy regarding water resources. (1) The Legislative Assembly recognizes and declares that:

(a) The maintenance of the present level of the economic and general welfare of the

people of this state and the future growth and development of this state for the increased economic and general welfare of the people thereof are in large part dependent upon a proper utilization and control of the water resources of this state, and such use and control is therefore a matter of greatest concern and highest priority.

(b) A proper utilization and control of the water resources of this state can be achieved only through a coordinated, integrated state water resources policy, through plans and programs for the development of such water resources and through other activities designed to encourage, promote and secure the maximum beneficial use and control of such water resources, all carried out by a single state agency.

(c) The economic and general welfare of the people of this state have been seriously impaired and are in danger of further impairment by the exercise of some single-purpose power or influence over the water resources of this state or portions thereof by each of a large number of public authorities, and by an equally large number of legislative declarations by statute of single-purpose policies with regard to such water resources, resulting in friction and duplication of activity among such public authorities, in confusion as to what is primary and what is secondary beneficial use or control of such water resources and in a consequent failure to utilize and control such water resources for multiple purposes for the maximum beneficial use and control possible and necessary.

(2) The Legislative Assembly, therefore, finds that it is in the interest of the public welfare that a coordinated, integrated state water resources policy be formulated and means provided for its enforcement, that plans and programs for the development and enlargement of the water resources of this state be devised and promoted and that other activities designed to encourage, promote and secure the maximum beneficial use and control of such water resources and the development of additional water supplies be carried out by a single state agency which, in carrying out its functions, shall give proper and adequate consideration to the multiple aspects of the beneficial use and control of such water resources with an impartiality of interest except that designed to best protect and promote the public welfare generally.

[1955 c.707 §1]

536.230 State Water Resources Board created; appointment, terms and qualifications of members. (1) There is created the State Water Resources Board, consisting of seven members appointed by the Governor, subject to approval by the Senate under subsection (3) of this section.

(2) Of the members of the board first appointed, one shall serve for one year, two for two years, two for three years and two for four years, from the date of their appointment. Thereafter, each member of the board shall be appointed for a term of four years from the date of the expiration of the term for which his predecessor was appointed, except that a vacancy occurring before the expiration of a term shall be filled by appointment for the remainder of the unexpired term only.

(3) The appointment of each member of the board is subject to approval by a two-thirds vote of the Senate. If an appointment is made in the interim between legislative sessions, the Governor shall submit the appointment to the Senate at the next succeeding regular or special session thereof. If an appointment submitted by the Governor is disapproved by the Senate, the office to which the appointment was made shall be deemed vacant and the Governor shall submit additional appointments until one is approved. If an appointment submitted by the Governor is not expressly disapproved during the legislative session, it shall be deemed approved.

(4) Members of the board shall be citizens of the United States and residents of this state.

[1955 c.707 §3]

536.240 Mileage and expenses of board members. Members of the board shall receive no compensation for their services as members, but, subject to any other applicable law regulating mileage and traveling and other expenses for state officers, shall receive their actual and necessary traveling and other expenses incurred in the performance of their official functions.

[1955 c.707 §4]

536.250 Officers of board; quorum; offices. (1) The board shall select one of its members as chairman, and another as vice chairman, for such terms and with such powers and duties necessary for the performance of the functions of such offices as the board shall determine.

(2) A majority of the board constitutes a quorum for the transaction of business.

(3) The board shall maintain its principal office in Salem. The Secretary of State shall provide the board with suitable offices.
[1955 c.707 §5]

536.260 Meetings of board. (1) The board shall meet once every three months at a place, day and hour determined by the board, and shall meet at such other times and places specified by the call of the chairman or of a majority of the members of the board.

(2) All meetings of the board shall be open to the public, except that meetings for the consideration of and action upon matters involving the management of internal affairs of the board and its employes may be held in executive session.
[1955 c.707 §6]

536.270 State Engineer as engineer for board; special assistants. The State Engineer is the engineer for the board, and shall perform such functions in that capacity as the board may require, as long as not inconsistent with his duties as State Engineer. When necessary and authorized by the board, the State Engineer may employ special assistants to assist him in carrying out his functions as engineer for the board. The compensation of such special assistants shall be fixed and paid by the board. Except as otherwise provided in ORS 536.290, such special assistants, their employment and compensation are subject to any applicable provision of the State Civil Service Law.
[1955 c.707 §7]

536.280 Attorney General as legal adviser of board; special assistants. The Attorney General is the legal adviser of the board. When necessary and authorized by the board, the Attorney General may employ special assistants to assist him in carrying out his functions as legal adviser of the board. The compensation of such special assistants shall be fixed and paid by the board. Except as otherwise provided in ORS 536.290, such special assistants, their employment and compensation are subject to any applicable provision of the State Civil Service Law.
[1955 c.707 §8]

536.290 Secretary and other personnel of board. The board shall employ a secretary and, in its discretion, may employ such other personnel, including engineering, legal and other technical personnel, as may be necessary to facilitate and assist in carrying out its functions. The board shall fix and pay the compensation of such secretary and other personnel. Except as otherwise provided in this section, all employes of the board, their employment and compensation are subject to any applicable provision of the State Civil Service Law. Persons employed under this section or ORS 536.270 or 536.280 in a professional or scientific capacity to make or conduct temporary and special investigations, surveys or studies on behalf of the board, their employment and compensation are not subject to the State Civil Service Law.
[1955 c.707 §9]

536.300 Formulation of state water resources policy. (1) The board shall proceed as rapidly as possible to study: existing water resources of this state; means and methods of conserving and augmenting such water resources; existing and contemplated needs and uses of water for domestic, municipal, irrigation, power development, industrial, mining, recreation, wildlife, and fish life uses and for pollution abatement, all of which are declared to be beneficial uses, and all other related subjects, including drainage and reclamation.

(2) Based upon said studies and after an opportunity to be heard has been given to all other state agencies which may be concerned, the board shall progressively formulate an integrated, coordinated program for the use and control of all the water resources of this state and issue statements thereof.
[1955 c.707 §10(1), (2)]

536.310 Purposes and policies to be considered in formulating state water resources policy. In formulating the water resources program under subsection (2) of ORS 536.300, the board shall take into consideration the purposes and declarations enumerated in ORS 536.220 and also the following additional declarations of policy:

(1) Existing rights, established duties of water, and relative priorities concerning the use of the waters of this state and the laws governing the same are to be protected and preserved subject to the principle that all of the waters within this state belong to the public for use by the people for beneficial purposes without waste;

(2) It is in the public interest that integration and coordination of uses of water

and augmentation of existing supplies for all beneficial purposes be achieved for the maximum economic development thereof for the benefit of the state as a whole;

(3) That adequate and safe supplies be preserved and protected for human consumption, while conserving maximum supplies for other beneficial uses;

(4) Multiple-purpose impoundment structures are to be preferred over single-purpose structures; upstream impoundments are to be preferred over downstream impoundments. The fishery resource of this state is an important economic and recreational asset. In the planning and construction of impoundment structures and mill-dams and other artificial obstructions, due regard shall be given to means and methods for its protection;

(5) Competitive exploitation of water resources of this state for single-purpose uses is to be discouraged when other feasible uses are in the general public interest;

(6) In considering the benefits to be derived from drainage, consideration shall also be given to possible harmful effects upon ground water supplies and protection of wildlife;

(7) The maintenance of minimum perennial stream flows sufficient to support aquatic life and to minimize pollution shall be fostered and encouraged if existing rights and priorities under existing laws will permit;

(8) Watershed development policies shall be favored, whenever possible, for the preservation of balanced multiple uses, and project construction and planning with those ends in view shall be encouraged;

(9) Due regard shall be given in the planning and development of water recreation facilities to safeguard against pollution;

(10) It is of paramount importance in all cooperative programs that the principle of the sovereignty of this state over all the waters within the state be protected and preserved, and such cooperation by the board shall be designed so as to reinforce and strengthen state control;

(11) Local development of watershed conservation, when consistent with sound engineering and economic principles, is to be promoted and encouraged; and

(12) When proposed uses of water are in mutually exclusive conflict or when available supplies of water are insufficient for all who desire to use them, preference shall be given to human consumption purposes over all other uses and for livestock consumption, over any other use, and thereafter other beneficial purposes in such order as may be in the public interest consistent with the principles of this Act under the existing circumstances.

[1955 c.707 §10(3)]

536.320 Limitation of powers of board. The board shall not have power:

(1) To interfere with, supervise or control the internal affairs of any state agency or public corporation;

(2) To modify, set aside or alter any existing right to use water or the priority of such use established under existing laws; or

(3) To modify or amend any standard or policy as prescribed in ORS 536.310 nor to adopt any rule or regulation in conflict therewith.

[1955 c.707 §10(4)]

536.330 Water resources Act supplemental to existing statutes. This Act shall be construed by the board as supplemental to existing statutes and not in lieu thereof except to the extent that existing statutes are expressly amended or repealed by this Act.

[1955 c.707 §10(5)]

536.340 Classification of water as to highest and best use; enforcement of laws concerning loss of water rights; prescribing preferences for particular uses in future. Subject at all times to existing rights and priorities, the board:

(1) May classify and reclassify the lakes, streams, underground reservoirs or other sources of water supply in this state as to the highest and best use thereof for the future in aid of an integrated and balanced program for the benefit of the state as a whole; and the board may so classify portions of any such lakes, streams or other sources of supply separately;

(2) Shall diligently enforce existing laws concerning cancelation, release and discharge of excessive unused claims to water to the end that such excessive and unused amounts may be made available for appropriation and beneficial use by the public; and

(3) May, subject to existing rights and priorities and subject to the preferential uses named in subsection (12) of ORS 536.310, prescribe preferences for the future for particular uses of the waters of any lake, stream or other source of supply in aid of the highest and best beneficial use thereof;

and in so doing it shall give effect and due regard to the natural characteristics of such streams or other sources of supply, the adjacent topography, the economy of such streams or other sources of supply, the economy of the affected area, seasonal requirements of various users of said water, the type of proposed use as between consumptive and nonconsumptive uses, and other pertinent data.
[1955 c.707 §10(6)]

536.350 Delivery of copy of water resources policy statement to state agencies and public corporations affected. The board shall deliver a copy of each water resources statement referred to in subsection (2) of ORS 536.300 to each state agency or public corporation of this state which may be concerned with or which may carry on activities likely to affect the use or control of the water resources of this state in any particular. Each state agency or public corporation of this state which receives from the board a copy of a water resources statement shall give to the board a receipt therefor. A copy of any such statement duly certified by the secretary of the board to be a full, true and correct copy shall be received in evidence in any court in the state and if the certificate of the secretary shall recite that a copy thereof was delivered to a particular state agency or public corporation of this state, it shall be presumed that the same was actually delivered as stated in said certificate.
[1955 c.707 §10(7)]

536.360 State agencies and public corporations to conform to statement of state water resources policy. In the exercise of any power, duty or privilege affecting the water resources of this state, every state agency or public corporation of this state shall give due regard to the statements of the board and shall conform thereto. No exercise of any such power, duty or privilege by any such state agency or public corporation which would tend to derogate from or interfere with the state water resources policy shall be lawful.
[1955 c.707 §11]

536.370 Exercise of power in conflict with state water resources policy not effective until approved by board. (1) No exercise by any state agency or public corporation of this state which has received a copy of a state water resources statement as provided in ORS 536.350, of any power, duty or privilege, including the promulgating or undertaking of any order, rule, regulation, plan, program, policy, project or any other activity, which would in any way conflict with the state water resources policy as set forth in the statement, shall be effective or enforceable until approved by the board as provided in subsection (2) of this section.

(2) The exercise of any power, duty or privilege referred to in subsection (1) of this section shall be deemed approved by the board if:

(a) The board grants its approval as provided in ORS 536.390; or

(b) The board does not notify the state agency or public corporation within 30 days after the filing of the notification as provided in subsection (1) of ORS 536.380 of the intention of the board to review the proposed exercise of the power, duty or privilege; or

(c) The board grants its approval as provided in subsection (4) of ORS 536.380.
[1955 c.707 §12]

536.380 Filing notification of proposed exercise of power involving water resources with board; review and determination by board. (1) Except as otherwise provided in ORS 536.390, whenever any state agency or public corporation of this state which has received a copy of a state water resources statement as provided in ORS 536.350, proposes to exercise any power, duty or privilege referred to in subsection (1) of ORS 536.370, it shall first file with the board a notification of the proposed exercise. The notification shall be in such form and shall contain a description of the proposed exercise and such other information as the board may require. The notification shall be a public record in the office of the board.

(2) Within 30 days after the filing of the notification as provided in subsection (1) of this section, the board shall notify the state agency or public corporation of the intention of the board to review the proposed exercise of the power, duty or privilege, if:

(a) The board, in its discretion, determines that a review should be undertaken; or

(b) A protest against the proposed exercise is filed with the board within 25 days after the filing of the notification as provided in subsection (1) of this section by any person, state agency or public corporation of this state or agency of the Federal Government.

(3) The board, in its discretion, may hold a public hearing on the proposed exercise of the power, duty or privilege. The board shall determine the time and place of the public hearing, and shall give written notice thereof to the state agency or public corporation whose proposed exercise of a power, duty or privilege is being reviewed and to each protestant under paragraph (b) of subsection (2) of this section, if any, at least 10 days prior to the hearing. Notice of the hearing shall also be published in at least one issue each week for at least two consecutive weeks prior to the hearing in a newspaper of general circulation published in each county in which the proposed exercise of the power, duty or privilege is to take place or be effective.

(4) After the board has notified the state agency or public corporation of the intention of the board to review the proposed exercise of the power, duty or privilege as provided in subsection (2) of this section, the board shall undertake the review and proceed therewith with reasonable diligence. At the conclusion of the review the board shall make a determination approving the proposed exercise, approving the proposed exercise subject to conditions specified in the determination or disapproving the proposed exercise. A copy of the determination by the board shall be delivered to the state agency or public corporation whose proposed exercise of a power, duty or privilege was reviewed and to each protestant under paragraph (b) of subsection (2) of this section, if any.
[1955 c.707 §14]

536.390 Approval without filing notification. The board may enter into agreements or provide by orders, rules or regulations whereby it approves the exercise of any one or more of the powers, duties or privileges referred to in subsection (1) of ORS 536.370 by a state agency or public corporation of this state which has received a copy of a state water resources statement as provided in ORS 536.350, without the filing of the notification as provided in subsection (1) of ORS 536.380. Each agreement, order, rule or regulation shall specifically provide for the modification or revocation thereof at the discretion of the board and upon reasonable notice to the state agency or public corporation, and may contain such other conditions, limitations or requirements as the board, in its discretion, may require to insure the accomplishment of the purposes of the state water resources policy.
[1955 c.707 §13]

536.400 Application to court to compel compliance with state water resources policy. (1) As used in subsection (2) of this section, "violation" means any exercise or attempt to exercise by any state agency or public corporation of this state which has received a copy of a state water resources statement as provided in ORS 536.350, of any power, duty or privilege which would in any way conflict with the state water resources statement, without the approval of the board as provided in subsection (2) of ORS 536.370.

(2) The board, may apply to the circuit court of the county in which a violation is alleged to exist for the restraining by appropriate process of the commission or continuation of a violation, or for the enforcement by appropriate process of compliance with ORS 536.370 to 536.390.
[1955 c.707 §15]

536.410 Withdrawal of unappropriated waters from appropriation by board order. (1) When the board determines that it is necessary to insure compliance with the state water resources policy or that it is otherwise necessary in the public interest to conserve the water resources of this state for the maximum beneficial use and control thereof that any unappropriated waters of this state, including unappropriated waters released from storage or impoundment into the natural flow of a stream for specified purposes, be withdrawn from appropriation for all or any uses, the board, on behalf of the state, may issue an order of withdrawal.

(2) Prior to the issuance of the order of withdrawal the board shall hold a public hearing on the necessity for the withdrawal. Notice of the hearing shall be published in at least one issue each week for at least two consecutive weeks prior to the hearing in a newspaper of general circulation published in each county in which are located the waters proposed to be withdrawn.

(3) The order of withdrawal shall specify with particularity the waters withdrawn from appropriation, the uses for which the waters are withdrawn, the reason for the withdrawal and the duration of the withdrawal. The board may modify or revoke the order at any time.

(4) Copies of the order of withdrawal and notices of any modification or revocation

thereof shall be filed with the State Engineer.

(5) While the order of withdrawal is in effect, no application for a permit to appropriate the waters withdrawn for the uses specified in the order and no application for a preliminary permit or license involving appropriations of such waters shall be received for filing by the State Engineer.
[1955 c.707 §16; 1961 c.224 §11]

536.420 Board to represent state in preparing, entering into and carrying out compacts and agreements with other states or the Federal Government concerning water resources, including Goose Lake. (1) The board, or any one or more of its members designated by the board to represent it, shall be ex officio a party on behalf of and represent the state in the formulation, entering into and carrying out of any formal or informal compact or other agreement authorized by the Legislative Assembly concerning the use and control of the water resources of this state, between this state or any state agency or public corporation thereof and any other state, any state agency or public corporation thereof or the Federal Government or any agency thereof.

(2) As such ex officio party on behalf of and representative of the state, the board, or any one or more of its members designated by the board to represent it, shall make every effort practicable to insure that the compact or other agreement, as formulated, entered into and carried out, is in harmony with the state water resources policy and otherwise with the public interest in encouraging, promoting and securing the maximum beneficial use and control of the water resources of this state.

(3) The board in carrying out an investigation pertaining to water resources may cooperate with state agencies of California for the purpose of formulating, executing and submitting to the legislatures of Oregon and California for their approval, interstate compacts relative to the distribution and use of the waters of Goose Lake and tributaries thereto. No compacts or agreements formulated as provided in this section are binding upon this state until they have been approved by the legislature of this state and the Congress of the United States.

(4) Any state agency or public corporation of this state required or permitted by law to formulate, enter into or carry out any compact or other agreement referred to in subsection (1) of this section shall give timely and adequate notice to the board before it undertakes any action under such requirement or permission.
[1955 c.707 §17; 1961 c.298 §1]

536.430 Board to devise plans and programs for development of water resources. The board shall devise plans and programs for the development of the water resources of this state in such a manner as to encourage, promote and secure the maximum beneficial use and control thereof.
[1955 c.707 §18]

536.440 Investigations and studies. The board, by itself or in conjunction with any person, local voluntary committee or association, state agency or public corporation of this or any other state, any interstate agency or any agency of the Federal Government, may conduct such investigations, surveys or studies, including the holding of public hearings, relating to the water resources of this state as it deems necessary to facilitate and assist in carrying out its functions as provided by law.
[1955 c.707 §20]

536.450 Assistance by board to other persons and agencies. The board may make available technical advice and information for the purpose of assisting any person, local voluntary committee or association, state agency or public corporation of this state, any interstate agency or any agency of the Federal Government in the preparation, carrying into effect and properly sustaining any plan, program or project concerning the use or control of the water resources of this state in harmony with the state water resources policy or otherwise with the public interest in encouraging, promoting and securing the maximum beneficial use and control of the water resources of this state.
[1955 c.707 §19]

536.460 Preparation and submission of information or recommendations to other persons or agencies. The board may prepare and submit information or proposals and recommendations relating to the water resources of this state or the functions of the board as provided by law to any person, local voluntary committee or association, state agency or public corporation of this or any other state, any interstate agency, any agency of the Federal Government or any committee of the legislature of this or any other state or of the Congress of the United States.
[1955 c.707 §22]

536.470 Coordination of local, state, interstate and federal programs. The board may consult and cooperate with any state agency or public corporation of this or any other state, any interstate agency or any agency of the Federal Government for the purpose of promoting coordination between local, state, interstate and federal plans, programs and projects for the use or control of the water resources of this state or to facilitate and assist the board in carrying out its functions as provided by law.
[1955 c.707 §21]

536.480 Making available information concerning water resources. The board, in so far as practicable, shall make available, free or at cost, to the public and to any state agency or public corporation of this or any other state, any interstate agency or any agency of the Federal Government, information concerning the water resources of this state or the functions of the board as provided by law, including information relating to the state water resources policy, to any plan or program devised by the board for the development of the water resources of this state, to the results of any investigation, survey or study conducted by the board and to the results of any hearing held by the board.
[1955 c.707 §23]

536.490 Attendance at conferences and meetings. The board, or any member thereof or any other person designated by the board, may attend and participate in any public conference, meeting or hearing held within or without this state for the purpose of considering water resources problems.
[1955 c.707 §24]

536.500 Acceptance and expenditure of moneys from public and private sources. The board may accept and expend moneys from any public or private source, including the Federal Government, made available for the purpose of encouraging, promoting and securing the maximum beneficial use and control of the water resources of this state or to facilitate and assist in carrying out its functions as provided by law. All moneys received by the board under this section shall be deposited in the State Treasury and, unless otherwise prescribed by the source from which such moneys were received, shall be kept in separate accounts in the General Fund designated according to the purposes for which the moneys were made available. Notwithstanding the provisions of ORS 291.238, all such moneys are continuously appropriated to the board for the purposes for which they were made available and shall be expended in accordance with the terms and conditions upon which they were made available.
[1955 c.707 §25]

536.510 Conduct of board hearings. (1) The board may designate any one or more of its members or may appoint any other person as hearing officer to conduct and preside over any hearing which the board is required or permitted by law to hold.

(2) In conducting and presiding over any hearing which the board is required or permitted by law to hold, the board, any member thereof or a hearing officer appointed under subsection (1) of this section may:

(a) Take such evidence as may be necessary to a clear understanding of all matters involved but any order of the board shall be based upon competent evidence.

(b) Administer oaths, issue subpenas signed by any member of the board or the hearing officer, compel the attendance of and the testifying and giving of evidence by witnesses and compel the production of documentary evidence.

(c) Order the taking of depositions and issue commissions therefor.

(d) Adjourn the hearing from time to time on reasonable notice.

(3) In case of failure on the part of any person to comply with any subpena or order issued under paragraph (b) of subsection (2) of this section, or the refusal of any witness to testify to any matter regarding which he lawfully may be interrogated in hearings before the board, any member thereof or a hearing officer appointed under subsection (1) of this section, the circuit court of the county in which the hearing is held, or any judge thereof, upon application by the board, any member thereof or the hearing officer, shall issue attachment proceedings for contempt, as in the case of failure to comply with a subpena or order issued from such court or a refusal to testify therein.

(4) Witnesses in hearings before the board, any member thereof or a hearing officer appointed under subsection (1) of this section shall receive fees as in civil cases, to be paid by the party calling them, except that witnesses who appear voluntarily and give testimony upon their own initiative shall receive no fees therefor.

(5) All proceedings in such a hearing shall be reported and one transcript thereof shall be furnished at cost to any interested person.
[1955 c.707 §26]

536.520 State agencies and public corporations furnishing information and services to board. (1) In order to facilitate and assist in carrying out its functions as provided by law, the board may:

(a) Call upon state agencies or public corporations of this state to furnish or make available to the board information concerning the water resources of this state which such state agencies or public corporations have acquired or may acquire in the performance of their functions.

(b) Have access to the records, facilities or projects of state agencies or public corporations of this state, in so far as such records, facilities or projects may concern the water resources of this state or the functions of the board with regard thereto.

(c) Otherwise utilize the services, records and other facilities of state agencies or public corporations of this state to the maximum extent practicable.

(2) Upon request by the board, all officers and employes of state agencies or public corporations of this state shall cooperate to the maximum extent practicable with the board under subsection (1) of this section.

(3) Upon receipt and approval by the board of approved claims therefor, any special or extraordinary expense incurred by any state agency or public corporation of this state in cooperating with the board under this section shall be paid by the board.
[1955 c.707 §§27, 28]

536.530 Biennial report. The board shall prepare and submit a biennial report to the Legislative Assembly and the Governor. The report shall set forth the activities of the board for the period covered by the report, the expenditures of the board in carrying on such activities and such other information as the board may deem of interest. The board may include in the report proposals and recommendations designed to encourage, promote and secure the maximum beneficial use and control of the water resources of this state or to facilitate and assist in carrying out its functions as provided by law.
[1955 c.707 §29]

536.540 Approval of voucher claims. All voucher claims for indebtedness or expenses authorized and incurred by the board in carrying out its functions as provided by law shall be approved by the board or as provided in ORS 291.472.
[1955 c.707 §31]

536.550 Rules and regulations. The board may promulgate, and from time to time modify or rescind, such rules and regulations as it deems necessary to facilitate, assist and attain maximum efficiency in carrying out its functions as provided by law. The board may prepare and distribute, free or at cost, periodic compilations of its rules and regulations.
[1955 c.707 §30]

536.560 Appeal from order, rule or regulation of board. Any person, public corporation or state agency who deems himself aggrieved by any order, rule or regulation of the State Water Resources Board under this Act may appeal from the same to the circuit court of the county in which the property affected by such order, rule or regulation or any part of such property is situated. The appeal may be carried from the circuit court to the Supreme Court, and shall be governed by the practice in suits in equity.
[1955 c.707 §76]

MISCELLANEOUS PROVISIONS

536.570 Moneys and securities of irrigation districts in possession of State Engineer; deposit with State Treasurer. The State Engineer may deposit with the State Treasurer for safekeeping all moneys and securities which he has or which may come into his possession in connection with the reorganization, retirement or settlement of the bonds, warrants or other evidences of indebtedness of any irrigation district within the state. When so deposited with the State Treasurer he shall safely keep the same subject to call of the State Engineer.
[Formerly 544.050; amended by 1957 c.351 §3]

536.580 Rights acquired prior to August 3, 1955, not affected. Nothing in ORS 498.732, 509.645, 536.210 to 536.550 or 543.225, as enacted by chapter 707, Oregon Laws 1955, nor in the amendments made by chapter 707, Oregon Laws 1955, to ORS 225.290, 225.300, 261.325, 261.330, 498.730, 498.735, 498.740, 509.605, 509.610, 509.625, 509.640, 537.170, 537.200, 543.050 or 543.230, nor in sections 38, 41, 43, 45 or 50 of chapter 707, Oregon Laws 1955, shall be construed to take away or impair any right to

any waters or to the use of any waters vested and inchoate prior to August 3, 1955.
[1955 c.707 §55]

536.590 Rights acquired prior to January 1, 1956, not affected. Nothing in ORS 536.560, as enacted by chapter 707, Oregon Laws 1955, nor in the amendments made by chapter 707, Oregon Laws 1955, to ORS 182.410, 536.010, 542.110, 548.365, 552.015, 552.110, 552.120, 552.620, 555.030 or 555.070, nor in sections 58 to 65, 70 or 75 of chapter 707, Oregon Laws 1955, shall be construed to take away or impair any right to any waters or to the use of any waters vested or inchoate prior to January 1, 1956.
[1955 c.707 §77]

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