Chapter 554

Corporations for Irrigation, Drainage, Water Supply or Flood Control

GENERALLY

554.010 Incorporation authorized for irrigation, drainage, water supply or flood control
554.020 Articles of incorporation; acknowledgment; filing
554.030 Evidence of corporate existence
554.040 Contents of articles
554.050 Nonprofit corporations; further statements in articles
554.060 Verification of articles; attack on organization; defects or omissions
554.070 Membership; meetings; voting; proxies; voting trusts; quorum; removal of officers
554.080 Corporate existence; powers of corporation
554.090 Directors; qualifications; president; seal; secretary-treasurer; bond; exercise of corporate powers
554.100 Oath of office
554.110 Powers of directors
554.120 Records of proceedings of directors; lien docket; deposit of moneys; segregation of funds; accounting; warrant and bond register
554.130 Assessments; levy of; when payable; lien; foreclosure; service charges
554.140 Directors' duty to institute proceedings to enforce lien
554.150 Suit to compel assessment
554.160 Assessments to provide funds to meet obligations; custody, disbursement and disposal of funds; general operating expenses
554.170 Covenants by landowners; effect
554.180 Landowners' notice; contents
554.190 Recording notice; effect; lien on land; priority
554.200 Incurring indebtedness before notice recorded; scope of notice
554.210 Plans and specifications; how adopted
554.220 Bonds; denominations; interest; maturities; execution; coupons; amortized instalment obligations
554.230 Bonds; recitals; payment; liability of land
554.240 Retirement of bonds; conditions of sale; resolution authorizing bond issue; surrender of bonds in payment of assessments; debts not to exceed assessments or benefits
554.250 Refunding bonds
554.260 Contracts with governmental agencies or others for financial assistance or cooperative action
554.270 Purchase or lease of works, water rights, etc.; provision as to payment; serial coupon obligations
554.280 Resolution for serial coupon obligations; maturities; interest; retirement; recitals; fund for payment; assessments
554.290 Warrants to pay claims; interest-bearing warrants; assessments to pay warrants; limitation on amount of warrants
554.300 Amendment of articles to include or exclude land; dissolution of corporation; inclusion of lands by irrigation, drainage or flood control district
554.310 Organization fee; annual license fee; exemption of nonprofit corporations; annual report
554.320 Exemption from taxation
554.330 Surety bonds to be payable to corporation; corporate name to be used in suits; penalties to be recovered by corporation
554.340 Judicial determination of legality of proceedings, etc.

CORPORATIONS ORGANIZED UNDER 1911 ACT

554.410 Applicability of ORS 554.010 to 554.340 to corporations organized under 1911 Act
554.420 Amendment of articles, and landowners' notice, of corporation organized under 1911 Act
554.430 Applicability of 1911 Act, as amended, to corporations organized under that Act
554.440 Malheur Improvement Company; exclusion or inclusion of land

CROSS REFERENCES

Joint or cooperative action between irrigation districts and other water users' organizations, 545.124

Mutual and voluntary irrigation associations, 648.080

Organization of irrigation, drainage or flood control district by landowners subject to assessment by a district improvement company, 548.005

GENERALLY

554.010 Incorporation authorized for irrigation, drainage, water supply or flood control. Any number of landowners not less than three may incorporate themselves for the purpose of irrigating or draining their land or furnishing same with water for domestic use or protecting same by flood control or for any and all of such purposes in the manner provided in ORS 554.020 to 554.340.

554.020 Articles of incorporation; acknowledgment; filing. Such persons shall make and subscribe written articles of incorporation in triplicate and acknowledge the same before some officer authorized to take the acknowledgment of deeds, and file one of such articles in the office of the Corporation Commissioner, another in the county clerk's office of the county where the land incorporated is situated, and retain the third in the possession of the corporation.

554.030 Evidence of corporate existence. The articles of incorporation or a certified copy of the one filed with the Corporation Commissioner or county clerk shall be prima facie evidence of the existence of the corporation.

554.040 Contents of articles. The articles of incorporation shall specify:

(1) The duration of the corporation, if limited.

(2) The name assumed by the corporation and by which it shall be known, which name must include the words "district improvement company," except that a corporation organized under ORS 554.010 to 554.340 but not organized for profit, or a corporation incorporated before March 4, 1937, under chapter 172, Oregon Laws 1911, which amends its articles to state that the corporation shall not operate for profit and also to state the matters provided in ORS 554.050, may omit the word "company" from the name and adopt a name using the words "improvement district" combined with other appropriate words to designate the name of such district.

(3) The particular land to be improved by the works of the corporation, describing the land by legal subdivisions so far as possible and otherwise by tracts or lots of duly platted land or by metes and bounds, with the acreage thereof and the names of the respective owners as shown by the records of the county, and the total number of acres.

(4) In general but clear language, the purpose and intent of the corporation, and describe in general language the proposed plan of improvement whether for one or more of the purposes named in ORS 554.010.

(5) The number of directors, not less than three nor more than nine, and the names of those first holding such office, and the mode and times of the election of their successors in office.

(6) The location of the principal office of the corporation for the transaction of business, which must be in a county where at least a portion of the land to be improved is situated.

(7) Whether or not such corporation is organized for profit to the corporation or to its members other than the benefits accruing from such improvements which are referred to in ORS 554.050.

554.050 Nonprofit corporations; further statements in articles. If the corporation is not formed for the purpose of operating the business for profit either to the corporation or its members other than from the benefits to accrue from the improvements and operation and maintenance hereinafter named, it may be further stated in the articles of incorporation that:

(1) The proposed improvement is for sanitary or agricultural purposes or both and that the proposed improvement will be conducive to the public health or welfare or public utility or benefit.

(2) The benefits of the proposed improvement will exceed the damage to be done and that the best interests of the land therein described and of the owners of such land as a whole and of the public at large will be promoted by the formation and proposed improvement and operation of such district.

(3) The formation of a corporate district under the provisions of ORS 554.010 to 554.340 is a proper and advantageous method of accomplishing the improvement and protection of the lands described therein.

(4) All revenue and income of such corporation, from whatsoever source, shall be received, held, used and expended exclusively for payment of the cost and expense of the improvements and the maintenance of same and the payment of indebtedness, interest, cost and expense of the corporation incurred therefor, and for the operation, maintenance and necessary expense of such corporation in the conduct of its business for the pur-

poses thereof as stated in the articles of incorporation according to law.

(5) Neither the corporation nor its members shall profit from the business of the corporation other than from the benefits of improvement of the land for which the corporation is formed.

(6) It is the intention and desire of all persons owning or having any interest in any of the described lands to organize such corporation as a public corporation of Oregon under the provisions of ORS 554.010 to 554.340 with the rights and privileges of a public corporation, by the unanimous voluntary consent of all persons.

(7) For the purpose named, all the landowners and persons having any interest in any of the lands do consent and join in such corporation by subscribing their respective names thereto.

554.060 Verification of articles; attack on organization; defects or omissions. (1) If a corporation is formed pursuant to the provisions of ORS 554.050 for the purpose named therein, in addition to the requirements for execution and filing prescribed in ORS 554.020, the articles shall be verified by one or more of the subscribers thereto to the effect that they have read the same and believe the allegations thereof to be true, and the same shall be prima facie evidence of the matters and things therein stated.

(2) No action, suit or proceeding shall be maintained for the purpose of avoiding, setting aside or otherwise questioning or affecting the validity of the organization of such a corporation unless the action, suit or proceeding is commenced within three months from the date of the filing of the articles of incorporation in the office of the Corporation Commissioner and in the office of the county clerk of the county wherein the land is situated, nor for the purpose of questioning the sufficiency or correctness of any statement therein when the provisions of ORS 554.010 to 554.340 with respect thereto have been substantially complied with.

(3) No error in the description of any tract or parcel of land included in such district or in naming the owner thereof shall affect the incorporation or relieve the land from the same unless the owner has been materially prejudiced, misled or injured thereby, and has instituted proceedings because of same within three months after actual notice in any manner brought to him. Notwithstanding any error, defect or omission in the articles of incorporation in such case, the corporation is hereby declared to be a legally organized corporation under ORS 554.010 to 554.340 as to all such owners.

554.070 Membership; meetings; voting; proxies; voting trusts; quorum; removal of officers. (1) Every owner of land described in the articles of incorporation is a member of the corporation, and membership is lost or gained through a sale or purchase of any of said land, as the case may be, by which the legal title is transferred. In case of sale or purchase under contract without transfer of legal title, the parties may agree with respect to voting such land as provided in the bylaws, and unless so agreed and determined pursuant thereto the holder of the legal title shall be entitled to vote. Corporate owners may by resolution of their board of directors appoint and designate a proxy as provided by the bylaws.

(2) At all meetings of the members of the corporation each member who attends in person, or by proxy appointed in writing, shall be entitled to vote the amount of acreage of the land owned by him on the basis of one vote for each acre of land. Nothing in the laws of Oregon shall be construed to prevent any owners of land, or members of the corporation, from joining in a voting trust or from giving a proxy or power of attorney to vote such membership for a term of years or until the happening or performance of a named contingency or condition. A majority of the acreage shall be necessary to constitute a quorum for the transaction of business at all landowners' meetings, and a majority vote shall govern in all cases except as otherwise specially provided by law.

(3) At any meeting of the members of the corporation any officer may be removed and another elected in his place. There must be at least one regular meeting of the members in each year, to be fixed by the bylaws, and there shall be such other meetings as may be called under the provisions of the bylaws.

554.080 Corporate existence; powers of corporation. Upon making and filing the articles of incorporation, the persons appointed in the articles as directors, and their successors in office, associates and assigns, by the name assumed in such articles, shall there-

after be deemed a body corporate with power:

(1) To sue and be sued.

(2) To contract and be contracted with.

(3) To have and use a corporate seal and to alter the same at pleasure.

(4) To purchase, condemn by the power of eminent domain, possess and dispose of such real and personal property as may be necessary and convenient to carry into effect the objects of the corporation, and to take, hold, possess and dispose of all real and personal property donated to such corporation by the United States or by any state, territory, county, city or other municipal corporation or by any person, for the purpose of aiding in the objects of such corporation.

(5) To appoint such subordinate officers, employes and agents as the business of the corporation may require, and prescribe their duties and compensation.

(6) To make, establish or amend bylaws, rules and regulations, not inconsistent with the laws of the state, the articles of incorporation, or the covenants and provisions of the landowners' notice provided in ORS 554.170 to 554.190, if any is filed, prescribing the manner and mode of conducting the business of the corporation, distributing and using water in domestic use, irrigation, usage of any drainage or flood control works, and enforcing the collection of rates, tolls, charges, fees, fines and assessments, but such bylaws, rules and regulations must be ratified by two-thirds of the votes of the members of the corporation.

(7) To prescribe, fix, make, assess, and charge and collect rates, tolls, fees, fines and charges for the use of water, or for the use of any of the works of the corporation, or for violation of any of the bylaws, rules and regulations of the corporation; such rates, tolls, fines, fees and charges shall be a lien on the crops produced as prescribed in ORS 545.104, and also upon the land to which the water or drainage was furnished, subject to the limitations, restrictions and provisions of the landowners' notice if any is filed.

(8) To make, levy and collect any assessment either ratably or in proportion to the benefits received as the bylaws or recorded landowners' notice may provide, upon the lands described in the articles of incorporation, for the purpose of providing the amount of money required to be raised by the corporation through such assessments for any purposes whatsoever, including maintenance and operation, estimated delinquencies on assessments, principal and interest of maturing indebtedness, and such reserve as may be necessary or provided by the bylaws, subject to the limitations, restrictions and provisions of the recorded landowners' notice.

554.090 Directors; qualifications; president; seal; secretary-treasurer; bond; exercise of corporate powers. (1) No person is eligible to the office of director unless he is a member of the corporation. The directors named in the articles of incorporation and thereafter when elected by the members shall promptly qualify and thereupon meet and organize and elect one of their number president who shall preside at their meetings and at the meetings of the members. The board shall adopt a seal with a suitable design.

(2) The board shall elect a secretary who shall keep a fair and correct record of all its proceedings and the official business of the corporation, which shall be open to the inspection of all members as well as to all other interested persons. The secretary may or may not be a member of the board and shall hold the office of treasurer of the corporation and shall receive and receipt for all moneys received by him. The treasurer shall give bond in such amount as shall from time to time be fixed by the board of directors conditioned that he will well and truly account for and pay out according to law and the lawful direction of the board all moneys received by him. The bond shall be approved by the board and kept in custody of the president, separate from all papers in custody of the secretary.

(3) From the first meeting of the directors, the powers vested in the corporation shall be exercised by them or by their officers or agents under their direction except as otherwise specially provided by law.

554.100 Oath of office. Each director shall, before entering upon his official duties, take and subscribe to an oath before some officer authorized by law to administer oaths, that he will honestly, faithfully and impartially perform the duties devolving upon him in his office as director, and that he will not neglect any of the duties imposed upon him by law.

554.110 Powers of directors. The board of directors shall have full power and authority to:

(1) Build, construct and complete any works and improvements needed to carry out the plan of improvement of the lands described in the articles of incorporation.

(2) In the name of the corporation, make all necessary water filings and appropriations of water for every purpose of the articles of incorporation.

(3) Operate and maintain such works as are necessary, convenient or beneficial for said purposes.

(4) Hire men and teams and purchase machinery, equipment and supplies.

(5) Generally contract with reference to any of said matters as the board may determine for the purposes and within the scope of the powers granted in ORS 554.010 to 554.340 for improving the land.

554.120 Records of proceedings of directors; lien docket; deposit of moneys; segregation of funds; accounting; warrant and bond register. (1) The board of directors shall cause to be kept a well-bound book entitled "Records of Proceedings of Board of Directors," in which shall be recorded minutes of all meetings, proceedings, certificates, bonds, and any and all corporate acts, which records shall be at all times open to the inspection of anyone interested, whether members or creditors.

(2) A lien docket shall also be provided, in which, as to every tract of each owner, all assessments or liens shall be charged and all payments shall be credited, and in which interest on any assessments in arrears shall be charged at time of payment of any instalment, to the end that such record shall show the true condition of all liens and the amount thereof.

(3) All moneys of the corporation shall be deposited with a convenient bank or trust company in the name of the corporation, and all funds provided to be segregated and held separate shall be so kept, and an accounting of each of such funds upon the books of the corporation shall be correctly kept.

(4) A warrant and bond register shall be provided in which shall be separately kept a record of all warrants issued, the number, date and amount thereof with the name of payee, and the date paid, showing principal and interest separately. Likewise shall be kept a register of all bonds with a description thereof, the date thereof and when issued, and generally such a record as shall show all outstanding bonds separately of the several issues and kinds of payments.

554.130 Assessments; levy of; when payable; lien; foreclosure; service charges. (1) The board of directors shall each year on or before a day fixed in the bylaws of the corporation, and if not therein fixed then on or before September 1 of each year, make a computation of the whole amount of money to be raised by the corporation through assessments for the ensuing year for any purposes whatsoever, including maintenance and operation, estimated delinquencies on assessments, principal and interest of indebtedness maturing, and such reserves as may be necessary or provided by the bylaws of the corporation.

(2) This amount when so determined by the board shall be an assessment upon all the land described in the articles of incorporation and apportioned to each and every acre thereof as provided in the bylaws of the corporation or the recorded landowners' notice subject to its limitations, restrictions and provisions. The assessments shall become due and payable in quarter-annual instalments, the first of which shall become due three months after the date fixed for the assessment in the bylaws, and if not fixed therein such assessment shall become due within three months after September 1 of each year, and shall bear interest at the rate of six percent per annum from the maturity of each instalment until paid. Any unpaid assessment and the lien thereof as provided in this section shall be delinquent after the date of maturity of the last instalment thereof and may be enforced and foreclosed. Upon the sale of any lands on such foreclosure the corporation or any member thereof or any creditor of the corporation or other person may be a bidder and purchaser. When the bylaws provide rates, tolls, charges, fees, fines and assessments for the use of water or for the use of any of the works of the corporation, the bylaws shall also provide for the time and manner of collection thereof.

554.140 Directors' duty to institute proceedings to enforce lien. The board of directors shall institute proceedings for the enforcement of the lien of any assessment when the last instalment of such assessment is delinquent for more than three months. If the board fails to promptly institute and

prosecute in good faith proceedings for enforcement after that time and any member or creditor of the corporation in writing names the fact of such delinquency and requests that such procedure be instituted and the board neglects for 30 days thereafter in good faith to bring suit for enforcement of the lien, the members of the board so failing shall each be personally liable to the corporation in the amount of the delinquent assessment. Any member or creditor of the corporation may bring an action on behalf of the corporation in its name against any such directors to enforce the payment thereof; provided that any director may by the record of proceedings of the board show either that he in good faith presented a resolution for instituting such enforcement proceedings or that such resolution was presented and brought to a vote and that he voted in favor thereof, in which case such director shall be relieved of liability.

554.150 Suit to compel assessment. If the board of directors neglects to make any assessment provided by ORS 554.010 to 554.340 for 30 days after the time when it is required to be made, any member of the corporation or any creditor thereof who is likely to be injured thereby may bring a suit in equity to compel the assessment to be made. In any such case the costs and expenses thereof may be assessed to the directors who were wilfully negligent in failing to make the same and judgment rendered against them jointly and severally by the court in the same suit or proceeding. In such suit the corporation and the directors shall be parties defendant.

554.160 Assessments to provide funds to meet obligations; custody, disbursement and disposal of funds; general operating expenses. When any bonds or obligations of the corporation are payable from revenue of assessments pledged for the payment thereof, the board of directors shall, at the time of creating such indebtedness or issuing such bonds or obligations or at any time thereafter when assessments therefor are made, designate such fund by appropriate name and shall at the time of making each assessment thereafter determine the amount and portion of the assessment in dollars which is required to be then made for revenue of such fund. In determining and levying every assessment provided in ORS 554.010 to 554.340 the board of directors shall provide separately for the amount to be so raised for each of the several funds so designated and named including the general operation and maintenance fund. The revenues therefrom shall be separately held and kept and accounted for by the treasurer and disbursed only for the purposes for which levied until the indebtedness and obligation for which the assessment was made is fully paid with interest, whereupon the remainder shall be transferred to the general fund of the corporation for the payment of expenses of the corporation and its operation and maintenance. At the time of making assessments the board of directors shall first determine the estimated amount necessary for the expenses of operation and maintenance and then the several amounts for the respective funds, and determine that the whole amount thereof is within the limitations, restrictions and provisions of the landowners' notice provided for in ORS 554.170 to 554.190.

554.170 Covenants by landowners; effect. Owners of all the land described in the articles of incorporation or amendments thereto may at any time after the adoption of the plans and specifications for improving the land as provided in ORS 554.210, mutually covenant and agree for the purpose of binding their respective lands, as provided in ORS 554.180. Such covenants and agreements shall attach to and run with the land for the purpose of limiting, restricting and governing the conduct of the corporation. Such covenants, limitations, restrictions and agreements must not be inconsistent with the articles of incorporation, and after the recording of the same as provided in ORS 554.190 they may not be altered, amended, modified or rescinded during the life of such corporation without the unanimous consent of all landowners and persons having an interest in such lands and the corporation and its creditors if any there are. After the recording, the bylaws of the corporation and every act and proceeding of such corporation must be in accordance with and subject to the limitations, restrictions and provisions thereof.

554.180 Landowners' notice; contents. (1) If the owners of all the land desire to enter into such convenant with respect to matters hereinafter provided they shall make, subscribe and acknowledge before some person authorized to take acknowledgment of deeds, a notice to whom it may concern, which notice shall contain:

(a) A description of the land with the same particularity as is provided for in the articles of incorporation.

(b) A statement that the owners of the described land have incorporated themselves under ORS 554.010 to 554.340 under the corporate name of (stating such name), and that the land will be improved as described in the articles of incorporation which are (or will be) filed in the office of the Corporation Commissioner and in the office where deeds and other instruments affecting the title to real property are recorded in the county where the land is situated.

(c) A statement either that the land shall be subject to any indebtedness incurred by the corporation, or that the land shall be subject to the lien of any assessments prorated and apportioned upon the acreage thereof by the corporation for its works and the improvement of the land as described in the articles of incorporation under the provisions of ORS 554.010 to 554.340.

(2) If all the landowners desire, they may therein further limit, restrict and provide with respect to said matters and the conduct of the corporation with regard to the described land by mutually determining and stating therein any or all of the following:

(a) Whether all the land is uniformly and in like amount per acre thereof benefited by the improvements; and if not so benefited they may by agreement determine and apportion the relative amount of benefits per acre between the several parcels and portions describing the same with the same particularity as is provided for the articles of incorporation.

(b) The whole amount of benefit per acre which will accrue from the works and improvement proposed in the articles of incorporation. If the lands are not uniformly benefited they may determine and appraise the benefits as to the several parcels and portions of all of the land and in that case particularly describe the same and state the amount of benefits accruing to the respective portions and parcels thereof per acre in dollars, which shall in such case be the maximum amount per acre as a lien thereon for any purpose of the corporation other than for operation and maintenance.

(c) The whole amount in dollars of annual benefits which will accrue per acre from the works and improvement described in the articles of incorporation. If it has been determined that all the land is not so uniformly and equally benefited they shall in such case determine and state the amount in dollars of the annual benefit per acre of the several parcels and portions of all the land particularly describing the same, which amount of annual benefits so determined shall be the maximum amount of assessments by the corporation per acre made and apportioned according to such determination as a lien upon the land payable per annum inclusive of the operation and maintenance assessments, and the assessment of any land in any year in excess of these annual benefits is to the extent of such excess void.

554.190 Recording notice; effect; lien on land; priority. (1) The notice shall be recorded in the office where deeds and other instruments affecting the title to real property are recorded in the county where the land is situated. From the recording thereof such notice shall be a covenant to and with the corporation and its members and creditors, attaching to and running with the described land and every part thereof, granting the rights, privileges and liens as in ORS 554.010 to 554.340 provided and in the notice stated with respect thereto.

(2) If it is stated in the notice that the land described in the articles of incorporation and the notice shall be subject to any indebtedness incurred by the corporation, all debts and obligations of the corporation theretofore and thereafter created shall be a lien upon the land described in the notice prior to every other lien attaching to the land subsequent to the time of recording of the notice, except state, county and school taxes, whether such debt or obligation of the corporation is in existence at the time the latter lien attaches or is created afterward. Such lien shall not be personal but shall be an obligation upon the land and run with the land.

(3) If, however, the landowners state in the notice that the land described in the articles of incorporation shall be subject to the lien of assessments by such corporation for the works and improvement of the land, then all the debts and obligations of the corporation shall be a direct obligation of the corporation with the irrevocable right of the creditors and obligees to have assessments made by the corporation for the payment of such debts and obligations pursuant to the provisions of ORS 554.010 to 554.340 and within the limitations, restrictions and pro-

visions of the landowners' notice. In such case every debt and obligation of the corporation created within the limitations and restrictions of the landowners' notice is with the implied or express covenant that the corporation will make the assessments necessary to be made for the payment thereof as same may mature and be payable, and will prorate and apportion the same to all the described lands in accordance with the provisions of ORS 554.010 to 554.340 and the notice. Every assessment made pursuant to this subsection and the landowners' notice by the corporation and prorated and apportioned pursuant to such notice within the limitations, restrictions and provisions thereof shall be a lien upon the acreage of such land as so assessed by the corporation, and the lien shall relate back, vest and attach thereto as of the time of filing for record of the landowners' notice. Every other lien, right, title, interest and estate attaching, vesting or in any manner accruing or acquired subsequent to the filing of such landowners' notice, whether before or after such assessment, except state, county and school taxes, shall be inferior and subject to the lien of such assessment.

554.200 Incurring indebtedness before notice recorded; scope of notice. When any corporation is organized pursuant to ORS 554.010 to 554.340, the board of directors and the corporation may not lawfully incur any indebtedness or obligation of such corporation, except as otherwise provided in said sections, before the landowners' notice has been executed and recorded. When the notice is so recorded the same shall be notice to the world of the facts therein stated. It shall not be necessary, for the purpose of the lien of any assessment or indebtedness of the corporation upon any of the lands described therein, to file or record in the office where deeds and other instruments affecting the title to real property are recorded, any resolution of the corporation or notice of assessment, indebtedness or lien; but as to all said matters upon the recording of the landowners' notice every person interested in any of the land therein described or dealing with respect thereto is put upon inquiry respecting the same and bound to inform himself and ascertain from the corporation the extent and amount of such indebtedness, assessment and lien upon the land.

554.210 Plans and specifications; how adopted. (1) Owners of all the land described in the articles of incorporation may by unanimous agreement in writing, subscribed and acknowledged by them, cause to be prepared and approve and adopt detailed plans and specifications for the works and improving of the lands under the plan described in the articles of incorporation, and make a report upon the same, including an estimate of the probable cost thereof, and shall thereupon file the same with the secretary of the corporation. In such case the board of directors shall adopt a resolution briefly reciting the facts thereof and accepting, approving and adopting the same as the plan of improvement of the land described in the articles of incorporation. Such plans and specifications and report shall be the plans of the corporation for the works and improvement of the land. If the landowners do not so adopt plans and specifications and a report thereon by unanimous consent, such plans and specifications and report may be adopted by resolution at a meeting of members as provided in subsection (2) of this section.

(2) In such case, the board of directors at any meeting of the board may adopt a resolution designating and authorizing the expenditure of a certain amount of money for preliminary investigation and report upon the plans and cost of works and construction, or repair or reconstruction of the same, or purchasing or acquiring any property, ditches, dikes, levees, plants, improvements, easements, rights of way, water rights, or other things necessary, advantageous or beneficial for improving the land under the plan described in the articles of incorporation; or they may by resolution determine and declare that such preliminary investigation and the expense thereof is unnecessary. The directors shall then secure a competent engineer, if they determine that it is necessary or desirable, who shall make such investigation, and prepare detailed plans and specifications and make a report upon the same, including an estimate of the probable cost thereof, or they may prepare detailed plans and specifications and report with an estimate of the probable cost thereof without securing an engineer. The directors shall submit the detailed plans and specifications and report to a meeting of the members of the corporation for adoption. Adoption must in that case be made by resolution passed by a two-thirds vote of all the votes to which the members may be entitled.

554.220 Bonds; denominations; interest; maturities; execution; coupons; amortized instalment obligations. (1) At any time after recording the landowners' notice as provided in ORS 554.190 and adoption of a plan for improvement of the land described in the articles of incorporation as provided in ORS 554.210, the board of directors may, if in their judgment it seems best, and subject to the limitations, restrictions and provisions of the landowners' notice, issue bonds or other obligations of the corporation necessary or convenient for improving the lands, including the refunding of outstanding bonds and any indebtedness of the corporation.

(2) The bonds shall be in such denominations as the board may determine, and bear interest from date at a rate not to exceed six percent per annum payable semiannually, to mature at intervals to be determined by the board, both principal and interest being payable at some convenient bank or trust company to be named in the bonds. The bonds shall be signed by the president of the corporation and attested with the seal of the corporation and the signature of the secretary. They may be issued so as to mature serially in annual amounts so as to be approximately equal, principal and interest, and may be issued so as to include a sum sufficient to pay the first four years' interest, or less, to accrue on the bonds, and be numbered serially in the order in which they mature. Each such bond shall have interest coupons attached bearing the serial number of the bond, which coupons shall be serially numbered in the order of maturity.

(3) If the directors so determine, they may issue for the purposes stated in this section, or as provided in ORS 554.270 and 554.280, one or more amortized instalment obligations of the corporation constituting a designated series of such bonds as particularly described in ORS 554.280, all of which obligations shall be evenly and ratably paid as the attached instalments mature as determined by the board of directors and as described in ORS 554.280. The latter bonds and coupons shall be executed and attested as above provided for bonds of the corporation.

554.230 Bonds; recitals; payment; liability of land. (1) Bonds or obligations of the corporation shall refer therein to ORS 554.010 to 554.340 and to the resolution of the board of directors authorizing the same, and shall briefly recite the purpose for which issued. If they constitute a lien on the land described in the articles of incorporation they shall so state therein; otherwise they shall state that they and the interest thereon are payable by the revenue derived from the annual assessments by the corporation upon the land described in the articles of incorporation and the landowners' notice, which assessments are lien-apportioned to every acre of such land and assessed for a fund pledged for the payment thereof, and that the corporation covenants to and with the holder thereof to make such assessments as required by the laws of Oregon and to pay the obligation (or bond) at the maturity therein provided, and further that the assessment required to be made for the payment thereof at maturity will not together with all other assessments required for payment of the debts and obligations, operation and maintenance, and other charges, exceed the limitations prescribed in the landowners' notice.

(2) Upon the issue of any bond or obligation payable by revenue derived from assessment by the corporation upon the land for a fund designated in the resolution authorizing such issue, the land described in the articles of incorporation and the landowners' recorded notice shall thereafter be and remain liable to be assessed for such payments as provided in and subject to the provisions of ORS 554.010 to 554.340.

554.240 Retirement of bonds; conditions of sale; resolution authorizing bond issue; surrender of bonds in payment of assessments; debts not to exceed assessments or benefits. (1) The corporation may provide that bonds or any of them may be retired at the option of the corporation on any interest-paying date after the expiration of a time determined and fixed therein.

(2) Bonds and obligations shall not be sold for less than 90 percent of their face value, and may be issued all at the same time or in such amounts as the board deems necessary. Before issuing any bonds or obligations the board shall first pass a resolution authorizing the same and provide the whole amount thereof and the purpose of same and if payable from a separate fund shall designate the same. The resolution shall prescribe the form and substance of the bonds or obligations and provide with respect thereto the matters and things otherwise prescribed therefor in ORS 554.010 to 554.340.

(3) When any bond, obligation or coupon is payable from revenue by assessment to constitute a fund for the payment thereof, any such bond, obligation or coupon may at or after its maturity be surrendered to the corporation in payment of such assessment, but not in payment of any assessment for operation and maintenance expense or any other fund separately pledged for payment of other obligations, bonds or debts of the corporation. Bonds and obligations received in payment of any obligation shall be numbered consecutively and the lowest numbers paid off first.

(4) No obligations of the corporation shall be issued by the board unless it is determined that the annual assessment which will be required for the payment thereof as same matures together with other assessments which will be necessary for maintenance and operation expense and other purposes will not exceed in the whole the maximum amount of annual benefits which may be assessed and apportioned in any one year. Nor shall debts be incurred and obligations issued the aggregate amount of which will exceed the limitation determined by the determined benefits as stated in the recorded landowners' notice.

554.250 Refunding bonds. The board of directors may issue bonds for the purpose of refunding or satisfying any of the bonded or other indebtedness of the corporation, whether or not due, or which has or may become payable at the option of the corporation, or by consent of the holders of the indebtedness, or by any lawful means, whether such bonded or other indebtedness is now existing or may hereafter be created, and there are not funds in the treasury of the corporation available for the payment of the same and unpaid interest thereon.

554.260 Contracts with governmental agencies or others for financial assistance or cooperative action. Whenever the board of directors of the corporation shall by resolution determine it to be for the best interest of the corporation, the board may enter into contract with the United States or its duly constituted agencies, or any municipal or other corporation of Oregon, or any person, for the purpose of procuring or receiving a loan or financial assistance for any works or improvement of the corporation, or for the maintenance and operation of any works or improvement of the corporation or of such other party, or for the purpose of acquiring jointly or controlling and managing in conjunction with such other party any works or improvement or any easement or right of way necessary for such improvement or work; and may bind the corporation for the maintenance, support and operation of the whole or any part thereof after construction of the same; and may agree that any works or improvement of the United States or any constituted governmental agency embracing any part of the works or improvement of the corporation or serving any purpose thereof shall be subject to the control, rules and regulations of the United States or any of its constituted agencies or officers as any law or regulation of the United States may require; and may agree to protect the United States and its constituted governmental agencies or officers from any loss or damage by reason of any works or improvement for or in behalf of the corporation as any law may require as a condition thereof; and may contract with the United States to furnish without cost such easements and right of ways and other property as shall be necessary for the proposed improvement and works of the corporation and their maintenance and operation, as required or provided by law as a condition thereof.

554.270 Purchase or lease of works, water rights, etc.; provision as to payment; serial coupon obligations. (1) Whenever the board of directors of the corporation shall by resolution determine that it is to the best interest of the corporation, the board may enter into contracts for the purchase or option to purchase or lease, upon such terms as it determines to the best interest of the corporation, any ditch, works, improvement, easement, right of way, water right or other thing required or advantageous to the corporation for the works and improvement of the land described in the articles of incorporation within the scope of the purposes therein named.

(2) In any such case the board may by such contract provide for spreading the payments over such period as may be agreed upon and may issue therefor serial instalment coupon obligations in such number and denominations as it may determine, inclusive of interest at a rate not to exceed six percent per annum. The instalment coupons shall be of such amount and stated maturity as will pay and retire all instalment coupon obliga-

tions of such designated series evenly, justly and ratably from year to year at the same time, and shall be general obligations of the corporation, payable from a fund as provided in ORS 554.280.

554.280 Resolution for serial coupon obligations; maturities; interest; retirement; recitals; fund for payment; assessments. (1) For the purpose stated in ORS 554.270, the board of directors shall by resolution determine and declare that the same is to the best interest of the corporation; briefly describe the purpose and object thereof and the amount of money required therefor; provide for, authorize and direct issuing the instalment coupon obligations, describing and fixing the number of such obligations constituting the series and the denominations thereof; and shall adopt and prescribe the form and substance of such obligations. Each obligation shall bear the same series designation and be separately serially numbered, which series designation and serial number shall likewise appear upon each instalment coupon attached. Coupons of each obligation shall be serially numbered in the order of their maturity and shall be so payable. Interest at not exceeding six percent per annum may be included and amortized for the retirement of both principal and interest as provided in the resolution and in this section. Every obligation shall recite that it is issued pursuant to such resolution and payable from a fund derived from annual assessments of the lands described in the articles of incorporation for such purpose, the proceeds of which are pledged for the payment, and that the corporation covenants to levy such assessments according to law and the resolution in amount sufficient, inclusive of estimated delinquencies, to pay the instalment coupons thereto attached as they mature.

(2) The resolution shall appropriately designate the fund. The board of directors must thereafter on or before the time fixed in the bylaws determine and assess the amount necessary to be assessed at such time for payment of the instalment coupons as they mature. Proceeds from such assessment shall constitute a fund which is pledged for payment of such obligations. The treasurer shall segregate and keep separate the moneys of every assessment for such funds, and shall deposit the same in a bank in a separate account designating such fund, and shall not disburse the same except as provided in this section.

554.290 Warrants to pay claims; interest-bearing warrants; assessments to pay warrants; limitation on amount of warrants. All claims against the corporation shall be paid by warrants drawn on the treasurer of the corporation and signed by the president and secretary of the board of directors. If any warrant is not paid when presented to the treasurer of the board of directors, because of lack of funds in the treasury, that fact shall be endorsed on the warrant and the warrant shall draw interest thereafter at a rate not to exceed six percent per annum until there is money in hand to pay the amount of the warrant and the interest then accumulated. No interest shall be allowed on warrants after sufficient funds are in the treasury to pay the endorsed warrants and interest. The secretary of the board shall give notice to the payee or other holder if known whenever sufficient funds are available to pay outstanding warrants. Warrants shall be numbered; drawn against the proper fund, and paid from such fund in the order of issuance. The board of directors shall levy an assessment each year of sufficient amount of money to pay the outstanding warrants. No warrants shall be issued the payment of which in the ensuing year inclusive of the assessments required for all other purposes will exceed the annual assessment limit fixed in the landowners' recorded notice, or the aggregate indebtedness of which with all other indebtedness for other purposes than operation and maintenance will exceed the total benefits to accrue to the land described in the articles of incorporation as stated in the recorded landowners' notice.

554.300 Amendment of articles to include or exclude land; dissolution of corporation; inclusion of lands by irrigation, drainage or flood control district. (1) The articles of incorporation of any corporation organized under ORS 554.010 to 554.340 may at any time be amended so as to include other land, or exclude any part theretofore included. Such amendment shall not affect the date of priority of the lien of the corporation upon any land, but as to any new land included by such amendment the lien shall attach from the date of the recording of the amended notice. No land can be excluded until its proportionate share of

all existing debts of the corporation has been paid.

(2) Any such corporation may be dissolved and its affairs terminated as provided in subsections (3) and (4) of this section; provided, however, that no corporation may be dissolved before payment or release of all debts and obligations of the corporation, including every contract and agreement with the federal or the state government, or its or their constituted governmental authorities or agencies, or the assumption of its obligations by another with the consent of all parties.

(3) The board of directors of the corporation shall cause notice to be given of a meeting of the members, which notice shall contain a statement to the effect that the dissolution of the corporation will be considered at the meeting, and a brief statement of the reasons why dissolution is deemed advisable. The question of whether or not the corporation shall be dissolved may be presented at the meeting, and if two-thirds or more of the votes of the members present or by proxy are cast in favor of dissolution, the board shall proceed to dissolve the corporation and liquidate its affairs. The board shall constitute a board of trustees and as such shall dispose of the property of the corporation and pay its debts and obligations or procure releases thereof; provided, that in case an irrigation district, drainage district or flood control district is organized to include the lands in the corporation or any part thereof, the board of directors of the corporation, or the board of trustees in case the corporation has voted to dissolve, shall convey to such irrigation, drainage or flood control district any and all irrigation works or other property owned by such corporation, upon the assumption by the irrigation, drainage or flood control district of the obligations of the corporation.

(4) Upon completing the liquidation of the corporation, the trustees shall execute under oath a signed statement that the corporation has been dissolved and its affairs liquidated, which statement shall be forwarded to the Corporation Commissioner, together with a dissolution fee of $2. Upon receipt of such statement, the Corporation Commissioner shall notify the county clerk of the county in which the corporation had its principal place of business, that the corporation has been legally dissolved, and the clerk shall record the notice in the records of his office.

554.310 Organization fee; annual license fee; exemption of nonprofit corporations; annual report. (1) Every corporation organized under the provisions of ORS 554.010 to 554.340 shall pay to the Corporation Commissioner upon presentation of its articles of incorporation for filing, an organization fee of $2 for every 1,000 acres or fraction thereof described in the articles of incorporation; provided, that the fee shall in no case be less than $5.

(2) Any such corporation which states in the articles of incorporation that it is not organized for profit and also states what is required to be stated in ORS 554.050, shall not be required to pay any annual license fee either at the time of presentation of its articles of incorporation for filing or thereafter so long as it is not operated for profit.

(3) Every corporation organized under the provisions of ORS 554.010 to 554.340 for purposes of profit or which does not state in the articles of incorporation the things provided in ORS 554.050 shall, at the time of presentation of its articles of incorporation for filing, pay in addition to the organization fee an annual license fee for the succeeding fraction of the fiscal year. The license fee is $2 for every 1,000 acres or fraction thereof described in the articles of incorporation. After the first payment, the license fee shall be paid every year in advance to the Corporation Commissioner as other corporate license fees are paid.

(4) Every corporation organized under the provisions of ORS 554.010 to 554.340 shall file with the Corporation Commissioner an annual report in such form as the commissioner may designate. The report shall be filed on or before June 30 of each year.

554.320 Exemption from taxation. The property and income of a corporation organized under the provisions of ORS 554.010 to 554.340, but not for profit, the articles of incorporation of which recite the things mentioned in ORS 554.050, shall be exempt from taxation. The property and income of corporations which were incorporated under chapter 172, Oregon Laws 1911, and which amend their articles to state that the corporation shall not operate for profit and also to state the matters provided in ORS 554.050, shall also be exempt from taxation.

554.330 Surety bonds to be payable to corporation; corporate name to be used in suits; penalties to be recovered by corporation. All surety bonds required to be given by ORS 554.010 to 554.340 shall be made payable to the corporation by its corporate name, in which name all suits shall be instituted and prosecuted. All penalties named in ORS 554.010 to 554.340 shall be payable to and recoverable by the corporation.

554.340 Judicial determination of legality of proceedings, etc. (1) The board of directors of any corporation organized under the provisions of ORS 554.010 to 554.340, or of any corporation organized before March 4, 1937, which amends its articles and landowners' notice pursuant to the provisions of ORS 554.420, may, after adopting a resolution adjudging the same to be to the interest of the corporation and authorizing the same, by petition commence special proceedings in the circuit court of the county in which the office of the corporation is located, for the purpose of having a judicial examination and judgment of the court as to the regularity and legality:

(a) Of the proceedings in connection with the organization of the corporation; or

(b) Of the proceedings of the board and corporation providing for and authorizing the issue or sale of any bonds or obligations of the corporation whether or not theretofore sold or disposed of; or

(c) Of any action or proceeding for the inclusion or exclusion of land, or declaring the result of any election, or of any order levying any assessment or ordering the issue of any bonds or obligations for any purpose; or

(d) Of any plan of improvement of lands described in the articles of incorporation or of any proposed works and improvement for which bonds or obligations are authorized to be issued; or

(e) Of the authorization of any contract with the United States or any municipality or corporation or person, and as to the validity of such contract whether or not it has been executed.

(2) All or any of the proceedings of the corporation may be judicially examined and determined by the court in one proceeding as prayed in the petition. The provisions of ORS 548.110 shall apply to the proceedings provided in this section, and jurisdiction of the corporation shall be obtained in the manner provided for irrigation or drainage districts in that section.

(3) Any landowner or person having an estate or interest therein or member of the corporation or assessment payer may, within 30 days after the entry of any order or the performance of any of the acts or things mentioned in subsection (1) of this section for which a contest is provided, bring a proceeding to determine the validity thereof, in which case the board of directors shall be made parties defendant and service of the summons shall be had upon the members of the board in the manner provided in ORS 548.115 for irrigation and drainage districts. The proceedings shall be tried and determined in the same manner as provided in subsections (1) and (2) of this section for proceedings brought by the corporation itself.

(4) No contest of any proceeding or matter or thing by this section provided to be had or done shall be had or maintained at any time or in any manner except as provided in this section.

554.350 to 554.400 [Reserved for expansion]

CORPORATIONS ORGANIZED UNDER 1911 ACT

554.410 Applicability of ORS 554.010 to 554.340 to corporations organized under 1911 Act. Nothing in ORS 554.010 to 554.340 shall be so construed as to affect the validity of any district improvement company organized before March 4, 1937, under the provisions of chapter 172, Oregon Laws 1911, or its rights in or to property, or any of its rights or privileges of whatsoever kind or nature; but such corporations hereby are made subject to the provisions of ORS 554.010 to 554.340 so far as applicable. The provisions of ORS 554.010 to 554.340 shall not affect, impair or discharge any contract, obligation, lien or charge for or upon which such a company was or might become liable or chargeable had those sections not been passed; nor shall they affect the validity of any bonds issued prior to March 4, 1937; nor shall they affect any action then pending. All such corporations organized after March 4, 1937, shall be organized under the provisions of ORS 554.010 to 554.340 and not otherwise. Any corporation organized before March 4, 1937, under the provisions of chapter 172, Oregon Laws

1911, which amends its articles of incorporation and landowners' notice as provided in ORS 554.420, shall thereafter be subject to the provisions of ORS 554.010 to 554.340.

554.420 Amendment of articles, and landowners' notice, of corporation organized under 1911 Act. (1) Articles of incorporation of any district improvement company organized before March 4, 1937, under the provisions of chapter 172, Oregon Laws 1911, and the recorded notice of the owners of the lands described in such articles of incorporation, may be amended as provided in this section.

(2) If the members desire to amend the articles of incorporation they shall make, subscribe and acknowledge in the same manner as provided in ORS 554.020, the amended articles, stating therein that such articles are for the purpose of amending articles of the same corporation theretofore filed in the office of the Corporation Commissioner and in the county where the land therein described is situated; that the amended articles are executed by such corporation by its president and secretary by authority of a resolution of the board of directors; and that such articles as amended and adopted are as therein set out. The amended articles shall specify as provided in ORS 554.040 and may determine and state the matters provided in ORS 554.050, in which case the articles must be verified as provided in ORS 554.060. The amended articles must describe the land with particularity and state the owners thereof and the persons having any interest therein. The board of directors shall determine whether all landowners and persons having any interest in the lands have duly executed the same. The articles shall be executed in triplicate.

(3) If satisfied therewith the board of directors may, upon the execution by all landowners of the amended landowners' notice and being satisfied therewith and that all have executed the same, by resolution authorize the president and secretary to execute the same on behalf of the corporation and attest the same with the corporate seal. Thereupon one copy of the amended articles shall be filed with the Corporation Commissioner, one in each county where the land is situated, and the third in possession of the corporation. The landowners' amended notice shall be executed and recorded in the manner provided in ORS 554.180 and 554.190.

(4) From the filing thereof the amended articles and landowners' notice shall be effective instruments for every purpose; provided that such amended notice shall in no manner affect any lien, encumbrance, interest or estate in any of the lands attached, fixed or vested at the time of filing the same, or the priority thereof. If in such amendments it appears that the corporation is not for profit and it is so stated therein as provided in ORS 554.050, the corporation shall thereafter be exempt from payment of any license fee otherwise required.

554.430 Applicability of 1911 Act, as amended, to corporations organized under that Act. To the extent only that, by reason of the provisions of ORS 554.410, they have not been superseded, sections 2, 3, 4, 6, 7, 8, 9, 11 and 12 of chapter 172, Oregon Laws 1911, as amended by section 2, chapter 101, Oregon Laws 1917, and by chapters 267 and 420, Oregon Laws 1927, and as supplemented by section 2, chapter 164, Oregon Laws 1923, shall remain applicable to corporations organized before March 4, 1937, under the provisions of chapter 172, Oregon Laws 1911.

554.440 Malheur Improvement Company; exclusion or inclusion of land. (1) Any person holding land within the Malheur Improvement Company district created under chapter 172, Oregon Laws 1911, who desires to have his land excluded from the Malheur Improvement Company district, may file a petition with the secretary of such district. The petition shall be in writing, verified, and shall set forth the description of the lands desired to be excluded, and the reasons for such exclusion. Likewise, any person owning lands without such district who desires to have his lands included within the district, may file a petition with the secretary, which petition shall be in writing, verified, and shall set forth the reasons why the land should be included in the district, and further, that the lands are susceptible of irrigation or drainage, as the case may be, from the system of works of the district.

(2) The secretary shall present any such petition at the next meeting of the board of directors of the improvement company. The board shall fix a time for the hearing thereof, either at a special meeting of the members of the corporation called for the purpose, or at the next regular annual meet-

ing of the members. At such meeting, the petitioners may present witnesses and be represented either in person or by attorney, to establish the allegations set forth in the petition. Upon such hearing, the matter of including or excluding such lands from the district shall be put to a vote of the members, and if a majority vote of the members owning lands in the district is in favor of the relief asked for in the petition, then an order shall be made in the minutes in accordance with such vote.

(3) The secretary shall thereupon make a certificate certifying to the fact of the filing of such petition and the hearing thereon, and the action taken by the members of the district, and in such certificate shall describe the land included or excluded from the district, as the case may be. From and after the filing of such certificate, one with the Corporation Commissioner and one with the county clerk of the county where the lands are situated, the land described in the certificate shall be included or excluded, as the case may be, in or from the improvement company district.

(4) The articles of incorporation of the Malheur Improvement Company shall upon the filing with the Corporation Commissioner and county clerk of a certificate as aforesaid, and without any procedure other than as in this section provided, be deemed amended to include or exclude, as the case may be, the lands described in such certificate; provided, however, that any land within such improvement company district, and excluded therefrom on petition, shall not be relieved from the payment of its proportion of any bonded indebtedness created and outstanding of the company, prior to the exclusion of such lands therefrom. Lands without the improvement company district, and included therein by petition, shall be subject to any assessment thereafter levied by the company, whether for bonded indebtedness or otherwise.