Chapter 568

1963 REPLACEMENT PART

Soil and Water Conservation

SOIL CONSERVATION AND DOMESTIC ALLOTMENT LAW OF OREGON

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SOIL CONSERVATION AND DOMESTIC ALLOTMENT LAW OF OREGON

568.010 Definitions for ORS 568.010 to 568.130. As used in ORS 568.010 to 568.130, unless the context requires otherwise:

(1) "Other states of the United States" includes Alaska, Hawaii, Puerto Rico and all states of the United States of America.

(2) "Person" includes an individual, corporation, partnership, firm, business trust, joint stock company, association, syndicate, group, pool, joint venture and any other unincorporated association or group.

(3) "University" means Oregon State University.

568.020 Acceptance of federal Act; declaration of purpose. (1) It hereby is recognized and declared:

(a) That in this state, soil resources, fertility of the land and economic use thereof, prosperity of the farming population, navigability of the rivers and harbors and prevention of floods are matters affected with a public interest.

(b) That the welfare of this state has been impaired and is in danger of further being impaired by destruction of its soil fertility, by uneconomic use and waste of its land, by exploitation and wasteful and unscientific use of its soil resources, by floods and impairment of its rivers and harbors, and of the navigability of its waters and watercourses as a result of soil erosion and by the decrease in the purchasing power of the net income per person on farms in such state as compared with the net income per person in the state not on farms.

(c) That such evils have been augmented and are likely to be augmented by similar conditions in other states and are so interrelated with such conditions in other states that the remedying of such conditions in this state requires action by this state in cooperation with the governments and agencies of other states and of the United States and requires assistance therein by the Government and agencies of the United States.

(d) That the formulation and effectuation by this state of state plans in conformity with the provisions of section 7 of the Federal Soil Conservation and Domestic Allotment Act is calculated to remedy such conditions and will tend to advance the public welfare of this state.

(2) Therefore, in order to promote the welfare of the people of this state by aiding in preservation and improvement of soil fertility, in promotion of economic use and conservation of land, in diminution of exploitation and wasteful and unscientific use of soil resources, in protection of rivers and harbors against results of soil erosion, and in the reestablishment, at as rapid a rate as is practicable and in the general public interest, of the ratio between the purchasing power of the net income per person on farms and that of the net income per person not on farms that prevailed during the five-year period August 1909 to July 1914, inclusive, as determined from statistics available in the United States Department of Agriculture, and the maintenance of such ratio, the State of Oregon hereby assents to and accepts the provisions of the Federal Soil Conservation and Domestic Allotment Act and adopts the policy and purpose of cooperating with the government and agencies of other states and of the United States in the accomplishment of the policy and purposes specified in section 7 of that Act, subject, however, to the following limitations:

(a) The powers conferred in ORS 568.010 to 568.130 shall be used to assist voluntary action calculated to effectuate such purposes.

(b) Such powers shall not be used to discourage the production of supplies of foods and fibers in this state sufficient, when taken together with the production thereof in other states of the United States, to maintain normal domestic human consumption as determined by the Secretary of Agriculture of the United States from the records of consumption in the years 1920 to 1929, inclusive, taking into consideration increased population, quantities of any commodities that were forced into domestic consumption by a decline in exports of particular commodities and the quantities of substitutes available for domestic consumption within any general class of food commodities.

(c) In carrying out the purposes specified in this section, due regard shall be given to the maintenance of a continuous and stable national supply of agricultural commodities adequate to meet consumer demand at prices fair to both producers and consumers.

568.030 Oregon State University designated to carry out ORS 568.010 to 568.130. (1) Oregon State University is designated and authorized as the state agency to carry out the policy and purposes of ORS 568.010 to

568.130 and to formulate and administer state plans pursuant to ORS 568.010 to 568.130.

(2) The university shall perform its duties and functions as such agency separately and distinctly from the performance of its duties and functions under any other Act or in any other capacity; except that the university may utilize the services and the assistance of its personnel and facilities normally used in the performance of such other functions, if it finds that the utilization of such services and assistance is necessary to, or is calculated to assist substantially in, the effective administration of ORS 568.010 to 568.130 and that such facilities may be utilized without interference with the effective performance of such other duties and functions.

568.040 Formulation and administration of state agricultural plans. (1) The university shall formulate for each calendar year and submit to the Secretary of Agriculture of the United States for and in the name of this state a state agricultural plan for carrying out the purposes of ORS 568.010 to 568.130 during such calendar year. In formulating such plans the university shall consult with other agencies of this state qualified to assist therein.

(2) The university may modify or revise any such plan in whatever manner, consistent with the terms of ORS 568.010 to 568.130, it finds necessary to provide for more substantial furtherance of the accomplishment of the purposes of ORS 568.010 to 568.130.

(3) The university shall provide for such investigations as it finds necessary for formulation and administration of such plans.

568.050 Contents of agricultural plans. Each state agricultural plan shall:

(1) Provide for such participation in its administration by such voluntary county and community committees, or associations of agricultural producers organized for such purposes, as the university determines necessary or proper for the effective administration of the plan.

(2) Provide, through agreements with agricultural producers or through other voluntary methods, for such adjustments in the utilization of land, in farming practices, and in the acreage or in the production for market, or both, of agricultural commodities, as the university determines to be calculated to effectuate as substantial accomplishment of the purposes of ORS 568.010 to 568.130 as may reasonably be achieved through action of this state, and for payments to agricultural producers in connection with such agreements or methods in such amounts as the university determines to be fair and reasonable and calculated to promote such accomplishment of the purposes of ORS 568.010 to 568.130 without depriving such producers of a voluntary and uncoerced choice of action.

(3) Provide for such educational programs as the university determines necessary or proper to promote the more substantial accomplishment of the purposes of ORS 568.010 to 568.130.

(4) Contain an estimate of expenditures necessary to carry out the plan, together with a statement of such amount as the university determines to be necessary to be paid by the Secretary of Agriculture of the United States as a grant in aid of such agricultural plan under section 7 of the Federal Soil Conservation and Domestic Allotment Act, in order to provide for the effective carrying out of the plan, and shall designate the amount and due date of each instalment of such grant, the period to which such instalment relates and the amount determined by the university to be necessary for carrying out the plan during such period.

568.060 Receipt and disbursement of funds. (1) The university may receive on behalf of this state all grants of money or other aid made available from any source to assist the state in carrying out the policy and purposes of ORS 568.010 to 568.130. All such money or aid, together with any moneys appropriated or other provision made by this state for such purpose, shall be available to the university as the agency of the state, subject, in the case of any funds or other aid received upon conditions, to the conditions upon which such funds or other aid shall have been received, for the purpose of administering ORS 568.010 to 568.130. Such funds may be expended by the university in carrying out the state agricultural plans or in otherwise effectuating the purposes and policies of ORS 568.010 to 568.130. Such funds shall not be expended or disposed of for any other purpose. No funds made available to the university for purposes other than the administration of the provisions of ORS 568.010 to 568.130 shall be expended or otherwise disposed of in connection with the administration of ORS 568.010 to 568.130

except in providing services and assistance in the administration of ORS 568.010 to 568.130 pursuant to the provisions of ORS 568.030, and in such case only to the extent that such funds are properly available for such purpose and subject in such cases to reimbursement of the funds so expended pursuant to the provisions of ORS 568.080.

(2) Subject to any condition upon which any such money or other aid is made available to the state and to the terms of any applicable agricultural plan made effective pursuant to ORS 568.010 to 568.130, such expenditures may include, but need not be limited to expenditures for administrative expenses, equipment, cost of research and investigation, cost of educational activities, compensation and expenses of members of the State Advisory Board, reimbursement to other state agencies or to voluntary committees or associations of agricultural producers for costs to such agencies, committees or associations of assistance in the administration of ORS 568.010 to 568.130, requested in writing by the university and rendered to the university, reimbursement of any other fund from which it has made expenditures in providing services in the administration of ORS 568.010 to 568.130 pursuant to ORS 568.030, payments to agricultural producers provided for in any agricultural plan made effective pursuant to ORS 568.010 to 568.130, salaries of employes and all other expenditures requisite to carrying out the provisions and purposes of ORS 568.010 to 568.130.

568.070 Separate accounts of moneys used under ORS 568.010 to 568.130. The university shall provide for the keeping of full and accurate accounts as the state agency designated by ORS 568.030, separate from its accounts kept in its other capacities, showing all receipts and expenditures of moneys, securities or other property received, held or expended under ORS 568.010 to 568.130, and shall provide for the auditing of all such accounts and for the execution of surety bonds for all employes entrusted with moneys or securities under ORS 568.010 to 568.130.

568.080 Additional powers and duties of university as state agency. (1) The university shall utilize such available services and assistance of other state agencies and of voluntary county and community committees and associations of agricultural producers as it determines necessary or calculated to assist substantially in effective administration of ORS 568.010 to 568.130.

(2) The university may make such rules and regulations, consistent with ORS 568.010 to 568.130, and do any other acts consistent with ORS 568.010 to 568.130 which it finds necessary or proper for effective administration of ORS 568.010 to 568.130.

(3) The university may obtain by lease or purchase such equipment, office accommodations, facilities, services and supplies, and subject to any applicable provisions of the State Civil Service Act, may employ such technical or legal experts or assistants and such other employes, including clerical and stenographic help, as it determines necessary or proper to carry out ORS 568.010 to 568.130, and may determine the qualifications, duties and compensation of such experts, assistants and other employes.

(4) All other state agencies may assist the university in carrying out ORS 568.010 to 568.130, upon written request of the university, in any manner determined by the university necessary or appropriate for effective administration of ORS 568.010 to 568.130.

568.090 Designation of agricultural districts and communities by university. (1) The university shall designate within this state five agricultural districts, each of which shall be composed of one county or of two or more neighboring counties. As far as practicable, such districts shall be so constituted as to contain approximately equal numbers of agricultural producers. The districts shall include in the aggregate all land in this state.

(2) The university shall designate within each county such geographic units, which shall be called "communities," as it determines to be most convenient for administration of ORS 568.010 to 568.130 and of the state agricultural plans and shall establish the boundaries of such communities.

568.100 Revision of boundaries of districts and communities. The university may revise the boundaries of the agricultural districts and communities, in conformity with the respective standards prescribed in ORS 568.090, at such time or times as it finds that revision is necessary either to cause such districts or communities, or both, to conform to such standards or to provide for the more substantial or more efficient accomplishment of the purposes of ORS 568.010 to 568.130.

568.110 Community and county committees. The university shall by regulations provide:

(1) For the organization within each community of a voluntary association in which all agricultural producers who are citizens of this state and residents in such community shall be entitled to equal participation, for the selection by each such association of a community committee composed of three members of such association and for the selection of a chairman of each such community committee.

(2) For the selection by the members of such community committees within each county of a county committee for such county, composed of three members of such community committees, and for the selection of a chairman of each such county committee.

568.120 State Advisory Board; members; duties. (1) The university by regulations shall provide for the selection by the chairmen of all county committees provided for in ORS 568.110 of five persons of legal age, resident in this state, who shall be selected from the standpoint of their qualification by actual farming experience and comprehensive understanding of the agricultural problems of the state to act as farmer members of a State Advisory Board. No two such persons who are residents in the same agricultural district shall be members of the board at the same time.

(2) The Director of Agriculture shall be a member of the board ex officio.

(3) The State Advisory Board, upon the request of the university, shall advise the college with regard to all matters of major importance in carrying out the provisions of ORS 568.010 to 568.130, and may in the absence of such request, submit advice and information to the university with respect to the administration of ORS 568.010 to 568.130.

568.130 Reports regarding agricultural plans. The university shall compile or require to be made such reports as it determines necessary or proper in order to ascertain whether any agricultural plans provided for in ORS 568.010 to 568.130 are being carried out according to their terms. The university shall provide for compliance, on the part of all persons and agencies participating in the administration of any such plan, with such requirements, and may make or cause to be made such investigations as it determines necessary or proper to assure the correctness of and to make possible the verification of such reports.

568.140 to 568.200 [Reserved for expansion]

SOIL AND WATER CONSERVATION DISTRICTS

568.210 Definitions for ORS 568.210 to 568.780. As used or referred to in ORS 568.210 to 568.780, unless the context requires otherwise:

(1) "Agency of this state" includes the government of this state and any subdivision, agency or instrumentality, corporate or otherwise, of the government of this state.

(2) "Committee" or "State Soil and Water Conservation Committee" means the agency created in ORS 568.230.

(3) "District" or "soil and water conservation district" means a governmental subdivision of this state, and a public body corporate and politic, but without power to tax, levy bonds or make assessments, organized in accordance with the provisions of ORS 568.210 to 568.780 for the purposes, with the powers, and subject to the restrictions set forth in ORS 568.210 to 568.780.

(4) "Due notice" means notice published at least twice, with an interval of at least seven days between the two publication dates, in a newspaper or other publication of general circulation within the appropriate area, or if no such publication of general circulation is available, by posting at a reasonable number of conspicuous places within the appropriate area, such posting to include, where possible, posting at public places where it may be customary to post notices concerning county or municipal affairs generally. At any hearing held pursuant to such notice, at the time and place designated in such notice, adjournment may be made from time to time without the necessity of renewing such notice for such adjourned dates.

(5) "Government" or "governmental" includes the government of this state, the Government of the United States, and any subdivision, agency or instrumentality, corporate or otherwise, of either of them.

(6) "Land" or "acres of land" includes land owned by any of the parties enumerated in subsection (8) of this section, but does not include federally owned land, or

land owned and occupied as state and federal agricultural experiment stations.

(7) "Land occupier" or "occupiers of land" includes any person, firm or corporation who is in possession of any land lying within a district, whether as lessee, renter or tenant.

(8) "Landowner" includes any person, firm, corporation, the state, any county within the state, or municipality, shown by records of the county to be the owner of more than 10 acres of land or having such land under contract to purchase, lying within a district.

(9) "Nominating petition" means a petition filed under ORS 568.520 to nominate candidates for supervisor.

(10) "Petition" means a petition filed under subsection (1) of ORS 568.300 for the creation of a district.

(11) "State" means the State of Oregon.

(12) "Supervisor" means one of the members of the local governing body of a district, elected or appointed in accordance with the provisions of ORS 568.210 to 568.780.

(13) "United States" or "agencies of the United States" includes the United States of America, the soil conservation service of the United States Department of Agriculture, and any other agency or instrumentality, corporate or otherwise, of the United States of America.

[Amended by 1963 c.90 §1]

568.220 Declaration of policy. It is declared to be the policy of the legislature to provide:

(1) For conservation of soil and soil resources of this state, and

(2) For the control and prevention of soil erosion, and

(3) For the prevention of damage from floodwater and sediment, and

(4) For the conservation, development, utilization, and disposal of water, and

thereby to preserve natural resources, control floods, prevent impairment of dams and reservoirs, prevent stream pollution, assist in maintaining navigability of rivers and harbors, preserve wildlife, protect the tax base, protect public lands and protect and promote the general welfare of the people of this state.

[Amended by 1961 c.640 §2]

568.230 State Soil and Water Conservation Committee established. There is established, to serve as an agency of the state and to perform the functions conferred upon it in ORS 568.210 to 568.780, the State Soil and Water Conservation Committee. The committee shall consist of a chairman, a vice chairman and five other members.

[Amended by 1955 c.142 §5; 1963 c.90 §2]

568.240 Membership of committee; general functions. (1) The following shall serve as members of the committee:

(a) The director of the state agricultural experiment stations, or a representative designated by him.

(b) The associate director of the state agricultural extension service, or a representative designated by him.

(c) Five farmers to be appointed by the Governor.

(2) The committee may invite the Secretary of Agriculture of the United States to appoint one person to serve with the above-mentioned members as an advisory member of the committee. The committee shall keep a record of its official actions, shall adopt a seal, which seal shall be judicially noticed, and may perform such acts, hold such public hearings, and promulgate the rules and regulations necessary for the execution of its functions under ORS 568.210 to 568.780.

[Amended by 1953 c.268 §2; 1955 c.142 §6]

568.250 Committee may employ personnel. Subject to any applicable provisions of the State Civil Service Law, the committee may employ an administrative officer and such technical experts and other agents and employes, permanent and temporary, as it may require, and shall determine their qualifications, duties and compensation. The committee may call upon the Attorney General for such legal services as it may require or may employ its own counsel. It shall have authority to delegate to its chairman, to its vice chairman, to one or more of its members, or to one or more agents or employes, such powers and duties as it deems proper.

[Amended by 1955 c.142 §7]

568.260 Office accommodations; cooperation by other state agencies. (1) Oregon State University shall provide suitable office accommodations at the university, and the committee shall purchase all necessary supplies and equipment from funds made available to it.

(2) Upon request of the committee, for the purpose of carrying out any of its functions, the supervising officer of any state

agency, shall, in so far as possible under available appropriations and having due regard to the needs of the agency to which the request is directed, assign or detail to the committee members of the staff or personnel of such agency, and make such special reports, surveys or studies as the committee may request.

568.270 Committee organization; members' terms. The committee shall designate its chairman and vice chairman, and may from time to time change such designation. Two members of the committee shall hold office so long as they retain the office by virtue of which they are serving on the committee. The five farmer members of the committee shall serve terms of four years.
[Amended by 1953 c.268 §2; 1955 c.142 §8]

568.280 Members serve without compensation; expenses allowed; bonds for employes; records; audits. (1) The chairman and members of the committee shall receive no compensation for their services on the committee but shall be entitled to expenses, including traveling expenses necessarily incurred in the discharge of their duties on the committee.

(2) The committee shall provide for the execution of surety bonds for all employes and officers who shall be entrusted with funds or property. The committee shall provide for the keeping of a full and accurate record of all proceedings and of all resolutions, regulations and orders issued or adopted, and shall provide for an annual audit of the accounts of receipts and disbursements.

568.290 Additional powers and duties of committee. (1) The committee shall also have the following duties and powers:

(a) To approve or disapprove all projects, practices, personnel, budgets, contracts or regulations of soil and water conservation districts, organized as provided in ORS 568.300 to 568.780.

(b) To keep the supervisors of each of the several districts so organized informed of the activities and experience of other districts so organized, to furnish support and financial aid to the activities of the soil and water conservation districts, to the extent deemed necessary by the committee, from funds available to the committee, and to facilitate an interchange of advice and experience between such districts and cooperation between them.

(c) To coordinate the programs of the several districts.

(d) To secure the cooperation and assistance of the United States and of any of its agencies, and of agencies of this state, in the work of such districts by written agreements or otherwise.

(e) To disseminate information concerning the activities and programs of the soil and water conservation districts and to encourage the formation of such districts in areas where their organization is feasible and desirable.

(2) The committee may receive from any source, materials, machinery and equipment and transfer the materials, machinery and equipment to a soil and water conservation district under such terms and conditions as the committee considers proper. The committee may pay necessary incidental shipping and similar expenses in securing the materials, machinery and equipment and may require that such amount, plus a reasonable administrative cost, be paid to it as a refund or reimbursement by the soil and water conservation district that subsequently obtains title to or use of the materials, machinery and equipment. A soil and water conservation district obtaining title to or use of such materials, machinery and equipment may reimburse or make a refund to the committee.

(3) The committee may receive from any source, donations, gifts and contributions in money under such terms and conditions as the committee considers proper. The money shall be paid into the State Treasury and credited to an account in the General Fund which account, subject to allotment control under ORS 291.234 to 291.260, hereby is continuously appropriated to the committee for carrying on its operations.
[Amended by 1957 c.603 §1; 1959 c.575 §1; 1961 c.641 §1; 1963 c.377 §1]

568.300 Petition for formation of district; contents; consolidation of petitions. (1) Any 25 or more landowners or the owners of more than 70 percent of the acres of land lying within the limits of the territory proposed to be organized into a district may file a petition with the State Soil and Water Conservation Committee asking that a soil and water conservation district be organized to function in the territory described in the petition. Such petition shall set forth:

(a) The proposed name of the district.

(b) That there is need, in the interest of

the general welfare, for a soil and water conservation district to function in the territory described in the petition.

(c) A description of the territory proposed to be organized as a district, which description is not required to be given by metes and bounds or by legal subdivision but is sufficient if generally accurate.

(d) A request that the committee duly define the boundaries for the district, that a referendum be held within the territory so defined on the question of the creation of a district in such territory, and that the committee determine that a district be created.

(2) When more than one petition is filed covering parts of the same territory, the State Soil and Water Conservation Committee may consolidate all or any such petitions.

568.310 Notice of hearing; questions considered. Within 60 days after the petition has been filed with the committee, it shall cause due notice to be given of a proposed hearing:

(1) Upon the question of the desirability and necessity, in the interest of the general welfare, of the creation of the district.

(2) Upon the question of the appropriate boundaries to be assigned to the district.

(3) Upon the propriety of the petition and other proceedings taken under ORS 568.210 to 568.780.

(4) Upon all questions relevant to such inquiries.

568.320 Owner and interested parties have right to be heard; subsequent notice and hearings. (1) All owners of land within the limits of the territory described in the petition and of lands within any territory considered for addition to such described territory, and all other interested parties, shall have the right to attend such hearings and to be heard.

(2) If it appears upon the hearing that it may be desirable to include within the proposed district territory outside of the area within which due notice of the hearing has been given, the hearing shall be adjourned. Due notice of further hearing shall then be given throughout the entire area considered for inclusion in the district and such further hearing held.

568.330 Determination of need for district recorded; factors considered in determination; territory need not be contiguous. (1) After the hearing, if the committee determines upon the facts presented at the hearing and upon such other relevant facts and information as may be available, that there is need, in the interest of the general welfare, for a district to function in the territory considered at the hearing, it shall make and record such determination and shall define the boundaries of the district.

(2) In making the determination and defining the boundaries, the committee shall give due weight and consideration to:

(a) The topography of the area considered and of the state.

(b) The composition of the soils.

(c) The distribution of erosion.

(d) The prevailing land-use practices.

(e) The desirability and necessity of including within the boundaries the particular lands under consideration and the benefits such lands may receive from being included within such boundaries.

(f) The relation of the proposed area to existing water sheds and agricultural regions and to other soil and water conservation districts already organized or proposed for organization.

(g) Such other physical, geographical, and economic factors as are relevant.

(3) The territory to be included within such boundaries need not be contiguous.

568.340 Determination of no need for district recorded; subsequent petitions may be filed. (1) If the committee determines after the hearing and after due consideration of the relevant facts, that there is no need for a soil and water conservation district to function in the territory considered at the hearing, it shall make and record such determination and shall deny the petition.

(2) After one year has expired from the date of the denial of the petition, subsequent petitions covering the same or substantially the same territory may be filed as provided in ORS 568.300 and new hearings be held and determinations made thereon.

568.350 Referendum; purpose. (1) After the committee has made and recorded a determination that there is need, in the interest of the general welfare, for the organization of a district in a particular territory and has defined the boundaries thereof, it shall consider the question whether the operation of a district within such boundaries with the powers conferred upon soil and water conservation districts in ORS 568.210 to 568.780 is administratively practicable and feasible.

(2) To assist the committee in the determination of such administrative practicability and feasibility, the committee, within a reasonable time after entry of the finding that there is need for the organization of the proposed district and the determination of the boundaries thereof, shall hold a referendum within the proposed district upon the proposition of the creation of the district, and shall cause due notice of such referendum to be given.

568.360 Referendum ballot; contents. The question shall be submitted by ballots upon which the words "For creation of a soil and water conservation district of the lands below described and lying in the County(ies) of ....., and ....." and "Against creation of a soil and water conservation district of the lands below described and lying in the County(ies) of..... and ....." shall be printed, with a square before each proposition and a direction to insert an X mark in the square before one or the other of said propositions as the voter may favor or oppose creation of the district. The ballot shall set forth the boundaries of the proposed district as determined by the committee.

568.370 Landowners eligible to vote. (1) All owners of lands lying within the boundaries of the territory, as determined by the committee, shall be eligible to vote in the referendum. Only landowners as defined in ORS 568.210 shall be eligible to vote.

(2) For the purpose of the referendum, the county assessor shall assist the committee in obtaining a list of landowners of record within the boundaries of the proposed area eligible to vote in the referendum.
[Amended by 1957 c.603 §2]

568.380 Committee to pay expenses and issue regulations regarding hearings and referenda; informalities in referendum. (1) The committee shall pay all expenses for issuance of the notices and conduct of the hearings and referenda, and shall supervise the conduct of the hearings and referenda. It shall issue appropriate regulations governing the conduct of the hearings and referenda and providing for the registration prior to the date of the referendum of all eligible voters, or prescribing some other appropriate procedure for the determination of those eligible as voters in the referendum.

(2) No informalities in the conduct of the referendum or in any matters relating thereto shall invalidate the referendum or the result thereof, if notice thereof was given substantially as provided in ORS 568.310 or 568.320 and the referendum was fairly conducted.

568.390 Referendum results; two-thirds majority required for creation of district. The committee shall publish the results of the referendum. Unless the creation of the district is favored by a two-thirds majority of the voters at an election, the district shall not be created.

568.400 Appointment of first supervisors of district. If the committee determines that the operation of the proposed district within the defined boundaries is administratively practicable and feasible, it shall appoint not less than two nor more than four supervisors, as deemed necessary after giving due consideration to the size and population of the district.
[Amended by 1955 c.142 §10]

568.410 Procedure to constitute district a public body. The district shall be a governmental subdivision of this state and a public body corporate and politic, upon the taking of the following proceedings:

(1) The three candidates referred to in ORS 568.540 shall present to the Secretary of State an application signed and sworn to by them, which shall set forth the procedure followed in the formation of the district.

(2) The application shall be accompanied by a map of uniform scale showing the location and boundaries of the district and by a statement by the committee. The statement shall certify that a petition was filed, notice issued and hearing held as provided by ORS 568.300 to 568.320; that the committee did determine that there is need, in the interest of the general welfare, for a soil and water conservation district to function in the proposed territory and did define the boundaries thereof; that notice was given and a referendum held on the question of the creation of the district, and that the result of the referendum showed the required majority of the landowners in the district to favor creation of the district.

(3) The Secretary of State shall examine the application and statement. If he finds that the name proposed for the district is not identical with that of any other district

of this state or so nearly similar as to lead to confusion or uncertainty, he shall receive and file them and shall record them in an appropriate book of record in his office.

(4) If the Secretary of State finds that the name proposed for the district is identical with that of any other soil and water conservation district of this state or so nearly similar as to lead to confusion and uncertainty, he shall certify such fact to the committee, which shall thereupon submit to the Secretary of State a name for the district which is not subject to such defects.

(5) Upon receipt of the new name free of such defects, the Secretary of State shall record the application and statement, with the name so modified.

(6) When the application and statement have been made, filed and recorded as provided in this section, the district shall constitute a governmental subdivision of this state and a public body corporate and politic.
[Amended by 1955 c.142 §11]

568.420 Certificate of organization by Secretary of State; boundaries of district. (1) The Secretary of State shall make and issue to the three candidates referred to in ORS 568.540 a certificate, under the seal of the state, of the organization of the district, and shall record such certificate with the application and statement.

(2) The boundaries of such district shall include the territory as determined by the State Soil and Water Conservation Committee as provided in ORS 568.330, but in no event shall they include any area included within the boundaries of another soil and water conservation district.
[Amended by 1955 c.142 §12]

568.430 Petitions for inclusion or withdrawal of territory; form; landowners eligible to vote. (1) Except as otherwise provided in ORS 568.445, petitions for including additional territory within an existing district or for withdrawing territory already within a district may be filed with the committee. and the proceedings provided for in the case of petitions to organize a district shall be observed in the case of petitions for such inclusion or withdrawal.

(2) The committee shall prescribe the form for such petitions, which shall be as nearly as may be in the form prescribed in ORS 568.300 for petitions to organize a district.

(3) When the petition is signed by two-thirds of the landowners in the area proposed for inclusion or withdrawal no referendum need be held. The number of landowners in the area shall be determined by the county assessor, who shall issue a certificate stating the number of landowners of record within the boundaries of the area proposed for inclusion or withdrawal.

(4) In referenda upon petitions for such inclusion or withdrawal all landowners of land lying within the proposed additional area or area to be withdrawn are eligible to vote.
[Amended by 1955 c.142 §13; 1957 c.603 §3]

568.440 District legally established; certificate as evidence. In any suit, action or proceeding involving the validity or enforcement of, or relating to, any contract, proceeding or action of the district, the district shall be deemed to have been established in accordance with the provisions of ORS 568.210 to 568.780 upon proof of the issuance of the certificate provided for in ORS 568.420 by the Secretary of State. A copy of such certificate certified by the Secretary of State shall be admissible in evidence in any such suit, action or proceedings and shall be proof of the filing and contents thereof.

568.445 Petitions for inclusion of territory wholly within another district; approval or disapproval by supervisors and committee. (1) Petitions for including within a district territory adjacent thereto and located wholly within another district may be filed with the supervisors of the district within which the territory is proposed to be included by 25 or two-thirds, whichever is the lesser, of the landowners of the adjacent territory. The committee shall prescribe the form for such petitions.

(2) The supervisors of the district within which the territory is proposed to be included shall approve or disapprove such a petition. If they approve the petition, the supervisors shall forward it to the committee.

(3) Upon receipt of a petition forwarded as provided in subsection (2) of this section, the committee shall investigate the proposed inclusion of territory, taking into consideration:

(a) The reasons for the proposed inclusion.

(b) The reaction of the landowners of

the district within which the territory in question is located to the proposed inclusion.

(c) The effect of the inclusion on the district within which the territory in question is located and the district within which the territory is proposed to be included.

(d) Any other matters deemed pertinent by the committee.

(4) After the investigation the committee shall approve or disapprove the petition. If the committee approves the petition, the inclusion of the territory within the one district and the withdrawal thereof from the other district shall be effective, and the committee shall present to the Secretary of State a statement of such approval and a map of each district affected showing the new boundaries thereof. The Secretary of State, upon receipt of the statement and maps, shall make the necessary changes in the appropriate records in his office.
[1955 c.142 §3]

568.450 Petitions for consolidating districts; form. Petitions for consolidating two or more districts may be filed with the committee by any 25 or more owners of land within the districts affected. In such event, all the proceedings provided for in the case of petitions to organize a district shall be followed in so far as they are applicable. The committee shall prescribe the form for such petitions, which shall be as nearly as may be in the form prescribed in ORS 568.300 for petitions to organize a district.

568.460 Consolidation of districts; referendum; landowners eligible to vote; two-thirds majority required. In the holding of the referendum for consolidation all owners of land within the affected districts shall be eligible to vote. Unless a two-thirds majority of the voters in each of the districts involved votes in favor of the proposal, the districts shall not be consolidated.

568.470 Effect of consolidation on several districts. In case of consolidation of districts, the corporate existence, and terms of office of the officers, of the old districts shall expire upon issuance and recording by the Secretary of State of a certificate of the due organization of the consolidated district. Upon consolidation, all the rights and liabilities of the several consolidating districts shall be vested in and assumed by the consolidated district, and all regulations formulated under ORS 568.630 to 568.770 for the several consolidating districts shall remain in effect until superseded by regulations formulated by the consolidated district.
[Amended by 1961 c.236 §1]

568.480 Petition and referendum for discontinuance of district. (1) At any time after five years after organization of a district, any 25 or more landowners or the owners of more than 50 percent of the acres of land lying within the boundaries of such district may file a petition with the committee praying that the operations of the district be terminated and the existence of the district discontinued. The committee may conduct such public meetings and public hearings upon such petition as may be necessary to assist it in the consideration thereof.

(2) Within 60 days after such a petition has been received by the committee it shall give due notice of the holding of a referendum, and issue appropriate regulations governing the conduct thereof, the question to be submitted by ballots upon which the words "For terminating the existence of the ..... (name of the soil conservation district to be here inserted)" shall be printed, with a square before each proposition and a direction to insert an X mark in the square before one or the other of the propositions as the voter may favor or oppose discontinuance of such district.

(3) Only owners of lands lying within the boundaries of the district are eligible to vote in such referendum. No informalities in the conduct of such referendum or in any matters relating thereto shall invalidate the referendum or the result thereof, if notice thereof has been given substantially as provided in this section and the referendum has been fairly conducted.

568.490 Supervisors to wind up affairs and dispose of property; application and certificate to Secretary of State. (1) The committee shall publish the results of the referendum and shall record and certify such determination to the supervisors of the district. If a two-thirds majority of those voting votes for terminating the district, the supervisors shall forthwith proceed to wind up the affairs of the district. The supervisors shall dispose of all property belonging to the district at public auction and shall pay over the proceeds of such sale to be conveyed into the State Treasury.

(2) The supervisors shall thereupon file an application, duly verified, with the Secretary of State for the discontinuance of the district, and shall transmit with the application the certificate of the committee setting forth the results of the referendum and stating that the property of the district has been disposed of and the proceeds paid over as in this section provided, and shall set forth a full accounting of such properties and proceeds of the sale. The Secretary of State shall issue to the supervisors a certificate of dissolution and shall record such certificate in an appropriate book of record in his office.
[Amended by 1955 c.142 §14]

568.500 Certificate of dissolution; effect. Upon issuance of the certificate of dissolution, all ordinances and regulations theretofore adopted and in force within such districts shall be of no further force and effect. All contracts theretofore entered into, to which the district or supervisors are parties, shall remain in force and effect for the period provided in such contracts. The committee shall be entitled to all benefits and subject to all liabilities under such contracts and shall have the right and liability to perform, to require performance, to sue and be sued thereon, and to modify or terminate such contracts by mutual consent or otherwise, as the supervisors of the districts would have had. Such dissolution shall not affect the lien of any judgment entered under ORS 568.720 nor the pendency of any action instituted under ORS 568.700 to 568.720. The committee shall succeed to all the rights and obligations of the district or supervisors as to such liens and actions.

568.510 Proceedings for discontinuance limited. The committee shall not entertain petitions for discontinuance of any district nor conduct referenda upon such petitions nor make determinations pursuant to such petitions in accordance with ORS 568.480 and 568.490 more often than once each year after the first five year period.

568.515 Termination of inactive district's existence. At any time after five years after organization of a district and not more than once each year, the committee may make and record a determination that the district is inactive. The committee may conduct such public meetings and public hearings as may be necessary to assist it in making the determination. Within 60 days after it makes and records such a determination, the committee shall give due notice of the holding of a referendum, and a referendum shall be held and such further proceedings had for terminating the district as provided in ORS 568.480 to 568.500.
[1955 c.142 §4]

568.520 Petitions nominating supervisors. (1) Within 30 days after the hearings on creation or consolidation of districts as provided in ORS 568.300 and 568.450, nominating petitions may be filed with the committee to nominate candidates for supervisors of such district.

(2) The committee may extend the time within which nominating petitions may be filed.

(3) No such nominating petition shall be accepted by the committee, unless it is subscribed by 25 or more landowners, or two-thirds of the owners if there are less than 25 within the boundaries of such district.

(4) Landowners may sign more than one such nominating petition to nominate more than one candidate for supervisor.

568.530 Nominees' names placed on referendum ballot. The names of all nominees on behalf of whom such nominating petitions have been filed within the time designated in ORS 568.520 shall be printed and arranged in the alphabetical order of the surnames upon the ballots for the referendum on creation of the proposed district or on proposed consolidation of districts, with a square before each name and a direction to insert an X mark in the square before any three names to indicate the voter's preference.

568.540 Issuance of certificate of organization prerequisite to election; votes necessary to elect. The three candidates who receive the largest number, respectively, of the votes cast in the referendum shall be elected supervisors for the district, if and when the certificate of organization is issued by the Secretary of State as provided in ORS 568.420.
[Amended by 1955 c.142 §15]

568.550 General powers of supervisors. The supervisors of a district have the following powers subject to the written approval of the State Soil and Water Conservation Committee:

(1) To secure surveys and investigations and do research relating to:

(a) The character of soil erosion;

(b) The character of flood water and sediment damage;

(c) Agricultural phases of the conservation, development, utilization and disposal of water; and

(d) The preventive measures, control measures and improvements needed.

In order to avoid duplication of activities, the committee may call upon other state and federal agencies for assistance and cooperation in their fields in accordance with memoranda of understanding to be signed by all cooperating agencies.

(2) To conduct demonstrational projects on lands within the district upon obtaining the consent of the owner and occupier of such lands.

(3) To carry out preventive and control measures on lands within the district upon obtaining the consent of the owner and occupier of such lands.

(4) To enter into written agreements with, and within the limits of appropriations duly made available to it by law, to furnish financial or other aid to any agency, governmental or otherwise, or any owner or occupier, or both of them, of lands within the district, for the purpose of carrying on soil erosion control and prevention operations within the district.

(5) To obtain options upon and to acquire by purchase, exchange, lease, gift, grant, bequest or devise any property, real or personal or rights or interests therein; to maintain, administer and improve any properties acquired; to receive income from such properties and to expend such income in carrying out the purposes and provisions of ORS 568.210 to 568.780; and to sell, lease or otherwise dispose of any of its property or interests therein in furtherance of the purposes and the provisions of ORS 568.210 to 568.780.

(6) To borrow money and to mortgage personal property of the district as security therefor; provided, landowners are given opportunity to be heard at a public hearing in the district, notice of which shall be given according to regulations prescribed by the committee.

(7) To make available, on such terms as it shall prescribe, to landowners or occupiers within the district, agricultural and engineering machinery and equipment, fertilizer, seeds, and seedlings and other material or equipment.

(8) To construct, operate and maintain such structures as may be necessary or convenient for performance of any of the operations authorized in ORS 568.210 to 568.780.

(9) To develop comprehensive plans and specifications for the conservation of soil resources and for the continued control and prevention of soil erosion within the district, and to publish such plans, specifications, and information and bring them to the attention of owners and occupiers of lands within the district.

(10) To take over, by purchase, lease, or otherwise, and to administer, any soil conservation, erosion control, or erosion prevention project, or combination thereof, located within its boundaries undertaken by the United States or any of its agencies, or by this state or any of its agencies.

(11) To manage, as agent of the United States or any of its agencies, or of this state or any of its agencies, any soil conservation, erosion control, or erosion prevention project, or combination thereof, within its boundaries.

(12) To act as agent for the United States or any of its agencies, in connection with the acquisition, construction, operation, or administration of any soil conservation, erosion control, or erosion prevention project, or combination thereof, within its boundaries.

(13) To accept donations, gifts and contributions in money, services, materials, or otherwise, from the United States or any of its agencies, or from this state or any of its agencies, and to use or expend such moneys, services, materials or other contributions in carrying on its operations.

(14) To sue and to be sued in the name of the district; to have a seal, which shall be judicially noticed; to have perpetual succession unless terminated as provided by law; to make and execute contracts and other instruments necessary or convenient to the exercise of its powers; to make, and from time to time amend or repeal, rules and regulations not inconsistent with ORS 568.210 to 568.780 to carry into effect its purposes and powers.

(15) As a condition to the extending of any benefits under ORS 568.210 to 568.780 to, or the performance of work upon, any lands not owned or controlled by this state or any of its agencies, the supervisors may require contributions in money, services,

materials or otherwise to any operations conferring such benefits, and may require landowners or occupiers to enter into and perform such agreements or covenants as to the permanent use of such lands as will tend to prevent or control erosion thereon.

(16) To purchase liability or indemnity insurance, in such amounts and containing such terms and conditions as they may deem necessary, for the protection of supervisors, officers and employes of the district against claims against them incurred by such supervisors, officers and employes in the performance of their official duties. The premiums for such insurance shall be paid out of moneys available for expenditure by the district.

[Amended by 1955 c.142 §16; 1957 c.603 §4; 1961 c.640 §3]

568.552 Power of supervisors to manage and control water resources and projects; authority of State Water Resources Board. (1) The members of the local governing body of a soil and water conservation district shall have, in addition to the powers granted to them by ORS 568.550 and within the limits of appropriations and other moneys duly made available to the soil and water conservation district, the power:

(a) To plan, construct, maintain, manage, administer or control any works of improvement for flood prevention or for the conservation, development, utilization or disposal of water upon lands within their respective districts upon obtaining the consent of the landowner as defined in ORS 568.210, and the land occupier as defined in ORS 568.210, of such lands.

(b) To enter into written agreements to furnish financial or other aid to any agency, governmental or otherwise, or any landowner as defined in ORS 568.210, or land occupier as defined in ORS 568.210, or both of them, of lands within the district, for flood prevention or for the conservation, development, utilization or disposal of water within their respective districts.

(c) To manage, as agent, or to take over, by purchase, lease, or otherwise any flood prevention, drainage, irrigation or agricultural water management project or any combination thereof, undertaken by the United States or any of its agencies, or by this state or any of its agencies.

(2) Authority granted under this chapter shall be subject to the authority of the State Water Resources Board to formulate an integrated, coordinated program for the use and control of all water resources of this state and to classify and withdraw water resources of this state under ORS 536.300 to 536.410.

[1961 c.640 §1]

568.555 Name of district may be changed. Upon approval by the committee, the supervisors of a district may submit to the Secretary of State a proposed new name for the district. If the proposed new name is not identical with that of any other soil and water conservation district of this state or so nearly similar as to lead to confusion or uncertainty, the Secretary of State shall make the change in names on the appropriate records in his office, and shall record and issue to the supervisors a new certificate of organization for the district containing the new name. If the proposed new name does not satisfy such requirement, the Secretary of State shall so notify the supervisors, who may submit a new name which does satisfy such requirement.

[1955 c.142 §2]

568.560 Number of supervisors; officers; term; vacancies. (1) The local governing body of the district shall consist of not less than five nor more than seven supervisors, who are landowners residing within the district or are persons who reside within the district and use more than 10 acres of land within the district and are elected or appointed as provided by law.

(2) The supervisors shall designate a chairman, secretary and treasurer and may, from time to time, change such designation.

(3) The term of office of each supervisor shall be four years, except that:

(a) Of the supervisors first appointed under ORS 568.400, not less than one nor more than two shall serve until the first annual election following their appointment, and not less than one nor more than two shall serve for terms the length of which shall be designated by the committee, but not less than two years nor more than four years following their appointment, and thereafter, their successors shall be elected or appointed as provided by law for other elected supervisors.

(b) Of the supervisors elected as provided in ORS 568.540, one shall serve for one year and two shall serve for three years each, from the date of the first annual election, as determined by them by lot at the first meeting of supervisors after creation or consolidation of the district.

(4) A supervisor shall hold office until his successor has been elected or appointed and has qualified or until his office has been declared vacant by the committee pursuant to subsection (5) of this section. Any vacancy occurring in the office of elected supervisor shall be filled by appointment by the remaining supervisors until the next regular election, when a successor shall be elected to serve the unexpired term. Any vacancy in the office of appointed supervisor shall be filled by appointment of a successor for the unexpired term by the committee.

(5) Upon the written recommendation of a majority of the members of the local governing body of a district, the committee may declare vacant the position of any supervisor who is absent from three consecutive meetings of the local governing body of the district.
[Amended by 1955 c.142 §17; 1957 c.603 §5; 1961 c.641 §2]

568.570 Majority constitutes a quorum; services uncompensated; expenses allowed. (1) A majority of the supervisors constitutes a quorum. The concurrence of a majority in any matter within their duties is required for its determination.

(2) A supervisor shall receive no compensation for his services, but he shall be entitled to expenses, including traveling expenses, necessarily incurred in the discharge of his duties.

568.580 Annual meeting. Each year after the creation of the first board of supervisors at a time fixed by resolution of the board, the board, by giving due notice, shall call an annual meeting of the landowners in the district and present an annual report and audit.

568.590 Notice of annual meeting; nomination and election of new supervisors. (1) Fifteen days before the annual meeting and election, the supervisors shall cause notices to be posted in three public places in the district and mailed to each cooperator in the district or published for two successive weeks in a paper of general circulation in the area, setting forth the time and place of holding the election.

(2) Candidates to fill pending vacancies in the board of supervisors shall be nominated and such election shall be conducted as nearly as practicable in accordance with the general election laws of the state. No particular form of ballot shall be required. The nomination of supervisors may be made by petition signed by at least 10 landowners or a majority of the landowners in any district having less than 10 such owners in the proposed district or by having their names placed in nomination from the floor during the annual meeting and election. The secretary of the board shall cause the names of all persons nominated to be placed on the ballot as candidates and provide a blank line thereon wherein may be written in the name of any candidate voted for. The persons receiving the highest number or numbers of ballots shall be elected.
[Amended by 1961 c.641 §3]

568.600 Legal counsel; delegation of powers; assistance to committee. (1) The supervisors may call upon the Attorney General for such legal services as they may require, or may employ their own counsel.

(2) The supervisors may delegate to their chairman or to one or more supervisors such powers and duties as they deem proper.

(3) The supervisors shall make available to the committee all records and information pertaining to the district and shall assist the committee in carrying out its recommendations.

568.610 Bonds for employes; records; audits. The supervisors shall:

(1) Provide for execution of surety bonds for all officers who shall be entrusted with funds or property.

(2) Provide for the keeping of a full and accurate record of all proceedings and of all resolutions, regulations, and orders issued or adopted.

(3) Provide for an annual audit of the accounts of receipts and disbursements.

568.620 Consultation with county or municipal representatives. The supervisors shall invite the legislative body of any municipality or county located near the territory comprised within the district to designate a representative to advise and consult with the supervisors of the district on all questions of program and policy which may affect the property, water supply or other interest of such municipality or county.

568.630 Supervisors may formulate land-use regulations; public meetings. The supervisors of any district have authority to formulate regulations, subject to the written approval of the committee, governing the use of lands within the district or a part

thereof in the interest of conserving soil and soil resources and preventing and controlling soil erosion. The supervisors may conduct the public meetings upon tentative regulations necessary to assist them in this work.
[Amended by 1959 c.48 §1]

568.640 Referendum on land-use regulations; notice; form of regulations; proposed regulations available for inspection. (1) The supervisors shall not have authority to enact such land-use regulations into law until after they have caused due notice to be given of their intention to conduct a referendum for submission of such regulations to the owners of lands to which the proposed regulations apply for their indication of approval or disapproval, and until after the supervisors have considered the result of such referendum.

(2) The proposed regulations shall be embodied in a proposed ordinance, which shall describe the territory to which it applies. Copies of the proposed ordinance shall be available for the inspection of all eligible voters during the period between publication of such notice and the date of the referendum. The notices of the referendum shall recite the contents of such proposed ordinance, or shall state where copies of such proposed ordinance may be examined.
[Amended by 1959 c.48 §2]

568.650 Contents of referendum ballot; referendum governed by supervisors; landowners eligible to vote. (1) The question shall be submitted by ballots, upon which the words "For approval of proposed ordinance No. ..... prescribing land-use regulations for conservation of soil and prevention of erosion" and "Against approval of proposed ordinance No. ..... prescribing land-use regulations for conservation of soil and prevention of erosion" shall be printed, with a square before each proposition and a direction to insert an X mark in the square before one or the other of the propositions.

(2) The supervisors shall supervise such referendum, shall prescribe appropriate regulations governing its conduct and shall publish the results thereof. Only owners of lands to which the proposed ordinance applies shall be eligible to vote in such referendum.
[Amended by 1959 c.48 §3]

568.660 Votes necessary for approval; effect of regulations when adopted. (1) The supervisors do not have authority to enact such proposed ordinance into law unless at least a three-fourths majority of all votes cast in the referendum representing two-thirds of the land to which the proposed ordinance applies has been cast for approval of the proposed ordinance.

(2) Land-use regulations prescribed in ordinances adopted pursuant to ORS 568.630 to 568.690 by the supervisors of any district when indorsed by the committee have the force and effect of law in the district or the part thereof to which the ordinance applies and are binding and obligatory upon all owners and occupiers of land within such district or the part thereof to which the ordinance applies.
[Amended by 1959 c.48 §4]

568.670 Landowner may petition for amendment or repeal; procedure; referenda limited. (1) Any owner of land to which an ordinance adopted by the supervisors under ORS 568.630 to 568.690 applies may at any time file a petition with the supervisors asking that any or all of the land-use regulations prescribed in the ordinance shall be amended, supplemented or repealed.

(2) Land-use regulations prescribed in any ordinance adopted pursuant to ORS 568.630 to 568.690 shall not be amended, supplemented or repealed except in accordance with the procedure prescribed in ORS 568.630 to 568.690 for adoption of land-use regulations.

(3) Referenda on adoption, amendment, supplementation or repeal of land-use regulations shall not be held more often than once in 12 months.
[Amended by 1959 c.48 §5]

568.680 Scope of regulations; approval by committee. (1) All regulations to be adopted by the supervisors under ORS 568.630 to 568.690 must be approved in writing by the committee.

(2) The regulations may include provisions for gully control, cultural and cropping practices and for such other measures and operations as may assist conservation of soil and water resources and prevent or control soil erosion in the district.

568.690 Regulations to be uniform; copies to be available to landowners. (1) The regulations shall be uniform throughout the territory comprised within the district or the part thereof to which they apply except that the supervisors may approve

technical classification of the lands within the district with reference to such factors as soil type, degree of slope, degree of erosion threatened or existing, cropping and tillage practices in use and other relevant factors; and may provide regulations varying with the type or class of land affected but uniform as to all lands within each class or type.

(2) Copies of land-use regulations adopted under ORS 568.630 to 568.690 shall be printed and made available to all owners and occupiers of lands lying within the district.

[Amended by 1959 c.48 §6]

568.700 Supervisors petition circuit court for enforcement of regulations; contents of petition. Where the supervisors of any district find that any of the provisions of land-use regulations prescribed in an ordinance adopted in accordance with ORS 568.630 to 568.690 are not being observed on particular lands, and that such nonobservance tends to increase erosion on such lands and is interfering with the prevention or control of erosion on other lands within the district, the supervisors may present to the circuit court of the county in which the lands of the defendants lie a petition, duly verified, setting forth:

(1) The adoption of the ordinance prescribing land-use regulations, the failure of the defendant landowner or occupier to observe such regulations and to perform particular work, operations or avoidance as required thereby.

(2) That such nonobservance tends to increase erosion on such lands and is interfering with the prevention or control of erosion on other lands within the district, and praying the court to require the defendant to perform the work, operations or avoidances within a reasonable time and to order that if the defendant fails so to perform the supervisors may go on the land, perform the work or other operations or otherwise bring the condition of such lands into conformity with the requirements of such regulations, and recover the costs and expenses thereof with interest, from the owner or occupier of such land.

568.710 Hearing and decree; court may appoint referee; joinder of owner and occupant. (1) Upon the presentation of the petition, the court shall cause process to be issued against the defendant and shall hear the case. If it appears to the court that testimony is necessary for the proper disposition of the matter, it may take evidence or appoint a referee to take such evidence as it directs and report the same to the court with his findings of fact and conclusions of law, which shall constitute a part of the proceedings upon which the determination of the court shall be made.

(2) The court may dismiss the petition; or it may require the defendant to perform the work, operations or avoidances, and may provide that upon the failure of the defendant to initiate such performance within the time specified in the order of the court and to prosecute the same to completion with reasonable diligence, the supervisors may enter upon the lands involved and perform the work or operations or otherwise bring the condition of such lands into conformity with the requirements of the regulations and recover the costs and expenses thereof, with interest at the rate of five percent per annum from the owner or occupier of such lands, or both.

(3) In all cases where the person in possession of lands who fails to perform such work, operations or avoidances is not the owner, the owner of such lands shall be joined as party defendant.

568.720 Court retains jurisdiction until work completed; statement of expenses; judgment. The court shall retain jurisdiction of the case until after the work has been completed. Upon completion of the work pursuant to the court order the supervisors may file a petition with the court, a copy of which shall be served upon the defendant in the case, stating the costs and expenses sustained by them in the performance of the work and praying judgment therefor with interest. The court shall have jurisdiction to enter judgment for the amount of such costs and expenses, with interest at the rate of five percent per annum until paid, together with the costs of suit, including a reasonable attorney's fee to be fixed by the court.

568.730 Officials may enter private lands. The supervisors or state or federal officials have authority to go upon any lands within the district after notifying the owner or operator for the purpose of making surveys and to determine whether land-use regulations adopted under ORS 568.630

to 568.690 are being observed. Due precaution shall be taken at all times to prevent injury to growing crops or livestock.

568.740 Board of adjustment established for each district; membership; appointment; term; disqualification. (1) Where the supervisors of any district adopt an ordinance prescribing land-use regulations in accordance with the provisions of ORS 568.630 to 568.690, they shall further provide by ordinance for establishment of a board of adjustment consisting of three members.

(2) Each member shall be appointed for a three-year term, except that the members first appointed shall be appointed for terms of one, two and three years, respectively. The members of each such board of adjustment shall be appointed by the committee, with the advice and approval of the supervisors of the district for which such board has been established, and shall be removable upon written notice.

(3) Any member of a board of adjustment who in the judgment of the committee is personally or financially interested in any matter brought before the board of which he is a member shall be disqualified by the committee from participation on the board of adjustment in such matter; and the committee, with the advice and consent of the governing body of the district, shall appoint a member pro tempore who shall serve on the board of adjustment in its consideration of such matter until such matter is finally disposed of by the board of adjustment. If in the judgment of the committee a board of adjustment member's personal or financial interest in matters before the board is of such a character as to conflict permanently or otherwise interfere with the discharge of such member's duties, the committee may declare such member's position vacant. "Personal or financial interest," as used in this subsection, includes, but is not limited to, the ownership of land or of capital or voting stock in any corporation which is the owner of land subject to land-use regulations, which regulations are before the board of adjustment for review under the provisions of ORS 568.770.

[Amended by 1961 c.236 §2]

568.750 Vacancies in board of adjustment; compensation of members; administrative expenses. (1) Vacancies in the board of adjustment shall be filled in the same manner as original appointments and shall be for the unexpired term of the member whose term becomes vacant. Members of the committee and the supervisors of the district are ineligible to appointment as members of the board of adjustment during their tenure of such other office.

(2) The members of the board of adjustment shall receive compensation for their services at the rate of $5 per diem for time spent on the work of the board, in addition to expenses, including traveling expenses, necessarily incurred in the discharge of their duties.

(3) The supervisors shall pay the necessary administrative and other expenses of operation incurred by the board, upon the certificate of the chairman of the board, from funds made available by the committee or the Federal Government.

568.760 Rules of board of adjustment; meetings. (1) The board of adjustment shall adopt rules to govern its procedures, which rules shall be in accordance with the provisions of ORS 568.210 to 568.780 and with the provisions of any ordinance adopted pursuant thereto. The board shall designate a chairman from among its members, and may from time to time change such designation.

(2) Meetings of the board shall be held at the call of the chairman and at such other times as the board may determine. Any two members of the board constitute a quorum. The chairman, or in his absence such other member of the board as he designates to serve as acting chairman, may administer oaths and compel the attendance of witnesses. All meetings of the board are open to the public. The board shall keep a full and accurate record of all proceedings, of all documents filed with it and of all orders entered, which shall be filed in the office of the board and shall be public record.

568.770 Petition for relief from regulations; hearing; procedure; board may order variance of regulations; appeal. (1) Any landowner or occupier may file a petition with the chairman of the board of adjustment alleging that there are great practical difficulties or unnecessary hardship in the way of his carrying out upon his lands the strict letter of the land-use regulations prescribed by an ordinance that applies to his lands and asking relief therefrom. Copies of such petition shall be served by the petitioner upon the chairman of the supervisors of the district within which his lands are located and upon the chairman of the committee.

(2) The board of adjustment shall fix a time for the hearing of the petition and cause due notice of such hearing to be given. The supervisors of the district and the committee shall have the right to appear and be heard at such hearing. Any owner or occupier of lands to which the same ordinance applies who objects to the authorizing of the variance prayed for may intervene and become a party to the proceedings. Any party to the hearing before the board may appear in person, by agent or by attorney. If, upon the facts presented at such hearing, the board determines that there are great practical difficulties or unnecessary hardship in the way of applying the strict letter of any of the land-use regulations upon the lands of the petitioner, it shall make and record such determination and shall make and record findings of fact in reference thereto.

(3) Upon the basis of such findings and determination, the board shall have power by order to authorize such variance from the terms of the land-use regulations in their application to the lands of the petitioner, and such order shall be in accordance with substantial justice.

(4) Any petitioner aggrieved by an order of the board granting or denying in whole or in part the relief sought, or any intervening party, may appeal to the circuit court of the county in which the lands of the petitioner lie.

[Amended by 1959 c.48 §7]

568.780 Certain public agencies to be deemed owners. Agencies of this state which have jurisdiction over, or are charged with the administration of any state owned lands, and of any county, or other governmental subdivision of the state, which have jurisdiction over, or are charged with the administration of any county owned or other publicly owned lands, lying within the boundaries of any district organized under ORS 568.210 to 568.780 are deemed owners within the meaning of ORS 568.210 to 568.780 and have the same rights and duties as other landowners under the provisions of ORS 568.210 to 568.780.

568.790 County funds for personnel and other uses; duties of county extension agent. (1) In any county where one or more soil and water conservation districts have been established as provided by ORS 568.210 to 568.780, the county court of such county may provide and appropriate funds for the use of such district or districts for the employment of necessary personnel including the employment of one county extension agent or for other expenditures required to carry out the provisions of ORS 568.210 to 568.780.

(2) Such funds may be provided either by special provision in the annual tax levy of such county or by appropriation of funds not otherwise appropriated. Funds for the employment of a county extension agent under subsection (1) of this section shall be in addition to and not in lieu of funds provided under ORS 566.240 and the same shall be paid to the treasurer of Oregon State University through the Board of Higher Education for expenditure within such county under the supervision of the federal cooperative extension service of the university which may be used for payment of a part of the salary and expenses of one or more county extension agents in accordance with a budget mutually agreed upon between the county court of such county and the federal cooperative extension service of the university.

(3) Each county extension agent so employed may serve as secretary of one or more soil and water conservation districts, by and with the consent of the supervisors of such districts, and his time and attention, in whole or in part, shall be devoted to carrying out and facilitating the approved work program of such districts as provided in ORS 568.210 to 568.780.

[Amended by 1961 c.641 §4]

568.800 [Reserved for expansion]

WIND EROSION CONTROL

568.810 Purpose of ORS 568.810 to 568.890; types of wind erosion. (1) The purpose of ORS 568.810 to 568.890 is to effectuate the control of wind erosion by forming districts in which all land owners affected shall carry out wind erosion control measures whenever serious wind erosion conditions prevail.

(2) Two types of wind erosion conditions shall be recognized:

(a) The actual movement of soil by wind to such a degree that the top soil is being noticeably destroyed.

(b) Conditions which will result in a noticeable movement of the top soil by wind action.

568.820 Designation of areas by county court upon petition; description of boundaries. (1) The county court of any county east of the summit of the Cascade Mountains may designate areas as wind erosion

districts when presented with a duly certified petition adequately describing the boundaries or area included in such districts and when the petition bears the signatures of two-thirds of the land owners or qualified representatives in the described district. Five such signatures shall be a minimum requirement.

(2) Boundaries described by metes and bounds or areas described by quarter sections shall be deemed adequately described.

568.830 Publication and posting of notices describing districts; when regulations are enforced. (1) The county court shall within 10 days after declaring a wind erosion district cause to be published an official notice adequately describing the district.

(2) Each notice shall be posted in a prominent place in the county courthouse and shall be published in one or more newspapers serving the district, for two consecutive issues if weekly or two times at an interval of one week if daily or semiweekly.

(3) Ten days after the last publication of the official notice the provisions of ORS 568.810 to 568.890 shall be enforced as set forth in ORS 568.840 to 568.890.

568.840 Election of advisory board; meetings; members; functions. (1) Within 30 days after a wind erosion district has been designated by the county court the court shall cause to be posted in three public places in such wind erosion district a written or printed notice notifying the farm operators thereof to assemble at some designated convenient place on the tenth day after the date of notice at 10 a. m. for the purpose of electing four directors who shall be known as the advisory board, to serve until their successors are duly elected or appointed. Two members of the initial board shall be elected to serve for one year and two shall be elected to serve for two years. Vacancies in the advisory board shall be filled by appointment by the board.

(2) As soon as 20 percent or more of the farm operators of the district have assembled pursuant to such notice they shall constitute a quorum to do business. Such meeting shall organize by the election of a chairman and secretary of the meeting and then may proceed to elect four members of the advisory board. In either January or February in each year following the initial meeting, the chairman of the advisory board shall call an annual meeting of the farm operators of the wind erosion district. At least five days before the meeting, notice of the meeting shall be given by posting in three public places in the wind erosion district a written or printed notice notifying the farm operators thereof to assemble at some designated convenient place at the appointed time for the annual meeting. At the meeting two members of the advisory board to serve for two years shall be elected. All members of the advisory board shall be farm operators of the district in which they are elected.

(3) Within 10 days after the initial or yearly election, the advisory board shall meet and elect a chairman and secretary from their members who shall serve until the next election. All other meetings of the advisory board shall be held as the need arises, at the call of the chairman. Three members constitute a quorum.

(4) The functions of the advisory board are:

(a) To recommend to the county court a person or persons for the position of wind erosion inspector.

(b) To consult and advise with the inspector as to the most feasible methods of effectuating wind erosion control in the district.

(c) To act as a board of appeal when disputes arise between the wind erosion inspector and the owner or occupant of land within the district, concerning action relating to the enforcement of ORS 568.810 to 568.890.

[Amended by 1959 c.278 §1]

568.850 Wind erosion inspector; appointment; duties; appeal from decision; compensation; expenses. (1) The county court, upon the recommendation of the advisory board, shall appoint an inspector who shall, within the wind erosion district or districts under his supervision:

(a) Determine when serious wind erosion conditions prevail.

(b) Serve notices on land owners or occupants to effectively control wind erosion on their lands or correct conditions which may allow wind erosion to occur.

(c) When necessary, control or supervise control of wind erosion or conditions which may allow wind erosion to occur on lands where the owners or occupants thereof fail or refuse to do so.

(2) The inspector shall be the sole judge of whether serious wind erosion conditions do or do not prevail, except that appeal from his decisions may be made to the advisory board as provided in ORS 568.840. In case of appeal to the advisory board, the inspector shall abide by a majority decision of the advisory board.

(3) The persons appointed wind erosion inspectors by the county court may receive for services reasonable wages, as determined by the county court, for the time actually employed in the performance of duty under the provisions of ORS 568.810 to 568.890 and may be reimbursed for actual expenses incurred in carrying out those provisions. All wages and expenses paid wind erosion inspectors shall be paid by the county court from funds set aside for this purpose, as provided in ORS 568.880.

568.860 Inspector may enter lands in district; service of notice on owner or occupant. (1) The wind erosion inspector shall have access to all lands within the district or districts under his supervision. If in his judgment wind erosion is occurring or is likely to occur because proper control measures are not being practiced, he shall serve a written notice to any such owner or occupant of such land, or where unable to serve such notice personally, shall post the same and two copies thereof in three conspicuous places on the land where the provisions of ORS 568.810 to 568.890 are not being complied with, bearing date of service on posting of same and a statement setting forth that work on the control of wind erosion must be commenced within five days; except that when serious blowing is actually occurring, four hours from the date of service is sufficient notice.

(2) A copy of the notice or notices, each showing the period of grace allowed, together with proof of service indorsed thereon, shall be filed with the county court.

568.870 County court may authorize inspector to control erosion; expenses of control. (1) If the owner or occupant of the land fails or refuses to control wind erosion in accordance with ORS 568.810 to 568.890, the wind erosion inspector shall at once notify the county court, and the county court shall authorize the wind erosion inspector or such assistants as he may employ to go upon the land and control the wind erosion, using the most effective and practical methods which will operate with the least injury to the land or the crops thereon.

(2) Verbal authorization by telephone from one or more members of the county court is sufficient authority for commencing wind erosion control work when actual wind erosion is occurring and when an official four-hour notice, as provided in ORS 568.860 has been served on the owner or occupant of the land.

(3) Upon completion of the work the wind erosion inspector shall file with the county clerk an itemized statement of the expenses necessarily incurred in the control of the wind erosion, including his own wage, if any, verified by his oath. When the statement is filed, the county clerk shall cause the same to be entered upon a lien docket prepared for that purpose.

(4) If such charges and expenses are not paid to the county clerk and the lien discharged by the owner or occupant of the lands within 90 days from the date the lien is docketed, the county clerk shall certify the same to the tax collector of the county, who shall extend the amount thereof upon the current tax roll, and when so extended the same shall constitute a valid lien against the premises and shall be collected by the tax collector in the same manner as taxes are collected.

(5) If within 10 days from the date of filing and docketing the lien no objections have been filed thereto, the county court shall pay the amount thereof out of the general fund of the county to the claimants.

568.880 Tax levy for wind erosion control. The county courts of the several counties may levy a tax and create a fund for the control of wind erosion on county land within the wind erosion districts and for expenses of erosion control which cannot fairly be charged to the individual landowners. The amount estimated by the county court as being sufficient for such purposes may be placed in the county budget; and after consideration at the meeting held for the purpose of passing upon the tax levy of the voters of the county, may become one of the items for which expenditure may be made during the ensuing year.

568.890 District may be dissolved; disposition of district funds; change of district boundaries. (1) Any wind erosion district may be enlarged, contracted or dissolved by

the county court when a petition is filed bearing the signatures of two-thirds of the landowners of the district and stating the changes in the district boundaries that are desired.

(2) All such changes shall be described as provided in ORS 568.820. Any moneys remaining in any fund for the control of wind erosion shall, after the dissolution of all such districts in the county, be credited to the general fund of the county.

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, 1963.

Sam R. Haley
Legislative Counsel