Chapter 370

(1963 reprint)

County Road Bonding Act

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CROSS REFERENCES

370.010
County debt limitation, Const. Art. XI, § 10

County roads, Ch. 368

370.005 "County court" defined. As used in this chapter, unless the context requires otherwise, "county court" includes board of county commissioners.

370.010 Authority to issue bonds. (1) Any county may issue bonds for the purpose of raising money to be used for the construction and maintenance of permanent roads in that county.

(2) All moneys raised under the provisions of this chapter shall be used in constructing permanent public roads in that county, which roads, except as otherwise provided by law, shall be constructed by the county court under its exclusive jurisdiction and such expert assistants as it may employ.

370.020 Road work plans, specifications and bids. The county court:

(1) Shall prepare plans and specifications of roads mentioned in ORS 370.010.

(2) Shall invite bids in conformity to such plans and specifications.

(3) May also receive and consider any and all bids in conformity to any plans and specifications furnished by any individual, firm or corporation offering to bid on such roads.

(4) May reject any and all bids.

370.030 Petition to call special election; number of petitioners making election mandatory. Whenever a number of registered voters of the county equal to one-fourth of the greatest number of votes cast in that county at the next preceding general election for any person for Judge of the Supreme Court, not exceeding 5,000 registered voters, petition the county court asking that a special election be called for the purpose of submitting to the voters of that county the question of issuing bonds for the purpose mentioned in ORS 370.010, the county court shall call such special election and submit such question to the legal voters of the county.

370.040 Contents and form of petition. The petition mentioned in ORS 370.030 shall set out and specify the amount of bonds proposed to be issued, the length of time they shall run and the maximum rate of interest they shall bear. Each petitioner shall sign his own name to the petition, the precinct in which he resides, and his postoffice address shall be noted opposite his name. The petition shall be substantially in the following form:

To the Honorable County Court of ——— County:

We, the undersigned registered voters, respectfully petition that you call a special election for the purpose of submitting to the voters of this county the question of issuing bonds to provide for the construction of permanent roads in this county, to the amount of $———, to run —— years each. The bonds shall bear interest at —— percent per year.

Name ——, precinct ——, postoffice address ——.

370.050 Filing and examination of petition; court order calling election; appeal. (1) The petition mentioned in ORS 370.040 shall be filed with the county clerk and presented to the county court at or before its next regular session.

(2) The county court shall examine the petition as soon as it is presented.

(3) If the county court is satisfied that the petition substantially conforms to the requirements of ORS 370.040 and contains the names and postoffice addresses of the requisite number of voters as required by ORS 370.030, it shall make an order directing that a special election be called and held in that county for the purpose specified in the petition at a time, not less than 20 nor more than 40 days after the date of making the order, to be then fixed by the court.

(4) The order of the county court shall state:

(a) The amount of the proposed bonded indebtedness.

(b) The maximum rate of interest that it shall bear.

(c) The particular roads within the county to be built and improved by the money raised.

(d) The minimum amount to be expended on each road.

(e) The location of each road within the county, giving the beginning and terminus thereof. The county court shall not use any of the money raised under ORS 370.010 to 370.240 upon any road other than those mentioned in the order, nor for any other purpose than embraced therein.

(f) Any other details which the county court deems proper, not inconsistent with ORS 370.010 to 370.240.

(5) There shall be no appeal from this order.

370.060 Court order refusing to call election; appeal. (1) If the county court determines either that the petition does not substantially conform to the requirements of ORS 370.040, or that it does not contain names and postoffice addresses of the requisite number of voters as required by ORS 370.030, it shall make an order declaring that fact, particularly designating the defects and refusing to order a special election.

(2) Within 10 days after the entry of such order any one or more of the petitioners may appeal to the circuit court in the same manner as appeals are taken from the county court in actions at law, except that the notice of appeal, if not entered in the journal at the time the order is made, shall be served on the county judge and no appeal bond shall be required.

(3) If the circuit court upon the appeal is satisfied that the county court should have ordered an election, the circuit court shall direct the county court to proceed as if it had declared the proceedings sufficient. If upon the appeal the circuit court decides that the judgment of the county court was correct, it shall make an order affirming the judgment of the county court. There shall be no appeal from the judgment of the circuit court.

370.070 Proceedings where number of petitioners authorizes, but does not require, calling of election. (1) Whenever a number of registered voters of a county equal to one-twentieth of the greatest number of votes cast in that county at the next preceding general election for any person for Judge of the Supreme Court petition the county court as provided in ORS 370.030 and 370.040, the county court shall take the same proceedings respecting such petition as provided in ORS 370.050 and 370.060. If the county court is satisfied that the petition is insufficient as provided in ORS 370.050 and 370.060, it shall so adjudge. There shall be no appeal from such judgment.

(2) The county court, however, is not required to call a special election upon the petition provided for in this section, and the difference between the proceedings provided for in this section and that provided for in ORS 370.050 and 370.060 is that this section is intended to authorize, but not require, the county court to call a special election, whereas ORS 370.050 and 370.060 are intended to be mandatory upon the county court.

370.080 Notice of special election; posting; contents; form. Whenever a special election is ordered as provided in ORS 370.050, 370.070 or 370.120 the county court shall cause printed notices thereof, signed by the county clerk, to be posted in like manner as notices of a general election are posted. These notices shall:

(1) Particularly specify the amount of bonds proposed to be issued, the length of time they shall run, and the maximum rate of interest they shall bear, the roads to be improved and the amount to be expended on each road.

(2) Be posted at least 20 days before the date of the election.

(3) Be substantially in the following form:

Notice of Special Election for Issuing Road Bonds for ——— County.

Notice hereby is given that on ———, 19—, a special election will be held in —— County, to determine whether the county court shall issue bonds of the county to provide for permanent road construction to the amount of $——, to mature in —— years, no more than $—— to be issued in any one year, and to bear interest at the rate of — percent per year. The funds so raised shall be expended in building permanent roads, described as follows: $—— shall be expended on the road from —— to —— and $—— shall be expended on the road from —— to —— (etc.).

———————,
County Clerk for ——— County.

370.090 Special election ballots; conduct of election. (1) The county court shall have printed to use at the special election the same number of official and sample ballots as would be required by the election laws at a general election.

(2) The special election shall be conducted and votes canvassed in the same manner as a general election.

(3) The judges and clerks appointed for the next preceding general election shall act as judges and clerks at the special election.

(4) The ballot shall be in substantially the following form:

Shall there be issued bonds of ——— County to the amount of $——, due in ——

years, with interest at —— percent per year to provide for permanent road construction?
Yes ——.
No ——.

370.100 Number of special elections in year. Only one special election shall be held in any county in any one year.

370.110 Petition for general election; court order; appeal. (1) Whenever a number of registered voters of a county equal to one-tenth of the greatest number of votes cast in that county at the next preceding general election for any person for Judge of the Supreme Court, not exceeding 5,000 registered voters, petition the county court as provided in ORS 370.030 and 370.040, that the question of issuing bonds for the purpose of ORS 370.010 be submitted to the voters of the county at a general election, the county court shall take the same action respecting such petition as provided in ORS 370.050 and 370.060, except that instead of calling a special election it shall submit the question to the voters of the county at the next general election.

(2) This petition must be filed with the county clerk and submitted to the county court at a regular term at least 45 days before the date of the next general election.

(3) If the county court refuses to order the question submitted to the voters at the next general election, an appeal may be taken from the order in the same manner and with like effect as provided by ORS 370.050 and 370.060.

370.120 County court's motion for election; court order. (1) The county court of its own motion may submit the question of issuing bonds for the purpose mentioned in ORS 370.010 at any general election or at any special election called for that purpose. This may be done by an order of the county court which shall be entered in the journal at least 40 days next preceding any such election. The order shall set out the amount of bonds proposed to be issued, the length of time they shall run and the maximum rate of interest they shall bear.

(2) After having entered the order, the county court shall proceed to submit the question to the voters of the county in the same manner and with like effect as upon the petition mentioned in ORS 370.030.

(3) If a special election is called it shall be held at a time, not less than 20 nor more than 40 days after the date of making the order, to be fixed by the county court.

(4) When the county court submits the question of its own motion, its order:

(a) Shall state the amount of the proposed bonded indebtedness and the maximum rate it shall bear.

(b) May designate what particular roads within the county are to be built and improved by the money raised, the minimum amount to be expended on each road and where located within the county, giving the beginning and the terminus thereof.

(5) If the roads are so designated in the order, the county court shall not use any of the money raised by the sale of bonds authorized upon any other road than those mentioned in the order nor for any other purpose than those embraced therein. If the order does not designate any particular roads to be built or improved by the money raised, then the county court may expend the money raised from the sale of the bonds to build, improve or maintain such permanent roads within the county as the county court in its discretion considers proper.

370.130 Order declaring election results; contents and effect. If at any general or special election mentioned in ORS 370.080, 370.110 or 370.120 a majority of the voters voting at the election favors issuing the bonds, the county court shall enter an order in its journal declaring that fact. This order shall:

(1) Be conclusive as to the regularity of all the proceedings in reference to the matter.

(2) Designate the amount of the total assessed valuation of all the property within the county.

(3) Designate the amount of all the previous debts and liabilities of the county incurred for road purposes and remaining unpaid.

(4) Be prima facie evidence as to the amount of the assessed valuation and the indebtedness.

370.140 Bond issuance, advertisement, sale and interest rate. (1) After having entered the order as provided in ORS 370.130, the county court shall cause the bonds to be issued in denominations of $50 or multiples thereof, up to $1,000, advertise such amount of them for sale as in its judgment is necessary and thereafter from time to time make such additional sale of bonds so issued as is necessary.

(2) Bond sales shall be made through bids received upon such advertisement as the county court deems necessary to afford the best means of procuring the highest prices for the bonds.

(3) All bids shall be in writing and publicly opened at a time and place specified in the advertisement.

(4) Whatever other means of advertising the sale of bonds the county court may adopt, it shall advertise the sale for at least three weeks in two newspapers printed in the county, if there are that many, and if there is but one such newspaper, then in it.

(5) The bonds shall be sold to the highest bidder, but preference shall be given to the citizens of the county.

(6) If the county court is not satisfied with the bids it may reject any or all of them.

(7) No bond shall be sold for less than par value.

(8) No bond issue shall bear a greater rate of interest than six percent per year.

370.150 Issuance of serial in lieu of term bonds. After the issuance of bonds has been authorized by an election held in accordance with ORS 370.030 to 370.130, the county court may, in lieu of bonds redeemable only at the time stated in the notice, issue bonds and reserve, in the order providing for their issuance, the right to redeem any or all of them serially each year. When bonds are issued with such reservation, the redemption fund provided for in ORS 370.170 may be used each year, as it is collected, for the redemption of such proportion or percentage of the bonds as will redeem all of them at the end of the time fixed in the prior proceedings for maturity of the bonds, instead of being kept and deposited or loaned as provided in ORS 370.190 and 370.200 until the final maturity of the bonds.

370.160 Option to issue callable term or serial bonds. In its discretion, the county court further may issue either term bonds or the serial bonds mentioned in ORS 370.150 with the option of redeeming them on and after certain interest-paying dates specified by the county court therein, upon publication at least 30 days prior to designated redemption date of one notice of intended redemption in a newspaper of general circulation printed in the English language and published within the county. These callable bonds either may be called and paid pursuant to the optional redemption privilege or may be called and refunded pursuant to ORS 287.202 to 287.220.

370.170 Special bond redemption funds. Beginning with the fourth year after the bonds are sold the county court shall each year thereafter, until maturity of the bonds, set aside as a special fund for their payment such percentage of the face value of the bonds as at the date of their maturity shall aggregate their full face value. Where bonds are issued in different series maturing at different times a separate redemption fund shall be provided for each series.

370.180 Tax levy for redemption fund and bond interest. The amount necessary to provide the redemption fund and to pay the annual interest on outstanding bonds shall be added to the general levy of taxes as may be required, which tax shall be levied upon all the taxable property within the county.

370.190 Deposit of redemption funds; security given by bank. The county treasurer of any county may deposit any funds coming into his hands for the purpose of redeeming road bonds issued under this chapter in any bank doing business within the state and organized under the national banking laws of the United States or under the laws of this state. At or before the date of such deposit the bank receiving the same shall furnish to the county treasurer as security for moneys deposited, bonds of the United States, of the State of Oregon or of any county, municipality or school district within the state. The county shall be responsible for the safekeeping and return of such bonds. Any of the bonds so deposited may be exchanged or returned to the depositor at any time upon delivery to the county treasurer of a like sum of other bonds of the kind authorized to be deposited by this section. All securities offered as security for deposits by any county treasurer shall be approved by the county court. The market value of the security shall be at least 10 percent in excess of the amount of the deposit.

370.200 Loan of redemption funds. Whenever there are sufficient funds on hand in the bond redemption fund, the county treasurer with the approval of the county court may loan any money in the bond redemption fund, secured by first mortgage on improved real estate within the county at six percent interest per year. All applications for such loans shall be made in writing to the county treasurer, shall state the amount

of the loan applied for and the security offered and shall be numbered consecutively as received and passed upon by the county court. The county court shall require an abstract of title of property and a written opinion from the district attorney of the county concerning the validity of the title of the lands offered as security. The county court may authorize or reject any loan. No loan shall be made in excess of 50 percent of the assessed valuation of the property offered as security. No expense shall be incurred by the county in loaning any such funds.

370.210 Call or time deposits; interest on deposit. Moneys deposited under ORS 370.190 and not loaned under ORS 370.200 shall be subject to call, except that with the approval of the county court moneys may be deposited for a specified time approved by the county court, and the bank of deposit shall pay interest thereon at a rate agreed upon between the bank and the county treasurer and approved by the county court. Such interest shall not be less than three percent per year on the monthly balances as shown by the books of the bank. All interest shall be credited by the county treasurer to the road bond redemption fund.

370.220 Limitation on deposit in bank; statement of condition by bank; discretion of treasurer as to deposit. (1) No deposit under ORS 370.190 shall be made in any one bank which exceeds 50 percent of the paid-up capital and surplus of the bank.

(2) At the time of making application for the deposit the bank shall furnish to the officer to whom application is made a statement of the bank's resources and liabilities and a certificate signed by some one of the officers of the bank, verified under oath, that the bank has been examined within the past six months by the national bank examiner of the district or by the state bank examiner of the state, according as the bank may be a national or state bank. If the county treasurer is not satisfied with such statement and certificate, he may cause a special examination to be made.

(3) It is discretionary with the county treasurer to grant or refuse any application for deposit.

370.230 Depositing funds in different banks. No county treasurer shall deposit at any one time in any one bank more than 20 percent of the road bond redemption fund moneys in his hands available for deposit while there are other qualified banks requesting deposits. He shall distribute the funds equitably, as far as possible, among solvent and substantial applicants within the county.

370.240 Warrants in lieu of bonds. (1) After the issuance of bonds has been authorized by an election held in accordance with ORS 370.030 to 370.130, the county court may in lieu of the issuance of any or all such bonds, issue warrants drawn upon the county treasury for the purpose of securing any or all funds sought to be secured by the issuance of such bonds.

(2) These warrants shall be in denominations of $50, or multiples thereof up to $1,000, and shall bear the same rate of interest as the bonds would bear in lieu of which the warrants are issued.

(3) No such warrants shall become due at any specified time, but shall be redeemable by the county at any time in the same manner as other county warrants are redeemed or paid.

370.250 Transfer of Umatilla County road bond redemption fund surplus to general road fund. The County Court of Umatilla County may, by an order made and entered, transfer the surplus from taxes collected for the purpose of paying county road bonds and interest, to the general road fund of the county, to be disbursed in the same manner as other moneys in the general road fund are disbursed.