Chapter 553

1965 REPLACEMENT PART

Water Control Districts

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DEFINITIONS; ORGANIZATION; ELECTIONS; POWERS OF DISTRICT

553.010 Chapter definitions. As used in this chapter, except where the context clearly indicates a different meaning:

(1) "Board" means the board of directors of a water control district created under the provisions of this chapter.

(2) "District" means, unless otherwise qualified or modified, a water control district created under the provisions of this chapter.

(3) "Court" means the county court having jurisdiction over a water control district and includes the board of county commissioners; notwithstanding a transfer of the judicial functions of the county court in any county to the circuit court, the county court of such county shall take jurisdiction over water control districts.

(4) "Land" or "tract of land" means real property, together with improvements thereon, whether publicly or privately owned, within a district.

(5) "Landowner," "owner," "owner of land" and "owner in fee" are synonymous and mean a person, firm, private corporation, association, municipal corporation, public corporation, county, the State of Oregon, or the Federal Government or any agency thereof, owning a tract of land situated within a district, or within the boundaries of a proposed district. The vendee named in a bona fide contract of sale of a tract of land situated within a district shall be considered as a landowner to the exclusion of the vendor. Whenever two or more persons own a tract of land as tenants in common or by entirety, each such person shall be regarded as a landowner. The guardian, administrator or executor authorized to act as such of a person or estate owning land within a district shall be considered a landowner where the owner in fee is not otherwise entitled to vote. Each firm, corporation, association, public corporation, municipal corporation or county owning land within a district shall be entitled to vote as a single landowner through any officer or agent authorized in writing.

(6) "Works" means dams, storage reservoirs, canals, ditches, dikes, levees, revetments, and all other structures, facilities, improvements and property necessary or convenient for draining land, controlling flood or surface waters, or supplying lands with water for irrigation, domestic or other purposes.

(7) "Notice by publication" means the giving of notice by publication in a newspaper defined as a legal publication under the laws of Oregon in each county in which lands within a district are located. A notice of a hearing to be held before the board of a district or the court shall be published once each week for four consecutive weeks making four publications and the last publication of such notice shall be at least 10 days before the date set for the hearing. All other notices required to be published under the provisions of this chapter shall be published once each week for two consecutive weeks making two publications, and the last publication shall be at least five days before the date of the event for which the notice is given.

(8) "Engineering plan" means the plans and specifications for the works to be constructed or purchased within any subdistrict, including such maps, profiles, plans and other data as may be necessary to set forth the location, character of the work, the property benefited, taken or damaged, showing any and all rights of way or other property which may be required for the construction of any works, together with the estimates of the cost of the works and an estimate of the benefits and damages which will accrue to each tract of land within a subdistrict upon the construction or purchase of the works. A project work plan prepared for a subdistrict in cooperation with a soil and water conservation district may be adopted as the engineering plan, even though such project work plan is not the final construction plan, and does not give an estimate of the benefits and damages which will accrue to each tract.

(9) "Apportion" means to determine the proportionate share of any assessment which is to be borne by a tract of land subject to assessment. Such determination shall be made by calculating the percentage ratio of the appraised benefits of a tract of land to the total appraised benefits accruing to all tracts of land subject to the assessment and allocating to the tracts of land the same percentage of the total sum of money to be raised by the assessment.

(10) "New assessed valuation" means the assessed valuation of a tract of land as assessed by the county assessor for the county in which the land is located for the year in which an adjustment of benefits is made by a district.

(11) "Original appraised benefits" means

the benefits determined to accrue to a tract of land by an appraisal.

(12) "Original assessed valuation" means the assessed valuation of a tract of land as assessed by the county assessor for the county in which the land is located for the year in which the original benefits were determined.

(13) "Record" means to file a document for recording with the recorder of conveyances or the county clerk, as the case may be, of each county in which the lands within a district or subdistrict are located.

(14) "Qualified voter" means a taxpayer in all elections when the question is levying taxes or issuing public bonds. In all other elections "qualified voter" means a resident of the district or proposed district who is registered under the general election laws.

(15) "Taxpayer" means an owner of taxable real or personal property located within the boundaries of the district or proposed district.

[Amended by 1961 c.186 §4; 1965 c.623 §1]

553.020 Authority to create water control districts; purposes. Water control districts may be created as provided in this chapter for the purpose of acquiring, purchasing, constructing, improving, operating and maintaining drainage, irrigation, and flood and surface water control works in order to prevent damage and destruction of life and property by floods, to improve the agricultural and other uses of lands, and to improve the public health, welfare and safety.

553.030 Petition for creation of district; jurisdiction of county court; undertaking. (1) Upon the filing of a petition for the creation of a district with the county clerk of the county in which are located the greater part of the lands within the boundaries of the proposed district, the county court of such county thereafter shall have jurisdiction over the lands within the district co-extensive with the boundaries thereof, without regard to county lines.

(2) A petition for the creation of a district shall be signed by the owners of at least 30 percent of the acreage within the boundaries of the proposed district exclusive of state and federally owned lands as described in the petition. The petition shall contain the name for the proposed district; the boundaries proposed therefor; an estimate of the acreage of land within such boundaries and an estimate of the acreage of land in each county if they are in more than one county; an allegation that all or substantially all such lands will be benefited by the construction of drainage, irrigation, flood or surface water control works and that the construction of such works will be conducive to the public health, welfare or safety; and a prayer that the lands included within such boundaries be organized as a water control district under the provisions of this chapter. Each signer shall state his address and the number of acres of land owned by him and the county in which such lands are located.

(3) The petition shall be accompanied by a good and sufficient undertaking in form and amount to be approved by the court, conditioned that the petitioners will pay all expenses incurred by the county or the court in the organization of such district.

(4) Each petition containing signatures shall be verified by the affidavit of the person circulating the petition, stating that every person who signed the petition did so in his presence.

[Amended by 1965 c.623 §2]

553.040 Order of hearing; revocation upon filing of counter-petition. (1) After the filing of the petition the court shall enter an order fixing a time and place for the first hearing on the petition and directing the county clerk in whose office the petition is filed to give notice by publication of such hearing. The notice shall state the name proposed for the district, and the time and place fixed by the court for the first hearing thereon, and shall be notice to all owners or persons claiming interest in any land within the boundaries of the district as described in the petition to appear and state their objections to the creation of the proposed district. The notice shall set forth a true and correct copy of the petition, except that the names and addresses of the signers of the petition shall not be included as a part of the notice.

(2) If, within 30 days after first publication of such notice, there is filed, in the same place where such petition was filed, a counter-petition signed by the owners of at least 50 percent of the acreage within the proposed district, exclusive of state and federally owned lands, opposing formation of such district, the court shall enter an order dismissing the petition for creation of the district and revoking the order fixing a time and place for first hearing on such petition.

[Amended by 1965 c.623 §2a]

553.050 Appearance by landowners and interested persons; dismissal of petition or fixing boundaries; order approving petition; notice of final hearing. (1) At the time and place fixed for the first hearing, or at any time and place to which the hearing may be adjourned, any landowner or other person interested may appear and present written or oral statements for or against the granting of the petition and the creation of the district or the proposed boundaries for the district.

(2) If the court finds that the lands within the proposed district will not be benefited by the creation of the district, the court shall dismiss the petition; if the court finds that the lands within the boundaries of the proposed district will be benefited by the creation of the district, the court shall fix the boundaries for the district.

(3) The court shall not exclude from the district any lands originally included within the boundaries described in the petition if such lands will be benefited by the creation of the district, nor shall the court change the proposed boundaries and include lands not within them unless the lands included are adjacent to the proposed boundaries and the owners of such lands request in writing that their lands be included in the district.

(4) If the court approves the petition, it shall enter an order so declaring, which order shall set forth the name of the district and the boundaries as determined by the court, and shall fix a place, and a time not less than 30 nor more than 50 days from the date of the order, for a final hearing on the petition, and declaring that if written requests for an election are not filed as provided in ORS 553.060, the court will, at the time of the final hearing, enter its order creating the district. Notice of such final hearing shall be given by publication of a copy of the order.

553.060 Election on creation of district; order creating district. (1) If written requests for an election signed by the owners of at least 20 percent of the acreage within the boundaries for the district exclusive of state and federally owned lands as fixed by the court are filed with the court on or before the date of the final hearing, the court shall provide, by order, for the holding of an election for submitting to the qualified voters the question of forming such district. After the election is held, if it is determined by the court that the majority of the votes cast were in favor of the formation of the district, the court shall enter an order creating the district. If a majority of the votes cast opposed the creation of the district, the court shall enter an order dismissing the petition. If requests for an election are signed by owners of less than 20 percent of the acreage within the boundaries for the district exclusive of state and federally owned lands as fixed by the court, the court shall dismiss such requests and shall enter an order creating the district.

(2) An order creating a district, whether such district is created with or without an election, shall state the name selected for the district and shall describe the boundaries therefor as determined by the court, and shall declare such territory organized as a water control district. A certified copy of such order shall be filed for record in the office of the recorder of conveyances of each county in which lands within the district are located.

[Amended by 1965 c.623 §3]

553.065 Final order not to be set aside; exception; proceeding to attack validity to be instituted within 90 days. (1) No final order of a court creating a water control district shall be set aside, or annulled upon appeal or review, on account of any defect or irregularity in the petition asking for organization of such district, or notice of hearings thereon, which does not materially affect the substantial rights of an interested party.

(2) No proceeding may be maintained contesting the validity of the creation and formation of a water control district unless instituted within 90 days after the entry of the final order of the court.

[1965 c.623 §8a]

553.070 Change of boundaries; effect; consent of contracting agency or vendor. (1) After the creation of a district the boundaries thereof may be changed by the inclusion of lands outside of such boundaries or by the exclusion of lands not benefited within such boundaries, upon the petition of the owners thereof. Such petition shall be presented to the court and the proceedings thereon shall be the same as the proceedings on the original petition.

(2) Notwithstanding ORS 553.040 and 553.050 and subsection (1) of this section, if the petition for annexation is signed by all the landowners of the contiguous lands to be

annexed, and accompanied by a resolution of the board approving the annexation, the court, upon determination that the area will be benefited, shall enter an order changing the boundaries of the district by adding the lands described in the petition to the district.

(3) No change of boundaries shall impair or affect the organization of the district or its rights in or to property within or without the district, or affect, impair or discharge, without the consent of the board, any contract, obligation, lien or charge for which lands excluded would have been liable had such change of boundaries not been made.

(4) If any contract has been entered into between the district and the United States or the State of Oregon or any agency of either of them, or if the district has contracted to purchase any existing works and the purchase price has not been paid in full, no change shall be made in the boundaries of the district without the written consent of such contracting agency or the vendor of such existing works.

[Amended by 1965 c.623 §4]

553.080 Conduct of elections generally; procedure; notice; expense. (1) All elections held for the purposes set forth in this chapter, except the election of directors and officers, shall be conducted as nearly as practicable in accordance with the general election laws.

(2) Ballots shall be in such form as determined by the board of the district holding the election.

(3) The county clerk of each county in which lands within the district are located shall conduct elections in his county and shall appoint judges and clerks and designate polling places therein.

(4) Unless a district election is held at the same time as a general or special election conducted for state or county purposes, the polls shall be kept open from 1:00 p.m. to 8 p.m. on the day of the election.

(5) The county clerk of each county in which an election is held under the provisions of this chapter shall give notice of the election by causing the purpose of, the date of and the polling places designated for holding the election, to be:

(a) Posted for four successive weeks prior to the election in each of three public places within the district or proposed district; and

(b) Published once a week for four successive weeks prior to the election in a newspaper of general circulation in the district or proposed district, or if there is no such newspaper, in some newspaper published and of general circulation in the county in which are located the greater part of the lands within the boundaries of the district or proposed district.

(6) The county clerk of each county in which an election is held under the provisions of this chapter shall canvass the votes cast in his county and issue a certificate which shall set forth the number of affirmative and negative votes cast in his county. Such certificate shall be transmitted to the court having jurisdiction over the district or proposed district. After receiving the certificate the court shall determine the total votes cast in all counties in which are located lands within the district, and shall enter an order in which shall be stated the total number of affirmative and negative votes cast and the result of the election.

(7) All expenses of conducting an election shall be paid by the district to the county clerk.

[Amended by 1959 c.71 §1]

553.090 Nature and powers of district. A water control district formed under the provisions of this chapter shall constitute a governmental subdivision of this state, and a public body, corporate and politic, exercising public power. It shall have full power to carry out the objects of its creation and to that end may:

(1) Have and use a seal.

(2) Have perpetual succession.

(3) Sue and be sued in its own name.

(4) Acquire by condemnation, purchase, devise, gift or voluntary grant real and personal property or any interest therein, located inside or outside of the boundaries of the district.

(5) Contract with the United States or with any county, city or state, or public district, or any of their departments or agencies, for the construction, preservation, improvement, operation or maintenance of any works.

(6) Build, construct, purchase, improve, operate and maintain, subject to other applicable provisions of law, all works and improvements necessary or desirable under any engineering plan adopted by the district.

(7) Enter into contracts and employ agents, engineers and attorneys.

(8) Appropriate and acquire water and water rights and sell, lease and deliver water for irrigation and other purposes both inside and outside the district.

(9) Create special assessment districts, hereinafter referred to as subdistricts, for the purpose of levying assessments against lands benefited by works constructed by the district or ad valorem taxes on all taxable property within the subdistrict.

(10) Levy assessments against lands benefited by works constructed by the district or, in lieu of all assessments provided for by subsections (2), (3) and (4) of ORS 553.510, levy ad valorem taxes on all taxable property within the subdistrict in order to provide funds for the construction, purchase, improvement, operation or maintenance of such works.

(11) Borrow money and issue notes, bonds, and other indebtedness secured by mortgage liens, pledge of special assessments as provided in ORS 553.510, or pledge of other income or revenue of the district, or any combination thereof.

(12) Do such other acts or things as may be necessary for the proper exercise of the powers herein granted.

[Amended by 1965 c.623 §5]

553.095 Entry upon land; notice. The board of directors, its officers, agents or employes shall have the right to enter upon any land to make surveys for the purposes of the district, upon giving the owners of such land notice of any such surveys reasonably in advance thereof.

[1965 c.623 §9]

553.100 Validation of districts. All districts organized before July 16, 1949, under the provisions of chapter 289, Oregon Laws 1947, on the theory that under the laws as they then existed a water control district could be organized under the jurisdiction of the county court of a county in which the judicial functions of the county court have been transferred to the circuit court, or where the notice of the first hearing on the petition for the creation of the water control district did not set forth the names and addresses of the signers of the petition, or the boundaries of the district as determined by the court contain noncontiguous lands, shall be deemed to be legally organized and confirmed, and any district being organized on July 16, 1949, in such manner shall be deemed to be legally organized.

553.110 Vested water rights protected; consent of other districts or owners of lands to inclusion in district or assessment. (1) This chapter shall not be construed to affect, amend or repeal any other law of Oregon or to affect or impair the vested rights of any person, municipal corporation, irrigation district, drainage district, the state, or any county to the use of water or rights in the use of water.

(2) No lands located within the boundaries of any municipal corporation, irrigation district or drainage district shall be included within the boundaries of a water control district without the consent of such municipal corporation, irrigation district or drainage district.

(3) No lands publicly owned and no lands of any railroad or public utility shall be assessed without the consent of the owner thereof.

553.120 to 553.200 [Reserved for expansion]

GOVERNING BODY

553.210 Meetings of landowners; election of directors; qualified voters; terms; vacancies; change in number of directors. After the creation of a district, the court shall order the holding of a meeting of the landowners for the purpose of electing a board of directors whose number shall be fixed by the court at either five, seven or nine. Notice of such meeting shall be given by publication. The landowners who attend the meeting shall elect directors who are owners of land within the district; however, the directors need not reside within the district. Each landowner shall be entitled to one vote, and each firm, corporation, association, public corporation, municipal corporation or county owning land within a district shall be entitled to vote as a single landowner through any officer or agent authorized in writing. The persons receiving the highest number of votes shall be declared elected as directors. Each director shall be elected for a term of three years except the directors elected at the first meeting of the landowners. Of the directors first elected, the terms are to be decided by lot. If there are nine directors, the terms of three shall expire in one year, three in two years, and three in three years. If there are seven directors, the terms of two shall expire in one year, two in

two years and three in three years. If there are five directors, the terms of one shall expire in one year, two in two years and two in three years. Each director's term shall expire on the first Tuesday in January. Thereafter an annual meeting of the landowners shall be held in each district on the first Monday in December of each year to elect a successor for any director whose term will expire the following January. If there is no suitable place within the district to hold a meeting of the landowners the meeting may be held outside of the district at the nearest convenient place as determined by the board of directors. Notice of such annual meeting, in which shall be stated the time and place for the meeting, shall be given by publication. In case of a vacancy in the office of director, the board shall appoint a successor to fill the unexpired portion of the term. The board of directors or 10 or more landowners may petition the county court to change the number of directors on the board of directors. If the court acts favorably on the petition, it shall create an order which designates the terms of office of the five, seven or nine directors in general accordance with the provisions of this section so that the number remaining on the board will be divided into three equal or approximately equal groups as to terms. The change in the number of board members shall take place on the first Tuesday in January next following the order.
[Amended by 1961 c.186 §5; 1965 c.623 §6]

553.220 Organization meeting; officers; duties; compensation; meetings. As soon as possible after an election of directors, the directors shall meet for the purpose of qualifying all persons elected as directors and for the purpose of electing officers of the district. Each director shall qualify by subscribing to an oath of office. The directors shall elect from their number a president and vice president and shall appoint a secretary-treasurer. Such officers shall have such authority and duties as may be given to them by the board. No director shall receive compensation; however, a director shall be reimbursed for actual and necessary expenses incurred by him while engaged in official business of the district by direction of the board. The board shall hold such meetings as may be necessary or convenient.

553.230 Powers and duties of board. The board shall:

(1) Manage and conduct the affairs of the district.

(2) Adopt a seal.

(3) Make and execute all necessary contracts.

(4) Employ and appoint such agents, officers and employes as may be required, and prescribe their duties and fix their compensation.

(5) Establish reasonable rules and regulations for the administration of the affairs of the district.

(6) Withhold deliveries of water to lands upon which there are delinquent assessments.

(7) Levy assessments for special benefits and apportion the same among the lands within the district liable therefor as provided in this chapter.

(8) Acquire water rights for the purposes of the district or subdistrict and the lands served thereby.

(9) Establish and maintain funds and accounts for the funds of the district and of any subdistrict within the district.

(10) Obtain an annual audit of the books of the district.

(11) Fix the location of the principal office of the district at some convenient place within or without the district.

(12) Require adequate bonds of all officers, directors, agents and employes of the district and pay premiums therefor with district funds.

(13) Keep a record of all of the proceedings of the board.

(14) Furnish a record book to the recorder of conveyances of each county in which lands within the district are located, in which shall be recorded all contracts, orders levying assessments and creating subdistricts, and other documents required by law to be recorded.

(15) Levy special assessments as provided in ORS 553.510 and set charges, fees and tolls for use of services and facilities made available by the district or subdistrict.

(16) Issue notes, bonds and other evidence of indebtedness incurred in connection with the construction, acquisition, improvement, or operation and maintenance of works authorized by this chapter.
[Amended by 1965 c.623 §7]

553.240 County court as governing body. (1) The county court may be established as the governing body of a water control district in the manner provided in this section.

(2) After the creation of a water control

district, the boundaries of which are conterminous with the boundaries of the county, the landowners of the district shall, at the time for the election of the first governing body under ORS 553.210, have the option of electing the county court or a board of directors as the governing body of the district. The election shall, so far as applicable, be held in the manner provided under ORS 553.210.

(3) If a majority of the votes cast at the election is in favor of the county court as the governing body of the district, all duties, functions and powers granted to a board of directors of a water control district are vested in the county court which shall exercise those duties, functions and powers. The county court shall be the governing body of the water control district until the district is dissolved.
[1957 c.606 §2]

553.250 Authority to acquire and dispose of water works; sale of water. (1) Notwithstanding any other provisions of this chapter, any water control district, whenever it appears necessary, proper or beneficial to its inhabitants, may acquire, construct, reconstruct, equip, own, maintain, operate, sell, lease and dispose of domestic, industrial and municipal water works or systems and property and all appurtenances incident thereto.

(2) Any such water control district may furnish water for domestic, industrial and municipal uses to premises and inhabitants within its district, and in connection therewith, may supply, furnish and sell any surplus water storage or carrying capacity over and above the domestic, industrial and municipal needs of its inhabitants to persons, corporations, incorporated communities, water districts or other municipal or quasi-municipal districts, either within or without the district; provided, however, that the power to furnish water for domestic, industrial and municipal uses herein conferred will not be exercised in such a manner as to impair the service of the district in furnishing water for its inhabitants.
[1963 c.363 §2]

553.260 Charges for water to make water system self-sustaining; Domestic Water Fund for each district. (1) The district shall charge consumers for the water furnished in amounts so that the domestic, industrial and municipal water system shall be self-sustaining. All indebtedness incurred in the acquisition, construction, maintenance, operation and disposition thereof shall be paid from the revenue so collected and from the proceeds of the disposition of the whole or any part of said water system. The board of directors may establish rates or charges to be paid by each person whose premises are served. The rates or charges may be fixed and classified according to the type of use and according to the amount of water used, and according to whether the property serviced lies within or without the boundaries of the district.

(2) The district shall establish and maintain separate accounts covering the acquisition, construction, reconstruction, maintenance, operation and disposition of the domestic, industrial and municipal water system. All moneys collected from the operation and disposition of the whole or any part of said water system shall be deposited in a special fund to be designated "Domestic Water Fund," and such money shall be disbursed from the fund only in connection with the water system.
[1963 c.363 §3]

553.270 Procedure on condemnation; property subject to and exempted from condemnation. The right to condemn property, given pursuant to subsection (4) of ORS 553.090 shall include property already devoted to public use, including state and county propertv. which is less necessary than the use for which it is required by the district. In the acquisition of property or rights by condemnation, the board shall proceed in the name of the district under the provisions of the laws of Oregon. However, the right of condemnation may not be exercised against the lands or water rights of an irrigation district organized under ORS chapter 545, a drainage district organized under ORS chapter 547, a flood control district organized under ORS chapter 550, a diking district organized under ORS chapter 551, a water conservation district organized under ORS chapter 552, a corporation for the use and control of water organized under ORS chapter 554 or a domestic water supply corporation organized under ORS chapter 264, or against property of the State of Oregon used for highway purposes.
[1965 c.623 §10]

553.280 Undertaking prior to entry as part of condemnation proceedings. Prior to any party, officer or agent of a water control district entering upon any land sought to be condemned, there shall be furnished to the landowner a sufficient undertaking, either by surety bond, personal bond, cash or other security, in an amount sufficient to indemnify the landowner for the value of the land sought to be condemned, together with all costs and attorney fees to which he may be entitled. This undertaking shall be conditioned that the district seeking to condemn the land shall pay to the owner all damages, costs and attorney fees that he may suffer by reason of the entry, or which may be awarded to him by a jury upon a trial of the cause.
[1965 c.623 §11]

553.290 Possession of land after commencement of proceedings. At any time after the board of directors of a water control district has commenced proceedings to acquire title to any land necessary for rights of way, or for construction, alteration, repair or reservoir purposes, the district may enter into possession of such lands and begin such work as may be necessary to the development of the district.
[1965 c.623 §12]

CONSTRUCTION OF WORKS IN SUBDISTRICTS; DETERMINATION OF BENEFITS

553.310 Petition for creation of subdistrict for drainage, flood or surface water control, or irrigation works; order. Whenever the owners of more than 50 percent of the acreage in any contiguous body of land located within a district desire to have the district undertake the construction or purchase of any drainage, flood or surface water control, or irrigation works which will benefit their lands, they shall petition the board for the creation of a subdistrict. The petition shall state the boundaries proposed for the subdistrict; the name and address of each person signing the petition; a brief general statement as to the works the petitioners desire to have constructed or purchased; and a prayer asking that the lands described be organized as a subdistrict. The description of the boundaries of the proposed subdistrict shall be certified to as a complete and sufficient legal description by a qualified engineer or land surveyor and such certificate shall be filed with the board at the time the petition is filed. The petition shall be considered by the board at its next meeting, and if it meets with the approval of the board, the board shall adopt an order creating the subdistrict in which shall be described the boundaries of the subdistrict. A subdistrict may include all or any part of the lands within a district. A copy of the order shall be recorded in each county in which lands within the subdistrict are located.
[Amended by 1961 c.186 §6]

553.320 Engineering plan; notice of completion; inspection; hearing; changes in plan; approval; rejection upon objections of landowners. After the creation of a subdistrict, the board shall secure an engineering plan for the improvements requested in the petition for the creation of the subdistrict. The board may adopt as an engineering plan for a subdistrict any plans theretofore made by any department or agency of the Federal Government or the State of Oregon or a project work plan proposed for any soil conservation district in which lands within the subdistrict are located, or the board may employ a qualified engineer to make such engineering plan. Upon completion of the plan the board shall cause notice thereof to be given to the owners of the tracts of land within the subdistrict and shall permit the inspection of the plan at the office of the subdistrict by all landowners. The notice may be given by mail or by publication, as may be determined by the board. The notice shall fix a time and place for a hearing before the board of all objections to the plan, which hearing shall be held not less than 20 nor more than 30 days after the date of mailing or the date of the last publication of the notice. At the hearing the board shall make such changes in the engineering plan as it deems necessary in the light of any objections or suggestions made by any person appearing at the hearing. After the hearing, the board shall approve the plan as corrected or changed, by adopting an order of approval. However, if the owners of more than 50 percent of the lands within the subdistrict file written objections to the order approving the engineering plan with the secretary of the district within 15 days after the date of such order, no further action shall be taken under the order and the plan shall be considered to have been rejected by the landowners. Whenever an engineering plan for a subdistrict is so rejected by the landowners the board may

obtain a new engineering plan and present it to the landowners in the manner above provided or the board may dissolve the subdistrict.
[Amended by 1961 c.186 §7]

553.330 Cost of works assessed in proportion to benefits; lands in subdistrict to be charged. The cost of building, constructing, purchasing, operating, maintaining and improving the works described in an engineering plan for a subdistrict shall be assessed against the lands to be benefited by the works in proportion to the benefits to be received by each tract of land. Only the lands within a subdistrict shall be liable for, charged with or in any manner assessed or taxed for the payment of judgments, claims, damages, costs, expenses, debts or other liabilities of or against a district that accrue from, arise out of or are incurred in the building, constructing, purchasing, operating, maintaining or improving the works of such subdistrict.

553.340 Determination of benefits; board of appraisers. The board, with such assistance as it deems necessary, shall prepare a benefit roll and determine the benefits that will accrue to each tract of land located within a subdistrict upon the construction of the works described in the engineering plan for the subdistrict. After such determination is made each landowner shall be given written notice thereof by registered mail. If the landowner does not file written objections thereto within 30 days of the date the notice is mailed, he shall be deemed to have consented to the allocation of benefits to his lands. If a landowner files objections within 30 days, the determination of the benefits that will accrue to his lands shall be referred to a board of appraisers. A board of three appraisers shall be appointed by the court, upon the petition of the board of directors, whenever one or more landowners within the subdistrict files an objection. Each of the appraisers shall, before assuming his duties, take and subscribe to an oath that he will faithfully and impartially discharge his duties as an appraiser and will make a true report of all work done by him. The court may, by order, remove any appraiser at any time and shall fill all vacancies on the board of appraisers or may appoint a new board as the case may require. The appraisers shall receive such compensation as the board of directors, with the approval of the court, determines, and shall be reimbursed for the expenses they incur in the exercise of their duties.

553.350 Assessment of benefits and damages by appraisers; benefits less than costs; recommendation to amend engineering plan; final report and certificate. (1) The appraisers shall assess the amount of benefits and the amount of damages, if any, that will accrue to each tract of land which they are directed by the board of directors to appraise, and shall determine the value of any lands to be acquired and used for rights of way and other purposes by the subdistrict. The appraisers shall determine the benefits to the lands themselves and to any buildings and other structures erected on such lands. The appraisers shall take into consideration the agricultural or other uses of such lands, the increase in value thereof upon the completion of the proposed works, and the increased income which will be derived from the lands upon the construction of the works. In making their appraisal, the appraisers shall give due consideration and credit to any works that have already been constructed and which benefit any tract of land they are appraising. The appraisers shall have no power to change the engineering plan.

(2) Whenever it appears to the appraisers that the benefits to all the lands within the subdistrict will be less in value than the cost of the proposed works, the appraisers shall file a preliminary report of their work with the board of directors and recommend to the board that the engineering plan be amended so that the proposed works can be constructed at a cost less than the benefits to be derived therefrom. If the board obtains an amended engineering plan, the appraisers shall proceed with their work.

(3) Upon completing their work, the appraisers shall file a final report with the court and certify that the appraisal has been completed and that there is nothing further for them to do in regard to the matter.

553.360 Hearing on report of appraisers; exceptions; entry of order; appeal. (1) After the filing of the report of the appraisers, the court shall enter an order fixing the time and place for a hearing on the report and directing the secretary of the district to give notice of the hearing by publication.

The notice shall contain a description of each tract of land appraised, together with the names of the owners, if known, and shall state that the appraisers appointed to assess the benefits and damages to the lands described and to appraise the cash value of the lands necessary to be taken for rights of way and other works within or without the limits of the subdistrict, have filed their report with the court and that the owner of each tract of land included therein is given notice that he may examine the report and file objections to the report or to any determination of benefits or damages on or before the date set for the hearing.

(2) The district or any person owning or having any interest in the lands described, or the owner of any tract of land within the subdistrict for which the appraisals were made, may file exceptions to the report of the appraisers or to any determination of benefits or damages determined to accrue to lands upon the construction of the proposed works or to the determination of the cash value of the lands necessary to be taken for rights of way or other works.

(3) The court shall hear all objections and make such amendments and modifications to the report of the appraisers as to the court may seem equitable. Upon the conclusion of the hearing the court shall enter its order in which shall be given the description of each tract of land appraised, the value of the benefits and damages which the court determines will accrue to each tract, and the value of lands necessary to be taken for rights of way and other works.

(4) Any party interested may take an appeal from such order in the manner set forth in ORS 553.810 and 553.820. The order shall be filed in the office of the recorder of conveyances of the county in which the court is situated, and a certified copy of the order shall be filed with the recorder of conveyances of each other county in which lands within the subdistrict are located.

553.370 Reappraisal after construction of works; when authorized. In the event that it is determined, after the construction of any works within a subdistrict, that any lands within the subdistrict are benefited and the benefits accruing to such lands were not determined by the board or by appraisal or the benefits determined by the board are less than the benefits actually accruing to the property, or in case any person makes use of or profits by the works within any subdistrict to a degree not compensated for in the original determination of benefits by the board or by appraisal, or in case the directors of the district find it necessary to take or damage any additional property, the directors shall petition the court for appointment of a board of appraisers to appraise or reassess the benefits accruing to any tract of land within the subdistrict or to appraise the damages to or value of any property taken. After the appraisers file their report, the court shall act thereon in the manner provided for the approval by the court of the original appraisal.

553.380 Reduction of benefits. In the event that it is determined after the construction of any works within a subdistrict that the benefits received by any tract of land are materially less than the appraised benefits, the board may, upon the petition of any owner of a tract of land, hold a hearing on the question of whether the benefits should be reduced. The board shall give notice by mail 30 days prior to such hearing to all other owners of land within the subdistrict. After hearing evidence for and against the reduction of benefits assessed against the tract of land in question, the board shall make an order reducing the amount of assessed benefits or dismissing the petition.

553.390 to 553.500 [Reserved for expansion]

ASSESSMENTS; CLAIMS; EQUALIZATION

553.510 Special assessments. In order to raise the funds required by a district for the construction, purchase, operation, maintenance and improvement of works constructed for drainage, flood and surface water control, or irrigation purposes in any subdistrict, and in order to pay the general overhead and other expenses of a district which are not chargeable directly to any subdistrict, the lands benefited by any or all of such types of works and by the operation of the district shall be subject to special assessments of the following classes:

(1) A preliminary assessment, which shall be levied for the purpose of defraying the expenses incurred by the district for organization of the district, for organization of subdistricts, and for defraying overhead

costs and other expenses including purchases of rights of way, acquisition of land and payment of fees and services as may be incurred by the district prior to the time that construction assessments are levied or a tax is levied. A preliminary assessment shall be apportioned on the basis of the assessed valuation of property in the district. A preliminary assessment shall be not more than five-hundredths of one percent (.0005) of the true cash value of all taxable property within the district computed in accordance with ORS 308.207. No district shall levy a preliminary assessment for more than three years.

(2) A construction assessment, which shall be levied for the purpose of defraying the cost of constructing or purchasing the works in each subdistrict. The construction assessment shall be levied as soon as the board is able to determine the probable cost of constructing or purchasing the works described in the engineering plan for a subdistrict or a construction assessment may be levied for the construction or purchase of works in accordance with any loan agreement with the government of the United States or the State of Oregon for money to be used in the construction or purchase of such works or in accordance with a purchase agreement entered into with the seller of such works. All construction assessments shall be paid in 10 equal annual instalments and shall bear interest at a rate not to exceed six percent per annum until paid from the date the first instalment of the assessment is due. Any landowner may make advance payments on the construction assessment levied against his lands. The board may, in its discretion, decrease the amount of any annual instalment and spread the payment of the construction assessment over a period longer than 10 years. Such decrease shall apply uniformly to all lands within the subdistrict. Whenever the board determines that the original construction assessment is not in an amount sufficient to pay the cost of constructing or purchasing the works described in the engineering plan for the subdistrict, the board shall assess a second construction assessment.

(3) A maintenance and operation assessment, which shall be levied for the purpose of defraying the cost of maintaining and operating the works constructed within any subdistrict. On or before November 1 of each year the board shall determine the probable cost of maintaining and operating the works within each subdistrict during the ensuing calendar year.

(4) An improvement assessment, which shall be levied for the purpose of defraying the cost of making improvements within a subdistrict. On or before November 1 of each year the board shall determine the probable cost of making any necessary improvements to any completed works within each subdistrict. No improvement assessment levied in any one year shall be greater in amount than one percent of all construction assessments levied against the same tract of land. In case of an emergency the board may, upon the approval of the owners of over half of the lands affected, levy, assess and collect a special improvement assessment. The board may, in its discretion, levy an improvement assessment within the limitations above provided in order to accumulate a fund to make improvements in future years. [Amended by 1959 c.605 §1; 1961 c.186 §8; 1965 c.623 §13]

553.520 Apportioning assessments; adjustment of benefits. (1) After determining the sum of money to be raised by any assessment, except a preliminary assessment, the board shall apportion the same among the lands liable therefor. Benefits used as a basis for apportioning maintenance and operation assessments and improvement assessments, except assessments levied for the operation, maintenance and improvement of irrigation works, may be adjusted from year to year in such manner that the adjusted benefits are in the same proportion to the new assessed valuation of the tract of land as the original appraised benefits are in proportion to the original appraised benefits plus the original assessed valuation of such tract of land.

(2) Adjusted benefits shall be made the basis for apportioning the maintenance and operation assessments and the improvement assessment, and shall not be used as a basis for apportioning construction assessments or preliminary assessments. Benefits determined to be accruing to lands upon the construction of irrigation works shall not be adjusted in any manner.

553.530 Disposition of funds received. (1) All sums of money received by a district in payment of any assessment shall be kept in a separate fund for each subdistrict from which the assessment is collected. All funds remaining unexpended in any construction

fund after the payment of all costs incurred for the construction of works in any subdistrict shall be paid into the improvement fund for such subdistrict, and any funds remaining on hand in any maintenance and operation fund for any year for any subdistrict shall likewise be paid into the improvement fund of that subdistrict.

(2) The district shall maintain a general fund in which shall be kept all funds received by the district for paying the general overhead and other expenses of the district. The district shall pay into the general fund such portion of each of the special assessments levied against lands within subdistricts as is necessary to pay the general expenses and overhead of the district.

553.540 Assessments to be levied by order of board; filing copy thereof; notice; lien; time for payment; interest. (1) All assessments shall be levied by an order of the board. The order shall state the description of the land assessed, the name of the owner of the land as such name appears on the records of the district, or the records of the county assessor, the type and kind of assessment, the amount of the assessment due, and the due date. It shall not be necessary to issue a separate order for each tract of land in a subdistrict, and any number of tracts in the same subdistrict and the same county may be included in one order. A copy of the order levying an assessment, certified and acknowledged by the secretary of the district, shall be filed with the recorder of conveyances of the county in which the land is located. Upon being filed, the assessment shall constitute a lien against the land assessed, prior in time to any other liens, rights or interests in the tracts of land described except liens for taxes levied by the state or county.

(2) Notice of all assessments levied by a district shall be given to the landowner by mail and shall be payable on the thirtieth day after such notice is mailed. All assessments paid after the due date shall be charged interest at the rate of six percent per annum. All assessments shall be paid to the secretary-treasurer of the district and a receipt shall be issued therefor. From time to time the board shall order the satisfaction of the liens against lands on which assessments have been paid, and a copy of such order shall be filed with the recorder of conveyances of the county in which the lands are located.

[Amended by 1961 c.186 §9]

553.550 Loans; assignment of assessments as security for. A district may borrow money and secure repayment of the same by the assignment of any assessments theretofore levied. Whenever a levied assessment is assigned to secure the repayment of any sum of money borrowed, the assessment shall be paid to the assignee thereof or his agent.

553.560 Foreclosure of assessment; procedure; district may bid and purchase; deed; right of redemption. (1) After the date fixed as the time when an assessment shall become due, the board, by resolution, shall direct that all delinquent assessments then unpaid, whether for operation and maintenance, improvement, construction, or other purposes, shall be foreclosed by the district. Such foreclosure shall follow the general procedures of a suit in equity and shall be filed in the circuit court of the county in which the land to be foreclosed is situated. If land in two or more counties is to be foreclosed, separate proceedings shall be commenced in each county as to the lands therein. The district may recover in such suit the costs and disbursements and other expenses of foreclosure, together with a reasonable sum as attorney's fees to be allowed by the court. Any number of tracts of lands, whether they are delinquent for the same or any number of assessments or for the same or several years, may be foreclosed in the same suit.

(2) The decree in such suit shall order the sale of such property and fix the time for holding the sale, which shall be not more than four weeks from the date of the decree, and shall order the sheriff of the county to hold the same as other foreclosure sales, upon giving notice thereof for two consecutive weeks prior to the day of sale, by publication of notice once each week in a newspaper published in the county in which the land to be sold is situated and by posting notices in three public and conspicuous places in the county at least two weeks prior to the day of sale.

(3) The district may be a bidder and purchaser of property upon such sale. Upon such sale the sheriff immediately shall issue a deed to the property sold, and no right of redemption shall exist.

553.570 Withdrawal of land from foreclosure sale; payment of lien, taxes and proportion of costs. At any time prior to sale or at the time of sale as provided by ORS 553.560, the former owner, assessment payer or holder of legal or equitable title or lien upon or to any tract of land included in the foreclosure and decree may pay the amount of the lien foreclosed, together with such amount of state and county taxes as the district may have paid and a proportionate amount of the costs incurred in such foreclosure proceedings, and withdraw the tract of land from the foreclosure sale. If made prior to the decree, the payment shall be tendered to the clerk of the court, together with a written appearance in the suit. If made after the decree is entered, the payment shall be tendered to the sheriff ordered to hold the sale. If payment is made before decree, the tract of land then shall be excluded from the foreclosure proceedings. If payment is made after decree, the district shall issue satisfaction of lien to such former owner, assessment payer or holder of equitable or legal title upon the tract of land and file the same for record.

553.580 Payment of state and county taxes by district. At any time after any assessment levied under this chapter becomes delinquent, the district may pay any state and county taxes due or delinquent against such tracts of land as are delinquent in the payment of the district assessment, and add such amount to and foreclose the same as part of the lien of the district against such tracts of land.

553.585 Claims; presentation; payment. All claims against the district shall be presented to the district board for allowance or rejection. Upon allowance, the claim shall be attached to a voucher verified by the claimant or his agent, approved by the president of the board and countersigned by the secretary, and directed to the treasurer of the district for the issuance of a check for payment of the claim against the proper fund in the custody of the district. Each claim presented and approved by the board shall have indorsed upon it the particular fund from which it is to be paid by the treasurer. Claims against the district for administrative expense and for any costs or expenses which are not properly chargeable directly to a particular subdistrict shall, when allowed by the district board, be paid from the general fund of the district.
[Formerly 553.590]

553.590 [Renumbered 553.585]

553.592 Board as board of equalization; notice; meeting; assessment list and record open to inspection. Not more than 30 nor less than 10 days before the first Tuesday in May of each year, the secretary of the board of directors shall give notice of the time and place the board, acting as a board of equalization, will meet for the purpose of reviewing and correcting its assessment as provided in ORS 553.595, by publishing the same not less than one time in a newspaper published in each county in which the district is situated. The board shall meet for this purpose on the first Tuesday of May following. In the meantime the assessment list and record shall remain in the office of the secretary of the board, for the inspection of all persons interested. All persons shall be presumed to have notice of the time of the meeting, whether they received actual notice or not.
[1965 c.623 §42]

553.595 Hearings by board as board of equalization; changes in assessments and apportionment; duties of secretary. On the first Tuesday of May of each year the board of directors shall meet as a board of equalization, and continue in session from day to day, as long as necessary, to hear and determine any objections by any interested persons to the assessments and apportionment thereof made pursuant to the Water Control District Law, and any other matters connected therewith that may come before them. The board shall change its assessments and apportionment and the list and record of the same as to benefited acreage, description and amount of assessment due in any respect and manner as may be necessary to make the same just and in accordance with the facts. The secretary of the board shall be present during these sessions, and shall note all changes made in such assessment, apportionments, lists and records, and in the names of the persons whose property is listed.
[1965 c.623 §43]

553.600 Levy following equalization procedure. After the board has completed its equalization of the assessment, it shall proceed to levy its assessments according to ORS 553.540 or 553.615.
[1965 c.623 §44]

BONDS

553.610 Assessments or taxes upon bond issue. Any water control district issuing bonds may, after an affirmative vote at any regular or special election called or held pursuant to the Water Control District Act, proceed to levy and collect assessments or ad valorem taxes as provided in subsections (1) and (2) of this section.

(1) A water control district may proceed to levy and collect assessments for any purposes of the water control district on a benefited basis as provided in ORS 553.330 and as determined under ORS 553.340 to 553.380. However, no change in method of assessment shall be made except with the consent of the holders of outstanding bonds.

(2) In lieu of the provisions of subsection (1) of this section and not in addition thereto, a water control district may proceed to levy an ad valorem tax for the purpose of paying the principal and interest on bonded indebtedness when it becomes due.
[1965 c.623 §14a]

553.615 Assessments by order of board. In lieu of the provisions contained in ORS 553.540 to 553.580, a district may levy any one or all of the assessments provided in this chapter by an order of the board. The order shall state the description of the land assessed, the name of the owner of the land as such description and name appears on the records of the county assessor, the type and kind of assessment, the amount of the assessment due, which shall be certified by the board not later than July 15 of each year to the county assessor of each county in which lands of the district are situated. The county assessor shall enter the assessment upon the county assessor's roll against the property therein described, in the same manner as other municipal taxes are entered by him. The collection of the assessment shall be coincident with collection of the state and county tax, and shall be governed by the laws relating thereto.
[1965 c.623 §15]

553.620 Ad valorem tax in lieu of assessment. A water control district may, in lieu of any or all of the assessments provided in this chapter, levy an ad valorem tax upon all taxable property situated within the boundaries of the district or subdistricts for a purpose or purposes expressed therein. A levy of an ad valorem tax for a given purpose shall not be in addition to any other assessments by a water control district for that purpose.
[1965 c.623 §16]

553.625 Levy and collection of tax authorized by ORS 553.620. The ad valorem tax provided for in ORS 553.620 shall be levied and collected in the manner otherwise provided by law for the levy and collection of real property taxes. The board shall prepare a budget in the form, manner and time prescribed in ORS 294.305 to 294.520 (the Local Budget Law), for the district and for each subdistrict for which taxes are to be levied and assessed, and in accordance therewith shall fix the amount of money to be raised by taxation for the district and for each subdistrict. Thereafter the levy shall be equalized and the tax collected and turned over to the district as otherwise provided by law for public corporations.
[1965 c.623 §17]

553.630 Terms and conditions of bonds; bond register. (1) The bonds issued shall be numbered consecutively, commencing with number 1. They shall mature serially in annual amounts so as to be approximately equal, principal and interest, in not less than five years nor more than 50 years after the date of issue, as the board of directors may determine, or in case the board deems it advisable to submit the question of maturities at the bond election, then as the electors may determine. They shall be negotiable in form. The bonds may be issued when so authorized by the electors so as to include a sum sufficient to pay the first four year's interest, or less, to accrue on the bonds.

(2) The bonds shall bear interest at a rate of not to exceed six percent per annum, payable semiannually on the first day of January and July of each year. The principal and interest shall be payable at the places designated in the bonds and coupons. The bonds shall be signed by the president and secretary. Coupons for interest shall be attached to each bond, and shall be signed with the engraved facsimile of the secretary.

(3) The secretary of the district shall register the bonds in books kept in his office for that purpose, and therein must be stated the number, date, amount of bond, time and place of payment, rate of interest, number of coupons attached, and any other description proper for future identification of each bond. This section shall not be construed to provide that any bond of the district shall bear a registration certificate by the secretary.
[1965 c.623 §20]

553.635 Provisions in contracts and bonds to pay government construction charges. The contract provisions for the payment of construction charges to the United States, and the bonds securing the payment of the same, if any are issued and deposited, may be of such denomination and may call for the payment of such interest not exceeding six percent per annum, may provide for such instalments and for repayment of the principal at such times, as may be required by the federal laws and as may be agreed upon between the board and the appropriate federal agency.
[1965 c.623 §21]

553.640 Sale of bonds; cancellation. (1) The board may sell from time to time the bonds which have been authorized by the electors and in such quantities as may be necessary and most advantageous. Before making any sale the board shall, at a meeting, by resolution, declare its intention to sell a specified amount of bonds, and the day, hour and place of such sale, and shall cause the resolution to be entered on the minutes. Notice of sale shall be given by publication. The notice shall state that sealed proposals will be received by the board at its office for the purchase of the bonds until the day and hour named in the resolution. At the time appointed, the board shall open the proposals and may reject any or all bids. After offering the bonds for sale, as above provided, if no satisfactory bid is received, the board may use the bonds for any purpose for which the proceeds from the sale of bonds may be used, but the board shall in no event sell or dispose of any bonds for less than 90 percent of their face value.

(2) The board may by resolution entered on its records cancel any bonds which may have been voted or issued which have not been sold or deposited as security for funds advanced or to be advanced, and which the state, United States or any person has no claim to or equity in. After such cancellation, the bonds shall not be sold or otherwise disposed of; they shall be invalid and of no effect; and the board may not replace them without authorization of the electors.
[1965 c.623 §22]

553.645 Bonds and payments due government to be paid from annual taxes and assessments. The bonds and the interest thereon and all payments due or to become due to the United States under any contract between the district and the United States, accompanying which bonds of the district have not been deposited with the United States, and all obligations for the payment of money authorized and incurred under this chapter, shall be paid by the revenue derived from the annual taxes or assessments upon the land in the subdistrict. All the lands in the subdistrict shall be and remain liable to be taxed or assessed for such payments as provided in the Water Control District Act and under and subject to the provisions thereof.
[1965 c.623 §23]

553.650 Property liable for indebtedness of district. In addition to the provisions for the payment of bonds and interest by taxation and other provisions of this chapter, all the property of the subdistrict, including irrigation and other works, shall be liable for the indebtedness of the subdistrict. The holder of the bonds, or the United States in case contract has been executed by the United States, may, in case of default in the payment of interest or principal on the bonds, or the amount due on the contract, upon the order of the circuit court, take possession of the works of the subdistrict and operate the same until the amount in default is fully paid.
[1965 c.623 §24]

553.655 Bond elections in subdistricts. (1) Upon order of the board, an election shall be held in the subdistrict to determine whether bonds in any amount the board may deem necessary shall be issued for any purpose necessary or convenient in carrying out the provisions of this chapter, including the refunding of outstanding bonds, shall be authorized.

(2) The election shall be held and the result determined as provided in ORS 553.080. No informalities in conducting such election shall invalidate the same, if the election has been otherwise fairly conducted. The ballot shall contain the words "Bonds—Yes" and "Bonds—No." If a majority of the votes cast are "Bonds—Yes," the board shall cause bonds in that amount to be issued, or such portion thereof as may be necessary from time to time. If the majority of the votes cast are "Bonds—No," the result of such election shall be so declared and entered of record.

(3) Whenever thereafter the board in its judgment deems it for the best interest of

the subdistrict that the question of the issuance of bonds in any amount shall be submitted to the electors, it shall so declare of record in its minutes, and may thereupon submit such questions to the electors in the same manner and with like effect as at the previous election.
[1965 c.623 §§18, 19]

553.660 Tax or assessment as lien on property. Any tax or assessment upon land shall be a lien against the property assessed or taxed, and such lien for all payments due or to become due under any contract with the United States or for the payment of principal or interest of bonds deposited with the United States shall be a preferred lien to any assessments for bonds issued subsequent to the date of such contract or the issuance of the bonds deposited with the United States. No subdistrict tax or assessment lien shall be removed until the assessments or tax is paid with interest and penalties or the property sold for the payment thereof.
[1965 c.623 §25]

553.665 Bond Fund; Bond and United States Contract Fund; Construction Fund; General Fund. The treasurer shall keep a "Bond Fund" account or a "Bond and United States Contract Fund" account, as the case may be, into which shall be deposited all moneys arising from the sale of refunding bonds and from assessments, taxes and levies until there is sufficient money in the fund to meet the next instalment of principal and interest upon bonds of the subdistrict and to meet all payments for construction and other purposes to the United States. From the fund he shall pay moneys due as principal and interest on bonds as they mature and the bonds and coupons are presented and as payments to the United States fall due. Moneys received from the sale of bonds and otherwise for construction or acquisition of works by the subdistrict shall be deposited into a "Construction Fund." All other moneys received by the subdistrict shall be deposited into a fund known as the "General Fund," from which shall be defrayed all obligations of the subdistrict other than those in this section described. The Bond and United States Contract Fund accounts shall be devoted to the obligations of the subdistrict payable therefrom in the order of the priority of the creation of the obligations.
[1965 c.623 §26]

553.670 Bonds issued with option to redeem; notice of redemption. Notwithstanding anything contained in this section, the board in its discretion may issue any bonds with the option reserved to the district of redeeming the bonds on and after certain interest-paying dates specified by the board therein, upon publication of notice thereof at least 30 days prior to redemption date, in one issue of a newspaper printed and published in the county where the bonds were issued and in a newspaper published in the City of Portland.
[1965 c.623 §27]

553.680 to 553.700 [Reserved for expansion]

CONTRACTS WITH OTHER GOVERNMENTAL UNITS FOR CONSTRUCTION OF WORKS

553.710 Contracts with other governmental agencies or units; levy of tax to meet obligations. After the creation of a subdistrict, a water control district may enter into a contract with the Government of the United States or with the State of Oregon or with any agency or subdivision thereof or with any municipal corporation for the construction of works within the subdistrict or outside of the subdistrict for the benefit of lands within the subdistrict. If by reason of any such contract a district becomes obligated to contribute all or any part of the cost of constructing such works or to furnish rights of way or to pay for the cost of improvements to be made in conjunction with the construction of such works or to maintain and operate the works after the construction thereof, the district may levy an ad valorem tax against the lands within the subdistrict for the purpose of raising funds with which to discharge its contract obligations and to pay the costs and expenses incurred by the district in connection therewith. The levy of an ad valorem tax for such purposes shall be in lieu of and not in addition to any other method of levying assessments by a water control district.

553.720 Manner of collecting tax; budget; equalizing levy. The ad valorem tax provided for in ORS 553.710 shall be levied and collected in the manner otherwise provided by law for the levy and collection of real property taxes. The board shall prepare a budget in the form, manner and time prescribed in ORS 294.305 to 294.520 (the Local Budget Law), for each subdistrict for which

taxes are to be levied and assessed, and in accordance therewith shall fix the amount of money to be raised by taxation for each subdistrict. Thereafter the levy shall be equalized and the tax collected and turned over to the district as otherwise provided by law for public corporations.

553.730 Limitation on tax levy. No levy of an ad valorem tax under ORS 553.710 for any one year shall exceed one-half of one percent (.005) of the true cash value of all taxable property within the subdistrict, computed in accordance with ORS 308.207. If the total sum of money required to be raised under the terms of a contract entered into by a district, together with the sum of money to be raised to pay the costs and expenses of the district incurred in connection therewith, exceeds such limitation, a levy for each year thereafter shall be made by the district until the entire contract obligation has been discharged.
[Amended by 1963 c.9 §31]

553.740 Issuance of warrants. After the amount of a levy under ORS 553.710 is determined and turned over to the county assessor, a district may issue warrants to an amount not in excess of 75 percent of the amount of the levy. The warrants shall be serially numbered and shall bear interest of not more than six percent and shall be paid by the treasurer of the district in the order of issuance upon receipt of funds from the county treasurer.

553.750 Loan contracts with state or federal agencies; obligation of district; recording certificates. (1) Whenever a district has adopted, as the engineering plan for a subdistrict, a project work plan prepared for the subdistrict by a department of the Federal Government, and in connection with the development of such plan desires to borrow money from any state or federal agency, such district may, in lieu of levying a preliminary assessment, enter into a loan contract with such agency.

(2) The loan contract shall be in such form and shall contain such terms as may be agreed upon by the agency and the district; the district may agree to levy a construction assessment against each tract of land benefited within the subdistrict, to do all acts and things necessary therefor, to assign to the lending agency the construction assessments as security for the loan and to perform all such acts within such period of time as may be agreed to between the district and the state or federal lending agency.

(3) In the event that a state or federal lending agency pays over money to a district pursuant to the terms of a loan contract and the district fails, refuses or neglects to levy the construction assessments, to obtain or prepare a benefit roll, to assign the construction assessments, or in any other manner not to perform as it agreed to under the loan contract, the state or federal lending agency shall have the right, at its election, to apply to the circuit court for the county in which is located the largest part of the lands within the subdistrict for a writ of mandamus, or any other order or writ, to require the district, its directors, officers and agents to do such acts and things as the district agreed to do under the terms of the loan contract. All costs, charges and expenses pertaining to the issuance and execution of any such writ or order shall be charged to and collected from the lands subject to the construction assessments in addition to such construction assessments.

(4) Upon the execution of a loan contract, the district shall record with the recorder of conveyances for the county in which the lands within the subdistrict are located, a certificate which shall state the date of the loan contract, the maximum amount of the loan, the recording data pertaining to the recorded order creating the subdistrict, the term of the loan and the rate of interest. Such certificate shall give notice that all lands within the subdistrict determined to be benefited by the construction of the works referred to in the engineering plan will be subject to construction assessments thereafter to be levied.
[1961 c.186 §2]

553.760 When land benefited by irrigation project. No tract of land shall be considered to be benefited by the construction, operation, maintenance or improvement of irrigation works unless the owner of such land enters into an irrigation contract with the district. The irrigation contract shall be in such form as shall be prescribed by the district. Upon being executed the contract shall be recorded with the recorder of conveyances of the county in which such lands are located and the recording of the contract shall constitute notice that such lands are subject to all maintenance and operation assessments thereafter levied and all other assessments thereafter or theretofore levied by the district.
[1961 c.186 §3]

553.770 to 553.800 [Reserved for expansion]

APPEALS

553.810 Appeal to county court; notice; manner of hearing; order. All orders of a board levying assessments or otherwise affecting the rights of any landowner or person having an interest in a tract of land may be appealed to the county court having jurisdiction over the district. Notice of appeal shall be given in writing and filed with the court, and a copy served on the board or any of its officers, prior to the date on which the assessment is to be payable or the order appealed from is to be effective. All such appeals shall be heard by the court in a summary manner. After hearing an appeal the court shall issue an order thereon in accordance with its determination.

553.820 Appeal to circuit court; trial de novo; review by Supreme Court. All orders of the county court, including orders made on appeal from orders of the board, may be appealed by the district or any party in interest to the circuit court which has jurisdiction over the land affected by the order appealed from. On an appeal to the circuit court all questions of fact shall be tried de novo as an action at law before a jury, unless a jury is waived as otherwise provided by law. Any party to an appeal may appeal from the judgment of the circuit court to the Supreme Court, as otherwise provided by law.

DISSOLUTION

553.850 Dissolution upon majority vote. Any water control district may be dissolved whenever a majority vote of the qualified voters of the district voting at an election for such purpose favors the dissolution.
[1965 c.623 §28]

553.855 Dissolution election called by board or by petition. The dissolution election may be called by the board of directors on their own motion or by a petition filed with the directors, signed by the owners of more than 35 percent of the acreage within the boundaries of the district, exclusive of state and federally owned lands, requesting the directors of the district to submit to the voters thereof the proposition of dissolving the district and settling its affairs. Each signer shall state his address and the number of acres of land owned by him and the county in which such lands are located.
[1965 c.623 §29]

553.860 Filing of petition; certification of sufficiency; election to be held at time of primary or general election. The petition shall be referred to the county clerk of each county wherein the district or any part thereof is located. The county clerk of each such county shall examine the purported signatures on the petition of voters within the county and shall certify as to the regularity thereof. Where the district is located in more than one county, the certificate of the county clerk of each county shall be filed with the Secretary of State, who shall accept the certificates by the county clerks as to the regularity of the signatures, and based thereon, shall certify as to the sufficiency of all signatures on the petition. Whenever a dissolution petition has been certified as sufficient, the certificate of sufficiency with copy of the petition shall be transmitted to the directors of the district, who shall immediately call an election to be held concurrently with any primary or general election.
[1965 c.623 §30]

553.865 Notice of election. Notice of the dissolution election shall be given not less than 50 nor more than 60 days prior to such primary or general election.
[1965 c.623 §31]

553.870 Issuance and filing of proclamation of dissolution. If a majority of the qualified voters of the district, voting at the election, votes in favor of dissolution, the directors shall issue their proclamation dissolving the district and shall file the proclamation in the office of the county clerk of the county wherein the district is located.
[1965 c.623 §32]

553.875 Purpose of existence after dissolution. The district shall thereafter continue to exist solely for the purpose of settling its affairs as provided in these sections.
[1965 c.623 §33]

553.880 Directors as trustees of dissolved district. Upon dissolution the directors then in office shall be deemed to be, and thereafter be referred to as, the trustees of the district, with power and authority in the name and in behalf of the district to sell, transfer and dispose of any and all property and assets of the district and to do each and everything necessary and needful or requisite for settlement and liquidation of the affairs of the district as provided in these sections.
[1965 c.623 §34]

553.885 Inventory, assets and liabilities; sale of property. (1) The trustees shall proceed at once to cause to be taken, an inventory of all property of the district, its assets and liabilities, and shall sell the same as a whole or any part thereof upon such terms and conditions as the trustees deem advisable.

(2) The proceeds derived from the sale shall be used to pay the indebtedness of the district.
[1965 c.623 §§35, 36]

553.890 Disposition of any surplus. If, after payment of all debts of the district, there remain any surplus funds to the credit of the district, such funds shall be turned over to the county treasurer of each county in which the district may be located, to become a part of the general fund of the county in proportion that the assessed value of the property within the boundaries of the district in such county bears to the total assessed value of all property within the boundaries of the district as determined by the last assessment rolls.
[1965 c.623 §37]

553.895 Deposit of books and records; corporate existence terminated. After the affairs of the district have been fully settled, all books and records of the district shall be deposited by the trustees in the office of the county clerk of the county wherein the district or its principal part in area thereof is located, and the corporate existence of the district without further action is dissolved and terminated for all purposes.
[1965 c.623 §38]

553.900 Consent required for dissolution. No district shall be dissolved without the written consent of its creditors or governmental agencies holding contracts or other continuing obligation with the district.
[1965 c.623 §39]

553.905 Objection to dissolution. If anyone objects to the dissolution, such objection shall be presented to the county courts.
[1965 c.623 §40]

553.910 County court may institute dissolution proceedings. If there are no qualified directors, the county court, of the county within which the district or principal portion thereof is located, may upon its motion or upon petition filed with the county court signed by the owners of more than 35 percent of the acreage within the boundaries exclusive of state and federally owned lands institute dissolution proceedings. In such case said county court shall act as or appoint trustees of said district.
[1965 c.623 §41]

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 November 15, 1965.

Sam R. Haley
Legislative Counsel