Chapter 372

1965 REPLACEMENT PART

Highway Lighting Districts

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372.010 Definitions. As used in this chapter:

(1) "County court" includes board of county commissioners.

(2) "Highway" means any public road or public way.

(3) "Highway lighting district" means land abutting a portion, not less than 600 feet in length, of any highway, the owners of which have organized under this chapter for the purpose of acquiring, installing, operating and maintaining necessary equipment to illuminate such portion of such highway.

[Amended by 1955 c.80 §1]

372.020 Authority to organize district. The abutting property owners of any highway in the state may organize a highway lighting district for the purpose of illuminating the highway abutting their respective properties in the manner provided by this chapter.

372.030 Location of district. A highway lighting district may be entirely outside the territorial limits of any incorporated city or it may be both outside and inside such limits. The boundary lines of the district shall include only such territory as abuts the highway.

372.040 Petition to organize district; contents. A petition for the organization of a highway lighting district shall be addressed to the county court of the county within which the greatest length of highway to be illuminated is located. The petition shall set forth:

(1) The territorial limits of the proposed district.

(2) The advisability of and the reason for the organization of the proposed district.

(3) The number of owners of property abutting the highway within the proposed district.

(4) The estimated initial cost of the acquisition and installation of the lighting equipment and the easements or permits necessary to carry out the purposes of the proposed district.

(5) The estimated annual cost of maintenance and operation.

(6) Such further information as may be deemed appropriate to fully inform the public of the plan of illumination of the highway.

372.050 Signatures on petition; filing. The petition, after being signed by the owners of property representing more than 50 percent of the front footage abutting the portion of highway to be included in the proposed district, and in case any part of the district is inside the limits of an incorporated city, by the owners of land representing more than 50 percent of the front footage abutting on that part of the highway within the district, may be filed with the county court to which it is addressed.

372.060 Proof of notice to accompany petition; posting and mailing notice. When the petition is presented to the county court it shall be accompanied by satisfactory proof by affidavit that notice has been:

(1) Posted at the place of holding county court and at three public places within the proposed district 30 days previous to the presentation of the petition, notifying all persons concerned that such application would be made to the county court at its next term.

(2) Forwarded by mail, postage prepaid, not less than 30 days prior to the date of presentation of the petition, to each record owner of land located within the proposed district, except as otherwise provided in this section and ORS 372.070, at the last-known post-office address of the owner. If the address of the owner is unknown to the person mailing the notice it may be mailed to the address given on the latest tax roll in the office of the tax collector of the county. If the address is unknown to the person mailing the notice, cannot with reasonable diligence be ascertained and cannot be found on the latest tax roll, the notice may be addressed to the owner at the county seat of the county within which the proposed district is situated.

372.070 Waiver of notice. Any owner of land affected by the proposed incorporation of the district who signs the petition shall be deemed to have waived all further notice, and the mailing to such owner is not required.

372.080 Form, contents, sufficiency of notice. (1) Any notice is sufficient if it is accompanied by a copy of the petition, gives the date of presentation to the county court and is signed by one or more of the petitioners.

(2) The notices to be posted shall consist of true copies of the petition properly certified as such by one of the signers of the petition.

(3) The posting and mailing of copies

of the original petition, certified to be true copies by one or more of the petitioners or by his or their attorney, with a notation thereon as to the time and place for the presentation of the original petition to the county court, shall be sufficient compliance with the requirements as to the posting and mailing of notices, and the court shall have jurisdiction to proceed as specified.

372.090 Inspection and report by engineer. Upon the filing of the petition with the county court, with satisfactory proof of posting and mailing notice, the county court shall, by order, direct the county engineer to:

(1) Make an inspection and investigation of the proposed lighting project and of the area described in the petition with respect to feasibility and public convenience and necessity.

(2) File a report for the proposed district in the county court on or before a day specified in the order, but not more than 30 days from the date of the order.

[Amended by 1965 c.85 §1]

372.100 Remonstrance against proposed district. At any time prior to the final date fixed by the order of the county court for the filing of the county engineer's report, any person whose lands are within the outside boundaries of the proposed district, whose signature does not appear on the petition, may file a remonstrance against the proposed organization of the district.

372.110 Readings of petition and report; entry of order. (1) On the date following the final date fixed for the filing of the county engineer's report, the petition and report shall come on for a first reading. The second reading of the petition and report shall come on the day following.

(2) If no remonstrance has been filed within the time prescribed, or if a remonstrance has been filed and, after hearing, the county court nevertheless is satisfied that the district should be created, the county court shall enter an order proclaiming the incorporation of the highway lighting district.

(3) If there is a remonstrance filed, and after the hearing, the county court is satisfied that the district as proposed should not be created, then the court may make and enter an order denying the petition or it may grant the petition after first changing the boundaries of the proposed district by reducing its area if such boundary change will eliminate the remonstrance filed in whole or in part, and if the county court is further satisfied that the proposed district as changed will be feasible, necessary, and for the public convenience; that the lands remaining in the district will meet all the requirements of subsection (3) of ORS 372.010 and ORS 372.030; and that the estimated initial costs of acquisition and installation of the lighting system and the estimated annual cost of maintenance and operation of the same are not increased more than five percent above the original estimated initial and annual costs.

[Amended by 1965 c.85 §2]

372.120 Effect of defects and irregularities in petition and notice. No final order proclaiming the incorporation of the district shall be set aside or annulled upon appeal or review, nor shall any county court refuse to render a final order, on account of any defect or irregularity in the petition or notice which does not materially affect the substantial rights of an interested party. The following irregularities are immaterial:

(1) Errors of description which do not prevent definite location of termini of boundaries.

(2) Errors in posting notices, where it can be shown that all persons objecting to the proceedings for the proposed incorporation had actual notice thereof prior to the time of the first reading of the petition.

(3) Errors in or omissions of the names of the petitioners appearing on the notice, where no remonstrance is filed.

372.130 Nature of district. From the date of the proclamation made by the county court under ORS 372.110, that part of the county embraced within the boundaries described in the petition and proclamation shall be:

(1) A municipal corporation and subject to the laws of this state applicable to such corporations.

(2) A separate public corporation for the purpose of supplying street and highway lighting within its boundaries, to be known by the name specified in the petition and proclamation. As such the district shall have perpetual succession and by its name shall exercise and carry out the corporate powers and objects in this chapter conferred and declared.

(3) A corporate entity.

372.140 General powers of district. The district:

(1) Shall make all contracts.

(2) Shall hold, receive and dispose of real and personal property within and without its described boundaries.

(3) Shall do all other acts and things requisite, necessary or convenient in carrying out the objects of the corporation or exercising the powers expressly conferred upon it by this chapter.

(4) Shall sue and be sued, plead and be impleaded in all actions and suits or other proceedings brought by or against it.

(5) Shall have and exercise within and without its boundaries the same rights and powers of purchasing and selling real property and rights of way, which cities and towns or other corporations have, to be exercised in the manner authorized.

(6) May purchase in the open market or obtain from other public utility corporations, electric energy for lighting purposes and poles, wires, conduits, lighting fixtures and all types of property necessary to enable the district to carry out its purposes.

(7) May enter into contracts with any person, firm or corporation for the construction, maintenance and operation, or any of these, of the lighting facilities or any one or more of such services.

(8) May contract with any person, firm or corporation for the renewal, upkeep and maintenance of the lighting facilities or any part thereof.

(9) May contract with any person, firm or corporation for the use of any lighting facilities if and when owned by such person, firm or corporation.

(10) May contract with the state, by and through the State Highway Commission, and its successors in interest, with respect to any phases of the lighting of any highway within the district which may be owned by the state or under its control.

372.150 Illumination of state highways; cooperation with highway commission. (1) The plans and specifications for the illumination of any state highway shall be submitted to and be approved by the State Highway Commission before any district organized under this chapter is authorized to acquire the equipment therefor or to install it on any state highway.

(2) The district shall maintain and operate illumination equipment on state highways in cooperation with and with the approval of the State Highway Commission.

372.160 Illumination of highway parallel to railroad. No portion of any highway running parallel to any railroad track and within 500 feet thereof shall be illuminated under this chapter unless the plans and specifications therefor have been submitted to and approved by the Public Utilities Commissioner. Approval may be conditioned upon the installation of such shades, reflectors or other devices as the Public Utilities Commissioner finds to be necessary to avoid impairment of the visibility of railroad signal lights or other interference with the safety of railroad operation.

372.170 Power to assess, levy and collect taxes. (1) The district may assess, levy and collect assessments upon all real property situate within its boundaries and which is by law taxable for state and county purposes in each year, on any reasonable basis of assessment, but the assessment shall not exceed $1 per each front foot of the property abutting on the highway, or portion thereof, proposed to be or lighted, the proceeds of which shall be applied by it in carrying out the objects and purposes provided in ORS 372.140.

(2) The district may also assess, levy and collect a special assessment upon all such property in an amount sufficient to pay the initial construction and installation cost.

[Amended by 1965 c.21 §1]

372.180 Assessment, levy and collection procedure. (1) The board of commissioners shall estimate assessments needed, and the amount thereof shall be levied in each year and returned to the county officer whose duty it is to extend the tax roll at the time required by law for other taxes to be levied and returned.

(2) All assessments levied by the district shall become payable at the same time, be collected by the same officer who collects county taxes and be turned over to the district according to law.

(3) The county officer whose duty it is to extend the county levy shall extend the levy of the district in the same manner as city taxes are extended.

(4) Property shall be subject to sale for the nonpayment of assessments levied by the district in like manner and with like effect as in the case of county and state taxes.

372.190 Exemption of railroad right of way from assessment. No railroad right of way, except such as abuts on the highway at a grade crossing, shall be subject to assessment under this chapter.

372.200 District commissioners; number; qualifications; nomination and appointment. The power and authority given to districts created under this chapter, except as otherwise provided in this chapter, are vested in and shall be exercised by a board of commissioners of the number named in the petition for incorporation, but not less than five, each of whom shall be a qualified voter in the state and a freeholder within the district. The order by which the county court proclaims the creation of the district shall nominate and appoint the number of commissioners named in the petition for incorporation.

372.210 Organization and terms of commissioners. (1) Within 10 days after the issuance of the order proclaiming the creation of the district, the commissioners shall meet and organize by each first taking and subscribing oath of office to the effect that he will support the Constitution of the United States and of the state, and the laws thereof, and will faithfully discharge the duties of commissioner to the best of his ability.

(2) The commissioners shall first determine by lot the length of term each shall hold office, the shortest term being until February 1 following, and the longest term for the number of years after such February 1 equal to the number of commissioners, less one. The terms shall be so arranged that the term of one member shall expire each year.

(3) Each year during its January term the county court shall appoint a successor to the commissioner whose term expires on the next following February 1.

(4) If any commissioner ceases to be a qualified voter in the state or a property owner within the district, he is automatically disqualified, and, at the next following term of the county court, the court shall by order appoint a successor to hold office until the expiration of his predecessor's term.

372.220 Meetings and officers of commissioners. (1) The commissioners shall hold meetings at such time and place within the district as they may from time to time determine upon, but shall hold at least one regular meeting annually on a day to be fixed by them. They may hold special meetings under such rules as they may make.

(2) The commissioners shall, at the time of their organization, choose from their number a chairman, secretary and a treasurer, who shall hold their offices until the first regular meeting in February, or until a successor is appointed and qualified. These officers shall have the powers and perform the duties usual in such cases and shall be known as the president, secretary and treasurer of the corporation.

(3) A majority shall constitute a quorum to do business, and in the absence of the chairman any other member may preside at any meeting.

[Amended by 1965 c.85 §3]

372.230 Bonds of treasurer. The treasurer shall give bonds as such to the corporation conditioned for the paying over to him of all moneys coming into his hands as treasurer. The amount of the bond shall be from time to time fixed by the commissioners, based upon the amount of money in the hands of the treasurer or liable to come into his hands as such. All expense incident to giving such bonds shall be paid by the corporation out of its general funds.

372.240 District employes; expenses of commissioners. (1) The commissioners may employ such engineers, superintendents, mechanics, clerks, secretaries or other persons as they may find requisite, necessary or convenient, in carrying on any of its work, at such a rate of remuneration as they deem just.

(2) The commissioners may pay the actual and necessary expenses actually incurred by any one or more commissioners in the services of the district.

372.250 Interest in contracts prohibited. No commissioner or other officer of the district shall be interested, directly or indirectly, in any contract with or on behalf of the district.

372.260 Deposit and withdrawal of district moneys; annual reports. (1) All moneys of such district shall be deposited in one or more banks designated by the commissioners. Such moneys shall be withdrawn or paid out only when previously ordered by vote of the commissioners and upon a check signed by the treasurer and countersigned

by the chairman, or in his absence or inability to act, by the secretary. A receipt or voucher, showing clearly the nature and items covered by each check drawn, shall be kept on file.

(2) Annual reports shall be made and filed by the chairman, secretary and treasurer, and at least once in each year a full and complete itemized statement of receipts and expenditures shall be published in a newspaper of general circulation, published in the county in which the major portion of the district is situated.

372.270 Records; preservation and inspection. All the proceedings of the commissioners shall be entered at large in a record book. All books, maps, plans, documents, correspondence, vouchers, reports and other papers and records pertaining to the business of the corporation shall be carefully preserved, and shall be open to inspection as public records.

372.280 Initiative and referendum in districts. In the exercise of the initiative and referendum powers reserved under the Oregon Constitution to the legal voters of every municipality and district as to all local, special and municipal legislation of every sort and character in and for their respective municipalities and districts, the general laws of the state as applied to cities and towns shall govern in districts organized under this chapter. The chairman of the commissioners shall be governed by the laws applicable to the mayor of incorporated cities and perform his duties accordingly, and the secretary shall perform the same duties as auditor or recorder, and the attorney, if one is retained, shall perform the same duties as the city attorney in incorporated cities.

372.290 Dissolution of districts. The corporation may be dissolved by appropriate exercise of the initiative or referendum petition.

372.300 [Reserved for expansion]

372.310 Annexation of land to districts, petition for. Any land abutting any highway which is contiguous to a highway lighting district may join such district by petition addressed to the county court of the county within which the greatest length of highway then illuminated is located. The petition shall set forth the information required in ORS 372.040 as applied to the proposed addition.
[1955 c.80 §3]

372.320 Proceedings for annexation; approval of petition required. The proceedings for annexation of additional highway frontage to an existing highway lighting district shall conform to the proceedings for formation of such district under ORS 372.050 to 372.130. In addition, before its submission to the county court, the petition shall be approved by the board of commissioners of the highway lighting district to which annexation is sought and the board shall indorse its approval thereon.
[1955 c.80 §4]

372.330 Consolidation of districts; petition; proclamation of annexation or consolidation. Two or more highway lighting districts, whose boundaries adjoin, may consolidate into a single highway lighting district as defined in ORS 372.010, 372.020 and 372.030, and the procedure for consolidation shall be the same as though an original highway lighting district were being organized covering and comprising the land encompassed by the consolidating districts except that the petition for consolidation shall be signed by a majority of the commissioners and by the owners of property representing more than 50 percent of the front footage of each of the districts proposing to consolidate. The petition shall be addressed to the county court of the county within which the greatest length of then illuminated highway is located. In the case of an annexation or a consolidation the proclamation referred to in ORS 372.110 shall be a proclamation of annexation or consolidation.
[1955 c.80 §5]

372.340 Rights, powers and status of new district upon annexation or consolidation. Upon proclamation of annexation or consolidation, the new district shall succeed to all the property, contracts, rights and powers of the original district or of the districts consolidated, and shall constitute and be a regularly organized highway lighting district as if originally organized in the manner provided by ORS 372.010 to 372.290, and its status shall be the same as specified in ORS 372.130.
[1955 c.80 §6]

372.350 Commissioners of original district carry over upon annexation. Upon a

proclamation of annexation the commissioners of the original district shall become the commissioners of the new district.
[1955 c.80 §7]

372.360 Commissioners for consolidated district, appointment, powers and organization. In the order proclaiming consolidation, the county court shall appoint seven freeholders within the new district, each of whom shall be a qualified voter in the state, to a board of commissioners. The power and authority given to consolidated districts are, except as otherwise provided in ORS 372.310 to 372.380, vested in and shall be exercised by such board. The organization of the board and terms of commissioners shall be as provided in ORS 372.210.
[1955 c.80 §8]

372.370 Fulfillment of districts' obligations upon consolidation. Upon proclamation of consolidation, each original district shall cease to exist for any purpose except fulfillment of existing obligations. Where obligations exist, its board of commissioners shall continue to function and shall retain all powers necessary to fulfill them, including the power to assess, levy and collect taxes as provided in ORS 372.170 and 372.180.
[1955 c.80 §9]

372.380 Responsibility of original districts for obligations, unfulfilled at time of consolidation, of the other. An original highway lighting district shall not, upon consolidation, be held responsible for the unfulfilled obligations, legal or contractual, of any other district with which consolidated, unless by unanimous consent of its board of commissioners expressed by resolution prior to the proclamation of consolidation it agrees to share such obligations, in whole or in part. When an original district undertakes such obligation, it shall continue its existence for the purposes set forth in ORS 372.370.
[1955 c.80 §10]

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