Chapter 547

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Drainage Districts

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ORGANIZATION OF DRAINAGE DISTRICTS; SCOPE OF LAW

547.005 Authority to form drainage district. The persons shown by the records of the county to be the owners of 50 percent of the acreage in any contiguous body of swamp, wet or overflowed lands or irrigated lands, waters from which contribute to the swamp, wet or overflowed conditions of those or other lands, situated in one or more counties of the state, may form a drainage district for the purpose of having such lands reclaimed and protected by drainage or otherwise from the effects of water, for sanitary or agricultural purposes, or when the same may be conducive to the public health, convenience and welfare or of public utility or benefit.

547.010 Petition to form district; contents. For the purpose mentioned in ORS 547.005, the owners may prepare and sign a petition in which shall be stated:

(1) The name proposed for the district.

(2) The boundary lines of the district, or a description of all the lands included therein, with an allegation that such lands constitute a contiguous body of swamp, wet or overflowed lands, or irrigated lands the waters from which contribute to the swamp, wet or overflowed condition of those or other lands.

(3) The total acreage included in the district, and if land in more than one county is included, then the acreage in each county.

(4) The names of the owners of land in the district as shown by the county records, and the acreage owned by each owner.

(5) An allegation that the proposed reclamation or protection is for sanitary or agricultural purposes, or both, and that the proposed reclamation or protection will be conducive to the public health or welfare or of public utility or benefit.

(6) An allegation that all the lands included in the proposed district are properly included, and will be beneficially affected by the operations of the proposed district.

(7) An allegation that the benefits of the proposed reclamation or protection will exceed the damage to be done and that the best interests of the land included and of the owners of such land as a whole, and of the public at large, will be promoted by the formation and proposed operations of the district.

(8) An allegation that the formation of a drainage district under the provisions of this chapter is a proper and advantageous method of accomplishing the reclamation and protection of the lands included therein.

(9) A brief, general, informal statement of a proposed plan of reclamation or protection and such general facts as will enable the court to determine that there is a reasonable probability that the objects sought by the formation of the district may be accomplished.

(10) An agreement that the signers will pay any expenses incurred and any taxes that may be levied against their lands, for the purpose of paying the expense of organizing or attempting to organize the proposed district.

(11) A prayer asking that the lands described, or such of them as may be found by the court to be properly included in the proposed district, either permanently or until further investigation and surveys may permit elimination, shall be declared organized into a drainage district.

547.015 Verification and filing of petition. The petition shall be verified by one or more of the petitioners to the effect that they have read the petition and believe the allegations to be true. It shall be filed in the office of the county clerk of the county in which the lands described are situated. If the lands are situated in more than one county it shall be filed in the office of the county clerk of the county in which more of the lands are situated than in any other county.

547.020 Fixing time and place of hearing; notice; jurisdiction over district. (1) Upon presentation of the petition, the county court shall fix the time and place for hearing the petition. Thereupon the clerk in whose office the petition was filed shall give notice in the following manner:

(a) He shall cause notice to be published once each week for four consecutive weeks in some newspaper published in each county in which are situated lands of the district, the last insertion to be made at least 15 days prior to the meeting of the county court at which the petition is to be heard. The notice shall be substantially in the following form and shall be deemed suffi-

cient for all purposes of the Drainage District Act:

Notice of Hearing on Petition to Form Drainage District.

In the County Court of the State of Oregon, for the County of .....

Notice is given that hearing on the following petition will be held at the courthouse in the city of ....., County of ....., State of Oregon, on the ..... day of ....., 19....., for the purpose of determining whether the prayer of the petition shall be granted.

All persons owning or claiming an interest in lands described in the petition are notified to appear at that place on that date and show cause, if any there be, why the prayer in the petition should not be granted.

.....
Clerk of the County Court

(b) Immediately following the notice and as a part thereof, there shall be published the petition in full, including the signatures thereto.

(2) The county court of the county in which the petition has been filed shall thereafter maintain and have original and exclusive jurisdiction co-extensive with the boundaries and limits of the district without regard to county lines, for all purposes of the Drainage District Act.

547.025 Filing of objections. On or before the date set for the hearing, any person objecting to the organization and incorporation of the district may appear and file a writing setting forth specifically and definitely his objections thereto.

547.030 Evidence at hearing; findings; appeal. (1) At the hearing the court shall hear and consider any evidence that may be presented for or against the petition or any objection thereto.

(2) Thereupon the court shall make its findings upon the facts alleged in the petition or objections and any other facts necessary and proper for the determination of the propriety of the organization of the district, which findings shall be entered on the journal of the court.

(3) If it appears to the court that the prayer of the petition should be granted, the court shall, by its order entered of record, declare and decree the drainage district organized.

(4) If it appears to the court that the prayer of the petition should not be granted, the proceedings shall be dismissed and the costs adjudged against the signers of the petition in proportion to the acreage represented by each.

(5) In making such findings and decree, the court shall disregard any error, irregularity or omission which does not affect substantial rights, and no such error, irregularity or omission shall affect the validity of the organization or any proceedings taken thereon.

(6) Appeal may be taken from the decision of the court to the circuit court in the same manner as appeals are taken in equity cases.

547.035 Validation of existing districts. In all cases where any landowners, prior to February 27, 1919, in good faith organized or attempted to organize a drainage district under the laws of Oregon, and in the proceedings for such organization notice of organization was published for the time required by statute, and on February 27, 1919, such drainage district was maintaining its organization and carrying on its business, then such drainage district is hereby declared to be legally created and its organization is declared valid, and the territory embraced within the boundaries of such district as described in the petition for organization or, if the boundary was modified by order of court, then as described after such modification, is hereby declared to compose a legally organized drainage district, notwithstanding any error, defect or omission in the petition for organization of the district, the signatures thereto, or the signing thereof.

547.040 Application of Act of 1915 and amendments to districts organized under earlier laws. All drainage districts organized before February 14, 1921, in pursuance of any law relating to drainage districts passed prior to the enactment of chapter 340, Oregon Laws 1915, shall have all the powers and be subject to all the provisions of the Drainage District Act, except in so far as the organization of the district is concerned.

547.045 Lands of public body within district; authority to sign petition or objections; liability of lands; assessments. (1) Whenever any diking or drainage district is sought to be created and organized or is created and organized in the manner pro-

vided by law, within the boundaries of which are located any lands belonging to the state that have been acquired or used by or for any state institution, the State Board of Control may sign any petition or objections thereto for the organization of such district and exercise on behalf of the state with respect to the district and the land therein belonging to the state, all the rights and privileges of a landowner within the district.

(2) Whenever any such district or proposed district includes any lands belonging to any public body created under the laws of this state, the presiding officer of such public body, or other member of the governing body of such public body, when thereto authorized by a resolution of the governing body thereof, may sign such petition or objection thereto on behalf of the public body, and exercise with respect to the district and the land therein belonging to the public body, all the rights and privileges of a landowner in the district, including the right to be a supervisor of the district.

(3) Such lands belonging to the state or to a public body shall be subject to the same burdens and liabilities and entitled to the same benefits as lands in the district belonging to private individuals. The State Board of Control may pay from any appropriations made for the operation and maintenance of any institution, the lands of which have been included in any diking or drainage district, any assessments levied against such lands by the diking or drainage district. [Amended by 1959 c.380 §1]

547.050 Signature by Governor in behalf of Board of Control. Whenever the State Board of Control enters a resolution or order authorizing or instructing the Governor to sign a petition for the organization of a diking or drainage district on behalf of the state, the signing of the petition by the Governor shall be deemed to constitute a signing by the Board of Control, and a compliance with the provisions of ORS 547.005 to 547.015, and any previous such action by the Governor is hereby ratified and confirmed.

547.055 Attack on validity or boundaries of district; time for commencement of suit. No action, suit or proceeding, under ORS 30.570 or otherwise, shall be maintained for the purpose of avoiding, setting aside or otherwise questioning or affecting the validity of the organization of any district organized under the Drainage District Act, unless such action, suit or proceeding is commenced within nine months from the date of the proclamation in such matter made by the county judge; nor for the purpose of questioning the legality of the boundaries established for such corporation in such proclamation unless similarly commenced within nine months therefrom; nor for the purpose of questioning the legality of any altered boundaries of the district which may be subsequently established as provided for by ORS 547.250 to 547.260 unless commenced within nine months from the date of the decree.

547.060 Scope of Drainage District Act. As used in this chapter, "Drainage District Act" means ORS 547.005 to 547.035, 547.105 to 547.150, 547.205 to 547.240, 547.250 to 547.265, 547.310, 547.315, 547.455 to 547.475, and 547.555 to 547.580.

BOARD OF SUPERVISORS; ADMINISTRATION; SURETY BONDS; WARRANTS

547.105 Election of supervisors; qualifications and terms of office; quorum for transaction of business at owners' meetings. Within 30 days after any drainage district has been organized under the provisions of the Drainage District Act, the county clerk of the county in which the petition was filed shall call a meeting of the owners of land situated in the district for the purpose of electing a board of three supervisors. Notice of the meeting shall be given by publication in some newspaper published in each county in which lands of the district are situated, at least 10 days before the date of the meeting. The supervisors shall be owners of land in the district. The landowners, assembled at the place and time required by the notice, shall organize by the election of a chairman and secretary of the meeting who shall conduct the election. Each owner is entitled to one vote in person or by proxy for each acre of land owned by him in the district. The three persons receiving the highest number of votes shall be declared elected as supervisors. They shall immediately by lot determine the terms of their office, which shall be, respectively, one, two and three years.

They shall serve until their successors are elected and qualified. The majority of the acreage represented shall be necessary to constitute a quorum for the transaction of business at all landowners' meetings; provided, however, that when in any year a district shall fail to have a quorum at its annual meeting called pursuant to ORS 547.110 then the quorum for the annual meeting for the succeeding year shall be at least 35 percent of the acreage represented.
[Amended by 1959 c.379 §1]

547.110 Annual meeting; election of supervisor; filling vacancies; land entitled to vote. In the same month of each year after the election of the first board of supervisors, the board shall call a meeting of the owners of land in the district, after giving notice in the manner provided for in ORS 547.105. The owners shall meet at the time and place fixed by the board and elect one supervisor in the manner prescribed in ORS 547.105, who shall hold office for three years and until his successor is elected and qualified. In case of a vacancy in any office of supervisor the remaining supervisors may fill the vacancy until the next annual meeting, when a successor shall be elected for the unexpired term. However, after the report of the commissioners has been confirmed by the court under the provisions of ORS 547.235, only the land having benefits assessed against it shall be entitled to vote at the annual meetings held under the provisions of this section.

547.115 Supervisor's oath of office. Each supervisor before entering upon his official duties shall take and subscribe to an oath before some officer authorized by law to administer oaths, that he will honestly, faithfully and impartially perform the duties devolving upon him in office as supervisor of the drainage district in which he was elected, and that he will not neglect any of the duties imposed upon him by the Drainage District Act.

547.120 Board of supervisors; officers; secretary; seal; record of proceedings; report; expenses; compensation. The board of supervisors immediately after its election shall choose one of its number president of the board, and elect some suitable person secretary, who may or may not be a member of the board. The board shall adopt a seal with a suitable design, and shall keep a record of all its proceedings, which shall be open to the inspection of all owners of real estate of the district, as well as to all other interested persons. The board shall report to the landowners at the annual meeting held under the provisions of ORS 547.110 what work has been done, either by the engineers or otherwise. The members of the board shall receive for attending to business in behalf of the district their actual transportation expenses, which shall be audited by the board before payment. The board members shall receive no compensation for their services unless the landowners at the annual meeting determine to pay a compensation, which in no event shall exceed $5 per day for time actually engaged in work for the district; provided, however, that if the secretary is a member of the board he shall be entitled to compensation as provided for in ORS 547.125.

547.125 Secretary as treasurer; bond of latter; duties; audit of books and report to landowners; compensation. (1) The secretary of the board of supervisors in any drainage district shall hold the office of treasurer of the district, except as otherwise provided in this chapter. As treasurer he shall give bond in such amount as shall be fixed by the board of supervisors, conditioned that he will well and truly account for and pay out, as provided by law, all moneys received by him. The bond shall be approved and accepted by the board of supervisors. The bond shall be in addition to the bond for proceeds of sales of bonds which is required by ORS 547.570. The bond shall be placed and remain in the custody of the president of the board, and shall be kept separate from all papers in the custody of the secretary and treasurer.

(2) The treasurer shall receipt for all moneys received by him and shall keep all funds received by him from any source deposited at all times in some bank or trust company to be designated by the board of supervisors. All interest accruing on such funds shall, when paid, be credited to the district.

(3) The board of supervisors shall audit or have audited the books of the treasurer each year and make report thereof to the landowners at the annual meeting and publish a statement within 30 days thereafter, showing the amount of money received, the amount paid out during the year, and the amount in the treasury at the beginning and end of the year.

(4) The treasurer shall pay out funds of the district only on warrants signed by the president of the board and attested by the signature of the secretary and treasurer.

(5) The secretary shall receive as compensation for performing the duties of secretary-treasurer such salary as may be fixed and directed to be paid by resolution of the board.

547.130 Record of meetings, proceedings, certificates, bonds, etc. The board of supervisors of any district organized under the Drainage District Act shall cause to be kept a well-bound book, entitled "Record of Proceedings of Board of Supervisors of..... District," in which shall be recorded minutes of all meetings, proceedings, certificates, bonds given by all employes, and any and all corporate acts, which record shall at all times be open to the inspection of anyone interested, whether taxpayer or bondholder.

547.135 Removal of employes. The board of supervisors may at any time remove any officer, attorney or other employe appointed or employed by the board.

547.140 Levy of tax by supervisors to pay expenses of organizing district, surveys, assessing benefits and damages, etc.; lien; collection; surplus funds; refunding in case of dissolution. (1) The board of supervisors of any district organized under the provisions of the Drainage District Act shall, as soon as elected and qualified, levy a uniform tax of not more than $1 per acre upon each acre of land within the district, to be used for the purpose of paying expenses incurred or to be incurred in organizing the district, making surveys of the same, and assessing benefits and damages, and to pay other expenses necessary to be incurred before the board shall be empowered by other provisions of the Drainage District Act, to provide funds to pay the total cost of works and improvements of the district. In case the boundary lines of the district are extended so as to include lands not described and contained in the petition, the same uniform tax shall be made on such lands as soon as they are annexed and included in the district.

(2) The tax shall be due and payable as soon as assessed, and if not paid within 60 days thereafter it shall become delinquent. It shall become a lien on the land against which it is assessed and shall be collected in the same manner as the annual instalment tax.

(3) In case the sum received from such assessment exceeds the total cost of items for which levied, the surplus shall be placed in the general fund of the district and used to pay cost of construction. Upon dissolution of the district, any amount of surplus remaining shall be prorated and refunded to the landowners who paid the tax.

547.145 Surety bonds; penalties payable to district. All surety bonds required by the Drainage District Act shall be made payable to the district by its corporate name, in which name all suits shall be instituted and prosecuted. All penalties named in said Act shall be payable to and recoverable by the district. All bonds required by said Act shall cover defaults of deputies, clerks or assistants of the officers appointing them.

547.150 Payment of claims; warrants; nonpayment; interest-bearing warrants; levy of tax to pay. All claims against the district shall be paid by warrants drawn on the district treasurer and signed by the president and secretary of the board. When any warrant is not paid when presented to the treasurer because of lack of funds in the treasury, such fact shall be indorsed on the back of the warrant, and such warrant shall draw interest thereafter at the rate of six percent per annum until there is money on hand to pay the amount of the warrant and the interest then accumulated. No interest shall be allowed on warrants after sufficient funds are in the treasury to pay the indorsed warrants and interest. The secretary shall give notice by publication whenever sufficient funds are available to pay outstanding warrants. The board shall make a levy each year of a sufficient amount of money to pay the outstanding warrants of the district to the extent permitted within the constitutional limitation.

ENGINEER; PLAN FOR RECLAMATION; COMMISSION TO ASSESS BENEFITS

547.205 Appointment of engineer; duties; surveys; report; maps. Within 30 days after organizing, the board of supervisors shall appoint a competent civil engineer as chief engineer, who may be an individual, partnership or corporation, and who shall engage such assistants as the board of supervisors may approve. The chief engineer shall:

(1) Have control of the engineering work in the district.

(2) Make all necessary surveys of the lands within the boundary lines of the district, as described in the petition, and of all lands adjacent thereto that may or will be improved or reclaimed in part or in whole by any system of drainage or levees that may be outlined and adopted.

(3) Make a report in writing to the board of supervisors with maps and profiles of the surveys, which report shall contain a plan for draining and reclaiming the lands described in the petition or adjacent thereto from overflow of or damage by water, and which maps and profiles shall indicate so far as necessary the physical characteristics of the lands, and location of any public roads, railroads and other rights of way, roadways and other property or improvements located on such lands.

547.210 Engineer's report; adoption by supervisors; report constitutes "Plan for Reclamation"; exclusion of lands not benefited; certain irrigated lands deemed to be benefited. (1) The chief engineer shall make a report in writing to the board of supervisors whenever the board requires. Upon receipt of the final report of the engineer concerning surveys made of the lands contained in the district, and plans for reclaiming the same, the board shall adopt the report or any modification thereof approved by the chief engineer. The adopted report shall be the plan for draining and reclaiming such lands from overflow or damage by water, and shall be known and designated as the "Plan for Reclamation." The plan shall be filed with the secretary of the board of supervisors and by him copied into the records of the district.

(2) Any lands included in the district, which will not be reclaimed or benefited by the construction of the work as specified in the plan for reclamation, may be excluded from the district by order of the county court, and any tax levied thereon shall be refunded to the person paying the same. However, any irrigated lands contributing to the wet, swamp or overflowed condition of any lands of the district, the waste or seepage waters from which lands will be carried by and disposed of through the works specified in the plan for reclamation, shall be deemed benefited by the construction of the works as specified in the plan.

547.215 Commissioners; appointment; qualifications; quorum; continuing existence. Upon adoption of the plan for reclamation, the county judge shall, by order, appoint three commissioners (who shall not be landowners in the district nor of kin within the fourth degree of consanguinity to any person owning land in the district), one of whom shall be a civil engineer and two of whom shall be freeholders residing within the state. A majority of the commissioners shall constitute a quorum and shall control the action of the board on all questions. Such commissioners shall constitute a body which shall continue in office and may be convened at any time by the county court for the purpose of correcting any errors, omissions or other mistakes that shall have been discovered in its original report as the same may have been amended and supplemented from time to time or for any other good cause shown. The court shall fill any vacancy occurring in such body of commissioners by appointment of a person who has the qualifications required by this section of the commissioner he is to replace. Whenever said body of commissioners has been reconvened by the court, it shall thereafter make its report in response to the directions of the court and such report when completed shall be subject to ORS 547.245, with reference to a hearing thereon and a confirmation thereof by order or decree of the court before such supplemental report shall go into effect. [Amended by 1953 c.434 §2]

547.220 Notice of appointment of commissioners; meeting; secretary of board of supervisors to furnish list of lands, names of owners, plan of reclamation, etc.; oath; officers. The county clerk upon the filing of the order of appointment shall notify each commissioner of his appointment by written or printed notice, and in the notice he shall state the time and place for the first meeting of the commissioners. The secretary of the board of supervisors shall attend the meeting, and shall furnish the commissioners a complete list of all lands in the district, and the names of the owners thereof, as were contained in the petition, at the date of the decree of the court incorporating the district. The secretary shall also furnish the commissioners a copy of the plan for reclamation, with maps and profiles in his office. The commissioners at the meeting, or within 10 days thereafter, shall each take and subscribe to an oath that they will

faithfully and impartially discharge their duties as commissioners and make a true report of the work done by them. They shall also at the meeting elect one of their own number chairman. The secretary of the board of supervisors shall be ex officio secretary of the commissioners.

547.225 Assessment of benefits and damages by commissioners; report; compensation. (1) Within 30 days after qualifying, the commissioners shall begin their duties. The chief engineer shall accompany them at all times, and render his opinion in writing when called for.

(2) The commissioners shall proceed to view the premises and determine the value of all lands within or without the district to be acquired and used for rights of way, holding basins or other works set out in the plan for reclamation. They shall assess the amount of benefits and the amount of damages, if any, that will accrue to each parcel of land, including irrigated lands, irrigation ditches and canals which contribute to the swampy, wet or overflowed condition of those lands, or any lands, public highways, railroads and other rights of way, roadways and other property which will be affected by the proposed reclamation work.

(3) For the purpose of determining benefits under the provisions of this section, all irrigated lands having an available water supply for irrigation that are adjacent to and on a higher level than other lands within the district and which fall naturally within the same watershed as the land within the district, shall be deemed contributing to the wet, swampy or overflowed condition of the lands of the district, and shall be deemed benefited by the construction of the works as specified in the plan for reclamation.

(4) The commissioners shall give due consideration and credit to any other drains, ditches, levees or other systems of reclamation which already have been constructed and which afford partial or complete protection to any tract or parcel of land in the new district.

(5) The public highways, railroads and other rights of way, roadways and other property shall be assessed according to the increased physical efficiency and decreased maintenance cost thereof by reason of the protection to be derived from the proposed works and improvements.

(6) The commissioners shall have no power to change the plan for reclamation.

(7) The commissioners shall prepare a report of their findings, which shall be signed by at least a majority of the commissioners and filed in the office of the county clerk of the county in which the district is organized. The secretary of the board of supervisors shall accompany the commissioners while engaged in their duties, and shall perform all clerical work of the board. The commissioners shall report to the board of supervisors the number of days each was employed and the actual expenses incurred. Each commissioner shall be paid $5 per day for his services, and necessary expenses in addition thereto.

547.230 Notice of report of commissioners; publication; form. (1) Upon the filing of the report of the commissioners, the county clerk shall give notice thereof by publication once a week for three consecutive weeks in some newspaper published in each county in the district. It shall not be necessary for the notice to name the parties interested. The notice shall be in small type, in substantially the following form:

Notice of Filing of Commissioners' Report for ..... Drainage District

Notice is given to all persons interested in the land included within the ..... drainage district, ... County (or counties), Oregon, (here describe land or give boundaries of district) that the commissioners heretofore appointed to assess benefits and damages to the property and lands situate in the drainage district and to appraise the cash value of the land necessary to be taken for rights of way, holding basins and other works of the district within or without its limits, filed their report in this office on the ..... day of ....., 19....., and you are notified that you may examine the report and file exceptions to all or any part thereof, on or before the ..... day of ....., 19.....

County Clerk of ..... County, Oregon.

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(2) Where lands in different counties are contained in the report, the notice shall be published in some newspaper in each county in which the lands so affected are situated.

547.235 Exceptions to report or assessment; hearing by court; modifications; transmission of decree and report to supervisors and county recorders; appeal from decree. The drainage district or any owner

of land in the district may file exceptions to the report or to any assessment of either benefits or damages, within 10 days after the last day of publication of the notice provided for in ORS 547.230. All exceptions shall be heard by the court and such amendments and modifications made to the report of the commissioners as may in the court's judgment be equitable. When it appears to the satisfaction of the court, after having heard and determined all the exceptions, that the estimated cost of the improvement contemplated in the plan for reclamation is less than the benefits to be derived therefrom, the court shall approve and confirm the commissioners' report, as so amended and modified. The county clerk shall transmit a certified copy of the court decree and copy of the commissioners' report, as confirmed or amended by the court, to the secretary of the board of supervisors of the district and to the recorder of each county having lands in the district, or affected by the report, where the same shall become a permanent record. Each such recorder shall receive a fee of $1 for receiving, filing and preserving the same. Any person may appeal from the judgment of the court.

547.240 Dissolution of district if cost exceeds benefits; obligations and expenses; tax levies. If after determining the objections made to the commissioners' report, the court finds that the estimated costs of works and improvements as reported by the commissioners, or as amended by the court, exceed the estimated benefits, the court shall then render its decree, declaring the incorporation of the district to be dissolved as soon as all costs incurred, which shall include court costs and all obligations and expenses incurred in behalf of the district by the board of supervisors, are paid. If the uniform tax levied under the provisions of ORS 547.140 is found insufficient to pay all such costs, the board of supervisors shall make such additional uniform tax levies as will be necessary to pay the deficiency.

547.245 Reassessment of benefits. At any time after the expiration of five years from the confirmation of the report of the commissioners, as provided by ORS 547.235, and upon the filing of a petition with the county clerk signed by at least one-tenth of the owners of the lands within the drainage district or the owners of at least one-tenth of the lands within such district, setting forth that the original assessments or benefits are inequitable and unjust, the county court shall appoint three commissioners, as provided by ORS 547.215, to reassess the benefits in the district. The commissioners shall report the reassessment to the court. Upon the filing of the report of the commissioners, the county clerk shall give notice of hearing thereon by publication once a week for three consecutive weeks in some newspaper published in each county in the district, the last insertion to be made at least 15 days prior to the hearing. At least 10 days before the day set for hearing, exceptions may be filed by any interested person, and upon hearing the same the court shall approve the report or direct how it shall be modified and, when so modified or approved, shall confirm it. The assessment as confirmed shall take the place of all prior assessments; provided, that in no case shall the total amount of assessments be less than the outstanding obligations. The county clerk shall transmit a certified copy of the court's decree and copy of the commissioners' report, as confirmed or amended by the court, to the secretary of the board of supervisors of the district and to the recorder of each county having lands in the district.

547.250 Changes in plan for reclamation; petition for amendment of plan; notice. The board of supervisors shall have power to make any change in the plan for reclamation by action of the board until such time as the commissioners have filed their report. After that all changes shall be made as follows:

(1) The board of supervisors, for and in behalf of the district, or the owners of land adjacent to the district, may file a petition in the office of the clerk of the court which organized the district, praying the court to amend its former decree incorporating the district, by correcting the names of landowners, by striking out any such names, by adding, striking out or correcting the descriptions of any lands within or alleged to be within the boundary lines of the district, or in any other manner.

(2) The petition may ask permission of the court to amend or change the plan for reclamation or to correct any errors, omissions or other mistakes that have been discovered in the plan or may ask that the boundary lines of the district be extended

so as to include lands not described by and included in the petition and decree of the court incorporating the district. However, in no case shall any lands be included in the district other than the lands described in the original petition for the creation of the district and in the decree of the court incorporating it, unless the persons shown by the records of the county to be the owners of not less than 60 percent of the acreage sought to be brought within the boundary lines of the district and not described in and included in the original petition and decree of the court incorporating such district, shall first sign and file with the court a petition therefor.

(3) If the petition asks that the lines of the district be in any manner changed, it shall also ask the court to appoint three commissioners, as provided for under ORS 547.215, to appraise the land that shall be taken for rights of way, holding basins, or other works, or assess the benefits and damages to any lands, public highways, railroad and other property already in the district, or that may be annexed to the district by the proposed amendments and changes to the plan for reclamation or the proposed change in the boundary lines. As soon as the petition is filed the clerk of the court shall give notice in the manner and for the time provided for in ORS 547.020, the notice to be substantially in the following form:

Notice of Drainage Hearing.

To the owners and all persons interested in the lands corporate and other property in and adjacent to —— Drainage District:

You are notified that (here state by whom petition was filed) has filed in the office of the county clerk of —— County, ——, a petition praying the county court for permission to (here insert the prayer of the petition), and unless you show cause to the contrary on or before the first day of the next term of the —— County Court to be held on the —— day of ——, 19—, the prayer of the petition may be granted.

———————

County Clerk of —— County.

547.255 Objections to petition; findings; decree; recording. Any owner of land located in the district, or any owner of land located outside of the district that will be affected by the proposed changes, amendments, and corrections enumerated in the petition, may file objections to the granting of the prayer of the petition, on or before the first day of the term of court at which the petition is to be heard. The court shall hear the petition and all objections filed against it in a summary manner and enter its decree according to its findings. The clerk of the court shall, within 15 days after the granting of the decree, transmit a certified copy of the decree and of the petition to the secretary of the board of supervisors, and to the recorder of deeds of each county having land in the district. Each such recorder shall file and preserve the same in his office, for which he shall receive a fee of $1.

547.260 Appointment of commissioners when plan amended; subsequent proceedings; court costs. (1) If the decree of the court provides that the plan for reclamation may be amended, changed or corrected or the boundary lines of the district extended, the court shall appoint three commissioners, possessing the same qualifications as the commissioners appointed under ORS 547.215, to appraise property to be taken, assess benefits and damages, and estimate the cost of improvements the same as is required of commissioners acting under ORS 547.225. The commissioners shall make their report in writing and file it with the county clerk, after which the case shall be proceeded with in the same manner as is provided for the organization of drainage districts.

(2) If the petition is dismissed the district shall pay the cost; but if the petition is sustained in whole or in part the objectors shall pay the court costs.

547.265 Amendment of plan where works or tax insufficient; additional levy. Where the works set out in the plan for reclamation of any drainage district are found insufficient to reclaim in whole or in part any or all of the land of the district, the board of supervisors may formulate new or amended plans containing new ditches, levees or other works, and additional assessments may be made in conformity with the provisions of ORS 547.225, the same to be made in proportion to the increased benefits accruing to the lands because of the additional works. If it should be found at any time that the amount of total tax levied under the provisions of ORS 547.455 to 547.485 is insufficient to pay the cost of works set out in the plan for reclamation or additional work done under the provisions of this section, the board of supervisors may

make an additional levy to provide funds to complete the work, provided the total of all levies of such tax does not exceed the total amount of benefits assessed.

WORKS AND IMPROVEMENTS OF DISTRICT

547.305 Entry on land; acquisition of property; water filings and appropriations; condemnation of property devoted to public use; right of way across state lands. (1) The officers and employes of any drainage district shall have the right to:

(a) Enter upon any land to make surveys.

(b) Locate the necessary drainage or irrigation works and the necessary branches for the same, on any lands which may be deemed best for such location.

(c) Acquire, either by lease, purchase, condemnation or other legal means, all lands, rights of way, easements and other property necessary for the construction, operation or maintenance of any drainage or irrigation works, including the enlargement, improvement or extension of any natural or artificial waterway for such purposes.

(d) Make all necessary water filings or appropriation of water under the general laws of Oregon for irrigation of lands within such district.

(2) The property, the right to condemn which is hereby given, shall include property already devoted to public use which is less necessary than the use for which it is required by the district, whether used for drainage, irrigation or any other purpose. The right of way is hereby given, dedicated and set apart to locate, construct and maintain such drainage or irrigation works over and through any of the lands which are now or may be the property of this state.

(3) In the acquisition of property or rights by condemnation, proceedings under the provisions of this section shall be brought in the name of the district under the provisions of the laws of Oregon.

547.310 Supervisors' authority regarding reclamation works; contracts; engineer's duties. (1) The board of supervisors shall have full power and authority to:

(a) Build, construct and complete any works and improvements needed to carry out the plan of reclamation.

(b) In the name of the district, make all necessary water filings and appropriations of water for the subsequent irrigation of the lands within the district.

(c) Construct, operate and maintain irrigation works for the irrigation of the lands within the district.

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

(2) The board may after advertising for bids, let a contract for construction of the whole or any part of the drainage or irrigation works to the lowest responsible bidder, which contract shall be in writing. The complete plans and specifications prepared by the chief engineer and approved by the State Engineer for the drainage or irrigation of the lands shall be attached to and made a part of each contract. Good and sufficient bond, running in favor of the district, shall be required of each contractor, conditioned that he will well and truly comply with all the provisions of the contract and perform all work in accordance with the terms thereof.

(3) The chief engineer shall be superintendent of all the works and improvements and shall, whenever required, and at least once each year, make a full report to the board of all work done and improvements and make such suggestions and recommendations to the board as he deems proper.

547.315 Connecting existing ditches, etc.; procedure; connection with works outside district. (1) At the time of the construction in any district of the plan for reclamation, all ditches or systems of drainage already constructed in the district and all watercourses shall, if necessary to the drainage of any lands in the district, be connected with and made a part of the works and improvements of the plan of drainage of the district. But no ditches, drains or systems of drainage constructed in the district shall be connected therewith, unless the consent of the board of supervisors is first obtained. This consent shall be in writing and shall particularly describe the method, terms and conditions of such connection, and shall be approved by the chief engineer. The connections, if made, shall be in strict accord with the method, terms and conditions laid down in the consent.

(2) If the landowners wishing to make such connection are refused by the board of supervisors or decline to accept the consent granted, such owners may file a petition

for such connection in the circuit court having jurisdiction in the district, and the matter in dispute shall in a summary manner be decided by the court, whose decision shall be final and binding on the district and landowners.

(3) No connection with the works or improvements of the plan of drainage of the district or with any ditch, drain or artificial drainage wholly within the district shall be made, caused or effected by any landowner, company or corporation, municipal or private, by means of or with any ditch, drain, cut, fill, roadbed, levee, embankment or artificial drainage wholly without the limits of the district, unless such connection is consented to by the board of supervisors, or in the manner hereinbefore provided.

547.320 Powers of districts regarding irrigation works; bonds. Whenever it appears necessary, proper or beneficial to irrigate any of the lands within any drainage district, whether or not the drainage works have been actually acquired or constructed, the district may cause irrigation reservoirs, canals, ditches, and other works to be constructed, operated and maintained. To this end the district shall in all respects have the same power and authority as is conferred respecting drainage, and all powers conferred upon drainage districts by ORS 547.305, 547.310, 547.355 and 547.360 with respect to drainage shall be construed to include irrigation. However, any bonds issued solely for irrigation purposes shall be known as "Irrigation bonds of—— drainage district."

547.325 Districts under 1,000 acres; construction, etc., of wells, reservoirs, pumps, pipe lines, etc., for domestic water supply. (1) Any drainage district embracing less than 1,000 acres may:

(a) Within and adjacent to the district, own, construct, install, contract to use and to receive service from, and buy and sell, wells, reservoirs, pumps, pipe lines and other equipment used to supply water from wells for domestic purposes and for watering lawns and gardens.

(b) Buy and sell, deliver, supply and dispose of water for domestic purposes and for watering lawns and gardens, for profit, to any person within the limits of such drainage district or adjacent thereto.

(c) Fix and collect the rates and charges therefor.

(2) The board of supervisors may act for such district in exercising the power and authority herein provided.

CONTRACTS WITH UNITED STATES FOR RECLAMATION

547.355 Contracts with United States for reclamation by drainage or irrigation authorized. The board of supervisors of any drainage district, whenever it is determined by the board that it is for the best interests of the district, may enter into a contract with the United States for the reclamation by drainage or irrigation of the lands within the boundaries of the district, under the provisions of the Act of Congress of June 17, 1902 (32 Stat. 388), and Acts amendatory thereof and supplementary thereto, and especially the Act of Congress approved August 13, 1914, entitled, "An act extending the period of payment under reclamation projects, and for other purposes," commonly known as the "Twenty-Year Extension Act."

547.360 Payment of amounts due; assessments on lands; lien thereof; collection. The board of supervisors of any such drainage district shall provide by a resolution, adopted at a regular meeting or at a special meeting called for that purpose, for the payment of the amounts to become due under such contract with the United States, according to the provisions of the contract, by assessment upon the lands which are to be benefited by the drainage or irrigation. The assessments shall be a lien upon the lands of the district to the same extent as other assessments under the drainage laws of this state, and shall be collected by the tax collector of the county within which the lands are situated the same as other taxes are collected.

DISTRICTS WEST OF CASCADES; CONSTRUCTION AND MAINTENANCE OF DITCHES

547.405 Districts west of Cascades; control of supervisors over ditches, laterals, etc. The boards of supervisors of all drainage districts lying west of the Cascade Mountains, whether or not organized under the Drainage District Act, shall have supervision and control of all drainage ditches, laterals, drains, canals, sloughs, waterways or

conduits within the boundaries of their districts and may prescribe the width and grade thereof. They may construct and maintain ditches, laterals, drains, canals, sloughs, waterways or conduits within the boundaries of their districts.

547.410 Repairing, cleaning, and grading of ditches, etc.; notice to owner or occupant of premises. (1) Whenever the engineer or secretary of such a drainage district notifies the supervisors that any ditch, lateral, drain, canal, slough, waterway or conduit is less efficient, by reason of the failure of the owner of the premises upon which it is situated to repair, clean or grade the same, the board of supervisors shall serve or cause to be served upon such owner, if he is known and residing within the county in which the district is situate, or if not a resident of the county, then upon the occupant of the premises, a notice in writing notifying the owner or occupant of the clogged or obstructed condition of the ditch, lateral, drain, canal, slough, waterway or conduit.

(2) The notice shall be served by delivering to the owner, occupant or person in charge of the premises a copy thereof certified to be such by the person serving it, or if there is no occupant or the owner is not a resident of the county, then the notice shall be served by posting a copy of it in a conspicuous place upon the premises. Immediately after serving or posting the notice, the person serving it, by authority of the board of supervisors, shall file the original notice with the county clerk of the county in which service is made, together with a return on the notice stating the time and manner of making service. The notice and return, when so filed, shall be retained as a public record of the county.

547.415 Failure of owner or occupant to act; repair, etc., by supervisors. If the owner or occupant of the premises upon which the clogged or obstructed ditch, lateral, drain, canal, slough, waterway or conduit is situated fails for 10 days after being notified of the existence of such clogged or obstructed condition, to repair, clean or grade the ditch, lateral, drain, canal, slough, waterway or conduit or remove the obstruction therefrom, the board of supervisors shall immediately repair, clean or grade the same and cause it to be promptly placed in a proper and efficient condition.

547.420 Liability for cost of repair, etc.; entry of statement on lien docket; foreclosure; sale of land. Upon completion of the work the board of supervisors shall cause to be filed with the county clerk an itemized statement of the expense necessarily incurred in the repair, grading or cleaning of the canal, ditch, lateral, drain, slough, waterway or conduit, verified by the oath of one member of the board or the secretary of the drainage district. When the statement is filed the county clerk shall cause it to be entered upon a lien docket prepared for that purpose. The amount of the charges and expense, when so docketed, shall constitute a first lien upon the lands or premises, except as to taxes. If the charges and expenses are not paid and the lien discharged by the owner or occupant within 90 days from the date the lien is docketed, suit or action may be brought in the name of the drainage district for the foreclosure of the lien. The suit or action shall be brought by the district attorney, or, at the option of the board, by an attorney employed by the board. The lands affected thereby shall be sold under execution for the payment and satisfaction of the lien and of the costs and disbursements incurred in connection with the prosecution of the suit or action.

547.425 Obstruction, pollution, etc., of ditches, etc., prohibited. No person shall:

(1) Throw, dump or place or allow to be thrown, dumped or placed, any rubbish, refuse or any article or thing in any ditch, lateral, canal, slough, waterway or conduit used as a part of or in connection with any drainage works or drainage plant or drainage system or any waterway under the control of any drainage district lying west of the Cascade Mountains; or

(2) Befoul or pollute or allow to be befouled or polluted any such ditch, lateral, canal, slough, waterway or conduit; or

(3) In any manner obstruct or permit to be obstructed by stock any such waterway, canal, ditch, lateral, slough or conduit.

547.430 Civil liability for expense of removal of filth or obstruction; recovery by action. Any person who throws, dumps or places or allows to be thrown, dumped or placed, any rubbish, refuse, or any article or thing in any such ditch, lateral, canal, slough, waterway or conduit shall, in addition to the penalty provided in ORS 547.990, also be liable to the owner of the ditch, lateral, canal, slough, waterway or

conduit, or other person or district having control, charge or supervision of the same, for all expense legitimately occasioned or incurred by such person or district in the removal of any such rubbish, refuse or other article or thing or the prevention of such befoulment or pollution, and for all damage that may be done or occasioned to the ditch, lateral, canal, slough, waterway or conduit by reason of such dumping, throwing or placing of the rubbish, refuse or article or thing, or the befoulment or pollution. The sum may be recovered in a civil action brought in the name of the person or district having control of or using the ditch, lateral, canal, slough, waterway or conduit that was injured, damaged, befouled, polluted or obstructed.

ASSESSMENTS AND TAXES

547.455 Annual assessment; computation; apportionment; liability of state lands; payment of assessments by bonds, coupons or warrants. (1) The board of supervisors shall each year make a computation of the whole amount of money to be raised by the district through assessments for the ensuing year for any purposes whatsoever in carrying out the provisions of the Drainage District Act, including maintenance and operation and estimated delinquencies on assessments. This amount when determined by the board shall constitute an assessment upon all the land included in the district and shall be apportioned by the board in accordance with the report of the commissioners as confirmed or amended by the court as provided for in ORS 547.235.

(2) Any land owned by any person totaling less than one acre shall be assessed as one acre.

(3) Any land, the title to which is vested in the state, or state lands sold under contract in any drainage district, shall be subject to taxation by the district, and the full amount of assessment due against such lands shall be paid to the district at the same times and in the same manner as other drainage district assessments are paid.

(4) The tax collector shall receive any past due bond of the drainage district or any past due interest coupon from any bond of the district in payment of any assessment made for the purpose of paying bonds or bond interest of the district, and shall receive in payment of assessments levied for operation and maintenance purposes any warrants drawn upon the operation and maintenance fund, such warrants received in payment of assessments to be in order of issuance.

[Amended by 1953 c.446 §3]

547.460 County, city and town lands subject to taxation and assessment. Any land situated within a drainage district, the title to which is vested in any county, city or town, shall be subject to taxation and assessment by the district. The full amount of taxes or assessments due against such lands shall be paid to the district at the same times and in the same manner as other drainage district taxes and assessments.

547.465 Assessment of low lands used for growing crops. Whenever lands located in a drainage district which, because of their low elevation, were not assessed benefits in accordance with ORS 547.225, are used for growing crops, the board of supervisors may levy an annual assessment against such lands for maintenance and operation, not to exceed 100 percent of the rate levied against assessed lands in the district having the lowest elevation. The assessments shall be collected in the same manner as other assessments for maintenance and operation in drainage districts are collected.

547.470 Extra assessment for lake drainage. When, in the judgment of the board of supervisors of any drainage district, it is deemed necessary or expedient to drain any lake, which entails extra or additional work in excess of that required in the drainage of lands of higher elevation and where the cost of maintenance and pumping to maintain drainage of such lake will be in excess of that necessary for the reclamation and maintenance of lands within the district other than such lake, an extra assessment for such additional work or a higher rate for such pumping and maintenance may be charged and made against the lands covered by such lake, to the extent of the respective additional benefits to such lands over lands of a higher elevation in the district and benefited thereby.

547.475 List of assessments and apportionments. The board of supervisors shall prepare a list or record of assessments and apportionments, giving the description of the ownership or holdings of each person therein assessed, which shall be certified by the board not later than June 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.
[Amended by 1963 c.168 §1]

547.480 Collection of tax; disposition. The collection of the tax shall be coincident with collection of the state and county tax, and shall be governed by the laws relating thereto, except that the sheriff shall collect and account for the tax for operation and maintenance separate from the taxes levied by the district for other purposes. When paid by the sheriff to the county treasurer all taxes or assessments levied and collected for operation and maintenance shall be carried in a fund to be known as the operation and maintenance fund. All warrants issued in payment for operation and maintenance, as provided in ORS 547.150, shall be drawn against and paid out of this fund. The county treasurer shall make returns to the secretary of the board of supervisors, and shall pay over and account for all moneys collected thereon quarterly to the treasurer of the district.

547.485 County court to make assessment and levy upon failure of supervisors to do so. In case of neglect or refusal of the board of supervisors to cause such assessment and levy to be made, the assessment and levy shall be made and equalized by the county court or board of county commissioners of the county in which the office of the board of supervisors is situated, sitting for the transaction of county business, in the same manner that the court or board levies county taxes. The levy and assessment shall contain the apportionments and description of ownership holdings of each person assessed in the same manner as provided in ORS 547.475 and shall be certified to the assessor not later than July 15. All expenses incident thereto shall be borne by the district. The levy and assessment shall be entered on the county tax roll by the county assessor in the manner provided in ORS 547.475.
[Amended by 1963 c.168 §2]

547.490 Waiver of penalty or interest by certain districts. All drainage districts containing not more than 2,000 acres, organized under the provisions of the Drainage District Act, may waive payment of penalty or interest, or both, on district assessments. County tax collecting officers are authorized to collect and receipt for assessments levied by any such drainage district, waiving payment of penalty or interest, or both, when presented with a certified copy of resolution or other action of the drainage district waiving such payment.

547.495 Crops bound by lien; exceptions. All drainage districts organized pursuant to the provisions of the Drainage District Act shall have a lien on all crops grown on lands within such districts for that portion of the annual assessments, levied against the lands on which the crops are grown, that is for maintenance and operation of such districts. This lien shall be prior to every other lien, mortgage or encumbrance on the crop, except labor liens now granted by the laws of Oregon and crop mortgages given by landowners in the district to federal or state loaning agencies set up by the Federal Government or the state to secure loans, the proceeds of which are used in the production of crops of such landowners, provided such loaning agencies certify to the districts that such loans cannot otherwise be made to the landowners. The lien shall be in addition to any other lien securing the payment of maintenance and operation assessments, and shall be a continuing one and shall bind the crops after, as well as before, they have been gathered; provided, that the share of any tenant who has leased such lands on a share rent basis shall be exempt from the lien to the extent of three-fourths of the entire crop.

547.500 Notice or claim of crop lien; filing; contents. The board of supervisors of every drainage district which may elect to claim the benefits of ORS 547.495 to 547.515 shall file with the county clerk of the county in which the land is located, any time before the removal of the crop upon which a lien is desired, a statement verified by the oath of the secretary of the board or some person having knowledge of the facts, setting forth the amount of that portion of the annual assessments for maintenance and operation levied against the land on which the crop is grown and for which a lien is desired, with a description of the land sufficient for identification, the name of the owner of the crop, or reputed owner if known, and the name of the owner of the land on which the crop is grown.

547.505 Recording of crop lien claim by clerk; indexing. The county clerk shall record the claim in a book kept for that purpose. The record shall be indexed as the record of chattel mortgages is kept and indexed.

547.510 Form of crop lien claim; foreclosure. (1) A claim for lien substantially in the following form shall be sufficient:

NOTICE OF LIEN UPON CROPS

Notice is given that ———, a drainage district organized under and pursuant to the provisions of ORS chapter 547, claims a lien upon that certain crop of ——— growing on the following described lands located in the drainage district in ——— County, Oregon: ———, for that portion of the annual assessments levied by the above-named drainage district against lands on which the crop is growing, for maintenance and operation of the district, in the sum of $———; that the name of the owner or reputed owner of the crop is ———; that the owner of the land on which the crop is growing is ———; that no part of the assessment for which a lien herein is claimed has been paid, except $———; and that there now is due and remaining unpaid thereon, after deducting all just credits and offsets, the sum of $———.

——— ,Claimant.

State of Oregon, }
County of ——— } ss.

I, ———, being first duly sworn, on oath say that I am ——— of the drainage district named in the foregoing claim, that I have personal knowledge of the facts therein set out; that I know the contents thereof, and believe the same to be true.

———

Subscribed and sworn to before me this —— day of ———, 19—.

———

Notary Public for Oregon

(Seal) My commission expires ———.

(2) The lien so created may be foreclosed in the manner provided in ORS 79.5010 to 79.5070.

[Amended by 1961 c.726 §418]

547.515 Removal of crops to another county; recording of notice in latter county; rights of purchasers and mortgagees. When such crops are removed from the county in which the notice of lien is recorded, the lien shall be suspended as to subsequent purchasers and mortgagees thereof in good faith and for a valuable consideration, from and after 30 days from the time of such removal, unless within 30 days from the time of such removal the notice of lien is recorded in the county to which the property is removed. The lien shall remain suspended until the notice of lien is recorded in the county to which the crop is removed; but shall be a lien upon the crop while it is in any county in which the notice of the lien is recorded.

547.520 Delinquent ad valorem taxes prior to 1939; cancellation or compromise. (1) The county court or board of county commissioners may cancel or compromise any delinquent ad valorem taxes assessed and levied against lands located in a drainage district for the year 1938 and prior years, upon the written recommendation of the State Engineer, when:

(a) Such district is refunding its outstanding indebtedness; or

(b) Such district was in default on December 31, 1938, in the payment of its bonded or other indebtedness, and such default continues to exist; or

(c) Such district is seeking a compromise of its indebtedness through the bankruptcy laws of the United States; or

(d) Such district is affecting a compromise upon its indebtedness conformable to provisions of law therefor or recognized by law.

(2) The county court or board of county commissioners may fix the terms of payment upon any tax compromised under the provisions hereof. After a compromise of taxes has been made hereunder, and the terms of payment have been fixed, the county court shall make or cause to be made appropriate notation of the same upon the tax records of the county.

BONDS OF DISTRICT

547.555 Bonds; issuance; denominations; interest; maturities. The board of supervisors may, if in its judgment it seems best, issue bonds of the district for any purpose necessary or convenient to carry out the provisions of the Drainage District Act, including refunding of outstanding bonds, in denominations of not less than $100, bearing interest from date at a rate not to exceed six percent per annum, payable semiannually, to mature at annual intervals within 40 years, commencing after a period of years

not later than five years, to be determined by the board of supervisors, both principal and interest being payable at some convenient bank or trust company to be named in the bonds. They shall be signed by the president of the board, attested with the seal of the district and by the signature of the secretary of the board. They may be issued so as to mature serially in annual amounts so as to be approximately equal, principal and interest, and may be issued so as to include a sum sufficient to pay the first four years' interest, or less, to accrue on the bonds.

547.560 Sale of bonds; procedure. The board of supervisors may sell, from time to time, the bonds which have been authorized, 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 notice thereof to be given by publication for at least 30 days in three newspapers published in Oregon, one of which shall be a newspaper published in the county in which the office of the board is situated, if there is a newspaper published in that county, and in any other newspaper at its discretion. The notice shall state that sealed proposals will be received by the board of supervisors at its office for the purchase of bonds until the day and hour named in the resolution. At the time appointed, the board shall open the proposals and may reject any and all bids. After offering the bonds for sale, if no satisfactory bid is received the board may use them 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 of said bonds for less than 90 percent of the face value thereof. Nothing in this section shall inhibit the district from providing for the drainage of lands within the district, in units or portions, from time to time.

547.565 Payment of bonds from assessments. The bonds and the interest thereon and all obligations for the payment of money authorized and incurred by such district shall be paid by the revenue derived from the annual assessments upon the real property within the district. All the real property within the district shall be liable to be assessed for such payments under and subject to the provisions of ORS 547.455 to 547.485.

547.570 Treasurer's surety bond; depository. (1) The treasurer shall, at the time of the receipt by him of any bonds or moneys arising therefrom, execute and deliver to the president of the board of supervisors a bond with good and sufficient sureties, to be approved by the board, conditioned that he will account for and pay over as required by law and as ordered by the board, any money received by him on the sale of the bonds. The successor in office of any treasurer shall not be entitled to the bonds or the proceeds thereof until he complies with all the foregoing provisions applicable to his predecessor in office.

(2) If the board deems it more expedient, the board may, by resolution, select some suitable bank or other depository as temporary treasurer to receive the money derived from the sale of bonds, and to hold and disburse the moneys on the orders of the board as the work progresses, until the fund is exhausted or transferred to the treasurer by order of the board of supervisors.

547.575 Bond fund account; general fund. The treasurer shall keep a bond fund account into which shall be covered all moneys arising from the sale of refunding bonds and sufficient money arising from assessment and levy to meet the next instalment of principal and interest upon the bonds of the district. From the fund he shall pay the principal and interest on bonds as they mature and the bonds and interest coupons are presented. Moneys received from the sale of bonds other than refunding bonds, and otherwise for the construction and acquisition of works and all other moneys whatsoever shall be covered into a general fund from which shall be defrayed all obligations of the district other than those in this section above described.

547.580 Retirement of bonds before maturity; call provisions. After five years from the issuance of bonds the board may direct the treasurer to pay such an amount of the bonds not due as the surplus funds in the general fund will redeem at the lowest value at which they may be offered for liquidation, or call bonds at a premium of three percent. Notwithstanding anything contained in ORS 547.555 to 547.580, the board may call for payment and retire before maturity any bonds issued in accordance with ORS 547.555 to 547.580, on paying therefor principal and accrued interest and

a premium of three percent upon the principal. Notice of intention so to do shall be given by publication in a newspaper published and regularly circulated in the counties in which the district lands lie, at least once a week for four successive weeks, beginning not less than 90 days prior to an interest-paying period. The notice shall state the number and amount of the bonds to be retired, the price to be paid, and the date and place where the same are to be paid. Bonds shall be retired in numerical order, and not otherwise. No bonds shall be retired under this provision except on a day when interest is payable by the terms of the bonds and on and after the date named in the published notice. Interest on bonds described therein shall cease after funds are so available.

FUNDING AND REFUNDING OF DEBT UNDER 1909 ACT

547.605 Funding and refunding of debt; bonds. The board of trustees of any drainage or levee district having an outstanding indebtedness of not less than $3 per acre for each acre of land included in the district, evidenced by bonds or warrants of the district, may, if they deem it for the best interests of the district, fund or refund the same or any part thereof and issue bonds of the district therefor in sums of not less than $100 nor more than $1,000, each having not more than 20 years to run, and bearing a rate of interest not exceeding seven percent per annum, payable semi-annually. The bonds shall be negotiable in a form to be selected by the board of trustees, numbered consecutively, signed by the president of the board and countersigned by the clerk of the county, who shall thereto affix his official seal, and interest coupons shall be attached to each bond. The bonds shall then be delivered to the treasurer of the district, who shall stand charged upon his official bond for all bonds delivered to him and the proceeds thereof.

547.610 Sale or exchange of bonds; application of proceeds; cancellation of retired obligations; record of transactions. The board of trustees shall sell or exchange the bonds so issued, on the best available terms, for any legal indebtedness of the district. If the sale is made for money, the proceeds shall be applied to the payment of liabilities existing against the district at that time. When they are exchanged for bonds or warrants or other legal evidence of district indebtedness, the treasurer shall at once cancel the evidence of indebtedness by indorsing thereon the amount for which they were received, the word "canceled" and the date of cancellation. The treasurer shall keep a record of all bonds issued, sold or exchanged, as aforesaid, by number, date of sale, amount, date of maturity, the name and post-office address of the purchaser, and if exchanged, what evidence of indebtedness was received therefor. This record shall be open at all times for public inspection.

547.615 Tax for payment of interest and principal; sinking fund. The board of trustees shall cause to be assessed and levied each year upon the assessable property of the district, in addition to the levy authorized for other purposes, a sufficient sum to pay the interest on outstanding bonds issued in conformity with the provisions of ORS 547.605 to 547.620, accruing before the next annual levy, and such proportion of the principal as in their judgment will be for the best interests of the district, to create and raise a sinking fund to retire the bonds and to be used for no other purpose whatever.

547.620 Retirement of outstanding bonds; notice to bondholders to submit propositions; premium; calling of bonds. Whenever there is in the sinking fund a surplus of $500 or more, over and above the interest maturing before the next levy, the treasurer shall give notice for two weeks in one or more newspapers of general circulation, printed and published in the county in which the district was first organized, stating the amount of such surplus, and that on the day and hour named in the notice, sealed propositions will be received at his office for surrender of bonds of the district. He shall, at the time and place named, open the propositions and accept the lowest bid, provided that no bid shall be accepted for an amount exceeding the par value of the bonds with accrued interest thereon and five percent premium. If bids are not offered at that figure, or less, sufficient to exhaust the amount of surplus on hand, the board of trustees may then call in any bonds of the district, giving the numbers thereof in the exact order of their issuance, beginning with the lowest or first number, and redeem the same at par value and five percent premium with accrued interest to date of such recall.

Thereafter interest thereon will cease and the amount due will be set aside for payment of the bonds whenever presented.

ALTERNATIVE METHOD OF REFUNDING INDEBTEDNESS OR ISSUING BONDS

547.655 Authority to adopt alternative procedure. Any drainage district desiring to refund its outstanding indebtedness or issue bonds for any purposes may, in lieu of the procedure otherwise provided by law, elect to adopt the procedure provided by ORS 547.660 to 547.695.

547.660 Exchange of refunding bonds for outstanding indebtedness. The board of supervisors of any drainage district desiring to issue refunding bonds to replace or in satisfaction or discharge of any outstanding indebtedness may exchange such refunding bonds for the outstanding indebtedness in full compromise, satisfaction and discharge thereof, and shall issue the bonds in such denominations and in such amounts to the several holders of the indebtedness as may be found expedient and necessary in funding or refunding the indebtedness. The bonds may be serial, on the level payment plan or each of the bonds may be amortized, as the board of supervisors may by resolution determine. When the bonds so issued do not exceed in principal and rate of interest the indebtedness to be satisfied and for which the bonds are to be exchanged, it shall not be necessary for the board of supervisors to advertise their sale or to offer them at public sale.

547.665 Numbering; maturities; negotiability; interest; places of payment; denominations; execution; registration; authority to retire bonds; sale price. The bonds shall be numbered consecutively, beginning with number 1 and following in numerical order. They shall mature in the manner provided by ORS 547.660, in annual amounts of principal and interest approximately equal, in not less than five nor more than 40 years from the date of issue, as the board of supervisors may determine. They shall be negotiable in form. The bonds shall bear interest at a rate not to exceed six percent per anuum, payable annually or semi-annually on dates determined by the board. Payment of principal and interest shall be at the place designated in the bonds and coupons. The bonds, except as otherwise provided in ORS 547.655 to 547.695, shall be each of the denomination of not less than $100 nor more than $1,000, shall be signed by the president and secretary, and the seal of the board of supervisors shall be affixed thereto. Each bond shall bear on its back the registration certificate of the treasurer of the district. Coupons for interest or for interest and principal, as the case may be, shall be attached to each bond and shall bear the facsimile signature of the secretary of the district. The treasurer of the district shall register the bonds in a book kept in his office for that purpose, in which shall be stated the number, date, amount of the bond, time and place of payment, rate of interest, number of coupons attached, and any other description proper for future identification of each bond. However, the board of supervisors may call for payment and retire before maturity any bonds issued in accordance with ORS 547.655 to 547.695, on payment of the principal remaining unpaid at the date of call, together with earned interest to and including the date of the call for payment. No bonds issued under ORS 547.655 to 547.695 shall be sold for less than par unless such sale is authorized by majority vote of the electors of the district at an election called in the manner provided by law. The board of supervisors may stipulate that during the first period of the bond term, not exceeding five years, there shall be no payment of principal or interest.

547.670 Offer by holders of indebtedness to surrender evidences thereof or accept proportional payment; sale of bonds; notice; publication. (1) Before authorizing the issuance of such bonds, the board of supervisors shall require that the known holders, or their representatives, of all evidences of indebtedness to be refunded, shall submit to the board for its acceptance an offer to deliver and surrender all such evidences of indebtedness in exchange for bonds not exceeding the amount of the claim or debt owned by such creditor, or in lieu thereof, to accept in full payment of all such outstanding indebtedness so held by any such creditor a sum of money representing the proportion which the proposed refunding bond issue shall bear to the total outstanding indebtedness proposed to be refunded, compromised, satisfied and discharged, based on the par value of such proposed refunding bonds; the creditors and owners of the indebtedness to agree to

absorb the loss between the amount of the outstanding indebtedness to be refunded and the amount of the refunding bonds at par and to receive such refunding bonds in full payment, satisfaction and discharge of the outstanding indebtedness.

(2) The offer shall be in writing and shall, upon being submitted to the board, be irrevocable until such time as the board, under ORS 547.655 to 547.695, has a reasonable opportunity to issue, sell and deliver such refunding bonds to replace and discharge the outstanding indebtedness on acceptance of the offer; provided, that the offer shall not be revoked while any suit, action or proceeding involving the issuance, sale or delivery of such refunding bonds is in process of determination nor until a reasonable time after the final determination of such suit, action or proceeding.

(3) When authorized by a majority vote of the electors of the district, the exchange may be made on a basis of less than par for the refunding bonds, in which event the board of supervisors shall, in its resolution declaring its intention to sell the refunding bonds, also require the secretary of the board to give notice of the proposed sale by publication thereof for four consecutive weeks in three newspapers within the state, one of which shall be in the county in which the district is situated.

547.675 Lien on lands assessed for bond payment. (1) Upon delivery of the bonds, the secretary of the district shall furnish to the recorder of conveyances of each county in which lands of the district are situated, a certified copy of the resolution of the board authorizing the bonds, and of the resolution of the board fixing the annual per acre payments to be made in payment of the principal and interest of the bonds, and of the district treasurer's registration record; in addition thereto, a certified statement of the lands within the district liable under the bonds, described in subdivisions of 40 acres except where the individual ownership thereof requires a description in lesser subdivisions or by metes and bounds or by calls; and a certified statement of the total amount of refunding bonds charged against each parcel of land, the amount of the annual payment thereof, the date of payment and the rate of interest.

(2) The recorder of conveyances shall record such information in a book to be provided by him for that purpose, which shall then be a bond lien docket of the drainage district for the lands of the district within the county and shall constitute the total of such charges or assessments and the maximum of the lien against the lands by reason of the bonds. This sum shall not be increased or enlarged by any subsequent assessment because of any delinquencies in payment of the bond lien and interest charge against any other tract or parcel of land in the district. Unpaid annual assessments or charges docketed therein shall bear interest at the rate of six percent per annum. All unpaid annual payments, principal and interest, shall remain a lien on the tract or parcel of land in favor of the district and shall have priority over all other liens and encumbrances except the lien of state, county and municipal taxes.

(3) Any time after issuance of the bonds, the owner of any tract or parcel of land may relieve the tract or parcel of the lien by paying to the recorder of conveyances, for the benefit of the district, the amount of the principal and interest remaining unpaid thereon. The recorder shall thereupon pay the money over to the treasurer of the district, to be credited to the district's bond fund. The recorder shall note on his bond lien record the fact of such payment and of the satisfaction and discharge of the lien. Upon such payment of the lien on any tract or parcel of land, the tract or parcel shall forever thereafter be relieved from taxation or assessment for the payment of the bonds or of any bonds issued to refund said bonds, except for such assessment or charge as may be levied by the board of supervisors to create an emergency fund, as provided in ORS 547.680.

(4) The collector of the district's assessment and taxes shall receive any past due bond of the district or any past due coupon on any bond of the district in payment of any of the charges and payments referred to in this section.

(5) The lien of the annual payments or charges shall be foreclosed as other drainage district liens are foreclosed.

547.680 Emergency fund; assessments for; use of. (1) In addition to the annual payments for retirement of the bonds, the board of supervisors shall, during the first five years after the issuance of the refunding bonds, levy an annual assessment of 20 cents per acre upon each acre within the district. Thereafter, whenever there is any

default in payment of any assessment levied by the district or in any of the annual payments referred to in ORS 547.675, the board shall levy an assessment of not to exceed 20 cents per acre, which shall be the same upon each acre within the district and shall be levied and collected at the time and in the manner provided by ORS 547.455 to 547.485.

(2) All moneys received from such assessments shall be placed by the treasurer of the district in a special fund designated "Emergency Fund." The emergency fund shall be used for two purposes only: First, and to the extent of not to exceed 10 cents per acre per annum, for supplementing the bond fund in case of deficiency due to accident, delinquency or other contingencies and, second, for the purpose of foreclosure of delinquent tax certificates issued for taxes against lands within the district. The emergency fund shall be disbursed by the treasurer upon order of the board of supervisors.

547.685 Retirement of bonds before maturity; notice of call; date of payment; cessation of interest. Notice of the call of bonds before maturity shall be given in the manner provided for retirement of irrigation district bonds before maturity. No bond issued under ORS 547.655 to 547.695 shall be called for payment before maturity except upon the day for payment of interest, or interest and principal, on the bond and on or after the day specified in the notice of call. All interest on bonds described in the notice shall cease after the day of the call, provided that on that date there are sufficient funds in the bond fund of the district to pay the call bonds.

547.690 Judicial confirmation. Bonds authorized and issued under ORS 547.655 to 547.685 may be confirmed by a court of competent jurisdiction in the manner provided by ORS 548.105 to 548.115.

547.695 Sale of lands for delinquent charges; district as purchaser; resale; payment of proceeds into emergency fund; district to bid at tax sale. The district shall appear as a bidder at the sale of any lands for delinquent annual charges or assessments made under ORS 547.655 to 547.690 or any other statute, and may purchase and take title to the lands and thereafter dispose of the same. On any sale by the district of lands so purchased, the proceeds, after payment of the expenses thereof, shall be paid into the emergency fund. At any tax sale where there is no other bidder, the district shall bid the full acreage of the tract or parcel of land for the amount of the delinquency, penalty and interest; provided, the district shall never bid less than the full acreage of the tract or parcel of land against the amount of the delinquency penalty.

ANNEXATION; DISSOLUTION

547.755 Part of district annexed to city to be withdrawn from district only by consent of voters. No part of a drainage district annexed to a city shall be withdrawn from the district, except upon the consent of the voters of that part of the district. The votes shall be counted in the same manner as in elections for officers of the district. If three-fourths of those voting in that part of the district favor withdrawal from the district the withdrawal is effective, subject to subsection (2) of ORS 222.520, ORS 222.528 and 222.560 relating to division of assets and liabilities upon withdrawal from sanitary districts.

[Amended by 1963 c.419 §1]

547.760 Dissolution of district. (1) As used in this section, "owner" means a tenant in common, joint tenant, or tenant by the entirety, or an owner in fee, and in the case of a contract of sale means a contract purchaser under a recorded contract of sale.

(2) If a drainage district has no indebtedness, a majority of the owners of land within the drainage district, representing also two-thirds of the whole number of acres of land within the district, may propose dissolution of the district by a petition signed by said majority. The petition shall allege that all claims and bills of the district of every kind and nature have been fully paid and satisfied. Each sheet of the petition containing signatures shall be verified in substantially the following form by the person who circulated the petition, to wit:

STATE OF OREGON, }
County of..... } ss.

I, ..., being sworn say: That every person who signed this sheet of the foregoing petition signed his name thereto in my presence, and is the owner of lands within the district.

.....

(3) Within 60 days after receipt of such a petition, the board of supervisors of the

district must call an election upon the question of dissolution. The petitioners shall pay to the district in advance such part, if any, of the costs of election as the district does not have funds on hand with which to pay. Notice of election shall be published at least once a week for two successive weeks in a newspaper of general circulation published in the district, if there is one, and if not, in a newspaper published in the county in which the largest area of the district is located. The board shall appoint two judges and three clerks of election and shall make suitable arrangements for the conduct of the election. Each owner of land or lands situated in the district is entitled to one vote. The ballot shall contain "Dissolution of District ———YES" and "Dissolution of District ———NO," or words to that effect. Upon canvass of the vote by the board of supervisors of the district, if a majority of votes cast at the election favored dissolution, the board shall notify the county court of the county or counties in which the district is located that a dissolution has been effected and concurrently the board shall pay any balance of money of the district to the county treasurer of said county or counties. If located in more than one county, the balance shall be apportioned according to the acreage of the district located within said respective counties.

(4) After dissolution of the district, the county or counties in which said district is located, and the proper county officials thereof, shall continue to collect all unpaid assessments levied by said district prior to its dissolution, the same as if said district had never been dissolved. Such assessments when collected, together with the balance of money of the district turned over to the county treasurer or treasurers, shall be distributed to the assessment payers in the district upon the last assessment roll in the proportion in which each has contributed to the total amount of the assessment.

(5) Upon dissolution, the right, title or interest of the district in any drainage ditches and other property, except as provided in subsection (4) of this section, shall pass to and become vested in, the county in which such ditches or other property are located. The owner or lawful occupier of any land that would be benefited thereby, his or its agents or employes, may with the permission of such county court having jurisdiction keep said ditches clear and maintain the same. The provisions of ORS 547.425 and 547.990 shall apply to such ditches lying west of the Cascade Mountains.

[Amended by 1955 c.359 §1]

PENALTIES

547.990 Penalties. Violation of ORS 547.425 is punishable, upon conviction, by a fine of not less than $25 nor more than $500, or by imprisonment in the county jail for not more than 100 days, or both.

CERTIFICATE OF LEGISLATIVE COUNSEL

Pursuant to ORS 173.170, I, Sam R. Haley, Legislative Counsel, do hereby certify that I have compared each section printed in this chapter with the original section in the enrolled bill, and that the sections in this chapter are correct copies of the enrolled sections, with the exception of the changes in form permitted by ORS 173.160 and other changes specifically authorized by law.

Done at Salem, Oregon,
on December 1, 1963.

Sam R. Haley
Legislative Counsel