

# Chapter 264

## 1969 REPLACEMENT PART

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**GENERAL PROVISIONS**

**264.010 Definitions.** As used in this chapter, unless the context requires otherwise:

(1) "Board" or "board of commissioners" means the governing body of a district.

(2) "District" means a domestic water supply district formed under this chapter.

(3) "County" means the county in which the district, or the greater portion of the taxable assessed value of the district, is located.

(4) "County board" means the county court or board of county commissioners of the county.

(5) "County clerk" means the county clerk of the county.

(6) "Owner" means the holder of the record title to real property or the vendee under a land sale contract, if there is such a contract.

(7) "Voter" means a registered voter of the state who resides in the district or proposed district.

[Amended by 1969 c.666 §1]

**264.020 Election hours.** At all elections subsequent to the election on the question of the formation of a district, the polls shall be open from 8 a. m. to 8 p. m. on election day. However, the board of commissioners may provide by resolution that the polls shall be open from 2 p. m. to 8 p. m. on election day if the election is a general election held on the first Monday of December for the purpose of electing one or more commissioners and no matter other than the election of commissioners is to be voted on at the election.

[1955 c.676 §3; 1969 c.666 §49]

**INCORPORATION**

**264.110 Incorporation of communities for supply of water; sale of surplus; exemptions.** Communities may be incorporated for the purpose of supplying their inhabitants with water for domestic purposes as provided by this chapter; and, in connection therewith, may supply, furnish and sell for any use any surplus water over and above the domestic needs of its inhabitants to any persons, corporations or associations, either within or without the district, or to other communities, water districts or municipal corporations. All railroad rights of way or improvements thereon or rolling stock moving thereover shall be excluded from districts organized after June 9, 1943, and for purposes of ORS 264.110 to 264.170, 264.210 to 264.320 and 264.410 to 264.450, 264.460 and 264.470 shall not be considered as property within the boundaries of

such districts, unless the owner of the railroad property expressly consents to its inclusion.

[Amended by 1969 c. 666 §2]

**264.115 Petition for incorporation.** (1) Whenever 25 percent of the voters or 100 voters, whichever is less, of a designated area, which area may contain territory in one or more counties, desire the formation of a district, they may sign and present a petition to the county board. The petition shall be substantially in the following form:

**WARNING**

It is a felony for anyone to sign any initiative or referendum petition with any name other than his own, or knowingly to sign his name more than once for the measure, or to sign said petition when he is not a legal voter.

Petition for the incorporation of the community of \_\_\_\_\_, in the County (or Counties) of \_\_\_\_\_, State of Oregon, for the purpose of obtaining water for domestic purposes for its inhabitants.

To the Honorable County Court (or Board of County Commissioners) of the State of Oregon for the County of \_\_\_\_\_:

We, the undersigned, citizens and voters of the State of Oregon and the County (or Counties) of \_\_\_\_\_, and residents within the limits of the area in said county (or counties) hereinafter described, respectfully demand that there be submitted to the registered voters of the State of Oregon who reside and have continuously resided in said area for the three months immediately preceding the date of the election hereby petitioned for in the area described as follows, to wit: (Here insert description of the area embracing the community to be incorporated) the question whether or not the area shall be incorporated as a municipal corporation to be known as (here insert proposed name) and to elect five commissioners to carry out the purposes of the incorporation in accordance with ORS chapter 264, and each for himself says: I have personally signed the petition; I am a registered voter of the State of Oregon and the County of \_\_\_\_\_, and a resident of the area described in this petition. My residence and post-office address are correctly written after my name.

Name \_\_\_\_\_, Residence \_\_\_\_\_, Post Office \_\_\_\_\_.

(Here follow 20 lines for signatures.)

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

(3) The form given in this section is not mandatory, and if substantially followed is sufficient, disregarding any clerical and merely technical errors.

[1953 c.681 §2; 1955 c.213 §1; 1969 c.666 §3]

#### **264.118 Notice of hearing of petition.**

(1) The county board shall examine the petition and if it finds that the petition satisfies the requirements of ORS 264.115, it shall set a date for a hearing on the petition and direct the county clerk to give notice of the hearing by:

(a) Posting a notice of the hearing in three public places in the area to be incorporated not less than 20 days before the hearing; and

(b) Publishing a notice of the hearing once a week for two successive weeks in a newspaper of general circulation printed or published within the area to be incorporated. If a newspaper is not so printed or published, the publication shall be made in a newspaper of general circulation printed and published within the county.

(2) The notice of hearing shall state:

(a) That a petition has been filed for establishment of a district.

(b) The name and boundaries of the proposed district.

(c) The time and place set for the hearing on the petition.

(d) That all persons interested may appear and be heard.

[1953 c.681 §3; 1955 c.110 §1; 1969 c.666 §4]

**264.120** [Repealed by 1953 c.681 §13]

**264.121 Hearing of petition.** (1) At the time designated in the notice the county board shall hear the petition and may adjourn the hearing from time to time. The board may alter the boundaries set forth in the petition to include all territory which may be benefited by inclusion within the district. The board shall not modify the boundaries of the district as set forth in the petition so as to exclude from it any land which could be benefited by its formation, nor shall there be included in the proposed district any land which will not, in the judgment of the board, be benefited.

(2) If the board concludes that any land has been improperly omitted from the district and that the owner has not appeared at the

hearing, it shall continue further hearing of the petition and shall order notice given to the nonappearing owner requiring him to appear and show cause, if any he has, why his land should not be included in the proposed district. The notice shall be given either by publication in the same manner as notice of the original hearing and for the same period or by personal service on each nonappearing owner. If notice is given by personal service, such service shall be made at least 10 days prior to the date fixed for the hearing.

[1953 c.681 §4; 1969 c.666 §5]

#### **264.124 Order for election; polling places; judges of election.**

(1) If upon final hearing of the petition the county board approves the petition as originally presented or in its altered form, it shall make an order containing a description of the exterior boundaries of the proposed district as determined by the county board, the date on which an election shall be held in the proposed district and designating the polling place or places for the election. The order shall fix the date of the election which date shall be not less than 30 nor more than 50 days from the date of the order.

(2) At the time the order is made the county board shall select one or more polling places in the proposed district and shall make necessary arrangements for the election.

(3) The county clerk shall appoint three judges for each polling place. The judges shall be electors within the district.

[1953 c.681 §§5, 7; 1969 c.666 §6]

**264.127 Notice of election.** A copy of the order shall be posted for four successive weeks prior to the election in three public places within the proposed district and shall also be published once a week for four successive weeks prior to the election in a newspaper published and of general circulation in the county in which the largest area of the proposed district lies. If there is no such newspaper, the notice shall be published in some newspaper of general circulation in the proposed district.

[1953 c.681 §6; 1969 c.666 §50]

**264.130** [Repealed by 1953 c.681 §13]

**264.140 Petitions for commissioner candidates; names on ballot.** (1) Petitions for candidates to be voted for as commissioners shall contain the names of not less than 25 voters entitled to vote at the incorporation election, or 10 percent of the voters entitled to vote at the incorporation election,

whichever is less, and shall be filed with the officer who makes up the ballot not less than 10 days before the election.

(2) The county clerk, at the time of making up the official ballot, shall place thereon to be voted on at the election for incorporation, the names of all electors petitioned for to run as commissioners whose petitions have been filed in the office of the county clerk not less than 10 days before the date of the election.

[Amended by 1955 c.213 §2]

**264.142 Ballot.** The ballot shall contain a description of the area proposed to be incorporated into the district and the words "Incorporation——Yes" and "Incorporation——No" or equivalent words.

[1953 c.681 §8; 1969 c.666 §7]

**264.144 Qualifications of voters.** No person is authorized to vote at the election on incorporation unless he has resided in the proposed district for a period of not less than 90 days next preceding the election.

[1953 c.681 §9; 1969 c.666 §8]

**264.148 Election procedure.** The polls shall be kept open between the hours provided for in the case of general elections and notice of such special election shall be given as provided for in ORS 264.127. The procedure for such elections, except as otherwise herein specifically set out, shall be as provided for in cases of general elections.

[1953 c.681 §10]

**264.150** [Repealed by 1953 c.681 §13]

**264.154 Canvass of votes; orders regarding formation of district; contesting validity of formation.** (1) If a majority of the votes cast favor formation of the district, the county board shall within 30 days after the date of the election make and cause to be entered in its journal an order that a district with the name and boundaries stated in the order calling the election and setting forth the boundaries has been established. No proceeding may be maintained contesting the validity of the formation of such district unless instituted within 30 days after the entry of the order.

(2) If the majority of the votes cast are against formation of the district, the county board shall within 30 days after the date of the election by order so declare.

[1953 c.681 §11; 1969 c.666 §9]

**264.156 Certificates of election to commissioners.** The county board shall also canvass the votes for commissioners and cause the county clerk to issue certificates of election to the five who received the highest number of votes.

[1953 c.681 §12; 1969 c.666 §10]

**264.160 Mandamus to compel filing petition or calling election.** If the county clerk refuses to accept and file the petition for incorporation, or if the county board refuses to call a special election as provided by ORS 264.118 to 264.127, any citizen of the territory may apply within 10 days after such refusal to the circuit court of the county for a writ of mandamus to compel the county board or county clerk to do so. If it is decided by the circuit court that the incorporation petition is legally sufficient and the requisite number of signatures is attached, the circuit court shall direct the county board to call the election. Such suit shall be advanced on the docket and decided by the circuit court as quickly as possible. Either party may appeal to the Supreme Court within 10 days after the decision is rendered by serving upon the adverse party or his attorney a notice of appeal and filing the original of the notice with the clerk of the circuit court.

[Amended by 1969 c.666 §11]

**264.170 Compensation of members of election board.** Each judge and clerk of the incorporation election shall be compensated at a rate of not less than \$1 per hour and not less than \$6 per day. The specific compensation shall be fixed and allowed by the county board and shall be paid by the county clerk from a fund for that purpose.

[Amended by 1955 c.676 §1; 1961 c.369 §1; 1969 c.666 §12]

**264.180 Bond to accompany petition; payment of costs of organization.** A petition for the formation of a district shall be accompanied by a good and sufficient bond in the form and amount approved by the county board, conditioned that the petitioners will pay the costs of attempted formation, election and organization in case organization is not effected. In the event the district is organized the district shall be liable for such costs.

[1955 c.676 §4; 1969 c.666 §13]

**EXISTENCE AND POWERS**

**264.210 Existence, status and general powers of district.** After the date of the proclamation pursuant to ORS 264.154, that part of the county embraced within the boundaries described in the proclamation shall be a separate public corporation for the purpose of supplying its inhabitants with water for domestic purposes, to be known by the name specified in the proclamation. As such it shall have perpetual succession. By that name it shall exercise and carry out the corporate powers and objects conferred and declared by this chapter. It shall make all contracts, hold and receive and dispose of real and personal property within and without its described boundaries and do all other acts and things which may be requisite, necessary or convenient in carrying out the objects of the district or exercising the powers conferred upon it as by this chapter set out and expressed, sue and be sued, plead and be impleaded in all actions and suits or other proceedings brought by or against it.

[Amended by 1969 c.666 §51]

**264.220 Disposal of taxes levied when organization declared invalid.** When an attempt has been made to organize a district under the provisions of this chapter and subsequently by a decree of a court of competent jurisdiction it has been declared that the organization is invalid, but prior to such decree the invalid organization has levied taxes, the funds derived from the levy shall be disposed of as follows:

(1) If the area embraced in the invalid organization is embraced in a subsequently created organization composed of unincorporated or incorporated territory, or combinations thereof, for the purpose of furnishing domestic water to the inhabitants thereof, the custodian of the taxes collected for the invalid organization shall turn them over to the subsequent organization to be used only for the purpose of furnishing domestic water to such inhabitants.

(2) If the subsequent organization does not embrace all territory embraced in the invalid organization, such taxes as have been collected from the levy upon property in areas not embraced in the subsequent organization shall be refunded to the payers thereof by the custodian of the taxes before the balance is turned over to the subsequent organization.

(3) If no such subsequent organization

is created to provide domestic water for the inhabitants of such an area, within a period of two years after the entry of the decree of invalidation, the taxes collected shall be refunded by the custodian of them to the taxpayers who paid them.

**264.230 Territorial boundaries of district.** The boundary lines of any municipal corporation created under this chapter shall include only such territory as may in reason be served by the water supply or system of the district.

[Amended by 1969 c.666 §52]

**264.240 Eminent domain authority; acquisition of property and property rights; obtaining or laying water pipe lines.** A municipal corporation created under this chapter shall have and exercise within and without its boundaries the same rights and powers of eminent domain and of purchasing, selling, condemning and appropriating real property, water, water rights and riparian rights, which cities or other corporations have, to be exercised in any manner now or hereafter authorized. A district also has the right to purchase or obtain from other cities or like corporations, water or water rights, or an interest in water or water rights, or an interest in a water pipe line owned or operated by any such city or like corporation, or to obtain jointly with any such city or like corporation, any right, or to lay and own individually or jointly with any city or like corporation, any water pipe line for the purposes specified in ORS 264.110.

[Amended by 1969 c.666 §53]

**264.250 Power to borrow money and issue general obligation bonds; place of payment.** (1) For the purpose of carrying into effect all or any powers granted by ORS 264.110 to 264.170, 264.210 to 264.300, 264.310, 264.330, 264.340 and 264.410 to 264.450, 264.460 and 264.470, the corporation, when authorized at any properly called election held for that purpose, may borrow money and sell and dispose of general obligation bonds. Except as otherwise provided in this section, the bonds shall never exceed in the aggregate two and one-half percent of the true cash value of all taxable property within the limits of the corporation, computed in accordance with ORS 308.207.

(2) The bonds shall be issued from time to time by the commissioners in behalf of the corporation as authorized by the electors thereof, and may be issued in an amount not

to exceed one-half of one percent of the true cash value referred to in subsection (1) of this section without a vote of the electors. The bonds shall mature serially within not to exceed 30 years from issue date, in like manner as bonds issued under authority of ORS 287.008, and shall bear interest not exceeding seven percent per annum payable semiannually as the commissioners shall determine. The bonds shall be so conditioned that the corporation promises and agrees therein to pay to the bearer at a place named therein, which may be at the office of the county treasurer of the county in which proceedings for formation of the corporation were conducted, the principal sum, with interest at the rate named therein, payable semiannually, in accordance with the tenor and terms of the interest coupons attached. Each bond payable at the office of the county treasurer shall be registered in accordance with ORS 208.200 in the office of the county treasurer referred to in this subsection.

(3) If the corporation has within its corporate limits a population of 300 or over, it may issue bonds in an amount which shall not exceed in the aggregate 10 percent of the true cash value referred to in subsection (1) of this section.

(4) For the purpose of additionally securing the payment of the principal and interest on general obligation bonds issued under this section, the corporation may, by resolution of its governing body which shall constitute part of the contract with the holders of the bonds, pledge all or any part of the net income or revenue of its water system. The governing body may adopt such a resolution without submitting the question of the pledge to a vote of the electors of the corporation.

[Amended by 1963 c.9 §6; 1963 c.318 §1; 1969 c.666 §14; 1969 c.694 §4]

**264.260 Issuance of revenue bonds.** In addition to the authority to issue general obligation bonds, the district, when authorized at any properly called election, shall have the power to sell and dispose of revenue bonds, and to pledge as security therefor all or any part of the unobligated net revenue of the district or system, to purchase, acquire, lay out, construct, reconstruct, extend, enlarge or improve a water system, or to install hydrants for fire protection along its mains, or to perform any of those acts in combination, for the purpose of obtaining water for the domestic use of consumers, or for fire protection, or both, within or without the

boundaries of the district. The revenue bonds shall be issued in the same manner and form as are general obligation bonds of the district, but they shall be payable, both as to principal and interest, from revenues only, as specified by this section. The revenue bonds shall not be subject to the percentage limitation applicable to general obligation bonds and shall not be a lien upon any of the taxable property within the corporate limits of such district, but shall be payable solely from such part of the revenues of the district as remain after payment of obligations having a priority and of all expenses of operation and maintenance of the district, including any taxes levied against it. All revenue bonds shall contain a clause reciting that both the principal and interest are payable solely from operating revenues of the district remaining after paying such obligations and expenses.

[Amended by 1969 c.666 §15]

**264.270 Issuance of refunding bonds.** Refunding bonds of the same character and tenor as those replaced thereby may be issued pursuant to a resolution duly adopted by the board of commissioners without submitting to the voters the question of authorizing the issuance of such bonds.

[Amended by 1969 c.666 §16]

**264.280 Bond sale procedure.** All general obligation and revenue bonds, including refunding bonds, issued under ORS 264.250 to 264.270 shall be advertised and sold in the manner prescribed in ORS 287.002 for the sale of bonds of cities of this state.

**264.290 Elections to authorize borrowing money and issuing bonds.** Elections for the purpose of voting upon the question of borrowing money and selling and disposing of general obligation or revenue bonds as provided in ORS 264.250 to 264.280 shall be called and held in the same manner as provided in ORS 264.420 for the calling and holding of special elections of the voters of the district. Notice of any such bond election shall be posted or published as provided in ORS 264.420 for special elections.

[Amended by 1969 c.666 §17]

**264.300 Tax assessment, levy and collection.** (1) The corporation may assess, levy and collect taxes in an amount each year not to exceed one-fourth of one percent (.0025) of the true cash value of all taxable property within the limits of the corporation, computed in accordance with ORS 308.207. The proceeds of the tax shall be applied by it in

carrying out the objects and purposes of ORS 264.110 to 264.170, 264.210 to 264.290 and 264.330 and for the purpose of financing the employees' retirement system.

(2) The corporation may annually also assess, levy and collect a special tax upon all such property in an amount sufficient to pay the yearly interest on bonds theretofore issued by the corporation and then outstanding, together with any portion of the principal of such bonds maturing within the year. The special tax shall be applied only in payment of interest and principal of bonds issued by the corporation, but the corporation may apply any funds it may have toward payment of principal and interest of any such bonds. If the bonds are registered with a county treasurer under ORS 208.200, the officer who collects the special tax shall transfer the proceeds to the county treasurer referred to in ORS 264.250. If the corporation bond fund is not sufficient for this purpose, the corporation shall transfer to the county treasurer any additional funds it has that are required to pay the principal and interest of any such bonds.

(3) Any such taxes needed shall be levied in each year and returned to the county officer whose duty it is to extend the tax roll by the time required by law for city taxes to be levied and returned.

(4) All taxes levied by the corporation shall become payable at the same time and be collected by the same officer who collects county taxes, and except as otherwise provided in subsection (2) of this section, the proceeds shall be turned over to the corporation according to law. The county officer whose duty it is to extend the county levy shall extend the levy of the corporation in the same manner as city taxes are extended.

(5) Property is subject to sale for non-payment of taxes levied by the corporation in like manner and with like effect as in the case of county and state taxes.

[Amended by 1963 c.9 §7; 1965 c.348 §6; 1969 c.666 §54; 1969 c.694 §5]

**264.306 Regulations concerning use of water and district property.** (1) Any district may adopt and promulgate regulations concerning the use of water and the property of the district. The board of commissioners may refuse to supply any building, place or premises with water where the user fails after five days' written notice to comply with the regulations. The written notice shall be by registered mail and shall be deemed given when it

is deposited in the United States Postoffice properly addressed with postage prepaid.

(2) Whenever the household supply of water is being jeopardized by nonhousehold use of water, the district can order the nonhousehold use of water to be immediately discontinued. For the purposes of this subsection, nonhousehold use includes irrigation of lawns or fields.

[1953 c.660 §3; 1969 c.666 §18]

**264.308 Requiring cash deposits of water users.** Any district may require a reasonable cash deposit to insure payment for the use or rent of water to be furnished by the district.

[1953 c.660 §1; 1969 c.666 §19]

**264.310 Rates for water furnished; contracts to sell surplus water.** A district shall charge consumers for the water furnished and fix and collect the rates therefor. Rates charged may be fixed and classified according to the type of use and according to the amount of water used. Any contract entered into by a district with individuals, corporations or associations other than domestic users shall provide for immediate cancellation whenever no surplus supply of water exists over and above any and all demands of domestic users. A district also may contract with other communities, water districts, individuals or corporations, private or municipal, to supply, furnish and sell them surplus water on such terms and conditions and at such rates as the board of commissioners consider advisable.

[Amended by 1969 c.666 §55]

**264.312 Increasing water rates; hearing.**

(1) Whenever any increase is proposed in the existing rates charged water consumers by a district pursuant to ORS 264.310, the board of commissioners shall first provide for a public hearing on such proposal before any increased rates are ordered into effect.

(2) The public hearing required under subsection (1) of this section shall be held at a place designated by the board after notice thereof has been given by inclusion of a notice of the public hearing in the water bills sent to consumers by the district during the period of 30 days prior to the date of the hearing.

[1961 c.685 §§2, 3; 1969 c.666 §20]

**264.314 Shutting off water if delinquent in payment of water bill.** In case prompt payment of water rent or charge is not made, a district may shut off the water supply to the building, place or premises to which the district supplied the water.

[1953 c.660 §2; 1969 c.666 §56]

**264.320 Refund of cost of water main extension.** If any person is required by a district to pay the cost of extending a water main adjacent to property other than his own so that water service for domestic use is provided for such other property without further extension of the water main, the district shall require the owner of the other property, prior to providing water service to that property, to refund to the person required to pay the cost of extending the water main, a pro rata portion of the cost of the extension. The right to require such refund shall not continue for more than 10 years after the date of installation of the extension of the water main. The amount to be refunded shall be determined by the district and such determination shall be final.

[Amended by 1969 c.666 §21]

**264.330 Hydrants for fire protection; regulations and rates therefor.** Any district may install hydrants for fire protection along its mains at such points as its board of commissioners may determine, and furnish water for such purpose. The board shall establish, from time to time, regulations governing such installations, and furnishing of water therefrom and any rates and charges thereon. No equipment other than the hydrants and water therefor shall be furnished at the general expense.

[Amended by 1969 c.666 §22]

**264.340 Purchase and maintenance of fire equipment; contracting for fire protection; elections to authorize; tax levy to defray expense; application of section.** (1) Any district, when authorized by the voters as provided by this subsection, may purchase fire apparatus and equipment and maintain, service and operate the same, and may contract with any city, rural fire protection district or other municipal corporation for fire protection for its inhabitants, or to do either or any combination of the foregoing. Such power shall only be given the board of commissioners by a majority of the votes cast by voters of the district at a special election called for such purpose by the board.

(2) (a) When the power is so granted, the board of commissioners may levy a tax not exceeding three-twentieths of one percent (.0015) of the true cash value of all taxable property within the limits of the district, computed in accordance with ORS 308.207 for defraying the expense of providing, maintaining, operating and servicing such fire apparatus and equipment, and of contracting with

any city or rural fire protection district for the protection of its inhabitants from fire.

(b) Upon approval of the majority of the votes cast by voters of the district at a special election called for that purpose by the board of commissioners, the district may levy a special tax for defraying such expenses not to exceed one-fourth of one percent (.0025) of the true cash value of the taxable property in the district referred to in paragraph (a) of this subsection.

(3) This section shall not apply to any district which on July 16, 1949, was wholly or partially within any legally organized rural fire protection district.

[Amended by 1955 c.163 §1; 1963 c.9 §8; 1963 c.318 §2; 1969 c.666 §23]

**264.342 Election to adopt fire prevention code.** A district which has provided fire protection under ORS 264.340, may, at any general election held in the district or at any special election called for that purpose, submit to the voters of the district for adoption or rejection at such election, a fire prevention code. Notice of such election shall be given as provided by ORS 264.420.

[1953 c.206 §1; 1969 c.666 §24]

**264.344 Scope of fire prevention code.** The fire prevention code referred to in ORS 264.342 may provide reasonable regulations relating to:

- (1) Prevention of fires.
- (2) Storage and use of combustibles and explosives.
- (3) Construction, maintenance and regulation of fire escapes.
- (4) Means and adequacy of exit in case of fires in factories, asylums, hospitals, churches, schools, halls, theaters, amphitheaters, all buildings, except private residences, which are occupied for sleeping purposes, and all other places where large numbers of persons work, live or congregate from time to time for any purpose.

(5) Requiring the issuance of permits by an officer designated by the board of commissioners before burning trash or waste materials.

(6) Providing for the inspection of premises by officers designated by the board of commissioners, and requiring the removal of fire hazards found on premises at such inspections.

[1953 c.206 §2]

**264.346 Violation of code or failure to remove hazards prohibited.** When a fire

prevention code has been adopted as provided in ORS 264.342, no person shall violate the provisions of the code or fail to remove hazards found on inspection within the time set by the inspecting officer, after written notice to either the owner or occupant of such premises, or burn waste materials or trash in an unguarded manner without a permit, if a permit is required by the code. [1953 c.206 §3]

**264.348 Copies of code to be filed with State Fire Marshal and posted at fire stations.** Copies of the fire prevention code referred to in ORS 264.342 shall be filed with the State Fire Marshal's office and a copy shall be posted at each fire station within the corporation. [1953 c.206 §4]

**264.349 Revoking authority to furnish fire protection services; consequences.** (1) The authority of a district to furnish fire protection service under ORS 264.340 may be revoked by a majority vote of the voters voting at a special election called for that purpose.

(2) Upon revocation of the authority of a district to furnish fire protection service under ORS 264.340:

(a) The board of commissioners may determine the disposition to be made of any fire apparatus and equipment owned, maintained, serviced or operated by the district.

(b) The fire prevention code adopted pursuant to ORS 264.342 is repealed.

(3) Revocation of the authority of a district to furnish fire protection service under ORS 264.340 shall not abrogate any contract to which the district is a party and which relates to the fire protection service performed under ORS 264.340, and the district shall be obligated and authorized to complete and enforce performance of all such contracts. [1961 c.669 §2; 1969 c.666 §25]

**264.350 Power to install and operate street lighting system; contracts for electricity; tax levy and service charges to maintain and purchase electric energy.** (1) Any district, when authorized by the voters, may install, maintain and operate a system, or systems, of street, road and highway lights. Lights shall be maintained upon streets, roads, intersections or other places as, in the judgment of the board of commissioners, will furnish the best lighting service to the residents within the district.

(2) The district through its board of commissioners may contract with any supplier of electricity, private or public, to furnish the electric energy for such systems.

(3) The district, when authorized by the voters, may at any time thereafter levy a tax, not to exceed three-twentieths of one percent (.0015) of true cash value in any one year for the installation of the system and any extension thereof, and not to exceed one-twentieth of one percent (.0005) of true cash value in any one year for maintenance and purchase of electric energy. The tax limits provided by this subsection shall be computed as a percentage of the true cash value of all taxable property within the limits of the district, computed in accordance with ORS 308.207.

(4) A district may require any person to pay the cost of installing the highway lighting system adjacent to his property. The district shall have the further right to include the cost of installing the system as a part of an agreement with any person for extending a water main.

(5) If authorized by the voters, the cost of maintenance and purchase of energy may be charged to the water consumers on the basis of one share for each water connection, payable monthly with the bills for water charges. The district may, when authorized by the voters, change from either system of collection to the other. The funds received from the respective levies and charges to water users shall be used only for the purposes collected and no other funds of the district shall be so used.

(6) Voter approval required by this section means the approval of a majority voting at a special election called by the board for the purpose of submitting the matter to the voters.

[Amended by 1955 c.163 §2; 1963 c.9 §9; 1969 c.666 §26]

**264.352 Power to perform drainage work.** Any district may perform drainage work for the purpose of reclaiming real property located within the district, protecting real or personal property located within the district from the effects of water, promoting sanitation, providing for the public health, convenience and welfare or providing services of public utility or benefit. The district may use all applicable powers granted to it by this chapter, including the rights and powers of eminent domain, in performing the drainage work authorized by this section. [1959 c.381 §2; 1969 c.666 §27]

**264.360 Power to enter into cooperative agreements; bonding power.** (1) Districts may enter into cooperative agreements with each other providing for the joint acquisition, construction, ownership, use or control of facilities for the collection, treatment, distribution or supply of water.

(2) Each district may issue and sell general obligation, revenue or refunding bonds, subject to the limitations and procedures contained or referred to in this chapter for the authorization, issuance or sale of such bonds, for the purpose of paying its share of the cost of the acquisition or construction of facilities provided for in cooperative agreements authorized by this section. [1963 c.146 §1; 1969 c.666 §28]

Note: ORS 264.360 was not added to and made a part of ORS chapter 264 by legislative action.

## IMPROVEMENTS AND ASSESSMENTS

**264.362 Initiation of proceedings; survey and report of project.** Whenever the district board considers it necessary, upon its own motion, or upon the petition of the owners of one-half of the property that benefits specially from the improvement, to make any improvement to be paid for in whole or in part by special assessment according to benefits, the board shall, by motion, cause a survey and written report for such project to be made and filed with the secretary. Unless the district board directs otherwise, the report shall contain:

(1) A map or plat showing the general nature, location and extent of the proposed improvement and the land to be assessed for the payment of any part of the cost thereof.

(2) Plans, specifications and estimates of the work to be done; however, where the proposed project is to be carried out in cooperation with any other governmental agency, the district board may adopt the plans, specifications and estimates of such agency.

(3) An estimate of the probable cost of the improvement, including any legal, administrative and engineering costs attributable thereto.

(4) An estimate of the unit cost of the improvement to the specially benefited properties.

(5) A recommendation as to the method of assessment to be used to arrive at a fair apportionment of the whole or any portion of the cost of the improvement to the properties specially benefited.

(6) The description and assessed value of each lot, parcel of land or portion thereof, to

be specially benefited by the improvement, with the names of the record owners thereof and, when readily available, the names of the contract purchasers thereof.

(7) A statement of outstanding assessments against property to be assessed. [1969 c. 686 §2]

**264.364 Board action on report.** After the report has been filed with the secretary, the district board may by motion approve the report, modify the report and approve it as modified, require additional or different information for the improvement, or it may abandon the improvement.

[1969 c.686 §3]

**264.366 Resolution of intention; notice of improvement and hearing.** After the district board approves the report as submitted or modified, the board shall, by resolution, declare its intention to make the improvement, provide the manner and method of carrying out the improvement and direct the secretary to give notice of the improvement. Such notice shall be given by two publications one week apart in a newspaper of general circulation within the district, and by mailing copies of the notice by registered or certified mail to the owners to be assessed for the costs of the improvement. The notice shall contain the following:

(1) That the report of the improvement is on file in the office of the secretary and is subject to public examination.

(2) That the district board will hold a public hearing on the proposed improvement on a specified date, which shall not be earlier than 10 days following the first publication of notice, at which objections and remonstrances to the improvement will be heard by the board; and that if prior to such hearing there shall be presented to the secretary valid, written remonstrances of the owners of two-thirds of the property or two-thirds of the front footage of the property to be specifically affected for the improvement, then the improvement will be abandoned for at least six months, unless the improvement is unani- mously declared by the district board to be needed at once because of an emergency.

(3) A description of the property to be specially benefited by the improvement, the owners of the property and the estimate of the unit cost of the improvement to be paid for by special assessments to benefited prop- erties.

[1969 c.686 §4]

**264.368 Manner of doing work.** The district board may provide in the improvement resolution that the construction work will be done in whole, or in part, by the district, by a contract or by any other governmental agency, or by any combination thereof.

[1969 c.686 §5]

**264.370 Hearing; assessment ordinance.**

(1) At the time of the public hearing on the proposed improvement, if the written remonstrances represent less than the amount of property required to defeat the proposed improvement, if such an improvement is one that can be remonstrated against, then on the basis of such hearing of written remonstrances and oral objections, if any, the district board may, by motion, at the time of the hearing or within 60 days thereafter, order the improvement to be carried out in accordance with the resolution, or the district board may, on its own motion, abandon the improvement.

(2) After the public hearing on the proposed improvement and after the district board has moved to proceed with the improvement, it may pass an ordinance assessing the various lots, parcels of land or parts thereof, to be specially benefited with their apportioned share of the cost of the improvement; but the passage of an assessment ordinance may be delayed until the contract for the work is let, or until the improvement is completed and the total cost thereof is determined.

[1969 c.686 §§6, 7]

**264.372 Methods of assessment; alternative financing.** The district board in adopting a method of assessment of the costs of the improvement may:

(1) Use any just and reasonable method of determining the extent of any improvement district consistent with the benefits derived.

(2) Use any method of apportioning the sum to be assessed as is just and reasonable between the properties determined to be specially benefited.

(3) Authorize payment by the district of all, or any part, of the cost of any such improvement, when in the opinion of the board the topographical or physical conditions, or unusual or excessive public travel, or other character of the work involved warrants only a partial payment or no payment by the benefited property of the costs of the improvement.

[1969 c.686 §8]

**264.374 Appeal from assessment.** Any person feeling aggrieved by the assessments

made under an assessment ordinance may, within 20 days after the passage of the ordinance levying the assessment by the district board, appeal to the circuit court for the county in which the district is located. The appeal and the requirements and formalities thereof shall be heard, governed and determined, and the judgment thereon rendered and enforced, in the manner provided for appeals from assessments in ORS chapter 223. The result of the appeal shall be a final and conclusive determination of the matter of the assessment, except with respect to the district right of reassessment provided by ORS 264.390.

[1969 c.686 §9]

**264.376 Notice of assessment.** Within 10 days after the ordinance levying assessments is adopted, the secretary of the district shall send by registered or certified mail a notice of assessment to the owner of the assessed property, and shall publish notice of the assessment twice in a newspaper of general circulation in the district, the first publication of which shall be made not later than 10 days after the date of the assessment ordinance. The notice of assessment shall recite the date of the assessment ordinance and shall state that upon the failure of the owner of the property assessed to make application to pay the assessment in instalments within 10 days from the date of the first publication of notice, or upon the failure of the owner to pay the assessment in full within 30 days after the date of the assessment ordinance, then interest will commence to run on the assessment and the property assessed will be subject to foreclosure. The notice shall also set forth a description of the property assessed, the name of the owner of the property and the amount of each assessment.

[1969 c.686 §10]

**264.378 Assessment lien records; foreclosure proceedings.** After passage of the assessment ordinance by the district board, the secretary shall enter in the docket of district liens a statement of the amounts assessed upon each particular lot, parcel of land or portion thereof, together with a description of the improvement, the name of the owners and the date of the assessment ordinance. Upon such entry in the lien docket, the amount so entered shall become a lien upon the respective lots, parcels of land or portions thereof, which have been assessed for such improvement. All assessment liens of a district shall be superior and prior to all other liens or encumbrances

on property in so far as the laws of the state permit. Interest shall be charged at the rate of six percent per annum until paid on all amounts not paid within 30 days from the date of an assessment ordinance. After expiration of 30 days following the date of an assessment ordinance the district may proceed to foreclose or enforce collection of the assessment liens in the amount provided by the general law of the state. However, the district may, at its option, enter a bid for the property being offered at a foreclosure sale, which bid shall be prior to all bids except those made by persons who would be entitled under the laws of the state to redeem the property.  
[1969 c.686 §11]

**264.380 Errors in assessment calculations.** Claimed errors in the calculation of assessments shall be called to the attention of the secretary of the district, who shall determine whether there has been an error in fact. If the secretary finds that there has been an error in fact, he shall recommend to the district board an amendment to the assessment ordinance to correct the error. Upon enactment of the amendment, the secretary shall make the necessary correction in the lien docket and send a correct notice of assessment by registered or certified mail.  
[1969 c.686 §12]

**264.382 Deficit assessment.** In the event that an assessment is made before the total cost of the improvement is ascertained, and if it is found that the amount of the assessment is insufficient to defray the expenses of the improvement, the district board may, by motion, declare such deficit and prepare a proposed deficit assessment. The board shall set a time for a hearing of objections to such deficit assessment and shall direct the secretary to publish one notice thereof in a newspaper of general circulation in the district. After the hearing the board shall make a just and equitable deficit assessment by ordinance, which shall be entered in the lien docket as provided by ORS 264.362 to 264.394. Notices of the deficit assessment shall be published and mailed and the collection of the assessment shall be made in accordance with ORS 264.376 and 264.378.  
[1969 c.686 §13]

**264.384 Excess assessment; rebate.** Upon the completion of the improvement project, if it is found that the assessment previously levied upon any property is more than sufficient to pay the costs of the improvements,

the district board shall ascertain and declare the amount of the excess by ordinance. When declared, the excess amounts shall be entered on the lien docket as a credit upon the appropriate assessment. If any assessment has been paid, the person who paid it, or his legal representative, shall be entitled to the repayment of the rebate credit, or the portion thereof which exceeds the amount unpaid on the original assessment.  
[1969 c.686 §14]

**264.386 Abandonment of proceedings.** The district board may abandon proceedings for an improvement at any time prior to the final completion of the improvement. If liens have been assessed upon any property under ORS 264.362 to 264.394, they shall be canceled, and any payments made on such assessments shall be refunded to the person paying the same, his assigns or legal representatives.  
[1969 c.686 §15]

**264.388 Guides in testing validity of proceedings; proceedings to correct.** No improvement assessment shall be rendered invalid by reason of a failure of the improvement report to contain all of the information required by ORS 264.362, or by reason of a failure to have all of the information required to be in the improvement resolution, the assessment ordinance, the lien docket or notices required to be published and mailed, nor by the failure to list the name of, or mail notice to, the owner of any property as required by ORS 264.362 to 264.394, or by reason of any other error, mistake, delay, omission, irregularity or other act, jurisdiction or otherwise, in any of the proceedings or steps specified, unless it appears that the assessment is unfair or unjust in its effect upon the person complaining. The district board may remedy and correct all such matters by suitable action and proceedings.  
[1969 c.686 §16]

**264.390 Reassessment.** Whenever any assessment, deficit assessment or reassessment for any improvement which has been made by the district is set aside, or its enforcement restrained by any court having jurisdiction thereof, or when the district board is in doubt as to the validity of an assessment, deficit assessment or reassessment, or any part thereof, the district board may make a reassessment in the manner provided by ORS 223.405 to 223.485.  
[1969 c.686 §17]

**264.392 Payment of assessments in instalments.** If the cost, or any portion of the cost, of an authorized improvement is assessed against the property directly benefited, the provisions of ORS 223.205 to 223.385, in regard to the payment of assessments in instalments, the provisions of ORS 223.770, relating to the assessment of public property benefited by public improvements for the cost of such improvements, and the provisions of ORS 287.502 to 287.510, relating to the issuance of improvement warrants by cities, shall apply in so far as practicable and applicable in the district. Where, in ORS 223.205 to 223.385, 223.770 and 287.502 to 287.510 officials of cities are referred to, the corresponding officials of districts where applicable shall perform the required functions.  
[1969 c.686 §18]

**264.394 Enforcement of assessment lien.**

(1) In case the whole or any portion of the cost of an improvement is assessed against the property directly benefited and the owner of the property fails to pay the amount of the lien, or any portion thereof, or the interest thereon, when they become due, the board may proceed to foreclose the lien in any manner provided by law for the collection of liens by municipalities and may provide by ordinance a general procedure for the collection of liens in any manner not inconsistent with law.

(2) The provisions of ORS 223.405 to 223.485 relating to reassessment shall be available to districts where applicable.  
[1969 c.686 §19]

## BOARD OF COMMISSIONERS

**264.410 Powers of district in board; qualifications, terms of office of commissioners.** (1) Except as otherwise provided by this chapter, the power and authority given to districts is vested in and shall be exercised by a board of five commissioners, each of whom shall be a qualified voter and landowner within the district. Except as provided by subsection (2) of this section, each commissioner shall be elected for a term of four years.

(2) Within 10 days after issuance of the proclamation provided under ORS 264.154, the five commissioners who received the highest vote at the election for incorporation shall meet and organize, first taking and subscribing an oath of office. The commissioners first elected shall determine by lot the length of term each shall hold office. The term of one commissioner shall expire the next January 1 following his election, and the terms of the

other four shall expire one in one year, one in two years and two in three years after the next January 1 following their election.

[Amended by 1955 c.213 §3; 1967 c.436 §2; 1969 c.666 §29; subsection (3) renumbered 264.415]

**264.415 Annual election.** A general election shall be held in the district on the first Monday of December of each year for the election of one or more commissioners to succeed any commissioner whose term expires the following January 1, and to elect commissioners to fill any vacancy which then may exist. At all elections the voters shall have resided in the territory embraced in the district for at least 90 days preceding the election. At the regular meeting of the board of commissioners in November, or, if the regular meeting is less than 15 days before the election, at a special meeting of the board in November, the board shall select three judges of election, who shall be voters at the election and who shall constitute a board of election of the district. At that meeting, the board shall select the polling place for the regular election in the district, and shall cause to be given notice of the place of holding the election and the names of the judges of election. The notices shall be posted in three public places in the district at least 10 days prior to the day of election, or published at least once a week for two successive weeks, prior to the day of election, in at least one newspaper published or generally circulated in the district. The first publication shall be at least 14 days and the last publication at least seven days prior to the day of election. The secretary of the board shall prepare sample and official ballots upon which shall be printed the names of all persons nominated for commissioners whose petitions contain the names of not less than 10 electors in the district, or 10 percent of the voters in the district, whichever is less, and which petitions have been filed with the secretary not less than 15 days before the election. The election shall be conducted and the votes counted and canvassed by the board and certificates of election issued the same as in general, state and county elections, except as otherwise provided by this chapter.

[Formerly subsection (3) of ORS 264.410]

**264.420 Calling of special elections.** The board of commissioners at any regular meeting may call a special election of the voters of the district. The board shall cause notice of the special election to be posted in three conspicuous places within the district for a period of not less than 10 days prior to the

date of holding the special election, or published at least once a week for two successive weeks, prior to the day of election, in at least one newspaper published or generally circulated in the district. The first publication shall be at least 14 days and the last publication at least seven days prior to the day of election.

[Amended by 1969 c.666 §31]

**264.430 Proceedings of board; election of officers; employment of personnel.** (1) The board of commissioners shall hold meetings at such time and place within the district as it may determine. The board shall hold at least one regular meeting in each month on a day to be fixed by it, and may hold special meetings under such rules as it may make.

(2) The board shall, at the time of its organization, choose from the commissioners a president, a secretary and a treasurer, who shall hold their offices until the first regular meeting in January, or until their successors are elected and qualified. The officers shall have, respectively, the powers and shall perform the duties usual in such cases. A majority shall constitute a quorum to do business and, in the absence of the president, any other member may preside at a meeting.

(3) The board of commissioners may employ engineers, superintendents, mechanics, clerks or other persons as it may find requisite, necessary or convenient in carrying on any work of the district and at a rate of remuneration as it may consider just, and pay the expenses actually incurred by any one or more commissioners in the services of the district.

(4) The board may provide life insurance and retirement or pension plans for employes of a district, if the insurer issuing the policy is licensed to do business in the State of Oregon.

[Amended by 1965 c.307 §1; 1969 c.344 §4; 1969 c.345 §4; 1969 c.666 §§32, 66]

**264.440** [Repealed by 1969 c.666 §70]

**264.450** [Amended by 1969 c.666 §33; repealed by 1969 c.666 §68 and by 1969 c.669 §21]

**264.455** [1961 c.564 §2; amended by 1969 c.666 §57; repealed by 1969 c.325 §4 and by 1969 c.666 §67]

**264.460 Initiative and referendum.** In the exercise of initiative and referendum powers reserved under the Constitution of this state to the voters of every municipality and district as to all local, special and municipal legislation of every sort and character in and for their respective municipalities and

districts, the general laws of the state as applied to cities and towns shall govern in domestic water supply districts, except that the measures referred by the board of commissioners shall be filed with the secretary not less than 30 days before the election at which they are to be voted upon. The chairman of the board shall act as mayor and perform his duties, the secretary shall perform the duties of auditor or recorder, the attorney shall perform the duties of city attorney, and if there is no attorney, the secretary shall perform the duties required of the attorney.

[Amended by 1969 c.666 §58]

**264.470 Deposit and withdrawal of moneys; annual reports; records.** (1) Except as otherwise provided by ORS 264.300, all money of the corporation shall be deposited in one or more banks, to be designated by the commissioners. The money shall be withdrawn or paid out only when previously ordered by vote of the commissioners, and upon checks signed by the treasurer and countersigned by the chairman, or in his absence or inability to act, by the secretary. Receipts or vouchers, showing clearly the nature and items covered by each check drawn, shall be kept on file.

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

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

[Amended by 1969 c.666 §34; 1969 c.694 §6]

## ANNEXATION OF TERRITORY

**264.505 Annexation of contiguous territory not within another district or a city.**

(1) Any territory contiguous to an existing district, and not within the boundaries of such a district or of cities, may be included in and incorporated with such district by petition of 15 percent of the voters in the contiguous territory filed with the county clerk of the county in which the contiguous territory or the greater part thereof is located and by subsequent proceedings in the county board of the county in which the petition was filed. The

proceedings and the rights and powers and duties of petitioners and objectors shall be the same as in an original proceeding to incorporate a district.

(2) The petition shall be approved by the board of commissioners by indorsement thereon before it is filed with the county clerk. Before such approval is given, the board shall secure from the independent water supply source of the district, if any, an agreement to supply such additional water as may be needed.

(3) If the petition is signed and acknowledged by the owners of only a part of the lands to be included, the order of the county board shall not be entered until the board of commissioners of the district and the county clerk with whom the petition was filed shall each verify to the county board that an election has been held in the district and in the contiguous territory, on the question, and that a majority of the votes cast in the district and a majority of the votes cast in the contiguous territory, severally, favored inclusion of the contiguous territory.

(4) Upon entry of the order of the county board incorporating the contiguous territory with the existing district the territory shall become subject to the indebtedness, bonded or otherwise, of the district in like manner as the territory within the district.

[1953 c.682 §§2, 3, 4, 5, 6; 1967 c.436 §1; 1969 c.79 §1; 1969 c.666 §35]

**264.510** [Repealed by 1953 c.682 §7]

**264.511 Effect of consent to annexation by territory.** (1) If the petition for annexation is signed and acknowledged by the owners or contract purchasers of all lands to be included, specifically describing such lands, the petition shall be filed with the county clerk after it has been approved by the district board of the district to which the land is proposed to be annexed. The district board may:

(a) Call an election in the district on the proposed annexation in accordance with ORS 264.420; or

(b) Hold a hearing in the district on the proposed annexation.

(2) If a hearing is held, a notice shall be posted for not less than 20 days before the date set for the hearing in three public places within the district; and in addition notice may be published once a week for two successive weeks, the last publication to be not less than seven days prior to the hearing. Notice, if published, shall be published in a newspaper of general circulation in the district, or if there is no such newspaper, the notice shall

be published in some newspaper published and of general circulation in the county in which the district, or the largest area within the district, is located.

(3) The notice of the hearing shall state:

(a) That a petition signed by all the owners or contract purchasers of land in the contiguous territory has been filed with the county board.

(b) The boundaries of the territory to be annexed.

(c) The time and place for the hearing before the district board.

(d) That all persons interested may appear and be heard.

(4) After the hearing, the district board may by resolution approve the petition for annexation. The resolution shall contain a description of the lands to be annexed. A certified copy of the resolution shall be filed with the county board of the county in which the district, or the largest area within the district, is located. If an election is held, the results of the election shall be certified to the county board of such county.

(5) If the annexation is approved by a majority of the votes cast at the election in the district or by the district board after a hearing, the county board shall enter an order incorporating the territory within the existing district. Upon entry of the order of the county board, the territory annexed shall become subject to the indebtedness, bonded or otherwise, of the district in like manner as territory within the district.

[1969 c.79 §3; 1969 c.666 §69]

**264.520 Annexation of city to district; when permitted; approval by city.** When a city has been incorporated and the territory included within the city, or the major portion thereof, was formerly within the boundaries of and a part of a district, and where the source of water supply for the city lies within that portion of the district outside the city boundaries, or is owned and controlled by the district, the city upon the approval of the majority of the votes cast at an election called for the purpose, may elect to be annexed to and become a part of the district for the purpose of supplying water to the city's inhabitants. The election shall be called and held in the manner provided by the city charter. If the city has no charter provisions governing elections, such election may be called and conducted in accordance with an ordinance of the city specifying procedure in accordance with section 1a, Article IV, Oregon Constitution.

[Amended by 1955 c.163 §3, 1969 c.666 §36]

**264.530 Approval of annexation of city by district; annexation order by county board; when withdrawal of city prohibited.**

(1) Upon canvassing the vote on the question of annexing city territory to the district, the city, through its appropriate officers, shall certify to the county board of the county in which the city lies, the fact of the approval by the voters of the proposition to include the territory of the city in the district and shall present such certificate to the board of commissioners. If the board approves, it shall indorse on the certification the fact that the annexation of the territory is approved by the board and shall call a special election in the district. At the election the question of the annexation of the territory of the city to the district for water supply purposes shall be submitted to the voters of the district for their approval or rejection. The election shall be held within 50 days after the receipt by the board of commissioners of the certificate of the results of the election in the city.

(2) If the voters of the district approve the annexation, the board of commissioners shall attach to the certificate of the city its own certificate setting forth the results of the election and shall transmit both certificates to the county board. The county board shall thereupon at its next meeting make and enter an order to the effect that the territory included in such city is annexed to the district. Thereafter the city territory, together with any territory thereafter annexed to the city, shall be included in the boundaries of the district and shall be subject to all liabilities of the district in the same manner and to the same extent as other territory included therein for the purpose of supplying water to the inhabitants.

(3) No other function of the city shall be deemed in any way limited or abated by the annexation.

(4) If after inclusion of the territory in the district it issues general obligation or revenue bonds of the district for improving its water supply or distribution system, the city or the inhabitants thereof may not, while any such bonds are outstanding and unpaid, withdraw the territory from the district.

[Amended by 1969 c.666 §37]

**264.540 Fire hydrants in city annexed to district; reversion of water system in city to district.** (1) If a city has been annexed to a district under ORS 264.520 and 264.530, the city may designate the location and type of fire hydrants to be installed within the terri-

tory of the city. The board of commissioners shall establish the rates for the use of water therefrom as provided in ORS 264.330. The city and the district may by contract determine the entire matter of installation of hydrants and use of water therefrom and payment therefor.

(2) The ownership of the water supply system within the city boundaries shall revert to and be vested in the district.

[Amended by 1969 c.666 §59]

**264.550 Contracts between district and city annexed to district.** If a city has been annexed to a district under ORS 264.520 and 264.530, the city and the district may:

(1) Enter into contracts and agreements to do any act or thing which either could have done if the annexation had not occurred.

(2) Contract and agree for the collection by the district of any water user tax or charge imposed by the city upon water users within the territory of the city, and the district thereupon may provide for such collection according to its rules and regulations for the collection of amounts due the district by water users, including but not limited to shutting off the water supply for nonpayment.

[1955 c.692 §1; 1969 c.666 §38]

## CONSOLIDATION

**264.575 Consolidation; petitions; elections.** (1) Two or more districts, whose boundaries adjoin, may be consolidated to form a single district as provided in ORS 264.575 to 264.590.

(2) A petition for consolidation shall be signed by not less than 15 percent of the voters or not less than 100 voters, whichever is less, of each district which it is desired to consolidate. When a petition, signed by the requisite number of voters of a district which is included in the consolidation, is presented to the board of commissioners of such district, the board shall, at its next ensuing regular meeting call a special election in the district. The date of the election shall be the same in each district which it is desired to consolidate. At the election there shall be submitted to the voters the question of whether or not the districts shall be consolidated, stating the name by which the consolidated district shall be known.

(3) A petition for consolidation may also include a debt distribution plan to be voted upon as a part of the consolidation proposal. The plan may provide for any distribution of

indebtedness and may require that the taxable property located within the prior existing districts remain solely liable for all or any portion of any indebtedness outstanding at the time of the consolidation.

(4) The elections shall be called and held in the same manner as elections provided for in ORS 264.410, 264.415 and 264.420. The board of commissioners of each district at its first regular meeting following the date of the special election shall canvass the vote on the measure and certify the result to the board of each of the districts which are sought to be consolidated.

[1961 c.476 §2, 3; 1965 c.135 §1; 1969 c.666 §39]

**264.580 Selection of temporary board; transfer of records and property.**

(1) If at the special elections a majority of the voters voting in each district votes in favor of consolidation, the board of commissioners of the district having the highest assessed valuation of property for tax purposes shall call a joint meeting of the boards of commissioners of the districts concerned. The meeting shall be held at a time and place designated by the board calling the meeting, not later than 10 days after the canvass of the vote in the district last canvassed. The secretary of the board calling the meeting shall give notice by registered mail of the time and place of the meeting to each member of the boards of commissioners of the districts concerned. The notice shall be mailed at least five days prior to the meeting. At the joint meeting, a majority of the number of the board of commissioners of each of the districts affected shall constitute a quorum for the transaction of business. The commissioners so assembled shall thereupon from among their number elect five persons to serve as commissioners of the consolidated district until the next general election.

(2) The board of commissioners of the consolidated district so elected shall then immediately meet and organize as provided in ORS 264.410 and 264.430 and shall by resolution declare the districts consolidated and shall transmit to the county clerks of the counties where the consolidated district is situated, a copy of the resolution together with a copy of the certification of vote in each district voting on the question. From the time of adoption of such resolution the consolidation shall be deemed complete.

(3) The board of commissioners and officers of the former existing districts included within the consolidated district shall turn over to the board of commissioners of the consolidated district all funds, property, con-

tracts and records of the prior existing districts.

[1961 c.476 §4; 1969 c.666 §60]

**264.585 Succession to property, rights, powers and liabilities of former districts.** Upon completion of consolidation, the consolidated district shall succeed to all the property, contracts, rights and powers of the districts consolidated, and shall constitute and be a regularly organized domestic water supply district as if originally organized in the manner provided by ORS 264.010 to 264.180. The district shall become liable for all the obligations legal or contractual of the prior existing districts which were consolidated.

[1961 c.476 §6; 1969 c.666 §61]

**264.590 Election of board for consolidated district.** At the first general election to be held in the consolidated district on the first Monday in December following consolidation there shall be elected five commissioners whose terms of office shall be determined in the manner provided by ORS 264.410 for the commissioners of newly organized districts.

[1961 c.476 §5; 1969 c.666 §62]

## DISSOLUTION

**264.610 Determination to dissolve district; findings of fact; dissolution plan.** (1) Whenever the board of commissioners of a district has determined that it is to the best interest of its inhabitants that the district be dissolved and liquidated, the board shall make findings of fact as to the following:

(a) The amount of each outstanding bond, coupon and other indebtedness, together with a general description thereof and the holders and owners thereof, so far as known.

(b) The estimated cost of dissolution.

(c) The assets of the district, including domestic or municipal water works or systems and property, corporeal and incorporeal, incident thereto, including reservoirs, pumps, mains, stations, water, water rights, riparian rights and all appurtenances, equipment and appliances for the treatment, storage and distribution of a domestic or municipal water supply.

(d) A detailed statement of all lands acquired by the district for delinquent taxes or delinquent assessments and the amount of the taxes and assessments on each parcel of land sold.

(e) All taxes or assessments unpaid and the amount upon each lot or tract of land and all other assets of the district.

(2) The board shall propose a plan of dissolution and liquidation which may include provision for transfer and conveyance of all assets of the district to any irrigation district which will assume all its outstanding indebtedness and undertake to continue to furnish water to the inhabitants of the district for domestic and municipal uses.

(3) The findings of fact and proposed plan of dissolution and liquidation shall be filed in the office of the county clerk of the county. [Amended by 1969 c.666 §40]

**264.620 Special election to approve dissolution.** (1) Whenever the board of commissioners has complied with the provisions of ORS 264.610, it shall thereupon order a special election to be conducted as provided by this section, at which shall be submitted to the voters of the district the question of whether or not the district shall be dissolved, its indebtedness liquidated, and its assets distributed in accordance with the plan proposed.

(2) No such election shall be ordered until the assent of all known holders of valid indebtedness against the district is obtained or provision is made in the plan for payment of the nonassenting holders.

(3) Notice of such election must be given by posting notices in three public places in each election precinct in the district at least 15 days prior to the election and also by publication of the notice in some newspaper published in the county where the office of the board is required to be kept once a week for three successive weeks before the election. The notices must specify the time of holding the election, the fact that it is proposed to dissolve the district and a brief summary of the plan proposed for liquidating its indebtedness and disposing of its assets.

(4) The election shall be held and the result thereof determined and declared in all respects as nearly as practicable in conformity with the provisions governing election of officers in the district.

(5) At the election the ballot shall contain the words "Dissolution — Yes" or "Dissolution — No" or words equivalent thereto. [Amended by 1969 c.666 §41]

**264.630 Declaration of dissolution; disposition of property and obligations; transfer of assets to irrigation districts; statement of dissolution filed.** (1) The board of commissioners shall name a day for canvassing the vote and if it appears that a majority or more of the votes cast are "Dissolution—

Yes," the board shall declare the district dissolved.

(2) The board of commissioners shall thereupon constitute a board of trustees who shall dispose of the property of the district and pay its debts and obligations or procure releases thereof.

(3) In case any irrigation district assumes all debts and obligations of the water district and undertakes to continue to furnish water for domestic and municipal uses to its inhabitants pursuant to the plan of dissolution and liquidation and the consent of all the known holders of valid indebtedness against the water district has been obtained, or provision has been made in the plan for payment of the nonassenting holders, the board of trustees may convey to the irrigation district all assets of the water district as described in ORS 264.610 after paying and discharging the debts and obligations to, or procuring releases from, the nonassenting holders.

(4) Upon completing liquidation of the water district, the board of trustees shall execute, under oath, a signed statement that the corporation has been dissolved and its affairs liquidated, which statement shall be filed in the office of the county clerk of the county. [Amended by 1969 c.666 §42]

#### WITHDRAWAL OF TERRITORY

**264.710** [1953 c.683 §1; repealed by 1969 c.666 §70]

**264.715 Petition for withdrawal.** At any time after two years from the date of formation, landowners resident within a district may petition the county board of the county wherein the district was incorporated for the withdrawal of a designated and described contiguous area lying along the boundary of and included in the district. [1953 c.683 §2; 1969 c.666 §43]

**264.720 Deposit to cover publication and election expenses; notice of filing petition; copies of petition.** At the time of filing the petition, the petitioners shall deposit with the county clerk a sum of money sufficient to defray all costs of publication and of holding an election in the district remaining should the designated area be withdrawn and shall cause notice of the petition filing to be given in writing to the secretary of the board of commissioners of the district. The petitioners shall furnish the secretary with a copy of the petition as filed within five days after it is filed.

[1953 c.683 §3; 1969 c.666 §63]

**264.725 Fixing a time and place for hearing the petition; notice of hearing.** (1) If it appears to the satisfaction of the county board that the petition has been signed by 10 percent or 100, whichever is less, of the owners resident within the district, it shall fix a time and place for hearing of the petition. The time of hearing shall not be less than 31 nor more than 50 days from the date of receipt of the petition.

(2) At least 10 days prior to the hearing the county board shall publish notice of the hearing by two insertions in a newspaper of general circulation in the district.

[1953 c.683 §4, 5; 1969 c.666 §44]

**264.730 Order of withdrawal if no remonstrance made or filed at hearing.** If at the time and place set for hearing the petition no written or oral objection or remonstrance is made or filed, the county board shall enter an order withdrawing the designated and described contiguous area from the district.

[1953 c.683 §6; 1969 c.666 §45]

**264.735 Order for election if remonstrance made or filed.** If at the time and place of the hearing any remonstrance is filed or objections made orally or in writing to the withdrawal of the area from the district, the county board shall call an election in the district upon the question of the withdrawal of the area.

[1953 c.683 §7; 1969 c.666 §46]

**264.740 Election procedure; ballot.** The election shall be held in the same manner and under the same conditions and restrictions as provided by law for an annual election of a district, except the ballots for the withdrawal election shall state in substance the following proposition:

"Shall that portion of (insert name of domestic water supply district) comprising the following area, to wit: (insert description of premises to be withdrawn) be withdrawn from said district?"

"Yes"

"No"

[1953 c.683 §8; 1969 c.666 §64]

**264.745 Election results; order of withdrawal.** If at the election the majority of votes cast favor withdrawal of the area, the county board shall enter an order upon its records withdrawing the area from the district. If at the election the majority of votes cast are against withdrawal, the

county board shall cause the results of the election to be entered upon its records.

[1953 c.683 §9; 1969 c.666 §47]

**264.750 Liability of withdrawn territory for debts of district.** The designated and described contiguous area withdrawn shall, from the date of entry of the withdrawal order, be free from assessments and taxes levied by the district, except that the withdrawn area shall be so taxed for its proportionate share of any bonded or other indebtedness existing at the time of the order. The proportionate share shall be based on the assessed valuation of all the property contained in the entire district immediately prior to the withdrawal as such valuation is shown on the books of the county assessor as of the time of the tax levy.

[1953 c.683 §10; 1969 c.666 §65]

## EMPLOYES' RETIREMENT SYSTEM

**264.810 Employes' retirement system authorized.** (1) A district may establish an employes' retirement system. The board of commissioners may enter into agreements necessary to establish the system and carry out the plan and may agree to modifications of such agreements from time to time.

(2) The retirement plan may provide for retirement benefits measured on the basis of services rendered or to be rendered by an employe, either before or after the date on which such employe first becomes a member of the retirement plan. The retirement plan may provide for a minimum of years of service and a minimum and maximum age of retirement for the employe.

[1965 c.348 §2; 1969 c.666 §48]

**264.820 District to budget for retirement system.** The district may budget and provide for payment into the fund of the retirement plan an amount sufficient:

(1) To provide on an actuarial reserve basis the amortized level premium cost of the retirement benefits which, under the provision of the retirement system, are to be provided by the district to its employes who attain the retirement age or retire in accordance with the terms of the retirement plan.

(2) To meet the actuarially computed costs of retirement benefits measured on the basis of services rendered or to be rendered by an employe before or after the date on which such employe becomes a member of the retirement plan.

[1965 c.348 §3]

**264.830** **Employe contributions.** The district may collect, as a contribution from any employe, that percentage of the salary received by the employe which is necessary to fund on an actuarial reserve basis the cost of retirement benefits which the employe is required to provide pursuant to the provisions of a retirement plan.

[1965 c.348 §4]

**264.840** **Limitation on membership.** Nothing in this chapter authorizes the district to budget, provide for payments or collect contributions to fund retirement benefits for an individual who is not in the employment of the district at the time of the crea-

tion of a membership status under a retirement plan.

[1965 c.348 §5]

### PENALTIES

**264.990** **Penalties.** Violation of any provision of ORS 264.346 is punishable, upon conviction, by a fine of not less than \$10 nor more than \$100 for each such offense. Each day's refusal to remove fire hazards after notice by the inspecting officer to the owner or occupant of the premises whereon such hazard exists shall constitute a separate offense.

[1953 c.206 §5]

**PUBLIC ORGANIZATIONS FOR COMMUNITY SERVICE**

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**CERTIFICATE OF LEGISLATIVE COUNSEL**

Pursuant to ORS 173.170, I, Robert W. Lundy, 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, 1969.

Robert W. Lundy  
Legislative Counsel