Chapter 331

1969 REPLACEMENT PART

School District Elections

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GENERAL PROVISIONS

331.002 Application of election laws to school elections; duties of school election board. Unless the context clearly indicates otherwise, the provisions of ORS 260.210 to 260.390 and 260.610 to 260.760 pertaining to elections shall apply to all school district elections and, in so far as practicable, the general duties of a school election board shall conform to the election board duties fixed by the general election laws of the State of Oregon.
[1965 c.100 §106]

331.005 [1957 c.310 §1; repealed by 1965 c.100 §456]

331.010 Notice of elections. (1) Except as provided in ORS 294.421 (Local Budget Law) and 331.140, and notwithstanding any other provision of law, notice of school elections, school district organization and merger, school district budgets and school district purchasing shall be given only as provided in this section.

(2) The clerk of any school district in which a newspaper is published shall, whenever notice is required, publish the notice in one or more of the newspapers published in the district and having a general circulation in the district. If no newspaper is published in the district, the notice shall be published in some newspaper designated by the district school board and having circulation in the school district. The notice shall be published in at least two issues of each designated newspaper. The first publication shall be not more than 25 days nor less than 15 days preceding the election and the last publication shall be not more than 14 days nor less than eight days preceding the election.

(3) At least 15 days prior to an election, the clerk shall, in school districts with a population of less than 100,000, according to the latest federal census, also post the notice in at least three conspicuous public places in the district and also at each polling place in the district.

(4) The clerk shall record in his minute book the time and place of posting or publishing each of the notices required by subsection (1) of this section and the content of such notices.
[Amended by 1957 c.310 §9; 1961 c.10 §1; 1965 c.100 §107]

331.015 [1963 c.273 §2; repealed by 1965 c.100 §456]

331.020 Qualifications of school voters; absentee voting. (1) Any person who is a registered voter in a precinct or part of a precinct within a school district 30 days prior to an election and who has continuously resided in the school district six months immediately prior to the election shall be qualified to vote on any matter at the election.

(2) A qualified voter may vote as an absent voter, as defined in subsection (1) of ORS 253.010, in the same manner as is provided in ORS 253.010 to 253.150. For purposes of the election the functions performed by the clerk under ORS 253.010 to 253.150 shall be performed by the school clerk.
[Amended by 1961 c.361 §1; 1965 c.100 §108]

331.030 List and roster of voters. (1) The district school board shall obtain or cause to be prepared an official roster of registered voters of the district and deliver the roster to the judge of the election.

(2) On request of the district school board, the county clerk shall prepare a list or lists of names and addresses of the registered voters of the precinct or precincts that are within the boundaries of the school district or overlap such boundaries, who were registered at least 30 days prior to such election. The county clerk may make a reasonable charge for preparing such lists, and the district school board is authorized to pay for the lists from school district funds, but such payment shall not be in excess of the statutory fee.

(3) Voters at the school election shall sign the official roster.
[Amended by 1963 c.273 §3; 1965 c.100 §109]

331.040 Challenging voters; method of tallying vote of challenged voter; determination of qualification of voter. (1) The judge of an election or any qualified voter may challenge any person who offers to vote at such election. The judge of the election shall challenge any person who offers to vote and whose name does not appear on the official roster provided under ORS 331.030.

(2) In case a person has been challenged, the judge of the election shall administer to or require of each person challenged an oath or affirmation that he will answer truly all questions propounded to him touching on his qualifications as a voter at the election. After administering the oath or affirmation, the judge shall interrogate the person challenged respecting his place of residence and

length of residence in the district. If the person so challenged completes and signs the form prescribed in subsection (3) of this section, he shall be allowed to vote. The ballot of the challenged voter shall be captioned on its face "challenged and sworn (or affirmed)."

(3) The district school clerk shall obtain and deliver to the judge of an election a supply of challenged voter envelopes on which shall be printed a form substantially as follows:

I, ..., (under oath),
(Insert name)
do state (or affirm) that I am a registered voter of school district No. ....., of..... County, Oregon, that I have been a registered voter within the district for not less than 30 days prior to this election and that I have been a resident of this school district continuously for six months immediately prior to this election.

Subscribed and sworn to (or affirmed) before me on this ..... day of....., 19.....

The form shall provide a space for the signature of the judge before whom the statement was made, the signature and address of the challenged voter, the reason for the challenge and the name of the person making the challenge.

(4) The challenged voter after he has marked his ballot shall place it in the challenged voter envelope described in subsection (3) of this section, seal the envelope and deposit it in the ballot box. The ballots of challenged voters shall be counted by the counting board and shall be delivered to and held by the district school clerk.

(5) The district school clerk shall consult with the county clerk and such other public officials as may be necessary to determine whether the challenged voter is in fact qualified to vote in the school election. If the voter is qualified to vote in the school election, no further action shall be taken. However, if the district school clerk finds that the challenged voter is not qualified to vote in the election, and the number of illegal votes taken from the person elected would reduce his legal votes below the number of legal votes given to some other person for the same office or in the case of a measure the number of illegal votes taken from the approval or rejection would change approval to rejection or rejection to approval, the district school clerk shall notify the district attorney who shall promptly file a petition with the clerk of the circuit court for the county in which the certificate of election or proclamation is or will be issued. The petition shall request the court to issue an order to show cause why the said election or approval or rejection of a measure should not be set aside and shall specify the persons whose votes are contested.

[Amended by 1963 c.273 §4; 1965 c.100 §110; 1967 c.609 §13; part renumbered 331.045]

331.045 Court review; subpenas; judgment affirming or setting aside election. (1) If the circuit court upon hearing determines that the order to show cause should issue, the court shall cause a notice and copy of the order to be served in the same manner as a summons issued out of the circuit court on all contested voters named in the petition directing them to appear and answer not less than three nor more than seven days after the date of said order.

(2) The circuit court shall fix a time, not more than 20 days after the return date fixed in the notice, for the hearing by the circuit court of the contest proceeding, and shall give written notice of such hearing at least five days prior thereto to each party to the proceeding. The contest proceeding shall take precedence over all other business on the circuit court docket, and shall be disposed of with all convenient dispatch.

(3) Each party to the contest proceeding is entitled to subpenas and subpenas duces tecum, as in civil cases. The circuit court shall hear and determine the proceeding without a jury, and the practice and procedure otherwise applicable to civil cases shall govern the proceeding.

(4) Upon the conclusion of the contest proceeding hearing under this section, the circuit court shall render a judgment affirming or setting aside the election of the person to the office or the approval or rejection of the measure. If the judgment sets aside the election of a person, it shall also declare as elected to the office in question the other person who received the highest number of votes at the election and whose election does not appear to be subject to being set aside under this section, or, if there is no such other person, that the office is vacant. If the judgment sets aside the approval of a measure approved, unless it appears that such approval is subject to being set aside under this section, in which case the judgment shall declare the measure rejected.

[Formerly part of 331.040]

331.050 [1961 c.72 §1; repealed by 1965 c.100 §456]

331.060 Limitations on elections where boundary change pending. During the period following an election or other action resulting in a boundary change in a school district and prior to the date the change becomes effective, the district or districts from which an area will be separated as a result of the boundary change may hold elections for all legal purposes but the voters in the area to be separated as a result of the boundary change shall not be qualified to vote in any such election. The election on any measure in such district or districts shall not affect or encumber the area to be separated.
[1965 c.100 §111]

ELECTIONS IN COMMON AND UNION HIGH SCHOOL DISTRICTS

331.080 Election procedure generally. (1) Common school and union high school districts with a population of less than 300,000 persons according to the latest federal census, shall elect directors for each district on the first Monday in May to serve as provided by law. In all common school and union high school class districts with a population of less than 300,000 persons such annual and all special elections, including bond elections, shall be by ballot. The polling place shall be open from 8 a.m. until 8 p.m. However, if the election is held in conjunction with a state-wide primary or general election the polling places shall be open during the hours prescribed for polling places for the state-wide election. The ballots shall be uniform, and shall be provided by the district school board.

(2) The annual school election and all other regular or special school elections shall be held at a place or places determined by the district school board which may subdivide the district into school election precincts for the holding of all elections within the district, and may change and alter such precincts as often as the occasion may require.

(3) The district school board shall appoint one election board for each school election precinct in the district. Such election boards shall be comprised of one judge and at least two clerks who shall be appointed not less than 15 days prior to the date of any school election. The judges and clerks shall be qualified voters of the school district. If a vacancy occurs in any election board subsequent to appointment and prior to the election, the district school clerk shall appoint a qualified person to fill such vacancy. When the polls are closed each election board shall certify and report the results to the district school board who shall in turn canvass the vote and report the results to the intermediate education district board and, in cases of tax or bond elections, also to the county treasurer.
[Formerly 331.320; amended by 1967 c.605 §5; 1967 c.609 §6]

331.090 Director nominations and ballots; local school committee. (1) The name of any qualified voter who resides in the district and, if the district is zoned, in a zone from which nominating petitions are accepted shall be placed on the ballot as a candidate for the office of school director of a common school district or union high school district upon filing at the district office, at least 30 days prior to the date of the election. If the nomination is for an at-large position, a certificate of nomination shall be signed by at least 10 qualified voters or at least three percent of the voters voting for the office of school director at the last annual school election, whichever number is greater; however, no more than 50 such signatures shall be required. If a district is zoned for election of directors, the certificate of nomination shall be signed by qualified voters residing in the zone from which the director is to be elected and shall be sufficient if it bears 25 such signatures. However, unless an acceptance of nomination by the nominee is filed at the district office at least 30 days prior to the date of such election, such nomination is void.

(2) The district school board of the common or union high school district shall provide uniform ballots containing the names of all candidates for the office of director whose certificates of nomination have been made and filed as provided in this section. All candidates shall be elected at large in the district. At the end of the list of candidates nominated there shall be added a number of blank spaces equal to the number of directors to be elected, in which the voter may write the names of persons not printed on the ballot for whom he wishes to vote.

(3) The candidate for the office of director of a school district who receives the plurality of the votes shall be elected. A tie at an election of school officers shall be decided by lot.

(4) Candidates for the local school committees provided for in ORS 330.665 and

333.280 shall be nominated in the same manner as school directors except that the certificate of nomination shall be signed by qualified voters of the subdistrict or attendance area and shall be sufficient if it bears 10 such signatures.

[Formerly 331.330; amended by 1967 c.95 §1; 1969 c.133 §1; 1969 c.202 §4]

331.095 Zoning of districts for nomination of board members. (1) In common school districts all directors shall be nominated from zones, if zoning is approved by the qualified voters voting at an annual school election.

(2) The election may be requested by petition or if a majority of the members of the district school board decide that zoning would better serve the interests of the qualified voters of the district.

(3) A petition for zoning must be signed by a number of qualified voters equal to 10 percent or at least 1,000 persons, whichever is the lesser, of the qualified voters voting for the office of school director at the last annual school election in the district.

(4) A district that has been zoned under this section may abolish zones in the same method as they were established.

(5) Nothing in this section applies to school districts with more than 300,000 population.

[1969 c.202 §1]

Note: ORS 331.095 to 331.105 were not added to and made a part of ORS chapter 331 by legislative action.

331.097 Establishing and revising zones. If the district is zoned, the district school board shall divide each common school district into the necessary number of zones as nearly equal in population, as shown by the latest federal census, as practicable, taking into account attendance areas where possible. The board shall readjust zone boundaries if necessary to comply with this section, upon any change in the boundaries of the district.

[1969 c.202 §2]

Note: See note under ORS 331.095.

331.102 Assuring zone representation. (1) A school board director shall be eligible for reelection in an election subsequent to zoning under ORS 331.095 only if he resides in a zone which is not represented on the board.

(2) Any vacancy occurring on a school board before all zones are represented thereon shall be filled from among residents in an unrepresented zone, the zone to be determined by the board by lot.

[1969 c.202 §3]

Note: See note under ORS 331.095.

331.105 Position numbers to be used for candidates in unzoned districts. (1) As used in this section:

(a) "District school clerk" means the district clerk appointed under ORS 332.511 or if no clerk is serving, the county clerk of the county in which the administrative office of the district is located.

(b) "School board member" means a school board member of a common or union high school district, an intermediate education district or an area education district.

(2) The positions of school board members, and their respective successors in office, shall be designated by numbers as Position No. 1, Position No. 2, and so on.

(3) In all proceedings for the nomination or election of candidates for or to the office of a school board member in school districts that are not zoned, every petition for nomination, declaration of candidacy, certificate of nomination, ballot or other document used in connection with the nomination or election shall state the position number of the position to which the candidate aspires, and his name shall appear on the ballot only for the designated position. Each voter has the right to vote for only one candidate for each position, and the candidate for each position receiving the highest number of votes for the position is considered nominated or elected, as the case may be.

[1969 c.359 §1]

Note: See note under ORS 331.095.

Sections 2 and 3 of chapter 359, Oregon Laws 1969, are temporary but are set forth for the user's convenience:

Sec. 2. The position numbers of school board members holding office on the effective date of this Act [August 22, 1969] in school districts that are not zoned, and their respective successors in office in the event of vacancies before the expiration of their terms, shall be based upon the number of votes received by each elected school board member or the number of votes received by the elected predecessor in office of each appointed school board member. The school board member holding the office receiving the highest number of votes shall be assigned Position No. 1, the school board member holding the office receiving the second highest number of votes shall be assigned Position No. 2, and so on.

Sec. 3. As soon as possible after the effective date of this Act [August 22, 1969], the district school clerk for school districts that are not zoned shall assign, in the manner provided in section 2 of this Act, position numbers to the school board members. The district school clerk shall furnish a certified statement to each school board member of the position number assigned to him. A copy of the statement shall be filed with the county clerk and the administrative office of the school district.

ELECTIONS IN DISTRICTS WITH 300,000 OR MORE POPULATION

331.110 Manner of holding elections. In school districts having a population of 300,000 or more according to the latest federal census, elections upon all matters which may be placed before the qualified voters of such districts shall be held as provided in ORS 331.120 to 331.180.
[Amended by 1965 c.100 §117; 1967 c.605 §6]

331.120 Election of directors; applicability of election statutes. At each primary election, school directors in districts of 300,000 or more according to the latest federal census shall be elected for a term of four years to succeed the directors whose terms of office expire on June 30 of that year. All such elections of school directors shall be held subject to the provisions of ORS 251.015 to 251.090, 255.031 to 255.061, 255.990, 260.010 to 260.060, 260.067 to 260.090, 260.110 to 260.390 and 260.410 to 260.530, so far as applicable.
[Amended by 1957 c.608 §230; 1965 c.100 §118; 1967 c.605 §7]

331.130 Initiative, referendum, recall and submissions to voters. (1) The powers of initiative, referendum and recall reserved to the people of common school districts having a population of 300,000 or more according to the latest federal census by sections 1 and 1a, Article IV and section 18, Article II of the Oregon Constitution may be exercised at any primary election, any general election or any special election called as provided in ORS 331.140.

(2) There may be submitted at any such election to the qualified voters of such districts the matter of recall of school directors, questions as to the issuance of bonds, the levy of taxes for the support of public schools which may not be levied without the affirmative vote of the people, and any other questions concerning the public schools which may be submitted to the qualified voters of such districts under the powers of initiative and referendum.

(3) The provisions of ORS 331.110 to 331.180 shall be liberally construed to the end that the power to submit matters described in subsection (2) of this section to the qualified voters of such districts at elections conducted in compliance with the provisions of ORS 331.110 to 331.180 shall be sustained.
[Amended by 1965 c.100 §119; 1967 c.605 §8]

331.140 Special elections. The district school board of common school districts having a population of 300,000 or more according to the latest federal census may call a special election at any time upon questions as to the issuance of bonds, the levy of taxes which may not be levied without the affirmative vote of the people, the recall of directors, and any other school questions which may be submitted to the qualified voters of such districts. A special election may be called to be held in conjunction with any other special election held in the district in such year.
[Amended by 1961 c.361 §2; 1965 c.100 §120; 1967 c.605 §9]

331.150 Questions submitted by resolution of school board; questions involving increase of tax levy. Any of the questions mentioned in ORS 331.130 and 331.140 to be submitted to the qualified voters of any common school district having a population of 300,000 or more according to the latest federal census shall be submitted by resolution of its district school board. The resolution shall specify the questions to be voted upon and the date for holding any special election. A certified copy of the resolution shall be transmitted to the registrar of elections for the county wherein such district is located not less than 35 days before the date of the election. The district school board may adopt any such resolution and shall adopt the resolution when petitioned by the requisite number of qualified voters of the district. If the question to be voted upon is to increase the amount of the tax levy in such district over the amount limited by the Oregon Constitution except on vote of the people, the resolution, in addition to stating the amount of the increase, shall contain a statement of the reasons therefor in not to exceed 100 words. The resolution shall substitute for the certificate referred to in ORS 310.330 to 310.395.
[Amended by 1961 c.361 §3; 1965 c.100 §121; 1967 c.605 §10]

331.160 Notice of election; ballots; consolidation of precincts; canvass and return of votes. (1) The registrar of elections of the county in which a common school district having a population of 300,000 or more according to the latest federal census is located shall give notice of the election in the manner provided by ORS 331.010 and shall provide uniform printed ballots which shall contain the names of each candidate for the office of school director whose certificate of

nomination has been duly made and filed as provided in ORS 331.170 and the ballot title and text of all measures submitted to the qualified voters. The election and the canvass and return of votes shall be conducted under the direction of the registrar of elections in the same manner and under the same penalties as prescribed by law relative to county elections.

(2) In school district special elections the registrar is empowered to consolidate election precincts and to reduce the number of election boards within the district and the number of clerks on each election board and the number of voting booths at the various polling places to the extent and number which he considers necessary to conduct the special election and to designate the chairman and clerks of each election board from the membership of the regular precinct boards within the district. In consolidating election precincts and reducing the number of election boards within the district under this section, the registrar of elections shall provide for not less than 200 polling places and not less than 200 election boards.

[Amended by 1961 c.10 §2; 1965 c.100 §122; 1967 c.605 §11]

331.170 Nomination of directors. The name of any person qualified under ORS 332.015 shall be placed on the ballot as a candidate for the office of school director in districts of 300,000 or more according to the latest federal census upon the filing with the registrar of elections of the county in which the school district is located, at least 70 days prior to the date of the primary election, a certificate of nomination signed by at least two percent of the qualified voters within the territorial limits of such school district voting for the office of school director at the last election at which directors were elected. In lieu of such petition, the name of any person qualified to be a school director shall be placed on the ballot as a candidate for such office upon the payment to the registrar of elections of a $10 fee and the filing with the registrar of a certificate of nomination signed by at least 300 qualified voters residing within the territorial limits of the district. However, unless the nominee files with the registrar of elections an acceptance of his nomination at least 70 days prior to the date of such election, the nomination is void.

[Amended by 1965 c.100 §123; 1967 c.605 §12]

331.180 Election costs. The school district having a population of 300,000 or more according to the latest federal census shall pay to the county treasurer the actual cost of printing ballots and tally sheets for each election conducted under ORS 331.110 to 331.180 and the cost of checking signatures on certificates of nomination, together with such proportionate part of the general expenses of such election as may be agreed upon by the district school board and the board of county commissioners. If the election is a special election not conducted in conjunction with any other election, then the school district shall pay the entire cost thereof.

[Amended by 1965 c.100 §124; 1967 c.605 §13]

331.310 [Repealed by 1965 c.100 §456]

331.320 [Amended by 1955 c.386 §3; 1957 c.622 §1; 1965 c.100 §12; renumbered 331.080]

331.330 [Amended by 1955 c.386 §4; 1957 c.622 §2; 1965 c.100 §113; renumbered 331.090]

331.340 [Repealed by 1955 c.386 §8]

331.350 [Amended by 1955 c.386 §5; repealed by 1965 c.100 §456]

331.360 [Repealed by 1955 c.386 §8]

RECALL ELECTIONS

331.410 Recall of school directors. Every district school board director, including members of intermediate education district boards, is subject to recall by the qualified voters of the school district for which he is elected or appointed.

[Amended by 1965 c.100 §114]

331.420 [Amended by 1955 c.234 §1; 1965 c.100 §115; repealed by 1965 c.172 §7]

331.425 Recall petitions. (1) The petition for the recall of a school director shall be filed with the person with whom petitions for nomination of a school director are filed.

(2) The petition shall contain the name of the school director whose recall is demanded and a statement in 200 words or less of the reasons why the recall is demanded.

(3) The petition must be signed by a number of qualified voters of the district equal to 15 percent of the number of children of school age in the district, as determined by the latest school census, provided, however, that no greater number of qualified voters shall be required to sign the petition than is required by the provisions of section 18, Article II of the Constitution of the State of Oregon.

(4) The petition shall be verified by the oath of a qualified voter of the district, showing that each signer of the petition is a qualified voter of the district and that the signatures on the petition are genuine.
[1965 c.172 §1]

331.430 [Amended by 1965 c.100 §116; repealed by 1965 c.172 §7]

331.435 Persons ineligible to circulate petitions. No school superintendent, supervisor, director, clerk, principal or teacher employed by the district or any student enrolled in a school of the district shall sign or circulate any petition for the recall of a school director of the district.
[1965 c.172 §2]

331.440 [Amended by 1955 c.234 §2; 1957 c.310 §10; repealed by 1965 c.100 §456]

331.445 Limitations on recall. (1) No petition for the recall of a school director shall be accepted for filing unless the director against whom the petition is filed has served at least six months of the term of office for which he was elected.

(2) After one recall election has been held, no further recall petitions shall be accepted for filing against the same director during the term of office for which he was elected unless the petitioners pay the school district the amount of its expenses for the preceding recall election.
[1965 c.172 §3]

331.450 [Amended by 1955 c.234 §3; repealed by 1965 c.172 §7]

331.455 Filing of petition does not make director ineligible to serve. A school director is not ineligible to continue performance of his official duties by reason of his being the public officer against whom a recall petition has been filed.
[1965 c.172 §4]

331.465 Resignation of director before election; election procedure. (1) If the school director resigns his position within five days after the date on which the petition is filed, the resignation shall take effect on the day it is submitted. If the director does not resign, a special election shall be called to be held in the district within 25 days of the date on which the petition is filed to determine whether the school director shall be recalled.

(2) As nearly as is practicable and in a manner consistent with section 18, Article II of the Oregon Constitution, the election procedure and the method of determining the result shall be the same as is provided by law for the election of school directors in the district.

(3) The ballot used in the recall election shall contain a statement of not more than 200 words giving the reasons for demanding the recall and a statement of not more than 200 words giving the director's justification of the conduct of his office.
[1965 c.172 §5]

331.510 [Amended by 1957 c.622 §3; 1963 c.34 §1; repealed by 1965 c.100 §456]

331.520 [Repealed by 1965 c.100 §456]

331.530 [Repealed by 1965 c.100 §456]

331.540 [Repealed by 1965 c.100 §456]

331.550 [Repealed by 1965 c.100 §456]

331.990 [Repealed by 1965 c.100 §456]

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