TITLE 24

PUBLIC ORGANIZATIONS FOR COMMUNITY SERVICE

Chapter 261. People's Utility Districts
264. Domestic Water Supply Districts
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Chapter 261

1971 REPLACEMENT PART

People's Utility Districts

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GENERAL PROVISIONS

261.005 Short title. This chapter shall be known as the People's Utility District Law.

261.010 Definitions. As used in this chapter, unless otherwise required by the context:

(1) "People's utility district" or "district" means an incorporated people's utility district, created under the provisions of this chapter.

(2) "Municipality" means an incorporated city or town with a council or legislative body.

(3) "Board of directors," "directors" or "board" means the governing body of a people's utility district, elected and functioning under the provisions of this chapter.

(4) "State Engineer" means the duly appointed and acting State Engineer of Oregon.

(5) "Parcel of territory" means a portion of unincorporated territory.

(6) "Separate parcel of territory" means unincorporated territory that is not contiguous to other territory that is a part of a district or that is described in a petition filed with the State Engineer in pursuance of the provisions of this chapter, but when a proposed district includes territory in more than one county, the contiguous territory in each such county shall be considered as a separate parcel of territory.

(7) "Utility" means a plant, works or other property used for development or transmission of water for domestic or municipal purposes, waterpower or electric energy, but transmission of water shall not include water for irrigation or reclamation purposes, except as secondary to and when used in conjunction with a hydroelectric plant.

(8) "Voters' petition" means a petition signed by the required number of qualified voters.

(9) "Voters' preliminary petition" means a petition addressed to the State Engineer, containing the signatures of qualified voters equal to not less than five percent of the greatest number of votes any candidate received for judge of the Supreme Court at the last preceding biennial election within the boundaries of the parcel of territory or municipality described in such petition, and requesting the State Engineer to make a preliminary investigation as to the advisability of creating the proposed district described therein, or the annexation of the parcel of territory or municipality, or the consolidation of two or more districts described in such petition.

(10) "Voters' final petition" means a petition addressed to the State Engineer, containing the signatures of qualified voters equal to the number required in a preliminary petition setting forth and particularly describing the boundaries of the parcel of territory, municipality and district, or any of them, referred to therein, which description shall conform to that of the voters' preliminary petition, or to such modifications thereof as are recommended by the State Engineer, and requiring the State Engineer to call an election to be held within the boundaries of the parcel of territory, municipality and district, or any of them, for the formation of a district, the annexation of a parcel of territory or a municipality to a district, or the consolidation of two or more districts. The five percent may or may not include signatures contained in the voters' preliminary petition.

(11) "Municipal petition" means a petition of a municipality, or of a district organized under the provisions of this chapter.

(12) "Municipal preliminary petitions" means a petition of a municipality or of a district organized under the provisions of this chapter, addressed to the State Engineer, requesting the State Engineer to make a preliminary investigation as to the advisability of creating the district described therein, or the annexation of a parcel of territory or municipality to a district, or the consolidation of two or more districts.

(13) "Municipal final petition" means a petition of a municipality, or of a district organized under the provisions of this chapter, requesting the State Engineer to call an election to be held within the boundaries of the parcel of territory, municipality and district, or any of them, for the purpose of creating a district, the annexation of a parcel of territory or a municipality to a district, or the consolidation of two or more districts.

(14) "Qualified voter" means a registered voter residing in the precinct where registered.

(15) "Sponsors" means a committee, association, corporation or municipality, responsible for originating petitions.

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

[Amended by 1961 c.224 §10]

261.015 Basis of computing percentage of petition signatures. When the boundaries described in any petition include a part of a precinct, the vote of the entire precinct shall be used as a basis in computing the percentage of signatures required on voters' petitions.

261.020 Election officials where election held with other election. In case any election under this chapter, whether called by the State Engineer or by the board, is held concurrently with an election in a municipality or county containing in whole or in part the same territory as the district, the judges and clerks of such election shall serve as election officials of the district election.

261.025 Statutory provisions cumulative. The provisions of this chapter are additional and cumulative to the provisions of any other law now or hereafter existing for the holding of elections in districts.

261.030 Chapter not to interfere with existing municipally owned utilities within district. Nothing contained in this chapter authorizes or empowers the board of directors of any district to interfere with or exercise any control over any existing utility owned and operated by any municipality in the district unless by consent of the city council or the governing body of the municipally owned plant, when the control of the municipally owned plant is vested in a governing body other than the city council or governing body of the municipality.

261.035 Charter provisions of cities and towns not affected; municipality not prohibited from acquiring plant. Nothing in this chapter modifies in any manner any charter provisions of any incorporated city or town, or prohibits any municipality from acquiring and operating its own plant.

261.040 Withdrawal from petition prohibited. After a petition has been filed with the State Engineer, no person may withdraw his name therefrom.

261.045 Procedure in absence of specific provision. Where the procedure for formation of a district, annexation of territory to a district, consolidation of two or more districts, issuance of bonds and levying and collection of taxes, holding of elections or any other matter in connection with organization or operation of utility districts is not specifically provided for, any suitable method and proceeding, or either, may be adopted which may appear most conformable to the spirit of this chapter and the provisions of section 12, Article XI, Oregon Constitution.

261.050 Taxation of district property. All property, real and personal, owned, used, operated or controlled by any people's utility district, in or for the production, transmission, distribution or furnishing of electric power or energy or electric service for or to the public, shall be assessed and taxed in the same manner and for the same purposes, and the district and the directors and officers thereof shall be subject to the same requirements, as are provided by law in respect to assessment and taxation of similar property owned, used, operated or controlled by private corporations or individuals for the purpose of furnishing electric power or energy or electric service to the public.

FORMATION

261.105 Authority to create districts; vote necessary to create district; vote necessary for annexation and consolidation. (1) People's utility districts may be created as provided in this chapter. When so created, they may exercise all powers conferred by this chapter.

(2) When a majority of all votes cast, at an election within the boundaries of any proposed district to determine whether or not the district is to be formed, favor such formation, the district shall be created.

(3) In any election to annex a municipality or separate parcel of territory to an existing district, or to consolidate two or more existing districts, an affirmative vote of a majority of the qualified voters of each municipality or separate parcel of territory or district voting to annex or consolidate, shall be required to authorize the annexation or consolidation.

261.110 Areas includable in district; description of boundaries of district in petition for election. (1) People's utility districts may consist of territory, contiguous or otherwise, within one or more counties, and may consist of a municipality or municipalities, with or without unincorporated territory.

(2) Petitions asking that an election be

held to determine whether or not a district shall be created shall set forth and particularly describe the boundaries of the proposed people's utility district, and shall state that in the event the people within any one or more municipalities or parcels of territory within the proposed district vote against its formation, then that portion of the district which voted in favor of organization of a people's utility district may, upon recommendation of the State Engineer, be organized into such district.

(3) No municipality shall be divided in the formation of any such district.

(4) The name of any municipality shall be a sufficient description of the boundaries thereof.

(5) When any municipality or separate parcel of territory voting at a formation election casts a majority vote against formation of the district, the municipality or separate parcel of territory shall not be included in any district formed as a result of the election. If the State Engineer so recommends, any municipalities, or separate parcels of territory, or both, which voted in favor of formation of the proposed district at the election may be formed into a district with reformed boundaries in agreement with the recommendation of the State Engineer.

(6) No municipality that owns and operates or owns or operates a publicly owned utility for development or distribution, or both, of electric energy or the territory it serves within or without the boundaries of such municipality at the time of a proposed formation of a people's utility district shall be included in any election for such formation unless the inclusion is agreed to at an election by the legal voters of such municipality.

(7) No entire township, except when needed for location of plant or impounding purposes, or both, shall be included in formation of any district, unless the township contains not less than 10 qualified voters. No portion of any township in excess of six sections shall be included, unless the portion contains a proportionate number of qualified voters.

261.115 Contents of voters' preliminary and final petitions; verification. All voters' preliminary petitions and voters' final petitions shall contain at the top a statement of whether or not it is a voters' preliminary petition or a voters' final petition, and thereunder, substantially the following language, to wit:

WARNING

It is a felony for anyone to sign this petition with any name other than his own, or knowingly to sign his name more than once to this petition, or to sign this petition when he is not a qualified voter.

After the warning shall follow a statement as to whether or not the petitioners are desirous of forming a utility district, or to annex territory to an existing utility district, or to consolidate two or more existing utility districts, the description of the territory sought to be included therein, the name by which the utility district is to be known and such other information not exceeding 500 words as may be required by the State Engineer. The statement shall be printed on each page. There shall be left underneath the statement sufficient space for 20 signatures, and opposite the name of each signer, a space for the residence address of the signers of the petition and the number of their voting precinct. Each sheet of the petition containing signatures shall be verified in substantially the following form by the person who circulated the sheet, to wit:

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

I, ..., being duly sworn, say: That every person who signed this sheet of the foregoing petition signed his or her name thereto in my presence; that I believe that each of the signers has stated his or her name, residence and post-office address correctly, and that each signer is a qualified voter of this state, of the County of ....., and a resident of the territory described in the petition.

(Signature and post-office address of affiant.)

....

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

(The signature and title of the officer before whom the oath is made and his post-office address.)

261.120 Examination of preliminary petition; time and place of hearing; notice; adjournments. (1) Upon the filing with the State Engineer of any voters' preliminary petions and any municipal preliminary petitions, the State Engineer shall examine the petition, and if it is found to comply with this chapter, set a time and place for hear-

ing the petitions, not less than 30 days nor more than 60 days after the filing thereof, and shall proceed to make a preliminary investigation as to the matters referred to in the petitions.

(2) The State Engineer shall give notice of the hearing by publishing a notice giving the time and place of hearing, the notice to be published for not less than once a week for two successive weeks prior to the date fixed for hearing, in a newspaper of general circulation published in the territory. If there is no such newspaper published in the district, the State Engineer shall cause notices to be posted for not less than 14 days in not less than 10 public places in each separate parcel of territory thereof.

(3) The hearing on preliminary petitions may be adjourned from time to time, but not longer than 30 days in the aggregate from the date fixed by the State Engineer for the hearing of said petition.

261.125 Hearing proceedings and final report of State Engineer. (1) At the hearing the State Engineer shall make a report of his preliminary investigation and shall hear evidence in favor of and against formation of the district.

(2) Within 120 days after close of the hearing, the State Engineer shall make his final report to the sponsors on the advisability of creating the district, or the annexation of territory to an existing district, or the consolidation of two or more districts, and on any other matters contained in the preliminary petitions. This report shall be made a public document.

(3) If after the hearing, the State Engineer finds that any portion of territory has been included in a proposed district that should not have been, or that any territory has been omitted therefrom that should, in the interest of the public welfare, have been included, the State Engineer shall recommend in his final report such changes in the boundaries of the proposed district as he deems just and conducive to the public welfare.

261.130 Voters' final petition; amendment to conform to State Engineer's recommendation; calling election. (1) If, after the final report, the sponsors of the preliminary petition desire to proceed with creation of the proposed district, or annexation of territory to an existing district, or consolidation of two or more districts, or with regard to any other matters set forth in the petition, the sponsors may, within two years from date of the final report, file a voters' final petition with the State Engineer.

(2) If the State Engineer in his final report, recommends changes in the boundaries of the proposed district described in the preliminary petition, the sponsors of the preliminary petition shall in their final petition change the boundaries of the proposed district to conform to such recommendation. The same number of qualified voters shall be required on such final petition as upon any other final petition.

(3) The State Engineer shall examine the voters' final petition, and if it is found to comply with this chapter, call an election to be held at the next biennial regular general election and at no other time, within the boundaries of the parcel of territory or municipality described in the petition.

(4) At such election there shall be submitted to the qualified voters within the territory affected thereby the question of whether or not there shall be created a district as prayed for in the final petition, or the annexation of territory as prayed for, or the consolidation of two or more districts, or any other matters contained in the final petition.

261.135 Petitions of voters in parcel of territory or municipality; when district formed and proclamation issued. (1) When five percent or more of the qualified voters of a parcel of territory or municipality wish to create a district under this chapter, they shall file a voters' preliminary petition with the State Engineer.

(2) If final petitions are filed and an election held thereon, and a majority of the qualified voters of the district voting at the election vote in favor of formation, the district shall be duly and legally formed as a utility district and the proclamation in conformity with ORS 261.200 shall issue.

261.140 Petitions of voters in separate parcels of territory; hearings. (1) When five percent or more of the qualified voters of two or more separate parcels of territory desire to form a people's utility district, there shall be filed with the State Engineer a voters' preliminary petition for each of the separate parcels of territory.

(2) A hearing shall be held in each of the separate parcels of territory by the State Engineer, in like manner as provided in ORS 261.120, unless a lesser number of hearings at places of their mutual choice

are agreed upon by the sponsors of the petition and the State Engineer.

(3) After the State Engineer's final report, no election shall be called or held for formation of a utility district consisting of two or more separate parcels of territory unless a voters' final petition is filed with the State Engineer from each of the separate parcels of territory.

261.145 Resolution and petitions of municipality; procedure; section not to prevent petitions by voters of municipality. (1) Whenever the governing body of a municipality desires to create a utility district within the municipality, under this chapter, the legislative body of the municipality shall pass a resolution which shall set forth a desire of the municipality to proceed for formation of such a district. Such resolution shall be embodied in a municipal preliminary petition and filed with the State Engineer.

(2) Upon receipt of the municipal preliminary petition, the same procedure shall be followed by the State Engineer as in the case of the filing of a voters' preliminary petition, both regarding the preliminary investigation to be made by the State Engineer, the hearing to be held by him and the issuance of a final report to be made by him.

(3) If after receipt of the final report, the municipality desires to proceed with creation of the proposed district, it shall file a municipal final petition with the State Engineer, and thereupon the same procedure shall be followed by the State Engineer as prescribed in this chapter upon the filing of a voters' final petition.

(4) Nothing in this section prevents the qualified voters of such municipality from filing a voters' preliminary petition and a voters' final petition, and creating a utility district within the boundaries of the municipality, in accordance with the provisions of this chapter relative to formation of a utility district by voters of a parcel of territory.

261.150 Petitions of voters or governing body of municipality and voters of parcel of territory; procedure. Whenever the voters of a municipality or the governing body of the municipality and the voters of a parcel of territory desire to unite to form a utility district under this chapter, there shall be filed with the State Engineer either a voters' preliminary petition for the municipality or a municipal preliminary petition, and a voters' preliminary petition for the parcel of territory, and substantially the same procedure shall thereafter be followed as in the formation of a utility district consisting of two or more separate parcels of territory.

261.155 Petitions of voters or governing bodies of two or more municipalities; procedure. (1) Whenever the voters of two or more municipalities, or the governing bodies thereof, wish to unite to form a utility district, there shall be filed with the State Engineer either a voters' preliminary petition or a municipal petition from each of the municipalities.

(2) In formation of two or more municipalities into a utility district, there may be a voters' preliminary petition for one of the municipalities and a municipal preliminary petition for the other, or the petitions from both of the municipalities may be voters' preliminary petitions or municipal preliminary petitions, and similar final petitions may be filed.

(3) Substantially the same procedure shall be had in the formation of the district as in the formation of a district consisting of two or more separate parcels of territory.

261.160 Preliminary and final petitions both must be voters' or municipal. Whereever formation of a utility district is instituted by the filing of a voters' preliminary petition, the proceedings for formation must thereafter be by voters' final petitions, and there cannot be substituted for the voters' final petition a municipal final petition, or vice versa.

261.165 Petitions to annex parcel of territory to district. (1) Where at least five percent of the qualified voters of a people's utility district desire to annex a parcel of territory to the district, a voters' preliminary petition from the district, and also a voters' preliminary petition from the parcel of territory shall be filed with the State Engineer.

(2) Before an election can be held for annexation of the parcel of territory to the utility district, a voters' final petition from the utility district and from the parcel of territory shall first be filed with the State Engineer.

(3) This section does not prevent annexation of the territory to the district by filing a municipal preliminary petition and a municipal final petition by the district, and

a voters' preliminary petition and a voters' final petition for the parcel of territory.

261.170 Petitions to annex municipality to district; procedure. Any municipality not included in a utility district may be annexed to and become consolidated therewith, in substantially the manner provided in ORS 261.165 for annexation of a parcel of territory to an existing utility district. This annexation may be instituted and consummated:

(1) Through the filing of municipal preliminary petitions and municipal final petitions by the municipality and district; or

(2) By the filing of voters' preliminary petitions and voters' final petitions by the voters of the municipalities and districts; or

(3) By the filing of voters' preliminary petitions and voters' final petitions by the voters of the municipalities or district, and the filing of a municipal preliminary petition and municipal final petition by the district or municipality in which voters' preliminary petition and voters' final petition are not filed.

261.175 Procedure for consolidation of utility districts. Where the governing body of two or more utility districts, or the voters of two or more utility districts, or the governing body of one utility district and the voters of another utility district or districts, desire to unite and consolidate as one utility district, the procedure shall be substantially the same as the procedure described in ORS 261.170 for annexation of a municipality to an existing utility district.

261.180 Effect of annexation or consolidation on title to property and indebtedness. (1) Where a parcel of territory or municipality is annexed to an existing district, or two or more districts are consolidated, such annexation or consolidation shall not affect or impair the title to any property owned or held by any such district or districts, or of a municipality annexed, or in trust therefor, or any debts, demands, liabilities or obligations existing in favor of or against either the district or municipality so annexed.

(2) The acceptance of any indebtedness at the election to determine the question of annexation shall not include any indebtedness except such as has been incurred or assumed on account of development or purchase of a utility.

261.185 Notices of election; polling places. (1) Sixty days before any election provided for in ORS 261.105 to 261.180, the State Engineer shall notify the county clerk of each county in which the election is to be held, and supply such county clerk with official notice of the election. The notice shall state the time of the election and shall contain a clear, concise statement of the question to be voted upon, and any recommendation or statement, not exceeding 1,000 words, relative to that question that the State Engineer may deem expedient.

(2) The county court of each county in which any part of a proposed district is located shall publish or post, or both, a notice of the election in the same manner and for the same length of time as provided in ORS 261.120 for giving notice of hearings on voters' preliminary petitions. The notice by the county court shall contain a designation of the polling places in the election.

(3) The county court shall, in its discretion, designate the number and location of the polling places in the election; but all such designated polling places shall be located within the boundaries of the proposed district.

261.190 Qualifications, nomination, election of first board of directors; tenure. (1) At all elections where the creation of a district is authorized, five directors shall be elected to manage and transact the business of the district.

(2) Candidates for the office of director at such election must be qualified voters of this state, must have resided in the proposed district continuously for not less than two years next preceding the date of the election, and must continue to reside in the district during their term of office.

(3) Candidates shall be nominated by petition signed by not less than five qualified voters, which petition shall be filed with the State Engineer not less than 60 days before the date of the election.

(4) The State Engineer shall, upon expiration of the time for filing candidates' nomination petition, notify the county clerk of each county in which the proposed district is located of the names of the candidates for directors. Each county clerk so notified shall place the names upon the official ballot for the formation of the district.

(5) All qualified voters of the proposed

district shall have the right to vote for five candidates at the election.

(6) The five candidates receiving the highest votes shall be elected to serve until the first Monday in January after the biennial election following the election to create the district, and until their successors are elected and qualified.

261.195 Ballots; election officers; persons entitled to vote. (1) The ballot for any election to determine whether or not a district shall be created under this chapter, whether a parcel of territory or municipality shall be annexed to an existing district, or whether two or more districts shall be consolidated, shall be a separate ballot so prepared by the county clerk that the question submitted may be decided by a "yes" or "no" vote.

(2) The county court shall appoint one judge and two clerks for each polling place designated.

(3) Only qualified voters shall be authorized to vote at such election.

261.200 Canvass of votes; certification to State Engineer; proclamation. (1) The judges and clerks of election shall canvass and return the vote for organization of the district and for directors, or for annexation or consolidation, together with the ballots, to the county clerk of the county in which the election is held. The county clerk shall proceed to canvass the vote and certify to the State Engineer the number of votes cast at the election in favor of and against the matters voted upon.

(2) If a majority of votes cast at the election favor formation of the district, annexation of a parcel of territory or a municipality to an existing district, or consolidation of two or more districts, as the case may be, and in conformity with provisions of ORS 261.105 and 261.110, the State Engineer shall issue a proclamation accordingly and file a certified copy with the county clerk of each county where the district or any portion thereof is located. The proclamation for formation of a district shall be in substantially the following form:

Whereas at an election duly and regularly held on the .....day of....., A.D. 19...., within .....County (or ..... Counties), State of Oregon, and within the boundaries of a proposed district as herein described, there was submitted to the qualified voters thereof the question whether or not a people's utility district should be incorporated as the (here insert name of district) under and pursuant to the provisions of ORS chapter 261; and

Whereas at the election so held ..... votes were cast in favor of incorporation, and .....votes were cast against incorporation; and

Whereas the incorporation of the (here insert name of district) received the affirmative vote of the majority of the votes cast at the election;

Now, therefore, the undersigned hereby does proclaim and declare that all of that part of the State of Oregon, described as (here insert description) has been duly and legally incorporated as the.....People's Utility District under and pursuant to the Constitution and laws of the State of Oregon.

State Engineer of Oregon.

By ....

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(3) The proclamation for annexing a parcel of territory or a municipality to an existing district or the consolidation of two or more existing districts, or both, shall be adaptations of the above proclamation.

261.205 Certificates of election to directors. If the district is formed, the State Engineer shall issue a certificate of election, as directors of the district, to the five candidates receiving the highest number of votes cast at the election.

261.210 Payment of election expenses. (1) All expenses in any county of any special election held under this chapter for formation of a district and election of a board of directors shall be paid from the general fund of the county in the same manner that other claims against the county are paid.

(2) The county court shall, when preparing the county budget for the following fiscal year, include an item therein to reimburse the general fund for such disbursement. This item is to be assessed to and paid by the assessable property of the territory in which the election is held in the same manner that other taxes are assessed and paid.

261.215 When district formed; designation; district as corporation. From the date of the proclamation relative to formation of a district the territory shall be a separate district to be known as the district named

and specified in the proclamation. The inhabitants thereof shall be a corporation by the name and style of the utility district specified in the proclamation, and as such shall have perpetual succession, and by such name shall exercise and carry out the corporate powers and objects conferred and declared by this chapter.

261.220 Mandamus to compel performance of State Engineer's duties. If the State Engineer refuses to accept and file any petition or refuses to call a special election, as provided in this chapter, or refuses to declare the results of any election or issue the required proclamation, any qualified voter may apply within 10 days after such refusal to the circuit court for the county in which the proposed district, or the greater portion thereof, is located for a writ of mandamus to compel the State Engineer to perform such duty.

THERMAL POWER FACILITIES

261.235 Definitions for ORS 261.235 to 261.255. As used in ORS 261.235 to 261.255, unless the context requires otherwise:

(1) "City" means a city organized under the law of Idaho, Montana, Oregon or Washington and owning and operating an electric light and power system.

(2) "Common facilities" means any works and facilities necessary or incidental to the generation of electric power and energy by nuclear or other thermal means, and for the transmission thereof.

(3) "District" means a people's utility district organized under ORS chapter 261 or a similar public utility district organized under the law of Idaho, Montana or Washington.

(4) "Electric cooperative" means a cooperative corporation organized under the law of Idaho, Montana, Oregon or Washington and owning and operating an electric distribution system.

[1967 c.603 §8]

261.240 Policy; construction. (1) The Legislative Assembly finds and declares it to be in the public interest and for a public purpose that districts, cities, electric cooperatives, and electric utility companies described in ORS 261.245 participate as authorized in ORS 261.235 to 261.255 to:

(a) Achieve economies of scale in the generation of electricity; and

(b) Meet the future power needs of this state and its inhabitants.

(2) ORS 261.235 to 261.255 shall be construed liberally to effectuate the purposes set out in subsection (1) of this section.

[1967 c.603 §9]

261.245 Authority of district to acquire interest in thermal power facilities. In addition to the powers otherwise conferred on districts of this state, such a district owning and operating an electric light and power system may plan, finance, construct, acquire, operate, own and maintain an undivided interest in common facilities within or without the state jointly with one or more other districts, with one or more cities, with one or more electric cooperatives, or with one or more privately owned electric utility companies subject to regulation by the Public Utility Commissioner of Oregon or the equivalent officer or commission of Idaho, Montana or Washington, or with any combination of such districts, cities, electric cooperatives or companies in this or such other states, and may make such plans and enter into contracts and agreements as are necessary or appropriate for such joint planning, financing, construction, acquisition, operation, ownership or maintenance.

[1967 c.603 §10]

261.250 District liability; application of moneys; use of power of eminent domain prohibited. (1) In carrying out the powers granted in ORS 261.245, a district of this state shall be liable only for its own acts with regard to the planning, financing, construction, acquisition, operation, ownership or maintenance of common facilities. No moneys or other contributions supplied by a district of this state for the planning, financing, construction, acquisition, operation or maintenance of common facilities shall be credited or applied otherwise to the account of any other participant in the common facilities.

(2) A district shall not exercise its power of eminent domain to acquire a then existing thermal power plant or any part thereof.

[1967 c.603 §11]

261.255 Use of district money or property; revenue bonds. Any district of this state participating in common facilities under ORS 261.235 to 261.255 may furnish money and provide property, both real and personal, and to the extent and in the manner provided by ORS 261.355 issue and sell

revenue bonds pledging revenues of its electric system and its interest or share of the revenues derived from the common facilities and any additions or betterments thereto, in order to pay its respective share of the cost of the planning, financing, acquisition, construction and the initial fuel costs thereof. All moneys paid or property supplied by any such district for the purpose of carrying out the powers conferred by ORS 261.235 to 261.255 are declared to be for a public purpose.
[1967 c.603 §12]

POWERS

261.305 General powers of district. People's utility districts shall have power:

(1) To have perpetual succession.

(2) To adopt a seal and alter it at pleasure.

(3) To sue and be sued, to plead and be impleaded.

(4) To acquire and hold real and other property necessary or incident to the business of such districts, within or without, or partly within or partly without, the district, and to sell or dispose of such property; to acquire, develop and otherwise provide for a supply of water for domestic and municipal purposes, waterpower and electric energy, and to distribute, sell and otherwise dispose of water, waterpower and electric energy, within or without the territory of such districts.

(5) To exercise the power of eminent domain for the purpose of acquiring any property, within or without the district, necessary for the carrying out of the provisions of this chapter.

(6) To borrow money and incur indebtedness; to issue, sell and assume evidences of indebtedness; to refund and retire any indebtedness that may exist against or be assumed by the district or that may exist against the revenues of the district and to pledge any part of its revenues. Except as provided in ORS 261.380, no revenue or general obligation bonds shall be issued or sold without the approval of the qualified voters. The board of directors may borrow from banks or other financial institutions, on notes payable within 12 months, such sums as the board of directors deems necessary or advisable; however, the amounts so borrowed, together with the principal amounts of other like borrowings then outstanding and unpaid, shall not exceed the amount which the board of directors estimates as the district's net income (determined in accordance with the system of accounts maintained by the board pursuant to ORS 261.470) for the 12 full calendar months following the date of the proposed borrowing, adjusted by adding to such net income an amount equal to the estimated charges to depreciation for the 12-month period. No indebtedness shall be incurred or assumed except on account of the development, purchase and operation of a utility.

(7) To levy and collect, or cause to be levied and collected, subject to constitutional limitations, taxes for the purpose of carrying on the operations and paying the obligations of the district as provided in this chapter.

(8) To make contracts, to employ labor, to provide for life insurance, hospitalization, disability and retirement plans for employes, and to do all things necessary and convenient for full exercise of the powers herein granted. The provision for life insurance, hospitalization, disability and retirement plans for employes shall be in addition to any other authority of people's utility districts to participate in such plans and shall not repeal or modify any statutes except those that may be in conflict with the provision for life insurance, hospitalization, disability and retirement plans.

(9) To enter into contracts with the United States Government, with the State of Oregon, or with any other state, municipality or utility district, and with any department of any of these, for carrying out any provisions of this chapter.

(10) To fix, maintain and collect rates and charges for any water, waterpower, electric energy or other commodity or service furnished, developed or sold by the district.

(11) To construct works across or along any street or public highway, or over any lands which are property of this state, or any subdivision thereof, and to have the same rights and privileges appertaining thereto as have been or may be granted to municipalities within the state, and to construct its works across and along any stream of water or watercourse. Any works across or along any state highway shall be constructed only with the permission of the State Highway Commission. Any works across or along any county highway shall be constructed only with the permission of

the appropriate county court. Any works across or along any city street shall be constructed only with the permission of the city governing body. The district shall restore any such street or highway to its former state as near as may be, and shall not use the same in a manner unnecessarily to impair its usefulness.

(12) To elect a board of five directors to manage its affairs.

[Amended by 1953 c.627 §2; 1957 c.334 §1]

261.310 Irrigation, drainage, other municipal districts given power of utility district in certain cases. (1) Any existing irrigation, drainage or other municipal district in good standing and duly organized under the laws of this state shall be eligible to qualify and do any and all things necessary or incident to the purchase, generation and distribution of electric power under the terms of this chapter without the necessity of reorganizing and complying with the organization procedure prescribed in this chapter, if the qualification is approved by the State Engineer and by a majority of the duly qualified voters of the district.

(2) Drainage districts qualifying under the provisions of this chapter may elect additional directors to make a board of five directors.

261.315 Acquisition of distribution facilities outside district. (1) Except as to distribution facilities located in unincorporated territory at or near the boundaries of the district and forming an interconnected part of the distribution system within the district, as determined by the State Engineer after a public hearing, no facilities then being used for the distribution of electric energy outside the boundaries of the district shall be acquired by it until the acquisition thereof is approved by qualified voters of the territory in which the facilities are located, at an election duly called for that purpose as provided in this section. If a part of such facilities is located within a municipality, the election shall be conducted so that the qualified voters residing therein may vote separately and their votes counted separately, and the part within any such municipality may not be acquired unless a majority of the qualified voters voting at the election therein approves thereof.

(2) When a district desires to acquire facilities outside its boundaries for distribution of electric energy, the board of directors shall pass a resolution declaring such purpose, specifying the facilities which it desires to acquire and describing the boundaries of the territory served by the facilities so as to include all those receiving service or can be reasonably served through such facilities.

(3) A certified copy of the resolution shall be filed with the State Engineer. Within 90 days thereafter, the State Engineer shall designate the boundaries of the territory served by the facilities, and certify such boundaries to the counties in which they are located. The State Engineer shall at the same time notify each of such counties of the call of an election for the purpose of authorizing acquisition of the facilities. This certification and notification shall be given to the county clerks of the respective counties. The notice shall state the time of the election and contain a ballot title stated in clear and concise language.

(4) The county court of each county so notified shall give notice of the election in accordance with ORS 261.185. The provisions of ORS 261.195 and 261.200, with reference to preparation of ballots, appointment of election officers, canvass of votes, certificate of election returns and proclamation of election result shall be complied with in so far as applicable. Ballots cast by voters residing within municipalities shall be separately kept and counted as to each municipality.

261.320 [Repealed by 1971 c.741 §38]

261.325 Acquisition of water rights; time for federal permit application. (1) Any utility district created under this chapter may acquire in its own name the right to use the unappropriated waters of this state in accordance with the laws of this state.

(2) The time within which any such district shall be required to make application for a federal permit or license shall be 10 years from date of filing application for the appropriation of water in the office of the State Engineer.

[Amended by 1955 c.707 §34]

261.330 District water right appropriation exclusive if not excessive. Any filing made by any utility district upon the unappropriated waters of this state for use in the future development of a hydroelectric plant by the district shall be reserved to the district and shall not be subject to appropriation by any other person, municipality

or corporation, unless it is judicially determined that such filing exceeds the reasonable present and future requirements of the district, in which event the surplus or excess may be by decree of a court of competent jurisdiction released and discharged from such filing. Proceedings in court for the determination of whether or not the filing by any utility district exceeds its reasonable present and future requirements may be instituted by the State of Oregon, by the State Water Resources Board in the name of and for the State of Oregon, or by any other applicant for the right to the use of the waters involved.
[Amended by 1955 c.707 §35]

261.335 Contracts for supplies and materials; purchases in open market. (1) When the expenditure required exceeds $5,000, a purchase of supplies and materials shall be made by contract to be let to the lowest responsible bidder, after notice by publication in a newspaper of general circulation not less than once at least 10 days before the date fixed for opening of bids. The board may reject any and all bids and readvertise for further bids.

(2) If after rejecting all bids for particular supplies and materials the board determines and declares by a resolution duly adopted that in its opinion such supplies and materials may be purchased at a lower price in the open market, the board may purchase such supplies and materials in the open market without further observance of the provisions of law requiring purchases to be made on competitive bids. However, the ultimate purchase price for any supplies or materials so purchased in the open market shall not exceed the price stated in the lowest and best of the rejected bids for such supplies or materials.

(3) Notwithstanding subsections (1) and (2) of this section, the board may purchase supplies and materials in the open market, without observance of the provisions of law requiring purchases to be made on competitive bids, in the following cases:

(a) In the case of an emergency endangering the public safety, declared to be such by a resolution duly adopted by the board; or

(b) When the purchase or contract is for technical equipment, for which standardization and interchangeability of parts are necessary in the public interest, and cannot be satisfactorily achieved except by procurement through negotiation, and when the board so determines and declares by resolution duly adopted. The board shall adopt a separate resolution for each purchase or contract under this paragraph. Such resolution shall be published by the board in a newspaper of general circulation within the district, or if no newspaper is published within the district then in a newspaper which is circulated within the district, at least 10 days prior to the completion of such purchase or the execution of such contract.
[Amended by 1957 c.334 §2; 1961 c.409 §1]

261.340 Contracts prior to utility purchase or construction; unlawful acts; penalty. (1) Prior to purchase or construction of a utility or purchase of additional utilities for the district, no express or implied contract involving an obligation on the part of the district in excess of $5,000 shall be executed or become binding unless the proposed contract has first been approved in writing by the State Engineer. It shall be unlawful for the board to make any payment under any such contract until it has been so approved.

(2) It shall be unlawful, unless first approved by the State Engineer, for the board to pay or to contract to pay, or for any person, firm or corporation to accept or receive, in excess of $5,000, either directly or indirectly, or as part of the cost of a utility, as a commission for negotiating, advising or assisting in connection with the purchase or acquisition of a utility or of any portion thereof or interest therein, or for acting in an advisory capacity to the district.

(3) Any person, firm or corporation convicted of violating any provision of this section shall be subject to a penalty in a sum equal to that expended without such approval, and also a fine of $1,000, or to imprisonment in the county jail for a period not to exceed one year, or to both such fine and imprisonment.

261.345 Employment of labor; pay and conditions; agreements; arbitration. (1) All labor employed by a district, directly or indirectly, shall be employed under and in pursuance of the provisions of ORS 279.334, 279.336, 279.340 and 279.342.

(2) The minimum scale of wages to be paid by a people's utility district or by any contractor or subcontractor for such district shall be not less than the prevailing wage for the character of work in the same trade in the largest city having a population of

5,000 or more in the district, or if there is none, the nearest to the district.

(3) The board of directors of any utility district may negotiate, sign and maintain collective bargaining agreements concerning employment, rates of pay and working conditions with the representatives of its employes. Notice in writing of any intended change in rates of pay, or working conditions, or both, shall be given in accordance with the provisions of such agreements. Proposed changes shall be referred to a conference between the board and the representatives of the employes. If the conference does not result in an amicable agreement, the question at issue shall be referred to an impartial board of arbitration, whose decision shall be binding on all parties.

(4) The board of arbitration shall be selected as follows: One arbiter to be selected by the board of directors, one arbiter to be selected by the representatives of the employes, and should these two arbiters fail to reach an agreement on the question in dispute within five days they shall proceed to select the third arbiter, who shall serve as impartial chairman. If their selection of the third arbiter is not made within the next succeeding five days, they shall, within two days thereafter, report that fact to the Commissioner of the Bureau of Labor, who immediately shall select the third arbiter.

261.350 Agreements with others for use of excess district facilities. Whenever any of the facilities, works or utilities of the district, or any part thereof, are not used or employed to its fullest capacity for the benefits or requirements of the district or its inhabitants, the district may enter into an agreement or agreements with counties, cities, municipalities, publicly-owned utility companies, or other public corporations or agencies, upon terms and conditions satisfactory to the board, for renting, leasing or otherwise using the available portion or parts of such facilities, works or utilities. In connection with any such agreement, renting or leasing, the district may undertake or perform any services incidental thereto.

261.355 Authority to issue revenue bonds. (1) For the purpose of carrying into effect the powers granted in this chapter, any district, when authorized by a majority of its qualified voters voting at any general primary or general election or at a special election, may issue and sell revenue bonds so conditioned as to be paid solely from that portion of the revenues derived from the district by the sale of water, waterpower and electric energy, or any of them, or any other service, commodity or facility which may be produced, used or furnished in connection therewith, remaining after paying from such revenues all expenses of operation and maintenance, including taxes.

(2) Within and not in excess of the total amount of revenue bonds authorized to be issued, a part of such bonds may be issued by the board for betterments and extensions, but the amount so issued shall be limited to the reasonable value of the betterments and extensions plus an amount not to exceed 10 percent thereof for administrative purposes.

(3) Any district issuing revenue bonds may pledge that part of the revenue which the district may derive from its operations as security for payment of principal and interest thereon remaining after payment from such revenues of all expenses of operation and maintenance, including taxes, and consistent with the other provisions of this chapter.

[Amended by 1959 c.548 §1]

261.360 Authority to issue general obligation bonds. (1) When authorized by a majority of its qualified voters voting at any general primary or general election or at a special election, at which special election not less than 25 percent of the registered voters within the district voted on the question, any district may issue and sell general obligation bonds so conditioned that the district shall therein and thereby unconditionally undertake, promise and agree to pay the same in whole or in part from revenue or from taxes or both.

(2) The general obligation bonds of the district outstanding at any time shall not exceed two and one-half percent (.025) of the true cash value of all taxable property within the limits of the district.

(3) General obligation bonds may be made payable primarily from and secured by a lien on and pledge of the revenues derived by the district from its operations remaining after paying from such revenues all expenses of operation and maintenance, and secondarily from taxes.

[Amended by 1959 c.548 §2; 1967 c.293 §24]

261.365 Bond requirements. (1) All revenue bonds issued under ORS 261.355 shall contain a clause that they are payable solely from revenues derived by the district from its operations, remaining after paying from said revenues all expenses of operation and maintenance, including taxes.

(2) Such bonds may be issued from time to time, shall be of such denominations, and shall run for a period not exceeding 40 years, all as the board of directors may determine.

(3) Every issue of bonds shall be in serial form, with definite maturities, and shall mature in annual or semiannual instalments. The first instalment of principal shall fall due and be payable not later than five years, and the last instalment not later than 40 years, after the date of issue. The combined instalments of principal and interest due each year during such period shall be in such amounts as the board of directors may determine so as to permit maturity in accordance with anticipated revenues.

(4) All such bonds, at the discretion of the board of directors, shall contain provisions for call and redemption by the district of all or any part of the issue, at the option of the district, on any interest-paying date after the date of issuance, upon payment of the principal and accrued interest to the date of call.

(5) All bonds shall be sold at such price that the effective interest rate upon them shall not exceed eight percent per annum.

(6) The bonds shall be signed on behalf of the district by its president or chairman and be countersigned by its secretary. The seal of the district shall be affixed to each bond, but not to the coupon. The coupon, in lieu of being signed, may have printed thereon the facsimile signature of such officers.

(7) The bonds shall be payable at a place therein named, to their bearer or registered holder in the principal amount named therein, at maturity thereof, in lawful money of the United States, at the rate per annum therein named, payable semiannually on such dates as the board of directors may determine, in accordance with the tenor and terms of interest coupons thereto attached.

[Amended by 1957 c.334 §3; 1969 c.76 §1; 1971 c.392 §1]

261.370 Advertisement and sale of bonds. (1) All legally authorized and issued general obligation bonds or revenue bonds, designated in this section as "obligation" of districts, shall be advertised for sale at least once each week for not less than three successive weeks in a newspaper printed in the English language and of general circulation within the district; or, if there is no such newspaper, then in a newspaper printed and published in each of the counties in which the district is located. The obligations also shall be advertised for sale by one publication of a notice thereof given at least 30 days prior to sale date, in a newspaper of general circulation carrying financial notices printed and published in Portland, Oregon.

(2) All bids for such obligations shall be in writing, shall be accompanied by a certified check on a bank doing business in this state for not less than three percent of the par value of the obligations offered for sale, and shall be publicly opened at the time and place specified in the advertisement. The district shall not accept bids for the sale after such time nor permit any changes, corrections, additions or qualifications to be made in bids previously submitted prior to such time.

(3) The obligations shall be sold to the highest responsible bidder for not less than 98 percent of their face value and accrued interest. In determining the highest bid received, the district shall take into consideration any premiums offered.

(4) Any costs incurred by the district in advertising, printing or engraving, and selling the bonds shall be taken into consideration and deemed as interest in determining whether the rate of interest to be paid throughout the life of the obligations exceeds the maximum rate allowed under ORS 261.365.

(5) It shall be unlawful for any officer or employe of a district prior to the public opening of the bids to disclose to any bidder or other person what bids have been received or that the district has failed to receive any bids for the obligations. Any officer or employe violating this provision shall be guilty of a misdemeanor.

(6) If the bids for the obligations are not satisfactory to the district, it may reject any and all the bids and readvertise the obligations in the manner and under the conditions provided in this section.

(7) For the purpose of this section the obligations advertised for sale shall be considered to be "obligation" within the meaning of that term as defined in ORS 288.310.

(8) The bonds authorized to be issued by ORS 261.355 and 261.360 may be sold to the United States or any agency, corporation or instrumentality thereof at private sale in such blocks as the board of directors may determine, but not at less than par.

261.375 Election to authorize district bond issue. (1) Before any district shall issue its general obligation or any revenue bonds, other than general obligation or revenue refunding bonds, the question whether such bonds shall be issued shall be submitted to the qualified voters of the district, either at any general, state or county election or at a special election called for that purpose by the board of the district. Notice of such election shall be given as provided in ORS 261.510.

(2) At such election the ballots shall contain a statement of the amount of bonds to be voted on and the purpose for which the bonds are to be used. If a majority of those voting on the question vote "yes," the board of directors is authorized to issue bonds of the character and in the amount designated by the election ballot.

261.380 Refunding district indebtedness. (1) The power to refund indebtedness approved by the qualified voters of the district is vested in the board of directors and may be exercised by adoption of a resolution providing therefor. It shall not be necessary for the board to submit the question of the proposed refunding to the voters of the district at an election or otherwise, but revenue bonds shall not be refunded into general obligation bonds, nor shall general obligation bonds be refunded into revenue bonds without approval of the voters of the district given at an election duly called and legally held therein.

(2) The issuance and sale of refunding bonds, the maturity dates and other details thereof, the rights of the holders thereof, and the duties of the board with respect thereto, shall be governed by ORS 261.305 and 261.355 to 261.375 in so far as they are applicable. Bonds may be issued and sold to refund bonds issued pursuant to this chapter, including bonds outstanding on April 10, 1951, and to refund bonds issued for refunding purposes under authority of this chapter.

261.385 Levy and collection of taxes for certain purposes. (1) Subject to the limitations of section 11, Article XI, Oregon Constitution, the board may levy and collect, or cause to be levied and collected, taxes for a period of 10 years for the purpose of paying the obligations of the district prior to acquisition or construction of its system and the receipt of the first revenues therefrom. In any one year, the tax shall not exceed one-twentieth of one percent (.0005) of the true cash value of all taxable property within the district, computed in accordance with ORS 308.207. The accumulated percentages for the 10-year period shall not exceed one-fourth of one percent (.0025).

(2) No part of such taxes shall be levied and collected for the purpose of paying either principal or interest, or both, on any revenue bonds issued by the district.

(3) In the event of inadequacy of the revenues of the district to pay the costs of operation and maintenance thereof and the principal of and interest on the bonds of the district promptly as the bond principal and interest obligations respectively become due and payable, neither this limitation nor any other limitation in this chapter restricts or impairs the right of the district to levy ad valorem taxes against all property within the district taxable for its purposes in order to provide funds with which to pay the general obligation bond principal and interest when due.

(4) Any utility district created prior to June 14, 1941, may levy taxes as in this section provided for the same term and under the same conditions as would be applicable to districts organized after that date.

[Amended 1963 c.9 §5]

261.390 Property taxable; time and manner of tax levy and collection. All taxes provided for in this chapter shall be levied upon all real and personal property situated within the boundaries of the district and by law taxable for state and county purposes. Such taxes shall be levied and collected at the time and in the manner provided for levy and collection of state and county taxes, and shall be by the county officers collecting them paid to the treasurer of the district.

BOARD OF DIRECTORS

261.405 Board of directors; election; qualifications. (1) The management of a

people's utility district shall be vested in a board of five directors.

(2) Upon formation of a district, the board of directors shall by ordinance divide the district into five subdivisions, as nearly equal in property values as possible, and fix the boundaries thereof. Thereafter one director shall be elected from each of the five subdivisions.

(3) Directors shall be qualified voters, shall reside in the subdivision from which they are respectively nominated and elected and shall have resided in the district continuously for two years immediately preceding the date of their election as directors.

261.410 Nomination and election of directors of established districts. (1) Except as otherwise provided in this chapter, directors shall be nominated and elected by the qualified voters of the subdivision such director represents at time of holding the biennial election.

(2) Nominating petitions must be furnished by the district and be in such form and size as the county clerk prescribes. Nominating petitions for director shall be signed by at least five qualified voters and filed with the county clerk not less than 60 days before the date of the election. The county clerk shall thereupon proceed in the same manner as in the election of county officers.

(3) The county clerk shall canvass the vote cast for director, and shall certify the result to the secretary of the district who shall immediately issue a certificate of election to the candidates elected to the office of director.

261.415 Vacancy in office of director. (1) The office of director shall be considered vacant:

(a) Upon the failure of the person elected or appointed to the office to qualify for it not later than 30 days after the time his term of office commences;

(b) Upon the occurrence of any event listed in ORS 236.010; or

(c) Upon the incumbent's absence from meetings of the board for 60 days without the consent of the board and upon the declaration by the board of the vacancy.

(2) Vacancies in the office of director occurring between elections shall be filled by the remaining members of the board, but when a vacancy exists for 30 days, or if the office is considered or declared vacant under paragraph (a) or (b) of subsection (1) of this section, the Governor may fill the vacancy.

(3) Any person appointed to fill such vacancy by the board or the Governor shall hold office until the next biennial election and until his successor is elected and qualified.

[Amended by 1959 c.142 §1; 1969 c.669 §4]

261.420 Terms of office of directors. Of the board of directors elected at the next biennial election following creation of the district, three shall hold office for four years, and two shall hold office for two years, and until their successors are elected and qualified, the length of the respective terms to be determined by lot. Thereafter, at each biennial election, a number of directors corresponding to the number whose terms of office expire shall be elected for the term of four years. The terms of directors shall commence on the first Monday in January next following their election.

261.425 Officers of board. (1) The board shall choose one of its members president, one vice president, and one treasurer. The board shall choose a secretary of the district, who may or may not be a member of the board. In the absence or disability of the president, the vice president shall act as president.

(2) The treasurer shall be custodian of all funds of the district, and pay them out only on order of the board.

[Amended by 1967 c.451 §20; 1969 c.345 §3]

261.430 Board meetings. (1) A majority of members of the board of directors shall constitute a quorum for transaction of official business. The decision of a majority of the board shall be deemed to be the act or decision of the board. No vacancy of less than a majority of members of the board shall impair the right of the remaining board members to exercise all powers of the board.

(2) The board of directors shall adopt rules to govern its meetings.

(3) All legislative sessions of the board of directors, whether regular or special, shall be open to the public.

261.435 Compensation of directors. (1) The board of directors may provide for compensation of its members while engaged in performance of their duties as directors of the district, as follows:

(a) In the case of a nonoperating district, not to exceed $100 per member per year;

(b) In the case of an operating district, having a gross operating revenue of less than $500,000 for the year, not to exceed $750 per member for that year; or

(c) In the case of an operating district having a gross operating revenue of $500,000 or more for the year, not to exceed one-tenth of one percent of the district's gross operating revenue per member for that year. However, such compensation is subject to the referendum provided under ORS 261.460.

(2) The directors may receive their necessary traveling expenses incurred in performance of their duties as directors. In addition, the board of directors of an operating district may authorize and pay to a director while he is outside the boundaries of the district and engaged in the performance of his duties as director of the district a per diem allowance to be fixed by the board.

(3) No compensation other than as prescribed in this section shall be paid the directors.

[Amended by 1953 c.284 §2; 1957 c.334 §4; 1959 c.118 §1; 1967 c.168 §1]

261.440 [Repealed by 1969 c.325 §4]

261.445 Appointment and removal of district manager; qualifications; salary; acting manager; powers and duties. (1) The board, before or at the time the district commences construction or operation of any utility or service, shall appoint a manager, who shall be an experienced executive with administrative ability. The manager shall be appointed for an indefinite time and be removable at the action of the board. Appointments and removals shall be by resolutions adopted by a majority vote. The manager shall receive such salary as the board shall fix by resolution.

(2) In case of absence or temporary disability of the manager, the board shall designate some competent person as acting manager.

(3) The manager shall be chief administrative officer of the people's utility district, shall have control of administrative functions of the district and shall be responsible to the board for efficient administration of all affairs of the district placed in his charge. He may attend meetings of the board and its committees and take part in discussion of any matters pertaining to duties of his department, but shall have no vote. The manager shall:

(a) Carry out orders of the board to see that all laws of this state pertaining to matters within the functions of his department are duly enforced.

(b) Keep the board advised as to the financial condition and needs of the district.

(c) Prepare an annual estimate for the ensuing fiscal year of the probable expenses of his department, and recommend to the board what development work should be undertaken, and any extensions and additions which should be made during the ensuing fiscal year, with an estimate of the costs of such development work, extensions and additions.

(d) Certify to the board all bills, allowances and payrolls, including claims due contractors of public works.

(e) Recommend to the board salaries of the employes of his office, and a scale of salaries or wages to be paid for different classes of service required by the district.

(f) Hire and discharge clerks, laborers and other employes under his direction.

(g) Perform such other duties as may be imposed upon him by the board.

(4) The manager shall not contribute any money in aid of or in opposition to the election of any candidate for people's utility district director, or advocate or oppose any such election.

261.450 [Repealed by 1969 c.345 §20]

261.455 [Repealed by 1969 c. 344 §8]

261.460 Legislative function of board. (1) The board of directors shall constitute the legislative body of the district, and shall determine all questions of policy.

(2) All legislative acts of the board shall be expressed in written resolutions or ordinances. Every ordinance enacted by the board shall be preceded by an enacting clause substantially as follows: "Be It Enacted by the..... People's Utility District" and shall be voted upon by an "aye" and "nay" vote. All ordinances except emergency ordinances shall require affirmative votes of a majority of the board at a regular meeting or an adjourned regular meeting.

(3) All ordinances except emergency ordinances shall be subject to the referendum and shall become effective 30 days after the date of their passage, unless a later date is fixed in the ordinance itself, in

which event they shall take effect at the later date.

(4) Emergency ordinances shall contain the statement that an emergency exists and specify with distinctness the facts and reasons constituting the emergency. The unanimous vote of all members of the board present is necessary to pass any emergency ordinance and no such ordinance shall be passed with less than four directors present.

261.465 Board supervision and regulation of district utilities; fixing rates. (1) The board shall supervise and regulate every utility owned, operated or owned and operated by the district, including the fixing and adjusting of rates, rentals, charges and classifications, contracts, practices and schedules, for or in connection with any service, product or commodity owned or controlled by the district.

(2) Rates so fixed shall be sufficient to accomplish the following purposes:

(a) For proper operation and maintenance of the property or facilities owned by the district.

(b) To pay all taxes which may be levied upon property owned by the district or which it may be required to pay out of its gross revenues.

(c) For payment of principal and interest of all bonds, warrants or obligations of any character in accordance with terms and provisions thereof respecting time, manner and amount of payment.

(d) For payment of any other indebtedness or obligations which the district may be obligated to pay.

(e) To establish and maintain any special funds which the district has obligated itself to create for the purpose of paying bond issues or other obligations.

261.470 Accounting system adopted by board; annual reports; annual audit. (1) The board shall adopt the effective uniform system of accounts prescribed by the Federal Power Commission and require that accounting for receipts and disbursements for the district be accomplished in accordance with said system of accounts.

(2) The board shall file with the State Engineer and with the county clerk of each county included within the boundaries of the district an annual report in the form required by the Federal Power Commission.

(3) An annual audit shall be made by the Secretary of State, or by an accountant who is subject to and who shall make such audit in the manner provided in ORS 297.610 to 297.740, whomever the district selects; but if the district fails to make a selection on or before 90 days following the end of its fiscal year the annual audit shall be made by the Secretary of State. In the event the audit is made by an accountant such audit shall be reviewed by the Secretary of State in the manner provided in ORS 297.630, and the district, at the time of filing such audit with the Secretary of State shall pay to him a filing fee in the amount specified in ORS 297.640. In the event the audit is or has been, prior to July 21, 1953, made by the Secretary of State, all expenses and costs pertaining to the audit shall be borne by the district. Such expenses and costs shall be paid to the Secretary of State from the funds of the district. All moneys received by the Secretary of State in accordance with the provisions of this section shall be by him immediately turned over to the State Treasurer who shall deposit same to the General Fund. Said moneys shall be credited to an account to be known as the Division of Audits Account and the moneys hereby are appropriated for use in payment of salaries and other expenses or costs of the aforesaid division of audits. A copy of such audit shall be filed with each county clerk of the county in which the district or any portion of the boundaries of the district is located, and in the office of the Secretary of State and in the office of the State Engineer, where it shall remain a public record.

[Amended by 1953 c.354 §2]

SPECIAL ELECTIONS

261.505 Special elections called by board. When any people's utility district desires to hold an election for the purpose of submitting to the voters of the district any question that may lawfully be submitted to them, the board may, at any regular or special meeting called in accordance with its rules or the statutes governing the same, adopt a resolution calling a special election to be held at such time as it may select, not less than 50 days after the passage of the resolution, and may in the same resolution designate and describe in general terms the question which is to be submitted at the special election.

261.510 Notice of special elections; election officers. (1) The board shall give notice of all special elections called pursuant to

ORS 261.505, whether or not held concurrently with a general election, by posting the same for a period of not less than 30 days immediately preceding the date of election in five public places in each subdivision of the district and by publication thereof in one or more newspapers of general circulation within the boundaries of the district. The notice shall be published not less than once each week for the two successive weeks prior to the election. The notice shall state the date of holding the election, give the general description of the question or questions which are to be submitted and shall contain a designation of the polling places for the election.

(2) When the election is not held at the same time as a general election there shall be one judge and two clerks at each precinct appointed by the board of directors who shall be paid such compensation as the board shall provide.

[Amended by 1959 c.72 §1]

261.515 Questions, ballot, precinct map, other information to county clerk in certain cases. (1) When the special election is concurrent with a general election held within any county in which a district or part thereof is located, the board shall, at least 60 days before the election, cause to be certified to the county clerk of each such county the questions to be voted upon, with the form of ballot title. The county clerk shall cause such questions to be placed upon the ballot.

(2) In case the district is not coterminous with the county in which the general election is held, the board shall cause to be prepared and furnished to the county clerk, for distribution to the election judges of any precincts which are not wholly contained within the boundaries of the district holding the special election, a map showing the part of such precincts within and without the district, and shall furnish such other means as may, in their judgment, be requisite to enable the election judges to determine which electors have the right to vote.

COURT PROCEEDING TO TEST CERTAIN DISTRICT PROCEEDINGS

261.605 Testing validity of certain commission and board proceedings. (1) The board of directors of a people's utility district may by petition commence proceedings in the circuit court of the county in which the district, or the greater portion thereof, is located, for the purpose of having a judicial examination and judgment of the court as to regularity and legality of proceedings in connection with creation of the district, including:

(a) Any action or proceeding of the State Engineer proclaiming the creation of the district, or declaring the result of any general or special election therein.

(b) The proceedings of the board and district providing for and authorizing issue and sale of bonds of the district, whether such bonds or any of them have or have not been sold or disposed of.

(c) Any order of the board levying a tax.

(d) The legality of the authorization of any contract with the United States and the validity of such contract, whether or not it has been executed.

(2) All proceedings of the district may be judicially examined and determined in one special proceeding, or any part thereof may be separately examined and determined by the court.

261.610 Nature of proceeding; notice; appearance to contest; court determinations. (1) The proceedings shall be in the nature of a proceeding in rem, and the practice and procedure therein shall follow the practice and procedure of suits in equity, so far as consistent with the determination sought to be obtained, except as provided in ORS 261.605 to 261.635.

(2) The jurisdiction of the district and of qualified voters therein shall be obtained by publication of notice directed to the district, and to the qualified voters individually. The notice shall be served on all parties in interest by publication thereof for at least once a week for three successive weeks in some newspaper of general circulation published in the county where the proceeding is pending. Jurisdiction shall be complete within 10 days after the full publication of the notice as provided in this section.

(3) Any person interested may at any time before the expiration of such 10 days appear and contest the validity of the proceeding, or of any of the acts or things therein enumerated.

(4) The proceedings shall be speedily tried and judgment rendered declaring the

matter so contested to be either valid or invalid.

(5) Any order or judgment in the course of the proceeding, or any final decree therein, may be made and rendered by the judge of the circuit court in vacation. For the purpose of any such order, judgment or decree, the court shall be deemed at all times in session and the act of the judge in making such order, judgment or decree shall be the act of the court.

261.615 Appeal to Supreme Court. Either party may appeal to the Supreme Court at any time within 30 days after the rendering of the final judgment or decree, which appeal must be heard and determined within three months from the time of taking such appeal.

261.620 Guides to court determination. The court, in inquiring into the regularity, legality or correctness of any such proceedings, must disregard any error, irregularity or omission which does not affect the substantial rights of the parties to the special proceedings. It may approve the proceedings in part and disapprove and declare illegal or invalid other or subsequent proceedings in part. It may approve the proceedings in part and disapprove the remainder thereof.

261.625 Costs of proceeding. The costs of the special proceedings may be allowed and apportioned between the parties in the discretion of the court.

261.630 Institution of proceeding by voter; directors as parties; notice. (1) Any qualified voter of the district within 30 days after the entry of any order, or the performance of any act mentioned in ORS 261.605, and for which a contest is provided by that section, may bring a like proceeding in the circuit court of the county where the district, or the greater portion thereof, is located, to determine the validity of any of the acts, orders or things enumerated in ORS 261.605 to 261.615 and concerning which the right of contest is given by those sections.

(2) In such proceedings the board of directors shall be made parties defendant. Service of summons shall be made on the members of the board personally if within the county where the district or any part thereof is situated. As to any directors not within such county, service may be had by publication of summons for a like time and in like manner as provided by ORS 261.610. Service shall be deemed complete within 10 days from the date of personal service within the county and within 10 days from the date of completion of the publication, as the case may be.

(3) Such proceedings shall be tried and determined in the same manner as proceedings brought by the district itself.

261.635 Proceeding exclusive. No contest of any proceeding, matter or thing by this chapter provided to be had or done by the board of directors, by the district, by the State Engineer or qualified voter within the district, shall be had or maintained at any time or in any manner except as provided in ORS 261.605 to 261.630.

DISSOLUTION

261.705 Authority to dissolve district; vote authorizing dissolution. Any people's utility district which for a continuous period of 10 years from the date of its formation or organization has remained inactive and has not progressed further or done more than its formation and organization may be dissolved whenever a majority vote of the qualified voters of the district voting at an election for such purpose favors the dissolution.

261.710 Call of election; notice; effect of favorable vote. (1) The dissolution election may be called by the board of directors on their own motion or by a petition filed with the directors of the district, signed by qualified voters of the district equal in number to not less than five percent of the greatest number of votes any candidate received for Judge of the Supreme Court at the last preceding general election held in the district, requesting the directors of the district to submit to the voters thereof the proposition of dissolving the district and settling its affairs.

(2) The petition shall be referred to the county clerk of each county wherein the district or any part thereof is located. The county clerk of each of such counties shall examine the purported signatures on the petition of voters within the county and shall certify as to the regularity and sufficiency thereof. Where the district is located in more than one county, the certificate of the county clerk of each county

as to the regularity of the signatures on the petition shall be filed with the Secretary of State, who shall accept the certificates by the county clerks as to the regularity of the signatures, and based thereon, shall certify as to the sufficiency of all signatures on the petition. Whenever a dissolution petition has been certified as sufficient, the certificate of sufficiency with copy of the petition shall be transmitted to the directors of the district, who shall immediately call an election to be held concurrently with any primary or general election.

(3) Notice of the dissolution election shall be given not less than 50 nor more than 60 days prior to such primary or general election.

(4) If a majority of the qualified voters of the district, voting at the election, votes in favor of dissolution, the directors shall issue their proclamation dissolving the district and shall file the proclamation in the office of the county clerk of the county wherein the district is located.

(5) The district shall thereafter continue to exist solely for the purpose of settling its affairs as provided in ORS 261.715 to 261.730.

261.715 Directors as trustees. Upon dissolution the directors then in office shall be deemed to be, and thereafter be referred to as, the trustees of the district, with power and authority in the name and in behalf of the district to sell, transfer and dispose of any and all property and assets of the district and to do each and every thing necessary and needful or requisite for settlement and liquidation of the affairs of the district as provided in ORS 261.720 to 261.730.

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

261.725 Disposal of sale proceeds. (1) The proceeds derived from the sale shall be used to pay the indebtedness of the district.

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

261.730 Disposal of district books and records; termination of corporate existence. After the affairs of the district have been fully settled, all books and records of the district shall be deposited by the trustees in the office of the county clerk of the county wherein the district or its principal part in area thereof is located, and the corporate existence of the district without further action is dissolved and terminated for all purposes.

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, 1971.

Robert W. Lundy
Legislative Counsel