Chapter 198

1979 REPLACEMENT PART

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DEFINITIONS

198.010 Definitions. As used in this chapter, except as otherwise specifically provided, "district" means any one of the following:

(1) A people's utility district organized under ORS chapter 261.

(2) A domestic water supply district organized under ORS chapter 264.

(3) A cemetery maintenance district organized under ORS chapter 265.

(4) A park and recreation district organized under ORS chapter 266.

(5) A mass transit district organized under ORS 267.010 to 267.390.

(6) A metropolitan service district organized under ORS chapter 268.

(7) A special road district organized under ORS 371.305 to 371.380.

(8) A road assessment district organized under ORS 371.405 to 371.555.

(9) A highway lighting district organized under ORS chapter 372.

(10) A health district organized under ORS 440.305 to 440.410.

(11) A sanitary district organized under ORS 450.005 to 450.245.

(12) A sanitary authority organized under ORS 450.675 to 450.980.

(13) A vector control district organized under ORS 452.020 to 452.170.

(14) A rural fire protection district organized under ORS chapter 478.

(15) An irrigation district organized under ORS chapter 545.

(16) A drainage district organized under ORS chapter 547.

(17) A water improvement district organized under ORS chapter 552.

(18) A water control district organized under ORS chapter 553.

(19) A weather modification district organized under ORS 558.200 to 558.585.

(20) A port organized under ORS 777.005 to 777.725.

(21) A geothermal heating district organized under ORS chapter 523.

(22) A transportation district organized under ORS 267.510 to 267.650. [1971 c.23 §2; 1975 c 782 §48; 1977 c.756 §1]

198.110 Definitions for ORS 198.120. As used in ORS 198.120, and 198.335 in addition to the meaning given the term by ORS 198.010, "district" means any one of the following:

(1) A diking district organized under ORS chapter 551.

(2) A corporation for irrigation, drainage, water supply or flood control organized under ORS chapter 554.

(3) A soil and water conservation district organized under ORS 568.210 to 568.800. [1969 c.344 §1; 1971 c 23 §3]

198.120 [1969 c.344 §2; repealed by 1975 c 771 §33]

COMPENSATION AND EXPENSES

198.180 "District" defined for ORS 198.190. As used in ORS 198.190, unless the context requires otherwise, "district" has the meaning given that term by subsections (2) to (5) and (7) to (22) of ORS 198.010. In addition, "district" means any one of the following:

(1) A county service district organized under ORS chapter 451.

(2) A diking district organized under ORS chapter 551.

(3) A corporation for irrigation, drainage, water supply or flood control organized under ORS chapter 554.

(4) A soil and water conservation district organized under ORS 568.210 to 568.800.

(5) A chemical control area organized under ORS 573.402 to 573.585.

(6) The Port of Portland created by ORS 778.010. [1971 c.403 §1, 1975 c.782 §48a; 1977 c.756 §2]

198.190 Compensation and expenses of members of certain boards. (1) A member of the governing body of a district may receive not to exceed $20 for each day or portion thereof as compensation for services performed as a member of the governing body. The governing body may provide for reimbursement of a member for actual and reasonable traveling and other expenses necessarily incurred by a member in performing his official duties.

(2) This section applies to a county governing board and its members when performing official duties as the governing board of a county service district organized under ORS

chapter 451, if the members of the county governing board are not compensated by the county for service on the county service district board. [1971 c 403 §2]

BONDS

198.210 Definitions for ORS 198.220. As used in ORS 198.220, in addition to the meaning given the term by ORS 198.010, "district" means any one of the following:

(1) A county service district organized under ORS chapter 451.

(2) A corporation for irrigation, drainage, water supply or flood control organized under ORS chapter 554.

(3) A soil and water conservation district organized under ORS 568.210 to 568.800.

(4) A weed control district organized under ORS 570.505 to 570.575.

(5) A port district organized under ORS chapter 778. [1969 c.345 §1; 1971 c.23 §4]

198.220 Bond for member of boards of certain districts. The governing body of a district shall require bond of any member of the governing body or any officer or employe of the district who is charged with possession and control of district funds and properties. The amount of the bond shall be fixed by the governing body of the district. The premium for the bond shall be paid from district funds. [1969 c.345 §2]

VACANCIES

198.310 Definitions for ORS 198.320. As used in ORS 198.320, in addition to the meaning given the term by ORS 198.010, "district" means any one of the following:

(1) A soil and water conservation district organized under ORS 568.210 to 568.800.

(2) A chemical control district organized under ORS 573.402 to 573.585. [1969 c.669 §1; 1971 c.23 §5]

198.320 Filling of vacancies on boards of certain districts. (1) Except as otherwise provided by law, a vacancy in an elected office in the membership of the governing body of a district shall be filled by appointment by a majority of the remaining members of the board. If a majority of the membership of the governing body is vacant or if a majority cannot agree, the vacancies shall be filled promptly by the county court of the county in which the district or the greater portion of the value of all taxable property in the district, as shown on the most recent assessment rolls of the counties, is located.

(2) A person appointed under subsection (1) of this section shall serve until the next regular election in the district at which members of the governing body are elected. At the regular election, a successor shall be elected to serve for the unexpired term. [1969 c.669 §2]

DISSOLUTION OF INACTIVE DISTRICTS

198.335 Definitions for ORS 198.335 to 198.365. As used in ORS 198.335 to 198.365, unless the context requires otherwise:

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

(2) "Special district" has the meaning given "district" by ORS 198.110 and 198.210. [1971 c.267 §5]

198.340 Designation of registered office and agent. (1) A special district shall designate a registered office and a registered agent. The registered agent shall be an agent of the district upon whom any process, notice or demand required or permitted by law to be served upon the district may be served. A registered agent shall be an individual resident of this state whose address is identical with the registered office of the district. The registered office may be, but need not be, the same as the place of business of the special district.

(2) The district may change its registered office or change its registered agent, or both, upon filing in the office of the Secretary of State and county clerk of each county in which located a statement setting forth:

(a) The name of the district.

(b) If the address of its registered office is changed, the address to which the registered office is to be changed.

(c) If its registered agent is changed, the name of its successor registered agent.

(d) That the address of its registered office and the address of the business office of its registered agent, as changed, will be identical.

(e) That such change was authorized by resolution duly adopted by the district board.

(3) The statement shall be subscribed and sworn to by the secretary, financial officer or chairman of the district board. [1971 c.267 §7]

198.345 Effect of failure to file certain reports. (1) If a special district for three consecutive years fails to file a report as required by ORS 294.555 or 297.405 to 297.555 the Secretary of State or the Department of Revenue, as the case may be, shall notify the county board of the county where the district, or the greater portion of the assessed valuation of taxable property in the district, is located.

(2) Within 30 days after receiving the notice provided by subsection (1) of this section, the county board shall initiate proceedings to dissolve the special district as provided by ORS 198.345 to 198.365.

(3) The county board may appoint three individuals, residents of the district, to assist in locating the assets, debts and records of the district. [1971 c.267 §§8, 9; 1977 c.774 §14, 1979 c.286 §1]

198.350 Financial statement. Within 60 days after receiving the notice provided by subsection (1) of ORS 198.345, the county board shall prepare a financial statement for the district and file it with the clerk. The financial statement shall include:

(1) The date of formation of the district.

(2) The date of the last election of officers, if any, and the names of the persons last serving as members of the governing board.

(3) The amount of each outstanding bond, coupon and other indebtedness of the district, with a general description of the indebtedness and the name of the holder and owner of each, if known.

(4) A description of each parcel of real property and interest in real property owned by the district and, if the property was acquired for delinquent taxes or assessments, the amount of the taxes and assessments on each parcel of property.

(5) Uncollected charges, taxes and assessments levied by the district and the amount upon each lot or tract of land.

(6) A description of all personal property and of all other assets of the district.

(7) The estimated cost of dissolution. [1971 c.267 §10]

198.355 Hearing on dissolution; notice. (1) Upon the filing of the financial statement, the county board shall enter an order calling a hearing on the question of dissolving the district. The hearing shall be called not less than 21 nor more than 30 days after the filing of the statement.

(2) Notice of the hearing shall be given by publication once each week for not less than three weeks in a newspaper of general circulation within the district. The notice shall state the time and place of the hearing and that all interested persons may appear and be heard. The notice shall also state that all persons having claims against the district shall present them at the time of the hearing. [1971 c.267 §11]

198.360 Continuation or termination of district; proceedings for county service district. (1) After the hearing, if the county board finds that the district is in fact operating as an active district, or that there is need for the district, the board shall continue the hearing until the reports required under ORS 294.555 and 297.405 to 297.555 are properly filed. When the county board finds that the reports have been filed, it may:

(a) Enter an order terminating all further proceedings under ORS 198.345 to 198.365; or

(b) If the functions of the district could be performed by a county service district, it may continue the hearing and initiate proceedings to incorporate or annex the area within the district in a county service district organized under ORS 451.410 to 451.600.

(2) If the county board proceeds as provided by paragraph (b) of subsection (1) of this section and the district is terminated as provided by ORS 451.577, the county board shall thereafter enter an order terminating all further proceedings under ORS 198.345 to 198.365. [1971 c.267 §12; 1977 c.774 §15; 1979 c 286 §2]

198.365 County board as trustees for inactive district; distribution of assets; levy of tax to meet debts; delivery of records. (1) If the county board finds that the district is not active and that there is no need for the district, the board shall thereupon constitute a board of trustees for the purpose of paying the debts and disposing of the property of the district.

(2) Any surplus funds and assets remaining to the credit of the district, after payment of the debts of the district, shall be credited to the county general fund available for general purposes. If the district was located in more than one county, the surplus shall be apportioned and turned over to each county in which the district was located. The funds and assets shall be apportioned according to the

proportion in each county of the assessed valuation of taxable property in the district.

(3) If the assets of the district are insufficient to pay the debts of the district, the county board acting as a levying board for the district shall levy taxes, within the limits of the authority of the district, for the liquidation of the debts. If the only debt of the district is the cost of the proceedings conducted under ORS 198.345 to 198.365, the county shall pay the cost of the proceedings.

(4) When the proceedings are completed, the county board shall deliver the books and records of the district to the county clerk. [1971 c.267 §13]

RECALL

198.410 Definitions for ORS 198.430. As used in ORS 198.430, unless the context requires otherwise:

(1) "District officer" means a member of the governing body of a district who serves as such by virtue of election to such position.

(2) "Qualified voter" means a person qualified, in accordance with the law applicable to the district, to vote in an election at which members of the governing body of the district are elected. [1969 c.325 §1; 1971 c.23 §6]

198.420 [1969 c.325 §2; repealed by 1971 c.23 §12]

198.430 Recall of members of certain boards. (1) A petition for recall of a district officer shall be filed with the officer with whom a petition for nomination to such office should be filed. If there is no such officer or if he is the district officer against whom the petition is being filed, the petition shall be filed with the county clerk of the county where the district, or the greater portion of the district, is located.

(2) The petition shall be signed by not less than the lesser of:

(a) Fifteen percent of the qualified voters of the district, or subdivision of the district from which the district officer was elected; or

(b) Twenty-five percent of the number of voters from the district, or such subdivision, who voted at the preceding election for justice of the Supreme Court.

(3) Every sheet of each petition containing signatures shall be verified on the face by the affidavit of the person who circulated the sheet, stating that every person who signed the sheet did so in his presence and that he believes that each signer stated his correct residence address and is a qualified voter.

(4) In those districts where qualified voters must be registered electors, the petition, before filing, shall be submitted to the county clerk who shall compare the signatures of the persons signing the petition with the signatures of registered electors on the register of electors and shall, on the face of each signature sheet, make his certificate of the number of signatures he believes to be genuine. In other districts, the officer who receives the petition for filing shall, before filing the petition, verify the signatures and make his certificate of the number of signatures he believes to be genuine.

(5) The district shall pay the expense of verifying the signatures and of calling and conducting the election. The election shall be conducted in the district, or in the subdivision of the district from which the district officer was elected, in accordance with the law governing election of district officers. [1969 c.325 §3]

ORDINANCES AND REGULATIONS

198.510 Definitions for ORS 198.510 to 198.600. As used in ORS 198.510 to 198.600, unless the context requires otherwise:

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

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

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

(4) "District board" means the governing body of a district and the term includes a county board that is in the governing body of a district.

(5) "Presiding officer" means the chairman, president or other person performing the office of presiding officer of the district board.

(6) "Principal Act" means the law, other than ORS 198.510 to 198.600, applicable to a district. [1971 c.268 §2]

198.520 "District" defined for ORS 198.510 to 198.600. As used in ORS 198.510 to 198.600, unless the context requires otherwise, district has the meaning given that term

by subsections (2), (4), (5), (6), (11), (12), (14), (17), (19) and (20) to (22) of ORS 198.010. In addition, "district" means any one of the following:

(1) A county service district organized under ORS chapter 451.

(2) The Port of Portland established by ORS 778.010. [1971 c 268 §1; 1975 c.782 §48b; 1977 c.756 §3]

198.530 Procedure for adopting, amending or repealing ordinances or regulations. When a district board is authorized by the principal Act of a district to enact, amend or repeal regulations, it shall do so in accordance with ORS 198.510 to 198.600. In all counties which do not provide by ordinance or charter for the manner of enacting, amending or repealing ordinances and regulations, this section applies when a county board pursuant to statute is acting as the governing body of a district. [1971 c.268 §3]

198.540 Notice prior to adoption of ordinance or regulation. (1) Except in an emergency, an ordinance adopting, amending or repealing a regulation shall not be considered or voted upon by a district board unless the ordinance is included in the published agenda of the meeting. The agenda of a meeting shall state the time, date and place of the meeting, give a brief description of the ordinances to be considered at the meeting and state that copies of the ordinances are available at the office of the district board.

(2) The presiding officer shall cause the agenda to be published not more than 10 days nor less than four days before the meeting, in one or more newspapers of general circulation within the district or, if there is no such newspaper, in a newspaper of general circulation in each county in which the district is located. The presiding officer may also cause the agenda:

(a) To be posted in three public places within the district at least 10 days before the meeting; or

(b) To be published by radio and television stations broadcasting in the district as provided by ORS 193.310 and 193.320. [1971 c.268 §4]

198.550 Publication of ordinance; emergency ordinance procedure. (1) Except as provided by subsection (3) of this section, before an ordinance is adopted it shall be read during regular meetings of the district board on two different days at least six days apart. The reading of an ordinance shall be full and distinct unless at the meeting:

(a) A copy of the ordinance is available for each person who desires a copy; and

(b) The board directs that the reading be by title only.

(2) Except as provided by subsection (3) of this section, the affirmative vote of a majority of the members of the district board is required to adopt an ordinance.

(3) An ordinance to meet an emergency may be introduced, read once and put on its final passage at a regular or special board meeting, without being described in a published agenda, if the reasons requiring immediate action are described in the ordinance. The unanimous approval of all members of the board at the meeting, a quorum being present, is required to adopt an emergency ordinance. [1971 c.268 §5]

198.560 Filing of ordinance; notice of adoption of emergency ordinance. (1) Within seven days after adoption of an ordinance, the enrolled ordinance shall be:

(a) Signed by the presiding officer;

(b) Attested by the person who served as recording secretary of the district board at the session at which the board adopted the ordinance; and

(c) Filed in the records of the district.

(2) A certified copy of each ordinance shall be filed with the county clerk, available for public inspection.

(3) Within 15 days after adoption of an emergency ordinance, notice of the adoption of the ordinance shall be published as provided by subsection (2) of ORS 198.540 for notice of proposed ordinances. The notice shall:

(a) Briefly describe the ordinance;

(b) State the date when the ordinance was adopted and the effective date of the ordinance; and

(c) State that a copy is on file at the district office and at the office of the county clerk of the county, available for public inspection. [1971 c.268 §6]

198.570 When ordinances take effect. (1) Except as provided by subsection (2) of this section, an ordinance shall take effect on the 30th day after it is adopted, unless a later date is prescribed by the ordinance. If an ordinance is referred to the voters of the district as authorized by ORS 198.580 (1977

Replacement Part), it shall not take effect until approved by a majority of those voting on the ordinance.

(2) An emergency ordinance may take effect upon adoption. [1971 c.268 §7]

198.580 [1971 c 268 §8; repealed by 1979 c 190 §431]

198.590 Petition to adopt, amend or repeal ordinance. Any interested person who is a voter or landowner within the district may petition the district board to adopt, amend or repeal an ordinance. Any such person may appear at any regular meeting of the board and shall be given a reasonable opportunity to be heard. [1971 c.268 §9]

198.600 Penalty for violation of ordinances; jurisdiction; enforcement. (1) If a penalty for a violation is not otherwise provided, violation of any regulation adopted by a district board under ORS 198.510 to 198.600 is punishable, upon conviction, by a fine of not more than $250 or imprisonment of not more than 30 days, or both.

(2) Actions to impose punishment shall be brought in the name of the district or county, as the case may be, in any court having jurisdiction of misdemeanors under state laws. The action shall be brought in the county in which the district, or the greater portion of the area of the district, is located. Fines recovered shall be paid to the clerk of the court who, after first deducting the court costs in such proceedings, shall pay the remainder thereof to the treasurer of the district or county initiating the action to go to and form a part of its general fund.

(3) Any peace officer may enforce an ordinance adopted under ORS 198.510 to 198.600. ORS 221.340 is applicable to the enforcement of such ordinances. [1971 c.268 §10]

FORMATION; CHANGES OF ORGANIZATION
(Generally)

198.705 Definitions for ORS 198.705 to 198.955. As used in ORS 198.705 to 198.955, unless the context requires otherwise:

(1) "Affected county" means each county which contains or would contain any territory for which a formation or a change of organization is proposed or ordered or which contains all or any part of a district for which a change of organization is proposed or ordered.

(2) "Affected district" means each district which contains or would contain territory for which a formation or a change of organization is proposed or ordered.

(3) "Annexation" includes the attachment or addition of territory to, or inclusion of territory in, an existing district.

(4) "District board" means the governing board of a district.

(5) "Change of organization" means the annexation or withdrawal of territory to or from a district, the merger or consolidation of districts or the dissolution of a district.

(6) "Consolidation" means the uniting or joining of two or more districts into a single new successor district.

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

(8) "Dissolution" includes disincorporation, extinguishment or termination of the existence of a district and the cessation of all its corporate powers, except for the purpose of winding up the affairs of the district.

(9) "Formation" includes incorporation, organization or creation of a district.

(10) "Inhabited territory" means territory within which there reside 12 or more persons who have been registered to vote within the territory for at least 30 days prior to the date a proceeding is commenced under ORS 198.705 to 198.955.

(11) "Landowner" or "owner of land" means any person shown as the owner of land on the last assessment roll; however, where such person no longer holds the title to the property, then the terms mean any person entitled to be shown as owner of land on the next assessment roll; or, where land is subject to a written agreement of sale, the terms mean any person shown in the agreement as purchaser to the exclusion of the seller; and the terms include any public agency owning land.

(12) "Legal representative" means:

(a) An officer of a corporation duly authorized, by the bylaws or a resolution of the board of directors of the corporation, to sign for and on behalf of the corporation; and

(b) A guardian, executor, administrator or other person holding property in a trust capacity under appointment of court, when authorized by an order of court, which order may be made without notice.

(13) "Merger" means the extinguishment, termination and cessation of the existence of one or more districts by uniting with and being absorbed into another district.

(14) "Notice" includes an ordinance, resolution, order or other similar matter providing notice which ORS 198.705 to 198.955 authorize or require to be published, posted or mailed.

(15) "Principal Act" means the statutes which describe the powers of a district, including the statutes under which a district is proposed or is operating.

(16) "Principal county" or "county" means the county in which the district, or the greater portion of the value of all taxable property in the district, as shown by the most recent assessment roll of the counties, is located at the time proceedings are initiated to form a district; but for any district formed prior to and existing on September 9, 1971, "principal county" or "county" means the county in which the district, or the greater portion of the value of all taxable property in the district, as shown by the most recent assessment roll of the counties, was located on September 9, 1971.

(17) "Proceeding" means a proceeding for formation or for change of organization conducted pursuant to ORS 198.705 to 198.955.

(18) "Registered voter" or "voter" means a qualified voter, registered in accordance with state law, who is entitled to vote in a district.

(19) "Uninhabited territory" means territory within which there reside less than 12 registered voters who were residents within the territory 30 days prior to the date a proceeding is commenced under ORS 198.705 to 198.955.

(20) "Withdrawal" includes the detachment, disconnection or exclusion of territory from an existing district. [1971 c.727 §1]

198.710 "District" defined for ORS 198.705 to 198.955. As used in ORS 198.705 to 198.955, unless the context requires otherwise, "district" has the meaning given that term by subsections (2) to (4), (6) to (14) and (17) to (22) of ORS 198.010. In addition, the term also means any one of the following:

(1) A county road district organized under ORS 371.055 to 371.110.

(2) A county service district organized under ORS chapter 451.

(3) The Port of Portland created by ORS 778.010.

(4) A translator district organized under ORS 354.605 to 354.715. [1971 c.727 §2; 1975 c.782 §48c; 1977 c.756 §4; 1979 c.108 §5; 1979 c.877 §1]

198.715 Short title; procedure for formation or change of organization. (1) ORS 198.705 to 198.955 may be cited as the District Boundary Procedure Act.

(2) Except as otherwise provided by ORS 199.410 to 199.512, all district formation or change of organization proceedings shall be initiated, conducted and completed as provided by ORS 198.705 to 198.955. However, ORS 198.705 to 198.955 are not intended to apply when a change of organization is made by statute as provided by ORS 222.510 to 222.580, 451.573 to 451.577 and 451.585. [1971 c.727 §4]

198.720 Boundaries. Except as otherwise specifically provided by the principal Act:

(1) A district may consist of contiguous or noncontiguous territory located in one or more adjoining counties. If any part of the territory subject to a petition for formation or annexation is within a city, the petition shall be accompanied by a certified copy of a resolution of the governing body of the city approving the petition.

(2) A district may not include territory included within another district formed under the same principal Act when the other district is authorized to perform and is performing the services the affected district is authorized to perform, unless:

(a) Withdrawal of such territory is proposed and the territory is withdrawn by withdrawal proceedings conducted in the other district simultaneously with the formation or annexation proceedings, and the proposed boundary changes are approved for both districts; or

(b) The principal Act provides for automatic withdrawal of the affected territory in such a case.

(3) The boundary lines of a district formed under ORS 198.705 to 198.955 shall include only such territory as may in reason be served by the facilities or services of the district. [1971 c.727 §5]

198.725 Procedure when two counties affected. If there are two or more affected counties in a proceeding under ORS 198.705 to

198.955, any notices, proceedings, orders or any other act authorized or required to be given, taken or made by the county board, the county clerk or any other officer of a county, shall be given, taken or made by the persons holding such offices in the principal county. Officers of an affected county other than the principal county shall cooperate with the officers of the principal county and shall furnish the officers of the principal county with such certificates, records or certified copies of records as may be necessary to enable the officers of the principal county to comply with ORS 198.705 to 198.955. [1971 c 727 §7]

198.730 Notice. (1) Except as otherwise provided by ORS 198.705 to 198.955, when notice is required or authorized to be published, posted or mailed, it shall be published, posted or mailed as provided by this section. When notice is required to be given and the duty of giving the notice is not specifically enjoined upon some officer, agency or person, the county clerk or the secretary of the district board, as the case may be, shall give notice or cause it to be given.

(2) Notice required to be published shall be published in one or more newspapers of general circulation within the affected district. If any newspaper is of general circulation in two or more affected districts, publication in one such newspaper is sufficient publication for all such affected districts. If no newspaper is of general circulation within the affected district, the publication shall be made in a newspaper of general circulation within the principal county. Published notice of a hearing or of an election shall be commenced at least 15 days prior to the date specified in the notice for the hearing or the election, and the last publication shall be made at least five days prior to the hearing or election.

(3) Notice required to be posted shall be posted on or near the doors of the meeting room of the district board or of the county board, or upon any official public bulletin board customarily used for the purpose of posting public notices by or pertaining to the district or county. Posted notice shall be posted not less than five successive days. If posted notice is notice of a hearing, posting shall be commenced not less than 15 days prior to the date specified in the notice for the hearing.

(4) Mailed notice shall be sent first class and deposited, postage prepaid, in the United States mails and shall be considered to have been given when so deposited. If mailed notice is a notice of a hearing, mailing shall be made not more than 15 days nor less than five days prior to the date specified in the notice for the hearing.

(5) Notice authorized or required to be given by publication, posting or mailing shall contain all matters required by ORS 198.705 to 198.955. If a petition, ordinance, resolution or order of a district board giving notice contains all matters required to be contained in the notice, the county clerk or district secretary may, and shall if required, cause a copy of such petition, ordinance, resolution or order to be published, posted or mailed, in which case no other notice need be given by the clerk or secretary. [1971 c.727 §8]

198.735 Right of interested person to appear; written statements. (1) On or before the date set for a hearing on a petition, any person interested in the proposed formation or change of organization of the district may appear and present written statements for or against the granting of the petition or the proposed change.

(2) A written statement for or against a proposed formation or change of organization or a request for an election must be in writing, must clearly specify the defect, error, irregularity or omission to which objection, if any, is made and must be filed within the time and in the manner provided by ORS 198.705 to 198.955. Any statement not so made and filed shall be considered voluntarily waived. [1971 c.727 §§9, 10]

198.740 Election procedure governed by district law; omissions governed by general election law. When ORS 198.705 to 198.955 require an election to be called within a district, the election shall be conducted as provided by the principal Act of the district or as provided by the principal Act for an election on formation. However, to the extent of an omission in the principal Act, the general laws on elections apply. [1971 c 727 §11]

198.745 Content of resolution calling election. A resolution or order calling an election on a proposed formation or change of organization shall:

(1) Provide for giving notice of the special election or elections upon the question.

(2) Designate each district or other territory within which the election or elections are to be held.

(3) Fix a date for the election, which date shall be the same for each election when an election is called upon the same question within more than one territory or district.

(4) State the substance of the question or questions to be submitted to the voters.

(5) Specify any terms and conditions provided for in the formation or change of organization.

(6) Contain such other matters as may be necessary to call, provide for and give notice of the election or elections and to provide for the conduct thereof and the canvass of the returns thereupon. [1971 c 727 §12]

198.750 Content of petition proposing formation or change of organization; verification. (1) If a proposal for formation or change of organization of a district is made by petition, the petition shall contain substantially the following:

(a) State that the petition is filed pursuant to ORS 198.705 to 198.955.

(b) State the names of all affected districts and all affected counties.

(c) Designate the principal Act of each affected district.

(d) State the nature of the proposal, whether formation of a district or change of organization and the kind of change proposed.

(e) State whether the territory subject to the petition is inhabited or uninhabited.

(f) If the petition is for formation, and district board members are elected, state the number of members on the board.

(g) Set forth any proposed terms and conditions, if any, to which a proposed formation or change of organization is to be subject.

(h) State, or indicate opposite each signature, whether the signers of the petition are registered voters or landowners within the district, or both.

(i) Request that proceedings be taken for the formation or change of organization proposed.

(2) If the petition proposes formation of a district, the petition shall set forth a description of the boundaries of the territory proposed to be included in the district. If the petition proposes annexation or withdrawal of territory, the petition shall set forth a description of the boundaries of the territory to be annexed or withdrawn.

(3) If a petition proposes formation of a district, or consolidation or merger of districts, the petition may propose a name for the new district or for the surviving or successor district.

(4) Each petition containing signatures shall be verified by the affidavit of the person circulating the petition, stating that every person who signed the petition did so in his presence. [1971 c.727 §§13, 14]

198.755 Number of signatures required. (1) A petition for formation shall be signed by not less than:

(a) Fifteen percent of the registered voters or 100 registered voters, whichever is the greater, resident within the territory subject to the petition; or

(b) Fifteen owners of land or the owners of 10 percent of the acreage, whichever is the greater number of signers, within the territory subject to the petition.

(2) A petition for annexation shall be signed by not less than:

(a) Fifteen percent of the registered voters or 100 registered voters, whichever is the lesser, resident within the area proposed to be annexed; or

(b) Fifteen owners of land or the owners of 10 percent of the acreage, whichever is the greater number of signers, within the area proposed to be annexed.

(3) A petition for withdrawal shall be signed by not less than:

(a) Fifteen percent of the registered voters or 100 registered voters, whichever is the lesser, resident within the district; or

(b) Fifteen owners of land or the owners of 10 percent of the acreage, whichever is the greater number of signers, within the district.

(4) A petition for merger and a petition for consolidation shall be signed by not less than:

(a) Fifteen percent of the registered voters or 100 registered voters, whichever is the lesser, resident within each district which it is proposed to merge or consolidate; or

(b) Fifteen owners of land in each district or the owners of 10 percent of the acreage located in each district, whichever is the greater number of signers.

(5) A petition for dissolution shall be signed by not less than:

(a) Fifteen percent of the registered voters within the district; or

(b) Owners of 15 percent of the acreage within the district. [1971 c.727 §15; 1973 c 117 §1]

198.760 Requirements for signers of petition; signer's withdrawal prohibited; chief petitioners designated. (1) Each person signing a petition may also print his name on the petition and shall add after his signature the date of signing. If a person is signing the petition as a registered voter, he shall add after his signature his place of residence, giving street and number or a designation sufficient to enable the place of residence to be readily ascertained. If the signer is signing the petition as a landowner, the number of acres of land owned by the signer and the name of the county whose assessment roll is used for the purpose of determining the signer's right to vote shall be stated in the body of the petition or indicated opposite his signature. If the signer is a legal representative of the owner, his signature shall be accompanied by a certified copy of his authority to sign as a legal representative.

(2) After a petition has been offered for filing, a person may not withdraw his name therefrom.

(3) A petition may designate not to exceed three persons as chief petitioners, setting forth their names and mailing addresses. A petition may consist of a single instrument or separate counterparts. [1971 c.727 §17; 1973 c 283 §7]

198.765 Time limit for securing signatures; validity and certification of signatures; waiting period after dissolution election for filing dissolution petition. (1) A petition shall not be accepted for filing unless the signatures thereon have been secured within six months of the date on which the first signature on the petition was affixed. Petitions required to be filed with the county board shall be filed with the county clerk of the principal county. Petitions required to be filed with the district board shall be filed with the secretary of the district board. It is not necessary to offer all counterparts of a petition for filing at the same time, but all counterparts when certified as provided by subsection (3) of this section shall be filed at the same time.

(2) Within 10 days after the date a petition is offered for filing, the county clerk or district secretary, as the case may be, shall examine the petition and determine whether it is signed by the requisite number of qualified signers. If the requisite number of qualified signers have signed the petition, he shall file the petition. If the requisite number have not signed, he shall so notify the chief petitioners and may return the petition to the petitioners.

(3) A petition shall not be filed unless the certificate of the county clerk or the district secretary is attached thereto certifying that he has compared the signatures of the signers with the appropriate records, that he has ascertained therefrom the number of qualified signers appearing on the petition, and that the petition is signed by the requisite number of qualified signers.

(4) No petition for dissolution shall be accepted for filing within one year after an election held on the question of dissolution of a district. [1971 c.727 §18; 1973 c 117 §2]

198.770 Method of determining validity of landowner signatures. (1) In examining a petition required or permitted to be signed by landowners the county clerk or district secretary shall disregard the signature of a person not shown as owner on the last equalized assessment roll unless prior to certification the secretary or county clerk is furnished with written evidence, satisfactory to him, that the signer:

(a) Is a legal representative of the owner;

(b) Is entitled to be shown as owner of land on the next assessment roll;

(c) Is a purchaser of land under a written agreement of sale; or

(d) Is authorized to sign for and on behalf of any public agency owning land.

(2) If a person signing a petition as a landowner appears as owner on the last equalized assessment roll but is shown thereon as a partner, tenant in common or tenant by the entirety, the signature of the person signing shall be counted as if all other owners, as shown on the roll for the same parcel of land, has signed. [1971 c.727 §19]

198.775 Bond to accompany petition; payment of costs by county or district. (1) A petition for formation, annexation, withdrawal or dissolution shall not be accepted for filing unless accompanied by a good and sufficient bond in form and amount approved by the county board. The bond shall be conditioned that, if the attempted formation, annexation, withdrawal or dissolution is not effected, the petitioners will pay the costs

thereof, excluding any costs incurred by a local government boundary commission under ORS 199.410 to 199.512. If the proposed formation, annexation, withdrawal or dissolution is effected, the district shall be liable for costs.

(2) Notwithstanding subsection (1) of this section, the costs of proceedings initiated by a county or district board, excluding costs incurred by a local government boundary commission under ORS 199.410 to 199.512, shall be paid by the initiating board out of county or district funds. [1971 c 727 §20]

198.780 Filing of duplicates of certain documents. (1) Within 10 days after a document referred to by subsection (2) of this section is entered, adopted or executed, the board that entered, adopted or executed the document shall file duplicate copies of the document with the Department of Revenue, the Secretary of State and with the county clerk and the county assessor of each county in which any district affected by the document is located.

(2) This section applies to:

(a) An order of formation entered by the county board under ORS 198.810 to 198.840.

(b) An order of annexation entered by the county board under ORS 198.850 to 198.865.

(c) An order of withdrawal entered by the county board under ORS 198.875.

(d) A resolution of merger adopted by the district board under ORS 198.910.

(e) A resolution of consolidation adopted by the district board under ORS 198.910.

(f) The statement executed by the board of trustees of a dissolving district under ORS 198.945. [1971 c 727 §21; 1977 c.884 §1]

198.782 Documents to be filed with Secretary of State before business transacted. No municipal corporation, as defined in ORS 297.405, incorporated or formed in this state after October 3, 1979, shall receive or disburse moneys or transact business of any kind until a notice of incorporation or formation has been filed with the Secretary of State by that corporation. [1979 c.621 §7]

Note: 198.782 was enacted into law by the Legislative Assembly but was not added to or made a part of ORS chapter 198 or any series therein by legislative action See the Preface to Oregon Revised Statutes for further explanation

198.785 Proceeding to contest validity of formation or change of organization. (1) If the county clerk refuses to accept and file a petition for formation or for change of organization, or if the county board refuses to call a special election as provided by ORS 198.705 to 198.955, any citizen of the affected district or territory may apply within 10 days after such refusal to the circuit court of the principal county for a writ of mandamus to compel the county board or county clerk to do so. If it is decided by the circuit court that the petition for formation or change of organization is legally sufficient and the requisite number of signatures is attached, the circuit court shall direct the county board to call the election. The suit shall be advanced on the docket and decided by the circuit court as quickly as possible. Either party may appeal as provided for appeals in other proceedings.

(2) An action to determine the validity of a formation or change of organization proceeding may also be brought pursuant to ORS 33.710 and 33.720 or 34.010 to 34.100.

(3) For the purpose of an action to determine or contest the validity of a formation or change of organization, the formation or change shall be considered complete and final upon the date the order of formation or the order, resolution or statement announcing a change of organization is filed with the county clerk as provided by ORS 198.780. [1971 c.727 §22; 1979 c.562 §7; 1979 c.772 §15a]

198.790 Rights of creditors after change of organization; enforcement. No change of organization, or any term or condition thereof, shall impair the rights of any bondholder or other creditor of a district. Notwithstanding ORS 198.705 to 198.955, or of any order changing the organization of a district, or any term or condition thereof, each and every bondholder or other creditor may enforce all his rights in the same manner and to the same extent as if the change of organization, term or condition had not been made. Any such rights may also be enforced against agencies, and their respective officers, as follows:

(1) Upon annexation or withdrawal of territory: Against the district to or from which the territory is annexed or withdrawn.

(2) Upon dissolution of a district: Against the successor city, county or district or against a city, county or district receiving distribution of all or any part of the remaining assets of the dissolved district.

(3) Upon merger of two or more districts: Against the surviving district.

(4) Upon consolidation of two or more districts: Against the successor district. [1971 c 727 §23]

198.792 District formation or annexation proceedings to relieve public health danger. (1) Proceedings may be initiated by the county board or any other public agency in accordance with ORS 431.705 to 431.760:

(a) To annex the affected territory to a district, as defined by ORS 431.705; or

(b) To form a metropolitan service district as authorized by ORS chapter 268, or a county service district as authorized by ORS chapter 451, to include the affected territory.

(2) The findings of the Assistant Director for Health when filed with the county board in accordance with ORS 431.735 or 431.750 shall be considered a petition for the purposes of ORS 198.705 to 198.955. The county board of the principal county shall conduct proceedings in accordance with the findings and order of the assistant director and with ORS 198.705 to 198.955.

(3) In proceedings described by subsection (1) of this section, the county board shall determine whether the affected territory shall be included in a new district or annexed to an existing district. The county board shall not inquire into the need for the proposed service facilities or adjust the boundaries of the affected territory. Subsection (2) of ORS 198.805, and the provisions of ORS 198.810 and 198.815 providing for an election on the formation of or annexation to a district, do not apply to proceedings under this section. [1973 c 361 §14]

198.793. Change of district name. (1) A district may change its name from the name given it in the formation order of the county board under ORS 198.810, or from the name under which it was otherwise incorporated, to a name chosen by resolution of a majority of the members of the district board.

(2) A district board shall not adopt a resolution for a district name change without first publishing notice of the proposed name change under subsection (2) of ORS 198.730 and holding a hearing on the matter.

(3) The resolution for a district name change shall take effect 30 days after adoption by the district board unless a petition objecting to the name change, signed by five percent or 50, whichever is less, of the qualified voters of the district, is received by the district board within those 30 days. If a sufficient petition is submitted to the district board, the proposed name change shall be submitted to the voters of the district at the next practicable special district election date following receipt of the petition. If a majority of the voters voting on the question approve the name change it shall be effective immediately. [1979 c 272 §2]

198.794 Effect of district name change; notification to certain officials. (1) All powers, rights, duties and obligations of a district which has adopted a new name under ORS 198.793 shall be continued under the new name. All references to the prior name of the district shall be considered references to the new name.

(2) A district changing its name under ORS 198.793 shall, immediately upon effectiveness of the change, certify the name change to the Director of the Department of Revenue, the county treasurer of the principal county and the county clerk and county assessor of each county in which the district is situated. [1979 c.272 §3]

(Formation)

198.795 Jurisdiction over district formation; duration of jurisdiction. For purposes of a formation proceeding, the county board where the petition is filed shall have original and, except as provided by ORS 199.410 to 199.512, exclusive jurisdiction, coextensive with the boundaries of the proposed district, without regard to county lines. For all purposes under ORS 198.705 to 198.955, the jurisdiction of the county board of the principal county shall continue from the time a district is formed until the district is dissolved. [1971 c.727 §6]

198.800 Formation petition; notice of hearing. (1) A petition for formation shall be filed with the county board of the principal county. Before the petition is filed, it shall be approved by indorsement thereon by any agency required by the principal Act to indorse or approve the petition. If the petition satisfies the requirements of ORS 198.750 to 198.775 and is otherwise sufficient under the principal Act, the county board shall set a date for a hearing on the petition. The hearing shall be held not less than 30 days nor more than 50 days after the date the petition is filed.

(2) The county board shall cause notice of the hearing to be posted in at least three public places and published by two insertions in a newspaper. The notice shall state:

(a) The purpose for which the district is to be formed.

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

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

(d) That all interested persons may appear and be heard. [1971 c 727 §24]

198.805 Conduct of hearing; standards for formation; notice to nonappearing landowner. (1) At the time stated in the notice, the county board shall hear the petition and determine, in accordance with the criteria prescribed by ORS 199.462, if the area could be benefited by the formation of the district. It may adjourn the hearing from time to time, but not exceeding four weeks in all unless additional notice is given. The county board may alter the boundaries set forth in the petition to either include or exclude territory. In determining the boundaries of the proposed district, the board shall consider the benefit the proposed district will have within the territory in or out of the proposed district. The board shall not modify the boundaries so as to exclude from the proposed district any land which could be benefited by its formation, nor shall there be included any land which will not, in the judgment of the board, be benefited.

(2) If the county board determines that any land has been improperly omitted from the proposed district and that the owner has not appeared at the hearing, the board shall continue the hearing and shall order notice given to the nonappearing owner requiring him to appear before it and show cause, if any, why his land should not be included in the proposed district. The notice shall be given either by posting and publication, in the same manner as notice of the original hearing and for the same period, or by personal service on each nonappearing owner. If notice is given by personal service, service shall be made at least 10 days prior to the date fixed for the further hearing. [1971 c.727 §25]

198.810 Order for formation; final hearing; request for election. (1) If the county board approves the petition for formation, as presented or as modified, it shall enter an order so declaring, which order shall set forth the name of the district and the boundaries as determined by the board. The order shall also fix a place, and a time not less than 20 nor more than 50 days after the date of the order, for a final hearing on the petition. The order shall declare that if written requests for an election are not filed as provided by subsection (2) of this section, the board will, at the time of the final hearing, enter its order creating the district. The board shall cause notice of the hearing to be given by publication.

(2) An election shall not be held unless written requests for an election are filed at or before the hearing by not less than 15 percent of the registered voters or 100 registered voters, whichever is the lesser number, resident within the proposed district. [1971 c.727 §26]

198.815 Election on formation; notice; election of first board. (1) If the required number of written requests for an election are filed with the county board on or before the date of the final hearing, the board shall provide by order for the holding of an election to submit to the voters the question of forming the district. The board shall cause notice of the election to be published by two insertions. If requests for an election are filed by less than the required number of persons, the county board shall dismiss the requests and enter an order creating the district.

(2) The order calling an election shall fix the date of the election on the next available election date in ORS 255.345 that is not less than 35 days after the date of the order. The order shall also state that at such election members of the district board will be voted for. Candidates to be voted for as members of the first board of a district shall be nominated as provided by the principal Act of a district. [1971 c.727 §27; 1979 c.316 §6]

198.820 Order by county board; effect of formation. (1) After the election if any is held, if it is determined by the county board that the majority of the votes cast were in favor of formation of the district, the board shall enter an order creating the district. If a majority of the votes cast oppose the formation of the district, the board shall enter an order dismissing the petition. The order shall be entered within 30 days after the date of the election. The county board shall also canvass the votes for members of the district board and, if formation of the district is approved,

cause the county clerk to issue certificates of election to the number of persons, equal to the number of board members named in the petition for formation, receiving the highest number of votes.

(2) After the date of the formation order, the inhabitants of the territory within the district shall be a municipal corporation to be known by the name specified in the order, and as such shall have perpetual succession, and by such name shall exercise and carry out the corporate powers and objects conferred by the principal Act of the district.

(3) An order creating a district, whether the district is formed with or without an election, shall state the name and purpose of the district, describe its boundaries, and declare the district formed. From the date of the formation order the district shall be considered established. [1971 c.727 §28]

198.825 Election of first members of board when no formation election required. If an election is not held on the question of formation, an election shall be ordered for the purpose of electing the first members of the district board. When the formation order is entered, the county board shall order an election held in the district, which election shall be held on the next practicable date under ORS 255.345. The returns of the election shall be made to the county board. The board shall canvass the votes for members of the district board and cause the county clerk to issue certificates of election to the number of persons, equal to the number of board members named in the petition for formation, receiving the highest number of votes. [1971 c 727 §29; 1975 c.647 §1]

198.830 Petition for formation by all landowners in proposed district. (1) If the owners of all real property within an area desire to form a district, they may sign and present a petition to the county board. The petition shall contain the information required by ORS 198.750 to 198.775 and shall be verified by the affidavit of one of the petitioners that he believes that the signers of the petition comprise all the owners, at the time of the verification, of all the land included within the proposed district. If members of the district board are generally elected to office, the petition shall also state the names of persons desired as the members of the first board and an acceptance in writing by each agreeing to serve as a member of the board.

(2) The county board shall approve the petition for formation of the district if it finds:

(a) That the owners of all the land within the proposed district have joined in the petition; and

(b) That, in accordance with the criteria prescribed by ORS 199.462, the area could be benefited by formation of the district.

(3) If formation is approved, any election required by ORS 198.810 to 198.825 shall be dispensed with. After the hearing on the petition, if the county board approves the petition, it shall enter an order creating the district. If the district board members generally are elected, the persons nominated by the petition and accepting nomination as members of the board shall constitute the first board of the district. [1971 c.727 §30]

198.835 Initiation of formation of district in single county. The county board may initiate the formation of a district, to be located entirely within the county, by an order setting forth:

(1) The intention of the county board to initiate the formation of a district and citing the principal Act.

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

(3) The date, time and place of a public hearing on the proposal. [1971 c.727 §31]

198.840 Notice of hearing. Notice of the hearing set by the order shall be given in the manner provided by ORS 198.800 except that the notice shall state that the county board has entered an order declaring its intention to initiate formation. The hearing and election on the proposal, and election of board members, shall be conducted as provided by ORS 198.800 to 198.825. [1971 c 727 §32]

198.845 Costs. The county shall bear the cost of formation or attempted formation of a district under ORS 198.835 to 198.845. However, if a district is formed, the district shall reimburse the county for any expenses incurred by the county in making necessary preliminary engineering studies and surveys in connection with the formation of the district. [1971 c 727 §33]

(Annexation)

198.850 Annexation petition. (1) When the voters of an area wish to annex to a district, they may file an annexation petition with the county board. Before the petition is filed with the county board, it shall be approved by indorsement thereon by the board of the affected district and by any other agency also required by the principal Act to indorse or approve the petition.

(2) ORS 198.800 to 198.820 apply to the proceeding conducted by the county board and the rights, powers and duties of petitioners and other persons having an interest in the proceedings.

(3) In lieu of a petition, annexation may be initiated by resolution of the district board, or of the county board. Proceedings may also be initiated by any other public agency if authorized by the principal Act. If proceedings are initiated by the district board or another public agency, a resolution setting forth the matters described by ORS 198.835 shall be filed with the county board. The proceeding thereafter shall be conducted as provided by ORS 198.835 to 198.845. [1971 c.727 §34]

198.855 Annexation election; procedure where annexation petition signed by all landowners. (1) If the annexation petition is not signed by all the owners of all the lands in the territory proposed to be annexed and an election is ordered on the proposed annexation as provided by ORS 198.815, the county board shall order an election to be held in the territory and the county board also shall order the board of the affected district to hold an election on the same day, both elections to be held for the purpose of submitting the proposed annexation to the voters. The district board shall certify the results of the election to the county board. The order of annexation shall not be entered by the county board unless a majority of the votes in the territory and a majority of the votes in the district are in favor of the annexation. If a majority of the votes cast in both elections do not favor annexation, the county board by order shall so declare.

(2) Two or more proposals for annexation of territory may be voted upon at the same time. However, within the district each proposal shall be stated separately on the ballot and voted on separately and, in the territory proposed to be annexed, no proposal for annexing other territory shall appear on the ballot.

(3) If the annexation petition is signed by the owner or all of the owners of all land in the territory proposed to be annexed, an election in the territory and district may be dispensed with. After the hearing on the petition, if the county board approves the petition as presented or as modified or, if an election is held, if the voters approve the annexation, the county board shall enter an order describing the boundaries of the territory annexed and declaring it annexed to the district. [1971 c 727 §35]

198.860 Effect of annexation order. After the date of entry of an order by the county board annexing territory to a district, the territory annexed shall become subject to the outstanding indebtedness, bonded or otherwise, of the district in like manner as the territory within the district. [1971 c.727 §36]

198.865 Election in city to obtain district services. (1) When a city is incorporated and the territory included within the city, or the major portion thereof, was formerly within the boundaries of and a part of a district, or if a city does not have adequate service of the kind provided by the district, the city, upon the approval of the majority of the votes cast by its voters at an election called by the city for the purpose, may elect to be annexed to the district for the purpose of receiving service from the district. The election shall be called and held in the manner provided by the city charter or ordinances.

(2) Upon canvassing the vote on the question of annexing city territory to a district, the city, through its appropriate officers, shall certify to the county board of the principal county for the district the fact of the approval by the city voters of the proposition and shall present the certificate to the district board.

(3) If the district board approves the annexation, it shall indorse its approval on the certification and shall call an election in the district. At the election the question of the annexation of the territory of the city to the district shall be submitted to the voters of the district for their approval or rejection. The election shall be held on the next practicable election date in ORS 255.345 after the receipt by the district board of the certificate of the results of the election in the city.

(4) If the voters of the district approve the annexation, the district board shall certify the results of the election and attach the certificate to the certificate of the city and send both

to the county board. The county board shall thereupon enter an order annexing the territory included in the city to the district. Thereafter the city territory, together with any territory thereafter annexed to the city, shall be included in the boundaries of the district and shall be subject to all liabilities of the district in the same manner and to the same extent as other territory included in the district. [1971 c 727 §§37, 38, 1979 c 316 §7]

(Withdrawal)

198.870 Petition for withdrawal of property from district. (1) (a) When a plan for district improvements is adopted, or any time more than two years after the date of formation of a district or after the date of annexation of territory to a district if petitioner's property is located within the territory annexed, an owner of land included in a district may petition the county board for withdrawal of his property from the district.

(b) If the voters of an area within a district wish to withdraw from the district, they may file a petition with the county board.

(2) Petitioners shall cause notice of the petition filing to be given in writing to the district secretary. Within five days after the petition is filed, petitioners shall furnish the secretary with a copy of the petition as filed.

(3) Except as provided by ORS 198.875, ORS 198.800 to 198.820 apply to proceedings for withdrawal and to the rights, powers and duties of the petitioners and other persons having an interest in the proceeding.

(4) The county board may approve the petition as presented or it may adjust the boundaries and approve the petition. The petition shall be approved if it has not been, or is not or would not be, feasible for the territory described in the petition to receive service from the district. The petition shall be denied if it appears that it is, or would be, feasible for the territory described in the petition to receive service from the district. [1971 c.727 §39]

198.875 Election on withdrawal petition. (1) At the time and place set for the final hearing upon the withdrawal petition if the required number of written requests for an election on the proposed withdrawal have not been filed, the county board shall enter an order withdrawing the described area from the district.

(2) If the required number of requests for an election are filed on or before the final hearing, the county board shall call an election in the district upon the question of the withdrawal of the area.

(3) If an election is called and a majority of the votes cast at the election is in favor of the withdrawal of the designated area from the district, the county board shall enter an order withdrawing the area from the district. If the majority of the votes cast is against withdrawal, the county board shall enter an order declaring the results of the election. In either case, the county board shall cause a copy of the order to be filed with the secretary of the district. [1971 c.727 §40]

198.880 Effect on withdrawn area. The described area withdrawn shall, from the date of entry of the order, be free from assessments and taxes levied thereafter by the district. However, the withdrawn area shall remain subject to any bonded or other indebtedness existing at the time of the order, except as provided by ORS 198.882. The proportionate share shall be based on the assessed valuation, according to the assessment roll in the year of the levy, of all the property contained in the district immediately prior to the withdrawal. [1971 c.727 §41; 1977 c.663 §1]

198.882 Tax relief to withdrawn area; conditions for relief; ultimate liability. (1) The governing body of a district shall relieve an area withdrawn from the district from taxation for its proportionate share of outstanding bonded or other indebtedness if:

(a) No district services have been provided to the withdrawn area; and

(b) The area withdrawn does not exceed five percent of the equalized assessed valuation of the taxable property within the entire district prior to the withdrawal, as certified to the county assessor in the tax year of the withdrawal.

(2) Notwithstanding subsection (1) of this section, if the total unlimited taxing power of the district over the area not withdrawn from the district does not wholly satisfy the bonded or other indebtedness incurred prior to the withdrawal, the withdrawn territory shall be taxed in an amount sufficient to satisfy its proportionate share of that indebtedness. [1977 c.663 §3]

Note: 198.882 was enacted into law by the Legislative Assembly but was not added to or made a part of ORS chapter 198 or any series therein by legislative

action See the Preface to Oregon Revised Statutes for further explanation

(Merger; Consolidation)

198.885 Merger of districts; effect. (1) One district or more may merge with another district if the merger is approved by the voters as provided by ORS 198.895 to 198.915. The districts included in the merger shall be considered annexed by and absorbed into the surviving district.

(2) If the merger is approved, the district boards and officers of the merging districts shall turn over to the board of the surviving district all funds, property, contracts and records of the merging districts. Upon the effective date of the merger, the surviving district shall:

(a) Succeed to all the property, contracts, rights and powers of the merging districts, and shall constitute and be a regularly organized district as if originally organized in the manner provided by the principal Act and ORS 198.705 to 198.955;

(b) Uncollected taxes, assessments or charges levied by the merging districts shall become the property of the surviving district and upon collection shall be credited to the account of the surviving district; and

(c) Subject to any debt distribution plan adopted under ORS 198.900, the surviving district shall become liable for all the obligations, legal or contractual, of the merging districts. [1971 c.727 §42]

198.890 Consolidation of districts; effect. (1) Two or more districts may consolidate and form a new district if the consolidation is approved by the voters as provided by ORS 198.895 to 198.915. The districts included in the consolidation shall be considered joined into a single new district.

(2) If the consolidation is approved, the district boards and officers of the consolidating districts shall turn over to the board of the successor district all funds, property, contracts and records of the consolidating districts. Upon the effective date of the consolidation, the successor district shall:

(a) Succeed to all the property, contracts, rights and powers of the consolidating districts, and shall constitute and be a regularly organized district as if originally organized in the manner provided by the principal Act and ORS 198.705 to 198.955;

(b) Uncollected taxes, assessments or charges levied by the consolidating districts shall become the property of the successor district and upon collection shall be credited to the account of the successor district; and

(c) Subject to any debt distribution plan adopted under ORS 198.900, the successor district shall become liable for all the obligations, legal or contractual, of the consolidating districts. [1971 c.727 §43]

198.895 Merger and consolidation procedures. (1) When the voters of two or more districts wish to merge or consolidate, they may initiate proceedings by filing duplicate petitions with the boards of the districts to be merged or consolidated, stating the names of the affected districts, and the name of the surviving or successor district. Merger or consolidation may also be initiated by resolution adopted or approved by two or more district boards. The resolution shall contain all the matters required to be stated in a petition to merge or to consolidate.

(2) When proceedings have been initiated, the board of each affected district shall call an election in its district at which there shall be submitted to the voters of the districts the question:

(a) In a merger, of whether the districts shall merge, stating the name by which the surviving district shall be known.

(b) In a consolidation, of whether the districts shall consolidate, stating the name of the successor district. [1971 c.727 §44]

198.900 Content of petition for merger or consolidation. (1) A petition for merger or consolidation may include a debt distribution plan to be voted upon as a part of the proposal. Such plan may provide for any distribution of indebtedness and may require that merging or consolidating districts remain solely liable for all or any portion of any indebtedness outstanding at the time of the merger or consolidation.

(2) If the merger or consolidation is approved, the district board of the successor or surviving district shall, in accordance with the plan, levy taxes and assessments for the liquidation of any prior existing indebtedness. Such a levy shall be subject to the principal Act of the consolidated or merged district. [1971 c.727 §45]

198.905 Canvass of votes; certification of results. Each district board shall meet within seven days following the date of an election on consolidation or merger and canvass the vote on the measure and certify the result to the board of each of the affected districts. [1971 c.727 §46]

198.910 Joint meeting of boards of merged or consolidated districts. (1) At the elections if a majority of the votes cast in each affected district is in favor of merger or consolidation, the board of the district having the highest assessed valuation for taxation purposes shall call a joint meeting of the boards of the affected districts. The meeting shall be held at a time and place designated by the board calling the meeting, not later than 10 days after the canvass of the vote in the district last canvassed. The secretary of the board calling the meeting shall give notice by certified mail of the time and place of the meeting to each member of the boards of the affected districts.

(2) At the joint meeting, a majority of the members of the board of each affected district constitute a quorum for the transaction of business. The board members so assembled shall from among the members elect a number of persons consistent with the principal Act to serve as board members of the surviving or successor district until the next general election. The board so elected shall immediately meet and organize as provided by the principal Act and shall by resolution declare the districts merged or consolidated, as the case may be. From the date of adoption of the resolution the merger or consolidation is complete. [1971 c.727 §47]

198.915 Election of new board members; terms. At the first regular election held in the surviving or successor district, district board members equal to the number of positions on the board shall be elected. The terms of office of the members elected shall be determined in the manner provided by the principal Act for determination of the terms of office of members of the district board of a newly organized district. [1971 c.727 §48]

(Dissolution)

198.920 Dissolution procedure. Dissolution of a district may be initiated:

(1) By a petition of the voters requesting dissolution of the district, filed with the county board.

(2) By resolution of the district board filed with the county board when the district board determines that it is in the best interest of the inhabitants of the district that the district be dissolved and liquidated.

(3) By resolution of the county board:

(a) If the district at the time of the regular district election has not elected district board members, as required by the principal Act, to fill vacancies on the district board; or

(b) If the territory within the district is uninhabited; and

(c) If in either case the county board determines that it is in the best interest of the people of the county that the district be dissolved and liquidated.

(4) Within five days after a petition is filed or a resolution of a county board is adopted under this section, a copy shall be filed with the district secretary, if any, or with any other district officer who can with reasonable diligence be located.

(5) If there are no qualified district board members, the county board shall act as or appoint a board of trustees to act in behalf of the district. [1971 c.727 §49]

198.925 Findings of fact by district board. (1) When dissolution proceedings have been initiated, the district board shall make findings of fact which shall include:

(a) The amount of each outstanding bond, coupon and other indebtedness, with a general description of the indebtedness and the name of the holder and owner of each, if known.

(b) A description of each parcel of real property and interest in real property and, if the property was acquired for delinquent taxes or assessments, the amount of such taxes and assessments on each parcel of property.

(c) Uncollected taxes, assessments and charges levied by the district and the amount upon each lot or tract of land.

(d) A description of the personal property and of all other assets of the district.

(e) The estimated cost of dissolution.

(2) The district board shall propose a plan of dissolution and liquidation.

(3) Within 30 days after initiation of the dissolution proceeding, the findings of fact and the proposed plan of dissolution and liquidation shall be filed in the office of the county clerk and shall be available for inspection by any interested person. [1971 c.727 §50]

198.930 Plan for dissolution and liquidation. The plan of dissolution and liquidation may include provision for transfer and conveyance of all assets of the district to any other district which has the authority to and agrees to assume the outstanding indebtedness of the dissolving district, if any, and to continue to furnish similar services to the inhabitants of the district. [1971 c.727 §51]

198.935 Election on dissolution; consent of creditors; content of notice. Within 10 days after the district board files the plan of dissolution and liquidation required by ORS 198.925, it shall call an election for the purpose of submitting to the voters of the district the question of whether the district shall be dissolved, its indebtedness liquidated and its assets disposed of in accordance with the plan proposed. The election shall be held on the next available election date in ORS 255.345 that is not less than 35 days after the date of the order. No election shall be called until the assent of all known holders of valid indebtedness against the district is obtained or provision is made in the plan for payment of the nonassenting holders. The notice of the election shall contain a brief summary of the plan of dissolution and liquidation and state that the plan of dissolution is available for examination at the office of the county clerk. [1971 c 727 §52; 1979 c 316 §8]

198.940 Dissolution without election. The election required by ORS 198.935 shall be dispensed with and the county board shall declare the district dissolved and proceed in accordance with ORS 198.945, if the county board finds that:

(1) Dissolution is in the interest of the people of the county; and

(2) The territory within the affected district is uninhabited; or

(3) The district has failed regularly to elect district board members in accordance with the principal Act of the district. [1971 c 727 §53]

198.945 Trustees for dissolved district; records to county clerk; limitation on further elections. (1) Upon canvassing the vote after the election, if it appears that a majority or more of the votes cast approve dissolution, the district board shall declare the district dissolved. The board shall thereupon constitute a board of trustees who shall pay the debts or procure releases thereof and dispose of the property of the district. If the dissolved district was located wholly within the limits of one county, the board of the dissolving district may designate the county board as the board of trustees for the purpose of winding up the affairs of the district. If a majority of the votes cast at the election is against dissolution, the district board shall declare the proposal lost and cause the result of the vote to be made a part of the records of the district. In either case, the results of the election shall be certified to the county board immediately after the canvass of the vote.

(2) If dissolution is approved, after the affairs of the district have been fully settled, all books and records of the district shall be deposited by the board of trustees in the office of the county clerk of the county. At the same time, the board of trustees shall execute under oath, and file with the county board, a statement that the district has been dissolved and its affairs liquidated. From the date of the statement, the corporate existence of the district is terminated for all purposes.

(3) If a majority of the votes cast are against dissolution, no further election for dissolution shall be called by the board, upon petition or upon a resolution of the board, prior to the expiration of one year from the date of the election on dissolution. [1971 c.727 §54]

198.950 Power of trustees to convey assets. The board of trustees may convey to another district all assets of the dissolving district as described by ORS 198.930:

(1) If the other district assumes all debts and obligations of the dissolving district and undertakes to continue to furnish the service provided by the dissolving district pursuant to the plan of dissolution and liquidation; and

(2) If the consent of all the known holders of valid indebtedness against the district has been obtained, or provision has been made in the plan for payment of the nonassenting holders. [1971 c.727 §55]

198.955 Disposition of assets. (1) Except as provided by ORS 198.950, any surplus funds remaining to the credit of the district, after payment of the indebtedness of the district, shall be turned over to the county treasurer to become a part of the general fund of the county. If the assets of the district are insufficient to pay the indebtedness, the board of trustees shall levy taxes, within the limits of the authority of the district, for the liquidation of such indebtedness.

(2) Notwithstanding subsection (1) of this section, if the property of a district is located within the corporate limits of a city, such property shall, upon dissolution of the district, vest in the city in which located and the property of the district lying outside the corporate limits of any city shall vest in the county until the formation of a city embracing such territory, at which time it shall vest in the city. [1971 c.727 §56]

PENALTIES

198.990 Penalties. Violation of ORS 198.120 (1973 Replacement Part) is abuse of public office, and any person convicted thereof shall be subject to the punishment prescribed by ORS 162.415. [1969 c.344 §3; 1971 c.743 §344]

CERTIFICATE OF LEGISLATIVE COUNSEL

Pursuant to ORS 173 170, I, Thomas G. Clifford, 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,
October 1, 1979

Thomas G. Clifford
Legislative Counsel