Chapter 552

1975 REPLACEMENT PART
(1979 Reprint)

Water Improvement Districts

DEFINITIONS

552.013 Definitions

ORGANIZATION OF DISTRICT

552.108 Creation of water improvement district; purpose; limitation
552.113 Water rights protected; minimum acreage requirement; withdrawal procedure for city or other special districts
552.118 Petition contents
552.133 Election
552.138 Status of final order; time for protest
552.143 Proceedings to test validity of order or act of district board

BOARD OF DIRECTORS

552.208 Election of first board of directors; number; qualifications; terms; change of number of directors
552.218 Organizational meeting; oath; officers; meetings
552.223 Duties of district board

POWERS OF DISTRICT

552.305 Powers of districts generally
552.310 Condemnation
552.315 Right to enter and survey land
552.320 Operation of water works and sale of water; conditions
552.325 Water charges; use of revenues; collection and enforcement
552.330 Water user regulations; enforcement
552.340 Recreational facilities in connection with water projects; use of eminent domain power limited
552.345 User regulations; fees for use of facilities
552.350 Cooperation with the United States; water quality supervision subject to state authority
552.403 Watershed improvement plans; cooperation with Water Resources Director, Water Policy Review Board
552.408 District projects; review of engineering plans by Water Resources Director
552.413 Engineering plans prepared by other agencies
552.418 Notice of engineering plan; hearing; objections of landowners; approval or disapproval of plan
552.423 Advertising for bids on construction contract; Water Resources Director's approval of work; exception
552.428 Letting construction contract; contractor's bond
552.433 Chief engineer of district to superintend work
552.438 Construction on public land or right of way, or along watercourse

DISTRICT FINANCES

552.603 Financing construction, operation or maintenance of district works
552.608 Assessment of cost of works against benefited land; hearing on proposed assessment
552.613 Assessment procedure; improvement bonds
552.618 Effect of irrigation contract
552.623 Ad valorem tax levy, collection, enforcement
552.625 Maximum rate of tax levy; procedure to change rate
552.630 Service and user charges
552.635 Levy to establish revolving fund; use of fund
552.645 General obligation bonds
552.655 Refunding bonds
552.660 Advertisement and sale of bonds
552.670 Loan contracts with state or federal agencies

GENERAL PROVISIONS

552.710 Subdistrict procedure; authority
552.720 Dissolution of irrigation, drainage or water control district and transfer of assets and liabilities to water improvement district
552.740 Notice requirements

BOUNDARY CHANGES

552.810 Procedure for inclusion or exclusion of land in district
552.830 Certification of signatures on petition; calling election

PENALTIES

552.992 Penalties

CROSS REFERENCES

Agreements with ports to perform improvements within port districts, 777.112
Budget law for districts, Ch 294
District election procedures, Ch. 255
District liability for seepage and leakage from water or flood control works; limitation on commencement of actions, 541 055
Improvements, irrigation district authorized to construct or maintain and levy assessments in certain instance, 545.408
Irrigation districts authorized to furnish water for water improvement districts, 545.102
Joint or cooperative action between irigation districts and other water users' organizations, 545.124
Population, determination, 190.520
State Forester authorized to contract with governmental bodies for protection and development of water supplies, 530.500
Submission and approval of subdivisions within boundaries of certain districts, 92.110
Tax limitations for districts, Const. Art XI, §11
Water resources policy, state, conformance with required, 536.300 to 536 400

552.108

Drainage district, Ch 547
Flood control generally, Ch. 549
Formation, changes in organization, generally, 198.705 to 198.955
Irrigation district, Ch 545
Water control district, Ch. 553

552.113

Rights prior to January 1, 1956, not affected, 536.590

552.345

Ordinances and regulations of districts, generally, 198.510 to 198.600

552.645

Information on bond issues to Municipal Debt Advisory Commission, 287.040, 287.042

552.655

Advance refunding bonds, state regulation, 288.605 to 288.695

DEFINITIONS

552.005 [Repealed by 1955 c.707 §75]

552.010 [Repealed by 1955 c.707 §75]

552.013 Definitions. As used in this chapter, except when the context requires otherwise:

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

(2) "District" means a water improvement district proposed or created under this chapter.

(3) "District board" means the board of directors of a district.

(4) "Engineering plan" means the plans and specifications for the works to be constructed including:

(a) Maps, profiles, plans and other data necessary to show the location and character of the work, and the property benefited, taken or damaged;

(b) All rights of way or other property which may be required for the construction of the works; and

(c) Estimates of the cost of the works and of the benefits and damages which will accrue to each tract of land upon the construction of the works.

(5) "Filed for record" means to file a document for recording with the county clerk of each county in which the lands within a district are located.

(6) "Land" or "tract of land" means real property, together with improvements thereon, within a district.

(7) "Landowner," "owner," "owner of land" and "owner in fee" are synonymous and mean a person owning a tract of land situated within a district. The vendee named in a bona fide contract of sale of a tract of land situated within a district shall be considered a landowner to the exclusion of the vendor. When two or more persons own a tract of land as tenants in common or by the entirety, each person shall be regarded as a landowner.

(8) "Qualified voter" or "voter" means a resident of a district who is registered under the general election laws.

(9) "True cash value" means true cash value computed in accordance with ORS 308.207.

(10) "Works" means dams, storage reservoirs, canals, ditches, dikes, levees, revetments, and all other structures, facilities, improvements and property necessary or convenient for draining land, controlling flood or surface waters, or supplying water for irrigation, domestic supply or other purposes. [1969 c 606 §2]

552.015 [Amended by 1955 c.707 §71; renumbered 552.025]

552.020 [Repealed by 1969 c.168 §1]

552.025 [Formerly 552.015; repealed by 1969 c.168 §1]

ORGANIZATION OF DISTRICT

552.105 [Repealed by 1969 c.168 §1]

552.108 Creation of water improvement district; purpose; limitation. (1) A water improvement district may be created as provided by this chapter for the purpose of acquiring, purchasing, constructing, improving, operating and maintaining drainage, irrigation, and flood and surface water control works in order to prevent damage and destruction of life and property by floods, to improve the agricultural and other uses of lands and waters, and to improve the public health, welfare and safety.

(2) A district may be created for the purpose described by subsection (1) of this section and, in conjunction with that purpose, for the purpose of providing domestic or municipal and industrial water supply and water-related recreation, and for the purpose of enhancing water pollution control, water quality, and fish and wildlife resources.

(3) Nothing in this chapter grants to a district the power to generate, distribute, transmit or sell electricity or to sell water or falling water to any person to generate electricity. [1969 c.606 §3]

552.110 [Amended by 1955 c.707 §72, repealed by 1969 c 168 §1]

552.113 Water rights protected; minimum acreage requirement; withdrawal procedure for city or other special districts. (1) This chapter shall not be construed to affect, amend or repeal any other law of Oregon or to affect or impair the vested rights of any person, municipal corporation, irrigation district, drainage district, the state, or any county to the use of water or rights in the use of water.

(2) A district formed under this chapter shall include not less than 1,000 acres of land. Lands located within the boundaries of a city,

domestic water supply corporation, irrigation district, drainage district or other similar special district providing water for use or water control may be included within the boundaries of a water improvement district without the consent of the city or other district.

(3) (a) If any part of a city or other special district is included within the boundaries described in a petition for creation of a district or for annexation of territory to a district, within three days after the petition is filed, the petitioners shall notify the city or other district of the filing of the petition.

(b) The city or other district may withdraw the territory within its boundaries from the proposed water improvement district or annexation by describing the area within the city or other district in a resolution and filing the resolution with the county board within 90 days after the filing of the petition. If a withdrawal is so filed, the area within the city or other district shall not be included within the proposal. [1969 c.606 §16]

552.115 [Repealed by 1969 c.168 §1]

552.118 Petition contents. In addition to other matters the petition for formation of a district shall include:

(1) An estimate of the acreage of land within the district and an estimate of the acreage within each county if the district is located in more than one county; and

(2) The maximum rate of any ad valorem tax that may be levied by the district as required by ORS 552.625. [1969 c.606 §4; 1971 c 727 §164]

552.120 [Amended by 1955 c.707 §73; repealed by 1969 c 168 §1]

552.123 [1969 c 606 §5; repealed by 1971 c.727 §203]

552.125 [Repealed by 1969 c.168 §1]

552.128 [1969 c.606 §6; repealed by 1971 c 727 §203]

552.130 [Repealed by 1955 c.707 §75]

552.133 Election. If an election is called on the question of formation, it shall be held at the same time as the next succeeding statewide primary or general election. An order creating a district shall include the maximum rate of any ad valorem tax levy for the district. [1969 c 606 §7; 1971 c.727 §165]

552.135 [Repealed by 1969 c.168 §1]

552.138 Status of final order; time for protest. (1) No final order creating a district shall be set aside, or annulled upon appeal or review, on account of any defect or irregularity in the petition asking for organization of the district, or notice of hearings thereon, which does not materially affect the substantial rights of an interested party.

(2) No proceeding may be maintained contesting the validity of the creation of a district unless instituted within 90 days after the entry of the final order of the county board. [1969 c.606 §8]

552.140 [Repealed by 1969 c 168 §1]

552.143 Proceedings to test validity of order or act of district board. (1) In addition to the proceeding a district is authorized to bring under ORS 33.710 and 33.720, any landowner or qualified voter of a district may bring a like proceeding in the circuit court of the county where the lands within the district, or the greater portion thereof, are situated, to determine the validity of any order or the performance of any act mentioned in ORS 33.710, for which a contest is by that section provided. In such a proceeding the district board shall be made parties defendant.

(2) 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 the county, service may be had by publication of summons for a like time, and in like manner, as is provided by ORS 33.720. Jurisdiction shall be complete within 10 days after the date of completing publication of notice.

(3) The proceeding shall be tried and determined in the same manner as proceedings brought by the district. [1969 c.606 §9]

552.145 [Repealed by 1969 c.168 §1]

552.150 [Repealed by 1969 c.168 §1]

552.155 [Repealed by 1969 c.168 §1]

552.160 [Repealed by 1969 c.168 §1]

552.165 [Repealed by 1969 c.168 §1]

552.170 [Repealed by 1969 c.168 §1]

552.175 [Repealed by 1969 c.168 §1]

552.180 [Repealed by 1969 c 168 §1]

552.185 [Repealed by 1969 c.168 §1]

BOARD OF DIRECTORS

552.205 [Repealed by 1969 c.168 §1]

552.208 Election of first board of directors; number; qualifications; terms; change of number of directors. (1) Voters of a district shall elect a board of directors whose number shall be fixed by the county board at the proceedings on formation at either five, seven or nine. Directors shall be owners of land within the district. The directors need not reside within the district.

(2) Each director shall be elected for a term of four years except the directors elected on creation of the district. Of the directors first elected, the terms are to be decided by lot. If there are nine directors, the terms of four shall expire in two years and five in four years. If there are seven directors, the terms of three shall expire in two years and four in four years. If there are five directors, the terms of two shall expire in two years and three in four years. The terms of the first directors shall expire in two or four years from the first day of July next succeeding their election.

(3) A regular election shall be held in each district, on the date fixed by ORS 255.335, to fill vacancies and to elect a successor for any director whose term will expire the following July.

(4) The board or 10 or more landowners may petition the county board to change the number of directors on the district board. If the county board acts favorably on the petition, it shall enter an order which designates the terms of office of the five, seven or nine directors in general accordance with this section so that the number remaining on the district board will be divided into two equal or approximately equal groups as to terms. The change in the number of board members shall take place on the first day of July next following the order. [1969 c.606 §17; 1971 c.23 §9; 1971 c 727 §166; 1973 c.796 §69; 1975 c 647 §45]

552.210 [Repealed by 1969 c.168 §1]

552.213 [1969 c 606 §18, repealed by 1971 c 647 §149]

552.215 [Repealed by 1969 c.168 §1]

552.218 Organizational meeting; oath; officers; meetings. (1) As soon as possible after an election of directors, the directors shall meet for the purpose of qualifying all persons elected as directors and for the purpose of electing officers of the district. Each director shall qualify by subscribing to an oath of office.

(2) The directors shall elect from their number a president and vice president and shall appoint a secretary-treasurer. The officers shall have the authority and duties given to them by the board.

(3) The board shall hold meetings as may be necessary or convenient. [1969 c.606 §19; 1971 c 403 §11]

552.220 [Repealed by 1969 c.168 §1]

552.223 Duties of district board. A district board shall:

(1) Manage and conduct the affairs of the district.

(2) Employ and appoint agents and employes, prescribe their duties and fix their compensation.

(3) Establish reasonable rules and regulations for the administration of the affairs of the district.

(4) Withhold deliveries of water to lands upon which there are delinquent assessments or charges.

(5) Establish and maintain funds and accounts for the funds of the district and of any subdistrict.

(6) Obtain an annual audit of the books of the district.

(7) Fix the location of the principal office of the district at some convenient place within or without the district.

(8) Keep a record of all of the proceedings of the district board.

(9) Furnish a record book to the county clerk of each county in which lands within the district are located, in which shall be recorded all contracts executed under ORS 552.618 and 552.670, all orders levying assessments and creating subdistricts, and other documents required by law to be recorded. [1969 c.606 §20; 1971 c.23 §10]

552.225 [Repealed by 1969 c.168 §1]

552.228 [1969 c 606 §27; repealed by 1971 c.268 §24]

552.230 [Repealed by 1969 c 168 §1]

552.235 [Repealed by 1969 c.168 §1]

552.240 [Repealed by 1969 c.168 §1]

552.245 [Repealed by 1969 c.168 §1]

552.250 [Repealed by 1969 c.168 §1]

552.255 [Repealed by 1969 c.168 §1]

552.260 [Repealed by 1969 c 168 §1]

552.265 [Repealed by 1969 c.168 §1]

552.270 [Repealed by 1969 c.168 §1]

552.275 [Repealed by 1969 c.168 §1]

552.280 [Repealed by 1969 c.168 §1]

552.285 [Repealed by 1969 c.168 §1]

POWERS OF DISTRICT

552.305 Powers of districts generally. A water improvement district shall constitute a governmental subdivision of this state, and a public body, corporate and politic, exercising public power. It shall have full power to carry out the objects of its creation and to that end may:

(1) Have and use a seal.

(2) Have perpetual succession.

(3) Sue and be sued in its own name.

(4) Acquire by condemnation, purchase, devise, gift or voluntary grant real and personal property or any interest therein, located inside or outside of the boundaries of the district and take, hold, possess and dispose of real and personal property purchased from, or donated by, the United States, or any state, territory, county, city or other municipal corporation or person for the purpose of aiding in the objects of the district.

(5) Contract with the United States or with any county, city or state, or public district, or any of their departments or agencies, for the construction, preservation, improvement, operation or maintenance of any works.

(6) Build, construct, purchase, improve, operate and maintain, subject to other applicable provisions of law, all works necessary or desirable under any engineering plan adopted by the district.

(7) Enter into contracts and employ agents, engineers and attorneys.

(8) Appropriate and acquire water and water rights and sell, lease and deliver water for irrigation and other purposes both inside and outside the district.

(9) Do such other acts or things as may be necessary for the proper exercise of the powers granted to make the greatest beneficial use of the waters of the district. [1969 c 606 §14]

552.310 Condemnation. The right to condemn property, pursuant to subsection (4) of ORS 552.305, shall include property already devoted to public use, including city, state and county property, which is less necessary than the use for which it is required by the district. In the acquisition of property or rights by condemnation, the board shall proceed in the name of the district under the provisions of the laws of Oregon. However, the right of condemnation may not be exercised against any water right; against land or other property owned by a city supplying domestic water; a public utility as defined by ORS 757.005; against lands of a domestic water supply corporation organized under ORS chapter 264, an irrigation district organized under ORS chapter 545, a drainage district organized under ORS chapter 547, a diking district organized under ORS chapter 551 or a corporation for the use and control of water organized under ORS chapter 554; or against property of the State of Oregon for highway purposes. [1969 c.606 §23]

552.315 Right to enter and survey land. The district board, its officers, agents or employes shall have the right to enter upon any land to make surveys for the purposes of the district, upon giving the owners of the land notice reasonably in advance of any survey. [1969 c.606 §15]

552.320 Operation of water works and sale of water; conditions. A district may:

(1) Acquire, construct, reconstruct, equip, own, maintain, operate, sell, lease and dispose of domestic, industrial and municipal water works or systems and property and all appurtenances incident thereto.

(2) Furnish water for domestic, industrial and municipal uses to premises and inhabitants within the district, and in connection therewith, may supply, furnish and sell any surplus water storage or carrying capacity over and above the domestic, industrial and municipal needs of its inhabitants to persons, corporations, cities, water districts or other municipal or quasi-municipal districts, either within or without the district. However:

(a) A district shall not sell, offer to sell, lease or deliver water within a city that is receiving water for any purpose from a public utility as defined by ORS 757.005; and

(b) The power to furnish water for domestic, industrial and municipal uses under this section shall not be exercised in such a manner as to impair the service of the district in furnishing water for its inhabitants. [1969 c 606 §21]

552.325 Water charges; use of revenues; collection and enforcement. (1) The district board shall fix charges for water furnished for domestic, industrial and municipal purposes so that the water system is self-sustaining. All indebtedness incurred in the acquisition, construction, maintenance, operation and disposition of the system shall be paid from the revenue collected and from the proceeds of the disposition of the whole or any part of the water system. The district board may establish rates or charges to be paid by each person whose premises are served. The rates or charges may be fixed and classified according to the type of use and according to the amount of water used, and according to whether the property serviced lies within or without the boundaries of the district.

(2) The district shall establish and maintain separate accounts covering the acquisition, construction, reconstruction, maintenance, operation and disposition of the domestic, industrial and municipal water system.

(3) The district board may contract with any other district or with a city to collect water charges for the district within the other district or city and the district may pay a reasonable charge for such services.

(4) Water charges may also be collected and enforced as provided by ORS 224.220. [1969 c.606 §22]

552.330 Water user regulations; enforcement. A district may adopt and promulgate regulations concerning the use of water of the district. The district board may refuse to supply any building, place or premises with water when the user fails after five days' written notice to comply with the regulations of the district. The written notice shall be by registered mail and shall be considered given when it is deposited in the United States Post Office properly addressed with postage prepaid. [1969 c.606 §26]

552.340 Recreational facilities in connection with water projects; use of eminent domain power limited. (1) Planning, development and operation of recreational facilities within a district may be undertaken at the discretion of the district board but shall not be undertaken except in connection with projects for the development, control and use of water for agricultural purposes.

(2) The use of the power of eminent domain to acquire land for recreational purposes shall be limited to the acquisition of lands that are also necessary for the storage of water in connection with irrigation, flood control and domestic water supply purposes. [1969 c.606 §28]

552.345 User regulations; fees for use of facilities. A district shall have power:

(1) To make and enforce regulations governing the conduct of the users of the recreational facilities of the district.

(2) To prohibit any person violating any regulation from thereafter using the facilities of the district for such period as the board may determine.

(3) To establish and collect reasonable charges for the use of the facilities of the district and issue appropriate evidence of the payment of such charges. [1969 c.606 §29(1)]

552.350 Cooperation with the United States; water quality supervision subject to state authority. (1) A district has the power:

(a) To cooperate with the United States in the manner provided by Congress for flood control, reclamation, conservation and allied purposes, such as recreation, in protecting the inhabitants, the land and other property within the district from the effects of a surplus or a deficiency of water when the cooperation of the district is beneficial to the public health, welfare, safety and utility.

(b) To have general control and supervision over bodies of water which are owned or maintained, or which have been improved, by the district, in so far as the quality of water may affect the public health, welfare, safety and utility of the bodies of water.

(2) In carrying out the authority granted by paragraph (b) of subsection (1) of this section, the district may prevent any person including any elected or appointed officer, employe or person under the control of a city, county or district, from depositing directly or indirectly in any such bodies of water, any rubbish, filth or poisonous or deleterious substance liable to affect the health of persons, fish or livestock. However, the authority granted by this subsection shall not be exercised unless the Environmental Quality Commission, after study and determination of a specific request of the district, certifies to the district that the quality of a body of water under the jurisdiction of the district is injurious to the health of persons, fish or livestock. [1969 c.606 §30]

552.403 Watershed improvement plans; cooperation with Water Resources Director, Water Policy Review Board. (1) A district shall, within a reasonable time after formation, prepare broad, general plans of watershed improvement. The plan may be prepared in cooperation with the Water Resources Director and shall conform to the state water resources policy declared by ORS 536.220.

(2) The plan also shall show existing and proposed works of the district and of other public and private agencies relating to water use and control. It shall demonstrate a basis for the coordination and planning of future works of the district, governmental agencies and private interests to assure the maximum beneficial use and conservation of the water resources of the district. The projects and improvement plans shall be based on the inventory of water, needs of the district related to natural resources, and plans and programs, if any, developed by the Water Policy Review Board. The district may have access to all information, statistics, plans and data in the possession of or available to any state agency or public corporation which is pertinent to the preparation of the plan and may reimburse the agency or corporation for any expense incurred in cooperating with the board.

(3) After approval by the district board, the plan of the district including the plan for financing any existing or proposed works may be submitted to the Water Resources Director for his recommendations.

(4) The district board shall make revisions found necessary for the proper control, utilization, conservation, development and improvement of the water resources of the district, and for the protection and enhancement of the quality of such water resources. [1969 c.606 §31]

552.405 [Repealed by 1969 c 168 §1]

552.408 District projects; review of engineering plans by Water Resources Director. (1) Construction of district works may be undertaken on motion of the district board or when landowners of the district request the district board to do so. Upon initiation of a construction project, the district board shall obtain engineering plans for the project.

(2) The engineering plan for the construction of any works by a district, including the general report showing the feasibility of the project and an estimate of the cost of the works, when completed by the district board, shall be submitted to the Water Resources Director for his approval, if the estimated cost of the works is more than $5,000. The director shall within 90 days approve or disapprove the plan. He may make such field investigations as he may consider necessary before his final approval or disapproval of the engineering plan. [1969 c.606 §33]

552.410 [Repealed by 1969 c.168 §1]

552.413 Engineering plans prepared by other agencies. In lieu of obtaining engineering plans as provided by ORS 552.408, the district board may adopt as an engineering plan, any plans meeting the requirements of this chapter made by an agency of the Federal Government or the state, or proposed as project work plans by a soil and water conservation district in which lands within the water improvement district are located. The district board is not required to submit to the Water Resources Director any plan adopted under this section. [1969 c.606 §34]

552.415 [Repealed by 1969 c.168 §1]

552.418 Notice of engineering plan; hearing; objections of landowners; approval or disapproval of plan. (1) Upon completion or adoption of the engineering plan and review by the Water Resources Director, if required, the district board shall cause notice to be given to the landowners that the plan, including the general report, may be inspected at the district office. The notice may be given by mail or by publication as the board determines.

(2) The notice shall fix a time and place for a hearing before the district board of all objections to the plan, including any objections of the Water Resources Director. The hearing shall be held not less than 20 nor more than 30 days after the date of mailing, or the date of the last publication, of the notice. At the hearing the board may make changes in the plan as necessary in the light of objections or suggestions made by the Water Resources Director or by persons appearing at the hearing. After the hearing the board shall approve the plan as proposed, corrected or changed, by adopting an order of approval. However, if the owners of more than 50 percent of the acreage within the district, within 30 days after the date of the order approving the plan, file written objections to the order with the secretary of the district, no further action shall be taken under the order

and the plan shall be considered disapproved by the district board and rejected by the landowners. When an engineering plan is rejected by the landowners, the board may obtain a new engineering plan and present it to the landowners as provided by this section. [1969 c.606 §35]

552.420 [Repealed by 1969 c.168 §1]

552.423 Advertising for bids on construction contract; Water Resources Director's approval of work; exception. (1) After the approval of the engineering plan as provided by ORS 552.418 and before beginning the construction of any works, the district board shall give notice, by publication and otherwise, as it may consider advisable, calling for bids for the construction of such works, or any portion thereof.

(2) The work, when completed, shall be submitted to the Water Resources Director for approval. However, this subsection shall not apply in the case of a contract between a district and the United States. [1969 c.606 §36]

552.425 [Repealed by 1969 c.168 §1]

552.428 Letting construction contract; contractor's bond. After advertising for bids, the board shall let a contract for construction of the whole or any part of the project to the lowest responsible bidder; or the board may reject any or all bids and readvertise; or it may construct the project under its own superintendence. Good and sufficient bond, running in favor of the district, shall be required of each contractor, conditioned that he will well and truly comply with all the provisions of the contract and perform all work in accordance with the terms thereof. [1969 c.606 §37]

552.433 Chief engineer of district to superintend work. If the district has a chief engineer, he shall be superintendent of all the works and improvements and shall, whenever required, and at least once each year, make a full report to the district board of all work done and improvements. He shall make such suggestions and recommendations to the board as he considers proper. [1969 c 606 §38]

552.438 Construction on public land or right of way, or along watercourse. (1) A district may construct works across or along any street or public highway, or over any lands which are property of this state, or any subdivision thereof. A district may construct its work across and along any stream of water or watercourse.

(2) Any works across or along any highway, road or street shall be constructed only with the permission of the Department of Transportation, the county board or the city governing body having jurisdiction of the highway, road or street. The district shall restore any highway, road or street to its former state as near as may be and shall not use the right of way in a manner unnecessarily to impair its usefulness. [1969 c 606 §39]

552.505 [Repealed by 1969 c.168 §1]

552.510 [Repealed by 1969 c.168 §1]

552.515 [Repealed by 1969 c.168 §1]

DISTRICT FINANCES

552.603 Financing construction, operation or maintenance of district works. The district board may, in accordance with the order approving an engineering plan adopted under ORS 552.418, finance the construction, operation or maintenance of district works by:

(1) Use of the revolving fund established under ORS 552.635.

(2) Assessments under ORS 552.608 and 552.613 against the benefited property in the district with or without issuance of improvement bonds or warrants.

(3) Service charges and user fees collected under ORS 552.618 or 552.630 from those who are served by or use the services, works and facilities of the district.

(4) Levy of ad valorem taxes under ORS 552.623 and 552.625.

(5) Sale of bonds under ORS 552.645 to 552.660.

(6) Any combination of the provisions of subsections (1) to (5) of this section. [1969 c.606 §40]

552.605 [Repealed by 1969 c.168 §1]

552.608 Assessment of cost of works against benefited land; hearing on proposed assessment. (1) All or part of the cost of building, constructing, purchasing, operating, maintaining and improving the district works described in an engineering plan adopted under ORS 552.408 or 552.413 may be assessed against the lands to be benefited by the works. The district board shall determine the portion of the cost, if any, that is to be paid from the general funds of the district and

the portion that is to be paid by the lands benefited.

(2) Assessments shall be apportioned by the district board in accordance with the special and peculiar benefit to be received from the district works by each lot or parcel of land. Where parcels of land, or portions thereof, in the district are undeveloped, the district board may, in its discretion, defer assessing or imposing all or any portion of such assessments on such parcels until such parcels are connected with or receiving services from the district works.

(3) The district board shall afford an opportunity for hearing of any individual objections or remonstrances to assessments under this section. If remonstrances or objections are received by the district board signed by more than 50 percent of the landowners representing more than 50 percent of the acreage within the proposed assessment district, the proposed improvement shall not be made. [1969 c 606 §41]

552.610 [Repealed by 1969 c.168 §1]

552.613 Assessment procedure; improvement bonds. (1) If any portion of the cost of a district works is assessed against the property directly benefited, the district shall, subject to the provisions of this chapter, proceed as provided by the following provisions:

(a) ORS 223.205, 223.210 to 223.295, 223.387 to 223.401 and 223.405 to 223.485 relating to the assessment of property benefited by public improvements and to the issuance of bonds and other obligations;

(b) ORS 223.770 relating to the assessment of public property benefited by public improvements for the cost of such improvements; and

(c) ORS 287.502 to 287.510, relating to the issuance of improvement warrants by cities.

(2) Where the provisions listed in subsection (1) of this section refer to officials of cities, the corresponding officials of the district shall perform the required functions, unless another official of the district is designated by order of the district board.

(3) The district board may issue improvement bonds in the total amount of the valid applications it has received to pay assessments in instalments as provided by ORS 223.205 and 223.210 to 223.295. [1969 c.606 §42]

552.615 [Repealed by 1969 c.168 §1]

552.618 Effect of irrigation contract. No tract of land shall be considered to be benefited by the construction, operation, maintenance or improvement of irrigation works unless the owner of such land enters into an irrigation contract with the district. The irrigation contract shall be in such form as shall be prescribed by the district. Upon being executed the contract shall be filed for record and the recording of the contract shall constitute notice that such lands are subject to assessements thereafter levied in accordance with the contract. [1969 c.606 §24]

552.620 [Amended by 1955 c.707 §74; repealed by 1969 c.168 §1]

552.623 Ad valorem tax levy, collection, enforcement. (1) Subject to ORS 552.625, a district may assess, levy and collect taxes each year on the true cash value of all taxable property within the limits of the district. The proceeds of the tax shall be applied in carrying out the purposes of this chapter.

(2) The district may annually also assess, levy and collect a tax without limitation upon all such property in an amount sufficient to pay the yearly interest on bonds theretofore issued by the district and then outstanding, together with any portion of the principal of the bonds maturing within the year. The tax shall be applied only in payment of interest and principal of bonds issued by the district, but the district may apply any funds it may have toward payment of principal and interest of bonds.

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

(4) All taxes levied by a district shall become payable at the same time and be collected by the same officer who collects county taxes, and shall be turned over to the district according to law. The county officer whose duty it is to extend the county levy shall extend the levy of the district in the same manner as city taxes are extended.

(5) Property shall be subject to sale for nonpayment of taxes levied by a district in like manner and with like effect as in the case of county and state taxes. [1969 c.606 §43]

552.625 Maximum rate of tax levy; procedure to change rate. (1) Subject to subsection (2) of this section, a district shall not levy an ad valorem tax in any one year in

excess of the maximum rate of levy authorized, which shall be stated in the petition for creation of the district, unless a change in the maximum rate is first approved by the voters. The rate of levy shall be stated in dollars and cents per thousand dollars of assessed value.

(2) A maximum rate of levy fixed upon creation of the district may be increased or decreased by a majority of those voting on a proposed change at an election called for that purpose. An election on the question of a change shall be called by the district board upon a petition therefor signed by not less than 30 landowners. The question may be submitted to the voters on the motion of the board.

(3) A maximum rate of levy fixed as provided by this section is in addition to and not in lieu of any other tax limit provided by law. However, all other tax limits are subordinate to the maximum rate fixed as provided by this section. Notwithstanding any other law, the district board shall not in any one year levy an ad valorem tax in excess of the rate, except when the tax is levied under subsection (2) of ORS 552.623 to pay principal and interest on district bonds outstanding.

(4) A certified copy of the district board order declaring the results of an election approving a change in the maximum rate of levy under this section shall be filed for record. [1969 c 606 §44]

552.630 Service and user charges. (1) For the purpose of paying the costs of operation and maintenance of district works constructed under this chapter, the district board may by ordinance:

(a) Impose and collect service charges on property served by the works of the district.

(b) Impose and collect user charges, fees and tolls for use of works, facilities and services of the district.

(2) Service or user charges shall be based on the cost of operation, maintenance and administration of the works, facilities or service. [1969 c.606 §45]

552.635 Levy to establish revolving fund; use of fund. For the purpose of establishing a revolving fund to provide money to finance the planning and construction of district works, a district board may levy an ad valorem tax of not to exceed in any one year three-twentieths of one percent (.0015) of true cash value of all taxable property within the district. The revenue derived from such taxes shall be credited to a revolving fund, and shall be disbursed by the district board and used only for the purpose for which levied. [1969 c.606 §46]

552.645 General obligation bonds. (1) For the purpose of carrying into effect any of the powers granted by this chapter, a district, when authorized at any properly called election held for the purpose, has the power to borrow money, and sell and dispose of general obligation bonds. Outstanding bonds shall never exceed in the aggregate two and one-half percent of the true cash value of all taxable property within the district.

(2) The bonds shall be issued from time to time by the district board in behalf of the district as authorized by the voters thereof. The bonds shall mature serially within not to exceed 50 years from issue date, in like manner as bonds issued under authority of ORS 287.008. However, for an indebtedness to the Federal Government or this state, the district may issue one or more bonds of the denominations agreed upon. Bonds shall bear interest at a rate payable semiannually as the board shall determine. The bonds shall be so conditioned that the district shall promise and agree therein to pay to the bearer at a place named therein, the principal sum, with interest at the rate named therein, payable semiannually, in accordance with the tenor and terms of the interest coupons attached.

(3) For the purpose of additionally securing the payment of the principal and interest on general obligation bonds issued under this section, the district shall have the power, by resolution of the district, which resolution shall constitute part of the contract with the holders of the bonds, to pledge all or any part of the net revenue of the district. The district board may adopt such a resolution without submitting the question of the pledge to the voters of the district. [1969 c.606 §47]

552.655 Refunding bonds. Refunding bonds of the same character and tenor as those replaced thereby may be issued pursuant to a resolution duly adopted by the district board without submitting to the voters the question of authorizing the issuance of the bonds. [1969 c 606 §48]

552.660 Advertisement and sale of bonds. All general obligation bonds, including refunding bonds, issued under ORS 552.645 to 552.660 shall be advertised and sold in the manner prescribed by ORS 287.014

to 287.026 for the sale of bonds of cities of this state. [1969 c 606 §49]

552.670 Loan contracts with state or federal agencies. (1) When a district has adopted an engineering plan for a district work, it may enter a loan contract with a state or federal agency. The loan contract shall be in such form and shall contain such terms as may be agreed upon by the agency and the district. The district may agree to levy assessments against each tract of land benefited, to do all acts and things necessary therefor, to assign to the lending agency the assessments as security for the loan and to perform all such acts within such period of time as may be agreed to between the district and the state or federal lending agency.

(2) If a state or federal lending agency pays over money to a district pursuant to the terms of a loan contract and the district fails, refuses or neglects to levy the assessments, to obtain or prepare a benefit roll, to assign the assessments or in any other manner not to perform as it agreed to under the loan contract, the state or federal lending agency shall have the right, at its election, to apply to the circuit court for the county in which is located the largest part of the lands within the district for a writ of mandamus, or any other order or writ, to require the district, its directors, officers and agents to do such acts and things as the district agreed to do under the terms of the loan contract. All costs, charges and expenses pertaining to the issuance and execution of any such writ or order shall be charged to and collected from the lands subject to the assessments in addition to such assessments.

(3) Upon the execution of a loan contract, the district shall file for record a certificate which shall state the date of the loan contract, the maximum amount of the loan, the recording data pertaining to the recorded order creating the district, the term of the loan and the rate of interest. Such certificate shall give notice that all lands within the district determined to be benefited by the construction of the works referred to in the engineering plan will be subject to assessments thereafter to be levied. [1969 c.606 §25]

GENERAL PROVISIONS

552.710 Subdistrict procedure; authority. (1) When a district has adopted a plan under ORS 552.403, subdistricts may be created as provided by this section.

(2) Proceedings to create subdistricts, located totally or partially within or outside of a district, may be initiated by a petition of the landowners within the subdistrict. Except as otherwise provided by this section, the petition shall fulfill the same requirements concerning the subdistrict as a petition is, by ORS 552.118, required to fulfill concerning the creation of the main district. The petition shall be filed with the county board of the county where the greater portion of land within the boundaries of the subdistrict is located, and shall be accompanied by an undertaking as provided by ORS 552.118. Proceedings to create a subdistrict shall conform in all things to the provisions relating to the creation of a district. However, the owners of 50 percent or more of the total acreage within the proposed subdistrict shall be required to sign the petition for the creation of a subdistrict.

(3) If the county board adopts an order creating a subdistrict, the clerk of the county board shall give notice of the order to the district board. The district board of the main district is the governing board of each subdistrict of the district. For the purpose of qualifying to be a member of a district board, under subsection (1) of ORS 552.208, ownership of land within a subdistrict, regardless of the location of the subdistrict, is considered ownership of land within the district. The territory within one subdistrict may be included within another subdistrict or subdistricts.

(4) After the creation of a subdistrict, proceedings in reference to a subdistrict shall in all matters conform to the provisions of this chapter applicable to districts. In all matters affecting only a subdistrict, provisions of this chapter applicable to a district apply to the subdistrict as though it were an independent district.

(5) The petition for creation of a subdistrict shall include a statement of the amount or quantity of water for which the subdistrict desires to acquire the perpetual use and the amount of money the subdistrict is willing to pay therefor. Prior to the entry of its decree creating a subdistrict, the county board shall be furnished the verified consent of the district board to furnish such perpetual use of water for the purposes specified to the subdis-

trict at a price and upon the terms mentioned in the petition. [1969 c.606 §32]

552.720 Dissolution of irrigation, drainage or water control district and transfer of assets and liabilities to water improvement district. (1) Any district organized or operating under ORS chapter 545, 547 or 553 may dissolve and transfer its property and other assets and liabilities to a water improvement district which will undertake to furnish service to the inhabitants of the dissolving district.

(2) Except as provided by this section, dissolution, liquidation and transfer proceedings shall be conducted as provided by ORS 198.920 to 198.955.

(3) When a petition is filed or a resolution is adopted initiating dissolution proceedings, the governing board of the dissolving district and the district board of the water improvement district shall meet with each other to agree on a debt distribution plan to be voted upon as a part of the proposal. The debt distribution plan may provide for any distribution of indebtedness between the water improvement district and the dissolving district. If the boards do not agree on a debt distribution plan or if the area within the dissolving district remains liable under the plan for any portion of the indebtedness outstanding at the time of the dissolution and transfer, the district board of the water improvement district shall be ex officio board of the dissolved district for the purpose of levying taxes in such area until the bonded and other indebtedness of the dissolved district is paid.

(4) The consent of all the known holders of valid indebtedness against the dissolving district shall be obtained or provision made in the debt distribution plan for the payment of the nonassenting holders. The area within the boundaries of the dissolving district shall not by reason of the dissolution and transfer be relieved from liabilities and indebtedness previously contracted by the dissolving district.

(5) If the dissolution is approved at an election in accordance with the law applicable to the dissolving district, the governing body of the dissolving district shall convey to the water improvement district all assets of the dissolving district after paying and discharging the debts and obligations to, or procuring releases from the nonassenting holders, in accordance with the debt distribution plan. [1969 c.606 §13; 1971 c.727 §167]

552.730 [1969 c.606 §11; repealed by 1971 c 647 §149]

552.740 Notice requirements. When notice is required by this chapter to be given by publication, the notice shall be published in a newspaper of general circulation in the district, or if there is no such newspaper, in a newspaper of general circulation in each county in which the district is located. Notice of a hearing to be held before the district board or the county board shall be published once each week for four consecutive weeks, making four publications, and the last publication shall be at least five days before the date set for the hearing. All other notices required to be published under this chapter shall be published once each week for two consecutive weeks, making two publications, and the last publication shall be at least five days before the date of the event for which the notice is given. [1969 c.606 §12; 1971 c.647 §119]

BOUNDARY CHANGES

552.810 Procedure for inclusion or exclusion of land in district. A petition for inclusion or exclusion of territory in a district may be filed without the approval of the district board indorsed thereon; however, if the county board approves the petition and determines the boundaries, the district board shall call an election in the district for the purpose of submitting the proposal to the voters. The district board shall call the election within not more than 60 days after the date of the order of the county board approving the petition. [1969 c.606 §10; 1971 c.727 §168]

552.820 [1969 c.606 §50; repealed by 1971 c 727 §203]

552.825 [1969 c.606 §51; repealed by 1971 c.727 §203]

552.830 Certification of signatures on petition; calling election. An election on dissolution shall only be held concurrently with a primary or general election. [1969 c.606 §52; 1971 c.727 §169]

552.835 [1969 c.606 §53; repealed by 1971 c 727 §203]

552.840 [1969 c.606 §54; repealed by 1971 c.727 §203]

552.845 [1969 c.606 §55; repealed by 1971 c.727 §203]

552.850 [1969 c.606 §56; repealed by 1971 c.727 §203]

552.855 [1969 c.606 §57; repealed by 1971 c.727 §203]

552.860 [1969 c 606 §58; repealed by 1971 c.727 §203]

PENALTIES

552.990 [Repealed by 1969 c.168 §1]

552.992 Penalties. Violation of any regulation adopted under ORS 552.345 is a misdemeanor punishable upon conviction by a fine not to exceed $100 or imprisonment not to exceed five days, or both. [1969 c.606 §29(2)]

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, 1975.

Thomas G. Clifford
Legislative Counsel