

# Chapter 554

1991 EDITION

## Corporations for Irrigation, Drainage, Water Supply or Flood Control

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**GENERALLY**

**554.005 Filing requirements.** (1) A document must satisfy the requirements of this section or any other section in ORS 554.005 to 554.340 that modifies these requirements, to be entitled to filing by the Secretary of State under ORS 554.005 to 554.340.

(2) ORS 554.005 to 554.340, 554.420, 554.440 or 554.510 to 554.590 must require or permit filing the document with the Office of the Secretary of State.

(3) The document shall contain the information required by ORS 554.005 to 554.340, 554.420, 554.440 or 554.510 to 554.590. It may contain other information as well.

(4) The document must be legible.

(5) The document must be in the English language.

(6) The document must be executed:

(a) By the chairman of the board of directors of a corporation or one of its officers;

(b) If directors have not been selected or before the organizational meeting, by an incorporator; or

(c) If the corporation is in the hands of a receiver, trustee or other court-appointed fiduciary, by that receiver, trustee or fiduciary.

(7) The person executing the document shall state beneath or opposite the signature the name of the person and the capacity in which the person signs. The document may, but is not required to contain:

(a) The corporate seal.

(b) An attestation by the secretary or an assistant secretary.

(c) An acknowledgment, verification or proof.

(8) If the Secretary of State has prescribed a mandatory form for the document, the document must be in or on the prescribed form.

(9) The document must be delivered to the Office of the Secretary of State accompanied by a true copy and the required fees.

(10) Delivery of a document to the Office of the Secretary of State is accomplished only when the document is actually received by the Office of the Secretary of State. [1987 c.94 §137]

**554.007 Effective time and date of document.** (1) Except as provided in subsection (2) of this section and ORS 554.009, a document accepted for filing is effective on the date it is filed by the Secretary of State and at the time, if any, specified in the document as its effective time.

(2) If a document specifies a delayed effective time and date, so the document be-

comes effective at the time and date specified. If a document specifies a delayed effective date but no time, the document becomes effective on that date. A delayed effective date for a document may not be later than the 90th day after the date it is filed. [1987 c.94 §139]

**554.009 Correcting filed document.** (1) A corporation may correct a document filed by the Secretary of State, other than an annual report, if the document contains an incorrect statement or was defectively executed, attested, sealed, verified or acknowledged.

(2) A corporation shall correct a document by delivering articles of correction to the Office of the Secretary of State. The articles shall include the following:

(a) A description of the document, including its filing date, or a copy of the document.

(b) The incorrect statement and the reason it is incorrect, or a description of the manner in which the execution, attestation, seal, verification or acknowledgment is defective.

(c) A correction of the incorrect statement or defective execution, attestation, seal, verification or acknowledgment.

(3) Articles of correction are effective on the effective date of the document they correct except as to persons relying on the uncorrected document and adversely affected by the correction. As to those persons, articles of correction are effective when filed. [1987 c.94 §140]

**554.010** [Repealed by 1987 c.94 §171]

**554.012 Forms.** (1) Upon request, the Secretary of State shall furnish a form for the annual report. The Secretary of State may by rule require the use of the form.

(2) Upon request, the Secretary of State shall furnish forms for other documents required or permitted to be filed by ORS 554.005 to 554.340, 554.420, 554.440 or 554.510 to 554.590. Use of such forms is not required. [1987 c.94 §138]

**554.015 Filing duty of Secretary of State.** (1) If a document delivered to the Office of the Secretary of State for filing satisfies the requirements of ORS 554.005, the Secretary of State shall file it.

(2) The Secretary of State files a document by indicating thereon that it has been filed by the Secretary of State and the date of filing. After filing a document, except for the annual report, the Secretary of State shall return the true copy to the corporation or its representative.

(3) If the Secretary of State refuses to file a document the Secretary of State shall re-

turn it to the corporation or its representative within 10 business days after the document was delivered together with a brief written explanation of the reason for the refusal.

(4) The Secretary of State's duty to file documents under this section is ministerial and is limited in scope of review as set out by rule of the Secretary of State. The Secretary of State is not required to verify or inquire into the legality or truth of any matter included in any document delivered to the Office of the Secretary of State for filing. The Secretary of State's filing or refusing to file a document does not:

(a) Affect the validity or invalidity of the document in whole or part; or

(b) Relate to the correctness or incorrectness of information contained in the document.

(5) The Secretary of State's refusal to file a document does not create a presumption that the document is invalid or that information contained in the document is incorrect. [1987 c.94 §141]

**554.016 Fees.** (1) The Secretary of State shall collect the following fees for the documents delivered for filing:

Document	Fee
(a) Articles of incorporation	\$ 40
(b) Application for reserved name	\$ 10
(c) Application for reinstatement following administrative dissolution	\$ 30
(d) Annual report	\$ 20
(e) Application for certificate of existence	\$ 10
(f) Amendments to articles of incorporation	\$ 10
(g) Dissolution	\$ 10
(h) Change of registered agent or office	\$ 10
(i) Resignation of registered agent	\$ 10

(2) The Secretary of State by rule may establish fees, in addition to those provided for in subsection (1) of this section, for:

(a) Copying any public record maintained by the Office of Secretary of State and relating to a corporation filed under this chapter, and for certifying the copy.

(b) Certifying to facts of record, pursuant to this chapter. [1991 c.132 §18]

**Note:** 554.016 was added to and made a part of ORS chapter 554 by legislative action but was not added to any smaller series therein. See Preface to Oregon Revised Statutes for further explanation.

**554.017 Appeal from Secretary of State's refusal to file document.** If the

Secretary of State refuses to file a document delivered to the Office of the Secretary of State for filing, the corporation, in addition to any other legal remedy that may be available, shall have the right to appeal from such order pursuant to the provisions of ORS 183.480. [1987 c.94 §142]

**554.018 Evidentiary effect of copy of filed document.** (1) A certificate attached to a copy of a document filed by the Secretary of State, bearing the Secretary of State's signature, which may be in facsimile, is conclusive evidence that the original document, or a facsimile thereof, is on file with the Office of the Secretary of State. -

(2) The provisions of ORS 56.110 apply to all documents filed pursuant to ORS 554.005 to 554.340, 554.420, 554.440 and 554.510 to 554.590. [1987 c.94 §143]

**554.019 Certificate of existence.** (1) Anyone may apply to the Secretary of State to furnish a certificate of existence for a corporation formed under ORS 554.005 to 554.340.

(2) A certificate of existence when issued means that:

(a) The corporation's corporate name is registered in this state;

(b) The corporation is duly incorporated under ORS 554.005 to 554.340 or chapter 172, Oregon Laws 1911;

(c) All fees payable to the Secretary of State under ORS 554.005 to 554.340, 554.420, 554.440 and 554.510 to 554.590 have been paid, if nonpayment affects the existence or authorization of the corporation;

(d) An annual report required by ORS 554.315 has been filed by the Secretary of State within the preceding 14 months; and

(e) Articles of dissolution have not been filed by the Secretary of State.

(3) A person may apply to the Secretary of State to issue a certificate covering any fact of record. [1987 c.94 §144; 1991 c.132 §33]

**554.020 Articles of incorporation; filing.** (1) One or more natural persons of the age of 18 or more, a domestic or foreign corporation, a partnership or an association, by submitting articles of incorporation to the Office of the Secretary of State for filing, may act as incorporators of a corporation for one or more of the following purposes:

(a) Irrigating or draining land.

(b) Furnishing land with water for domestic use.

(c) Protecting land by flood control.

(2) A true copy of the articles of incorporation under subsection (1) of this section shall be filed in the county clerk's office of

the county where the land incorporated is situated.

(3) The requirements for filing a document under ORS 554.005, apply to articles of incorporation. [Amended by 1971 c.200 §8; 1987 c.94 §145; 1987 c.579 §1]

**554.030 Evidence of corporate existence.** The articles of incorporation or a certified copy of the one filed with the Secretary of State or county clerk shall be prima facie evidence of the existence of the corporation.

**554.040 Contents of articles.** The articles of incorporation shall specify:

(1) The duration of the corporation, if limited.

(2) The name assumed by the corporation and by which it shall be known, which name must include the words "district improvement company," except that a corporation organized under ORS 554.005 to 554.340 but not organized for profit, or a corporation incorporated before March 4, 1937, under chapter 172, Oregon Laws 1911, which amends its articles to state that the corporation shall not operate for profit and also to state the matters provided in ORS 554.050, may omit the word "company" from the name and adopt a name using the words "improvement district" combined with other appropriate words to designate the name of such district.

(3) The particular land to be improved by the works of the corporation, describing the land by legal subdivisions so far as possible and otherwise by tracts or lots of duly platted land or by metes and bounds, with the acreage thereof and the names of the respective owners as shown by the records of the county, and the total number of acres.

(4) In general but clear language, the purpose and intent of the corporation, and describe in general language the proposed plan of improvement whether for one or more of the purposes named in ORS 554.020.

(5) The number of directors and the names of those first holding such office, and the mode and times of the election of their successors in office.

(6) The location of the principal office of the corporation for the transaction of business, which must be in a county where at least a portion of the land to be improved is situated, and the mailing address, if different.

(7) Whether or not such corporation is organized for profit to the corporation or to its members other than the benefits accruing from such improvements which are referred to in ORS 554.050.

(8) The initial registered agent and the address, including any street and number, of the registered office of the corporation.

(9) The name and address of each incorporator. [Amended by 1983 c.717 §31; 1987 c.94 §146]

**554.050 Nonprofit corporations; further statements in articles.** If the corporation is not formed for the purpose of operating the business for profit either to the corporation or its members other than from the benefits to accrue from the improvements and operation and maintenance hereinafter named, it may be further stated in the articles of incorporation that:

(1) The proposed improvement is for sanitary or agricultural purposes or both and that the proposed improvement will be conducive to the public health or welfare or public utility or benefit.

(2) The benefits of the proposed improvement will exceed the damage to be done and that the best interests of the land therein described and of the owners of such land as a whole and of the public at large will be promoted by the formation and proposed improvement and operation of such district.

(3) The formation of a corporate district under the provisions of ORS 554.005 to 554.340 is a proper and advantageous method of accomplishing the improvement and protection of the lands described therein.

(4) All revenue and income of such corporation, from whatsoever source, shall be received, held, used and expended exclusively for payment of the cost and expense of the improvements and the maintenance of same and the payment of indebtedness, interest, cost and expense of the corporation incurred therefor, and for the operation, maintenance and necessary expense of such corporation in the conduct of its business for the purposes thereof as stated in the articles of incorporation according to law.

(5) Neither the corporation nor its members shall profit from the business of the corporation other than from the benefits of improvement of the land for which the corporation is formed.

(6) It is the intention and desire of all persons owning or having any interest in any of the described lands to organize such corporation as a public corporation of Oregon under the provisions of ORS 554.005 to 554.340 with the rights and privileges of a public corporation, by the unanimous voluntary consent of all persons.

(7) For the purpose named, all the landowners and persons having any interest in any of the lands do consent and join in such corporation by subscribing their respective names thereto.

**554.060 Attack on organization; defects or omissions.** (1) No action, suit or

proceeding shall be maintained for the purpose of avoiding, setting aside or otherwise questioning or affecting the validity of the organization of a corporation formed for the purposes stated in ORS 554.050 unless the action, suit or proceeding is commenced within three months from the date of the filing of the articles of incorporation by the Secretary of State, or for the purpose of questioning the sufficiency or correctness of any statement therein when the provisions of ORS 554.005 to 554.340 with respect thereto have been substantially complied with.

(2) No error in the description of any tract or parcel of land included in such district or in naming the owner thereof shall affect the incorporation or relieve the land from the same unless the owner has been materially prejudiced, misled or injured thereby, and has instituted proceedings because of same within three months after actual notice in any manner brought to the owner. Notwithstanding any error, defect or omission in the articles of incorporation in such case, the corporation is hereby declared to be a legally organized corporation as to all such owners. [Amended by 1987 c.94 §147]

**554.070 Membership; meetings; voting; proxies; voting trusts; quorum; removal of officers.** (1) Every owner of land described in the articles of incorporation is a member of the corporation, and membership is lost or gained through a sale or purchase of any of said land, as the case may be, by which the legal title is transferred. In case of sale or purchase under contract without transfer of legal title, the parties may agree with respect to voting such land as provided in the bylaws, and unless so agreed and determined pursuant thereto the holder of the legal title shall be entitled to vote. Corporate owners may by resolution of their board of directors appoint and designate a proxy as provided by the bylaws.

(2) At all meetings of the members of the corporation each member who attends in person, or by proxy appointed in writing, shall be entitled to vote the amount of acreage of the land owned by the member on the basis of one vote for each acre of land. Nothing in the laws of Oregon shall be construed to prevent any owners of land, or members of the corporation, from joining in a voting trust or from giving a proxy or power of attorney to vote such membership for a term of years or until the happening or performance of a named contingency or condition. Except as provided in subsection (4) of this section, a majority of the acreage shall be necessary to constitute a quorum for the transaction of business at all landowners' meetings, and a majority vote shall govern in

all cases except as otherwise specially provided by law.

(3) At any meeting of the members of the corporation any officer may be removed and another elected in the place of the officer. There must be at least one regular meeting of the members in each year, to be fixed by the bylaws, and there shall be such other meetings as may be called under the provisions of the bylaws.

(4) When members owning a majority of acreage or their appointed proxies do not attend the regular annual meeting of the members of the corporation or any other meeting called under the bylaws, the directors of the corporation may call another meeting of the members on a date that is not later than 60 days after the date of the meeting at which a quorum was not obtained. At such subsequent meeting, 25 percent or more of the acreage shall constitute a quorum for the transaction of business. [Amended by 1985 c.466 §1]

**554.080 Corporate existence; powers of corporation.** When the articles of incorporation are filed by the Secretary of State, the persons appointed in the articles as directors, and their successors in office, associates and assigns, by the name assumed in such articles, shall thereafter be deemed a body corporate with power:

- (1) To sue and be sued.
- (2) To contract and be contracted with.
- (3) To have and use a corporate seal and to alter the same at pleasure.
- (4) To purchase, condemn by the power of eminent domain, possess and dispose of such real and personal property as may be necessary and convenient to carry into effect the objects of the corporation, and to take, hold, possess and dispose of all real and personal property donated to such corporation by the United States or by any state, territory, county, city or other municipal corporation or by any person, for the purpose of aiding in the objects of such corporation.

(5) To appoint such subordinate officers, employees and agents as the business of the corporation may require, and prescribe their duties and compensation.

(6) To make, establish or amend bylaws, rules and regulations, not inconsistent with the laws of the state, the articles of incorporation, or the covenants and provisions of the landowners' notice provided in ORS 554.170 to 554.190, if any is filed, prescribing the manner and mode of conducting the business of the corporation, distributing and using water in domestic use, irrigation, usage of any drainage or flood control works, and enforcing the collection of rates, tolls,

charges, fees, fines and assessments, but such bylaws, rules and regulations must be ratified by two-thirds of the votes of the members of the corporation.

(7) To prescribe, fix, make and charge and collect from the water users or those who receive the benefits of the corporation, rates, tolls, fees, fines and charges for the maintenance and operation of the corporation, for the use of water, or for the use of any of the works of the corporation, or for violation of any of the bylaws, rules and regulations of the corporation; such rates, tolls, fines, fees and charges shall be a lien on the crops produced as prescribed in ORS 545.104, and may also be made a lien upon the land to which the water was furnished, or benefit was provided, as prescribed in ORS 554.135.

(8) To make, levy and collect any assessment either ratably or in proportion to the benefits received as the bylaws or recorded landowners' notice may provide, upon the lands described in the articles of incorporation, for the purpose of providing the amount of money required to be raised by the corporation through such assessments for any purposes whatsoever, including maintenance and operation, estimated delinquencies on assessments, principal and interest of maturing indebtedness, and such reserve as may be necessary or provided by the bylaws, subject to the limitations, restrictions and provisions of the recorded landowners' notice. [Amended by 1987 c.94 §148; 1991 c.459 §432d]

**554.090 Directors; qualifications; president; seal; secretary-treasurer; exercise of corporate powers.** (1) No person is eligible to the office of director unless the person is a member of the corporation. The directors named in the articles of incorporation and thereafter when elected by the members shall promptly qualify and thereupon meet and organize and elect one of their number president who shall preside at their meetings and at the meetings of the members. The board shall adopt a seal with a suitable design.

(2) The board shall elect a secretary who shall keep a fair and correct record of all its proceedings and the official business of the corporation, which shall be open to the inspection of all members as well as to all other interested persons. The secretary may or may not be a member of the board and shall hold the office of treasurer of the corporation and shall receive and receipt for all moneys received.

(3) From the first meeting of the directors, the powers vested in the corporation shall be exercised by them or by their officers or agents under their direction except

as otherwise specially provided by law. [Amended by 1969 c.345 §17]

**554.100 Oath of office.** Each director shall, before entering upon official duties, take and subscribe to an oath before some officer authorized by law to administer oaths, that the director will honestly, faithfully and impartially perform the duties devolving upon the director in office as director, and that the director will not neglect any of the duties imposed upon the director by law.

**554.110 Powers of directors.** The board of directors shall have full power and authority to:

(1) Build, construct and complete any works and improvements needed to carry out the plan of improvement of the lands described in the articles of incorporation.

(2) In the name of the corporation, make all necessary water filings and appropriations of water for every purpose of the articles of incorporation.

(3) Operate and maintain such works as are necessary, convenient or beneficial for said purposes.

(4) Hire men and teams and purchase machinery, equipment and supplies.

(5) Generally contract with reference to any of said matters as the board may determine for the purposes and within the scope of the powers granted in ORS 554.005 to 554.340 for improving the land.

**554.120 Records of proceedings of directors; lien docket; deposit of moneys; segregation of funds; accounting; warrant and bond register.** (1) The board of directors shall cause to be kept a well-bound book entitled "Records of Proceedings of Board of Directors," in which shall be recorded minutes of all meetings, proceedings, certificates, bonds, and any and all corporate acts, which records shall be at all times open to the inspection of anyone interested, whether members or creditors.

(2) A lien docket shall also be provided, in which, as to every tract of each owner, all assessments or liens shall be charged and all payments shall be credited, and in which interest on any assessments in arrears shall be charged at time of payment of any installment, to the end that such record shall show the true condition of all liens and the amount thereof.

(3) Except as otherwise provided by ORS 554.160 (2), all money of the corporation shall be deposited with a convenient bank or trust company in the name of the corporation, and all funds provided to be segregated and held separate shall be so kept, and an accounting of each of such funds upon the books of the corporation shall be correctly kept.

(4) A warrant register shall be provided in which shall be separately kept a record of all warrants issued, the number, date and amount thereof with the name of payee, and the date paid, showing principal and interest separately. The corporation, or the county treasurer of the county where the principal office of the corporation is located if bonds are payable at the office of the county treasurer, shall keep a register of all bonds with a description thereof, the date thereof and when issued, and generally such a record as shall show all outstanding bonds separately of the several issues and kinds of payments. [Amended by 1969 c.694 §46]

**554.130 Assessments; certification; collections; lien; foreclosure; service charges; disposition of proceeds.** (1) The board of directors shall each year on or before a day fixed in the bylaws of the corporation, and if not therein fixed then on or before September 1 of each year, make a computation of the whole amount of money to be raised by the corporation through assessments for the ensuing year for any purposes whatsoever, including maintenance and operation, estimated delinquencies on assessments, principal and interest of indebtedness maturing, and such reserves as may be necessary or provided by the bylaws of the corporation.

(2) This amount when so determined by the board shall be an assessment upon all the land described in the articles of incorporation and apportioned to each and every acre thereof as provided in the bylaws of the corporation or the recorded landowners' notice subject to its limitations, restrictions and provisions. Unless the board requires the assessment to be paid in advance of the delivery of water, the assessments shall become due and payable in quarter-annual installments, the first of which shall become due three months after the date fixed for the assessment in the bylaws, and if not fixed therein such assessment shall become due within three months after September 1 of each year, and shall bear interest at the rate of two-thirds of one percent per month from the maturity of each installment until paid. Any unpaid assessment and the lien thereof as provided in this section shall be delinquent after the date of maturity of the last installment thereof and may be enforced and foreclosed. Upon the sale of any lands on such foreclosure the corporation or any member thereof or any creditor of the corporation or other person may be a bidder and purchaser. When the bylaws provide rates, tolls, charges, fees, fines and assessments for the use of water or for the use of any of the works of the corporation, the bylaws shall also provide for the time and manner of collection thereof.

(3) Notwithstanding the provisions of subsection (2) of this section, the board may certify the assessments including any interest thereon to the county assessor of the county in which the assessed lands lie. Such assessments, if certified and presented after July 15 and on or before the following July 15, shall be assessed against the premises serviced on the next assessment and tax roll prepared after July 15 by the tax assessor of the county in which the corporation is situated. The assessments shall thereupon be collected by the assessor or tax collector, whoever has possession of the roll, and paid over to the treasurer of the nonprofit corporation as other taxes are certified, assessed, collected, and paid over.

(4) The treasurer of the nonprofit corporation shall keep the proceeds of the assessments in appropriate accounts depending upon the purpose of the assessments, and disbursements for the expenses of the corporation shall be paid out of the appropriate account. [Amended by 1971 c.436 §1; 1973 c.93 §1; 1983 c.652 §1]

**554.135 Alternate method for collecting assessments.** (1) In lieu of the method of levy and assessment provided for in ORS 554.130, the board of directors may provide in the bylaws or by resolution for the billing and collection of the rates, tolls, fees, fines and charges of the corporation in the manner provided in this section. The provision in the bylaws or the resolution may apply to rates, tolls, fees, fines and charges for the operation and maintenance of the corporation, for the use of water, or for the use of any of the works of the corporation, or for violation of any of the bylaws, rules and regulations of the corporation, or for principal and interest of maturing indebtedness.

(2) The bylaws or the resolution establishing the rates, tolls, fees, fines and charges shall fix the time when they shall become due and payable, and shall also fix a time after which they shall become delinquent, which time shall be any time within one year from the due date.

(3) If any rates, tolls, fees, fines or charges remain unpaid after the delinquency date, the secretary of the corporation may file a Notice of Claim of Lien with the recording officers of the county of each county in which land is situated which received or was entitled to receive the benefit of the water delivery or other benefits from the corporation for which the rates, tolls, fees, fines or charges have been made. The Notice of Claim of Lien shall be in writing and must contain:

(a) The name of the person or entity to whom water was delivered or was deliverable

or who received benefits from or was entitled to receive benefits from the works of the corporation;

(b) A statement of the amount claimed past due; and

(c) A description of the land which received or was entitled to receive the benefit of the water delivery or other benefits of the corporation sufficient for identification. Upon such filing, the rates, tolls, fees, fines or charges shall become a lien upon all lands therein described in the amounts set forth opposite each tract of land.

(4) If rates, tolls, fees, fines or charges, or any installment thereof, are not paid when due, interest shall be charged and collected on the past due amount at the rate of one and one-half percent per month, or fraction of a month, until paid.

(5) Upon the filing of the Notice of Claim of Lien, the board of directors by resolution may direct that all delinquent rates, tolls, fees, fines and charges represented thereby shall be foreclosed by the district. The foreclosure shall follow the procedures and be accomplished in the manner provided in ORS 545.502, 545.504 and 545.506. [1991 c.459 §432c]

**554.140 Directors' duty to institute proceedings to enforce lien.** (1) The board of directors shall institute proceedings to enforce the lien of any assessment when the last installment of such assessment is delinquent for more than three months. If the board fails to promptly institute and diligently prosecute in good faith proceedings for enforcement of a lien after that time and any member or creditor of the corporation shall give written notice to the board of such delinquency and request that such procedure be instituted and the board neglects for 30 days thereafter in good faith to bring suit to enforce the lien, the members of the board so failing shall each be jointly and severally liable to the corporation in the amount of the delinquent assessment.

(2) Any member or creditor of the corporation may bring an action on behalf of the corporation in its name against any such directors to enforce the payment thereof; however, no directors shall be personally liable for payment of a delinquent assessment if:

(a) The record of proceedings of a duly constituted meeting of the board held prior to the commencement of such action show either that such director presented or voted in favor of a resolution presented and voted upon by the board calling for the prompt commencement of such enforcement proceedings; or

(b) If no meeting of the board was held between the time prescribed for enforcement of a delinquent assessment lien and the com-

mencement of an action against the directors by a member or creditor of the corporation, that such director duly requested a special meeting of the board of directors be called for the purpose of adopting such a resolution and that the proposed resolution was submitted with the request.

(3) In any legal proceeding instituted by the board of directors of the corporation as provided in this section, the court shall allow, in addition to the costs and disbursements of such proceedings, a reasonable attorney fee at trial and on appeal to the corporation if it prevails. [Amended by 1963 c.549 §1; 1981 c.897 §65]

**554.150 Action to compel assessment.** If the board of directors neglects to make any assessment provided by ORS 554.005 to 554.340 for 30 days after the time when it is required to be made, any member of the corporation or any creditor thereof who is likely to be injured thereby may bring an action to compel the assessment to be made. In any such case the costs and expenses thereof may be assessed to the directors who were willfully negligent in failing to make the same and judgment rendered against them jointly and severally by the court in the same action. In such action the corporation and the directors shall be parties defendant. [Amended by 1979 c.284 §173]

**554.160 Assessments to provide funds to meet obligations; custody, disbursement and disposal of funds; general operating expenses.** (1) When any bonds or obligations of the corporation are payable from revenue of assessments pledged for the payment thereof, the board of directors shall, at the time of creating such indebtedness or issuing such bonds or obligations or at any time thereafter when assessments therefor are made, designate such fund by appropriate name and shall at the time of making each assessment thereafter determine the amount and portion of the assessment in dollars which is required to be then made for revenue of such fund. In determining and levying every assessment provided in ORS 554.005 to 554.340 the board of directors shall provide separately for the amount to be so raised for each of the several funds so designated and named including the general operation and maintenance fund.

(2) The revenues apportioned to the funds pledged to the payment of bonds and obligations shall be separately held and kept and accounted for. The corporation or the county treasurer shall disburse the funds only for the purposes for which levied until the indebtedness and obligation for which the assessment was made is fully paid with interest, whereupon the remainder shall be transferred to the general fund of the corpo-

ration for the payment of expenses of the corporation and its operation and maintenance. At the time of making assessments the board of directors shall first determine the estimated amount necessary for the expenses of operation and maintenance and then the several amounts for the respective funds, and determine that the whole amount thereof is within the limitations, restrictions and provisions of the landowners' notice provided for in ORS 554.170 to 554.190. [Amended by 1969 c.694 §47]

**554.170 Covenants by landowners; effect.** Owners of all the land described in the articles of incorporation or amendments thereto may at any time after the adoption of the plans and specifications for improving the land as provided in ORS 554.210, mutually covenant and agree for the purpose of binding their respective lands, as provided in ORS 554.180. Such covenants and agreements shall attach to and run with the land for the purpose of limiting, restricting and governing the conduct of the corporation. Such covenants, limitations, restrictions and agreements must not be inconsistent with the articles of incorporation, and after the recording of the same as provided in ORS 554.190 they may not be altered, amended, modified or rescinded during the life of such corporation without the consent of landowners representing two-thirds of the lands in the district and persons having an interest in such lands and the corporation and its creditors if any there are. After the recording, the bylaws of the corporation and every act and proceeding of such corporation must be in accordance with and subject to the limitations, restrictions and provisions thereof. [Amended by 1965 c 427 §1]

**554.180 Landowners' notice; contents.**

(1) If the owners of all the land desire to enter into such covenant with respect to matters hereinafter provided they shall make, subscribe and acknowledge before some person authorized to take acknowledgment of deeds, a notice to whom it may concern, which notice shall contain:

(a) A description of the land with the same particularity as is provided for in the articles of incorporation.

(b) A statement that the owners of the described land have incorporated themselves under the corporate name of (stating such name), and that the land will be improved as described in the articles of incorporation of record in the Office of the Secretary of State and in the office where deeds and other instruments affecting the title to real property are recorded in the county where the land is situated.

(c) A statement either that the land shall be subject to any indebtedness incurred by

the corporation, or that the land shall be subject to the lien of any assessments pro-rated and apportioned upon the acreage thereof by the corporation for its works and the improvement of the land as described in the articles of incorporation under the provisions of ORS 554.005 to 554.340.

(2) If all the landowners desire, they may therein further limit, restrict and provide with respect to said matters and the conduct of the corporation with regard to the described land by mutually determining and stating therein any or all of the following:

(a) Whether all the land is uniformly and in like amount per acre thereof benefited by the improvements; and if not so benefited they may by agreement determine and apportion the relative amount of benefits per acre between the several parcels and portions describing the same with the same particularity as is provided for the articles of incorporation.

(b) The whole amount of benefit per acre which will accrue from the works and improvement proposed in the articles of incorporation. If the lands are not uniformly benefited they may determine and appraise the benefits as to the several parcels and portions of all of the land and in that case particularly describe the same and state the amount of benefits accruing to the respective portions and parcels thereof per acre in dollars, which shall in such case be the maximum amount per acre as a lien thereon for any purpose of the corporation other than for operation and maintenance.

(c) The whole amount in dollars of annual benefits which will accrue per acre from the works and improvement described in the articles of incorporation. If it has been determined that all the land is not so uniformly and equally benefited they shall in such case determine and state the amount in dollars of the annual benefit per acre of the several parcels and portions of all the land particularly describing the same, which amount of annual benefits so determined shall be the maximum amount of assessments by the corporation per acre made and apportioned according to such determination as a lien upon the land payable per annum inclusive of the operation and maintenance assessments, and the assessment of any land in any year in excess of these annual benefits is to the extent of such excess void. [Amended by 1987 c.94 §149]

**554.190 Recording notice; effect; lien on land; priority.** (1) The notice shall be recorded in the office where deeds and other instruments affecting the title to real property are recorded in the county where the land is situated. From the recording thereof such notice shall be a covenant to and with

the corporation and its members and creditors, attaching to and running with the described land and every part thereof, granting the rights, privileges and liens as in ORS 554.005 to 554.340 provided and in the notice stated with respect thereto. In addition, such recording shall constitute prior approval of the members of the corporation of those actions of the board of directors obligating the corporation as authorized in ORS 554.220 to 554.280.

(2) If it is stated in the notice that the land described in the articles of incorporation and the notice shall be subject to any indebtedness incurred by the corporation, all debts and obligations of the corporation theretofore and thereafter created shall be a lien upon the land described in the notice prior to every other lien attaching to the land subsequent to the time of recording of the notice, except state, county and school taxes, whether such debt or obligation of the corporation is in existence at the time the latter lien attaches or is created afterward. Such lien shall not be personal but shall be an obligation upon the land and run with the land.

(3) If, however, the landowners state in the notice that the land described in the articles of incorporation shall be subject to the lien of assessments by such corporation for the works and improvement of the land, then all the debts and obligations of the corporation shall be a direct obligation of the corporation with the irrevocable right of the creditors and obligees to have assessments made by the corporation for the payment of such debts and obligations pursuant to the provisions of ORS 554.005 to 554.340 and within the limitations, restrictions and provisions of the landowners' notice. In such case every debt and obligation of the corporation created within the limitations and restrictions of the landowners' notice is with the implied or express covenant that the corporation will make the assessments necessary to be made for the payment thereof as same may mature and be payable, and will prorate and apportion the same to all the described lands in accordance with the provisions of ORS 554.005 to 554.340 and the notice. Every assessment made pursuant to this subsection and the landowners' notice by the corporation and prorated and apportioned pursuant to such notice within the limitations, restrictions and provisions thereof shall be a lien upon the acreage of such land as so assessed by the corporation, and the lien shall relate back, vest and attach thereto as of the time of filing for record of the landowners' notice. Every other lien, right, title, interest and estate attaching, vesting or in any manner accruing or

acquired subsequent to the filing of such landowners' notice, whether before or after such assessment, except state, county and school taxes, shall be inferior and subject to the lien of such assessment. [Amended by 1991 c.459 §432e]

**554.200 Incurring indebtedness before notice recorded; scope of notice.** When any corporation is organized pursuant to ORS 554.005 to 554.340, the board of directors and the corporation may not lawfully incur any indebtedness or obligation of such corporation, except as otherwise provided in ORS 554.005 to 554.340, before the landowners' notice has been executed and recorded. When the notice is so recorded, it shall be notice to the world of the facts therein stated. It shall not be necessary, for the purpose of the lien of any assessment or indebtedness of the corporation upon any of the lands described therein, to file or record in the office where deeds and other instruments affecting the title to real property are recorded, any resolution of the corporation or notice of assessment, indebtedness or lien; but as to all matters upon the recording of the landowners' notice every person interested in any of the land therein described or dealing with respect thereto is put upon inquiry respecting the same and shall ascertain from the corporation the extent and amount of such indebtedness, assessment and lien upon the land. [Amended by 1987 c.158 §117]

**554.210 Plans and specifications; how adopted.** (1) Owners of all the land described in the articles of incorporation may by unanimous agreement in writing, subscribed and acknowledged by them, cause to be prepared and approve and adopt detailed plans and specifications for the works and improving of the lands under the plan described in the articles of incorporation, and make a report upon the same, including an estimate of the probable cost thereof, and shall thereupon file the same with the secretary of the corporation. In such case the board of directors shall adopt a resolution briefly reciting the facts thereof and accepting, approving and adopting the same as the plan of improvement of the land described in the articles of incorporation. Such plans and specifications and report shall be the plans of the corporation for the works and improvement of the land. If the landowners do not so adopt plans and specifications and a report thereon by unanimous consent, such plans and specifications and report may be adopted by resolution at a meeting of members as provided in subsection (2) of this section.

(2) In such case, the board of directors at any meeting of the board may adopt a resolution designating and authorizing the

expenditure of a certain amount of money for preliminary investigation and report upon the plans and cost of works and construction, or repair or reconstruction of the same, or purchasing or acquiring any property, ditches, dikes, levees, plants, improvements, easements, rights of way, water rights, or other things necessary, advantageous or beneficial for improving the land under the plan described in the articles of incorporation; or they may by resolution determine and declare that such preliminary investigation and the expense thereof is unnecessary. The directors shall then secure a competent engineer, if they determine that it is necessary or desirable, who shall make such investigation, and prepare detailed plans and specifications and make a report upon the same, including an estimate of the probable cost thereof, or they may prepare detailed plans and specifications and report with an estimate of the probable cost thereof without securing an engineer. The directors shall submit the detailed plans and specifications and report to a meeting of the members of the corporation for adoption. Adoption must in that case be made by resolution passed by a two-thirds vote of all the votes to which the members may be entitled.

**554.220 Bonds; denominations; interest; maturities; execution; coupons; amortized installment obligations.** (1) At any time after recording the landowners' notice as provided in ORS 554.190 and adoption of a plan for improvement of the land described in the articles of incorporation as provided in ORS 554.210, the board of directors may, if in their judgment it seems best, and subject to the limitations, restrictions and provisions of the landowners' notice, issue bonds or other obligations of the corporation necessary or convenient for improving the lands, including the refunding of outstanding bonds and any indebtedness of the corporation.

(2) The bonds shall be in such denominations as the board may determine, and bear interest from date at a rate determined by the board, payable semiannually, to mature at intervals to be determined by the board, both principal and interest being payable at some convenient bank or trust company to be named in the bonds or at the office of the county treasurer referred to in ORS 554.160. Each bond, if payable at the office of the county treasurer, shall be registered at the office of the county treasurer in accordance with ORS 208.200 prior to delivery of the bonds to the bond purchaser. The bonds shall be signed by the president of the corporation and attested with the seal of the corporation and the signature of the secre-

tary. They may be issued so as to mature serially in annual amounts so as to be approximately equal, principal and interest, and may be issued so as to include a sum sufficient to pay the first four years' interest, or less, to accrue on the bonds, and be numbered serially in the order in which they mature. Each such bond shall have interest coupons attached bearing the serial number of the bond, which coupons shall be serially numbered in the order of maturity.

(3) If the directors so determine, they may issue for the purposes stated in this section, or as provided in ORS 554.270 and 554.280, one or more amortized installment obligations of the corporation constituting a designated series of such bonds as particularly described in ORS 554.280, all of which obligations shall be evenly and ratably paid as the attached installments mature as determined by the board of directors and as described in ORS 554.280. The latter bonds and coupons shall be executed and attested as provided by subsections (1) and (2) of this section for bonds of the corporation. [Amended by 1969 c.694 §48; 1977 c.188 §10; 1981 c.94 §49; 1981 c.526 §7]

**554.230 Bonds; recitals; payment; liability of land.** (1) Bonds or obligations of the corporation shall refer therein to ORS 554.005 to 554.340 and to the resolution of the board of directors authorizing the same, and shall briefly recite the purpose for which issued. If they constitute a lien on the land described in the articles of incorporation they shall so state therein; otherwise they shall state that they and the interest thereon are payable by the revenue derived from the annual assessments by the corporation upon the land described in the articles of incorporation and the landowners' notice, which assessments are lien-apportioned to every acre of such land and assessed for a fund pledged for the payment thereof, and that the corporation covenants to and with the holder thereof to make such assessments as required by the laws of Oregon and to pay the obligation (or bond) at the maturity therein provided, and further that the assessment required to be made for the payment thereof at maturity will not together with all other assessments required for payment of the debts and obligations, operation and maintenance, and other charges, exceed the limitations prescribed in the landowners' notice.

(2) Upon the issue of any bond or obligation payable by revenue derived from assessment by the corporation upon the land for a fund designated in the resolution authorizing such issue, the land described in the articles of incorporation and the landowners' recorded notice shall thereafter be and remain liable to be assessed for such

payments as provided in and subject to the provisions of ORS 554.005 to 554.340.

**554.240 Retirement of bonds; conditions of sale; resolution authorizing bond issue; surrender of bonds in payment of assessments; debts not to exceed assessments or benefits.** (1) The corporation may provide that bonds or any of them may be retired at the option of the corporation on any interest-paying date after the expiration of a time determined and fixed therein.

(2) Bonds and obligations shall not be sold for less than 90 percent of their face value, and may be issued all at the same time or in such amounts as the board deems necessary. Before issuing any bonds or obligations the board shall first pass a resolution authorizing the same and provide the whole amount thereof and the purpose of same and if payable from a separate fund shall designate the same. The resolution shall prescribe the form and substance of the bonds or obligations and provide with respect thereto the matters and things otherwise prescribed therefor in ORS 554.005 to 554.340.

(3) When any bond, obligation or coupon is payable from revenue by assessment to constitute a fund for the payment thereof, any such bond, obligation or coupon may at or after its maturity be surrendered to the corporation in payment of such assessment, but not in payment of any assessment for operation and maintenance expense or any other fund separately pledged for payment of other obligations, bonds or debts of the corporation. Bonds and obligations received in payment of any obligation shall be numbered consecutively and the lowest numbers paid off first.

(4) No obligations of the corporation shall be issued by the board unless it is determined that the annual assessment which will be required for the payment thereof as same matures together with other assessments which will be necessary for maintenance and operation expense and other purposes will not exceed in the whole the maximum amount of annual benefits which may be assessed and apportioned in any one year. Nor shall debts be incurred and obligations issued the aggregate amount of which will exceed the limitation determined by the determined benefits as stated in the recorded landowners' notice.

**554.250 Refunding bonds.** The board of directors may issue bonds for the purpose of refunding or satisfying any of the bonded or other indebtedness of the corporation, whether or not due, or which has or may become payable at the option of the corporation, or by consent of the holders of the indebtedness, or by any lawful means,

whether such bonded or other indebtedness is now existing or may hereafter be created, and there are not funds in the treasury of the corporation available for the payment of the same and unpaid interest thereon.

**554.260 Contracts with governmental agencies or others for financial assistance or cooperative action.** Whenever the board of directors of the corporation shall by resolution determine it to be for the best interest of the corporation, the board may enter into contract with the United States or its duly constituted agencies, or any municipal or other corporation of Oregon, or any person, for the purpose of procuring or receiving a loan or financial assistance for any works or improvement of the corporation, or for the maintenance and operation of any works or improvement of the corporation or of such other party, or for the purpose of acquiring jointly or controlling and managing in conjunction with such other party any works or improvement or any easement or right of way necessary for such improvement or work; and may bind the corporation for the maintenance, support and operation of the whole or any part thereof after construction of the same; and may agree that any works or improvement of the United States or any constituted governmental agency embracing any part of the works or improvement of the corporation or serving any purpose thereof shall be subject to the control, rules and regulations of the United States or any of its constituted agencies or officers as any law or regulation of the United States may require; and may agree to protect the United States and its constituted governmental agencies or officers from any loss or damage by reason of any works or improvement for or in behalf of the corporation as any law may require as a condition thereof; and may contract with the United States to furnish without cost such easements and rights of way and other property as shall be necessary for the proposed improvement and works of the corporation and their maintenance and operation, as required or provided by law as a condition thereof.

**554.270 Purchase or lease of works and water rights; provision as to payment; serial coupon obligations.** (1) Whenever the board of directors of the corporation shall by resolution determine that it is to the best interest of the corporation, the board may enter into contracts for the purchase or option to purchase or lease, upon such terms as it determines to the best interest of the corporation, any ditch, works, improvement, easement, right of way, water right or other thing required or advantageous to the corporation for the works and improvement of the land described in the ar-

articles of incorporation within the scope of the purposes therein named.

(2) In any such case the board may by such contract provide for spreading the payments over such period as may be agreed upon and may issue therefor serial installment coupon obligations in such number and denominations as it may determine, inclusive of interest at such rate as the board may provide on all unpaid assessments, together with an amount sufficient to pay a proportionate part of the cost of administering the bond assessment program and issuing the bonds authorized under ORS 554.220 and 554.250, including, but not limited to, legal, printing and consultant's fees, such amount to be determined by the governing body. The installment coupons shall be of such amount and stated maturity as will pay and retire all installment coupon obligations of such designated series evenly, justly and ratably from year to year at the same time, and shall be general obligations of the corporation, payable from a fund as provided in ORS 554.280. [Amended by 1981 c.322 §9]

**554.280 Resolution for serial coupon obligations; maturities; interest; retirement; recitals; fund for payment; assessments.** (1) For the purpose stated in ORS 554.270, the board of directors shall by resolution determine and declare that the same is to the best interest of the corporation; briefly describe the purpose and object thereof and the amount of money required therefor; provide for, authorize and direct issuing the installment coupon obligations, describing and fixing the number of such obligations constituting the series and the denominations thereof; and shall adopt and prescribe the form and substance of such obligations. Each obligation shall bear the same series designation and be separately serially numbered, which series designation and serial number shall likewise appear upon each installment coupon attached. Coupons of each obligation shall be serially numbered in the order of their maturity and shall be so payable at a place designated in the bonds which may be the office of the county treasurer referred to in ORS 554.160. The obligation, if payable at the office of the county treasurer, shall be registered at the office of the county treasurer in accordance with ORS 208.200 prior to delivery of the bonds to the bond purchaser.

(2) Interest at a rate determined by the board may be included and amortized for the retirement of both principal and interest as provided in the resolution and in this section. Every obligation shall recite that it is issued pursuant to such resolution and payable from a fund derived from annual assessments of the lands described in the articles

of incorporation for such purpose, the proceeds of which are pledged for the payment, and that the corporation covenants to levy such assessments according to law and the resolution in amount sufficient, inclusive of estimated delinquencies, to pay the installment coupons thereto attached as they mature.

(3) The resolution shall appropriately designate the fund. The board of directors shall thereafter on or before the time fixed in the bylaws determine and assess the amount necessary to be assessed at such time for payment of the installment coupons as they mature. Proceeds from such assessment shall constitute a fund which is pledged for payment of such obligations. The treasurer shall segregate and keep separate the proceeds of every assessment for such funds, and shall deposit the same in a bank in a separate account designating such fund, or if the obligations are payable at the office of the county treasurer, the treasurer shall transfer them to the county treasurer. The district or county treasurer shall not disburse the same except as provided in this section. [Amended by 1969 c.694 §49; 1977 c.188 §11; 1981 c.94 §50; 1981 c.526 §8]

**554.290 Warrants to pay claims; interest; assessments to pay warrants; limitation on amount of warrants.** All claims against the corporation shall be paid by warrants drawn on the treasurer of the corporation and signed by the president and secretary of the board of directors. If any warrant is not paid when presented to the treasurer of the board of directors, because of lack of funds in the treasury, that fact shall be indorsed on the warrant and the warrant shall draw interest thereafter at a rate determined by the board until there is money in hand to pay the amount of the warrant and the interest then accumulated. No interest shall be allowed on warrants after sufficient funds are in the treasury to pay the indorsed warrants and interest. The secretary of the board shall give notice to the payee or other holder if known whenever sufficient funds are available to pay outstanding warrants. Warrants shall be numbered, drawn against the proper fund, and paid from such fund in the order of issuance. The board of directors shall levy an assessment each year of sufficient amount of money to pay the outstanding warrants. No warrants shall be issued the payment of which in the ensuing year inclusive of the assessments required for all other purposes will exceed the annual assessment limit fixed in the landowners' recorded notice, or the aggregate indebtedness of which with all other indebtedness for other purposes than operation and maintenance will exceed the total benefits to accrue to the land described

in the articles of incorporation as stated in the recorded landowners' notice. [Amended by 1981 c.94 §51]

**554.300 Amendment of articles to include or exclude land; dissolution of corporation by members; inclusion of lands by irrigation, drainage or flood control district.** (1) The articles of incorporation of any corporation organized under ORS 554.005 to 554.340 may at any time be amended so as to include other land, or exclude any part theretofore included. Such amendment shall not affect the date of priority of the lien of the corporation upon any land, but as to any new land included by such amendment the lien shall attach from the date of the recording of the amended notice. No land can be excluded until its proportionate share of all existing debts of the corporation has been paid.

(2) In addition to the procedures available for administrative dissolution under ORS 554.302 and 554.305, any such corporation may be dissolved and its affairs terminated as provided in subsections (3) and (4) of this section. However, no corporation may be dissolved as provided in subsections (3) and (4) of this section before payment or release of all debts and obligations of the corporation, including every contract and agreement with the federal or the state government, or its or their constituted governmental authorities or agencies, or the assumption of its obligations by another with the consent of all parties.

(3) The board of directors of the corporation shall cause notice to be given of a meeting of the members, which notice shall contain a statement to the effect that the dissolution of the corporation will be considered at the meeting, and a brief statement of the reasons why dissolution is deemed advisable. The question of whether or not the corporation shall be dissolved may be presented at the meeting, and if two-thirds or more of the votes of the members present or by proxy are cast in favor of dissolution, the board shall proceed to dissolve the corporation and liquidate its affairs. The board shall constitute a board of trustees and as such shall dispose of the property of the corporation and pay its debts and obligations or procure releases thereof; provided, that in case an irrigation district, drainage district or flood control district is organized to include the lands in the corporation or any part thereof, the board of directors of the corporation, or the board of trustees in case the corporation has voted to dissolve, shall convey to such irrigation, drainage or flood control district any and all irrigation works or other property owned by such corporation,

upon the assumption by the irrigation, drainage or flood control district of the obligations of the corporation.

(4) Upon completing the liquidation of the corporation, the trustees shall submit to the Office of the Secretary of State for filing a statement that the corporation has been dissolved and its affairs liquidated. The trustees also shall send a true copy of the statement to the county clerk of the county in which the corporation had its principal place of business, that the corporation has been legally dissolved, and the clerk shall record the statement in the records of the office of the clerk. [Amended by 1971 c.200 §9; 1985 c.351 §23; 1987 c.94 §150]

**554.302 Dissolution of corporation by Secretary of State; conditions.** The Secretary of State may commence a proceeding under ORS 554.305 to administratively dissolve a corporation organized under the provisions of ORS 554.005 to 554.340 if:

(1) The corporation does not pay when due any fees imposed under ORS 554.016;

(2) The corporation does not deliver its annual report to the Secretary of State when due;

(3) The corporation is without a registered agent or registered office in this state;

(4) The corporation does not notify the Secretary of State that its registered agent or registered office has been changed, that its registered agent has resigned or that its registered office has been discontinued; or

(5) The corporation's period of duration stated in its articles of incorporation expires. [1987 c.94 §152; 1991 c.132 §34]

**554.305 Notice of grounds for dissolution; opportunity for correction; notice of dissolution; effect of dissolution.** (1) If the Secretary of State determines that one or more grounds exist under ORS 554.302 for dissolving a corporation organized under ORS 554.005 to 554.340, the Secretary of State shall give the corporation written notice of the determination.

(2) If the corporation does not correct each ground for dissolution or demonstrate to the reasonable satisfaction of the Secretary of State, within 45 days after notice is given, that each ground determined by the Secretary of State does not exist, the Secretary of State shall dissolve the corporation and give the corporation notice of the dissolution.

(3) A corporation administratively dissolved continues its corporate existence but may not carry on any business except that necessary to wind up and liquidate its business and affairs and notify claimants.

(4) The administrative dissolution of a corporation does not terminate the authority of its registered agent.

(5) Every corporation involuntarily dissolved under this section shall continue to exist as a body corporate for the purpose of the performance or enforcement of any debt or obligation under contract or agreement with the federal or state government, including the power to levy and collect assessments for such purpose. [1987 c.94 §153; 1991 c.132 §15]

**554.307 Reinstatement of dissolved corporation.** (1) A corporation administratively dissolved under ORS 554.305 may apply to the Secretary of State for reinstatement. The application shall:

(a) State the name of the corporation and the effective date of its administrative dissolution; and

(b) State that the ground or grounds for dissolution either did not exist or have been eliminated.

(2) If the Secretary of State determines that the application contains the information required by subsection (1) of this section, that the information is correct and that the corporation's name satisfies the requirements of ORS 554.040 (2), the Secretary of State shall reinstate the corporation.

(3) When the reinstatement is effective, it relates back to and takes effect as of the effective date of the administrative dissolution and the corporation resumes carrying on its business as if the administrative dissolution had never occurred. [1987 c.94 §154; 1991 c.132 §16]

**554.309 Denial of reinstatement; appeal.** (1) If the Secretary of State denies a corporation's application for reinstatement following administrative dissolution, the Secretary of State shall give written notice to the corporation that explains the reason or reasons for denial.

(2) The corporation may appeal the denial of reinstatement pursuant to the provisions of ORS 183.310 to 183.550. [1987 c.94 §155]

**554.310** [Amended by 1963 c.358 §1; 1969 c.694 §50; 1983 c.717 §32; 1985 c.351 §24; 1987 c.94 §151; repealed by 1991 c.132 §37]

**554.315 Annual report; contents; filing with Secretary of State; amended report.** (1) Every corporation organized under ORS 554.005 to 554.340 shall submit to the Office of Secretary of State for filing an annual report that sets forth:

(a) The name of the corporation and the state or country under whose law it is incorporated;

(b) The street address of its registered office and the name of its registered agent at the office in this state;

(c) The address, including street and number and mailing address, if different, of its principal office;

(d) The names and addresses of the president and secretary of the corporation;

(e) The category of the classification code established by rule of the Secretary of State most closely designating the primary business activity of the corporation; and

(f) Additional identifying information that the Secretary of State may require by rule.

(2) The information contained in the annual report shall be current as of 30 days before the anniversary of the corporation. The report shall be submitted not later than the anniversary date and a copy of the report shall be filed with the county treasurer referred to in ORS 554.160.

(3) The Secretary of State shall mail the annual report form to any address shown for the corporation in the current records of the office. Failure of the corporation to receive the annual report form from the Secretary of State shall not relieve the corporation of its duty to deliver an annual report to the office as required by this section.

(4) If an annual report does not contain the information required by this section, the Secretary of State shall notify the reporting corporation in writing and return the report to it for correction. The corporation must correct the error within 45 days after the Secretary of State gives such notice.

(5) The corporation may deliver to the office for filing an amendment to the annual report if a change in the information set forth in the annual report occurs after the report is delivered to the office for filing and before the next anniversary. This subsection applies only to a change that is not required to be made by an amendment to the articles of incorporation. The amendment to the annual report must set forth:

(a) The name of the corporation as shown on the records of the office; and

(b) The information as changed. [1991 c.132 §19]

**Note:** 554.315 was added to and made a part of ORS chapter 554 by legislative action but was not added to any smaller series therein. See Preface to Oregon Revised Statutes for further explanation.

**554.320 Exemption from taxation.** The property and income of a corporation organized under the provisions of ORS 554.005 to 554.340, but not for profit, the articles of incorporation of which recite the things mentioned in ORS 554.050, shall be exempt from taxation. The property and income of corporations which were incorporated under chapter 172, Oregon Laws 1911, and which amend their articles to state that the corporation shall not operate for profit and also to state

the matters provided in ORS 554.050, shall also be exempt from taxation.

554.330 [Repealed by 1969 c.345 §20]

**554.340 Judicial determination of legality of proceedings.** (1) The board of directors of any corporation organized under the provisions of ORS 554.005 to 554.340, or of any corporation organized before March 4, 1937, which amends its articles and landowners' notice pursuant to the provisions of ORS 554.420, may, after adopting a resolution adjudging the same to be to the interest of the corporation and authorizing the same, by petition commence special proceedings in the circuit court of the county in which the office of the corporation is located, for the purpose of having a judicial examination and judgment of the court as to the regularity and legality:

(a) Of the proceedings in connection with the organization of the corporation; or

(b) Of the proceedings of the board and corporation providing for and authorizing the issue or sale of any bonds or obligations of the corporation whether or not theretofore sold or disposed of; or

(c) Of any action or proceeding for the inclusion or exclusion of land, or declaring the result of any election, or of any order levying any assessment or ordering the issue of any bonds or obligations for any purpose; or

(d) Of any plan of improvement of lands described in the articles of incorporation or of any proposed works and improvement for which bonds or obligations are authorized to be issued; or

(e) Of the authorization of any contract with the United States or any municipality or corporation or person, and as to the validity of such contract whether or not it has been executed.

(2) All or any of the proceedings of the corporation may be judicially examined and determined by the court in one proceeding as prayed in the petition. The provisions of ORS 548.110 shall apply to the proceedings provided in this section, and jurisdiction of the corporation shall be obtained in the manner provided for irrigation or drainage districts in that section.

(3) Any landowner or person having an estate or interest therein or member of the corporation or assessment payer may, within 30 days after the entry of any order or the performance of any of the acts or things mentioned in subsection (1) of this section for which a contest is provided, bring a proceeding to determine the validity thereof, in which case the board of directors shall be made parties defendant and service of the

summons shall be had upon the members of the board in the manner provided in ORS 548.115 for irrigation and drainage districts. The proceedings shall be tried and determined in the same manner as provided in subsections (1) and (2) of this section for proceedings brought by the corporation itself.

(4) No contest of any proceeding or matter or thing by this section provided to be had or done shall be had or maintained at any time or in any manner except as provided in this section.

**554.350 Service to lands outside district authorized; required findings; tax exemption.** (1) A corporation organized pursuant to ORS 554.005 to 554.340 may obligate itself by written contract to utilize the corporation's delivery system to deliver water for irrigation or domestic use on lands not described in its articles of incorporation, if its board of directors by resolution determines that such action does not impair the corporation's ability to service the lands described in its articles of incorporation. In furtherance of such arrangement the corporation may:

(a) Adopt plans and specifications pursuant to ORS 554.210 for the construction of works and improvements on lands described in its articles of incorporation or on lands not described therein and thereafter to construct the same; and

(b) Pursuant to ORS 554.260, jointly acquire, control and manage any works, improvements, easement or right of way necessary to fulfill its contractual obligations and bind itself for the maintenance, support and operation of the whole or any part thereof.

(2) The delivery of water, the collection of charges for such delivery and the ownership of property pursuant to this section shall not subject the corporation's income and property, wherever located, to taxation if its property and income are otherwise exempt pursuant to ORS 554.320. [1979 c.180 §2]

## CORPORATIONS ORGANIZED UNDER 1911 ACT

**554.410 Applicability of ORS 554.005 to 554.340 to corporations organized under 1911 Act.** Nothing in ORS 554.005 to 554.340 shall be so construed as to affect the validity of any district improvement company organized before March 4, 1937, under the provisions of chapter 172, Oregon Laws 1911, or its rights in or to property, or any of its rights or privileges of whatsoever kind or nature; but such corporations hereby are made subject to the provisions of ORS 554.005 to 554.340 so far as applicable. The provisions of ORS 554.005 to 554.340 shall

not affect, impair or discharge any contract, obligation, lien or charge for or upon which such a company was or might become liable or chargeable had those sections not been passed; nor shall they affect the validity of any bonds issued prior to March 4, 1937; nor shall they affect any action then pending. All such corporations organized after March 4, 1937, shall be organized under the provisions of ORS 554.005 to 554.340 and not otherwise. Any corporation organized before March 4, 1937, under the provisions of chapter 172, Oregon Laws 1911, which amends its articles of incorporation and landowners' notice as provided in ORS 554.420, shall thereafter be subject to the provisions of ORS 554.005 to 554.340.

**554.420 Amendment of articles, and landowners' notice, of corporation organized under 1911 Act.** (1) Articles of incorporation of any district improvement company organized before March 4, 1937, under the provisions of chapter 172, Oregon Laws 1911, and the recorded notice of the owners of the lands described in such articles of incorporation, may be amended as provided in this section.

(2) If the members desire to amend the articles of incorporation they shall execute the amended articles, stating therein that such articles are for the purpose of amending articles of the same corporation of record in the Office of the Secretary of State and in the county where the land therein described is situated; that the amended articles are signed by an officer, director or court-appointed fiduciary by authority of a resolution of the board of directors; and that such articles as amended and adopted are as therein set out. The amended articles shall specify as provided in ORS 554.040 and may determine and state the matters provided in ORS 554.050. The amended articles must describe the land with particularity and state the owners thereof and the persons having any interest therein. The board of directors shall determine whether all landowners and persons having any interest in the lands have duly executed the same.

(3) If satisfied therewith the board of directors may, upon the execution by all landowners of the amended landowners' notice and being satisfied therewith and that all have executed the same, by resolution authorize an officer, director or court appointed fiduciary to execute the same on behalf of the corporation. Thereupon the amended articles shall be submitted to the Office of the Secretary of State for filing. The requirements for filing a document under ORS 554.005 apply to the amended articles.

(4) One true copy of the amended articles also shall be filed in each county where the land is situated.

(5) The landowners' amended notice shall be executed and recorded in the manner provided in ORS 554.180 and 554.190.

(6) From the filing of the amended articles by the Secretary of State, the amended articles and landowners' notice shall be effective instruments for every purpose; provided that such amended notice shall in no manner affect any lien, encumbrance, interest or estate in any of the lands attached, fixed or vested at the time of filing the same, or the priority thereof. If in such amendments it appears that the corporation is not for profit and it is so stated therein as provided in ORS 554.050, the corporation shall thereafter pay any applicable fee under ORS 554.016. [Amended by 1971 c.200 §10; 1987 c.94 §156; 1991 c.132 §35]

**554.430 Applicability of 1911 Act, as amended, to corporations organized under that Act.** To the extent only that, by reason of the provisions of ORS 554.410, they have not been superseded, sections 2, 3, 4, 6, 7, 8, 9, 11 and 12 of chapter 172, Oregon Laws 1911, as amended by section 2, chapter 101, Oregon Laws 1917, and by chapters 267 and 420, Oregon Laws 1927, and as supplemented by section 2, chapter 164, Oregon Laws 1923, shall remain applicable to corporations organized before March 4, 1937, under the provisions of chapter 172, Oregon Laws 1911.

**554.440 Malheur Improvement Company; exclusion or inclusion of land.** (1) Any person holding land within the Malheur Improvement Company district created under chapter 172, Oregon Laws 1911, who desires to have the land of the person excluded from the Malheur Improvement Company district, may file a petition with the secretary of such district. The petition shall be in writing, verified, and shall set forth the description of the lands desired to be excluded, and the reasons for such exclusion. Likewise, any person owning lands without such district who desires to have the lands of the person included within the district, may file a petition with the secretary, which petition shall be in writing, verified, and shall set forth the reasons why the land should be included in the district, and further, that the lands are susceptible of irrigation or drainage, as the case may be, from the system of works of the district.

(2) The secretary shall present any such petition at the next meeting of the board of directors of the improvement company. The board shall fix a time for the hearing thereof, either at a special meeting of the members of the corporation called for the purpose, or

at the next regular annual meeting of the members. At such meeting, the petitioners may present witnesses and be represented either in person or by attorney, to establish the allegations set forth in the petition. Upon such hearing, the matter of including or excluding such lands from the district shall be put to a vote of the members, and if a majority vote of the members owning lands in the district is in favor of the relief asked for in the petition, then an order shall be made in the minutes in accordance with such vote.

(3) The secretary shall thereupon make a certificate certifying to the fact of the filing of such petition and the hearing thereon, and the action taken by the members of the district, and in such certificate shall describe the land included or excluded from the district, as the case may be. The secretary shall submit the certificate to the Office of the Secretary of State for filing and shall file a true copy of the certificate with the county clerk of the county where the lands are situated. From and after the filing of the certificate by the Secretary of State the land described in the certificate shall be included or excluded, as the case may be, in or from the improvement company district.

(4) The articles of incorporation of the Malheur Improvement Company shall upon the filing of the certificate by the Secretary of State, and without any procedure other than as in this section provided, be deemed amended to include or exclude, as the case may be, the lands described in such certificate; provided, however, that any land within such improvement company district, and excluded therefrom on petition, shall not be relieved from the payment of its proportion of any bonded indebtedness created and outstanding of the company, prior to the exclusion of such lands therefrom. Lands without the improvement company district, and included therein by petition, shall be subject to any assessment thereafter levied by the company, whether for bonded indebtedness or otherwise. [Amended by 1987 c.94 §157]

#### INCLUSION AND EXCLUSION OF LAND

**554.510 Authority to include or exclude lands.** A corporation formed under ORS 554.005 to 554.340 may amend its articles of incorporation to include or exclude land as provided in ORS 554.510 to 554.590. [1963 c.103 §2; 1987 c.94 §158]

**554.520 Application for inclusion or exclusion; approval of members.** When a corporation receives an application of one or more landowners either to include the lands of the landowner in or exclude the lands of the landowner from the corporation, the ap-

plication shall be acted upon at a meeting of the members. If at the meeting the members present approve the application of the landowner by a majority vote, articles of amendment shall be executed by the corporation and filed with the Secretary of State and from the date of such filing the lands described in the amendment, as recited in the amendment, shall either be included or excluded from the corporation. [1963 c.103 §3]

**554.530 Application; contents; deposit; filing.** The application of the landowner shall:

(1) Be in writing and certified by the applicant.

(2) State the legal description of the land the applicant wishes either included in or excluded from the corporation.

(3) Contain a brief statement of the reason for request of the inclusion or exclusion of the lands of the landowner, and if the request is to include lands, a statement that the lands will be benefited by being included in the corporation.

(4) Be accompanied by a deposit in an amount to be determined by the corporation to pay the expenses of holding a meeting of the members to consider the application, including the cost of publishing notice of the meeting. After payment of such expenses, the balance of such deposit, if any, shall be returned to the applicant by the corporation.

(5) Be filed with the officer or clerk in charge of the principal office of the corporation. [1963 c.103 §4]

**554.540 Board to set meeting date.** At the next meeting of the board of directors of the corporation after an application is filed and the deposit for expenses paid, the secretary of the corporation shall present the application to the board of directors. The board shall fix a date and time for the members to consider the application at a meeting at the principal office of the corporation, which shall be either a special meeting called for that purpose or the next regular annual meeting of the members. [1963 c.103 §5]

**554.550 Notice of meeting.** The secretary as directed by the board shall cause notice of the meeting to be published once each week for three successive weeks prior to the meeting in a newspaper published within the boundaries of the corporation, if any, or in a newspaper of general circulation in the county, where the principal office of the corporation is situated. The notice shall state the date of filing the application, the name of the applicant, a description of the land sought to be included or excluded, and the reason therefor given by the applicant. The notice shall state that all members, creditors

of the corporation and other interested persons may attend the meeting, and be heard concerning the application. [1963 c.103 §6]

**554.560 Quorum for meeting.** Notwithstanding the provision of ORS 554.070 (2) providing for a quorum to do business, the members of the corporation present shall constitute a quorum to approve or reject the application to include land in, or exclude land from, the corporation. [1963 c.103 §7]

**554.570 Effect of exclusion on existing debts.** (1) An amendment to exclude land shall not relieve any land from any lien existing at the time of the exclusion of the land, affect the date of priority of any lien of the corporation upon any land or relieve any landowner from any obligation to pay any valid outstanding bonds or indebtedness of the corporation; but the land shall continue to be subject to the lien and chargeable with all obligations outstanding at the time of the exclusion. For the purpose of enforcing any lien for such obligations, lands excluded shall be considered part of the corporation as if the exclusion had never been accomplished.

(2) Lands excluded shall not be chargeable with a lien for any obligation incurred after the date of filing the articles of amendment with the Secretary of State, providing for the exclusion of such lands. [1963 c.103 §8]

**554.580 Condition of approval of inclusion.** (1) As a condition to approval of an application, if the meeting is on an application to include lands, the members may require the applicant to agree to pay a pro rata share of all unpaid obligations incurred for improvements which the applicant would have been required to pay if the land of the applicant had been in the corporation from its formation or from the time the obligations were incurred.

(2) From the date of filing articles of amendment with the Secretary of State, providing for the inclusion of such lands they shall be liable for obligations incurred and assessments levied. [1963 c.103 §9]

**554.590 Articles of amendment; filing; effective date.** (1) If an application to include or exclude lands is approved, articles of amendment shall set forth:

(a) The name of the corporation.

(b) A reference to the provision in the original or amended articles of the corporation affected and a statement of the particular land by legal subdivisions so far as possible and otherwise by tracts or lots of duly platted land or by metes and bounds, with the acreage thereof and the name of the owner as shown by the records of the county, included or excluded by the amendment.

(c) The date the members approved the inclusion or exclusion of the land.

(2) The articles of amendment shall be submitted to the Office of the Secretary of State for filing. The requirements for filing a document under ORS 554.005 apply to articles of amendment under this section.

(3) From the date that the Secretary of State files the articles of amendment, the lands described in the amendment shall be included or excluded from the corporation as recited in the amendment.

(4) The corporation shall file a true copy of the articles of amendment with the county recording officer of the county where the land included or excluded by the amendment is situated. [1963 c.103 §10; 1971 c.200 §11; 1987 c.94 §159]

554.600 [1963 c.103 §11; repealed by 1987 c.94 §171]