TITLE 24

PUBLIC ORGANIZATIONS FOR COMMUNITY SERVICE

Chapter 261. People's Utility Districts
262. Joint Operating Agencies for Electric Power
263. Convention Facilities
264. Domestic Water Supply Districts
265. Cemetery Maintenance Districts
266. Park and Recreation Districts
267. Mass Transit Districts; Transportation Districts
268. Metropolitan Service Districts

Chapter 261

1993 EDITION

People's Utility Districts

GENERAL PROVISIONS

261.005 Short title
261.007 Policy
261.010 Definitions
261.025 Statutory provisions cumulative
261.030 Chapter not to interfere with existing utilities of electric cooperatives or municipalities; joint operating agencies allowed
261.035 Charter provisions of cities and towns not affected; municipality not prohibited from acquiring plant
261.045 Procedure in absence of specific provision
261.050 Taxation of district property
261.055 Special elections called by board
261.060 Election procedure
261.065 Application of initiative, referendum and recall laws

FORMATION; BOUNDARY CHANGES

261.105 Authority to create districts; vote necessary to create district; vote necessary for annexation and consolidation
261.110 Areas includable in district; description of district in petition for election
261.113 Petition or resolution for formation to propose special levy for certain purposes
261.115 Contents of electors' petition; verification
261.118 Withdrawal from petition prohibited
261.121 Basis of computing percentage of petition signatures
261.131 Period for county clerk to certify petition
261.141 Resolutions to form district or change boundaries; contents
261.147 Resolution to remove territory not served by district; hearing; notice; election on question of removal; effect of removal
261.151 Hearing on district formation by Director of Department of Energy; notice; report by director
261.161 Hearing by county governing body; notice; determination of boundaries
261.171 County governing body to call election; notice; dates
261.180 Effect of annexation or consolidation on title to property and indebtedness
261.190 Qualifications; election of first board of directors; tenure
261.200 Proclamation of district formation or boundary change; special levy; property owner petition
261.210 Payment of election expenses; security deposit
261.215 When district formed; designation; district as corporation
261.220 Mandamus to compel performance of its duties by county governing body
261.225 State agencies and private utilities to provide new district certain information

POWER FACILITIES

261.235 Definitions for ORS 261.235 to 261.255
261.240 Policy; construction
261.245 Authority of district to acquire interest in power facilities
261.250 District liability; application of moneys; use of power of eminent domain prohibited
261.253 Electric utility restriction on entering contract imposing unconditional or unlimited financial obligation on utility

261.255 Use of district money or property; revenue bonds

POWERS

261.305 General powers of district
261.310 Irrigation, drainage, other municipal districts given power of utility district in certain cases
261.315 Acquisition of distribution facilities outside district
261.325 Acquisition of water rights
261.327 Acquisition of distribution facilities of private utility; compensation for energy efficiency measures
261.330 District water right appropriation exclusive if not excessive
261.335 Districts subject to public contracting and purchasing requirements
261.345 Employment of labor; pay and conditions; agreements; rights of previous employees of private utility
261.350 Agreements with others for use of excess district facilities
261.355 Revenue bonds; elector approval required; exception for certain purposes; engineer certificate required; election dates
261.360 Authority to issue general obligation bonds
261.365 Bond requirements
261.371 Advertisement and sale of bonds
261.375 Election to authorize district bond issue
261.380 Refunding district indebtedness
261.385 Levy and collection of taxes for certain purposes
261.390 Property taxable; time and manner of tax levy and collection

BOARD OF DIRECTORS

261.405 Board of directors; election; qualifications
261.410 Nomination and election of directors of established districts
261.415 Vacancy in office of director
261.420 Terms of office of directors
261.425 Officers of board
261.430 Board meetings
261.445 Appointment and removal of district manager; qualifications; salary; acting manager; powers and duties
261.460 Legislative function of board
261.465 Board supervision and regulation of district utilities; fixing rates
261.470 Accounting system adopted by board; annual reports; annual audit

COURT PROCEEDING TO TEST CERTAIN DISTRICT PROCEEDINGS

261.605 Testing validity of certain commission and board proceedings
261.610 Nature of proceeding; notice; appearance to contest; court determinations
261.615 Appeal to Court of Appeals
261.620 Guides to court determination
261.625 Costs of proceeding
261.630 Institution of proceeding by elector; directors as parties; notice
261.635 Procedure exclusive

DISSOLUTION

261.705 Authority to dissolve district; vote authorizing dissolution
261.710 Call of election; effect of favorable vote
261.715 Directors as trustees
261.720 Inventory and sale of district property
261.725 Disposal of sale proceeds
261.730 Disposal of district books and records; termination of corporate existence

CONSTRUCTION

261.900 Construction

CROSS REFERENCES

Allocation of utility service, territories and customers, 758.400 to 758.475

Applicability of Local Budget Law, 294.316

Authority to regulate rates and attachments to poles or facilities of people's utility districts, 757.276, 757.279

Authority to regulate rates and attachments to public or telecommunications utility poles or facilities, 757.273, 757.279

Board members:

Bonds or letters of credit, 198.220

Recall, 198.430

Vacancy, 198.320

Compliance with state water resources policy required, 536.300 to 536.400

Constitutional authority for people's utility districts, Const. Art. XI, §12

Cooperative or joint action by districts in performance of administrative functions, 190.010 to 190.030

Department of Energy, Ch. 469

Discipline of police officers, just cause, 236.360

District election procedures, Ch. 255

Drainage work by domestic water supply districts, 264.352

Electrical Safety Law, certain installations exempted, 479.540

Energy cogeneration, 758.505 to 758.555

Federal Watershed Protection and Flood Prevention Act, district-federal agreements, 190.150

Intergovernmental arbitration, 190.710 to 190.800

Joint operating agencies for electrical power, 262.005 to 262.115

Local contract review board functions, 279.055

Population, determination, 190.520

Port of Portland, utilities generally, 778.025

Taxation of public utility districts, 308.505 to 308.660

Unclaimed deposits and refunds held by utilities, 98.316, 98.302 to 98.436

261.005 to 261.220

Conclusive presumption of validity of boundary proceedings one year after effective date, 12.270

261.305

Discrimination in employment prohibited, Ch. 659

Limitation on tax power, Const. Art. XI, §11

Tax levies generally, Ch. 310

Unemployment insurance, 657.020, 657.065, 657.097, 657.505

Voted tax outside constitutional limitation, 280.060

261.310

Irrigation districts, authority to generate and distribute electric energy, 538.430, 543.650 to 543.685

261.325, 261.330

Prior rights not affected by 1955 amendment, 536.580

261.365

Borrowing and bonds of districts, 287.010, 287.012

261.371

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

261.380

Advance refunding bonds, state regulation of, 288.605 to 288.695

261.385

Limitation on tax power, Const. Art. XI, §11

Tax levies generally, Ch. 310

Voted tax outside constitutional limitation, 280.060

261.425

Expense of official bond or letter of credit, 742.354

261.470

Auditing accounts of municipal corporations, Ch. 297

GENERAL PROVISIONS

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

261.007 Policy. The purpose of this chapter is to implement the intent and purpose of section 12, Article XI, of the Oregon Constitution including authorization for the establishment of people's utility districts to develop the water and energy resources of this state for the benefit of the people of this state and to supply public utility service, including water, water power and electric energy for all uses and users. [1979 c.588 §2]

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

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

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

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

(4) "Parcel of territory" means a portion of unincorporated territory, or an area in a municipality comprised of less than the entire municipality.

(5) "Separate parcel of territory" means unincorporated territory that is not contiguous to other territory that is a part of a district or that is described in a petition filed with the county clerk in pursuance of the provisions of this chapter, but when a proposed district includes territory in more than one county, the contiguous territory in each such county shall be considered as a separate parcel of territory. When a proposed district includes any area in a municipality comprised of less than the entire municipality, that area shall be considered as a separate parcel of territory.

(6) "Utility" means a plant, works or other property used for development, generation, storage, distribution or transmission of electric energy produced from resources including, but not limited to, hydroelectric, pump storage, wave, tidal, wind, solid waste, wood, straw or other fiber, coal or other thermal generation, geothermal or solar resources, or development or transmission of water for domestic or municipal purposes, waterpower or electric energy, but transmission of water shall not include water for irrigation or reclamation purposes, except as secondary to and when used in conjunction with a hydroelectric plant.

(7) "Initial utility system" means a complete operating utility system, including energy efficiency measures and installations within the district or proposed district, capable of supplying the consumers required to be served by the district at the time of acquisition or construction with all of their existing water or electrical energy needs.

(8) "Electric cooperative" means a cooperative corporation owning and operating an electric distribution system.

(9) "Affected territory" means that territory proposed to be formed into, annexed to or consolidated with a district.

(10) "Electors' petition" means a petition addressed to the county governing body and filed with the county clerk, containing the signatures of electors registered in the affected territory, equal to not less than three percent of the total number of votes cast for all candidates for Governor within the affected territory at the most recent election at which a candidate for Governor was elected to a full term, setting forth and particularly describing the boundaries of the parcel of territory, separate parcels of territory, municipality and district, or any of them, referred to therein, and requesting the county governing body to call an election to be held within the boundaries of the parcel of territory, separate parcels of territory, municipality and district, or any of them, for the formation of a district, the annexation of a parcel of territory or a municipality to a district, or the consolidation of two or more districts.

(11) "County governing body" means either the county court or board of county commissioners and, if the affected territory is composed of portions of two or more counties, the governing body of that county having the greatest portion of the assessed value of all taxable property within the affected territory, as shown by the most recent assessment roll of the counties.

(12) "Replacement value of unreimbursed investment" means original cost new less depreciation of capitalized energy efficiency measures and installations in the premises of customers of an investor owned utility. [Amended by 1961 c.224 §10; 1979 c.558 §4; 1981 c.804 §76; 1983 c.83 §32; 1989 c.174 §3; 1991 c.358 §1]

261.015 [Renumbered 261.121]

261.020 [Repealed by 1973 c.796 §79]

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

261.030 Chapter not to interfere with existing utilities of electric cooperatives or municipalities; joint operating agen-

cies allowed. Nothing contained in this chapter authorizes or empowers the board of directors of any district to interfere with or exercise any control over any existing utility owned and operated by any electric cooperative or municipality in the district unless by consent of the governing body of the electric cooperative or of the city council or the governing body of the municipally owned plant, when the control of the municipally owned plant is vested in a governing body other than the city council or governing body of the municipality. However a district may participate fully with electric cooperatives and municipally owned utilities in the formation and operation of joint operating agencies for electric power under ORS chapter 262. [Amended by 1979 c.558 §5]

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

261.040 [Amended by 1979 c.558 §6; renumbered 261.118]

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

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

261.055 Special elections called by board. When any people's utility district desires to hold an election for the purpose of submitting to the electors of the district any question that may lawfully be submitted to them, the board may, at any regular or special meeting called in accordance with its rules or the statutes governing the same, adopt a resolution calling a special election to be held on a date specified in ORS 255.345, and may in the same resolution designate and describe in general terms the question which is to be submitted at the special election. [Formerly 261.505]

261.060 Election procedure. Except as otherwise specifically provided in this chapter, every district election shall be conducted in accordance with ORS 255.005 to 255.035, 255.055, 255.075 to 255.095, 255.215 to 255.288 and 255.295 to 255.355. [1975 c.598 §3 and 1975 c.647 §16; 1989 c.503 §29]

261.065 Application of initiative, referendum and recall laws. The laws of this state regarding initiative, referendum and recall shall apply to people's utility districts. [1979 c.558 §3]

FORMATION; BOUNDARY CHANGES

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

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

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

(4) Annexation to an existing district shall be subject to the provisions of ORS 198.720 (2). [Amended by 1979 c.558 §7]

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

(2) Petitions asking that an election be held to determine whether or not a district shall be created shall set forth and particularly describe the boundaries of the proposed people's utility district, and shall state that in the event the people within any one or more municipalities or separate parcels of

territory within the proposed district vote against its formation, then that portion of the district which voted in favor of organization of a people's utility district may be organized into the district.

(3) The name of any municipality shall be a sufficient description of its boundaries.

(4) When any municipality or separate parcel of territory voting at a formation election casts a majority vote against formation of the district, the municipality or separate parcel of territory shall not be included in any district formed as a result of the election.

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

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

(7) No territory which is part of another people's utility district shall be included in the formation of any district, except under the conditions provided in ORS 198.720 (2), nor shall the proposed district include any territory which at the time of the proposed district's formation is being served by an electric cooperative. [Amended by 1979 c.558 §8; 1981 c.758 §1]

261.113 Petition or resolution for formation to propose special levy for certain purposes. Electors' petitions and resolutions for formation of a district shall include a proposal for the authorization of the district to impose a special levy of a certain amount to finance an engineer's report on revenue bonds for the acquisition or construction of the initial utility system, including the replacement value of the unreimbursed investment of an investor owned utility in energy efficiency measures and installations within the proposed district, the election under ORS 261.355 (10) and costs associated with them. [1979 c.558 §12; 1991 c.358 §2; 1991 c.572 §4]

261.115 Contents of electors' petition; verification. (1) All electors' petitions shall contain a statement as to whether or not the petitioners are desirous of forming a utility district, or to annex territory to an existing utility district, or to consolidate two or more existing utility districts, the description of the territory sought to be included therein and the name by which the utility district is to be known. The statement shall be printed on a separate page or pages.

(2) There shall be a signature sheet with sufficient space for 20 signatures, and opposite the name of each signer, a space for the residence address of the signers of the petition and the number of their voting precinct. Each petition containing signatures shall be verified by the person circulating the petition, stating that every person who signed the petition did so in the circulator's presence and that the circulator believes that each signer stated that signer's correct residence address and is an elector.

(3) An electors' petition shall designate three or more persons as chief petitioners and shall set forth their names and mailing addresses. [Amended by 1979 c.558 §9; 1983 c.567 §20]

261.118 Withdrawal from petition prohibited. After a petition has been filed with the county clerk, no person may withdraw that person's name from it. [Formerly 261.040]

261.120 [Amended by 1975 c.647 §17; repealed by 1979 c.558 §30]

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

261.125 [Repealed by 1979 c.558 §30]

261.130 [Repealed by 1979 c.558 §30]

261.131 Period for county clerk to certify petition. Within 10 days after receipt of an electors' petition the county clerk shall certify the sufficiency of signatures to the county governing body. [1979 c.558 §10]

261.135 [Repealed by 1979 c.558 §30]

261.140 [Repealed by 1979 c.558 §30]

261.141 Resolutions to form district or change boundaries; contents. (1) In addition to the initiation of a district formation, annexation or consolidation by electors' petition:

(a) Formation of a district may be initiated by resolution of the governing body of each county in which territory of the proposed district is situated or, where a municipality proposes to create a district, by resolution of the city governing body;

(b) Annexation to an existing district may be initiated by resolution of the board of directors of that district; and

(c) Consolidation of two or more districts may be initiated by resolution of the board of each of the districts proposed to be consolidated.

(2) Resolutions authorized under this section shall describe the boundaries of the affected territory and, if for formation or consolidation of a district or districts, the name by which the proposed district is to be known. [1979 c.558 §11]

261.145 [Repealed by 1979 c.558 §30]

261.147 Resolution to remove territory not served by district; hearing; notice; election on question of removal; effect of removal. (1) When any parcels of territory within an existing district are not being served by the district, the board of directors of the district may fix a place and time for a public hearing to consider the removal of such parcels from the district.

(2) Notice stating the time and place of the hearing shall be published in accordance with ORS 261.161 (1). The hearing may be adjourned from time to time, but shall not exceed four weeks in length. Public testimony shall be taken at the hearing.

(3) Upon conclusion of the public hearing the board may by resolution remove such parcels, or any of them, from the district. The resolution shall become effective 30 days after passage, unless written requests for an election are filed as provided by subsection (4) of this section.

(4) If written requests for an election are filed with the board within 30 days after passage of the resolution by not less than 15 percent of the electors or 100 electors registered in the parcels to be removed, whichever is the lesser number, an election on the question of removal of the parcels described in the resolution shall be held on the next scheduled general or special election date.

(5) The electors eligible to vote in the election described in subsection (4) of this section shall be those electors who reside on the parcels described in the resolution.

(6) From the date of removal, liability of the territory removed from the district for assessments and taxes levied after the date of removal by the district and for bonded and other indebtedness shall be in accordance with ORS 198.880 and 198.882. [1987 c.824 §3]

261.150 [Repealed by 1979 c.558 §30]

261.151 Hearing on district formation by Director of Department of Energy; notice; report by director. Upon certification of a petition for formation or adoption of a resolution by the county governing body for district formation, the county clerk shall submit a copy of the resolution or petition, without signatures attached, to the Director of the Department of Energy. Not less than 30 days after receipt of the petition or resolution copy, the director shall hold a hearing within the proposed district for the purpose of receiving public testimony on the proposed district formation. Notice of the hearing, stating the time and place of the hearing, together with the electors' petition, when applicable, without the signatures attached, shall be published at least two times prior to the date of the meeting. The first publication shall not be more than 25 days nor less than 15 days preceding the hearing and the last publication shall not be more than 14 days nor less than eight days preceding the hearing. Within 60 days after receipt of the petition or resolution copy, the director with the advice and assistance of the Public Utility Commission of Oregon shall prepare and publish a concise report showing the availability and cost of power resources, potential tax consequences and any other information considered by the director to be relevant to the proposed formation of the district. A copy of the report shall be mailed, upon publication, by the director to the county governing body. [1979 c.558 §12a]

261.155 [Repealed by 1979 c.558 §30]

261.160 [Repealed by 1979 c.558 §30]

261.161 Hearing by county governing body; notice; determination of boundaries. (1) After certification of a petition, or passage of the resolution when the formation, annexation or consolidation proposal is by resolution of the county governing body, the county governing body shall, within 10 days, fix a date for a hearing on the boundaries described in the electors' petition or resolution of the county governing body for inclusion in the proposed or established district. The hearing shall be held by the county governing body not less than 60 days nor more than 90 days after certification of the petition or passage of the resolution. Notice of the hearing, stating the time and place of the meeting, together with the electors' petition, when applicable, without the signatures attached, shall be published at least two times prior to the date of the meeting. The first publication shall not be more than 25 days nor less than 15 days preceding the hearing and the last publication shall not be more than 14 days nor less than eight days preceding the hearing. Notice of the hearing, and all other publications required by this chapter, shall be published in at least one newspaper of general circulation in the proposed or established district. The hearing may be adjourned from time to time, but shall not exceed four weeks in total length. Public testimony shall be taken at the hearing.

(2) Based upon the record of the hearing prescribed in subsection (1) of this section on the proposed boundaries and, if district formation is proposed, the report of the Director of the Department of Energy under ORS

261.151, the county governing body within 10 days of the last date of hearing shall determine the boundaries of the proposed or established district.

(3) No lands shall be included in the boundaries fixed by the governing body lying outside the boundaries described in the electors' petition unless the owners of that land request inclusion in writing before the hearing under subsection (1) of this section is completed.

(4) An electors' petition shall not be denied by a county governing body because of any deficiency in the description of the boundaries of the proposed district, but the county governing body shall correct those deficiencies. [1979 c.558 §13]

261.165 [Repealed by 1979 c.558 §30]

261.170 [Repealed by 1979 c.558 §30]

261.171 County governing body to call election; notice; dates. (1) Upon its own resolution, the county governing body may, and upon receipt of an electors' petition or resolution of the governing body of a district or municipality which the county governing body finds to be in compliance with this chapter shall, at the earliest practical date submit the question of district formation, annexation or consolidation and, if for formation, the question of a special levy, to the electors within the affected territory at a special election. The special election may be held on the same date as a biennial regular primary or general election.

(2) The notice of the election shall state the purpose of the election, describe in general terms the boundaries of the affected territory and in all other respects comply with the general laws of this state governing the time and manner of holding elections.

(3) The county governing body shall call no more than one election for formation of a district comprising substantially the same area within the same calendar year. [1979 c.558 §14]

261.175 [Repealed by 1979 c.558 §30]

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

(2) The acceptance of any indebtedness at the election to determine the question of annexation shall not include any indebtedness except such as has been incurred or assumed on account of development or purchase of a utility, including the replacement value of the unreimbursed investment of an investor owned utility in energy efficiency measures and installations within the annexed area. [Amended by 1991 c.358 §3]

261.185 [Amended by 1973 c.796 §10; repealed by 1975 c.647 §53]

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

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

(3) All electors of the proposed district shall have the right to vote for five candidates at the election.

(4) The five candidates receiving the highest number of votes in the area approved by the electors and declared by the county governing body to be a district shall be elected to serve until the first Monday in January after the first regular biennial general election which occurs not less than one year following the election to create the district, and until their successors are elected and qualified. [Amended by 1973 c.796 §11; 1975 c.598 §4; 1979 c.558 §16]

261.195 [Amended by 1973 c.796 §12; repealed by 1975 c.647 §53]

261.200 Proclamation of district formation or boundary change; special levy; property owner petition. (1) If a majority of votes cast at the election favor formation of the district and authorization of the district to impose a special levy for the purposes stated in the petition for formation, or annexation of a parcel of territory or a municipality to an existing district, or consolidation of two or more districts, as the case may be, and in conformity with provisions of ORS 261.105 and 261.110, the county governing body shall issue a proclamation accordingly and file a certified copy with the county clerk of each county where the district or any portion thereof is located. The proclamation for formation of a district shall be in substantially the following form:

Whereas at an election duly and regularly held on the ____day of _____, A.D. 19____, within _____ County (or _____Counties), State of Oregon, and within the boundaries of a proposed district

as herein described, there was submitted to the electors thereof the question whether or not a people's utility district should be incorporated as the (here insert name of district) and to give authority to impose a special levy of $_____under and pursuant to the provisions of ORS chapter 261; and

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

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

Now, therefore, the undersigned hereby does proclaim and declare that all of that part of the State of Oregon, described as (here insert description) has been duly and legally incorporated as the _____ People's Utility District under and pursuant to the Constitution and laws of the State of Oregon, and the district has the authority to collect the sum of $_____ by special levy against the taxable property within the district.

Chairman of the County Governing Body.
By _____

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

(3) The proclamation of formation, with the notice of boundary change under ORS 308.225, shall be filed by the district with the county assessor of each county in which any portion of the district is situated, who shall thereupon enter the special levy.

(4) Expenditure of the moneys received from the special levy for the purposes stated in the petition for district formation may be made by the district without prior adoption of a budget under ORS 294.305 to 294.520.

(5) Following proclamation of formation of a district, any person whose property has been improperly included within a district, contrary to the provisions of ORS 261.110 (5) or (7), may petition a county governing body to revise the district boundaries to exclude the property. After notice to the district, and a hearing on the petition, the county governing body shall revise the district boundaries to exclude such property as it finds should not have been included within the district under the standards set forth in ORS 261.110 (5) or (7). Upon such findings and boundary revisions a district shall be permitted to refund related taxes paid which are based upon assessments made after January 1, 1978. Boundary revisions shall comply with ORS 308.225. The remedy provided in this subsection shall be available only to persons owning property in districts which were formed after January 1, 1978. [Amended by 1973 c.796 §13; 1979 c.558 §17; 1981 c.758 §2]

261.205 [Repealed by 1975 c.647 §53]

261.210 Payment of election expenses; security deposit. (1) Except as provided in subsection (2) of this section, all expenses in any county of any election held under this chapter for formation of a district and election of a board of directors shall be paid from the general fund of the county in the same manner that other claims against the county are paid.

(2) When formation of a district is initiated by electors' petition, the county court may require a bond, a cash deposit or other security deposit from the chief petitioners as provided in ORS 198.775.

(3) When preparing the county budget for the fiscal year following an election described in subsection (1) of this section, the county court shall include an item in the budget to reimburse the general fund for the disbursement for the election, unless the costs of the election are paid from a bond, a cash deposit or other security deposit under subsection (2) of this section. This item shall be assessed to and paid by the assessable property of the territory in which the election is held in the same manner that other taxes are assessed and paid. [Amended by 1983 c.567 §21]

261.215 When district formed; designation; district as corporation. From the date of the proclamation relative to formation of a district the territory shall be a separate district to be known as the district named and specified in the proclamation. The inhabitants thereof shall be a corporation by the name and style of the utility district specified in the proclamation, and as such shall have perpetual succession, and by such name shall exercise and carry out the corporate powers and objects conferred and declared by this chapter.

261.220 Mandamus to compel performance of its duties by county governing body. If the county governing body refuses to call an election, or hold a hearing, as provided in this chapter, or refuses to declare the results of any election or issue the required proclamation, any elector may apply within 10 days after the refusal to the circuit court for the county in which the proposed district, or its greater portion, is located for a writ of mandamus to compel the county governing body to perform its duty. [Amended by 1975 c.647 §19; 1979 c.558 §18]

261.225 State agencies and private utilities to provide new district certain information. (1) The Department of Energy, the Public Utility Commission of Oregon and any privately owned utility serving the affected territory shall cooperate in providing information and data as requested by a people's utility district for construction or acquisition of the initial utility system.

(2) As requested, the Department of Energy and the Public Utility Commission of Oregon shall provide copies of records on file pertinent to the operation of a utility system.

(3) As requested, the privately owned utility serving the affected territory shall provide data and records regarding the affected territory including:

(a) Peak load and monthly variations of load required to serve the territory;

(b) Load requirements of various classifications of users;

(c) Gross revenue;

(d) Distribution costs, including operation, maintenance and debt retirement;

(e) Inventory of assets by type and value;

(f) List of customers with customer addresses;

(g) Amount of money loaned to each customer for conservation activity; and

(h) Replacement value of an investor owned utility's unreimbursed investment in energy efficiency measures and installations within the territory. [1979 c.558 §15; 1991 c.358 §4]

POWER FACILITIES

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

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

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

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

(4) "Electric cooperative" means a cooperative corporation organized under the law of California, Idaho, Montana, Nevada, Oregon or Washington and owning and operating an electric distribution system. [1967 c.603 §8; 1979 c.151 §3]

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

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

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

(2) ORS 261.235 to 261.255 shall be construed liberally to effectuate the purposes set out in subsection (1) of this section. [1967 c.603 §9]

261.245 Authority of district to acquire interest in power facilities. In addition to the powers otherwise conferred on districts of this state, such a district owning and operating an electric light and power system may plan, finance, construct, acquire, operate, own and maintain an undivided interest in common facilities within or without the state jointly with one or more other districts, with one or more cities, with one or more electric cooperatives, or with one or more privately owned electric utility companies subject to regulation by the Public Utility Commission of Oregon or the equivalent officer or commission of California, Idaho, Montana, Nevada or Washington, or with any combination of such districts, cities, electric cooperatives or companies in this or such other states, and may make such plans and enter into contracts and agreements as are necessary or appropriate for such joint planning, financing, construction, acquisition, operation, ownership or maintenance. [1967 c.603 §10; 1979 c.151 §4]

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

(2) A district shall not exercise its power of eminent domain to acquire a then existing thermal power plant or any part thereof. [1967 c.603 §11]

261.253 Electric utility restriction on entering contract imposing unconditional or unlimited financial obligation on utility. (1) No public contract entered into by a

noninvestor-owned electric utility shall contain a clause or condition that imposes an unconditional and unlimited financial obligation on the electric utility that is party to the contract unless the terms and conditions of the contract are subject to approval and are approved by the electors of the people's utility district or municipality that owns the electric utility.

(2) Nothing in subsection (1) of this section is intended to affect provisions of law requiring approval of electors for any particular type of public contract that are in effect on October 15, 1983, or that are later enacted.

(3) Nothing in subsection (1) of this section is intended to conflict with ORS 279.324 to 279.332.

(4) As used in this section:

(a) "Public contract" includes a contract, note, general obligation bond or revenue bond by which the people's utility district or municipality or any subdivision of any of them is obligated to pay for or finance the acquisition of goods, services, materials, real property or any interest therein, improvement, betterments or additions from any funds, including receipts from rates or charges assessed to or collected from its customers.

(b) "Unconditional and unlimited financial obligation" means a public contract containing a provision that the people's utility district or municipality that is party to the contract is obligated to make payments required by the contract whether or not the project to be undertaken thereunder is undertaken, completed, operable or operating notwithstanding the suspension, interruption, interference, reduction or curtailment of the output or product of the project. [1983 c.811 §1]

Note: 261.253 was enacted into law by the Legislative Assembly but was not added to or made a part of ORS chapter 261 or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

261.255 Use of district money or property; revenue bonds. Any district of this state participating in common facilities under ORS 261.235 to 261.255 may furnish money and provide property, both real and personal, and to the extent and in the manner provided by ORS 261.355 issue and sell revenue bonds pledging revenues of its electric system and its interest or share of the revenues derived from the common facilities and any additions or betterments thereto, in order to pay its respective share of the cost of the planning, financing, acquisition, construction and the initial fuel costs thereof. All moneys paid or property supplied by any such district for the purpose of carrying out the powers conferred by ORS 261.235 to 261.255 are declared to be for a public purpose. [1967 c.603 §12]

POWERS

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

(1) To have perpetual succession.

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

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

(4) To acquire and hold, including by lease-purchase agreement, real and other property necessary or incident to the business of the districts, within or without, or partly within or partly without, the district, and to sell or dispose of that property; to acquire, develop and otherwise provide for a supply of water for domestic and municipal purposes, waterpower and electric energy, or electric energy generated from any utility, and to distribute, sell and otherwise dispose of water, waterpower and electric energy, within or without the territory of such districts.

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

(6) To borrow money and incur indebtedness; to issue, sell and assume evidences of indebtedness; to refund and retire any indebtedness that may exist against or be assumed by the district or that may exist against the revenues of the district and to pledge any part of its revenues. Except as provided in ORS 261.355 and 261.380, no revenue or general obligation bonds shall be issued or sold without the approval of the electors. The board of directors may borrow from banks or other financial institutions, on notes payable within 12 months, such sums as the board of directors deems necessary or advisable; however, the amounts so borrowed, together with the principal amounts of other like borrowings then outstanding and unpaid, shall not exceed the amount which the board of directors estimates as the district's net income (determined in accordance with the system of accounts maintained by the board pursuant to ORS 261.470) for the 12 full calendar months following the date of the proposed borrowing, adjusted by adding to the net income an amount equal to the estimated charges to depreciation for the 12-month period. No indebtedness shall be incurred or assumed except on account of the development, purchase and operation of a utility.

(7) To enter into rental or lease-purchase agreements to rent, lease or acquire real or personal property, or both, required for district purposes. Except when approved by a majority of the electors of the district voting on the question, a people's utility district shall not enter into rental or leasing agreements when the annual aggregate amount of payment for any and all property directly related to a single transaction exceeds 10 percent of the revenues of the district in the preceding fiscal year.

(8) To carry out the powers granted people's utility districts, the board may utilize the provisions of ORS 287.522 to 287.526.

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

(10) To make contracts, to employ labor and professional staff, to set wages in conformance with ORS 261.345, to set salaries and provide compensation for services rendered by employees and by directors, to provide for life insurance, hospitalization, disability, health and welfare and retirement plans for employees, and to do all things necessary and convenient for full exercise of the powers herein granted. The provision for life insurance, hospitalization, disability, health and welfare and retirement plans for employees shall be in addition to any other authority of people's utility districts to participate in those plans and shall not repeal or modify any statutes except those that may be in conflict with the provision for life insurance, hospitalization, disability, health and welfare and retirement plans.

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

(12) To enter into agreements with the State of Oregon or with any local governmental unit, utility, special district or private or public corporation for the purpose of promoting economic growth and the expansion or addition of business and industry within the territory of the people's utility district. Before spending district funds under such an agreement, the board of directors shall enter on the written records of the district a brief statement that clearly indicates the purpose and amount of any proposed expenditure under the agreement.

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

(14) To construct works across or along any street or public highway, or over any lands which are property of this state, or any subdivision thereof, and to have the same rights and privileges appertaining thereto as have been or may be granted to municipalities within the state, and to construct its works across and along any stream of water or watercourse. Any works across or along any state highway shall be constructed only with the permission of the Department of Transportation. Any works across or along any county highway shall be constructed only with the permission of the appropriate county court. Any works across or along any city street shall be constructed only with the permission of the city governing body and upon compliance with applicable city regulations and payment of any fees called for under applicable franchise agreements, intergovernmental agreements under ORS chapter 190 or contracts providing for payment of such fees. The district shall restore any such street or highway to its former state as near as may be, and shall not use the same in a manner unnecessarily to impair its usefulness.

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

(16) To enter into franchise agreements with cities and pay fees under negotiated franchise agreements, intergovernmental agreements under ORS chapter 190 and contracts providing for the payment of such fees.

(17) To take any other actions necessary or convenient for the proper exercise of the powers granted to a district by this chapter and by section 12, Article XI, of the Oregon Constitution. [Amended by 1953 c.627 §2; 1957 c.334 §1; 1979 c.558 §19; 1985 c.474 §1; 1987 c.245 §4; 1993 c.97 §1]

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

(2) Drainage districts qualifying under the provisions of this chapter may elect additional directors to make a board of five directors. [Amended by 1979 c.558 §20; 1983 c.83 §33]

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

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

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

(4) The provisions of ORS 261.200 shall be complied with insofar as applicable. Ballots cast by electors of municipalities shall be separately kept and counted as to each municipality. [Amended by 1973 c.796 §13a; 1979 c.558 §21; 1983 c.83 §34]

261.320 [Repealed by 1971 c.741 §38]

261.325 Acquisition of water rights. Any utility district created under this chapter may acquire in its own name the right to use the unappropriated waters of this state in accordance with the laws of this state. [Amended by 1955 c.707 §34; 1979 c.54 §1; 1979 c.558 §22]

261.327 Acquisition of distribution facilities of private utility; compensation for energy efficiency measures. When a district acquires from an investor owned utility, by eminent domain or otherwise, facilities for the distribution of energy within an affected territory, the district shall compensate the owner of the facilities, in addition to any other amounts otherwise due, an amount equal to the replacement value of the investor owned utility's unreimbursed investment in energy efficiency measures and installations within the affected territory. [1991 c.358 §7]

261.330 District water right appropriation exclusive if not excessive. Any filing made by any utility district upon the unappropriated waters of this state for use in the future development of a hydroelectric plant by the district shall be reserved to the district and shall not be subject to appropriation by any other person, municipality or corporation, unless it is judicially determined that such filing exceeds the reasonable present and future requirements of the district, in which event the surplus or excess may be by decree of a court of competent jurisdiction released and discharged from such filing. Proceedings in court for the determination of whether or not the filing by any utility district exceeds its reasonable present and future requirements may be instituted by the State of Oregon, by the Water Resources Commission in the name of and for the State of Oregon, or by any other applicant for the right to the use of the waters involved. [Amended by 1955 c.707 §35]

261.335 Districts subject to public contracting and purchasing requirements. People's utility districts are subject to the public contracting and purchasing requirements of ORS 279.011 to 279.063. [Amended by 1957 c.334 §2; 1961 c.409 §1; 1985 c.474 §5]

261.340 [Repealed by 1979 c.558 §30]

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

(2) The minimum scale of wages to be paid by a people's utility district or by any contractor or subcontractor for such district shall be not less than the prevailing wage for the character of work in the same trade in the largest city having a population of 5,000 or more in the district, or if there is none, the nearest to the district.

(3) The board of directors of any utility district may negotiate, sign and maintain collective bargaining agreements concerning employment, rates of pay and working condi-

tions with the representatives of its employees. Notice in writing of any intended change in rates of pay, or working conditions, or both, shall be given in accordance with the provisions of the agreements. The provisions of ORS 243.650 to 243.782 shall govern the negotiation of a collective bargaining agreement and any changes to an existing agreement. The mutual rights and obligations of the board and the employees or their representatives shall be those provided under ORS 243.650 to 243.782.

(4) Whenever any district acquires any utility which at the time of acquisition is in private ownership:

(a) The district shall, within financial and organizational limitations, offer employment to all employees of the private utility whose work primarily served the affected territory.

(b) Where the employees of the private utility are, at the time of acquisition, covered by any collective bargaining contract, plan for individual annuity contracts, retirement income policies, group annuity contract or group insurance for the benefit of employees, the district shall:

(A) Maintain any benefits or privileges which employees of the acquired utility would receive or be entitled to had the acquisition not occurred; and

(B) Assume for one year all of the rights, obligations and liabilities of the acquired private utility in regard to that collective bargaining contract or plan for the employees covered thereby at the time of acquisition; or

(C) By agreement with a majority of the employees affected, substitute a similar plan or contract.

(c) The district may pay all or part of the premiums or other payments required under paragraph (b) of this subsection out of the revenue derived from the operation of its properties.

(d) The district shall recognize the collective bargaining agent of the employees if the district retains a majority of the employees of the private utility working in the affected territory. [Amended by 1979 c.558 §23; 1985 c.474 §2]

261.350 Agreements with others for use of excess district facilities. Whenever any of the facilities, works or utilities of the district, or any part thereof, are not used or employed to its fullest capacity for the benefits or requirements of the district or its inhabitants, the district may enter into agreements, upon terms and conditions satisfactory to the board, for renting, leasing or otherwise using the available portion or parts of such facilities, works or utilities. In connection with any such agreement, renting or leasing, the district may undertake or perform any services incidental thereto. [Amended by 1981 c.758 §3]

261.355 Revenue bonds; elector approval required; exception for certain purposes; engineer certificate required; election dates. (1) For the purpose of carrying into effect the powers granted in this chapter, any district may issue and sell revenue bonds, when authorized by a majority of its electors voting at any general primary or general election or special election.

(2) All revenue bonds issued and sold under this chapter shall be so conditioned as to be paid solely from that portion of the revenues derived from the district by the sale of water, waterpower and electric energy, or any of them, or any other service, commodity or facility which may be produced, used or furnished in connection therewith, remaining after paying from those revenues all expenses of operation and maintenance, including taxes.

(3) Notwithstanding subsection (1) of this section and subject to subsection (4) of this section, any district may, by a duly adopted resolution of its board, issue and sell revenue bonds for the purpose of betterments and extensions within the existing boundaries of the district, but the amount so issued shall be limited to the reasonable value of the betterments and extensions plus an amount not to exceed 10 percent thereof for administrative purposes. Revenue bonds shall not be issued and sold for the purpose of acquiring an initial utility system or acquiring property or facilities owned by another entity that provides electric utility service without first obtaining the affirmative vote of the electors within the district.

(4) Not later than the 30th day prior to a board meeting at which adoption of a resolution under subsection (3) of this section will be considered, the district shall:

(a) Provide for and give public notice, reasonably calculated to give actual notice to interested persons including news media which have requested notice, of the time and place of the meeting and of the intent of the board to consider and possibly adopt the resolution; and

(b) Mail to its customers notice of the time and place of the meeting and of the intent of the board to consider and possibly adopt the resolution.

(5) Any authorizing resolution adopted for the purposes of subsection (3) of this section shall provide that electors residing within the district may file a petition with the district asking to have the question of

whether to issue such bonds referred to a vote.

(6) If within 60 days after adoption of a resolution under subsection (3) of this section the district receives petitions containing valid signatures of not fewer than five percent of the electors of the district, the question of issuing the bonds shall be placed on the ballot at the next date on which a district election may be held under ORS 255.345 (1).

(7) When petitions containing the number of signatures required under subsection (6) of this section are filed with the district within 60 days after adoption of a resolution under subsection (3) of this section, revenue bonds shall not be sold until the resolution is approved by a majority of the electors of the district voting on the resolution.

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

(9) Prior to any district board taking formal action to issue and sell any revenue bonds, the board shall have on file with the secretary of the district a certificate executed by a qualified engineer that the net annual revenues of the district, including the property to be acquired or constructed with the proceeds of the bonds, shall be sufficient to pay the maximum amount that will be due in any one fiscal year for both principal of and interest on both the bonds then proposed to be issued and all bonds of the district then outstanding.

(10) The district shall order an election for the authorization of revenue bonds to finance the acquisition or construction of an initial utility system as early as practicable under ORS 255.345 after filing the certificate required under subsection (9) of this section. An election under this subsection shall be held no more than twice in any one calendar year for any district. In even-numbered years no election shall be held on any other date than the date of the regular primary or general elections. [Amended by 1959 c.548 §1; 1979 c.558 §24; 1987 c.267 §71; 1991 c.358 §5; 1991 c.572 §§1,2]

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

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

(3) General obligation bonds may be made payable primarily from and secured by a lien on and pledge of the revenues derived by the district from its operations remaining after paying from such revenues all expenses of operation and maintenance, and secondarily from taxes. [Amended by 1959 c.548 §2; 1967 c.293 §24; 1983 c.83 §35; 1987 c.267 §72; 1991 c.459 §356; 1993 c.18 §45]

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

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

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

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

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

(6) The bonds shall be payable at a place therein named, to their bearer or registered holder in the principal amount named therein, at maturity thereof, in lawful money of the United States, at the rate per annum

therein named, payable semiannually on such dates as the board of directors may determine, in accordance with the tenor and terms of interest coupons thereto attached. [Amended by 1957 c.334 §3; 1969 c.76 §1; 1971 c.392 §1; 1981 c.94 §13]

261.370 [Repealed by 1975 c.642 §6 (261.371 enacted in lieu of 261.370)]

261.371 Advertisement and sale of bonds. (1) Notwithstanding any other provision of law, revenue bonds issued and sold under this chapter may be sold by any district at public or private sale upon the terms and conditions, at the rates of interest, for the prices and at the discount or premium that the board of directors considers most advantageous to the district, with or without public bidding.

(2) All legally authorized and issued general obligation bonds shall be sold by public bidding, except that general obligation bonds may be sold to a state or to the United States or any agency, corporation or instrumentality of a state or of the United States at private sale in such blocks as the board of directors may determine.

(3) All revenue or general obligation bonds to be sold by public bidding shall be advertised and sold in the manner prescribed in ORS 287.014 to 287.026. [1975 c.642 §7 (enacted in lieu of 261.370); 1979 c.558 §25; 1981 c.584 §1]

261.375 Election to authorize district bond issue. (1) Except as provided in ORS 261.355 (3) and subject to ORS 261.355 (10), before any district issues general obligation or revenue bonds, other than general obligation refunding, revenue refunding or advance refunding bonds, the question of whether the bonds shall be issued shall be submitted to the electors of the district, either at any general, state or county election or at a special election called for that purpose by the board of the district to be held on a date specified in ORS 255.345.

(2) At the election the notice and ballots shall contain a statement of the amount of bonds to be voted on and the purpose for which the bonds are to be used. If a majority of those voting on the question vote "yes," the board of directors is authorized to issue bonds of the character and in the amount designated by the election ballot. [Amended by 1973 c.796 §14; 1975 c.598 §5; 1979 c.558 §26; 1991 c.572 §5]

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

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

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

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

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

(4) Any utility district created prior to June 14, 1941, may levy taxes as in this section provided for the same term and under the same conditions as would be applicable to districts organized after that date. [Amended by 1963 c.9 §5; 1991 c.459 §357]

261.390 Property taxable; time and manner of tax levy and collection. All taxes provided for in this chapter shall be levied upon all real and personal property situated within the boundaries of the district

and by law taxable for state and county purposes. Such taxes shall be levied and collected at the time and in the manner provided for levy and collection of state and county taxes, and shall be by the county officers collecting them paid to the treasurer of the district.

BOARD OF DIRECTORS

261.405 Board of directors; election; qualifications. (1) The management of a people's utility district shall be vested in a board of five directors.

(2) Upon formation of a district, annexation, consolidation, merger and after each decennial United States Census, the board of directors shall by ordinance divide the district into five subdivisions, as nearly equal in population as possible, and where practicable fix the boundaries in conformance with adjacent precinct boundaries. One director shall be elected from each of the five subdivisions.

(3) Directors shall be electors, shall reside in the subdivision from which they are respectively nominated and elected and shall have resided in the district continuously for two years immediately preceding the date of their election as directors. [Amended by 1977 c.210 §1]

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

(2) Nominating petitions must be furnished by the district. [Amended by 1973 c.796 §15; 1975 c.598 §6; 1989 c.503 §30]

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

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

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

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

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

(3) Any person appointed to fill such vacancy by the board or the Governor shall hold office until the next biennial general election and until a successor is elected and qualified. [Amended by 1959 c.142 §1; 1969 c.669 §4; 1989 c.503 §31]

261.420 Terms of office of directors. Of the board of directors elected at the next biennial general election following creation of the district, three shall hold office for four years, and two shall hold office for two years, and until their successors are elected and qualified, the length of the respective terms to be determined by lot. Thereafter, at each biennial general election, a number of directors corresponding to the number whose terms of office expire shall be elected for the term of four years. The terms of directors shall commence on the first Monday in January next following their election. The directors elected before September 13, 1975, shall serve until their successors are elected and qualified and their respective terms shall be extended accordingly to the following first Monday in January. [Amended by 1973 c.796 §16; 1975 c.598 §7; 1989 c.503 §32]

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

(2) The treasurer shall be custodian of all funds of the district, and pay them out only on order of the board. [Amended by 1967 c.451 §20; 1969 c.345 §3]

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

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

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

261.435 [Amended by 1953 c.284 §2; 1957 c.334 §4; 1959 c.118 §1; 1967 c.168 §1; repealed by 1979 c.558 §30]

261.440 [Repealed by 1969 c.325 §4]

261.445 Appointment and removal of district manager; qualifications; salary; acting manager; powers and duties. (1) The board, before or at the time the district commences construction or operation of any utility or service, shall appoint a manager, who shall be an experienced executive with

administrative ability. The manager shall be appointed for an indefinite time and be removable at the action of the board. Appointments and removals shall be by resolutions adopted by a majority vote. The manager shall receive such salary as the board shall fix by resolution.

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

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

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

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

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

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

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

(f) Hire and discharge clerks, laborers and other employees under direction of the manager.

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

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

261.450 [Repealed by 1969 c.345 §20]

261.455 [Repealed by 1969 c.344 §8]

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

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

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

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

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

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

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

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

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

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

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

261.470 Accounting system adopted by board; annual reports; annual audit. (1) The board shall adopt the effective uniform

system of accounts prescribed by the Federal Energy Regulatory Commission and require that accounting for receipts and disbursements for the district be accomplished in accordance with said system of accounts.

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

(3) An annual audit shall be made in the manner provided in ORS 297.405 to 297.555. A copy of such audit shall be filed with each county clerk of the county in which the district or any portion of the boundaries of the district is located, and in the office of the Secretary of State and in the office of the Director of the Department of Energy, where it shall remain a public record. [Amended by 1953 c.354 §2; 1977 c.774 §16; 1979 c.286 §3; 1985 c.474 §4]

261.505 [Amended by 1973 c.796 §17; 1975 c.647 §21; renumbered 261.055]

261.510 [Amended by 1959 c.72 §1; repealed by 1973 c.796 §79]

261.515 [Repealed by 1973 c.796 §79]

COURT PROCEEDING TO TEST CERTAIN DISTRICT PROCEEDINGS

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

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

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

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

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

(2) All proceedings of the district may be judicially examined and determined in one special proceeding, or any part thereof may be separately examined and determined by the court. [Amended by 1979 c.558 §27]

261.610 Nature of proceeding; notice; appearance to contest; court determinations. (1) The proceedings shall be in the nature of a proceeding in rem, and the practice and procedure therein shall follow the practice and procedure of an action not triable by right to a jury, so far as consistent with the determination sought to be obtained, except as provided in ORS 261.605 to 261.635.

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

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

(4) The proceedings shall be speedily tried and judgment rendered declaring the matter so contested to be either valid or invalid.

(5) Any order or judgment in the course of the proceeding may be made and rendered by the judge of the circuit court in vacation. For the purpose of any such order or judgment, the court shall be deemed at all times in session and the act of the judge in making such order or judgment shall be the act of the court. [Amended by 1979 c.284 §126]

261.615 Appeal to Court of Appeals. Either party may appeal to the Court of Appeals at any time within 30 days after the rendering of the final judgment or decree, which appeal must be heard and determined within three months from the time of taking such appeal. [Amended by 1979 c.562 §9]

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

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

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

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

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

261.635 Procedure exclusive. No contest of any proceeding, matter or thing by this chapter provided to be had or done by the board of directors, by the district, by the county governing body or by any elector of the district, shall be had or maintained at any time or in any manner except as provided in ORS 261.605 to 261.630. [Amended by 1979 c.558 §28; 1983 c.85 §36]

DISSOLUTION

261.705 Authority to dissolve district; vote authorizing dissolution. Any people's utility district which has not received voter authorization within five years of its formation election to issue bonds in an amount sufficient to acquire or build a system to provide service within its district may be dissolved whenever a majority vote of the electors of the district voting at an election for such purpose favors the dissolution. [Amended by 1987 c.824 §1]

261.710 Call of election; effect of favorable vote. (1) The dissolution election may be called by the board of directors on their own motion or by a petition filed with the directors of the district, signed by electors of the district equal in number to not less than three percent of the total number of votes cast for all candidates for Governor in the district at the most recent election at which a candidate for Governor was elected to a full term, requesting the directors of the district to submit to the electors of the district the proposition of dissolving the district and settling its affairs.

(2) The petition shall be referred to the county clerk of each county wherein the district or any part thereof is located. The county clerk of each of such counties shall examine the purported signatures on the petition of electors of the county and shall certify as to the regularity and sufficiency thereof. Where the district is located in more than one county, the certificate of the county clerk of each county as to the regularity of the signatures on the petition shall be filed with the Secretary of State, who shall accept the certificates by the county clerks as to the regularity of the signatures, and based thereon, shall certify as to the sufficiency of all signatures on the petition. Whenever a dissolution petition has been certified as sufficient, the certificate of sufficiency with copy of the petition shall be transmitted to the directors of the district, who shall immediately call an election to be held concurrently with any primary or general election.

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

(4) The district shall thereafter continue to exist solely for the purpose of settling its affairs as provided in ORS 261.715 to 261.730. [Amended by 1973 c.796 §18; 1983 c.83 §37; 1989 c.174 §4]

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

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

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

(2) If, after payment of all debts of the district, there remain any surplus funds to the credit of the district, such funds shall be turned over to the county treasurer of each

county in which the district may be located, to become a part of the general fund of the county in the proportion that the assessed value of the property within the boundaries of the district in such county bears to the total assessed value of all property within the boundaries of the district as determined by the last assessment rolls.

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

CONSTRUCTION

261.900 Construction. (1) The rule of strict construction shall have no application to ORS 261.007, 261.010, 261.030, 261.065 to 261.118, 261.131 to 261.171, 261.190, 261.200, 261.220, 261.225, 261.305 to 261.325, 261.345, 261.355, 261.371, 261.375, 261.605, 261.635 and this section; but the same shall be liberally construed, in order to carry out the purposes and objects for which ORS 261.007, 261.010, 261.030, 261.065 to 261.118, 261.131 to 261.171, 261.190, 261.200, 261.220, 261.225, 261.305 to 261.325, 261.345, 261.355, 261.371, 261.375, 261.605, 261.635 and this section are intended.

(2) When ORS 261.007, 261.010, 261.030, 261.065 to 261.118, 261.131 to 261.171, 261.190, 261.200, 261.220, 261.225, 261.305 to 261.325, 261.345, 261.355, 261.371, 261.375, 261.605, 261.635 and this section come in conflict with any provision, limitation or restriction in any other law, ORS 261.007, 261.010, 261.030, 261.065 to 261.118, 261.131 to 261.171, 261.190, 261.200, 261.220, 261.225, 261.305 to 261.325, 261.345, 261.355, 261.371, 261.375, 261.605, 261.635 and this section shall govern and control. [1979 c.558 §29]

Note: 261.900 was enacted into law by the Legislative Assembly but was not added to or made a part of ORS chapter 261 or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.